

## INTRODUCTION

### 1 THE CHARGE<sup>1</sup>

*de parricidio causa dicitur*, C. reminds the jurors to galvanize attention (§61). Under *parricidium* C. understands the murder of a parent, as is clear from his characterization of this case (*ibid.*) and the examples he cites in §§64–6 and 70.<sup>2</sup> It was a crime that filled Romans with horror and was, on available evidence, rare at Rome.<sup>3</sup> Although the second element clearly derives from the root for killing (*caedo*, *cid-* in *occidere* etc.), the first element remains, in spite of much discussion, obscure.<sup>4</sup> By the late Republic *parricidium* could also include the murder of other close relatives as well as patrons.<sup>5</sup>

Being an abomination at Rome, the *parricida* was subject to a gruesome and unique punishment: *insui uoluerunt in culleum uiuos atque ita in flumen deiçi* (§71). C. makes no mention of the inclusion in the sack of a snake, an ape, a dog, and a cock, alluded to by Justin. *Inst.* 4.18.6 and Modest. *Dig.* 48.9.9 pr. but evidently not practiced in his time. In spite of C.'s claim (§70) that it was invented as a deterrent, the punishment was probably originally a ritual procedure for removing a *prodigium* from the community; the drowning of hermaphrodites, likewise regarded as *prodigia*, is the closest parallel in historical times.<sup>6</sup> The *poena cullei* is referred to as early as Pl. *Epid.* 359–61.<sup>7</sup> One Malleolus was thus executed (for matricide) in 101 (*Rhet. Her.* 1.23; cf. *Inv.* 2.148–9). Q. Cicero inflicted it on provincials in 59 (*Qfr.* 1.2.5). A *lex Pompeia*, probably of 55 or 52, appears to have subsumed *parricidium* under the regular punishment for murder in cases tried before the standing courts (*quaestiones*),

<sup>1</sup> C. stands for Cicero; references to this speech are by paragraph number alone; names of other Latin authors and works are abbreviated as in *OLD* or otherwise *TLL*; all references to Quint. are to *Inst.*; all dates are BC unless otherwise indicated.

<sup>2</sup> Cloud 1971: 15n16 argues for a wider sphere of application of the term even before the *lex Pompeia* (see below), but the case is not clear. Thomas 1981 emphasizes the father as the victim of primary concern.

<sup>3</sup> Cf. Saller 1986: esp. 9 and 19 and 1987: esp. 21–2 and 34.

<sup>4</sup> Cf. Ernout and Meillet s.v.; Cloud 1971: 5n5; Lovisi 1999: 83–7. Likewise unclear is the relation of the *parricida* of the late Republic to *paricidas* in an alleged law of Numa, where the word designates a murderer in general; cf. Festus 247.10L with Cloud 1971: 2–18; Thomas 1981: 659–79, suggesting that the passage be bracketed out from discussions of *parricida/parricidium*; Magdelain 1984.

<sup>5</sup> Marcian. *Dig.* 48.9.1: the *lex Pompeia*; see below.

<sup>6</sup> A closer parallel would be the sewing of the religious offender L. Atilius in a *culleus* and casting him into the sea by Tarquinius Superbus (V. Max. 1.1.13), if historical; Briquel 1984: 231 is skeptical. For the hermaphrodites cf. Livy 31.12.8 and other testimonies cited by Cloud 1971: 35. See further Radin 1919; Briquel 1980: 89.

<sup>7</sup> Cf. Cloud 1971: 32–6.

