

language, and in terms as appropriate and familiar as possible ; but, if the subject be of a higher nature, I think that no ornament should be withheld from them, provided that it causes no obscurity. 34. For a metaphor often throws a flood of light on a subject ; so much so, that even lawyers, whose solicitude about the propriety of words is extreme, venture to call *litus*, " the sea-shore," the part where the wave *eludit*, sports.\* 35. The more rugged a subject is, too, by nature, the more we must recommend it by charms of expression ; argument is less suspected when it is disguised, and to please the hearer contributes greatly to convince him. Otherwise we must pronounce Cicero deserving of censure, for using, in the heat of his argumentation, the metaphorical expressions, *The laws are silent amid arms*, and, *The sword is sometimes presented to us by the laws themselves*. But moderation must be observed in the use of such figures, that, while they are art embellishment to a subject, they may never be an incumbrance to it.

\* See Cie. Topic. c. 7. " Aquilius, when there was any discussion about shores, all of which you maintain to be public, -used to define a shore *qua fluctus eluderet*, where the wave sported." -See also Cicero de Nat. Deor. ii. 39. *Eludere* is to be taken intransitively in the \**enae* of *exundare*.

## BOOK VI.

## INTRODUCTION.

Quintilian laments that his son, whose improvement, in conjunction with that of the sons of Marcellus and Caesar, he had had in view in the composition of this work, had been carried off by death, § 1, 2. He had previously lost, during the composition of another work, a younger son, as well as his wife, 3-6. Abilities of which his children gave indications, 7-9. His grief ; he intreats indulgence if, in consequence of it, he pursues his work with less spirit, 10-16.

1. HAVING entered upon this undertaking, Marcellus Victor, principally at your request,\* but with a desire, at the same time, that some profit to well-disposed youth might arise from my labours, I have applied to it recently with great diligence, from the necessity, almost, of the office conferred upon me, yet with a regard also to my own gratification. thinking that I should leave this work to my son, whose remarkable ability deserved even the most anxious attention of a father, as the best portion of his inheritance, so that if the fates should cut me off before him, as would have been but just and desirable, he might still have his father's precepts to guide him. 2. But while I was pursuing my design day and night, and hastening the completion of it, through fear of being prevented by death, fortune sent so sudden an affliction upon me. that the result of my industry interests no one less than myself, for I have lost by a second severe bereavement that son, of whom I had conceived the highest expectations ; and in whom I reposed my only hopes for the solace of my age.+ 3. What shall I now do ? Or what further use can I suppose that there is for me upon the earth, when the gods thus animadvert upon me? When I had just begun to write the book which I have published, *On the Causes of the Corruption of Eloquence*,§ it happened that I was struck

\* See the Preface to the work, sect. 6.

+ See the Introduction to b. iv. sect. 2.

∴ He means the loss of his son, at the age of ten years. He had previously lost another at the age of five. N

§ This work is lost. The *Dialogue de Oratoribus*, live de Causis Corruptæ Eloquentiæ is, as is generally supposed, the composition of Tacitus.

with a similar blow. It would have been best for me, therefore, to have thrown that inauspicious work, and whatever ill-omened learning there is in me, into the flames of that premature funeral pile which was to consume what I loved, and not to have wearied my unnatural prolongation of life with new and additional anxieties. 4. What parent, of right feelings at least, would pardon me, if I could pursue my studies with my accustomed diligence, and would not hate my insensibility, if I had any other use for my voice than to accuse the gods for causing me to survive all my children, and to testify that divine providence pays no regard to terrestrial affairs ?\* If such neglect of the gods is not visible in my own person, to whom nothing can be objected but that I am still alive, it is certainly manifest in the fate of those whom cruel death has condemned to perish so undeservedly, their mother having been previously snatched from me, who, after giving birth to a second son, before she had completed her nineteenth year, died, though cut off prematurely, a happy death. 5. By that one calamity I was so deeply afflicted, that no good fortune could ever afterwards render me completely happy ; for, exhibiting every virtue that can grace a woman, she not only caused incurable grief to her husband, but, being of so girlish an age, especially when compared with my own, her loss might be counted even as that of a daughter. 6. I consoled myself, however, with my surviving children ; and she, knowing, what was contrary to the order of nature, though she herself desired it, that I should be left alive, escaped the greatest of pangs in her untimely death.\* My younger son dying, first of the two, when he had just passed his fifth year, took from me, as it were, the sight of one of my eyes. 7. I am not ostentatious of my misfortunes, nor desirous to exaggerate the causes which I have for tears ; on the contrary, I wish that I

\* A common mistake among the ancients, who, when misfortune fell upon the good, said that there was no divine providence, but, when the bad suffered, declared that there was; as may be seen, for example, in several passages of Livy. Quintilian, in a calm state of mind, had other thoughts of the divine superintendence ; see v. 12, 19. Stat. Sylv. Carm. v. *Spalding*.

