

CHAPTER XI.

Of examples and instances, § 1-5. Of the efficiency, and various species, of examples, 6-16. Of examples from the fables of the poets, 17, 18. From the fables of zEsop, and proverbs, 19-21. Comparison, 22-25. Caution necessary with respect to it, 26-29. Too much sub-division in it, 30, 31. Comparison of points of law, 32, 33. Analogy, 34, 35. Authority, 36-41. Authority of the gods, 42. Of the judge, and of the adverse party, 43. Examples and authority not to be numbered among inartificial proofs, 44.

1. THE third sort of proofs, which are introduced into causes *from without*, the Greeks call *ῥαγὰ ἐφ' ἑαυτῶν* : a term^t which they apply to all kinds of comparison of like with like, and especially to examples that rest on the authority of history. Our rhetoricians, for the most part, have preferred to give the name of *comparison* to that which the Greek calls *ῥαγὰ κοινῶν* and to render *ῥαγὰ ἐφ' ἑαυτῶν* by *example*. Example however partakes of comparison, and comparison of example. 2. For myself, that I may the better explain my object, let me include both under the word *ῥαγὰ δὲ καὶ*, and translate it by *example*. Nor do I fear that in this respect I may be thought at variance with Cicero,* though he distinguishes *comparison* from *example*; for he divides [†] all argumentation into two parts, *induction*+ and *reasoning*,§ as most of the Greeks ^{||} divide it into *ῥαγὰ ἀναγωγῆς* & *ὑποδείξεως*, and call the *ῥαγὰ δὲ καὶ* as *rhetorical induction*. 3. Indeed the mode of argument which Socrates chiefly used was of this nature ; for when he had asked a number of questions, to which his adversary was obliged to reply in the affirmative, he at last *inferred* the point about which the question was raised, and to which his antagonist had already admitted something similar ; this method was *induction*. This cannot be done in a regular speech ; but what is asked in conversation is assumed in a speech. 4. Suppose that a question of this kind be put : *What is the most noble fruit ? Is it not that which is the best ?* This will at once be granted. *And which is the most noble horse ? Is it not that*

• De Inv. i. 80.

† De Inv. i. 31; compare c. 10, sect. 73.

§ Evaywyi .

§ EVXXoyur L6c.

J Aristot. Rhet. i. 2, 8.

v'it ich is the best? This, and perhaps more questions to the same effect, will readily be admitted. Last of all will be asked the question with a view to which the others were put. *Acid among men who is the most noble ? Is it not he who is the best ?* and *this* may also be allowed. 5. This mode of interrogation is of great effect in questioning witnesses; but in a continuous speech there is a difference ; for there the orator replies to himself : *What fruit is the most noble ? The best, I should suppose. What horse ? That surely which is the swiftest. And thus he is the best of men, who excels most, not in nobleness of birth but in merit.*

All arguments, therefore, of this kind, must either be from things *similar*, or *dissimilar*, or *contrary*. Similitudes are sometimes sought, merely for the embellishment of speech ; but I will speak on that subject when the progress of my work requires me to do so ;* at present I am to pursue what relates to proof. 6. Of all descriptions of proof the most efficacious is that which we properly term *example* ; that is, the adducing of some historical fact, or supposed fact, intended to convince the hearer of that which we desire to impress upon him. We must consider, therefore, whether such fact is completely similar to what we wish to illustrate, or only partly so ; that we may either adopt the whole of it, or only such portion of it as may serve our purpose. It is a similitude when we say, *Saturninus was justly killed, as were the Gracchi*. 7. A dissimilitude, when we say, *Brutus put his children to death for forming traitorous designs on their country ; Manlius punished the valour of his son with death*. A contrariety, when we say, *Marcellus restored the ornaments of their city to the Syracusans, who were our enemies; Verres took away like ornaments from our allies.* Proof in eulogy and censure+ has the same three varieties. 8. In regard also to matters of which we may speak as likely to happen,§ exhortation drawn from similar occurrences is of great effect ; as if a person, for example, on remarking that *Dionysius requested guards for his person, in order that, with the aid of their arms, he might make himself tyrant*, should support his remark with

* VIII 3, 72, seqq.