Cambridge University Press  
 978-0-521-70886-9 - Cicero: Pro Sexto Roscio  
 Edited by Andrew R. Dyck  
 Excerpt  
[More information](#)

namely exile (Marc. *Dig.* 48.9.1).<sup>8</sup> The traditional punishment was, however, occasionally inflicted in other types of court under the Empire,<sup>9</sup> though Suet. *Aug.* 33.1 states that it was applicable only if the defendant confessed. It has also, bizarrely, been revived in modern times.<sup>10</sup>

## 2 THE COURT

In early times such matters were handled by families extrajudicially. In the early first century BC *parricidium* could be tried by the court *de ueneficiis* (*Inv.* 2.58); presumably the court *de sicariis*, attested from 142 onward,<sup>11</sup> was also available if that were the means used. The two murder courts were amalgamated by Sulla's judicial legislation;<sup>12</sup> hence the *quaestio de sicariis et ueneficiis* is the venue of our trial. A case of *parricidium* was, however, treated as special in that it was put on to a fast track ahead of other cases (*Inv.*, *loc. cit.*). Our case was therefore the first following the interruption of judicial activity entailed by the civil war and proscriptions (§11n. and the next sections).

## 3 THE PROSCRIPTIONS<sup>13</sup>

The atmosphere and, to some extent, the content of Roscius' trial were determined by Sulla's recent proscriptions. C. claims that the prosecutor C. Erucius owes his standing to the recent bloodbath among prosecutors (§§89–90). Moreover, the pervasive activities of cutthroats (*sicarii*: §§80–1, 93–4) were invoked by both the prosecution and defense to help account for the elder Roscius' murder. C. expresses the hope that the court will help to put an end to the recent excesses (§11) rather than unleash a new proscription (§153); and he speaks of the right and wrong uses of the victory of the nobility (§§141–2 and 149). In framing his case this way C. clearly hopes to tap into widespread revulsion over recent events. Some background will help readers appreciate the resonance of his approach.

The proscriptions were state-sanctioned plunder and killing of political enemies. Historians usually distinguish two sets of proscriptions, those of

<sup>8</sup> Rotondi 1912: 406–7; cf. Cloud 1971: 47–66; Justin. *Inst.* 4.18.6, however, claims that the *lex Pompeia* reaffirmed the traditional punishment.

<sup>9</sup> Cf. Cloud 1971: 58.

<sup>10</sup> Cf. Egmond 1995: 160, noting occurrences in the German-speaking countries, France, Spain and Italy between AD 1200 and 1750.

<sup>11</sup> Cf. Riggsby 1999: 50.

<sup>12</sup> *RS* §50; cf. Ferrary 1991 with literature.

<sup>13</sup> For the material in this section cf. in general Hinard 1985a; Keaveney 1982: ch. 8; Seager, *CAH* ix ch. 6; Letzner 2000: ch. 9.1.

Sulla (82–1) and those of Antony, Octavian, and Lepidus (43), but the reality is more complex. Sulla's excesses of 82–1 were preceded by acts of the same kind but on a smaller scale in 88 and 87, and Julius Caesar's enemies in the civil war of 49 to 45 suffered a similar fate.

The 80s were a period of great turmoil and violence in Roman politics. C. speaks, not without reason, of the danger of a deadening of sensibility (§§3 and 150). Though the Social War was, apart from the siege of Nola, concluded by the end of 89, the practical question yet remained of how the new citizens should be distributed among Rome's 35 traditional voting tribes. This issue drove a wedge between P. Sulpicius, tribune of the plebs, and the two consuls Sulla and Q. Pompeius Rufus, Sulpicius proposing to distribute the new citizens among all 35 tribes, the latter to keep their influence to a minimum by placing them in a handful of tribes voting last. After a violent clash in which Pompeius' young son was killed, Sulla left Rome to join his troops destined for the campaign in Asia against Mithridates. But while he was still in Italy, he received word that a bill had been passed by which C. Marius was to supersede him in the command. Thereupon Sulla marched his troops on Rome and took possession of the city. The following day, with troops posted throughout the city, the senate met and declared Marius, his son, Sulpicius, and nine others public enemies. Sulpicius was betrayed by a slave and killed (Livy *ep.* 77; V. Max. 6.5.7), the others fled. This was the first but not the last instance of the senate's stepping in to legitimize one side in a political vendetta and delegitimize the other.

