

## Murderers and Tyrannicides: Slaying in Roman Law and Declamation

Along with scholars who have already shown the ways in which declamation was a valuable tool in the education of a Roman orator (cf. Parks, Clark, Mendelson, Breij), this paper demonstrates a significant point of connection between the Roman jurists and declamation, the rhetorical exercise and public performance that gained widespread popularity in the early Empire. Roman jurists were obsessed with arriving at a comprehensive definition of the word *occido*. This is seen particularly in juristic writings on the *lex Aquilia* concerning the wrongful slaying of slaves (D. 9.2.2-55), but also as it related to several other laws (the *senatus consultum Silanianum* on slaves giving their lives to protect their masters, D. 29.5.1.17-26; and the *lex Cornelia de sicariis et veneficis*, on the punishment of murderers and poisoners, D. 48.8.1-3). Likewise, the word *occido* is central to a common theme in Roman declamation: the tyrannicide. Tyrannicide declamations have as their backbone a fictional law stating that whoever slays a tyrant receives a prize, usually one of his or her choosing. Many of these cases revolve around a dispute over whether the potential tyrannicide actually slew the tyrant. This paper addresses how the two discussions of *occido* are related and what this relationship can tell us about tyrannicide declamations in Roman education, rhetoric, and society.

This paper outlines the criteria Roman jurists used to define both slaying and wrongful death in relation to the laws: directness, immediacy, intention, and furnishing the cause of death (as discussed by Frier). It then turns to declamation to examine how rhetorical schools also dealt with these points in tyrannicide cases such as two doctors each arguing that he had poisoned the tyrant (Quint. *Inst.* 7.2.25 and Calp. *Decl.* 13) and a rich man who hired a poor man to kill a tyrant (*Decl. Min.* 345, 382). I analyze the similarities in argumentation between the jurists and

declaimers, balanced against the inverse goals of the two: in the jurists' cases, the defendant attempts to deny or mitigate the slaying, while in the declamations, the defendant's goal is prove that he did slay the tyrant.

The paper concludes with a discussion of the immediate usefulness of these declamation exercises to Roman advocates working in the courts. It also argues for the wide-reaching benefits gained from studying these fictionalized cases, such as the development of legal argumentation skills, ability to apply knowledge of the importance of words and laws, and tacit education in the social norms of the Roman empire. Declamations based on heavily fictionalized laws such as the tyrannicide's prize have been thought to be primarily for entertainment, but this paper shows that even this sort of outlandish declamation provided tangible benefits far beyond basic instruction in rhetorical techniques and speechwriting.

#### Bibliography

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