

## THE ORATION FOR SEXTUS ROSCIUS OF AMERIA.

## THE ARGUMENT.

Cicero himself in this speech calls this trial the first public, that is criminal cause in which he was engaged; and many critics consider it an earlier speech than the preceding one for Quintius. The case was this: The father of Sextus Roscius had been slain during the proscriptions of Sylla, and his estate, which was very large, had been sold for a very trifling sum to Lucius Cornelius Chrysogonus, a favourite slave to whom Sylla had given his freedom; and Chrysogonus, to secure possession of it, persuaded a man named Caius Erucius to accuse Roscius of having killed his father himself. Many lawyers refused to defend him, being afraid of Sylla, whose influence was openly used for his freedman. Roscius was acquitted. Cicero often refers with great complacency to his conduct in this suit, as a proof of his intrepidity, and of his resolute honesty in discharging the duties of an advocate without being dismayed at the opposition of the greatest men in Rome.

I. I IMAGINE that you, O Judges, are marvelling why it is that when so many most eminent orators and most noble men are sitting still, I above all others should get up, who neither for age, nor for ability, nor for influence, am to be compared to those who are sitting still. For all these men whom you see present at this trial think that a man ought to be defended against an injury contrived against him by unrivalled wickedness; but through the sad state of the times they do not dare to defend him themselves. So it comes to pass that they are present here because they are attending to their business, but they are silent because they are afraid of danger. What then? Am I the boldest of all these men? By no means. Am I then so much more attentive to my duties than the rest? I am not so covetous of even that praise, as to wish to rob others of it. What is it then which has impelled me beyond all the rest to undertake the cause of Sextus Roscius? Because, if any one of those men, men of the greatest weight and dignity, whom you see present, had spoken, had said one word about public affairs, as must be done in this cause, he would be thought to have said much more than he really had said; but

f I should say all the things which must be said with ever so much freedom, yet my speech will never go forth or be diffused among the people in the same manner. Secondly, because anything said by the others cannot be obscure, because of their nobility and dignity, and cannot be excused as being spoken carelessly, on account of their age and prudence; but if I say anything with too much freedom, it may either be altogether concealed, because I have not yet mixed in public affairs, or pardoned on account of my youth; although not only the method of pardoning, but even the habit of examining into the truth is now eradicated from the State. There is this reason, also, that perhaps the request to undertake this cause was made to the others so that they thought they could comply or refuse without prejudice to their duty; but those men applied to me who have the greatest weight with me by reason of their friendship with me, of the kindnesses they have done me, and of their own dignity; whose kindness to me I could not be ignorant of, whose authority I could not despise, whose desires I could not neglect.

II. On these accounts I have stood forward as the advocate in this cause, not as being the one selected who could plead with the greatest ability, but as the one left of the whole body who could do so with the least danger; and not in order that Sextus Roscius might be defended by a sufficiently able advocacy, but that he might not be wholly abandoned. Perhaps you may ask, What is that dread, and what is that alarm which hinders so many, and such eminent men, from being willing, as they usually are, to plead on behalf of the life and fortunes of another? And it is not strange that you are as yet ignorant of this, because all mention of the matter which has given rise to this trial has been designedly omitted by the accusers. What is that matter? The property of the father of this Sextus Roscius, which is six millions of sesterces,<sup>1</sup> which one of the most powerful young men of our city at this present time, Lucius Cornelius Chrysogonus, says he bought of that most gallant and most illustrious man Lucius Sylla, whom I only name to do him honour, for two thousand sesterces. He, O judges, demands of you that, since he, without any right, has taken possession of the property of another, so abundant and so splendid, and as the life of Sextus Roscius appears to him to

<sup>1</sup> Between fifty and sixty thousand pounds of our money.

stand in the way of, and to hinder his possession of that property, you will efface from his mind every suspicion, and remove all his fear. He does not think that, while this man is safe, he himself can keep possession of the ample and splendid patrimony of this innocent man ; but if he be convicted and got rid of, he hopes he may be able to waste and squander in luxury what he has acquired by wickedness. He begs that you will take from his mind this uneasiness which day and night is pricking and harassing him, so as to profess yourselves his assistants in enjoying this his nefariously acquired booty. If his demand seems to you just and honourable, O judges, I, on the other hand, proffer this brief request, and one, as I persuade myself, somewhat more reasonable still.