† Cicero in Verr. iv. 55.

That is, in the epideictic or demonstrative department of oratory. That is, in the deliberative department of oratory.

the example that *Pisistratus secured absolute power in the same manner.*

9. But, as some examples are wholly similar, such as the last which I gave, so there are others by which an argument for the less is drawn from the greater, or an argument for the greater from the less. *For the violation of the marriage-bed cities have been destroyed ;* what punishment is proper to be inflicted on an adulterer ?-Flute-players, when they have retired from the city, have been publicly recalled ; and how much more ought eminent men of the city, who have deserved well of their country, and who have withdrawn from popular odium, to be brought back from exile ?+ 10.* But unequal comparisons are of most effect in exhortation. Courage is more deserving of admiration in a woman than in a man ; and, therefore, if a person is to be excited to a deed of valour, the examples of Horatius and Torquatus will not have so much influence over him as that of the woman by whose hand Pyrrhus was killed ; and, to nerve a man to die, the deaths of Cato and Scipio will not be so efficient as that of Lucretia ; though these are arguments from the greater to the less.

11. Let me then set before my reader examples of each of these kinds, extracted from Cicero ; for from whom can I adduce better ? An example of the *similar* is the following from the speech for Murana :§ *For it happened to myself, that I stood candidate with two patricians, the one the most abandoned, and the other the most virtuous and excellent of mankind ; yet in dignity I was superior to Catiline, and in influence to Galba.* 12. An argument from the greater to the less if found in the speech for Milo :|| *They deny that it is lawful for him, who confesses that he has killed a huirt(on beinr/, to behold the light of day; but in what city is it, I ask, that*

i An allusion to the Trojan war. *Spalding.*

t Livy, ix. 30 : " The fluteplayers, being prohibited by the preceding censors from having their maintenance, according to ancient usage, in the temple of Jupiter, withdrew, in a body, from discontent, to Tibur ; so that there was nobody in the city to supply music at the sacrifices. The senate, actuated by religious feelings, sent deputies to Tibur to use their efforts to effect the return of those men," &c. See also Val. Max. ii. 5, 4. *Spalding.*

Applicable to the recall of Cicero, as Gesner observes.

C. 8.

|| C. 3.

these most foolish of men thus argue? In that city assuredly, which saw the first trial in it for a capital offence in the case of the brave Ioratus, w1ao, th.owrh the state was not then made free, was nevertheless acquitted in, a public assembly of the Ror3tan people, even th-orulh he confessed that he had killed his sister with his own hand. Another from the less to the greater is found in the same speech: * *I killed, not Spurius Malius, who, because, by lowering the price of corn, and by lavishing his patrimony, he appeared to court the populace too utuch, incurred the suspicion of aspiring to royalty, dc., but him, (for Milo would dare to avow the act when he had freed his country from peril,) whose shameless licentiousness was carried even to the couches of the gods, &c., with the whole of the invective against Clodius.*

|| 3. Arguments from *dissimilar* things have many sources; for they depend on *kind, manner, time, place,* and other circumstances, by the aid of which Cicero overthrows nearly all the previous judgments that appeared to have been formed against Cluentius, while, by an example of *contrast,* he attacks + at the same time the animadversion of the censors, extolling the conduct of Scipio Africanus who, when censor, had allowed a knight, whom he had publicly pronounced to have formally committed perjury, to retain his horse,§ because no one appeared to accuse him, though he himself offered to bear witness to his guilt if any one thought proper to deny it. These examples I do not cite in the words of Cicero only because they are too long. 14. But there is a short example of contrast in Virgil . ~~

*At non ille, satunn quo to -m.entiris, Achilles,
Talis in hoste fuit Priamo.*

Not he, whose son thou falsely call'st thyself,
Achilles, thus to Priam e'er behav d,
Priam his foe.

15. Instances taken from history we may sometimes relate

• C. 27.

Pro Cluent. 32-52.

Pro Cluent. c. 48.

