

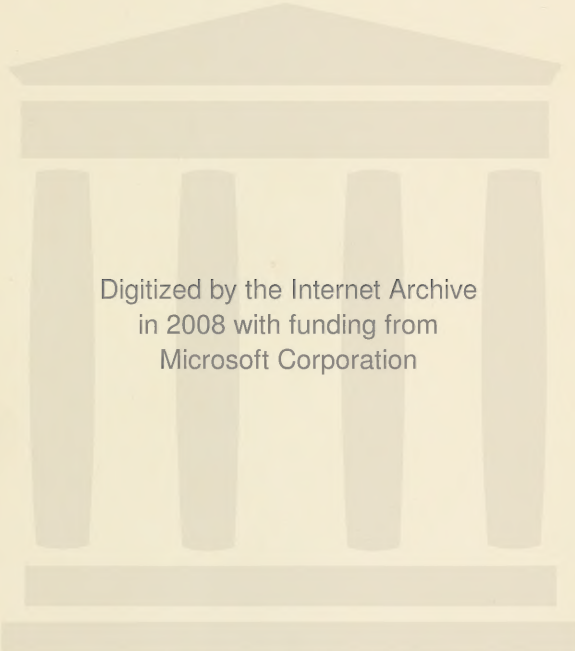


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SELECT PRIVATE ORATIONS
OF
DEMOSTHENES.

PART II.

London: C. J. CLAY AND SONS,
CAMBRIDGE UNIVERSITY PRESS WAREHOUSE,
AVE MARIA LANE.



Cambridge: DEIGHTON, BELL AND CO.
Leipzig: F. A. BROCKHAUS.

SELECT PRIVATE ORATIONS
OF
DEMOSTHENES

PART II

CONTAINING

*PRO PHORMIONE, CONTRA STEPHANUM I. II. ;
CONTRA NICOSTRATUM, CONONEM, CALLICLEM ;*

WITH

INTRODUCTION AND ENGLISH COMMENTARY

BY

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EDITED FOR THE SYNDICS OF THE UNIVERSITY PRESS.

SECOND EDITION, REVISED.

CAMBRIDGE :
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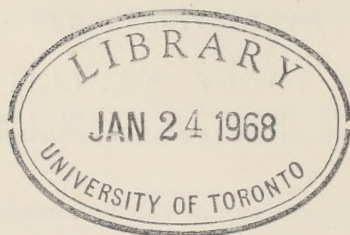
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FROM THE

PREFACE TO THE FIRST EDITION.

MY earliest interest in the Private Orations may be said to date from the time when it was my privilege as an undergraduate to attend, in the year 1865, a course of lectures by my friend Mr Moss, then Fellow and Lecturer of St John's College, and now Head-Master of Shrewsbury School. His selections included two of the six speeches edited in the present volume, the *Nicostratus* and the *Conon*; but, as the notes taken down from his lectures were too scanty to form even the basis of any attempt at constructing a complete edition, my commentary on those speeches has been mainly the result of independent reading and research, though I gladly acknowledge the help that is due to his soundness of judgment on several points on which I have consulted him while revising my notes on the *Conon*. In the case of the *Nicostratus*, when my own commentary was nearly ready for the press, I had the further advantage of attending in the

spring of 1874 some of Dr Kennedy's professorial lectures on the Private Orations. From the excellent translation of his brother Mr Charles Rann Kennedy I have here and there quoted a few extracts; and if I have now and then drawn attention to an apparently erroneous interpretation, I have done so with the consciousness that in each case it is only a trifling blemish in what is nearly perfect of its kind. Similarly, several questionable explanations, retained even in the sixth edition of Liddell and Scott's *Lexicon*, have been duly pointed out in the course of my commentary, as it is only thus that a labourer in a limited field can offer any acknowledgement of his large indebtedness to their labours¹. The lexicography of Demosthenes cannot indeed be said to be at present in a completely satisfactory condition, as general lexicons have still to rely in a great measure on Reiske's *Index Graecitatis*, which, with the portion of his *opus magnum* including his notes on the speeches in this volume, was posthumously published exactly a century ago.

The volume opens with a speech on behalf of Phormion, in bar of a claim on the part of Apollodorus for the recovery of capital alleged to have been transferred to Phormion by Pasion, the father of Apollodorus. This is followed by two on behalf of Phormion's opponent Apollodorus, charging with false witness one of

¹ Some of these have since been corrected in the seventh edition.

the deponents called on Phormion's side in the previous trial. These three speeches, though not actually delivered in the same lawsuit, virtually represent the arguments of the two opposite sides, and a comparison of their conflicting statements has an interest similar in kind, though different in degree, to that derived from reading the longer and more important orations of Demosthenes, *On the Embassy* and *On the Crown*, in contrast with those of his great rival Aeschines. The orations of Antiphon, the earliest of the Attic Orators, include indeed four sets of ingenious speeches written for the prosecution and the defence in cases of homicide, but his cases are merely imaginary, and the orations are intended as rhetorical exercises alone. The first three selections in this volume supply us with the only instance in all the remains of Attic oratory, where the legal issues raised on both sides in a suit of purely private interest, lie before us as they were actually presented to an Athenian tribunal. Whether Demosthenes actually wrote for both sides is a vexed question, briefly discussed in the course of the Introduction; it is a question that has provoked a large number of dissertations, the titles of which I have recorded on a page devoted to a conspectus of the literature of the subject up to the present date. But the volume now published, while it happens to be the first English commentary on any of the

selections included in it, is also the first attempt either in England or elsewhere to put together an edition of all these three speeches in their connexion with one another¹. As compared with the work demanded by the second half of this volume, where I have been conscious of moving more freely over ground familiarised by more frequent reading of that portion with private pupils between 1867 and 1870, and for public lectures at a later date, the task of writing the first half has proved a somewhat tedious one, owing partly to the necessity of constantly keeping in view all the nine speeches in which Phormion's opponent, Apollodorus, is more or less directly concerned, and of forming an opinion on the numerous points of literary criticism and chronological detail involved in the controversy on the authorship of those orations.

Those who, after finishing the *pro Phormione*, do not care to study minutely the whole of the two speeches against Stephanus, ought, at the very least, to examine the vigorous attack on Phormion which extends from § 71 to § 82 of the first of those two speeches. They should also endeavour to obtain a connected view

¹ Mr Penrose's handy volume (now out of print) contained the Speeches against *Aphobus*, *Onetor*, *Zenothemis*, *Apaturius*, *Phormio* (Or. 31, πρὸς Φορμίωνα), and *Lacritus*. The *Eubulides*, *Theocrines* and *in Neacram* are the only private orations included in the learned edition of Demosthenes by Dr John Taylor (fellow of St John's Coll. from 1726 to 1752), printed at the Cambridge University Press in 1748, 1757 and 1769.

of the argument by reading consecutively the italicised abstracts inserted at suitable intervals in the course of the commentary. With the help of these abstracts the general reader, the barrister, for instance, who has not remembered all the Greek of his younger days, may perhaps, if tempted to dip into these pages, form some opinion of his own on the forensic oratory of Athens: but my more immediate object in this part of my work has been to obviate any occasion for unduly burdening the notes with those literal renderings which are always welcome to students of the less industrious sort, by supplying instead either a free paraphrase or a condensed summary, as the occasion requires.

The latter half of the volume includes the *Nicostratus*, which was delivered by the same speaker as the two orations against Stephanus, namely by Apollodorus, and also the *Canon*, which is certainly one of the most celebrated of the minor speeches of Demosthenes. To these selections, both of which throw much light on the social life of Athens, I have added the *Callicles*, which, though less well known than the others, will be found one of the pleasantest, while it happens to be the shortest, of all the Private Orations.

The first volume of the Select Private Orations includes the speeches *contra Phormionem* (Or. 34), *Lacritum* (35), *Pantænetum* (37), *Boeotum de nomine* (39), *Boeotum de dote* (40), and *Dionysodorum* (56). In the preface to that volume it has been already explained that the two volumes are a joint edition on the part of

Mr Paley and myself, and I may here repeat that while Mr Paley is mainly responsible for the first volume, I am similarly responsible for the whole of the Introduction and for nearly all the notes of the second, though I have had the advantage of receiving from him a careful revision of all the proof-sheets of my commentary, and a large number of supplementary annotations, many of which have been incorporated with my own, and duly acknowledged by being placed in square brackets and followed by his initial.

J. E. S.

October, 1875.

IN preparing the second edition of this volume, the work has been thoroughly revised, and the suggestions with which I have been favoured by scholars who have had occasion to use it, have been carefully considered and in many cases adopted. Some redundant passages have been removed, and room has been found for many additional notes and references. Account has also been taken of the recent literature of the subject, and particularly of the volume on Demosthenes in the important work of Professor F. Blass, entitled *die Attische Beredsamkeit*. Lastly, the manuscripts of Demosthenes in the Paris Library have been specially examined by me during the early part of the present year, and the readings ascribed to them in the former edition have been verified and corrected accordingly.

J. E. S.

October, 1886.

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SELECT LIST OF EDITIONS, DISSERTATIONS AND BOOKS OF REFERENCE

ON THE SELECTIONS INCLUDED IN THIS VOLUME.

TEXT.

(1) J. G. BAITER and H. SAUPPE. *Oratores Attici*, in one volume 4to, Zürich, 1850. (2) IMM. BEKKER. *Demosthenis Orationes*; stereotyped edition, 8vo. Leipzig, 1854-5 [earlier editions, Oxford 1822, and Berlin 1824]. (3) W. DINDORF. *Demosthenis Orationes* [Leipzig, 1825, Oxford, 1846], *editio tertia correctior*, (Teubner) Leipzig, 1855, reprinted in subsequent years; of vol. I Or. 1—19 there is an *editio quarta correctior*, revised by F. BLASS. 1885. (Vol. II Part 2 includes Or. 36; and Vol. III Part 1, all the remaining selections of the present volume.)

COMMENTARIES.

I. GENERAL.

(1) G. H. SCHAEFER. *Apparatus Criticus ad Demosthenem Vinc. Obsopoei, Hier. Wolfii* [1572]. *Jo. Taylora* [1748, 1757] et *Jo. Jac. Reiskii* [1770—1775] *annotationes tenens. Commodum in ordinem digestum aliorumque et suis annotationibus auctum edidit Godofredus Henricus Schaefer*. London, 1824-7, Vol. IV pp. 590—618 (on Or. 36); Vol. V pp. 167—214 (on Or. 45 and 46); pp. 346—407 (on Or. 53, 54 and 55). (2) G. S. DOBSON, *Oratores Attici, Graece cum notis variorum*, XVI vols. London, 1828. Vol. VII, Dem. Or. 21—38; vol. VII, Or. 39—59; Vol. IX *Reiskii Annotationes*, etc. Vol. XI *Reiskii indices Graecitatis*. (3) W. DINDORF. *Demosthenes ex recensione Gulielmi Dindorfii*, Oxford, Vol. VII [1849] *Annotationes interpretum ad Or. XXVII—LXII*.

II. SPECIAL.

(1) A. WESTERMANN. *Ausgewählte Reden des Dem.*, part 3, pp. 111—134, *Rede gegen Konon* (Or. 54). Also contains *adv. Aristocratem* and *in Eubulidem*. Berlin (2nd ed. 1865). (2) G. HUETTNER. *Dem. pro Phormione oratio adnotatione critica instructa et commentario explanata*, pp. 104 [without text], (Jung) Erlangen, 1885.

LEXICOGRAPHY AND TEXTUAL CRITICISM.

(1) HARPOCRATION. *λέξεις τῶν δέκα ῥητόρων*, ed. W. Dindorf; Oxford, 1853: (also Pollux, and *Anecdota Graeca*, ed. Bekker;

and Hesychius, ed. Schmidt). (2) T. MITCHELL (after Reiske 1775). *Indices Graecitatis in Oratores Atticos*, 2 vols. and *Index Graecitatis Isocraticae* Oxford, 1828 [uniform with the Oxford edition of Bekker's *Oratores Attici*]. (3) P. P. DOBREE, *Adversaria*; cura Scholefield; Cambridge, 1833 (ed. Wagner, Leipzig, 1875).

DEMOSTHENIC LITERATURE.

I. GENERAL.

(1) ARNOLD SCHAEFER. *Demosthenes und seine Zeit*. 3 vols., esp. vol. III part 2, *Beilagen: die Reden in Sachen Apollodors* (Or. 36, 45, 46, 53 etc.) pp. 130—199. Rede wider Konon (Or. 54) pp. 247—252; gegen Kallikles (Or. 55) pp. 252—7. Leipzig, 1856—8; new ed. of vol. I, II and part 1 only of vol. III, 1886—; part 2 will not be reprinted.

(2) F. BLASS. *Die Attische Beredsamkeit*, esp. vol. III *Demosthenes*; Leipzig, 1877.

II. SPECIAL.

On Or. 36, 45, 46 and 53.

(1) C. D. Beels. *Diatriben in Dem. orationes I et II in Stephanum* (Or. 45 and 46), pp. 122, Leyden, 1823. (2) Im. Hermann. *De tempore, quo orationes quae feruntur Demosthenis pro Apollodoro et Phormione scriptae sint, disputatio* (on Or. 36, 45, 46, 53 etc.) pp. 22. Erfurt, 1842. (3) A. Westermann. *Untersuchungen über die in die Attischen Redner eingelegten Urkunden*, pp. 136 (esp. pp. 105—113 on the depositions in Or. 45 and 46). Leipzig, 1850. (4) W. Hornbostel. *Ueber die vom Dem. in Sachen des Apollodor verfassten Gerichtsreden*, pp. 42. Ratzeburg, 1851. In the *Neue Jahrbücher für Philologie* 1854, 2, pp. 504—5 there is a suggestive review of this dissertation by C. Rehdantz, who also gives a short account of Apollodorus in his *vitae Iphicratis Chabriae Timothei*, 1845, pp. 191—3, (where he promised a special dissertation of his own, which unhappily never appeared). (5) Im. Hermann. *Einleitende Bemerkungen zu Dem. paragraphischen Reden*, (Or. 36 etc.) pp. 23. Erfurt, 1853. (6) F. Lortzing. *De orationibus quas Dem. pro Apollodoro scripsisse fertur*, pp. 94. Berlin, 1863. (7) J. Sigg. *Der Verfasser neun angeblich von Dem. für Apollodor geschriebener Reden. Besonderer Abdruck aus dem sechsten Supplementbande der Jahrbücher für classische Philologie*, pp. 396—434. Leipzig (Teubner), 1873. (8) I. E. Kirchner. *De litis instrumentis quae exstant in Demosthenis quae fertur in Lacritum et priore adv. Stephanum orationibus*, pp. 40. Halle (Hendel), 1883. (9) R. Lallier. *Le proces du Phormion; études sur les moeurs judiciaires d'Athènes*. *Annuaire de l'Association pour l'encouragement des études grecques en France*; année xii p. 48—62. (10) G. Perrot. *Démosthène et ses contemporains*, in the *Revue des deux mondes*, 1873, 6, pp. 407—39 (on Or. 36, pp. 428—39); reprinted in *Mémoires d'archéologie, d'épigraphie et d'histoire*, pp. 337—444, Paris (Didier), 1875.

(11) **R. Duncker.** *Inter privatarum causarum orationes Demosthenicas quae pro geminis habendae sint quaeque pro falsis breviter exponitur.* Greiffenberg, pars i, 1877. (12) **P. Uhle.** *Quaestiones de orationum Demostheni falso addictarum scriptoribus*, i (Or. 35, 43, 46; 50, 52, 53, 59), Leipzig (Fock) 1883: ii pp. 32 (Or. 33, 34, 56), ib. 1886.

On Or. 54.

(1) **G. Perrot**, *Revue des deux mondes*, 1873, 3, pp. 927-53 (esp. 946-53). (2) **C. Zink.** *Adnotationes ad Dem. orationem in Cononem*, pp. 30. Erlangen (Jung), 1883.

GREEK ANTIQUITIES.

(1) **A. Boeckh.** *Die Staatshaushaltung der Athener*, ed. 2, 1851; ed. 3, 1886. *Public Economy of Athens*:—1st German ed. translated by Sir George Cornewall Lewis, 1828, 1842; 2nd German ed. translated by Lamb, Boston. v. s., 1857. (2) **K. F. Hermann**, *Lehrbuch der Griechischen Antiquitäten*, (a) *Staatsalterthümer* ed. 5, Baehr and Stark, 1874: new ed. by A. Hug. (b) *Privatalterthümer*, (including Law), ed. 2, Stark, 1870; ed. 3 (excluding Law, see below), Blümner, 1882. (3) **W. A. Becker**, *Charikles*, ed. K. F. Hermann, 1854, ed. Göll 1877; abridged English transl. by F. Metcalfe, 1845, ed. 3, 1866. (4) **B. Büchschütz**, *Besitz und Erwerb im griechischen Alterthume.* Halle, 1869.

GREEK LAW.

(1) **J. B. Télfy.** *Corpus Iuris Attici*; Pesth, 1868. (2) **Meier und Schömann.** *Der Attische Process*; Halle, 1824: new edition revised by **J. H. Lipsius**; Berlin, 1881-6. (3) **K. F. Hermann.** *Griechischen Antiquitäten*, new ed. vol. II part 1, *Rechtsalterthümer*, ed. Thalheim, 1884. (4) **C. R. Kennedy.** (a) *Articles* in Dr W. Smith's *Dict. of Greek and Roman Antiquities*, 2nd. ed. London 1848, reprinted in subsequent years, [a new edition preparing. Joint Editor, W. Wayte]. (b) *The Orations of Dem.* translated with notes and dissertations, 5 vols. London, reissued 1880. (5) **E. Caillemer.** (a) *Articles* in Daremberg and Saglio, *Dictionnaire des Antiquités Grecques et Romaines*, parts 1-10, A—CUP, pp. 1-1600, Paris (Hachette) 1873-86. (b) *études sur les antiquités juridiques d'Athènes* 1865-80, [scattered essays, some of them very difficult to procure; a collected edition would be welcome]. (6) **R. Dareste.** *Les plaidoyers civils de Démosthène*, traduits en Français, avec arguments et notes, vol. I pp. 385; II pp. 364 Paris (Plon) 1875.

EXPLANATION OF THE SYMBOLS USED IN THIS EDITION IN RECORDING VARIOUS READINGS.

As a general rule, wherever our text (that of W. Dindorf's third Edition) agrees with that of the Zürich editors, we have not thought it necessary to notice any variations in the mss. Where Dindorf differs from the Zürich editors, the difference is in most cases due to the greater weight given by the latter to the readings of the Paris ms Σ.

Z stands for the Zürich text of Demosthenes as printed by J. G. Baiter and H. Sauppe in their excellent edition of the *Oratores Attici*, in one volume (1850).

Bekker st. is Bekker's stereotyped edition published at Leipzig in 1854. The readings adopted in his Berlin ed. 1824 have been occasionally recorded. When Dindorf differs from the Zürich editors, he generally agrees with Bekker. When a note begins with Bekk., it is meant that Dindorf's text is supported by Bekker's Berlin and Leipzig editions; then, after a slight space, follows the reading of the Zürich editors (Z) with the mss supporting it, introduced by the word *cum*.

The mss thus quoted by the Zürich editors are as follows :

Σ or S in the *Bibliothèque Nationale*, Paris (No. 2934), on parchment; of century X. "Prima quidem classis unus superest Parisinus S" Dindorf, *praef. ed. Oxon.* p. vi. This is admitted on all hands to be the best ms, and its readings are very often accepted by Bekker and still more frequently by the Zürich editors. A careful description of it was published by Voemel (*Σ codicis Demosthenici conditio describitur*) in 1853. For a protest against *excessive* reference to its authority, see the Preface of Shilleto's fourth edition of the *De falsa legatione*, pp. vii, viii, xiv. By examining the ms I have ascertained that the readings assigned to it in the former edition, on the authority of the *apparatus criticus* of the Zürich editors, are wrong in the following instances, in Or. 45 § 87, the ms has *καὶ παράδειγμα*, not *παράδειγμα*; in 46 § 6 *ἐν* (not *ἐν τῷ*) *γραμματείῳ*; in 46 § 12 *ἐξεῖναι ἐπ' ἀνδρὶ* (not *ἐπ' ἀνδρὶ ἐξεῖναι*) *θεῖναι*; and in 55 § 5 it has *ὑμῖν*, not *ἡμῖν*. In the last instance, the same mistake has found its way into the critical notes of Dindorf's Oxford ed.

F. *Codex Marcianus* (No. 416), in the Library of St Mark's at Venice, on parchment; of century XI. The best ms of the second group or family (Dindorf), but closely followed by the *Codex Bavaricus* (B).

Φ. In the same Library (No. 418), on parchment; of century XI.

k. In the *Bibliothèque Nationale* Paris (No. 2998), on cotton paper (bombycinus), *forma quadrata*; of century XIV. Contains Or. 54 (κατά Κόρωνος).

γ. In the same Library (No. 2936), on parchment *forma maxima*; of century XIII.

A¹. *Augustanus primus*, formerly at Augsburg (*Augusta Vindelicorum*), now at Munich (No. 485), on parchment, *paene quadratus*; of century XI (according to Dindorf), or XII (according to the Zürich edition).

B. *Bavaricus*, now at Munich (No. 85), on cotton-paper (bombycinus) *forma maxima*; of century XIII.

γρ. A contraction for γράφεται, used in the mss themselves to introduce the marginal citation of a various reading.

TABLE OF ATTIC MONEY.

	Values in English money.	
8 χαλκοῖ=1 ὀβολός	1·62 <i>d</i>	1·3 <i>d</i>
6 ὀβολοί=1 δραχμή	9·72 <i>d</i> *	8 <i>d</i> †
100 δραχμαί=1 μνᾶ	£4 1 <i>s</i>	£3 6 <i>s</i> 8 <i>d</i>
60 μναί=1 τάλαντον	£243	£200

Like the τάλαντον of 6000 δραχμαί, the μνᾶ was not an actual coin but only a term used in keeping accounts to denote a sum of 100 δραχμαί.

* This is the equivalent given in Hussey's *Ancient Weights and Money*, pp. 47, 48, followed in Smith's *Dictionary of Greek and Roman Antiquities*, s. v. DRACHMA. It assumes that an Attic drachma contains only 65·4 grains Troy of pure silver. As a shilling contains 80·7 grains of pure silver; a drachma is reckoned as $\frac{65\cdot4}{80\cdot7}$ of a shilling, or 9·72 pence.

† This is the equivalent proposed in Professor W. W. Goodwin's article on *the Value of the Attic Talent in Modern Money* in the *Transactions of the American Philological Association* 1885, xvi, p. 117—9. It has been ascertained that the Athenians coined their silver pure, and the best specimens of Attic coinage prove the weight of the drachma to be 67·38+ grains Troy of pure silver. The average price of *pure* silver for the last quarter of a century having been 57 pence per ounce of 480 grains, it follows that the amount of silver in a drachma is worth $\frac{67\cdot38}{480}$ of 57 pence = 8·001375 pence.

N.B. Neither of the above estimates takes account of the different *purchasing powers* of silver in ancient and modern times.

INTRODUCTION TO

OR. XXXVI.

ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

IN the early part of the fourth century B. C. there was a noted man of business at Athens, named Pasion. He was originally a slave in the employment of a firm of bankers, but by his industry and integrity he won the confidence of his employers, Antisthenes and Archestratus, and was rewarded by receiving his liberty from the latter and by succeeding both of them in their business¹. In the *Trapeziticus* of Isocrates, he appears as defendant in a suit brought by the son of a trusted minister of Satyrus, prince of Pontus, and is charged, whether rightly or wrongly, with appropriating a sum of money deposited with him by the plaintiff, with destroying documents detrimental to his own interests, and with other sharp practice of a somewhat unscrupulous character. To examine the justice of these charges is no part of our present duty, nor indeed have we the data for arriving at any decisive result; suffice it to say that, in the language of his very opponent in that action, he

¹ Or. 36 § 43 sq.—On the *Trapezitae*, see Becker's *Charicles* scene iv; K. F. Hermann, *Privatalterthümer* § 48; Büchschütz, *Besitz und Erwerb* pp. 500—510; Perrot in *Revue des deux mondes* 1873, 6 p. 408,

reprinted in *Mémoires d'archéologie, d'épigraphie et d'histoire*, 1875, p. 337—444; also Göll's *Kulturbilder* I 189—197, and Huettner's *Dissertation* on this speech, 1885, p. 98—104.

is described as one of those bankers who enjoyed a wide connexion and had the management of large sums of money, and whose position as men of business had won them a general confidence¹. The speech composed by Isocrates probably belongs to the year B. C. 394, when Pasion, though no longer a slave, was only a resident alien (*μέτοικος*)²; at a subsequent date, on rising to the privileged position of enjoying as a denizen (*ἰσοτελής*) such civic rights as were not of an expressly political nature, he acquired some property in land, and distinguished himself by his public spirit, on one occasion in particular presenting the State with a thousand shields from his own manufactory, and five triremes equipped at his own expense³. In recognition of these services, Athens rewarded him with the rights of her citizenship⁴.

Among those who had business relations with him we find Athenians of high position like Timotheus, the celebrated general⁵, and Demosthenes, the father of the orator⁶; his bank in the Peiraeus enjoyed, in the Euxine and elsewhere, a credit co-extensive with the commerce of Attica: even eight years after his death, Apollodorus, of whom we shall hear more anon, had only to declare himself as Pasion's son to be at once enabled to raise a loan in a foreign land⁷; and in later ages, in the imaginary letters of Alciphron, the Atticist who in the latter part of the second century of our era attempted to revive the memories of the times of Menander, we find the vulgar money-lender contrasted with a banker of

¹ Isocr. *Trapez.* § 2.

² Isocr. *Trapez.* § 41.

³ Or. 45 § 85.

⁴ Or. 36 § 47, Or. 46 § 15, Or. 53 § 18, Or. 59 § 2 ψηφισαμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν.

⁵ Or. 49 πρὸς Τιμόθεον ὑπὲρ χρέως. Cf. note on Or. 36 § 53, p. 48.

⁶ Or. 27 § 11.

⁷ Or. 50 § 56 διὰ τὸ Πασίωνος εἶναι καὶ ἐκείνου ἐπεξενῶσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι οὐκ ἠπόρουσιν, ὅπου δεηθῆναι δανεῖσασθαι.

blameless reputation, who bears the appropriate name of Pasion¹.

Pasion, in his old age, finding his eyesight failing him, and being only able to walk with difficulty up to Athens from his bank in the Peiraeus², four or five miles distant, transferred his business, including not only his bank but also his shield-manufactory, on lease to his managing clerk Phormion³, who, like his employer, was himself originally a slave⁴, and obtained his freedom as the reward of honest service⁵. We read of him as a generous and energetic man of business, and his skilful management is said to have been the very saving of the property of his former master⁶. From the nature of the case, as well as from certain chronological considerations, it may be concluded that the lease to Phormion belongs to a date before, but not long before, Pasion's death in B. C. 370⁷. In B. C. 372, we find the latter still managing his business on his own account⁸, and we may therefore fix on B. C. 371 as the probable date of the lease. Pasion left behind him a widow, Archippe by name⁹, and two sons by her, the elder, Apollodorus, who was four-and-twenty years old at his father's death¹⁰, and the younger, Pasicles, who came of age eight years after (namely, in B. C. 362)¹¹. In his will he provided that his widow should be married to Phormion, with a dowry of two

¹ Alciphron III 3. See note on Or. 45 § 70.—Mr Mahaffy in his *Social Greece* gives a slight sketch of Pasion, to illustrate the business habits of the Greeks, pp. 382—6; cf. Perrot, quoted on p. xix.

² Or. 52 § 13 quoted in note on Or. 36 § 7.

³ Or. 36 § 4, Or. 45 § 33.

⁴ Or. 45 §§ 71—76.

⁵ Or. 36 § 30.

⁶ Or. 36 §§ 49—53.

⁷ Or. 46 § 13 ἐπὶ Δυσνικήτου ἀρχοντος, Ol. 102, 3 = July 370—July 369 B. C.

⁸ Or. 49 §§ 29, 59. In the archonship of Alcisthenes, Ol. 102, 1 (Arnold Schaefer, *Dem. u. s. Zeit*, III 2 p. 132).

⁹ Or. 45 § 74.

¹⁰ Or. 36 § 22.

¹¹ Or. 36 §§ 10 and 37 compared together (A. Schaefer, u. s.).

talents, a dwelling-house valued at one hundred minae, maid-servants, gold ornaments and all that formerly belonged to his wife¹. By this will, Phormion also became one of the guardians to Pasion's younger son, Pasicles. He was to continue lessee of the bank and shield-manufactory until Pasicles came of age, and it was the father's wish that until that time the property should remain undivided. Owing, however, to the extravagance of the elder son, the guardians, acting in the interests of their ward, determined on a partition of all the property, with the exception of the bank and shield-manufactory leased to Phormion, half the rent of which was for the present paid to Apollodorus, and half reserved for Pasicles, the minor².

Apollodorus was at Athens in B. C. 370 and appears to have been present at his father's death-bed³, and some time after this, he was abroad in the public service as trierarch, probably in the year B. C. 368⁴. It was during his absence that, in accordance with his father's will, his mother was married to Phormion; the son, on his return home, resented this arrangement, and as the courts were not open at that time for private lawsuits, he took steps to bring a public indictment against Phormion, for criminal outrage on his mother (*γραφή ὑβρεως*). However, a reconciliation was brought about and the charge was not pressed⁵.

In B. C. 362, when Pasicles came of age, his guardians gave an account of their trust, which was acknowledged as correct, and Phormion's lease of the bank and manufactory terminated with a discharge given him on the part of Apollodorus from all liabilities under the lease. The elder brother then, having the prior choice, took the

¹ Or. 45 § 28 *ad fin.*

² Or. 36 §§ 8—10, § 34.

³ Or. 49 § 42.

⁴ Or. 45 § 3; 46 § 21. See note on p. lvii *infra*.

⁵ Or. 45 §§ 3, 4.

manufactory, leaving the banking business to his younger brother¹. For a short time the brothers appear to have superintended their property in person; but not long after, possibly a year subsequent² to the partition, a new lease of the bank and the manufactory was granted to certain persons, at a rent which was the same as that which had been paid by Phormion³, namely, 2 talents and 40 minae⁴, out of which one talent⁵ was due to Apollodorus for the manufactory, and the remainder to Pasicles for the bank. This second lease was granted not by Pasicles alone, but by Apollodorus acting in conjunction with his younger brother.

Phormion, meanwhile, being quit of his trust as guardian, and of his lease of the bank and manufactory, established a banking business on his own account, and, like his former master, Pasion, obtained a recognition of the general esteem in which he was held, by being presented with the citizenship. The date of this event was B.C. 361⁶. In the year B.C. 360, after a protracted service as trierarch in the Northern Aegean and the neigh-

¹ Or. 36 §§ 10, 11.

² The Rev. A. Wright, Fellow and Lecturer of Queens' College, has favoured me with some criticisms questioning the probability of any interval having elapsed between the two leases. 'Apollodorus,' he observes, 'was not a man of business habits: Pasicles was a mere lad, not likely to undertake the management of a bank, even with the most confidential clerk. I can find nothing to indicate that they did thus hold the property except ὕστερον in § 12 which is hardly decisive, and can scarcely be maintained in face of the direct evidence the other way in § 37. It is more probable (and this will solve the further diffi-

culty started in the note on § 12 μισθῶν ἑτέροις), that Apollodorus, knowing Phormion's lease to be expiring, looked out for some other lessees, and entered into an engagement for a lease with Xenon &c. some months before the lease expired. Xenon would enter on the property as soon as Phormion quitted it, whereas some days might pass before the νομὴ was completed. And so Phormion may actually have acted as lessor.'

³ Or. 36 § 12 τοῦ ὕσου ἀργυρίου.

⁴ Or. 36 § 51, cf. § 11.

⁵ Or. 36 § 37 *ad fin.*

⁶ Or. 46 § 13, ἐπὶ Νικοφῆμον ἄρχοντος, Ol. 104, 4 = B.C. 361—360.

bouring waters, Apollodorus returned to Athens to find his mother at death's door. She died six days after; but not before she had seen and recognised her son, though according to his own account she was unable to make such provision for him as she had intended¹.

The mother's death was the signal for a fresh outbreak of the differences between Apollodorus and his step-father Phormion. The step-son put in a claim for 3000 drachmae, which was submitted to arbitrators, who established the claim and induced Phormion for quietness' sake to pay it to Apollodorus. The latter then gave Phormion a second release from all claims².

Phormion, however, had not yet seen the last of his litigious step-son; the latter, after numerous lawsuits with his father's debtors, in which he succeeded in recovering no less than 20 talents³, was at last prompted, by pecuniary exigencies due to his extravagance, and by feelings of envy at Phormion's prosperity, to put in a claim about twenty years after the father's death for another sum of 20 talents, alleged to have been transferred to Phormion by the father as part of the working capital (*ἀφορμῆ*) of the business⁴.

The defendant, as we learn from the speech *pro Phormione*, expected that Apollodorus' contention, that Phormion must have received such capital, would be supported by presumptive proofs alone. He would argue that, without such a fund, it was incredible that Phor-

¹ Or. 50 § 60 quoted in note on Or. 36 § 14.

² Or. 36 §§ 15—17.

³ Or. 36 § 36.

⁴ Why *twenty* talents were claimed does not appear, but we may conjecture that that amount arose out of the eleven talents mentioned in Or. 36

§ 11, with the addition of interest. Phormion's lease lasted for 8 years; 11 talents, at say 10 per cent. simple interest (not an uncommon rate at Athens), would with the interest amount to exactly 20 talents in 8 years (and a fraction of a year over, $\frac{2}{11}$).

mion, who was merely a liberated slave, should have managed the business and risen to opulence, while he himself, a rich man's son, had been reduced to penury (§ 43). To give stronger proof than these *a priori* probabilities had been made impossible, he would assert, by Phormion's having induced his wife to destroy Pasion's papers (§ 18); he would also denounce the lease and the will as forgeries, and would make out that it was only while Phormion promised him a high rent, that he kept silence on his claim, but as he had not fulfilled these promises, he was compelled to bring the case before the court (§ 33).

The arguments here anticipated by the defendant appear again in the first speech against Stephanus (Or. 45), a speech arising out of the present lawsuit. The case came in the first instance before an arbitrator, 'Tisias' by name, but was left undecided by him, and was accordingly brought before a public tribunal. The writer of the Greek argument, generally supposed to be Libanius, calls the suit a *δίκη ἀφορμῆς*, though it has been doubted whether there is any ancient authority for the existence of such a suit under that designation². However, the phrase *ἀφορμῆν ἐγκαλεῖν* occurs in the speech itself (§ 12), in reference to the plaintiff's claim to the capital of the bank.

To meet this claim, Phormion, instead of waiting for the plaintiff to bring his case before the court and then confronting his opponent with a direct denial and joining issue on the merits, preferred putting in a special

¹ Or. 45 § 10.

² Dareste, *les plaidoyers civils de Dém.* II 145: 'Est-il vrai que les Athéniens eussent créé une action spéciale pour les affaires de ce genre?' But cf. Caillemet, *le contrat de prêt à Athènes*,

p. 28—31, where *δίκη ἀφορμῆς* is distinguished from *δίκη ἀργυρίου*, *δίκη χρέους* and other terms, and accepted without suspicion as a term of Attic law. Similarly in Meier und Schömann, *Att. Process*, p. 510.

plea in bar of action, a plea technically known in Greek law as a *παραγραφή*, shewing cause on the part of the defendant why the case should not be allowed to come on for trial at all. The two pleas urged on the defendant's behalf are (1) that the plaintiff had given him a discharge from the original lease of the bank and manufactory, and also a second discharge from a subsequent claim settled by arbitration (§§ 23—25); (2) that the plaintiff's suit contravened the statute of limitations, in which the term of five years was fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff was putting in a claim after the lapse of more than twenty years from the date of the lease (§ 26). To maintain these pleas is the object of the speech *pro Phormione*, though it is only a small portion of it that is directly concerned with them, such technical pleadings being naturally unpopular with juries, who regarded them as mere makeshifts, to gain time and evade the ends of justice¹. Hence a large part of the speech is devoted to arguing on the case itself, thus proving that the defendant's resort to special pleading was not due to any fear of meeting the plaintiff on the main issue. All this was of course irrelevant to the real question before the court, and counsel would hardly be permitted by any judge now-a-days to travel so widely out of the 'record.' In such a case, the defendant spoke first²; thus, while he

¹ Cf. Isaeus Or. 7 § 3 *εἰ μὲν ἐώρων ὑμᾶς μᾶλλον ἀποδεχομένους τὰς διαμαρτυρίας ἢ τὰς εὐθυδικίας κ.τ.λ.*

² See note on Or. 36 Arg. line 25 *ad fin.* The writer of the life of Demosthenes in the *Orations on the Crown* published by the Clarendon Press appears to have overlooked this in stating: 'it is clear that in the speech to which Demos-

thenes, in behalf of Phormion, composed a reply, Apollodorus had dwelt much on the fact of Phormion having been his father's slave' (p. xxxiii). Apollodorus did not address the court at all; he could not speak *before* the case, for the special plea had been opened on the side of the defendant, and the jury would not listen to him after.

was under the slight disadvantage of the *onus probandi*, he had on the other hand the benefit of the first hearing, and might at once produce a favourable impression of the strength of his case, which would put a stop to further litigation.

Phormion, being of foreign extraction and unpractised in public speaking, does not address the court in person (§ 1); his friends speak in his stead, and the case is opened on his behalf in an oration composed but almost certainly not spoken by Demosthenes¹, which forms the first of the selections included in the present volume².

The speech contains several notes of time which approximately determine the date of its delivery. In § 26 we are told that 'more than twenty years' have elapsed since the lease granted by Pasion; in § 19 we find that 'eighteen years' have passed since the partition of the property effected by the guardians in consequence of the extravagance of Apollodorus; and in § 38 the same period is described in general terms as 'about twenty years.' Pasion died in B.C. 370 and the above indications point to the year B.C. 350 as the probable date of the speech. As we have already observed, the lease would be granted to Phormion before B.C. 370, and

¹ The contrary might be inferred from the language of Deinarchus *contra Dem.* § 111, (Δημοσθένους) λογογράφου και μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου και Φορμίωνος (Compare p. xli). But the authority of Aeschines, in a speech delivered only seven years after the *pro Phormione*, supports the opinion expressed in the text, *de fals. leg.* § 185, ἔγραψας λόγον Φορμίῳ (cf. Or. 46 § 1 οἱ γράφοντες και οἱ συμβουλευόντες ὑπὲρ Φορμίῳ). Lortzing, *Apoll.*

p. 14, who agrees with A. Schaefer, *Dem. u. s. Zeit*, p. 169.

² It is unnecessary in this place to give a detailed account of the speech itself, as its contents are analysed in the italicised abstracts printed at convenient intervals in the course of the commentary. The reader who desires a general view of the drift of the argument may do well to read all the abstracts consecutively before settling down to the perusal of the Greek.

probably after B.C. 372, i.e. in B.C. 371. Thus 21 years would have passed since the grant of the lease. At first sight the term of eighteen years above mentioned might seem to point to B.C. 352¹, but it appears certain that the partition of property was not effected *immediately* after the death of Pasion. Some allowance must be made for the time during which the extravagance of Apollodorus was running its course (§ 8), before the guardians came to the conclusion that a partition of the property was inevitable; and the term of eighteen years is reckoned, it will be observed, not from the death of Pasion but from the division of his estate.

Again, the speech of Apollodorus against Nicostratus, § 13, shews that after his return from his Sicilian trierarchy which on independent grounds may be placed in B.C. 368, he was not yet in possession of his share of the estate. We find that he was compelled to raise money on the security of his house and to pledge some of his plate; we may therefore conclude that the partition was not earlier than B.C. 368, and the 'eighteen years' bring us once more to B.C. 350 as the date of the speech.

Further, the lease of Phormion lasted eight, that of the subsequent lessees, ten years; but it would be far from correct to assume that this points to the lapse of only eighteen years from the death of Pasion to the delivery of the speech, and consequently to B.C. 352 for the date of the latter; for (1) the previous lease began *before* the death of Pasion, (2) the subsequent lease does not appear to have followed immediately on the expiration of the first lease², and (3) the second lease had ter-

¹ This date is accepted by Droysen (*Zeitschrift für d. Alterthumswissenschaft* 1839 p. 930), Hornbostel (*Apoll.* p. 20), and A. Schaefer (u. s., p. 168

—9).

² § 11 εὐθὺς ὡς ἀφέϊσαν τουτονὶ τῆς μισθώσεως νέμονται τὴν τράπεζαν κ.τ.λ., § 13 ἐμίσθωσεν ὕστερον Ξένωνι κ.τ.λ.

minated before the date of the speech¹. The date B.C. 352, besides being open to the objection that the phrase 'more than twenty years' has to be explained away as a round number, in other words as equivalent to *less than twenty years*, only just allows time for the two leases, with no margin over, either for the interval between the first and second, or for the further interval after the second; while B.C. 350 is consistent with both these data².

The only difficulty in our accepting this date arises from the reference to Callippus in § 53, as then alive in Sicily. Now Callippus left that island for Rhegium in the spring of B.C. 350 at the latest, and was killed in the same year. This would reduce us to the alternative of either supposing that the news of these events had not yet reached Athens, or resorting to the heroic remedy of striking out the words as spurious³. Otherwise, it may be worth while to suggest as the date the latter part of B.C. 351; this would involve our reckoning the term of 'more than twenty years' from the beginning of B.C. 371 to the end of B.C. 351 *inclusive*, and similarly the eighteen years from the partition would be counted inclusively from B.C. 368 to B.C. 351.

¹ § 14 ἐλευθέρους ἀφεΐσαν...καὶ οὐκ ἐδικάζοντο οὐτ' ἐκεῖνοις τότε οὔτε τούτῳ.

² Ol. 107, 3=B.C. 350—349. This date is supported by Fynes Clinton; Böhnecke (*Forschungen auf dem Gebiete der Attischen Redner*, I 43, 67); Imm. Hermann (*de tempore, &c.* p. 11 and *einleitende Bemerkungen zu Dem. paragraph. Reden* p. 16); Rehdantz (*Jahns neue Jahrb.* LXX p. 505); Lortzing (*Apoll.* p. 15—18); Sigg (*Apoll. ap. Jahrb. f. class. Philol. Suppl.* Bd. VI Hft. 2 p. 406—8); Blass,

Att. Ber. III 405; and Huettner, *Disputatio* p. 18.

³ This has been proposed by Sigg u. s., p. 408, who objects to them as breaking the symmetry of the sentence οὐχὶ Τιμομάχου κατηγορεῖς; οὐχὶ Καλλιππου; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ Τιμοθέου; οὐκ ἄλλων πολλῶν; But we here have six rhetorical questions divided into a set of two beginning with οὐχὶ, and a set of four beginning with οὐ. The transition from the former to the latter is marked by πάλιν.

The speech is undoubtedly the genuine work of Demosthenes; this is proved not only by the testimony of Aeschines¹ but by the frequent quotations of ancient lexicographers and grammarians, and the internal evidence is equally conclusive. It holds a high place in his Private Orations; among the merits of its earlier portions may be noticed the closeness of its reasoning and the lucid arrangement of its argument, while its later portions are rendered interesting by the strong invective of the personal attack on the plaintiff and the dignified tone of the appeal to the court in favour of the defendant. All the points are supported by evidence, and except where the public services of the defendant are apparently unduly depreciated², there is every evidence of fairness on the part of the speaker. It is a forcible oration, in which we clearly recognise the characteristic feature that gives Demosthenes the superiority over Lysias, the great master of clear narration, and over his own instructor Isaeus, the best lawyer of all the Attic orators, namely, the ethical warmth of colouring, by which the dullest details are lit up with a fresh life and interest³. In the words of an able French critic, ‘de tous les plaidoyers civils de Démosthène, le plus beau peut-être, celui où l’orateur a mis le plus d’art et de véhémence, c’est le discours qu’il a composé pour le banquier Phormion.’ He calls it elsewhere, *un chef-d’œuvre dans son genre*⁴. Professor Jebb has with equal truth touched upon ‘the moral dignity of the defence for Phormio’⁵.

The result was decisive; the court, according to the statement of Apollodorus himself, upheld the plea of the

¹ *de fals. leg.* § 165, quoted in full on p. xl.

² See §§ 39—42 with notes, and esp. A. Schaefer, u. s., p. 168.

³ *die ethische Wärme welche*

selbst einem nüchternen Stoffe Leben verleiht. A. Schaefer, u. s., p. 168.

⁴ Perrot, *Revue des deux mondes*, 1873, 6 pp. 407, 436.

⁵ *Attic Orators* i 309.

defendant, and refused to listen to any reply on the part of the plaintiff. More than four-fifths of the jury must have voted for the defendant, as we learn that the plaintiff was condemned to pay the *ἐπωβελία*, i. e. a sixth part of the twenty talents claimed, a fine amounting in this case to as much as three talents and twenty minae. We are not surprised to learn that the plaintiff left the court in high dudgeon (Or. 45 § 6).

INTRODUCTION TO

OR. XLV.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ

ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

THE effect of the verdict given in support of Phormion's special plea in bar of the action brought by Apollodorus, was to prevent the latter from raising the same issue again, except in an indirect manner. It was still open to him to bring an action for false evidence against the witnesses on whose testimony Phormion had relied; such an action was known as a *δίκη ψευδομαρτυριῶν*, and if the plaintiff made good his case against the accessories, he could next proceed against the principal who produced them, by an action for subornation of false witness (*δίκη κακοτεχνιῶν*¹); and in the event of his succeeding in the latter, he might then bring forward afresh his original suit (in the present instance a *δίκη ἀφορμῆς*).

Apollodorus accordingly brought an action for false testimony against one Stephanus, who was called on Phormion's side in the previous trial. This witness deposed to neither of the points on which the special plea was raised; he was neither produced to prove the date of the original lease, shewing the lapse of the term fixed by the Athenian statute of limitations, nor did he give evidence to the release and quittance effected between

¹ Or. 49 § 56, Or. 47 § 1.

Apollodorus and Phormion; he simply attested a point which was, strictly speaking, irrelevant to the special plea and really belonged to the main issue. He was called, with others, to prove a legal challenge¹ given by Phormion to Apollodorus, demanding that, if the latter declined to admit that a document put in evidence by Phormion was a copy of Pasion's will, Apollodorus should himself open the original; he deposed that Apollodorus declined to open it, and further that the said copy was a counterpart of the original².

The plaintiff denies that any such challenge had been made and declares that his father left no will. He contends that (1) had the challenge been given, there could have been no reason for his refusing to open the document (§§ 9—14); (2) it was unnecessary to demand his acknowledgment of the correctness of a copy, when according to his opponents the original might have been readily produced (§§ 15—19); (3) the terms of the deposition were false because it assumed that Pasion made the will alleged, whereas he made no will at all: its terms ought to have run, *not* 'the will of Pasion,' but 'the will Phormion asserts to have been left by Pasion' (§§ 24—26). His argument on these points is a singular combination of shallowness and subtlety³, as may be seen in further detail by referring to the italicised abstract of the somewhat difficult sections here referred to.

He next argues that the terms of the 'will' prove it was forged by Phormion in his own interests (§§ 27—28), that the 'will' was inconsistent with the 'lease,' that the latter was also a fabrication (§§ 29—36), and that the discharge pleaded by Phormion was false (§§ 40—42). In anticipation of the defendant's probable reply, that his

¹ Or. 36 § 7.

² Or. 45 § 10.

³ nur einige schwache, ja ganz

nichtige τεκμήρια...; gegenzeugen...hat er nicht. Sigg, *Apoll.* p. 412.

responsibility is limited to two points only, (1) Phormion's giving the challenge, and (2) the plaintiff's refusal of it, the plaintiff insists on binding the defendant to the exact terms of his testimony (§§ 43—46). He further submits that, if in the reply any attempt is made to denounce his original action as fraudulent, all such reference to the past must be suppressed by the court as irrelevant to the issue before it (§§ 47—50). If the defendant urged it was not his own evidence, bearing as it did on the main issue, but the evidence of those who gave witness to the special plea, that was fatal to the plaintiff in the former trial; the answer was, that the evidence on the main issue crippled his case on the special plea (§§ 51—52).

At this point the speaker passes off into petty personalities of a curious description, denouncing the defendant for giving false evidence against him, regardless of the family tie of Apollodorus' marriage with a first cousin of Stephanus, and thus transgressing what he calls by a rhetorical flourish the unwritten laws of natural affection (§§ 53—56); he declares and very inadequately proves, that a legal document on which he had relied in the former trial had been stolen by Stephanus (§§ 57—62); denounces him for truckling to prosperity, for selfishly disregarding the rights of the poor and the claims of the public on his ample resources (§§ 63—67), for his sour and sullen unsociability, and for his merciless extortion as a miserable money-lender (§§ 68—70).

Turning then from the nominal defendant Stephanus to his principal, Phormion, who is the real opponent in the present as in the previous lawsuit, he launches out into a vigorous invective against him, for his gross ingratitude towards the speaker's family who were the very founders of his fortunes (§§ 71—76), contrasts his own orderly life and public services with his opponent's immorality (§§ 77—80), charges him with appropriating

money that belonged to Pasion, from whom all his wealth had originally come. Born a barbarian and sold as a slave, he had yet had the audacity to criticize the antecedents of the plaintiff's family (§§ 80—82).

After an ungenerous and gratuitous insinuation, to account for his younger brother Pasicles taking Phormion's part (§§ 83—84), he turns to the jury, reminds them of his father's benefactions to the state, implores them to protect him from one who was once a slave to his family, and from that slave's creature Stephanus; and, while reminding them incidentally of some of the points on which he relied, concludes by claiming a verdict against the man who, by his false evidence for Phormion, had robbed him of his revenge in the previous trial (§§ 85—88).

The defendant Stephanus replied at considerable length¹. The purport of his defence appears to have been very much what the plaintiff had anticipated in §§ 43—46. In particular, he contended that he was responsible for attesting to the challenge alone and not for any further details incidentally included in his evidence. The existence of the will had been attested by other witnesses than himself, and the court's acceptance of Phormion's special plea was due to *their* evidence on the main issue, and also to the evidence given by *others* on the plea itself, proving the original lease and the subsequent discharge.

¹ Or. 46 § 1.

INTRODUCTION TO

OR. XLVI

ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

THE reply of Stephanus is followed by a second speech on the part of the plaintiff, Apollodorus. In contrast to the presumptive proofs and the passionate declamation of his former effort, we here find, in a far less lengthy and less ambitious form, little more than a series of technical arguments supported by quotations from such parts of the Athenian code as appeared to bear, however remotely, on the case in question.

He charges the defendant with having given 'hearsay evidence' and cites the law against it (§§ 6—8); declares that Phormion, under the mask of the defendant's deposition, has given evidence in his own cause, which is illegal (9—10); he even deduces the falsehood of the deposition from the material on which it was inscribed; instead of being written hurriedly on an ordinary wax-tablet to attest on the spot a *bona fide* challenge, it was drawn up in a more permanent form implying a deliberately fraudulent design (11). He attempts to prove that his father made no will at all, and quotes a law forbidding a man's making a will if he had male issue lawfully begotten (14). He further urges that his father was disabled from disposing of his property by his 'adoption' as an Athenian citizen—a legal quibble arising from the ambiguity of the term relating to adoption, which really refers to the family and not to the state, as the

plaintiff disingenuously implies. He also insinuates that his father was debarred from making a will by being under undue influence and of unsound mind (15—17). He further contends that his mother was technically an 'heiress,' and by law held in ward by her nearest relative, namely himself; that her marriage was therefore invalid, being made in his absence, without his consent and without any legal adjudication, and that Pasion's disposal of his wife by will was thus illegal (18—23); that the father's 'will,' if ever made, was vitiated by the fact that there were sons of full age now surviving (24); and that the defendant and Phormion had conspired to defeat the ends of justice (25—26). After a parting sally on Phormion for his disregard of the laws, and a final thrust at the defendant, defying him to shew how he could possibly have known that the document attached to his challenge was a copy of Pasion's will, which he had never seen, and after also asserting that no one ever had a copy made of his own will¹, but kept it by him till his death, he concludes by asking the court to grant him the redress demanded by the claims of justice and the laws of Athens (27—29).

Thus the plaintiff assigns four legal reasons in support of the plea that Pasion's will was a forgery: (1) Pasion was a citizen by 'adoption'; (2) his widow was an 'heiress' legally at the disposal of her son and not her deceased husband; (3) he had legitimate sons, both of whom were now grown up and their coming of age would invalidate any will on the part of the father; (4) he was of unsound mind. On these four points we have only to remark that the first rests on a verbal quibble². (2) There is no indication elsewhere in other

¹ See Becker's *Charicles*, Scene xi, note 37.

² See note on § 14, and M.

Daresté *les plaidoyers civils de Dém.* II p. 307—8, where the law is briefly discussed.

speeches of Apollodorus that his mother was technically an 'heiress,' indeed there is reason to suspect that she was not even a native of Athens at all (§ 23); besides, as regards the alleged invalidity of his mother's second marriage, the plaintiff had already in his former speech expressed his acquiescence (Or. 45 § 4). (3) The intention of the law was that if a father, having legitimate male issue, made a will independent of their interests, the terms of the will as affecting other persons were to become valid in the event of the male children dying before they came of age. Thus a father could not disinherit his lawful heir, but he was not prevented from making a will in which the rights of the heir were duly regarded¹; and indeed, we find that Apollodorus and his younger brother had divided their father's estate between them, and that the former in particular had succeeded to a dwelling-house which was once his father's property. (4) The suggestion of lunacy is inconsistent with Apollodorus' own description of his father's last illness in another speech, by which it appears that he was then clear-headed enough to give his son a particular account of all the sums due to him from his numerous creditors².

On the whole it is obvious that the plaintiff must have been conscious of having a very bad case indeed, and that to maintain it he was compelled to resort to the most contemptible subterfuges³.

The date of the two speeches must be placed shortly after that of the speech in the suit between Apollodorus and Phormion, i. e. very soon after B. C. 351 or 350.

¹ Lortzing, *Apoll.* p. 82—3; Dareste, u. s., II p. 293.

² Or. 49 (Timoth.) § 42.

³ Beide reden, ganz besonders aber die zweite, sind voll

bloszer sophismen und spiegelfechtereien so handgreiflicher und oft fast lächerlicher art, dasz u. s. w. Sigg, *Apoll.* p. 412 and A. Schaefer, u. s., p. 177.

On the authorship of the Two Speeches against Stephanus.

We have seen that the authorship of the speech *pro Phormione* is undisputed; it is doubtless the genuine work of the great orator himself. Whether he is also the writer of both, or at any rate the first, of the two speeches against Stephanus, and of the others delivered by Apollodorus, which have come down to us among the works of Demosthenes¹, is a vexed question, an exhaustive treatment of which would demand an elaborate treatise beyond the compass of the present introduction. All that can here be offered is a brief discussion keeping in view, and where necessary correcting and supplementing, the arguments suggested by previous writers on the subject, and tested by the results of an independent investigation.

In the speech *pro Phormione* the case is supported by two important documents: (1) the lease granted to Phormion, (2) the will left by Pasion. In both the speeches against Stephanus (a witness, it will be remembered, in the former trial), the lease and the will are denounced as a fabrication and a fraud; more than this, while in the previous oration a warm eulogy is passed on the career of Phormion as a blameless man of business and as a generous citizen of irreproachable character, in the two latter the speaker avails himself of all the artifices of subtle insinuation, all the vehemence of unscrupulous invective, to paint his opponent's character in the darkest colours. The question arises whether the two latter speeches, or either of them, could have been written by the same person as the former.

Narrowing the enquiry for our present purpose to those speeches alone which Apollodorus delivered against Stephanus, we may in the first instance examine the *external evidence* (whether contemporary with Demosthenes or not) which may be adduced in support of the genuineness of the two speeches in question. In

¹ The speeches by Apollodorus (with the dates assigned to them by A. Schaefer) are Or. 52 *πρὸς Κάλλιππον*, B.C. 369—8; Or. 53 *πρὸς Νικόστρατον*, after B.C. 368; Or. 49 *πρὸς Τιμόθεον ὑπὲρ χρέους*, B.C. 362; Or. 50, *πρὸς Πολυκλέα περὶ τοῦ ἐπιτριραρχήματος*, about B.C. 357; Or. 45 and 46, *κατὰ Στεφάνου ψευδομαρτυριῶν α'* and *β'*,

about B.C. 351; Or. 59 *κατὰ Νεαίρας*, after B.C. 343;—Or. 47, *κατ' Εὐέργου καὶ Μνησιβούλου* was delivered after B.C. 356, but not by Apollodorus, though it was probably *written* by the same orator as most, if not all of the above-mentioned speeches, and possibly by Apollodorus himself.

the first place we must set a passage in Aeschines in which he denounces the orator as a traitor, charges him with writing for a pecuniary consideration a speech for Phormion the banker and with shewing this speech to Apollodorus, who was then prosecuting Phormion on a charge imperilling his status as a free man¹. Here it will be remarked that the description of the trial is vague, and the penalty, to which Phormion would have been liable, much exaggerated; but it is more important to notice that Aeschines says nothing of Demosthenes *writing* a speech for Apollodorus either in the lawsuit with Phormion, or in his subsequent suit against Stephanus. If Aeschines is speaking the truth, then at the worst all that he says is, that, in his opinion, Demosthenes acted in bad faith by betraying his client's interests and allowing his opponent to become informed of the arguments which would be brought against him. But it may be noticed that this course is not necessarily inconsistent with good faith on the part of Phormion's friend, as the orator may have seen no reason for concealing his client's case from his opponent,—especially as the speech on that client's behalf would be the opening speech, and the case would be in no danger of being damaged by any previous attack on the part of the plaintiff. Demosthenes may have been anxious to reconcile the parties and, if possible, to put an end to a quarrel which was threatening the disruption of Pasion's family; and so strong was his client's position, that to inform Apollodorus of the case against him and even to shew him the very manuscript itself with the friendly advice to drop the lawsuit, would have been no detriment to Phormion's interests².

Considering all the calumnies raked up by Aeschines against his great rival in the two orations *de falsa legatione* and *contra*

¹ Aeschines, *de falsa legatione* § 165, τὸν δ' ἀγαθὸν σύμβουλον τί χρῆ ποιεῖν; οὐ τῇ πόλει πρὸς τὸ παρὸν τὰ βέλτιστα συμβουλεύειν; τὸν δὲ πονηρὸν κατήγορον τί χρῆ λέγειν; οὐ τοὺς καιροὺς ἀποκρυπτόμενον τῆς πράξεως κατηγορεῖν; τὸν δὲ ἐκ φύσεως προδότην πῶς χρῆ θεωρεῖν; ἄρα γε ὡς σὺ τοῖς ἐντυγχάνουσι καὶ πιστεύσασι κέχρησαι, λόγους εἰς δικαστήρια γράφοντα μισθοῦ τούτους ἐκφέρειν τοῖς ἀντιδίκους; ἔγραψας λόγον Φορμίῳ τῷ τραπεζίτῃ χρήματα

λαβῶν· τοῦτον ἐξήνεγκας Ἀπολλοδώρῳ τῷ περὶ τοῦ σώματος κρίναντι Φορμίωνα. Id. *contra Ctesiphontem* § 173, περὶ δὲ τὴν καθ' ἡμέραν διαίταν τίς ἐστίν; ἐκ τριηράρχου λογογράφος ἀνεφάνη, τὰ πατρῶα καταγελάστως προέμενος· ἄπιστος δὲ καὶ περὶ ταῦτα δόξας εἶναι καὶ τοὺς λόγους ἐκφέρων τοῖς ἀντιδίκους ἀνεπηήδησεν ἐπὶ τὸ βῆμα.

² A. Schaefer, u. s., III 2, p. 178, and Rehdantz there referred to.

Ctesiphontem, we venture to think that, if he had had any ground whatever for asserting that Demosthenes actually wrote a speech for Apollodorus, a speech virtually directed against Phormion, though nominally against one of his witnesses only, he would certainly have seized his opportunity and made the very most of so damaging a fact. But he says no such thing; and even Deinarchus, another strong opponent of Demosthenes, makes no such charge against him, though he has an opening for so doing in a passage in which he refers to the orator's 'delivering' a speech for Phormion¹.

Later writers, however, though less likely to be familiar with the facts, are bolder in their denunciations; in Plutarch's life of Demosthenes, we read that the orator 'is said to have written for Apollodorus his speeches against Phormion and Stephanus, for which he justly fell into disrepute, as he also wrote a speech for Phormion in his lawsuit against Apollodorus.' He adds, with a reminiscence perhaps of the trade of the orator's father, 'it was as bad as selling swords to both sides from the same manufactory'².

The insertion of the speeches against Stephanus among the works of Demosthenes may perhaps be accounted for by the

¹ Deinarchus *contra Demosth.* § 111 p. 108, *εὐρήσετε... τοῦτον ἀντὶ λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν πλουσιώτατον ὄντα τῶν ἐν τῇ πόλει.* A recent editor of Deinarchus, Dr F. Blass, writes to me suggesting that the passage is interpolated,—a suggestion which he has recorded on p. vii of his edition. Deinarchus, he conjectures, wrote only *καὶ μισθοῦ τὰς δίκας λέγοντος*; had he wanted to enter into detail, he must have added 'Phormion the banker' and 'Ctesippus the son of Chabrias', because these cases were by that time probably forgotten. The bare addition *ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν* is, he says, exactly what a grammarian would insert to remind

his pupils of the speeches they had read in the course of their studies.

² Plutarch, *Dem.* chap. 15, *λέγεται δὲ καὶ τὸν κατὰ Τιμοθέου τοῦ στρατηγοῦ λόγον, ᾧ χρησάμενος Ἀπολλόδωρος εἶλε τὸν ἄνδρα τοῦ ὀφλήματος, Δημοσθένους γράψαι τῷ Ἀπολλοδώρῳ, καθάπερ καὶ τοὺς πρὸς Φορμίωνα καὶ Στέφανον, ἐφ' οἷς εἰκότως ἠδόξεσε. καὶ γὰρ ὁ Φορμίων ἠγωνίζετο λόγῳ Δημοσθένους πρὸς τὸν Ἀπολλόδωρον, ἀτεχνῶς καθάπερ ἐξ ἐνὸς μαχαίροπωλοῦ τὰ κατ' ἀλλήλων ἐχειρίδια πωλοῦντος αὐτοῦ τοῖς ἀντιδίκους. (Cf. chap. 4, *Δημοσθένους ὁ πατήρ... ἐπεκαλεῖτο μαχαίροποιός.*) *Comp. Dem. et Cic.* c. 3, *χρηματίσασθαι ἀπὸ τοῦ λόγου Δημοσθένους ἐπιψόγως λέγεται, λογογραφῶν κρύφα τοῖς περὶ Φορμίωνα καὶ Ἀπολλόδωρον ἀντιδίκους.**

conjecture that Callimachus, who, as head of the Alexandrine library, undertook the prodigious task of settling the canon of the Attic Orators¹, may have been misled either by the passage of Aeschines above quoted, or by the partial resemblance of the first speech to the style of the orator, into supposing that Demosthenes himself was the writer; or again may have included them among his orations as incidentally illustrative of his genuine works. That there was once a time when Apollodorus himself was regarded as the writer of the orations spoken by him which have been handed down to us among the works of Demosthenes, may perhaps be fairly concluded from a *scholium* on the passage of Aeschines above referred to, noting 'from this it is clear that the speeches referring to the estate of Apollodorus are *not* written by him, but by Demosthenes'. Thus, Plutarch's story of the duplicity of Demosthenes, which with slight variations is repeated by still later writers², may have originated in a misunderstanding of the language of his enemy's accusation³. The phraseology used by one of them in particular (Zosinus by name, a grammarian who, if we credit the conjecture attributing to him part of the *scholia* on Aeschines, may have actually written the *scholium* in question,) shews how easily, even

¹ Rehdantz ap. A. Schaefer, u. s., p. 317—322. The earliest reference to the Ten as a distinct group is to be found in the title of a lost work by Caecilius of Calacte,—*χαρακτῆρες τῶν ἑβήτορων*. But the form of the title implies that it was a group already recognised (Introd. to Cicero's *Orator* p. xii).

² Aesch. ed. Schultz, p. 311, *ἐκ τούτου δῆλον ὅτι καὶ οἱ περὶ τὴν οἰκίαν (οὐσίαν) συνέειπεν Ἀ. Schaefer*) *Ἀπολλοδώρου λόγοι οὐκ Ἀπολλοδώρου ἀλλὰ Δημοσθένους*. The rhetorician Tiberius, *περὶ σχημάτων* c. 14 (referred to by A. Schaefer), quotes from Or. 45 § 83, and introduces his citation with the name not of Demosthenes but of Apollodorus, *καὶ πάλιν Ἀπολλόδωρος ἔγωγ γὰρ—οὐκ οἶδα,* though he

professes in c. 1 to confine himself to *ὅσα παρὰ Δημοσθένει κατενοήσαμεν*. In c. 31 he begins an extract from Or. 36 § 52 with the words, *ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τὸν Ἀπολλόδωρον*. Weil, *les Harangues de Dém.* p. xi, demurs to any weight being assigned to the quotation from Tiberius.

³ Anonym. p. 155, Suidas *Dem.* c. 3, referred to by Lortzing, *Apoll.* p. 23.

⁴ The taunt about 'selling swords to both sides' is not borrowed from the passage in Aeschines. L. Schmidt, *Paed. Archiv* xxv (1) 58, in a review of this volume, points out, however, that it may have been due in the first instance to some other personal opponent of Demosthenes (Weil, u. s.).

before his time, Callimachus and Plutarch may have been misled by a careless expansion of the language of the orator's rival—language which we have little hesitation in regarding as the original source of the subsequent tradition¹.

The argument from *internal evidence* is more intricate, and the style of all the orations delivered by Apollodorus has been discussed with much minuteness by several modern critics. Without entering, however, into undue detail on those speeches which are not included in the present volume, we may briefly state certain peculiarities of diction to which Arnold Schaefer, who, in his admirable work on the *Life and Times of Demosthenes*, was the first to treat the subject systematically, has specially drawn attention, as running through all the speeches delivered by Apollodorus, and distinguishing them from the genuine writings of Demosthenes².

We find, then, a feebleness of expression shewing itself in repetitions of the same word within short intervals from one another³; this clumsiness is most noticeable in the case of the pronouns οὗτος and αὐτός⁴. Again, clause after clause begins with the same relative pronoun, or the same hypothetical particle⁵. Such carelessness of expression is naturally attended by looseness of rhythm; thus, tested by the frequency of *hiatus*, the speeches delivered by Apollodorus are inferior in composition

¹ Zosimus *vit. Dem.* p. 149 R., λογογραφεῖν ἀρξάμενος καὶ εἰς τὰ ἰδιωτικά καὶ εἰς τὰ δημόσια καὶ πολλοὺς ἐκδοὺς λόγους πρὸς ἑαυτοὺς ἢ ἰσὺς ἀμφοτέροις λόγους ἐκδοὺς κατ' ἀλλήλων. He lived in the time of the Emperor Anastasius, A. D. 491—518.

² A. Schaefer *Dem. u. s. Zeit*, III 2, 184—199, *Der Verfasser der von Apollodor gehaltenen Reden*, 1858. Since then, the subject has been elaborately discussed by F. Lortzing (1863) and J. Sigg (1873). For the full titles of their treatises, see p. xiv.

³ Or. 45 § 4, γιγνομένου... γίγονται... ἐγίγοντο, *ib.* § 63, συνέβαινε... βάλων. — Or. 46 § 28, διαθηκῶν... διαθηκῶν... διατιθέμενοι... διατίθενται. Simi-

larly in § 2, διατιθεμένῳ τῷ πατρὶ is thrice repeated and ὁ πατὴρ διέθετο twice. For other repetitions see §§ 3, 5, 8, 25.

⁴ Or. 45 § 64, τούτῳ... τοῦτον τοῦτου... τούτου, § 86, ἑαυτὸν... τούτου... ἑαυτὸν... ταῦθ'... τούτου, and similarly § 34, § 83.—Or. 46 § 21, οὗτος... αὐτὸν... αὐτοῦ τοῦτου... αὐτὰς... ταῦτ', and § 6. But cf. Or. 36 §§ 12, 20 and 42.

⁵ Or. 45 § 49 οὐς... οὐς § 81, εἰ... εἰ... εἶτα... εἰ. Or. 46 § 23, εἶπερ... εἶτε... εἶτε... εἰ μὲν... εἰδὲ... εἶπερ. τολύνη though common in the genuine orations occurs 14 times at least in the 29 sections of Or. 46. 'Non negari potest vividioribus transgrediendi figuris, quibus D. excellit, carere nostras orationes' Lortzing p. 33.

to the certainly genuine speeches of Demosthenes, though an exception must be made in favour of the first speech against Stephanus¹. Even this speech supplies instances of unrhymical construction², and examples of anacoluthon or bad writing; and in particular an awkward combination of participles may be noticed in the first as well as in the second oration³.

On passing to the question of the degree of mastery over the subject-matter and the general argument which is displayed in the various speeches, a distinction may be drawn between the earlier speeches on the one hand (e.g. those against Polyces and Timotheus) where the narrative is monotonous and tedious, and the conclusion somewhat lame and feeble; and the two speeches against Stephanus. The latter shew signs of an improvement which Schaefer ascribes to the prolonged experience in litigation which the speaker had enjoyed since his earlier efforts. The general style of all these orations, differing as it does from that of Demosthenes, and bearing marks of a kind of consistency of its own, points (so Schaefer suggests) to one person as the writer of them all, and that person in all probability Apollodorus himself. He often appeared before the law-courts not only in private suits on his own account, but also in public causes; and, when he was a member of the Council, he made important proposals, and brought them before the general assembly of the people. Even assuming that he resorted to others for assistance in his private lawsuits, yet, as soon as he appeared in a more public character, he would find it necessary to speak for himself, and without some oratorical ability he could hardly have undertaken so many public causes. In the second speech against Stephanus we find him pluming himself on his cleverness⁴; and in that against Neaera he is called upon to address the court on behalf of a younger and less experienced speaker⁵. Apollodorus obviously laid himself out

¹ Benseler *de hiatu* p. 147, *auctor alterius orationis* (Or. 45) *sermonem ita conformare solebat, ut vocalium concursus evitaretur et auctor alterius* (Or. 46) *ita ut hiatus non evitaretur*.

² The passage referred to is in § 68, *ἐγὼ γὰρ — προσελθεῖν πρῶτον*, but the objection is perhaps hypercritical. For anacoluthon, cf. Or. 45 § 3; for

bad writing, Or. 46 § 17.

³ Or. 45 § 83, Or. 46 § 13 (Lortzing p. 88, 89).

⁴ § 17 οὐδὲ ἐδόκουν ἐμὲ οὕτω δεινὸν ἔσσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.

⁵ Or. 59 § 14, *νεόν ἔντα καὶ ἀπείρως ἔχοντα τοῦ λέγειν*, while Apollodorus *πρεσβύτερός ἐστι... καὶ ἐμπειροτέρως ἔχει τῶν νόμων*.

for attempting to play a prominent part at Athens; in the *pro Phormione* the jury are specially warned against his loud and impudent self-assertion¹, and elsewhere we even find him apologising for his loudness of voice (as well as his hurried gait and ill-favoured countenance), as his misfortune and not his fault².

Such then is the general drift of the arguments, to which a brief sketch can only do imperfect justice, which lead Schaefer to the conclusion that the speeches against Callippus, Nicostratus, Timotheus, Polyces, Euergus and Mnesibulus; both of those in prosecution of Stephanus; and lastly, that in accusation of Neaera,—speeches delivered in the above chronological order between the years B.C. 369 and 343,—were all composed by one person, who had a distinctive style of his own, and that person probably Apollodorus himself, with whose transactions no less than seven of these speeches are concerned.

The above conclusion is however open to criticism on the ground that it gives no adequate account of the incomparable superiority of the first speech against Stephanus, not only to the others delivered by Apollodorus, but in particular to the second speech in the very same trial. It is marked by a closeness of argument, and a forcibleness of invective, worthy of a far abler writer than the composer of the other speeches. It seems futile to explain this superiority by ascribing it to a gradual improvement in the speaker's rhetorical ability brought about by time and experience³, when the second speech is so meagre and lifeless, and when the last of the series, namely that *in Neaeram*, instead

¹ Or. 36 § 61, *κραυγή καὶ ἀναλδεια*.

² Or. 45 § 77. A. Schaefer understands the passage differently; after referring to the loudness of voice attributed to Apoll. in Or. 36, he continues: 'Wenn dagegen Apollodor erklärt: *Ich rechne mich selber, was Gesichtsbildung, raschen Gang und laute Rede betrifft, nicht unter die von der Natur glücklich begabten...*, so will er damit nur ein selbstgefälliges prunken und stolzieren von sich ablehnen, ohne andeuten zu wollen, er sei missgestalt

träges Schrittes und schwachstimmig.' This misses the sense; the words when taken correctly as in the text, confirm the quotation from Or. 36, and do not appear even remotely to contradict it. Cf. Lysias Or. 16 §§ 18, 19.

³ A. Schaefer, u. s., p. 191. Prof. Schaefer, in a kind communication received since I wrote the above, endeavours to account for the greater polish of style shewn in Or. 45 by the fact that Apollodorus had the strongest motives for doing his very best in his opening speech.

of shewing any advance as compared with the first speech against Stephanus is certainly inferior to it, and is characterized by a diffuseness and laxity of style, and by other faults besides. And again, the explanation that the second speech is only a *δευτερολογία*, and therefore inferior to the first, is hardly adequate. Hence, while we would ascribe the second to Apollodorus himself, and find in its constant quotations from the Athenian code of law a characteristic touch, reminding us of his legal learning as attested in the oration in *Neaeram*¹, we are driven to the conclusion that in the first he had recourse to the assistance of an abler rhetorician than himself. There is scarcely sufficient proof that that rhetorician was Demosthenes. It must however be candidly admitted that of all the speeches delivered by Apollodorus, the one that on personal grounds is least likely to have been written by the composer of the oration for Apollodorus' opponent Phormion, is less far removed from the style of Demosthenes than any of the remainder, though again and again we have words never used by the orator himself in his undisputed writings². In one passage indeed (§ 77) we have a close parallel with the *Pantaenetus* (§ 55)³, which seems to point to a common authorship, and if the latter speech is rightly assigned to the year 346 or thereabout, in other words, is placed *after* the speeches now under consideration, we can hardly explain the parallel except by the hypothesis of a common source, or else by the less probable assumption that Demosthenes, who was almost certainly the writer of the *Pantaenetus*, having heard or read the first speech against Stephanus, a speech directed virtually against his own client Phormion, borrowed from the phraseology of the latter oration, with which he was thus familiar. The Attic Orator, Hyperides, is known to have written one speech at least against Pasicles⁴, who, though a brother of Apollodorus, took the side of his opponent Phormion, and a conjecture has

¹ § 14, ἐμπειροτέρως ἔχει τῶν νόμων, and § 15 ὑπὲρ τῶν θεῶν καὶ τῶν νόμων καὶ τοῦ δικαίου καὶ ὑμῶν αὐτῶν, compared with Or. 46 § 29 ὑπὲρ νόμων αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

² § 14 παροξυσμός, § 19 παραπέτασμα, § 70 ἀόικητος (in sense 'houseless'), § 85 ἐπίχαρτος,

§ 63 and § 65 ὑποπίπτειν τινί (also in Or. 59 Neaer. § 43).

³ Or. 37 §§ 52, 55 quoted in note on Or. 45 § 77. The *Pantaenetus* was probably the later speech of the two.

⁴ κατὰ Πασικλέους and πρὸς Πασικλέα περὶ ἀντιδόσεως, Fragm. 137—140, p. 88—9 ed. Blass.

been half hazarded that it was for Apollodorus that those speeches were composed¹; but there is no adequate reason for assigning the first speech against Stephanus to that orator, and a comparison with his four extant orations has led me to notice only one important coincidence of expression².

On the whole, then, we may conclude (1) that the second speech was not only delivered by Apollodorus, but probably composed by him; (2) that the first was written for him, possibly not by Demosthenes, but by some rhetorician unknown to us, whose assistance he was led to secure either by the pressure of his other engagements, or by a consciousness of the difficulty of the task that was before him, and a mistrust of his own unaided ability to compose more than the legal rejoinder to the defendant's reply.

Those who attribute the speeches against Stephanus, or at least the first of them, to the authorship of Demosthenes, are bound to supply some reasonable motive for his changing sides after taking the part of Phormion against Apollodorus. If such a desertion to the enemy's camp was due to his discovery that the documents relied on in the first trial were forgeries, and that the deponents called to prove them were guilty of false witness, we cannot but think that Demosthenes, if he had been the writer of a speech immediately arising out of the former trial, would have been prompted to stronger expressions of indignation against the fraud practised on the jury on the previous occasion.

While we dismiss as irrelevant any attempt to try the alleged duplicity of Demosthenes by the standard of the professional etiquette of the English bar, and refrain from entangling our discussion with parallels suggested by questions of modern forensic casuistry, we may at any rate remark that, though we have no sufficient warrant for assuming that the orator was above pecuniary considerations, a certain sense of honour would probably have kept him from accepting a fee to write down the very side which he had but lately written up; and we may fairly conclude that such conduct was held dishonourable from the fact that even for divulging Phormion's case to his opponent, Demosthenes is, whether truly or falsely, charged by Aeschines with playing a traitor's part.

¹ Hornbostel, *Apoll.* p. 35.

² Or. 45 § 74 ἀνεκδότους ἔνδον γηράσκειν, compared with Hy-

perides III 28, 4, ἀνεκδοτον ἔνδον καταγηράσκειν and III 27, 22, ἄγαμον ἔνδον καταγηράσκειν.

Again, it is urged that the first speech against Stephanus was written for a different trial to that on behalf of Phormion. This can hardly be regarded as an extenuating fact in favour of Demosthenes as the writer of the leading speech in both trials, since the second cause arose immediately out of the first, and there can be no question about the irreconcilable difference between the facts of the case as stated in the two orations, and the terms used in the one and the other in describing the character of Phormion. Even apart from motives of honour, the lower ground of expediency would presumably have sufficed to prevent Demosthenes from writing to defame the character of one who, by his opponent himself, was admitted to be a wealthy and prosperous man of business, and from supporting by preference the failing fortunes of an impoverished pettifogger.

Such, then, at the very strongest, are the principal arguments that may be adduced against the genuineness of the two speeches against Stephanus. In conclusion, it is only fair to submit the only hypothesis on which it is not impossible that Demosthenes may after all be the real author of, at any rate, the first oration.

We have already seen that it is highly probable that the speech against Phormion belongs to the latter part of the year B. C. 351 (p. xxix) and that the speeches against Stephanus may fairly be placed in the year B. C. 350¹. It was a year in which the efforts of Athens to recover Eubœa and to protect Olynthus placed her in a position of grave financial embarrassment. To meet this, Apollodorus, as a member of the senate, moved a decree that it should be submitted to the vote of the public assembly whether the surplus of the revenue should be paid to the Theoric fund for religious festivals, or applied to the expenses of the war. The proposal was approved by the senate and accepted by the public assembly; and the latter passed a decree appropriating the surplus to military purposes. Hereupon one Stephanus, who is not to be identified with the defendant in the speeches before us, impeached Apollodorus on the ground of his having brought forward an illegal decree; and he obtained a verdict, which led to the fine of one talent being inflicted on Apollodorus². In this impeach-

¹ The *archon eponymus* of that year [OL. 107, 3] was one Apollodorus, probably *not* the son of Pasion.

² Or. 59 §§ 3—8, esp. § 4, διαχειροτονῆσαι τὸν δῆμον εἶτε

δοκεῖ τὰ περίοντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι ἢ θεωρικὰ; Grote, *H. G.*, chap. 88; Curtius, *H. G.*, vol. v, p. 269 (Eng. Transl.); Hornbostel, *Apoll.* p. 39, 40; A. Schaefer,

ment, Stephanus was probably the tool of Eubulus and the peace-party, and although there is no proof that Apollodorus acted at the suggestion of Demosthenes and the opposite party, the proposal of Apollodorus would doubtless meet with the orator's approval, as is clear from the financial policy cautiously propounded by the latter in the Olynthiac orations¹, and, when it was too late, carried to a successful issue twelve years afterwards in the autumn of 330, only one year before the catastrophe of Chaeroneia.

It may therefore be questioned whether political motives may not have induced Demosthenes to throw Phormion overboard and to support Apollodorus by writing the first speech against Stephanus. On this hypothesis it may be presumed that Apollodorus, having lost his lawsuit against Phormion owing to the powerful advocacy of Demosthenes, and being almost crushed by the consequences of his defeat, resorted to Demosthenes in the hope of recovering part at least of his resources, and proposed to run the risk of bringing forward his motion on the Theoric fund, on condition that the orator wrote him a speech against the obnoxious witness Stephanus.

My friend Dr F. Blass (the author of several important works on Greek Oratory) has favoured me with a suggestive letter², supporting this hypothesis and also shewing that the style of the first speech against Stephanus, apart from its general resemblance to that of Demosthenes³, coincides with it in a hitherto unnoticed peculiarity, that under certain limitations the orator generally avoids the juxtaposition of more than two short syllables, the exceptions being for the most part cases where the three syllables fall within the compass of a single word⁴. To examine the minute criterion here proposed is beyond my present purpose. It is sufficient to state (as my learned correspondent would obviously acknowledge), that while its absence may suggest the spuriousness of any given oration, its presence does not prove its genuineness. It may also be admitted

u. s., III 2, p. 180 and (for the chronology here followed) *ib.* p. 330. Some (e.g. Weil, *Harangues de Dém.* p. 163) would place the Euboean expedition in B.C. 348, and Dr Blass would therefore place in that year the motion of Apollodorus and the delivery of Or. 45.

¹ Olynth. III §§ 10—13.

² 12 Sept. 1875; see also his *Att. Ber.* III 32, 412—4 (published in 1877).

³ Sigg, *Apoll.* p. 415—432.

⁴ See p. 7 of his dissertation on the Letters ascribed to Demosthenes, (Oct. 1875); also *Att. Ber.* III 99—104.

that the testimony of Harpocration is in favour of the Demosthenic authorship of the first speech¹ (though the value of that testimony is impaired by his attributing the second speech² to the same author); and that the parallelism of § 77 to a passage in the *Pantaenetus* already noticed is on the whole more easily explained by ascribing the first speech to Demosthenes than by any other hypothesis³.

¹ See quotations in notes on Or. 45 §§ 1, 15, 63, 66, 74, 80, 84.

² Cf. Or. 46 §§ 7, 11, 20.

³ Since the above discussion was first published, it has been justly observed that the genuineness of the first speech against Stephanus 'could hardly have been doubted but for the desire to vindicate the orator's morality....'The morality of Demosthenes' conduct may in this case perhaps be dubious, but it is not so palpably bad as has

been supposed....But...he attacks his late client's character with a coarse violence and a wantonness which goes beyond the conventional invective of the law-courts. He writes for Apollodorus as Apollodorus would have written himself, not sparing even the speaker's own mother. And it is precisely here rather than in the change of sides that we feel the real discredit lies' (S. H. Butcher, *Demosthenes*, 1881, p. 136).

INTRODUCTION TO

OR. LIII

ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ

ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ

ΑΡΕΘΟΥΣΙΟΥ.

IN this speech Apollodorus, the litigious son of Pasion, appears in support of a lawsuit arising out of an information laid against one Arethusius, for refusing to pay a fine due to the public chest. According to Athenian law, if a state-debtor concealed his effects, any citizen who discovered the fact was at liberty to draw up, and lay before the proper magistrate, a written statement containing an inventory or specification of the goods in question. The schedule thus drawn up was called an ἀπογραφή, and this name was also given to the legal process in support of it¹. The informant, in the event of his making good his case, was entitled to the reward of three-fourths of the valuation (§ 2); if he failed, he was fined a thousand drachmae, and suffered a partial disfranchisement which prevented his appearing again as a prosecutor in a public cause (§ 1).

In the present instance, Apollodorus has handed in a specification in which two slaves are stated to be the property of Arethusius, and therefore liable to confiscation as a partial payment of his debt to the public treasury.

¹ Meier and Schömann, p. 253; Hermann, *Public Antiquities*, § 136, 13.

Hereupon, a brother of Arethusius, named Nicostratus, puts in a claim to the slaves, and in the speech before us Apollodorus has to shew that the claim is false and that the slaves are really the property of Arethusius. To prove this he calls evidence in §§ 19—21, and this is the only portion of the speech which is really relevant to the issue before the court, while the greater part of it, up to this point, is devoted to a narrative of the relations between Apollodorus and the two brothers. The object of this is to shew that the former had been most ungratefully treated by the latter, especially by Nicostratus, and that he was therefore, according to the Athenian notion, fully justified in revenging himself for his private wrongs by supporting a public information against his opponent. To prove the purity of his motives and to ingratiate himself with the court, he waives at the very outset his claim to the reward to which the informant in such cases is legally entitled.

Among the speeches of Lysias we have three concerned with causes relating to claims of money withheld from the state (*ἀπογραφαί*): the speech ‘for the soldier’ (Or. 9), that ‘on the property of Aristophanes’ (19), and that ‘against Philocrates’ (29). The first two are for the defence; the third, for the prosecution. But in all three, the promoter of the *ἀπογραφή* is represented as the prosecutor; in the present case, although the promoter of the *ἀπογραφή* is Apollodorus, we should probably consider him as the defendant and Nicostratus as the plaintiff. Apollodorus was apparently in possession of the effects disputed; his opponent Nicostratus puts in a claim against him, and the speech before us is therefore a speech for the defence¹. Owing to the general character of its contents, it is usually classed among the

¹ Caillemer, s.v. *Apographè*, in Daremberg and Saglio’s *Dict.*

Private Orations, and it may be conveniently studied in conjunction with them. But it cannot be too clearly stated, that, in so far as it arises directly out of a refusal to pay a fine to the public chest, it is essentially a speech delivered in a public cause.

Apollodorus states that Nicostratus was his neighbour in the country and formerly his trusted friend, that they had done kindly services for one another, and that in particular he had lent to Nicostratus, free of interest, a sum which he was himself compelled to raise on the security of part of his property. So far from being grateful, the borrower at once laid a plot to escape payment of his debt, made common cause with the opponents of Apollodorus, and induced a third party (one Lycidas) to bring against him a suit demanding that certain property should be produced in court. Among those who were entered as witnesses to the delivery of the summons requiring him to produce the property, was Arethusius, a brother of Nicostratus, as above mentioned. The summons, it is alleged, was never served, consequently Apollodorus did not appear, and judgment went against him by default. Subsequently, Apollodorus prosecuted Arethusius for fraudulent citation (*ψευδοκλητείας γραφή*), which was regarded by Athenian law as a *criminal* offence, while on the contrary a witness in the cause itself as distinguished from one who attested a summons, was, if he gave false evidence, only liable to a *civil* action¹. Before the case came on, Arethusius committed several acts of outrage against Apollodorus, laid waste his orchard and violently assaulted him, and when the case for fraudulent citation, and apparently for the other criminal acts, was

¹ Harpocration, quoted on § 17 *ad fin.*, inaccurately uses the (possibly generic) term *δίκη*,

instead of *γραφή*, with reference to *ψευδοκλητεία*.

brought before the jury, Apollodorus, under these aggravating circumstances, obtained a verdict against Arethusius with the greatest ease. Indeed, it was only owing to the entreaties of his brothers, with the acquiescence of the prosecutor, who was unwilling to face the odium which would ensue, that Arethusius escaped the penalty of death¹, and had inflicted on him a fine of one talent, for the payment of which his brothers became jointly responsible. Arethusius pleaded poverty and refused to pay; thereupon Apollodorus took the legal steps required (as above described) for the confiscation of his property, and in his specification claimed for the state, among other effects, two slaves as a partial security for the payment of the fine. Nicostratus resists this claim as regards the slaves in question and claims them as his own property, though even in that case, as the speaker points out, they should be confiscated, since Nicostratus had guaranteed the payment of the fine and had failed to make good his guarantee. In §§ 22—25 Apollodorus describes the unsuccessful attempt of his opponents to entrap him into accepting a legal challenge, which would have committed him to a virtual admission that the slaves were private property; and in §§ 19—21 calls evidence to prove, that the person recognised as the responsible owner of the slaves was Arethusius, and not the present claimant Nicostratus.

Passing from the general contents of the speech as above sketched, we may turn to a brief consideration of its literary style and special peculiarities. We are at once struck by the disproportionate space of twenty sections

¹ Boeckh, *Public Economy*, trans. Lamb, p. 496 note 2, while noticing that other criminal acts are involved, considers that the present passage proves

that the punishment of death might be inflicted in a case of *ψευδοκλητεία*, but this seems scarcely probable.

devoted to purely preliminary details, as contrasted with the short compass within which lies the real gist of the case. The long account of the reasons prompting the speaker to seek for revenge, is unlike the manner of Demosthenes, and a certain feebleness and diffuseness may be noted in the narrative immediately following the exordium. Among minor details may be observed a tendency to add unnecessary and superfluous clauses, defining more clearly what has just gone before¹. Again, we find needless repetitions within the limits of a single sentence²; further, we have a certain clumsiness in the repetition of pronouns such as οὗτος and αὐτός³; we observe a disproportionate number of harsh constructions⁴, and it is curious to notice that a phrase occurring in this speech, which is unexampled in the undisputed writings of Demosthenes, finds its nearest parallels in speeches delivered like the present by Apollodorus⁵. We may also trace a general resemblance to the style of that against Neaera, the greater part of which was delivered by the same person, a speech which it is impossible to attribute to the authorship of Demosthenes⁶; and, lastly, there is a

¹ e.g. not content with *Ἀρεθουσίου, οὐπερ ἐγγράπτο εἶναι* in § 2, the writer in § 10 has the words, *Ἀρεθούσιος οὐ τὰν δράποδ' ἐστὶ ταῦτα ἃ νῦν ἀπογράφονται*, again in § 14 *Ἀρεθούσιος οὐπὲρ ἐστὶ τὰνδράποδα ταῦτα*, and similarly in § 19. The words in § 7 *ἐδεῖτό μου βοηθῆσαι αὐτῷ ὡσπερ καὶ ἐν τῷ ἔμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς φίλος*, are partially repeated in § 8 and § 12. Again in § 24, *τὰς βασάνους* is unnecessarily followed by the closer definition, *ὅτι εἴποιεν οἱ ἄνθρωποι*. (Cf. A. Schaefer, u. s., p. 187—190; Lortzing, *Apoll.* p. 30 etc.; and see especially Blass, *Att.*

Ber. III 462.)

² e.g. § 4, *οἰκέως διεκέμεθα... οἰκέως διεκέμην*.

³ § 6 *ad init.* αὐτὸν...τούτου...αὐτῷ...αὐτός. Also, *ad fin.* τούτου...τούτου...αὐτὸς...τούτον τούτου...αὐτῷ...αὐτόν. Cf. §§ 4 and 8.

⁴ See §§ 11, 12, 24, 29.

⁵ § 15, *ἐβάδιζον ἐπὶ τὸν κλητῆρα τὸν ὁμολογοῦντα κεκλητευκέναι...τῆς ψευδοκλητείας* compared with Or. 49 § 56, *μὴ...ἐπὶ τόνδε κακοτεχνιῶν ἔλθοιμι*; and esp. Or. 52 § 32, *ἐπὶ τὸν Κηφισιάδην βαδίζειν τὸν ὁμολογοῦντα κεκομίσθαι καὶ ἔχειν τὸ ἀργύριον*.

⁶ Or. 59 (*κατὰ Νεαίρας*) is condemned by ancient critics

certain want of warmth in the peroration, unlike the vigorous style of the great orator himself.

On the whole, without entering into minuter detail, we may consider the internal evidence is such as to throw grave doubts on this speech being the genuine work of Demosthenes, and we are not surprised to find its genuineness called in question by the lexicographer of the Attic Orators, Harpocration¹, though Plutarch refers it without suspicion to the authorship of Demosthenes, and fancifully contrasts the literary fame of the orator with the military reputation of the general of that name in the Peloponnesian War².

We have now to consider the data for arriving at the time when the speech was delivered. In § 9, Apollodorus describes himself as short of money, owing to differences between himself and Phormion, who was keeping him out of the property left him by his father Pasion, who, it will be remembered, died in B. C. 370. Again, in § 14 we are told, that at the time of the events there related, Apollodorus had not yet brought to a preliminary hearing the suits he had instituted against his relatives (Phormion and others). The suit against Phormion respecting the banking capital (Or. 36) was delayed until about B. C. 350. But a much more direct indication is given by a reference

(ὑπτιον ὄντα καὶ πολλαχῆ τῆς τοῦ ῥήτορος δυνάμεως ἐνδεέστερον *Arg.*). Among modern critics, Reiske is its sole supporter. Among the minor points of resemblance, apart from the general style, may be quoted Or. 59 § 16 ἃ μὲν ἠδικημένος, ὃ ἄνδρες Ἀθηναῖοι, ὑπὸ Στεφάνου... ὡς δ' ἐστὶ... τοῦτο ὑμῖν βούλομαι σαφῶς ἐπιδείξαι compared with Or. 53 (Nicostr.) § 19 ἃ μὲν πολὺν ἀδικούμενος, ὃ ἄνδρες δικασταί, ὑπ' αὐτῶν... ὡς δ' ἐστίν... ἐπιδείξω ὑμῖν (noticed by Reh-

dantz, *vit. Iphicr.* p. 194). Add Or. 59 § 14. Also the tedious references to the plea of revenge, Or. 59 § 1 ὡστ' οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος κ.τ.λ. and cf. § 18 ἐκ μικρῶν παιδίων with Or. 53 § 19, ἐκ μικροῦ παιδαρίου, while παιδάριον μικρόν, though common enough in itself, also happens to occur in Or. 59 § 50.

¹ ἐὶ γνήσιος s. v. ἀπογραφῆ, quoted in note on § 1, p. 134.

² Plut. *de gloria Atheniensium* chap. 8.

in § 5, to a trierarchy involving the speaker's absence from Athens; and it was shortly after his return that the events described in the context occurred. He had to sail round the south of the Peloponnesus, and after touching there to take certain ambassadors to Sicily. It seems probable that we should identify this trierarchy with that mentioned in Or. 45 § 3, which belongs either to B.C. 369 or B.C. 368¹. The latter date is more probable, not only for the reason given in the note on that

¹ On a ψήφισμα respecting the alliance with Dionysius I see Kirchhoff in *Philologus* xii 571, where the writer holds that there were embassies sent to Sicily in 369 and also in 368. Cf. Lortzing, *Apoll.* pp. 3 f., 10; Sigg, *Apoll.* p. 403 f. (Blass, *Att. Ber.* III 460).