+ Happy in not having seen the deaths of her children.

\* *Præcipiti viâ.* This seems to be but a languid expression. May we read *præcipiti vita*, taking *præcepta vita* in the sense of *præcipitata immature abrupta* ? *Spalding*.

had some mode of lessening them ; but how can I forbear to contemplate what beauty he showed in his countenance, what sweetness in his expressions, what nascent fire in big understanding, and what substantial tokens he gave, (such as I know are scarcely credible in one so young,) not only of calm but of deep thought? Such a child, even if he had been the son of a stranger, would have won my love. 8. It was the will, too, of insidious fortune, with a view to torture me the more severely, that he should show more affection for me than for any one else, that he should prefer me to his nurses, to his grandmother who was educating him, and to all such as gain the love of children of that age. I, therefore, feel indebted to that grief which I experienced a few months before for the loss of his excellent mother, whose character is beyond all praise, for I have less reason to mourn on my own, than to rejoice on her account.

9. I then rested for my only hope and pleasure on my younger son, my little Quintilian, and he might have sufficed to console me, for he did not put forth merely flowers, like the other, but, having entered his tenth year, certain and well-formed fruits.

10. I swear by my own sufferings, by the sorrowful testimony of my feelings, by his own shade, the deity that my grief worships, that I discerned in him. such excellences of mind, (not in receiving instruction only, for which, in a long course of experience, I have seen no child more remarkable, or in steady application, requiring, even at that age, as his teachers know, no compulsion, but in indications of honourable, pious, humane, and generous feelings,) that the dread of such a thunder-stroke might have been felt even from that cause, as it has been generally observed, that precocious maturity is most liable to early death, and that there reigns some malignant influence to destroy our fairest hopes, in order that our enjoyments may not be exalted beyond what is appointed to man.

11. He had also every adventitious advantage, agreeableness and clearness of voice; sweetness of tone, and a peculiar facility in sounding every letter in either language, as if he had been born to speak that only. But these were still only promising appearances ; he had greater qualities, fortitude, resolution, and strength to resist pain and fear ; for with what courage, with what admiration on the part of his physicians, did he endure an illness of eight months ! How did he con-

sole me at the last! How, when he was losing his senses, and unable to recognize me, did he fix his thoughts in delirium only on learning! 12. O disappointment of my hopes! Did I endure, my son, to contemplate your eyes sinking in death, and your breath taking its flight? Could I, after embracing your cold and lifeless body, and receiving your last breath, breathe again the common air? Justly do I deserve the affliction which I endure, and the thoughts which affect me! 13. Have I, your parent, lost you, when just raised, by being adopted by a man\* of consular dignity, to the hopes of enjoying all the honours of your father; t you, who were destined to be son-in-law to the proctor, your maternal uncle; you who, in the opinion of all, were a candidate for the highest distinctions of Attic eloquence, surviving myself only to grieve. May my sufferings at least, if not my obstinate clinging to life, make atonement to you during the rest of my existence! We in vain impute all our ills to the injustice of fortune, for no man grieves long but through his own fault.\* 14. But I still live, and some occupation for life must be sought, and I must put faith in the learned, who have pronounced letters the only consolation in adversity.

If the present violence of my grief, however, should in time subside, so that some other thought may be admitted among<sup>so</sup> many sorrowful reflections, I shall not unreasonably crave pardon for the delay in my work; for who can wonder that my studies were interrupted, when it must rather appear wonderful that they were not relinquished entirely? 15. Should anything, then, in this part of my work, appear less finished than that which I commenced when less oppressed with affliction, let it be excused on account of the rigorousness of fortune, who, if she has not extinguished the moderate power of mind which I previously possessed, has at least succeeded in weakening it. But let me, on this very account, rouse myself to action with the greater spirit, since, though it is difficult for me to bear her oppression, it is easy for me to despise it, for

\* Who he was, is unknown.

t Father by adoption.

