

THE OLIVE TREE.

1. I USED to think, Boulè, that it was possible, if one wished, to keep quiet, and not to be troubled with lawsuits and vexatious business: but I have now fallen in with such unlooked for charges and such villainous accusers that, were it possible, it seems to me even unborn generations must fear for what is before them. For through this sort of men those who have done no wrong are in as great danger as those who have committed the greatest crimes.

2. The trial is the more perplexing to me, as I was first charged on the indictment with having cut down a sacred olive on my land; and my accusers went to the men who had bought the fruit of the olives, making inquiries. As they could find no proof against me in this way, they now charge me with having cut down an old stump, thinking that this charge will be the hardest for me to gainsay, and the easiest for them to prove what they wish.

3. And I am compelled, on matter which they have brought into court fully worked up, to fight for the enjoyment of country and property, having only heard the charges at the same moment as you who are to decide the case. So I shall tell you everything from the beginning.

4. The place formerly belonged to Peisander. When his estate was confiscated it was given to Apollodorus of Megara. He farmed it some time, and a little while before the time of the Thirty, Anticles bought it of him and let it. And I bought it of Anticles in time of peace.

5. So I think, Boulè, that it is my duty to prove that when I bought the place there was not an olive tree nor stump upon it. For, if before that time there had been ten thousand olives, I don't think I could justly be made to suffer for it. If the olives were not injured by me, I could not be held accountable for the crimes of others.

6. You all know that among the other evils caused by the war was this, that while estates at a distance from the city used to be plundered by the Lacedemonians, the estates near it used to be sacked by our own citizens. Would it be at all just for me to pay the penalty for the damage done by our public disasters? Especially as the place, on account of its confiscation, was abandoned for more than three years.

7. It is not to be wondered at if olive trees were destroyed at a time when it was impossible for us to protect our own property. You know, Boulè, especially such of you as have charge of these things, that there were at that time many places thick with olives, both private and sacred ones, most of which have now been cut down, and the land has become bare. You would not think of taking punishment from those who owned the place in peace and war, when it was other people who cut them down.

8. If those who farmed the place at different times of the period are not held responsible, how much more ought those who did not buy until the peace be considered harmless by you?

9. However much I might say about the place before I bought it, I think I have said enough. Within five days after I obtained the place I let it out to Kallistratus in the archonship of Pythodorus.

10. He farmed it two years mentioning no olive tree, sacred or otherwise, nor any olive stump. Demetrius had it the third year. In the fourth year I let it to Alkias, a

freedman of Antisthenes who has been dead three years. Finally, Proteus hired it. Come hither witnesses.

11. When that time elapsed I farmed it myself. My accuser says that it was during the archonship of Sumiades that I cut down the olive. But those who farmed it before I did, and hired it many years of me, assure you that there was no olive on the place. What can be clearer than that my accuser is lying? It could not be possible if there was no tree there, that I, farming the place last, cut it down.

12. Formerly, Boulè, when men said that I was sharp and careful, and would do nothing without a plan and purpose, I was annoyed and preferred that they should speak of me as they ought; now, however, I should like all of you to have this opinion about me, that you may believe that I took good care to see—since (as he says) I was taking such matters in hand—what profit there was in cutting it down, and what penalty for so doing, what good I should have got if I escaped detection, and what I should have suffered at your hands if I was detected.

13. For men do not do things of this kind out of lawlessness, but for gain. And it is fitting for you to see to it that the prosecutors make their charge on this ground, proving what advantage I got in doing this wrong.

14. Nicomachus cannot show that I did it on account of my poverty; nor that the value of the place was lessened by the olive being there, nor that it injured the vines, or was near the house, nor that I was ignorant of the danger I was in before you for doing it. But I can show you that a tremendous penalty would have been the result had I cut it down.

15. For I was cutting the olive in broad daylight, as though, so far from keeping it a secret from all, it was necessary for every Athenian to know it. If the deed had been

merely a disgrace, perhaps a chance passer by would not have troubled himself about it. I was risking not disgrace, but great punishment.

16. Should I not be the most wretched of all men if my slaves, being acquainted with my crime, became no longer my slaves, but my masters for the rest of my life? For I could not punish them for the greatest offence they might chose to give. For they would know well that it was in their power, by turning informers, to be revenged on me and get their own freedom.

17. Supposing it had entered my head to disregard my slaves, how should I have dared, when so many persons had rented the place, and every one of them would have known it, to cut down the olive merely for gain? Especially since, as there is no limit to the liability of those who farmed the place, it equally concerned them all that the stump should remain intact, so that if any one charged them they could transfer the charge to their successor. They have evidently cleared me, and if they have lied have become participants in the crime.