Droysen (*Zeitschrift für d. Alterthumswissenschaft* 1839 p. 929) places the speech in Ol. 107, 1=B.C. 352—1, and Böhnecke (*Forschungen* p. 675) in Ol. 107, 2=B.C. 351—350. They connect the Sicilian trierarchy of Apollodorus (1) with the despatch sent to Athens in Ol. 106, 3=B.C. 354—3 by a leading man in Syracuse, Callippus by name; and (2) with a request for assistance on the part of the Messenians, recorded by Pausanias (IV 28 § 2). Arnold Schaefer, however, points out that we have no authority for stating that the Athenians sent any reply to the overtures of Callippus by sending a special embassy to Sicily, and Apollodorus would have been the last man in the world to have anything to do with Callippus, who was his personal enemy (see note on Or. 36 § 53). Besides, Apollodorus would then be in the 40th year of his age, and would

have had considerable experience of business, whereas when he undertook this trierarchy, and when he shortly after assisted Nicostratus, he was quite a young man and inexperienced in the ways of the world (§§ 12—13). As was seen by Rehdantz, who places the speech in B.C. 368 (*Jahn's Neue Jahrbücher* LXX 505), we must not refer the allusions in §§ 9 and 14 to the lawsuit of Apollodorus against Phormion which was met by the latter's special plea (Or. 36), but to the threatened litigation of the first few years after his father's death. Now, after the summer of 369 the Athenians, in consequence of help sent by Dionysius I. to his allies the Spartans, were engaged in negotiations with that tyrant which led to the conclusion of a peace and alliance. With these negotiations we may connect the Sicilian trierarchy of Apollodorus. The ambassadors whom he had on board could not confer with the Spartans without landing at Gytheion, as the Peloponnesus was for the most part in arms on the side of the Thebans. (Abridged from A. Schaefer, u. s., p. 145—6.)

passage, but also because at this period no one was required to be trierarch oftener than once in three years, and we know that Apollodorus was so employed in B. C. 362; hence he may have been trierarch in B. C. 365 and B. C. 368, but probably not in B. C. 369¹. Thus if we allow a fair interval of time for the events mentioned in the speech subsequent to the trierarchy, we may fix on B. C. 366 as the probable date of its delivery. Now, if Demosthenes was born in B. C. 381, he was still a minor in B. C. 366 and too young to have been the writer of the speech; if, as is most probable, his birth was in B. C. 384, he was only just of age when the speech was delivered, and had enough to do in looking after his own affairs, and preparing, under the guidance of Isaeus, to join issue with his guardians, without writing speeches for other people. Consequently, the probable date of the speech, coinciding as it does with the internal evidence and with the doubts of Harpocration, makes it almost impossible to ascribe it to the authorship of Demosthenes.

But whether written by Demosthenes, or, as is much more probable, by another, most likely by Apollodorus himself, there can be no reasonable doubt that the speech was actually delivered before an Athenian tribunal. As a study of character, the narrative of the relations between the speaker and his opponents is not without an interest of its own; and the moralist may there find a fresh exemplification of the wise saw of Polonius,

¹ Cf. Sigg, *Apoll.* p. 404, who (with Lortzing) also draws attention to the indication of time in § 4 *ἐπειδὴ ἐτελεύτησεν ὁ πατήρ... χρόνου δὲ προβαίνοντος*. But it is fair to remark that the subsequent expression 'when-ever I was abroad, either on public service as trierarch, or

on my own account on some other business,' while it is not necessarily inconsistent with a single voyage as trierarch, which is all we can assume if we place the period in B. C. 366, is better suited to a date which would allow of more than one absence on public service.

Never a borrower or a lender be,
For loan oft loses both itself and friend.

The speech includes several passages of peculiar intricacy, in which the language of Athenian lawcourts and the vocabulary of Attic horticulture will demand special illustration in the course of the commentary¹. The knotty points of legal terminology, which may embarrass the beginner, may prove attractive to experts,

qui iuris nodos et legum aenigmata solvunt;

though others perhaps will be better pleased to dwell on the details of the speaker's country-home, and will not be sorry to leave for a while the lawcourts of Athens, for the vineyards and orchards, the olives and roses of Attica.

¹ notes on §§ 14—16.

INTRODUCTION TO

OR. LIV

KATA KONΩΝΟΣ ΑΙΚΙΑΣ.

THIS is a speech for the plaintiff in an action for assault and battery, which arose as follows. One evening the plaintiff, a young Athenian named Ariston, accompanied by a friend, was taking his usual stroll in the market-place of Athens, when he was attacked by the defendant Conon, and his son Ctesias and four others. One of these last fell upon Ariston's friend and held him fast, while Conon and the rest made an onslaught on Ariston, stripped him of his cloak which they carried off with them, threw him violently into the mud, and assaulted him with such brutality that he was for some time confined to his bed and his life despaired of (§§ 7—12).

Ariston, on his recovery, had more than one legal course open to him (§§ 1 and 24). Conon had, in the first instance, rendered himself liable to summary arrest for stripping off his cloak, and he was still amenable either to a public indictment for criminal outrage (*ὑβρεως γραφή*) or to a private suit for assault and battery (*αικίας δίκη*). To take the former of these last two courses would have proved a task too arduous for so youthful a prosecutor as Ariston, and he accordingly followed the advice of his friends and adopted the safer and less ambitious plan of bringing an action for

assault. The case was submitted in this form to a public arbitrator, and as his award, whatever it may have been, was not final, the plaintiff brought his suit before one of the legal tribunals, possibly that known as the Forty, state-officers chosen by lot who went on circuit through the demes of Attica, and under whose cognisance, besides some minor matters, all private lawsuits for assault were placed¹. Two points were essential to the proof of the case, (1) that the defendant struck the plaintiff who was a free-man, with intent to insult him; and (2) that the defendant struck the first blow and was not acting in self-defence under the provocation of a previous assault.

The plaintiff, after a brief statement of the reasons which led him to prefer bringing a private suit instead of a public indictment against his assailant, and after the usual request for a favourable hearing, gives a graphic account of the origin of the feud between Conon's sons and himself (§§ 3—6); he then passes on to a vivid description of the scene in the market-place and the brutal assault there committed by Conon and one of his sons (§§ 7—9), and calls medical and other evidence to prove the serious nature of that assault and its nearly fatal result (§§ 10—12).

He next anticipates the defence which is likely to be set up by Conon, who, he understands, will make light of his son's misconduct and try to pass it off as a mere freak of youthful pleasantry; he contrasts the flippancy of the proposed defence with the more serious spirit of the laws of Athens, which provide penalties for even minor offences to preclude the perpetration of

¹ Or. 37 (Pant.) § 33, ἡ μὲν αἰκία καὶ τὰ τῶν βιαιῶν πρὸς τοὺς τετταράκοντα, αἱ δὲ τῆς ὑβρεως (δικαι) πρὸς τοὺς θεσμοθέτας. See

esp. Caillemer in *Dict. des Antiquités* (Daremberg et Saglio) s.v. *Aikias dikē*; or Meier and Schömann, *Att. Process* p. 80.

graver crimes (§§ 13—20); and he submits that the plea of youth can only be urged in mitigation of punishment and is at any rate inapplicable to Conon himself, a man of more than fifty years of age, who, so far from restraining his sons and the other assailants, was actually the ringleader of them all (§§ 21—23). The defendant was amenable to the laws against highway robbery and brutal outrage and, had death ensued, would have been chargeable with murder (§§ 24, 25).

He further describes the evasive conduct of the defendant during the preliminary arbitration (§§ 25—29); denounces the falsehood of the evidence put in by persons who were boon-companions of the defendant, deposing that they found the plaintiff fighting with the defendant's son, and that the defendant did not strike the plaintiff; contrasts it with the evidence of impartial persons on his own side attesting to his having been assaulted by the defendant (§§ 30—33); and comments severely on the bad character of the witnesses for the defence (§§ 34—37).

He then warns the court not to allow themselves to be imposed upon by the hard swearing and the sensational imprecations which, he is informed, will be resorted to by the defendant, whose antecedents prove his reckless disregard of things sacred; while he himself, averse though he was to taking even a lawful oath, had for the truth's sake offered to take such a pledge; and, as that offer had been declined by the defendant, he would now for the satisfaction of the court swear solemnly that in very truth he had been brutally assaulted by his opponents (§§ 38—41).

After pointing out that even in this private suit public interests were at stake, he very briefly refers to the way in which his family and himself had done their duty towards their country, while his opponents had

done nothing of the kind. 'Even supposing,' he says in conclusion, 'we are of less service to the state than our opponents, *that* is no reason why we should be assaulted and brutally outraged.'

The only clue to the date of the speech is to be found in a passage in § 3, whence we conclude that it was delivered two years after orders were given at Athens for a military force to go out on garrison duty to Panactum, a fort on the Boeotian frontier. We read of such an expedition in B.C. 343¹; and this would bring us to B.C. 341 as the year of the trial. It has been suggested, however, though no reason is assigned, that this is too late a year, and that there is warrant for believing there was regular military service, as opposed to a special expedition, on the Boeotian frontier in B.C. 357, to protect Attica from a diversion on the part of the Boeotians shortly before the Phocian war, during which there was no occasion for such precautions, as the Phocians kept the Boeotians occupied in another direction². Thus, the military movements referred to in § 3 belong to the time either shortly before or shortly after the Phocian war, in other words, either to B.C. 357 or 343, the speech being thus placed in B.C. 355 or 341 respectively. In the course of an *Excursus* on p. 229, I have pointed out that the reference to the Triballi in the days of Conon's youth supplies us with a hitherto unnoticed coincidence in favour of the later date.

The speech has deservedly won the admiration of

¹ Dem. *de fals. leg.* (B.C. 343) § 326, *περὶ...τῆς πρὸς Πανάκτω χώρας μεθ' ὀπλων ἐξερχόμεθα, ὃ ἕως ἦσαν Φωκεῖς σῶοι οὐδεπώποτ' ἐποιήσαμεν.*

² A. Schaefer, *Dem. u. s. Zeit.*, III 2, p. 251, who notices that on Dem. Mid. § 193, *ἄσοι τὰ*

φρούρια ἦσαν ἔρημα λελοιπότες the Scholiast remarks *φρούρια δὲ λέγει μεταξὺ τῆς Ἀττικῆς καὶ Βοιωτίας. πόλεμον γὰρ τότε πρὸς Θηβαίων ὄντος διὰ τὴν Εὐβοίαν ἀναγκαῖον ἦν τὰς ἐκ τῆς Βοιωτίας εἰσβολὰς παρὰ τῶν Ἀθηναίων φυλάττεσθαι.*

ancient and modern critics alike. It is one of the few private orations whose genuineness has never been doubted¹. The orator Deinarchus is reported to have plagiarized from it², the old grammarians often refer to it, and the Greek writers on Rhetoric quote it more frequently than any of the other private orations³. In particular Dionysius of Halicarnassus, in his treatise on the eloquence of Demosthenes, after quoting a vivid description from the orator Lysias, one of the highest merits of whose style was the power of clear and graphic narration, selects for comparison the equally vivid passage in the present speech where the plaintiff describes the disorderly doings of his opponents in the camp at Panactum and in the market-place of Athens (§§ 3—9). His criticism is to the effect that the extract from Demosthenes is fully equal to that from Lysias in clearness, correctness, and perspicuity of style, in conciseness and terseness, in unadorned simplicity and in truthfulness of detail. He also commends the skill with which the language of the speaker is kept true to character, and appropriate to the subject, and finds in the narrative much of the winning persuasiveness, the charming grace, and the other merits of style that mark his quotation from Lysias⁴. A modern writer on the literature of the speeches of

¹ Blass, *Att. Ber.* III 399.

² Eusebius, *Praepar. Evang.* quoting from Porphyry (περὶ τοῦ κλέπτας εἶναι τοὺς Ἕλληνας), x 3 p. 775 Migne, Δειναρχος ἐν τῷ πρώτῳ κατὰ Κλεομέδοντα αἰκίας πολλά μετενήροχεν αὐτοῖς ὀνόμασιν ἐκ τοῦ Δημοσθένους Μετὰ (sic) Κόνωνος αἰκίας.

³ e.g. Hermogenes quoted on §§ 1, 4.

⁴ Dionysius, *de admir. vi dicendi Dem.* 13, ταῦτα οὐ καθαρὰ καὶ ἀκριβῆ καὶ σαφῆ καὶ διὰ τῶν

κυρίων καὶ κοινῶν ὀνομάτων κατεσκευασμένα, ὥσπερ τὰ Λυσίου;... τί δ' οὐχὶ σύντομα καὶ στρογγύλα καὶ ἀληθείας μεστὰ καὶ τὴν ἀφελῆ καὶ ἀκατάσκευον ἐπιφαίνοντα φύσιν, καθάπερ ἐκεῖνα;... οὐχὶ δὲ καὶ πιθανὰ καὶ ἐν ἡθελι λεγόμενά τι καὶ τὸ πρέπον τοῖς ὑποκειμένοις προσώποις τε καὶ πράγμασι φυλάττοντα; ἡδονῆς δ' αἶρα καὶ πειθοῦς καὶ χαρίτων, καιροῦ τε καὶ τῶν ἄλλων ἀπάντων, ἃ τοῖς Λυσιακοῖς ἐπανθοῦσιν, αἶρα οὐχὶ πολλῆ μοῖρα;

Demosthenes has well remarked that no selection from the Private Orations can be considered complete which does not include the *Conon*¹; and many years after that remark was made, it was excellently edited for school-reading with a brief German commentary by Westermann. It has also been the subject of an appreciative criticism by Perrot who writes as follows :

‘ Dans le discours contre Conon...Démosthène réunit aux qualités qui firent le succès de Lysias celles qui distinguent Isée. De Lysias, il tient l’art d’entrer dans le caractère et dans le rôle du personnage qu’il fait parler, de se transformer en lui, si l’on peut ainsi parler, de produire l’illusion la plus complète. Par la vraisemblance et la vivacité du récit, par l’art d’y semer des détails sensibles et pittoresques, de faire voir la chose telle que l’on a intérêt à la présenter, il est bien près d’égalier son modèle...Où Démosthène est tout à fait supérieur à Lysias, c’est dans ce qu’il a appris d’Isée : il tire des témoignages un bien autre parti, il les place, les encadre, les développe et les discute avec une bien autre habileté ; il connaît bien mieux les lois, il remonte à leurs principes, il en expose les sens et la portée avec une autorité dont rien chez Lysias ne peut donner l’idée. Enfin, pour n’insister que sur les différences les plus notables, les figures de pensée dont Lysias ignore encore l’usage animent et colorent son style : c’est le dilemme, c’est l’apostrophe, ce sont des interrogations brusques et passionnées, ce sont des mouvemens oratoires dont l’élan et la variété nous avertissent que l’éloquence attique n’a plus de progrès à faire, qu’elle touche à sa perfection².’

One of our own scholars, in the course of a short chapter devoted mainly to the Private Speeches contained in the present volume, has well observed : —

¹ *In einer Sammlung aus den Privatreden des Demosthenes dürfte...diese nicht fehlen.* A. G. Becker’s *Literatur des Dem.*

p. 122, 1830.

² G. Perrot, *Revue des deux mondes*, 1873, 3 p. 952—3.

The whole story is told and commented on with exquisite grace. The tone is that of a middle-aged¹ man of precise habits, who knows little law, and would have known less had it not been for the defendant; anxious to seem calm, but not quite able to smother his indignation; a little wanting in a sense of the ludicrous, and so keenly alive to his own respectability—which is a recurring topic—that he must apologise for being aware that such rowdyism even exists².

To the modern reader the main interest of the speech is to be found perhaps in the lifelike pictures of Athenian manners incidentally sketched in its pages; and several scenes have accordingly been borrowed from it and interwoven with the narrative of Becker's *Charicles* in illustration of the private life of the ancient Greeks³. In particular, we here read of the disorderly clubs formed by young men about town, who, after holding a carouse, would sally forth into the streets to assault quiet people and play practical jokes at the expense of inoffensive citizens. To these indecorous societies the defendant's sons belonged, and the defendant himself in his youth was a member of a club called after a lawless tribe of Thrace, an association that finds its modern parallel in the fraternity, which in the days of Addison took its name from the wild Mohocks of North America, and was for some time the terror of the streets of London. The practical jokes of young Athens in the days of Demosthenes re-appear, some seven centuries later, in a less objectionable, not to say harmless form, in the pleasantries practised by students at the University of Athens at the expense of the 'freshmen' (οἱ νεήλυδες), who, at the first moment of their arrival, were struggled for by the young allies of the rival lecturers, good-humouredly

¹ Youth, rather than middle age, is suggested by § 1 ὑπὲρ τῆν ἡλικίαν (and the context).

² S. H. Butcher, *Demosthenes*, 1881, p. 134.

³ p. 136—139 (with notes) of the 2nd Germ. ed. by K. F. Hermann = p. 80—83 of abridged English ed. of 1866.

chaffed by them, and escorted with mock gravity through the market-place to the public bath, where, after a feint of frightening them, their tormentors considered the act of initiation completed, and were very good friends to the freshmen ever after¹.

The pages of the Greek orators abound in references to house-breaking and highway robbery, to street-brawls and other disorderly acts imperilling the public security²; and in the present speech we find that the plaintiff could not take a quiet walk along the market-place of Athens, beneath the rock of the Acropolis, past the temple erected as a memorial of the patriotic self-sacrifice of the daughters of an ancient king of Attica, and by the very scene where the tyrant Hipparchus was slain, without finding himself the victim of a brutal and outrageous assault. In times such as these at Athens, one who was tempted to take an evening stroll with a friend, if invited in language like that of Sebastian in *Twelfth Night*,

I pray you, let us satisfy our eyes
With the memorials and the things of fame
That do renown this city,

might have replied, with Antonio,

Would you'd pardon me,
I do not without danger walk these streets.

¹ Gregor. Nazianzen, Or. 43 *in laudem Basilii magni* c. 16, who describes the initiation as *τοῖς ἀγνοοῦσι λαν φοβερὸν καὶ ἀνήμερον τοῖς δὲ προειδόσι καὶ μάλα ἡδὺν καὶ φιλόανθρωπον*. Gregory's young friend Basil was one of the few who were spared the ordeal on coming into residence (in A. D. 351).

² e. g. (Dem.) Or. 47, *κατ' Εὐέργου καὶ Μνησιβοῦλου*, Lysias Or. 3, *πρὸς Σίμωνα* and fragm. 75 (ed. Scheibe), a long passage quoted by Dionysius as a parallel to the *Conon* (as already stated, p. lxiv). Cf. Becker's *Charicles*, Sc. v, note 9, and Mahaffy's *Social Life in Greece*, p. 319.

INTRODUCTION TO

OR. LV

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ¹.

THIS is a speech on the side of the defence in an action for damages alleged to have been incurred by the plaintiff, Callicles, by reason of a wall having been built on the defendant's property to the obstruction of a water-course carrying off the drainage of the surrounding hills. The farms of the plaintiff and defendant lay in a hilly district of Attica, separated from one another by a public road; and the defendant's father, Tisias, on coming into possession of his farm and finding that the water which flowed from the high ground had made an inroad into his property and was cutting itself a regular channel, built a stone-wall round it to prevent the water from making any further encroachment. No protest was raised on the part of the plaintiff's family either at the time or for many years subsequently; Tisias lived fifteen years after building the enclosure, and, after his death, a mountain-torrent caused by a heavy shower of rain overthrew an old wall on the plaintiff's land, flooded his property and damaged some of his stores. Thereupon the plaintiff brought an action for damages, alleging that the flood was due to the stream being diverted to his own side of the road by the proper water-course having

¹ *περι χωρίου βλάβης* is the title given by Harpocration, in one of his articles (s.v. *χλῆδος* Or. 55 § 22). But cf. § 15.

been blocked up by the building of the wall on the defendant's property.

The speech for the defence opens by casting on the plaintiff the imputation of bringing the action with a view to getting possession of the defendant's property (§ 1). The speaker, a son of Tisias, whose name is not given, pleads that the wall was built by his father fifteen years before his death, without any objection on the part of the plaintiff's family, and challenges the other side to prove the existence of the water-course alleged to be obstructed by the wall (§§ 3—7); he had offered to refer the dispute to the arbitration of impartial persons familiar with the neighbourhood, but the plaintiff had refused the offer (§§ 8, 9); he then describes carefully the position of the two properties on the opposite sides of the public way, and accounts for the building of the wall (§§ 10, 11). He next calls evidence to prove that the alleged water-course was part of his private ground, as it contained an old burial-place, and an orchard besides (§§ 12—15); he further shews that, as the water would naturally flow down the public way, there was no occasion for such a water-course (§§ 16—18), and that there was no such channel immediately above or below his own property (§ 19). The plaintiff's loss was due to his own carelessness and he was most inconsistent in bringing this action (§ 20); the other neighbours who had suffered severely made no complaint, whereas the plaintiff had lost nothing worth mentioning (§§ 21, 23—25). Again, his opponents had themselves advanced their wall (and thus encroached on public property); they had also raised the level of the road (and thus led to the water being liable to be diverted from the road itself to the lands adjacent). After once more referring to the plaintiff's interested motive in bringing the action, he states

in conclusion that, though the plaintiff had refused his offer, he had been ready to take the legally recognised oath and to swear that he had not caused the damage alleged, feeling that that would be the strongest argument with a jury who were themselves on their solemn oath.

The general style of the *Callicles*, as indeed that of the *Conon*, is not unlike that of Lysias, and speeches on similar subjects, one on a water-conduit and another on a disputed boundary, are known to have been composed by the orator Hyperides¹, but the genuineness of the speech before us can hardly be seriously contested², though it has been suggested that it was written by Demosthenes in his younger days³. It is quoted without hesitation by Harpocration and the rhetoricians alike, as the work of Demosthenes himself. The narrow limits of the speech and the somewhat trivial nature of the subject will account for the exordium not being succeeded, as elsewhere, by any formal narrative or statement of the case; instead of this, the narrative of the facts is only incidentally included in the course of the speech, and is blended and interwoven with the thread of the argument. Here and there the argument is brightened by a touch of quiet humour, as in the passage where the speaker, arguing on the supposition of his allowing the rain-water to make an inroad into his property, after exhausting several alternatives of dealing with the stream when once it was there, exclaims in conclusion, ‘What *am* I to do with it? for I presume the plaintiff won’t compel me to drink it up!’

¹ *περὶ ὄχετος* and *περὶ τῶν ὀρίων* p. 88 (ed. Blass) fragm. 134 ὅπως τὸ ἀνώμαλον τοῦ χωρίου τῆ τῶν ἀνδρῶν καὶ ὄχετῶν ἀφαιροῖτο κατασκευῆ. fragm. 158, οχετόκρانا (= αἱ τῶν ὄχετῶν ἀρχαί).

² Bekker however in the Leipzig ed. vol. III, 1855 considers it doubtful; and it is rejected by Sigg, *Apoll.* p. 401 note.

³ A. Schaefer, u. s., III 2, 256.

In the course of the speech we have also several indications of the provisions of Athenian law respecting those rights of water, with the Roman law of which we are far better acquainted. We gather that the inferior tenant held his land subject to the limiting obligation, or *servitus* as Roman lawyers would have called it, of giving free passage into his own land for the water, in particular the rain-water, flowing from the superior tenement; and in a passage of Plato's *Laws* we find provisions suggested for regulating the relations between neighbours in rights of this description and requiring the superior proprietor to do everything in his power to relieve the inferior proprietor from unnecessary inconvenience¹. Again, the law did not allow the diversion of the natural and regular channel of the water by the building of a wall or by any similar construction. Callicles appears to have had no case, as his property did not immediately adjoin that of the defendant but was separated from it by a public way which provided sufficiently for carrying off the water. In some instances, but (as the defendant contends) not in the present, a regularly recognised water-course, or ditch, traversed several successive properties, and it is clear that no individual proprietor could intercept this. It also appears that the proprietor of any land bordering on a public way generally turned his drainage on to the road (§ 26)².

The legal issue in the *Callicles* appears to turn in a great measure on the nature of the water-course, the existence of which is maintained by the plaintiff and denied by the defendant. The encroachment made by the floods, before the defendant's father became the pro-

¹ p. 844, quoted in note on § 19. *Aqua* in Daremberg et Saglio, *Dict. des Antiquités*.

² Cf. M. Caillemer's article on

prietor, led to a stream of intermittent rain-water gradually forming a channel for itself (*μᾶλλον ὠδοποιεῖ* § 11) through a burial-ground¹ planted with fruit-trees. The plaintiff appears to have contended that the channel thus formed was a water-course within the terms of the law; the defendant relies on the existence of the trees and the tombs to prove that it was *not* a recognised channel, but part of his private ground, accidentally inundated, and repeatedly traversed by water, more than fifteen years before. It was this damage, he contends, that led to his father building the wall for the protection of his property.

Lastly, we have several points that are curiously suggestive on the state of the country-roads in the hilly districts of Attica; the road itself is assumed to be the natural channel for the drainage of the neighbouring hills, and a proper water-course beside the road is declared to be a thing unheard of. In fact, like some of the present roads of Attica, as described in a modern writer's amusing sketches of Greek brigandage, the road and the stream were one and the same thing, and, except in dry weather, the former hardly existed².

¹ For purposes of *irrigation*, Plato would allow the tenant to divert water from streams that were common property by cutting himself a channel anywhere except through a private house or through temples or tombs. Legg. p. 844 A, τῶν ὑδάτων περί γεωργοῖσι παλαιοὶ

καὶ καλοὶ νόμοι κείμενοι οὐκ ἄξιο παροχετεύειν λόγοις, ἀλλ' ὁ βουληθεὶς ἐπὶ τὸν αὐτοῦ τόπον ἄγειν ὕδωρ ἀγέτω μὲν ἀρχόμενος ἐκ τῶν κοινῶν ναμάτων... ἢ δ' ἂν βούληται ἄγειν, πλὴν δι' οἰκίας ἢ ἱερῶν τι νῶν ἢ καὶ μνημάτων, ἀγέτω.

² Edmond About, quoted on p. 231.

ΠΑΡΑΓΡΑΦΗ ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

ΤΠΟΘΕΣΙΣ.

Πασίων ὁ τραπεζίτης τελευτῶν ἐπὶ δύο παισὶν ἐξ Ἀρχίππης, Ἀπολλοδώρῳ καὶ Πασικλεῖ, Φορμίωνα οἰκέτην ἑαυτοῦ γενόμενον, τετυχηκότα δὲ ἔτι πρότερον ἐλευθερίας, ἐπίτροπον τοῦ νεωτέρου τῶν παίδων Πασικλέους κατέλιπε, καὶ τὴν μητέρα αὐτῶν, παλ- 5
λακὴν ἑαυτοῦ γενομένην, ἔδωκεν ἐπὶ προικὶ γυναῖκα. Ἀπολλόδωρος οὖν νέμεται πρὸς τὸν ἀδελφὸν τὴν πατρῶαν οὐσίαν πλὴν τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου· ταῦτα γὰρ Φορμίω ἐμεμίσθωτο παρὰ Πασίωνος εἰς ὄρισμένον χρόνον τινά. καὶ τέως μὲν 10
ἐλάμβανε τὸ ἥμισυ τῆς μισθώσεως ἑκάτερος, ὕστερον δὲ καὶ αὐτὰ νέμονται, καὶ γίγνεται τὸ μὲν ἀσπιδο-

1. τελευτῶν ἐπὶ δύο παισὶν] 'Dying with (*in possession of*) two children,' i. e. 'leaving two children behind him at his death'; an idiom not unfrequent in late Greek, e. g. Herodian (fl. A. D. 238) iv 2 § 1, ἔθος ἐστὶ Ῥωμαίοις ἐκθειάζειν βασιλέων τοὺς ἐπὶ παισὶ διαδόχοις τελευτήσαντας. Or. 27 Arg.

5. παλλακὴν] 'Quo iure Libanius Archippam, quae et in testimonio Pasionis (Or. 45 § 28) et alibi (36 §§ 30, 31; 46 § 13) uxor (γυνή) eius dicitur, hoc loco παλλακὴν vocaverit, non apparet' (Huettner).

6. ἐπὶ προικὶ] For the construction cf. Or. 28, Aphob. B, § 16, τούτῳ τὴν ἐμὴν μητέρα ἐγγυῶν ἐπὶ ταῖς ὀγδοήκοντα μυαῖς, ib. § 19; 41 § 6. The marriage portion of Archippe amounted to five talents, as we learn from the First Speech against Stephanus, Or. 45 § 74, cf. ib. § 28, ἤκουσατε τὸ πλῆθος τῆς προικὸς, τάλαντον ἐκ Ἡεπαρήθου, τάλαντον αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία κ.τ.λ.

12. αὐτὰ] They share between them the properties themselves, viz. when Phormion's lease of them had expired.

πηγείων Ἀπολλοδώρου Πασικλέους, δὲ ἡ τράπεζα.
 ἀποθανούσης δὲ καὶ τῆς μητρὸς ὕστερον, νειμάμενος
 15 καὶ τὴν ἐκείνης οὐσίαν, ἐνεκάλει τῷ Φορμίῳ ὡς
 πολλὰ ἔχοντι ἑαυτοῦ χρήματα. καθίσαντες οὖν ἑαυ-
 τοὺς διαιτητὰς, ὡς φησι Φορμίῳ, Ἀπολλοδώρῳ προσ-
 ἤκουτες, Νικίας καὶ Δεινίας καὶ Ἀνδρομένης, ἔπεισαν
 Ἀπολλόδωρον διαλύσασθαι πρὸς Φορμίῳ τὰ ἐγ-
 20 κλήματα λαβόντα πεντακισχιλίας. ὁ μὲν οὖν Ἀπολ-
 λόδωρος μετὰ ταῦτα πάλιν εἴληχε δίκην Φορμίῳ
 ἀφορμῆς· ἀφορμὴν δὲ οἱ Ἀττικοὶ καλοῦσιν ὅπερ ἡμεῖς 944
 ἐνθήκην. ὁ δὲ Φορμίῳ παραγράφεται, νόμον παρε-
 χόμενος τὸν κελεύοντα περὶ ὧν ἂν ἴπαξ ἀφῆ τις καὶ
 25 διαλύσεται μηκέτι ἐξεῖναι δικάζεσθαι. ἄπτεται μέντοι

21. εἴληχε] In Grammarian's Greek, this stands either for λαγχάνει or ἔλαχε. So πέπομφε is used in the Argument to Or. 34, line 31, and so πεποίηκε below. P.]

δίκην ἀφορμῆς] 'A suit referring to capital,' 'a suit for the recovery of banking stock.' § 12 ἐγκαλοῦντ' ἀφορμῆν.

22. οἱ Ἀττικοὶ] Harpocration s. v. ἐπιψηφίζειν: παρὰ τοῖς Ἀττικοῖς: s. v. πρυτανεῖα: παρὰ τοῖς ἄλλοις Ἀττικοῖς (after naming Isocrates).

23. ἐνθήκην] Harpocration s. v. ἀφορμῆ· ὅταν τις ἀργύριον δῶ ἐνθήκην, ἀφορμὴ καλεῖται ἰδίως παρὰ τοῖς Ἀττικοῖς. And similarly Hesychius, and Phrynichus, ed. Rutherford p. 304. For this late Greek equivalent to ἀφορμῆ references are given in Sophocles' Lex. of Rom. and Byzantine Greek to Phrynichus 223 (fl. A.D. 180) and Basilus of Caesarea III 320 (fl. c. A.D. 379).

παραγράφεται κ.τ.λ.] 'Phormion raises a special plea in bar of action, by appealing to a sta-

tute enacting that, on matters on which a release and quit-tance has once been granted, no subsequent litigation shall be lawful.' See note on § 25 ἀφείς καὶ ἀπαλλάξας. Pollux: παραγράφῃ· ὅταν τις μὴ εἰσαγώγιμον λέγῃ εἶναι τὴν δίκην, ἢ ὡς κεκριμένος, ἢ διαίτης γεγεννημένης, ἢ ὡς ἀφειμένος, ἢ ὡς τῶν χρόνων ἐξηκόντων (§ 26) ἐν οἷς ἔδει κρίνεσθαι· where are enumerated the four principal circumstances under which an ordinary action is not maintainable. (Cf. C. R. Kennedy, *Dem. Lept. &c.* Vol. III Appendix, ix p. 378; Meier and Schömann, *Att. Process*, p. 644—9.)

παρεχόμενος] 'adducing,' = προῖσχύμενος. A use of the participle analogous to παρέχεσθαι μάρτυρας (Or. 27 § 8), said of one who is pleading his own cause, and so, inf. § 54, and often elsewhere. P.]

25. ἄπτεται τῆς εὐθείας] Sc. δίκης. 'Touches on, handles, grapples with, the general issue,' εὐθυδικία being the direct course

καὶ τῆς εὐθείας ὁ ῥήτωρ, δεικνὺς ὡς οὐκ εἶχεν ἢ τράπεζα χρήματα ἴδια τοῦ Πασίωνος. τοῦτο δὲ πεποίηκεν, ἵνα ἢ παραγραφή μᾶλλον ἰσχύη, τῆς εὐθείας δεικνυμένης^a τῷ Ἀπολλοδώρῳ σαθρᾶς.

Τὴν μὲν ἀπειρίαν τοῦ λέγειν, καὶ ὡς ἀδυνάτως

^a δεικνυμένης Ζ.

of an action argued on the merits of the case, as opposed to παραγραφή. Or. 34 ὑπόθ. l. 32, and ib. § 4, εὐθυδικίαν εἰσιόντα. Or. 45 § 6 (where Apollodorus is speaking of the defendant in the present case) προλαβὼν μου ὥστε πρότερον λέγειν διὰ τὸ παραγραφὴν εἶναι καὶ μὴ εὐθυδικία (fortasse -av) εἰσιέναι.

27. τοῦτο δὲ πεποίηκεν κ.τ.λ.] ‘He has done (or ‘does’) this to give greater force to the special plea, by proving that, even on its own merits, the case of the plaintiff is quite untenable.’ (σαθρᾶς, thoroughly rotten, unsound, Or. 18 § 227.) Cf. ὑπόθεσις of Or. 32 (Zenoth.) δεικνυσιν ὡς θαρρεῖ μὲν τῇ εὐθείᾳ, ἐκ περιουσίας δὲ αὐτῷ καὶ παραγραφὴν ὁ νόμος δίδωσιν.

§§ 1—3. The defendant Phormion's obvious inexperience and incapacity for public speaking make it necessary for his friends to state his case on his behalf. They confront the plaintiff Apollodorus with a special plea in bar of action, not to waste time and evade the main issue, but to secure a final settlement of the case. Their friend, the defendant, has conferred many kindnesses on the plaintiff; and has further been released from all the legal claims of the latter, only to find himself at last the victim of a vexatious lawsuit. However, a brief recital of the

transactions of the litigants will prove that the plaintiff's case is utterly untenable.

1. τὴν ἀπειρίαν τοῦ λέγειν] Like all slaves at Athens, Phormion (once the slave of the banker Pasion) was of barbarian birth; and though subsequently rewarded with the rights of freedom and citizenship, remained unable to speak good Greek. In a later speech arising out of the present action, Apollodorus, himself the son of one who was once a slave, taunts him with his foreign extraction and his indifferent pronunciation. Or. 45 § 81 βάρβαρος ἐωνήθης, and § 30, ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι, ἔστι δὲ βάρβαρος οὗτος τῷ μισεῖν οὖς αὐτῷ προσήκε τιμᾶν, τῷ δὲ κακοῦργῆσαι καὶ διορύξει πράγματα οὐδενὸς λείπεται. In § 77, Apollodorus himself apologizes for his broad brogue or loud voice (λαλεῖν μέγα); the speaker of πρὸς Πανταίνετον makes similar excuses for his διάλεκτος (Or. 37 §§ 52, 55); and a like tribute to the sensitiveness of an Attic audience is paid by the Mytilenaeen in Antiphon's de Caede Herodis (Or. v § 5) δέομαι ὑμῶν ... ἐάν τι τῇ γλώσση ἀμάρτω, συγγνώμην ἔχειν μοι καὶ ἡγεῖσθαι ἀπειρία αὐτὸ μᾶλλον ἢ ἀδικία ἡμαρτήσθαι. Cf. Cicero Or. §§ 24—27. ἀδυνάτως ἔχει] ‘Is quite in-

ἔχει Φορμίῳν, αὐτοὶ πάντες ὀράτε, ὧ ἄνδρες Ἀθηναῖοι· ἀνάγκη δ' ἐστὶ τοῖς ἐπιτηδεῖοις ἡμῖν, ἃ σὺνισμεν πολλάκις τούτου διεξιόντος ἀκηκοότες, λέγειν καὶ διδάσκειν ὑμᾶς, ἵν' εἰδότες καὶ μεμαθηκότες ὀρθῶς τὰ δίκαια παρ' ἡμῶν, ἃ ἂν ἦ δίκαια καὶ εὖορκα, ταῦτα
 2 ψηφίσθησθε. τὴν μὲν οὖν παραγραφὴν ἐποιοσάμεθα τῆς δίκης οὐχ ἵν' ἐκκρούοντες χρόνους ἐμποιοῶμεν, ἀλλ' ἵνα τῶν πραγμάτων, ἐὰν ἐπιδείξῃ μηδ' ὀτιοῦν

capable,' referring mainly to his inexperience and want of facility in speaking. Thus in Antiphon *u. s. v* § 2 ἢ τοῦ λέγειν ἀδυναμία is contrasted with ἢ ἐμπειρία τῶν πραγμάτων. It is suggested by Blass, *Att. Ber.* iii 405, that ἀδυνάτως refers to feebleness of health, but this appears improbable.

ὀράτε] In a general sense, 'you all of yourselves observe.' Or. 3 Olynth. § 1 τοὺς λόγους... ὀρῶ γιγνομένους.

τοῖς ἐπιτηδεῖοις] as his *συνήγοροι*. Hyperid. Euxen. 25 τί τούτου τῶν ἐν τῇ πόλει βέλτιον ἢ δημοτικώτερον ἐστὶ... ἢ ὁπόταν τις ἰδιώτης εἰς ἀγῶνα καὶ κίνδυνον καταστάς μὴ δύνηται ὑπὲρ ἑαυτοῦ ἀπολογεῖσθαι, τούτῳ τὸν βουλόμενον τῶν πολιτῶν ἀναβάνα βοηθῆσαι κ.τ.λ.

λέγειν καὶ διδάσκειν] Dem. is particularly fond of coupling together words that are nearly synonymous with one another, e. g. in the next line, εἰδότες καὶ μεμαθηκότες, and in the next, δίκαια καὶ εὖορκα, § 4 ἀκούσαι καὶ μαθεῖν, § 12 λέγειν καὶ ἐπιδεικνύναι, § 18 πεπραγμένα καὶ γεγενημένα, § 29 ὄντι καὶ ζῶντι, § 32 δόντος καὶ ἐπισκήψαντος, § 47 κοσμεῖν καὶ περιστέλλειν, § 61 φυλάττετε καὶ μέμνησθε. Also § 16 αἰτίας καὶ ἐγκλήματα (cf. § 61), § 2 ἰσχυρὰ καὶ βέβαια.

Similarly in Or. 20 § 163 λέγειν καὶ διεξιέναι, 21 § 17 εἰπεῖν καὶ διηγῆσασθαι (Huettner). This characteristic of his style is noticed by Dionysius Hal. *περὶ τῆς Δημ. δεινότητος* 58, and is illustrated by Blass, *Att. Ber.* iii 94.

ἃ ἂν ἦ δίκαια κ.τ.λ.] The relative clause to ταῦτα ψηφίσθησθε is placed before it partly for increased emphasis, partly to bring δίκαια closer to τὰ δίκαια in the previous context.

2. ἢ ἐκκρούοντες χρόνους ἐμποιοῶμεν] 'With the evasive object of wasting time,' or (with Kennedy) 'for the sake of evasion and delay.' The phrase χρόνους ἐμποιοῖν occurs in Or. 9 § 71, 23 § 93. Cf. Or. 47 § 63, διατριβὰς ἐμποιῶν.....τεχνάζων τοῦ χρόνον ἐγγενέσθαι. For ἐκκρούοντες, cf. Or. 54 § 30; 40 § 45 τὴν δίκην ὅτι πλεῖστον χρόνον ἐκκρούειν, *ib.* 43; and for the general sense, Thuc. iii 38, χρόνον διατριβὴν ἐμποιεῖν and κατὰ Στεφ. A, § 4, p. 1102, χρόνον γιγνομένου καὶ τῆς γραφῆς ἐκκρονομένης. Liddell and Scott (ed. 6) give a phrase ἐκκρούειν χρόνον, 'to waste time,' and, to prove it, inadvertently refer to the last passage and to the words of the text, where χρόνους clearly comes after ἐμποιοῦμεν (corrected in ed. 7, 1883).

ἀδικούνθ' ἑαυτὸν οὐτοσί, ἀπαλλαγὴ τις αὐτῷ γένηται
παρ' ὑμῖν κυρία. ὅσα γὰρ παρὰ τοῖς ἄλλοις ἐστὶν ἀν-

945 σασθαι, ταῦτα πάντα πεποικῶς Φορμίων οὐτοσί, καὶ
πολλὰ μὲν εὖ πεποικῶς Ἀπολλόδωρον τουτουὶ, πάντα 3
δ', ὅσων κύριος τῶν τούτου κατελείφθη, διαλύσας καὶ
παραδοὺς δικαίως, καὶ πάντων ἀφεθεὶς μετὰ ταῦτα
τῶν ἐγκλημάτων, ὅμως, ὡς ὁράτε, ἐπειδὴ φέρειν τοῦ-
τον οὐχ οἶός τ' ἐστὶ, δίκην ταλάντων εἴκοσι λαχῶν
αὐτῷ ταύτην συκοφαντεῖ. ἐξ ἀρχῆς οὖν ἅπαντα τὰ

ἀπαλλαγὴ κυρία] A legal and
valid (or final) acquittal from
all future actions, πραγμάτων.
Cf. Harpoer. quoted on § 25.

ἀνευ τοῦ παρ' ὑμῖν ἀγωνίσασ-
θαι] 'Without standing a trial
in your court.'

πεποικῶς...εὖ πεποικῶς.....
διαλύσας ... παραδοὺς ... ἀφεθεὶς]
Although all these participles refer
to Phormion, who is the subject
of the first part of the sentence,
the principal verb συκοφαντεῖ
refers to Apollodorus. To obviate
the harshness of this anacoluthon
it has been proposed (by G. H. Schaefer)
to follow one of the mss, the *Augustinus primus*,
in reading πεποίηκε for πεποικῶς,
and also to strike out καὶ before
πολλὰ, and place a full stop at ἐγκλη-
μάτων. [But we should still
expect ὅμως δ', or ἀλλ' ὅμως.
Perhaps it is better to regard
this as an instance of the 'nominativus
pendens.' P.] The Zürich editors
refer to Funkhaenel, quaest. Dem. p. 75 sq..

3. τούτου] Apollodorus.

διαλύσας κ. παραδοὺς κ.τ.λ.]
'Having duly paid and delivered
up everything—and having thereafter
received a discharge from all further
claims.'

For διαλύειν τι, cf. 20 § 12 κοινῇ
διαλύσαι τὰ χρήματα, 28 § 2; 29
§ 7; 41 § 8. For another construction
διαλύειν τινά, cf. § 50.

ἀφεθεὶς—ἐγκλημάτων] Or. 45
§§ 5, 40; Lys. 3 § 25 ἐφειμένους
τῶν ἐγκλημάτων, Isaeus 5 § 1
ἀφήκαμεν ἀλλήλους τῶν ἐγκλη-
μάτων.

ἐπειδὴ φέρειν τοῦτον οὐχ οἶός
τ' ἐστὶ] i.e. since (or, at a time
when) Phormion cannot submit
any longer to the unconscionable
claims of Apollodorus (and
therefore declines to make any
further concessions), the latter
has vexatiously instituted the
present action. The subject of
the subordinate clause appears
to be Phormion. For the sense,
compare the language ascribed
to Apollodorus in § 33, μίσθω-
σιν ἤθελεν αὐτῷ φέρειν Φορμίων
πολλήν...ἐπεὶ δ' οὐ ποιεῖ ταῦτα,
τηνικαῦτα, φησί, δικάζομαι, and
especially κατὰ Στεφ. Α, § 5,
ἐπειδὴ ποιεῖν τε οὐδὲν ἔφετο δεῖν ὧν
τότε ὠμολόγησε, καὶ τὰ χρήματα
ἀποστειρεῖν ἐνεχείρησεν ἅ τῆς
τραπέζης εἶχεν ἀφορμὴν, δίκην
ἠναγκάσθη λαχεῖν. For φέρειν
cf. 21 § 197 ὄν...οὐ φίλοι δύναν-
ται φέρειν.—For δίκην λαχῶν, cf.
Or. 54 § 1, ἔλαχον δίκην η.

συκοφαντεῖ] Cf. Or. 55 § 1 n.

πραχθέντα τούτῳ πρὸς Πασίωνα καὶ Ἀπολλόδωρον ὡς ἂν δύνωμαι διὰ βραχυτάτων εἰπεῖν πειράσομαι, ἐξ ὧν εὖ οἶδ' ὅτι ἢ τε τούτου συκοφαντία φανερὰ γενήσεται, καὶ ὡς οὐκ εἰσαγώγιμος ἢ δίκη γνώσεσθε ἅμα ταῦτ' ἀκούσαντες.

4 Πρῶτον μὲν οὖν ὑμῖν ἀναγνώσεται τὰς συνθήκας,

—πραχθέντα τούτῳ, Or. 34 § 36 n.

Πασίωνα] Pasion, originally the slave of Archestratus (§ 48), and accountant to the banking-firm of Archestratus and Antisthenes, was set free by his masters and succeeded them in their business (§§ 43—48). The *Trapeziticus* of Isocrates, which belongs to B.C. 394, while Pasion was probably still a *μέτοικος*, and not yet rewarded with the citizenship of Athens, purports to be a speech written in prosecution of Pasion for defrauding a subject of Satyrus, king of Bosphorus. The father of Demosthenes had some money in Pasion's bank (Or. 27 § 11). Pasion, according to his son, Apollodorus, had conferred many benefits on the state, e.g. by presenting five triremes and a thousand shields (Or. 45 § 85), and his credit was good throughout all Greece (Or. 50 § 56). He died in B.C. 370 (Or. 46 § 13). *Introd.* pp. xix—xxi.

οὐκ εἰσαγώγιμος] Or. 45 § 5 (of this very trial), *παρεγράφατο τὴν δίκην ἣν ἔφευγε Φορμίων οὐκ εἰσαγώγιμον εἶναι*. See *ὑπόθεσις* l. 23, *παραγράφεται*, n.

§§ 4—11. *Statement of the transactions of Phormion with Pasion and Apollodorus. After Phormion had become his own master, but before he had received the rights of Athenian*

citizenship, Pasion gave him a lease of the Bank and the Shield-Manufacture. Subsequently Pasion became ill and died, leaving a will whereby Phormion married his former master's widow (Archippe), and became guardian to his younger son (Pasicles). The elder son (Apollodorus) proceeded to appropriate large sums out of the common estate, and the guardians accordingly deemed it prudent on behalf of their ward to determine on a partition of all the effects except the Bank and Shield-Manufacture, leased to the defendant, who was one of the guardians. The defendant paid a moiety of the rent of that property to the elder son, Apollodorus, who when Pasicles came of age discharged the defendant from his liability under the lease and from all further claims. The said property was thereupon divided between the two brothers, the elder exercising his option in favour of the Shield-Manufacture, as the safer though less remunerative business, and leaving the Bank, with its higher but more hazardous revenue, to his younger brother.

4. ἀναγνώσεται] sc. ὁ γραμματεὺς, the clerk of the court, as in §§ 21, 24, 40.—*συνθήκας*: The terms are given in Or. 45 § 32, *μισθωσιν φέρειν τοῦτον ἄνευ τῆς καθ' ἡμέραν διοικήσεως δύο τάλαντα καὶ τετραράκοντα μνᾶς τοῦ*

καθ' ἃς ἐμίσθωσε Πασίων τὴν τράπεζαν τούτῳ καὶ τὸ ἀσπιδοπηγεῖον. καὶ μοι λαβὲ τὰς συνθήκας καὶ τὴν πρόκλησιν καὶ τὰς μαρτυρίας ταυτασί.

ΣΤΥΝΘΗΚΑΙ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

Αἱ μὲν οὖν συνθήκαι, καθ' ἃς ἐμίσθωσεν ὁ Πασίων τούτῳ τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον ἤδη καθ' ἑαυτὸν ὄντι, αὐταί εἰσιν, ὧ ἄνδρες Ἀθηναῖοι· δεῖ δ' ὑμᾶς ἀκοῦσαι καὶ μαθεῖν ἐκ τίνος τρόπου προσώφειλε τὰ ἕνδεκα τάλαντα ὁ Πασίων ἐπὶ τὴν τράπεζαν. οὐ γὰρ δι' ἀπορίαν ταύτ' ὄφειλεν, ἀλλὰ διὰ φιλεργίαν. ἡ

ἐνιαυτοῦ ἐκάστου...προσγέγραπται δὲ τελευταῖον 'ὄφειλε δὲ Πασίων ἕνδεκα τάλαντα εἰς τὰς παρακαταθήκας.'

ἀσπιδοπηγεῖον] Or. 45 § 85, ὁ ἐμὸς ὑμῖν πατήρ (Pasion) χιλίας ἔδωκεν ἀσπίδας.

τὴν πρόκλησιν] Probably a challenge to Apollodorus for the production of the articles of agreement between Pasion and Phormion. On the term in general, see Or. 54 § 27, προκαλοῦνται, n. and infr. § 7 n.

ἤδη καθ' ἑαυτὸν ὄντι] 'Doing business on his own account, as his own master,' no longer subject, as a slave, to the control of another, though still a μέτοικος. This rendering is supported by C. R. Kennedy and M. Dareste. Similarly in Reiske's *index*: 'when he had left his master's service, and gone into business for himself, in his own name, at his own risk.' καθ' ἑαυτὸν is often used of being 'by oneself,' separate from others; 21 § 140 καθ' ἑαυτὸν ζῶντι, 10 § 52 γεγόνασι καθ' αὐτοὺς ἕκαστοι.

προσώφειλε κ.τ.λ.] The defendant has to explain how it comes to pass that Pasion is

entered in the articles of agreement as owing eleven talents to the bank. He shows that this sum had been lent by Pasion on the security of certain lands and houses on which Pasion as the creditor, being an Athenian citizen, would have a claim, in the event of the loan not being refunded or the interest regularly paid. As Phormion the lessee of the banking business had not yet acquired the rights of citizenship, it was therefore arranged that Pasion should not transfer these securities to Phormion but keep them in his own hands, and credit Phormion with their value: in other words, enter himself in the articles of agreement as debtor to the bank to the amount of eleven talents.

For προσώφειλε, the compound verb followed by the simple ὄφειλε where the repetition of the preposition is not necessary, cf. Cic. Catil. iv 1, perferrem...feram. Cf. Or. 53 § 4.

5. ἀπορίαν...φιλεργίαν] 'Not want but thrift,' or (with Kennedy) 'Not on account of poverty, but on account of his industry in business.' In Or.

μὲν γὰρ ἔγγειος ἦν οὐσία Πασίῳνι μάλιστα ταλάντων
 εἴκοσιν, ἀργύριον δὲ πρὸς ταύτη δεδανεισμένον ἴδιον
 πλέον^b ἢ πεντήκοντα τάλαντα. ἐν οὖν τοῖς πεντήκοντα
 ταλάντοις τούτοις ἀπὸ τῶν παρακαταθηκῶν τῶν τῆς 946
 6 τραπέζης ἔνδεκα τάλαντα ἐνεργὰ ἦν. μισθούμενος οὖν

^b μάλλον r a me collatus.

45 § 33 Apollodorus insinuates that the debt arose from Phormion's mismanagement.

ἔγγειος οὐσία] 'Property in land,' 'real property,' also called φανερά οὐσία. Harpocr. ἀφανῆς οὐσία καὶ φανερά· ἀφανῆς μὲν ἢ ἐν χρήμασι καὶ σώμασι καὶ σκεύεσι, φανερά δὲ ἢ ἔγγειος. Lysias, fragm. 91; τοῦ νόμου κελύοντος τοὺς ἐπιτρόπους τοῖς ὀφθαλοῖς ἔγγειον τὴν οὐσίαν καθιστάναι (Suidas s. v. ἔγγειον).

ἀργύριον πρὸς ταύτη] In addition to this he had money of his own (personal property) lent out on interest to the amount of more than fifty talents. The larger amount so employed shows that he was a usurer by practice or profession. P.]

ἐν οὖν τοῖς πεντήκοντα... ἔνδεκα] We have just been told that Pasion had more than 50 talents of his own money (ἀργύριον ἴδιον) lent out at interest, and we now find that ἐν τοῖς πεντήκοντα ταλάντοις there were 11 talents from the bank-deposits, profitably invested. The latter could hardly be called ἴδιον ἀργύριον, unless the words are used loosely in the general sense of 'personal property' as opposed to ἔγγειος οὐσία or 'real property.' But we should perhaps strike out ἴδιον and attribute its insertion to an accidental repetition of πλέον, as ΙΔΙΟΝ and ΠΑΕΟΝ are not very unlike one another. Blass accepts this,

pointing out that ἴδιον is also open to objection on rhythmical grounds. Or again, keeping ἴδιον we might alter ἐν οὖν into ἐπ' οὖν 'in addition to,' 'over and above' the 50 talents. Heraldus proposed σὺν οὖν, and G. H. Schaefer unsuccessfully attempts to show that ἐν may mean 'besides,' by quoting the quasi-adverbial use of ἐν δὲ in Soph. Ai. 675, O. C. 55, and O. T. 27.

[In the sense of 'in addition to' he should rather have said πρὸς than ἐπί. Perhaps ἐν means 'mixed up with,' i.e. out at loan to the same borrowers as his own money was (Boeckh *P. E.* p. 480 Lewis² = 622 Lamb). A man may borrow of me, as a banker, privately £500, and I may let him have £500 more belonging to the bank. On the large profits thus made by bankers, see Boeckh, *P. E.* p. 127 Lewis². P.]

'Pasion a prêté en tout 50 talents, à savoir 39 de ses fonds personnels, et onze des fonds provenant des dépôts faits à la banque... Tous ces fonds sont indistinctement prêtés au nom de Pasion (ἴδιον), qui est seul créancier des emprunteurs, tout en restant débiteur des déposants.' Daresté, who agrees with A. Schaefer, *Dem. u. s. Zeit* III 2, 132.

ἐνεργὰ] 'Out on interest,' 'profitably invested,' as opposed to ἀργὰ 'lying idle.' Or. 27 § 7

ὅδε τὴν ἐργασίαν ταύτην τὴν^c τῆς τραπέζης καὶ τὰς παρακαταθήκας λαμβάνων, ὁρῶν ὅτι μὴπω τῆς πολιτείας αὐτῷ^d παρ' ὑμῖν οὐσης οὐχ οἴός τε ἔσοιτο εἰσπράττειν ὅσα Πασίων ἐπὶ γῆ καὶ συνοικίαις δεδανεικῶς ἦν, εἴλετο μᾶλλον αὐτὸν τὸν Πασίωνα χρήστην ἔχειν τούτων τῶν χρημάτων ἢ τοὺς ἄλλους χρήστας, οἷς προειμένος ἦν. καὶ οὕτω διὰ ταύτ'^e ἐγράφη εἰς

^c ταύτην τὴν Bekk. αὐτὴν Bekk. st. et Z cum Σ (coll. § 13). αὐτὴν τὴν Voemel cum A^r. ^d αὐτῷ Bekk. Z et Voemel (cf. tamen Buttman. in Mid. exc. x). ^e ταῦτα Z.

τά τ' ἐνεργὰ αὐτῶν καὶ ὅσα ἦν ἀργὰ, § 10 ταῦτα μὲν ἐνεργὰ κατέλειπεν ... τὸ δ' ἔργον αὐτῶν πεντήκοντα μναῖ, 56 § 29 τὸ δάνειον... ἐνεργὸν ποιεῖν.

παρακαταθήκη] Plato defin. p. 415 δόμα μετὰ πίστεως. Claims for the repayment of such banking deposits form the subject of two of the forensic orations of Isocrates, the *Trapeziticus* and the *ἀμάρτυρος πρὸς Εὐθύονον*.

6. μὴπω τῆς πολιτείας κ.τ.λ.] No one could lend money on the security of land unless in default of payment (Or. 35 § 12) the lender had the right to take possession of such land, and this right of possession was confined to citizens to the exclusion of μέτοικοι (or resident aliens) like Phormion. In a similar case a special exception was once made by the Byzantines: Aristot. *Oeconom.* II 4 μετοίκων τινῶν ἐπίδεδανεικῶτων ἐπὶ κτήμασιν οὐκ οὐσης αὐτοῖς ἐγκτήσεως, ἐψηφίσαντο τὸ τρίτον μέρος εἰσφέροντα τοῦ δανείου τὸν βουλόμενον κυρίως ἔχειν τὸ κτῆμα (Büchenschütz, *Besitz und Erwerb im Griechischen Alterthume*, pp. 492—3, K. F. Hermann, *Rechtsalt.* p. 89 ed. Thalheim).

[On the insecurity of lending

money on houses or lands, except for citizens, see Boeckh, *P. E.* pp. 140 and 654 Lewis², who observes on this passage that 'no resident alien could safely lend money upon houses or other landed property, a privilege which was confined to the citizens.' Of course μὴπω οὐσης, 'si nondum esset,' is very different from οὐπω οὐσης, 'cum nondum esset.' P.]

ἐπὶ γῆ... δεδανεικῶς] Cf. ἐγγυον, or ἐγγειον, δάνεισμα and Or. 34 § 23 ἐγγειοὶ τόκοι. (K. F. Hermann, *Privatalterthümer* § 49, 9 and Büchenschütz u. s. p. 490.)

συνοικίαις] See n. on Or. 53 § 13 τίθημι τὴν συνοικίαν ἐκκαλδεκα μῶν. Houses built in blocks and let out to families were commonly so called. [This is οἰκεῖν μετ' ἄλλων opposed to μονόρρυθμοι δόμοι in Aesch. *Suppl.* 960. The συνοικίαι were chiefly let as lodgings for the μέτοικοι. (See C. R. Kennedy, *Dem.* I p. 252.) Boeckh, *P. E.* p. 140. P.]

ἢ τοὺς ἄλλους χρήστας] 'Than the others, to whom Pasion had lent it, debtors to the bank.' Perhaps the word χρήστας is interpolated. P.]

οἷς προειμένος ἦν] In the me-

τὴν μίσθωσιν προσοφείλων ὁ Πασίων ἔνδεκα τάλαντα, ὥσπερ καὶ μεμαρτύρηται ὑμῖν.

7 Ὅν μὲν τοίνυν τρόπον ἢ μίσθωσις ἐγένετο, μεμαρτύρηται ὑμῖν ὑπ' αὐτοῦ τοῦ ἐπικαθημένου ἐπιγενομένης δὲ ἀρρωστίας τῷ Πασίῳ μετὰ ταῦτα, σκέψασθ' ἃ διέθετο. λαβὲ τῆς διαθήκης τὸ ἀντίγραφον καὶ τὴν πρόκλησιν ταυτην[†] καὶ τὰς μαρτυρίας ταυτασι, παρ' οἷς αἱ διαθήκαι κεῖνται[‡].

[†] Bekk. ταύτην Z cum ΣΑ[†]r.

[‡] παρ' οἷς—κεῖνται *interpolata esse censet Huettner.*

dial sense. Liddell and Scott s. v. προῆμι B iii refer to this passage for the sense 'to give away,' 'to give freely.' But it here means 'to lend' as in Plato Demod. 384. Cf. Or. 56 §§ 2, 48, 50.

ἐγράφη... προσοφείλων ἔνδεκα τάλ.] Or. 45 § 29 προσγέγραπται ἔνδεκα τάλαντα ὁ πατήρ (Pasion) ὀφείλων εἰς τὰς παρακαταθήκας τούτω, and § 34 ἐὼ τᾶλλ' ὅσ' ἂν περὶ τῶν ἔνδεκα ταλ. ἔχομι εἰπεῖν, ὡς οὐκ ὤφειλεν ὁ πατήρ, ἀλλ' οὗτος ὑφῆρηται.

'Ces onze talents provenant de dépôts constituèrent une dette exigible de la part des déposants, et par suite un danger pour la banque du moment que le contre-valeur n'était pas facilement et promptement réalisable. C'est pourquoi Pasion donne à Phormion sa garantie pour les onze talents. Il reste créancier de ses emprunteurs, mais il devient débiteur, envers la banque, d'une somme égale de sa créance sur ces derniers.' Daresté.

7. τοῦ ἐπικαθημένου] 'The manager, the clerk, of the bank.' Elsewhere Phormion himself is described by Apoll. as τὸν ἐπικαθημένον ἐπὶ τῆς τραπέζης (Or.

49 § 17) and καθήμενον καὶ διοικούντα ἐπὶ τῇ τραπέζῃ (Or. 45 § 33), Isocr. Or. 17 (Trapez.) § 12, Pollux III 84 ἐπικαθημένος τραπέζῃ, S. Matt. ix 9 καθήμενον ἐπὶ (in charge over) τὸ τελώνιον.

ἀρρωστίας] Pasion's failing health is touched upon in Or. 52 § 13 ἀδυνάτως ἤδη ἔχοντα καὶ μόγις εἰς ἄστν ἀναβαλόντα καὶ τὸν ὀφθαλμὸν αὐτὸν προδιδόντα and in Or. 49 § 42 ἔλεγεν ἀρρωστῶν ὃ τι ὀφείλοιο αὐτῷ ἕκαστον.

μαρτυρίας..παρ' οἷς]=μ. τοῦτων τῶν μαρτύρων παρ' οἷς, 'the depositions of the persons to whose keeping the will has been entrusted' (cf. Isaëus 6 § 7; 9 §§ 5, 6, 18). In times when there were no probate-courts, it is obvious that the greatest precautions had to be taken to prevent forgeries by interested parties. In Or. 45 § 19 one Cephisophon deposes that his father had left behind him at his death, a document endorsed 'Pasion's Will,' which Apollodorus (*ib.* §§ 5, 22) denounces as a forgery (οὐδεπώποτε γενομένη...κατεσκευασμένη). The alleged terms are given *ib.* § 28, quoted in part in *υπόθεσις* l. 6 n. The plural παρ' οἷς is inaccurate, as the will appears to have

ΔΙΑΘΗΚΗ^h. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ. 8

Ἐπειδὴ τοίνυν ὁ Πασίων ἐτετελευτήκει ταῦτα δια-
θέμενος, Φορμίων οὔτοςὶ τὴν μὲν γυναῖκα λαμβάνει
κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπευεν. ἀρ-
πάζοντος δὲ τούτου καὶ πολλὰ ἀπὸ κοινῶν ὄντων τῶν
χρημάτων ἀναλίσκειν οἰόμενον δεῖν, λογιζόμενοι πρὸς
ἑαυτοὺς οἱ ἐπίτροποι ὅτι, εἰ δεήσει κατὰ τὰς διαθήκας,

^h Bekk. ἀντίγραφον Z cum SrA¹.

been in the custody of a single person only.

Probably the only instances we have of a will being in *official* custody are (1) Isaeus 1 §§ 14, 15, where it is in the hands of one of the ἀσύννομοι, and (2) an inscription from Amorgos (*C. I. G.* 2264 u), κατὰ τὰς διαθήκας τὰς κειμένας ἐν ἱερῷ τῆς Ἀφροδίτης καὶ παρ' Εὐνομίδῃ τῷ ἀρχοντι καὶ παρὰ τῷ θεσμοθέτῃ Κτησιφῶντι (Meier and Schömann, p. 37, note 31 ed. Lipsius).

8. πρόκλησις] To establish Pasion's will, Stephanus and two others deposed that they were present when Phormion challenged Apollodorus to open the will, and that the latter refused. In Or. 45 Apollodorus sues Stephanus for having given false evidence in the present case and discusses this challenge in §§ 8—19, denying that any such challenge ever took place or that his father left such a will.

Πασίων ἐτετελευτήκει] Or. 46 § 13 ἐτελεύτησεν ἐπὶ Δυσνικήτου ἀρχοντος (B.C. 370).

τὴν γυναῖκα λαμβάνει κ.τ.λ.] Similarly the father of Dem. left Aphobus guardian of his children, and gave him his widow with a marriage-portion and the use of his house and furniture (Or. 27 § 5). The object of such legacies was to se-

cure a faithful performance of the guardian's trust by connecting him more closely with the family of his ward (cf. 58 § 31). Diogenes Laertius, I 56, quotes a law, perhaps wrongly ascribed to Solon, τὸν ἐπίτροπον τῇ ὀρφανῶν μητρὶ μὴ συνοικεῖν. (K. F. Hermann, *Privatalt.* § 57, 16 = p. 13 of *Rechtsalt.* Thalheim.)

τὸν παῖδα] i. e. Pasicles, who was a minor for 8 years (B.C. 370—362), as appears by comparing § 10 with § 37. He was probably 8 or 10 years old when his father died; his elder brother was 24 (inf. § 22).

τούτου] The claimant Apollodorus, whom the orator purposely represents as thriftless and unscrupulous at the very first.

λογιζόμενοι] 'The guardians, calculating among themselves, that if, by the terms of the will, it proved necessary to subtract from the *common* fund all that the plaintiff should have spent, and then divide the remainder equally, there would be no surplus whatever, decided in behalf of their ward on an immediate division of the property.'

κατὰ τὰς διαθήκας] goes with ἐξελόντας alone, and not with τὰ λοιπὰ νέμειν. The partition of the property was sufficiently provided for by the *law*, ἀπαντας

ὅσ' ἂν οὗτος ἐκ κοινῶν τῶν χρημάτων ἀναλώσῃ, τούτους¹ ἐξελόντας ἀντιμοιρεῖ² τὰ λοιπὰ νέμειν, οὐδ' ὅτι οὐν ἔσται περιὸν, νείμασθαι τὰ ὄντα ὑπὲρ τοῦ παιδὸς 947
9 ἔγνωσαν. καὶ νέμονται τὴν ἄλλην οὐσίαν πλὴν ὧν ἐμεμίσθωτο οὗτος· τούτων δὲ τῆς προσόδου τὴν ἡμί-

¹ τούτους Z et Bekk. st. cum Σ. τούτοις Reiske, Bekk.

² Bekk. st. et Voemel. ἀντιμοιρεῖ (sine accentu) Σ, ἀντιμοιρεῖ (sic) FΦ. τὰς ἀντιμοιρίας Reiske et Bekk. 1824 cum A^r.

τοὺς γνησίους ἰσομοίρους εἶναι τῶν πατρῶων (Isaeus 6 § 25), and did not require to be directed by the will. It may be presumed that the will provided for making payments out of the estate previous to the legal partition of the property.

κοινῶν τῶν χρημάτων] κοινῶν, predicative; while yet undivided and belonging to both alike.

τούτους] can only refer to τοὺς ἐπιτρόπους, a construction that is so harsh that the text is almost certainly wrong.

ἀντιμοιρεῖ] 'Share for share,' cf. § 32 τὰ μητρώα πρὸς μέρος ἕξλους νέμεσθαι. The adverb does not appear to occur elsewhere, and its form is suspiciously like the late Greek words ἀνωυμεί, αὐτολεξεί, αὐτοψεί, παμπληθεί, πανθενεί. In earlier Greek almost the only instances found are αὐτοβοεί (Thuc.) and πανδημεί (Thuc. Andoc. Lys. Isocr.).

[A more probable reading would be τούτοις ἐξελόντας ἀντιμοιρίας, 'taking out (and laying aside for the minor) equal sums to those taken on each occasion out of the general property by Apollodorus.' The syntax ἀντιμοιρεῖ νέμειν seems unnatural, to say nothing of the form of the adverb; and ἐξελόντας seems to require a definite accusative. P.] Blass prefers τούτοις (neut. re-

ferring to ὄσα) and takes ἀντιμοιρεῖ with ἐξελόντας.

νέμειν... νέμονται] Donaldson, *Gk. Gr.* p. 450, observes that νέμειν is here used 'of a distribution of property by executors; though we have immediately afterwards, νέμονται τὴν ἄλλην οὐσίαν, because the obligation to divide, under the will, stands in a certain opposition to the act of division, which the executors performed with the same amount of care and interest as if they had divided the property among themselves... Afterwards we have (§ 10) ἐνείματο οὗτος πρὸς τὸν ἀδελφόν, of one of the parties immediately interested.' For νέμεσθαι used in the middle voice generally (but not always) of the heirs, cf. §§ 11, 32, 38, Or. 39 § 6 τὸ τρίτον νείμασθαι μέρος, 47 § 35 νενεμημένος εἶη (τὴν οὐσίαν πρὸς τὸν ἀδελφόν), Lysias 16 § 10; 19 § 46; 32 § 4; Isaeus 1 § 16 οἱ τούτων φίλοι... ἕξλων νείμασθαι τὴν οὐσίαν; 7 §§ 5, 25. The active διένειμεν is applied to the father dividing his property among his sons in Or. 43, Marc. § 49 (followed by νειμάμενοι, of the sons) and in Lysias 19 § 46.

νείμασθαι] The subject is not the 'brothers,' but the 'guardians,' as is clear from the subsequent verbs νέμονται and ἀπέδιδosan.

σειαν τούτῳ ἀπεδίδοσαν. ἄχρι μὲν οὖν τούτου τοῦ χρόνου πῶς ἔνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως; οὐ γὰρ νῦν, ἀλλὰ τότε' εὐθύς ἔδει χαλεπαίνοντα φαίνεσθαι. καὶ μὴν οὐδὲ τὰς ἐπιγενομένας^κ μισθώσεις ὡς οὐκ ἀπέληφεν ἔστ' εἰπεῖν αὐτῷ. οὐ γὰρ ἂν ποτε, ἐπειδὴ 10 δοκιμασθέντος Πασικλέους ἀπηλλάττετο τῆς μισθώσεως ὅδε, ἀφήκατ' ἂν αὐτὸν ἀπάντων τῶν ἐγκλημάτων ἀλλὰ τότε' ἂν παραχρήμα ἀπητείτε, εἴ τι προσώφειλεν ὑμῖν. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, καὶ ἐνείματο οὗτος πρὸς τὸν ἀδελφὸν παῖδ' ὄντα, καὶ ἀφήκαν τῆς μισθώσεως καὶ τῶν ἄλλων ἀπάντων ἐγκλημάτων, λαβὲ ταυτηνὴ τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

Εὐθύς τοίνυν, ὧ ἄνδρες Ἀθηναῖοι, ὡς ἀφείσαν 11 τουτουὶ τῆς μισθώσεως, νέμονται τὴν τράπεζαν καὶ

^κ ἐπιγενομένας Z et Voemel cum ΣΦΦ. ἐπιγεν- Bekk.

9. ἀπεδίδοσαν] The guardians paid Apollodorus the share due to him, viz. half the rent of the bank and shield-manufactory. ἀποδίδοναι is 'to pay a man his due,' as in Isaeus 5 § 21 οἷς ἔδει αὐτὸν ἀποδόντα τὴν τιμὴν, ἡμῖν τὰ μέρη ἀποδοῦναι, and frag. 29 ἀποδεδωκότι τὰς μισθώσεις. Cf. Or. 41 § 9 τὴν τιμὴν; 34 § 13 δάνειον; 15 § 17 χάριν; 16 § 2 εὔνοϊαν. See note on 53 § 10.

ἄχρι μὲν οὖν κ.τ.λ.] 'Down to this date, then, there is not the slightest claim against Phormion in respect of the lease.' For the rather rare construction of ἐγκαλεῖν c. gen. cf. Or. 54 § 2 and Plut. Arist. 10, 9 τῆς βραδυτῆτος αὐτοῖς ἐνεκάλει. In § 12 we have ἐγκαλοῦντ' ἀφορμῆν.

10. δοκιμασθέντος] The δοκιμασία (see *Dict. Antiq.*) took place on 'coming of age,' usually at 18, but in the case of

orphans it might be accelerated a year or two. (A. Schaefer, *Dem. u. s. Zeit*, III 2, 19—38 *Der Eintritt der Mündigkeit nach Attischem Rechte.*)

ἀφήκαν τῆς μισθώσεως κ.τ.λ.] Or. 45 § 5 μάρτυρας ὡς ἀφήκα αὐτὸν τῶν ἐγκλημάτων παρέσχετο ψευδεῖς, καὶ μισθώσεως τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενομένης.

[The forms ἀφήκατε and ἀφήκαν and παρέδωκαν §§ 14, 44 are rather unusual. The Attics prefer in the plural the inflexion of the second aorist, ἀφείμεν, ἀφείτε, ἀφείσαν. Cf. §§ 11, 14, and see Veitch's *Greek Verbs*.—The two brothers Apollodorus and Pasicles are directly addressed in ἀφήκατε, not the jury, as is shown by ἀπητείτε following.—For this sense of προσοφείλειν cf. Ar. Ran. 1134. P.]

τὸ ἀσπιδιοπηγέϊον, καὶ λαβὼν αἴρεσιν Ἀπολλόδωρος αἰρεῖται τὸ ἀσπιδιοπηγέϊον ἀντὶ τῆς τραπέζης. καίτοι εἰ ἦν ἴδια¹ τις ἀφορμὴ τούτῳ πρὸς τῇ τραπέζῃ, τί δὴ ποτ' αὖν εἴλετο τοῦτο μᾶλλον ἢ ἐκείνην; οὔτε γὰρ ἡ πρόσοδος ἦν πλείων, ἀλλ' ἐλάττων (τὸ μὲν γὰρ τάλαντον, ἡ δ' ἑκατὸν μνᾶς ἔφερεν), οὔτε τὸ κτήμα ἥδιον^m, εἰ προσῆν χρήματα τῇ τραπέζῃ ἴδια. ἀλλ' οὐ προσῆν. διόπερ σωφρονῶν εἴλετο τὸ ἀσπιδιοπηγέϊον οὐτοσίⁿ. τὸ μὲν γὰρ κτήμ' ἀκίνδυνόν ἐστιν, 948 ἡ δ' ἐργασία προσόδους ἔχουσα ἐπικινδύνους ἀπὸ χρημάτων ἀλλοτρίων.

¹ καὶ Voemel cum Σ.

^m Wolf. ἡδεῶν A¹r, ἴδιον FΣΦ.

ⁿ οὗτος Bekk. Z et Voemel cum Σ. om. rA¹.

11. αἴρεσιν] The choice lay with him by virtue of being the elder brother (§ 34).

καίτοι κ.τ.λ.] Phormion argues that if the plaintiff had had any private capital of his own in the bank, he would have chosen the banking-business in preference to the manufactory. He did not, and therefore he contends there was no such fund.—*ἴδια ἀφορμὴ* is private banking-stock, as opposed to deposits, παρακαταθήκαι (cf. § 11).—*τάλαντον* = 60 minae.

τὸ μὲν γὰρ—ἀλλοτρίων] 'For the manufactory is a property free from risk, whereas the bank is a business yielding a hazardous (speculative, precarious) revenue from other people's money.' The bank was not a κτήμα, but only an ἐργασία, not a secure property, but a precarious trading with other people's money.

ἥδιον] The labour and trouble and other disagreeable incidents of manufacturing shields made such a property less desirable

in itself than a banking business. But the bank business was speculative, and involved the risk of losing the deposits, and therefore the manufactory, with all its drawbacks, was preferred by Apollodorus, as being at least safe. P.]

§§ 12—17. *The plaintiff's claim to a sum of banking-stock alleged to have been held by the defendant may be proved groundless by many arguments: (1) Plaintiff's father is entered in the lease, not as creditor on account of banking-stock assigned to defendant, but actually as debtor to the bank. (2) On the partition of the property, plaintiff put in no claim to such stock. (3) After the termination of defendant's lease of the bank, plaintiff let it to others for the same sum and no less; and did not specially transfer to them any banking-stock besides. (4) The plaintiff during the life of his mother, who was perfectly familiar with all these details, made no demand on the defend-*

Πολλὰ δ' ἄν τις ἔχοι λέγειν καὶ ἐπιδεικνύναι ση-¹²
μεῖα τοῦ τοῦτον συκοφαντεῖν ἐγκαλοῦντ' ὁ ἀφορμὴν.
ἀλλ', οἶμαι, μέγιστον μὲν ἔστιν ἀπάντων τεκμήριον
τοῦ μηδεμίαν λαβεῖν ἀφορμὴν εἰς ταῦτα τουτονὶ τὸ ἐν
τῇ μισθώσει γεγράφθαι προσοφείλοντα τὸν Πασίων'
ἐπὶ τὴν τράπεζαν, οὐ δεδωκότα ἀφορμὴν τούτῳ, δεύ-
τερον δὲ τὸ^p τοῦτον ἐν τῇ νομῇ μηδὲν^q ἐγκαλοῦντα
φαίνεσθαι, τρίτον δ', ὅτι μισθῶν ἑτέροις ὕστερον ταῦτὰ

^o ἐγκαλοῦντα Ζ.

^p om. Ζ cum ΣΦ. τὸ τοῦτον Bekk. cum marg. Σ.

^q μηδὲ Σ, μηδ' Voemel. 'quidni μηδὲ ante verba ἐν τῇ νομῇ
positum esse malis? at μηδὲν intellegendum est μηδεμίαν ἀφορμὴν'
Huettner.

ant; it was only when she died
that he set up a fraudulent claim,
not for any banking-stock as
now, but for a sum of 3000 dr.
The claim was submitted to the
arbitration of some relatives of
the plaintiff, and upon their
award the defendant for peace
and quietness' sake paid the
money and a second time received
from the plaintiff a release from
all his claims.

12. πολλὰ—ἐπιδεικνύναι] Or.
20 § 163 πολλὰ δ' ἄν τις ἔχοι
λέγειν ἔτι καὶ διεξιέναι.

σημεῖα...τεκμήριον] Or. 54 § 9.
συκοφαντεῖν κ.τ.λ.] Kennedy:
'This claim of the plaintiff's to
a sum of banking-stock is false
and fraudulent.'—ἐγκαλοῦντ'
ἀφορμὴν, the first distinct re-
ference in the speech to the
nature of the plaintiff's case.
He alleges that the defendant
had a grant of capital from
Pasion and had appropriated
it.

τουτονὶ...τούτῳ...τοῦτον] The
first two refer to the defendant,
the third to the plaintiff, Apol-
lodoros. The ambiguity arising

from the same pronoun being
applied to two different persons,
would be readily dispelled by
the orator's delivery. Cf. § 42 n.

προσοφείλοντα] sc. 11 talents,
§§ 4—6.—τῇ νομῇ, § 8 fin.

μισθῶν ἑτέροις κ.τ.λ.] i.e. to
Xenon and the others in § 13.
The argument is: assume the
defendant defrauded the plain-
tiff of bank-stock amounting to
20 talents. Then the stock in
question could not have formed
part of the business when the
plaintiff let it to the later lessees.
The plaintiff then should either
have let it to them at lower
terms than to the defendant, or
have handed over to the bank
an equivalent to the stock al-
leged to be missing. He did
neither; he made no fresh
transfer and he charged them
the same rent. Therefore the
property must have been in the
same condition as when the
defendant originally leased it
from the plaintiff's father.—
The context compels us to
make Apollodoros the subject of
the sentence μισθῶν—φανήσεται,

ταῦτα τοῦ ἴσου ἀργυρίου οὐ φανήσεται προσμεμισθω-
 13 κῶς ἰδίαν ἀφορμὴν. καίτοι εἰ, ἦν ὁ πατήρ παρέσχεν,
 ὑπὸ τοῦδε ἀπεστέρητο[†], αὐτὸν νῦν προσῆκεν ἐκείνοις
 ἄλλοθεν πορίσαντα δεδωκέναι. ὡς τοίνυν ταῦτ' ἀληθῆ
 λέγω, καὶ ἐμίσθωσεν ὕστερον Ξένωνι καὶ Εὐφραίῳ
 καὶ Εὐφροني καὶ Καλλιστράτῳ, καὶ οὐδὲ τούτοις παρ-
 ἔδωκεν ἰδίαν ἀφορμὴν, ἀλλὰ τὰς παρακαταθήκας καὶ
 τὴν ἀπὸ τούτων ἐργασίαν αὐτὴν ἐμισθώσαντο, λαβέ-
 μοι τὴν τούτων μαρτυρίαν, καὶ ὡς τὸ ἀσπιδοπηγεῖον
 εἴλετο[§].

ΜΑΡΤΥΡΙΑ.

14 Μεμαρτύρηται μὲν τοίνυν ὑμῖν, ὦ ἄνδρες Ἀθη-
 ναῖοι, ὅτι καὶ τούτοις ἐμίσθωσαν καὶ οὐ παρέδωκαν
 ἰδίαν ἀφορμὴν οὐδεμίαν, καὶ ἐλευθέρους ἀφείσαν ὡς

[†] Coniecit G. H. Schaefer. ἀπεστερειτο Σ. ἀποστεροῖτο FΦ,
 ἀπεστεροῖτο Voemel.

[§] καὶ ὡς—εἴλετο *delenda esse censuit G. H. Schaefer ab Huett-
 nero approbatus.*

but the bank, it will be remem-
 bered, became the property not
 of Apollodorus, but of Pasicles,
 when the latter came of age
 and Phormion's lease expired;
 we must therefore conclude
 that the elder brother acted as
 agent on behalf of his less ex-
 perience younger brother.

τοῦ ἴσου ἀργυρίου] viz. 2^t 40^m
 for the whole business, 1^t for
 the shield-manufactory, and
 1^t 40^m (= 100^m) for the bank
 (cf. § 11). It has been suggested
 that τοῦ ἴσου ἀργυρίου is a false
 statement, but a careful con-
 sideration of §§ 11 and 37 shows
 that this is not the case.

13. τοῦδε...αὐτὸν] Defendant
 and plaintiff respectively.—νῦν
 'in that case,' referring to the
 hypothesis εἰ — ἀπεστέρητο.—

αὐτὸν, standing first in the
 clause, must mean *ipsum*.

The sense is: 'Surely, if
 Apollodorus had been defraud-
 ed by Phormion of capital sup-
 plied by Pasion, he would *him-
 self* (on that supposition) have
 had to provide capital from
 other sources, and deliver it to
 those new lessees.' Otherwise,
 he could not have got the same
 amount of rent.

ἐμίσθωσεν] Granted the lease
 (on behalf of Pasicles). Below
 we have ἐμισθώσαντο, referring,
 as usual, to the lessees.

αὐτὴν] 'Alone'; explained by
 οὐ παρέδωκαν ἰδίαν ἀφορμὴν.

14. ἐμίσθωσαν ... παρέδωκαν]
 The plurals refer to the two
 brothers.

ἐλευθέρους ἀφείσαν] Or. 29

μεγάλα εὖ πεπονθότες, καὶ οὐκ ἐδικάζοντο οὐτ' ἐκεί-
 νοις τότ' οὔτε τούτῳ. ὃν μὲν τοίνυν χρόνον ἢ μήτηρ
 ἔζη ἢ πάντα ταῦτ' ἀκριβῶς εἰδυῖα[†], οὐδὲν ἔγκλημα
 πώποτε ἐποιήσατο πρὸς τουτονὶ Φορμίωνα Ἀπολλό-
 949 δωρος· ὡς δ' ἐτελεύτησεν ἐκείνη, τρισχιλίας ἐγκαλέσας
 ἀργυρίου δραχμὰς πρὸς αἷς ἔδωκεν ἐκείνη δισχιλίας
 τοῖς τούτου παιδίοις, καὶ χιτωνίσκον τινὰ καὶ θερά-
 παιναν, ἐσυκοφάντει. καὶ οὐδ' ἐνταῦθα τούτων οὐδὲν 15
 ὦν νῦν ἐγκαλεῖ λέγων φανήσεται. ἐπιτρέψας δὲ τῷ
 τε τῆς ἑαυτοῦ γυναικὸς πατρὶ καὶ τῷ συγκηδεστῇ τῷ

[†] ἀκριβῶς ταῦτ' εἰδυῖα Z et Voemel cum Σ. ἀκριβῶς εἰδυῖα ταῦτα
 FΦ. ταῦτ' ἀκριβῶς εἰδυῖα Bekk.

§§ 25, 31 τὸν Μιλύαν ἐλεύθερον
 εἶναι ἀφεθέντα, 47 § 55 ἀφειμένη
 ἐλευθέρα... ἀφείθη ἐλευθέρα, § 72
 ἀφείτο... ἐλευθέρα. Xenon, Eu-
 phraeus and the other lessees
 appear (like Phormion) to have
 been slaves originally. The
 family show their gratitude for
 their services by giving them
 freedom (ὡς μεγάλα εὖ πεπον-
 θότες). It is so translated by
 M. Dareste. G. H. Schaefer
 and C. R. Kennedy (perhaps less
 satisfactorily) understand the
 words: 'set free from all further
 claims'; 'gave them a complete
 discharge'; a sense which is at
 first sight partly supported by
 καὶ οὐκ ἐδικάζοντο below.

ὡς ἐτελεύτησεν] The speaker
 insinuates that Apoll. purposely
 waited till his mother's death,
 as her familiarity with all the
 details of her late husband's
 property would have thwarted
 his plots against Phormion. Her
 death is described by Apollo-
 dorus in Or. 50 § 60, 'While I
 was abroad my mother lay ill
 and was at death's door, and
 therefore little able to help in
 retrieving my affairs. It was

just six days after my return
 that, when she had seen me and
 spoken to me, she breathed her
 last, when she no longer had
 such control over her property
 as to be able to give me all that
 she desired.' The death took
 place in Feb. B.C. 360.

πρὸς αἷς] She had left Phor-
 mion's children 2000 drachmas,
 but Apollodorus claims more
 than that sum also as his own.
 His avaricious and mean cha-
 racter is shown by his claim to a
 χιτωνίσκος, a chemise or 'slave's
 frock,' perhaps. A man who
 would make such demands was
 little likely to omit his present
 claims, if he had then believed
 in the justice of them. P.]

χιτωνίσκον] Or. 21 § 216
 θοίματιον προσέσθαι καὶ μικροῦ
 γυμνὸν ἐν τῷ χιτωνίσκῳ γενέσ-
 θαι.

15. ἐπιτρέψας κ.τ.λ.] The
 plaintiff submitted the claims
 to the arbitration of Deinias and
 Nicias (§ 17), his own father-in-
 law and brother-in-law respect-
 ively. Pollux: ἔλεγον δὲ ἐπιτρέ-
 ψαι δίαιταν, καὶ ἢ δίαιτα ἐκαλεῖτο
 ἐπιτροπή.

αὐτοῦ^u καὶ Λυσίνῳ καὶ Ἀνδρομένει, πεισάντων τούτων Φορμίωνα τουτονὶ δοῦναι δωρεὰν τὰς τρισχιλίας καὶ τὸ προσὸν καὶ φίλον μᾶλλον ἔχειν τοῦτον ἢ δια ταῦτ' ἐχθρὸν αὐτὸν εἶναι, λαβὼν τὸ σύμπαν πεντακισχιλίας, καὶ πάντων ἀφείς τῶν ἐγκλημάτων τὸ
 16 δεύτερον εἰς τὸ ἱερόν τῆς Ἀθηναῶν ἐλθὼν, πάλιν, ὡς ὁράτε, δικάζεται, πάσας αἰτίας συμπλάσας καὶ ἐγκλήματα ἐκ παντὸς τοῦ χρόνου τοῦ πρὸ τούτου (τούτου γάρ ἐστι μέγιστον ἀπάντων), ἃ οὐδεπώποτ' ἠτιάσατο. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, λαβέ μοι τὴν γνώσιν τὴν γενομένην ἐν ἀκροπόλει, καὶ τὴν μαρτυρίαν τῶν παραγενομένων, ὅτ' ἠφεί^v τῶν ἐγκλημάτων ἀπάντων Ἀπολλόδωρος, λαμβάνων τοῦτο τὸ ἀργύριον.

^u ἑαυτοῦ Z.

^v ἀφεί Z cum Σ. ἠφεί F. 'codices modo hoc modo illud exhibent; vid. Dind. ad 21 § 79, 36 § 24; Rehdantz, ad 3 § 5,' Huettner.

δοῦναι δωρεάν] By 'making a present' of the 3000 drachmae, Phormion satisfies Apollodorus without admitting his legal claim to the sum. Or. 19 § 170; 42 § 19; Isaeus 2 § 31 διήτησαν ἡμᾶς ἀποστήναι ὧν οὗτος ἀμφισβήτησε καὶ δοῦναι δωρεάν' οὐ γὰρ ἔφασαν εἶναι ἄλλην ἀπαλλαγὴν οὐδεμίαν, εἰ μὴ μεταλήψονται οὗτοι τῶν ἐκείνου.

τὸ προσὸν] Not the 2000 drachmae of § 14; for they were already given by the mother (ἔδωκεν ἐκείνῃ), but the 'additional articles' χιτωνίσκος καὶ θεράπαινα. [τὸ προσὸν may however refer to πρὸς αἰς κ.τ.λ. supra. He got the 3000 and the 2000 also that had been left to Phormion's boys. He got from him 5000 in all, and gave him a full release from all further claims; and yet now again he says Phormion has kept back some of Pasi-

on's money! But (he argues) the discharge then given justifies the παραγραφή now put in. P.]

ἀφείς...τὸ δεύτερον] The former release is mentioned in § 10 fin. This second release is solemnly given in the temple of Athênê on the Acropolis. Isocr. Trapez. § 20, ταῦτα συγγράψαντες καὶ ἀναγαγόντες εἰς ἀκρόπολιν Πύρωνα.....δίδομεν αὐτῷ φυλάττειν τὰς συνθήκας, ib. 17 and Andoc. 1 § 42.

16. συμπλάσας] 'Having concocted,' 'fabricated,' 'patched up,' 'put into shape.' Aeschin. 3 § 77 τῶν θεῶν συμπλάσας ἑαυτῷ ἐνύπνιον κατεψεύσατο. The metaphor (as in the words *feigning* and *fiction*) is from the moulding of clay in the hands of the potter. Cf. § 33 πλάσμα.

τὴν γνώσιν] 'The award' of the arbitrators. Or. 27 § 1, τοῖς οἰκείοις ἐπιτρέπειν and τοῖς

ΓΝΩΣΙΣ. ΜΑΡΤΥΡΙΑ.

Ἄκουετε τῆς γνώσεως, ὧ ἄνδρες δικασταί, ἣν 17
 ἔγνω Δεινίας, οὐ τὴν θυγατέρα οὗτος ἔχει, καὶ Νικίας
 ὁ τὴν ἀδελφὴν τῆς τούτου γυναικὸς ἔχων. ταῦτα
 τοῖνυν λαβὼν καὶ ἀφείς ἀπάντων τῶν ἐγκλημάτων,
 ὡσπερ ἢ πάντων τεθνεώτων τούτων ἢ τῆς ἀληθείας
 οὐ γενησομένης φανεράς, δίκην τοσοῦτων ταλάντων
 λαχὼν τολμᾷ δικάζεσθαι.

Τὰ μὲν οὖν πεπραγμένα καὶ γεγενημένα Φορμίῳ 18
 πρὸς Ἀπολλόδωρον ἐξ ἀρχῆς ἅπαντ' ἀκηκόατε, ὧ
 950 ἄνδρες Ἀθηναῖοι. οἶμαι^ω δ' Ἀπολλόδωρον τουτουὶ
 οὐδὲν ἔχοντα δίκαιον εἰπεῖν περὶ ὧν ἐγκαλεῖ, ἅπερ
 παρὰ τῷ διαιτητῇ λέγειν ἐτόλμα, ταῦτ' ἐρεῖν, ὡς τὰ

^ω Σ. οἶμαι Ζ (see Veitch, Gk. Vbs., and Dindf. Praef. p. xiii).

ὑπ' ἐκείνων γνωσθεῖσιν ἐμένειν.
 Cf. § 17.—ἐν ἀκροπόλει. So supra
 τὸ ἱερὸν τῆς Ἀθηναῶν. Pollux, διή-
 των δ' ἐν ἱεροῖς (VIII 126). Or. 59
 § 46 (of two arbitrators) συνελ-
 θόντες ἐν τῷ ἱερῷ, and Or. 54
 § 26, τὸν λίθον, π.

λαμβάνων] 'On the receipt
 of this money,' viz. the 5000
 drachmae.

17. τούτων] τῶν μαρτύρων τῶν
 παραγενομένων, § 16.

τοσοῦτων ταλ.] § 3, ταλάντων
 εἴκοσι.

τολμᾷ] It was acting in open
 defiance of the law to bring an
 action after a full acquittance
 had been given.

§§ 18—21. Anticipation of the
 arguments likely to be brought
 forward by the plaintiff. *He*
will repeat what he stated be-
fore the arbitrator, that his
mother destroyed his father's
papers at the defendant's insti-
gation. If so (1) how came the
plaintiff to make a partition of
his patrimony, without any

papers to determine its amount?
Unless those claims were false
and fraudulent, which the plain-
tiff will scarcely admit, he
must have gained possession of
his father's papers, and his
mother could not have made
away with them. (2) Why was
no question raised when the
plaintiff's younger brother came
of age and was receiving from
his guardians an account of
their trust? (3) On what papers
did the plaintiff base all his
many law-suits for the recovery
of large sums due to his father?

18. τὰ μὲν οὖν κ.τ.λ.] Transition
 from the διήγησις or πρόθεσις
 to the πίστεις or 'proofs' (Ar.
 Rhet. III 13), from the brief
 recital of the transactions be-
 tween plaintiff and defendant
 (§§ 4—17) to the legal and other
 arguments.

τῷ διαιτητῇ] Pollux: πάλαι δ'
 οὐδεμία (?) δίκη πρὶν ἐπὶ διαιτη-
 τὰς ἐλθεῖν εἰσῆγετο (VIII 126). Cf.
 54 § 26, ἢ δίατα π.

γράμματα ἢ μήτηρ ἠφάνικε πεισθεῖσα ὑπὸ τούτου, καὶ
 τούτων ἀπολωλότων οὐκ ἔχει τίνα χρῆν τὸν τρόπον ταύτ'
 19 ἐξελέγχειν ἀκριβῶς. περὶ δὲ τούτων καὶ ταύτης τῆς
 αἰτίας σκέψασθε ἡλίκ' ἂν τις ἔχοι τεκμήρια εἰπεῖν
 ὅτι ψεύδεται. πρῶτον μὲν γὰρ, ὧ ἄνδρες Ἀθηναῖοι,
 τίς ἂν ἐνείματο τὰ πατρῶα μὴ λαβὼν γράμματα ἐξ ὧν
 ἔμελλεν^x εἴσεσθαι τὴν καταλειφθεῖσαν οὐσίαν; οὐδὲ
 εἰς δήπου. καίτοι δυοῖν δέοντα εἴκοσιν ἔτη ἐστὶν ἐξ
 20 ὅτου ἐνείμω, καὶ οὐκ ἂν ἔχοις ἐπιδείξαι ὡς ἐνεκάλεσας
 ἂν, ἡνίκα ὁ Πασικλῆς ἀνὴρ γεγωνὸς ἐκομίζετο τὸν
 λόγον τῆς ἐπιτροπῆς, εἰ δι' αὐτοῦ τὰ γράμματ' ὤκνει
 τὴν μητέρα αἰτιᾶσθαι διεφθαρκεῖναι, τούτῳ ταύτ' ἐδή-

^x ἤμελλεν *Z cum Σ* (see Isocr. Paneg. § 83 n.).