§ A Stoic saying; comp. v. 12, 19; 6, 3. The tenet, however, was not peculiar to the Stoic sect, but common to all the ancients, and was supported by the example of the Epicurean Atticus. See Plin. H N. ii. 7. *Jpalding*.

she has left nothing further to inflict upon me, and has educated for me, out of my calamities, a security which, though unhappy, is certainly stable. 16. It is right, to look favourably on my efforts, too, for this reason, that I persevere for no interest of my own, but that all my pains are devoted to the service of others, if what I write, indeed, be of any service. My work, like the acquisitions of my fortune, I, unhappy that I am, shall not leave to those for whom I designed it.

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## CHAPTER 1.

Peroration of a speech; the objects of it; some think that it should consist wholly of recapitulation, § 1-8. Appeals to the feelings may be made by the accuser and the advocate alike, 9. What the exordium and the peroration have in common, and in what respects they differ, 10-14. The accuser excites the feelings either by showing the heinousness of the charge which he makes, or the pitiable condition of the party for whom he seeks redress, 15-20. What qualities excite feeling in favour of an accused person, 21, 22. Solicitations for pity may have great effect, but should not be long, 23-28. Modes of exciting pity, 29-36. How persons who are introduced to move pity at the conclusion of a speech, should behave themselves, 37-43. No orator must attempt to draw tears from the judges unless he be a man of great ability, 44, 45. It is the part of the peroration to dispel compassionate emotions, as well as to excite them, 46-49. Perorations sometimes of a very mild character, 50. Appeals to the feelings may be made in other parts of a speech as well as in the peroration, 51-55.

1. WHAT was to follow,\* was the *peroration*, which some have termed the *completion*, and others the *conclusion*. There are two species of it, the one comprising the substance of the speech, and the other adapted to excite the feelings.

The *repetition* and *summing-up of heads*, which is called by the Greeks '*a-axE-a-uiv6rr.*', and by some of the Latins *enumeration*, is intended both to refresh the memory of the judge, to set the whole cause at once before his view, and to enforce such arguments in a body as had produced an insufficient effect in detail. 2. In this part of our speech,

\* When the progress of the work was interrupted by the death of his son.

what we repeat ought to be repeated as briefly as possible, and we must, as is intimated by the Greek term, run over only the principal heads ; for, if we dwell upon them, the result will be, not a recapitulation, but a sort of second speech. What we may think necessary to recapitulate, must be put forward with some emphasis, enlivened by suitable remarks, and varied with different figures, for nothing is more offensive than mere straightforward repetition, as if the speaker distrusted the judge's memory.\* The figures which we may employ are innumerable ; and Cicero affords us an excellent example in his pleading against Verres, 3. *If your father himself were your judge, what would he say when these things were proved against you?* where he subjoins an enumeration of particulars; and there is another instance, in which the same orator, in the same speech, enumerates, on invoking the gods, all the temples spoiled by Verres in his prætorship. We may also sometimes affect to doubt whether something has not escaped us, and to wonder what our opponents will reply to such or such a point, or what hope the accuser can have when our case is so fully established. 4. But what affords us the greatest gratification, is the opportunity of drawing some argument from the speech of our adversary, as when we say, *He has omitted this point in the cause; or, He made it his object to oppress us with odium ; or, He had recourse to entreaty, and not without reason, when he knew so and so.* 5. But I must not go through such figures of speech, severally, lest those which I may now notice should be thought the only ones that can be used ; since opportunities for varying our forms of speech spring from the nature of particular causes, from the remarks of the adversary, and even from fortuitous circumstances. Nor must we recapitulate only the points of our own case, but call also upon our opponent to reply to certain questions. 6. But this can only be done when there is time for further speaking, and when we have advanced what cannot be refuted ; for to challenge the adversary on facts which make strongly for him, is to be, not his opponent, but his prompter.

7. This has been thought by most of the Attic orators, and by almost all the philosophers, who have left anything written on the art of oratory, the only legitimate kind of peroration;

\* L. V. c. 52.

a tenet which the Attic orators adopted, I suppose, for this reason, that at Athens an orator was prohibited even by an officer of the court from attempting to excite the feelings. At the philosophers I am less surprised, since with 'them all excitement of the feelings is accounted vicious ; nor is it consistent with morality, in their opinion, that the judge should be thus diverted from truth, or becoming a good man to use vicious means. Yet they will allow that to move the feelings is justifiable,\* if what is true, and just, and subservient to the public good, cannot be established by any other method. 8. It is admitted however among all orators that a recapitulation may be made with advantage **even in** other parts of a pleading, if the cause be complex and require to be supported by numerous arguments ; while nobody doubts, on the other hand, that there are many short and simple causes in which recapitulation is by no means necessary. This part of the peroration is common alike both to the prosecutor and the defendant.