The fate of the new citizens continued to be a divisive issue, setting the consuls of 87, Cn. Octavius and L. Cornelius Cinna, at odds. Rioting by the new citizens led to a bloodbath in which many of them were killed by Octavius' supporters. Thereupon Cinna, who had championed the cause of the new citizens, left Rome to gather support; Marius joined him from his African exile, and together they mounted an attack on Rome. When the attackers entered the city, they proceeded to settle scores with no pretense of legality. A number of leading men were cut down, including the orator M. Antonius, C. and L. Caesar, and P. Crassus and his elder son. Sulla himself was outlawed and stripped of his priesthood, his property confiscated or destroyed.

But even these vengeful acts pale by comparison with those wreaked by Sulla upon his enemies after he patched together a peace with Mithridates and marched on Rome for the second time in 82. After his victory at Sacripontus, the city opened its gates to him, and his enemies fled; they were hunted down and killed, their property forfeit. The killings and confiscations were

Cambridge University Press  
 978-0-521-70886-9 - Cicero: Pro Sexto Roscio  
 Edited by Andrew R. Dyck  
 Excerpt  
[More information](#)

so numerous that even Sulla's supporter Q. Catulus asked whether anyone was to be left alive.<sup>14</sup> To satisfy such concerns, Sulla began publishing lists (*proscribere*) of those targeted. The scale can be gauged from reports that the first list contained the names of 40 (or 80) senators, the next two 220 each;<sup>15</sup> Appian (*BC* 1.95.442) states that the first list included the names of 1,600 *equites*, though possibly this was the total number of them killed.<sup>16</sup> The heads of the victims were at first brought to Sulla's house (*V. Max.* 3.1.2b; *Plut. Cat. min.* 3); the confiscated property was sold at auction in the forum under his personal supervision (*Plut. Sull.* 33.2). Punishment also fell on the sons and grandsons of the proscribed, who were excluded from holding office, though those of senatorial rank still had to assume the corresponding burdens (*Plut. Sull.* 31; *Vel.* 2.28.4); such sanctions, unprecedented in Roman law, were felt to be especially harsh (see further §152n.).

#### 4 THE DATE OF THE TRIAL

The elder Sex. Roscius was murdered "some months" after 1 June 81 (*aliquot post menses*: §128); news of the murder was carried to Sulla's camp at Volaterrae within four days of the murder (§20). Thereby a chain of events was set in motion including (apparently) the addition of the deceased to the list of those killed among the enemy, confiscation of his property, and sale of the same at auction. The dispossession of Sex. Roscius jun. occurred while the funeral ceremonies were still incomplete (§23), i.e. within about nine days of the death (cf. §23n.). After this event some time passed during which the younger Roscius perceived danger to his life and, on advice of his relatives, fled to his father's friends at Rome for protection (§26). It was in light of this development and to assure themselves of a firm hold on their newly acquired property that his adversaries filed charges of parricide (§6). In §139 C. refers to Sulla's supreme authority and legislative work in the past tense (similar use of the past tense at §91). The laying down of the dictatorship and normal functioning of the organs of state would fit early 80 as the date of the speech (see further on §11); and this would also accord with Quintilian's statement (12.6.4) that C. delivered the speech at age 26 as well as with the consular year indicated at *Gel.* 15.28.3.<sup>17</sup>

<sup>14</sup> *Oros.* 5.21.2; similarly C. Metellus at *Plut. Sull.* 31.

<sup>15</sup> Figures from *Plut. Sull.* 31; App. *BC* 1.95.442 gives the figure 40 instead of 80.

<sup>16</sup> So Seager, *CAH* ix 197.

<sup>17</sup> Cf. Kinsey 1967: 61–2 and 66–7.

## 5 THE PRINCIPAL CHARACTERS

The central character in the case is **Sex. Roscius jun.**, who stands accused of parricide. He is a puzzling figure: he is above forty years of age (§39) yet apparently has no wife or children. His father was a *domi nobilis* in the Umbrian town Ameria, wealthy (§6) and well connected to the nobility at Rome (§§15–16). Since after his death the father's property was sold under the law governing the proscriptions (see §125n.), those family connections are the son's sole remaining legacy (§15).