§ *Traducere equuna.] "To pass his horse."* On the ides of July the Roman knights passed in review before the censors, who deprived of their horses such of them as they deemed unworthy of being retained in the equestrian order.

|| 1En. ii. 539.

in full; as Cicero in his speech for Milo.* *When a military tribune, in the army of Caius Marius, and a relative of that yeueial, offered dishonourable treatment to a soldier, he was killed by 'the soldier whom he had thus insulted ; for, being a youth of proper feeling, he chose rather to risk his life than to suffer dishonour ; and that eminent commander accounted him blameless, and inflicted no punishment on him. 16. To other instances it will be sufficient to allude, as Cicero in the same speech : t For neither could Servilius Ahala, or Publicus Nasica, or Lucius Opimius, or the senate during my consulship, have been considered otherwise than criminal, if it be unlawful for wicked men to be put to death.* Such examples will be introduced at greater or less length, according as they are more or less known, or as the interest or embellishment of the subject may require.

17. The same is the case with regard to examples taken from fictions of the poets, except that less weight will be attributed to them. How we ought to treat them, the same excellent author and master of eloquence instructs us ; 18. for an example of this kind also will be found in the speech already cited : *Learned men, therefore, judges, have not without reason preserved the tradition, in fictitious narratives, that he who had killed his mother for the sake of avenging his father, was acquitted, when the opinions of men were divided, by the voice not only of a divinity, but of the divinity of Wisdom herself.* 19. Those moral fables, too, which, though they were not the invention of Hesiod,+ (for Hesiod appears to have been the original inventor of them,) are most frequently mentioned under the name of Hesiod,+ (for Hesiod appears to have been the original inventor of them,) are adapted to attract the minds, especially of rustic and illiterate people, who listen less suspiciously than others to fictions, and, charmed by the pleasure which they find in them, put faith in that which delights them. 20. Thus, Menenius Agrippa is said to have reconciled the people to the senators by that well-known fable about the

* C. 4. See also iii. 11, 14.

t C. 3.

For observations on this point Spalding refers to Fabric. Bibl. Gr. ed. Harl. vol. i. p. 624, sqq. and p. 593. Plutarch, Conviv. Sept. Sap., expresses himself of the same opinion as Quintilian ; also Theon. Progym. p. 22. See likewise Bentley's Dissertation on the Epistles of Phalaris and Fables of Hesiod.

members of the human body revolting against the belly ;¹ and Horace, even in a regular poem, has not thought the use of this kind of fable to be disdained ; as in the verses,t

Quod dixit vulpes agroto cauta leoni, &c.

To the sick lion what the wily fox
Observed, &c.

The Greeks called this kind of composition, *alvos*,+ *αιεωρε* *εφο* *χο* *υος*, as I remarked,§ and A. Cuxos :|| some of our writers have given it the turn *apologatio*,|| or "apologue," which has not been received into general use. 21. Similar to this is that sort of *αποπικια*, which is, as it were, a shorter fable, and is understood allegorically : as a person may say, *Non nostrum onus ; bos clitellas* : "The burden is not mine ; the ox, as they say, is carrying the panniers."**

22. Next to example, *comparison* is of the greatest effect, especially that which is made between things nearly equal, without any mixture of metaphor : *As those who have been accustomed to receive money in the Campus Martius, are generally most adverse to those candidates whose money they suppose to be withheld, so judges of a similar disposition came to the tribunal with a hostile feeling towards the defendant.* 23. *Uaga*&X~, which Cicero calls *comparison*, frequently brings **things less** obvious into assimilation. 'Nor is it only like proceedings of men that are compared by this figure, (as in the comparison which Cicero makes in his speech for Muraena,\$\$ *If those who have already come off the sea into harbour, are accustomed to warn, with the greatest solicitude, those who are*

* Livy, ii. 32.

j Hor. Ep. i. 1, 73. Quintilian does not quote exactly.

§ Equivalent to *μυθος*, a "tale" or "story;" see Odyss. xiv. 508, with the note of Eustathius. Hesiod, Op. et. Di. 200, calls the fable of the hawk and nightingale *alvog*. See also Hesiod. Ag. 1482.; Soph. Phil. 1380.

§ He refers no further back than the preceding section. *Spalding*.

|| Fabric. Bibl. Gr. *ubi supra*.