9. Both of them also have recourse to the excitement of the feelings ; but the defendant more rarely, the prosecutor more frequently and with greater earnestness ; for the prosecutor has to rouse the judge, while the defendant's business is to soothe him. But the prosecutor at times produces tears from the pity which he expresses for the matter for which he seeks redress ; and the defendant sometimes **inveighs** with great vehemence at the injustice of the calumny or conspiracy of which lie is the object.t It is therefore most convenient to divide these duties,\* which are for the most part similarly introduced, as I said,§ in the exordium, but are in the peroration more free and full. 10. A feeling of the judge in our favour is sought but modestly at the commencement, when it is sufficient that it be just admitted, and when the whole speech is before us ; but in the peroration we have to mark with what sort of feeling the judge will proceed to consider his sentence, as we have then nothing more to say, and no place is left us for which we can reserve further arguments.

' Comp. v. 14, 29.

} **We** must, as Spalding observes, read *calunzzite et conspiratioxis* with Rollin.

\*~ Those of exciting and soothing.

§ He doubtless refers to iv. 1, 27, 28. *Spalding,*

11. It is therefore common to each party to endeavour to attract the favour of the judge towards himself, to withdraw from his adversary, to excite the feelings and to compose them ; and this very brief admonition may be given to both parties, that a pleader should bring the whole force of his cause before his view, and, when he has noticed what, among its various points, is likely, or may be made likely, to excite disapprobation or favour, dislike or pity, should dwell on those particulars by which he himself, if lie were judge, would be most impressed. 12. But it is safer for me to consider the parts of each separately.

What recommends the prosecutor to the judge, I have already noticed \* in the precepts which I have given for the exordium. Some particulars, however, which it is sufficient to intimate in the commencement, must be stated more fully in the conclusion, especially if the cause be undertaken against a violent, odious, or dangerous character, or if the condemnation of the accused will be an honour to the judges, and his acquittal a disgrace to them. 13. Thus Calvus+ makes an admirable remark in his speech against Vatinius, *You know, judges, that bribery has been committed. and all men know that you know it.* Cicero, too, in pleading against Verres, § observes that the disrepute which had fallen on the courts might be effaced by the condemnation of Verres ; and this is one of the conciliatory modes of address to which I have before alluded. If intimidation, too, is to be used, in order to produce a similar effect, it has a more forcible position here than in the exordium. What my opinion is on this point, I have already stated in another book. ¶ 14. It is possible also to excite jealousy, hatred, or indignation, more freely in the peroration than elsewhere ; in regard to which feelings, the influence of the accused contributes to excite jealousy, ill-reputation hatred, and disrespect for the judge, (if the accused be contumacious, arrogant, or full of assurance,) indignation, the judge being often influenced, not only by an act or word, but by look, air, or manner.

• See IV. 1, 5-27.

t V. 13, 56.

§ 6, 42.

Act. i. 15.

p Fear itself makes the judge unwilling to be unjust to the accuser.

¶ IV. 1, 20, 21.

The Pccuser\* of Cossutianus Capito was thought, when I was young, to have roam-de a very-hag>py-memark, **in tinted**, but to this effect, *You are ashamed to fear-even Vamp. 'I-D.* But the most effective way for the accuser to excite the feelings of the judge, is to make that which he lays to the charge of the accused appear the most *atrocious* act possible, or, if the subject allow, the most *deplorable*. Atrocity is made to appear from such considerations as these, *What has been done, by whom, against whom, with what feeling, at what time, in what place, in what manner;* all which have infinite ramifications. 16. We complain that somebody has been beaten ; we must first speak of the act; and then state whether the sufferer was *an old man, or a youth, or a magistrate, or a man of high character, or one who has deserved well of his country;* also whether lie was struck by *some vile contemptible fellow ;* or, on the other hand, *by some tyrannical person, or by some one from whom he ought least of all to have received such treatment;* also whether he was struck, as it might be, *on a solemn festival, or when prosecutions for similar offences were being rigorously conducted, or at a time when the government was unsettled,* or, as to place, *in a theatre, in a temple, in a public assembly,* for under such circumstances the offence is aggravated ; 17. also whether it can be proved that he was not struck by *mistake, or in a sudden fit of passion, or, if in a passion, with great injustice,* when, perhaps, he was *taking the part of his father, or had made some reply''' to the aggressor, or was standing for office in opposition to him ;* and whether *the aggressor would have proceeded to greater violence than he actually committed.* But the *manner* contributes most to the heinousness of the act, if he struck the person *violently, or insultingly ; as* Demostheies excites odium against Meidias by alluding to the part of his body which was struck, and the look and mien of the striker. 18. A man has been killed ; we must consider whether it was with *a sword, or fire, or*