The prosecution characterized the defendant as *ferus atque agrestis* (§74), a loner without social skills (§52). Moreover, they claimed that he did not enjoy the favor of his sociable father (§40) and that the alienation was shown by the fact that Roscius sen. kept his other son (since deceased) always with him, whereas he relegated the defendant to work on his farms (§42). Moreover, the son organized the murder in order to forestall his father's plan to disinherit him (§53). The prosecution also raised the side-issue of embezzlement of public property (*peculatus*): the claim was presumably that he held back some of his father's property that was destined for public auction (§82 with n.).

C. does not so much contradict as reinterpret the prosecution's picture. He puts a positive face on Roscius' rustic life, emphasizing his skill at and devotion to agriculture (§49); the failure to appear in society is the inevitable concomitant (§52). Nor does the son's relegation to farm work show the father's dislike; rather, this is the old Roman way, still observed in the Italian *municipia* (§§48–51). The other side of the coin of Roscius' thoroughgoing rusticity is his utter unfamiliarity with the city and its ways: he would, so C. claims, have been helpless to organize a murder at Rome (§§74 and 79). Moreover, his rural values are utterly at odds with the city values that underlie such a murder (§75). It is, however, notable that the only individual relative of the defendant mentioned as present in court is T. Roscius Magnus, seated on the prosecution side (§§17, 84, 104), even though the defendant appears to have had a number of living relatives (§§49 and 96 with nn.). One wonders whether he was really so approved by his family as C. claims (*probatum suis filium* §152).

Both pictures have their weaknesses: the plan to disinherit would require proof, as C. points out (§58). On the other hand, C.'s use of the town/country stereotype<sup>18</sup> to paint Roscius as utterly naïve is suspect. A man over forty acquainted with his father's habits could surely have organized his murder if

<sup>18</sup> Here he is playing variations on a theme that had great resonance in Rome going back to Cato the Censor; cf. §39n.

Cambridge University Press  
 978-0-521-70886-9 - Cicero: Pro Sexto Roscio  
 Edited by Andrew R. Dyck  
 Excerpt  
[More information](#)

he put his mind to it. In addition, the *cui bono*? argument, of which C. makes so much (§§84–5), would point to the son, the presumptive beneficiary at the moment of the murder.<sup>19</sup>

In his extremity, Roscius turned to his father's noble friends at Rome for support. He received it, in the first place, from the well-born and influential **Caecilia Metella**, who offered him refuge when he perceived his life to be in danger (cf. §§26–7 with n.; §147). But her sphere is defined as *domi*; the legal defense was organized (probably) by **M. Valerius Messalla Niger**, a young noble who secured C.'s services as advocate with promises of *amicitia* and *beneficia* and himself appeared in court as an *aduocatus* (§§4 and 149 with n.). Two other young nobles assisted Roscius' cause at an earlier stage: on several occasions (*aliquotiens*) **M. Metellus**, a cousin of Caecilia, and **P. Cornelius Scipio Nasica**, one of whose sons was adopted by the Caecilii Metelli, acted as Roscius' agents in requesting that the slaves who witnessed the murder be made available for judicial inquiry (by torture) but were refused by T. Roscius Magnus in behalf of Chrysogonus (§77).

**Cicero** himself is the last but not least important figure on the defense side. An *eques*, aged twenty-six, from the *municipium* Arpinum, he had devoted himself to studies in rhetoric, the *De inuentione*, a later source of embarrassment (*De orat.* 1.5), being the extant product,<sup>20</sup> as well as philosophy and law. After a brief interruption for military service in the Social War (89), the studies continued through the 80s, with C. emerging in 81 as a last-minute substitute for M. Junius as advocate for P. Quinctius in a civil case (*Quinct.* 3). No wonder the prosecutor seemed to breathe a sigh of relief when C. rose to speak for the defense (§60). He presents himself as a modest young man, aware of his inferior *dignitas* to others seated on the defense side (§§1–5) and to the senatorial jurors (§8) and keen to enlist their sympathy and support (§§9–10). At first he claims merely that his client has not been abandoned (§5), later, upon gaining confidence, that he is being defended *diligenter* (§148). At §§33–4 he gives an early signal that, though, like C. Marius, a native of Arpinum, he has no sympathy for the recent *popularis* excesses. Only toward the end of the speech does he clarify his own stance in the recent civil war (§§136, 142) and venture some political commentary on the case (§§150–4).