¶ I have not seen this word anywhere else. *Spalding*.

** *Clitelke bovi aurt impositw ; plane nen est nostrum onus*, sed *ferre 2nus*. Cicero Ep. ad Att. v. 15. Scheffer de Re Vehiculari 1 2, supposes that *Bos Clitellas* is the commencement of a fable. Panniers were for asses or mules, not for oxen.

tt De Inv. i. 30; see also sect. 2 of this chapter.

C. 2.

setting sail from the harbour, in regard to storms, and pirates and: coasts, because nature inspires us with kindly feelings towards those who are entering on the same dangers through which we have passed, how, let me ask you, must I, who just see land after long tossing on the waves, feel affected towards him by whom I see that the greatest tempests must be encountered?) but similitudes of this kind are also taken from dumb animals, and even from inanimate objects.

24. Since, too, the appearance of like objects is different in different aspects,* I ought to admonish the learner, that that species of comparison which the Greeks call *εἰκων*, and by which the very image of things or persons is represented, (as Cassius says, for instance, *Who is that making such grimaces, like those of an old man with his feet wrapped in wool?*) is more rare in oratory than that by which what we enforce is rendered more credible; as, if you should say that the mind ought to be cultivated, you would compare it, with land, which, if neglected, produces briars and thorns, but, when tilled, supplies us with fruit; or, if you would exhort men to engage in the service of the state, you would show that even bees and ants, animals not only mute but extremely diminutive, labour nevertheless in common. 25. Of this kind is the following comparison of Cicero: *As our bodies can make no use of their several parts, the nerves, or the blood, or the limbs, without the aid of a mind, so is a state powerless without laws.* But as he borrows this comparison from the human body in his speech for Cluentius, so, in that for Cornelius, § he adopts one from horses, and in that for Archias || one from stones. 26. Such as the following are, as I said, more ready to present them

* All the texts have *quoniam simili,um alia facies in tali ratione*, but Spalding observes that he can see no meaning in *tali ratione*, and proposes to read *alid ratione*, to which I have made my version conformable.

† Supposed to be Cassius of Parma. See Smith's Diet. of Gr. and Roni. Biography. The line in the text, *Quis istam faciem lanipedis senis torquens?* is thought to be a seizure from one of his epigrams. *Lanipes*, as Spalding remarks, may mean either that the old man's feet were wrapped in wool, or that they were soft and tender as wool.

§ Pro Cluent. c. 53.

§ See iv. 4, 8.

|| C. 8.

† Such references in Quintilian often given great trouble to the

selves: *As rowers are inefficient without a steersman, so are soldiers without a general.*

But the appearance of similitude is apt to mislead us, and judgment is accordingly to be employed in the use of it; for we must not say that *as a new ship is more serviceable than an old one, so it is with friendship*; nor that, *as the woman is to be commended who is liberal of her money to many, so she is to be commended who is liberal of her beauty to many.* The allusions to *age* and *liberality* have a similarity in these examples; but it is one thing to be liberal of *money*, and another to be reckless of *chastity*. 27. We must therefore consider, above all things, in this kind of illustration, whether what we apply is a proper comparison; just as in the Socratic mode of questioning, of which I spoke a little above,* we must take care that we do not answer rashly; as Xenophon's wife, in the Dialogues of Æschines Socraticus, makes inconsiderate replies to Aspasia; 28. a passage which Cicero-- translates thus: *Tell me, I pray you, wife of Erastus, if your female neighbour had better gold than yours here, -would you prefer hers or your own? Hers, replied she. And if she had dress and other ornaments suited to women, of more value than those which you have, would you prefer your own or hers? Hers, assuredly, said she. Tell me then, added Aspasia, if she had a better husband than you have, whether would you prefer your husband or hers?* 29. At this question the woman blushed; and not without reason; for she had answered incautiously at first, in saying that she would rather have her neighbour's gold than her own; as covetousness is unjustifiable. But if she had answered that she would prefer her own gold to be like the better gold of her neighbour, she might then have answered, consistently with modesty, that she would prefer her husband to be like the better husband of her neighbour.