\* Who the accuser was we do not know. It appears from Tacitus, Ann. xiii. 33, that Cossutianus Capito was condemned for extortion in his province of Cilicia. See also Juv. viii. 92.

t It had become customary to plead occasionally in Greek since the time of Mulo the tutor of Cicero : Val. Max. ii. 2, 3.

§ *Quad respondisset.* See v. 7, 14; iii. 5, 15. The injustice, which the aggressor committed, had not been borne by the young man in silence. Compare Terent. Phorm. Prol. 19. *Spalding.*

*poison; with one wound or with several; whether suddenly, or whether he was made to languish in tortures ; all which considerations have great effect in this way.\**

The accuser, also, often attempts to excite pity, as when he bewails the sad fate of him whose cause he is pleading, or the destitution of his children or parents. 19. He may also move the judges by a representation of the future, showing what will be the consequences to those who complain of violence and injustice, unless their cause be avenged ; that they must *flee from their country, sacrifice their property, or endure everything that their enemies may be disposed to inflict on them.* 20. But it is more frequently the part of the accuser to guard the feelings of the judge against that pity which the accused would seek to excite, and to urge him to give judgment with boldness. In doing so, he may also anticipate what he thinks his opponent likely to say or do ; for this course makes the judges more cautious in adhering to the sacredness of their oath, and diminishes the influence of those who have to reply, since what has been once stated by the accuser, will, if urged **in** favour of the accused, be no longer new ; thus Servius Sulpicius, in pleading against Aufidia, admonishes the judges that *the danger to the witnesses from those persons\* was not to be brought against him.* It is also previously intimated by Eschines what sort of defence Demosthenes was likely to use. Judges may sometimes be instructed, too, as to answers which they should make to those who may solicit them in favour of the defendant ; an instruction which is a species of recapitulation.

21. As to a party on trial, his *dignity, or manly pursuits, or wounds received in war, or nobility of birth, or the services of his ancestors,* may be subjects of recommendation to him, This kind of considerations Cicero and Asinius Pollio have urged even emulously, Cicero || for Scaurus the father, and Pollio for Scaurus the son. 22. The *cause,* also, which has brought him

\* That is, in heightening the heinousness of the charge. See sect. 15. See iv. 2, 106.

*Ab ipsis.]* Who they were, we cannot, from the few fragments which we possess of the speech, form any conjecture. <sup>valdiyyg.</sup>  
§ See Reisk. Orat. iii. 597, 608 ; Steph. lxxxiii. 28-84, 23; 611-623 ; St. lxxxiv. 33-86, 30. See also Quint. iii. 6, 3 ; vii. 1, 2 *Spalding.*

|| See iv. 1, 69. Val. Max. viii. 1, 10

into danger, may be pleaded in his favour, if lie appear, for example, to have incurred enmity for some honourable act, and his goodness, humanity, pity, may especially be eulogized ; for a person seems justly to solicit\* from the judge that which he himself has shown to others. In this part of a speech, too, allusions may be made to *the public good, to the honour of the judges, to precedent, to regard for posterity.* 23. But that which produces the most powerful impression is pity, which not only forces the judge to change his opinions, but to manifest the feelings in his breast even by tears. Pity will be, excited by dwelling either on that which the accused has suffered, or on that which he is actually suffering, or on that which awaits him if he be condemned ; representations which have double force, when we show from what condition he has fallen, and into what condition he is in danger of falling. 24. To these considerations age and sex may add weight, as well as objects of affection, I mean children, parents, and other relatives ; and all these matters may be treated in various ways. Sometimes also the advocate numbers himself among his client's counexions, as Cicero in his speech for Milo :+ *O unhappy that I am ! O unfortunate that thou art ! Could you, Milo, by means of those who are this day your judges, recall me into my country, and cannot I, by means of the same judges, -retain you in yours ?* 25. This is a very good resource, if, as was then the case, entreaty is unsuited to the party who is accused ; for who would endure to hear Milo supplicating for his life, when he acknowledged that he had killed a nobleman because he deserved to be killed ? Cicero, therefore, sought to gain Milo § the favour of the judges for his magnanimity, and took upon himself the part of suppliant for him.