III. First of all, I ask of Chrysogonus to be content with our money and our fortunes, and not to seek our blood and our lives. In the second place, I beg you, O judges, to resist the wickedness of audacious men ; to relieve the calamities of the innocent, and in the cause of Sextus Roscius to repel the danger which is being aimed at every one. But if any pretence for the accusation—if any suspicion of this act—if, in short, any, the least thing be found,—so that in bringing forward this accusation they shall seem to have had some real object,—if you find any cause whatever for it, except that plunder which I have mentioned, I will not object to the life of Sextus Roscius being abandoned to their pleasure. But if there is no other object in it, except to prevent anything being wanting to those men, whom nothing can satisfy, if this alone is contended for at this moment, that the condemnation of Sextus Roscius may be added as a sort of crown, as it were, to this rich and splendid booty,—though many things be infamous, still is not this the most infamous of all things, that you should be thought fitting men for these fellows now to expect to obtain by means of your sentences and your oaths, what they have hitherto been in the habit of obtaining by wickedness and by the sword ; that though you have been chosen out of the state into the senate because of your dignity, and out of the senate into this body because of your inflexible love of justice—still assassins and gladiators should ask of you, not only to allow them to escape the punishment which they ought to fear and dread at your hands for their crimes, but

also that they may depart from this court adorned and enriched with the spoils of Sextus Roscius?

IV. Of such important and such atrocious actions, I am aware that I can neither speak with sufficient propriety, nor complain with sufficient dignity, nor cry out against with sufficient freedom. For my want of capacity is a hindrance to my speaking with propriety; my age, to my speaking with dignity; the times themselves are an obstacle to my speaking with freedom. To this is added great fear, which both nature and my modesty cause me, and your dignity, and the violence of our adversaries, and the danger of Sextus Roscius. On which account, I beg and entreat of you, O judges, to hear what I have to say with attention, and with your favourable construction. Relying on your integrity and wisdom, I have undertaken a greater burden than, I am well aware, I am able to bear. If you, in some degree, lighten this burden, O judges, I will bear it as well as I can with zeal and industry. But if, as I do not expect, I am abandoned by you, still I will not fail in courage, and I will bear what I have undertaken as well as I can. But if I cannot support it, I had rather be overwhelmed by the weight of my duty, than either through treachery betray, or through weakness of mind desert, that which has been once honestly entrusted to me. I also, above all things, entreat you, O Marcus Fannius, to show yourself at this present time both to us and to the Roman people the same man that you formerly showed yourself to the Roman people when you before presided at the trial in this same cause.<sup>1</sup>

V. You see how great a crowd of men has come to this trial. You are aware how great is the expectation of men, and how great their desire that the decisions of the courts of law should be severe and impartial. After a long interval, this is the first cause about matters of bloodshed which has been brought into court, though most shameful and important murders have been committed in that interval. All men hope that while you are prætor, these trials concerning manifest crimes, and the daily murders which take place, will be conducted with no less severity than this one. We who are

<sup>1</sup> Fannius had been prætor, and before a cause came to actual trial, it came before the prætor, who decided whether there were sufficient grounds for allowing the trial to proceed; much as our grand jury does now.

pleading this cause adopt the exclamations which in other trials the accusers are in the habit of using. We entreat of you, O Marcus Fannius, and of you, O judges, to punish crimes with the greatest energy; to resist audacious men with the greatest boldness; to consider that unless you show in this cause what your disposition is, the covetousness and wickedness, and audacity of men will increase to such a pitch that murders will take place not only secretly, but even here in the forum, before your tribunal, O Marcus Fannius; before your feet, O judges, among the very benches of the court. In truth, what else is aimed at by this trial, except that it may be lawful to commit such acts? They are the accusers who have invaded this man's fortunes. He is pleading his cause as defendant, to whom these men have left nothing except misfortune. They are the accusers, to whom it was an advantage that the father of Sextus Roscius should be put to death. He is the defendant, to whom the death of his father has brought not only grief, but also poverty. They are the accusers, who have exceedingly desired to put this man himself to death. He is the defendant who has come even to this very trial with a guard, lest he should be slain here in this very place, before your eyes. Lastly, they are the accusers whom the people demand punishment on, as the guilty parties. He is the defendant, who remains as the only one left after the impious slaughter committed by them. And that you may be the more easily able to understand, O judges, that what has been done is still more infamous than what we mention, we will explain to you from the beginning how the matter was managed, so that you may the more easily be able to perceive both the misery of this most innocent man, and their audacity, and the calamity of the republic.