30. I know that some writers have, with useless diligence, distinguished comparison into several almost imperceptibly different kinds, and have said that there is *a minor similitude*,

reader and commentator, as is the case here; but I suppose that he refers to sect. 23. *Spalding*.

* Sect. 3.

† De Inv. i. 31. The passage was part of a dialogue in Mæchines Socraticus, entitled Aspasia, which is now lost. See Fabr. Bibl. Gr. vol. ii. p. 692, ed Harl. *Spalding*.

as that of *an ape to a man*, or that of *imperfectly formed statues to their originals* ; and a *greater similitude*, as *an egg*, we say, is *not so like an egg*, as &c. ; and that there is also *similitude in things unlike*, as *in an ant and an elephant in genus*, both being animals, and *dissimilitude in things that are like*, as *whelps are unlike to dogs and kids to goats*, for they differ in age. 31. They say; too, that there are different kinds of *contraries* : such as an *opposite*, as *night to day* ; such as are *hurtful*, as *cold water to fever* ; such as are *repugnant*, as *truth to falsehood* ; such as are *negatively opposed*, as *hard things to those which are not hard*. But I do not see that such distinctions have any great concern with my present subject.

32. It is more to our purpose to observe, that arguments are drawn from *similar*, *opposite*, and *dissimilar* points of law. From *similar*, as Cicero shows, in his Topics,* that *the heir, to whom the possession of a house for his life has been bequeathed, will not rebuild it if it falls down, because he would not replace a slave if he should die*. From *opposite* points, as, *There is no reason why there should not be a valid marriage between parties who unite with mutual consent, even if no contract has been signed ; for it would be to no purpose that a contract had been signed, if it should be proved that there was no consent to the marriage*. 33. From *dissimilar* points, as in the speech of Cicero for Coecina ;† *Since, if any one had compelled me to quit my house by force, I should have ground for an action against him, shall I have no ground for action if a man prevents me by force from entering it?* Dissimilar points may be thus stated : *If a man who has bequeathed another all his silver may be considered to have left him all his coined silver, it is not on that account to be supposed that he intended all that was on his books to be given to him*.

34. Some have separated *analogy* from *similitude* ; I consider it comprehended in *similitude*. For when we say, *As one is to ten, so are ten to a hundred*, there is a *similitude*, as much as there is when we say, *As is an enemy, so is a bad citizen*.. But arguments from *similitude* are carried still further ; as, *If a connexion with a male slave is disgraceful to a mistress, a connexion with a female slave is disgraceful to a master*. *If pleasure is the chief object of brutes, it may also be*

a C. 3.

t C. 12.

that of men. 35. But an argument from what is *dissimilar in the cases* very easily meets such propositions : *It is not the same thing for a master to form a connexion with a female slave as for a mistress to form one with a male slave ; or from what is contrary: Because it is the chief object of brutes, it should for that very reason not be the chief object of rational beings*.

36. Among external supports for a cause, are also to be numbered *authorities*. Those who follow the Greeks, by whom they are termed *xgious*, call them *judicia* or *judicationes*, "judgments" or "adjudications," not on matters on which a judicial sentence has been pronounced, (for such matters must be considered as precedents,) but on whatever can be adduced as expressing the opinions of nations or people, or of wise men; eminent political characters, or illustrious poets. 37. Nor will even common sayings, established by popular belief, be without their use in this way ; for they are a kind of testimonies, and are so much the stronger, as they are not invented to serve particular cases, but have been said and confirmed* by minds free from hatred or partiality, merely because they appeared most agreeable to virtue and truth. 38. If I speak of the calamities of life, will not the opinion of those nationst support me, who witness births with tears, and deaths with joy ? Or if I recommend mercy to a judge, will it not support my application to observe that the eminently wise nation of the Athenians regarded mercy not as a mere affection of the mind, but as a deity?‡ 39. As for the precepts of the seven wise men, do we not consider them as so many rules of life ? If an adulteress is accused of poisoning, does she not seem already condemned by the sentence of Cato, who said that *every adulteress was also ready to become a poisoner?* With maxims from the poets, not only the compositions of orators are filled, but the books also of philosophers who, though they think everything else inferior to their own teaching and writings, have yet not disdained to seek authority

* *Dicta factaque.*] None of the commentators make any remark on the word *facta*, though Cicero is speaking only of *dicta*.