In this part of a speech *prosopopeiw* are extremely effective, that is, fictitious addresses delivered in another person's character, such as are suitable either to a prosecutor or

\* The text has *Juste enim, tunc petere,* but Spalding justly observes that *tunc is* useless, and proposes to read *Justissime enim peters.*

t See iv. 1, 7. He means that such allusions may be made in the peroration as well as in the exordium.

+ C. 37.

§ I read *illi,* instead of *ills,* with Spalding.

defendant.\* Even mute objectst may touch the feelings, either when we speak to them ourselves, or represent them ai speaking. 26. But the feelings are very strongly moved by the personification of characters ; for the judge seems not tg be listening to an orator lamenting the sufferings of others, but to hear with his own ears the expressions and tones of the unfortunate suppliants themselves, whose presence, even without speech, would be sufficient to call forth tears ; and as their pleadings would excite greater pity if they themselves uttered them, so they are in some degree more effective when they are spoken apparently by their own mouth in a personification ; as with actors on the stage, the same voice and the same pronunciation have greater power to excite the feelings when accompanied with a mask representing the character. 27. Cicero, accordingly, though he puts no entreaties into the mouth of Milo, but rather commends him to favour for his firmness of mind, has yet attributed to him words and lamentations not unworthy of a man of spirit ; 0 labours, undertaken by me in vain ! 0 deceitful hopes ! 0 thoughts, cherished by me to no purpose !

Yet our supplications for pity should not be long ; as it is observed, not without reason, that nothing dries sooner than tears. 28. For, since time lessens even natural sorrows, the representation of sorrow, which we produce in a speech, must lose its effect still sooner ; and, if we are prolix in it, the hearer, wearied with tears, will recover his tranquillity, and return from the emotion which had surprised him to the exercise of his reason. 29. Let us not allow the impressions that we make, therefore, to cool, but, when we have raised the feelings of our audience to the utmost, let us quit the subject, and not expect that any person will long bewail the misfortunes

[Quales litigatorenr docent vel patronum.] All commentators have been dissatisfied with these words. Spalding very properly asks, "What kinds of prosopopeice are suitable to a patronus? Surely all kinds, if he be but a skilful pleader." Gedoyn renders the words, *tela qu' Us conviennent a l'arocat ou a sa partie*, taking litigator in the sense of "client." "I have thought it better to understand it in that of "accuser" or "prosecutor." Rollin proposes to substitute for it *litis actore-m*, in that sense, but Burmann disapproves.

+ Mutce tamer res.] In place of tamer some manuscripts have *funtuin*.

of another. Not only in other parts of our speech, accordingly, but most of all in this part, our eloquence ought gradually to rise ; for whatever does not add to that which has been said, seems even to take away from it, and the feeling which begins to subside soon passes away.

30. We may excite tears, however, rot only by words, but by acts ; and hence it become a practice to exhibit persons on their trial in a squalid and pitiful garb, accompanied with their children and parents ; hence, too, we see blood-stained swords produced by accusers, with fractured bones extracted from wounds, and garments spotted with blood ; we behold wounds unbound, and scourged backs exposed to view. 31. The effect of such exhibitions is generally very strong, so that they fix the attention of the spectators on the act as if it were committed before their eyes. The blood-stained toga of Julius Cfesar, when exhibited in the forum, excited the populace of Rome almost to madness. It was known that he was killed ; his body was even stretched on the bier ; yet his robe, drenched in blood, excited such a vivid idea of the crime, that Cresar seemed not to have been assassinated, but to be subjected to assassination at that very moment. 32. But I would not for that reason approve of a device of which I have read, and which I have myself seen adopted, a representation, displayed in a painting or on a curtain, of the act at the atrocity of which the judge was to be shocked. For how conscious must a pleader be of his inefficiency, who thinks that a dumb picture will speak better for him than his own words ? 33. But a humble garb, and wretched appearance, on the part as well of the accused as of his relatives, has, I know, been of much effect ; and I am aware that entreaties have contributed greatly to save accused persons from death. To implore mercy of the judges, therefore, by the defendant's dearest objects of a f}ection, (that is to say, if lie has children, wife, or parents.) will be of great advantage, as well as to invoke the gods, since such invocation seems to proceed from a clear conscience. 34. To fall prostrate, also, and embrace the knees of the judge, may be allowable at times, unless the character of the accused, and his past life and station, dissuade him from such humiliation ; for there are some deeds that ought to be defended with the same boldness with which they were committed. But regard is to

be had to the defendant's dignity, with such caution that an offensive confidence may not appear in him.