18. Again, supposing I had squared matters with them, how could I have bribed all who are present or the neighbors, who not only know about each other's public affairs, but also about those we try to keep a secret from all. Some of these are my friends, but others are not on good terms with me.

19. These my accuser should have brought as witnesses and not made the charge at random. He says I stood near while my slaves cut out the stump and the driver put the stump in his cart and went away with the wood.

20. Then was the time, Nikomachus, for you to summon the witnesses who were *there and show up the crime*. You would have left me no escape, and if I were hated by you,

you would have had revenge in this way. If you did it from patriotism, having (21) exposed me in this manner, you would not seem to be acting the part of a sycophant, and if you desired gain, in this way could you have obtained most. As the crime was clear I should have had no means of safety if I did not bribe you. As you did none of these things you seem, by your assertions, to be destroying me, having said in the prosecution that no one wishes to testify on account of my influence and wealth.

22. If, when you said you saw me cutting down the olive, you had brought the nine archons or some one else from the Areopagus, no further witnesses would be needed. For thus the very men who judge the case would have known that you spoke the truth.

23. I am placed in a very unfair position. If he had produced witnesses he would have expected you to believe them, but since he has none he thinks to turn this to my disadvantage. And I do not wonder at this. For in a case like this he would not lack witnesses and arguments at the same time. But I do not think you hold the same opinion he does.

24. You know that there were in the country, in my other places, many olives and burnt stumps which, as they say I had set my heart upon it it would have been much easier for me to injure, cut down and encroach upon, as my crime was likely to be less apparent on account of the number of trees.

25. Thus I make them as much account as my country and other possessions, running the risk I do of losing both. I shall bring before you as witnesses those men who act as inspectors every month, and send collectors every year. No one of these men ever fined me for farming the ground about the olive.

26. It is very probable that taking such care about the

small fines I should pay no attention whatever to my bodily safety. Am I shown to take such care of the many olives, against which I might have committed the trespass, but called to account for the very olive which it was not possible to dig up without detection ?

27. Wasn't it easier for me, Boulè, to break the laws during the democracy than under the Thirty? I don't say this because I had any influence at that time or as being now in a position of distrust, but it was easier for any one who wished to do wrong then than it is now. I am not charged with doing this or any other wrong during that time.

28. Shouldn't I of all men have been most ill-disposed to myself had I attempted to cut an olive from a piece of ground on which there was not a single tree except, as he says, the stump of one olive, about which the road ran on both sides, with neighbors dwelling on all sides and perfectly open to the view of all? Would any one have been so utterly reckless, such being the case, as to have done such a deed ?

29. I think it strange that those men appointed by the city to look after the sacred olives never fined me for encroaching upon the trees nor brought me to trial on the charge of cutting them down, but that this man, who is not a neighbor, nor an inspector, nor old enough to know about such things, has entered me on the indictment as having destroyed an olive.

30. I want you not to place more trust in the assertions of my accuser than you do in the facts themselves, nor accept the word of my personal enemies in matters which you yourself know about, but to form your opinions from what I have told you and from the rest of my conduct as a citizen.

31. For I did everything allotted to me in a grander man-

ner than I was compelled to do by the State; equipped a trireme, acted as "choragus," and performed all my other duties more expensively than the rest of the citizens.

32. If I had done these things in a moderate way, and not expensively, I should not be fighting against exile and for my possessions, but should be worth more, and not unjustly be on trial for my life. If I had committed the crime with which he charges me I should have gained nothing, but only brought myself into difficulty.

33. You all would agree that it is more just to accept weighty proofs in a great case and to regard as more trustworthy those things to which the whole city testifies than those which the prosecutor alone asserts.

34. Look at the case, Boulè, from what took place besides. I went to him and said in the presence of witnesses that I now had all the slaves of which I had been possessed at the time I bought the place, and I was ready, if he wished, to give them up to be tortured, thinking that this would be the strongest test of his assertions and of the facts.

35. But he would not take them, saying that there was no trusting slaves. It seems to me strange that slaves when tortured make damning statements about themselves, knowing well that it will kill them, but prefer to be tortured than to inform on their masters, to whom they are naturally ill-disposed, when by doing so they could free themselves.

36. If Nikomachus had asked for them and I had refused to give them up, it would be evident that I thought them conscious of my guilt. As he did not wish to take them when offered, you rightly can have the same opinion about him, for the danger was not by any means evenly divided.

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