τὰ γράμματα] Not Pasion's will, but his private papers and ledgers or banking-books, τὰ γράμματα τὰ τραπεζικά (Or. 49 §§ 43, 59 quoted below in note on § 21, ἐκ ποίων γραμμάτων). Cf. Or. 49 § 5, οἱ τραπεζίται εἰώθασιν ὑπομνήματα γράφεισθαι ὧν τε διδῶσι χρημάτων, κ.τ.λ. and Or. 52 § 4.

19. ἐνείματο] 'Who would have taken his share of his father's property, if he had not the books from which alone he could know the amount of property left?' He refers to the division of the patrimony decided on by the guardians in consequence of the elder brother spending largely out of the common fund, § 8 fin. This event took place eighteen years before the date of the speech; which, if we could assume that the partition was in the same year as the father's death, viz. 370, would belong to B.C. 352. This however we cannot assume, indeed the language of

§ 8, πολλά ἀναλίσκειν, κ.τ.λ., implies that the elder brother's course of extravagance lasted some time before the partition was decided on. We may therefore perhaps place the partition in B.C. 368, and the speech in B.C. 350. See *Introd.* p. xxvii f.

ὑπὲρ τῶν γραμμάτων] sc. περὶ τῆς ἀφανίσεως αὐτῶν.

20. ἀνὴρ γεγωνὸς] Cf. § 10, δοκιμασθέντος Πασικλέους.

ἐκομίζετο κ.τ.λ.] 'Was getting in an account of the guardianship,' i.e. the accounts from his guardians. Or. 27, κατ' Ἀφόβου ἐπιτροπῆς, § 50, πότερον ἐπιτροπευθεὶς ἀπεδέξατ' ἂν τοῦτον τὸν λόγον παρὰ τῶν ἐπιτρόπων;

τούτῳ...τούτου] It is best to refer these pronouns to Pasicles (with Reiske, Kennedy and Dareste); not to Apollodorus (with G. H. Schaefer). The sense is: 'Assuming Apollodorus hesitated with his own lips to accuse his mother of destroying the documents; at any rate, when Pasicles came of age and

λωσειν, ὅπως διὰ τούτου ταῦτα ἠλέγχθη; τρίτον δ', ἐκ ποίων γραμμάτων τὰς δίκας ἐλάγχανες; οὗτος γὰρ πολλοῖς τῶν πολιτῶν δίκας λαγχάνων πολλὰ χρήματα εἰσπέπρακται, γράφων εἰς τὰ ἐγκλήματα "ἐ-
 "βλαψέ με ὁ δεῖνα οὐκ ἀποδιδούς ἐμοὶ τὸ ἀργύριον, ὃ
 "κατέλιπεν^γ ὁ πατήρ ὀφείλοντα αὐτὸν ἐν τοῖς γράμ-
 "μασιν." καίτοι εἰ ἠφάνιστο τὰ γράμματα^z, ἐκ ποίων 21
 γραμμάτων τὰς δίκας ἐλάγχανεν; ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ λέγω, τὴν μὲν νομὴν ἀκηκόατε, ἣν ἐνεί-
 ματο, καὶ μεμαρτύρηται ὑμῖν· τῶν δὲ λήξεων τούτων ἀναγνώσεται ὑμῖν τὰς μαρτυρίας. λαβὲ τὰς μαρ-
 τυρίας μοι.

ΜΑΡΤΥΡΙΑΙ.

951 Οὐκοῦν ἐν ταύταις ταῖς λήξεσιν ὡμολόγηκεν ἀπει-
 ληφέναι τὰ τοῦ πατρὸς γράμματα· οὐ γὰρ δὴ συκο-

^γ κατέλειπεν Z et Voemel cum Σ. -έλιπεν Bekk.

^z τὸ γράμμα Voemel cum Σ.

was in course of receiving the report of his guardians' administration, is there any one who, under the circumstances, would not have stated the fact to his younger brother, and by his instrumentality had the matter investigated?"

ὅπως ἠλέγχθη] inf. § 47 ἵνα, 'that so they might have been proved true or false,' &c.

πολλὰ χρήματα εἰσπέπρακται] 'He has succeeded in recovering large sums of money.' The famous general Timotheus, under pressure of political exigencies, in the years 374 to 372 B.C., borrowed more than forty-four minae from the banker Pasion, on whose death his son Apollodorus sues Timotheus for payment in a speech still extant, belonging probably to the year B.C. 362. (Or. 49,

πρὸς Τιμόθεον ὑπὲρ χρέως.) Cf. infr. §§ 36 and 54.

21. ἐκ ποίων γραμμάτων] If there were no papers, then the grounds of your actions were fraudulent, συκοφανταί, inf. In Or. 49, Pasion's papers are expressly cited, e.g. § 43, κελεύοντος ἐνεγκεῖν τὰ γράμματα ἀπὸ τῆς τραπέζης καὶ ἀντίγραφα αἰτούντος...ἐξενέγκας ἔδωκα ζητεῖν τὰ γράμματα καὶ ἐκγράφεσθαι ὅσα οὗτος ὄφειλεν, and § 59, τοῖς γράμμασι τοῖς τραπεζητικοῖς.

λήξεων μαρτυρίας] 'The depositions in support of' (or 'verifying') 'these complaints.' For λήξις, cf. supr. δίκας ἐλάγχανεν, also Or. 45 § 50, τῇ τοῦ διώκοντος λήξει ἣν ἐγὼ τούτω ψευδομαρτυριῶν εἶληχα, and Or. 33 § 35, ἐγκέκληκε καὶ...τὴν λήξιν πεποιήται.

φαντεῖν γε, οὐδ' ὧν οὐκ ὄφειλον οὔτοι δικάζεσθαι φήσειεν ἄν.

22 Νομίζω τοίνυν, ὧ ἄνδρες Ἀθηναῖοι, μεγάλων καὶ πολλῶν ὄντων ἐξ ὧν ἔστιν ἰδεῖν οὐκ ἀδικοῦντα Φορμίωνα τουτουῖ, μέγιστον ἀπάντων εἶναι, ὅτι Πασικλῆς, ἀδελφὸς ὧν Ἀπολλοδώρου τουτουῖ, οὔτε δίκην εἴληχεν οὔτ' ἄλλ' οὐδὲν ὧν οὔτος ἐγκαλεῖ. καίτοι οὐ δήπου τὸν μὲν παῖδα ὑπὸ τοῦ πατρὸς καταλειφθέντα, καὶ οὐ τῶν ὄντων κύριος ἦν, ἐπίτροπος καταλελειμμένος, οὐκ ἂν ἠδίκηι, σὲ δὲ, ὃς ἀνὴρ κατελείφθης τέτταρα καὶ εἴκοσιν ἔτη γεγυνώς, καὶ ὑπὲρ σαυτοῦ ῥαδίως ἂν τὰ δίκαια ἐλάμβανες εὐθύς, εἴ τι ἠδικοῦ. οὐκ ἔστι ταῦτα. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω καὶ ὁ Πασικλῆς οὐδὲν ἐγκαλεῖ, λαβέ μοι τὴν τούτου μάρτυριαν.

§ 22. Argument from the silence of plaintiff's younger brother. *Pasicles, as a minor, had been much more liable to be wronged by the defendant, who as testamentary guardian had control over his ward's property. Pasicles makes no complaint. Therefore (it is tacitly assumed) he had no complaint to make. A fortiori defendant is not likely to have wronged the plaintiff, who at his father's death was a man of four and twenty, and fully able to defend himself.*

Φορμίωνα τουτουῖ] τουτουῖ need not refer to Apollodorus, but may be taken with Φορμίωνα, cf. *infr.* Ἀπολλοδώρου τουτουῖ, and §§ 15, 18, 26, 28, 47, 57.

οὔτ' ἄλλ' κ.τ.λ.] sc. οὔτε ἄλλο οὐδὲν ἐγκαλεῖ ὧν οὔτος (ἐγκαλεῖ).

τὸν] Construe with καταλειφθέντα, παῖδα being a predicate.

κύριος...ἐπίτροπος] Cf. Or. 38 § 6, τῶν ἐπιτρόπων οὐ μετὰ τὸν ἐκείνου θάνατον τῶν ἡμετέρων ἐγένοντο κύριοι. κύριος here refers to the property, ἐπίτροπος

to the person of the ward (Schömann on Isaeus I § 10).

σὲ δὲ] sc. ἂν ἠδίκηι. Notice the double force of the negative, οὐ δήπου οὐκ ἂν ἠδίκηι, 'Surely he would not have abstained from wronging one who had been left a minor by his father, and over whose property he had a legal power and authority, as having been left guardian of it, and yet have wronged you,' &c. So *inf.* § 46, οὐδὲ τὸν Φορμίωνα ἐκείνος οὐχ ὀρᾷ. [Expectabam, οὐ δήπου σὲ μὲν ἂν ἠδίκηι, τὸν δὲ παῖδα οὐ. Shilleto, *De Fals. Leg.* § 390, not. crit. P.]

ὁ Πασ. οὐδὲν ἐγκαλεῖ] 'Brings no claim against Phormion,' i.e. for property of his father's withheld. Cf. Or. 45 §§ 83, 84, where Apollodorus meets the objection arising from the silence of Pasicles by broaching a suspicion that he is his half-brother only and by insinuating he is really a son of Archippe and Phormion. 'Say no more, pray, of Pasicles; no! let him

ΜΑΡΤΥΡΙΑ.

Ἄ τοίνυν ἤδη περὶ αὐτοῦ τοῦ μὴ εἰσαγώγιμον ²³
 εἶναι τὴν δίκην δεῖ σκοπεῖν ὑμᾶς, ταῦτ' ἀναμνήσθητε
 ἐκ τῶν εἰρημένων. ἡμεῖς γὰρ, ὧ ἄνδρες Ἀθηναῖοι,
 γεγενημένου μὲν διαλογισμοῦ καὶ ἀφέσεως τῆς τρα-
 πέζης καὶ τοῦ ἀσπιδοπηγείου τῆς μισθώσεως, γεγενη-
 μένης δὲ διαίτης καὶ πάλιν πάντων ἀφέσεως, οὐκ
 ἐόντων τῶν νόμων δίκας ὧν ἂν ἀφῆ τις ἄπαξ λαγχά-
 νειν, συκοφαντοῦντος τούτου καὶ παρὰ τοὺς νομοὺς ²⁴
 δικαζομένου παρεγραψάμεθα ἐκ τῶν νόμων μὴ εἶναι
 τὴν δίκην εἰσαγώγιμον. ἴν' οὖν εἰδῆθ'^a ὑπὲρ οὗ τὴν
 ψῆφον οἴσετε, τὸν τε νόμον ὑμῖν τοῦτου ἀναγνώσεται
 952 καὶ τὰς μαρτυρίας ἐφεξῆς τῶν παρόντων, ὅτ' ἠφίει^b
 τῆς μισθώσεως καὶ τῶν ἄλλων ἀπάντων ἐγκλημάτων
 Ἀπολλόδωρος Φορμίωνα^c. λαβέ μοι τὰς μαρτυρίας
 ταυτασὶ καὶ τὸν νόμον.

^a ἴδητε Z cum correcto Σ. εἰδῆθ' Bekk. ἴδηθ' Bekk. st.

^b ἀφίει Z cum Σ. ^c om. Z cum ΣrA¹. add. Bekk.

be called your son, Phormion, not your master; and my opponent (he is bent upon it)—not my brother.'

§§ 23—25. *The speaker now passes from the arguments in support of the main issue (or the case upon its merits) to those on which the defendant raises a special plea in bar of action.*

The plaintiff's case cannot come before the court because he has given the defendant a discharge from the original lease of the Bank and Manufactory, and a second discharge from a subsequent claim which was settled by arbitration; and the laws allow no right of action where a release and discharge

have been given or received.

23. μὴ εἰσαγώγιμον] Cf. ὑπόθεσις l. 23, n. — διαλογισμοῦ, a reckoning up, or producing of accounts as between the two parties, Phormion and Apoll. Cf. § 60.

ἀφέσεως — μισθώσεως] The order is (γεγενημένης) ἀφέσεως τῆς μισθ. τῆς τραπέζης κ.τ.λ. Cf. § 24, ἠφίει τῆς μισθώσεως and supr. § 10. Or. 33 § 3, πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης. 45 § 41; 38 §§ 5, 9, 14. διαίτης κ.τ.λ.] § 16.

24. ἐκ τῶν νόμων] Contrasted with παρὰ τοὺς νόμους. As he brought his action contrary to the law, we have put in an objection to it which is fully allowed by the law.

ΜΑΡΤΥΡΙΑΙ. ΝΟΜΟΣ.

25 Ἀκούετε τοῦ νόμου λέγοντος, ὦ ἄνδρες Ἀθηναῖοι, τά τε ἄλλα ὧν μὴ εἶναι δίκας^d καὶ ὅσα τις ἀφήκεν ἢ ἀπήλλαξεν. εἰκότως· εἰ γὰρ ἐστὶ δίκαιον, ὧν ἂν ἅπαξ γένηται δίκη, μηκέτ' ἐξείναι δικάζεσθαι, πολὺ τῶν ἀφεθέντων δικαιότερον μὴ εἶναι δίκας^d. ὁ μὲν γὰρ ἐν ὑμῖν ἠττηθεὶς τάχ' ἂν εἴποι τοῦτο ὡς ἐξηπατήθητε ὑμεῖς· ὁ δὲ αὐτοῦ φανερώς καταγνοὺς καὶ ἀφείς καὶ ἀπαλλάξας, τίν' ἂν ἑαυτὸν αἰτίαν αἰτιασάμενος τῶν

^{d-d} καὶ ὅσα—μὴ εἶναι δίκας propter ὁμοιοτέλετον omisit Σ, supplevit manus multo recentior.

25. ἀκούετε κ.τ.λ.] Or. 38, παραγραφή πρὸς Νανσίμαχον, § 5, ἀκούετε τοῦ νόμου σαφῶς λέγοντος ἕκαστα ὧν μὴ εἶναι δίκας, ὧν ἐν ἐστίν, ὁμοίως τοῖς ἄλλοις κύριον, περὶ ὧν ἂν τις ἀφῆ καὶ ἀπαλλάξῃ, μὴ δικάζεσθαι. Cf. 37 §§ 1, 19; 33 § 3.

ὧν μὴ εἶναι δίκας] Infin. in relative clause influenced by λέγοντος. 'Among other cases in which an action cannot be maintained, those especially in which a discharge and release have been given or received.'

εἰ γὰρ κ.τ.λ.] The sense is, 'If it is just that, when once a case has been tried, it should not be tried again, even although the defeated litigant might fairly plead that the court had been imposed upon, a fortiori there is no ground for re-opening the question when a man has judged his own case and has palpably decided against himself by giving and receiving a discharge.'

μηκέτ' ἐξείναι δικάζεσθαι] Or. 38 § 16 ἅπαξ περὶ τῶν αὐτῶν πρὸς τὸν αὐτὸν εἶναι τὰς δίκας. 20 Lept. § 147 οἱ νόμοι δ' οὐκ ἔωσι δις πρὸς τὸν αὐτὸν περὶ τῶν αὐτῶν

οὔτε δίκας οὔτ' εὐθύνας οὔτε διαδικασίαν οὔτ' ἄλλο τοιοῦτ' οὐδὲν εἶναι.

ἐξηπατήθητε] Or. 37 § 20 περὶ ὧν ἔγνω τὸ δικαστήριον, ἐστὶν εἰπεῖν ὡς ἐξαπατηθὲν τοῦτ' ἐποίησε... ἃ δ' αὐτὸς ἐπέισθη καὶ ἀφήκεν, οὐκ ἐνὶ δῆπουθεν εἰπεῖν οὐδ' αὐτὸν αἰτιάσασθαι ὡς οὐ δικαίως ταῦτ' ἐποίησεν.

αὐτοῦ...καταγνοὺς] The two subsequent participles are subordinate in construction to καταγνοὺς. 'He who has clearly condemned (given a verdict against) himself by both granting and getting a release and discharge.' Madvig Gr. Synt. § 176, d.

ἀφείς καὶ ἀπαλλάξας] It is clear the words do not mean the same thing, for below we have γέγονεν ἀμφοτέρα· καὶ γὰρ ἀφήκε καὶ ἀπήλλαξε. Similarly 37 § 1 and 38 § 1 after ἀφείς καὶ ἀπαλλάξας we have γεγεννημένων ἀμφοτέρων, and in 37 § 19 after ὧν ἂν ἀφῆ καὶ ἀπαλλάξῃ τις we have ἀμφοτέρ' ἐστὶ πεπραγμένα.

ἀφίεσθαι is very frequently used of the lender, or the landlord, who, on settlement

αὐτῶν πάλιν εἰκότως δικάζοιτο; οὐδεμίαν δήπου. δίοπερ τοῦτο πρῶτον ἔγραψεν ὁ τὸν νόμον θεὸς ὦν μὴ

of his claims, releases the borrower or the tenant from all further liability (§§ 10, 15, 16, 17, 24). Similarly of a ward releasing his guardian from all further claims, in 38 §§ 3, 4, 6, 18, 27; and of a creditor forgiving a debt, 53 §§ 8, 13. Cf. 56 §§ 26, 28, 29.

ἀπαλλάττειν often refers to the debtor or tenant getting quit of his creditor or landlord by discharging or compromising the debt (34 § 22 τοὺς δανείσαντας ἀπήλλαξεν, 49 § 17; 53 § 11; 33 § 9 and Isaëus Or. 5 Dicaeog. § 28 ἀπαλλάσσειν τοὺς χρήστας). Settling a cross account between lessor and lessee (e.g. Apoll. and Phormion) would involve a double release and quittance on either side. Cf. 33 § 12, τῶν συναλλαγμάτων ἀφεῖμεν καὶ ἀπηλλάξαμεν ἀλλήλους ὥστε μήτε τοῦτω πρὸς ἐμὲ μήτ' ἐμοὶ πρὸς τοῦτον πρᾶγμ' εἶναι μηδέν.

The present passage is the subject of the following article in Harpocration. ἀφείς καὶ ἀπαλλάξας· τὸ μὲν ἀφείς ὅταν ἀπολύσῃ τις τινα τῶν ἐγκλημάτων ὧν ἐνεκάλει αὐτῷ, τὸ δὲ ἀπαλλάξας, ὅταν πείσῃ τὸν ἐγκαλοῦντα ἀποστῆναι καὶ μηκέτι ἐγκαλεῖν (*recte*)· Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ. ἔστι δὲ καὶ οὕτως εἰπεῖν, ὅτι ἀφίησι μὲν τις αὐτῶν μόνον ὧν ἂν ἐγκαλῆ, ἀπαλλάττει δὲ, ὅταν μηδὲ ἄλλον τινὰ λόγον ὑπολίπηται ἑαυτῷ πρὸς τὸν ἐγκαλοῦμενον. Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ “ἢ ἀπαλλαγὴ τις αὐτῷ γένηται παρ' ὑμῶν κυρία” (§ 2). Cf. Or. 37 §§ 1, 16, 19; Or. 38 §§ 1, 5; Or. 33 § 3. In Bekker's *Anecdota* pp. 202, 469 we find the same explanation as

that which is given in the first part of Harpocration's article.

[From the frequency of this legal formula, though a shade of difference may be traced, and perhaps originally existed, between these verbs, I agree with Mr Kennedy (*Dem. Pant.* p. 230) that it had passed into a technical expression, and that practically they became synonyms. P.]

In Shilleto's copy of Mr Kennedy's translation I find a manuscript note in which, after quoting the explanation given in Bekker's *Anecdota*, he adds: “This is a clear statement and exactly in accordance with the meaning of the words: ἀφίημι, ‘I let go, one whom I have a hold of’; ἀπαλλάττω, ‘I get rid of one who has a hold of me.’ So I ἀφίημι a man on whom I have a claim by my condoning the debt, by receiving payment, postponing it, &c.; I ἀπαλλάττω a man who has a claim on me, by his condoning the debt, by my paying it, by my putting off the payment-day. So he who ἀφίησιν, ἀπαλλάττεται [passive]; he who ἀπαλλάττει, ἀφίεται [passive]. I cannot conceive anything plainer.” But owing to the two-fold use of ἀπαλλάττειν, both of *setting free* and *getting rid of* another, the question is not really quite as simple as this would make it appear. Thus in Isocr. Trapez. § 26, after ἀφειμένος and ἀφείσθαι τῶν ἐγκλημάτων have been used in §§ 23, 25 of one who is ‘released from all claims,’ the same person is described as ἀπηλλαγμένος τῶν ἐγκλημάτων, which is possibly a middle use, ‘having got himself

εἶναι δίκας, ὅσα τις ἀφήκεν ἢ ἀπήλλαξεν. ἀ τῷδε γέγονεν ἀμφοτέρω· καὶ γὰρ ἀφήκε καὶ ἀπήλλαξεν. ὡς δ' ἀληθῆ λέγω, μεμαρτύρηται ὑμῖν, ὧ ἄνδρες Ἀθηναῖοι.

26 Λαβὲ δὴ μοι καὶ τὸν τῆς προθεσμίας νόμον.

ΝΟΜΟΣ.

Ὁ μὲν τοίνυν νόμος, ὧ ἄνδρες Ἀθηναῖοι, σαφῶς οὕτως τὸν χρόνον ὥρισεν· Ἀπολλόδωρος δ' οὕτως παρεληλυθότων ἐτῶν πλέον ἢ εἴκοσι τὴν ἑαυτοῦ συκοφαντίαν ἀξιῶ περὶ πλείονος ὑμᾶς ποιήσασθαι τῶν νόμων, καθ' οὓς ὁμωμοκότες δικάζετε. καίτοι πᾶσι μὲν τοῖς νόμοις προσέχειν εἰκός ἐσθ' ὑμᾶς, οὐχ ἥκιστα
27 δὲ τούτῳ, ὧ ἄνδρες Ἀθηναῖοι. δοκεῖ γάρ μοι καὶ ὁ Σόλων οὐδενὸς ἄλλου ἔνεκα θεῖναι αὐτὸν ἢ τοῦ μῆ

quit of all claims.'—The distinction drawn in Platner's *Process* I 146, is that ἀφεῖναι regards the release from an existing obligation mainly from the point of view of the person granting the release, whereas ἀπαλλάττειν implies a two-fold transaction and an agreement on the part of both the persons concerned.

§ 26. *The plaintiff's suit is also inadmissible for another reason; it contravenes the statute of limitations, in which the term of five years is fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff puts forward his claim after a lapse of more than twenty years.*

προθεσμίας νόμον] (See Dict. Antiq. s.v.)—Harpoer. Δημοσθένος ὑπὲρ Φορμίωνος· τὴν τῶν ἐτῶν ἂν λέγοι προθεσμίαν ὁ ῥήτωρ, ὡς ἐν τῷ λόγῳ ὑποσημαίνει. See Or. 38 §§ 17, 27, and cf. Isaeus, 3 § 58, and Plato Leg. p. 954^c.

(Caillemer, *la Prescription à Athènes*, 1869, and K. F. Hermann, *Privatalt.* § 71, 5 and 6 = *Rechtsalt.* p. 106 Thalheim.)

πλέον ἢ εἴκοσι] The speaker apparently goes back to the time of Pasion's lease of the banking business to Phormion, which cannot well have been later than B.C. 371, when Pasion was so infirm that he died a year after. This would bring the date of the speech to B.C. 351 at the earliest, and B.C. 350 cannot be far wrong. See *Introd.* p. xxvii f.

καθ' οὓς ὁμωμοκότες κ.τ.λ.] Pollux: ὁ δ' ὄρκος ἦν τῶν δικαστῶν, περὶ μὲν ὧν νόμοι εἰσι, ψηφιεῖσθαι κατὰ τοὺς νόμους, περὶ δὲ ὧν μὴ εἰσι, γνώμη τῆ δικαιοσύνη (VIII 122). See Dr Hager in *Journal of Philology*, vi 10.

27. δοκεῖ ὁ Σόλων] A favourite rhetorical device, to remind the dicasts of the solemnity and high authority of the law they administer.

953 συκοφαντεῖσθαι ὑμᾶς. τοῖς μὲν γὰρ ἀδικουμένοις τὰ πέντε ἔτη ἱκανὸν ἠγήσατ' εἶναι εἰσπράξασθαι· κατὰ δὲ τῶν ψευδομένων τὸν χρόνον ἐνόμισε σαφέστατον ἔλεγχον ἔσεσθαι. καὶ ἅμα^ε ἐπειδὴ ἀδύνατον ἔγνω ὃν τοὺς τε συμβάλλοντας καὶ τοὺς μάρτυρας αἰεὶ ζῆν, τὸν νόμον ἀντὶ τούτων ἔθηκεν, ὅπως μάρτυς εἴη[†] τοῦ δικαίου τοῖς ἐρήμοις. *sc. ἀδικομένων τῶν*

^ε Bekk. καὶ ἅμα καὶ Z et Voemel cum Σ.

[†] μαρτυρησείη Voemel (μαρτυρησεὶ ἡ Σ).

τοῖς ἀδικουμένοις...τῶν ψευδομένων] i.e. the legal term of five years would be quite sufficient for injured parties to 'recover their rights' if their claim were an honest one, whereas those who set up false claims, (a pointed thrust at the present plaintiff,) would be convicted by the fact that they had allowed the statutable period to elapse without taking action. (ἔλεγχον ἔσεσθαι *sc. si per tot annos tacuissent*. G. H. Schaefer.) τῶν ψευδομένων is sometimes wrongly supposed to imply that as in Roman law there was no statute of limitations against right of recovery of things stolen, (*quod subreptum erit, eius rei aeterna auctoritas esto*), so in Attic law there was none in case of falsehood, i.e. that even after five years a claim based on a false assertion might be disputed. (Telfy, *Corpus iuris Attici* §1587, and K. F. Hermann, *Privatalt.* § 71, 6 = *Rechtsalt.* p. 106 Thalheim.) Here therefore it merely means κατὰ τῶν συκοφαντούντων.

τὰ πέντε ἔτη] The well-known legal term of five years.

τὸν χρόνον—ἔλεγχον] *Lysias Or.* 19 § 61 τῷ χρόνῳ δὲ ὑμεῖς

σαφέστατον ἔλεγχον τοῦ ἀληθοῦς νομίσατε.

τὸν νόμον ἀντὶ τούτων κ.τ.λ.] That is, 'The contracting parties themselves, and the witnesses to that contract, could not live for ever; and therefore the legislator laid down the law, with its limit of time, designing that, in lieu of living witnesses, the destitute should find therein a deathless witness on the side of right.'

§§ 28—32. Plaintiff's probable reply anticipated. *Surely he will not ask his audience to resent the defendant's marriage with the plaintiff's mother. Among bankers, there are many precedents for such an arrangement, and on grounds of expediency, as the only means of keeping up the business, Pasion acted prudently in directing that Phormion should marry his widow and thereby binding him more closely to his own household.*

As to the point of honour, 'you may turn up your nose at Phormion's marrying into your family, but remember that in high character, he is more like your father than you are.'

That the marriage was directed by Pasion is not only expressly proved by the will, but is in-

- 28 Θαυμάζω τοίνυν ἔγωγ', ὃ ἄνδρες δικασταί, τί ποτ' ἐστὶν ἂ πρὸς ταῦτ' ἐπιχειρήσει λέγειν Ἀπολλόδωρος οὕτοσί. οὐ γὰρ ἐκεῖνό γ' ὑπέιληφεν, ὡς ὑμεῖς, μηδὲν ὀρώντες εἰς χρήματα τοῦτον ἠδικημένον, ὀργισθ' ὅτι τὴν μητέρ' ἔγημεν αὐτοῦ Φορμίω. οὐ γὰρ ἀγνοεῖ τοῦτο, οὐδ' αὐτὸν λέληθεν, οὐδ' ὑμῶν πολλοὺς, ὅτι Σωκράτης ὁ τραπεζίτης ἐκεῖνος, παρὰ τῶν κυρίων ἀπαλλαγεῖς ὥσπερ ὁ τούτου πατήρ, ἔδωκε Σατύρῳ
- 29 τὴν ἑαυτοῦ γυναῖκα, ἑαυτοῦ ποτὲ γενομένῳ. ἕτερος Σωκλῆς τραπεζιτεύσας ἔδωκε τὴν ἑαυτοῦ γυναῖκα Τιμοδήμῳ τῷ νῦν ἔτ' ὄντι καὶ ζῶντι, γενομένῳ ποτὲ αὐτοῦ^ε. καὶ οὐ μόνον ἐνθάδε ταῦτα ποιοῦσιν οἱ περὶ τὰς ἐργασίας ὄντες ταύτας, ὃ ἄνδρες Ἀθηναῖοι, ἀλλ' ἐν Αἰγίνῃ ἔδωκε Στρυμόδωρος Ἑρμαίῳ τῷ ἑαυτοῦ οἰκέτῃ τὴν γυναῖκα, καὶ τελευτησάσης ἐκείνης ἔδωκε πάλιν

^ε ἑαυτοῦ Ζ.

ferentially concluded from the plaintiff's own admission; for on his mother's death he permitted her two children by Phormion to share her property equally with himself and Pasicles, her two children by Pasion, and thus allowed the legality of this second marriage.

28. θαυμάζω κ.τ.λ.] Or. 37 § 44 ἔγωγε, ὃ τι ποτ' ἐρεῖ πρὸς ὑμᾶς, θαυμάζω.

τί ποτ' ἐστὶν ἂ] Cf. note on 54 § 13.

μηδὲν ὀρώντες] i.e. ἦν καὶ μηδὲν ὀράτε. Goodwin, *Moods and Tenses*, § 52, 1.

παρὰ τῶν κυρίων ἀπαλλαγεῖς ὥσπερ ὁ τούτου πατήρ] A very close parallel. The banker referred to, like the plaintiff's father, had himself been a slave once, had been set free by his masters, and had given his wife in marriage to one who

was formerly his slave. Cf. § 43 fin. and § 48 ἐγένετο Πασίων Ἀρχεστράτου. [On ἐκεῖνος see Or. 40 § 28.]

29. ὄντι καὶ ζῶντι] Who is still 'alive and in being.' The redundancy is intended to strengthen the emphasis. Cf. De Corona § 72 τὴν Μυσῶν λείαν καλουμένην τὴν Ἑλλάδα οὖσαν ὀφθῆναι ζώντων καὶ ὄντων Ἀθηναίων.

τελευτησάσης...ἔδωκε τὴν θυγατέρα] After the will had been made, the wife apparently died before the husband and the latter then gave his daughter in marriage to his former servant. The first ἔδωκε therefore must mean, 'directed in his will that, after his own death, his widow should marry Hermaeus.' M. Dareste, however, supposes that there is no reference to any will. He holds

τὴν θυγατέρα τὴν ἑαυτοῦ. καὶ πολλοὺς ἂν ἔχοι τις εἰπεῖν τοιούτους. εἰκότως· ὑμῖν μὲν γὰρ, ὦ ἄνδρες 30 Ἀθηναῖοι, τοῖς γένει πολίταις οὐδὲ ἐν πλήθος χρημάτων ἀντὶ τοῦ γένους καλόν ἐστιν ἐλέσθαι· τοῖς δὲ τοῦτο μὲν δωρεὰν ἢ παρ' ὑμῶν ἢ παρ' ἄλλων τινῶν λαβοῦσι, τῇ τύχῃ δ' ἐξ ἀρχῆς ἀπὸ τοῦ χρηματίσασθαι καὶ ἐτέρων πλείω κτήσασθαι^h καὶ αὐτῶν τούτων ἀξιοθεῖσι, ταῦτ' ἐστι φυλακτέα. διόπερ Πασίων ὁ 954 πατὴρ ὁ σὸς οὐ πρῶτος οὐδὲ μόνος, οὐδ' αὐτὸν ὑβρίζων οὐδ' ὑμᾶς τοὺς υἱεῖς, ἀλλὰ μόνην ὄρων σωτηρίαν τοῖς ἑαυτοῦ πράγμασιν, εἰ τοῦτον ἀνάγκη ποιήσειεν οἰκείου ὑμῖν, ἔδωκε τὴν ἑαυτοῦ γυναῖκα μητέρα δ' ὑμετέραν τούτῳ. πρὸς μὲν οὖν τὰ συμφέροντα ἐὰν ἐξετάζῃς, 31

^h καὶ ἐτέρων πλείω κτήσασθαι *om.* Huettner *cum* A¹r.

that the woman had either been divorced from her husband, or was not his lawful wife.

30. ὑμῖν...τοῖς γένει πολίταις κ.τ.λ.] A compliment to the audience, designed to smooth the way for what might otherwise prove an invidious reference to the money-making of bankers in general and to the wealth of Pasion in particular. 'For you, gentlemen of Athens, you who are citizens by birth, it is discreditable to prize any amount of money, however large, more highly than that honourable birth (lit. 'no amount of wealth is honourable for you to accept in place of your free birth'); but those who (like Pasion) have received the rights of citizenship as a free gift either from yourselves or from others, and who, thanks in the first instance to their good fortune, were deemed worthy of the selfsame privileges, by reason of having prospered in money-making and

acquired more wealth than their neighbours, must do their best to preserve their pecuniary advantages.'

The sense is, 'though it would be wrong for those who are citizens by birth to prefer wealth to citizenship, it would also be unreasonable for those who are citizens by adoption to be careless of the wealth which has gained them that very honour and privilege.'

αὐτὸν ὑβρίζων κ.τ.λ.] Disgracing, outraging, casting contempt on, himself and his family. Though you threatened Phormion with a *γραφὴ ὑβρεως* for marrying your mother (Or. 45 § 3—4), your father was guilty of no *ὑβρις* to his family in arranging for that marriage.

ἀνάγκη] *Necessitate*, 'by a family tie.' Isocr. ad Dem. 10, Lys. 32 § 5.

ὑμῖν...ὑμετέραν] 'You and yours.' 'Your family.' Cf. Or. 55 § 5, n.

καλῶς βεβουλευμένον αὐτὸν εὐρήσεις· εἰ δὲ πρὸς γένους δόξαν ἀναίνει^ι Φορμίωνα κηδεστήν, ὅρα μὴ γελοῖον ἢ σὲ ταῦτα λέγειν. εἰ γάρ τις ἔροιτό σε, ποῖόν τιν' ἠγεῖ^ι τὸν πατέρα τὸν σεαυτοῦ^κ εἶναι, χρηστὸν εὖ οἶδ' ὅτι φήσεις ἄν. πότερον οὖν οἶει μᾶλλον εοικέναι τὸν τρόπον καὶ πάντα τὸν βίον Πασίῳνι, σαυτὸν ἢ τουτονί; ἐγὼ μὲν γὰρ εὖ οἶδ' ὅτι τοῦτον.

32 εἶθ' ὅς ἐστιν ὁμοιότερος σοῦ τῷ σῷ πατρὶ, τοῦτον, εἰ τὴν μητέρα τὴν σὴν ἔγημεν, ἀναίνει^ι; ἀλλὰ μὴν ὅτι γε δόντος καὶ ἐπισκήψαντος τοῦ σοῦ πατρὸς ταῦτ' ἐπράχθη, οὐ μόνον ἐκ τῆς διαθήκης ἔστιν ἰδεῖν, ὧ ἄνδρες Ἀθηναῖοι, ἀλλὰ καὶ σὺ μάρτυς αὐτὸς γέγονας. ὅτε γὰρ τὰ μητρῶα πρὸς μέρος ἡξίους νέμεσθαι, ὄντων παίδων ἐκ τῆς γυναικὸς Φορμίῳνι τούτῳ, τότε ὠμολόγεις κυρίως δόντος τοῦ πατρὸς τοῦ σοῦ κατὰ τοὺς νόμους αὐτὴν γεγαμησθαι. εἰ γὰρ αὐτὴν εἶχε λαβὼν ἀδίκως ὅδε μηδενὸς δόντος, οὐκ ἦσαν οἱ παῖδες κληρο-

^ι ἀναίνει Ζ.^ι Σ. ἠγγῆ Ζ.^κ Σ. σαντοῦ Ζ.

31. πρὸς γένους δόξαν] Sc. σίῳνι.
βλέπων.

ἀναίνει] 'Disdain,' 'scorn,' 'disown,' 'turn up your nose at' in family pride. Harpocr. ἀναίνεσθαι κοινῶς μὲν τὸ ἀρνεῖσθαι, ἰδίως δὲ ἐπὶ τῶν κατὰ τοὺς γάμους ...λέγεται. Δημ. ἐν τῇ ὑπὲρ Φορμίῳνος παραγραφῇ.—κηδεστήν in general a relation by marriage, here used of the stepfather.

σὲ ταῦτα λέγειν] Notice the emphatic pronoun.

[ποῖον—πότερον. In Greek the difference between the direct and the indirect question (*qualem putas*, and *qualem putes*) cannot be expressed from the want of 'subjunctivity.' P.] πότερον being probably masculine, a comma (omitted in Dindorf's text) has been added after Πα-

σίῳνι.

32. δόντος κ. ἐπισκήψαντος] By your father's special grant and injunction.

πρὸς μέρος] 'Share and share alike.' § 8, ἀντιμοιρεῖ νέμειν, νέμεσθαι. On παίδων...Φορμίῳνι see note on τὸ τέταρτον μέρος infr.

οὐκ ἦσαν κληρονόμοι] The proposition is categorically, not conditionally stated, 'then the children were not heirs; and if they were not heirs, then they had no share in the property.' The right of inheritance was confined to the children born ἐξ ἀστῆς καὶ ἐγγυητῆς γυναῖκος Isae. de Ciron. § 19, pro Euphil. § 9. Dem. Or. 57 § 53 ἐξῆν τούτοις (τοῖς συγγενέσι) εἰ νόθος ἢ ξένος ἦν ἐγὼ, κληρονόμοις εἶναι τῶν ἐμῶν πάντων. Arist.

νόμοι, τοῖς δὲ μὴ κληρονόμοις οὐκ ἦν μετουσία τῶν ὄντων. ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ λέγω μεμαρτύρηται τῷ¹ τὸ τέταρτον μέρος λαβεῖν καὶ ἀφεῖναι τῶν ἐγκλημάτων ἀπάντων.

Κατ' οὐδὲν τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, δίκαιον 33
οὐδὲν ἔχων εἰπεῖν ἀναιδεστάτους λόγους ἐτόλμα λέγειν
955 πρὸς τῷ διαιτητῇ, περὶ ὧν προακηκοέναι βέλτιόν ἐσθ' ὑμᾶς, ἓνα μὲν τὸ παράπαν μὴ γενέσθαι διαθήκην, ἀλλ' εἶναι τοῦτο πλάσμα καὶ σκευώρημα ὄλον, ἕτερον δ' ἔνεκα τούτου πάντα ταῦτα συγχωρεῖν τὸν πρὸ τοῦ

¹ addidit Reiske.

Aves, 1640—73. (K. F. Hermann *Privatalt.* § 29, 5 = p. 253 Blümner, and § 57, 2 = *Rechtsalt.* p. 7 Thalheim.)

τὸ τέταρτον μέρος] The property is divided into four parts, one of which is taken by Apollodorus, another by his brother Pasicles. The other two go to the children of the second marriage, who must have been two in number.

ἀφεῖναι τῶν ἐγκλ.] § 3 ἀφεθεῖς, § 25 ἀφείς κ. ἀπαλλάξας, n.

§§ 33—35. Anticipation of plaintiff's arguments, continued. He will impudently assert (1) that his father made no will and that the document produced was a forgery; and (2) that the reason why he forbore to press the charge at the proper time was that defendant promised to pay him a high rent.

In answer to (1), if there was no will, how came the plaintiff to succeed to the lodging-house which he holds in accordance with the terms of the will? In answer to (2), it is in evidence that after the termination of the defendant's lease, the plaintiff let the business to others; had

the plaintiff any lawful claim on the defendant, he ought certainly to have brought it forward at the time of the subsequent lease.

33. εἰπεῖν...λέγειν] Almost identical in meaning and used, as often, for variety of expression. Phil. II § 11, ταῦθ' ἂ πάντες μὲν αἰεὶ γλιχονται λέγειν, ἀξίως δ' οὐδεὶς εἰπεῖν δεδύνηται. Isocr. ad Dem. § 41 and Paneg. § 11 n.

πλάσμα κ. σκευώρημα ὄλον] 'A figment and a forgery from beginning to end.' Hesych. σκευώρημα· πλάσμα, κακουργία, κατασκευή, τὸ γινόμενον κατασκευάσμα εἰς βλάβην, and *id.* σκευωρία· κατασκευή. Pollux x 15 τάχα δ' ἀπὸ τούτων (sc. σκευῶν) καὶ ἡ σκευοποιία καὶ ἡ σκευωρία καὶ τὸ ἐσκευοποιημένον πρᾶγμα, ὡς Ἰσσαῖος ἐν τῷ περὶ τοῦ Ἀρχεπόλιδος κλήρου· διαθηκῶν δὲ τεττάρων ὑπ' αὐτῶν ἐσκευοποιημένων.

In Or. 45 § 42 Apollodorus himself, in criticising the διαθήκη, concludes with the words πάντα πεπλασμένα καὶ κατεσκευασμένα ἐλέγχεται. Cf. *ib.* 29 πλάσμα ὄλον ἐστὶν ἡ διαθήκη, and 41 § 24 σκευώρημα.

τὸν πρὸ τοῦ χρόνον] 'During

- χρόνον καὶ οὐχὶ δικάζεσθαι, ὅτι μίσθωσιν ἤθελεν αὐτῷ φέρειν Φορμίων πολλὴν καὶ ὑπισχνεῖτο οἴσειν· ἐπεὶ δ' οὐ ποιεῖ ταῦτα, τηνικαῦτα, φησὶ, δικάζομαι.
- 34 ὅτι δὲ ταῦτ' ἀμφότερ', εἰὰν λέγη, ψεύσεται καὶ τοῖς ὑφ' ἑαυτοῦ πεπραγμένοις ἐναντία ἐρεῖ, σκοπεῖτε ἐκ τῶνδ'. ὅταν μὲν τοῖνυν τὴν διαθήκην ἀρνήται, ἐκ τίνος τρόπου πρεσβεῖα λαβὼν τὴν συνοικίαν κατὰ τὴν διαθήκην ἔχει, τοῦτ' ἐρωτᾷτ'^m αὐτόν. οὐ γὰρ ἐκεῖνό γ' ἐρεῖ, ὡς ὅσα μὲνⁿ πλεονεκτεῖν τόνδ' ἔγραψεν ὁ πατήρ, κύρια
- 35 ἐστὶ τῆς διαθήκης, τὰ δ' ἄλλα ἄκυρα. ὅταν δ' ὑπὸ τῶν τοῦδε ὑποσχέσεων ὑπάγεσθαι φῆ, μέμνησθ' ὅτι μάρτυρας ὑμῖν παρεσχήμεθα, οἱ χρόνον πολὺν τοῦδ' ἀπηλ-

^m ἐρωτᾷτε Z.

ⁿ ὡς ἂ μὲν Huettner (ωσαμὲν Σ *prima manu*); ὅσα μὲν Voemel.

the former period.' πρὸ τοῦ sometimes spelt as one word *προτοῦ*.

οὐχὶ δικάζεσθαι] See Shilleto on Thuc. i p. 153.

μίσθωσιν φέρειν] We have frequently had μίσθωσιν in the sense of 'lease'; we here find it used like μισθωμα for 'rent' (§§ 36, 51). Or. 28 § 12 ἀποδέδωκε τὴν μίσθωσιν followed by λαβὼν τὴν πρόσοδον.

34. πρεσβεῖα] By right of primogeniture (39 § 29). Pollux: πρεσβεῖά ἐστι γέρα τὰ τοῖς πρεσβυτέροις δεδομένα. The recognition of any such right seems quite exceptional in Attic law. See Hermann's *Rechtsalt.* p. 54 Thalheim.

τὴν συνοικίαν] "It should be observed that the Attic language distinguishes between dwelling-houses (*οἰκίαι*) and lodging-houses (*συνοικίαι*); accidentally indeed a dwelling-house might be let out for lodgings, and a lodging-house have been inhabited by the proprietor himself" (Boeckh, *Publ. Econ.* i 90).

Apoll. may have already had a household of his own and his father may therefore have assigned him a *συνοικία*. (A. Schaefer *Dem. u. s. Zeit.* iii 2, 133.) Cf. § 6 ἐπὶ *συνοικίαις*, n.

35. ὑποσχέσεων] He will tell you, perhaps, that Phormion promised to pay a good rent (*ὑπισχνεῖτο* § 33), and so for a long time he withheld further action.

χρόνον πολὺν] 'For a long time' (ten years as appears by § 37), acc. of duration of time, to be taken with *μισθωταὶ ἐγίγοντο*. Kennedy seems to be mistaken in taking it with *τοῦδ' ἀπηλλαγμένου* and translating 'who, long after the defendant's retirement, took a lease.' On the contrary, the new lease must have been granted *not long after* the defendant's connexion with the business ended, as eighteen years elapsed from the division of the property to the date of the speech, and the first eight belong to Phormion's lease and the last ten to the later

λαγμένου μισθωταὶ τούτοις ἐγίγνοντο τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου. καίτοι τόθ', ὅπηνίκα ἐμίσθωσεν ἐκείνοις, τῶδ' ἐγκαλεῖν παραχρήμα ἐχρήν, εἶπερ ἀληθὴ ἦν ὑπὲρ ὧν τότ' ἀφείς νῦν τούτῳ δικάζεται. ὡς τοίνυν^ο ἀληθὴ λέγω, καὶ πρεσβεῖά τέ τὴν συνοικίαν ἔλαβε κατὰ τὴν διαθήκην καὶ τῶδε οὐχ ὅπως ἐγκα-⁷⁰λεῖν ᾤετο δεῖν, ἀλλ' ἐπήνει, λαβὲ τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

"Ἴνα τοίνυν εἰδῆτε, ὦ ἄνδρες Ἀθηναῖοι, ὅσα χρήματ' ³⁶ ἔχων ἐκ τῶν μισθώσεων καὶ ἐκ τῶν χρεῶν ὡς ἀπορῶν καὶ πάντα ἀπολωλεκῶς ὀδυρεῖται^π, βραχέα ἡμῶν ⁹⁵⁶ ἀκούσατε. οὗτος γὰρ ἐκ μὲν τῶν χρεῶν ὁμοῦ τάλαντ' εἴκοσιν εἰσπέπρακται ἐκ τῶν γραμμάτων ὧν ὁ πατήρ κατέλιπεν^α, καὶ τούτων ἔχει πλέον^ρ ἢ τὰ ἡμίση· πολ-

^ο Σ. τοίνυν ταῦτ' Ζ.

^π Bekk. ὀδύρεται Ζ et Bekker st. cum FΣΦ.

^α Bekk. κατελείπεν Ζ cum Σ.

^ρ πλέον Bekk. πλείον Ζ cum Σ. πλείω FΦ.

lease of Xenon, &c (cf. §§ 37, 19, 12). The general sense is this:

We have proved that, after Phormion had given up the bank, others became and long remained lessees (§ 13) of it. Apollodorus ought, the moment they took it, to have looked after his dues, and seen that all his money was in the business. But he made no claim at all, nay even thanked Phormion for his good services in the management.

§§ 36—42. *The plaintiff will complain that he is utterly destitute and ruined. You must know then that, from the debts due to his father and the rents due to himself, he has received more than forty talents.*

Oh, but he has lavishly spent

his money in the public service on trierarchal and choragic charges! On the contrary, all that he gave on his own account after the property was divided, barely amounted to twenty minae. Even assuming his boasted liberality to be true, that is no reason for giving the defendant's property to the plaintiff, and thus reducing the former to poverty, while we see the latter squandering his money in his customary manner.

36. μισθώσεων] 'Rents.' Cf. § 33 μίσθωσιν φέρειν, η.

ὀδυρεῖται] 21 § 186 ὀδυρεῖται καὶ πολλοὺς λόγους καὶ ταπεινοὺς ἐρεῖ.

εἰσπέπρακται ἐκ τ. γραμ.] § 21 ἐκ ποίων γραμμάτων, η.

37 λῶν γὰρ τὰ μέρη τὸν ἀδελφὸν ἀπεστέρει^s. ἐκ δὲ τῶν μισθώσεων, ὀκτὼ μὲν ἐτῶν ἂ Φορμίων εἶχε τὴν τράπεζαν, ὄγδοῦντα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, τὸ ἥμισυ τῆς ὅλης μισθώσεως· καὶ ταῦτ^t ἐστὶ δέκα τάλαντα καὶ τετταράκοντα μναῖ· δέκα δ' ἐτῶν μετὰ ταῦτα, ὧν ἔμισθωσαν ὕστερον Ξένωνι καὶ Εὐφραίῳ καὶ Εὐφροني καὶ

38 Καλλιστράτῳ, τάλαντον^u τοῦ ἐνιαυτοῦ ἐκάστου. χωρὶς δὲ τούτων, ἐτῶν ἴσως εἴκοσι τῆς ἐξ ἀρχῆς νεμηθεί-

^s Z et Dindf. et Voemel cum Σ. ἀποστέρει Bekk. ἀποστερῶν A¹r omisso γὰρ. ^t ταῦτα Z.

^u καὶ δισχιλίαις sine causa addidit Voemel.

ἀπεστέρει.] ‘Was continually defrauding’ his brother of his shares in many of the debts.

37. τὴν τράπεζαν] The bank alone is mentioned, but it must not be forgotten that Phormion had a lease of the shield-manufactory as well.

ὄγδοῦντα μνᾶς] The share of Apollodorus, eighty minae, is half the annual rent of the whole business, the shield-manufactory and the bank. Consistently with this, the whole rent, as stated in § 51, Or. 45 § 32, is 2 talents and 40^m (i. e. 160^m) per annum. Of this (as appears from § 11) one talent was paid for the shield-manufactory, and one talent and 40^m for the bank.

Εὐφραίῳ] In Or. 49 πρὸς Τιμόθεον § 44, Phormion and Euphraeus are mentioned by Apollodorus, as having paid from Pasion’s bank certain sums of money to persons named by Timotheus. Like Phormion, Euphraeus had risen from a subordinate position, to be one of the lessees of the bank. Cf § 14 ἐλευθέρους ἀφείσαν, n.

τάλαντον] This is the rent of the shield-manufactory alone,

as appears from § 11 τὸ (ἀσπιδοπηγέϊον) τάλαντον ἔφερον. It is this rent alone that is here referred to. Xenon and his partners paid a total sum of 2^t 40^m for the whole business, consisting of the manufactory and the bank. The rent of the manufactory (1^t) belonged to Apollodorus, that of the bank to Pasicles (1^t 40^m). The rent thus paid for the whole business was the same as that which had been paid by Phormion (τοῦ ἴσου ἀργυρίου, § 12). It is from not understanding this, that Voemel was led to conjecture τάλαντον καὶ δισχιλίαις, i. e. 1^t 20^m = 80^m = the sum paid by Phormion to Apollodorus. But it was only the total rent that was the same in both cases; the way in which it was divided between the brothers was different.

38. ἐτῶν ἴσως εἴκοσι] In § 19 the interval is more strictly stated at eighteen years. It has been suggested by Mr A. Wright that it is here put at ‘nearly 20’ to help the audience to follow the arithmetic. If so, the item ἐνείματο will become 10^t, though it is really less; and the half of the item εἰσεπράξατο may be put

σης οὐσίας, ἧς αὐτὸς ἐπεμελείτο, τὰς προσόδους, πλέον ἢ μνᾶς τριάκοντα. ἐὰν δ' ἅπαντα συνθῆτε, ὅσα ἐνείματο, ὅσα εἰσεπράξατο, ὅσ' εἴληφε μίσθωσιν, πλέον ἢ τετταράκοντα τάλαντα εἴληφὼς φανήσεται, χωρὶς ὧν οὗτος εὖ πεποίηκε, καὶ τῶν μητρώων, καὶ ὧν ἀπὸ τῆς τραπέζης ἔχων οὐκ ἀποδίδωσι πένθ' ἡμιταλάντων καὶ ἑξακοσίων δραχμῶν. ἀλλὰ νῆ Δία ταῦθ' ἢ πόλις 39 εἴληφε, καὶ δεινὰ πέπονθας πολλὰ καταλελειουργη-

at 10^t, though it is really more. But the total would remain the same.

τῆς ἐξ ἀρχῆς κ.τ.λ.] See § 11. Apollodorus had chosen the shield-manufactory; and the rents of it, under his own management, are now reckoned as part of his general income.

πλέον ἢ τετταράκοντα τάλαντα]

ἐνείματο more than 30^m
for eighteen years =
more than 540^m =
more than 9^t

εἰσεπράξατο 20^t; ἔχει
πλέον ἢ τὰ ἡμίση or
more than 10^t, say 11

εἴληφε μίσθωσιν from
Phormion for the
bank and manufac-
tory 80^m for eight
years = 10 40^m
from

Xenon, &c., for the
manufactory alone,
1^t for ten years = 10

Total more than 40^t 40^m

ὧν οὗτος εὖ πεπ.] Referring probably to Phormion's free gift of 3000 dr. (§ 15).—τῶν μητρώων, a fourth part of his mother's property (§ 32). Otherwise we must understand it of an occasional *bonus* for the good-will of the bank: and to this ἐπῆνει might refer in § 35.

πένθ' ἡμιταλάντων] Two and a-half talents, not four and a-half as Jerome Wolf and Kennedy translate it (which would require πέμπτου ἡμιταλάντου). The plaintiff's unpaid debt of 156^m is with a bitter emphasis mentioned last in the list of his resources.

39. ἀλλὰ νῆ Δία] Introducing a supposed rejoinder on the opposite side. 'Oh! but he will say, All this wealth has been received, in fact, not by him, but by the city.' Cf. Or. 54 § 34 n.

καταλελειουργηκῶς] You make out that you are cruelly wronged, after having *lavishly spent*, (as it were) 'liturgised away,' your money in the public service. For this use of *κατα-* cf. Isaeus Or. 5 § 43 οὔτε γὰρ εἰς τὴν πόλιν οὔτε εἰς τοὺς φίλους φανερὸς εἶ δαπανηθεὶς οὐδέν. ἀλλὰ μὴν οὐδὲ καθιπποτρόφηκας, οὐ γὰρ πώποτε ἐκτῆσω ἵππον πλειονος ἄξιον ἢ τριῶν μνῶν οὔτε κατεφευγοτρόφηκας, ἐπεὶ οὐδὲ ζεύγος ἐκτῆσω ὄρικόν οὐδεπώποτε ἐπὶ τοσοῦτοις ἀγροῖς καὶ κτήμασιν.

[So *καταχαρίζεσθαι*, 'to give away in presents,' *καταχρησθαι*, *καταπροδοῦναι*, *καταδωροδοκεῖν*, *καταπολιτεύεσθαι*, *καθυποκρίνεσθαι* *τινα*, De Fals. Leg. §§ 362, 389. P.]

κώς. ἀλλ' ἂ μὲν ἐκ κοινῶν ἐλειτούργεις τῶν χρημάτων, σὺ καὶ ὁ ἀδελφὸς ἀνηλώσατε· ἂ δ' ὕστερον, οὐκ ἔστιν ἄξια μὴ ὅτι δυοῖν ταλάντων προσόδου, ἀλλ' οὐδ' εἴκοσι μνῶν. μηδὲν οὖν τὴν πόλιν αἰτιῶ, μηδ' ἂ σὺ τῶν ὄντων αἰσχροῦ καὶ κακῶς ἀνήλωκας, ὡς ἡ πόλις
 40 εἴληφε, λέγε. ἵνα δ' εἰδῆτε, ὧ ἄνδρες Ἀθηναῖοι, τό τε πλήθος τῶν χρημάτων ὧν εἴληφε, καὶ τὰς λειτουργίας ἃς λελειτούργηκεν, ἀναγνώσεται ὑμῖν καθ' ἐν ἑκάστου. λαβέ μοι^ν τὸ βιβλίον τουτὶ καὶ τὴν 957 πρόκλησιν ταυτηνὶ^w καὶ τὰς μαρτυρίας ταυτασί.

BIBLION^x. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

41 Τοσαῦτα μὲν τοίνυν χρήματα εἴληφὸς καὶ χρέα πολλῶν ταλάντων ἔχων, ὧν τὰ μὲν παρ' ἐκόντων, τὰ δ' ἐκ τῶν δικῶν εἰσπράττει, ἂ τῆς μισθώσεως ἔξω τῆς τραπέζης καὶ τῆς ἄλλης οὐσίας, ἣν κατέλιπε Πασίων, ὠφείλετο ἐκείνῳ καὶ νῦν παρειλήφασιν οὗτοι, καὶ τοσαῦτ' ἀνηλωκῶς ὅσ' ὑμεῖς ἠκούσατε, οὐδὲ πολλοστὸν μέρος τῶν προσόδων, μὴ ὅτι τῶν ἀρχαίων, εἰς τὰς λει-

^v Bekk. om. Z cum Σ.

^w Bekk. ταύτην Z et Voemel cum Σr. ^x addidit Reiske.

ἐκ κοινῶν κ.τ.λ.] i. e. You cannot take the sole credit for the sums spent before the property was divided. Half of that expenditure came out of your brother's money (§ 8).

ἐλειτούργεις] See *Dict. Antiq.*; also F. A. Wolf's preface to *Dem. Leptines* (Beatson's trans. p. 40 sqq.) and Boeckh's *Public Econ.*, Book 4 §§ 10—15. Among the *λειτουργίαι* were the *τριηραρχία* and *χορηγία* referred to in § 41 fin.

μὴ ὅτι...ἀλλ' οὐδ'] See note on Or. 34 § 14, and cf. 27 § 7; 43 § 9; 56 § 39. (Madvig's

Gk. Syntax, § 212, and Kühner's *Ausf. Gram. der Griechischen Sprache*, II § 525, 4.)

δυοῖν] i. e. more than 40 for about 20 years, § 38.

μηδὲν—αἰτιῶ] 'Don't accuse the state then,' 'don't be charging the state with being the cause and object of your lavish expenditure.'

41. ἂ τῆς μισθ. κ.τ.λ.] The order is ἂ (ἔξω τῆς μισθώσεως τῆς τραπέζης κ.τ.λ.) ὠφείλετο τῷ Πασίῳ καὶ ἂ οὗτοι (sc. Apoll. and Pasicles) παρειλήφασιν.

οὐδὲ πολλοστὸν κ.τ.λ.] 'The smallest fraction of his income,

τουργίας, ὅμως ἀλαζονεύσεται καὶ τριηραρχίας ἐρεῖ καὶ χορηγίας. ἐγὼ δ', ὡς μὲν οὐκ ἀληθῆ ταῦτ' ἐρεῖ, 42 ἐπέδειξα, οἶμαι^γ μέντοι, κὰν εἰ ταῦτα πάντ' ἀληθῆ λέγοι, κάλλιον εἶναι καὶ δικαιοτέρον τόνδε ἀπὸ τῶν αὐτοῦ λειτουργεῖν ὑμῖν ἢ τούτῳ δόντας τὰ τούτου, μικρὰ τῶν πάντων αὐτοὺς μετασχόντας, τόνδε μὲν ἐν ταῖς ἐσχάταις ἐνδείαις ὄραν, τοῦτον δ' ὑβρίζοντα καὶ εἰς ἅπερ εἶωθεν ἀναλίσκοντα. ἀλλὰ μὴν περί γε τῆς 43

^γ Σ. οἶμαι Z (cf. § 18).

not to say (I needn't say) of his capital.' This explains *τοσαῦτ', tantilla*.

ἀλαζονεύσεται τριηραρχίας ἐρεῖ] 'Will in bragging terms talk of his trierarchal (and choragic) expenses.' Of such ἀλαζονεία there are instances again and again in Dem. and the other orators, e.g. Midias p. 566 seqq. Or. 38 § 25 τάχα τοίνυν ἴσως καὶ τριηραρχίας ἐρούσι καὶ τὰ ὄντα ὡς ἀνηλώκασιν εἰς ὑμᾶς, 20 § 151. In Or. 45 § 85, Apollodorus appeals to his father's trierarchies, and in § 66 taunts one of Phormion's witnesses, Stephanus, with having never done the smallest service to the state by τριηραρχία or χορηγία or any other λειτουργία whatever.

The plaintiff had really some good reason for being proud of his trierarchal services. Among the orations of Dem. a speech has come down to us (Or. 50, πρὸς Πολυκλέα) in which Apollodorus states that being appointed trierarch (in B.C. 362) he gave his vessel a splendid equipment and liberal wages to the crew; and for more than seventeen months traversed the Hellespont and other waters, often encountering perilous storms, in the public service.

42. τόνδε ἀπὸ τῶν αὐτοῦ] 'That he should *continue* to serve you from his own resources,' &c.—pointing to Phormion, who is also referred to in τόνδε μὲν two lines further on.—τούτῳ δόντας τὰ τούτου, i.e. handing over to the plaintiff (Ap.) the property of the defendant (Phormion). For a similarly ambiguous use of demonstrative pronouns, see above, § 12 n.

τόνδε μὲν . . . τοῦτον δ'] Defendant and plaintiff respectively.

εἰς ἅπερ εἶωθεν ἀναλ.] A deliberately vague innuendo, which is partly justified by the details of a subsequent section (§ 45). In Or. 45 § 77, Apollodorus says with some self-complacency: τῷ μέτριος κατὰ πάσας τὰς εἰς ἔμαντόν δαπάνας εἶναι πολὺ τούτου καὶ τοιοῦτων ἐτέρων εὐτακτότερον ζῶν ἂν φανεῖν.

§§ 43—48. *As to the defendant's wealth, and his having got it from your father's estate, you should be the last man in all the world to use such language. The defendant, like your own father, made his money by faithful and honest service, by personal integrity of character, and by that good credit and fair fame which in the commercial world is the best kind of capital.*

εὐπορίας, ὡς ἐκ τῶν τοῦ πατρὸς τοῦ σοῦ κέκτηται, καὶ ὧν ἐρωτήσῃ ἐφησθα, πόθεν τὰ ὄντα κέκτηται Φορμίων^z, μόνῳ τῶν ὄντων ἀνθρώπων σοὶ τοῦτον οὐκ ἔνεστ'^a εἰπεῖν τὸν λόγον. οὐδὲ γὰρ Πασίων ὁ σὸς πατὴρ ἐκτήσαθ' εὐρῶν οὐδὲ τοῦ πατρὸς αὐτῶ^b παραδόντος, ἀλλὰ παρὰ τοῖς αὐτοῦ κυρίοις Ἀντισθένοι καὶ Ἀρχεστράτῳ τραπεζιτεῦνσι πείραν δούς ὅτι χρη-
44 στός ἐστι καὶ δίκαιος, ἐπιστεύθη. ἔστι δ' ἐν ἐμπορίῳ

^z καὶ ὧν ἐρωτήσῃ—Φορμίων *secludenda esse censet Huettner.*

^a Σ. ἐνεστιν Ζ.

^b αὐτῶ Ζ.

Again, if you claim the defendant's property on the ground that he was once your father's slave, then Antimachus, a surviving son of your father's former master, might go still further, and claim your own estate and the defendant's too; yet, though now in a humble position, far below his merits and his proper rank, he does not go to law with them, because they have money to spend while he is in destitution.

Instead of making the most of the good fortune by which your father and the defendant alike received the rights of freedom and citizenship, you are heartless enough to cast contumely on yourself and your parents, and on Athens too, for granting her privileges to people like yourself; you are senseless enough to forget that, by insisting that the defendant's former servitude should not be brought up against him, we are really speaking on your side and defending your own position. The rule, that you lay down to the detriment of the defendant, can as easily be advanced against yourself by the house to which your father was once a slave.

43. ὧν = περὶ τούτων δ.
πόθεν—κέκτηται Φ.] In Or. 45 § 80, Apollodorus unfairly says of Phormion, εἰ ἦν δίκαιος, πένης ἂν ἦν τὰ τοῦ δεσπότου διοικήσας. ...Had I dragged you off to prison as a thief caught in the act, with your present property clapped upon your back, ...and had I, supposing you denied the theft, demanded the name of the person from whom you received it, to whose name would you have appealed? οὐτε γὰρ σοὶ πατὴρ παρέδωκεν, οὐθ' εὔρες.

ἐκτήσαθ' εὐρῶν] 'Got it by good luck' as a 'godsend,' a 'windfall,' a εὖρημα or Ἐρμαῖον. Passages like the present and the parallel from Or. 45 § 81 (given above) should be quoted in Liddell and Scott (v. εὐρίσκω, 4).

Ἀρχεστράτῳ] Isocr. Trapez. § 43, Πασίων δὲ Ἀρχεστρατόν μοι ἀπὸ τῆς τραπέξης ἐπὶ τὰ ταλάντων ἐγγυητὴν παρέσχεν. (A. Schaefer *Dem. u. s. Zeit* III 2, 131.)

δίκαιος] 'Honest.'

ἐπιστεύθη] 'Won his master's confidence,' 'was trusted.' So in Or. 50 § 56, Apollodorus describes the wide extent of his

καὶ χρήμασιν ἐργαζομένοις ἀνθρώποις φιλεργὸν δόξαι
καὶ χρηστὸν εἶναι τὸν αὐτὸν θαυμαστὸν ἠλίκον. οὐτ'
οὖν ἐκείνω τοῦθ' οἱ κύριοι παρέδωκαν, ἀλλ' αὐτὸς ἔφν
958 χρηστὸς, οὔτε τῷδε ὁ σὸς πατήρ· σὲ γὰρ ἂν πρότερον
τοῦδε χρηστὸν ἐποίησεν, εἰ ἦν ἐπ' ἐκείνω. εἰ δὲ τοῦτο
ἀγνοεῖς, ὅτι πίστις ἀφορμὴ πασῶν ἐστὶ μεγίστη πρὸς
χρηματισμὸν, πᾶν ἂν ἀγνοήσεις. χωρὶς δὲ τούτων

father's connexion and good credit (ἐπεξενῶσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι).

44. ἐν ἐμπορίῳ καὶ χρήμασιν ἐργαζομένοις] Kennedy: 'In the commercial world and the money-market it is thought a wonderful thing, when the same person shows himself to be both honest and diligent.' The order is: θαυμαστὸν ἠλίκον ἐστὶν ἀνθρώποις ἐργαζομένοις ἐν ἐμπορίῳ καὶ (ἐργαζομένοις) χρήμασι, τὸν αὐτὸν δόξαι φιλεργὸν καὶ εἶναι χρηστὸν, i.e. a reputation for business-like habits and a really honest character, when combined in the same person, have a striking influence in the money-market and the commercial world.

ἐν should be taken with ἐμπορίῳ only, the construction being (as G. H. Schaefer notices) ἐργάζεσθαι ἐν ἐμπορίῳ with the preposition, and ἐργάζεσθαι χρήμασιν without. Cf. Or. 57 § 31, ἐν τῇ ἀγορᾷ ἐργάζεσθαι with Or. 33 § 4, where τῆς ἐργασίας τῆς κατὰ θάλατταν is followed by τούτοις (sc. τοῖς χρήμασι) πειρῶμαι ναυτικοῖς ἐργάζεσθαι. [ἐν ἐμπορίῳ may also be taken by itself, 'the mart it is thought a great matter,' &c. P.]

δόξαι is slightly contrasted with εἶναι, the outward reputation for business habits with the inward and inherent honesty

(cf. ἔφν χρηστὸς below). G. H. Schaefer says, 'dativus regitur a verbo δόξαι. Deinde τὸ ἐξῆς est: τὸν αὐτὸν δόξαι εἶναι φιλεργὸν καὶ χρηστὸν.' But the position of δόξαι and εἶναι makes against this construction. Cf. Aesch. Theb. 592, οὐ γὰρ δοκεῖν ἄριστος ἀλλ' εἶναι θέλει.

It is the combination of δόξαι φιλεργὸν and εἶναι χρηστὸν that is insisted on, because a forger, for instance, might have all the air of a painstaking man of business without being really χρηστὸς: and vice versa, a man of unblemished morale might never get a name for financial skill, or even ordinary business-like habits.

οὔτε—οὔτε] 'As then his masters did not bequeath to Pasion this virtue, but his honesty was natural, so neither did Pasion bequeath it to Phormion; for he would have made you honest rather than him, had it been in his power.' The philosophic questions, εἰ διδακτὸς ἀρετῆ, and τὸ φύσει ἅπαν κράτιστον, are perhaps held in view, though it is seldom that Demosthenes enters on the region of philosophy. P.]

πίστις ἀφορμὴ] 'If you don't know that for money-making the best capital of all is good credit; then, what do you know?' ἀφορμὴ] Cf. § 12 n.

χωρὶς...πατρὶ] An accidental

πολλά καὶ τῷ σῷ πατρὶ καὶ σοὶ καὶ ὄλως τοῖς ὑμετέ-
 ροις πράγμασι Φορμίων γέγονε χρήσιμος. ἀλλ', οἶμαι,
 τῆς σῆς ἀπληστίας καὶ τοῦ σοῦ τρόπου τίς ἂν δύναιτο
 45 ἐφικέσθαι; καὶ δῆτα θαυμάζω πῶς οὐ λογιζεῖ^ο πρὸς
 σεαυτὸν^α ὅτι ἔστιν Ἀρχεστράτῳ τῷ ποτὲ τὸν σὸν
 πατέρα κτησαμένῳ υἱὸς ἐνθάδε, Ἀντίμαχος, πρᾶπτων
 οὐ κατ' ἀξίαν, ὃς οὐ δικάζεται σοι οὐδὲ δεινά φησι
 πᾶσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν λέλυσ-
 σαι, τὴν δ' ἐκδέδωκας ἑταίραν, καὶ ταῦτα γυναικ' ἔχων
 ποιεῖς, καὶ τρεῖς παῖδας ἀκολούθους περιάγεις^ο, καὶ ζῆς

^ο λογίξῃ Z cum Σ.

^α Bekk. ἐαυτὸν Z cum Σ (cf. *Isocr. ad Dem.* § 14 n.).

^ο περιάγει Cobet, *infra*.

iambic line. See *Isocr. Paneg.* § 170 n.—Ὁν ὑμετέροις, cf. § 30 fin.

ὄλως] 'Generally.'

ἀλλ', οἶμαι... τίς ἂν δύναιτο;]

Questions of this kind are often best rendered by a negative sentence. 'But no one, I feel, can come up to your covetousness and your general character.' 'Your covetousness &c, no language, I take it, can adequately describe.' ἐφικέσθαι, sc. τῷ λόγῳ. Or. 14 § 1, ὣν οὐδ' ἂν εἰς ἀξίως ἐφικέσθαι τῷ λόγῳ δύναιτο. For the genitive, cf. *Isocr.* 4 § 187; 9 § 49; 10 § 13.

45. χλανίδα] 'A mantle,' a light upper garment of fine wool. *Aeschin. Timarch.* § 131, τὰ κομψὰ ταῦτα χλανίσκια καὶ τοὺς μαλακοὺς χιτωνίσκους. *Dem.* Or. 21 § 133 (of Midias), χλανίδασ καὶ κυμβία καὶ κάδους ἔχων. *Pollux vii* 48: χλανίς δὲ ἱμάτιον λεπτόν. K. F. Hermann, *Privatalt.* § 21 p. 177 ed. Blümner.

λέλυσαι] 'Redeemed' from her owner. *Herod.* ii 135 (of Rhodôpis), ἀπικομένη κατ' ἐργασίαν ἐλύθη χρημάτων μεγάλων ὑπ' ἀνδρὸς Μυτιληναίου. *Ar. Vesp.*

1353, ἐγὼ σε... λυσάμενος ἔξω παλλακῆν. *Dem. Or.* 48 § 53, ἑταίραν λυσάμενος ἔνδον ἔχει. [It may be remarked that Demosthenes is particularly fond of using perfect passives in the medial sense. P.]

ἐκδέδωκας] Given away in marriage. Or. 59, κατὰ Νεαίρας, § 73, (ἢ ἀνθρωπος) ἐξεδόθη τῷ Διονύσῳ γυνῆ, and Or. 27 § 69, θυγατέρας παρὰ σφῶν αὐτῶν ἐκδόντας.

καὶ ταῦτα γυναικ' ἔχων.....] 'And that too, when you have a wife.' In his speech πρὸς Πολυκλέα, *Apollodorus*, contrary to what might be expected from the present passage, speaks in affectionate terms of his wife. Or. 50 § 61, ἡ γυνὴ ἦν ἐγὼ περὶ πλείστου ποιούμαι ἀσθενῶς διέκειτο πολὺν χρόνον.

παῖδας ἀκολούθους] Or. 21 (Midias) § 158, τρεῖς ἀκολούθους ἢ τέτταρας αὐτὸς ἄγων διὰ τῆς ἀγορᾶς σοβεῖ. *Xen. Mem.* i 7 § 2, σκεύη τε καλὰ ἐκέρτηται καὶ ἀκολούθους πολλοὺς περιάγονται. (Becker, *Charicles* iii 21, ed. 2 = p. 362 of Eng. ed.)

ἀσελγῶς^f ὥστε καὶ τοὺς ἀπαντῶντας αἰσθάνεσθαι, αὐτὸς δ' ἐκείνος πολλῶν ἐνδεής ἐστιν. οὐδὲ τὸν Φορ- 46
μίων' ἐκείνος οὐχ ὄρα. καίτοι εἰ κατὰ τοῦτ' οἶει σοι
προσῆκειν τῶν τούτου, ὅτι τοῦ πατρός ποτ' ἐγένετο
τοῦ σοῦ, ἐκείνω προσῆκει μᾶλλον ἢ σοί. ὁ γὰρ αὖ σοὺς
πατῆρ ἐκείνων ἐγένετο. ὥστε καὶ σὺ καὶ οὗτος ἐκείνου
γίγνεσθε ἐκ τούτου τοῦ λόγου. σὺ δ' εἰς τοῦθ' ἤκει
ἀγνωμοσύνης ὥσθ' ἂ' προῆκει σοὶ τοὺς λέγοντας
ἐχθροὺς νομίζεις, ταῦτ' αὐτὸς ποιεῖς ἀνάγκην εἶναι
λέγειν, καὶ ὑβρίζεις μὲν σαυτὸν καὶ τοὺς γονέας τεθ- 47
νεώτας, προπηλακίζεις δὲ τὴν πόλιν, καὶ ἂ' διὰ^g τῆς τού-
των φιλανθρωπίας ἀπολαύσας εὔρετο ὁ σοὺς πατῆρ καὶ
μετὰ ταῦτα Φορμίων οὕτοσιν, ταῦτα ἀντὶ τοῦ κοσμεῖν

^f Σ. + οὕτως Ζ.

^g Ζ et Dindf. cum Σ. διὰ om. Bekk. et Voemel; 'διὰ ab interprete aliquo ad verbi (ἀπολαύσας) vim explanandam adscriptum est,' Huettner.

περιάγει] Cobet, after quoting the above passage of Xenophon (to alter *σκεύη καλὰ* into *σκευὴν καλήν*), takes the hint suggested by the last word *περιάγονται*, to propose the middle for the active in the present passage. 'Reponendum est necessario *περιάγει*. Discrimen inter *περιάγω* et *περιάγομαι* tam perspicuum est quam perpetuum. Si quem *circumductamus* spectaturum aliquid, aut omnino si cui damus operam ut circumiens inspiciat aliquid aut agat, eum *περιάγειν* dicimur; sin autem quis quaquam incedit *secum trahit* aliquem, cuius opera officioque utatur, eum *περιάγεσθαι* dicitur, ut herus pedissequos, aut tyrannus satellites.' (*Novae lectiones*, p. 652.)

46. οὐδὲ τὸν Φορμίωνα] 'Nor is Phormio's position unknown to him.' Kennedy. For the

double negation, see on § 22. Though Phormion was once the slave of one who was himself a slave of the father of Antimachus, the latter, who is well aware how Phormion has risen, does not grudge him his success and does not hold himself aggrieved by him. ὄρα, § 50 and 23 § 100 ἤδη δὲ τινα εἶδον. — ἐκείνω, to Antimachus.

ἀγνωμοσύνης] 'Heartlessness,' 'want of proper feeling'; 'churlishness.' Or. 54 § 14, ἀγνώμονας καὶ πικρούς. Or. 14 § 5; 18 §§ 207, 252; 60 § 20. [The polite Greeks had many terms of this kind, ἀγροικία, σκαιότης, ἀμαθία, ἀπαιδενσία, ἀπειροκαλία. P.]

47. ὑβρίζεις ... προπηλακίζεις] Or. 23 § 120, ὧν ὑβρισε καὶ προῦπηλάκισεν, 9, § 60; 18 § 12. κοσμεῖν καὶ περιστέλλειν] 'Adorning and cherishing' the right

καὶ περιστέλλειν, ἵνα καὶ τοῖς δοῦσιν ὡς εὐσχη- 959
 μονέστατα ἐφαίνετο καὶ τοῖς λαβοῦσιν ὑμῖν, ἄγεις εἰς
 μέσον, δεικνύεις, ἐλέγχεις, μόνον οὐκ ὀνειδίζεις οἶον
 48 ὄντα σε ἐποιήσαντο Ἀθηναῖοι. εἶτ' εἰς τοῦθ' ἤκει
 μανίας (τί γὰρ ἂν ἄλλο τις εἴποι;) ὥστ' οὐκ αἰσθάνει^h
 ὅτι καὶ νῦν ἡμεῖς μὲν ἀξιούντες, ἐπειδήπερ ἀπηλλάγη
 Φορμίων, μηδέν' ὑπόλογον εἶναι εἴ ποτε τοῦ σοῦ
 πατρὸς ἐγένετο, ὑπὲρ σοῦ λέγομεν, σὺ δὲ μηδέποτ'
 ἐξ ἴσου σοι γενέσθαι τοῦτον ἀξιῶν κατὰ σαυτοῦ λέ-
 γεις· ἂ γὰρ ἂν σὺ δίκαια σαυτῷ κατὰ τούτου τάξης,
 ταυτὰⁱ ταυθ' ἤξει κατὰ σοῦ παρὰ τῶν τὸν σὸν πατέρα
 ἐξ ἀρχῆς κτησαμένων. ἀλλὰ μὴν ὅτι κακείνος ἦν
 τινῶν, εἶτ' ἀπηλλάγη τὸν αὐτὸν τρόπον ὄνπερ οὗτος
 ἀφ' ὑμῶν, λαβέ μοι ταυτασὶ τὰς μαρτυρίας, ἵως ἐγένε-
 νετο Πασίων Ἀρχεστράτου^j.

^h Σ. αἰσθάνη Ζ.

ⁱ Σ. τὰ αὐτὰ Ζ.

^j-^j 'verba interpolata,' Huettner.

of citizenship. [A metaphor from putting on and gracefully adjusting clothes. Hence he adds *εὐσχημονέστατα*. P.]

ἵνα—ἐφαίνετο] Cf. ὅπως ἠλέγχθη, § 20. Goodwin's *Moods and Tenses*, § 44, 3. Kühner, § 553, 7.

ἄγεις εἰς μέσον κ.τ.λ.] 45 § 16. 'You drag it into public view, point (the finger of scorn) at it, criticize it; and all but taunt Athens with naturalizing (admitting to the freedom of the city) such a character as yourself.'

48. εἰς τοῦθ' ἤκει μανίας] Cf. § 46, εἰς τοῦθ' ἤκει ἀγνωμοσύνης. Madvig *Gk. Syntax*, § 50 ad fin. 27 § 24; 33 § 19; 40 §§ 28, 49, 58; 56 § 3.

μηδέν' ὑπόλογον εἶναι] Lit. 'should not be taken into ac-

count against him,' 'should not detract from his credit.' A metaphor from book-keeping, appropriate in a speech on banking-stock. Lys. 28 § 13, οὐδὲ ἀδίκως τούτοις φημὶ ἂν εἶναι ὑπόλογον τὴν ἐκείνου φυγὴν, *ib.* 4 § 18; Plat. Lach. 189 v.

[Cf. ὁ παράλογος, ὁ κατάλογος, ὁ μετὰμελος, words formed from a primary use of the simple noun governed by the preposition. Translate: 'And now we, in requiring that, as Phormio has left Pasion's service, it should not be remembered against him that he was once Pasion's property, are in fact speaking in your behalf; while you, in demanding that Phormio shall not be put on the same footing as yourself, are speaking against yourself.' P.]

ΜΑΡΤΥΡΙΑΙ.

Εἶτα τὸν σώσαντα μὲν ἐξ ἀρχῆς τὰ πράγματα καὶ 49
πολλὰ χρήσιμον αὐτὸν παρασχόντα τῷ πατρὶ τῷ τού-
του, τοσαῦτα δ' αὐτὸν τοῦτον ἀγαθὰ εἰργασμένον ὅσ'
ὕμεις ἀκηκόατε, τοῦτον οἶεται δεῖν ἐλὼν τηλικαίτην
δίκην ἀδίκως ἐκβαλεῖν^κ. οὐ γὰρ ἄλλο γ' ἔχοις¹ οὐδὲν

^κ ΣτΑ¹. ἐκβάλλειν Ζ.

¹ Bekk. ἔχοι Ζ cum Σ.

§§ 49—52. *The defendant's management of the family property was the very saving of the business, and in this and many other respects he has been a great benefactor to the plaintiff's father and to the plaintiff himself; and yet the latter is now demanding a verdict, which, if granted, will turn the defendant out of house and home, a ruined bankrupt, like those whom we remember. The plaintiff's father, esteeming the defendant more highly than his own son, wisely and prudently left him manager of his leases when he died, besides showing his esteem for him during his lifetime. And that esteem was well deserved, for while the other bankers, to whose losses allusion has just been made, did business on their own account, and therefore had to pay no rent to another, and were nevertheless ruined; the defendant not only paid a rent for the bank but kept up the business for the family of the plaintiff, who, so far from being grateful, takes no account of all this, but even persecutes and calumniates him. Our friend, if for a moment we may call him so, little thinks that honesty is the best policy (as is proved by the defendant's prosperity). The plaintiff at any rate is a case in point; he has (if we are to believe him) lost all his money; had he been*

a man of sound sense he would not have thrown it away.

49. ἐκβαλεῖν] In Or. 45 κατὰ Στεφάνου Α § 70, Apollodorus taunts Stephanus (one of Phormion's witnesses in the present trial) with turning his own uncle out of his patrimony for arrears of debt: τοκίζων...ἐξέβαλες ἐκ τῆς πατρῶας οὐσίας.

οὐ γὰρ ἄλλο γ'] i.e. If heavy damages are granted the plaintiff, the penalty will prove none other than (will not fall short of) turning the defendant out of house and home. 'Examine the nature of his property closely and you will soon see whose it really is, and into whose hands it will fall, if (which heaven forbid) the court is misled into condemning him.' The property consists largely of deposits at the bank, invested in different speculations, and incapable of being realized at a moment's notice. If Phormion has to pay damages, there will at once be a run upon his bank; his customers, to secure their property before it is paid away in damages, will claim their deposits, and Phormion, like others before him, will be bankrupt.

ἔχοις οὐδὲν ἄν] Notice the strong affinity or attraction that ἄν has to the negative; which is the reason of the common hyperthesis οὐκ ἄν οἶμαί σε ποιεῖν,

ἂν ποιῆσαι. εἰς μὲν γὰρ τὰ ὄντα εἰ βλέπεις ἀκριβῶς,
 ταυθ^m εὐρήσεις ὧν ἔστιν, ἐὰνⁿ, ὁ μὴ γένοιτο, ἐξαπατη-
 50 θῶσιν οὗτοι. ὀρᾶς τὸν Ἀριστόλοχον^o τὸν Χαριδήμου;
 ποτ' εἶχεν ἀγρὸν, εἰτά γε νῦν πολλοί· πολλοῖς γὰρ
 ἐκεῖνος ὀφείλων αὐτὸν ἐκτήσατο. καὶ τὸν Σωσίνομον
 καὶ τὸν Τιμόδημον καὶ τοὺς ἄλλους τραπεζίτας, οἱ,
 ἐπεὶ διαλύειν ἐδέησεν οἷς ὄφειλον, ἐξέστησαν ἀπάν-
 51 τω των τῶν ὄντων. σὺ δ' οὐδὲν οἶει δεῖν σκοπεῖν οὐδ' 960
 ὧν ὁ πατήρ σου πολλῶ βελτίων ὧν καὶ ἄμεινον σου^p
 φρονῶν πρὸς ἅπαντ' ἐβουλεύσατο· ὅς, ὦ Ζεῦ καὶ θεοί,
 τοσοῦτῳ τοῦτον ἠγείτο σου πλείονος ἄξιον εἶναι καὶ
 σοὶ καὶ ἑαυτῷ^q καὶ τοῖς ὑμετέροις πράγμασιν, ὥστε
 ἀνδρὸς ὄντος σου τοῦτον, οὐ σὲ τῶν μισθώσεων κατέ-
 λιπεν ἐπίτροπον καὶ τὴν γυναῖκα ἔδωκε καὶ ζῶν αὐτὸν
 ἐτίμα,^r δικαίως, ὦ ἄνδρες Ἀθηναῖοι· οἱ μὲν γὰρ ἄλλοι
 τραπεζῖται μισθωσιν οὐ φέροντες, ἀλλ' αὐτοὶ ἑαυτοῖς^s

^m Bekk. αὐτὰ Ζ cum FΣΦΒ.

ⁿ ΣrA¹. ἂν Ζ.

^o Σ. Ἀρχίλοχον Ζ.

^p add. ΣA¹. om. Ζ.

^q Σ. αὐτῷ Ζ.

^r ἐτίμα.

Ζ.

^s Σ. αὐτοῖς Ζ.

&c. Goodwin's *Moods and Tenses*, § 42, 2, n., and Short's *Order of Words in Attic Greek Prose*, p. xciv (3) (b).

50. Ἀριστόλοχον] In 45 § 64 Stephanus is described as cringing to Aristolochus the banker in his prosperity, and deserting his son when in great distress after Aristolochus was ruined and had lost all his property.

ποτ' εἶχεν ἀγρὸν κ.τ.λ.] 'He had a farm once,'—'he owned some land in his day; that land has passed to many owners now.' ποτὲ (*olim*) is seldom found in so emphatic a position.—πολλοί (sc. ἔχουσι τὸν ἀγρὸν).

διαλύειν] sc. (τούτους) οἷς ὄφειλον 'to settle with, to satisfy, their creditors.' Cf. Or. 37 § 12

note; 30 § 8; 34 § 40; 49 § 29. ἐξέστησαν] 'Had to give up,' 'were ousted from.' 45 § 64, ἀπώλετο καὶ τῶν ὄντων ἐξέστη. Apatur. § 25, Pantaen. 37 § 49, Antiphon 2 B § 9, τῆς οὐσίας ἐκστησόμενος, Ar. Acharn. 615 (K. F. Hermann *Privatalt.* § 71, 3 = *Rechtsalt.* p. 106 Thalheim). ἐκστηῆαι (like ἐκπεσεῖν) would answer as a passive to ἐκβαλεῖν. The special word for becoming bankrupt is ἀνασκενάζεσθαι (contrasted with κατασκενάζεσθαι to establish a bank); Dem. Apatur. 33 § 9, τῆς τραπέζης ἀνασκενασθείσης. Or. 49 § 68, τοῖς ἀνεσκευασμένοις τῶν τραπεζιτῶν. Cf. *infra* § 57, ἀνατρέψαι, n.

51. ἑαυτοῖς ἐργ. πάντες ἀπώλοντο] This frequent failure of

ἐργαζόμενοι πάντες ἀπόλονται, οὗτος δὲ μίσθωσιν φέ-
ρων δύο τάλαντα καὶ τετταράκοντα μνᾶς ὑμῖν ἔσωσε
τὴν τράπεζαν. ὦν ἐκείνος μὲν χάριν εἶχε, σὺ δ' οὐδένα 52
ποιεῖ λόγον, ἀλλ' ἐναντία τῇ διαθήκῃ καὶ ταῖς ἀπ'
ἐκείνης[†] ἀραῖς γραφείσαις ὑπὸ τοῦ σοῦ^u πατρὸς ἐλαύ-
νεις, συκοφαντεῖς, διώκεις^v. ὦ βέλτιστε, εἰ οἶόν τε
σὲ τοῦτ' εἰπεῖν, οὐ παύσει^w, καὶ γνώσει^x τοῦθ', ὅτι
πολλῶν χρημάτων τὸ χρηστὸν εἶναι λυσιτελέστερόν
ἔστι; σοὶ γοῦν, εἴπερ ἀληθῆ λέγεις, χρήματα μὲν
τοσαῦτ' εἰληφότι πάντ' ἀπόλωλεν, ὡς φῆς^y. εἰ δ'
ἦσθα ἐπεικῆς, οὐκ ἂν ποτε αὐτὰ ἀνήλωσας.

[†] ἐπ' ἐκείνης coniecit Huettner, exsecrationes istas extra testamen-
tum inscriptas esse arbitratus.

^u add. ΣrA¹. om. Z.

^v Z et Dindf. et Voemel cum ΣrA¹. διώκεις, συκοφαντεῖς Bekk.

^w παύση Z.

^x γνώση Z.

^y φῆς rectius scribi docuit Cobet ad Hyper. or. ed. ii p. 108
(Huettner).

bankers on their own account, if truly stated, seems remarkable.

δύο τάλ. κ.τ.λ.] As rent for the bank and the manufactory. Cf. §§ 11, 37; 45 § 32.

52. ταῖς ἀραῖς] Solemn imprecations on those who violated the conditions of the will.

ἐλαύνεις, συκοφαντεῖς, διώκεις] 'Harass, calumniate, prosecute.' διώκεις comes rather feebly after the stronger word συκοφαντεῖς, and in spite of the authority of the Paris ms there is much to be said for the old order retained by Bekker: ἐλαύνεις, διώκεις, συκοφαντεῖς. The latter is to some extent confirmed by the Rhetorician Tiberius (περὶ σχημάτων, c. 31), who refers to this passage as an instance of a figure of speech described by another Rhetorician (Alexander,

περὶ σχημάτων, c. 10) as ἐπὶ πλεῖον ἐπὶ τοῦ αὐτοῦ νοήματος ἐπιμονὴ μετὰ αὐξήσεως. His words are: ἐπιμονὴ δὲ ἔστιν ὅταν τις πλείω ῥήματα ὀρθᾶ ἀλλήλοις ἐπιβάλλῃ, ὡς ἐν τῷ ὑπὲρ Φορμίω-
νος πρὸς τὸν Ἀπολλόδωρον, ἀγεις (sic), ἐλαύνεις, διώκεις, συκοφαντεῖς. δεινῶσιν τὸ σχῆμα ἔχει.

οὐ παύσει κ.τ.λ.] 'Do stop, and make up your mind to this truth, that being honourable pays a man better than being very wealthy.'

πολλῶν χρημάτων τὸ χρηστὸν λυσ.] Honesty is the best policy. The collocation of the cognate words χρήματα and χρηστὸς may be only accidental.

σοὶ γοῦν] 'In your case, at any rate.' From this primary sense γοῦν often takes the secondary meaning 'for instance.'

53 Ἄλλ' ἔγωγε μὰ τὸν Δία καὶ θεοὺς πανταχῇ σκοπῶν οὐδὲν ὀρώ, διότι^z ἂν σοὶ πεισθέντες τουδὶ καταψηφίσαιντο. τί γάρ; ὅτι πλησίον ὄντων τῶν ἀδικημάτων ἐγκαλεῖς; ἀλλ' ἔτεσι καὶ χρόνοις ὕστερον αἰτιᾶ. ἀλλ' ὅτι τοῦτον ἀπράγμων ἦσθα τὸν χρόνον; ἀλλὰ τίς

^z Bekk. διὰ τί Z et Voemel (διατὶ ΣτΑ¹).

§§ 53—57. *But though (for sake of argument) the speaker has pointed out the results which would ensue, if the defendant were condemned, he protests that he can see no ground for such condemnation. Plaintiff brings forward his charge ever so many years after the alleged offence, and meanwhile has found time for incessant litigation, especially in public causes where his personal interests were but partially affected. While prosecuting so many others, how came he to let Phormion alone? The presumption is that the plaintiff was never really wronged by him, and that the claim now put in, so long after the event, is utterly false and groundless.*

To meet these charges, it will be much to the purpose to produce evidence of the bad character of the plaintiff, and also of the integrity and kindly feeling, the generosity and the public services of the defendant.

53. ἀλλ'...ἀλλ'...ἀλλά] For this use of ἀλλά cf. Dem. 18 § 24, τί γάρ καὶ βουλόμενοι μετεπέμπεσθ' ἂν αὐτοὺς ἐν τοσοῦτῳ τῷ καιρῷ; ἐπὶ τὴν εἰρήνην; ἀλλ' ὑπῆρχεν ἅπασιν. ἀλλ' ἐπὶ τὸν πόλεμον; ἀλλ' αὐτοὶ περὶ εἰρήνης ἐβουλεύεσθε (Huettner).

ἔτεσι καὶ χρόνοις ὕστερον] i. e. 'years and ages later,' 'ever so many years after,' 'years and years later.' The phrase is curious and is perhaps rightly

suspected by Seager, who suggests the emendation ἔτεσι καὶ χρόνοις τοσοῦτοις ὕστερον (*Classical Journal* 1829, Vol. 30, No. 59, p. 109). It is defended by G. H. Schaefer, who refers to Pausanias x 17 § 3, ἔτεσι δὲ ὕστερον μετὰ τοὺς Διβύας ἀφίκοντο. We may compare Lysias 3 § 39, οἱ μὲν ἄλλοι...ὀργιζόμενοι παραχρῆμα τιμωρεῖσθαι ζητοῦσιν, οὗτος δὲ χρόνοις ὕστερον. But the two phrases ἔτεσι ὕστερον and χρόνοις ὕστερον, however defensible in themselves separately, do not apparently occur in combination elsewhere; and it may therefore be worth while to suggest either ἀλλὰ τοσοῦτοις χρόνοις ὕστερον, or simply ἀλλὰ χρόνοις ὕστερον just as in the passage of Lysias above quoted. In the latter case ἔτεσι καὶ may be a corruption of a marginal gloss ἔτεσι κ' i. e. 'twenty years,' a transcriber's note explaining χρόνοις by referring to § 26, παρεληλυθότων ἐτῶν πλέον ἢ εἴκοσι, and § 38, ἐτῶν ἰσως εἴκοσι. (Mr Shilleto suggests as a parallel to ἔτεσι καὶ χρόνοις, Cic. Verr. II 3 § 21, tot annis atque adeo saeculis tot.)