C. calibrates his attacks on the four men of the prosecution so as to effect a crescendo from C. Erucius through the T. Roscii to Chrysogonus.

<sup>19</sup> Cf. F. Richter *apud* Landgraf on §84; similarly Kinsey 1980: 181. A counterargument can be drawn, however, from the embassy of the *decem primi* of Ameria (§§24–6), which implies community sympathy for the position of Roscius jun.; cf. Hutchinson 2005: 184n10.

<sup>20</sup> To be dated to the 80s; cf. MacKendrick 1989: 30; *aliter* Corbeill 2002: 28.

**C. Erucius** was a professional prosecutor whom C. also faced in the defense of Varenus. He appears to be a local Umbrian personality, since in Varenus' case he worked beside C. Ancharius Rufus, who hailed from the Umbrian municipality Fulginiae (fr. 3 Crawford); and indeed in that case, too, the defendant and the victim(s) were Umbrians.<sup>21</sup> There C. described Erucius as an imitator of M. Antonius (*Antoniaster*), one of the two leading orators of the previous generation (fr. 10 Crawford). In our speech C. clears his rival counsel of any personal animus against Roscius (§55). He quotes Erucius as saying that he was prosecuting in Chrysogonus' interest (§132) and supposes that, when he was hired, Chrysogonus promised there would be no *patronus* on the other side and no mention of the *societas* [sc. among himself and the T. Roscii: §58]. C. ascribes to Erucius *humanitatis non parum* and *studium doctrinae* (§46), but this is merely to smooth the way for the introduction of a literary example. In general, the attacks on Erucius are by C.'s later standards crude: he implies that he is of servile origin (§46) and attributes his status as an "adequate" (*sat bonus*) prosecutor to the recent bloodbath among members of the profession (§89); he repeatedly castigates him for failing to provide a plausible motive or proofs (§§42–5, 52–4, 61–2), to specify the precise means by which the crime was committed (§§73–4), or in general to come into court adequately prepared (§72); and he warns him against falling foul of the law against unfounded prosecution (*lex Remmia*: §§55–7).

The next targets of C.'s invective are the T. Roscii, bearing respectively the sobriquets Magnus and Capito, probably related to each other and to the defendant; C. leaves the precise relations unclear.<sup>22</sup> C. is keen to link the two T. Roscii together (§§17, 107). He first presents them as (gladiatorial) master and student (§17; cf. §119). In fact, however, the only palpable link between the two is the fact that Magnus' freedman Mallius Glaucia brought word of the death of Roscius sen. to Capito before anyone else in Ameria (§§19, 96–9). But, particularly if Glaucia, as seems likely, went on to report the news at other homes,<sup>23</sup> the initial stop at Capito's may be a contingent fact without the deeper significance with which C. seeks to invest it (see further on §19). Yet that fact is C.'s sole evidence for the existence of a *societas* between Capito and Magnus prior to the murder.

Mallius Glaucia's immediate knowledge of the murder would tend to cast suspicion on his former master, **Magnus**. C.'s speech makes it clear that

<sup>21</sup> Cf. also (on his name) Alexander 2002: 303n9.

<sup>22</sup> Cf. on §§17 and 96; C. mentions that the defendant is Magnus' *cognatus* at §87.

<sup>23</sup> This is suggested by *primo* at §96; cf. Kinsey 1980: 176.