† As the Trausi in Thrace, Herod. v. 4, and the Essedones, Pomp. Mel. ii. 1.

‡ There was a well-known altar to "EX oc, Mercy or Pity, in the forum at Athens ; see Apollod. Bibl. ii. 8, with the note of Heyne, who refers to several other writers. *Spalding*.

from great numbers of verses. 40. Nor is it a mean example of the influence of poetry, that when the Megareans and Athenians contended for the possession of the isle of Salamis, the Megareans were overcome by the Athenians on the authority of a verse of Homer,' (which, however, is not found in every edition,) signifying that *Ajax united his ships with those of the Athenians.* 41. Sayings, too, which have been generally received, become as it were common property, for the very reason that they have no certain author; such as *Where there are friends, there is wealth; Conscience is instead of a thousand witnesses; t* and, as Cicero + 'has it, *Like People, as it is in the old proverb, generally join themselves with like.* Such sayings, indeed, would not have endured from time immemorial, had they not been thought true by everybody.

42. By some writers, the authority of the gods, as given in oracles, is specified under this head, and placed, indeed, in the first rank; for instance, the oracle *that Socrates was the wisest of men.* To this an allusion is rarely made, though Cicero appeals to it in his speech *De Aruspicum responsis*, and in his oration against Catiline, § when *he points the attention of the people to the statue of Jupiter placed upon the column,* and in pleading for Ligarius, 11 when he allows that *the cause of Ca3sar is the better as the gods have given judgment to that effect.* Such attestations, when they are peculiarly inherent in the cause, are called *divine testimonies*; when they are adduced from without, *arguments.* 43. Sometimes, too, we may have an opportunity of availing ourselves of a saying or act of the, judge, or of our adversary, or of the advocate that pleads against us, to support the credit of what we assert.

Hence there have been some that have placed *examples* and *authorities* in the number of *inartificial proofs*, as the orator does not invent them, but merely adopts them.

44. But there is a great difference; for witnesses, and examinations, and like matters, decide on the subject that is before the

* II. ii. 558. See Villoison Proleg. in Hom.; also Arist. Rhet. i. 10, 13; and Strabo p. 394. Plutarch, in his Life of Solon, says that there was a report that Solon forged the verse.

t This is the only place among the ancient writers in which this proverb appears to occur. *Spaiding.*

De Senectute, c. 3.

§ III. 8, 9.

It C. 6.

judges; while arguments *from without*, unless they are made of avail, by the ingenuity of the pleader, to support his allegations, have no force.

CHAPTER XII.

How far we may use doubtful grounds of argument, § 1-3. Some arguments to be urged in a body, some singly, 4, 5. Some to be carefully supported, and referred to particular points in our case, 6, 7. Not to be too numerous, 8. Arguments from the characters of persons, 9-13. In what order arguments should be advanced, 14. Quintilian states summarily what others have given at greater length, 15-17. Argument too much neglected in the exercises of the schools, 17-23.

1. *Sucii* are the notions, for the most part, which I have hitherto held concerning proof, either as conveyed to me by others, or as gathered from my own experience. I have not the presumption to intimate that what I have said on the subject is all that can be said; on the contrary, I exhort the student to search after me, and allow the possibility of more being discovered; but whatever is added, will be pretty much the same with what I have stated. I will now subjoin a few remarks or. the mode in which we must make use of proofs.

2. It is generally laid down as a principle that *a proof* must be something certain, for how can what is doubtful be proved by what is doubtful? Yet some things, which we allege in proof of something else, require proof themselves. *You killed your husband, for you were an adulteress.** Here we must bring proof as to the adultery, that, when that point appears to be established, it may become a proof of the other which is doubtful. *Your weapon was found in the body of the murdered man;* the accused denies that the weapon is his; and we must establish this circumstance in order to prove the charge. 3. But it is one of the admonitions necessary to be given here, that no proofs are stronger than those which have been shown to be certain after having appeared to be doubtful. *You committed the murder, for you had your apparel stained with blood.* Here the allegation that his apparel *was stained*

* Comp. C. 11, sect. 39.

with blood is not so strong an argument against the accused if he admits it, as if he denies it and it is proved ; for if he admits it., his apparel may have been stained with blood from many causes, but if he denies it, he hinges his cause on that very point, and, if he is convicted on that point, he can make no stand on anything that follows ; since it will be thought that he would not have had recourse to falsehood to deny the fact, if he had not despaired of justifying himself if he admitted it.