ἀπράγμων] Often used of quiet and easy-going people who shrink from litigation. Or. 40 § 32, ἀπράγμων καὶ οὐ φιλόδικος, 42 § 12. Cf. ἀπραγμοσύνη and its opposites, πολυπράγμων, πολυπραγμονεῖν, πολυπραγμοσύνη. So also, in the next line, πράγματα

οὐκ οἶδεν ὅσα πράγματα πράττων οὐ πέπαυσαι, οὐ μόνον δίκας ἰδίας διώκων οὐκ ἐλάττους ταυτησι, ἀλλὰ δημοσία συκοφαντῶν καὶ κρίνων τινάς;^a οὐχὶ Τιμομάχου κατηγορεῖς; οὐχὶ Καλλίππου τοῦ νῦν ὄντος

^a τινας οὔ; Dobree.

πράττων, as is clear from the rest of the sentence, refers to the plaintiff's incessant litigation. Or. 27 § 1, οὐδὲν ἂν ἔδει δικῶν οὐδὲ πραγμάτων. 54 § 24.

κατηγορεῖς] Young students are apt to confound the imperfect κατηγορεῖς with the present κατηγορεῖς.

κρίνων τινάς] The force of the sentence is much improved by Dobree's almost certain emendation κρίνων τινας οὔ; οὐχὶ Τιμομάχου κατηγορεῖς; κ.τ.λ., where the loss of οὔ would be accounted for by οὐχὶ following immediately after. Or. 37 § 14, πολλὰ δεηθέντος καὶ τί οὐ ποιήσαντος; 47 § 43, δεομένων πάντων καὶ ἱκετευνόντων καὶ τίνα οὐ προσπεμπόντων; *Felicissime restituit*, says Shilleto of Dobree (F. L. § 231).

Τιμομάχου κ.τ.λ.] All these prosecutions are almost certainly connected with the naval operations extending over the plaintiff's protracted trierarchy of seventeen months in the Thracian Waters (in B. C. 362—361). In his speech against Polyclus (Or. 50) *Autocles*, *Meno*, and *Timomachus* are mentioned as successive commanders of the fleet (§§ 12—14 and Or. 23 § 104—5); and while he there speaks in general terms of the maladministration of all the commanders (§ 15 τὰ τῶν στρατηγῶν ἄπιστα), he uses the strongest language against *Timomachus*, mainly for his reasonable collusion with an

exiled relative, Callistratus. (See next note.) *Timomachus* was condemned, and put to death (*Schol. on Aeschin. 1 § 56*).

Καλλίππου τοῦ νῦν... ἐν Σικελίᾳ] The context shows that this Callippus (who must not be confounded with the *plaintiff* in the speech of Apollodorus πρὸς Κάλλιππον Or. 52) can be none other than 'the son of Philon, of the deme Aexone,' who, at the request of *Timomachus*, conveyed *Callistratus* on board an Athenian trireme to *Thasos* from his place of exile in *Macedonia*, after *Apollodorus* had stoutly refused to allow his own vessel to be used for so unlawful a purpose (Or. 50 § 46—52). He may, with great probability, be identified with *Plato's* pupil of that name, with whom another of *Plato's* disciples, the well-known *Dion* of *Syracuse*, lived on friendly terms at *Athens* on his banishment from *Sicily* in B. C. 366. In August 357, *Dion*, with a small force, started from the island of *Zacynthus*, and during the absence of *Dionysius* the younger, made a triumphal entry into *Syracuse*, attended by his friend *Callippus*, who was one of his captains, and is described by *Plutarch* as λαμπρὸς ἐν τοῖς ἀγῶσι καὶ διάσημος. Ultimately, in the spring or summer of 353, *Dion* was assassinated by *Callippus*, who after usurping the government for thirteen months, was defeated

ἐν Σικελίᾳ; οὐ πάλιν Μένωνος; οὐκ Ἀυτόκλους; οὐ 961
 54 Τιμοθέου; οὐκ ἄλλων πολλῶν; καίτοι πῶς ἔχει λόγον
 σὲ, Ἀπολλόδωρον ὄντα, πρότερον τῶν κοινῶν, ὧν μέρος
 ἡδικοῦ, δίκην ἀξιούν λαμβάνειν, ἢ τῶν ἰδίων ὧν νῦν
 ἐγκαλεῖς, ἄλλως τε καὶ τηλικούτων ὄντων, ὡς σὺ φῆς;
 τί ποτ' οὖν ἐκείνων κατηγορῶν τόνδ' εἶας; οὐκ ἡδι-
 κοῦ, ἀλλ', οἶμαι, συκοφαντεῖς νῦν. ἡγοῦμαι τοίνυν,
 ὧ ἄνδρες Ἀθηναῖοι, πάντων μάλιστα εἰς τὸ πρᾶγμα

in battle by a brother of the younger Dionysius, and after wandering about in Sicily and establishing himself in Southern Italy, at Rhegium, was shortly after (probably in B.C. 350) himself killed by his friends, with the very sword (as the story runs) with which he murdered Dion. (Plutarch, *Dion*, 17, 28—58; Plato *Ep.* vii; Diodorus xvi *passim*.)

In the present passage Apollodorus is stated to have prosecuted Callippus τοῦ νῦν ὄντος ἐν Σικελίᾳ. The Athenian fleet (with Callippus) reached Athens from the Thracian coasts in Feb. 360, and Callippus started for Syracuse from Zacynthus in Aug. 357, so that the plaintiff's prosecution of him cannot well be placed later than the spring of 357, though it may have been two years earlier in 359, and in any case about the same time as his prosecutions of Timomachus, Meno and Autocles. (A. Schaefer *Dem. u. s. Zeit*, III 2, 158—161.)

If the present speech is as late as 350 B.C., Callippus was still alive; at any rate, the news of his death cannot have reached Athens. *Introd.* p. xxix.

οὐ Τιμοθέου;] The charge against Timotheus, the celebrated Athenian general, may have been

connected with his defeat at Amphipolis B.C. 360. At first sight the allusion might be explained of the plaintiff's private suit (Or. 49) against the general for sums borrowed from Pasion (cf. above § 36 n.); but the context appears to point expressly to public indictments (*δημοσίᾳ* in the previous sentence and τῶν κοινῶν in the next); though this reason is not conclusive, as the first part of the previous sentence refers to *δίκαι ἴδιαι*.

54. Ἀπολλόδωρον ὄντα κ.τ.λ.] *aculeatum et amarum dictum*. Reiske. It is not like Apollodorus, it is inconsistent with his true character, to be going out of his way to undertake public prosecutions where his own interests were but partially affected, to the neglect of private suits in which, as he says, he has a direct and an important concern. If Apollodorus had been really wronged by Phormion, he would have prosecuted him before. For the emphatic reference to the name, cf. Cicero, ad Atticum v 2, '...cum Hortensius veniret et infirmus et tam longe et Hortensius.'

μέρος] 'In part alone,' as only one aggrieved person, out of many. So τὸ μέρος in Herod. i 120, ii 173, and μέρος τι in Thuc. iv 30.

εἶναι τούτων μάρτυρας παρασχέσθαι· τὸν γὰρ συκοφαντοῦντα ἀεὶ τί χρὴ νομίζειν νῦν ποιεῖν; καὶ νῆ Δί¹⁾ 55
 ἔγωγε, ὦ ἄνδρες Ἀθηναῖοι, νομίζω πάνθ' ὅσα τοῦ
 τρόπου τοῦ Φορμίωνός ἐστι σημεῖα καὶ τῆς τούτου
 δικαιοσύνης καὶ φιλανθρωπίας, καὶ ταῦτ' εἰς τὸ
 πρᾶγμ' εἶναι πρὸς ὑμᾶς εἰπεῖν. ὁ μὲν γὰρ περὶ πάντ'
 ἄδικος τάχ' ἂν, εἰ τύχοι, καὶ τοῦτον ἠδίκει· ὁ δὲ μη-
 δένα μηδὲν ἠδίκηκώς, πολλοὺς δὲ εὖ πεποιηκώς ἐκὼν
 ἐκ τίνος εἰκότως ἂν^c τρόπου τοῦτον μόνον ἠδίκει τῶν
 πάντων; τούτων τοίνυν τῶν μαρτυριῶν ἀκούσαντες
 γνώσεσθε τὸν ἑκατέρου τρόπον.

ΜΑΡΤΥΡΙΑΙ.

Ἴθι δὴ λέγε^d καὶ τὰς πρὸς Ἀπολλόδωρον τῆς πο- 56
 νηρίας.

ΜΑΡΤΥΡΙΑΙ.

Ἄρ' οὖν ὅμοιος οὐτοσί, σκοπεῖτε. λέγε.

ΜΑΡΤΥΡΙΑΙ.

Ἀνύγνωθι δὴ καὶ ὅσα δημοσίᾳ χρήσιμος τῇ πόλει
 γέγονεν οὐτοσί.

^b Δία Ζ cum Σ.

^c ΣτΑ¹. αν εικότως Ζ.

^d coniecit G. H. Schaefer. om. Ζ cum libris.

πάντων μάλιστ' εἰς τὸ πρᾶγμα] 'Very much to the purpose', 'anything but irrelevant', 57 § 7 εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν. The depositions about to be produced on the general character of plaintiff and defendant, are liable to objection on the ground of their being beside the question. The speaker here meets that objection beforehand.

56. τὰς] sc. μαρτυρίας. 'Testimony to the plaintiff's bad character.'

The four sets of depositions

may probably be grouped as follows:

(1) General evidence of Phormion's good character.

(2) On his opponent's bad character.

(3) On Phormion's generosity to those in need (§ 58, ἀκούετε... οὖν ἐαυτὸν τοῖς δεηθείσι παρέχει).

(4) On Phormion's public benefactions (§§ 56, 57, χρήσιμος τῇ πόλει, and § 58 ad fin.).

ἄρ' οὖν ὅμοιος οὐτοσί, σκοπεῖτε] Look here, upon this picture, and on this.

ΜΑΡΤΥΡΙΑΙ.

57 Τοσαῦτα τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, Φορμίῳν χρήσιμος γεγυώς καὶ τῇ πόλει καὶ πολλοῖς ὑμῶν, καὶ οὐδένα οὔτ' ἰδίᾳ οὔτε δημοσίᾳ κακὸν οὐδὲν εἰργασμένος, οὐδ' ἀδικῶν Ἀπολλόδωρον τουτουῖ, δεῖται καὶ ἰκετεύει καὶ ἀξιοῖ σωθῆναι, καὶ ἡμεῖς συνδεόμεθα οἱ 962 ἐπιτήδειοι ταῦθ' ἑ ὑμῶν. ἐκείνο δ' ὑμᾶς ἀκοῦσαι δεῖ. τοσαῦτα γὰρ, ὦ ἄνδρες Ἀθηναῖοι, χρήμαθ' ὑμῖν ἀνεγνώσθη προσηυπορηκῶς[†] ὅσ' οὔθ' οὔτος οὔτ' ἄλλος

^e legendum fortasse ταῦθ'.

[†] προσευ- Ζ cum Σ.

§ 57 to end. *The defendant not only implores your protection, but claims it as his right. Generous in his benefactions and apart from his actual resources enjoying credit for at least as much besides, he is enabled by means of that good credit to be of advantage, not to himself alone, but to yourselves as well. Do not suffer so worthy, so energetic, so generous a man of business to be ruined by this abominable blackguard. Most of the plaintiff's statements you will simply disregard as baseless calumny, but you must order him to prove either that there was no will (cf. § 33), or that there is some other lease besides that produced on our side (cf. § 9), or that he did not give the defendant a release from all claims (§§ 15, 16), or that the laws allow a claim to be set up when once such a release has been given (§§ 23—5). Challenge him to prove any one of these points, or anything like them. If, for want of such proof, he resorts to ribaldry, don't attend to him, don't allow his loud and shameless assertions to mislead you; but carefully remember what you have*

heard on our side. If so, you will give a verdict which will be true to your consciences, true to the cause of justice. (The clerk shall read you the law and the remaining depositions.)

That is our case, gentlemen: I need not detain you any longer.

57. δεῖται καὶ ἰκετεύει καὶ ἀξιοῖ σωθῆναι] *Requests, implores and claims your protection. Or. 27 § 68, and 57 § 1, δέομαι καὶ ἰκετεύω καὶ ἀντιβολῶ.*

χρήμαθ' ὑμῖν ἀνεγνώσθη προσηυπορηκῶς] *C. R. Kennedy translates: 'It has been read out to you, that he has acquired such a heap of money as neither he nor any one else possesses.' This can hardly be right, particularly as such a blunt assertion of Phormion's affluence would be a very invidious statement for his friends to make, and would not ingratiate him in the eyes of the court. εὐπορεῖν χρήματα (or χρημάτων) has two senses, (1) 'to be well off'; (2) 'to supply money.' 'εὐπορεῖν,' says Lobbeck (*Parerga* p. 595), 'non solum significat abunde habere... sed etiam suppeditare: ἐπικουρίαν ταῖς χρεῖαις ἐξευπορεῖν Plato Legg. xi 153; χρήμαθ' ὑμῖν προσ-*

οὐδεὶς κέκτηται. πίστις μέντοι Φορμίῳνι παρὰ τοῖς εἰδόσι καὶ τοσοῦτων καὶ πολλῶ πλειόνων χρημάτων ἐστὶ, δι' ἧς καὶ αὐτὸς αὐτῶ καὶ ὑμῖν χρήσιμὸς ἐστίν. ἂ μὴ προήσθε^ε, μηδ' ἐπιτρέψητε ἀνατρέψαι τῶ μιαρῶ 58

^ε Bekk. cum A^r. προεισθε prima manu Σ. πρόησθε Z (vulgo et correctus Σ).

ευπορηκῶς Dem. Phorm. 962. Cf. Apat. 894, 14 (= Or. 33 § 7 εὐπορήσειν αὐτῶ δέκα μνᾶς); de reb. Chers. p. 94 (συνευποροῦντας ἐκείνω χρημάτων); Boeot. p. 1019 (= Or. 40 § 36 χρήματα εὐπορήσας); Neaer. 1369, 10; Aeschin. Timarch. p. 121; Lyeurg. Leocr. p. 233; quibus inter se collatis intelligitur, quanta sit utriusque notionis contagio, a Romanis quoque unius verbi *suppetendi* angustiis conclusa.' (See note on Or. 40 § 36, and cf. 33 § 6 τριάκοντα μνᾶς συνευπορήσαι.)

Having regard to the context, we must here take the secondary sense of εὐπορεῖν, and explain the passage as follows: 'The depositions read aloud to you show that the defendant has (lit. he has been recited to you as having) provided you on emergencies with larger sums of money than his own (οὗτος i.e. our friend, the defendant's) or any one else's private fortune amounts to; but then he has *credit*, &c.' The sentence πίστις μέντοι κ.τ.λ. shows how it came to pass that Phormion was enabled, as a capitalist in the enjoyment of extensive credit in the commercial world, to advance sums of money larger than the private resources of any single individual.

πίστις] 'Credit.' Cf. § 44, πίστις ἀφορμὴ κ.τ.λ.

58. ἂ μὴ προήσθε] 'Do not

throw this away,' i.e. 'do not sacrifice these advantages to the interests of the plaintiff.'

μηδ' ἐπιτρέψητε ἀνατρέψαι] Possibly an unintentional collocation of two compounds of τρέπειν. One word, however, might suggest the other. 'Do not suffer this wretch to overturn it,' i.e. overthrow the defendant from his high position and good credit.

[The metaphor is perhaps from overthrowing a fabric of wealth, as in Aesch. Pers. 165, μὴ μέγας πλοῦτος κοίσας οὐδας ἀντρέψῃ ποδὶ ὄλβον ὃν Δαρείος ἔβην οὐκ ἄνευ θεῶν τινός, i.e. 'iniurioso pede prorueret.' P.] In Theb. 1076 the context shows that the metaphor is not from an earthquake, but from the capsizing of a ship, πόλιν μὴ ἀνατραπήναι μηδ' ἀλλοδαπῶν κύματι φωτῶν κατακλυσθῆναι, and the way in which the word is used by the orators proves that they also regarded it as a nautical metaphor: Dem. 9 § 69 ὅπως μηδεὶς ἀνατρέψει (τὸ σκάφος), 19 § 250 οὐχ ὅπως ὀρθὴ πλεῖσεται (ἢ πόλις) προείδετο, ἀλλ' ἀνέτρεψε καὶ κατέδυσε. Aeschin. 3 § 158 πλοῖον ἀνατρέψῃ and τὴν πόλιν ἄρδην ἀνατεροφότα. It is metaphorically applied in Dem. 18 § 296 to the ὅροι τῶν ἀγαθῶν καὶ κανόνες, in 25 Aristog. 1 § 28 to τὰ κοινὰ δίκαια and in § 32 to τὴν πόλιν; in Aeschin. 1 § 187 to τὴν κοινὴν παιδείαν, in § 190 to

τούτῳ ἀνθρώπῳ, μηδὲ ποιήσητε αἰσχροὺν παράδειγμα, ὡς τὰ τῶν ἐργαζομένων καὶ μετρίως ἐθελόντων ζῆν τοῖς βδελυροῖς καὶ συκοφάνταις ὑπάρχει παρ' ὑμῶν λαβεῖν· πολὺ γὰρ χρησιμώτερα ὑμῖν παρὰ τῷδε ὄντα ὑπάρχει. ὁρᾶτε γὰρ αὐτοὶ καὶ ἀκούετε τῶν μαρτύρων, 59 οἶον ἑαυτὸν τοῖς δεθηθεῖσι παρέχει. καὶ τούτων οὐδὲν ἔνεκα τοῦ λυσιτελοῦντος εἰς χρήματα πεποιήκεν, ἀλλὰ φιλανθρωπία καὶ τρόπου ἐπιεικεία. οὐκ οὐν ἄξιον, ὧ ἄνδρες Ἀθηναῖοι, τὸν τοιοῦτον ἄνδρα προέσθαι τούτῳ, οὐδὲ τηνικαῦτα ἐλεεῖν ὅτ' οὐδὲν ἔσται τούτῳ πλέον,

πόλεις; in Deinarchus 1 § 30 to πράγματα ἢ ἴδια ἢ κοινά, in § 88 to τὴν πόλιν (with ἐπιτρέψετε in the previous clause), and in 3 § 4 to ἅπαντα τὰ ἐν τῇ πόλει.

In Liddell and Scott (ed. 6) the phrase ἀνατρέπειν τράπεζαν is explained 'to upset a banker's table, i.e. to make him bankrupt.' The only passage quoted is Dem. 403, 7, where however there is no reference whatever to a bankruptcy, but only to the overturning of a table towards the close of a disorderly banquet. (The reference to Dem. 743, 1 [= Timocr. § 136] in ed. 7 should be to the *Scholium* on that passage, quoted below.)

In Andocides de Mysteriis, § 130, we have a curious passage stating that in Athens there was a story current among the old wives and the little children, that the house of Hipponicus was haunted by an unquiet spirit that overturned his table (Ἰππώνικος ἐν τῇ οἰκίᾳ ἀλιτήριον τρέφει, ὃς αὐτοῦ τὴν τράπεζαν ἀνατρέπει). πῶς οὖν (the orator continues) ἢ φήμη ἢ τότε οὐσα δοκεῖ ὑμῖν ἀποβῆναι; οἰόμενος γὰρ Ἰππώνικος υἱὸν τρέφειν, ἀλιτήριον αὐτῷ ἔτρεφεν, ὃς

ἀνατέτροφεν ἐκείνου τὸν πλοῦτον, τὴν σωφροσύνην, τὸν ἄλλον βιονᾶπαντα. But the only place, so far as I can find, in which the phrase has a distinct reference to bankruptcy is the Scholium on Dem. Timocr. § 136, where δανείσαι τοῖς τραπεζίταις is followed by ἐτυχεν ὕστερον ἀνατραπῆναι τὰς τράπεζας (Baier and Sauppe, *Orat. Att.* II 119, 6, 35). See § 50 ἐξέστησαν, n.

αἰσχρὸν παράδειγμα κ.τ.λ.] 'A disgraceful precedent that the property of men in business, who live respectable lives, may be obtained from you by miscreants and pettifoggers.' Kennedy. ὑπάρχει, 'that the laws allow,' 'that it is a condition of your polity.'

πολὺ γὰρ...ὑπάρχει] Or. 38 § 28 ἃ καὶ ὑμῖν ἔστιν ἐπ' ὠφελείᾳ μείζονι παρ' ἡμῖν ὄντα ἢ παρὰ τούτοις. Lysias Or. 18 §§ 20, 21; 19 § 61; 21 §§ 12—14.

59. τοῦ λυσιτελ. εἰς χρήματα] *Pecuniary* advantage; instead of being placed between the article and participle, as would be most natural, εἰς χρήματα is reserved for a more emphatic position.

ἀλλὰ νῦν ὅτε κύριοι καθέστατε σῶσαι· οὐ γὰρ ἔγωγ' ὀρώ καιρὸν ἐν τίνι ἂν μᾶλλον βοηθήσειέ τις αὐτῶ. τὰ μὲν οὖν πολλὰ ὦν Ἀπολλόδωρος ἐρεῖ, νομίζετ' 60 εἶναι λόγον^h καὶ συκοφαντίας, κελεύετε δ' αὐτὸν ὑμῖνⁱ ἐπιδείξαι ἢ ὡς οὐ διέθετο ταῦθ' ὁ πατήρ, ἢ ὡς ἔστι τις ἄλλη μίσθωσις πλὴν ἧς^j ἡμεῖς δείκνυμεν, ἢ ὡς οὐκ ἀφήκεν αὐτὸν διαλογισάμενος τῶν ἐγκλημάτων ἀπάντων ἃ ἔγνω ὁ κηδεστής ὁ τούτου καὶ οὗτος αὐτὸς συνεχώρησεν, ἢ ὡς διδῶσιν οἱ νόμοι δικάζεσθαι τῶν οὔτω πραχθέντων, ἢ τῶν τοιούτων τι δεικνύναι. ἐὰν 61 δ' ἀπορῶν αἰτίας καὶ βλασφημίας λέγη καὶ κακο- 963 λογιῇ^k, μὴ προσέχετε τὸν νοῦν, μηδ' ὑμᾶς ἢ τούτου κραυγὴ καὶ ἀναίδεια ἐξαπατήση, ἀλλὰ φυλάττετε καὶ

^h λόγους *maluit Reiske.*

ⁱ Bekk. *om. Z et Bekker st. cum Σ ubi per imprudentiam (ut videtur) ὑμῖν in versu extremo praetermissum.*

^j Bekk. ἦν Z *cum Σr (etiam FΦ).*

^k καὶ κακολογῆ *delenda esse existimat Huettner, 'nam κακολογεῖν idem declarat, quod βλασφημίας λέγειν, et verbum satis rarum est apud antiquos scriptores; cf. Lys. 8 § 5, Pseudodem. 25 § 94'.*

καιρὸν ἐν τίνι] Confused between ἐν τίνι καιρῶ, and καιρὸν ἐν ᾧ, κ.τ.λ. Cf. Or. 56 § 24 n., and Plat. Rep. p. 399 E βίου ῥυθμοὺς ἰδεῖν κοσμίου τε καὶ ἀνδρείου τίνες εἰσὶν· οὓς ἰδόντα κ.τ.λ. Cf. Isocr. ad Dem. § 5 συμβουλεύειν, ὦν χρῆ... ὀρέγεσθαι καὶ τίνων ἔργων ἀπέχεσθαι, n.

60. λόγον καὶ συκοφ.] i.e. empty talk and baseless misrepresentation. For λόγος, 'mere talk,' cf. Or. 20 § 101, εἰ δὲ ταῦτα λόγους καὶ φλυαρίας εἶναι φήσεις, ἐκεῖνό γ' οὐ λόγος, 8 § 13 λόγοι καὶ προφάσεις, 20 § 101 λόγους καὶ φλυαρίας. Similarly λόγοι in 30 § 34 and λόγος in 20 § 92.

ἐπιδείξαι] Plaintiff is chal-

lenged to *prove* his statements, not to rest content with vague calumny.

διαλογισάμενος] See § 23.

ἐγκλημάτων ἃ ἔγνω] Claims which were the subject of the award (γνώσις) of Deinias, 'ἃ ἔγνω, quae disceptavit.' G. H. Schaefer. Cf. § 17 init.

δεικνύναι] sc. κελεύετε, 'tell him to *try* if he can show,' &c. To be distinguished from ἐπιδείξαι just above.

61. λέγη] 'Go on talking.' φυλάττετε καὶ μέμνησθε] 'Keep in mind and remember'. Or. 20 §§ 163, 167; 23 § 219 ταῦτα φυλάττετε καὶ μεμνημένοι κάθησθε, 45 § 87.

μέμνησθε ὅσ' ἡμῶν ἀκηκόατε. κὰν ταῦτα ποιῆτε, αὐτοί τ' εὐορκήσετε καὶ τοῦτον δικαίως σώσετε, ἄξιον ὄντα νῆ τὸν Δία καὶ θεοὺς ἅπαντας.

62 Ἀνάγνωθι λαβὼν αὐτοῖς τὸν νόμον καὶ τὰς μαρτυρίας τασδί.

NOMOS. ΜΑΡΤΥΡΙΑΙ.

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν· οἶμαι¹ γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων. ἐξέρα τὸ ὕδωρ.

¹ Σ. οἶομαι Ζ (cf. § 18).

62. τὸν νόμον καὶ τὰς μαρτυρίας] The context does not show what law or what depositions are referred to: possibly another νόμος of the same general purport as that recited before, § 25 (ὄν μὴ εἶναι δίκας), and further evidence to facts or to the defendant's character (ἄξιον ὄντα, § 61).

οὐκ οἶδ' εἰρημένων] The same sentence *verbatim* is found at the close of Or. 20 (Lept.), 38 (Nausimach.), and 54 (Conon); and also at the end of the 7th and 8th speeches of Isaeus.

ὅ τι δεῖ] Not 'what I should say further,' (which would require πλεον), but 'why I should say any more,' 'what need there is for my saying any more.' Similarly in 41 § 25 ἡγοῦμαι μὲν οὐδὲν ἔτι δεῖν πλείω λέγειν, we must be careful to take οὐδὲν before δεῖν and not after λέγειν.

ἐξέρα τὸ ὕδωρ] 'Pour out the water.' See Midias, § 129. (Cf. ἐξερᾶν τοὺς λίθους in Ar. Ach. 341,

and τὰς ψήφους in Vesp. 993.) The only other passage where the phrase is found is at the end of Or. 38, where the *whole* of this short epilogue recurs.

The speaker having concluded his speech within the legal limits of time measured by the κλειψύδρα, pointedly calls on the attendant to empty the 'water-clock' (54 § 36). The rhetorical effect is that the court is reminded that the speaker has spared them a longer speech, and the defendant gets the credit of having so good a cause that the orator does not find it necessary to avail himself of the full time at his disposal.

The result of Phormion's plea is thus stated by Apollodorus Or. 45 § 6, οὕτω διέθηκε τοὺς δικαστὰς ὥστε φωνὴν μηδ' ἠντινοῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλῶν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιωθεῖς, ὡς οὐκ οἶδ' εἴ τις πώποτε ἄλλος ἀνθρώπων, ἀπῆεν βαρέως, ὦ ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ
ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

ΥΠΟΘΕΣΙΣ.

“Οτε Ἀπολλόδωρος ἔκρινε Φορμίωνα τῆς τραπέ-
ζης ἀφορμὴν ἐγκαλῶν, ὁ δὲ τὴν δίκην παρεγράψατο,
ὁ^α Στέφανος μετ’ ἄλλων τινῶν ἐμαρτύρησε Φορμίῳ,
ὡς ἄρα ὁ μὲν Φορμίῳ προὔκαλεῖτο Ἀπολλόδωρον, εἰ
1101 μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν τοῦ 5
πατρὸς Πασίωνος, Φορμίῳ^β παρασχεῖν ἀνοίξαι τὰς
διαθήκας αὐτὰς, ἃς ἔχει καὶ παρέχεται Ἀμφίας,
Ἀπολλόδωρος δὲ ἀνοίγειν οὐκ ἠθέλησεν, ἔστι δὲ ἀντί-
γραφα τὰδε τῶν διαθηκῶν τῶν Πασίωνος. ταύτην
ἐμαρτύρησαν τὴν μαρτυρίαν οἱ περὶ Στέφανον, τοῦ 10

[Δημοσθένους] κατὰ Στεφάνου ψευδομαρτυριῶν α. ‘hanc orationem nobis non videri Demosthenis esse significavimus’ Z.

Argumentum in ultima columna antecedentis orationis 36 addidit manus recentior in Σ.

^α om. Z. addidit Dind. ex Σ.

^β om. Z. πατρὸς Φορμίῳνος παρασχεῖν libri. correxit Dind. ex

Σ in quo scriptum πατρὸς φορμίῳ^β πασίῳ^ανος, παρασχεῖν^γ.

1. τραπέζης ἀφορμὴν ἐγκαλῶν]
See Argument to Or. 36, l. 22 n.
On παρεγράψατο see *ib.* l. 23 n.

3. Στέφανος ἐμαρτύρησε κ.τ.λ.]
See *infra* § 8. The ἄλλοι τινές
are called Ἐνδιος and Σκύθης in
the document there quoted.

4. εἰ μὴ φησιν] ‘P. made A.
a proposal, that if A. denies that

the copies put in are copies of
the will of his father Pasion, he
shall let Phormion open the will
itself which is in the custody of,
and is produced by, Amphias.’

8. ἔστι δὲ ἀντίγραφα κ.τ.λ.]
The clause is continued from
ὡς, ‘that the document produced
is a copy of Pasion’s will.’

Ἀπολλοδώρου λέγοντος κατὰ τοῦ Φορμίωνος ὡς ἄρα τὰς διαθήκας πέπλακε καὶ τὸ ὅλον πρᾶγμα σκευώρημά ἐστιν. ἡττηθεὶς τοίνυν τὴν δίκην Ἀπολλόδωρος ὑπὲρ τῆς μαρτυρίας ὡς ψευδοῦς οὔσης τῷ Στεφάνῳ
15 δικάζεται.

1 Καταψευδομαρτυρηθεὶς, ὦ ἄνδρες Ἀθηναῖοι, καὶ παθὼν ὑπὸ Φορμίωνος ὑβριστικὰ καὶ δεινὰ δίκην παρὰ τῶν αἰτίων ἤκω ληψόμενος παρ' ὑμῖν. δέομαι δὲ πάντων ὑμῶν καὶ ἰκετεύω καὶ ἀντιβολῶ πρῶτον

12. πέπλακε...σκευώρημα] Or. 36 § 33, πλάσμα καὶ σκευώρημα ὅλον, and *infra* § 42.

§§ 1—2. Exordium (προοίμιον). *Having been defeated by false testimony in my suit against Phormion, I have come into court to claim a verdict against those who compassed that outrageous and atrocious wrong. I ask the jury to give me a friendly and favourable hearing; and, if I make good my case, to grant me the redress which is my due.*

In the former trial, the defendant Stephanus in particular gave false evidence against me, prompted by corrupt motives; and I propose to prove this from his own testimony. A brief recital of the relations between Phormion and myself will help the jury to form an opinion on the villany of Phormion and the falsehood of his witnesses.

The Exordium is not unlike that of Or. 54, κατὰ Κόνωνος, where, as here, the προαύλιον (Ar. Rhet. III 14) or, as we should say, the key-note of the whole speech is struck in the opening words: ὑβρισθεὶς ὦ ἄνδρες δικασταὶ καὶ παθὼν ὑπὸ Κόνωνος κ.τ.λ.—The appeal *ad captandam benevolentiam*, πρῶτον μὲν

εὐνοϊκῶς ἀκούσαι μου, also occurs in Or. 54 § 2, and similarly the formula εἴτ' ἐὰν (ἡδικῆσθαι καὶ παρανενομηῆσθαι) δοκῶ, βοηθῆσαι μοι τὰ δίκαια, and lastly the promise of brevity, ὡς ἂν οἴος τε ὦ διὰ βραχυτάτων.

καταψευδομαρτυρηθεὶς] 'Crushed by' (or 'having been the victim of') false testimony.' Cf. Or. 33 § 37, and Plat. Gorg. 472 B. Harpocr. καταψευδομαρτυρησάμενος· ἀντὶ τοῦ παρασχῶν τὰ ψεῦδη (ἀπ' ψευδῆ?) μαρτυρήσοντας. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. The lexicographer intended doubtless to refer to Or. 29 (ὑπὲρ Φάνου πρὸς Ἀφροβον ψευδομαρτυριῶν) § 6, where the middle participle explained by him is to be found. The mistake possibly arose out of a confusion between the titles of the two speeches, κατὰ Στεφάνου and ὑπὲρ Φάνου (A. Schaefer in *Neue Jahrb.* 1870, vol. 101 p. 523).

δέομαι ... ἰκετεύω ... ἀντιβολῶ] Cf. *infra* § 85, Or. 27 (Aphobus A) § 68, and 57 (Eubul.) § 1; Lysias Or. 18 § 27, and 21 § 21. Such combinations of two or three nearly synonymous verbs are very common in the undisputed speeches of Demosthenes

μὲν εὐνοϊκῶς ἀκοῦσαί μου· μέγα γὰρ τοῖς ἡτυχηκόσιν, ὡσπερ ἐγὼ, δυνηθῆναι περὶ ὧν πεπόνθασιν εἰπεῖν καὶ εὐμενῶς ἐχόντων ὑμῶν ἀκροατῶν τυχεῖν· εἴτ' εἰς ἀδικεῖσθαι δοκῶ, βοηθησαί μοι τὰ δίκαια. ἐπιδείξω δ' ² ὑμῖν τουτονὶ Στέφανον καὶ μεμαρτυρηκότα τὰ^c ψευδῆ, καὶ δι' αἰσχροκερδῖαν^d τοῦτο πεποιηκότα, καὶ κατήγορον αὐτὸν αὐτοῦ γιγνόμενον· τοσαύτη περιφάνεια τοῦ πράγματός ἐστιν. ἐξ ἀρχῆς δ' ὡς ἂν οἶός τε ὦ διὰ βραχυτάτων εἰπεῖν πειράσομαι τὰ πεπραγμένα μοι

^c om. Z cum libris. addidit Reiskius.

^d Σ, qui sic ubique. Bekk. αἰσχροκέρδειαν Ζ.

(e.g. Or. 36 § 47, ἄγεις εἰς μέσον, δεικνύεις, ἐλέγχεις; *ib.* 52, ἐλαύνεις, συκοφαντεῖς, διώκεις; *ib.* 57, δεῖται καὶ ἱκετεύει καὶ ἀξιοῖ; Or. 54 § 33, δικάζομαι καὶ μισῶ καὶ ἐπέξέρχομαι). The speech ὑπὲρ Φορμίωνος alone contains nearly forty such passages; of the speeches delivered by Apollodorus, the first oration against Stephanus has more than 30, while in the rest there is hardly anything of the kind, though in the second speech against Stephanus, § 28, we have δέομαι καὶ ἱκετεύω. (J. Sigg in *Jahrb. für class. Philol. Suppl.* vi p. 419.)

εὐμενῶς] Almost equivalent to εὐνοϊκῶς in the last sentence; εὐμενής, however, is not so trivial a word as εὐνοῦς. The former is frequent in Attic verse, the latter is generally found in prose; the former is most often used of the gracious condescension of a deity; the latter of the kindly feelings of ordinary human beings. Or. 4 § 45, τῶν θεῶν εὐμενές, illustrates the rule, while the exception in the present passage may be paralleled from Herod. vii 237, ξείνος δὲ ξείνω...εὐμενέστατον πάντων.

[Add Eur. Alc. 319, οὐδὲν μητρὸς εὐμενέστερον, El. 601, ἔστιν τί μοι κατ' Ἄργος εὐμενές φίλων; Aesch. Suppl. 488 and 518 Dind. P.]

2. τὰ ψευδῆ] 'Additum articulum hoc vel illud testimonium peculiariter indicat, contra μαρτυρεῖν ψευδῆ (cf. § 41) vel ἀληθῆ (§ 52) tantummodo significat μαρτυρεῖν ψευδῶς vel ἀληθῶς' (Beels, *Diatrise*, p. 79). See Or. 47 §§ 1, 2 τὰ ψευδῆ μαρτυρεῖν; *ib.* § 4 ψευδῆ μ. thrice. [inf. § 5, τὰ ψευδῆ μου κατεμαρτύρησεν, 'gave this false evidence against me.' Thus often in the Tragic poets τὰ δεινὰ, where some special atrocity is described. But here we may render, 'has given evidence which was false.' P.]

τοσαύτη περιφάνεια κ. τ. λ.] 'So transparent is the case.' 'So plain and clear from every point of view.' Or. 29 § 1 (also of false witness), ῥαδίως ἐξελέγξας διὰ τὴν περιφάνειαν τῶν πραγμάτων. Isaeus, Or. 7 § 28, τοσαύτη περιφάνεια τῆς ἐμῆς ποιήσεως ἐγένετο παρ' αὐτοῖς...ἐπὶ τοσοῦτων μαρτύρων γέγονεν ἡ ποίησις. Cf. Hom. Od. i 426, περισκέπτω ἐνὶ χάρῳ, and *ib.* v 476, ἐν περιφαινομένῳ.

πρὸς Φορμίωνα, ἐξ ὧν, ἀκούσαντες, τὴν τ' ἐκείνου^e πονηρίαν καὶ τούτους, ὅτι τὰ ψευδῆ μεμαρτυρήκασι, γνώσεσθε.

3 Ἐγὼ γάρ, ὦ ἄνδρες δικασταί, πολλῶν χρημάτων ὑπὸ τοῦ πατρὸς καταλειφθέντων μοι, καὶ ταῦτα Φορμίωνος ἔχοντος, καὶ ἔτι πρὸς τούτοις τὴν μητέρα γήμαντος τὴν ἐμὴν ἀποδημοῦντος ἐμοῦ δημοσίᾳ τριηραρ-

^e τὴν τε τούτου Z *cum libris*. τὴν τ' ἐκείνου Bekker *cum γρ.* FFB.

ἐξ ὧν...γνώσεσθε] This being the syntax, ἀκούσαντες must be taken by itself, 'when you have heard it.'

ἐκείνου] sc. Φορμίωνος.

§§ 3—8. Narrative (διήγησις). My father Pasion left behind him at his death a large property which got into the hands of Phormion, who also married Pasion's widow, my mother Archippe, during my absence from Athens on public service. On my return, I threatened Phormion with legal proceedings in consequence of this marriage, but my case did not come on; and afterwards a reconciliation was brought about. Subsequently, however, on Phormion's refusing to fulfil his engagements and attempting to rob me of the banking-stock leased him by my father, I was compelled to prosecute him at the earliest opportunity.

Phormion thereupon put in a special plea in bar of action, and brought forward false witnesses to show that I gave him a discharge from all further claims, and to attest to a lease which in fact was a fabrication and to a will that never existed.

The result of his plea, which gave him the advantage of the first hearing, was that the jury

would not listen to me at all; I was fined for failing to make good my case and left the court in high dudgeon at my ill-treatment. On reflection, however, I feel that the jury, in their ignorance of the real facts, could not, on the evidence, have found any other verdict; but I have a right to be indignant with the false witnesses who brought about that result,—and with Stephanus in particular whose evidence shall be read to the court. (The evidence is read.)

δημοσίᾳ] To be taken with ἀποδημοῦντος, 'cum publice (in causa publica) abessem.' The fondness of the Greeks for participles is shown by the addition of τριηραρχοῦντος which is subordinate to, and explanatory of, ἀποδημοῦντος. Or. 36 § 25, and *Madv. Gk. Synt.* § 176, d.

This trierarchy of Apollodorus may almost certainly be connected with the negotiations between Athens and the Elder Dionysius towards the close of his career. It appears from a decree discovered near the Propylaea in 1837, and restored by A. Kirchhoff in the *Philologus* for 1857 (xii p. 571—8), that Athenian ambassadors were sent to Syracuse in the summer of B.C. 369 and in B.C. 368. Cf.

χοῦντος ὑμῖν (ὄν τρόπον δὲ, οὐκ ἴσως καλὸν υἱεὶ περὶ μητρὸς ἀκριβῶς εἰπεῖν), ἐπειδὴ καταπλεύσας ἡσθόμην καὶ τὰ πεπραγμένα εἶδον, πολλὰ ἀγανακτήσας καὶ χαλεπῶς ἐνεγκῶν δίκην μὲν οὐχ οἶός τ' ἦν ἰδίαν λαχεῖν (οὐ γὰρ ἦσαν ἐν τῷ τότε καιρῷ δίκαι, ἀλλ' ἀνεβάλλεσθε ὑμεῖς διὰ τὸν πόλεμον), γραφήν δὲ ὕβρεως γράφομαι πρὸς τοὺς θεσμοθέτας αὐτόν. χρόνου δὲ γιγνομένου, καὶ τῆς μὲν γραφῆς ἐκκρουομένης, δικῶν

esp. τοῦ[των δὲ τοὺς ἐπὶ Δυσνικήτου ἄρχοντος πρέσβεις διακομίζειν τὴν ὁμολογίαν. The trierarchy may be identified with that of Or. 53 § 5, and probably belongs to the later of these two embassies in B.C. 368, as we read in Or. 46 § 21, ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, τετελευτήκει δ' ὁ πατήρ πάλαι, ὅτε οὗτος ἔγημε. πάλαι, though a vague word, shows at any rate that a considerable time elapsed between the death of Pasion in B.C. 370 (Or. 46 § 13), and his widow's marriage with Phormion. (Im. Hermann, *de tempore*, etc. p. 9; A. Schaefer, *Dem. und seine Zeit*, III 2, 146; and Lortzing, *Apollodoros*, p. 3.)

ὄν τρόπον δὲ (sc. ἔγημε)—ἀκριβῶς εἰπεῖν] Cf. § 27, διεφθάρκει ἦν ἐμοὶ μὲν οὐ καλὸν λέγειν. (Similarly in 40 § 8 τῇ τούτων μητρὶ ἐπλησίασεν ὄντινα δὴ ποτ' οὖν τρόπον· οὐ γὰρ ἐμὸν τοῦτο λέγειν ἐστὶ.) This affectation of dutiful delicacy of feeling towards his mother in the early portions of the speech is rather inconsistent with the apparently gratuitous insinuation towards its close, where he broaches the suspicion that his own brother Pasicles (who was eight years old at his father Pasion's death) was really her son by Phormion (§ 84).

δίκην ἰδίαν...γραφὴν ὕβρεως] Cf. Or. 54 § 1, ad fin.

4. πόλεμον] This suspension of lawsuits, which the plaintiff found in force on returning from his trierarchy in B.C. 368, was due to the hostilities between Athens and Thebes in the period between the battle of Leuctra in B.C. 371, and the death of Epaminondas at the battle of Mantinea in B.C. 362. The courts were not sitting for ordinary business, perhaps because there was no pay for the dicasts (cf. Or. 39 § 17); and the only process that was available under the circumstances was a public action. So (just below) δικῶν οὐκ οὐσῶν means, as the courts continued closed for private suits. ὑμεῖς refers to the citizens generally, who are said, in the medial sense, 'to have had the sessions (τὰς δίκας) postponed.'

θεσμοθέτας] Isocr. Or. 20, κατὰ Λοχίτου § 2, περὶ τῆς ὕβρεως... ἔξεστι τῷ βουλομένῳ τῶν πολιτῶν γραφασμένῳ πρὸς τοὺς θεσμοθέτας εἰσελθεῖν εἰς ὑμᾶς. (Hermann, *Privatalt.* § 61, 9, 19 = *Rechtsalt.* ed. Thalheim § 6, pp. 35, 37; Meier and Schömann, p. 323.)

χρόνου γιγνομένου—γραφῆς ἐκκρουομένης] See note on Or. 36 § 2, ἴν' ἐκκρούοντες χρόνους ἐμποιοῦμεν. For χρόνου δὲ γιγνομένου, Reiske

δὲ οὐκ οὐσῶν, γίνονται παῖδες ἐκ τούτου τῇ μητρί.
καὶ μετὰ ταῦτα (εἰρήσεται γὰρ ἅπαντα πρὸς ὑμᾶς ἢ
ἀλήθεια, ὧ ἄνδρες δικασταὶ) πολλοὶ μὲν καὶ φιλάν-
θρωποι λόγοι παρὰ τῆς μητρὸς ἐγίνοντο καὶ δεήσεις
ὑπὲρ Φορμίωνος τουτουῖ, πολλοὶ δὲ καὶ μέτριοι καὶ
5 ταπεινοὶ παρ' αὐτοῦ τούτου. ἵνα δὲ, ὧ ἄνδρες Ἀθη-
ναῖοι, συντέμω ταῦτα, ἐπειδὴ ποιεῖν τε οὐδὲν ᾤετο δεῖν
ὧν τότε ὠμολόγησε, καὶ τὰ χρήματα ἀποστρεῖν ἐνε-
χείρησεν ἂ τῆς τραπέζης εἶχεν ἀφορμὴν, δίκην ἠναγ-
κάσθην αὐτῷ λαχεῖν, ἐπειδὴ τάχιστα ἐξουσία ἐγένετο. 1103
γνοὺς δ' οὗτος ὅτι πάντα ἐξελεγχθήσεται καὶ κάκιστος
ἀνθρώπων περὶ ἡμᾶς γεγυνώς ἐπιδειχθήσεται, μηχα-
νᾶται καὶ κατασκευάζει ταῦτα, ἐφ' οἷς Στέφανος οὐ-

ingeniously, but perhaps un-
necessarily, proposes χρόνον δ'
ἐγγιγνομένου, which at any rate
modifies the slight inelegance of
the triple repetition γιγνομένου
...γίνονται...ἐγίνοντο. Cf. Or.
47 § 63, χρόνον ἐγγενέσθαι.

φιλάνθρωποι λόγοι] 'Kindly
overtures' (*blanditiae*, G. H.
Schaefer). De Corona, § 298,
οὔτε φιλανθρωπία λόγων οὔτ'
ἐπαγγελιῶν μέγεθος. Midias, § 75,
οὔτε κλαύσαντα οὔτε δεηθέντα...
οὔτε φιλάνθρωπον... οὐδ' ὅτι οὖν
πρὸς τοὺς δικαστὰς ποιήσαντα,
where perhaps *bribery* is tacitly
meant. (Cf. Shilleto on Fals. leg.
§ 117.)

μέτριοι...ταπεινοί] i.e. 'both
moderate and reasonable in
their terms.' Fals. leg. § 15,
μετρίους λόγους, where Shilleto
quotes Ulpian: ἤγουν ἐπιεικέις,
φιλανθρώπους.

5. ἵνα...συντέμω] The reason for
the speaker's hurrying over this
part of his statement is partly
because the overtures of recon-
ciliation on Phormion's side,

which he takes credit to him-
self for candidly admitting, are
really more to Phormion's credit
than to his own.

δίκην] i.e. the suit κατὰ Φορ-
μίωνος, to meet which a special
plea is put in on Phormion's
behalf in Or. 36. The words
ἐπειδὴ τάχιστα ἐξουσία ἐγένετο
are possibly meant as a partial
reply (they are at any rate the
only reply given in this speech)
to that portion of Phormion's
plea which traversed his oppo-
nent's suit on the ground that
it infringed the 'statute of limi-
tations' (Or. 36 § 26). But it
may be noticed on Phormion's
side that at least 18 years had
elapsed since the death of
Apollodorus' father, and eight
since that of his mother, before
the suit was instituted; and
during the interval the plaintiff
found time for ever so many
lawsuits in cases where his
private interests were but par-
tially concerned (Or. 36 § 53).

τοσὶ τὰ ψευδῆ μου κατεμαρτύρησεν. καὶ πρῶτον μὲν παρεγράψατο τὴν δίκην, ἣν ἔφευγε Φορμίων, μὴ εἰσαγωγίμον εἶναι· ἔπειτα μάρτυρας, ὡς ἀφήκα αὐτὸν τῶν ἐγκλημάτων, παρέσχετο ψευδεῖς, καὶ μισθώσεώς τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενομένης. προλαβὼν δέ μου ὥστε πρότερον[†] λέγειν διὰ 6 τὸ παραγραφὴν εἶναι καὶ μὴ εὐθυδικία εἰσιέναι, καὶ ταῦτ' ἀναγνοὺς καὶ τᾶλλα, ὡς αὐτῷ συμφέρειν ἠγείτο, ψευδάμενος, οὕτω διέθηκε τοὺς δικαστὰς, ὥστε φωνὴν μηδ' ἠντινοῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλῶν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιωθείς, ὡς οὐκ οἶδ' εἴ τις πώποτε ἄλλος ἀνθρώπων, ἀπήειν βαρέως, ὧ ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων. λόγον 7 δ' ἔμαυτῷ διδοὺς εὐρίσκω τοῖς δικάσασι μὲν τότε πολλὴν συγγνώμην οὖσαν (ἐγὼ γὰρ αὐτὸς οὐκ ἂν οἶδ' ὅ

[†] 'Malim πρότερος,' Dobree.

παρεγράψατο κ.τ.λ.] See notes on p. 2. For μάρτυρας ὡς ἀφήκα, see Or. 36 §§ 24, 25; and for the depositions on the 'lease,' *ib.* § 4, and on the 'will,' *ib.* § 7.

6. πρότερον λέγειν] Cf. Isocr. παραγραφὴ πρὸς Καλλιμαχον § 1, φεύγων τὴν δίκην πρότερος λέγω τοῦ διώκοντος. See on Or. 34 § 4, κατηγορεῖν τοῦ διώκοντος, and *ibid.* § 1, ἐν τῷ μέρει λεγόντων. — προλαβὼν = φθάσας, 'having got the advantage of me.'

εὐθυδικία εἰσιέναι] We might expect the acc. as in Or. 34 § 4, εὐθυδικίαν εἰσιόντα, οὐ κατηγορεῖν τοῦ διώκοντος (cf. Or. 36 *Arg.* 1. 25 ἄπτεται τῆς εὐθείας n.); but the dat. is found in Isaeus, Or. 6 (Philoctem.) § 53, μὴ διαμαρτυρία κωλύειν ἄλλ' εὐθυδικία εἰσιέναι.

τὴν ἐπωβελίαν] The legal fine of one-sixth of the amount claimed (lit. one obol in each

drachma, or 6 obols), inflicted on the plaintiff in private suits (see on Or. 56 § 4) if he failed to secure a fifth part of the votes. In the present case, Apoll. had to pay, in addition to costs, a sixth part of 20 talents, 3^t 20^m = £666, if (with Goodwin) we reckon the talent at £200. (Boeckh, *Publ. Econ.* Book III chap. 10, pp. 473, 482 trans. Lamb.)—For οὐδὲ λόγου τυχεῖν cf. § 19, ἀπεκλείσθην τοῦ λόγου τυχεῖν.

7. οὐκ ἂν οἶδ' ὅ τι ἄλλο εἶχον] ἂν is often attracted to the negative and separated from its verb (e.g. εἶχον) by the interposition of οἶδα (as here), οἶομαι, δοκῶ, φημί (as elsewhere). (Cf. note on Or. 37 (Pant.) § 16, οὐδ' ἂν εἴ τι γένοιτο ᾧήθην δίκην μοι λαχεῖν, also Goodwin's *Moods and Tenses* § 42, 2, and Shilleto on Thuc. I 76 § 4.) It is quite

τι ἄλλο εἶχον ψηφίσασθαι, τῶν πεπραγμένων μὲν μηδὲν εἰδώς, τὰ δὲ μαρτυρούμενα ἀκούων), τούτους δὲ ἀξίους ὄντας ὀργῆς, οἱ τῷ τὰ ψευδῆ μαρτυρεῖν αἴτιοι τούτων ἐγένοντο. περὶ μὲν δὴ τῶν ἄλλων τῶν μεμαρτυρηκότων, ὅταν πρὸς ἐκείνους εἰσῶ, τότε ἐρῶ· περὶ ὧν δ' οὐτοσὶ Στέφανος μεμαρτύρηκεν, ἤδη πειράσομαι
 8 διδάσκειν ὑμᾶς. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν καὶ ἀνάγνωθί μοι, ἵνα ἐξ αὐτῆς ἐπιδεικνύω. λέγε· σὺ δ' ἐπίλαβε τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑ.

1104

Ἔ[Στέφανος Μενεκλέους Ἀχαρνεύς, Ἐνδιος Ἐπι-

Ἔ *testimonium omisit Σ. uncas in hac quoque oratione additamentis huius generis addidimus Ζ.*

unnecessary to accept the suggestion of Cobet οὐκ οἶδ' ἂν ὅτι (*Nov. Lect.* 581), or that of Dobree 'distingue αὐτὸς οὐκ ἂν, οἶδ' ὅτι, ἄλλο εἶχον.'

πρὸς ἐκείνους εἰσῶ] sc. εἰς δικαστήριον. 'When I proceed against them,' Endius and Scythas, contrasted with οὐτοσὶ, the present defendant. Compare § 17, ἐπὶ τοῦτον ἦα, *infr.* § 41 ἔταν εἰσῶ πρὸς... and Or. 54 § 32 ad fin. εἰσιέναι, or εἰσελθεῖν, is used of either litigant (e.g. in Or. 40 § 1, of the plaintiff; and *ib.* § 5 of the defendant); and also of the lawsuit itself in Or. 34 § 18. Cf. Or. 34 § 1, οὐδεμίαν πώποτε δίκην πρὸς ὑμᾶς εἰσήλομεν, οὐτ' ἐγκαλοῦντες οὐτ' ἐγκαλούμενοι ὑφ' ἐτέρων.

8. ἐξ αὐτῆς] *ex ipsa*, perhaps, rather than *ex ea*.—On ἐπίλαβε τὸ ὕδωρ cf. note on Or. 54 § 36.

Στέφανος Μενεκλέους κ.τ.λ.] Like many, if not most of the documents inserted in the speeches of the Attic Orators, this deposition has been re-

garded as spurious. Its purport is to be found in §§ 9—26 and in Or. 46 § 5. The names of Tisias, Cephisophon and Amphias are given in §§ 10, 17, and Or. 46 § 5. Stephanus and Tisias, as well as Pasion and Apollodorus are assigned to the deme Acharnae in the documents only (§§ 28, 46), not in the speech itself. Στέφανος Ἀχαρνεύς appears in an inscription as trierarch in B.C. 322, but this (it has been suggested) is not likely to be the defendant in the present action, for at that date the latter, if (as is not improbable) he was about the same age as Apollodorus, would be about seventy; and we can hardly suppose that one who was so poor a patriot as not to have undertaken any public services up to the age of 47 or thereabouts (§ 66), would have embarked on a trierarchy at so advanced an age. But the name was far from uncommon, and the *deme* may (it is thought)

γένους Λαμπρεὺς^h, Σκύθης Ἀρματέως Κυδαθηναίεὺς μαρτυροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισία Ἀχαρνεῖ, ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος τὸ γραμματεῖον ὃ ἐνεβάλετο Φορμίων εἰς τὸν ἐχίνον, ἀνοίγειν τὰς διαθήκας τὰς Πασίωνος, ἃς παρῆιχετο πρὸς τὸν διαιτητὴν Ἀμφίας ὁ Κηφισοφώντος κηδεστῆς· Ἀπολλόδωρον δὲ οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ τὰⁱ ἀντίγραφα τῶν διαθηκῶν τῶν Πασίωνος.]^g

Ἡκούσατε μὲν τῆς μαρτυρίας, ὧ ἄνδρες δικασταί, 9 νομίζω δ' ὑμᾶς, εἰ καὶ μηδὲν τῶν ἄλλων αἰσθάνεσθέ

^h Λαμπρεὺς Bekker 1824. 'immo Λαμπρεὺς' Z, et Bekkerst.

ⁱ τὰ Bekker. ταῦτα (Dobree). τὰδ' (Sauppe, cf. *Arg.* line 9). 'Sequebatur enim quod hic deest testimonium Pasionis, cf. § 10 ad fin.' Z.

have been assigned at random by the writer of the document.

The name Ἐνδῖος Ἐπιγένους Λαμπρεὺς is given in one MS only (Φ). An inscription, however, of B.C. 325 gives the name Κριτόδημος Ἐνδίου Λαμπρεὺς whose father may be the Ἐνδῖος of the text, though the name is not a rare one.

Lastly, Σκύθης is naturally an uncommon name for an Athenian, though found as such in an inscription. The name of his father, Ἀρματεὺς, does not occur elsewhere, except in Stephanus of Byzantium, who makes it mean 'an inhabitant of Harma' which he wrongly supposes to be a *deme* of Attica, whereas it was really the name of a part of the range of Parnes. (Abridged from A. Westermann's *Untersuchungen über die in die Attischen Redner eingelegten Urkunden*, pp. 105—8.)

Blass, however, sees no ground for rejecting the documents in

this speech; the names of the witnesses, as Westermann himself admits, are supported by the evidence of inscriptions (*Blass Att. Ber.* III 409). Their genuineness has been recently maintained in a careful dissertation by Kirchner, 1883.

προῦκαλεῖτο...ἀνοίγειν] 'Challenged him, (in the event of his denying that the document Phormion put into the box was a copy of Pasion's will,) to open the will of Pasion which &c.' On ἐχίνον see note on Or. 54 § 27.

εἶναι τὰ ἀντίγραφα κ.τ.λ.] A loosely expressed sentence. τὰ ἀντίγραφα τῶν διαθηκῶν cannot be construed as the subject, and unless we accept either τὰδ' or ταῦτ' for τὰ we must rather awkwardly get the predicate out of τὰ ἀντίγραφα. The speaker himself expresses the sense better in §§ 10, 23 (Westermann, *u. s.* p. 108).

§§ 9—14. *It is deposed that Phormion challenged me to open*

πω, τοῦτό γε αὐτὸ θαυμάζειν, τὸ τὴν μὲν ἀρχὴν τῆς μαρτυρίας εἶναι πρόκλησιν, τὴν δὲ τελευταίην διαθήκην. οὐ μὴν ἀλλ' ἔγωγ' οἶμαι δεῖν, ἐπειδὴν, ὃ τῶν με-

the will, produced (it is alleged) before the arbitrator; that I refused the challenge and would not open the 'will'; that the document to which they depose is a counterpart of the original will; and then follows the copy.

Let us examine this evidence. In the first place, why should one have refused to open the document?

'Oh! to prevent the jury from hearing the terms of the will.'

But, I reply, the witnesses deposed to the will as well as to the challenge, and thus the jury would hear the terms of the 'will' publicly recited from the 'copy' whether I opened it or not. What was I to gain by refusing? Why! even if they had given no challenge, and had made a mere assertion, and if some one had produced a document purporting to be Pasion's will, it would have been my interest to challenge them and to open the will. In this case, (1) had the contents differed from the terms of the deposition, I should have appealed to the bystanders to bear witness to the discrepancy, which would have been a strong proof that the rest of their case was got up for a purpose. (2) Had the contents agreed, I should have required the producer himself to give evidence. Had he consented, I should have had in him a responsible witness; had he declined, here again I should have had sufficient proof that the affair was a fabrication. On this hypothesis, I should have had to deal with one witness only, instead of with many

(as my opponents have made it out); and of course I should have preferred the former, and so would every one else. For where (as here) there is room for cool calculation, no one would be so foolish as to abandon his own interests and do what would damage his case. And yet, by deposing that I refused to open the 'will,' these witnesses represented me as doing what is improbable, unreasonable, and contrary to all experience.

In brief, the first point which the plaintiff attempts to make in proving the evidence to be false, is that assuming he was challenged to open the 'will,' he sees no reason why he should have refused a challenge which it would have been to his interest to accept. On the other side, it may be noticed that the plaintiff had a strong reason for refusing to open the 'will,' and thus give express recognition to an important document, the contents of which as he himself says elsewhere (§ 21) were detrimental to his own interests. (A. Schaefer, *Dem.* III 2, p. 171.) So far, the case clearly tends against Apollodorus.

9. οὐ μὴν ἀλλ'...] 'Nevertheless', 'however', 'not but that.' The ellipse which this combination of particles always involves may be here supplied by some such words as οὐ μὴν (ὕμᾱς τοῦτο χρῆ θαυμάζειν) or (παραλείπειν τοῦτο χρῆ) ἀλλ' ἔγωγε κ.τ.λ. Kühner's *Gk. Gr.* § 535, 7.

τῶν μεμαρτ...κεφάλ.] sc. ἐμὲ οὐκ ἐθέλειν ἀνοίγειν.—τηνικαῦτα sc. in §§ 15—28.

μαρτυρημένων ὡσπερὶ κεφάλαιόν ἐστιν, ἐπιδείξω ψευ-
 δος ὄν, τῆνικαὐτ' ἤδη καὶ περὶ τῶν τοιούτων ποιεῖσθαι
 τοὺς λόγους. ἔστι δὲ μεμαρτυρημένον αὐτοῖς προκα- 10
 λεῖσθαι Φορμίωνα ἀνοίγειν τὰς διαθήκας, αἱ παρέχειν
 πρὸς τὸν δαιτητὴν Τισίαν Ἀμφίαν τὸν Κηφισοφῶν-
 τος κηδεστήν· ἐμὲ δ' οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ
 αἱ αὐτοὶ μεμαρτυρήκασι διαθήκας, ἀντιγράφους ἐκεί-
 νων. εἴθ' ἢ διαθήκη γέγραπται. ἐγὼ τοίνυν περὶ μὲν 11
 τοῦ προκαλεῖσθαι με ἢ μὴ ταῦτα Φορμίωνα οὐδέν πω
 λέγω, οὐδὲ ὑπὲρ τοῦ τὰς διαθήκας ἀληθεῖς ἢ ψευδεῖς
 εἶναι, ἀλλ' αὐτίχ' ὑμᾶς περὶ τούτων διδάξω· ἀλλ' ἂ
 μεμαρτυρήκασι, μὴ μ' ἐθέλειν τὸ γραμματεῖον ἀνοί-
 γειν. ὠδὶ δὲ σκοπεῖτε. τοῦ τις ἂν ἔνεκα¹ ἔφευγεν ἀνοί-
 1105 γειν, τὸ γραμματεῖον; ἴν' ἢ διαθήκη νῆ Δία μὴ φανερὰ
 γένοιτο τοῖς δικασταῖς. εἰ μὲν τοίνυν μὴ προσεμαρτύ- 12
 ρουν τῇ προκλήσει τὴν διαθήκην οὗτοι, λόγον εἶχέ
 τιν' ἂν τὸ φεύγειν ἐμὲ ἀνοίγειν τὸ γραμματεῖον· προσ-
 μαρτυρούντων δὲ τούτων καὶ τῶν δικαστῶν ὁμοίως

¹ εἴνεκεν Ζ cum Σ.

10. αἱ παρέχειν] sc. μαρτυροῦσι. For the infinitive in the relative clause influenced by the principal verb, cf. Or. 36 § 25.

εἴθ' ἢ διαθήκη γέγραπται] 'Then follows a copy of the will,' or (with Kennedy) 'and then the will is set out,' 'Deinde sequitur (in testimonio eorum) *testamentum exscriptum, sequitur exemplum testamenti.*' Seager, *Classical Journ.* lx p. 267.

11. περὶ...ὑπὲρ] These prepositions are here, as often, practically synonymous. Cf. *infra* § 50, and *Fals. Leg.* § 94, p. 371, οὐ περὶ τοῦ εἰ ποιητέον εἰρήνην... ἀλλ' ὑπὲρ τοῦ ποίαν τινά.

τοῦ τις ἂν ἔνεκα ἔφευγεν κ.τ.λ.] 'What reason would any one have had for declining, &c.'

'Malim ἔνεκεν καὶ ἔφευγεν... *Latine porro,*' says Dobree, who would similarly read in Or. 37 § 27, τίνος γὰρ ἔνεκα καὶ ἔπειθον, 'ut in tali re usitatum est dicere' (Cobet, *Nov. Lect.* 606).

νῆ Δία] Or. 36 § 39, and Or. 54 § 34 n.

12. εἰ...μὴ προσεμαρτύρουν] 'Had they not deposed to the will, as well as to the challenge, I might reasonably have declined to open the document (purporting to be a copy of the will): but, as they actually deposed to both, and as the jury would have to hear the will whether I opened it or not, what was the use then of my refusing to open it?'

ἀκουσομένων, τί ἦν μοι κέρδος τὸ μὴ ἐθέλειν; οὐδὲ ἐν δῆπου. αὐτὸ γὰρ τούναντίον, ὧ ἄνδρες Ἀθηναῖοι, κὰν εἰ μηδὲν προῦκαλοῦντο οὗτοι, λόγῳ δ' ἐχρῶντο
 13 μόνον, καὶ παρείχε τις αὐτοῖς γραμματεῖον ὡς διαθή-
 κην, ἐμὸν ἦν τὸ προκαλεῖσθαι καὶ ἀνοίγειν^κ ταύτην, ἵν' εἰ μὲν ἄλλ' ἄττα τῶν ὑπὸ τούτων μεμαρτυρημένων ἦν τὰκεῖ γεγραμμένα, μάρτυρας εὐθὺς τῶν περιεστη-
 κότων πολλοὺς ποιησάμενος τεκμηρίῳ τούτῳ καὶ περὶ τῶν ἄλλων, ὡς κατασκευάζουσιν, ἐχρώμην· εἰ δὲ ταύτ' ἐνῆν, τὸν παρασχόντ' αὐτὸν ἠξιῶν μαρτυρεῖν. ἐθε-
 λήσαντος μὲν γὰρ ὑπεύθυνον ἐλάμβανον, εἰ δ' ἔφευγε,

^κ κελεύειν ἀνοίγειν Φ (γρ. *in margine*). 'recte, opinor; sin, deleam καὶ ante ἀνοίγειν' G. H. Schaefer.

κὰν εἰ] The ἄν strictly belongs to the apodosis ἐμὸν ἦν, but is here, as often, put as early as possible. Cf. Or. 36 § 42, οἶμαι...κὰν εἰ...λέγοι, κάλλιον εἶναι. Sometimes the construction of the apodosis shows that κὰν εἰ is regarded as much the same as καὶ εἰ, e.g. Plato Meno 72 c, κὰν εἰ πολλαὶ καὶ παντοδαπαὶ εἰσιν, ἐν γέ τι εἶδος ταῦτόν ἅπασαι ἔχουσι. Kühner, *Gk. Gr.* § 398, p. 210. Buttman calls this "ἄν *consopitum*," where its force is, as it were, dormant. It is peculiar to the later or middle Attic.

§ 13. ἵν'—ἐχρώμην] Or. 36 § 47, ἵνα—ἐφαίνετο n.

ἄλλ' ἄττα τῶν κ.τ.λ.] = ἄλλ' ἄττα ἢ τὰ, i.e. 'had the contents of the alleged will been different from the terms deposed to by these witnesses.' For this rather uncommon use of ἄλλος with gen. (like ἕτερος, ἀλλότριος, διάφορος) cf. Xen. Mem. iv 4 § 25, πότερον τοὺς θεοὺς ἡγγῆ τὰ δίκαια νομοθετεῖν ἢ ἄλλα τῶν δικαίων. ἀλλότριος is so used in Dem. 18 § 182, but I cannot

find any similar use of ἄλλος in Demosthenes.—Dobree suggests ἄλλ' ἄττα ἀντὶ τῶν.

τεκμηρίῳ κ.τ.λ.] sc. τούτῳ ἐχρώμην τεκμηρίῳ ὡς καὶ τὰλλα κατασκευάζουσιν.—In the next clause αὐτὸν ('to give evidence himself') is contrasted with the several witnesses, οἱ περὶ Στέφανον.

ἐθελήσαντος μὲν] i.e. εἰ μὲν ἠθέλησε, contrasted with εἰ δ' ἔφευγε. We should naturally expect ἐθελήσαντα, as the use of gen. absolute, in reference to the same person as the acc. ὑπεύθυνον, is somewhat exceptional, the rule being that the gen. absolute is generally found only when there is no other case in the sentence to which the participle might attach itself. Cf. however, Xen. Cyr. i 4 § 2, ἀσθενήσαντος αὐτοῦ (sc. τοῦ πάππου) οὐδέποτε ἀπέλιπε τὸν πάππον. (Kühner, *Gk. Gr.* § 494 b, Madvig, *Gk. Synt.* § 181 R 6.)

ὑπεύθυνον] Liable to a prosecution for false witness.

πάλιν αὐτὸ τοῦθ' ἱκανὸν τεκμήριον ἦν μοι τοῦ πεπλάσθαι τὸ πρᾶγμα. καὶ δὴ καὶ συνέβαινεν ἐκείνως μὲν ἓνα εἶναι, πρὸς ὃν τὰ πρᾶγματα ἐγίνετό μοι, ὡς δ' οὔτοι μεμαρτυρήκασι, πρὸς πολλούς. ἔστιν οὖν ὅστις ἂν¹ ὑμῶν ταῦθ' εἴλετο; ἐγὼ μὲν οὐδένα ἠγούμαι. οὐ¹⁴ τοίνυν οὐδὲ κατ' ἄλλου πιστεύειν ἔστέ δίκαιοι. καὶ γὰρ, ὦ ἄνδρες Ἀθηναῖοι, ὅσοις μὲν πρόσεστιν ὀργὴ τῶν πραττομένων ἢ λῆμμά τι κέρδους ἢ παροξυσμὸς ἢ φι-

¹ Bekker (st. Leipzig ed.). 'ἂν deesse vidit Schaeferus' Z.

συνέβαινεν κ.τ.λ.] Kennedy translates: 'And the result was, that in that way, I had one person to deal with.' The conditional is only implied and not directly expressed, in other words συνέβαινεν (like ἤξιον... ἐλάμβανον... ἦν above) is put without ἂν.—'Malim καὶ δὴ καὶ συν-έβαινεν et mox ἔστιν οὖν ὅστις ἂν ὑμῶν,' says Dobree, comparing § 33 bis, and also proposing in § 34 τίς γὰρ ἂν ἀνθρώπων. The last two emendations are accepted in Dindorf's text.

[All the imperfects in this remarkable sentence, which does not read altogether like the style of Demosthenes, depend on the preceding ἓνα, 'in which case it would have happened that, &c.' The addition of ἂν would be quite out of place here, though it is necessary in the clause ἔστιν οὖν ὅστις ἂν ὑμῶν, which passes into quite a different construction. P.]

ἐκείνως] 'In the former case,' lit. 'in that other way,' under the hypothesis just mentioned (as opposed to the fact ὡς οὔτοι μεμαρτυρήκασι), sc. εἰ τὸν παρασχόντ' ἤξιον μαρτυρεῖν, including the subsequent subdivision of that supposition into the two further hypotheses, ἐθελήσαντος μὲν κ.τ.λ. and εἰ δ' ἐφευγε κ.τ.λ.

πρὸς πολλούς] sc. τὰ πρᾶγματα γενέσθαι μοι.

14. οὐ...οὐδὲ κατ' ἄλλου πιστεύειν] 'Well then, you cannot fairly believe it of any one else either.'

ὅσοις...τῶν πραττομένων] The participle is best taken not as gen. after ὀργὴ but after ὅσοις, which is neuter. Cf. § 15, ὅσα... τῶν πεπραγμένων. 'In every course of action attended by anger, or by getting of gain, or by any exasperation ('keen resentment,' 'strong provocation'), or by a spirit of jealousy, one man may act in one way, another in another, according to his individual character.'

παροξυσμὸς] This word, found twice in the New Testament (Hebr. x 24, Acts xv 39), is never used by Demosthenes, nor indeed does it appear to occur elsewhere in the sense of 'exasperation' in any of the earlier Greek writers. In the Aphorisms of Hippocrates, 1243 (Liddell & Scott), it is a medical term, in the sense perpetuated in our 'paroxysm.' The verb however is found in Or. 57 (Eubul.) § 49, ἡ πόλις πᾶσα... ὀρμιζομένη παρώξυντο, *ib.* § 2, Or. 47 (Euerg.) § 19; also the *adj.* in Or. 20 (Lept.) § 105, λόγιοι παροξυντικοὶ πρὸς τὸ...πείσαι.

λονεικία, ταῦτα μὲν ἄλλος ἂν ἄλλως πράξειε πρὸς τὸν αὐτοῦ τρόπον· ὅσοις δὲ τούτων μὲν μηδὲν, λογισμὸς δ' ἐφ' ἡσυχίας τοῦ συμφέροντος, τίς οὕτως ἄφρων ὅστις ἂν τὰ συνοίσοντ'^m ἀφείς, ἐξ ὧν κάκιον ἔμελλεν ἀγωνιεῖσθαι, ταῦτ' ἔπραξεν; ἂ γὰρ οὐτ' εἰκότα οὐτ' εὐλογία οὐτ' ἂν ἔπραξεν οὐδεὶς, ταῦθ' οὗτοι μεμαρτυρήκασι περὶ ἡμῶν.

15 Οὐ τοίνυν μόνον ἐξ ὧν ἐμὲ μὴ ἐθέλεινⁿ τὸ γραμματεῖον ἀνοίγειν μεμαρτυρήκασι, γνοίῃ τις ἂν αὐτοὺς ὅτι ψεύδονται, ἀλλὰ καὶ ἐκ τοῦ πρόκλησιν ὁμοῦ διαθήκη

^m συνοίσοντα Ζ.

ⁿ θέλειν Σ.

λογισμὸς κ.τ.λ. 'A calm calculation of one's interest.' [The phrase seems rather unusual, like ἀφείς τὰ συνοίσοντα, 'giving up what was likely to prove his interest.' P.]

§§ 15—19. Again, the witnesses depose to a Challenge as well as to a Will. Now Challenges are meant to meet the case of those transactions, which it is otherwise impossible to bring before the court. In the present case, what call was there for a Challenge? The arbitration took place in Athens, and they have deposed that the original will was produced before the arbitrator. If this was true, they ought to have put the original will into the box and the producer should have proved it by evidence. In that case the jury, after weighing the credibility of the deposition and inspecting the seals of the will, would have decided accordingly; and, had I thought myself wronged by the verdict, I might have proceeded against the deponent in question. But, as it is, no single witness has undertaken the whole responsibility;

no! they have cleverly divided it, by one witness (Cephisophon) deposing to having a document inscribed 'Pasion's Will'; and another (Amphias), to having produced it after being sent to do so by the former witness; but whether it was genuine or not, was 'more than he knew.'—In fact, Stephanus and his friends made the Challenge a mere mask to enable them to depose to a will, so that the jury were led to believe that the will was my father's, and I myself was debarred from being heard on my wrongs, and so that by these very means my opponents might ultimately be convicted of having given false evidence—a result which they hardly expected.

15. μὴ ἐθέλειν] ἐθέλω is the proper form in Attic prose, θέλω in Attic verse, but the latter is occasionally found in Dem. in such formulae as ἂν θεὸς θέλῃ. (See Veitch *Gk. Vbs.*) The Paris ms Σ has θέλειν, which was adopted in Dindorf's earlier editions.

προκλήσεις] Harpocr. ε. ν. εἰώθεσαν ὅποτε δικάζοντό τινες, ἐξαιτεῖν ἐνλοτε θεραπαίνας ἢ θερά-

μαρτυρεῖν. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι ὅτι ὅσα μὴ δυνατὸν πρὸς ὑμᾶς ἀγαγεῖν ἐστὶ τῶν πεπραγμένων, τούτων προκλήσεις εὐρέθησαν. οἶον βασανίζειν οὐκ ἔστιν ἐναντίον ὑμῶν· ἀνάγκη τούτου πρόκλησιν εἶναι· οἶον εἴ τι πέπρακται καὶ γέγονεν ἔξω πού τῆς χώρας, ἀνάγκη καὶ τούτου πρόκλησιν εἶναι πλεῖν ἢ βαδίζειν

ποντας εἰς βάσανον ἢ εἰς μαρτυρίαν τοῦ πράγματος, καὶ τοῦτο ἐκαλεῖτο προκαλεῖσθαι, τὸ δὲ γραμματεῖον τὸ περὶ τούτου γραφόμενον ὠνομάζετο πρόκλησις. παρὰ πολλοῖς δὲ ἐστὶ ῥήτορι. Δημοσθένης δ' ἐν τῷ κατὰ Στεφάνου καὶ περὶ ὧν πρόκλησις γίνεται δηλοῖ. Hermann, *Public Antiquities*, § 141, 20.

16. βασανίζειν οὐκ ἔστιν ἐναντίον ὑμῶν] In Dobree's *Adversaria*, we have the suggestive note '*Qu. interrog. Qu. the fact.*' As a general rule doubtless this examination of slaves took place in private, before a magistrate or arbitrator or other authorized person, in the presence of a number of bystanders either concerned as witnesses or merely present out of curiosity (Or. 47 § 12); and the text as it stands would seem to imply that administration of torture in open court was not allowed.—We find Aeschines (*Fals. Leg.* § 126) *proposing* to 'question' certain slaves in public: ἀγωμεν δὲ καὶ τοὺς οἰκέτας καὶ παραδιδώμεν εἰς βάσανον...παρέσται δὲ ἡδὴ ὁ δῆμιος καὶ βασανιεῖ ἐναντίον ὑμῶν, ἀν κελεύητε...κάλει μοι τοὺς οἰκέτας δεῦρο ἐπὶ τὸ βῆμα... At this point (it is important to notice) follows a Challenge which Demosthenes declines. Thus we have a *proposal* only, and it may be concluded from ἀν κελεύητε, that even if the Challenge had been accepted,

the court would have had to give a special order for such departure from ordinary usage.

Again in [Dem.] Or. 47 κατὰ Εὐέργου ψευδομαρτυριῶν § 17, we read: ἔδει αὐτὸν, εἴπερ ἀληθὴ ἦν ἃ φασιν αὐτὸν προκαλεῖσθαι, κληρουμένων τῶν δικαστηρίων κομίσαντα τὴν ἀνθρωπον, λαβόντα τὸν κήρυκα, κελεύειν ἐμέ, εἰ βουλοίμην, βασανίζειν, καὶ μάρτυρας τοὺς δικαστὰς εἰσιόντας ποιεῖσθαι ὡς ἔτοιμός ἐστι παραδοῦναι (cf. *ib.* § 6). But it would be idle to suppose that this passage proves that the torture might take place in open court; all that is meant is that the defendant might have produced the girl, when the court was about to sit, challenged the plaintiff to 'question' her, and called on the jurors to bear witness that he was *ready* to hand her over to be tortured in the usual manner and *not* in public court.

οἶον—ἔξω τῆς χώρας] As an illustration of this form of Challenge, we find in Or. 32 the plaintiff (Zenothemis) borrowing money in Syracuse (§ 4) and the defendant challenging him at Athens to sail to Syracuse and appear before the authorities there (§ 18). Cf. *ex iure manum consertum voco* in Cicero *pro Murena* § 26 (with Mr Heitland's note).

πλεῖν ἢ βαδίζειν] Here, as often, contrasted with one another, as the ordinary words

οὗ τὸ πρᾶγμα ἐπράχθη· καὶ τῶν ἄλλων τῶν τοιούτων. ὅπου δ' αὐτὰ τὰ πράγματα ἐφ' αὐτῶν ἔστιν ὑμῖν ἐμφανῆ ποιῆσαι, τί ἦν ἀπλούστερον ἢ ταῦτ' ἄγειν εἰς μέ-
 17 σον; Ἀθήνησι μὲν τοίνυν ὁ πατήρ ἐτελεύτησεν οὐμὸς, ἐγένετο δ' ἡ δίαίτα ἐν τῇ ποικίλῃ στοᾷ, μεμαρτυρή-
 κασι δ' οὗτοι παρέχειν τὸ γραμματεῖον Ἀμφίαν πρὸς τὸν διαιτητήν. οὐκοῦν εἴπερ ἀληθὲς ἦν, ἐχρήν αὐτὸ τὸ γραμματεῖον εἰς τὸν ἐχίνον ἐμβαλεῖν καὶ τὸν παρέχοντα μαρτυρεῖν, ἵν' ἐκ τῆς ἀληθείας καὶ τοῦ τὰ σημεῖα ἰδεῖν οἱ μὲν δικασταὶ τὸ πρᾶγμα ἔγνωσαν, ἐγὼ δὲ, εἴ τις ἠδί-

for 'going by sea or by land,' Fals. Leg. § 164 οὗτ' ἐπέιγεσθαι βαδίζουσιν οὔτε πλεῖν αὐτοῖς ἐπι-
 ῆει.

17. ποικίλη στοᾷ] 'The painted portico.' So called from its pictures, representing the legendary wars of Athens and the battle of Marathon. See Or. 59 (Neaer.) § 94 and Aeschin. Ctesiph. § 186. As is well known, it was this portico which gave the name of Stoics to the followers of Zeno of Citium. Persius III 53, *quaeque docet sapiens bracteis illita Medis Porticus*. It is placed east of the market of the Cerameicus in Curtius, *Text der sieben Karten* p. 35.

The public arbitrators had particular buildings assigned them according to the tribe to which they belonged: thus in Or. 47 § 12 the arbitration takes place in the Heliaea, οἱ γὰρ τὴν Οἰνηίδα καὶ τὴν Ἐρεχθηίδα διαιτῶντες ἐνταῦθα κάθονται.

ἐχρήν] As usual, without ἄν. We might have had εἴπερ ἀληθὲς ἦν, ἐνέβαλεν ἂν τὸ γραμματεῖον, implying ἀλλ' οὐκ ἐνέβαλεν, whereas the sentence as it stands does not require ἂν because it

implies not ἀλλ' οὐκ ἐχρήν, but χρῆ μὲν ἐμβαλεῖν ἀλλ' οὐκ ἐνέβαλεν. So also with ὄφελον, ἐμελλον, ἔδει, προσῆκεν; 'sed multo latius patet haec ratio... Omnino, ubicunque non potest contrarium opponi, recte abest particula.' Hermann *de particula* ἂν § XII. On a similar principle we have τί ἦν ἀπλούστερον above, which follows the analogy of δίκαιον ἦν, εἰκὸς ἦν, &c.

τὰ σημεῖα] Probably the seals attached to the will (cf. Becker's *Charicles*, Sc. IX note 14), and not those on the deposition-case or ἐχίνος (as supposed in Stark's addenda to Hermann's *Privatalt.* § 65, 9). On the ἐχίνος cf. Or. 39 § 18, *σεσημασμένων τῶν ἐχίνων*, and note on Or. 54 § 27. For the opening of the seals of a will, see Ar. Vesp. 584, *κλάειν ἡμεῖς μακρὰ τὴν κεφαλὴν εἰπόντες τῇ διαθήκῃ, καὶ τῇ κόγχῃ τῇ πάνυ σεμνῶς τοῖς σημείοισιν ἐπούση*.

ῆα] 'perhaps old Attic, Plat. Theaet. 180, Rep. 449' Veitch, *Greek Verbs* s.v. εἶμι. As first person ἦειν is rare, but προσῆειν is not. In § 6 we have had ἀπήειν. See Cobet, *Variae Lect.* p. 307.

κει με, ἐπὶ τούτου ἦα· νῦν δὲ εἰς μὲν οὐδεὶς ὅλον τὸ 18
 πρᾶγμα ἀνεδέξατο, οὐδὲ μεμαρτύρηκεν ἀπλῶς, ὡς ἂν
 τις τάληθῆ μαρτυρήσειε, μέρος δ' ἕκαστος, ὡς δὴ σο-
 φὸς καὶ διὰ τοῦτο οὐ δώσων δίκην, ὁ μὲν γραμματείου
 ἔχειν ἐφ' ᾧ γεγράφθαι "διαθήκη Πασίωνος," ὁ δὲ πεμ-
 1107 φθεις ὑπὸ τούτου παρέχειν τούτο, εἰ δ' ἀληθὲς ἢ ψευ- 19
 παραπετάσματι διαθήκας ἐμαρτύρησαν, ὡς ἂν μάλισθ'
 οἱ δικασταὶ ταύτην τὴν διαθήκην ἐπίστευσαν τοῦ πα-
 τρὸς εἶναι, ἐγὼ δὲ ἀπεκλείσθην τοῦ λόγου τυχεῖν ὑπὲρ
 ᾧν ἀδικοῦμαι, οὗτοι δὲ φωραθεῖεν τὰ ψευδῆ μεμαρτυ-

18. εἰς...οὐδεὶς] 'No single witness has accepted the whole responsibility'; cf. § 38 διείλοντο τὰ δίκήματα. εἰς οὐδεὶς is a much stronger negative than οὐδεὶς. Or. 21 (Midias) § 12, ἐν γὰρ οὐδὲν ἐστὶν ἐφ' ᾧ...οὐ δίκαιος ᾧν ἀπολωλέναι φανήσεται. Cf. Fals. Leg. § 201, ἐν οὐδ' ὅτι οὐδ'.

ὁ μὲν...ὁ δὲ] Cephisophon (§§ 21, 22)...Amphias (ὁ Κηφισοφώντος κηδεστής, § 10).—The subject of ἕκαστος (ὁ μὲν...ὁ δὲ) is μεμαρτύρηκε implied by the former part of the sentence. This is all that is meant by Dobree's punctuation 'Distingue ὁ δὲ, πεμφθεις,' to show that πεμφθεις is subordinate to παρέχειν and is not to be taken with ὁ δέ. Trans. 'another, that he produced the will on being sent by him (Amphias).'

19. παραπετάσματι] sc. προφάσις (Or. 46 § 9 πρόφασιν...τὴν πρόκλησιν), προσχήματι, as a 'cloak,' or 'pretext,' lit. a 'screen' or 'curtain.' Plat. Protag. 316 εταῖς τέχναις ταύταις παραπετάσασιν ἐχρήσαντο, immediately after προσχῆμα ποιῆσθαι καὶ προκαλύπτεσθαι.

ὡς ἂν μάλισθ' οἱ δικασταί...

ἐπίστευσαν...ἐγὼ δὲ ἀπεκλείσθην...οὗτοι δὲ φωραθεῖεν...] This sentence, as it stands in the mss, can only mean 'The present witnesses (Stephanus, &c) used the challenge as a pretext for giving evidence of a will, in the very way in which the court would have believed that the will was my father's, and I should have been debarred from getting a hearing, and in which my opponents would now be palpably convicted of giving false evidence.' This makes nonsense, as the jury in the former trial did believe the witnesses, and Apollodorus was debarred from speaking. ἂν is quite out of place with ἐπίστευσαν and ἀπεκλείσθην, but not so with φωραθεῖεν (which cannot here be taken as a simple optative expressing a wish). It thus appears that we should (with G. H. Schaefer) remove ἂν from the aorist indicative and place it with the aor. optative, and read as follows: ὡς (or ὥσθ') οἱ δικασταί...ἐπίστευσαν, ἐγὼ δὲ ἀπεκλείσθην...οὗτοι δ' ἂν μάλιστα φωραθεῖεν. The sense thus gained is fairly satisfactory: 'the

ρηκότες. καίτοι τό γ' ἐναντίον ᾤοντο τούτου. ἵνα δ' εἰδῆτε ταῦτα ὅτι ἀληθῆ λέγω, λαβὲ τὴν τοῦ Κηφισοφῶντος μαρτυρίαν.

witnesses combined the attestation of a challenge with the attestation of a will (made the former a pretext for the latter). The immediate result was that the jury in the previous trial believed the will was really my father's and therefore decided against me without giving me a hearing on my present wrongs. The ultimate result was that by that very means my opponents would be clearly convicted of having given false evidence.'

Hermann attempts to explain the passage by the following translation :

'*Illi vero, provocationis praetextu usi, de testamento testati sunt eo modo, quo facillime iudices hoc patris testamentum esse credere, ego autem ab oranda causa mea excludi debebam[?], ipsi vero—falsa testati esse deprehenderentur; atqui contrarium sperabant. Illa enim οὔτοι δέ, (hic voce paullum subsistit orator) φωραθεῖεν τὰ ψευδῆ μεμαρτυρηκότες, ironice dicta esse patet*' (*Opuscula* iv 27 de particula ἂν 17).

Dobree says : 'Sensus est : ita rem administrarunt, ut tunc quidem iudices deciperent; postea autem hoc palam fieret, quamvis id non praeviderent.—*Qu. de modorum permutatione. Similis locus F. Leg. 424. 16*' τοσοῦτ' ἀπέχουσι τοῦ τοιοῦτόν τι ποιεῖν, ὥστε θανμάζουσι καὶ ζηλοῦσι καὶ βούλουσι ἂν αὐτὸς ἕκαστος τοιοῦτος εἶναι.

[I suggest ὥς ἂν εἰ μάλιστα, and perhaps οὔτοι γε infra (though οὔτοι δέ might mean

'yet these' &c). 'They gave their evidence so, that if the dicasts were ever so much persuaded, and I was stopped from further proceedings then, yet they will be detected in having lied.' ὡς ἂν φωραθεῖεν is a virtual synonym of ὥστε φωραθῆναι. See Aesch. Ag. 357, ὅπως ἂν βέλος ἡλίθιον σκήψειεν.

For the use of δὲ in apodosis, cf. Or. 21 (Mid.) p. 547 § 100, εἰ δέ τις πένης μηδὲν ἡδικηκῶς ταῖς ἐσχάταις συμφοραῖς ἀδίκως ὑπὸ τούτου περιπέπτωκε, τούτῳ δ' οὐδὲ σνυοργισθήσεσθε; and for ὡς ἂν with optative equivalent to ὥστε, see Plat. Phaedr. p. 230 B, καὶ ὡς ἀκμὴν ἔχει τῆς ἀνθης, ὡς ἂν εὐωδέστατον παρέχοι τὸν τόπον, 'see how this willow is in full blossom, so as to fill the place with fragrance!' Symp. p. 187 D, τοῖς μὲν κοσμίαις τῶν ἀνθρώπων, καὶ ὡς ἂν κοσμιώτεροι γίγνοντο οἱ μήπω ὄντες, δεῖ χαρίζεσθαι. P.]

§§ 19—23. To prove this, take the evidence of Cephisophon. He deposes to a document having been left him by my father, inscribed 'Pasion's Will'; thinking that to depose to this only was a mere trifle, and that he could not safely go so far as to add (what in itself would have been a simple matter) 'that this was the document produced by the deponent.'—Now, had Phormion's name appeared outside, the deponent might reasonably have kept the document for Phormion; further, had it really been endorsed 'Pasion's Will,' it would have belonged to me by inheritance like the rest of my father's

ΜΑΡΤΤΡΙΑ.

ⁿ[Κηφισοφῶν Κεφάλωνος Ἀφιδναῖος μαρτυρεῖ καταλειφθῆναι αὐτῷ ὑπὸ τοῦ πατρὸς γραμματεῖον, ἐφ' ᾧ ἐπιγεγράφθαι διαθήκη Πασίωνος.]ⁿ

Οὐκοῦν ἦν ἀπλοῦν, ᾧ ἄνδρες δικασταί, τὸν ταῦτα ²⁰ μαρτυροῦντα προσμαρτυρήσαι “εἶναι δὲ τὸ γραμματεῖον, ὃ αὐτὸς παρέχει, τοῦτο,” καὶ τὸ γραμματεῖον ἐμβαλεῖν. ἀλλὰ τοῦτο μὲν, οἶμαι, τὸ ψεῦδος ἡγείτο ὀρ-

ⁿ *testimonium om. Σ.*

property, and I should of course have appropriated it, feeling that, with a lawsuit before me, the will, if its terms were those alleged, would be rather detrimental to my interests. The fact that, in spite of the alleged endorsement, it has been produced to Phormion, not to myself, and been let alone by me, proves the forgery of the will and the falsehood of the deposition of Cephisophon. However, I dismiss him for the present, especially as he has given no evidence on the contents of the will, which by the way is a strong proof of the falsehood of the deposition of Stephanus and his friends. Cephisophon, the very person who deposes to having the document, did not dare to depose to its identity with that produced by Phormion; and yet the present witnesses (Stephanus and his friends) have declared that it is a copy of the other, though they cannot claim to have been present when the will was drawn up, never saw it opened before the arbitrator, and indeed have deposed that I refused to open it. If so, have they not clearly charged themselves with having given false evidence?

Μαρτυρία] The wording of

this deposition is identical with that of the speech itself (§§ 18 and 20), with the exception of the clause ὑπὸ τοῦ πατρὸς, (naturally suggested by καταλειφθῆναι,) and the description of the witness as Κεφάλωνος Ἀφιδναῖος. Κεφάλων is a parallel form of Κεφαλίων and is found elsewhere (Plut. Arat. 52). One Κηφισοφῶν Ἀφιδναῖος is mentioned in inscriptions as trierarch and commander of the fleet, and it has been proposed to identify him with the witness in this case, though the name of the trierarch's father is not given (Boeckh, *Seewesen* p. 442). The composer of the deposition may have been led to assign Cephisophon to Aphidna by a passage in Or. 59 κατὰ Νεαίρας §§ 9—10, where a person of that name bribes one Stephanus of Eroadae to charge Apollodorus with causing the death of a woman at Aphidna. (A. Westermann *u. s.* pp. 108—9, cf. § 8 *supra.*) The authenticity of the document is, however, confirmed by the fact that an inscription of the year 343 B. C. mentions Κηφισοφῶν Κεφαλίωνος Ἀφιδναῖος (*C. I. A.* II 1, 114 c. 6 quoted by Kirchner p. 28).

²⁰. ἐμβαλεῖν] sc. εἰς τὸν

γῆς ἄξιον, καὶ δίκην ἂν ὑμᾶς παρ' αὐτοῦ λαβεῖν, γραμματεῖον δ' αὐτῷ καταλειφθῆναι μαρτυρῆσαι φαῦλον καὶ οὐδέεν. ἔστι δὲ τοῦτ' αὐτὸ τὸ δηλοῦν καὶ κατηγο-
 21 ροῦν ὅτι πᾶν τὸ πρᾶγμα κατεσκευάκασιν. εἰ μὲν γὰρ ἐπῆν ἐπὶ τῆς διαθήκης “Πασίωνος καὶ Φορμίωνος” ἢ “πρὸς Φορμίωνα” ἢ τοιοῦτό τι, εἰκότως ἂν αὐτὴν ἐτήρει τούτῳ· εἰ δ', ὥσπερ μεμαρτύρηκεν, ἐπῆν “διαθήκη “Πασίωνος,” πῶς οὐκ ἂν ἀνηρήμην αὐτὴν ἐγὼ, συνειδὼς μὲν ἐμαυτῷ μέλλοντι δικάζεσθαι, συνειδὼς δ' ὑπεναντίαν οὔσαν, εἶπερ ἦν τοιαύτη, τοῖς ἐμαυτῷ συμφέρουσι, κληρονόμος δὲ ὢν καὶ ταύτης, εἶπερ ἦν τού-
 22 μού πατρὸς, καὶ τῶν ἄλλων πατρῶων ὁμοίως; οὐκοῦν

ἐχίνον, § 17.—ὄργῃ, the indignation of the court.—ἂν λαβεῖν depends, like the previous clause, on ἡγεῖτο.

γραμματεῖον δὲ] ‘Whereas to give evidence of a document having been bequeathed to him, was a trifle of no importance.’ Kennedy.