Magnus had no previous criminal record (§17).<sup>24</sup> He had, however, a property dispute with the deceased (§87) and, like Roscius sen., was constantly at Rome during the time prior to the murder (§18); later C. alleges that Magnus was a purchaser of property of victims of the proscriptions (*sector*), and it has been suspected that the habitual presence in the forum of Roscius sen. at this time points to similar activity on his part.<sup>25</sup> Shortly after Chrysogonus' purchase of the dead man's property, he installed Magnus as his agent on the spot (§23); as such, he took charge of the dispossession of Roscius jun. (§21). In the trial he sits prominently on the prosecution side (to keep an eye on the proceedings in Chrysogonus' interest? (§§17, 84, 87, 95)). The real link appears to be between Magnus and Chrysogonus, and it existed even before Capito was awarded three farms during the embassy of the leading men of Ameria (see below). Within about nine days of the death Magnus, acting as Chrysogonus' agent, took possession of the younger Roscius' property (§23). Moreover, C. seems keen to conceal the Magnus–Chrysogonus nexus, describing Magnus' dispossession of his client as if he were acting in his own interest, not Chrysogonus' (§23), and he speaks as if Magnus enjoyed a windfall by the elder Roscius' death on the same scale as that of Chrysogonus and Capito (§§86, 93 *qui nostra pecunia diues es*, 107 with n.). All of this is to insulate Chrysogonus from the charge of murder even though the *cui bono?* argument carried to its logical conclusion points to him as the first and major beneficiary of the three. C. implicitly concedes that Magnus was incapable of organizing the murder on his own; he feels therefore that he must, even in default of hard evidence, have Capito in the picture as soon as possible.

C. accords the elder Sex. Roscius an encomiastic obituary, stressing his wealth, his connections to the nobility, and his reliability in its cause (§§15–16). He introduces **Capito** in far different terms (§17), but Capito, too, was a leading citizen of Ameria, as is shown by his inclusion in the embassy of the *decem primi* of that municipality to defend the reputation of Roscius sen. before Sulla; this suggests that no one at Ameria connected him with the murder. C.'s claims of past criminality on Capito's part are notably vague (§§17 and 100; see on the latter); and the link that he seeks to establish between Capito and the crime (via Mallius Glaucia) is not by itself cogent (see above). Capito is expected to testify for the prosecution (to the enmity between Sex. Roscius jun. and his father?), and C. accordingly deploys typical tactics for witness intimidation (see on §§100–1). The *decem primi* of Ameria were sent to Sulla at Volaterrae to plead that the posthumous treatment of Roscius sen. as an

<sup>24</sup> In spite of C.'s attempt to class him among the *sicarii* at §§93–4.

<sup>25</sup> Cf. Loutsch 1979: 108.

enemy of Sulla be rescinded (§25). C. uses Capito's rôle in the embassy as the occasion for a lengthy homily on *fides* and the moral bankruptcy of those who betray a trust (§§109–17). But if the case were that simple, surely some at least of the *decem primi* would have volunteered to testify for the defense; as it was, however, they refused to testify unless compelled by the prosecution (§110 with n.). Perhaps they were bribed to keep silent. But there is another possibility: perhaps Capito himself was the *spiritus mouens* behind the embassy. He may have been the only relative of the Roscii in the group. If the cause of his enmity with the elder Roscius (§§17, 19) was property (as it was in the case of Magnus: §87), then his only hope of realizing his claims was for Roscius' name to be removed from the list of those killed among Sulla's enemies. When the embassy arrived at Volaterrae and Chrysogonus blocked access to Sulla, Capito saw an opportunity to cut a deal: he pressed his claims, and Chrysogonus acquiesced, granting him three of the thirteen farms (§§17, 21, 108, 115);<sup>26</sup> in return Capito fobbed off the delegates with assurances, and they left (§26). With Capito satisfied, there was no move to revive the embassy, a further mark of his influence at Ameria. C.'s conception of a *societas* formed among Magnus, Capito, and Chrysogonus during conversations at Volaterrae when the murder was first announced there (§20) is therefore a chimaera; Chrysogonus yielded three farms to Capito only later under pressure of the embassy; a benefit accruing to Capito from the murder was at first by no means assured, his involvement in the murder thus doubtful.