35. Among all arguments for a client, the most potent, in former times, was that by means of which Cicero seems chiefly to have saved Lucius Murena from the eminent men who were his accusers, when he persuaded them that nothing was more advantageous for the state of things at that period, than that Murtena *should enter on his consulship the day before the Kalends of January.*\* But this kind of argument is wholly wet aside in our days, as everything depends on the care and protection of our sovereign, and cannot be endangered by the issue of any single cause.

36. I have spoken of prosecutors and defendants, because it is on their trials that the pathetic is chiefly employed. But private causes also admit both kinds of perorations, that which consists in a recapitulation of proofs, and that which depends on the excitement of the feelings, the latter having place whenever the accused party is in danger either as to station or as to character; for to attempt such tragic pleadings in trifling causes would be like trying to adjust the mask and buskins of Hercules on an infant.

37. Nor is it improper for me to intimate, that much of the success of a peroration depends, in my opinion, on the manner in which the defendant, who is presented before the judge, accommodates his demeanour to that of him who pleads in his favour; for *ignorance, rusticity, stiffness, and vulgarity* in a client sometimes damp a pleader's efforts; and against such untowardness he should take diligent precaution. 38. I have seen the behaviour of clients quite at variance with the language of their advocate, showing no concern in their countenance, laughing without reason, and, by some act or look, making even others laugh, especially when anything was delivered at all theatrically. 39. On one occasion, an advocate led over a girl, who was said to be the sister of the adverse party, (for it was about that point that the controversy

\* Cicero pro Flacc. c. 39, says that it was by this argument that he saved Murmen. Quintilian, says Spalding, seems to intimate that that consideration had more effect on the judges than Cicero's eloquence.

t In private causes there was properly only *petitor* and *wide pctitur*, in public causes, prosecutor and defendant. *Spalding*.

was,) to the opposite benches,\* as if intending to leave her in the arms of her brother; but the brother, previously instructed by me, had gone off; and the advocate, although an eloquent man at other times, was struck dumb -by his unexpected disappearance, and, with his ardour cooled, took his little girl back again. 40. Another advocate, pleading for a woman who was on her trial, thought it would have a great effect to exhibit the likeness of her deceased husband; but the image excited little else but laughter; for the persons whose business it was to produce it, being ignorant what *a peroration* meant, displayed it to view whenever the advocate looked towards them, and, when it was brought still more into sight at the conclusion, it destroyed the effect of all his previous eloquence by its ugliness, being a mere cast from an old man's dead body.t 41. It is well known, too, what happened to Glycon,+ surnamed Spiridiou: A little boy, whom he brought into court, and asked *Why he was weeping*, replied, "That he had had his ears pulled by his tutor." § But nothing is better adapted to show the dangers attendant on perorations, than the story of Cicero about the Cepasii.lf 42. Yet all such mishaps are easily remedied by those who call alter the fashion of their speech; but those who cannot vary from what they have composed, are either struck dumb at such occurrences, or, as is frequently the case, say what is not true; for hence are such impertinences as these: *He is raising his supplicating hands towards your knees*, or, *He is locked, unhappy man, in the embraces of his children*, or, *See, he recalls my attention, &c.*; though the client does no single thing of all that his advocate attributes to him. 43. These absurdities come from the schools, in which we give play to our imagination freely and with impu-

\* The defendant was on the right hand seats; the accuser on the left. The advocate, therefore, transferred the girl from his own seat to that of his adversary, with a view to produce a moving scene. *Turnebus*.

+ That such casts were taken among the ancients, appears, as Gesuea remarks, from what Pliny says of Lysistratura, H. N. xxxv. 12.

+ A Greek rhetorician, mentioned several times with respect by Seneca the father; for instance, p. 151, ed. Bip. *Spalding*.