‘Πασίωνος καὶ Φορμίωνος.’] ‘At ineptus Pasio fuisset, si hoc inscriptisset; de utrisque enim, et Phormione et filiis, in eo constituerat’ (Lortzing *Apoll.* p. 78).—ἐτήρει τούτῳ sc. Φορμίῳ. ‘If the inscription had been, *This belongs to Pasio, and to Phormion, or for Phormion, or anything of that sort, he would reasonably have kept it for him.*’

21. πῶς οὐκ ἂν ἀνηρήμην...] ‘I should of course have appropriated it.’ The plaintiff actually says that *if* the terms of the will were such as alleged and if it had been really inscribed ‘Pasion’s Will’ (διαθήκη is emphatic: ‘had the endorsement been, not merely, ‘This is Pasion’s,’ but ‘This is Pasion’s will,’ &c), then he would certainly have claimed it as heir to his

father’s property and, finding it detrimental to his own interests, would have kept it close.’ The effrontery of this statement is sufficiently startling.

As regards the phrase διαθήκην ἀναιρεῖσθαι, it may be noticed that in *Isaeus Or. 6* (Philoct.) §§ 30—33, we have πείθουσι τὸν Εὐκτῆμονα τὴν διαθήκην ἀνελεῖν ὡς οὐ χρησίμην οὔσαν τοῖς παισὶ· followed by ὁ Εὐκτῆμων ἔλεγεν ὅτι βούλουτ’ ἀνελεῖσθαι τὴν διαθήκην and ποιησάμενος πολλοὺς μάρτυρας ὡς οὐκέτι αὐτῷ κέοιτο ἡ διαθήκη, ὄχετο ἀπιών. Cf. also *Isaeus Or. 1* (Cleonym.) § 14, ἀσθενῶν... ἐβουλήθη ταύτας τὰς διαθήκας ἀνελεῖν, where Schömann’s remarks ‘ἀναιρεῖν est λύειν tollere, rescindere: ἀναιρεῖσθαι autem, de contractuum testamentorumque tabulis, proprie est repetere ab eo, apud quem depositae fuerunt, quod fit a sublaturō.’ In these passages, however, the phrase is used of a testator revoking his own will; here of an heir claiming his father’s will, with a view to suppressing it. Cf. note on *Or. 34* § 31.

τῷ παρέχεσθαι μὲν Φορμίῳ, γεγράφθαι δὲ Πασίω-
 1108 νος, εἶασθαι δ' ὑφ' ἡμῶν, ἐξελέγχεται κατεσκευασμένη
 μὲν ἢ διαθήκη, ψευδῆς δ' ἢ τοῦ Κηφισοφῶντος μαρ-
 τυρία. ἀλλ' ἐὼ Κηφισοφῶντα· οὔτε γὰρ νῦν μοι πρὸς
 ἐκείνόν ἐστιν οὔτ' ἐμαρτύρησεν ἐκείνος περὶ τῶν ἐν
 ταῖς διαθήκαις ἐνόντων οὐδέν. καίτοι καὶ τοῦτο σκο- 23
 πείτε, ὅσον ἐστὶ τεκμήριον, ὃ ἄνδρες Ἀθηναῖοι, τοῦ
 τούτους τὰ ψευδῆ μεμαρτυρηκέναί. εἰ γὰρ ὁ μὲν αὐτὸς
 ἔχειν τὸ γραμματεῖον μαρτυρῶν οὐκ ἐτόλμησεν ἀντί-
 γραφα εἶναι ἢ παρείχετο Φορμίῳ τῶν παρ' αὐτῷ
 μαρτυρηῆσαι, οὔτοι δὲ οὔτε ἐξ ἀρχῆς ὡς παρήσαν ἔχοιεν
 ἂν εἰπεῖν οὔτε ἀνοιχθὲν εἶδον πρὸς τῷ δαιτητῇ τὸ
 γραμματεῖον, ἀλλὰ καὶ μεμαρτυρήκασιν αὐτοὶ μὴ ἐθέ-
 λειν ἐμὲ ἀνοίγειν, ταῦτα ὡς ἀντίγραφά ἐστιν ἐκείνων
 μεμαρτυρηκότες, τί ἄλλο ἢ σφῶν αὐτῶν κατήγοροι γε-
 γόνασιν ὅτι ψεύδονται;

Ἔτι τοίνυν, ὃ ἄνδρες Ἀθηναῖοι, ὡς γέγραπται 24
 τις ἂν ἐξετάσας τὴν μαρτυρίαν γνοίη παντελῶς τοῦτο
 μεμηχανημένους αὐτούς, ὅπως δικαίως καὶ ἀδίκως δό-

22. τῷ παρέχεσθαι Φορμίῳ]
 'By its being produced, not by,
 but to Phormion.'—εἶασθαι δ'
 'and yet let alone, (not made
 away with,) by myself.' (See last
 note.) The pf. pass. εἶασθαι is
 apparently never used else-
 where.

23. αὐτὸς ἔχειν] 'That he
 had the document in his own
 keeping.'

ἐξ ἀρχῆς ὡς παρήσαν] 'Were
 present in the first instance'
 as witnesses when Pasion made
 his will. But it may be re-
 marked that even supposing
 they were so present, it does
 not follow that they would know
 the contents of the document.
 (See note on Or. 46 § 2 and

Becker's *Charicles*, Se. ix note
 18.)

§§ 24—26. *Let us now examine
 the terms of the deposition and we
 shall see that its object is to make
 it appear by any means, fair or
 foul, that my father made this
 will. It speaks of 'the will of
 Pasion'; whereas it ought to
 have run 'the will which Phor-
 mion asserts to have been left by
 Pasion'; and you are aware
 that there is a vast difference
 between a thing being really true
 and Phormion's saying so.*

24. ὡς γέγραπται κ.τ.λ.] i.e.
 εἴ τις ἐξετάσειεν ὡς γέγραπται ἢ
 μαρτυρία, γνοίη κ.τ.λ.

δικαίως καὶ ἀδίκως δόξει] 'That
 rightly or wrongly it may ap-

ξει ταῦτα ὁ πατήρ οὐμὸς διαθέσθαι. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν, καὶ λέγ' ἐπισχῶν οὐδ' ἂν σε κελεύω, ἵν' ἐξ αὐτῆς δεικνύω.

ΜΑΡΤΥΡΙΑΙ.

[Μαρτυροῦσι παρέιναι πρὸς τῷ διαιτητῇ Τισία, ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος.]

25 Ἐπίσχεσ. ἐνθυμείσθε ὅτι τῶν διαθηκῶν γέγραπται τῶν Πασίωνος. καίτοι χρῆν τοὺς βουλομένους τάληθῆ μαρτυρεῖν, εἰ τὰ μάλιστ' ἐγίγνετο ἢ πρόκλησις, ὡς οὐκ ἐγίγνετο, ἐκείνως μαρτυρεῖν. λέγε τὴν μαρτυρίαν ἀπ' ἀρχῆς πάλιν.

ΜΑΡΤΥΡΙΑ.

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Μαρτυροῦσι παρέιναι πρὸς τῷ διαιτητῇ Τισία. Μαρτυροῦμεν· παρήμεν γὰρ δὴ. λέγε.

ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον.

Καὶ τοῦτο, εἴπερ προῦκαλεῖτο, ὀρθῶς ἂν ἐμαρτύρουν.

εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος.

26 Ἐχε αὐτοῦ. οὐδ' ἂν εἷς ἔτι δήπου τοῦτ' ἐμαρτύρησεν, εἰ μὴ τις καὶ παρῆν διατιθεμένῳ τῷ πατρὶ τῷ ἐμῷ· ἀλλ' εὐθὺς ἂν εἶπε “τί δ' ἡμεῖς ἴσμεν, εἴ τινές “εἰσι διαθήκαι Πασίωνος;” καὶ γράφειν ἂν αὐτὸν ἠξίωσεν, ὥσπερ^ο ἐν ἀρχῇ τῆς προκλήσεως, “εἰ μὴ “φημ' ἐγὼ ἀντίγραφα εἶναι τῶν διαθηκῶν, ὧν φησι

^ο *fortasse delendum.*

pear that my father made this will.' A singular expression, the adverbs belonging to *δόξει* and not to *διαθέσθαι*.

25. *εἰ τὰ μάλιστα*] ‘If it were ever so true that the challenge took place, which I utterly

deny.’—*ἐκείνως*, ‘in a form which I am about to show,’ viz. in § 26 τῶν διαθηκῶν (not τῶν Πασίωνος) but ὧν φησι Φορμίων Πασίωνα καταλιπεῖν.

26. *εἴ τινές εἰσι*] ‘if there is any will of Pasion’s at all.’

“Φορμίων Πασίωνα καταλιπεῖν,” οὐ “τῶν Πασίω-
 “νος.” τοῦτο μὲν γὰρ ἦν εἶναι διαθήκας μαρτυρεῖν
 ὅπερ ἦν τούτοις βούλημα, ἐκεῖνο δὲ φάσκειν Φορ-
 μίωνα· πλείστον δὲ δήπου κεχώρισται τό τ’ εἶναι καὶ
 τὸ τοῦτον φάσκειν.

“Ἴνα τοίνυν εἰδῆτε ὑπὲρ ἡλικίων καὶ ὄσων ἦν τὸ 27
 κατασκευάσμα τὸ τῆς διαθήκης, μικρὰ ἀκούσατέ μου.
 ἦν γὰρ, ὦ ἄνδρες Ἀθηναῖοι, τοῦτο πρῶτον μὲν ὑπὲρ
 τοῦ μὴ δοῦναι δίκην ὧν διεφθάρκει ἦν ἐμοὶ μὲν οὐ
 καλὸν λέγειν, ὑμεῖς δ’ ἴστε, καὶ ἐγὼ μὴ λέγω, ἔπειθ’
 ὑπὲρ τοῦ κατασχεῖν ὅσα ἦν τῷ ἡμετέρῳ πατρὶ χρήματα
 παρὰ τῇ μητρὶ, πρὸς δὲ τούτοις ὑπὲρ τοῦ καὶ τῶν ἄλ-
 λων τῶν ἡμετέρων ἀπάντων κυρίῳ” γενέσθαι. ὅτι δ’

P κύριον Lambinus (G. H. Schaefer).

φάσκειν] (sc. εἶναι διαθήκας.)
 Here, as often, used with the
 collateral notion of saying what
 is untrue. Thus both φημι and
 φάσκω are used in Soph. El. 319
 of promising without perform-
 ing: φησὶν γε φάσκων δ’ οὐδὲν
 ὧν λέγει ποιεῖ. [For the whole
 sentence, cf. Eur. Alc. 528, χωρὶς
 τό τ’ εἶναι καὶ τὸ μὴ νομίζεται.]

§§ 27, 28. An examination
 of the terms of the ‘Will’ proves
 that Phormion had important
 motives for forging it, viz. (1)
 to escape the penalty for se-
 ducing one who shall be name-
 less, (2) to secure all my father’s
 money that was in my mother’s
 hands; and (3) to obtain con-
 trol over all the rest of the
 family property.

27. κατασκευάσμα] The ‘fa-
 brication,’ ‘forgery,’ of the will.
 Cf. κατασκευάζειν in §§ 13 and 20.

ὧν διεφθάρκει ἦν...] ‘To
 escape the penalty of having
 corrupted her whose name I
 cannot here mention with-
 out impropriety, but whom

you yourselves know without
 my naming her.’ (For this
 delicacy of allusion, cf. note
 on § 3.)—ὧν διεφθάρκει ἦν is
 equivalent to τῆς διαφθορᾶς τῆς
 γυναικὸς ἦν (or τοῦ διεφθαρκεῖναι
 ταύτην ἦν). The substantive is
 here ‘thrown into’ the verb as
 in Fals. Leg. § 238 p. 415, ἐν
 αὐτοῖς οἷς ἐτιμᾶσθε, ‘in the very
 honours you enjoyed,’ where
 Shilleto quotes de Corona § 312
 ἐφ’ οἷς ἐλυμήνω and a striking
 instance from Plato, Phaedo p.
 94c. We may add Midias § 189 p.
 576, ἐφ’ οἷς ἐλειτούργουν ὑβρίζειν,
 and Ar. Ach. 677, οὐ γὰρ ἀξίως
 ἐκεῖνων ὧν ἐναυμαχῆσαμεν γηρο-
 βοσκοῦμεσθ’ ὑφ’ ὑμῶν. Cf. inf.
 § 68 and Or. 55 § 32.

ὑπὲρ τοῦ κατασχεῖν] ‘for the
 purpose of securing.’ So inf. §
 47, ὅπως τὴν ἀφορμὴν τῆς τραπέ-
 ζης κατὰσχοι.

κυρίῳ γενέσθαι] The dative is
 used as though the sentence had
 begun with ἡ διαθήκη κατεσκευ-
 αστο Φορμίῳ instead of with
 its equivalent in sense ἦν τὸ

οὕτω ταύτ' ἔχει, τῆς διαθήκης αὐτῆς ἀκούσαντες γνώ-
σεσθε· φανήσεται γὰρ οὐ πατρός ὑπὲρ⁹ υἱέων γράφον-
τος εἰκουῖα διαθήκη, ἀλλὰ δούλου λελυμασμένου τὰ
28 τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκοποῦντος. λέγει ΙΙΙΙΟ
δ' αὐτοῖς τὴν διαθήκην αὐτὴν, ἣν οὔτοι μετὰ[†] τῆς προ-
κλήσεως μεμαρτυρήκασιν· ὑμεῖς δ' ἐνθυμεῖσθε ἃ λέγω.

ΔΙΑΘΗΚΗ.

^s[Τάδε διέθετο Πασίων Ἀχαρνεύς· δίδωμι τὴν ἔμαντοῦ γυναῖκα Ἀρχίππην Φορμίωνι, καὶ προῖκα ἐπιδίδωμι Ἀρχίππῃ τάλαντον μὲν τὸ[†] ἐκ Πεπαρήθου, τάλαντον δὲ τὸ[†] αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ τὰ χρυσία καὶ τᾶλλ' ὅσα ἐστὶν αὐτῇ ἔνδον. ἅπαντα ταῦτα Ἀρχίππῃ δίδωμι.]^s

⁹ ὡσπερ *Z cum libris*. περὶ G. H. Schaefer. ὑπὲρ *Bekk. et Dindf. cum H. Wolf*.

[†] *Reiske*. πρὸ *libri*.

^{s-s} *om. S.*

[†] 'Malim τῶν.....τῶν.' *Dobree*.

κατασκευάσμα τὸ τῆς διαθήκης. The regular construction would of course require κύριον.

λελυμασμένον] Also a *deponent perfect* in Or. 19 § 105 and Or. 21 § 173 (λελύμανται). The inf. is found as pass. in Or. 20 § 142.—The sense is:—'a slave who is thinking how to escape punishment for having wronged, dishonoured, his master's household, damaged his master's property.' τὰ τῶν δεσποτῶν refers to his master's wife [but is expressed purposely in a general way. Aeschylus however uses γυναικὸς λυμαντήριος in this sense, Ag. 1413 and Cho. 751. P.]

28. διαθήκην μετὰ τῆς προκλήσεως] § 12 προσεμαρτύρουν τῇ προκλήσει τὴν διαθήκην and § 15 πρόκλησιν ὁμοῦ διαθήκη μαρτυρεῖν. The MSS have πρὸ, which is

altered by *Reiske* into μετὰ and by *Dobree* into διὰ (cf. § 31 τὴν μίσθωσιν ἣν τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλλοντο).

τάδε διέθετο] The usual formula. Thus, *Plato's* will began: τάδε κατέλιπε Πλάτων καὶ διέθετο, and *Aristotle's*: τάδε διέθετο Ἀριστοτέλης (*Diog. Laert.* iii 41 and v 11).

τάλαντον κ.τ.λ.] *Sums in gross*, charged on land, are meant (as *Pabst* and *Kennedy* understand it); *not* annual rents (as G. H. Schaefer supposes).—On συνοικίαν see notes on Or. 36 §§ 6 and 34.

Πεπαρήθου] A small island, N.W. of Euboea. As it was an Athenian colony, Athenians could hold property there (*Darreste*). Its wine is mentioned in 35 § 35.

Ἠκούσατε, ὦ ἄνδρες Ἀθηναῖοι, τὸ πλῆθος τῆς προικὸς, τάλαντον ἐκ Πεπαρήθου, τάλαντον αὐτόθεν, συνοικίαν ἑκατὸν μινῶν, θεραπαίνας καὶ χρυσία, καὶ τᾶλλα, φησὶν, ὅσα ἐστὶν αὐτῇ, δίδωμι, τούτῳ τῷ γράμματι καὶ τοῦ ζητήσαι τι τῶν καταλειφθέντων ἀποκλείων ἡμᾶς.

Φέρε δὴ δείξω τὴν μίσθωσιν ὑμῖν καθ' ἣν ἐμεμί- 29
σθωτο τὴν τράπεζαν παρὰ τοῦ πατρὸς οὗτος. καὶ γὰρ ἐκ ταύτης, καίπερ ἐσκευωρημένης, ὄψεσθε ὅτι πλάσμα ὅλον ἐστὶν ἢ διαθήκη. δείξω δ' ἣν οὗτος παρέσχετο μίσθωσιν, οὐκ ἄλλην τινὰ, ἐν ἣ προσγέγραπται ἕνδεκα τάλαντα ὁ πατήρ ὀφείλων εἰς τὰς παρακαταθήκας

καὶ τοῦ ζητήσαι...ἀποκλείων]
See on Or. 40 § 15, ἕαν τι οὔτοι
τῶν πατρῶων ἐπιζητῶσι.

§§ 29—36. Again, the 'lease' upon which Phormion took the bank from my father, though itself a fabrication, will prove the 'Will' an absolute forgery.

It concludes with a clause stating that my father owes eleven talents to the bank. This was added in order that whatever sums were traced to Phormion might be made out to have been 'paid' in discharge of this debt, and not embezzled.—(You imagine perhaps that, as Phormion speaks bad Greek, he is merely a foreigner and a fool. To be sure, he is anything but a good Greek in hating those he ought to honour, but in villainy and knavery he is far from a fool.)

The terms of the 'lease' shall now be read and examined.

(1) No one would have paid so large a rent, as that alleged, for the banking business.

(2) No one would have committed the rest of his property to a man under whose management

the Bank got into debt.

(3) The stringency of the provision preventing Phormion from doing business as a banker on his own account is inconsistent with the singularly generous terms of the will and proves the latter to be a forgery.

29. τὴν μίσθωσιν κ.τ.λ.] See Or. 36 §§ 4—6.—καὶ γὰρ ἐκ ταύτης, 'for from this too,' &c. [The clause καίπερ ἐσκευωρημένης reads unlike the style of Demosthenes. P.]

πλάσμα] Cf. πέπλακε in line 10 of *Argument*, and Or. 36 § 33. Hesychius has πλάσμα σχηματισμός ('pretence'). ψεῦσμα. ἢ κτίσμα.

ἕνδεκα τάλ.] The origin of this 'debt' is carefully explained in Or. 36 §§ 4—5 (see note on προσώφειλε p. 6), and in the present speech, the plaintiff says nothing that materially shakes that explanation. [The construction is, ὀφείλων τούτῳ εἰς τὰς π., 'owing Phormion eleven talents on the deposits,' or 'for the deposits' which he had put out to interest. Kennedy translates, 'upon the de-

30 τούτω. ἔστι δ', οἶμαι, ταῦτα τοιαῦτα. τῶν μὲν οἴκοι χρημάτων ὡς ἐπὶ τῇ μητρὶ δοθέντων διὰ τῆς διαθήκης αὐτὸν ἐποίησε κύριον, ὥσπερ ἀκηκόατε ἄρτι, τῶν δ' ἐπὶ τῆς τραπέζης ὄντων, ἃ πάντες ἤδεσαν καὶ λαθεῖν οὐκ ἦν, διὰ τοῦ προσοφείλοντα ἀποφῆναι τὸν πατέρα ἡμῶν, ἴν', ὅσα ἐξελέγχοιτο ἔχων, κεκομίσθαι φαίη. ὑμεῖς δ' ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι. ἔστι IIII

posits to Phormion.' See § 31 fin. P.]

30. ὡς ἐπὶ τῇ μητρὶ δοθέντων] 'As my mother's dowry.' Or. 40, περὶ προικὸς, § 6, ἐκδόντος αὐτὴν... καὶ προίκα τάλαντον ἐπιδόντος.

πάντες ἤδεσαν κ.τ.λ.] This must be taken as a rhetorical exaggeration. All that the speaker probably means is that as Phormion was only the lessee, not the owner of the bank, he could be called upon by Apollodorus, the lessor after Pasion's death, to give an account of all the moneys held by the bank. As a contrast we have in § 66 ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῆται.

κεκομίσθαι] In middle sense. Or. 41 § 11, οὐκ ἀνενηνόχασι κεκομισμένοι (τὴν φιάλην). Or. 56 (Dionysod.) § 3, δέον δ' αὐτὸν ἐν τῇ πέρυσιν ὄρα κεκομίσθαι τὰ χρήματα. Trans. 'that whatever sums he might be proved to possess, he might pretend he had recovered in the way of debts.'

σολοικίζει τῇ φωνῇ, βάρβαρον] (See note on Or. 36 § 1, τὴν ἀπειρίαν τοῦ λέγειν.) σόλοικος is a word of narrower meaning than βάρβαρος and is applied mainly to faults of pronunciation or mistakes in Grammar, especially Syntax, due to foreign

extraction. The word βάρβαρος originally referred to language (as an onomatopœetic word connected with the Sanskrit *varvara*, 'a jabberer') and was used to describe the incoherent jargon (as the Greeks considered it) of all languages but their own (Aesch. Ag. 1050). But it gradually attained a wider signification and embraced all that was non-Hellenic in the customs, the politics, the laws, and the moral and intellectual characteristics of foreign nations. (Cf. Isocr. Paneg. § 3 n.)

Hesychius (possibly with the present passage in view) has the gloss σολοικίζει· βαρβαρίζει, and Aristotle (περὶ σοφιστικῶν ἐλέγχων § 3) explains σολοικίζειν by τῇ λέξει βαρβαρίζειν and (in § 14) illustrates it by instances from the rules of *gender*. The distinction drawn between *βαρβαρισμὸς* and *σολοικισμὸς* by Zeno and the Stoics, and accepted by the writers on Rhetoric, is perhaps best expressed by Quintilian: 'vitium quod fit in *singulis verbis*, sit barbarismus... cetera vitia omnia ex pluribus *vocibus* sunt, quorum est *soloeicismus*' (I 5, 6 and 34).

βάρβαρον καὶ εὐκαταφρόνητον] Ar. Nubes 492 ἀμαθῆς... καὶ βάρβαρος.

δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσήκε
τιμᾶν· τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματα
οὐδενὸς λείπεται. λαβὲ δὴ τὴν μίσθωσιν, καὶ λέγε, ἦν 31
τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλοντο.

ΜΙΣΘΩΣΙΣ ΤΡΑΠΕΖΗΣ^υ.

Ἵ[Κατὰ τὰδε ἐμίσθωσε Πασίων τὴν τράπεζαν
Φορμίωσι· μίσθωσιν φέρειν Φορμίωνα τῆς τραπέζης
τοῖς παισὶ τοῖς Πασίωνος δύο τάλαντα καὶ τετταρά-
κοντα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, χωρὶς τῆς καθ'
ἡμέραν διοικήσεως· μὴ ἐξεῖναι δὲ τραπεζιτεῦσαι χωρὶς
Φορμίωσι, ἐὰν μὴ πείσῃ τοὺς παῖδας τοὺς Πασίωνος.
ὀφείλει δὲ Πασίων ἐπὶ τὴν τράπεζαν ἑνδεκα τάλαντα
εἰς τὰς παρακαταθήκας.]Ἵ

Ἄς μὲν τοίνυν παρέσχετο συνθήκας ὡς κατὰ ταύ- 32
τας μισθωσάμενος τὴν τράπεζαν, αὐταὶ εἰσιν, ὧ ἄνδρες
δικασταί. ἀκούετε δ' ἐν ταύταις ἀναγιγνωσκομέναις
μίσθωσιν μὲν φέρειν τοῦτον, ἄνευ τῆς καθ' ἡμέραν
διοικήσεως, δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ
ἐνιαυτοῦ ἐκάστου, μὴ ἐξεῖναι δὲ τραπεζιτεύειν αὐτῷ,

^υ μίσθωσις Σ.

^{υ-ν} om. Σ.

διορύξαι πράγματα] Lit. 'to undermine,' 'to ruin' [here, perhaps, 'to be a rogue in business']. A metaphor from house-breaking. Or. 9 § 28, κακῶς διακείμεθα καὶ διορωρῦμεθα κατὰ πόλεις. Or. 35 (Lacr.) § 9, οἷα ἐτοιχωρῦχθησαν οὗτοι περὶ τὸ δάνειον, and Philostratus 552 (quoted by Liddell & Scott), τοιχωρυχεῖν τοὺς λόγους τινός.

31. διὰ προκλήσεως] 'by means of,' i.e. 'under cover of,' —'using the Challenge as a cat's paw.' Cf. Fals. Leg. § 291, ἔκρινε Φιλόνεικον καὶ δι' ἐκείνου τῶν σοὶ πεπραγμένων κατηγορεῖ, where Shilleto quotes the pre-

sent passage.

κατὰ τὰδε ἐμίσθωσε] Similarly in an inscription recording a lease of the year 300 B.C. we have: κατὰ τὰδε ἐμίσθωσαν Ἀντίμαχος Ἀμφιμάχου...τὸ ἐργαστήριον τὸ ἐν Πειραιεῖ...Εὐκράτει Ἐξηκίου Ἀφιδναίῳ (*Revue Archéol.* 1866, xiv 352); and in an inscription of 345 B.C. κατὰ τὰδε ἐμίσθωσαν Αἰζωνεῖς τὴν Φιλαῖδα Ἀύτοκλεῖ (*C. I. G.* 93). Kirchner p. 39.

32. τῆς καθ' ἡμέραν διοικήσεως] 'The daily expenditure' involved in managing the bank, paying under-clerks, &c.

ἐὰν μὴ ἡμᾶς πείσῃ. προσγέγραπται δὲ τελευταίου
 “ὀφείλει δὲ Πασίων ἔνδεκα τάλαντα εἰς τὰς παρα-
 33 “καταθήκας.” ἔστιν οὖν ὅστις ἀν τοῦ ξύλου καὶ τοῦ
 χωρίου καὶ τῶν γραμματείων τοσαύτην ὑπέμεινε φέ-
 ρειν μίσθωσιν; ἔστι δ’ ὅστις ἀν, δι’ ὃν ὠφειλήκει το-
 σαῦτα χρήματα ἢ τράπεζα, τούτῳ τὰ λοιπὰ ἐπέτρε-
 ψεν; εἰ γὰρ ἐνεδέησε τοσοῦτων χρημάτων, τούτου
 διοικούντος ἐνεδέησεν. ἴστε γὰρ πάντες, καὶ ὅτ’ ἦν
 ὁ πατὴρ ἐπὶ τοῦ τραπεζιτεῦειν, τούτον καθήμενον καὶ
 διοικούντα ἐπὶ τῇ τραπέζῃ, ὥστε ἐν τῷ μυλῶνι^w προσ-

^w μυλῶνι Z et Bekker st. accentum omisit Σ.

33. ξύλου...χωρίου...γραμμα-
 τελίων] The bench (desk or
 counter)..the site (in the market-
 place)...the banking-books (ledg-
 ers, &c).

ὠφειλήκει ἢ τράπεζα] Phor-
 mion’s account is that Pasion
 owed 11 talents to the bank;
 whereas Apollodorus unfairly,
 as it seems, treating this sum
 as a deficit though it stood in
 Pasion’s hands to the credit
 of the bank, denounces Phormion
 for having caused the bank to
 get into debt. [Apollodorus
 wishes to throw a doubt on
 Phormion’s ever having had a
 lease at all on the terms now
 brought forward. He says he
 would have been a fool to pay
 so much for a business that was
 encumbered if not insolvent;
 and Pasion would have been
 equally foolish if he had let the
 bank to one who had managed
 it so badly as Phormion. P.]

εἰ γὰρ κ.τ.λ.] A sophistical
 argument to bear out the pre-
 vious clause δι’ ὃν ὠφειλήκει ἢ
 τράπεζα. It is quite true that
 ἢ τράπεζα ἐνεδέησε χρημάτων, but
 then the 11 talents in question
 were held by Pasion on the

security of land and were part
 of the assets of the business.—
 Οἱ καθήμενον κ.τ.λ. v. Or. 36 § 7, n.

ἐν τῷ μυλῶνι] So far from
 being made master of the rest
 of the household, Phormion
 ought to have been punished, as
 a slave, with hard-labour at the
 mill, for bad management. For
 the mill, as a common part of
 slaves’ labour, cf. the Phormio
 of Terence II 1, 18, *herus si
 redierit, Molendum usque in
 pistrino, vapulandum, habendae
 compedes*. In Lysias Or. 1 § 18
 a master threatens his *θεράπεινα*
 with the punishment *μαστιγω-
 θείσαν εἰς μυλῶνα ἐμπεσεῖν*, and
 Dinarchus, *contr. Dem.* § 23,
 says that Memnon the miller
 was condemned to death for
 making a freeborn boy work in
 his mill. Cf. Eur. *Cycl.* 240,
εἰς μυλῶνα καταβαλεῖν, and Pol-
 lux, *ἵνα κολάζονται οἱ δοῦλοι*,
μυλῶνες κ.τ.λ. (K. F. Hermann,
Privatalt. § 24, 9, p. 216 Blüm-
 ner.) The parallel of Samson,
 ‘eyeless in Gaza at the mill
 with slaves,’ will occur to every
 reader (Judges xvi 21, Milton
Samson Agonistes 41, &c).—*μύ-
 λων* is, in respect of accent, a

I 112 ἦκεν αὐτὸν εἶναι μᾶλλον ἢ τῶν λοιπῶν κύριον γεν-
 34 ἔσθαι. ἀλλ' ἐὼ ταῦτα καὶ τᾶλλ' ὅσ' ἂν περὶ τῶν
 ἔνδεκα ταλάντων ἔχοιμι εἰπεῖν, ὡς οὐκ ὄφειλεν ὁ πα-
 τήρ, ἀλλ' οὗτος ὑφῆρηται. ἀλλ' οὐ ἀνέγνω ἔνεκα^x,
 τοῦ τὴν διαθήκην ψευδῆ δεῖξαι, τοῦθ' ὑμᾶς ἀναμνήσω.
 γέγραπται γὰρ αὐτόθι, μὴ ἐξεῖναι δὲ τραπεζιτεῦειν
 Φορμίῳ, ἐὰν μὴ ἡμᾶς πείσῃ. τοῦτο τοίνυν τὸ γράμμα
 παντελῶς δηλοῖ ψευδῆ τὴν διαθήκην οὔσαν. τίς γὰρ
 ἂν^y ἀνθρώπων, ἃ μὲν ἔμελλε^z τραπεζιτεῦων οὗτος ἐρ-
 γάζεσθαι^a, ταῦθ' ὅπως ἡμῖν τοῖς αὐτοῦ παισίν, ἀλλὰ

^x εἶνεκα Z cum Σ.

^y ἂν G. H. Schaefer. 'non dubitarem recipere, si modo libri praeberent...sed necessariam esse voculam ἂν neutiquam mihi persuadere possum' (Gebauer, *de argumenti ex contrario formis* p. 181). om. Bekker et Z cum libris.

^z ἦμελλε Z cum Σ. (See note on Isocr. Paneg. § 83.)

^a Bekker. om. Z cum Σ. 'quid si [omisso ἐργάζεσθαι] τραπεζιτεῦειν scribimus idque praegnanter dictum putamus pro τραπεζιτεῦων ἐργάζεσθαι, quem ad modum Horatius carm. III 16, 26 arandi verbo usus est?' (Gebauer *l. c.*)

false form. (Chandler, *Gk. Acc.* § 638.)

34. ἐὼ ταῦτα κ.τ.λ.] The speaker, it will be observed, makes no attempt to meet fairly the statement made on the opposite side, accounting for the 11 talents not being actually in the bank. (Or. 36 §§ 4—6.)

[ὑφῆρηται. Phormion, he says, has filched, or secretly withdrawn, eleven talents from the bank, which he now pretends Pasion and Pasion's heirs were bound to repay. P.]

μὴ τραπεζιτεῦειν] The object of this clause appears to have been to prevent Phormion's doing business *on his own account*, apart from the profits made on the bank. The plaintiff seems rather unfairly to

suggest that Phormion was allowed to make no profit whatever out of the lease.

τίς γὰρ ἂν κ.τ.λ.] 'Is there any man, I ask, who, after taking precautions to ensure his own children receiving the profits of a lessee's management of the bank, by preventing him from doing business on his own behalf, would have nevertheless actually provided for that lessee's appropriating the profits he had himself laid by in his lifetime and left behind him on his death?' [The two things, he says, are inconsistent. If Phormion must bank only in the interest and for the benefit of Pasion's family, it was not likely that he would have had so much money left him

μὴ τούτῳ γενήσεται προϋνόηθη, καὶ διὰ τοῦτο μὴ ἐξείναι τούτῳ τραπεζιτεύειν ἔγραψεν, ἵνα μὴ ἀφίστηται ἀφ' ἡμῶν· ἂ δ' αὐτὸς εἰργασμένος ἔνδον κατ-
 35 ἔλειπε, ταύθ' ὅπως οὗτος λήψεται παρεσκευάσεν; καὶ τῆς μὲν ἐργασίας ἐφθόνησεν, ἧς οὐδὲν αἰσχροὺν ἦν μεταδοῦναι· τὴν δὲ γυναῖκα ἔδωκεν, οὗ μείζον οὐδὲν ἂν κατέλειπεν^b ὄνειδος,^c τυχῶν γε τῆς παρ' ὑμῶν δωρεᾶς, εἶτα ὥσπερ ἂν δούλος δεσπότη διδούς, ἀλλ' οὐ τούναντιον, εἴπερ ἐδίδου, δεσπότης οἰκέτη, προστιθεὶς προῖκα

^b Bekker. κατέλειπεν Ζ cum Σ prima manu.

^c ὄνειδος; edd. *interrogationis signum ad finem paragraphi transferendum esse indicavit H. W. Moss.*

by Pasion; i.e. he must have got it unfairly. The sentence is artificially constructed, and is one of those sometimes called 'bimembered,' where each clause is antithetical to the other, as here προϋνόηθη ὅπως το παρεσκευάσεν ὅπως. P.]

35. καὶ τῆς μὲν ἐργασίας ἐφθόνησεν] The subject is *τίς ἀνθρώπων* repeated from the previous sentence.

οὗ] sc. ὄνειδος, viz. the disgrace τοῦ γυναῖκα τούτῳ δεδωκέναι.

τυχῶν γε τῆς παρ' ὑμῶν δωρεᾶς] The fact that Pasion was made a citizen of Athens increases the disgrace brought on his family by his providing in his alleged will that his wife should marry Phormion.—Or. 59 § 2, ψηφισαμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν followed by τῇ τοῦ δήμου δωρεᾷ. Or. 36 § 47. [τυχῶν γε seems an imaginary answer in favour of Phormion; 'very true; but then it was after he had received the franchise (that he took the

wife).'] 'So then' (the retort is), 'like a slave who makes a wife over to his master, rather than in the converse case, Pasion gave him, it seems, a marriage portion larger than any citizen ever did!' P.]

ὥσπερ ἂν] sc. διδοίη. Pasion's gift of his wife with a large dowry to Phormion, is the kind of gift a slave might offer his master in acknowledgment that all the slave had, belonged by right to his master, and not such a gift as might be expected from a superior to an inferior. In the latter case a very slight favour would be enough. At any rate the inferior would be content with being allowed to have the honour of being married to his superior's wife, without any dowry at all.

εἴπερ ἐδίδου] which Apoll. does not admit.

προστιθεὶς προῖκα] Or. 40 § 25, προσθέντας (sc. προῖκα) ἐκδοῦναι. Fals. Leg. § 195, προῖκα προσθεὶς ἐκδώσω καὶ οὐ περιόψομαι παθούσας οὐδὲν ἀνάξιον οὐθ' ἡμῶν οὔτε τοῦ πατρός (cf. § 54 infra, προῖκα ἐπίδους ἐκδοῦ-

ὄσῃν οὐδεὶς τῶν ἐν τῇ πόλει φαίνεται; καίτοι τούτῳ 36
 μὲν αὐτὸ τοῦτο ἀγαπητὸν ἦν, τὸ τῆς δεσποίνης ἀξιω-
 θῆναι τῷ πατρὶ δὲ οὐδὲ λαμβάνοντι^d τοσαῦτα χρή-
 ματα, ὅσα φασὶ διδόντα οὔτοι, εὐλογον ἦν πρᾶξι
 ταῦτα. ἀλλ' ὅμως ἂ τοῖς εἰκόσι, τοῖς χρόνοις, τοῖς
 πεπραγμένοις ἐξελέγχεται ψευδῇ, ταῦτα μαρτυρεῖν
 οὐκ ὄκνησεν οὐτοσὶ Στέφανος.

Εἶτα λέγει περιῶν ὡς ἐμαρτύρησε μὲν Νικοκλῆς 37

^d Bekker. λαμβάνοντα Ζ cum Σ.

ναι, n.). Isaeus Or. 3 (Pyrrhus) § 51, δοκεῖ δ' ἂν τις ὑμῖν οὕτως ἀναιδῆς ἢ τολμηρὸς εἰσποίητος γενέσθαι ὥστε μηδὲ τὸ δέκατον μέρος ἐπιδοῦς ἐκδοῦναι τῇ γνησίᾳ θυγατρὶ τῶν πατρῶων; Eur. Hippol. 628, προσθεῖς...πατῆρ φερνὰς, ἀπόκισ'...Hyperides, Lycophron col. 11 line 16 (quoted by Shilleto), εὐθὺς ἐξεδόθη, τάλαντον ἀργυρίου προσθέντος αὐτῇ Εὐφύμου. The commoner term was ἐπιδοῦναι (cf. §§ 30, 54, &c).

ὄσῃν οὐδεὶς κ.τ.λ.] The mother of Demosthenes had a dowry of only 80^m: the mother of Manti-theus 60^m; the two daughters of Polyuctus 40^m each. (Dareste.)

36. λαμβάνοντι χρήματα] Not even if he got from Phormion (viz. as a bribe for leaving him his wife) the same large amount which the defendants pretend that he gave Phormion as a marriage portion.—φασὶ διδόντα, supply πρᾶξι ταῦτα.

τοῖς εἰκόσι...ἐξελέγχεται ψευδῇ] 'That which the facts, the dates, the probabilities of the case, show to be false, Stephanus the defendant has not scrupled to bear witness to.' Kennedy. For τοῖς εἰκόσι see esp. §§ 9—14. τοῖς χρόνοις seems inexplicable, except as a rhetorical flourish, for

we have had nothing like an argument from dates; and Dobree rightly asks *Quomodo?* Even τοῖς πεπραγμένοις is barely justifiable, unless it is to be referred to §§ 15—18.

§§ 37—39. Phormion attempts to prove the existence of the 'will,' by going about saying that Nicocles gave evidence to having been guardian, and Pasicles to having been in wardship, under the will. Why then were not the terms of the will deposed to by Nicocles and Pasicles, instead of by Stephanus and his friends? Was it because the former did not know the terms? If not, much less could the latter. How then came the latter witnesses to depose to one set of facts, the former to another? It's the old story; they divided the responsibility of the wrong; the guardian and ward deposed to the guardianship as being under the will, and the other witnesses, under cloak of a challenge, deposed to the contents—the scandalous contents—of the 'will.'

37. Νικοκλῆς] His evidence is not expressly mentioned in Or. 36; that of Pasicles is referred to in § 22 of that speech.

ἐπιτροπεύσαι κατὰ τὴν διαθήκην, ἐμαρτύρησε δὲ Πασικλῆς ἐπιτροπευθῆναι κατὰ τὴν διαθήκην. ἐγὼ δὲ αὐτὰ ταῦτ' οἶμαι τεκμήρια εἶναι τοῦ μήτ' ἐκείνους τἀληθῆ μήτε τοῦσδε μεμαρτυρηκένοι. ὁ γὰρ ἐπιτροπεύσαι κατὰ διαθήκας μαρτυρῶν δῆλον ὅτι καθ' ὅποίας ἂν εἰδείη, καὶ ὁ ἐπιτροπευθῆναι κατὰ διαθήκας μαρ-
 38 τυρῶν δῆλον ὅτι καθ' ὅποίας ἂν εἰδείη. τί οὖν μαθόντες^ο ἐμαρτυρεῖτε ὑμεῖς ἐν προκλήσει διαθήκας, ἀλλ' οὐκ ἐκείνους εἶατε; εἰ γὰρ αὖ μὴ φήσουσιν εἰδέναι τὰ γεγραμμένα ἐν αὐταῖς, πῶς ὑμᾶς οἶόν τ' εἰδέναι τοὺς μηδαμῆ[†] μηδαμῶς τοῦ πράγματος ἐγγύς; τί ποτ' οὖν οἱ μὲν ἐκεῖνα, οἱ δὲ ταῦτα ἐμαρτύρησαν; ὕπερ εἶρηκα
 39 καὶ πρότερον, διείλοντο τὰδίκηματα, καὶ ἐπιτροπεύσαι μὲν κατὰ διαθήκην οὐδὲν δεινὸν ἡγεῖτο μαρτυρεῖν ὁ μαρτυρῶν, οὐδ' ἐπιτροπευθῆναι κατὰ διαθήκην, ἀφαιρῶν ἑκάτερος τὸ μαρτυρεῖν τὰ ἐν ταῖς διαθήκαις ὑπὸ τούτου γεγραμμένα, οὐδὲ καταλιπεῖν τὸν πατέρα αὐτῶ^ε

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^ο παθόντες H. Wolf et Dindf. (1867). μαθόντες Bekker Z et Dindf. (1846 and 1855) *cum libris*.

μηδαμῆ Z *cum* Σ.

^ε αὐτῶ Z.

κατὰ τὴν διαθήκην] Or. 36 § 8, Φορμίλων τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπενεν.

καθ' ὅποίας ἂν εἰδείη] 'would know the purport of (*the terms of*) such will.' [The repetition of the clause δῆλον—εἰδείη seems needless, and perhaps is due to a copyist. P.]

38. τί μαθόντες] Madvig, *Gk. Synt.* § 176 (b) R; or Goodwin's *Moods and Tenses* § 109 (b). ['What then induced you to give evidence of a will in connexion with a challenge, instead of letting them prove it for you?' P.]

ὑμεῖς] sc. οἱ περὶ Στέφανον.—

ἐκείνους, Nicocles and Pasicles. οἱ μὲν...οἱ δὲ] Nicocles and Pasicles...οἱ περὶ Στέφανον.—εἶρηκα καὶ πρότερον refers to § 18.

39. ἀφαιρῶν ἑκάτερος] i.e. both of them declining to depose to the terms entered in the will by *Phormion*, not by *Pasion* himself as is alleged.

καταλιπεῖν] sc. δεινὸν ἡγεῖτο μαρτυρεῖν. The previous participial sentence is subordinate only, and does not carry *καταλιπεῖν* with it. 'There was no danger in a minor (i.e. Pasicles) deposing, that his father had left him a document entitled "a will."' Kennedy. Lit. 'with the word WILL written upon it';

ἐπιγεγραμμένον γραμματεῖον διαθήκην, οὐδὲ τὰ τοιαῦτα· διαθήκας δὲ μαρτυρεῖν, ἐν αἷς χρημάτων τοσούτων κλοπῇ, γυναικὸς διαφθορὰ, γάμοι δεσποίνης, πράγματα αἰσχύνην καὶ ὕβριν τοσαύτην ἔχοντα, οὐδεὶς ἤθελε πλὴν οὗτοι, πρόκλησιν κατασκευάσαντες, παρ' ὧν δίκαιον τῆς ὅλης τέχνης καὶ κακουργίας δίκην λαβεῖν.

“Ἴνα τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, μὴ μόνον ἐξ ὧν 40
ἐγὼ κατηγορῶ καὶ ἐλέγχω δῆλος ὑμῖν γένηται τὰ ψευδῆ
μεμαρτυρηκῶς οὐτοσί Στέφανος, ἀλλὰ καὶ ἐξ ὧν πεποί-
ηκεν ὁ παρασχόμενος αὐτὸν, τὰ πεπραγμένα ἐκείνω
βούλομαι πρὸς ὑμᾶς εἰπεῖν. ὕπερ δ' εἶπον ἀρχόμενος
τοῦ λόγου, δεῖξω κατηγοροὺς γιγνομένους αὐτοὺς ἑαυ-
τῶν. τὴν γὰρ δίκην, ἐν ἧ ταῦτα ἐμαρτυρήθη, παρε-
I 114 γράψατο Φορμίων πρὸς ἐμὲ μὴ εἰσαγωγίμων εἶναι ὡς
ἀφέντος ἐμοῦ τῶν ἐγκλημάτων αὐτόν. τοῦτο τοίνυν 41
ἐγὼ μὲν οἶδα ψεῦδος ὄν, καὶ ἐλέγξω δὲ, ὅταν εἰσῶ

§ 18, ὧ ἐπιγεγράφθαι διαθήκη Πασίωνος.

For ἐπιγεγραμμένον διαθήκην cf. Virg. Ecl. III 196, ‘*inscripti nomina regum... flores.*’

χρημάτων κλοπῇ] § 34 ὑφῆρηται and § 81 init.—γυναικὸς διαφθορὰ §§ 27 and 3.—On ὕβριν cf. § 4, where the γάμος leads to a γραφὴ ὕβρεως being threatened by Apollodorus.

§§ 40—42. *In bar of the previous action, Phormion pleaded a discharge deposed to have been granted by me, releasing him from all further claims. This is false, as I shall prove at the proper time; but even assuming it to be true, it shows that Stephanus has given false evidence and that the will to which he bears witness is a forgery. For no one would be*

so foolish as to take the precaution of having witnesses present when he gave a discharge to a lessee with a view to getting rid of any claims against himself on the part of that lessee; and yet allow the ‘lease’ itself and the ‘will’ to remain sealed to his detriment. The plea is therefore inconsistent with the evidence and the lease is inconsistent with the will; and thus the whole affair is proved to be a fabrication and a fraud.

40. παρεγράψατο... ὡς ἀφέντος] See notes on Or. 36 Argument I. 23 and *ib.* § 25. The distinction there drawn between ἀφιέναι and ἀπαλλάττειν may be exemplified thus:

ἀφῆκε μὲν Ἀπολλόδωρος ὁ ἀπαλλαγείς, ἀπήλλαξε δὲ Φορμίων ὁ ἀφθεβείς.

πρὸς τοὺς ταῦτα μεμαρτυρηκότας· τούτῳ δὲ οὐχ οἶόν τε τοῦτ' εἰπεῖν. εἰ τοίνυν ἀληθῆ πιστεύσαιτ' εἶναι τὴν ἄφεσιν, οὕτω καὶ μάλιστ' ἂν οὗτος φανείη ψευδῆ μεμαρτυρηκῶς καὶ κατεσκευασμένης διαθήκης μάρτυς γεγυώς. τίς γὰρ οὕτως ἄφρων ὥστε ἄφεσιν μὲν ἐναντίον μαρτύρων ποιήσασθαι, τοῦ βεβαίαν αὐτῷ^h τὴν ἀπαλλαγὴν εἶναι, τὰς δὲ συνθήκας καὶ τὰς διαθήκας καὶ τᾶλλα, ὑπὲρ ὧν ἐποιεῖτο τὴν ἄφεσιν, σεσημασμένα

42 ἐᾶσαι καθ' αὐτοῦ κείσθαι; οὐκοῦν ἐναντία μὲν ἢ παραγραφῇ πᾶσι τοῖς μεμαρτυρημένοις, ἐναντία δὲ, ἢν ἀνέγνων ὑμῖν ἄρτι, μίσθωσις, τῆδε τῇ διαθήκῃ·

^h αὐτῷ Ζ.

41. τούτω κ.τ.λ.] *Stephanus*, however, has no right to declare that the evidence to the release is false. [The meaning is, that *Stephanus* was in league with *Phormion*, and therefore was not in a position to deny, though he knew it to be untrue, any plea of *Phormion's* against *Apollo-dorus*. P.]

τοῦ βεβαίαν αὐτῷ τὴν ἀπαλλαγὴν εἶναι] The plaintiff's object in having witnesses to his alleged ἄφεσις of *Phormion* would be to ensure his own ἀπαλλαγῇ, that is, his getting quit of any counter-claim on the part of the latter. Or. 33 § 3, πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης.

If ἀπαλλαγῇ were synonymous with ἄφεσις, we should have to render 'in order to make his discharge of *Phormion's* dues valid.' 'Who would be such a fool,' he would then ask, 'as to give an ἄφεσις in presence of witnesses and so lose all right to further claims?' But the sense is rather: 'Admit it true that the plaintiff gave a release to *Phormion* in the presence of wit-

nesses with a view to his own riddance of any counter-claim on *Phormion's* part; no one who had (as alleged) done this, would be such a fool as to allow the compacts and agreements, the will, &c (καὶ τᾶλλα sc. περὶ τὴν μίσθωσιν) to remain in existence to his own detriment. No! if he had given a receipt, he would have opened and suppressed the documents. But as a fact, he had not touched them, and his refraining from suppressing them is thus inconsistent with the alleged grant of a release to *Phormion*. — ποιήσασθαι ἄφεσιν not 'to get' but 'to give a release,' = ἀφείναι, as 'any verb in Greek may be resolved into the cognate substantive with ποιεῖσθαι.' *Shilleto* on *Fals. Leg.* § 103.

42. ἐναντία μίσθωσις... διαθήκη] §§ 34—36. For πεπλασμένα cf. Or. 36 § 33.—ἐκ τούτου τοῦ τρόπου, 'in this manner.' *Kennedy*, doubtless following *Bekker's* text (ἐκ τοῦ τούτου τρόπου), translates: 'just what you might expect from this man's character.'

οὐδὲν δὲ τῶν πεπραγμένων οὐτ' εὐλογον οὐθ' ἀπλοῦν οὐθ' ὁμολογούμενον αὐτὸ ἐαυτῷ φαίνεται. ἐκ δὲ τούτου τοῦ τρόπου¹ πάντα πεπλασμένα καὶ κατεσκευασμένα ἐλέγχεται.

Ὡς μὲν τοίνυν ἐστὶν ἀληθῆ τὰ μεμαρτυρημένα, 43 οὐτ' αὐτὸν τοῦτον οὐτ' ἄλλον ὑπὲρ τούτου δεῖξαι δυνησεσθαι νομίζω. ἀκούω δ' αὐτὸν τοιοῦτόν τι παρσκευάσθαι λέγειν, ὡς προκλήσεώς ἐστὶν ὑπεύθυνος, οὐχὶ μαρτυρίας, καὶ δυοῖν αὐτῷ^h προσήκει δοῦναι λόγον, οὐ πάντων τῶν γεγραμμένων, εἴτε προῦκαλεῖτό με ταῦτα Φορμίων ἢ μὴ, καὶ εἰ μὴ ἐδεχόμην ἐγώ· ταῦτα μὲν γὰρ ἀπλῶς αὐτὸς μεμαρτυρηκέναι φήσει, τὰ δ' ἄλλα ἐκείνον προκαλεῖσθαι, εἰ δ' ἐστὶν ἢ μὴ ταῦτα, οὐδὲν προσήκειν αὐτῷ^h σκοπεῖν. πρὸς δὴ τὸν λόγον 44 τοῦτον καὶ τὴν ἀναίδειαν βέλτιόν ἐστι μικρὰ προειπεῖν
 1115 ὑμῖν, ἵνα μὴ λάθητε ἐξαπατηθέντες. πρῶτον μὲν, ὅταν ἐγχειρῆ λέγειν τοῦτο, ὡς ἄρα οὐ πάντων ὑπεύθυνός ἐστιν, ἐνθυμεῖσθε ὅτι διὰ ταῦτα ὁ νόμος μαρτυρεῖν ἐν γραμματείῳ κελεύει, ἵνα μήτ' ἀφελεῖν ἐξῆ μῆτε προσ-

¹ Z et Dind. cum libris. τοῦ τούτου τρόπου Bekker cum Reiskio.

§§ 43—46. *Stephanus will urge, that he is not responsible for a deposition but for a challenge, and for the latter on two points only, (1) the question whether Phormion made this challenge or not, and (2) whether I refused it; and that the terms of the challenge mentioned in the deposition are Phormion's business, not his. If so, the witness ought to have had the words erased when his deposition was drawn up. It is now too late to disclaim them, and he is bound in this trial by the terms of his own plea that he 'gave true testimony, in testifying to that*

which is written in the record.'

43. προκλήσεως ὑπεύθυνος] liable to be prosecuted for giving evidence of a pretended challenge that never took place. This is clear from what follows: δεῖ αὐτὸν δοῦναι λόγον εἴτε προῦκαλεῖτο Φ. ἢ μὴ.

44. μαρτυρεῖν ἐν γραμματείῳ] 'All testimonial evidence was required to be in writing, in order that there might be no mistake about the terms and the witness might leave no subterfuge for himself when convicted of falsehood.' C. R. Kennedy in *Dict. Antiq. s. v. Martyria*.

θεῖναι τοῖς γεγραμμένοις μηδέν. τότ' οὖν αὐτὸν ἔδει
 ταῦτ' ἀπαλείφειν κελεύειν, ἃ νῦν οὐ φησι μεμαρτυρη-
 45 κέναι, οὐ νῦν ἐνότων ἀναισχυρτεῖν. ἔπειτα καὶ τότε
 σκοπεῖτε, εἰ ἑάσαιτ' ἂν ἐναντίον ὑμῶν ἐμὲ προσγρά-
 ψαι τι λαβόντα τὸ γραμματεῖον. οὐ δήπου. οὐκουν
 οὐδὲ τοῦτον ἀφαιρεῖν τῶν γεγραμμένων ἑἶν προσήκει·
 τίς γὰρ ἀλώσεται ἔτι ποτὲ¹ ψευδομαρτυριῶν, εἰ μαρ-
 τυρήσει τε ἃ βούλεται καὶ λόγον ὧν βούλεται δώσει;
 ἀλλ' οὐχ οὕτω ταῦτα οὐθ' ὁ νόμος διεῖλεν οὐθ' ὑμῖν
 ἀκούειν προσήκει· ἀλλ' ἐκεῖνο ἀπλοῦν καὶ δίκαιον.
 τί γέγραπται; τί μεμαρτύρηκας; ταῦθ' ὡς ἀληθῆ
 δείκνυε. καὶ γὰρ ἀντιγέγραψαι ταῦτα “ἀληθῆ μεμαρ-
 “τύρηκα, μαρτυρήσας τὰ ἐν τῷ γραμματεῖῳ γεγραμ-
 46 “μένα,” οὐ τὸ καὶ τὸ τῶν ἐν τῷ γραμματεῖῳ. ὅτι δ' οὕτω
 ταῦτ' ἔχει, λαβὲ τὴν ἀντιγραφὴν αὐτὴν μοι. λέγε.

¹ ἔτι ποτὲ ('*legebatur πώποτε*') Dindf. πώποτε *Z cum libris*.

ἀπαλείφειν] Used of any obliteration or erasure, whether the document was on a tablet of wax, or, as in this case, of some other material, as we learn from Or. 46 § 11 where the deposition in question is described as λελευκωμένον and not ἐν μάλλῃ γεγραμμένον.

οὐ νῦν, ἐνότων, ἀναισχυρτεῖν] 'The terms being in the deposition, he ought not to have the impudence to repudiate them *now*.'

45. εἰ ἑάσαιτ' ἂν] When *ei* stands for *εἴτε* or *πότερον*, to express an alternative of probabilities, it sometimes takes *ἂν*, which would, in the ordinary sense of *εἰ*, be inadmissible.

ἀλώσεται ψευδομαρτυριῶν] For the gen. cf. Or. 24 § 103, *ἑάν τις ἀλῶ κλοπῆς καὶ μὴ τιμηθῆ θανάτου...*, καὶ *ἑάν τις ἀλοῦς τῆς κακώσεως τῶν γονέων...*, *κἂν*

ἀσπρατείας τις ὄφλη. (Kühner, *Gk. Gr.* § 419, 2 p. 331.)—
 ὧν βούλεται, supply *μόνον*.

ἀντιγέγραψαι] 'You have pleaded' in answer to the indictment or plaint (*λήξις*); see *Dict. Antiq.* s. v. *Antigraphē*. 'The two pleadings together, the plaint on the left side, the plea on the right, form (as we should say) the issue on the record. The deposition complained of was annexed' (C. R. Kennedy). Cf. Meier and Schömann, p. 628.—τὸ καὶ τὸ, 'so and so'; 'this or that,' cf. *τόσα καὶ τόσα* in Or. 34 § 24.

46. τὴν ἀντιγραφὴν] Harpocr. s. v. *τὰ τῶν δικαζομένων γράμματα, ἃ ἐδίδοσαν περὶ τοῦ πράγματος, καὶ τὰ τοῦ διώκοντος καὶ τὰ τοῦ φεύγοντος, ἀντιγραφὴ, καὶ τὰ μαρτύρια*. Δημ. κατὰ Στεφάνου... The document that follows, is the only specimen of an ἀντι-

ΑΝΤΙΓΡΑΦΗ.

^k[Ἀπολλόδωρος Πασίω-
νος Ἀχαρνεὺς Στεφάνω
Μενεκλέους Ἀχαρνεῖ
ψευδομαρτυριῶν, τίμη-
μα τάλαντον. τὰ ψευ-
δῆ μου κατεμαρτύρησε
Στέφανος μαρτυρήσας
τὰ ἐν τῷ γραμματείῳ
γεγραμμένα.

Στέφανος Μενεκλέους Ἀ-
χαρνεὺς¹ τάληθῆ ἔμαρ-
τύρησα μαρτυρήσας τὰ
ἐν τῷ γραμματείῳ γε-
γραμμένα.]^k

1116 Ταῦτα οὗτος αὐτὸς^m ἀντεγράψατο, ἃ χρὴ μνημο-
νεύειν ὑμᾶς, καὶ μὴ τοὺς ἐπ' ἐξαπάτη νῦν λόγους
ὑπὸ τούτου ῥηθησομένους πιστοτέρους ποιεῖσθαι τῶν
νόμων καὶ τῶν ὑπὸ τούτου γραφέντων εἰς τὴν ἀντι-
γραφὴν.

Πυνθάνομαι τοίνυν αὐτοὺς καὶ περὶ ὧν ἔλαχον 47

^{k-k} om. Σ.

¹ Στέφανος Μενεκλέους Ἀχαρνεὺς cum Reiskio Bekker. om. Z
cum libris.

^m om. Z et Bekker (st. Leipzig ed.) cum Σ.

γραφὴ that has come down to us. Though rejected by Westermann, and bracketed by Dindorf, it is quoted by Pollux 8, 58.

ἐπ' ἐξαπάτη] Or. 20 (Lept.) § 98, ἐξαπάτης ἔνεκα.—ῥηθησομένους. This future is used chiefly in the participle and infinitive, while the 'third future' is probably confined to the third person singular εἰρήσεται (Veitch *Greek Verbs* s. v. *είρω). ῥηθήσεται however is found in Thuc. I 73, Ar. *Ethics* IV 1, 14, and *Rhet.* I 12 and 13.

§§ 47—50. I hear they propose to speak of my original action and to denounce it as

fraudulent and vexatious. But I submit that this would be irrelevant to the present issue, and I claim that, instead of their being allowed to go into the proofs of the original claim which they debarred me from adducing, they should be compelled, in the interests of justice and for the convenience of the jury, to keep to the record, and prove that the testimony by which they deprived me of those proofs was true.

47. περὶ ὧν ἔλαχον] The original indictment of Phormion in the *δικη ἀφορμῆς* to which Or. 36 is a παραγραφὴ.—ὅπως κατάσχοι, sup. § 27.—εἶπον καὶ

τὴν ἐξ ἀρχῆς δίκην ἐρεῖν καὶ κατηγορήσειν, ὡς συκοφαντήματα ἦν. ἐγὼ δ' ὃν μὲν τρόπον ἐσκευωρήσατο τὴν μίσθωσιν, ὅπως τὴν ἀφορμὴν τῆς τραπέζης κατὰσχοι, εἶπον καὶ διεξῆλθον ὑμῖν, ὑπὲρ δὲ τῶν ἄλλων οὐκ ἂν οἶός τ' εἶην λέγειν ἅμα καὶ τούτους ἐλέγχειν περὶ τῆς μαρτυρίας· οὐ γὰρ ἰκανόν μοι τὸ ὕδωρ ἐστίν.
 48 ὅτι δ' οὐδ' ὑμεῖς ἐθέλοιστ' ἂν εἰκότως ἀκούειν περὶ τούτων αὐτῶν, ἐκεῖθεν εἴσεσθε, ἂν λογίσσησθε πρὸς ὑμᾶς αὐτοὺς ὅτι οὔτε νῦν ἐστὶ χαλεπὸν περὶ ὧν μὴ κατηγορηται λέγειν, οὔτεⁿ ψευδεῖς ἀναγνόντα μαρτυρίας ἀποφεύγειν. ἀλλ' οὐδέτερόν γε δίκαιον τούτων οὐδ'
 49 ἂν εἰς φήσειεν εἶναι, ἀλλ' ὃ ἐγὼ προκαλοῦμαι νῦν. σκοπεῖτε δὲ ἀκούσαντες. ἐγὼ γὰρ ἀξιῶ, οὓς μὲν ἀφείλοντό με ἐλέγχους περὶ τῶν ἐγκλημάτων, οὓς προσῆκον ἦν ῥηθῆναι, μὴ ζητεῖν αὐτοὺς νῦν, αἷς δὲ ἀφείλοντο μαρτυρίας, ὡς εἰσὶν ἀληθεῖς, δεικνύναι. εἰ δ' ὅταν μὲν τὴν δίκην εἰσῶ, τὰς μαρτυρίας με ἐλέγχειν ἀξιῶσουσιν, ὅταν δὲ ταύταις ἐπέξῶ, περὶ τῶν ἐξ ἀρχῆς ἐγκλημάτων λέγειν με κελεύουσιν, οὔτε δίκαια οὔτε ὑμῖν
 50 συμφέροντα ἐροῦσιν. δικάσειν γὰρ ὁμωμόκατε ὑμεῖς οὐ περὶ ὧν ἂν ὁ φεύγων ἀξιοῖ, ἀλλ' ὑπὲρ αὐτῶν ὧν ἂν ἡ δίωξις ἦ. ταύτην δ' ἀνάγκη τῇ τοῦ διώκοντος λήξει

ⁿ οὔτε τότε optime Dobree.

διεξῆλθον sc. in §§ 29—36.—On τὸ ὕδωρ, see note on Or. 54 § 36.

48. οὔτε νῦν κ.τ.λ.] i.e. 'it is easy enough for my opponents to introduce into their reply matter that is irrelevant to the case and is no part of my indictment, just as formerly it was easy enough for them to get an acquittal by reciting false depositions.'

Whether we read οὔτε τότε ψευδεῖς or not, we must in either case take the second clause as a

pointed reference to the former trial.

49. αἷς δὲ ἀφείλοντο μαρτυρίας] sc. τοὺς ἐλέγχους.—On τὴν δίκην εἰσῶ, see note on § 7 πρὸς ἐκείνους εἰσῶ.

50. περὶ.. ὑπὲρ] § 11 n.

δίωξις] (Dem.) Or. 47 § 70, οἱ δὲ νόμοι τούτων κελεύουσι τὴν δίωξιν εἶναι. The word is also found in Antiphon Or. 6 § 7, τὴν δίωξιν εὐσεβείας ἔνεκα ποιῆσθαι.—On λήξει...εἴληχα cf. Or. 36 § 21 λήξεων.

δηλοῦσθαι, ἣν ἐγὼ τούτῳ ψευδομαρτυριῶν εἴληχα. μηδ' I 117 δὴ τοῦτ' ἀφείδεις περὶ ὧν οὐκ ἀγωνίζεται λεγέτω· μηδ' ὑμεῖς ἔατε, ἂν^ο ἄρα οὗτος ἀναισχυνηῖ.

Οἶμαι^ρ τοίνυν αὐτὸν οὐδὲν οὐδαμῆ^α δίκαιον ἔχοντα 51 λέγειν ἥξειν καὶ ἐπὶ τούτῳ, ὡς ἄτοπον ποιῶ, παραγραφὴν ἠττημένος, τοὺς διαθήκην μαρτυρήσαντας δὲ ὠκων, καὶ τοὺς δικαστὰς τοὺς τότε φήσειν^ρ διὰ τοὺς ἀφείναι μεμαρτυρηκότας ἀποψηφίσασθαι μᾶλλον ἢ διὰ τοὺς διαθήκην μαρτυρήσαντας. ἐγὼ δ', ὧ^β ἄνδρες Ἀθηναῖοι, νομίζω πάντας ὑμᾶς εἰδέναί ὅτι οὐχ ἦττον τὰ πεπραγμένα εἰώθατε σκοπεῖν ἢ τὰς ὑπὲρ τούτων παραγραφάς· περὶ δὲ τῶν πραγμάτων αὐτῶν τὰ ψευδῆ καταμαρτυρήσαντες οὗτοί μου ἀσθενεῖς τοὺς περὶ τῆς παραγραφῆς ἐποίησαν λόγους. χωρὶς δὲ τούτων 52 ἄτοπον, πάντων τὰ ψευδῆ μαρτυρησάντων, τίς μάλιστα ἔβλαψεν ἀποφαίνειν, ἀλλ' οὐχ ὡς αὐτὸς ἕκαστος ἀληθῆ μεμαρτύρηκε δεικνύναι. οὐ γὰρ, ἂν ἕτερον

^ο ἐὰν Z cum Σ.

^ρ οἶμαι Z cum Σ (cf. Or. 36 § 18).

^α οὐδαμῆ Z cum Σ.

^ρ cum Reiskio Bekker. φήσει Z cum libris.

§§ 51—52. The defendant will urge that the jury in the former trial were led to dismiss my suit by reason of the witnesses in support of the discharge on which Phormion's special plea was based; and not by reason of those who (like himself) gave evidence to the will, as part of the main issue. But I reply that every one knows that juries look to the main issue as well as to the special plea, and I contend that witnesses to the main issue (like the defendant) crippled my case on the special plea. Where all gave false evidence, it is not enough for any individual defendant to point out that some other witness

damaged my case more than he did, but to prove that his own evidence is true.

51. ἀφείναι] sc. τῶν ἐγκλημάτων Φορμίωνα. Or. 36 §§ 23—25.

τὰ πεπραγμένα] The facts of the case on its merits, as opposed to the special plea. See note on Or. 36 Argument I. 25 ἄπτεται τῆς εὐθείας κ.τ.λ.

ἀσθενεῖς ἐποίησαν κ.τ.λ.] 'Weakened my arguments on the special plea.' This need not imply that he actually spoke; as a matter of fact, we find the court would not listen to him (§ 6).

δείξῃ δεινότερα εἰργασμένον, ἀποφεύγειν αὐτῷ προσ-
ήκει, ἀλλ' ἂν αὐτὸς ὡς ἀληθῆ μεμαρτύρηκεν ἀποφήνη.

53 Ἐφ' ᾧ τοίνυν, ᾧ ἄνδρες Ἀθηναῖοι, μάλιστ' ἀπο-
λωλέναι δίκαιός ἐστιν οὕτως Στέφανος, τοῦτ' ἀκού-
σατέ μου. δεινὸν μὲν γάρ ἐστιν εἰ καὶ καθ' ὅτου τις
οὖν τὰ ψευδῆ μαρτυρεῖ, πολλῷ δὲ δεινότερον καὶ πλεί-
ονος ὀργῆς ἄξιον, εἰ κατὰ τῶν συγγενῶν· οὐ γὰρ τοὺς
γεγραμμένους νόμους ὁ τοιοῦτος ἄνθρωπος μόνον,
ἀλλὰ καὶ τὰ τῆς φύσεως οἰκεῖα^s ἀναιρεῖ. τοῦτο τοίνυν

^s δίκαια Cobet.

§§ 53—56. *By giving false evidence against me, the defendant has done wrong to the unwritten laws of natural affection, for my wife is his first cousin. Very different has been the conduct of my wife's father, Deinias, who holds himself debarred by the claims of kinship from giving even true evidence on my behalf against my opponent Stephanus, who is his sister's son.*

53. ἀπολωλέναι] 'To be put to death' for bearing false witness against his own relations, Apollodorus having married the first cousin of Stephanus.

καθ' ὅτου τις οὖν] = καθ' ὅτου οὖν ὅστις οὖν; like ὅπωςτι οὖν = ὅτι οὖν καὶ ὅπως οὖν.

τοὺς γεγραμμένους νόμους...τὰ τῆς φύσεως οἰκεῖα] Soph. Antig. 454, οὐ γὰρ σθένειν τοσοῦτον ᾧ-
ομην τὰ σὰ κηρύγμαθ' ὥστ' ἄγρα-
πτα κάσφαλῆ θεῶν νόμιμα δύνα-
σθαι θνητὸν ὄνθ' ὑπερδραμεῖν.
There, as here, the unwritten law of natural affection is contrasted with human ordinances.

'Intelligisne (asks Cobet) quae sint τὰ τῆς φύσεως οἰκεῖα opposita τοῖς νόμοις τοῖς γεγραμμένοις? Non opinor. Sed latet in οἰκεῖα vocabulum quo non est aliud apud Oratores tritius et

frequentius, nempe τὰ τῆς φύσεως δίκαια ἀναιρεῖ, veluti in Orat. xxv 28 προφάσει πλάττων καὶ ψευδεῖς αἰτίας συντιθεῖς τὰ κοινὰ δίκαια ἀνατρέψει οἰεῖ. Rectissime igitur componuntur τὰ τῆς φύσεως δίκαια et τὰ τῶν νόμων δίκαια, quae commemorat idem Orator xxv 3 μεθ' ἑαυτοῦ δείξων ἑκάτερος τὰ τῶν νόμων δίκαια' (Novae Lectioes p. 619).—τὰ τῆς φύσεως οἰκεῖα may however be retained in spite of the above suggestion, and we may readily render it 'natural relationship' or better 'the home-ties of nature', 'the natural ties of home affections.' In § 65, Stephanus is denounced as 'the common enemy of all human nature.'

C. R. Kennedy (Introduction to κατὰ Στεφ. p. 45) observes, "To give wilfully false testimony against the plaintiff was an aggravation of his offence, ... for the Athenians excused a man for being reluctant even to give true evidence against a relation." [The patriarchal system, descended from the old Aryan peoples, made the Greeks view all family ties as almost inviolable. With all their respect for 'written law,' the obligations of relationship had more of reli-

ἐπιδειχθήσεται πεπονηκῶς οὐτοσί[†]. ἔστι γὰρ ἡ τούτου
 μήτηρ καὶ ὁ τῆς ἐμῆς γυναικὸς πατὴρ ἀδελφοὶ, ὥστε 54
 τὴν μὲν γυναῖκα τὴν ἐμὴν ἀνεψιὰν εἶναι τούτῳ, τοὺς
 1118 δὲ παῖδας τοὺς ἐκείνου καὶ τοὺς ἐμούς ἀνεψιαδοὺς.
 ἄρ' οὖν δοκεῖ ποτ' ἂν ὑμῖν οὗτος, εἴ τι δι' ἔνδειαν εἶδε
 ποιούσας ὧν οὐ χρὴ τὰς αὐτοῦ συγγενεῖς, ὅπερ ἤδη
 πολλοὶ πεποιήκασι, παρ' αὐτοῦ προῖκα ἐπιδούς ἐκ-
 δοῦναι, ὅς ὑπὲρ τοῦ μηδ' ἂ προσήκει κομίσασθαι
 ταύτας τὰ ψευδῇ μαρτυρεῖν ἠθέλησε, καὶ περὶ πλεί-
 ονος ἐποιήσατο τὸν Φορμίωνος πλοῦτον ἢ τὰ τῆς
 συγγενείας ἀναγκαῖα; ἀλλὰ μὴν ὅτι ταύτ' ἀληθῆ 55
 λέγω, λαβέ μοι[‡] τὴν μαρτυρίαν τὴν Δεινίου καὶ
 ἀναγίγνωσκε, καὶ κάλει Δεινίαν.

ΜΑΡΤΥΡΙΑ.

^v[Δεινίας Θεομνήστου Ἀθμονεὺς μαρτυρεῖ τὴν θυ-

[†] Bekker (Berlin ed.). οὗτος Z et Bekker (st. Leipzig ed.) cum Σ.

[‡] Bekker. om. Z cum Σ.

^{v-v} om. Σ.

gious sanction. See Cox, *Hist. of Greece*, I pp. 15—18. P.]

54. ὁ τῆς ἐμῆς γυναικὸς πατὴρ] i. e. Deinias, father of the Theomnestus who speaks the first 15 §§ of Or. 59 κατὰ Νεαίρας, when Apollodorus takes up the speech. Apollodorus, besides being brother-in-law to Theomnestus by marrying the sister of the latter, gave his own daughter in marriage to him (Or. 59 § 2).

ἀνεψιαδοῦς] Hesych. ἀνεψιαδοῦς· ἐκ τοῦ ἀνεψιοῦ γεγονώς, ἢ τῆς ἀνεψιάς, second cousins. The form of the word follows the analogy of λυκιδεύς, κυναδέυς, ἀδελφιδεύς, θυγατριδεύς, ἀλωπεκιδεύς, the terminations in -ιδεύς, -ιδέος, -αδέυς, -αδέος (οῦς) being a kind of patronymic

form. P.] See Dict. Ant. s. v. *Heres*.

πολλοὶ πεποιήκασι κ.τ.λ.] Instances of such generosity are given in the passages quoted from Dem. in the note on § 35, *supra*, where instead of ἐπιδοῦναι προῖκα the rather less common phrase προσθεῖναι προῖκα is used.

τὰ συγγενείας ἀναγκαῖα] 'The strong ties of kindred.' Cf. *necessitudo*. Fals. Leg. § 290, ὑπὲρ συγγενῶν καὶ ἀναγκαίων. Cf. Or. 36 § 30, ἀνάγκη...οικείου.

55. Δεινίας Θεομνήστου Ἀθμονεὺς] The father's name is very likely to be right, as Deinias had a son named Theomnestus (Or. 59 §§ 2 and 16) and the grandson very often bore the same name as the grandfather

γατέρα αὐτοῦ ἐκδοῦναι Ἀπολλοδώρῳ κατὰ τοὺς νόμους γυναικα ἔχειν, καὶ μηδεπώποτε παραγενέσθαι, μηδὲ αἰσθῆσθαι ὅτι Ἀπολλόδωρος ἀφήκε τῶν ἐγκλημάτων ἀπάντων Φορμίωνα.]^v

56 "Ομοίος γε ὁ Δεινίας, ὃ ἄνδρες δικασταί, τούτῳ, ὃς ὑπὲρ τῆς θυγατρὸς καὶ τῶν θυγατριδῶν καὶ ἐμοῦ τοῦ κηδεστοῦ διὰ τὴν συγγένειαν οὐδὲ τάληθῆ μαρτυρεῖν ἐθέλει κατὰ τούτου. ἀλλ' οὐχ οὕτοσι Στέφανος, οὐκ ὤκνησε καθ' ἡμῶν τὰ ψευδῆ μαρτυρεῖν, οὐδ', εἰ μηδένα τῶν ἄλλων, τὴν αὐτοῦ μητέρα ἠσχύνθη τοῖς ἀπ' ἐκείνης οἰκείοις τῆς ἐσχάτης ἐνδείας αἴτιος γενόμενος.

(note on Or. 39 § 27). But of the numerous persons named Deinias or Theomnestus, not one is described in any inscription as Ἀθμονεὺς, and the ascription of the witness to the *deme* in question is perhaps due to the invention of the composer of the document.

It is clear that Deinias, on being called, refused to swear to the deposition read aloud to him, οὐδὲ τάληθῆ μαρτυρεῖν ἐθέλει. The deposition ought therefore to be followed by the word ἐξωμοσία as in § 60. (A. Westermann, *u. s.* pp. 109—111.) Cf. Or. 49 § 20.

Apollodorus, be it observed, *assumes* that the reason why Deinias refuses to swear to the deposition is that it would be to the detriment of his kinsman Stephanus; but the disclaimer may really have been due to Deinias being aware that the evidence was false. As the document before us is untrustworthy, we cannot tell what the proposed evidence really was,—possibly something re-

ferring to Pasion's will (as suggested by Westermann *u. s.*) or rather something to the detriment of Stephanus' character, e.g. his bad behaviour to Apollodorus and his family, or his receiving bribes from Phormion to give false evidence against the plaintiff. (Lortzing, *Apoll.* p. 80.)

56. ὁμοίος γε] Or. 24 (Timocr.) § 106, ὁμοίος γε, οὐ γάρ; Σόλων νομοθέτης καὶ Τιμοκράτης, *ib.* 181 and Or. 22 (Androt.) § 73, ὁμοίον γε, οὐ γάρ;

ἀλλ'—οὐκ ὤκνησε] Elsewhere, we have the ἀλλὰ repeated, e.g. Or. 21 (Midias) § 200, ἀλλ' οὐ Μειδίᾳ, ἀλλ' ἀπὸ τῆς ἡμέρας ταύτης λέγει κ.τ.λ. and Or. 23 (Aristocr.) § 89, ἀλλ' οὐκ Ἀριστοκράτης, ἀλλὰ προπηλακίζει μὲν κ.τ.λ. Passages like these lead Dobree to say, '*malim* ἀλλ' οὐκ ὤκνησε,' but either construction is allowable.—οὐδ' εἰ μηδένα τῶν ἄλλων, *sc.* ἠσχύνθη. If he had no respect for any one else, he might at least have respected (had some regard for) his own mother and her relations.

ἌΟ τοίνυν ἔπαθον δεινότατον καὶ ἐφ' ᾧ μάλιστα 57
 ἐξεπλάγην, ὅτ' ἠγωνιζόμεν, ᾧ ἄνδρες δικασταί, τοῦθ'
 ὑμῖν εἰπεῖν βούλομαι· τὴν τε γὰρ τούτου πονηρίαν
 ἔτι μᾶλλον ὑμεῖς ὄψεσθε, καὶ ἐγὼ τῶν γεγενημένων
 ἀποδουράμενος τὰ πλείστα πρὸς ὑμᾶς ὡσπερὶ ράων
 1119 ἔσομαι. τὴν γὰρ μαρτυρίαν, ἣν ᾧμην εἶναι καὶ δι' ἧς
 ἦν ὁ πλείστος ἔλεγχός μοι, ταύτην οὐχ εὔρον ἐνούσαν
 ἐν τῷ ἐχίνῳ. τότε μὲν δὴ τῷ κακῷ πληγείς οὐδὲν ἄλλο 58
 εἶχον ποιῆσαι πλὴν ὑπολαμβάνειν τὴν ἀρχὴν ἠδικη-

§§ 57—62. *I must tell the jury, by the way, of an atrocious trick which was played me to my great disadvantage in the former action. At the trial itself, the deposition on which I mainly relied proved to be missing; and I have since learnt that it was stolen by Stephanus while the suit was still before the arbitrator.*

I call witnesses to prove this: they take an oath of disclaimer.—I thought as much.—Well, to prove they are perjured, I now produce a challenge (duly attested by witnesses) calling on Stephanus to allow his slave to be tortured in the matter of the abstraction of the document; my witnesses depose he refused the challenge.

Now, do the jury suppose that one who thus perpetrated a theft without any personal provocation, would have had the slightest hesitation in giving false evidence in his own interests and at the special instance of another?

57. ἐξεπλάγην] The form -επλάγην is post-Homeric and is used in compounds with the sense 'strike with terror or amazement' (Veitch *Gk. Vbs.* s. v. πλήσσω). For the simple verb, ἐπλήγην is used, as in the

first line of the very next section, but only in the sense of 'receiving a blow from.' [e.g. *Soph. Oed. Col.* 605 ὅτι σφ' ἀνάγκη τῆδε πληγῆναι χθονί and *Eur. Orest.* 497 πληγείς θυγατρὸς τῆς ἐμῆς ὑπὲρ (ὑπαί) κάρα. πληγείς τῷ κακῷ, for ἐκπλαγείς, is remarkable; as if a Roman had said *malo percussus*, for *percussus*. P.]

ἀποδουράμενος τὰ πλείστα πρὸς ὑμᾶς] 'by unburdening to you all that I can of my past sorrows.' *Hdt.* π 141 πρὸς τῷ-γαλαμα ἀποδύρεσθαι οἷα κινδυνεύει παθέειν.

ράων ἔσομαι] 'I shall feel relieved' or (to translate it still more closely) 'I shall feel easier.' For this use of ράων, cf. *Eur. Ion* 875 στέρνων ἀπονησαμένη ράων ἔσομαι. *Herc. Fur.* 1407, φίλτρον τοῦτ' ἔχων ράων ἔσει.

58. τὴν ἀρχὴν] 'the magistrate,' in whose possession the sealed casket of depositions was kept until the trial. Cf. notes on *Or.* 53 § 24 τὴν ἀρχὴν and on *Or.* 39 § 9 where ἀρχὴν, like *magistratus* in Latin and 'authorities' in English, is used of the holder of the office as well as of the office itself. 'Portentose *Reiskius* τὴν Ἀρχίπτην,' says Dobree,—Archippe having

κένοι μὲ καὶ τὸν ἐχίνον κεκινήκεναι. νῦν δὲ ἀφ' ὧν ὑστερον πέπυσμαι, πρὸς αὐτῷ τῷ διαιτητῇ Στέφανον τουτουὶ αὐτὴν ὑφηρημένον εὐρίσκω, πρὸς μαρτυρίαν τινὰ, ἵν' ἐξορκώσαιμι, ἀναστάντος ἐμοῦ. καὶ ὅτι ταυτ' ἀληθῆ λέγω, πρῶτον μὲν ὑμῖν μαρτυρήσουσι τῶν τούτοις παρόντων οἱ ἰδόντες. οὐ γὰρ ἐξομνύναι ἐβελήσειν
 59 αὐτοὺς οἶμαι^w. εἰν δ' ἄρα τοῦτο ποιήσωσιν ὑπ' ἀναιδείας, πρόκλησιν ὑμῖν ἀναγνώσεται, ἐξ ἧς τούτους τ' ἐπιορκούντας ἐπ' αὐτοφώρῳ λήψεσθε καὶ τοῦτον ὁμοίως ὑφηρημένον τὴν μαρτυρίαν εἴσεσθε. καίτοι ὅστις, ὦ ἄνδρες Ἀθηναῖοι, κακῶν^x ἀλλοτρίων κλέπτῃς

^w οἶμαι *Z cum Σ* (cf. § 51).

^x *fortasse καὶ τῶν vel καὶ ἐκῶν. eadem quae ipse anno 1875 protuleram, postea eodem Aristophanis loco laudato protulit G. Gebauer, de argumenti ex contrario formis, 1877, p. 8.*

died eight or ten years before the suit against Phormion.

τὸν ἐχίνον κεκινήκεναι] 'had tampered with the deposition case.' *κινεῖν* is similarly used elsewhere in the sense of 'meddling with unlawfully', in Or. 22 Androt. § 71 and Or. 24 Timocr. § 179 *χρήματα κινῶν ἱερά*. Hdt. vi 134 *κινεῖν τὰ ἀκίνητα*.

ἵν' ἐξορκώσαιμι] 'that I might put a witness on his oath,' sc. τὸν μάρτυρα implied in the preceding μαρτυρίαν. Or. 54 § 26, τῶν παρόντων ἡμῖν (sc. μαρτύρων) καθ' ἓνα οὕτως πρὸς τὸν λίθον ἄγοντες καὶ ἐξορκίζοντες.

ἐξομνύναι] 'to take an oath of disclaimer.' Cf. Fals. Leg. § 176 *ἢ μαρτυρεῖν ἢ ἐξομνύσθαι ἀναγκάσω. εἰν δ' ἐξομνύσῃ, ἐπιορκούντας ἐξελέγξω παρ' ὑμῖν φανερώς*. Pollux: *ἐξωμοσία δὲ, ὅταν τις ἢ πρεσβευτῆς αἰρεθείς ἢ ἐπ' ἄλλην τινὰ δημοσίαν ὑπηρεσίαν, ἀρρωστεῖν ἢ ἀδυνατεῖν φάσκων ἐξομνύται αὐτὸς ἢ δι' ἐτέρου. ἐξὼμνυτο δὲ καὶ οἱ*

κληθέντες μάρτυρες, εἰ φάσκουσι μὴ ἐπίστασθαι ἐφ' ἃ ἐκαλοῦντο. Isaeus Or. 9 (As-typh.) § 18 *κάλεϊ Ἰεροκλέα ἵνα ἐναντίον τούτων μαρτυρήσῃ ἢ ἐξομύσῃται*. ΜΑΡΤΥΡΙΑ. ἀκριβῶς μὲν ἦδεν· τοῦ γὰρ αὐτοῦ ἀνδρός ἐστιν, ἃ μὲν οἶδεν, ἐξομνύσθαι, τῶν δὲ μὴ γενομένων πίστιν ἐθέλειν ἐπιθεῖναι ἢ μὴν εἰδέναι γενομένα. Or. 29 § 20; Or. 58 (Theocrines) § 7; Or. 59 § 28.

59. *κακῶν ἀλλοτρίων κλέπτῃς κ.τ.λ.*] 'did not shrink from being set down as having stolen what stood in other people's way.' *κακῶν ἀλλοτρίων κλέπτῃς* is a very singular expression, 'a thief of other people's ills,' meaning (as some suppose) one who steals what is detrimental to other people's interests, in this case the μαρτυρία, which is a *κακὸν οἰκεῖον* to Phormion and a *κακὸν ἀλλότριον* to Stephanus. But Lambinus justly objects to the phrase, and Lortzing p. 91 rightly observes, *singulariter*

ὑπέμεινεν ὀνομασθῆναι, τί ἂν ἡγείσθε ποιῆσαι τοῦτον ὑπὲρ αὐτοῦ^γ; λέγε τὴν μαρτυρίαν, εἶτα τὴν πρόκλησιν 60 ταύτην.

ΜΑΡΤΥΡΙΑ.

^z[Μαρτυροῦσι φίλοι εἶναι καὶ ἐπιτήδαιοι Φορμί-

^γ τοῦτον ἄλλου του Ζ cum FΣΦ; ὑπὲρ ἄλλου του Voemel. τοῦτον ὑπὲρ αὐτοῦ Bekker cum γρ. FΦ. 'sensui satisfaceret δεομένου vel αἰτοῦντός του. Cf. § 62.' Sauppe.

^z *testimonium om. Σ.*

dicta sunt. Reiske says 'Fur alienorum malorum est Graecis ille qui mala, fraudes, scelera, clam, in occulto exsequitur et perficit, non sponte sua, sed iussu alieno'; and similarly C. R. Kennedy (rather vaguely) renders it 'a person who would commit a theft as a tool of another.' G. H. Schaefer, who rightly doubts whether *κακὰ ἀλλότρια* can mean anything but *mala quae alius patitur*, proposes to read *κακιῶν* with the sense 'qui quid furatur, ut sceleribus alius accomodet.' Another critic (Beels, *diatribe* p. 100) says: 'κακῶν ἀλλοτρίων κλέπτῃς *lepide vocatur Stephanus, qui in gratiam Phormionis et fortasse eius jussu, testimonium e capsula surripuerat.*' In Plato *Rep.* 346 E we have *μηδένα ἐθέλειν ἐκόντα ἄρχειν καὶ τὰ ἀλλότρια κακὰ μεταχειρίζεσθαι ἀνορθῶντα* ('to handle and set right other people's disorders'), but neither this nor any other passage that I can find supports the sense usually assigned to the words before us.

It may therefore be worth while to suggest that *κακῶν* may be corrupt and should be altered into *καὶ τῶν* where *καὶ* emphasizes the *whole* clause *τῶν ἀλ-*

λοτρίων κλέπτῃς ὑπέμεινεν ὀνομασθῆναι, and not *τῶν ἀλλοτρίων* only. [The latter construction would inappropriately import into the passage some of the humour of the lines in Aristoph. *Ranae* 610 εἴτ' οὐχὶ δεινὰ ταῦτα, τύπτειν τουτοῦ κλέπτοντα, πρὸς τ' ἀλλότρια 'isn't it a shame to beat this poor fellow (Xanthias) for stealing, and that too—another man's goods?'] A not uncommon *παρὰ προσδοκίαν*, as if some other kind of theft were possible. P.] Or again we may alter *κακῶν* into *καὶ ἐκῶν*, comparing § 62 where ὁ τὴν τοῦ κλέπτῃς φανῆναι (δόξαν) μὴ φυγῶν is parallel to *ὅς ἂ μὴ δεῖς ἐκέλευεν ἐθέλον τῆς (= ἐκῶν) πονηρὸς ᾗν.*

ἀλλοτρίων in any case is intended to point the contrast with *ὑπὲρ αὐτοῦ* in the second half of the sentence.

[*καὶ τῶν ἀλλοτρίων κλέπτῃς* seems a highly probable emendation; nor is there any difficulty in *καὶ* referring to the general character of a *κλέπτῃς τῶν ἀλλοτρίων*. P.] Cf. also Or. 28 § 22 *ἀλλὰ καὶ τὰλλότρια ἀποστερῶν ἀποδέδεικται.*

60. *μαρτυροῦσι κ.τ.λ.*] The composer of the present document and the next and of that

ωνι, καὶ παρέιναι πρὸς τῷ διαιτητῇ Τισία, ὅτε ἦν ἀπόφασις τῆς διαίτης Ἀπολλοδώρῳ πρὸς Φορμίωνα, καὶ εἰδέναι τὴν μαρτυρίαν ὑψηρημένον Στέφανον, ἣν αἰτιᾶται αὐτὸν Ἀπολλόδωρος ὑφελέσθαι.]

¹ Ἡ μαρτυρεῖτε, ἢ ἐξομώσασθε.

ΕΞΩΜΟΣΙΑ.

61 Οὐκ ἄδηλον ἦν, ὧ ἄνδρες δικασταί, ὅτι τοῦτο ἔμελλον ποιήσῃν, προθύμως ἐξομείσθαι. ἵνα τοίνυν παραχρήμα ἐξελεγχθῶσιν ἐπιωρκηκότες, λαβέ μοι ταύτην τὴν μαρτυρίαν καὶ τὴν πρόκλησιν. ἀναγίγνωσκε.

ΜΑΡΤΥΡΙΑ.

1120

² [Μαρτυροῦσι παρέιναι, ὅτε Ἀπολλόδωρος προῦκαλεῖτο Στέφανον παραδοῦναι τὸν παῖδα τὸν ἀκόλουθον εἰς βάσανον περὶ τῆς ὑφαιρέσεως τοῦ γραμματείου, καὶ γράμματα ἦν ἔτοιμος γράφειν Ἀπολλόδωρος, καθ' ὅ τι ἔσται ἢ βάσανος. ταῦτα δὲ προκαλουμένου

in Or. 46 § 21, has not taken the trouble to invent any names for the witnesses. He describes them as 'friends of Phormion' to suggest a motive for their disclaiming cognisance of the alleged theft on the part of his witness Stephanus. The writer adds that it was 'on the declaration or award of the arbitrator between Phormion and Ap.' But so long as there were fresh witnesses being brought forward (as appears from § 58 πρὸς μαρτυρίαν κ.τ.λ.), the case was not ripe for the arbitrator's decision; so we must either suppose that the writer has made a mistake, or that at any rate he uses ἀπόφασις in a vague and general sense for the process of decision and its immediate antecedents. (A. Westermann *u. s. p.* 111—112.)—On

ἀπόφασις, cf. Or. 54 § 27 ad fin. The word in this sense is from ἀποφαινῶ, not from ἀπόφημι.

61. μαρτυροῦσι] The fabricator of the document overlooks the fact that the μαρτυρία and the πρόκλησις are two separate documents. It is improbable that he deliberately left out the πρόκλησις, as he has taken the pains to manufacture all the other necessary documents in the case. The two titles μαρτυρία and πρόκλησις are wrongly placed at the head of the document, implying that either the compiler or the transcriber thought that the document included both. Dindorf (ed. 3) has rightly placed the πρόκλησις after the document, as in Or. 59 §§ 123, 124.

καθ' ὅ τι ἔσται ἢ βάσανος] 'The terms of the torture.' Cf. Ar.

Ἐπολλοδώρου οὐκ ἔθελῆσαι παραδοῦναι Στέφανον, ἀλλὰ ἀποκρίνασθαι Ἐπολλοδώρῳ δικάζεσθαι, εἰ βούλοιο, εἴ τί φησιν ἀδικεῖσθαι ὑφ' ἑαυτοῦ.]^z

ΠΡΟΚΛΗΣΙΣ.

Τίς ἂν οὖν ὑπὲρ τοιαύτης αἰτίας, ὦ ἄνδρες δικασταί, εἴπερ ἐπίστευεν αὐτῷ, οὐκ ἐδέξατο τὴν βάσανον; οὐκοῦν τῷ φεύγειν τὴν βάσανον ὑφηρημένος ἐξελέγχεται. ἄρ' οὖν ἂν ὑμῖν αἰσχυνηθῆναι δοκεῖ τὴν τοῦ τὰ ψευδῆ μαρτυρεῖν δόξαν ὁ τὴν τοῦ κλέπτῃς φανῆναι μὴ φυγῶν; ἢ δεηθέντος ὀκνηῆσαι τὰ ψευδῆ μαρτυρεῖν, ὃς ἂ μὴδεὶς ἐκέλευεν^a ἐθελουτῆς πονηρὸς ἦν;

Δικαίως τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, τούτων ἀπάντων δούς δίκην, πολὺ μᾶλλον ἂν εἰκότως διὰ τᾶλλα κολασθεῖη παρ' ὑμῖν. σκοπεῖτε δὲ, τὸν βίον ὃν βεβίωκεν ἐξετάζοντες· οὗτος γὰρ, ἠνίκα μὲν συνέβαινεν εὐ-

^a Bekker. ἐκέλευσεν Ζ cum Σ.

Ran. 618—625 (α) καὶ πῶς βασανίσω; (β) πάντα τρόπον κ.τ.λ. ... (α) κἂν τι πηρώσω γέ σοι τὸν παῖδα τύπτων τὰργύριόν σοι κείσεται. Antiphon vi (de Chorea) § 23 ὠμολόγουν πείσας τὸν δεσπότην παραδῶσειν αὐτῷ βασανίσειν τρόπῳ ὁποῖω βούλοιο.

62. τὴν τοῦ κλέπτῃς φανῆναι (δόξαν), 'the discredit of being proved a thief.' ('Who did not shrink from becoming a thief.' Kennedy.)

δεηθέντος] sc. τινός. See Kühner *Gk. Gr.* § 486 A, 2, p. 641 'on the gen. absol. without any substantive like ἀνθρώπων, πραγμάτων being expressed.'