4. We must insist on the strongest of our arguments singly ; the weaker must be advanced in a body ; for the former kind, which are strong in themselves, we must not obscure by surrounding matter, but take care that they may appear exactly as they are ; the other sort, which are naturally weak, will support themselves by mutual aid ; and, therefore, if they cannot prevail from being strong, they will prevail from being numerous, as the object of all is to establish the same point.

5. Thus, if any person should accuse another of having killed a man for the sake of his property, and should say, *You expected to succeed to the inheritance, and a large inheritance it was ; you were poor, and were greatly harassed by your creditors; and you had offended him to whom you were heir, and knew that he intended to alter his will;* the allegations, considered separately, have little weight and nothing peculiar, but, brought forward in a body, they produce a damaging effect, if not with the force of a thunderbolt, at least with that of a shower of hail.

6. Some arguments it is not sufficient merely to advance ; they must be supported ; as, if you say that *covetousness was the cause of a crime*, you must show *how great the influence of covetousness is ;* or if you say *anger*, you must observe *how much power that passion has over the minds of men;* thus the arguments will be both stronger in themselves, and will appear with more grace, from not presenting, as it were, their limbs unapparelled or denuded of flesh. 7. If, again, we rest a charge upon a motive of *hatred*, it will be of importance to show whether it arose from *envy*, or from *injury*, or from *ambition* ; whether it was *old* or *recent* ; whether it was entertained towards *an inferior, an equal, or a superior, a stranger* or a *relative* ; for all such circumstances require peculiar consideration, and must be turned to the advantage of the side which

we defend. 8. Yet we must not load a judge with all the arguments that we can invent ; for such an accumulation would both tire his patience and excite his mistrust, sine ' he can hardly suppose those proofs sufficiently valid, which we ourselves, who offer them, seem to regard as unsatisfactory. On the other hand, to argue in support of a matter that is clear, is as foolish as to bring a common taper into the brightest sunshine.

9. To these kinds of proof some add those which they call *pathetic*, *Tadnuzdg*, drawn from the feelings;* and Aristotle, indeed, thinks that the most powerful argument on the part of him who speaks is *that he be a good man* ; and as this will have the best effect, so *to seem good* ranks next to it, though far below it. 10. Hence that noble defence of Scaurus :+ *Quintus Varius of Sucro says that IEntilius Scaurus has betrayed the interests of the people of Iwme; zEnzilius Scaurus denies it.* Iphicrates, too, is said to have justified himself in a similar manner ;+ for having asked Aristophon, by whom, as accuser, he was charged with a like offence, *whether he would betray his country on receiving a sum of money,* and Aristophon having replied that he would not, *Have I, then,* rejoined Iphicrates, *done what you would not do ?* 11. But we must consider what is the character -of the judge before whom we plead, and ascertain what is likely to appear most probable to him ; a point on which I have spoken § both in my directions regarding the exordium, and on those regarding deliberative oratory.

12. There is another mode of proof *in asseveration* : *I did this : You told me this : O horrible deed !* and the like. Such affirmations ought not to be wanting in any pleading, and, if they are wanting, their absence has a very ill effect. They are not to be accounted, however, as great supports, because they may be made on either side, in the same cause, with equal positiveness. 13. Those proofs are stronger which are drawn from the character of a person, and have some credible

* *IlaOnriKds vocant, ductas ex affectibus.*] Turnebus and Capponier think that we should read *,)OLKas*, which indeed suits better with Quintilian's remarks, but to which **the words** *ductas ex affectibus* are hardly applicable.

f Val. Max. iii. 7, 8.

Aristot. ihet. ii. 23, 7.