VI. Sextus Roscius, the father of this man, was a citizen<sup>1</sup> of Ameria, by far the first man not only of his municipality, but also of his neighbourhood, in birth, and nobility and wealth, and also of great influence, from the affection and the ties of hospitality by which he was connected with the most noble men of Rome. For he had not only connexions of hospitality with the Metelli, the Servilii, and the Scipios, but he had also actual acquaintance and intimacy with them; families

<sup>1</sup> A *municipes* was a citizen of a *municipium*. For a full explanation of these terms see Smith, *Dict. Ant.* p. 259, v. *Colonia*.

which I name, as it is right I should, only to express my sense of their honour and dignity. And of all his property he has left this alone to his son,—for domestic robbers have possession of his patrimony, which they have seized by force—the fame and life of this innocent man is defended by his paternal connexions<sup>1</sup> and friends. As he had at all times been a favourer of the side of the nobility, so, too, in this last disturbance, when the dignity and safety of all the nobles was in danger, he, beyond all others in that neighbourhood, defended that party and that cause with all his might, and zeal, and influence. He thought it right, in truth, that he should fight in defence of their honour, on account of whom he himself was reckoned most honourable among his fellow-citizens. After the victory was declared, and we had given up arms, when men were being proscribed, and when they who were supposed to be enemies were being taken in every district, he was constantly at Rome, and in the Forum, and was daily in the sight of every one; so that he seemed rather to exult in the victory of the nobility, than to be afraid lest any disaster should result to him from it. He had an ancient quarrel with two Roscii of Ameria, one of whom I see sitting in the seats of the accusers, the other I hear is in possession of three of this man's farms; and if he had been as well able to guard against their enmity as he was in the habit of fearing it, he would be alive now. And, O judges, he was not afraid without reason. In these two Roscii, (one of whom is surnamed Capito; the one who is present here is called Magnus,) are men of this sort. One of them is an old and experienced gladiator, who has gained many victories, but this one here has lately betaken himself to him as his tutor: and though, before this contest, he was a mere tyro in knowledge, he easily surpassed his tutor himself in wickedness and audacity.

VII. For when this Sextus Roscius was at Ameria, but that Titus Roscius at Rome; while the former, the son, was diligently attending to the farm, and in obedience to his father's desire had given himself up entirely to his domestic affairs and to a rustic life, but the other man was constantly at Rome, Sextus Roscius, returning home after supper, is slain near the Palatine baths. I hope from this very fact, that it is not obscure on whom the suspicion of the crime falls; but

<sup>1</sup> The Latin word is *hospes*, answering to the Greek *ξένος*.

if the whole affair does not itself make plain that which as yet is only to be suspected, I give you leave to say my client is implicated in the guilt. When Sextus Roscius was slain, the first person who brings the news to Ameria, is a certain Mallius Glaucia, a man of no consideration, a freedman, the client and intimate friend of that Titus Roscius; and he brings the news to the house, not of the son, but of Titus Capito, his enemy, and though he had been slain about the first hour of the night, this messenger arrives at Ameria by the first dawn of day. In ten hours of the night he travelled fifty-six miles in a gig, not only to be the first to bring his enemy the wished-for news, but to show him the blood of his enemy still quite fresh, and the weapon only lately extracted from his body. Four days after this happened, news of the deed is brought to Chrysogonus to the camp of Lucius Sylla at Volaterra. The greatness of his fortune is pointed out to him, the excellence of his farms,—for he left behind him thirteen farms, which nearly all border on the Tiber,—the poverty and desolate condition of his son is mentioned; they point out that, as the father of this man, Sextus Roscius, a man so magnificent and so popular, was slain without any trouble, this man, imprudent and unpolished as he was, and unknown at Rome, might easily be removed. They promise their assistance for this business; not to detain you longer, O judges, a conspiracy is formed.

VIII. As at this time there was no mention of a proscription, and as even those who had been afraid of it before, were returning and thinking themselves now delivered from their dangers, the name of Sextus Roscius, a man most zealous for the nobility, is proscribed and his goods sold; Chrysogonus is the purchaser; three of his finest farms are given to Capito for his own, and he possesses them to this day; all the rest of his property that fellow Titus Roscius seizes in the name of Chrysogonus, as he says himself. This property, worth six millions of sesterces, is bought for two thousand. I well know, O judges, that all this was done without the knowledge of Lucius Sylla; and it is not strange that while he is surveying at the same time both the things which are past, and those which seem to be impending; when he alone has the authority to establish peace, and the power of carrying on war; when all are looking to him alone, and

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