§§ 63—67. Examine the defendant's life and character, and you will find him cringing to and flattering the prosperous, only to desert them when they fall

into destitution. For the present, he is the creature of Phormion; and, to compass his own ends, he is willing to do wrong to his own relations, regardless of the ill-repute he thus incurs. He deserves to be abhorred as the common enemy of all humanity. With all his wealth, he has never performed a single public service. Villains who are poor may have some allowance made them, for the exigencies of their position; villains who are rich can claim no excuse and therefore call for punishment at your hands.

63. δούς... ἂν... κολασθεῖη = δολῆ ἂν καὶ κολασθεῖη.

ἠνίκα συνέβαινεν εὐτυχεῖν Ἀριστολόχῳ] See Or. 36 § 50.—Note συνέβαινεν followed soon after by βαίνων.

64 τυχεῖν Ἀριστολόχῳ τῷ τραπεζίτῃ, ἴσα βαίνων ἐβάδι-
 ζεν ὑποπεπτωκῶς ἐκείνῳ, καὶ ταῦτα ἴσασι πολλοὶ τῶν
 ἐνθάδ' ὄντων ὑμῶν. ἐπειδὴ δ' ἀπόλετ' ἐκείνος καὶ
 τῶν ὄντων ἐξέστη, οὐχ ἥκιστα ὑπὸ τούτου καὶ τῶν
 τοιούτων διαφορηθεῖς, τῷ μὲν υἱεὶ τῷ τούτου πολλῶν
 πραγμάτων ὄντων οὐ παρέστη πώποτε οὐδ' ἐβοήθη-
 σεν, ἀλλ' Ἀπόληξις καὶ Σόλων καὶ πάντες ἄνθρωποι
 μᾶλλον βοηθοῦσι. Φορμίωνα δὲ πάλιν ἑώρακε^b, καὶ
 τούτῳ γέγονεν οἰκείος, ἐξ Ἀθηναίων ἀπάντων τούτου
 ἐκλεξάμενος, καὶ ὑπὲρ τούτου πρεσβευτῆς μὲν ὄχετο I 121

^b ἑώρακε Z cum Σ.

ἴσα βαίνων ἐβάδιζεν ὑποπεπτο-
 κῶς ἐκείνῳ] 'Walked in step
 with that person and cringed to
 him.' 'Cringed to him, as he
 walked beside him.' Harpocr.
 ἴσα βαίνων Πυθοκλεῖ· Δημοσθένῃς
 ἐν τῷ κατ' Αἰσχίνου (Fals. Leg. §
 315) ἀντὶ τοῦ συνὼν αἰεὶ καὶ μηδὲ
 βραχὺ ἀφιστάμενος· καὶ ἐν τῷ
 κατὰ Στεφάνου α' φησὶν "Ἀριστο-
 λόχῳ τῷ τραπεζίτῃ ἴσα βαίνων
 ἐβάδιζε." Μένανδρος· παρ' αὐτὸν
 ἴσα βαίνουσ' ἑταῖρα κολυτελής.
 (Ἀριστολόχῳ really comes after
 συνέβαινεν and is understood
 after ἴσα βαίνων.) Shilleto *u. s.*
 explains it here as 'truckling
 to, and adapting his pace to his
 companion's.' The phrase be-
 came common in later Greek,
 e.g. Alciphron Ep. III 56 ἐπαί-
 ρεις σεαυτὸν, οὐδὲν δέον, καὶ βαδί-
 ζεις ἴσα δὴ [καὶ τύφου πλήρης εἶ]
 τοῦτο δὴ τοῦ λόγου, Πυθοκλεῖ.
 See note on § 68.

ὑποπεπτωκῶς] inf. 65; Or. 59
 (Neaer.) § 43 ὑπέπεσε Καλλι-
 στράτῳ, Isaeus Or. 6 § 29 ὑπο-
 πεπτωκότες οἷδε τῇ ἀνθρώπῳ.

64. τῶν ὄντων ἐξέστη] Or.
 36 § 50 ἐξέστησαν ἀπάντων τῶν
 ὄντων.

διαφορηθεῖς] In pass. gener-

ally of things, here of the *person*,
 plundered. [But it is an un-
 common word. Eur. Bacch.
 746 θᾶσον δὲ διεφοροῦντο σαρκὸς
 ἐνδυνά, 'the cattle had their
 flesh (or hides, perhaps) carried
 off in different directions.' *Ibid.*
 739 ἄλλαι δὲ δαμάλας διεφόρουν
 σπαράγμασιν. P.]

Ἀπόληξις] Harpocr. εἰς τῶν
 ἰ' συγγραφέων, ὃν Πλάτων κωμωδεῖ
 ἐν Σοφισταῖς. (For ἰ' the MSS
 have *ν'*, corrected by Cobet who
 explains it of the ten συγγραφεῖς
 in Thuc. VIII 67.) Ἀπόληξις
 Προσπάλτιος occurs in Or. 43
 πρὸς Μακάρτατον, as grandfather
 of Macartatus, and there are
 others of the same name in
 inscriptions. Of this Solon
 nothing is known, and Ἀπόληξις
 cannot be identified with any
 of the above.

ἑώρακε] *respexit*, 'has had
 his eye upon,' i. e. has courted.
 A remarkable use. P.]

πρεσβευτῆς] 'Agent.' Or. 32
 Zenoth. § 11 πρεσβευτὴν ἐκ βουλῆς
 τινα λαμβάνομεν... One who
 negotiates for another is named
 after a political custom 'an am-
 bassador.'

εἰς Βυζάντιον πλέων, ἠνίκα ἐκεῖνοι τὰ πλοῖα τὰ τούτου κατέσχον, τὴν δὲ δίκην ἔλεγε τὴν πρὸς Καλχηδονίους, τὰ ψευδῆ δ' ἐμοῦ φανερώς οὔτω καταμεμαρτίρηκεν. εἶθ' ὅς εὐτυχοῦντων ἐστὶ κόλαξ, καὶ ἀτυχῶσι, τῶν 65 αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων πολιτῶν πολλῶν καὶ καλῶν κάγαθῶν ὄντων μηδενὶ μηδ' ἐξ ἴσου χρήται, τοῖς δὲ τοιούτοις ἐθελουτῆς ὑποπίπτει, καὶ μήτ' εἴ τινα τῶν οἰκείων ἀδικήσει μήτ' εἰ παρὰ τοῖς ἄλλοις φαύλην δόξαν ἔξει ταῦτα ποιῶν μήτ' ἄλλο μηδὲν σκοπεῖ, πλὴν ὅπως τι πλέον ἔξει, τοῦτον οὐ μισεῖν ὡς κοινὸν ἐχθρὸν τῆς φύσεως ὅλης τῆς ἀνθρωπίνης προσήκει; ἔγωγ' ἂν φαίην. ταῦτα μέντοι τὰ τοσαύτην 66 ἔχοντα αἰσχύνην, ὧ ἄνδρες Ἀθηναῖοι, ἐπὶ τῷ τὴν πόλιν φεύγειν καὶ τὰ ὄντα^ο ἀποκρύπτεσθαι προήρηται πράττειν, ἵν' ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῆται καὶ μήτε χορηγῆ μήτε τριηραρχῆ μήτ' ἄλλο μηδὲν ὧν προσήκει ποιῆ. καὶ κατείργασται τοῦτο. τεκμήριον δέ ἔχων γὰρ οὐσίαν τοσαύτην ὥστε ἑκατὸν μνᾶς

^ο Bekker. χρήματα Ζ cum Σ.

ἐκεῖνοι] sc. οἱ Βυζάντιοι, implied from Βυζάντιον. See note on Isocr. Paneg. § 110: φάσκοντες μὲν λακωνίζειν τάναντία δ' ἐκεῖνοις ἐπιτηδεύοντες.

Καλχηδονίους] Phormion, it seems, must have been implicated in some mercantile suit with people at Calchedon (opposite Byzantium). The affair is not alluded to elsewhere.

65. καλῶν κάγαθῶν] In good Greek always two words (neither καλὸς καὶ ἀγαθός nor καλοκάγαθός) though the derivative is nevertheless καλοκάγαθια. Cf. θεοῖς ἐχθρὸς and θεοισεχθρία. See note on Isocr. Paneg. § 78.

κοινὸν ἐχθρὸν τῆς φύσεως] § 53 τὰ τῆς φύσεως οἰκεία ἀναίρει.

66. ἐπὶ τῷ τὴν πόλιν φεύγειν] 'With a view to escape the public service.' Kennedy. [Another singular expression. Such citizens were called διαδρασιπολῖται, Ar. Ran. 1014. P.]

ἀποκρύπτεσθαι] 28 § 24 ἀποκρύπτεσθαι μᾶλλον, in contrast to λειτουργεῖν ἐθελήσειν.

ἐργασίας ἀφανεῖς] 'Sly (unreturned) profits.' Contrast § 30 ἃ πάντες ἤδεσαν κ.τ.λ.

χορηγῆ...τριηραρχῆ] See note on Or. 36 § 39 ἐλειτούργεις.—κατείργασται τοῦτο (middle) 'he has accomplished this object.'

τεκμήριον δέ ἔχων γὰρ] Madvig Gk. Synt. § 196 a, and note on Isocr. Paneg. § 87.

ἐπιδούναι τῇ θυγατρὶ, οὐδ' ἤντινούν ἑώραται λειτουργίαν^d ὑφ' ὑμῶν λειτουργῶν, οὐδὲ τὴν ἐλαχίστην. καί-
 τοι πόσω κάλλιον φιλοτιμούμενον ἐξετάζεσθαι καὶ
 προθυμούμενον εἰς ἃ δεῖ τῇ πόλει, ἢ κολάκεύοντα καὶ
 τὰ ψευδῆ μαρτυροῦντα; ἀλλ' ἐπὶ τῷ κερδαίνειν πᾶν
 67 ἂν οὗτος ποιήσειεν. καὶ μὴν, ὧ ἄνδρες Ἀθηναῖοι,
 μᾶλλον ἄξιον ὀργίλως ἔχειν τοῖς μετ' εὐπορίας πο-
 νηροῖς ἢ τοῖς μετ' ἐνδείας. τοῖς μὲν γὰρ ἢ τῆς ἀνάγκης I 122
 χρεία φέρει τινὰ συγγνώμην παρὰ τοῖς ἀνθρωπίνως
 λογιζομένοις· οἱ δ' ἐκ περιουσίας, ὥσπερ οὗτος, πο-
 νηροὶ οὐδεμίαν πρόφασιν δικαίαν ἔχοιεν ἂν εἰπεῖν,
 ἀλλ' αἰσχροκερδία^e καὶ πλεονεξία καὶ ὕβρις καὶ τῷ
 τὰς αὐτῶν συστάσεις κυριωτέρας τῶν νόμων ἀξιούν

^d Bekker. λειτουργίαν ἑώραται Z cum F.

^e -εἶα Z. -εἶα Σ prima manu.

ἐξετάζεσθαι] 'To be found in the pursuit of an honourable ambition for willing service to the state.' Or, shorter, 'to show oneself a man of public spirit.' Harpocr. ἀντὶ τοῦ ὀραῖσθαι, Δημοσθένης κατὰ Στεφάνου. καὶ ἐν τῷ κατ' Ἀνδροτίωνος (§ 66) 'ἐξητάσθη' φησὶν ἀντὶ τοῦ ὄφθης, ἐωράθη. Cf. de Cor. §§ 115, 173, 197.

ἀλλ' ἐπὶ τῷ κ.τ.λ.] 'Unfortunately, the defendant is a person who will do anything to get money.' Kennedy.

67. ἢ τῆς ἀνάγκης χρεία] 'The force of circumstances ('the pressure of their necessitous lot,' lit. 'need induced by necessity,') 'leads to some allowance being made for them in the eyes of those who view the case with human fellow-feeling.' Stobaeus in quoting this passage has the reading adopted in the text, instead of the common reading ἢ τῆς χρείας ἀνάγκη. He also

has οὐδεμίαν δικαίαν πρόφασιν ἔχουσι, besides, for obvious reasons, omitting ὥσπερ οὗτος. (*Florilegium* 46, 72 p. 316.) The extract proceeds with the words πολλὰ δ' οὖν κακὰ πράγματα τοὺς ἐλευθέρους ἢ πένια βιάζεται ποιεῖν, ἐφ' οἷς ἂν ἐλεοῖντο δικαίωτερον ἢ προσπολλύουσιν, which do not appear in the present passage. They are really taken from Dem. Or. 57 (Eubulides) § 45, as Meineke might have noted in his edition of Stobaeus. For the copyist's patchwork δ' οὖν κακὰ πράγματα we should therefore restore δουλικὰ πράγματα from Demosthenes himself, and print the passage as a separate extract.

συστάσεις] 'plots,' 'conspiracies,' parties, political interests, *studia*, *εταίρειαι*. Or. 37 § 39 περιστήσας τοὺς μεθ' ἑαυτοῦ, τὸ ἐργαστήριον τῶν συνεστώτων. [Eur. Andr. 1088 εἰς δὲ συστάσεις κύκλους τ' ἐχώρει λαὸς οἰκίητρ

εἶναι ταῦτα φανήσονται πράττοντες. ὑμῖν δὲ οὐδὲν τούτων συμφέρει, ἀλλὰ τὸν ἀσθενῆ παρὰ τοῦ πλουσίου δίκην, ἂν ἀδικῆται, δύνασθαι λαβεῖν. ἔσται δὲ τοῦτο, εἰ κολάζητε τοὺς φανερώς οὕτως ἐξ εὐπορίας πονηροῦς.

Οὐ τοίνυν οὐδ' ἂ πέπλασται καὶ βαδίζει οὗτος 68
παρὰ τοὺς τοίχους ἐσκυθροπακῶς, σωφροσύνης ἂν τις

θεοῦ. Thuc. II 21 κατὰ συστάσεις γινόμενοι. So also οἱ συνιστάμενοι in Ar. Lysistr. 577. P.] Cf. Or. 46 § 25.

ἐξ εὐπορίας πονηροῦς] 'made bad by their wealth.' Kennedy is hardly correct here in rendering 'men who (for all their riches) are thus flagrantly dishonest.' It is not *in spite of*, but directly *from*, their large means that they become bad citizens. P.]

§§ 68—70. *His affected airs as he sullenly slinks along the sides of the streets, so far from showing a modest reserve, really indicate an unsociable character. All this solemn guise is purposely put on, to veil his real disposition, while it serves to repel the approaches of his fellow-men. He has never contributed to the needs of any one of all the citizens of Athens; but as a usurer, who counts his neighbours' needs his own good fortune, he has ejected relations of his from their homes, and shown himself ruthless in the exaction of interest from his debtors.*

68. ἂ πέπλασται κ.τ.λ.] explained by the contrast immediately after, τοῖς ἀπλῶς ὡς πεφύκασι βαδίζουσι καὶ παιδροῖς. ἂ πέπλασται καὶ βαδίζει instead of ἦν ἔχει πεπλασμένην ὄψιν καὶ τὸ σεμνὸν βᾶδισμα, is a fresh instance (like ὦν διεφθάρκει in §

27) of the fondness of the Greeks for throwing into the verb what in other languages would be naturally expressed by a substantive.

ἐσκυθροπακῶς] Or. 54 § 34 μεθ' ἡμέραν μὲν ἐσκυθροπάκασι καὶ λακωνίζειν φασί... For this and similar words expressing sullen and morose demeanour the student should read the speech of Hercules in Eur. Alc. 773—802.

For a similar passage, showing how keenly the behaviour of persons walking in the streets was criticised at Athens, we may compare Or. 37 (Pant.) § 52 where the defendant anticipates that the plaintiff will bring up against him his fast walking and loud talking, and his constantly carrying a stick. After contrasting their respective characters he adds (§ 55) τοιοῦτος ἐγὼ ὁ ταχὺ βαδίζων καὶ τοιοῦτος σὺ ὁ ἀτρέμας. Again Plato, Charmid. p. 159B, expressly mentions 'walking quietly in the streets' as a mark of σωφροσύνη. σωφροσύνη τὸ κοσμίως πάντα πράττειν καὶ ἡσυχῇ ἐν τε ταῖς ὁδοῖς βαδίζειν καὶ διαλέγεσθαι. Aristotle ascribes κίνησις βραδεία and φωνὴ βαρεῖα to his μεγαλόψυχος (Eth. IV 9=3), and Theophrastus characterises the 'Arrogant man' (ὁ ὑπερήφανος) as δεινὸς... ἐν ταῖς ὁδοῖς πορευόμενος μὴ λαλεῖν τοῖς ἐντυγχάνουσι, κάτω

ἡγήσαιοτο εἰκότως εἶναι σημεῖα, ἀλλὰ μισανθρωπίας. ἐγὼ γὰρ, ὅστις αὐτῷ μηδενὸς συμβεβηκότος δεινοῦ μηδὲ τῶν ἀναγκαίων σπανίζων ἐν ταύτῃ τῇ σχέσει διάγει τὸν βίον, τοῦτον ἡγοῦμαι συνεορακένας[†] καὶ λελογίσθαι παρ' αὐτῷ ὅτι τοῖς μὲν ἀπλῶς, ὡς πεφύκασι, βαδίζουσι καὶ φαιδροῖς καὶ προσέλθοι τις ἂν καὶ δεηθείη καὶ ἐπαγγείλειεν οὐδὲν ὀκνῶν, τοῖς δὲ πεπλασμένοις καὶ σκυθρωποῖς ὀκνήσειέ τις ἂν προσελθεῖν
69 πρῶτον. οὐδὲν οὖν ἄλλο ἢ πρόβλημα τοῦ τρόπου τὸ σχῆμα τοῦτ' ἔστι, καὶ τὸ τῆς διανοίας ἀγριῶν καὶ πικρὸν ἐνταῦθα δηλοῖ. σημείον δέ' τοσοῦτων γὰρ ὄντων τὸ πλῆθος Ἀθηναίων, πρᾶττων πολὺ βέλτιον ἢ

[†] -εωρακένας Ζ.

κεκφώς. Cf. Alexis ap. Athen. i p. 21 § 38 ἐν γὰρ νομίζω τοῦτο τῶν ἀνελευθέρων εἶναι, τὸ βαδίζου ἀρρῦθμως ἐν ταῖς ὁδοῖς. Soph. fragm. 234 b ὡς νῦν τάχος στείχωμεν' οὐ γὰρ ἔσθ' ὅπως σπουδῆς δικαίας μῶμος ἀψεται ποτε. Alciphron i 34 § 1 ἐξ οὗ φιλοσοφεῖν ἐπενόησας, σεμνὸς τις ἐγένου καὶ τὰς ὀφρῦς ὑπὲρ τοὺς κροτάφους ἐπήρας. εἶτα σχῆμα ἔχων καὶ βιβλίδιον μετὰ χεῖρας εἰς τὴν Ἀκαδημίαν σοβεῖς. Cf. supr. § 63 ἴσα βαλῶν κ.τ.λ. and infr. § 77.

σχέσει] cf. τὸ σχῆμα inf. § 69. [διάγειν ἐν σχέσει seems unlike Demosthenes. The same may be said of ποιεῖν ἀοίκητον, 'to deprive of a home,' § 70. P.]

τοῖς... φαιδροῖς... προσέλθοι τις ἂν καὶ δεηθείη] The 'Surly man' (ὁ αὐθάδης) is characterised by Theophrastus as ἀπρὸς προσαγορευθεὶς μὴ ἀντιπροσεπέειν, and the 'Arrogant man' as προσελθεῖν (to greet) πρότερος οὐδενὶ θελήσει. —φαιδροῖς, 'cheerful,' 'bright' (as we say).

δεηθείη καὶ ἐπαγγείλειεν] 'prefer a request and make a pro-

mise (or proposal).' The two words are correlative to one another like 'asking and granting a favour.' ἐπαγγείλειεν is an emendation for ἀπαγγείλειεν proposed by H. Wolf and accepted by Reiske and others. Dobree unnecessarily suggests 'Quaere an potest = ἐπαγγείλαιτο, i. e. *opem peteret*.' This would involve a needless repetition of the idea of δεηθείη. [Besides, ἐπαγγέλλεσθαι is rather 'to make a profession of,' 'to propose that some one should accept your service' in some matter. P.]

πεπλασμένοις καὶ σκυθρωποῖς] 'Affected and sullen characters.'

69. πρόβλημα τοῦ τρόπου] 'A cloak to mask his real character.' Soph. Phil. 1008 οἷως μ' ὑπῆλθες, ὡς μ' ἔθραύσω λαβῶν πρόβλημα σαντοῦ παῖδα τόνδ' ἀγνώτ' ἐμοί. Cf. παραπέτασμα supr. § 19, also πρόσχημα in the sense of 'an excuse.'

ἐνταῦθα δηλοῖ] 'He shows herein the real rudeness and malignity of his temper.'

σὲ προσῆκον ἦν, τῷ πώποτε εἰσήνεγκας, ἢ τίνι συμβέβλησαι πω, ἢ τίνα εὖ πεποίηκας^ε; οὐδέν' ἂν εἰπεῖν ἔχοις· ἀλλὰ τοκίζων καὶ τὰς τῶν ἄλλων συμφορὰς 70 καὶ χρείας εὐτυχήματα σαυτοῦ νομίζων ἐξέβαλες μὲν
 1123 τὸν σαυτοῦ θεῖον Νικίαν ἐκ τῆς πατρῴας οἰκίας, ἀφήρησαι δὲ τὴν σαυτοῦ πενθερὰν ταῦτα ἀφ' ὧν ἔζη, ἀοίκητον δὲ τὸν Ἀρχεδήμου παῖδα τὸ σαυτοῦ μέρος πεποίηκας. οὐδεὶς δὲ πώποτε οὕτω πικρῶς οὐδ' ὑπερήμερον εἰσέπραξεν ὡς σὺ τοὺς ὀφείλοντας τοὺς τόκους.

^ε Bekker. ἢ τίνα εὖ πεποίηκας om. Z cum Σ.

τῷ πώποτε εἰσήνεγκας] 'to whose service did you ever contribute?' Cf. Or. 53 § 9 ἔρανον αὐτῷ...εἰσοίσουμι.

συμβέβλησαι] 'to whom have you ever lent any aid?' (Kennedy). συμβάλλεσθαι (with perf. pass. used as mid.) is here used in a general sense of helping, as in Or. 21 (Mid.) § 133 συμβαλονμένους τοῖς συμμάχοις. Cf. 59 § 69 εἰς ἔκδοσιν...τῇ θυγατρὶ συμβαλέσθαι, followed by εἰσενεγκεῖν εἰς τὴν ἔκδοσιν (§ 70). It is used of 'contributing' ib. § 113 προῖκα...συμβάλλεται, Lys. 4 § 10 τὸ ἦμισυ τοῦ ἀργυρίου συνεβαλόμην. We have the active use in Or. 34 § 1, συμβόλαια πολλοῖς συμβάλλοντες.

70. ἐξέβαλες] 'ousted from his patrimony,' cf. Or. 36 § 49 ἐκβαλεῖν. The debtor in such a case would be said ἐκπεσεῖν or ἐκστῆναι τῶν ὄντων, ib. § 50. Or. 29 § 2 λίαν ὠμῶς καὶ πικρῶς ὄντα συγγενῆ τοῦτον ἐκ τῆς οὐσίας ἀπάσης ἐκβέβληκα.

θεῖον] his (maternal) uncle, not *patruum*. Reiske suggests that this Nicias may be identified with the person of that name in Or. 36 § 17 married to the sister of Apollodorus' wife. But the relationships that would

thus result are rather complex (cf. *supra* §§ 54—56), and it seems simpler to suppose that there were two persons of that name in the same family.

ἀοίκητον] 'a homeless outcast.' The word is rare in this meaning, being generally used of an uninhabitable country ('ἀοίκητος καὶ ἔρημος Hdt. II 34, cf. v 10. So in Plat. Legg. 778 v, etc.' L and S). Unless we accept it in the sense of 'homeless,' it would be necessary either (as Reiske says) to alter παῖδα into οἶκον or to read ἄοικον (as G. H. Schaefer suspects). The latter word is found in this sense in Plato Symp. 203 D and elsewhere. In Lucian however (p. 727), the word ἀοίκητος is used as in the present passage: Gallus § 17 περιέμενον ἀοίκητος ἐστῶς, ἄχρι δὲ ὁ Μνήσαρχος ἐξειργάστέ μοι τὸν οἶκον. ('Αλεκτρύων loquitur.)

τὸ σαυτοῦ μέρος] 'quod ad te attinet.' Fals. Leg. § 82 οὕτω διέθηκας αὐτοὺς τὸ μέρος σὺ. So also τὸ σὸν μέρος Soph. O. C. 1366.

ὑπερήμερον εἰσέπραξεν] 'levied judgment on a defaulter.' (Kennedy.) Dem. Or. 33 (Apat.) § 6. Or. 21 (Mid.) §§ 81, 89 συνέβη

εἶτα ὃν ὀράτε ἐπὶ πάντων οὕτως ἄγριον καὶ μιαρὸν, τοῦτον ὑμεῖς ἡδίκηκότα ἐπ' αὐτοφώρῳ λαβόντες οὐ τιμωρήσεσθε; δεινὰ ἄρα, ὧ ἄνδρες δικασταί, ποιήσετε καὶ οὐχὶ δίκαια.

71 "Αξιον τοίνυν, ὧ ἄνδρες Ἀθηναῖοι, καὶ Φορμίῳνι τῷ παρασχομένῳ τουτουὶ νεμεσήσαι τοῖς πεπραγμέ-
νοῖς, τὴν ἀναίδειαν τοῦ τρόπου καὶ τὴν ἀχαριστίαν

δὲ ὑπερημέρῳ γενομένῳ λαθεῖν αὐτῷ διὰ τὸ ἀδικηθῆναι. In Theophrastus the 'Penurious man' (ὁ μικρολόγος) is described as δεινὸς ὑπερημερίαν πρᾶξι καὶ τόκον τόκου ἀπαιτῆσαι. Pollux: (speaking of debt) ὁ οὐκ ἐκτίσας κατὰ προθεσίαν ὑπερήμερος. Harpocr. ὑπερήμεροι οἱ δίκην ὀφλόντες ὅποιανοῦν καὶ τὰ ἐπιτίμια τοῖς ἐλοῦσι μὴ ἀποδιδόντες ἐν ταῖς τακταῖς προθεσίαις...

In the whole of this passage the speaker dexterously avails himself of the odium and unpopularity attending the trade of a money-lender at Athens. Cf. Or. 37 (Pant.) § 52 μισοῦσιν Ἀθηναῖοι τοὺς δανείσαντας. Thus, in the Epistles of Alciphron, borrowed doubtless in part from the later Attic Comedy, in a letter beginning μέγα κακὸν εἰσιν οἱ κατὰ τὴν πόλιν τοκογλύφοι, the money-lender is described as πρεσβύτην, ὀφθῆναι ῥικνὸν, συνεσπακότα τὰς ὀφρῦς (I 26), cf. *ib.* III 3 § 2 ὁ Χρέμης ὁ κατεσκευκῶς, ὁ κατεσπακῶς τὰς ὀφρῦς, ὁ ταυρηδὸν πάντας ὑποβλέπων. In the same letter we have another banker, of whom no harm is said, called by the conventional name Pasion, doubtless taken from our Pasion.

εἶτα — ἡδίκηκότα λαβόντες] Compare Midias § 97.

§§ 71—76. At this point the speaker begins a fierce invective against Phormion. Against

Phormion, who produced the defendant as his witness, you have a right to be indignant for his effrontery and his ingratitude. When Phormion was for sale, instead of being bought by a cook, or what not, and learning his master's trade, he had the good fortune to come into the hands of my father, who taught him the business of a banker, and conferred on him many other benefits. Yet, with all his wealth, he is ungrateful enough to allow the founders of his fortunes to remain in poverty and distress. He has not scrupled to marry her, who was once his own master's wife, thus securing to himself a large marriage-portion, while he suffers my daughters to languish without a dowry and become poor old maids in their father's house. Meanwhile, he counts and calculates the amount of my money, and criticises me as narrowly as a master might his slave.

71. νεμεσήσαι] A poetic verb, rarely found in good Greek prose. It occurs, however, in Or. 20 (Lept.) § 161 τοιαῦτα... οἷς μηδεὶς ἂν νεμεσήσαι; twice in Plato, and also in Arist. Rhet. II 9. Here, as elsewhere, νεμεσᾶν is used in its regular sense of 'indignation at undeserved good fortune' (Arist. Eth. II 7 § 15 ὁ νεμεσητικὸς λυπεῖται ἐπὶ τοῖς ἀναξίως εὐπράττονσι).

ιδόντας. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι ὅτι τοῦτον, ἡνίκ' ὤνιος ἦν, εἰ συνέβη μάγειρον ἢ τινος ἄλλης τέχνης δημιουργὸν πρίασθαι, τὴν τοῦ δεσπότου τέχνην ἂν μαθὼν πόρρω τῶν νῦν παρόντων ἦν ἀγαθῶν. ἐπειδὴ 72 δὲ ὁ πατὴρ ὁ ἡμέτερος τραπεζίτης ὦν ἐκτήσατο αὐτὸν καὶ γράμματα ἐπαίδευσε καὶ τὴν τέχνην ἐδίδαξε καὶ χρημάτων ἐποίησε κύριον πολλῶν, εὐδαιμῶν γέγονε, τὴν τύχην, ἣ πρὸς ἡμᾶς ἀφίκετο, ἀρχὴν λαβὼν πάσης τῆς νῦν παρούσης εὐδαιμονίας. οὐκοῦν δεινὸν, ὦ γῆ 73 καὶ θεοὶ, καὶ πέρα δεινοῦ, τοὺς Ἑλληνα μὲν ἀντὶ βαρβαρίου ποιήσαντας, γνώριμον δ' ἀντ' ἀνδραπόδου, τοσούτων ἀγαθῶν ἡγεμόνας, τούτους περιορᾶν ἐν ταῖς ἐσχάταις ἀπορίαις ὄντας ἔχοντα καὶ πλουτοῦντα, καὶ εἰς τοῦθ' ἠκειν ἀναιδείας ὥστε, ἥς παρ' ἡμῶν τύχης μετέσχε, ταύτης ἡμῖν μὴ τολμᾶν μεταδοῦναι. ἀλλ' 74 αὐτὸς μὲν οὐκ ὤκνησε τὴν δέσποιναν γῆμαι, καὶ ἡ τὰ

1124 καταχύσματα αὐτοῦ κατέχειε τόθ' ἡνίκα ἐωνήθη, ταύτη

ἂν μαθὼν... ἦν] ἂν belongs solely to ἦν, the principal verb of the apodosis, although it is placed immediately before the emphatic participle μαθὼν. See Goodwin's *Moods and Tenses* § 42, 3 note 1.

72. *τραπεζίτης ὦν*] The participial clause is here, as often, more emphatic than the principal verb ἐκτήσατο. 'Since my father, into whose hands he came, was a banker.'

73. *γνώριμον*] Kennedy renders this: 'a friend instead of a slave.' *γνώριμος* however is a weaker word than *φίλος*, though it is curiously placed after it by an anti-climax in Or. 18 (de Corona) § 284 *ξένος ἢ φίλος ἢ γνώριμος*. But in the present passage, the context leads us to prefer translating it: 'a man of note instead of a mere slave.'

τοσούτων ἀγαθῶν ἡγεμόνας] An unusual phrase; 'who had led him to, showed him the way to, so many social and political advantages.' P.]

καὶ πλουτοῦντα is perhaps a gloss on *τὸν ἔχοντα*. Cf. Soph. Aj. 157 *πρὸς γὰρ τὸν ἔχονθ' ὁ φθόνος ἔρπει*. P.]

ἀναιδείας] For the gen. cf. Or. 36 § 48 *εἰς τοῦθ' ἠκεις μανίας*.

74. *καταχύσματα*] Harpocr. *Δημοσθένης ἐν τῷ κατὰ Στεφάνου α'*. *ὅτι τῶν νεωνήτων οἱ δεσπῶται τραγήματα κατέχειον Ἀριστοφάνης Πλούτῳ δηλοῖ* (Ar. Plut. 768 *φέρει νῦν λούσ' εἴσω κομίσω καταχύσματα ὥσπερ νεωνήτοισιν ὀφθαλμοῖς ἐγώ*). The sweetmeats, nuts, &c, were scattered over the newly-purchased slave and scrambled for by his fellow-servants. 'This was done, not on the slave's account, but for

συνοικεῖν, οὐδὲ προῖκα πέντε τάλαντα αὐτῷ γράψαι, χωρὶς ὧν οὔσης τῆς μητρὸς κυρίας οὔτος ἐγκρατῆς γέγονε πολλῶν χρημάτων (τί γὰρ αὐτὸν οἴεσθε εἰς τὰς διαθήκας ἐγγράψαι “καὶ τᾶλλα, ὅσα ἐστὶν, Ἄρ-
 “χίππη δίδωμι”); τὰς δ’ ἡμετέρας θυγατέρας μελλού-
 σας δι’ ἔνδειαν ἀνεκδότους ἔνδον γηράσκειν περιορᾷ.
 75 καὶ εἰ μὲν πένης οὔτος ἦν, ἡμεῖς δ’ εὐποροῦντες ἐτυγ-
 χάνομεν, καὶ συνέβη τι παθεῖν, οἶα πολλὰ, ἐμοὶ, οἱ
 παῖδες ἂν οἱ τούτου τῶν ἐμῶν θυγατέρων ἐδικάζοντο^h,

^h ‘*legendum videtur ἐδικάζοντο i.e. ἐπεδικάζοντο cum Wolfio*’. Dobree.

the sake of a good omen, as the Scholiast tells us.’ Becker’s *Charicles* III 33 (=p. 368 of Eng. abridg.). Hermann, *Privatalt.* § 12, 5, p. 82 Blümner; St John’s *Manners and Customs of the Greeks* III 27.

προῖκα πέντε κ.τ.λ.] § 28. οὔσης κυρίας] He, as the husband, has got possession of property, as κύριος (or legal possessor) of her, as she was of the said property. P.]

75. εἰ...συνέβη τι παθεῖν κ.τ.λ.] ‘If, in the ordinary course of nature, anything had happened to me’; a common euphemism for death. See note on Or. 54 § 25.

ἐδικάζοντο] The regular word used of the suitors under such circumstances was ἐπι-δικάζεσθαι (Or. 43 Macart. § 55 τῆς ἐπικλήρου ἐπιδικάζεσθαι and ἐπεδικαζόμεν γενεὶ ὧν ἐγγυτάτω). Hence, ἐπεδικάζοντο has been proposed. But this suggestion, although since supported by the discovery of a marginal correction to that effect in the Paris MS Σ, is not perhaps absolutely necessary, as the wider general term includes the narrower special one. The reference, in

any case, is to the provisions of the Athenian law, whereby, when there was no son to inherit the estate, the heiresses were bound to be married to their nearest relatives (not in the ascending line). The next of kin brought his claim before the chief Archon, whose duty it was ἐπιμελεῖσθαι τῶν ἐπικλήρων (Or. 43 § 75), public notice was given of the claim, and if no one appeared to dispute it, the Archon adjudged the heiress to him (ἐπεδικασεν αὐτῷ τὴν ἐπικληρον). If another claimant appeared, a court was held to decide the suit, according to the Athenian law of consanguinity. Cases even occurred in which the suitor would get his wife taken off his hands to enable him to marry such an heiress (e.g. Or. 57 § 41). If the ‘heiress’ was poor, and the nearest relative did not choose to marry her, he was bound to give her a marriage-portion according to his own fortune (C. R. Kennedy, *Dict. Antiq.* s. v. *Epicleus*). Or. 43 § 54 *lex, τῶν ἐπικλήρων ὅσαι θητικὸν τελοῦσιν, εἰ μὴ βούληται ἔχειν ὁ ἐγγυτάτω γένους ἐκιδότω ἐπιδούς*

οἱ τοῦ δούλου τῶν τοῦ δεσπότου· θεῖοι γάρ εἰσιν αὐταῖς διὰ τὸ τὴν μητέρα τὴν ἐμὴν τοῦτου λαβεῖν· ἐπειδὴ δὲ ἀπόρως ἡμεῖς ἔχομεν, τῆνικαῦτα οὐ συνεκδώσει ταύτας, ἀλλὰ λέγει καὶ λογίζεται τὸ πλῆθος ὧν ἐγὼ χρημάτων ἔχω. καὶ γὰρ τοῦτο ἀτοπώτατον πάντων. 76 ὧν μὲν ἀπεστέρηκεν ἡμᾶς χρημάτων, οὐδέπω καὶ τήμερον ἠθέλησεν ὑποσχεῖν τὸν λόγον¹, ἀλλὰ μὴ εἰσαγωγίμους εἶναι τὰς δίκας παραγράφεται· ἃ δὲ τῶν πατρώων ἐνειμάμην ἐγὼ, ταῦτα λογίζεται. καὶ τοὺς μὲν ἄλλους ἂν τις ἴδοι τοὺς οἰκέτας ὑπὸ τῶν δεσποτῶν ἐξεταζομένους· οὗτος δ' αὖ τούναντίον τὸν δεσπότην ὁ δούλος ἐξετάζει, ὡς δῆτα πονηρὸν καὶ ἄσωτον ἐκ τούτων

¹ Bekker. τὸν λόγον οἱ. Ζ cum Σ.

κ.τ.λ. (Cf. K. F. Hermann, *Public Antiq.* § 120, notes 6—12; *Privatalt.* § 64, notes 10 and 11 = *Rechtsalt.* p. 57 Thalheim, with Pollux III 33; and see Aristoph. *Vesp.* 583—7.)

θεῖοι] Phormion's sons being, like Apollodorus, sons of Archippe, would be 'uncles' to the daughters of their half-brother Apollodorus.—ἡμεῖς is emphatically contrasted with εἰ πένης οὗτος ἦν (*supra*), as ὧν ἐγὼ ἔχω inf. with the implied ὧν οὗτος (or ὧν αὐτὸς) ἔχει.

76. ἐξεταζομένους] 'scrutinised', 'narrowly examined', 'called to account', 'taken to task' (§§ 80, 82; 2 § 27 *πικρῶς ἐξετάσαι*). Liddell and Scott refer to this passage, and explain it 'to question by the torture,' comparing Polybius xv 27 § 7 (*φιλοτίμως ἐξετάσαι πᾶσαν προτιθέντα βάσανον*); but in view of the context it seems better to give it a general sense, though not to the exclusion of the special meaning above suggested. Besides, a reference to the passage in Poly-

bios will show that the verb there refers not to the torture itself, but to the close examination *preceding* the torture. The torture was only to be applied if the *ἐξετασις* failed. [The verb is here used for *ἐλεγχόμενος τὴν οὐσίαν*, 'having their property inquired into.' Slaves, in fact, had no property; but their masters might inquire if they had, rightly or wrongly, become possessed of anything, e.g. of means to purchase their liberty. 'To make an inventory of property' is *ἐξετάζειν* (Ar. *Eccl.* 729), or *ἐξετασιν ποιεῖσθαι*, which is also a military term. P.]

§§ 77—80. *My aspect of countenance, my quickness of walk and my loudness of talk may not, perhaps, be in my favour; they are not my fault but my misfortune; they annoy other people and do me no good; and yet I can claim that I am moderate in my personal expenditure, and I thereby show that I lead a far more orderly life than Phormion and the like. Towards*

- 77 ἐπιδείξων. ἐγὼ δ', ὧ ἄνδρες Ἀθηναῖοι, τῆς μὲν ὄψεως τῇ φύσει καὶ τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα οὐ τῶν εὐτυχῶς πεφυκότων ἑμαυτὸν κρίνω· ἐφ' οἷς γὰρ οὐδὲν ὠφελούμενος λυπῶ τινὰς, ἔλαττον ἔχω πολλαχοῦ· τῷ μέντοι μέτριος κατὰ πάσας τὰς εἰς ἑμαυτὸν δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων 1125
- 78 ἐτέρων εὐτακτότερον ζῶν ἂν φανείην. τὰ δ' εἰς τὴν πόλιν καὶ ὅσα εἰς ὑμᾶς, ὡς δύναμαι λαμπρότατα, ὡς ὑμεῖς σύνιστε, ποιῶ· οὐ γὰρ ἀγνοῶ τοῦθ', ὅτι τοῖς μὲν γένοι πολίταις ὑμῖν ἱκανόν ἐστι λειτουργεῖν ὡς οἱ νόμοι προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς, ὡς ἀποδιδόντας χάριν, οὕτω προσήκει φαίνεσθαι λειτουργοῦν-

the state, I have performed public services in a most liberal manner, passing even beyond the requirements of the law, to express the gratitude due to Athens from one who owes his citizenship to her generous adoption of his father. Don't taunt me then, Phormion, with what is really to my credit, but prove, if you can, that I am guilty of immorality like your own. How dare you criticise another's life and character?

77. τῆς ὄψεως τῇ φύσει κ.τ.λ.] These are datives of *respect*,—‘in the matter of appearance,’ &c. Kennedy wrongly construes with κρίνω, ‘I judge by,’ &c. P.]

τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα κ.τ.λ.] For the general sense, cf. *Lysias* 16 § 19 οὐκ ἄξιον ἀπ' ὄψεως...οὔτε φιλεῖν οὔτε μισεῖν οὐδένα, ἀλλ' ἐκ τῶν ἔργων σκοπεῖν· πολλοὶ μὲν γὰρ μικρὸν διαλεγόμενοι καὶ κοσμῶς ἀμπεχόμενοι μεγάλων κακῶν αἰτίοι γεγόνασιν, ἕτεροι δὲ τῶν τοιούτων ἀμελοῦντες πολλὰ κάγαθὰ ὑμᾶς εἰσιν εἰργασμένοι. See also note on § 68 and cf. particularly Or.

37 (Pant.) § 52 Νικόβουλος ἐπιφθονός ἐστι καὶ ταχέως βαδίζει καὶ μέγα φθέγγεται καὶ βακτηρίαν φορεῖ, and esp. § 55 where Nicobulus says of himself οὐχὶ λέληθα ἑμαυτὸν, οὐδ' ἀγνοῶ οὐ τῶν εὐ πεφυκότων κατὰ ταῦτα ἂν ἀνθρώπων, οὐδὲ τῶν λυσιτελοῦντων ἑαυτοῖς. εἰ γὰρ ἐν οἷς μὴ δὲν ὠφελούμαι ποιῶν, λυπῶ τινὰς, πῶς οὐκ ἀτυχῶ κατὰ τοῦτο τὸ μέρος; The parallel is so close that it lends some colour to the inference that the two speeches were written by the same orator, and that if Demosthenes wrote either, he probably wrote both. Cf. *Introd.* p. xlv.

τῷ μέντοι μέτριος — φανείην] This self-complacent assertion may be instructively compared with the passage in Or. 36 §§ 42 and 45, where the present plaintiff is charged with extravagance of expenditure and licentiousness of life.

78. τοὺς ποιητοὺς] Or. 53 § 18 (of Apollodorus) κατὰ ψήφισμα πολίτης (Hermann, *Political Antiquities* § 117).

τας. μὴ οὖν μοι ταύτ' ὀνειδίξει ἐφ' οἷς ἐπαίνου τύχοιμ' ἂν δικαίως, ἀλλὰ τίνα, ὦ Φορμίων, τῶν πολιτῶν ἐται- 79
 ρεῖν, ὥσπερ σὺ, μεμίσθωμαι; δείξον. τίνα τῆς πό-
 λεως, ἧς αὐτὸς ἠξιώθη, καὶ τῆς ἐν αὐτῇ παρρησίας
 ἀπεστέρηκα, ὥσπερ σὺ τοῦτον ὃν κατήσχυνας; τίνας
 γυναῖκα διέφθαρκα, ὥσπερ σὺ πρὸς πολλαῖς ἄλλαις
 ταύτην, ἢ τὸ μνήμα ὠκοδόμησεν ὁ θεοῖς ἐχθρὸς οὗτος
 πλησίον τοῦ τῆς δεσποίνης, ἀνηλωκῶς πλέον ἢ τά-
 λαντα δύο; καὶ οὐκ ἠσθάνετο ὅτι οὐχὶ τοῦ τάφου
 μνημεῖον ἔσται τὸ οἰκοδόμημα τοιοῦτον ὃν, ἀλλὰ τῆς
 ἀδικίας ἧς τὸν ἄνδρα ἠδίκηκεν ἐκείνη διὰ τοῦτον. εἶτα 80
 τοιαῦτα ποιῶν καὶ τηλικαύτας μαρτυρίας ἐξενηνοχῶς
 τῆς ὕβρεως τῆς σαυτοῦ σὺ τὸν ἄλλου του βίον ἐξετά-
 ζειν τολμᾶς; μεθ' ἡμέραν εἰ σὺ σῶφρων, τὴν δὲ νύκτα,

79. ἐταίρειν μεμίσθωμαι] Aeschin. Timarch. § 13 τῷ παιδί... ὅς ἂν ἐκμισθωθῆ ἔταίρειν.

τῆς πόλεως ... παρρησίας ἀπεστέρηκα] νόμος γὰρ ἦν τὸν ἔταιρηκότα μὴ πολιτεῦσθαι *Argument to Dem. Fals. Leg. p. 338. Or. 59 § 28.* This forms the main point of the speech κατ' Ἀνδροτίωνος. See also Ar. *Equit. 877.* Aeschin. Timarch. §§ 19—32 (Hermann, *Privatalt.* § 29, 22=p. 258 Blümner).

τὸ μνήμα ὠκοδόμησεν... ἀνηλωκῶς πλέον ἢ τάλαντα δύο] The tendency to extravagant outlay on tombs was checked at Athens by a legal enactment referred to by Cicero, *Legg. II 64, post aliquanto propter has amplitudines sepulcrorum... lege sanctum est, ne quis sepulcrum faceret operosius quam quod decem homines effecerint triduo*, *ib. 66.* Cf. Plato, *Legg. p. 959 D* ἔστω δὲ νόμος οὗτος· τῷ μὲν δὴ τοῦ μεγίστου τιμήματος εἰς τὴν πᾶσαν ταφὴν ἀναλισκόμενα μὴ πλέον πέντε

μῶν κ.τ.λ. Plato even suggests that the tomb or barrow (χώμα) should not take more than the work of five men for five days and that the inscription on the stêlê should not be more than four lines long, *ib. p. 958 E.*—Lysias *Or. 32 § 31* εἰς τὸ μνήμα τοῦ πατρὸς οὐκ ἀναλώσας πέντε καὶ εἴκοσι μνᾶς ἐκ πεντακισχιλίων δραχμῶν, τὸ μὲν ἡμισυ αὐτῷ τίθησι τὸ δὲ τούτοις λελόγισται (cf. Becker, *Charicles III 108=p. 395 of Engl. Abridg.*).

πλησίον τοῦ τῆς δεσποίνης] Archippe, his former master's wife. [τῆς ἀδικίας ἧς—ἠδίκηκεν. The genitive by attraction for the cognate accusative, ἀδικεῖν τίνα (μεγάλην) ἀδικίαν. P.]

80. σὺ τὸν ἄλλου] strongly emphatic: 'you (of all men) presume!' &c. On ἐξετάζειν, cf. § 76.

μεθ' ἡμέραν... σῶφρων, τὴν δὲ νύκτα...] *Or. 54 § 34* μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι κ.τ.λ.

ἐφ' οἷς θάνατος ἢ ζημία, ταῦτα ποιεῖς. πονηρὸς, ὧ ἀνδρες Ἀθηναῖοι, πονηρὸς οὗτος ἄνωθεν ἐκ τοῦ ἀνακείου κᾶδικος. σημεῖον δέ· εἰ γὰρ ἦν δίκαιος, πένης ἂν ἦν τὰ τοῦ δεσπότητος διοικήσας. νῦν δὲ τοσοῦτων χρημάτων τὸ πλῆθος κύριος καταστάς, ὥστε τοσαῦτα λαθεῖν ἀπ' αὐτῶν κλέψας ὅσα νῦν κέκτηται, οὐκ
81 ὀφείλειν ταῦτα, ἀλλὰ πατρῶα ἔχειν ἡγεῖται. καίτοι πρὸς θεῶν, εἰ κλέπτην σε ἀπήγον ὡς ἐπ' αὐτοφώρῳ

ἐφ' οἷς θάνατος ἢ ζημία] e.g. certain forms of ὑβρις (K. F. Hermann, *Privatalt.* § 61, 20 = *Rechtsalt.* p. 37 Thalheim, where Lysias is quoted, τοὺς ὑβρίζειν δόξαντας ἐξεστὶν ὑμῖν θανάτω ζημιῶν).

§§ 80—82. You are a rogue of old, *Phormion*, an arrant rogue. Had you been honest, you would have remained poor. As it is, after embezzling the sums under your control, you choose to regard them as an inherited patrimony! Yet, suppose I could have clapped your present property on your shoulders and arrested you summarily as a thief caught in the act, then if you denied the theft, you would have been compelled to confess that you got it all from my father: you could not have got it elsewhere, for you were a barbarian when we bought you. And yet you ungratefully resisted a suit for the sums claimed from you on our part; you abused us, you criticised the antecedents of our family. Well, even if I am bound to think less of myself than of all the rest of my audience, I am at any rate bound to think more of myself than of *Phormion*; and *Phormion*, at least, is bound to think less of himself than of me. You may make us out what you please, but you yourself were a

slave all the same.

πονηρὸς...ἀνωθεν ἐκ τοῦ ἀνακείου] A knave, an arrant knave and a villain of old since he left the temple of *Castor*. ἀνωθεν is a *maioribus*, πονηρὸς κὰκ πονηρῶν, cf. Or. 58 § 17 πονηρὸς ἐκ τριγωνίας. Or. 44 (*Leochar.*) § 5 οὐδὲν ἂν ἔδει ἀνωθεν ἐξετάζειν τὸ γένος τὸ ἡμέτερον. The ἀνακείον is the temple of the *Dioscuri* or *Ἀνακες*, as they were called (*Plut. Thes.* 33, *Cic. Nat. Deor.* III § 53). It was one of the places where slaves were sold; Διοσκούρων ἱερὸν, οὗ νῦν οἱ μισθοφοροῦντες δοῦλοι ἐστᾶσι (Bekker *Anecd.* 212). *Harpocr.* ἀνακείον· ἀνάκτορον· *Δημοσθένης ἐν τῷ κατὰ Στεφάνου. ἱερὸν τῶν Διοσκούρων. Moeris, ἀνακες καὶ ἀνάκιον Ἀττικῶς* (cf. ἀνακείον *Thuc.* VIII 93), *Διοσκούροι καὶ Διοσκορεῖον Ἑλληνικῶς.* *Pollux* I 37, ἑορταὶ δὲ ἔντιμοι...*Διοσκοίρων Ἀθήνησιν Ἀνάκεια.* The temple stood S.E. of the market of the *Cerameicus* (*E. Curtius, Text der sieben Karten* p. 53).

Cf. *Seneca de constantia sapientis* 13 'non moleste feram, si mihi non reddiderit nomen aliquis, ex his qui ad *Castoris* negotiantur, nequam mancipia ementes vendentesque, quorum tabernis pessimorum servorum areae refertae sunt.'

81. κλέπτην σε ἀπήγον κ.τ.λ.]

1126 εἰληφώς, τὴν οὐσίαν ἣν ἔχεις, εἴ πως οἶόν τ' ἦν, ἐπιθείς σοι, εἰτά σε ἠξίουν, εἰ μὴ φῆς ὑψηρημένους ταῦτ' ἔχειν, ἀνάγειν ὅθεν εἰληφας, εἰς τίνα ἂν αὐτὰ ἀνῆγαγες; οὔτε γάρ σοι πατήρ παρέδωκεν, οὔθ' εὔρες, οὔτε λαβών ποθεν ἄλλοθεν ἦλθες ὡς ἡμᾶς· βάρβαρος γὰρ ἐωνήθης. εἶθ' ᾧ δημοσίᾳ προσήκεν ἐπὶ τοῖς εἰργασμένοις τεθνάναι, σὺ, τὸ σῶμα σεσωκῶς καὶ πόλιν ἐκ τῶν ἡμετέρων σαυτῷ κτησάμενος καὶ παῖδας ἀδελφούς τοῖς σεαυτοῦ δεσπόταις ἀξιωθεὶς ποιήσασθαι, παρεγράψω μὴ εἰσαγώγιμον εἶναι τὴν δίκην τῶν ἐγκαλουμένων χρημάτων ὑφ' ἡμῶν; εἶτα κακῶς ἡμᾶς ἔλεγες, καὶ τὸν ἡμέτερον πατέρα ἐξήταζες ὅστις ἦν; ἐφ' οἷς τίς οὐκ ἂν, ᾧ ἄνδρες Ἀθηναῖοι, χαλεπῶς 82 ἠνεγκεν; ἐγὼ γὰρ, εἰ πάντων τῶν ἄλλων ὑμῶν ἔλαττον προσήκει μοι φρονεῖν, τούτου γε μείζον, οἶμαι, καὶ τούτῳ γε εἰ μηδενὸς τῶν ἄλλων ἔλαττον, ἐμοῦ γε ἔλαττον ὄντων γὰρ ἡμῶν τοιούτων, ὁποίους τινὰς ἂν καὶ σὺ κατασκευάσης τῷ λόγῳ, σὺ δούλος ἦσθα.

See Or. 54 § 1 τῆ τῶν λωποδυτῶν ἀπαγωγῆ π.—ἐπ' αὐτοφώρῳ, *flagrante delicto*.

ἀνάγειν] ἀναφέρειν, sc. ἐκέισε ὅθεν (or εἰς τοῦτον ἀφ' οὗ) εἰληφας. *Demonstrare unde et qui facultates illas adeptus sis* (Reiske). 'Had I then required you to name the person from whom you got it, to whom should you have referred as the donor?' Kennedy.

οὔτε πατήρ παρέδωκεν, οὔθ' εὔρες] Or. 36 § 43 οὐδὲ γὰρ Πασίων ὁ σὸς πατήρ ἐκτήσαθ' εὔρων οὐδὲ τοῦ πατρὸς αὐτῷ παραδόντος.—πατήρ, here (as often) without the article.

βάρβαρος ἐωνήθης] Eur. Iph. Aul. 1400 βαρβάρων "Ἑλληνας ἄρχειν εἰκός, ἀλλ' οὐ βαρβάρους, μήτηρ, Ἑλλήνων, τὸ μὲν γὰρ

δούλον οἱ δ' ἐλεύθεροι, the first four words of which are quoted by Arist., Pol. i 2 § 4, with the comment ὡς ταυτὸ φύσει βάρβαρον καὶ δούλον ὄν.

ἐπὶ τοῖς εἰργασμένοις] 'for what you have done,' Aesch. Suppl. 6 φεύγομεν οὐτὸν ἐφ' αἵματι δημηλασίαν. Mid. p. 549 φεύγειν ἐφ' αἵματι. P.] Dem. 3 § 24 τὴν ἐπὶ τοῖς ἔργοις δόξαν.

ἐξήταζες] i.e. in Or. 36 §§ 43 and 48, ἐγένετο Πασίων Ἀρχεστράτου. On ἐξετάζειν, cf. § 76.

82. μείζον] sc. προσήκει φρονεῖν, which is also understood in both the next two clauses.

σὺ δούλος ἦσθα] Emphatically placed at the close of the passage.

- 83 Τάχα τοίνυν ἂν ἴσως καὶ τοῦτό τις αὐτῶν εἴποι, ὡς ἀδελφὸς ὢν ἐμὸς Πασικλῆς οὐδὲν ἐγκαλεῖ τῶν αὐτῶν τούτῳ πραγμάτων. ἐγὼ δ', ὦ ἄνδρες Ἀθηναῖοι, καὶ περὶ Πασικλέους, παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦτο ὥστε ὑπὸ τῶν ἐμαντοῦ δούλων ὑβρίσθαι¹ οὐ δύναμαι κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν
- 84 ἐδόκουν, ἐρῶ καὶ οὐ σιωπήσομαι. ἐγὼ γὰρ ὁμομήτριον μὲν ἀδελφὸν ἐμαντοῦ Πασικλέα νομίζω, ὁμοπάτριον

¹ Dobree (G. H. Schaefer, Dindorf). ὑβρισθεις Z *cum libris*.

§§ 83—84. *Oh, but my brother Pasicles takes no part with me in these claims against Phormion!*

As for Pasicles (craving your forgiveness for being provoked into uttering what I am about to say), while I acknowledge him as my mother's son, yet, judging from his taking Phormion's side against me, I have my fears that his father was another. Say no more, then, of Pasicles! call him your son, Phormion, and not your master; my opponent (as he is bent upon it)—not my brother.

83. τούτῳ. Depending on ἐγκαλεῖ, not on τῶν αὐτῶν.

ὑβρίσθαι] The mss have ὑβρισθεις, which makes it necessary to take ὥστε with οὐ δύναμαι κατασχεῖν and at first sight leaves εἰ without a verb. To remove the supposed difficulty, Dobree reads ὑβρίσθαι, placing παραιτησάμενος—κατασχεῖν in a parenthesis. But the emendation is at once unnecessary and inadequate, and we prefer accepting the arrangement suggested by Shilleto, who was the first to explain the manuscript reading correctly. 'Schaefer

ὑβρίσθαι frustra tentat. Interpunctionis egebat locus, non conjecturae.' The passage should run as follows: ἐγὼ δ' ὦ ἄνδρες Ἀθηναῖοι καὶ περὶ Πασικλέους, (παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ, προεληλυθὼς εἰς τοῦτο ὥστε ὑπὸ τῶν ἐμαντοῦ δούλων ὑβρισθεις οὐ δύναμαι κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν ἐρῶ καὶ οὐ σιωπήσομαι) ἐγὼ γὰρ...νομίζω. 'γὰρ post parenthesis saepe fraudi fuit criticis' (Fals. Leg. § 107 not. crit.).

[The passage is slightly ἀνακόλουθον, but it can hardly be doubted that we must construe προεληλυθὼς εἰς τοῦτο ὥστε—ὑβρισθεις οὐ δύναμαι κατασχεῖν, 'having reached such a point that—I am unable to restrain (my feelings),' and συγγνώμην ἔχειν (ἐμοὶ) εἰ—ἐρῶ καὶ οὐ σιωπήσομαι. The ἐγὼ δ' at the beginning is resumed at ἐγὼ γὰρ ὁμομήτριον. There is no great difficulty in the passage; certainly it is not made clearer by any proposed alteration. He was going to say ἐγὼ καὶ περὶ Πασικλέους—ἐρῶ, but he lost himself, as it were, in the maze of the intervening clauses. P.]

1127 δ' οὐκ οἶδα, δέδοικα μέντοι μὴ τῶν Φορμίωνος ἁμαρτημάτων εἰς ἡμᾶς ἀρχὴ Πασικλῆς ἦ. ὅταν γὰρ τῷ δούλῳ συνδικῆ τὸν ἀδελφὸν ἀτιμῶν, καὶ παραπεπτωκῶς θαυμάζη τούτους ὑφ' ὧν αὐτῷ θαυμάζεσθαι προσῆκε, τίς ἔχει δικαίαν ταῦθ' ὑποψίαν; ἄνελε οὖν ἐκ μέσου μοι Πασικλέα, καὶ σὸς μὲν υἱὸς ἀντὶ δεσπότου καλείσθω, ἐμὸς δὲ ἀντίδικος (βούλεται γὰρ) ἀντ' ἀδελφοῦ.

Ἐγὼ δὲ τούτῳ μὲν χαίρειν λέγω, οὓς δ' ὁ πατήρ 85 μοι παρέδωκε βοηθοὺς καὶ φίλους, εἰς τούτους ἤκω, εἰς ὑμᾶς, ὧ ἄνδρες δικασταί. καὶ δέομαι καὶ ἀντιβολῶ καὶ ἰκετεύω, μὴ ὑπερίδητέ με καὶ τὰς θυγατέρας δι' ἔνδειαν τοῖς ἔμαντοῦ δούλοις καὶ τοῖς τούτου κόλαξιν ἐπίχαρτον γενόμενον. ὁ ἐμὸς ὑμῖν πατήρ χιλίας ἔδωκεν ἀσπίδας, καὶ πολλὰ χρήσιμον αὐτὸν παρέσχε, καὶ πέντε τριήρεις ἐβελοντῆς ἐπιδούς καὶ παρ' αὐτοῦ πλη-

84. παραπεπτωκῶς] 'Court-
ing,' 'flattering.' As this verb
does not seem to occur else-
where in this sense, H. Wolf
and Dobree would prefer ὑπο-
πεπτωκῶς as in §§ 63, 65; but
the text is supported by the mss
and by Harpocration, who says:
ἀντὶ τοῦ ὑποπεπτωκῶς. Δημο-
σθένης ἐν τῷ κατὰ Στεφάνου.—
παραπεπτωκῶς implies subservi-
ence of a less abject and cring-
ing form than ὑποπεπτωκῶς,
which would be too strong a
word for this context. 'ὑπο-
πίπτειν est ad pedes alicuius,
παραπίπτειν ad latus alicuius
succumbere' (Lortzing, *Apoll.*
p. 90).

Πασικλέα] The silence of
Pasicles is a point brought
against *Apoll.* in *Or.* 36 § 22.
The insinuation in the text
seems quite gratuitous, and its
indelicacy forms a singular con-
trast to the plaintiff's affectation
of reserve in referring to his

mother in the earlier part of the
speech (§ 3 and § 27).

§ 85. Farewell, then, to my
so-called brother; while I turn
to my true friends, the jury, and
appeal to them not to allow me
to be laughed to scorn by my own
servants and by those who cringe
to them, like Stephanus.—My
father was a great benefactor to
the state, and it would hardly be
creditable to yourselves that his
son should suffer wrong.

85. δέομαι...ἀντιβολῶ...ἰκε-
τεύω] Cf. § 1.

τοῖς τούτου κόλαξιν] i.e. Ste-
phanus and his friends (not ex-
cluding Pasicles).

ἐπίχαρτον] *Thuc.* III 67. '*De-
mosthenes non dixit*' (Lortzing,
Apoll. p. 91). ἐπιχαίρειν occurs
in *Dem.* 9 § 61 and 21 § 134.

ἀσπίδας] The father, Pasion,
had a shield manufactory, as we
learn from *Or.* 36 § 4.

ἐπιδούς] Used of voluntary
free gifts for state purposes

ρώσας ἐτριηράρχησε τριηραρχίας. καὶ ταῦτα, οὐκ ὀφείλειν ὑμᾶς νομίζων χάριν ἡμῖν, ὑπομιμνήσκω ἡμεῖς γὰρ ὀφείλομεν ὑμῖν· ἀλλ' ἵνα μὴ λάθω τι παθῶν τούτων ἀνάξιον· οὐδὲ γὰρ ὑμῖν ἂν γένοιτο καλόν.

(ἐπιδόσεις) opp. to εἰσφέρειν. See Wolf's *Leptines* p. 66, ed. Beatson, notes 109, 110; and Boeckh, *P. E.* Book iv, chap. 17, p. 759 Lamb.

ἐτριηράρχησε τριηραρχίας] At first sight this is an exception to the usual idiom, whereby a cognate accusative is not used after a verb except with an adjective. Or. 28 § 3 χορηγῆ καὶ τριηραρχεῖ καὶ τὰς ἄλλας λειτουργίας λειτουργῆ. But the clause πέντε τριηρεῖς ἐθελοντῆς ἐπιδοῦς is virtually an adjectival phrase descriptive of the nature of the trierarchies. Thus, in English we do not say 'he fought a fight' by itself, but 'he has fought a good fight,' (See Mayor on *dicta dicere* and *servitutem serviunt* Cic. Phil. ii § 42 where the absence of the adj. is explained by the sense of the acc. being *different* from that of the governing verb and therefore cognate in form alone.) 'Speciose Reiskius ἔτριηράρχησε τριηραρχίας i. e. πέντε' Dobree. Compare Antiphon 5 § 77 καὶ χορηγίας ἐχορήγει καὶ τέλη κατετίθει, Andoc. 1 § 73 εὐθύνας ὦφλον ἀρξάντες ἀρχάς, Dem. 18 § 114, 24 § 150. Kühner's *Gk. Gr.* ii p. 265 n. 3, Lobeck's *Paralipomena* p. 501—538, and Rehdantz, *indices s.v. etymologica figura*, where it is shewn that this use of the cognate accusative is specially frequent in legal and constitutional phrases. On the trierarchal services of Apollodorus, see note on Or. 36 § 41.

§§ 86—end. Time would not suffice to tell of all the outrages inflicted on me; but you may

form some notion of their enormity if each one of you would just think of the slave he left at home and imagine himself treated by him as I have been treated by Phormion. Whatever satisfaction each of you would claim under such circumstances, you will allow me to have a right to now, and I therefore ask you, for the sake of the laws and of your solemn oaths, to establish a signal precedent by the punishment of the man who by his false evidence robbed me of that satisfaction. Remember all that you have heard on our side and meet my opponents' suggestions at every point. If they deny that they are responsible for all the details of their deposition, ask them 'What stands in the document?' 'Why did not Stephanus erase the clause?' If they say that a will has been deposed to by a guardian, by a ward, and by one who has it in his keeping; then ask these three witnesses 'What will?' 'what are its terms?' for not one of the three has gone so far as to attest the terms of the will, which are deposed to by the other witnesses (viz. by Stephanus and his friends). If they appeal to your compassion, remember that the victim of a wrong deserves more pity than those who are doomed to be punished; and that if you inflict that punishment, you will grant redress to myself, you will restrain my opponents from their abject adulation, and you will be giving a verdict which will be true to your solemn oath.

Πολλὰ δ' ἔχων εἰπεῖν περὶ ὧν ὕβρισμαι, οὐχ ἰκα- 86
 νὸν ὄν τὸ ὕδωρ ὀρώ μοι. ὡς οὖν μάλιστ' ἂν ἅπαντας
 ὑμᾶς ἠγοῦμαι γινῶναι τὴν ὑπερβολὴν ὧν ἠδικήμεθ'
 ἡμεῖς, φράσω· εἰ σκέψαιτο πρὸς ἑαυτὸν ἕκαστος ὑμῶν
 τίν' οἴκοι κατέλιπεν οἰκέτην, εἶθ' ὑπὸ τούτου πεπον-
 θόθ' ἑαυτὸν θείη ταυθ' ἅπερ ἡμεῖς ὑπὸ τούτου. μὴ
 γὰρ εἰ Σύρος ἢ Μάνης ἢ τίς ἕκαστος ἐκείνων, οὗτος δὲ
 Φορμίων· ἀλλὰ τὸ πρᾶγμα τὸ αὐτό· δοῦλοι μὲν ἐκεῖ-
 νοι, δοῦλος δ' οὗτος ἦν, δεσπότης δ' ὑμεῖς, δεσπότης
 δ' ἦν ἐγώ. ἦν τοίνυν ὑμῶν ἂν ἕκαστος δίκην ἀξιῶσιν 87
 λαβεῖν, ταύτην νομίζετε καμοὶ προσήκειν νῦν· καὶ τὸν
 I 128 ἀφηρημένον τῷ μαρτυρῆσαι τὰ ψευδῆ καὶ ὑπὲρ τῶν
 νόμων καὶ ὑπὲρ τῶν ὄρκων, οὓς ὁμωμοκότες δικάζετε,
 τιμωρήσασθε καὶ^k παράδειγμα ποιήσατε τοῖς ἄλλοις,
 μνημονεύοντες πάντα ὅσα ἀκηκοάτε ἡμῶν, καὶ φυλάτ-
 τοντες, εἰὰν παράγειν ἐπιχειρῶσιν ὑμᾶς, καὶ πρὸς ἕκα-
 στον ἀπαντῶντες, εἰὰν μὴ φῶσιν ἅπαντα μεμαρτυρη-
 κέναι, “τί οὖν ἐν τῷ γραμματεῖῳ γέγραπται; τί οὖν
 “οὐ τότε ἀπηλείφου; τίς ἢ παρὰ τοῖς ἀρχουσιν ἀντι-
 “γραφῆ;” εἰὰν μεμαρτυρηκέναι τὸν μὲν ἐπιτροπευθῆ- 88
 ναι κατὰ διαθήκας, τὸν δ' ἐπιτροπεύσαι, τὸν δ' ἔχειν,

^k *habet Σ a me collatus. om. Z et Bekker st.*

86. οὐχ ἰκανὸν τὸ ὕδωρ] Or. 54 § 36.

μὴ γὰρ.....] *sc.* σκέψαιτο, understood from σκέψαιτο in the previous sentence.

Σύρος ἢ Μάνης] Both common slave-names. Strabo vii p. 467 ἐξ ὧν γὰρ ἐκομίζετο ἢ τοῖς ἔθνεσιν ἐκείνοις ὁμωνύμους ἐκάλουσαν τοὺς οἰκέτας ὡς Λυδὸν καὶ Σύρον, ἢ τοῖς ἐπιπολάζουσιν ἐκεῖ ὀνόμασι προσηγόρευον, ὡς Μάνην (*cf.* Or. 53 § 20) ἢ Μίδα. τὸν Φρύγα, Τίβιον δὲ τὸν Παφλαγόνα (K. F. Hermann, *Privatalt.* § 13, 16 p. 92 Blümner). [Ar. Pax 1146,

τὸν τε Μανῆν ἢ Σύρα βωστρησάτω 'κ τοῦ χωρίου. P.]

87. τὸν ἀφηρημένον] Him (*i.e.* Stephanus) who by false testimony has robbed me of it (*i.e.* of my right to a verdict, τὸ δίκην λαβεῖν).

μνημονεύοντες..... φυλάττοντες] Or. 36 § 61.

τί οὖν...γέγραπται] *Cf.* § 45. ἀπηλείφου, § 44. ἢ ἀντιγραφῆ, § 46.

88. τὸν μὲν ἐπιτροπευθῆναι κ.τ.λ.] §§ 37, 38.

τὸν δ' ἔχειν] 'Has the document in his custody,' *i.e.* the

ποιίας; ἐν αἷς τί γέγραπται; ταῦτ' ἐρωτᾶτε· ἃ γὰρ οὗτοι μεμαρτυρήκασιν, οὐδεὶς ἐκείνων προσμεμαρτύρηκεν. ἐὰν δ' ὀδύρωνται, τὸν πεπονθότα ἐλεεινότερον τῶν δωσόντων δίκην ἡγείσθε. ταῦτα γὰρ ἂν ποιῆτε, ἐμοί τε βοηθήσετε, καὶ τούτους τῆς¹ ἄγαν κολακείας ἐπισχήσετε, καὶ αὐτοὶ τὰ εὖορκα ἔσεσθε ἐψηφισμένοι.

¹ Bekker. τὰς Ζ cum FΣΦ.

γραμματεῖον inscribed διαθήκη Πασίωνος § 16, ὁ μὲν γραμματεῖον ἔχειν ἐφ' ᾧ γεγράφθαι διαθήκη Πασίωνος.

ἃ γὰρ] None of the witnesses corroborate one another; one group depose to one series of isolated facts; another to another.—οὗτοι, Stephanus and his supporters.—ἐκείνων, Pasicles and Nicocles.

ἐὰν ὀδύρωνται] Alluding to the pathetic appeals of the peroration. Cf. the *miserabiles epilogi* of Cicero and the Ἑλέου εἰσβολὴ of the Greek Rhetoricians (Volkmann's *Rhetorik* § 27).

εὖορκα κ.τ.λ.] So in the former speech on the other side; Or. 36 § 61 αὐτοὶ εὖορκήσετε.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ
ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

ΥΠΟΘΕΣΙΣ.

[Ἐν τούτῳ τῷ λόγῳ καὶ τῶν φθασάντων τινὰ ἐπικατασκευάζεται, καὶ ἕτερα προσεισάγεται^a, εἰ καὶ^{aa} παράνομοι αἱ διαθήκαι.]

Argumentum a manu recentiore in Σ supra scriptum.

^a Wolf. *προεισ- vulgo.*

^{aa} ‘*immo ὡς καὶ vel ὅτι καὶ. αἱ Bekkerus addidit*’ Z.

1. 1. τῶν φθασάντων τινὰ ἐπικατασκευάζεται] ‘The speaker establishes afresh some of the points of his former speech; and brings on other new points, whether the will is not also in violation of the law.’

φθάνειν in this sense is found only in late Greek, e.g. Argument to Or. 4 (Philippic) τῷ φθάσαντι (λόγῳ), and Aelian Var. Hist. I 34 τὰ φθάσαντα, ‘the matters before-mentioned.’ ἐπικατασκευάζειν (according to Sophocles’ Lex. of late Greek) is found in Dio Cassius 50, 23, 3 (‘to construct on’) and Eusebius II 557 A (‘to prepare after’). It is here perhaps middle, and not passive. —προσεισάγω is found in Diogenes Laertius 9, 88 (quoted by Liddell and Scott, who take it as *middle* in the present pas-

sage).

§§ 1—3. *Stephanus has made a long reply to my former speech, and, as I suspected, has had a good deal to say in defence of his evidence. A cunning rogue himself, and well primed by Phormion’s numerous advisers, he has attempted to mislead you into the notion that he is not responsible for all the details of his deposition. He has not brought a single witness to prove, either (1) that he was present when my father made the alleged will, or (2) that he ever saw it opened after my father’s death; and yet he has actually deposed that the copy set forth in his deposition is a transcript of the ‘will.’ By so doing he is palpably convicted of having given false testimony.*

1 "Ὅτι μὲν οὐκ ἀπορήσειν ἔμελλε Στέφανος οὕτως ἰ 129
 ὅ τι ἀπολογήσεται περὶ τῆς μαρτυρίας, παράγων τῷ
 λόγῳ, ὡς οὐ πάντα μεμαρτύρηκε τὰ ἐν τῷ γραμματεῖῳ
 γεγραμμένα, καὶ ἕξαπατῶν ὑμᾶς, καὶ αὐτὸς σχεδὸν τι
 ὑπενόουν, ὧ ἄνδρες δικασταί. πανοῦργός τε γὰρ ἔστι
 καὶ οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίω-
 νος πολλοί· ἅμα τ' εἰκὸς ἔστι τοὺς ἐγχειροῦντας τὰ
 ψευδῆ μαρτυρεῖν καὶ τὴν ἀπολογία ἐυθέως ὑπὲρ αὐ-
 2 τῶν μελετᾶν. ὅτι δ' ἐν τοσούτῳ λόγῳ οὐδαμοῦ μάρ-
 τυρας παρέσχετο ὑμῖν ὡς ἢ διατιθεμένῳ τῷ πατρὶ τῷ
 ἐμῷ παρεγένετό που αὐτὸς ταύτην τὴν διαθήκην, ὥστ'
 εἰδέναι ταῦτα ὅτι ἀντίγραφά ἐστιν ὧν ὁ πατήρ μου
 διέθετο, ἢ ἀνοιχθὲν εἶδε τὸ γραμματεῖον ὃ φασι δια-
 θέμενον ἐκείνον καταλιπεῖν, ταῦτα συμμέμνησθέ μοι.

1. παράγων—ὑπενόουν] Apollodorus had already, in his former speech, thrown out his suspicions that Stephanus would have recourse to this line of defence. See Or. 45 §§ 44 and 87.

οἱ γράφοντες... ὑπὲρ Φορμίωνος] e.g. Demosthenes himself.

τὴν ἀπολογία... μελετᾶν] 'prepare their defence.' μελετᾶν, like *meditari*, with which it is etymologically connected, is often used of 'rehearsing a part,' 'conning over a task,' 'practising for a performance.'

2. μάρτυρας ... ὡς ... παρεγένετο] The plaintiff objects that Stephanus could not attest to a document being a copy of Pasion's 'will,' as he calls no evidence to prove he was present when the will was made (cf. Or. 45 § 26). But even supposing he had been present, it would not follow that he was familiar with the terms, as even the witnesses to a will would not necessarily know its contents, or be able to attest to

its correspondence with any document purporting to be a copy of the same. Cf. Isaëus Or. 4 (Nicostratus) § 13 τῶν διατιθεμένων οἱ πολλοὶ οὐδὲ λέγουσι τοῖς παραγινομένοις ὅ τι διατίθενται, ἀλλ' αὐτοῦ μόνου, τοῦ καταλιπεῖν διαθήκας, μάρτυρας παρίστανται, τοῦ δὲ συμβαινόντος ἔστι καὶ γραμματεῖον ἀλλαγῆναι καὶ τάναντία ταῖς τοῦ τεθνεώτους διαθήκαις μεταγραφῆναι. οὐδὲν γὰρ μᾶλλον οἱ μάρτυρες εἴσονται εἰ ἐφ' αἷς ἐκλήθησαν διαθήκαις, αὐταὶ ἀποφαίνονται (Becker, *Charicles*, Scene ix note 18).

The inelegance of the triple repetition διατιθεμένῳ... διέθετο... διαθέμενον is considered open to criticism by A. Schaefer, *Dem. u. s. Zeit*, III 2, 187.

ἐκείνον] not αὐτὸν, either because it refers to a person deceased, or to distinguish τὸν πατέρα from the subject of the sentence, Στέφανος. P.]

συμμέμνησθε] A verb apparently never used elsewhere, except in late Greek.

ἀλλὰ μὴν ὅποτε μεμαρτύρηκεν ἀντίγραφα εἶναι τῶν 3
 διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ γεγραμ-
 μένα, τὰς δὲ διαθήκας μὴ ἔχει^b ἐπιδείξαι μὴθ' ὡς ὁ
 πατήρ διέθετο ἡμῶν, μὴθ' ὡς αὐτὸς εἶδε παραγενό-
 μενος αὐταῖς^c διατιθεμένου τοῦ πατρὸς, πῶς οὐ περι-
 φανῶς οὗτος ἐξελέγχεται τὰ ψευδῆ μεμαρτυρηκῶς;

Εἰ τοίνυν πρόκλησιν φησιν εἶναι καὶ μὴ μαρτυ- 4
 ρίαν, οὐκ ἀληθῆ λέγει· ἅπαντα γὰρ ὅσα παρέχονται εἰς
 I 30 τὸ δικαστήριον προκαλούμενοι ἀλλήλους οἱ ἀντίδικοι,
 διὰ μαρτυρίας παρέχονται. οὐ γὰρ ἂν εἰδείηθ' ὑμεῖς
 εἴτ' ἐστὶν ἀληθῆ εἴτε ψευδῆ ἅ φασιν ἐκάτεροι, εἰ μὴ τις
 καὶ τοὺς μάρτυρας παρέχοιτο. ὅταν δὲ παράσχηται,
 τούτοις πιστεύοντες ὑποδίκους οὖσι ψηφίζεσθε ἐκ τῶν
 λεγομένων καὶ μαρτυρουμένων ἃ ἂν ὑμῖν δοκῆ δίκαια
 εἶναι. βούλομαι τοίνυν καὶ τὴν μαρτυρίαν ἐξελέγξαι, 5
 ὅτι οὐ πρόκλησις ἐστὶ, καὶ ὡς ἔδει μαρτυρεῖν αὐτοὺς,
 εἴπερ ἐγίγνετο ἢ πρόκλησις, ὡς οὐκ ἐγίγνετο. μαρτυ-
 ροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισίᾳ, ὅτε προῦκα-
 λείτο Φορμίων Ἀπολλόδωρον ἀνοίγειν τὸ γραμμα-
 τεῖον, ὃ παρεῖχεν Ἀμφίας ὁ Κηφισοφώντος κηδεστής,
 Ἀπολλόδωρον δ' οὐκ ἐθέλειν ἀνοίγειν. οὕτω μὲν ἂν

^b G. H. Schaefer, *Z et Bekker* (st. Leipzig ed.). ἔχειν Bekker 1824 *cum libris*.

^c Bekker *cum libris*. αὐτὰς Z *cum Baitero*.

3. ὅποτε] See the note on Or. 34 § 33 and cf. inf. § 9 ad fin.

§§ 4—5. *If my opponent urges that he is responsible for a Challenge only and not for a deposition, then he is not speaking the truth. Every Challenge necessarily involves a deposition, and I shall shew that he has deposed to something more than a mere Challenge, and I shall also criticize the terms of his deposition.*

4. πρόκλησιν...μὴ μαρτυρίαν] Or. 45 § 43 *προκλήσεώς ἐστὶν ὑπεύθυνος, οὐχὶ μαρτυρίας*. Stephanus disclaims responsibility for the deposition, but the plaintiff on his part insists that the deposition is inseparable from the Challenge, as no Challenge could be put in evidence at a trial unless attested by the deposition of a responsible witness.

μαρτυροῦντες ἐδόκουν ἀληθῆ μαρτυρεῖν· ἀντίγραφα δὲ τῶν διαθηκῶν τῶν Πασίωνος μαρτυρεῖν εἶναι τὰ ἐν τῷ γραμματείῳ ἃ παρείχετο Φορμίῳ, μήτε παραγενομένους ἐκείνῳ διατιθεμένῳ, μήτ' εἰδότας εἰ διέθετο, πῶς οὐ περιφανῶς ἀναισχυντία^d δοκεῖ ὑμῖν εἶναι;

- 6 Ἄλλὰ μὴν εἰ φησὶ Φορμίῳνος λέγοντος πιστεύειν ταῦτ' ἀληθῆ εἶναι, τοῦ αὐτοῦ ἀνδρός ἐστι πιστεύειν τε λέγοντι τούτῳ ταῦτα καὶ κελεύοντι μαρτυρεῖν. οἱ δέ γε νόμοι οὐ ταῦτα λέγουσιν, ἀλλ' ἃ ἂν^e εἰδῆ τις καὶ οἷς ἂν παραγένηται πραπτομένοις, ταῦτα μαρτυρεῖν κελεύουσιν ἐν^f γραμματείῳ γεγραμμένα, ἵνα μήτ' ἀφελεῖν ἐξῆ μὴδὲν μήτε προσθεῖναι τοῖς γεγραμμένοις.
- 7 ἀκοὴν δ' οὐκ ἐῷσι ζῶντος μαρτυρεῖν, ἀλλὰ τεθνεῶτος. τῶν δὲ ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν γεγραμ-

^d 'Malim περιφανῶς ἀναισχυντίας.' Dobree.

^e ἃ ἂν Bekker st. ἂν Z. ἂν Σ prima manu.

^f ἐν Bekker cum Σ a me collato. ἐν τῷ Z cum Φ.

5. περιφανῶς] § 3; the corresponding substantive περιφάνεια has occurred in Or. 45 § 2.

§§ 6—8. If Phormion's assertion was the defendant's only reason for deposing to the document being a copy of Pasion's will, then he has been guilty of giving hearsay evidence which is false and which he has given in a manner contrary to the law.

7. ἀκοὴν...μαρτυρεῖν] 'to give hearsay evidence.' Or. 57 (Eubul.) § 4 οὐδὲ μαρτυρεῖν ἀκοὴν ἐῷσιν οἱ νόμοι, 44 (Leoch.) § 55. Isaeus Or. 6 (Philoctemon) § 54 (δίκαιον) οἷς μὴ παρεγένετο, ἀλλ' ἤκουσέ τις, ἀκοὴν μαρτυρεῖν, 8 (Kiron) §§ 6, 14, 29. Examples of this kind of evidence are found in Or. 43 (Macart.) §§ 36, 42, 44—46. Meier and Schö-

mann, *Attische Process* p. 669 fin.

τῶν ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν] The witness, whether he had been present at the preliminary examination or not, was compelled to attend at the trial itself to confirm his evidence, unless he was either ill or abroad, in which case his evidence might be taken by a commission. Or. 35 (Lacr.) §§ 20, 34. Isaeus Or. 3 (Pyrrhus) §§ 20—27, esp. § 20 παρὰ τῶν ἀσθενούντων ἢ ἀποδημεῖν μελλόντων ὅταν τις ἐκμαρτυρίαν ποιῆται... Harpocration, ἐκμαρτυρία· διαφέρει τῆς μαρτυρίας, ὅτι ἡ μὲν μαρτυρία τῶν παρόντων ἐστίν, ἡ δ' ἐκμαρτυρία τῶν ἀπόντων. σαφέστατα δὲ περὶ τούτων διδάσκουσι Δημοσθένης τε

I 131 μένην ἐν τῷ^ε γραμματείῳ· καὶ ἀπὸ τῆς αὐτῆς ἐπισκήψεως τὴν τε μαρτυρίαν καὶ ἐκμαρτυρίαν ἀγωνίζεσθαι ἅμα, ἵν' ἐὰν μὲν ἀναδέχεται ὁ ἐκμαρτυρήσας, ἐκείνος ὑπόδικος ἢ τῶν ψευδομαρτυριῶν, ἐὰν δὲ μὴ ἀναδέχεται, οἱ μαρτυρήσαντες^h τὴν ἐκμαρτυρίαν. Στέφανος 8 τοίνυν οὕτως, οὗτ' εἰδὼς διαθήκας καταλιπόντα τὸν πατέρα ἡμῶν, οὔτε παραγενόμενος πώποτε διατιθεμένῳ τῷ πατρὶ ἡμῶν, ἀκούσας δὲ Φορμίωνος, μεμαρτύρηκεν ἀκοὴν τὰ ψευδῆ τε καὶ παρὰ τὸν νόμον. καὶ ταῦθ' ὅτι ἀληθῆ λέγω, αὐτὸν ὑμῖν τὸν νόμον ἀναγνώσεται.

NOMOS.

[Ἄκοὴν εἶναι μαρτυρεῖν τεθνεώτος, ἐκμαρτυρίαν δὲ ὑπερορίου καὶ ἀδυναίου.]

Ὡς τοίνυν καὶ παρ' ἕτερον νόμον μεμαρτύρηκεν 9

^ε *om.* Z *cum Reiskio.*

^h Z *et Bekker* (st. Leipzig ed.) *cum Reiskio.* ἐκμαρτυρήσαντες *Bekker* (Berlin ed.) *cum libris.*

ἐν τῷ κατὰ Στεφάνου καὶ Δείναρχος. Meier and Schömann, p. 670.

ἀπὸ τῆς αὐτῆς ἐπισκήψεως] The laws enact 'that the evidence of the absent witness shall come before the court under the same impeachment as that of the witnesses attesting the same, in order that, if the absent witness acknowledge his evidence, *he* may be liable to a trial for false testimony, and if he disown it, then the attesting witnesses.' For ἐπίσκηψις, the process of bringing an action for false witness, cf. Arist. Pol. II 12 § 11 Χαρόνδου ἴδιον οὐδὲν ἐστὶ πλὴν αἱ δίκαι τῶν ψευδομαρτυριῶν, πρῶτος γὰρ ἐποίησε τὴν ἐπίσκηψιν. Or. 47 §§ 1 and 5 Θεόφημος αὐτοῖς ὡς ἀλη-

θῆ μεμαρτυρηκόσιν οὐκ ἐπεσκήψατο οὐδ' ἐπεξέρχεται τῶν ψευδομαρτυριῶν, *ib.* 51. Or. 29 §§ 7, 41 and Or. 34 § 46 note. Cf. Meier and Schömann, p. 385.

ἐὰν μὴ ἀναδέχεται] 'if he does not acknowledge it' e.g. on the ground of its being forged or incorrectly copied. Isaeus Or. 3 §§ 23, 24 tells us 'it was usual to select persons of good character to receive such evidence and to have as many of them as possible' (C. R. Kennedy in *Diet. Ant. s.v. ἐκμαρτυρία*). Cf. Schol. on Aeschin. *Fals. Leg.* § 19 εἰ ἐπανελθῶν ἐκείνος (sc. ὁ ἐκμαρτυρήσας) εἶπεν, ὅτι οὐδὲν εἶπον, ἐκρίνοντο οὗτοι (sc. οἱ μαρτυρήσαντες) ὡς συκοφάνται.

§§ 9—10. *The defendant has also given evidence contrary to*

ἐπιδειξαι ὑμῖν βούλομαι, ἵνα εἰδῆτε ὅτι μεγάλων ἀδικημάτων οὐκ ἔχων καταφυγὴν ὁ Φορμίων, πρόφασιν λαβὼν λόγῳ τὴν πρόκλησιν, ἔργῳ αὐτὸς αὐτῷ μεμαρτύρηκε προστησάμενος τούτους, δι' ὧν οἱ μὲν δικασταὶ ἐξηπατήθησαν ὡς ἀληθῆ τούτων μαρτυρούντων, ἐγὼ δὲ ἀπεστερήθην ἵ ὧν ὁ πατήρ μοι κατέλιπε¹ χρημάτων καὶ τοῦ δίκην λαβεῖν περὶ ὧν ἀδικοῦμαι. μαρτυρεῖν γὰρ οἱ νόμοι οὐκ ἐῴσιν αὐτὸν αὐτῷ οὔτ' ἐπὶ ταῖς γραφαῖς οὔτ' ἐπὶ ταῖς δίκαις οὔτ' ἐν ταῖς εὐθύναις. ὁ τοίνυν Φορμίων αὐτὸς αὐτῷ μεμαρτύρηκεν, ὅποτε φασὶν οὗτοι ἀκούσαντες ἐκείνου ταῦτα μεμαρτυρη-
 IO κέναι. ἵνα δὲ εἰδῆτε ἀκριβῶς, αὐτὸν τὸν νόμον μοι ἀνάγνωθι.

¹ ἵ ὧν θ' ὁ πατήρ κατέλιπε (μοι fortasse per errorem omisso) Dobree.

another law. Under cover of the testimony of the defendant and his friends, Phormion has virtually given evidence in his own cause, which is illegal; and the law declares that a suit for false testimony shall be maintainable against a person on the ground of his having given evidence contrary to the law.

9. πρόφασιν λαβὼν τὴν πρόκλησιν] In Or. 45 § 19 (which should be compared with the whole of the present sentence) this Challenge is denounced as a παραπέτασμα. So below, προστησάμενος τούτους 'putting these men forward as an excuse.' For the favourite antithesis between λόγος and ἔργον, cf. Thucydides *passim*, and Antiphon, Or. 5 § 5 οὐ γὰρ δίκαιον οὔτε ἔργῳ ἀμαρτόντα διὰ ῥήματα σωθῆναι οὔτε ἔργῳ ὀρθῶς πράξαντα διὰ ῥήματα ἀπολέσθαι· τὸ μὲν γὰρ ῥῆμα τῆς γλώσσης ἀμάρτημά ἐστι τὸ δ' ἔργον τῆς γνώμης. Cf. *ib.* § 84 and Or. 6 § 47 οἱ μὲν ἄλλοι

ἄνθρωποι τοῖς ἔργοις τοὺς λόγους ἐλέγχουσιν, οὗτοι δὲ τοῖς λόγους τὰ ἔργα ζητοῦσιν ἄπιστα καθιστάναι. See also Blass *Att. Ber.* I 129, 213.

τούτων is redundant after δι' ὧν, that is, μαρτυρούντων might have agreed with ὧν, instead of a new clause introduced with a genitive absolute. [The latter was preferred from its tendency to combine with ὧς. P.]

γραφαῖς...δίκαις] See note on Or. 54 § 2.—εὐθύναις, 'audits,' 'examinations on surrendering office,' as opposed to δοκιμασία, 'the enquiry preliminary to taking office.'

10. τοῖν ἀντιδίκωιν—μή] 'that both parties be compelled to answer one another's questions, but that neither be allowed to be a witness in his own cause.' On ἐρώτησις see Aristot. *Rhet.* III 18 and for examples cf. Lysias Or. 12 §§ 24—26, Or. 22 § 5; Or. 13 §§ 30—33. Dem. de Cor. § 52, Plato *Apol.* p. 25,

ΝΟΜΟΣ.

[Τοῖν ἀντιδίκου ἐπάναγκες εἶναι ἀποκρίνασθαι ἀλλήλοις τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή.]

Σκέψασθε τοίνυν τουτονὶ τὸν νόμον, ὃς κελεύει
 1132 ὑπόδικους εἶναι τῶν ψευδομαρτυριῶν καὶ κατ' αὐτὸ
 τοῦτο, ὅτι μαρτυρεῖ παρὰ τὸν νόμον.

ΝΟΜΟΣ.

[Ἐστω δὲ καὶ ὑπόδικος τῶν ψευδομαρτυριῶν ὁ
 μαρτυρήσας αὐτοῦ τούτου^ι, ὅτι μαρτυρεῖ παρὰ τὸν
 νόμον· καὶ ὁ προβαλλόμενος^κ κατὰ ταῦτά.]

Ἐπι τοίνυν κὰν ἀπὸ τοῦ γραμματείου γνοίη τις, 11
 ἐν ᾧ ἡ μαρτυρία γέγραπται, ὅτι τὰ ψευδῆ μεμαρ-
 τύρηκεν. λελευκωμένον τε γάρ ἐστι καὶ οἴκοθεν

^ι 'ἴμμο δι' αὐτοῦ τούτου *vel* αὐτῷ τούτῳ' Z.

^κ Bekker *cum Reiskio*. προβαλλόμενος Z *cum libris*.

Isaeus Or. 11 § 4. 'A favourite instrument of debate with speakers in the public assembly and law courts is the interrogation of the adversary. The object of this is to enforce an argument; or to take the adversary by surprise and extract from him an unguarded admission; or to place him in an awkward dilemma, by shaping your question in such a way, that he must either by avowing it admit something which his antagonist wishes to establish, or by refusing seem to give consent by his silence to that which the questioner wishes to insinuate; or to gain some similar advantage' (Cope's Introduction to Ar. Rhet. p. 362).

αὐτοῦ τούτου] = κατ' αὐτὸ τοῦ-
 το above.

ὁ προβαλλόμενος κατὰ ταῦτά] The person who produced the false witness, *προβάλετο* or

προῦστήσατο, was liable to what was called a *δίκη κακοτεχνιῶν* for conspiring to defeat the ends of justice. Or. 47 § 1 τὸν προβαλλόμενον ὑπόδικον ἐχρητῶν κακοτεχνιῶν.

§ 11. *That the defendant's evidence is false may be concluded from the material on which it is written.*

λελευκωμένον καὶ οἴκοθεν κατεσκευασμένον] The plaintiff curiously argues the falsehood of the defendant's deposition from the nature of the material on which it is inscribed. The document, he points out, is 'whitened, and must have been brought from home purposely prepared.' This would have been proper enough for a deposition attesting to the facts of the past, in which case there is time to draw up an elaborate document. But a deposition purporting to attest a Challenge

κατεσκευασμένον. καίτοι τοὺς μὲν τὰ πεπραγμένα μαρτυροῦντας προσήκει οἴκοθεν τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν, τοὺς δὲ τὰς προκλήσεις μαρτυροῦντας τοὺς ἀπὸ ταῦτομάτου προστάντας ἐν¹ μάλθη γεγραμμένην τὴν μαρτυρίαν, ἴν', ἄν^m τι προσγράψαι ἢ ἀπαλεῖψαι βουληθῆ, ῥάδιον ἦⁿ.

¹ Z cum Reiskio. καὶ ἐν Bekker cum libris.

^m εἰ...βουληθῆ Z cum libris. 'malim ἐβουλήθη vel βουληθείη' Sauppe.

ⁿ ἦ H. Wolf. ἦν Z cum libris.