IV. 1, 17-22; iii. 8,36-48.

reason to support them : as, *It is not likely that a wounded man, or one whose son has been murdered, would mean to accuse any other than the guilty person; since, if he makes a charge against an innocent person, he would let the guilty escape punishment.* It is from such reasoning that fathers seek support when they accuse their sons;* or others, whoever they may be, that accuse their own relatives.

14. It is also inquired, whether the strongest arguments should be placed in front, that they may take forcible possession of the judge's mind, or in the rear, that they may leave an impression upon it, or partly in front and partly in the rear, so that, according to Homer's arrangement, - the weakest may be in the middle ; or whether they should be in a progressive order, commencing with the weakest. But the disposition of the arguments must be such as the nature of the cause requires ; a rule, as I think, with only one exception, *that our series must not descend from the strongest to the weakest.*

15. Contenting myself with giving these brief intimations respecting arguments, I have offered them in such a way as to show, with as much clearness as I could, the topics and heads from which they are derived. Some writers have descanted on them more diffusely, having thought proper to speak of the whole subject of common places, and to show in what manner every particular topic may be treated. 16. But to me such detail appeared superfluous ; for it occurs almost to every person what is to be said against *envy*, or *avarice*, or *a malicious witness*, or *powerful friends*, and to speak on all such subjects would be an endless task, as much as if I should undertake to enumerate all the questions, arguments, and opinions in all cases now depending, or that will ever arise. 17. I have not the confidence to suppose that I have pointed out all the sources of argument, but I consider that I have specified the greater number.

Such specification required the greater care, as the declamations, in which we used to exercise ourselves, as military men with foils; for the battles of the forum, have for some time

* Alleging that they would not bring them to judgment unless they felt compelled. *Spalding.*

+ Iliad. iv. 299. See Cic. de Orat. ii. 77. Also vi. 4, 22; vii. 1, 10. *Vdut pcepilatis, se. haatis.* Salmasius de Cruce, pag. 301, proves that *pcepilate hastae* were spears with soft balls fixed on the point to prevent them from inflicting a wound. *Capperonier.*

past departed from the true resemblance of pleading, and, being composed merely to please, are destitute of vigour, there being the same evil practice among declaimers, assuredly, as that which slave-dealers adopt, when they try to add to the beauty of young fellows by depriving them of their virility. 18. For as slave-dealers regard strength and muscles, and more especially the beard and other distinctions which nature has appropriated to males, as at variance with grace, and softened down, as being harsh, whatever would be strong if it were allowed its full growth, so we cover the manly form of eloquence, and the ability of speaking closely and forcibly, with a certain delicate texture of language, and, if our words be but smooth and elegant, think it of little consequence what vigour they have. 19. But to me, who look to nature, any man, with the full appearance of virility, will be more pleasing than a eunuch ; nor will divine providence ever be so unfavourable to its own work as to ordain that weakness be numbered among its excellences ; nor shall I think that an animal is made beautiful by the knife, which would have been a monster if it had been born in the state to which the knife has reduced it. Let a deceitful resemblance to the female sex serve the purposes of licentiousness if it will, but licentiousness will never attain such power as to render that, which it has rendered valuable for its own purposes, also honourable. 20. Such' effeminate eloquence, therefore, however audiences, overcome with pleasure, may applaud it, I (for I shall speak what I think) shall never consider worthy of the name of eloquence, language which bears in it not the least indication of manliness or purity, to say nothing of gravity or sanctity, in the speaker. 21. When the most eminent sculptors and painters, if sought to represent the highest personal beauty in stone or (,)I cauvas, never fell into the error of taking a Bagoas or Megabyzus for their model, but choose a young *Doryphoms.C* fitted alike for war or the palwstra, and consider the persons of other warlike youths and athletes truly graceful, shall 1. who study to form a perfect orator, give him, not the arms, but the tinkling cymbals, of eloquence ? 22. Let the youth whom I am instructing, therefore, devote himself, as much as he can, to the imitation of truth, and, as he is to engage in frequent

* Alluding to the statue of Polycletus, which he made viriliter *puerant* : Plin. H. N. xxxiv. 8. See also Cic. Brut. c. 86 ; Orat. c. o.,.