§ Nicholas Faber, on the passage of Seneca just quoted, supposes that the boy had really been beaten, in order that he might appear in the court in tears, but that it was intended <sup>hp</sup> should be silent.

|| Bee iv. 2, 19.



nity, because whatever we wish is supposed to be done ; but reality does not allow of such suppositions, and Cassius Severus made a most happy retort to a young orator who said, " Why look you so sternly on me, Severus ?" " I did not, I assure you," replied Cassius, " but you had written those words, I suppose, ill your notes, and so here is a look for you," when he threw on him as terrible a glance as he could possibly assume.

44. The student ought above all things to be admonished, also, that an orator should not attempt to excite tears, unless he be endowed with extraordinary genius ; for as 'the effect on the feelings, if he succeeds, is extremely powerful, so, if he is unsuccessful, the result is vapidity ; and a middling pleader had better leave the pathos to the quiet meditations of the judges ; 45. for the look, tone, and even the very face, of a defendant called to stand before the judges, are a laughing-stock to such persons as they do not move. Let a pleader, therefore, in such a case, carefully measure and contemplate his strength, and consider how difficult a task he will have to undertake. In the result there will be no medium ; he will either provoke tears or laughter.

46. But the business of a peroration is not only to excite feelings of pity, but also to deaden them, either by a set speech, which may recall the judges, when shaken by compassion, to considerations of justice, or by some jocose remark, as, *Give the child a cake, that he may leave off crying*; or, as a pleader said to his corpulent client, whose opponent, a mere child, had been carried round among the judges *by his advocate, What shall I do ? I cannot cam, you.* 47. But such pleasantries must have nothing of buffoonery ; and I cannot praise the orator,\* though he was among the most eminent of his time, who, when sonic children were brought in at the peroration by the opposite party, threw some playthingst among them, for which they began to scramble ; for the children's insensibility to ill that threatened them might of itself excite compassion. 48. Nor can I commend him, who, when a blood-stained sword was produced by his adversary, which he offered as a proof that a mail had been killed, suddenly took flight, as

\* Who he was, I find nothing to assist me in conjecturing. The story, I believe, is nowhere else told.

t 7ulos.] Bones from the pastern of cloven-footed animals, with which buys were accustomed to play. *I uncfi s.*

if terrified, from his seat, and looking out from the crowd, with his head half covered with his robe, asked *whether the man with the sword was yet gone*; for he raised a laugh, indeed, but made himself at the same time ridiculous. 49. The effect of such acting is to be dispelled by the calm power of eloquence ; and Cicero gives us excellent examples, who, in his oration for 1 abirius, attacks with great force the production of the likeness of Saturniulus,\* and, in his speech for Varenus,t rallies with much wit the young mail whose wound was unbound from time to time during the trial.

50. There are also perorations of a milder sort, in which we seek to pacify an adversary, if his character, for instance, be such that respect is due to him, or in which we give him some friendly admonition, and exhort him to concord ; a kind of peroration that was admirably managed by Passienas,+ when he pleaded the cause of his wife Domitia, to recover a suet of money, against her brother .2Enoharbus, for, after he had enlarged on their relationship, he added some remarks on their fortune, of which both had abundance, saying, *There is nothing of which you have less need than that about which you are contending.*

51. But all these addresses to the feelings, though they are thought by some to have a place only in the exordium and the peroration, in which indeed they are most frequently introduced, are admissible also in other parts, but more sparingly, as it is from them that the decision of the cause must be chiefly evolved ;§ but in the peroration, if anywhere, we may call forth all the resources of eloquence ; 52. for if we have treated the other parts successfully, we are secure of the attention of the judges at the conclusion ; where, having passed the rocks and shallows on our voyage, we may expand our

\* Titus Labienus, the accuser of Babirius, had exhibited an image of Lucius Saturninus, killed many years before, to excite the feelings. See Cie. pro Rabir. c. 9.

f See v. 13, 2S.

§ The husband of Agrippina, and step-father of Nero. He had been previously married to Domitia. See c. 3, sect. 74 ; x. 1, 24.

*Ut quem ex ipsis plurima sit res cruenta.] Ex aliis istis partibus --- videlicet narrandi et probandi -veritas rei maxime est eruenda, nec patiuntur propterea magnam affectuum copiam et diuturnitatem ; conf. xii. 9, 3. Plurima res seems to be for "plurimum rei, maxima pars rei." fimaldi)f.*