(evidence to which might be given by any duly qualified person even accidentally present) would naturally be rapidly written on the spot ἐν μάλθη, i.e. on a waxen tablet. This would allow of any addition or erasure being made at the request of the witnesses before they attested it. 'The difference between these methods,' as C. R. Kennedy remarks, 'was much the same as between writing with a pen on paper and with a pencil on a slate' (Dict. Ant. s. v. μαρτυρία). The distinction here drawn is (as Mr Paley observes) between a waxed tablet (δέλτος) scratched with a point like the Roman *stilus*, and a whitened surface on which the letters could be conveniently laid on with black pigment (μέλαν).

For λευκωμένον cf. Dem. Or. 24 (Timocr.) § 23 *Lex*, ὁ τιθεὶς τὸν καινὸν νόμον, ἀναγράψας εἰς λεύκωμα, ἐκτιθέτω πρόσθε τῶν ἐπωνύμων. Bekker's *Anecd.* (λέξεις ῥητορικαί) p. 277 λεύκωμα ἔστι πίναξ γήψω ἀηλιμμένος, πρὸς γραφὴν πολιτικῶν γραμμάτων ἐπιτήδειος (we may compare the Roman *album* and contrast the *black boards* of our class-rooms).

For ἐν μάλθη *ib.* p. 278 μάλθη· μεμαλαγμένος κηρός ἢ ἄλλο τι τοιοῦτον, ᾧ τὰ γραμματεῖα πράττεται. Pollux x 58: ὁ δὲ ἐνῶν τῇ πινακίδι (sc. καλεῖται) κηρός ἢ μάλθη ἢ μάλθα. Ἡρόδοτος μὲν γὰρ κηρὸν εἶρηκεν, Κρατῖνος δὲ ἐν τῇ Πυτίνῃ μάλθην ἔφη, Ἀριστοφάνης δὲ ἐν τῷ Γηρυτάδῃ 'τὴν μάλθαν ἐκ τῶν γραμματεῖων ἕσθιον.' Harpoc. μάλθη· ὁ μεμαλαγμένος κηρός· Δημοσθένης ἐν τῷ κατὰ Στεφάνου. Ἰππῶναξ, ἔπειτα μάλθη τὴν τρόπον παραχρίσας. And similarly Hesychius and Suidas. (Bekker's *Charicles*, Scene ix notes 12 and 13, and Beels, *diatribe* p. 116—119.)

οἴκοθεν κατεσκευασμένον] a 'pregnant' expression, equivalent in sense to οἴκοι κατεσκευασμένον καὶ οἴκοθεν ἀπηνεγμένον. Similarly below, where Reiske unnecessarily proposes οἴκοθεν ἐπιφερομένας τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν. For the general drift of the argument and its imputation of deliberate design, cf. Cic. Phil. II § 85 *unde diadema? non enim abiectum sustuleras, sed attuleras domo meditatam et cogitatum scelus.*

τοὺς προστάντας] These words are rather obscure. Kennedy

Οὐκοῦν κατὰ μὲν ταῦτα πάντα ἐξελέγχεται τὰ 12
 ψευδῆ μεμαρτυρηκῶς καὶ παρὰ τὸν νόμον· βούλομαι
 δ' ὑμῖν καὶ αὐτὸ τοῦτο ἐπιδειξαι, ὡς οὔτε διέθετο ὁ
 πατὴρ ἡμῶν διαθήκην οὐδεμίαν οὔθ' οἱ νόμοι ἐῶσιν.
 εἰ γὰρ τις ἔροιτο ὑμᾶς καθ' ὁποίους νόμους δεῖ πολι-
 τεύεσθαι ἡμᾶς, δῆλον ὅτι ἀποκρίναισθ' ἂν κατὰ τοὺς
 κειμένους. ἀλλὰ μὴν οἷ γε νόμοι ἀπαγορεύουσι μηδὲ
 νόμον ἐξεῖναι ἐπ' ἀνδρὶ^ο θεῖναι, ἂν μὴ τὸν αὐτὸν ἐφ'

ο Σ. ἐπ' ἀνδρὶ ἐξεῖναι Z et Bekker st.

renders *προσάντας* as equivalent to *παρόντας*. Rather, perhaps, 'who stand forward voluntarily.' P.]

ἂν βουληθῆ] The *vulgata lectio* used to be *εἰ*, altered by G. H. Schaefer into *ἐὰν* to avoid the anomaly of *εἰ* with the subjunctive, a construction described as 'poetical' in Bekker's *Anecdota* (p. 144). See, however, the commentators on Thuc. vi 21 § 1 *εἰ ξυστώσιν*, Hermann's *Opuscula* i 280 and Kühner's *Gk. Gr.* § 398 p. 207. Similarly in Dem. Or. 24 §§ 79 and 93 we have the ordinary indicative followed by the anomalous subjunctive, *εἴ τιμ...προστέιμηται...ἢ τὸ λοιπὸν προστιμηθῆ*, whereas in § 207 we find the regular construction *εἴ τιμ προστέιμηται δεσμοῦ κἂν τὸ λοιπὸν τιμ προστιμήσῃτε* (where see Wayte's notes).

§§ 12—17. Further, my father made no will at all, nor do the laws allow it, laws which bind every citizen of Athens without exception. It was not until ten years after my father's death that Phormion obtained the citizenship; not foreseeing this, how could my father have insulted our family, cast contempt on your bounty and disregarded the

laws, by giving his own wife in marriage to Phormion, and that by a will which he was legally incompetent to make? The law forbids a man's making a will if he have male issue lawfully begotten.—Again, the law only allows those who are not 'adopted' to dispose of their property by will, and my father was a citizen by 'adoption' only. Lastly, it does not permit a person to make a will if he is of unsound mind, and the terms of the alleged 'will' which give my father's widow to Phormion are inconsistent with the terms of the 'lease,' and argue the absence of sound mind and therefore my father's incompetence to make any will whatever.

12. *κειμένους...θεῖναι*] *κεῖμαι* is constantly borrowed as a perfect passive to *τίθημι*, while *τέθειμαι* is almost invariably used as a deponent perfect. Thus the usage of the perfect in the best writers would be :

ὁ νομοθέτης τέθεικε τὸν νόμον.
 ἡ πόλις τέθειται τὸν νόμον.
 ὁ νόμος κεῖται.

(See further in notes on Or. 34 § 16, Or. 39 Argument, line 23, and on Isocr. ad Dem. § 36.)
μηδὲ νόμον...ἐπ' ἀνδρὶ θεῖναι] Just as a *privilegium* was for-

13 ἅπασιν Ἀθηναίοις. οὐκοῦν ὁ μὲν νόμος οὕτωσὶ τοῖς αὐτοῖς νόμοις πολιτεύεσθαι ἡμᾶς κελεύει καὶ οὐκ ἄλλοις. ὁ δὲ πατὴρ ἐτελεύτησεν ἐπὶ Δυσνικήτου ἄρχοντος, ὁ δὲ Φορμίων Ἀθηναῖος ἐγένετο ἐπὶ Νικοφύμου ἄρχοντος, δεκάτω ἔτει ὕστερον ἢ ὁ πατὴρ ἡμῶν ἀπέθανεν. πῶς ἂν οὖν μὴ εἰδῶς ὁ πατὴρ αὐτὸν Ἀθηναῖον ἐσόμενον ἔδωκεν ἂν τὴν ἑαυτοῦ γυναῖκα, καὶ προεπηλάκισε μὲν ἂν ἡμᾶς, κατεφρόνησε δ' ἂν τῆς δωρεᾶς 1133 ἧς παρ' ὑμῶν ἔλαβε, παρείδε δ' ἂν τοὺς νόμους; πότερα δὲ κάλλιον ἦν αὐτῷ ζῶντι πρᾶξαι ταῦτα, εἶπερ ἐβούλετο, ἢ ἀποθανόντα διαθήκας καταλιπεῖν, ἃς οὐ κύριος ἦν; ἀλλὰ μὴν αὐτῶν τῶν νόμων ἀκούσαν-
14 τες, γνώσεσθε ὡς οὐ κύριος ἦν διαθέσθαι. λέγε τὸν νόμον.

NOMOS.

[“Ὅσοι μὴ ἐπεποίηντο, ὥστε μήτε ἀπειπεῖν μήτ’

bidden by Roman law, so at Athens legislation expressly affecting a particular individual, whether in his interest or to his detriment, was not allowed, except in the single instance of *ostracism*; cf. the law quoted in *Andocides, de mysteriis* § 87 μηδὲ ἐπ’ ἀνδρὶ νόμον ἐξεῖναι θείναι, ἔαν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις, ἔαν μὴ ἑξακισχιλίοις δόξῃ κρύβδην ψηφισομένοις, and see *Dem. Or. 24 (Timocrates)* § 59, and 23 (*Aristocr.*) § 86.

13. ὁ μὲν νόμος...ὁ δὲ πατὴρ κ.τ.λ.] The sentence is rather loosely written, and the sense might have been brought out better by some such arrangement as this: ὁ μὲν νόμος...κελεύει, ὁ δὲ πατὴρ Φορμίωνι οὕτω Ἀθηναῖω γενομένῳ ἔδωκε τὴν ἑαυτοῦ γυναῖκα· ἐτελεύτησε γὰρ κ.τ.λ. A similar looseness of

structure may be noticed in §§ 25 and 15—ἐπὶ Δυσνικήτου B.C. 370. ἐπὶ Νικοφύμου B.C. 360.

τῆς δωρεᾶς] sc. τῆς πολιτείας. *Or. 36* § 30.

14. ὅσοι μὴ ἐπεποίηντο κ.τ.λ. ‘Any citizen (with the exception of such as had been adopted when Solon entered on his archonship, and had thereby become unable either to renounce or to claim his inheritance), shall be allowed to dispose of his own property at his pleasure, provided he have no male issue lawfully begotten.’ Cf. *Isaeus Or. 6 (Philoctemon)* § 28 τοῖς φύσει υἱέσιν αὐτοῦ οὐδεὶς οὐδενὶ ἐν διαθήκῃ γράφει δόσιν οὐδεμίαν, διότι ὁ νόμος αὐτὸς ἀποδίδωσι τῷ υἱεῖ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐᾷ ὅτῳ ἂν ὦσι παῖδες γνησιοι. K. F. Hermann, *Rechtsalt.* ed. Thalheim § 10 p. 63.

ἐπιδικάσασθαι, ὅτε Σόλων εἰσήει τὴν ἀρχὴν, τὰ ἑαυτοῦ διαθέσθαι εἶναι, ὅπως ἂν ἐθέλῃ, ἂν μὴ παῖδες ὧσι γνήσιοι ἄρρενες, ἂν μὴ μανιῶν ἢ γήρως ἢ φαρμάκων ἢ νόσου ἔνεκεν, ἢ γυναικὶ πειθόμενος, ὑπὸ τούτων του παρανοῶν^p, ἢ ὑπ' ἀνάγκης, ἢ ὑπὸ δεσμοῦ καταληφθεῖς.]

^p Z et Dind. cum P. Wesseling. ὑπὸ τούτων τοῦ παρανόμων libri. ἢ ὑπὸ τῶν του παρανόμων Bekker cum Reiskio.

The law is quoted to prove that Pasion had no right to make a will, (1) because he had male issue lawfully begotten (sc. Apollodorus). But it will be noticed that the law does not forbid such persons from making any will whatsoever. It simply enacts that those who have no male issue may dispose of their property as they please. Pasion was not debarred by this law from making a will, but was not allowed to make any disposition he chose, since (as in our law of entail) the right to the property was secured to the son.

Again (2), Pasion was a citizen by 'adoption', whereas this law implies that no 'adopted' person could dispose of his property as he pleased. But it will be observed on the other side, that the plaintiff has deliberately confounded two different senses of ποιεῖσθαι (1) 'to adopt into a family' and (2) 'to present with the citizenship.' ἐπεποίητο refers to 'family adoption' (Or. 44 Leoch. ad fin.), and the plaintiff argues as though it meant the same as ἐπεποίητο πολίτης.

ἀπειπεῖν...ἐπιδικάσασθαι] Or. 52 (Callippus) § 19 οὔτε ἀμφισβητήσαντα οὔτε ἀπειπόντα περὶ τοῦ ἀργυρίου. ἀπειπεῖν may be

paralleled by the phrase in Roman law *eiurare hereditatem*. For ἐπιδικάσασθαι cf. note on 45 § 75.

μανιῶν] genitive, like the three subsequent substantives, governed by ἔνεκα at the end of the clause. 'Unless his mind is impaired by lunacy, or dotage, or by drugs or disease.' Kennedy. [The plural *μανίαι* means, as usual, 'mad fits,' 'delusions.' P.]

ὑπὸ τούτων του παρανοῶν] A certain correction of the old reading ὑπὸ τούτων τοῦ παρανόμων. Cf. Isaeus Or. 9 ad fin. εἰ τοῦτον ἐποίησατο υἱὸν οὐ τῷ πατρὶ πολεμιώτατος ἦν, πῶς οὐ δόξει τοῖς ἀκούσασι παρανοεῖν ἢ ὑπὸ φαρμάκων διεφθάρθαι; and *ib.* Or. 6 (Philoct.) § 9 οὔτος δὲ νόμος κοινὸς ἅπασιν κείται, ἐξεῖναι τὰ ἑαυτοῦ διαθέσθαι, εἰ μὴ παῖδες ὧσι γνήσιοι ἄρρενες, εἰ μὴ ἄρα μανίαι ἢ ὑπὸ γήρως ἢ δι' ἄλλο τι τῶν ἐν τῷ νόμῳ παρανοῶν διαθήγεται, Plut. Sol. 21, [Dem.] 48 § 56.—On φαρμάκων see further in § 16 φαρμακῶντα.—νόσου ἔνεκεν can only refer to cases where the mind was enfeebled, for bodily infirmity was of course in itself no bar to the validity of a will (Becker, *Charicles*, Scene ix note 19).

- 15 Τοῦ μὲν νόμου τοίνυν ἀκηκόατε, ὃς οὐκ ἔα διαθήκας διαθέσθαι, ἐὰν παῖδες ὧσι γνήσιοι. οὗτοι δὲ φασὶ ταῦτα διαθέσθαι τὸν πατέρα, ὡς δὲ παρεγένοντο οὐκ ἔχουσιν ὑποδεῖξαι^α. ἄξιον δὲ καὶ τόδε ἐνθυμηθῆναι, ὅτι ὅσοι μὴ ἐπεποίητο, ἀλλ' ἦσαν πεφυκότες γνήσιοι, τούτοις ὁ νόμος δίδωσιν, ἐὰν ἄπαιδες ὧσι, διαθέσθαι τὰ ἑαυτῶν. ὁ τοίνυν πατήρ ἡμῶν ἐπεποίητο ὑπὸ τοῦ δήμου πολίτης, ὥστε οὐδὲ κατὰ τοῦτο ἐξῆν αὐτῷ διαθέσθαι διαθήκην, ἄλλως τε καὶ περὶ τῆς γυναικὸς, ἧς οὐδὲ κύριος ἐκ τῶν νόμων ἦν, παῖδες τε
- 16 ἦσαν αὐτῷ. σκέψασθε δὲ καὶ διότι οὐδ' ἂν ἄπαις τις ἦ, κύριός ἐστι τὰ αὐτοῦ διαθέσθαι, ἐὰν μὴ εὖ φρονῆ· νοσοῦντα δὲ ἢ φαρμακῶντα ἢ γυναικὶ πειθόμενον ἢ

^α ἐπιδεῖξαι Ζ. ὑποδεῖξαι *Dind.* cum Σ (*prima manu*).

16. διότι] In the same sense as ὅτι, for which it is not unfrequently used, especially by Isocrates when a *hiatus* is thereby avoided, e.g. Isocr. Lochites § 7 ἐνθυμουμένους ὅτι followed by καὶ διότι. Isocr. Paneg. § 48 n. Here σκέψασθε δὲ καὶ διότι corresponds in sense to ἀξιον δὲ καὶ τόδε ἐνθυμηθῆναι, ὅτι in the previous section.

εὖ φρονῆ] Isaeus Or. 7 § 1 εἴ τις αὐτὸς ζῶν καὶ εὖ φρονῶν ἐποίησατο, contrasted with εἴ τις τελευτήσῃεν μέλλων διέθετο, εἴ τι πάθοι, τὴν οὐσίαν ἐτέρῳ. Eur. Ion 520, εὖ φρονεῖς μὲν; i.e. ἀρα ἔμφρων εἶ;—On νοσοῦντα see above, § 14 νόσου ἔνεκεν.

φαρμακῶντα] Harpocr. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. ἔστι δὲ φαρμακῶν ὁ ὑπὸ φαρμακῶν βεβλαμμένος, ὡς καὶ Θεόφραστος ἐν ἰε' Νόμων ὑποσημαίνει.

[φαρμακῶν is one of a class of verbs implying mental or bodily affection, e.g. λημᾶν, 'to have

blear eyes,' ποδαγρᾶν, χαλαζᾶν, φονᾶν, 'to be blood-thirsty,' θανατᾶν, 'to have a desire for death,' Plat. Phaedo p. 64 b, τομᾶν 'to require the knife' &c. The verbs themselves are less commonly used than their participles. P.] Cf. Rutherford's *New Phrynicus* p. 153.

εἰ δοκοῦσιν εὖ φρονούντος κ.τ.λ.] It is curious to find the plaintiff setting up this suggestion of lunacy when in another speech, Or. 49 (Timoth.) § 42, delivered at an earlier date, he describes his father as not only giving him a written statement of debts due, but also, in his last illness, telling him and his brother the details of each particular sum, the name of the debtor, and even the purpose for which the money was lent.

He might have turned his argument to more account, if, instead of insinuating that the terms of the alleged will suggested that his father was of

ὑπὸ γήρως ἢ ὑπὸ μανιῶν ἢ ὑπὸ ἀνάγκης τινὸς καταληφθέντα ἄκυρον κελεύουσιν εἶναι οἱ νόμοι. σκοπεῖτε I 134 δὴ[†], εἰ δοκοῦσιν ὑμῖν εὖ φρονούντος ἀνδρὸς εἶναι αἱ διαθήκαι, ἅς φασι διαθέσθαι οὗτοι τὸν πατέρα. μὴ 17 πρὸς ἄλλο δέ τι παράδειγμα σκέψησθε ἢ πρὸς τὴν μίσθωσιν, εἰ δοκεῖ ὑμῖν ἀκόλουθον εἶναι τῷ τὴν τέχνην μὴ ἐξουσίαν δόντι ἐν τῷ αὐτῷ ἡμῖν ἐργάζεσθαι, τούτῳ τὴν γυναῖκα δοῦναι τὴν αὐτοῦ καὶ τῶν παίδων εἶσαι κοινωνὸν αὐτῷ γενέσθαι. καὶ μὴ θαυμάζετε, εἰ τᾶλλα σκευωρουμένους αὐτοὺς τὰ ἐν τῇ μισθώσει τοῦτο παρέλαθεν. ἴσως μὲν γὰρ οὐδὲ προσεῖχον ἄλλῳ οὐδενὶ ἢ τῷ τὰ χρήματα ἀποστερήσαι καὶ τῷ προσοφείλοντα τὸν πατέρα ἐγγράψαι· εἶτα δὲ οὐδὲ ἐδόκουν ἐμὲ οὕτω δεινὸν ἔσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.

[†] Bekker *cum correcto* Σ. δὲ Ζ *cum* Σ (*prima manu*).

unsound mind, and therefore legally incompetent to make any will at all, he had urged that, his father having been of sound mind up to the day of his death, the 'insane' provisions of the will betrayed it to be a forgery.

17. ἀκόλουθον εἶναι... τῷ δόντι... τούτῳ δοῦναι] The juxtaposition of these two datives, referring to two different persons, is extremely harsh. The order is: δοκεῖ ὑμῖν ἀκόλουθον εἶναι (Πασίῳνι), τῷ μὴ δόντι ἐξουσίαν ἐργάζεσθαι τὴν τέχνην ἐν τῷ αὐτῷ ἡμῖν, δοῦναι τούτῳ (sc. Φορμίῳνι) τὴν γυναῖκα τὴν αὐτοῦ; 'Is it consistent for one who refused Phormion permission to carry on business in partnership with us, actually to give Phormion his own wife?'

τῶν παίδων κοινωνὸν αὐτῷ] Kennedy: 'partner with himself in paternity' (by marrying

his widow). For *σκευωρουμένους* cf. Or. 45 § 5.

ἐγγράψαι] Specially used of 'registering' a man as debtor. Cf. Or. 53 § 14.

οὕτω δεινὸν] 'They little dreamt I should be clever enough to examine all these questions thoroughly.' This passage has been quoted as an indication of the plaintiff's consciousness of his own oratorical skill, and as a presumption in favour of the view that Apollodorus is himself the writer of the speeches delivered by him which have come down to us among the orations of Demosthenes (A. Schaefer, *Dem. u. s. Zeit*, III 2, 192).

§§ 18—21. *The forgery of the will is also proved by the law of betrothals, which provides that a woman may be affianced for lawful wedlock by her guardians, i. e. certain near relations, such*

18 Σκέψασθε τοίνυν καὶ τοὺς νόμους, παρ' ὧν κελεύουσι τὰς ἐγγύας ποιεῖσθαι, ἵν' εἰδῆτε καὶ ἐκ τούτων ὡς κατεσκευασμένης διαθήκης ψευδῆς μάρτυς γέγονε Στέφανος οὕτως. λέγε^s.

ΝΟΜΟΣ.

[Ἦν ἂν ἐγγυήσῃ ἐπὶ δικαίοις δάμαρτα εἶναι ἢ πατήρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρὸς, ἐκ ταύτης εἶναι παῖδας γνησίους. εἰ δὲ μηδεὶς ἢ τούτων, εἰ μὲν ἐπὶ κληρὸς τις ἢ, τὸν κύριον ἔχειν, εἰ δὲ μὴ ἢ^t, ὅτῳ ἂν ἐπιτρέψῃ, τοῦτον κύριον εἶναι.]

19 Οὗτος μὲν τοίνυν ὁ νόμος οὓς ἐποίησε κυρίου εἶναι, ἀκηκόατε· ὅτι δ' οὐδεὶς ἦν τούτων τῇ μητρὶ, οἱ ἀντίδικοί μοι αὐτοὶ μεμαρτυρήκασιν. εἰ γὰρ ἦν, παρεῖχοντ' ἂν. ἢ μάρτυρας μὲν ψευδεῖς οἴεσθ' ἂν^u παρασχέ-

^s Bekker. om. Z cum Σ.

^t Bekker cum libris. om. Z.

^u 'cum vocula ἂν...tantummodo ad posterius membrum referri possit (nam attractione in tali sententiae conformatione non est locus), pro οἴεσθ' ἂν scribendum duco οἴεσθ' αὐτούς. ellipsin accusativi per se tolerabilem esse putarem, quamquam αὐτόν et αὐτούς,

as father, brother, or grandfather. As none of these are in existence, and you may be sure that the other side would have produced them, or pretended to do so, to suit their purpose, it follows that my mother was an 'heiress,' and the law declares that the son of an heiress, when he comes of age, shall be his mother's guardian. Now I was abroad on public service (and therefore of full age) when Phormion married my mother, (and he did so without obtaining the consent of myself, her guardian).

18. σκέψασθε τοὺς νόμους] The accusative after the principal verb, where in English we should prefer making it the

nom. of the subordinate clause. Cf. Or. 45 § 24. Kennedy partially keeps up the Greek construction by rendering it thus: 'look now at the laws, (to see) from whom they require betrothals to be obtained.'

ἐγγύας] The betrothal (ἐγγύησις) was made by the natural or legal guardian of the girl, in the presence of the relatives of both parties. 'All children born from a marriage legally contracted in this respect were γνήσιοι, and consequently, if sons, ἰσόμοιροι, or entitled to inherit equally.' (Whiston in Dict. Ant. s. v. *Matrimonium*, K. F. Hermann, *Privatalt.* § 30, 7=p. 261 ed. Blümner).

σθαι καὶ διαθήκας οὐκ οὔσας, ἀδελφὸν δὲ ἢ πάππον ἢ πατέρα οὐκ ἂν, εἴπερ ἦν δυνατὸν ἔνεκα χρημάτων; ὅποτε τοίνυν μηδεὶς φαίνεται ζῶν τούτων, τότε ἀνάγκη ἐπικλήρου τὴν μητέρα ἡμῶν εἶναι. τῆς τοίνυν ἐπικλήρου σκοπεῖτε τίνας κελεύουσιν οἱ νόμοι κυρίου εἶναι. λέγε τὸν νόμον.

20

NOMOS.

[Καὶ ἐὰν ἐξ ἐπικλήρου τις γένηται, καὶ ἅμα ἡβήσῃ ἐπὶ δίετες, κρατεῖν τῶν χρημάτων, τὸν δὲ σῆτον μετρεῖν τῇ μητρὶ.]

Οὐκοῦν ὁ μὲν νόμος κελεύει τοὺς παῖδας ἡβήσαντας κυρίου τῆς μητρὸς εἶναι, τὸν δὲ σῆτον μετρεῖν τῇ μητρὶ. ἐγὼ δὲ φαίνομαι στρατευόμενος καὶ τριηραρχῶν ὑμῖν, ὅτε οὗτος συνώκησε τῇ μητρὶ. ἀλλὰ μὴν ὅτι ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, ἐτετελευτήκει^v δ' ὁ πατήρ πάλαι, ὅτε οὗτος ἔγημε, τὰς δὲ θεραπαίνας nisi generalis est sententia, in contrario non facile omittuntur' (Gebauer, *de argumenti ex contrario formis* p. 207).

^v τετελευτήκει Ζ cum Σ.

20. καὶ ἐὰν—μητρὶ] 'If a son is born of an heiress, two years after he has attained his puberty he shall enter into possession of the estate, and he shall pay alimony to his mother.' Kennedy. Harpocr. ἐπιδιαιτὲς ἡβήσαι. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. At the end of his article he quotes Hyperides (frag. 223) ἐπεὶ δὲ ἐνεγράφην ἐγὼ καὶ ὁ νόμος ἀπέδωκε τὴν κομιδὴν τῶν καταλειφθέντων τῇ μητρὶ, ὃς κελεύει κυρίου εἶναι τῆς ἐπικλήρου καὶ τῆς οὐσίας ἀπάσης τοὺς παῖδας, ἐπειδὴν ἐπιδιαιτὲς ἡβῶσιν. Cf. Isaeus frag. 90, *id.* Or. 10 § 12 and Or. 8 § 31. (See A. Schaefer, *Dem.* III 2, 19—39, esp. p. 25, *Eintritt der Mündigkeit nach Attischen Rechte*, where

ἐπιδιαιτὲς ἡβήσαι is explained to include the 17th and 18th year, and the 'coming of age' is placed at the age of 18. K.F. Hermann, *Privatalt.* § 35, p. 322 Blümner.)

On ἐπικλήρος see note on Or. 45 § 75. (Cf. Lortzing, *Apoll.* p. 85 and A. Schaefer *u. s.* p. 176.) στρατευόμενος κ.τ.λ.] And therefore of full age; referring back to παῖδας ἡβήσαντας.

21. πάλαι] Pasion died B.C. 370, the trierarchy probably took place in B.C. 368 (Or. 45 § 3), and it was during the plaintiff's absence on this public service that the marriage of Archippe took place. The interval here implied by the vague word πάλαι 'some time before' would seem to be two years. The

αὐτὸν ἐξήτουν καὶ ἠξίουν περὶ αὐτοῦ τούτου βασανίζεσθαι αὐτὰς, εἰ ταῦτ' ἀληθὴ ἐστι, καὶ ὡς προεκαλούμην, λαβέ μοι τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

[Μαρτυροῦσι παρέιναι, ὅτε προῦκαλεῖτο Ἀπολλόδωρος Φορμίωνα, ὅτε ἠξίου ἀποδοῦναι Ἀπολλόδωρος Φορμίωνα τὰς θεραπαίνας εἰς βάσανον, εἰ μὴ φησι Φορμίῳ καὶ πρότερον διεφθάρκεναι τὴν μητέρα τὴν ἐμὴν, πρὶν οὗ ἀποφαίνει Φορμίῳ γῆμαι ἐγγυησάμενος αὐτὴν παρὰ Πασίωνος. ταῦτα δὲ προκαλουμένου Ἀπολλοδώρου οὐκ ἠθέλησε Φορμίῳ παραδοῦναι τὰς θεραπαίνας.]

22 Τὸν τοίνυν νόμον ἐπὶ τούτοις ἀνάγνωθι, ὃς κελεύει ἐπιδικασίαν εἶναι τῶν ἐπικλήρων ἀπασῶν, καὶ ξένων καὶ ἀστῶν, καὶ περὶ μὲν τῶν πολιτῶν τὸν ἄρχοντα

plaintiff wishes to insinuate that, though some time elapsed before the marriage proper (ἔγγημε), intrigues had been going on at an earlier date, and this is how the writer of the deposition in § 21 seems to have understood it.

τὴν μητέρα τὴν ἐμὴν] These words, which would have been appropriate enough in the mouth of Apollodorus, are absurdly out of place in the deposition, and betray gross carelessness on the part of the fabricator of the document. Even apart from this detail, the general contents of the deposition are different from what we are led to expect by the plaintiff's language in introducing it. (A. Westermann *u. s.* p. 113.)

§§ 22, 23. *The law does not allow any one to marry an*

'heirss,' without a legal adjudication. *Phormion made no legal claim for the hand of my mother, but did exactly as he pleased, in defiance of the law.*

22. τῶν ἐπικλήρων] The plaintiff attempts to prove that his mother was an 'heirss.' If so, her property ought to have passed absolutely into the hands of her eldest son, on his coming of age, whether her husband was alive or not. But there is not a single trace of such a relation between Archippe and Apollodorus in the rest of the speeches of the latter. Archippe was most probably of foreign extraction (cf. Or. 45 § 22) and the plaintiff's argument seems the merest shuffling. (See further, A. Schaefer, *Dem. u. s.* Zeit, III 2, 176.) Ὁν ἐπιδικασία τῶν ἐπικλήρων see note on Or. 45 § 75.

εἰσάγειν καὶ ἐπιμελεῖσθαι, περὶ δὲ τῶν μετοίκων τὸν πολέμαρχον, καὶ ἀνεπίδικον μὴ ἐξεῖναι ἔχειν μῆτε κλῆρον μῆτε ἐπίκληρον.

1136

ΝΟΜΟΣ.

[Κληροῦν δὲ τὸν ἄρχοντα κλήρων καὶ ἐπικλήρων, ὅσοι εἰσὶ μῆνες, πλὴν τοῦ σκιροφοριῶνος. ἀνεπίδικον δὲ κλῆρον μὴ ἔχειν.]

Οὐκοῦν αὐτὸν εἶπερ ἐβούλετο^w ὀρθῶς διαπράττε- 23
σθαι, λαχεῖν ἔδει τῆς ἐπικλήρου, εἴτε κατὰ δύοσιν αὐτῶ^x προσήκειν^y εἴτε κατὰ γένος, εἰ μὲν ὡς ὑπὲρ ἀστῆς, πρὸς τὸν ἄρχοντα, εἰ δὲ ὑπὲρ ξένης, πρὸς τὸν πολέμαρχον, καὶ τότε, εἶπερ τι λέγειν εἶχε δίκαιον, πείσαντα ὑμῶν τοὺς λαχόντας μετὰ τῶν νόμων καὶ

^w Bekker. ἠβούλετο Z cum Σ.

^x αὐτῶ Z. αυτω Σ.

^y G. H. Schaefer. προσήκειν Z cum libris.

κληροῦν κλήρων κ.τ.λ.] i.e. 'assign by lot days for the trial of claims to inheritances or heiresses.' Below, we have the corresponding phrase λαχεῖν τῆς ἐπικλήρου, i.e. 'to have allotted to one a suit for the hand of the heiress.' Compare the common phrases λαγχάνειν and κληροῦν δίκην. So λαγχάνειν τοῦ κλήρου 'to be a suitor for the property,' Isaeus Or. 11 (Hagn.) §§ 22, 40, Or. 3 (Pyrr.) § 74 and Or. 9 (Astyph.) § 4. After κληροῦν Meier and Schömann, *Att. Process* 611, understand δίκας.

τὸν ἄρχοντα] The Archon *Eponymus*, or Chief Archon. See Or. 35 § 48 (where the duties of the Polemarch are also mentioned) and Or. 37 § 33.

πλὴν σκιροφοριῶνος] The last month of the Attic year, nearly corresponding to our June. It is here excepted, apparently

because it was in this month that most of the magistrates vacated office and passed their audit.

ἀνεπίδικον] 'Without legal adjudication.' See K. F. Hermann, *Privatalt.* § 66, notes 1 and 2 = p. 72 Thalheim.

23. εἶπερ...εἴτε...εἴτε...εἰ...εἰ... εἶπερ] *εἰ* is here repeated in various forms no less than six times in the same sentence; cf. Or. 53 § 23 where *εἰ* occurs twice. But even the undisputed writings of Demosthenes contain frequent instances of such reiteration, e.g. Or. 54 § 15 (twice); Or. 15 (de Rhod. lib.) § 15 (thrice); Or. 20 (Lept.) § 113 (four times) 'quanquam hic *εἰ* μὲν et *εἰ* δὲ inter se opponuntur quae non est vera repetitio.' (Lortzing, *Apoll.* p. 33.)

ὑμῶν τοὺς λαχόντας] 'Those of your number who were drawn

τῆς ψήφου κύριον εἶναι, καὶ μὴ αὐτὸν αὐτῷ νόμους ἰδίους θέμενον διαπράξασθαι ἃ ἐβούλετο.

- 24 Σκέψασθε δὴ καὶ τοῦδὲ τὸν νόμον, ὃς κελεύει τὴν διαθήκην, ἣν ἂν παίδων ὄντων γνησίων ὁ πατὴρ διαθῆται, εἰὰν ἀποθάνωσιν οἱ παῖδες πρὶν ἡβῆσαι, κυρίαν εἶναι.

ΝΟΜΟΣ.

[Ὅτι ἂν γνησίων ὄντων υἱῶν ὁ πατὴρ διαθῆται, εἰὰν ἀποθάνωσιν οἱ υἱεῖς πρὶν ἐπὶ δίετες ἡβᾶν, τὴν τοῦ πατρὸς διαθήκην κυρίαν εἶναι.]

- 25 Οὐκοῦν ὁπότε ζῶσιν, ἄκυρος μὲν ἡ διαθήκη ἐστίν, ἣν φασιν οὗτοι τὸν πατέρα καταλιπεῖν, παρὰ πάντας δὲ τοὺς νόμους μεμαρτύρηκε Στέφανος οὕτως τὰ ψευδῆ, ὡς ἀντίγραφά ἐστι τῆς διαθήκης τῆς Πασίωνος· πῶς γὰρ σὺ οἴσθα, καὶ ποῦ παραγενόμενος διατιθεμένῳ τῷ πατρί; κακοτεχνῶν δὲ φαίνει περὶ τὰς διαθήκας, τὰ ψευδῆ μὲν αὐτὸς μαρτυρῶν ἐτοιμῶς, κλέπτων δὲ τὰς ἀληθεῖς μαρτυρίας, ἐξαπατῶν δὲ τοὺς δικαστὰς, συυστάμενος δ' ἐπὶ ταῖς δίκαις. οἱ δὲ νόμοι καὶ περὶ
- 26 τῶν τοιούτων γραφὴν πεποιήκασιν. καὶ μοι ἀνάγνωθι τὸν νόμον.

for the jury' ('allotted for the trial of the cause').

§ 24. *Again, there is a law allowing a will made by a father (though he has legitimate sons) to become valid if the sons die before reaching manhood. In the present case, as the sons are alive and grown up the 'will' is invalid.*

εἰὰν ἀποθάνωσιν—πρὶν ἡβῆσαι] 'Every man of full age and sound mind, not under duress or improper influence (cf. § 15), was competent to make a will; but if he had a son he could not disinherit him; al-

though his will might take effect on the contingency of the son not completing his seventeenth year' (C. R. Kennedy in *Dict. Ant. s. v. Heres*).

For the latter part of this statement, the present passage is perhaps the only express authority.

§§ 25—26. *Further, the defendant has illegally entered into a conspiracy to defeat the ends of justice.*

κλέπτων...μαρτυρίας] Or. 45 § 58. On συυστάμενος, see note on συυστάσεις Or. 45 § 67.

1137

ΝΟΜΟΣ.

[Ἐάν τις συνίστηται ἢ συνδεκάζη τὴν ἡλιαίαν ἢ τῶν δικαστηρίων τι τῶν Ἀθήνησιν ἢ τὴν βουλὴν ἐπὶ δωροδοκία χρήματα διδοὺς ἢ δεχόμενος, ἢ ἔταιρείαν συνιστῆ ἐπὶ καταλύσει τοῦ δήμου, ἢ συνήγορος ὦν λαμβάνη χρήματα ἐπὶ ταῖς δίκαις ταῖς ἰδίαις ἢ δη-

26. συνδεκάζη] 'Bribe the Heliaea.' Pollux viii 42: δώρων κατὰ τοῦ ἐπὶ δώροις δικάσαντος ἦν ἡ γραφή, δεκασμοῦ δὲ κατὰ τοῦ διαφθείραντος· καὶ ὁ μὲν δεκάζεσθαι ὁ δὲ δεκάζειν ἐλέγετο (ib. vi 190). Or. 21 (Mid.) § 113 *lex*, ἔάν τις... διδῶ ἐτέρῳ ἢ διαφθείρῃ τινὰς ἐπαγγελλόμενος, ἐπὶ βλαβῇ τοῦ δήμου... ἄτιμος ἔστω. δεκασμὸς however (strictly meaning a systematic bribery by division into sets of ten) is only a late word and is not found in the Attic Orators, though ἀδέκαστος occurs in Ar. Ethics ii 9 § 6, οὐ γὰρ ἀδέκαστοι κρίνομεν (τὴν ἡδονήν), and Aeschines, Timarch. § 86, has συνδεκάζειν τὴν ἐκκλησίαν καὶ τὰλλα δικαστήρια and ib. § 87 μαρτυρεῖν τὸν μὲν ὡς ἐδέκαζε τὸν δὲ ὡς ἐδεκάζετο. Cf. Isocr. Or. 8 § 50 θανάτου τῆς ζημίας ἐπικειμένης, ἔάν τις ἀλῶ δεκάζων, and Lysias Or. 29 § 12 δεδεκασμένοι. So in Latin, we have *decuriare* used of organised bribery at elections, Cicero, pro Plancio § 45 *decuriatio tribulium* and *decuriasse Plancium, conscripsisse*. Cf. the obscure name given to bribed dicasts at Athens, Λύκου δεκάς (in wholesale bribery an agent, it is conjectured, was chosen from each tribe and the group of ten thus selected to deal with their fellow-tribesmen were comically called Λύκου δεκάς from the statue of Lycus near

the law-courts. Meier and Schömann, *Att. Process* p. 150. Harpocr. s.v. δεκάζων).

The usual phrase for bribery is χρήμασι φθείρειν (or διαφθείρειν), though the euphemism χρήμασι πείσαι is still more frequent. It is curious to note how frequently the word δωροδοκία occurs, and how rarely δεκασμὸς and its corresponding verb. Again and again we have charges of receiving bribes, seldom of giving them; possibly because those who gave them were too powerful to be attacked. —ἐπὶ δωροδοκία, 'with a corrupt motive,' is here a general term, implying without directly expressing the corresponding term δεκασμὸς.

ἔταιρείαν ἐπὶ καταλύσει τοῦ δήμου] Thuc. viii 54, ὁ Πείσανδρος τὰς ξυνωμοσίας... ἀπάσας ἐπελθὼν καὶ παρακελευσάμενος ὅπως... καταλύσουσι τὸν δῆμον κ.τ.λ. See Grote, H. G. chap. 51 (iv p. 394, ed. 1862).

ἐπὶ ταῖς δίκαις κ.τ.λ.] 'In any cause either of a public or private nature.' Kennedy. Rather (as above, § 25), 'with a view to winning the causes brought either by private persons or on public grounds.' It is to a collusion for such a purpose between the σύνδικος and the συνήγορος that Aristophanes alludes in *Vesp.* 694. P.]

μοσίαις, τούτων εἶναι τὰς γραφὰς πρὸς τοὺς θεσμοθέτας.]

27 Ἡδέως ἂν τοίνυν ὑμᾶς ἐροίμην ἐπὶ τούτοις ἅπασιν κατὰ ποίους νόμους ὁμωμοκότες δικάζετε, πότερα κατὰ τοὺς τῆς πόλεως ἢ καθ' οὓς Φορμίῳ αὐτῷ νομοθετεῖ. ἐγὼ μὲν τοίνυν τούτους παρέχομαι ὑμῖν, καὶ ἐξελέγχω αὐτοὺς ἀμφοτέρους παραβεβηκότας, Φορμίωνα μὲν ἐξ ἀρχῆς ἀδικήσαντα ἡμᾶς καὶ ἀποστερήσαντα τὰ χρήματα, ἃ ὁ πατήρ ἡμῖν κατέλιπε καὶ ἐμίσθωσε τούτῳ μετὰ τῆς τραπέζης καὶ τοῦ ἐργαστηρίου, Στέφανον δὲ τουτονὶ τὰ ψευδῆ μεμαρτυρηκότα καὶ παρὰ τὸν νόμον.

28 Ἄξιον τοίνυν, ὧ ἄνδρες δικασταὶ, καὶ τόδε ἐνθυμηθῆναι, ὅτι διαθηκῶν^z οὐδεὶς πώποτε ἀντίγραφα ἐποίησατο, ἀλλὰ συγγραφῶν μὲν, ἵνα εἰδῶσι καὶ μὴ παραβαίνωσι, διαθηκῶν δὲ οὐ. τούτου γὰρ ἔνεκα καταλείπουσιν^a οἱ διατιθέμενοι, ἵνα μηδεὶς εἰδῇ ἃ δια-

^z *margo ed. Parisiensis.* διαθήκης Ζ cum ΣΦ. διαθήκας F.

^a κατασεσημασμένους καταλείπουσιν (Reiske); κατακλείουσιν (Seager); οὐ καταλείπουσιν, sc. διαθηκῶν ἀντίγραφα (G. H. Schaefer).

θεσμοθέτας] 'The six minor Archons.

§ 27. *The jury has sworn to do justice according to the laws of Athens and not the laws which Phormion chooses to lay down for himself. I produce the laws of Athens and I prove that both of my opponents have broken them, Phormion by defrauding me of the money left me by my father, Stephanus by giving false evidence and that contrary to the law.*

τὰ χρήματα] sc. the Banking-stock, which is the subject of Or. 36. The ἐργαστήριον is the shield-manufactory of Or. 36 § 4.

§ 28. *The jury, by the way, should also notice that no one ever makes a copy of a will. How then came Stephanus and his friends to know that the contents of the document appended to the deposition are a copy of my father's will?*

καταλείπουσιν] is especially used of leaving behind one at death. 'The reason why people leave their wills behind them (instead of publishing them before they die) is to prevent any one knowing their contents.' Kennedy renders it: 'keep wills by them until their death.'

[I incline to think κατακλείουσιν is the true reading. The

τίθενται. πῶς οὖν ὑμεῖς ἴστε ὅτι ἀντίγραφά ἐστι τῶν διαθηκῶν τῶν Πασίλωνος τὰ ἐν τῷ γραμματείῳ γεγραμμένα;

Δέομαι δ' ὑμῶν ἀπάντων, ὧ ἄνδρες δικασταί, καὶ 29 ἱκετεύω βοηθῆσαι μὲν ἐμοί, τιμωρήσασθαι δὲ τοὺς ἐτοίμως οὕτω τὰ ψευδῆ μαρτυροῦντας, ὑπὲρ τε ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

reason why people 'leave wills' is to shew how they wish to dispose of their property; the reason why they 'keep them under lock and key' is that no one may have access to them. P.]

For the reiteration διατιθέμενοι...διατίθενται, see §§ 2 and 3.

§ 29. *I implore the jury to*

grant me redress, that those who are so prompt to give false evidence may be punished on all grounds, particularly for the sake of justice and the laws.

τῶν νόμων] Placed last for emphasis, since the whole speech has dealt with quotations of laws and not with εἰκότα, or 'presumptive proofs,' as in the former oration.

LIII.

ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ
ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ
ΑΡΕΘΟΥΣΙΟΥ^α.

ΥΠΟΘΕΣΙΣ.

Ἄπολλόδωρος γραψάμενος ψευδοκλητείας Ἄρεθούσιον εἶλεν. ὀφείλοντος δὲ τοῦ Ἄρεθουσίου τάλαντον τῇ πόλει καὶ ἀποδοῦναι μὴ δυνηθέντος, καὶ διὰ τοῦτο εἰς τὰ δημόσια ἀπογραφομένης αὐτοῦ τῆς οὐ-
5 σίας, ἀπογράφει ὁ Ἄπολλόδωρος οἰκέτας ὡς ὄντας Ἄρεθουσίου, ὁ δὲ Νικόστρατος^β μεταποιεῖται ὡς ἰδίων καὶ ἐκείνῳ προσηκόντων οὐδέν. ἐπεὶ δὲ τὸ πρᾶγμα μοχθηρόν ἐστι^γ, διὰ τοῦτο ὁ ῥήτωρ διηγεῖται πηλικά

^α πρὸς Νικόστρατον περὶ τῶν Ἄρεθουσίου ἀνδραπόδων Z.

^β [ὁ δὲ Νικόστρατος] Z. ‘addidit Bekker cum H. Wolf.’

^γ om. Z. addidit Dindf. ex Σ.

1. ψευδοκλητείας] § 15 note.

8. μοχθηρόν] ‘vexatious,’ sc. συκοφαντικόν.

§§ 1—4. (*Arethusius has incurred a debt to the public treasury and has neglected to discharge it.*) I have accordingly laid an information against him and drawn up a specification of his property. I have done so, not in the spirit of an informer, but in the simple desire to exact vengeance for having been outrageously wronged by Arethusius and his brother Nicostratus. The purity of my motives will

be proved, (1) by the small amount at which the two slaves are valued (two-and-a-half minae), so that the pecuniary gain to which I am legally entitled for bringing this information is small, while the loss which I should incur, if I fail, is 1000 drachmae, (or four times the value of the slaves). (2) The fact that I have laid the information in my own name, proves that I am prompted by the personal motive of revenge alone. Content with that revenge, I am willing to waive all

πέπονθεν Ἀπολλόδωρος ὑπ' Ἀρεθουσίου, ἵνα δοκῆ μὴ
 246 φύσει πονηρὸς ὢν ταῦτα πράττειν, ἀλλὰ ἀμυνόμενος
 τὸν ἀδικοῦντα.

“Ὅτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβρι- 1
 ζόμενος ὑπὸ τούτων καὶ οἰόμενος δεῖν τιμωρεῖσθαι τὴν
 ἀπογραφὴν ἐποιοσάμην, μέγιστον ὑμῖν ἔστω τεκμή-
 ριον, ὃ ἄνδρες δικασταί, τό τε μέγεθος τῆς ἀπογραφῆς,
 καὶ ὅτι αὐτὸς ἐγὼ ἀπέγραψα. οὐ γὰρ δήπου συκοφαν-

claim to the reward which the law in such cases allows the bringer of the information (viz. three-fourths of the valuation).

The court will now permit me to justify myself by shewing how ungratefully I have been dealt with by my opponents and by relating, so far as time permits, the most atrocious and flagrant of all the wrongs which they have inflicted upon me.

οἰόμενος δεῖν τιμωρεῖσθαι] ‘To avoid the fatal charge of *sycophantia*, any one prosecuting a fellow-citizen for some public offence endeavoured to shew that he had private and personal grounds of enmity against the accused; and if he succeeded in proving this, it was considered the most natural and reasonable thing in the world that he should endeavour to satisfy his hatred by becoming public prosecutor.’ Wilkins’ *Light of the World* p. 30 (where a reference is made to Lewes’ *History of Philosophy* i 108). For illustrations of the Greek view of the reasonableness of revenge, see note on Isocr. ad Dem. § 26.

τὸ μέγεθος] ‘the size’, ‘the amount’, a neutral word, here meaning probably ‘the small

amount’, ‘the paltriness of the specification.’ Herod. ii 74, *μεγάθει μικρός*. The sum of two and a half minae seems to refer to the value of the two slaves taken together (Boeckh, *Publ. Econ.* i chap. xiii p. 96 Lamb). Reiske, however, explains τὸ μέγεθος τῆς ἀπογραφῆς: *magnitudo mulctae mihi luendae, si causa cadam*.

τῆς ἀπογραφῆς] ‘the specification’, or ‘inventory’, of property, used especially of information as to State property alleged to be unlawfully held by a private person. Harpocration, ἀπογραφῆ· ὅταν τις λέγῃ τινα ἔχειν τι τῶν τῆς πόλεως, ἀπογραφὴν ποιεῖται ὁ ἐναγόμενος, δηλῶν πόθεν ἔχει τὰ χρήματα καὶ πόσα ταῦτα εἶη...τί δὲ ἦν τὸ κινδύνεμα τῷ τὴν ἀπογραφὴν ποιουμένῳ, ἐν τῷ Ἐπιμοσθένεος πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων, εἰ γνήσιος, δῆλον γίνεταί. Hesyehius, ἀπογραφῆ· ἀρίθμησις· ἢ ἡ γνωμὴ μῆνυσις. Cf. Or. 22 (Androt.) § 54, τὸ τὰ χωρία δημεύειν καὶ τὰς οἰκίας, καὶ ταῦτ' ἀπογράφειν, 37 § 7, 40 § 22. Meier and Schömann, pp. 253—260.

οὐ δήπου..ἀπέγραψα ἂν..ἀνδραποδα] ‘I should not have sche-

τεῖν γε βουλόμενος ἀπέγραψα ἂν^a πένθ' ἡμιμναίων ἄξια ἀνδράποδα, ὡς αὐτὸς ὁ ἀμφισβητῶν τετίμηται αὐτὰ, ἐκινδύνεον δ' ἂν περί τε χιλίων δραχμῶν καὶ τοῦ μηδέποτε μηδένα αὐθις ὑπὲρ ἑμαυτοῦ γράψασθαι οὐδ' αὖ οὕτως ἄπορος ἦν οὐδ' ἄφιλος^c ὥστ' οὐκ ἂν² ἐξευρεῖν τὸν ἀπογράψοντα· ἀλλὰ τῶν ἐν ἀνθρώποις ἀπάντων ἡγησάμενος δεινότατον εἶναι ἀδικεῖσθαι μὲν αὐτὸς, ἕτερον δ' ὑπὲρ ἑμοῦ τοῦ ἀδικουμένου τὸννομα παρέχειν, καὶ εἶναι ἂν τι τούτοις τοῦτο τεκμήριον, ὁπότε ἐγὼ λέγοιμι τὴν ἔχθραν πρὸς ὑμᾶς, ὡς ψεύδομαι

^a ἀπέγραψα μὲν ἂν... Dobree.

^c οὐδ' ἄφιλος Bekker. *om.* Z *cum* Σ.

duled slaves worth two minas and a half.' Kennedy.

χιλίων δραχμῶν] The fine inflicted on a prosecutor who in a public accusation failed to obtain a fifth part of the votes. This fine was attended by complete or partial disfranchisement. Hyper. Eux. 44, 5 τὸν ἐγχειρήσαντα συκοφαντεῖν αὐτοὺς (in an ἀπογραφῇ) εὐθὺς ἠτίμωσαν τὸ πεμπτὸν μέρος τῶν ψήφων οὐ μεταδόντες, Lysias 18 § 14 χιλίας δραχμαῖς ἐξημίωσατε τὸν βουλόμενον τὴν ἡμετέραν γῆν δημοσίαν ποιῆσαι. Or. 58 (Theocrin.) § 6 ἐὰν ἐπεξιών τις μὴ μεταλάβῃ τὸ πεμπτὸν μέρος τῶν ψήφων, χιλίας ἀποτίνειν, κἂν μὴ ἐπέξῃ, χιλίας ἐτέρας, ἵνα μὴ συκοφαντῇ μηδεὶς μήτ' ἄδειαν ἔχων ἐργολαβῇ καὶ καθυφιῇ τὰ τῆς πόλεως.

μηδέποτε—γράψασθαι] Lipsius (in note 320 to p. 260 of Meier and Schömann) regards this as an exaggeration. Cf. Hager in *Journ. of Philology* vi 15.

ὥστ' οὐκ ἂν ἐξευρεῖν] A mixed phrase between ὥστ' οὐκ ἂν ἐξεύροισι and ὥστε μὴ ἐξευρεῖν. The use of ἂν with ὥστε and the

infinitive is rare, but it occurs when a mere contingent result is described. P.]

2. αὐτός is kept in the nom., referring back to ἡγησάμενος, in spite of the interposition of δεινότατον εἶναι which leads us to expect an acc. with the infinitive ἀδικεῖσθαι (Shilleto on Fals. Leg. § 337).

τὸννομα παρέχειν] 'to lend his name,' i.e. allow himself to be used as a cat's paw. [Euripides has παρασχεῖν ὄνομα in *Helena* 1100 and 1653, where Helen is said to have 'lent her name' for the fraud put upon Paris in marrying a mere εἰδωλον. In both passages however the genuineness of the verse may be doubted. P.]

τεκμήριον—ὡς ψεύδομαι] My opponents might have said, 'If you really had a quarrel against us, why did you not file the action against us in your own name?' Perhaps we should read: οὐ γὰρ ἂν ἔαν ποτε ἕτερον ἀπογράψαι, 'for I never should have allowed another, &c.' P.]

(οὐ γὰρ ἂν ποτε ἕτερον ἀπογράψαι, εἴπερ ἐγὼ αὐτὸς ἠδικοῦμην), διὰ μὲν ταύτ' ἀπέγραψα. ἀπογράψας δὲ ἔὰν ἀποδείξω τὰνδράποδα Ἄρεθουσίου ὄντα, οὐπερ 1247 ἐγγράπτο εἶναι, τὰ μὲν τρία μέρη, ἃ ἐκ τῶν νόμων τῷ ἰδιώτῃ τῷ ἀπογράψαντι γίγνεται, τῇ πόλει ἀφήμι, αὐτῷ δ' ἐμοὶ τετιμωρῆσθαι ἀρκεῖ μόνον. εἰ μὲν οὖν 3 μοι ἦν ἰκανὸν τὸ ὕδωρ διηγῆσασθαι πρὸς ὑμᾶς τὰ ἐξ ἀρχῆς, ὅσ' ἀγαθὰ πεπουθότες ὑπ' ἐμοῦ οἶά με εἰργασμένοι εἰσιν, εὖ οἶδ' ὅτι ὑμεῖς τ' ἂν μοι ἔτι μᾶλλον συγγνώμην εἴχετε τοῦ ὀργίζεσθαι αὐτοῖς, τούτους τ' ἀνοσιωτάτους ἀνθρώπων ἠγήσασθε εἶναι· νῦν δ' οὐδὲ διπλάσιόν μοι τούτου ὕδωρ ἰκανὸν ἂν γένοιτο. τὰ μὲν οὖν μέγιστα καὶ περιφανῆ τῶν ἀδικημάτων, καὶ ὀπόθεν ἢ ἀπογραφή) αὕτη γέγονεν, ἐρῶ πρὸς ὑμᾶς, τὰ δὲ πολλὰ εἶσω.

τὰ τρία μέρη] Three-fourths of the valuation was allowed by law to be paid to the individual who brought the action. Boeckh, *See-urkunden* p. 535 ἀφέικε Πολύευκτος ὁ ἀπογράψας τὰ ἐκ τῶν νόμων καὶ τῆς ἀπογραφῆς Σωπῶλιδι τὰ γιγνόμενα εἰς τὴν ἐπιτιμίαν (penalty). It has been inferred from the inscription just quoted that this regulation was not confined (as Boeckh supposed) to concealed property, which was discovered by the informer. (*Publ. Econ.* III chap. xiv p. 395 Lewis², p. 512 Lamb). Cf. Meier and Schömann p. 260, note 321 Lipsius, and Hermann, *Public Antiquities* § 136, 14.—τῷ ἰδιώτῃ τῷ ἀπογράψαντι, 'to the individual informer' Kennedy. ὁ ἰδιώτης is here contrasted with ἡ πόλις.

ἀφήμι] *remitto atque condono*, Reiske.

3. εἰ ἦν ἰκανὸν... ὑμεῖς ἂν συγγνώμην εἴχετε... νῦν δὲ οὐδὲ διπλάσιον... ἰκανὸν ἂν γένοιτο] The

student will be careful to distinguish between the two forms of conditional sentences here combined. 'If the time allowed had been sufficient, you would have made allowance for me ..., but, as the case is, even twice as much time would not suffice.' (Goodwin, *Greek Moods* § 49, 2 and § 50, 2.)—On τὸ ὕδωρ cf. Or. 54 § 36.

ὅσα... οἶα] 'What benefits they have received from me and what a requital they have paid me for them,' or, better, 'the return they have given me for all the benefits I have conferred upon them.' For this idiomatic use of the double relative, cf. Soph. El. 751, οἳ ἔργα δράσας οἶα λαγχάνει κακά, also Ovid, *Fasti* v 460, *cernite sim qualis qui modo qualis eram*; and Cornelius Nepos, *Atticus*, 18, 3, *notans quis a quo ortus quos honores quibusque temporibus cepisset*.

4 Νικόστρατος γὰρ οὐτοσί^f, ὦ ἄνδρες δικασταί, γείτων μοι ὦν ἐν ἀγρῶ καὶ ἡλικιωῦτης γνωρίμως μὲν μοι εἶχε καὶ πάλαι, ἐπειδὴ δ' ἐτελεύτησεν ὁ πατήρ καὶ ἐγὼ ἐν ἀγρῶ κατώκουν, οὐπερ καὶ νῦν οἰκῶ, καὶ μᾶλλον ἀλλήλοις ἤδη ἐχρώμεθα διὰ τὸ γείτονές τε εἶναι καὶ

^f Bekker. *om.* Z *cum* Σ. (οὗτος A¹r.)

§§ 4—9. My opponent's brother Nicostratus, was my neighbour in the country, and, being about the same age, we were thrown much together and became more and more intimate with one another. I granted him whatever he asked of me, and he on his part was of some service to me in taking charge of my property whenever I was abroad on public or private business.

On one of these occasions, when I had left him in charge, three of his servants ran away from him. While pursuing them, he was taken prisoner by a privateer, and sold as a slave. On my return, I was told of his unhappy plight by one of his brothers, Deinon, and I supplied the latter with travelling expenses and thus enabled him to go to the rescue of Nicostratus. The latter, on his return, informed me that he had been ransomed for a considerable sum. He appealed to me with tears in his eyes and pointed to the marks left by the galling fetters (though he is now ashamed enough of those scars that are the memorials of his slavery). He thus succeeded in inducing me to forgive him the three minae, which I had advanced for his brother's travelling expenses, and to contribute, as a free gift towards the twenty-six minae required for the ransom, the sum of ten minae which I raised on the security of some of my property.

4. Νικόστρατος γὰρ] γὰρ is almost invariably used at the beginning of narratives like the present; the English idiom generally requires us to omit it in translation, though we may sometimes render it, 'Well, then,' 'to proceed, then.' Cf. Or. 55 § 10 τοῦ γὰρ χωρίου κ.τ.λ., 27 § 4.

γνωρίμως εἶχε] γνώριμος is a much weaker word than φίλος, as has already been noticed, on Or. 45 § 73. The gradually increasing intimacy between Apollodorus and Nicostratus is well expressed by the successive phrases (1) γνωρίμως εἶχε, (2) μᾶλλον ἀλλήλοις ἐχρώμεθα, (3) πάνυ οἰκείως διεκείμεθα of the present section, and (4) φίλος ἀληθινός of § 12. Cf. 33 § 5 γνωρίμως ἔχω...πάνυ οἰκείως χρῶμαι.

ἐτελεύτησεν ὁ πατήρ] The death of Pasion took place B.C. 370 (Or. 46 § 13).

κατώκουν...οἰκῶ] If any distinction is to be drawn, the compound verb should be rendered 'I settled' and the simple 'I live'; but it is more likely that οἰκῶ is intended as a virtual repetition of the preceding κατώκουν. In such cases it is unnecessary to repeat the preposition, e.g. Eur. Bacc. 1065 κατήγγεν ἦγεν ἦγεν εἰς μέλαν πέδον and Orest. 181, διοιχόμεσθ', οἰχόμεθα, where Porson remarks that, when a verb is repeated, it is generally used first in its com-

ἡλικιώται. χρόνου δὲ προβαίνοντος καὶ πάνυ οἰκείως διεκείμεθα, καὶ ἐγὼ θ' οὕτως οἰκείως διεκείμην πρὸς τοῦτον ὥστ' οὐδενὸς πώποτε ὦν ἐδεήθη οὗτος ἐμοῦ ἀπέτυχεν, οὗτός τ' αὖ ἐμοὶ οὐκ ἄχρηστος ἦν πρὸς τὸ ἐπιμεληθῆναι καὶ διοικῆσαι, καὶ ὁπότε ἐγὼ ἀποδημοίην ἢ δημοσίᾳ τριηραρχῶν ἢ ἰδίᾳ κατ' ἄλλο τι, κύριον τῶν ἐν ἀγρῷ τοῦτον ἀπάντων κατέλειπον. συμβαίνει δὴ 5 μοι τριηραρχία περὶ Πελοπόννησον, ἐκεῖθεν δ' εἰς Σικελίαν ἔδει τοὺς πρέσβεις ἄγειν, οὓς ὁ δῆμος ἐχειροτόνησεν. ἢ οὖν ἀναγωγῇ διὰ ταχέων ἐγίγνετό μοι. ἐπιστέλλω δὴ αὐτῷ ὅτι αὐτὸς μὲν ἀνήγμαι καὶ οὐχ

pound, then in its simple form. Or. 36 § 4 προσώφειλε... ὤφειλε, 33 § 18 ἐξοίσειν... ἐνήνοχεν.

μᾶλλον... ἡλικιώται] 'We grew more and more familiar with one another from being not only neighbours but also of the same age.' Or. 55 § 23 ad fin. and Or. 35 § 6 ἐπιτῆδειοί μοι εἰσι καὶ χράμεθ' ἀλλήλοις ὡς οἶόν τε μάλιστα.

χρόνου προβαίνοντος] Soph. Phil. 285, ὁ μὲν χρόνος δὴ διὰ χρόνου προὔβαινέ μοι.

δημοσίᾳ τριηραρχῶν] This reference to the speaker's public services is dexterously inserted to ingratiate him with his audience, as well as to lead up to the subsequent narrative συμβαίνει δὴ μοι τριηραρχία.—On some of the later trierarchal services of Apollodorus cf. note on Or. 36 § 41.

5. τριηραρχία περὶ Πελοπόννησον κ.τ.λ.] The date of this event, if it could be determined with certainty would assist materially in determining the date of the delivery of the speech. It seems very probable that this trierarchy should be identified with that referred to in Or. 45 § 3,

which, as we have already seen, may be placed in the year 368 B.C. See *Introđ.* p. lvii.

διὰ ταχέων] Thuc. I 80, διὰ ταχέων ἐλθεῖν, Isocr. 14 § 3 διὰ βραχέων ἂν ἐποιησάμεθα τοὺς λόγους followed by ἀναγκαῖον διὰ μακροτέρων δηλώσαι (Kühner *Greek Grammar* II § 434, 1, d). Or. 50 (Polycl.) § 12 ἀναγόμενος διὰ τάχους, 47 (Euerg.) § 49.

ἀνήγμαι] ἀνάγεσθαι is constantly contrasted with κατάγεσθαι; the latter word occurs in § 6 κατήχθη εἰς Αἴγιναν. The verb, with its corresponding substantive ἀναγωγῇ, implies a notion that ships in the open sea or, as we say, on the 'high seas', are at a greater elevation than vessels in harbour. So in Thuc. I 48 and VIII 10 μετέωρος is an epithet of ships at sea. Similar references to this familiar optical illusion may be noted in Milton's *Paradise Lost* II 636, *Far off at sea a fleet descried Hangs in the clouds*, and in Ruskin's *thymy slopes of down overlooked by the blue line of lifted sea* (*Modern Painters* III iv 14 § 51).

ἐπιστέλλω... ὅτι ἀνήγμαι καὶ

οἶός τ' εἶην^ε οἰκάδε ἀφικέσθαι, ἵνα μὴ κατακωλύοιμι 1248
 τοὺς πρέσβεις· τούτῳ δὲ προσέταξα ἐπιμελεῖσθαι τε
 τῶν οἴκοι καὶ διοικεῖν, ὥσπερ καὶ ἐν τῷ ἔμπροσθεν
 6 χρόνῳ. ἐν δὲ τῇ ἐμῇ ἀποδημίᾳ ἀποδιδράσκουσιν αὐτὸν
 οἰκέται τρεῖς ἐξ ἀγροῦ παρὰ τούτου, οἱ μὲν δύο ὧν ἐγὼ
 ἔδωκα αὐτῷ, ὁ δὲ εἷς ὧν αὐτὸς ἐκτήσατο. διώκων οὖν
 ἀλίσκεται ὑπὸ τριήρους καὶ κατήχθη εἰς Αἴγιναι, καὶ
 ἐκεῖ ἐπράθη. ἐπειδὴ δὲ κατέπλευσα ἐγὼ τριηραρχῶν,
 προσέρχεταιί μοι Δείνων ὁ ἀδελφὸς ὁ τούτου λέγων
 τὴν τε τούτου συμφορὰν, αὐτὸς τε ὅτι δι' ἀπορίαν
 ἐφοδίων οὐ πεπορευμένος εἶη ἐπὶ τούτου πέμποντος
 7 τούτου αὐτῷ^h ἐπιστολὰς, καὶ ἅμα λέγων πρὸς ἐμὲ ὡς
 ἀκούοι αὐτὸν δεινῶς διακείσθαι. ἀκούσας δ' ἐγὼ ταῦτα
 καὶ συναχθεσθεῖς ἐπὶ τῇ ἀτυχίᾳ τῇ τούτου πέμπω
 τὸν Δείνωνα τὸν ἀδελφὸν αὐτοῦⁱ εὐθὺς ἐπὶ τούτου,

^ε Bekker. ἦν Ζ cum ΣτΑ¹ et Φ (prima manu).

^h αὐτῷ Ζ.

οἶχ οἶός τ' εἶην] The historic present ἐπιστέλλω being virtually a secondary tense has the optative εἶην in the dependent clause. For the combination of the indicative ἀνήγμαι with the optative εἶην, we may compare Or. 59 (Neaer.) § 81 λέγων ὅτι οὐκ ἦδει...ἀλλ' ἐξαπατηθείη, 47 (Euerg.) § 50 λέγων ὅτι...δεῖ...καὶ κελεύοι, ib. 68 ὡς εἶχον...καὶ...τελευτήσειεν, and esp. 27 (Aphob. A) § 19 ἐτόλμα...λέγειν ὡς χρέα τε παμπολλὰ ἐκτέικεν...καὶ ὡς πολλὰ τῶν ἐμῶν λάβοιεν. The optative of the perfect and future was less familiar than the optative of the other tenses. It is apparently for this reason that the indicative of the perfect or the future was often retained after secondary tenses, even when the present or the aorist

was changed from the indicative to the optative (Goodwin, *Moods and Tenses* § 70, 2, R 2). The mss appear to have been misled by the indicative ἀνήγμαι into writing ἦν instead of εἶην.

κατακωλύοιμι] Or. 33 § 13 τοῦ εἰς Σικελίαν πλοῦ διὰ τοῦτον κατέκωλύθη.

6. παρὰ τούτου] 'From the defendant's house.' — ὧν ἐγὼ κ.τ.λ. i.e. 'of the number of those whom I had given him.'

κατέπλευσα τριηραρχῶν] 'When my voyage as trierarch came to an end.' Or. 50 § 12 κατέπλευσα τοὺς πρέσβεις ἄγων. For the preposition in κατέπλευσα cf. κατήχθη *infra*, and see note on ἀνήγμαι *supra* § 5.

ἐπὶ τούτου] 'In quest of him,' 'to fetch him back.'

δουὺς ἐφόδιον αὐτῷ τριακοσίας δραχμάς. ἀφικόμενος δ' οὗτος καὶ ἐλθὼν ὡς ἐμὲ πρῶτον μὲν ἠσπάζετο, καὶ ἐπῆνει ὅτι παρέσχον τὰ ἐφόδια τῷ ἀδελφῷ αὐτοῦ, καὶ ὠδύρετο τὴν αὐτοῦ συμφορὰν, καὶ κατηγορῶν ἅμα τῶν ἑαυτοῦ οἰκείων ἐδεῖτό μου βοηθῆσαι αὐτῷ, ὡσπερ καὶ ἐν τῷ ἐμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς φίλος· καὶ κλάων¹ ἅμα, καὶ λέγων ὅτι ἕξ καὶ εἴκοσι μνῶν λελυμένος εἶη, εἰσενεγκεῖν αὐτῷ τι ἐκέλευέ με δ εἰς τὰ λύτρα. ταῦτα δ' ἐγὼ ἀκούων καὶ ἐλεήσας τοῦτον, καὶ ἅμα ὀρῶν κακῶς διακείμενον καὶ δεικνύοντα ἔλκη ἐν ταῖς κνήμαις ὑπὸ δεσμῶν, ὧν ἔτι τὰς

¹ τούτου Ζ cum Σ. αὐτοῦ Α¹r. 'Fortasse verba τὸν ἀδελφὸν τούτου delenda sunt' Sauppe.

¹ Bekk. cum Α¹r. κλαίων Ζ cum Σ.

7. ἐπῆνει] Not 'praised,' but, rather, 'thanked.' Cf. § 13, ἐπαιέσας με ἐκέλευσε κ.τ.λ. So also in Ar. Ranæ 508, κάλλιστ', ἐπαινώ, 'thank you!' where however the notion of declining the offer is also involved.

ἀληθινὸς φίλος] ἀληθινὸς is the Latin *verus*; ἀληθῆς *verax*. 'We may affirm of the ἀληθῆς that he fulfils the promise of his lips, but the ἀληθινὸς the wider promise of his name' (Trench, *Synonyms of the New Testament* § VIII). See also Donaldson, *New Cratylus* § 258 and Kühner *Greek Gr.* I § 334.

7. [ἀληθινὸς is 'genuine,' as χρυσοῦς, ἀρετῆ, &c.; ἀληθῆς is more directly contrasted with ψευδῆς, as ἀληθῆς λόγος. But the distinction is not always observed. Euripides has ἀληθῆς φίλος Suppl. 867, and σαφῆς φίλος is not unusual in the same sense. P.] Cf. note on Or. 40 § 20.

κλάων] 'In Tragedy κλαίω

and κλάω; in Aristophanes κλάω prevails, in Attic prose κλαίω and κλάω, the latter gaining ground.' Veitch, *Greek Verbs*.

εἴκοσι μνῶν] Aristotle, Eth. v 10 § 9, gives as an example of νομικὸν δίκαιον, conventional right, τὸ μνᾶς λυτροῦσθαι, the right of every man to claim his freedom on payment of one mina,—perhaps referring only to slaves. P.]

λελυμένος] Isæus Or. 5 § 44 οὐδ' ἐκ τῶν πολεμίων ἐλύσω οὐδένα, Lysias Or. 19 § 59, Dem. Fals. Leg. § 169.

ἐκέλευε] 'urged me,' 'asked me,'—less strong than the aorist ἐκέλευσε (inf. § 9). The impf. of this verb is often found in passages where we should expect the aorist, especially in Herodotus and Thucydides. It may be regarded as used in a tentative sense, in so far as the result of the request is uncertain.

8. ἔλκη ἐν ταῖς κνήμαις] Ar.

οὐλὰς ἔχει, καὶ ἐὰν κελεύσητε αὐτὸν δεῖξαι, οὐ μὴ ἐθέλησει^k, ἀπεκρινάμην αὐτῷ ὅτι καὶ ἐν τῷ ἔμ- 1249
προσθεν χρόνῳ εἶην αὐτῷ φίλος ἀληθινός, καὶ νῦν ἐν τῇ συμφορᾷ βοηθήσοιμι¹ αὐτῷ, καὶ τὰς τε τριακοσίας, ας τῷ ἀδελφῷ αὐτοῦ ἔδωκα ἐφόδιον ὅτε ἐπορεύετο ἐπὶ τοῦτον, ἀφείην αὐτῷ, χιλίας τε δραχμὰς ἔρανον

^k ἐθέλησει Dobree. οὐ μὴ ἠελήση Ζ. θελήση Σ. ἐθέληση Bekker.

¹ G. H. Schaefer. βοηθήσοιμι libri.

Eq. 907, τὰν τοῖσιν ἀντικνημίοις ἐλκύδρια περιαιλείφειν.

οὐ μὴ ἐθέλησει] ‘There is little chance of his consenting.’

Nicostratus would naturally refuse to display the scars left by the galling fetters: to do so would be to confess that he had incurred the disgrace of having been sold as a slave.

The future indicative with οὐ μὴ has here, as elsewhere, the force of an emphatic future with οὐ. The subjunctive, especially in the aorist tense, is still more common in this sense, and is indeed the reading of the mss in the present passage, the indicative being an apparently unnecessary emendation due to Dobree. [The Greeks said οὐ μὴ φύγη, οὐ μὴ ἔλθῃ, and οὐ μὴ ληφθῶ, but seem to have preferred οὐ μὴ πράξει to οὐ μὴ πράξῃ. But here too mss generally vary. P.] This construction must be distinguished from the special use of οὐ μὴ with the *second person* of the fut. indic., to express a strong prohibition (Goodwin, *Moods and Tenses* § 89, 1 and 2).

ἀπεκρινάμην] The Attic form corresponding to ὑπεκρινάμην in Herodotus and ἀπεκρίθην in late Greek, e.g. in the New Testament (Winer’s Gr. p. 327, ed. Moulton). Cf. Rutherford’s *New*

Phrygichus p. 186.

ὅτι ἐν τῷ ἔμπροσθεν χρόνῳ εἶην φίλος, καὶ νῦν βοηθήσοιμι] ‘That I had been his true friend formerly, and would assist him now.’ The opt. εἶην represents not the present or future but the imperfect of direct discourse; while the future optative βοηθήσοιμι corresponds to the future ind. of *oratio recta*. ‘The fut. opt. in Classic Greek is used only in indirect discourse after secondary tenses to represent a fut. indic. of the direct discourse’ (Goodwin, *Moods and Tenses* § 26). βοηθήσοιμι is wrong, because it would represent ἐβοθήθησα of the *oratio recta* and would therefore be inconsistent with νῦν.—Similarly below, εἰσοῖσοιμι (contrasted with ἀφείην) represents the fut. indic. of direct discourse. Cf. 36 § 6 ἔσοιτο, and Rehdantz, *index* I, s.v. *optativus*.

ἀφείην] inf. § 13. Fals. Leg. p. 394 § 171 ὅσα...ἀφῆκα χρήματα καὶ δωρεὰν ἔδωκα.

ἔρανον κ.τ.λ.] ‘I would contribute 1000 drachmae towards his ransom,’ i.e. 10 minae out of the total amount of 26 minae mentioned in § 7 ad fin. On ἔρανος cf. Hermann, *Privatalt.* § 65, 13, esp. p. 65 of *Rechtsalt.* ed. Thalheim. ‘L’*éranos*, dit

αὐτῷ εἰς τὰ λύτρα εἰσοίσοιμι. καὶ τοῦτο οὐ λόγῳ 9
 μὲν ὑπεσχόμην, ἔργῳ δ' οὐκ ἐποίησα, ἀλλ' ἐπειδὴ
 οὐκ ἠνύπορον^m ἀργυρίου διὰ τὸ διαφόρως ἔχειν τῷ
 Φορμίῳ καὶ ἀποστερεῖσθαι ὑπ' αὐτοῦ τὴν οὐσίαν ἦν
 μοι ὁ πατήρ κατέλιπε, κομίσας ὡς Θεοκλέα τὸν τότε
 τραπεζιτεῦντα ἐκπώματα καὶ στέφανον χρυσοῦν,
 ἄπερⁿ ἐμοὶ ἐκ τῶν πατρῶων ὄντα ἐτύγχανεν, ἐκέλευσα
 δοῦναι τούτῳ χιλίας δραχμὰς, καὶ τοῦτο ἔδωκα δωρεὰν
 αὐτῷ τὸ ἀργύριον, καὶ ὁμολογῶ δεδωκέναι. ἡμέραις 10
 δ' οὐ πολλαῖς ὕστερον προσελθὼν μοι κλάων^o ἔλεγεν

^m εὐπόρον Z.

ⁿ A¹r. ἄ παρ' Z et Bekker st. cum ΣΦΒ.

^o Bekk. cum rA¹. κλαίων Z.

très - exactement M. Foucart (*des associations religieuses chez les Grecs*, Paris, 1873, p. 143), n'était ni un don, ni un secours, mais un prêt qu'il fallait rembourser' (Dareste).

9. οὐ λόγῳ μὲν ὑπεσχόμην, ἔργῳ δ' οὐκ ἐποίησα] Cf. de Corona § 179 οὐκ εἶπον μὲν ταῦτα οὐκ ἔγραψα δὲ, οὐδ' ἔγραψα μὲν οὐκ ἐπρέσβευσα δὲ, οὐδ' ἐπρέσβευσα μὲν οὐκ ἔπεισα δὲ τοὺς Θηβαίους. Kennedy neatly translates: 'nor did I content myself with mere words; but what I promised I performed.'

διαφόρως—τῷ Φορμίῳ] The context shews that the reference is to the estrangement between Apollodorus and Phormion shortly after the death of Pasion in 370 B.C.—τὴν οὐσίαν refers mainly to the banking-stock which forms the subject of Or. 36, the claim to which was not brought forward until some twenty years later.

δωρεάν] not as a loan, but as a free gift.

§§ 10—13. Not many days afterwards, he came once more and told me with tears in his eyes that the persons who had advanced the ransom were demanding payment of the remaining sixteen minae, and that the agreement required him to refund the money within thirty days, or, failing payment, to be liable for twice the amount. He could raise no money, he said, on the farm in my neighbourhood, as that property was already encumbered by a claim upon it on the part of his brother Arethusius; and he asked me to advance the remainder, as otherwise my former gifts would be thrown away, and himself carried off to prison as the lawful property of the ransomer. He further promised to collect the whole amount and to repay me. Accordingly, I raised the remaining sixteen minae on the security of my lodging-house, and lent him this sum for a year without interest.

ὅτι οἱ ξένοι ἀπαιτοῖεν αὐτὸν^p, οἱ δανείσαντες τὰ λύτρα, τὸ λοιπὸν ἀργύριον, καὶ ἐν ταῖς συγγραφαῖς εἶη τριάκονθ' ἡμερῶν αὐτὸν ἀποδοῦναι ἢ διπλάσιον ὀφείλειν, καὶ ὅτι τὸ χωρίον τὸ ἐν γειτόνων μοι τοῦτο οὐδεὶς ἐθέλοι οὔτε πρίασθαι οὔτε τίθεσθαι· ὁ γὰρ ἀδελφὸς ὁ

^p αὐτὸν Ζ.

10. ἀπαιτοῖεν] ἀπαιτεῖν (cf. ἀπολαμβάνειν) is 'to ask for one's due,' 'to request repayment of what is one's own.' Andocides II § 22, ἀ...ἀφείλεσθε, ταῦθ' ὑμᾶς, εἰ μὲν βούλεσθε, αἰτῶ, εἰ δὲ [μὴ] βούλεσθε, ἀπαιτῶ. Or. 33 § 6 οἱ χρῆσται κατήπειγον αὐτὸν ἀπαιτοῦντες, and Or. 49 § 2.

So ἀποδοῦναι 'to pay what is due,' 'to make full payment of the sum borrowed.' Or. 49 § 2 οὐ μόνον οὐκ ἀπέδωκε χάριν ἀλλὰ καὶ τὸ δοθὲν ἀποστρεῖ με. In Arist. Rhet. II 7 § 5, among the reasons which indicate the absence of real gratitude, we have ὅτι ἀπέδωκαν ἀλλ' οὐκ ἔδωκαν ('they merely returned the favour,' simply repaid a debt, and nothing more). Cf. St Luke vi 34, 35, ἀμαρτωλοὶ ἀμαρτωλοῖς δανείζουσιν, ἵνα ἀπολάβωσι τὰ ἴσα.

διπλάσιον ὀφείλειν] Or. 56 § 20. Cf. *Revue archéologique*, 1866 no. 11 (quoted by Dareste), εἰάν δὲ μὴ ἀποδιδῶ τὴν μίσθωσιν κατὰ τὰ γεγραμμένα ἢ μὴ ἐπισκευάξῃ, ὀφείλειν αὐτὸν τὸ διπλάσιον, and the *stipulatio duplae* of Roman law.

τὸ χωρίον τὸ ἐν γειτόνων μοι] 'the property (or farm) in my immediate neighbourhood.' ἐν γειτόνων seems to be an elliptical phrase equivalent to ἐν τοῖς τῶν γειτόνων 'in my neighbours' lands,' 'in my own neighbourhood.' In early Greek there is probably no other instance of

this phrase, and as ἐκ γειτόνων is not without example in the Attic Orators, it appears preferable to the reading in the text, which is obtained by Reiske from τὸ ἐγγειτόνων, found in three good mss (ΣΑ¹B). *Inepte Reiskius*, says Dobree, who refers to Ar. Plut. 435, ἡ καπηλὶς ἢκ τῶν γειτόνων. For ἐκ γειτόνων cf. Lysurgus, (Leocrates) § 21 οὐδὲ τὰ ὄρια τῆς χώρας αἰσχυρόμενος ἀλλ' ἐκ γειτόνων τῆς ἐκθρεψάσης αὐτὸν πατρίδος μετοικῶν (cf. *e vicinia* and *ex adversum* in the sense of *prope*). For ἐν γειτόνων we find no parallel earlier than Lucian, φιλοψευδῆς § 25 ἐν γειτόνων δὲ ἡμῖν ὄκει and *convinium* § 22; also *Icaromenippus* § 8, ἐν γειτόνων ἐστὶ τὰ δόγματα καὶ μὴ πολὺ διεστηκότα ('their doctrines are next door to one another and differ but slightly').

πρίασθαι ὠνεῖσθαι] The former is used as the aorist of the latter; ὠνησάμην (though common in Lucian and Plutarch) being never found in early Greek Prose, and perhaps once only in Greek comedy (in a doubtful fragment of Eupolis). The correct aorist and present are found side by side in § 21, πρῖαινω followed by ὁ ὠνούμενος; similarly in Lysias, Or. 7 § 4, πριάμενος occurs with ὠνούμην in the very next sentence. Cf. Rutherford's *New Phrynicus* p. 210.

τίθεσθαι] lit. 'to get security given you,' hence 'to lend

Ἄρεθούσιος, οὗ τὰνδράποδ' ἐστὶ ταῦτα ἃ νῦν ἀπογέ-
 γραπται, οὐδένα ἐζῶ οὔτε ὠνεῖσθαι οὔτε τίθεσθαι ὡς
 ἐνοφειλομένου αὐτῷ ἀργυρίου. σὺ οὖν μοι, ἔφη, πό- II
 ρισον τὸ ἐλλείπον τοῦ ἀργυρίου, πρὶν τὰς τριάκονθ'
 ἡμέρας παρελθεῖν, ἵνα μὴ ὅ τε ἀποδέδωκα, ἔφη, τὰς
 χιλίας δραχμὰς, ἀπόλωνται, καὶ αὐτὸς ἀγώγιμος γένω-
 μαι. συλλέξας δ', ἔφη, τὸν ἔρανον, ἐπειδὴν τοὺς ξένους
 ἀπαλλάξω, σοὶ ἀποδώσω ὃ ἂν μοι χρήσης. οἶσθα
 1250 δ', ἔφη, ὅτι καὶ οἱ νόμοι κελεύουσι τοῦ λυσαμένου ἐκ
 τῶν πολεμίων εἶναι τὸν λυθέντα, ἐὰν μὴ ἀποδιδῶ τὰ

money on security' of land, &c; 'to lend on mortgage,' as opposed to τίθεσθαι, lit. 'to give security,' 'to put in pledge,' 'to mortgage,' 'to borrow on security.' — Hermann, *Privatalt.* § 68, 15 = p. 90 Thalheim, quotes Dionys. de Isaeo 13 (Is. frag. 29), which illustrates the general sense of the present passage; δανειζομένῳ οὐδεὶς ἂν ἔδωκεν ἐπ' αὐτοῖς ἔτι πλέον οὐδὲν ἀποδεδωκότι τὰς μισθώσεις.

ἃ νῦν ἀπογέγραπται] 'which have been scheduled in the present suit (entered in the ἀπογραφῆ, or specification).'

ὡς ἐνοφειλομένου — ἀργυρίου] 'on the ground that money was due to himself thereon.' The property was already saddled with a debt due to Arethusius, to whom it was (in part at least) mortgaged. Arethusius, in other words, had a *lien* of money upon the property. In another speech delivered by Apollodorus, Or. 49 (Timoth.) § 45, we have the words ἐνεπισκήψασθαι ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἐνοφειλόμενον αὐτῷ τοῦτο τὸ ἀργύριον.

To contract a fresh loan on the security of property already mortgaged was of course fraudulent and was very properly

forbidden. Cf. Bekker's *Anecdota* p. 259 μὴ ἐπιδανείσασθαι ἐπὶ τοῖς αὐτοῖς ἐνεχύροις. Or. 35 (Lacrit.) § 21 ἔστιν ἐν τῇ συγγραφῇ ὅτι ὑποτιθέσθαι ταῦτ' ἐλεύθερα (unencumbered) καὶ οὐδενὶ οὐδὲν ὀφείλοντες, καὶ ὅτι οὐδ' ἐπιδανείσονται ἐπὶ τούτοις παρ' οὐδένοσ. See also Or. 34 §§ 6, 50.

11. ἵνα μὴ ὅ τε ἀποδέδωκα, τὰς χιλίας δραχμὰς, ἀπόλωνται] i.e. ἵνα μὴ αἶ τε χίλιαι δραχμαί, ἃς ἀποδέδωκα, ἀπόλωνται. τὰς δραχμὰς is here attracted into the same case as the relative ὅ, the object of ἀποδέδωκα. Or. 20 (Lept.) § 18, οὐδεὶς ἐστ' ἀτελής, οὐδ' οὐσ αὐτὸς ἔγραψε, τοὺς ἀφ' Ἄρμολίου καὶ Ἀριστογέιτονος. See Kühner, *Gk. Gr.* II § 556, 4.

ἀγώγιμος] 'liable to seizure.' Or. 23 (Aristocr.) § 11 ἂν τις αὐτὸν ἀποκτείνῃ, ἀγώγιμον εἶναι. ἀπαλλάξω] Or. 34 § 22 τοὺς δανείσαντας ἀπήλλαξεν. See note on Or. 36 § 25.

τοῦ λυσαμένου...εἶναι τὸν λυθέντα] 'the laws enact that a person ransomed from the enemy shall be the property of the ransomer, if the former fail to pay the redemption money.' Hermann, *Rechtsalt.* ed. Thalheim p. 18 note 6.

12 λύτρα. ἀκούων δ' αὐτοῦ ταῦτα καὶ δοκῶν οὐ ψεύδεσθαι ἀπεκρινάμην αὐτῷ ἄπερ ἂν νέος τε ἄνθρωπος καὶ οἰκείως χρώμενος, οὐκ ἂν νομίσας ἀδικηθῆναι, ὅτι, ὦ Νικόστρατε, καὶ ἐν τῷ πρὸ τοῦ^α σοι χρόνῳ φίλος ἦν ἀληθινός, καὶ νῦν ἐν ταῖς συμφοραῖς σου, καθ' ὅσον ἐγὼ ἐδυνάμην, βεβοήθηκα. ἐπειδὴ δ' ἐν τῷ παρόντι οὐ δύνασαι πορίσαι ἅπαντα τὰ χρήματα, ἀργύριον μὲν ἐμοὶ οὐ πάρεστιν, οὐδ' ἔχω οὐδ' αὐτὸς, τῶν δὲ κτημάτων σοι τῶν ἐμῶν κίχρημι ὅ τι βούλει, θέντα τοῦ

^a Bekker. πρὸ τούτου Ζ cum FΣΦ.

12. ἄπερ ἂν] sc. ἀποκρίναιτο. οὐκ ἂν νομίσας ἀδικηθῆναι] i. e. οὐ νομίσας ἀδικηθῆναι ἂν. ἂν is often separated from its verb by such words as οἶμαι, δοκῶ, οἶδα, νομίζω. Xen. Cyrop. VIII 7 § 25 ἡδέως ἂν μοι δοκῶ κοινωνῆσαι (Goodwin, *Moods and Tenses*, § 42, 2, p. 62). This is most frequently the case when ἂν is closely attracted to an emphatic negative, e.g. Or. 36 § 49, οὐ γὰρ ἄλλο γ' ἔχοις οὐδὲν ἂν ποιῆσαι.

ὅτι, ὦ Νικόστρατε, κ.τ.λ.] ὅτι, which usually introduces an indirect construction, is here followed by *oratio recta*, and need not be translated. Xen. Cyrop. VII 3 § 3 ἀπεκρίνατο ὅτι, ὦ δέσποτα, οὐ ζῆ (Goodwin, *Moods and Tenses*, § 79).

ἐπειδὴ...οὐ δύνασαι κ.τ.λ.] G. H. Schaefer suggests ἐπειδὴ δ' οὐ δύναμαι (for δύνασαι) πορίσαι...ἀργύριον γὰρ (for μὲν) ἐμοὶ οὐ πάρεστιν...τῶν (om. δὲ) κτημάτων...κίχρημι ὅ τι βούλει. He holds that this reply suits the request of Nicostratus in § 11, πόρισον τὸ ἐλλείπον τοῦ ἀργυρίου, better than the manuscript reading. The proposed alteration does not, however, commend itself as conclusive; indeed, the

emphatic pronoun ἐμοὶ, and the words οὐδ' ἔχω οὐδ' αὐτὸς, are more appropriate as a contrast to the *second* person δύνασαι than to the proposed substitution δύναμαι. The sense of the text is simply this: 'inasmuch as you are at present unable to pay the whole of the debt, although I have no money by me, nor indeed have I any at all (e.g. at my banker's) any more than yourself, I freely grant you the loan of any part of my property; you may mortgage it for the remainder of your debt and have the use of the money for a year without interest.'

κίχρημι] here, as elsewhere, of a friendly loan, *commodare*, as contrasted with *δανείζω*, which is generally used of a money-lender's loan on interest, *mutuo dare*. Or. 49 (Timoth.) § 23, στρώματα καὶ ἱμάτια καὶ φιάλας ἀργυρᾶς δύο...ἔχρησε, καὶ τὴν μνᾶν τοῦ ἀργυρίου. ἦν ἐδανείζετο, ἐδάνεισεν, where, in the very next section, ἐδανείσατο is applied to the furniture as well as to the money; τὰς φιάλας... ἄς ἠτήσατο ὅτεπερ καὶ τὰ στρώματα καὶ τὴν μνᾶν τοῦ ἀργυρίου ἦν ἐδανείσατο. Fals. Leg. p. 394 ἔχρησα τὰργύριον.

ἐπιλοίπου ἀργυρίου ὅσον ἐνδεῖ σοι, ἐνιαυτὸν ἀτόκῳ χρῆσθαι τῷ ἀργυρίῳ καὶ ἀποδοῦναι τοῖς ξένοις. συλλέξας δ' ἔρανον, ὡσπερ αὐτὸς φῆς, λῦσαι μοι. ἀκούσας δ' ¹³ οὗτος ταῦτα καὶ ἐπαινέσας με ἐκέλευσε τὴν ταχίστην πρᾶξαι, πρὶν ἐξήκειν τὰς ἡμέρας ἐν αἷς ἔφη δεῖν τὰ λύτρα καταθεῖναι. τίθημι οὖν τὴν συνοικίαν ἐκκαίδεκα μνῶν Ἀρκέσαντι Παμβωτάδῃ, ὃν αὐτὸς οὗτος προὔξηνσεν^r, ἐπὶ ὀκτῶ ὀβολοῖς τὴν μνᾶν δανείσαντι τοῦ

^r Bekker. προεξένησεν Σ cum Α¹Γ (προεξένισεν F, προσεξένησεν Σ 'litera σ in προσ a manu recentiore deleta' Dind.).

θέντα κ.τ.λ.] sc. θεῖναι τι (τῶν κτημάτων) τοῦ ἀργυρίου καὶ χρῆσθαι κ.τ.λ. For the genitive (of price) cf. *infra* § 13, τίθημι τὴν συνοικίαν ἐκκαίδεκα μνῶν. (For numerous instances of gen. after words like ὠνεῖσθαι, πωλεῖν, περιδίδοσθαι, see Kühner, II § 418, 6 a).—ὅσον ἐνδεῖ sc. 16 minae, Apollodorus having already (§ 8 fin.) provided 10 out of the 26 minae (§ 7 fin.).

συλλέξας ἔρανον] Mid. § 184, ἐγὼ νομίζω πάντας ἀνθρώπους ἔρανους φέρειν παρὰ τὸν βλον αὐτοῖς, οὐχὶ τούσδε μόνους οὓς συλλέγουσιν τινες κ.τ.λ. Cf. Antiphon, p. 117, 19. P.]

λῦσαι μοι] sc. τὸ κτήμα. 'Release my property from the mortgage,' or (with Kennedy), 'pay off my mortgage as you promise.' So, in another speech delivered by Apollodorus, Or. 50 (Polycles) § 28 ἵνα λύσωνται μοι τὸ χωρίον, ἀποδόντες...τραπεζοντα μνᾶς.

13. τὴν συνοικίαν] not 'the lodging-house' mentioned in Or. 45 § 28, for that belonged to his mother who did not die until 360 B.C.; but another, possibly of equal value (100 minae). Such a security would amply suffice for a loan of 16 minae,

and the rate of 16 per cent. below mentioned would, if paid on the value of the house, exactly produce the 16 minae required. In consideration of lending this sum on the security in question, Arcesas would further receive interest (from Apollodorus) at the rate of 16 per cent. on the 16 minae. Cf. Or. 36 § 6, ἐπὶ συνοικίαις δεδανεικῶς ἦν (with note). Aeschin. Timarch. § 124 ὅπου πολλοὶ μισθωσάμενοι μίαν οἰκῆσιν διελέμενοι ἔχουσι, συνοικίαν καλοῦμεν, ὅπου δὲ εἰς ἐνοικεῖ, οἰκίαν.

Παμβωτάδῃ] Harpocration, Δημοσθένους ἐν τῷ πρὸς Νικόστρατον. Παμβωτάδαι τῆς Ἐρεχθίδος δῆμος. Suidas gives the name of the deme as Παμβῶται. On προὔξηνσεν, 'introduced,' cf. Or. 37 (Pant.) § 11.