C. has set Sulla's Greek-born freedman **Chrysogonus** at the center of the case. According to C., this move came as a great surprise and unleashed a flurry of activity on the prosecution side (§60). Erucius had, to be sure, mentioned that he was prosecuting for Chrysogonus' sake (§132) but yet had failed to mention the factor *quae conflavit hoc iudicium* (§5), i.e., in C.'s view, the protection of Chrysogonus' property interests (§6). C. cites as shocking the price paid by Chrysogonus for the elder Sex. Roscius' property (2,000 HS) compared with the true value (6 million HS) (§6), but such contrasts must have been commonplace during the proscriptions. The real issue was whether the seizure and sale were legitimate or not. C.'s argumentation at §§125–8 shows just how tricky this question was; in default of indication in the relevant public records C. even expresses doubt that the sale occurred (§128 with n.). The proscriptions were essentially extra-legal acts of revenge and banditry indulged in by Sulla and his supporters against political opponents (see above); the senate, of course, was keen to set a limit to them (cf. Plut.

<sup>26</sup> Pace C. §110 Capito is most unlikely to have confessed any part in the murder to Chrysogonus; doing so would have made him vulnerable, not given him leverage.

*Sull.* 31). If C. is right that 1 June (81) was fixed by statute as the closing date of the proscriptions (§128), then the killing of the elder Roscius could only have been justified as having occurred *in aduersariorum praesidiis* (§126), though surely, *pace* C., sale of enemy property after 1 June was still possible since military action was ongoing; see §128n. Whether or not Sulla was aware that Roscius' name was added to the list of his enemies on a fraudulent pretext may be left open; C.'s assurances that he was unaware carry no weight (cf. §21n.). In any case, the transfer of property occurred so quickly as to interrupt the younger Roscius' funeral observances for his father (§21 with n.); this suddenness strongly suggests a preconcerted plan, with Chrysogonus as the beneficiary and Magnus as his agent. If that is so, one need hardly look further to find those responsible for planning and executing the murder.<sup>27</sup> Indeed, the kind of *scrupulus* that, according to §6, drove Chrysogonus to instigate the prosecution looks more like a murderer's guilty conscience than the concern of a mere beneficiary after the fact. Yet C. is keen, not only to insulate Sulla from Chrysogonus' corruption of the proscription list, but also to insulate Chrysogonus from the murder, which he claims pertains only to Magnus and Capito; Chrysogonus' rôle is merely to deploy his *potentia* against the defendant (§35 *Chrysogonus . . . potentia pugnât*; cf. §122). Even as Sulla's power waned,<sup>28</sup> Chrysogonus still retained some power, and provoking him beyond a certain point could be a fatal mistake for a young orator. At the same time, however, Chrysogonus is too choice a target to be abandoned altogether: if C. can canalize all the pent-up resentment of the senatorial jurors against this one figure, he can save his client and earn himself a distinguished reputation. Already in this early speech C. shows himself a master at fanning the flames of *inuidia*; standard topics of abuse are tricked out with details of luxurious living, expensive gadgetry, noisy nightly parties, elaborate personal grooming and subservient *togati* in such a way as to effect a crescendo of resentment (§§133–5).

## 6 THE ADVOCATE'S RÔLE

At Athens and elsewhere in the Greek world, the defendant in court was allowed a *συνήγορος*, literally a “with-speaker,” to collaborate in presenting the case.<sup>29</sup> The Roman term for the advocate in court, *patronus*, suggests

<sup>27</sup> Cf. Fuhrmann 1997: 56–7, who makes the suggestion in view of the frailty of the connection between Magnus and Capito.

<sup>28</sup> Sulla is thought to have laid down his dictatorship by the end of 81, albeit he then served as consul in 80; cf. on §§11 and 139; Seager, *CAH* ix 205 with n73.

<sup>29</sup> Cf. Crook 1995: 32–4.