ἐπὶ ὀκτῶ ὀβολοῖς τὴν μνᾶν τοῦ μνηὸς ἐκάστου] 'Who lent me the money at an interest of 8 obols per mina per month,' i. e. 12×8 obols per 600 obols (or '16 per cent.),' per annum. When the interest is quoted at so many obols per mina per month, we have simply to double the number of obols to find the rate per cent. per annum. Thus ἐπὶ πέντε ὀβολοῖς is 10 per

μηνὸς ἐκάστου. λαβὼν δὲ τὸ ἀργύριον οὐχ ὅπως χάριν
 τινά μοι ἀποδίδωσιν ὧν εὖ ἔπαθεν, ἀλλ' εὐθέως ἐπε-
 βούλευσέ μοι, ἵν' ἀποστερήσειε τὰργύριον καὶ εἰς ἔχ-
 θραν κατασταίῃ, καὶ ἀπορούμενος ἐγὼ τοῖς πράγμασι
 νέος ὧν ὅ τι χρησαίμην, καὶ ἄπειρος πραγμάτων, ὅπως
 μὴ εἰσπράττοιμι αὐτὸν τὰργύριον οὐ ἢ συνοικία ἐτέθη,
 14 ἀλλ' ἀφείην αὐτῷ. πρῶτον μὲν οὖν ἐπιβουλεύει μοι
 μετὰ τῶν ἀντιδίκων, καὶ πίστιν αὐτοῖς δίδωσιν· ἔπειτ' 1251

cent.: again ἐπὶ δραχμῇ (i.e. ἐφ' ἕξ ὀβολοῖς) is 12 per cent. and ἐπὶ τρίτῳ ἡμωβελίῳ (i.e. 2½ obols per mina per month) is 5 per cent. per annum. From 12 to 18 per cent. appear to have been the commonest rates of interest at Athens. (For this, and another Athenian method of reckoning rates of interest, see Donaldson's *Greek Grammar* ad fin., or *Dict. Antiq.* s. v. *Fenus*.)

§§ 13 cont.—15. *As soon as he had got the sixteen minae, so far from being grateful, he actually laid a plot to rob me of them, calculating on my being driven by my youthful inexperience into foregoing the attempt to recover the money which he owed me. First, as I was then engaged in lawsuits against my relations, he made overtures to them and pledged himself to make common cause with them. Next, as he was acquainted with my proposed pleadings, he disclosed them to my opponents, and further got me condemned to pay a fine in a case for which I had never really received a summons, though he fraudulently entered the name of his brother Arethusius as one of the witnesses to the summons alleged. Moreover, in the event of my bringing to a preliminary hearing the lawsuits which I had obtained leave to institute*

against my relations, they were preparing to inform against me as a debtor to the treasury and to get me thrown into prison. Lastly, Arethusius actually got me condemned as a debtor to the treasury, made a forcible entry into my house, and carried off all my furniture, though it was worth far more than the 'debt' in question.

οὐχ ὅπως] *non modo non.* Lit. I do not say that he did, (because he did not do it). Trans. 'so far from making any grateful return, &c.'

ὅ τι χρησαίμην] 'What to do with (how to treat) the matter.' Or. 40 § 18 and Lysias 9 § 5 ἀπορούμενος δὲ καὶ συμβουλευόμενός τινι τῶν πολιτῶν τί χρῆσωμαι τῷ πράγματι.

ἵν' ἀποστερήσειε...καὶ ἀπορούμενος ἐγὼ κ.τ.λ., ὅπως μὴ εἰσπράττοιμι] ὅπως μὴ is somewhat out of place, indeed ὅπως is really superfluous, as the whole sentence depends on the particle of purpose ἵνα.—ἀφείην, § 8.

14. τῶν ἀντιδίκων] Referring principally to his opponent Phormion (cf. § 9, διαφόρως ἔχειν τῷ Φορμίῳ, and § 14 ad fin. τῶν οἰκείων τῶν ἀδικούντων με). But a litigious person like Apollodorus doubtless had many such opponents, even apart from those whose lawsuits are expressly

ἀγώνων μοι συνεστηκότων πρὸς αὐτοὺς τοὺς τε λόγους ἐκφέρει μου εἰδῶς, καὶ ἐγγράφει^s τῷ δημοσίῳ

^s καὶ ἐκγράφει FΦ. om. Σ.

recorded in the orations that have come down to us (see Or. 36 § 53).

τοὺς λόγους ἐκφέρει μου εἰδῶς] ‘Divulges my arguments, with which he was acquainted.’

ἐγγράφει τῷ δημοσίῳ ἀπρόσκλητον κ.τ.λ.] Lit. ‘registers (against me) for the state-treasury an unsummoned fine of 610 drachmae arising from production of property in court,’ i. e. ‘enters me as a state-debtor to the amount of 610 drachmae, demanded from me without formal citation, as a fine for non-production of property in court’; or, as Prof. Kennedy renders it, ‘registers (against me) a fine to the treasury... upon a writ of *exhibit* of which I had no notice by legal summons.’

The note on this sentence in Jerome Wolf’s edition of Demosthenes (A. D. 1547) deserves to be quoted not only for its modesty and candour, but also as an illustration of the difficulties which embarrassed a commentator in the sixteenth century, owing to the inadequacy of the books of reference then accessible. ‘*Sententia quae sit, Oedipus divinet. Me et Budaeus* (sc. Budaei commentarii linguae Graecae) *et lexica Graeca Latinaque omnia destituunt. Quaesivi ἀπόκληρος* (sic), *quaesivi ἐμφανής, quaesivi κατάστασις, quaesivi ἐξ ἐμφανῶν καταστάσεως. Sed aut muta aut ἀπροδιόνυσα omnia. Doctiores, si boni viri sunt, explicanto potius, quam me sugillant.*’

Before entering on the details,

it may be well to explain the general drift of the passage. Apollodorus is engaged in a variety of lawsuits, in one of which we must suppose that he was alleged to be in possession of certain articles, probably documents, either actually belonging to one of his opponents or such that the latter had a legal right to demand production of them. The proper course on the part of Nicostratus, who had made common cause with one of these opponents, would have been to serve Apollodorus with a summons, duly attested by witnesses, requiring him to produce the articles in question. If Apollodorus had, without assigning a legally valid reason, refused to do so, Nicostratus would have been entitled to have a fine levied on Apollodorus and to get him entered as a debtor to the state for the amount of that fine. Instead of this, it appears that Nicostratus served no summons on Apollodorus (the ἐπιβολή was ἀπρόσκλητος), thus giving the latter no opportunity for shewing cause against the production of the articles demanded; he then proceeded to obtain a verdict against his opponent *in contumaciam*, and to have him registered as owing 610 drachmae to the public treasury. Cf. Meier and Schömann, *Att. Process*, p. 758.

ἐγγράφει] ‘registers (against me),’—a common term for a formal entry or registration, especially of a debt or fine. Or. 43 § 71 *lex*, ἐγγραφόντων οἱ ἄρ-

ἀπρόσκλητον ἐξ ἐμφανῶν καταστάσεως ἐπιβολὴν[†] ἐξ-
 ακοσίας καὶ δέκα δραχμὰς, διὰ Λυκίδου τοῦ μυλωθροῦ
 ποιησάμενος τὴν δίκην. κλητῆρὰ δὲ κατ' ἐμοῦ τὸν τε^{''}

[†] Valesius ad Harpocrationem p. 52. ἐπιβολὴν libri.

^{''} Bekker. om. Ζ cum Σ (prima manu). 'τε in margine a manu prima Σ' Dind.

χοντες... τοῖς πράκτορσιν (the collectors) ὃ τῷ δημοσίῳ γίγνεται. Or. 27 § 38 προσοφείλουτας ἡμᾶς ἐνέγραψεν. Or. 25 (Aristog. a) § 4, ὀφείλοντα τῷ δημοσίῳ καὶ ἐγγεγραμμένον ἐν ἀκροπόλει (cf. *ib.* § 70, ἐγγράφονται πάντες οἱ ὀφλισκάνοντες, ὅρος δ' ἡ σάνις ἢ παρὰ τῇ θεῇ κειμένη). Or. 40 § 23.

τῷ δημοσίῳ] For τὸ δημόσιον in the sense of τὸ κοινὸν 'the treasury,' cf. Isaeus, Or. 10 § 20 ἐμοὶ τι ἀτύχημα πρὸς τὸ δημόσιον συνέβη. Mid. § 182 and Deinarchus, Or. 2 § 2, ὀφείλων τῷ δημοσίῳ. See Or. 39 (Boeot.) § 14.

ἀπρόσκλητον] This is the reading of the *codex Augustanus primus* (A¹), first accepted by Reiske for the *vulgata lectio ἀπόκληρον* which is unintelligible. ἀπρόσκλητος ἐπιβολή 'a fine without a citation,' here means 'a fine inflicted in a case for which no citation has been issued.' Similarly *infra* § 15 ἀπρόσκλητον δίκην and Mid. § 92 τὴν κατὰ τοῦ δαιτητοῦ γνώσιν, ἣν ἀπρόσκλητον κατεσκεύασεν, αὐτὸς κυρίαν ἐαυτῷ πεποιήται.

ἐξ ἐμφανῶν καταστάσεως κ.τ.λ.] 'a fine upon a writ of *exhibit*,' lit. 'arising out of an ἐμφανῶν κατάστασις, i. e. a case of formal production of property in court.' Isaeus, Or. 6 § 31, ἀπῆται τὸν Πυθόδωρον τὸ γραμματεῖον καὶ προσεκαλέσατο εἰς ἐμφανῶν κατάστασιν. καταστάντος δὲ ἐκείνου πρὸς τὸν ἄρχοντα, ἔλεγεν ὅτι βούλοιτ' ἀνελέσθαι τὴν διαθήκην.

Dem. Or. 56 § 3 τὸ ἐνέχυρον καθίστησιν εἰς τὸ ἐμφανές. *ib.* § 38, ἐὰν μὴ παρασχῆς τὰ ὑποκείμενα ἐμφανῇ. Or. 52 § 10 μάρτυρας ἔχων ἤξιλον ἐμφανῇ καταστήσασιν τὰ χρήματα. Cf. the Roman *exhibitio* (Ulpian, Digest, 29, 3, 2, *exhibitio tabularum testamenti*); and *actio ad exhibendum* (Ulpian, Digest, 43, 29, 1, *exhibere est in publicum producere*). Hence comes our common legal term, an *exhibit* or writ of production. With ἐμφανῇ καταστήσασιν, we may further compare our ordinary phrase *sub paena duces tecum*, used when a solicitor (for instance) holds a document which the court can require to be put in, for the furtherance of the ends of justice. Cf. Meier and Schömann, p. 374.

ἐπιβολὴν] Harpocr. ἐπιβολή ἢ ζημία. Lysias, Or. 20 § 14 ἠνάγκαζον, ἐπιβολὰς ἐπιβάλλοντες καὶ ζημιούντες, and *ib.* Or. 30 § 3. ἐπιβολὴν is a certain correction for ἐπιβουλήν, a mistake possibly due to τὴν ἐπιβουλήν in the middle of the next section. Another instance of the same confusion may be noticed in Isocr. Paneg. § 148 διαμαρτῶν τῆς ἐπιβουλής where the best ms wrongly has ἐπιβολῆς.

διὰ Λυκίδου... ποιησάμενος τὴν δίκην] 'having got the case brought on by means of Lycidas', who as the tool of Nicos-tratus was either a merely nominal prosecutor or possibly a venal arbitrator. For this use

ἀδελφὸν τὸν αὐτοῦ^v Ἀρεθούσιον τοῦτον ἐπιγράφεται, οὐπὲρ ἐστὶ τάνδράποδα ταῦτα, καὶ ἄλλον τινά· καὶ παρεσκευάζοντο, εἰ ἀνακρinoίμην κατὰ τῶν οἰκείων τῶν ἀδικούντων με τὰς δίκας ἅς εἰλήχειν αὐτοῖς, ἐνδεικνύμαι με^w καὶ ἐμβάλλειν εἰς τὸ δεσμοτήριον. ἔτι 15 δὲ πρὸς τούτοις ὁ Ἀρεθούσιος^x ἀπρόσκλητόν μου ἔξακοσίω^y καὶ^z δέκα δραχμῶν δίκην καταδικασάμενος ὡς ὀφείλοντος^z τῷ δημοσίῳⁿ, κλητῆρας ἐπιγραψάμενος καὶ

^v Bekker cum A¹r. + τὸν Z cum FΣΦ.

^w ἐνδεικνύμαι με [ὡς ὀφείλοντα τῷ δημοσίῳ] Z (Sauppe). ἐνδεικνύμαι με Bekker. 'cf. § 15 l. 4. fortasse verba ὡς—δημοσίῳ etiam hoc loco a grammatico addita sunt' Z.

^x Bekker cum libris. ὁ Ἀρεθούσιος om. Z (Sauppe).

^y om. Bekker cum libris. addidit Ullrichius, quaest. Aristoph. i p. 40. [ἔξακοσίω καὶ] δέκα Z.

^z Reiske. ὀφείλοντα libri.

^a ὡς ὀφείλοντος τῷ δημοσίῳ om. Z (Sauppe), seclisit Bekker st.

of διὰ referring to a mere 'cat's-paw' see note on Or. 45 § 31.

κλητῆρα ... ἐπιγράφεται] 'enters as witness to the citation.' Mid. § 87 κλητῆρα οὐδ' ὄντινοῦν ἐπιγραψάμενος, and Or. 54 § 31 ἐπιγράφεται μάρτυρας, i.e. 'endorses on the deposition the names of certain persons as witnesses.'

ἀνακρinoίμην... τὰς δίκας] 'in the event of my bringing to a preliminary hearing the suits which I had instituted against my relatives (Phormion, &c) who were doing me wrong.' Harpocr. ἀνάκρισις ἐστὶν ἐξέτασις ὑφ' ἑκάστῃς ἀρχῆς γινομένη πρὸ τῶν δικῶν περὶ τῶν συντεινόντων εἰς τὸν ἀγῶνα· ἐξετάζουσι δὲ καὶ εἰ ὅλως εἰσάγειν χρή. Cf. Meier and Schömann, p. 622.

ἐνδεικνύμαι με] 'to lay an information (ἐνδείξις) against me' for undertaking a prosecution, while still a debtor to the trea-

sury. Or. 58 (Theocrin.) § 14 κελεύει (ὁ νόμος) κατὰ τε τῶν ὀφειλόντων τῷ δημοσίῳ τὰς ἐνδείξεις τὸν βουλόμενον ποιεῖσθαι τῶν πολιτῶν... By ἐνδείξεις is meant a criminal information against a person acting when under legal disability. It was brought in writing before the Archon and was a very summary process. Hermann, *Public Antiquities*, § 137, 11. (Cf. Or. 39 § 14 and Pollux there quoted.)

15. ἀπρόσκλητος δίκη] Hesy-chius, ἢ μὴ τυχοῦσα τῶν καλουμένων κλητόρων κατὰ τὸν νόμον· καὶ διὰ τοῦτο οὐκ ἦν εἰσαγώγιμος.

κλητῆρας ἐπιγραψάμενος] i. e. 'having endorsed it with the names of witnesses to a citation.' As the δίκη was ἀπρόσκλητος, i.e. as there were no κλητῆρες, this endorsement was virtually a forgery.

εἰσελθὼν εἰς τὴν οἰκίαν βία τὰ σκευή πάντα ἐξεφόρησε, πλέον ἢ εἴκοσι μινῶν ἄξια, καὶ οὐδ' ὀτιοῦν κατέλιπεν. ὅτε δὲ τιμωρεῖσθαι ὤμην δεῖν καὶ ἔκτισας^b τῷ δημοσίῳ τὸ ὄφλημα, ἐπειδὴ ἐπυθόμην τὴν ἐπιβουλήν, ἐβάδιζον^b ἐπὶ τὸν κλητῆρα τὸν ὁμολογοῦντα κεκλητευκένοι τὸν Ἀρεθοῦσιον^c τῆς ψευδοκλητείας κατὰ τὸν

^b Σ. ἐκτίσας...καὶ ἐβάδιζον Bekker.

^c Bekker. κεκλητευκένοι, τὸνδ' Ἀρεθοῦσιον, Z cum ΣΦ.

τὰ σκευή πάντα ἐξεφορήσῃ] 'carried out all my furniture' (i.e. distrained upon me for my alleged debt). Or. 22 (Androt.) § 57, βαδίζειν ἐπ' οἰκίας καὶ σκευή φέρειν μηδὲν ὀφειλόντων ἀνθρώπων. Arethusius seized property worth more than 20 minae, although the 'debt' amounted to little more than six. (610 dr. = 6 m. 10 dr.)

§§ 15—18. *On my proceeding against Arethusius for fraudulent citation, he came into my property at night and laid waste my orchard with all its fine fruit-grafts, its vines and its olive-trees. Further they put up a boy of free birth to go in broad daylight and pluck the flowers of my rose-bed, hoping I would mistake him for a slave and strike him, and thus make myself liable to an indictment for assault. In this they were disappointed. Thereupon, as soon as I had brought to the preliminary stage before the magistrate my indictment of Arethusius for fraudulent citation, and was on the point of taking it before the jury, he lay in wait for me when I was coming up from the Peiraeus late at night and violently assaulted me, and was only prevented from dashing me into the quarries by some people hearing my cries and rushing to the rescue.*

Not many days after, I brought my case before the jury and with the greatest ease got Arethusius convicted. Though the jury proposed to condemn him to death, I begged them to acquiesce in the penalty proposed by my opponents themselves, a fine of one talent.

ὅτε δὲ—ἐβάδιζον] lit. 'When I thought it my duty to avenge myself, and on hearing of the plot, was proceeding, after payment of the debt, to take measures against Arethusius, &c.' In translating the whole sentence it is convenient to omit ὅτε, to render ὤμην and ἐβάδιζον as principal verbs, and to begin a new English sentence with the first words of the apodosis, ἐλθὼν εἰς τὸ χωρίον κ.τ.λ.

τὸν Ἀρεθοῦσιον] to be taken in apposition with τὸν κλητῆρα, unless indeed the words are only an interpolated explanation of τὸν κλητῆρα (cf. § 10).

τῆς ψευδοκλητείας] Harpocr. ψευδοκλητεία ὄνομα δίκης ἐστίν, ἣν εἰσίασιν ἐγγεγραμμένοι ὀφείλειν τῷ δημοσίῳ, ἐπειδὴν αἰτιῶνται τινας ψευδῶς κατεσκευάσθαι κλητῆρας καθ' ἑαυτῶν πρὸς τὴν δίκην ἀφ' ἧς ὦφλον. Meier and Schömann, p. 319.

The genitive is here used after βαδίζειν ἐπὶ τινα on the analogy of the construction

νόμον, ἐλθὼν εἰς τὸ χωρίον τῆς νυκτός, ὅσα ἐνῆν φυτὰ ἀκροδρῶν γενναῖα ἐμβεβλημένα, καὶ τὰς ἀναδενδρά-

commonly found after διώκειν, εἰσάγειν and ἐπεξέρχασθαι (in the legal sense). Plato, Leg. 886 B, ἐπεξίτω φόνου τῷ κτείναντι. Or. 49 (Apollodorus v. Timotheus) § 56 μὴ... ἐπὶ τόνδε κακοτεχνῶν ἔλθοιμι. The phrase βαδίζειν ἐπὶ τινα is found in a similar sense in Or. 52 (Apollod. v. Callippus) § 32 ἐπὶ τὸν Κηφισιάδην βαδίζειν. Cf. 56 §§ 15, 18, and 42 § 12 εἰς τὸ δικαστήριον βαδίζειν.

ὅσα ἐνῆν φυτὰ—διαθεῖεν] ‘he cut off all the choice fruit-grafts that were there, and the trained vines besides; he also broke down the nursery-beds of olive-trees set in rows around my plantations, making worse havoc than would ever be made, even by enemies in war.’

ἀκροδρῶν] The primary sense of the word is ‘fruit,’ the secondary ‘fruit-trees.’ Though used in early writers of any edible fruit, later authorities restrict it to the hard-shelled varieties alone. Cramer’s *Anecdota Oxoniensia* III 357 Ὀρφεὺς ἀκρόδρνα πᾶσαν ὀπώραν καλεῖ. Γάληνος δὲ καὶ οἱ τὰ φυτουργικὰ συνταξάμενοι ἀκρόδρνα φασὶ τὰ σκέπην ἔχοντα, οἶον ῥόιας, κάρνα, ἀμυγδάλας καὶ εἴ τι ὅμοιον (pomegranates, nuts, almonds and the like), ὀπώρας δὲ τὰ ἀσκεπῆ ὡς μῆλα, ἀπίους καὶ τὰ ὅμοια (apples, pears, &c). Similarly Democritus, *Geoponica* x 74, ἀκρόδρνα καλεῖται ὅσα ἔξωθεν κέλυφος ἔχει. In Xenophon, *Oeconom.* 19 § 12 we have τᾶλλα ἀκρόδρνα πάντα after mention of vines and fig-trees, and in Plato, *Critias*, 115 B, τὸν ἡμερον καρπὸν, τὸν τε ξηρὸν (different kinds of grain)... καὶ τὸν ὄσος ξύλινος (fruits of hard rind).

παιδιάς τε ὅς ἔνεκα ἡδονῆς τε γέγονε δυσθησαύριστος ἀκροδρῶν καρπός, ὅσα τε παραμύθια πληθμονῆς μεταδῶρπια ἀγαπητὰ κάμνοντι τίθεμεν. Aristot. *Hist. An.* VIII 28, 4 οὐτ’ ἀκρόδρνα οὐτ’ ὀπώρα χροῖνος. Athenaeus, II § 38 p. 52, οἱ Ἀττικοὶ καὶ ἄλλοι συγγραφεῖς κοινῶς πάντα τὰ ἀκρόδρνα χάρνα λέγουσιν, *ib.* III § 20 p. 81, Γλαυκίδης δὲ φησιν ἄριστα τῶν ἀκροδρῶν εἶναι μῆλα κυδῶνια (quinces), φαύλια, στρουθία (two other kinds of quince).

The etymological formation of the word, referring as it does originally to what we may call the ‘tree-tips,’ or the fresh growth at the furthest extremities of the branches, may be illustrated by the passage in Hesiod’s *Works and Days* 231, οὐρεσι δὲ δρυὸς ἄκρη μὲν τε φέρει βαλάνους, μέσση δὲ μελίσσας, and Theocritus, xv 112, πὰρ δέ οἱ ὠρια κέεται, ὅσα δρυὸς ἄκρα φέροντι.

[It seems to me that ἀκρόδρνα meant trees which produced fruit chiefly on the upper boughs, as distinguished from vines, from which the grapes hang in clusters nearer to the ground. The edible acorn, βάλανος, may have been specially so described, if we limit δρυὸς to the sense of ‘oak-tree.’ P.]

γενναῖα] ‘of a choice kind,’ ‘of a good stock.’ Plato, Leg. 844 E, τὴν γενναίαν νῦν λεγομένην σταφυλὴν ἢ τὰ γενναῖα σῦκα ἐπονομαζόμενα ὀπωρίζειν. (Cf. *nobilis* in Martial III 47, 7 *frutice nobili caules* and as an epithet of *uva* *ib.* IV 44, 2 and *olivae* v 78, 19.) Athenaeus, xiv § 68 p. 653, γενναῖα λέγει ὁ φιλόσοφος (sc. Plato *u. s.*), ὡς καὶ

δας ἐξέκοψε, καὶ φυτευτήρια ἐλαῶν¹ περιστοίχων κατέκλασεν, οὕτω δεινῶς ὡς οὐδ' ἂν οἱ πολέμοιοι διαθεῖεν.
16 πρὸς δὲ τούτοις μεθ' ἡμέραν παιδάριον ἄστον εἰσπέμ-

^a Bekker cum rA¹. ἐλαιῶν Z cum FΣΦ.

'Ἀρχίλοχος· παρέλθε, γενναῖος γὰρ εἶς. ἢ τὰ ἐπιγεγεννημένα, οἷον τὰ ἐπέμβεβλημένα· ὁ γὰρ Ἀριστοτέλης καὶ ἐπεμβολάδας ἀπίους ὀνομάζει τὰς ἐγκεκεντρισμένας. (The second explanation is clearly wrong. I only cite it to illustrate the next note.)

ἐμβεβλημένα] 'grafted.' Harpocration s. v. ἀντὶ τοῦ ἐγκεκεντρισμένα Δημοσθένης ἐν τῷ πρὸς Νικόστρατον, καὶ Ἀριστοτέλης δ' ἐμβολάδας ἀπίους λέγει τὰς τοιαύτας.

ἀναδενδράδας] 'trained vines' growing on trees, 'tree-vines.' The climbing vine is contrasted with the ground-vine of Lesbos in the *Pastor* of Longus, II 1 πᾶσα κατὰ τὴν Λέσβον ἄμπελος ταπεινὴ, οὐ μετέωρος οὐδὲ ἀναδενδράς, ἀλλὰ κάτω τὰ κλήματα ἀποτείνουσα καὶ ὥσπερ κιττὸς νεμομένη. Cf. Polyb. xxxiv 11 § 1, ἀναδενδρίτης οἶνος and *Geoponica* v 61, ἀναδενδρίτης, also Strabo v p. 231, τὸ δὲ Καίκουβον (*Caecubum*) ἐλωδὲς ὃν εὐνοιοτάτην ἄμπελον τρέφει τὴν δενδρῆτιν. Columella iv 1, 8, *vitis arbutiva*, and Pliny N. H. xvii 23 § 199 sqq. *nobilis vina non nisi in arbustis gigni*. The best trees for the purpose were, according to Pliny, the elm (*amicta vitibus ulmo* of Hor. Ep. i 16, 3) and the poplar; next to these the ash, the fig-tree and the olive. (See further St John's *Manners and Customs of Ancient Greece*, II 344—8.)

φυτευτήρια] nursery-beds of young olive-trees.

ἐλαῶν περιστοίχων] i.e. 'olives

planted round the beds of the garden.' Harpoc. περιστοιχοὶ Δημοσθένης ἐν τῷ πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων. Δίδυμος δὲ τι γένος ἐλαιῶν περιστοιχοῦς καλεῖ ἄς Φιλόχορος στοιχάδας προσηγόρευσε. μήποτε ('perhaps') δὲ περιστοιχοῦς κέκληκεν ὁ ῥήτωρ τὰς κύκλω περὶ τὸ χωρίον ἐν στοίχῳ πεφυκίας (cf. Ar. Ach. 997, περὶ τὸ χωρίον ἄπαν ἐλαῶν ἐν κύκλω). Pollux v 36, Σόλων δὲ καὶ στοιχάδας τινας ἐλάας ἐκάλεσε ταῖς μορφαῖς ἀντιτιθεῖς, ἴσως τὰς κατὰ στοίχον πεφυτευμένας [Lucr. v 1373, *utque olearum caerulea distinguens inter plaga currere posset*. P.] On the laws protecting the cultivation of the olive in Attica and providing for the preservation of the sacred olives (or μορφαῖ) and even of the hollow trunk of an olive tree, see the interesting speech of Lysias, Or. 7, περὶ τοῦ σηκοῦ, esp. § 2, ἀπεγράφην τὸ μὲν πρῶτον ἐλαίαν ἐκ τῆς γῆς ἀφανίζεις, καὶ πρὸς τοὺς ἐωνημένους τοὺς καρποὺς τῶν μοριῶν πυνθανόμενοι προσήσαν ... νυνὶ με σηκὸν φασιν ἀφανίζεις. See also Dem. Or. 43 (Macart.) §§ 69—71.

16. παιδάριον ἄστον] i.e. a little boy, who was free born. It was expected that Apollodorus would have mistaken the boy for a slave and either bound or beaten him, thereby rendering himself liable to an indictment for assault (ὑβρις).

Aeschines (Timarch. § 16) quotes a 'law of Solon': ἄν τις Ἀθηναίων ἐλεύθερον παῖδα ὑβρίσῃ,

ψαντες διὰ τὸ γείτονες εἶναι καὶ ὄμορον τὸ χωρίον, ἐκέλευον τὴν ῥοδωνιὰν βλαστάνουσαν ἐκτίλλειν, ἴν', εἰ

γραφέσθω ὁ κύριος τοῦ παιδὸς πρὸς τοὺς θεσμοθέτας... ἔνοχοι δὲ ἔστωσαν ταῖσδε ταῖς αἰτίας καὶ οἱ εἰς τὰ οἰκετικά σώματα ἔξαμαρτάνοντες, and similarly Dem. Mid. §§ 47—48. According to these two passages, it was permissible to institute a *γραφὴ ὕβρεως* even for outrage done to a slave, and though the text appears at first sight to imply that in such a case an indictment could not be brought, yet all that is necessarily meant is that if the lad maltreated were free born, the indictment (however unjustifiable in the present instance) would have been easier to bring forward than in the case of a slave. (Becker's *Charicles* III p. 31—32 = p. 367 of English Abridgement. Hermann, *Privatalt.* § 60.)

ἐκέλευον—ἐκτίλλειν] 'prompted him to pluck off the flowers of my rose-bed.' ἐκέλευον, 'put him up to...,' 'persuaded him.' [ἐκτίλλειν is perhaps 'to pick off the young shoots as they were growing.' P.]

The rhetorician Hermogenes quotes the phrase τὴν ῥοδωνιὰν ἐκτίλλειν as an instance of ἀφέλεια (Spengel, *Rhetores Graeci* II 353). Harpocration has the following article, ῥοδωνιά· Δημοσθένης ἐν τῷ περὶ τῶν Ἀρεθουσίου ἀνδραπόδων. ῥοδωνιά ἐστὶν ἢ τῶν ῥόδων φυτεία ὡσπερ ἰωνιά ἢ τῶν ἰων, ὡς Ἐκαταῖος ἐν α' περιηγήσεως δηλοῖ. Similarly Pollux I 229, who gives ἰωνιά as the only parallel he can remember to the formation of the word ῥοδωνιά (cf. *rosaria*, *violaria*).

To a modern reader, the mention of a rose-bed is immediately suggestive of a pleasure

garden; but whether we look to the character of its owner who seems to have been a dry man of business and little more, or to the context with its fruit-trees, its vines and its olives, we are driven to the conclusion that his roses were mere articles of trade, grown to be sold in town for crowns and garlands. Just so, among the blessings of Peace, in the *Pax* of Aristophanes, 577, we find 'the violet-bed beside the well' mentioned in the very same breath as 'cakes and figs and myrtle-berries, sweet new wine and olive-trees.'

In Or. 50 § 61, Apollodorus says of his garden, τὸ ὕδωρ... ἐκ τῶν φρεάτων ἀπέλιπεν, ὥστε μὴδὲ λάχανον γενέσθαι ἐν τῷ κήπῳ.

The Greek appreciation of the rose seems to have been mainly utilitarian. Thus it is under the head of στεφανώματα that Theophrastus dilates on the many beauties of the rose and on its numerous varieties (πλήθει τε φύλλων καὶ ὀλιγότητι καὶ τραχύτητι καὶ λειότητι καὶ χροιά καὶ εὐοσμῷ, *Hist. Plant.* VI 6). To the Greek, says Ruskin, 'a rose was good for scent, and a stream for sound and coolness; for the rest one was no more than leaves, the other no more than water' (*Modern Painters* III 4 13 § 13). 'A Greek despises flowers,' says Mr Bent, unless 'they are sweet-smelling or useful for something' (*Cyclades*, p. 276). It is indeed a noteworthy fact, attributable partly to the insignificance of the Attic flora, and still more to the defective development of Greek taste in this particular, that in what is known as the

καταλαβὼν αὐτὸν ἐγὼ δῆσαιμι ἢ πατάξαιμι ὡς δούλον
 ὄντα, γραφὴν με γράψαιμιτο ὕβρεως. ὡς δὲ τούτου 1252
 διήμαρτον, καὶ γὰρ μάρτυρας μὲν ὧν ἔπασχον ἐποιούμην,
 αὐτὸς δ' οὐδὲν ἐξημάρτανον εἰς αὐτοὺς, ἐνταῦθα ἤδη
 17 μοι ἐπιβουλεύουσι τὴν μεγίστην ἐπιβουλήν· ἀνακεκρι-
 μένου γὰρ ἤδη μου κατ' αὐτοῦ τὴν τῆς ψευδοκλητείας
 γραφὴν καὶ μέλλοντος εἰσιέναι εἰς τὸ δικαστήριον,
 τηρήσας με ἀνιόντα ἐκ Πειραιῶς ὄψε' περὶ τὰς λιθοτο-
 μίας παίει τε πύξ καὶ ἀρπάζει μέσον, κὰν ἐώθει^ο με εἰς

^ο ἀρπάζει με (sic Σ) μέσον καὶ ἄθει Ζ. 'Malim ἐώθει' Bekker.
 κὰν pro καὶ G. H. Schaefer.

best period of Greek literature there is scarcely a single instance of a refined appreciation of the attractions of a flower-garden. One of the rare exceptions is the mention of κήπους εὐώδεις in Ar. Aves 1067. The passage in Eur. El. 777, κυρεῖ δὲ κήπους ἐν καταρρίτοις βεβῶς, δρέπων τερέλης μυρσίνης κάρῃ πλόκους, is hardly an exception, as the epithet 'well-watered' is somewhat prosy, and the context shows that the only reason why Aegisthus is in his garden is for the purely practical object of making himself a myrtle-wreath for his sacrifice to the mountain-nymphs. (Cf. Becker's *Charicles* p. 203—4, esp. 1 p. 349 sqq., of the 2nd German ed. with the excellent addenda of K. F. Hermann; also the latter's *Privatalt.* § 15 note 20 p. 106 ed. Blümner; St John's *Manners and Customs of Ancient Greece*, 1 301—334, esp. p. 304, 305; Büchschütz, *Besitz u. Erwerb* p. 72, and Schleiden, *die Rose*.)

17. ἀνακεκριμένου] passive form in middle sense (§ 14 ἀνακρивоιμην τὰς δίκας): 'when I had brought to the preliminary ex-

amination my indictment for false citation, &c.'

τηρήσας—ἐβοήθησαν] The attack reminds us partly of the murder mentioned by Cicero, pro Cluentio § 37, in *arenarias quasdam extra portam Esquilinam perductus occiditur*.

The quarries referred to in the text were possibly near the Museum hill where the Long Walls leading to the Peiraeus strike the wall enclosing Athens itself, or still more probably at a point immediately outside the ἄστυ, south of the Peiraic gate of Athens. In the excellent *Atlas von Athen* by Dr E. Curtius, the third map indicates 'recent quarries' at this point, just north of the ancient βάρραθρον. In Murray's *Greece*, 1884, 1 341, the incident described in the text is oddly supposed to have happened to Demosthenes.

πύξ] Or. 47 § 38 παίει πύξ τὸ στόμα.

κὰν ἐώθει] The MSS have καὶ ἄθει, 'struck me with his fist and gripped me round the waist and was pushing me into the quarries, had not some people, hearing my cries, come up and

τὰς λιθοτομίας, εἰ μὴ τινες προσιόντες, βοῶντός μου ἀκούσαντες, παρεγένοντο καὶ ἐβοήθησαν. ἡμέραις δ' οὐ πολλαῖς ὕστερον εἰσελθὼν εἰς τὸ δικαστήριον πρὸς ἡμέραν διαμεμετρημένην, καὶ ἐξελέγξας αὐτὸν τὰ ψευδῆ κεκλητευκότα καὶ τὰ ἄλλα ὅσα εἴρηκα ἡδικηκότα, εἶλον. καὶ ἐν τῇ τιμῆσει βουλομένων τῶν δικαστῶν θανάτου τιμῆσαι αὐτῷ, ἐδεήθην^f ἐγὼ τῶν δικα- 18

^f ἐδεήθην Bekker cum A¹r. + μὲν Z cum BF et editione Aldina (ἐδεήθημεν ΣΦ).

rescued me.' This is more graphic than the sense given by Schaefer's emendation *κἂν ὤθει*.

εἰσελθὼν...πρὸς ἡμέραν διαμεμετρημένην] 'having entered into court upon a day divided out among several causes, i.e. the day on which I came into court was allotted to several law-suits, and the number of motions was so great that the time at my disposal was therefore very limited. Apollodorus wishes to indicate the ease with which after a necessarily short speech he had got a conviction against Arethusius. Cf. Aeschines, *Fals. Leg.* § 126, *ἐνδέχεται δὲ τὸ λοιπὸν μέρος τῆς ἡμέρας ταῦτα πράξαι* (i.e. *βασανίσαι*): *πρὸς ἕνδεκα γὰρ ἀμφορέας ἐν διαμεμετρημένῃ τῇ ἡμέρᾳ κρίνομαι*. *Dem. Fals. Leg.* § 120, *ὃς γὰρ ἀγῶνας καινοὺς ὥσπερ δράματα, καὶ τούτους ἀμαρτύρους πρὸς διαμεμετρημένην τὴν ἡμέραν αἰρεῖς διώκων, δῆλον ὅτι πάνδεινος εἶ τις*. *Harpoer. s. v. μέρος τι ὕδατός ἐστι πρὸς μεμετρημένον ἡμέρας μέρος ῥέον· διεμετρεῖτο δὲ τῷ Πισειδεῶνι...i.e. the standard length of time for calculating the measurement of the *Clepsydra* was taken from a day near the end of our December. The length of the twelfth part of the day would*

vary with the time of the year, and the running out of the water would indicate the lapse of a particular portion of the whole day. Thus the water-clock might indicate a time equivalent to (say) the fourth part of the shortest day (Dec. 21) and this length of time might be taken as a unit of the measurement during the rest of the year (Heslop's note on *Fals. Leg. l.c.*; see however Meier and Schömann p. 716).

τὰ ψευδῆ κεκλητευκότα] § 15.

18. *ἐν τῇ τιμῆσει*] In an *ἀγῶν τιμητός*, the declaration of the first verdict, that of condemnation, was followed by the *τίμησις* or fixing of the penalty, with the *ἀντίτιμησις*, in which latter the defendant on *his* part submitted to the court an alleviation of the penalty claimed by the plaintiff. (Plato *Apol.* p. 36 A.) *τιμῆσαι...ἐτιμῶντο*] The active is used of the court, the middle of the parties to the suit (*αὐτοί* sc. the defendant Arethusius and his friends). Plato *Apol.* p. 38 A *εἰ μὲν γὰρ ἦν χρήματα*, says Socrates, *ἐτιμῆσάμην ἂν χρημάτων ὅσα ἐμελλον ἐκτίσειν· νῦν δὲ οὐ γὰρ ἔστιν, εἰ μὴ ἄρα ὅσον ἂν ἐγὼ δυναίμην ἐκτίσαι τοσούτου βούλεσθέ μοι τιμῆσαι* (of the Jury).

στῶν μηδὲν δι' ἐμοῦ τοιοῦτον πράξαι, ἀλλὰ συγχωρηῆσαι ὅσουπερ αὐτοὶ ἐτιμῶντο, ταλάντου, οὐχ ἵνα μὴ ἀποθάνῃ ὁ Ἀρεθούσιος (ἄξια γὰρ αὐτῷ θανάτου εἶργαστο εἰς ἐμέ), ἀλλ' ἵν' ἐγὼ Πασίωνος ὦν καὶ κατὰ ψήφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτονῶς εἶην. ὡς δ' ἀληθῆ εἶρηκα πρὸς ὑμᾶς, τούτων ὑμῖν μάρτυρας πάντων παρέξομαι.

ΜΑΡΤΥΡΕΣ.

19 Ἄ μὲν τοίνυν ἀδικούμενος, ὦ ἄνδρες δικασταὶ, ὑπ' αὐτῶν τὴν ἀπογραφὴν ἐποίησάμην δεδήλωκα ὑμῖν ὡς δ' ἔστιν Ἀρεθουσίου τὰνδράποδα ταῦτα καὶ ὄντα ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἀπέγραψα ἐπιδείξω ὑμῖν. τὸν μὲν γὰρ Κέρδωνα ἐκ μικροῦ παιδαρίου ἐξεθρέψατο· καὶ ὡς

δι' ἐμοῦ] 'through my agency,' 'on a prosecution of mine.' Reiske conjectures δι' ἐμέ, 'on my account,' which would also make good sense, though disapproved by Dobree, who refers in support of δι' ἐμοῦ to Or. 51 § 17 ὡσπερ... χάριν τιθεμένων διὰ τῶν τοιοῦτων τοῖς ἀμελοῦσιν ὑμῶν, ἀλλ' οὐ διὰ τῶν βελτιόνων τοῖς ὑπηρετοῦσιν ἃ δεῖ χαρίζεσθαι προσῆκον.

Πασίωνος ὦν] i.e. the son of one who, originally a banker's slave, had received the citizenship by adoption. Neither the father nor the son was a citizen by birth, and it would have been peculiarly invidious had the latter compassed the death of one who was by birth a citizen of Athens.

§§ 19—21. *Having now recounted some of the wrongs done me by Arethusius and his brother Nicostratus, I will call evidence in detail to prove that the two slaves entered by me in the specification do not belong to Nicos-*

tratus who is now attempting to claim them, but are really part of the property of Arethusius and are thus liable to be confiscated to the state, as a partial payment of his debt to the treasury.

§ 19. At this point the speaker, after having shewn the reasons which justified him in regarding Arethusius as his enemy and exacting vengeance from him, reaches the real point at issue, viz. the proof that the slaves specified in the schedule belong to Arethusius, and not, as is alleged, to his brother Nicostratus.

τὸν μὲν γὰρ Κέρδωνα] contrasted with τὸν δὲ Μάνην in § 20. Κέρδων is a slave-name expressive of knavish cunning (cf. ἡ κερδῶ, 'the wily one,' i.e. 'the fox'). Digest xxxviii 1, 42 *Cerdonem servum meum manumitti volo* (quoted by Mayor on *Juv. iv 153 tollat sua munera Cerdo*).

ἐκ μικροῦ παιδαρίου] Plat. *Symp.* 207 D ἐκ παιδαρίου, Or.

ἦν Ἀρεθουσίου, τούτων ὑμῖν τοὺς εἰδότας μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ.

1253 Παρ' οἷς τοίνυν εἰργάσατο πώποτε, ὡς τοὺς μι- 20
σθοὺς Ἀρεθούσιος ἐκομίζετο ὑπὲρ αὐτοῦ, καὶ δίκας
ἐλάμβανε καὶ ἐδίδου, ὅποτε κακόν τι ἐργάσαιτο, ὡς
δεσπότης ὢν, τούτων ὑμῖν τοὺς εἰδότας μάρτυρας
παρέξομαι.

ΜΑΡΤΥΡΕΣ.

Τὸν δὲ Μάνην, δανείσας ἀργύριον Ἀρχεπόλιδι τῷ

59 (Apoll. κατὰ Νεαίρας) § 18, ταύτας παιδίσκας ἐκ μικρῶν παιδίων ἐκτήσατο, and similarly the far more frequent phrases ἐκ παιδός (Or. 27 § 4), ἐκ νέου, ἐκ μειρακίου.

20. παρ' οἷς τοίνυν—δεσπότης ὢν] sc. ὡς Ἀρεθούσιος ἐκομίζετο τοὺς μισθοὺς παρ' ἐκείνων παρ' οἷς εἰργάσατο πώποτε ὁ Κέρδων κ.τ.λ. 'I shall shew also that Arethusius got the wages on his account from all the persons with whom he ever worked; and that he used to receive compensation or to pay it when Cerdon did any mischief, as a master would be bound to do.' Kennedy.—[πώποτε in the earlier Attic is never used without the negative, but often in Plato and Demosthenes. P.]

Slaves were sometimes let out by their owners either for work in the mines or for any kind of labour; or again (as here) to work as hired servants for wages (ἀποφορά) which went to their masters. Aeschin. Timarch. § 97 οἰκέτας δημιουργοὺς τῆς σκυτοτομικῆς τέχνης ἐννέα ἢ δέκα ὧν ἕκαστος τούτω δυ' ὄβο-

λοὺς ἀποφορὰν ἔφερε τῆς ἡμέρας. Isaeus Or. 8 (Ciron) § 35 ἀνδράποδα μισθοφοροῦντα (Hermann, *Privatalt.* § 13, 10 and § 49 ad fin. pp. 91, 463 ed. Blümner).

δίκας ἐλάμβανε] A slave was incapacitated from conducting a law-suit either on his own account or on behalf of another. Plato Gorg. 483 B, ἀνδραπόδου, ὅστις ἀδικούμενος καὶ προπηλακίζόμενος μὴ οἶός τ' ἐστὶν αὐτὸς αὐτῷ βοηθεῖν μηδ' ἄλλω οὐδ' ἂν κήδηται. Or. 37 (Pant.) § 51 ἔδει...λαχόντα ἐκείνω (sc. τῷ δούλῳ) τὴν δίκην τὸν κύριον διώκειν ἐμέ. (Hermann, *Privatalt.* § 59, 1 = *Rechtsalt.* p. 19 Thalheim.)

δίκας...ἐδίδου, ὅποτε κακόν τι ἐργάσαιτο] The law by which the master had to make good any damage done by his slave is quoted as a law of Solon by Lysias, Or. 10 (Theomnest. A) § 19, οἰκῆος καὶ δούλης τὴν βλάβην ὀφείλειν.—The clause containing ἐργάσαιτο refers of course to δίκας ἐδίδου alone; otherwise we should have had some such phrase as ὅποτε κακόν τι πάθῃ ἢ ἐργάσαιτο.

τὸν δὲ Μάνην] governed by ἐναπετίμησεν but placed early

Πειραιεῖ, ἐπειδὴ οὐχ οἶός τ' ἦν αὐτῷ ἀποδοῦναι ὁ Ἄρχεπολις οὔτε τὸν τόκον οὔτε τὸ ἀρχαῖον ἅπαν, ἐναπετίμησεν αὐτῷ^ε. καὶ ὅτι ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ.

21 Ἔτι τοίνυν καὶ ἐκ τῶνδε γνῶσεσθε, ὦ ἄνδρες δικασταί, ὅτι εἰσὶν Ἀρεθουσίου οἱ ἄνθρωποι· ὅποτε γὰρ οἱ ἄνθρωποι οὗτοι ἢ ὀπώραν πρίαυντο ἢ θέρος μισθοῖν-

^ε οὔτε τὸ ἀρχαῖον, ἅπαν ἐναπετίμησεν αὐτῷ Reiske, G. H. Schaefer, Z, Dind. (Oxon. 1846), et Bekker st.

for emphatic contrast with τὸν μὲν Κέρδωνα in § 19. It may almost be regarded as an accusative absolute.

Μάνης was one of the commonest slave-names. Theophrastus in his will, which is preserved by Diogenes Laertius, v 55, mentions among his slaves Callias and Manes, and the latter name occurs in Ar. Ran. 965, Lys. 908, 1213, and Pax 1146, while in the Aves, 523, it is used in the plural as a synonym for 'slaves,' νῦν δ' ἀνδράποδ' ἡλιθίους Μανᾶς. See further on Or. 45 § 86.

ἐναπετίμησεν] Archepolis handed over Manes to Arethusius as an equivalent for part of the debt due to the latter. The nominative to this verb is not Arethusius, the subject of the participle δανείσας, but Archepolis, the subject of the subordinate clause ἐπειδὴ οὐχ οἶός τ' ἦν. It will further be noticed that, while the verb ἀποτιμάω is generally used in the active of *borrowing* and in the middle of *lending* money on security, the compound ἐναποτιμάω is in the present passage applied to the debtor's transfer-

ence of a part of his property on valuation in lieu of direct payment of his debt. The same compound occurs in the passive form in Dio Cassius xii 37 τὰ ἐνέχυρα πρὸς τὴν ἀξίαν ἐναποτιμηθῆναι ἐκέλευσε (i.e. Caesar ordained that the securities on which money had been borrowed should be valued and transferred to the creditors in place of a money payment).

The editors who place a comma after τὸ ἀρχαῖον, construe ἅπαν with ἐναπετίμησεν αὐτῷ, 'handed him over in full payment,' 'paid off the whole sum in the person of Manes.'

21. ὀπώραν πρίαυντο κ.τ.λ] de Cor. § 51 τοὺς θεριστὰς ἢ τοὺς ἄλλο τι μισθοῦ πράττοντας and ib. § 262 σῦκα καὶ βότρυς καὶ ἐλάας συλλέγων ὥσπερ ὀπωρώνης ἐκ τῶν ἀλλοτριῶν χωρίων. 'Whenever they bought up the produce of an orchard or hired themselves out to reap a harvest, it was Arethusius who made the bargain on their behalf for the purchase or for the wages respectively.' μισθούμενος refers back to θέρος μισθοῖντο ἐκθερίσαι, just as ὠνούμενος corresponds to πρίαυντο. The latter

το ἐκθερίσαι ἢ ἄλλο τι τῶν περὶ γεωργίαν ἔργων ἀναιροῦντο, Ἄρεθούσιος ἦν ὁ ὠνούμενος καὶ μισθούμενος ὑπὲρ αὐτῶν. ὡς δ' ἀληθῆ λέγω, καὶ τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ.

“Ὅσας μὲν τοίνυν μαρτυρίας παρασχέσθαι εἶχον 22 ὑμῖν, ὡς ἔστιν Ἄρεθουσίου τάνδράποδα, δεδήλωκα ὑμῖν. βούλομαι δὲ καὶ περὶ τῆς προκλήσεως εἰπεῖν, ἣν οὔτοί με προὔκαλέσαντο καὶ ἐγὼ τούτους. οὔτοι μὲν γάρ με προὔκαλέσαντο, ὅτε ἡ πρώτη ἀνάκρισις ἦν, φάσκοντες ἔτοιμοι εἶναι παραδιδόναί ἐμοὶ αὐτῶ τάνδράποδα

verb having no present participle of its own, ὠνούμενος commonly takes its place and is so used in the present passage. Cf. note on § 10, where πρίασθαι is followed by ὠνεῖσθαι.

§§ 22—25. *I now propose to deal with the Challenge which my opponents proposed to me, and also with that which I myself proposed to them.*

At the preliminary hearing of my case against Arethusius, they put in a Challenge, and offered therein to deliver up the slaves, to be tortured by myself, their object being to claim the Challenge as a piece of evidence in their own favour in the event of my refusing to accept it.

I replied to the Challenge by stating in the presence of witnesses, that since this was not a private but a public cause and since the slaves, as I contended, were the property of the state, it was not for myself to torture them, as I was only a private person. On the contrary, it was a question for the board of police or for certain persons chosen by the Council of the

state. On these conditions I was willing to accept their Challenge, and I challenged them to accept my own proposal. They declined my offer.

22. προκλήσεως] On the subject of Challenges, see Or. 45 § 15.

ἦν ... με προὔκαλέσαντο] For the double acc. cf. Or. 56 § 17 προκαλεῖσθαι τινα πρόκλησιν.

ἡ πρώτη ἀνάκρισις] ‘the first preliminary investigation,’ see note on ἀνακρινόμεν § 14 *supra*.

παραδιδόναί ... τάνδράποδα βασανίσαι] The principle of extracting evidence by the torture of slaves, was one of the weakest points in the judicial system of Athens (some interesting criticisms on it may be found in Forsyth’s *Hortensius* p. 40, and in Mahaffy’s *Social Life in Greece* p. 226—8).—ἐμοὶ αὐτῶ is emphatic, just as, six lines further, εἰ ἐμοὶ ἐξεδίδοσαν contrasted with δημοσίᾳ. The speaker holds that the slaves belong to the state and should have been handed over to the public official and not to a private individual like himself.

βασανίσαι, βουλόμενοι μαρτυρίαν τινὰ αὐτοῖς ταύτην
 23 γενέσθαι. ἐγὼ δ' ἀπεκρινάμην αὐτοῖς ἐναντίον μαρ-
 τύρων ὅτι ἔτοιμός εἰμι ἵεναι εἰς τὴν βουλήν μετ' αὐτῶν
 καὶ παραλαμβάνειν μετ' ἐκείνης ἢ μετὰ τῶν ἕνδεκα, 1254
 λέγων ὅτι, εἰ μὲν ἰδίαν δίκην ἐδικαζόμεν αὐτοῖς, εἰ
 ἐμοὶ ἐξεδίδοσαν, παρελάμβανον ἂν, νῦν δὲ τῆς πόλεως
 εἴη τὰνδράποδα καὶ ἡ ἀπογραφή· δεῖν οὖν δημοσίᾳ
 24 βασανίζεσθαι. ἡγούμην γὰρ οὐ προσήκειν ἐμοὶ ἰδιώτη
 ὄντι τοὺς δημοσίους βασανίζειν· οὔτε γὰρ τῆς βασάνου
 κύριος ἐγιγνόμην οὔτε καλῶς ἔχειν τὰ λεγόμενα ὑπὸ
 τῶν ἀνθρώπων ἐμὲ κρίνειν.^h ἡγούμην τε δεῖν τὴν
 ἀρχὴν ἢ τοὺς ἡρημένους ὑπὸ τῆς βουλῆς γράφεσθαι,

^h κρίνειν, Ζ.

ταύτην] Not the evidence given by the slaves, but the mere offer to allow them to be tortured, 'wishing this (offer) to be a kind of evidence on their own side.' ταύτην is attracted into the same gender as μαρτυρίαν; τοῦτο would have made the same sense, but would have been less idiomatic.

23. εἰ... εἰ] Two or even three protases, not co-ordinate, may belong to one apodosis, e.g. Plat. Men. 74 B, εἴ τις σε ἀνέροιτο τοῦτο, τί ἐστι σχῆμα; εἰ αὐτῷ εἶπες ὅτι στρογγυλότης, εἴ σοι εἶπεν ἄπερ ἐγὼ, εἶπες δήπου ἂν ὅτι σχῆμά τι (Goodwin, *Moods and Tenses* § 55. 1).

The reiteration of εἰ in the present passage has been considered open to objection; it occurs however in Or. 54 § 15, in an undoubtedly genuine speech of Demosthenes (A. Schaefer, *Dem. u. s. Zeit* III 2, 188 and Lortzing, *Apoll.* 33).

δημοσίᾳ βασανίζεσθαι] 'to be questioned publicly,' i.e. 'to be tortured by a state-officer.'

24. οὔτε τῆς βασάνου κύριος ἐγιγνόμην] i.e. I did not acquire control of the 'question,'—authority over the examination.

οὔτε καλῶς ἔχειν] sc. ἡγούμην, 'it was unsuitable, I thought, for myself to decide as to the answers of the slaves.'

τὴν ἀρχὴν] sc. τοὺς ἕνδεκα, as appears by comparing § 23, μετὰ (τῆς βουλῆς) ἢ μετὰ τῶν ἕνδεκα. Reiske wrongly renders: 'illum Archontem ad cuius tribunal haec causa pertineret, aut delectos a senatu.' Frequently it is the context alone that decides whether ἡ ἀρχὴ or even οἱ ἄρχοντες refers to the Archons or to some other public functionaries. Thus in Or. 22 (Androt.) § 26, τοῖς ἄρχουσιν ἐφήγου refers to the Eleven, and in Lysias, Or. κατὰ τῶν σιτοπώλων §§ 5—10, οἱ ἄρχοντες is several times used of the five σιτοφύλακες in the Peiraeus. On τὴν ἀρχὴν for 'the authorities,' abstract for concrete, see note on Or. 45 § 58.

γράφεσθαι] 'to have the answers written down,' or 'to

καὶ κατασημηναμένους τὰς βασάνους, ὅ τι εἴποιεν¹
οἱ ἄνθρωποι, παρέχειν εἰς τὸ δικαστήριον, ἵν' ἀκού-
σαντες ἐκ τούτων ἐψηφίσασθε ὁποῖόν τι ὑμῖν ἐδόκει.
ἰδίᾳ μὲν γὰρ βασανιζομένων τῶν ἀνθρώπων ὑπ' ἐμοῦ 25
ἀντελέγετ' ἂν ἅπαντα ὑπὸ τούτων, εἰ δὲ δημοσίᾳ,
ἡμεῖς μὲν ἂν ἐσιωπῶμεν, οἱ δ' ἄρχοντες ἢ οἱ ἡρημένοι
ὑπὸ τῆς βουλῆς ἐβασάνιζον ἂν μέχρι οὗ αὐτοῖς ἐδό-
κει. ταῦτα δ' ἐμοῦ ἐθέλοντος οὐκ ἂν ἔφασαν τῇ
ἀρχῇ παραδοῦναι, οὐδ' εἰς τὴν βουλήν ἠθέλον ἀκο-
λουθεῖν. ὡς οὖν ἀληθῆ λέγω, κάλει μοι τοὺς τούτων
μάρτυρας.

¹ εἴπαιεν Z cum BF. εἴποιεν Ar. εἶπεν Σ.

take down the answers.' Plato Theaet. 143 A, ἐγραψάμην ὑπομνήματα, 'I wrote me down some memoranda.' This sense of the middle must not be confounded with the technical meaning 'to indict.'

κατασημηναμένους] 'having sealed up the testimony extorted.' The documents were put into an ἐχίνος or 'casket,' which was sealed up and afterwards produced in court and there opened. Or. 54 § 17 σημανθῆναι τοὺς ἐχίνους.

βασάνους, as is proved by the subsequent clause, 'whatever the slaves said,' is here used, not of the torture itself, but of the extorted evidence. Harpocr. βάσανος. Ἀντιφῶν λίθος οὕτω καλεῖται, ἣ τὸ χρυσίον παρατριβόμενον δοκιμάζεται. Ὑπερέδης δ' ἐν τῷ κατ' Ἀντίου τὰ ἐν τοῖς βασάνοις εἰρημένα ὑπὸ τῶν βασανιζομένων καὶ ἀναγραφέντα βασάνους ὠνόμασε. (Anaximenes) rhet. xvi 1, βάσανός ἐστι μὲν ὁμολογία παρὰ συνειδότης, ἄκοντος δέ.

παρέχειν κ.τ.λ.] 'to produce

in court' the evidence obtained by torture. The torture itself, it appears, did not take place in court (see note on Or. 45 § 16).

ἵνα—ἐψηφίσασθε] For ἵνα 'in which case,' cf. Or. 36 § 47. ἐκ τούτων should be taken with ἐψηφίσασθε and not with ἀκούσαντες, cf. Or. 45 § 2 ἐξ ὧν (ἀκούσαντες)...γνώσεσθε.

25. ἰδίᾳ βασανιζομένων τῶν ἀνθρώπων] equivalent to εἰ ἰδίᾳ ἐβασανίζοντο. Hence in the corresponding clause, instead of δημοσίᾳ δέ, which would have been equally good Greek, we have εἰ δὲ δημοσίᾳ sc. ἐβασανίζοντο (Goodwin, *Moods and Tenses* § 109, 6).

[The drift of the argument is: 'I objected to a *private* examination, because my opponents would have said that my report of their statements was untrue; whereas if the examination were *public*, the responsibility would have rested wholly on the authorities.' P.]

οἱ ἄρχοντες] 'The Eleven.' See note on τῇ ἀρχῇ in § 24.

ΜΑΡΤΥΡΕΣ.

26 Κατὰ πολλὰ μὲν οὖν ἔμοιγε δοκοῦσιν εἶναι ἀναί-
 σχυντοι ἀμφισβητοῦντες τῶν ὑμετέρων, οὐχ ἥκιστα
 δὲ ὑμῖν αὐτοὺς ἐπιδείξω ἐκ τῶν νόμων τῶν ὑμετέρων.
 οὗτοι γὰρ, ὅτε οἱ δικασταὶ ἐβούλοντο θανάτου τιμῆσαι
 τῷ Ἀρεθουσίῳ, ἐδέοντο τῶν δικαστῶν χρημάτων τι-
 μῆσαι καὶ ἐμοῦ συγχωρῆσαι, καὶ ὡμολόγησαν αὐτοὶ
 27 συνεκτίσειν. τοσοῦτου δὲ δέουσιν ἐκτίνειν καθ' ἃ
 ἡγγυήσαντο ὥστε καὶ τῶν ὑμετέρων ἀμφισβητοῦσιν.
 καίτοι οἱ γε νόμοι κελεύουσι τὴν οὐσίαν εἶναι δημο- 1255
 σίαν, ὃς ἂν ἐγγυησάμενός τι τῶν τῆς πόλεως μὴ ἀπο-

§§ 26—29. *My opponents are really claiming what is public property, that is, your own property, men of the jury, and I shall prove this by your own laws. When the jury were proposing to condemn [Arethusius to death, my opponents proposed a pecuniary penalty and promised jointly to pay it. So far from fulfilling their guarantee, they are actually claiming your own property; and the laws declare that the property of persons who guarantee the payment of a sum to the state and fail to do so shall be confiscated; so that even on this ground alone, the laws would require the slaves in question to be state property.*

As soon as Arethusius becomes indebted to the treasury, instead of being, as was admitted in former days, the wealthiest of the brothers, he is now made out to be ever so poor, and part of his property is claimed by his mother, part by his brothers, as in the present instance by Nicos-tratus.

I must ask you in conclusion to consider that there will never be any lack of claimants

to contest your property, and to defraud the state of her dues, by making pitiful appeals to your compassion. If you disregard all such pleas in the present case, you will do wisely in finding a verdict against Nicosstratus.

26. τιμῆσαι] See § 18.

ἐμοῦ συγχωρῆσαι] sc. ἐδέοντο, implored me to acquiesce in my opponents having a pecuniary penalty imposed on them.—ὡμολόγησαν αὐτοὶ συνεκτίσειν, 'they agreed that they would be jointly responsible for the payment.' Kennedy.

27. τῶν ὑμετέρων] The slaves claimed by the state, for non-payment of the fine due from Arethusius, are here dexterously represented as the property of the jury.

ὃς ἂν ἐγγυησάμενός κ.τ.λ.] An-doc. de Myst. § 73 οἱ μὲν ἀργύριον ὀφείλοντες τῷ δημοσίῳ, ὅποσοι εὐθύνας ὠφλον ἄρξαντες ἀρχάς... ἡ ἐγγύα ἡγγυήσαντο πρὸς τὸ δημόσιον, τοίτοις ἢ μὲν ἐκτισίς ἦν ἐπὶ τῆς ἐνάτης πρυτανείας, εἰ δὲ μὴ διπλάσιον ὀφείλειν καὶ τὰ κτήματα αὐτῶν πεπρᾶσθαι. Hermann, *Public Antiquities*, § 124, 17.

διδῶ τὴν ἐγγύην· ὥστε καὶ εἰ τούτων ἦν τὰνδράποδα,
 προσῆκεν αὐτὰ δημόσια εἶναι, εἴπερ τι τῶν νόμων
 ὄφελος. καὶ πρὶν μὲν ὀφείλειν τῷ δημοσίῳ ὁ Ἄρε- 28
 θούσιος ὠμολογεῖτο τῶν ἀδελφῶν εὐπορώτατος εἶναι·
 ἐπειδὴ δ' οἱ νόμοι κελεύουσι τὰκείνου ὑμέτερα εἶναι,
 τηνικαῦτα πένης ὧν φαίνεται ὁ Ἄρεθούσιος, καὶ τῶν
 μὲν ἢ μήτηρ ἀμφισβητεῖ, τῶν δ' οἱ ἀδελφοί. χρῆν δ'
 αὐτοὺς, εἴπερ ἐβούλουντο δικαίως προσφέρεσθαι πρὸς
 ὑμᾶς, ἀποδείξαντας ἅπασαν τὴν οὐσίαν τὴν ἐκείνου,
 τὰ τούτων αὐτῶν εἴ τις ἀπέγραφεν, ἀμφισβητεῖν. ἐὰν 29
 οὖν ἐνθυμηθῆτε ὅτι οὐδέποτε ἔσται ἀπορία τῶν ἀμ-
 φισβητησόντων ὑμῖν περὶ τῶν ὑμετέρων,—ἢ γὰρ
 ὀρφανούς ἢ ἐπικλήρους κατασκευάσαντες ἀξιόσουσιν
 ἐλεεῖσθαι ὑφ' ὑμῶν, ἢ γῆρας καὶ ἀπορίας καὶ τροφὰς
 μητρὶ λέγοντες, καὶ ὀδυρόμενοι δι' ὧν μάλιστα ἐλ-
 πίζουσιν ἐξαπατήσῃν ὑμᾶς, πειράσσονται ἀποστερηῆσαι
 τὴν πόλιν τοῦ ὀφλήματος. ἐὰν οὖν ταῦτα παριδόντες
 πάντα καταψηφίσθητε, ὀρθῶς βουλευέσεσθε.

28. πένης ὧν φαίνεται] 'is made out to be a poor man.'
 προσφέρεσθαι] 'to behave,'
 Or. 40 § 40.

ἀποδείξαντας] 'having disclosed' (delivered a formal specification of) 'the estate of Arthusius'—τούτων αὐτῶν i. e. Nicostratus and Deinon.

29. ἐὰν οὖν—ἐὰν οὖν ταῦτα] The sentence is suspended by a parenthesis of several lines from ἢ γὰρ ὀρφανούς to ὀφλήματος, and it is then resumed by the repetition of ἐὰν οὖν.

ὀρφανούς ἢ ἐπικλήρους] 'orphan-sons or heiresses,' meaning by the latter 'orphan-daughters,' 'portionable-sisters'; 'an heiress' under the Athenian law was by no means necessarily in good circumstances. (See note

on Or. 45 § 75.)

ἀπορίας] 'embarrassments,' 'distresses.' For the plural cf. Fals. Leg. § 146, εὐπορίας κτήματα πλοῦτον ἀντὶ τῶν ἐσχάτων ἀποριῶν.—τροφὰς μητρὶ, 'a mother's maintenance.'

ὀδυρόμενοι κ.τ.λ.] 'Appeals ad misericordiam formed the staple conclusion of every speech, and it was not held undignified for the greatest aristocrats, or grotesque for the most notorious scamps, to burst out crying in court, and to bring up their children to excite the compassion of the jury by their tears.' Mahaffy, *Social Life in Greece* p. 369. Cf. Or. 45 § 88 and Or. 54 § 38.

καταψηφίσθητε] sc. Νικοστράτου.

LIV.

ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΙΑΣ.

ΥΠΟΘΕΣΙΣ.

Ἄριστων Ἀθηναῖος δικάζεται Κόνωνι αἰκίας, λέγων ὑπ' αὐτοῦ καὶ τοῦ παιδὸς αὐτοῦ τετυπτηῆσθαι, καὶ μάρτυρας τούτου παρεχόμενος. ὁ δὲ Κόνων ἀρνεῖται τὸ πρῶγμα καὶ μάρτυρας ἀντιπαρέχεται, οὓς ὁ Δημοσθένης οὖν φησι πιστούς· βεβιωκένοι γὰρ φαύλως 1256 καὶ εὐχερῶς ἔχειν πρὸς τὸ ψεύδεσθαι.

1. 2. τετυπτηῆσθαι] In Classical Greek, we should have had the phrase πληγὰς εἰληφέναι. The tenses from *τυπτέω, with the exception of the future τυπτήσω (used in Attic Prose and Comedy), are characteristic of late Greek. Thus, in the first *Argument* to the *Midias*, we have τετύπηκεν and τετυπτημένος. Again, in Lucian (*Demonax* § 16) we read ἐπεὶ δὲ τις ἀθλητῆς... ἐπάταξεν αὐτὸν εἰς τὴν κεφαλὴν λίθῳ καὶ αἷμα ἐρρήθη, οἱ μὲν παρόντες ἠγανάκτουσαν ὡς αὐτὸς ἕκαστος τετυπτημένος, where ἐπάταξεν is correctly used (as in Classical Greek Prose) instead of the aorist active of τύπτω, while τετυπτημένος is only a late form, for which writers of the best age would have written either πεπληγμένος or πληγὴν εἰληφώς.

The κατὰ Κόνωνος affords an instructive study on this point

of Greek usage, as will further appear in *Excursus (A)* at the end of the speech (p. 221).

6. εὐχερῶς ἔχειν κ.τ.λ.] 'make no difficulty about lying.' Or. 21 (Mid.) § 103, τὸν μιὰρὸν καὶ λίαν εὐχερῆ, τὸν κοριορτὸν Εὐκτήμονα. So ραδίως ὁμνύει *infra* § 39. P.]

§§ 1, 2. *I was grossly assaulted by the defendant Conon, and, for a very long time, indeed, my life was despaired of. When I was restored to health and strength, instead of going beyond my years by bringing against him a public indictment for brutal outrage, I followed the advice of my friends and took the easier course of instituting a private suit for a common assault. I ask for your indulgent hearing, while I briefly relate to you my wrongs, and I trust that, if I prove my case, you will help me to my rights.*

Ἵβρισθεὶς, ὃ ἄνδρες δικασταὶ, καὶ παθὼν ὑπὸ ἱ
Κόνωνος τουτουὶ τοιαῦτα ὥστε πολὺν χρόνον πάνυ
μήτε τοὺς οἰκείους μήτε τῶν ἱατρῶν μηδένα προσδοκᾶν
περιφευξέσθαι με, ὑγίανας καὶ σωθεὶς ἀπροσδοκῆτως
ἔλαχον αὐτῷ τὴν δίκην τῆς αἰκίας ταυτηνί. πάντων

1. Ἵβρισθεὶς—ταυτηνί] The opening sentence is best rendered by treating Ἵβρισθεὶς and παθὼν as principal verbs, and beginning a fresh sentence with the word ὑγίανας, e.g. 'I was the victim of wanton outrage, and I suffered such maltreatment at the hands of Conon the defendant, that, for a very long time indeed, neither my friends nor any of my medical attendants expected my recovery. Contrary to expectation, I was restored to health and strength; and I thereupon brought against him the present action for the assault in question.'

This exordium is quoted by the rhetorician Hermogenes as an example of perspicuity and directness of expression (καθαρότης, Spengel, *Rhetores Graeci* II 276). Here, as in Or. 45, the keynote of the whole speech is struck by the opening word, Ἵβρισθεὶς. Cf. also Or. 21 (Mid.) § 1 τὴν μὲν ἀσέλγειαν, ὃ ἄνδρες δικασταὶ, καὶ τὴν ἕβριν κ.τλ.

πολὺν χρόνον πάνυ] For this position of πάνυ, placed after πολὺν, and even separated from it, cf. Plato, Hipp. Maj. 282 ε ἐν ὀλίγῳ χρόνῳ πάνυ, Or. 30 § 2 Ἵβριστικῶς ὑπ' αὐτοῦ πάνυ ἐξεβλήθην, and (Dem.) Prooem. 18 βραχὺ τί μοι πεισθῆτε πάνυ.

ἔλαχον...δίκην] lit. 'obtained this suit by lot,' 'had it allotted to me,' i.e. 'obtained leave (from the Archon) to bring this action.' Where several lawsuits

were instituted at the same time, the Archon decided by lot the order in which they were to be heard (κληροῦν τὰς δίκας); hence the applicant for leave to bring an action is commonly said λαγχάνειν δίκην. See Meier and Schömann, p. 595—8.

τῆς αἰκίας] 'the assault in question.' Ariston, as he further explains in the next sentence, is bringing against Conon a private suit for assault (αἰκίας δίκη), instead of a public indictment for wanton outrage (ἕβρεως γραφή). The penalty in the former was light, namely, a pecuniary fine paid to the plaintiff; in the latter, it was either a fine paid to the state, or, in extreme cases, death. The former implied that the complainant had been simply assaulted and struck, the latter that he had been subjected to malicious and brutal indignities.

Harpocration s.v. αἰκίας· εἶδος δίκης ἰδιωτικῆς ἐπὶ πληγαῖς λαγχανομένης, ἧς...ὁ μὲν κατηγορος τίμημα ἐπιγράφεται, ὅπόσου δοκεῖ ἄξιον εἶναι τὸ ἀδίκημα, οἱ δὲ δικασταὶ ἐπικρίνουσι (Isocr. 20 Loch. § 16). See Meier and Schömann p. 547 ff.=p. 646 ed. Lipsius.

Lexica Segueriana p. 355, αἰκία διαφέρει ἕβρεως, ὅτι αἰκία μὲν ἢ διὰ πληγῶν, ἕβρις δὲ καὶ ἄνευ πληγῶν μετὰ προπηλακισμοῦ καὶ ἐπιβουλῆς· διὸ καὶ εὐθῆναι ἐλάττωτες τῆς αἰκίας. See also Or. 37 § 33.

δὲ τῶν φίλων καὶ τῶν οἰκείων, οἷς συνεβουλευόμεν, ἔνοχον μὲν φασκόντων αὐτὸν ἐκ τῶν πεπραγμένων εἶναι καὶ τῇ τῶν λωποδυτῶν ἀπαγωγῇ καὶ ταῖς τῆς ὕβρεως γραφαῖς, συμβουλευόντων δέ μοι καὶ παραινούντων μὴ μείζω πράγματα ἢ δυνήσομαι φέρειν ἐπάγεσθαι, μηδ' ὑπὲρ τὴν ἡλικίαν ὧν^a ἐπεπόνθειν ἐγκαλοῦντα φαίνεσθαι, οὕτως ἐποίησα καὶ δι' ἐκείνους

^a περὶ ὧν Rauchenstein, *Philologus* ix 739.

συνεβουλευόμεν... συμβουλευόντων] 'consulted'... 'counselled.' The active and middle senses of this verb are also found side by side in Xen. Anab. ii 1 § 17, *ξυμβουλευομένοις ξυνεβούλευσε τάδε*.

τῇ τῶν λωποδυτῶν ἀπαγωγῇ] 'the summary process directed against footpads,' i.e. 'summary arrest and imprisonment for highway robbery.' The plaintiff's friends meant that Conon might have been captured *flagrante delicto*, and carried off to prison as a λωποδύτης (lit. 'a clothes-stealer'). According to the plaintiff's subsequent statement, this would be actually true, as Conon and his friends had stripped him of his cloak and carried it off (§ 8 *ἔξεδυσαν*, and § 10 *ἀπεκομίσθην γυμνός, οὔτοι δὲ ᾤχοντο θολμάτιον λαβόντες μου*). Cf. Isocr. *antid.* § 90, *τοῦτον ἀπαγαγὼν ἀνδραποδιστὴν καὶ κλέπτην καὶ λωποδύτην*, Dem. Or. 22 § 26, Aeschin. Timarch. § 91, Lysias Or. 10 § 10, and 13 § 68 *ἐνθάδε λωποδύτην ἀπήγαγε, καὶ ὑμεῖς κρίναντες αὐτὸν ἐν τῷ δικαστηρίῳ καὶ καταγρόντες αὐτοῦ θάνατον ἀποτυμπανίσαι παρέδοτε*. Hermann, *Rechtsalt.* p. 41 Thalheim; Meier and Schömann p. 229 (n. 208 Lipsius).

ὕβρεως γραφαῖς] here contrasted with αἰκίας δίκη.—Harrocr. γραφή· δημοσίου τινος ἐγκλήματος ὄνομα. δίκη· ἰδίως λέγεται ἐπὶ ἰδιωτικῶν ἐγκλημάτων, ὡς σαφὲς ποιεῖ Δημοσθένης ἐν τῷ κατὰ Κόνωνος.

[The plural γραφαί shows that more than one public indictment could have been framed. See also Or. 21 (Mid.) § 28, *καὶ δίκας ἰδίας δίδωσιν ὁ νόμος μοι καὶ γραφὴν ὕβρεως*. P.]

ἐπάγεσθαι] 'to take upon my shoulders a greater burden than I should be able to bear.'—*πράγματα*, in taking legal action. P.]

ὑπὲρ τὴν ἡλικίαν—φαίνεσθαι] 'to incur the imputation of going beyond my years in undertaking to prosecute for the maltreatment I had received.' Or. 58 § 1 (of a youthful citizen appearing as a prosecutor) *μήθ' ἡλικίαν μήτ' ἄλλο μηδὲν ὑπολογισάμενος*, 29 § 1. The task of instituting and carrying to its issue a γραφή ὕβρεως would be more laborious and would require greater skill and experience than was involved in a δίκη αἰκίας. A young man like Ariston would find himself in an awkward and invidious position, as prosecutor in so ambitious a case as a γραφή ὕβρεως,

ιδίαν ἔλαχον δίκην, ἥδιστ' ἂν, ὧ ἄνδρες Ἀθηναῖοι, θανάτου κρίνας τουτουί. καὶ τούτου συγγνώμην ἔξετε, 2 εὖ οἶδ' ὅτι, πάντες, ἐπειδὴν ἂ πέπονθ' ἀκούσητε· δεινῆς γὰρ οὐσῆς τῆς τότε συμβάσης ὑβρεως οὐκ ἐλάτ- 257 των ἢ μετὰ ταῦτ' ἀσέλγείᾳ ἐστι τουτουί. ἀξιῶ δὲ καὶ δέομαι πάντων ὁμοίως ὑμῶν πρῶτον μὲν εὐνοϊκῶς ἀκούσαί μου περὶ ὧν πέπονθα λέγοντος, εἴτ', εἰ ἡδι-

not to mention his being unequalled against an unscrupulous opponent who was older than himself and had numerous connexions to support him. He would also be deterred (though he does not here confess it) by the rule requiring the prosecutor to pay a fine of a thousand drachmae in the event of his not obtaining at least one-fifth part of the votes (Or. 21 § 47).

The construction is, ἐγκαλοῦντα τούτων ἂ ἐπεπόνθειν. For the gen. cf. Or. 36 § 9 πῶς ἐνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως.

[ὑπὲρ τὴν ἡλικίαν may mean, 'beyond the resentment suited to my years,' implying that a young man ought to put up with a little affront, and not make a serious matter of it. P.]

ιδίαν] ἀντὶ τοῦ ιδιωτικὴν Δημοσθένης ἐν τῷ κατὰ Κόνωνος. ἐλέγετο δὲ τὸ ἴδιον καὶ ιδιωτικὸν ὡς ὁ αὐτὸς ῥήτωρ ἐν τῷ κατὰ Ζηρόθεμιν (§ 32 πρᾶγμα ἴδιον), Harpocration.

[ἥδιστ' ἂν κρίνας, for καίτοι ἥδιστ' ἂν ἔκρινα, well illustrates the fondness of the Greeks for participial construction. The sense is, 'though I would most gladly have brought him to trial on the capital charge.' P.]

Cf. Or. 53 § 18 οὐχ ἵνα μὴ ἀποθάγη κ.τ.λ.

'Ce cri de haine a quelque chose de naïf et de sauvage; le

plaignant semble le laisser échapper malgré lui, sous l'impression trop vive encore des injures, qu'il a reçues. Cet involontaire et rapide oubli de la modération qu'il s'est commandée donne à son langage un accent de sincérité plus marqué; il lui sert aussi pour amener la récit des faits de la cause' (Perrot, *Revue des deux mondes*, 1873, 3, p. 946).

θανάτου] The penalty of death was inflicted in cases of λωποδυτῶν ἀπαγωγῆ, and even in special cases of ὑβρεως γραφή. For the former, cf. Xen. Mem. 1 2 § 62, εἰάν τις φανερός γένηται λωποδυτῶν ἢ βαλαντιοτομῶν ἢ τοιχωρυχῶν, τοῦτους θάνατός ἐστιν ἡ ζημία. For the latter, cf. Lysias, fragm. 44, καίτοι τις οὐκ οἶδεν ὑμῶν ὅτι τὴν μὲν αἰκίαν χρημάτων ἐστι μόνον τιμῆσαι, τοὺς δὲ ὑβρίζειν δόξαντας ἔξεστιν ὑμῖν θανάτῳ ζημιῶν, Dem. Or. 21 § 49, inf. § 23. — 'θάνατος articulo carere solet, si supplicium significat et cum vocabulo iudicali coniungitur' Zink (quoting Procksch in *Philologus* xxxvii 306).

2. δεινῆς—τουτουί] 'The original outrage, atrocious as it was, does not surpass the subsequent brutality of the defendant.' See § 26. The first clause may perhaps be taken as a genitive absolute.

κῆσθαι καὶ παρανενομηθῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια. ἐξ ἀρχῆς δ' ὡς ἕκαστα πέπρακται, διηγῆσομαι πρὸς ὑμᾶς, ὡς ἂν οἶός τε ᾧ διὰ βραχυτάτων.

παρανενομηθῆσθαι] The passive is formed just as if the verb were directly transitive in the active, i. e. as if the active construction were παρανομεῖν τινα, and not εἰς τινα. So also the active παροινεῖν εἰς τινα has παροινεῖσθαι for its corresponding passive (see below § 4 *init.* and § 5 *fin.*).

βοηθῆσαί μοι τὰ δίκαια] 'assist me to my rights.' For the phrase and the context, cf. Or. 27 § 3 δέομαι ὑμῶν... μετ' εὐνοίας τ' ἐμοῦ ἀκοῦσαι κἂν ἡδικῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια, ποιήσομαι δ' ὡς ἂν δύναμαι διὰ βραχυτάτων τοὺς λόγους, *ib.* § 68, Or. 35 § 5; 38 § 2; 40 § 61. A fuller phrase may be noticed in § 42 of this speech, βοηθεῖν καὶ τὰ δίκαια ἀποδιδόναι. Kühner, *Gk. Gr.* 264 § 410 c, quotes Xen. Mem. II 6 § 25 ὅπως αὐτός τε μὴ ἀδικῆται καὶ τοῖς φίλοις τὰ δίκαια βοηθεῖν δύνηται, — zum Rechte verhelfen. It is an extension of the cogn. acc. βοηθεῖν βοήθειαν.

The exordium has several points of coincidence with that of Or. 45. See p. 56.

In the next four sections the plaintiff states the origin of the bad blood between the defendant's family and himself. The narrative, though part of the διήγησις which naturally follows immediately after the προοίμιον of a forensic speech, is only preliminary to the recital of the facts on which the suit is really founded. It is to this portion of the statement of the case that Rhetoricians like Theodorus of

Byzantium would have given the name of προδιήγησις (*Arist. Rhet.* III 13).

§§ 3—6. *Two years ago, we were ordered out to Panactum on garrison duty, and, as ill luck would have it, the sons of Conon pitched their tents close to our own. They picked quarrels with our servants and were persistently guilty of drunken and indecent conduct at the expense of our attendants and ourselves. My messmates and myself represented the case to the general, and he reprimanded them severely for their treatment of ourselves and for their misbehaviour in the camp. Notwithstanding, they burst in upon us on that very evening and violently assaulted us; indeed, serious consequences might have ensued, but for the arrival of the officers on the scene of disorder. On our return to Athens, there was naturally some ill blood between Conon's sons and myself, but I simply made up my mind to have nothing more to do with them. However, as the result proved, my collision with the sons in the camp led to my being grossly maltreated by their father the defendant, who instead of rebuking his sons for the original outrage, has himself been guilty of a much more shameful aggression.*

'Par sa vive et familière simplicité, ce récit dut plaire aux juges, viellards auxquels il rappelait les compagnes de leur jeunesse, les nuits passées sous la tente, les repas au grand air, dans ces beaux sites où se dres-

Ἐξήλθομεν, ἔτος τουτὶ τρίτον, εἰς Πάνακτον φρου- 3
 ρᾶς ἡμῖν προγραφείσης. ἐσκήνωσαν οὖν οἱ υἱεῖς οἱ
 Κόνωνος τουτουὶ ἐγγυὺς ἡμῶν, ὡς οὐκ ἂν ἐβουλόμην
 ἢ γὰρ ἐξ ἀρχῆς ἔχθρα καὶ τὰ προσκρούσματ' ἐκείθεν
 ἡμῖν συνέβη, ἐξ ὧν δ', ἀκούσεσθε. ἔπινον ἐκάστοτε
 οὔτοι τὴν ἡμέραν, ἐπειδὴ τάχιστα ἀριστήσαιεν, ὅλην,
 καὶ τοῦθ' ἕως περ ἤμεν ἐπὶ τῇ φρουρᾷ, διετέλουν ποι-
 οῦντες. ἡμεῖς δ' ὥσπερ ἐνθάδ' εἰώθαμεν, οὔτω διή- 4
 γομεν καὶ ἔξω. ἦν οὖν δειπνοποιεῖσθαι τοῖς ἄλλοις
 ὄραν συμβαίνοι, ταύτην ἂν ἤδη ἐπαρζόνουν οὔτοι, τὰ

saient, au milieu des montagnes, les forteresses destinées à protéger les frontières de l'Attique' (Perrot u. s. p. 947).

3. ἐξήλθομεν] not as youthful περίπολοι, but as part of the regular troops. This may be inferred from § 5, where the στρατοπέδον, στρατηγός and ταξίαρχοι are mentioned, and where there is apparently an absence of the strict discipline which was usual in the case of ἔφηβοι (Zink p. 19).

ἔτος τουτὶ τρίτον] 'two years ago' (sc. ἐστὶ). Dem. Ol. 3 § 4 ἀπηγγέλθη...τρίτον ἢ τέταρτον ἔτος τουτὶ, Ἑραῖον τεῖχος πολιορκῶν.

The present passage places the date of the speech in the 'third year after,' or, as we should say, 'two years after,' an expedition to Panactum. See *Introd.* p. lxiii.

On Panactum, or Panactus, a fort on the borders of Attica and Boeotia (Leake's *Dem.* p. 128), Harpocration has this article; Πάνακτος Δημοσθένης κατὰ Κόνωνος πόλις ἐστὶ μεταξὺ τῆς Ἀττικῆς καὶ τῆς Βοιωτίας. He further notes that Thucydides (v 42) makes the word neuter, and Menander masculine.

φρουρᾶς..προγραφείσης] 'being ordered out on garrison duty.' For προγράφειν, in the sense of 'putting up a public notice' at head-quarters, compare Arist. Aves 448, ἀκούετε λεψὺ τοὺς ὀπλίτας νυνμενὶ | ἀνελομένους θῶπλ' ἀπιέναι πάλιν οἴκαδε, | σκοπεῖν δ' ὅτι ἂν προγράφωμεν ἐν τοῖς πινακίοις, and Aristotle ἐν Ἀθηναίων πολιτείᾳ (quoted by Harpocration s. v. στρατεία), ὅταν ἡλικίαν ἐκπέμπωσι, προγράφουσιν ἀπὸ τίνος ἀρχοντος ἐπινύμου μέχρι τίνος δεῖ στρατεῦσθαι.

ὡς οὐκ ἂν ἐβουλόμην] sc. σκηνώσαι αὐτοὺς, 'and would to heaven they had not!'

προσκρούσματα] 'collisions.' Or. 39 § 18, πολλοῖς προσκρούει and Or. 37 § 15, ᾧ φίλος ἦν...τούτῳ προσκεκρουκότα, 33 § 7.

ἐξ ὧν δ', ἀκούσεσθε] Or. 14 § 17 δι' ὃ δ', εἴσεσθε,

ἀριστήσαιεν.....δειπνοποιεῖσθαι] On ἀριστον and δεῖπνον, see Becker's *Charicles* p. 313, ed. 3. —The optative ἀριστήσαιεν denotes frequent and repeated action, which is also clearly brought out by ἐκάστοτε and διετέλουν ποιοῦντες.

4. ὄραν] Not to be translated 'hour,' but 'time,' as

μὲν πολλὰ εἰς τοὺς παῖδας ἡμῶν τοὺς ἀκολούθους, τελευτῶντες δὲ καὶ εἰς ἡμᾶς αὐτούς· φήσαντες γὰρ καπι-
νίζειν αὐτούς^b ὀψοποιουμένους τοὺς παῖδας ἢ κακῶς
λέγειν, ὅ τι τύχοιεν, ἔτυπτον καὶ τὰς ἀμίδας^c κατεσκε-
δάννου^d καὶ προσεούρου καὶ ἀσελγείας καὶ ὕβρεως
οὐδ' ὀτιοῦν ἀπέλειπον^e. ὀρώντες δ' ἡμεῖς ταῦτα καὶ
λυπούμενοι τὸ μὲν πρῶτον ἀπεπεμφάμεθα, ὡς δ'

^b αὐτούς Z.

^c Bekker. ἀμίδας Z cum r; αμίδας Σ.

^d Bekker st. κατεσκεδάννουσαν.

^e Bekker. ἀπέλιπον Z cum FΣΦr.

ώρα in the former sense is found in late Greek only, and was probably first so used by Hipparchus the Alexandrine astronomer in the second century B.C. In phrases like ἔθνον ὦραν οὐδένοσ κοινήν θεῶν (Eumen. 109) and τὴν τεταγμένην ὦραν (Bacch. 724), the rendering 'hour' should be avoided as open to misconstruction.

ταύτην... ἐπαρώνουν... εἰς τοὺς παῖδας] Liddell and Scott (ed. 6) inadvertently quote this passage as an instance of παροινεῖν being used transitively 'like ὑβρίζειν,' whereas ταύτην is obviously the accusative of time (sc. τὴν ὦραν) and the object of παροινεῖν is expressed by εἰς τοὺς παῖδας (this has been corrected in ed. 7). For the corresponding passive to this intransitive active, see § 5 fin. παροινουμένων. [πάροινος and παροινεῖν mean, not 'to be intoxicated,' but 'to be abusive over one's cups.' P.]

ὅ τι τύχοιεν] This clause is to be taken ἀσυνδέτως. 'Pretending, in short, anything they pleased.' The full construction would be: φήσαντες ὅ τι τύχοιεν φήσαντες.

ἔτυπτον] See *Excursus (A)* on p. 221.

τὰς ἀμίδας κ.τ.λ.] 'They emptied the chamber-pots on them.' Kennedy. Hermogenes, who selects the present narrative as an instance of ἀπλῆ διήγησις, draws attention to the orator's plain-speaking in the clauses before us, and quotes them from memory with this comment: οὐ γὰρ εἶχε μᾶλλον δεινώσαι τῷ λόγῳ ἢ τὰ πράγματα λέγων αὐτὰ ὁ ῥήτωρ ψιλὰ, ἀ ἐπραττον ἐκείνοι· γυμνὰ γάρ τοι λεγόμενα πλείονα ἰσχὺν ἔλαβεν ἢ εἰ τις αὐτὰ ἐκόσμιε λόγοις (Spengel, *Rhet. Gr.* II 199.)

ἀπεπεμφάμεθα] Either 'we drove them away,' 'told them to be off' (Westermann), a sense which is supported by Hdt. I 120 τὸν παῖδα τοῦτον ἐξ ὀφθαλμῶν ἀπόπεμψαι and VI 63; or (more probably) 'we took no notice,' literally, 'we put the matter (ταῦτα) aside from ourselves,' 'dismissed it from our thoughts.' *primum quidem satis habuimus talia aversari, detestari* (G. H. Schaefer); 'at first only expressed our disgust' (Kennedy and Dareste). [Cf. Eur. *Hec.* 72, ἀποπέμποιαι ἐννευχον ἔψιν. In the present passage it is a remarkable use. P.]

ἐχλεύαζον ἡμᾶς καὶ οὐκ ἐπαύοντο, τῷ στρατηγῷ τὸ
 πρᾶγμα εἶπομεν κοινῇ πάντες οἱ σύσσιτοι προσελθόν- 5
 τες, οὐκ ἐγὼ τῶν ἄλλων ἔξω. λαιδορηθέντος δ' αὐτοῖς
 ἐκείνου καὶ κακίσαντος αὐτοὺς οὐ μόνον περὶ ὧν εἰς
 ἡμᾶς ἠσέλγαινον, ἀλλὰ καὶ περὶ ὧν ὅλως ἐποιοῦν ἐν
 τῷ στρατοπέδῳ, τοσοῦτον ἐδέησαν παύσασθαι ἢ αἰ-
 σχυνθῆναι ὥστ', ἐπειδὴ θάπτον συνεσκότασεν, εὐθὺς
 1258 ὡς ἡμᾶς εἰσεπήδησαν ταύτῃ τῇ ἐσπέρᾳ, καὶ τὸ μὲν
 πρῶτον κακῶς ἔλεγον, τελευτῶντες δὲ καὶ πληγὰς ἐνέ-
 τειναν ἐμοὶ, καὶ τοσαύτην κραυγὴν καὶ θόρυβον περὶ
 τὴν σκηνὴν ἐποίησαν ὥστε καὶ τὸν στρατηγὸν καὶ
 τοὺς ταξιάρχους ἐλθεῖν καὶ τῶν ἄλλων στρατιωτῶν
 τινὰς, οἵπερ ἐκώλυσαν μηδὲν ἡμᾶς ἀνήκεστον παθεῖν
 μηδ' αὐτοὺς ποιῆσαι παροινουμένους ὑπὸ τουτωνί[†].
 τοῦ δὲ πράγματος εἰς τοῦτο προελθόντος, ὡς δεῦρ' 6
 ἐπανήλθομεν, ἦν ἡμῖν, οἶον εἰκὸς, ἐκ τούτων ὄργη καὶ

† Σ. τούτων Ζ.

πάντες οἱ σύσσιτοι] 'not I alone, but all the messmates in a body.' Kennedy. Cf. Lysias Or. 13 § 79 οὔτε συσσιτήσας τούτῳ οὐδεὶς φανήσεται οὔτε σύσκημος γενόμενος.

ἔξω] placed last for emphasis and also to avoid *hiatus* (Rehdantz on Phil. 1 § 34).

5. λαιδορηθέντος κ.τ.λ.] 'He censured and rebuked them severely, not only for their brutal treatment of ourselves, but also for their general behaviour in the camp.' For λαιδορηθεῖς used in the sense of the aorist *middle*, cf. διαλεχθεῖς in § 7.— On κακίσαντος, cf. note on Or. 34 § 2.

ἐπειδὴ θάπτον συνεσκότασεν] 'As soon as ever it grew dark,' 'no sooner was it dusk than...' For ἐπειδὴ θάπτον (which is less

common than ἐπειδὴ τάχιστα, § 3), cf. Or. 37 § 41 ἐπειδὴ θάπτον ἀνείλετο, Plato Protag. 425 c, ἐπειδὴ θάπτον συνιῆ τις, Xen. Cyrop. III 3—20 ἦν θάπτον.

εἰσεπήδησαν] Aeschin. 1 § 59 εἰσπηδήσαντες νύκτωρ εἰς τὴν οἰκίαν.

ποιῆσαι] sc. μηδὲν ἀνήκεστον. The plaintiff candidly admits that the arrival of the authorities prevented himself and his friends doing violence to Conon's sons in self-defence, provoked and exasperated as they were by the brutal assaults of their opponents.

παροινουμένους] Fals. leg. § 198 ἀπώλετ' ἂν παροινουμένη. The active construction is παροινεῖν εἰς τινα, cf. § 4 and see note on Isoer. ad Dem. § 30, πιστευθέντες.

ἔχθρα πρὸς ἀλλήλους. Ἔου μὴν ἔγωγε ὦμην δεῖν οὔτε δίκην λαχεῖν αὐτοῖς οὔτε λόγον ποιεῖσθαι τῶν συμβάντων οὐδένα, ἀλλ' ἐκείνο ἀπλῶς ἐγνώκειν τὸ λοιπὸν εὐλαβεῖσθαι καὶ φυλάττεσθαι μὴ πλησιάζειν τοῖς τοιούτοις. πρῶτον μὲν οὖν τούτων ὧν εἶρηκα βούλομαι τὰς μαρτυρίας παρασχόμενος, μετὰ ταῦτα οἶα ὑπ' αὐτοῦ τούτου πέπονθα ἐπιδείξαι, ἵνα εἰδῆτε ὅτι ὧ προσῆκε τοῖς τὸ πρῶτον ἀμαρτηθεῖσιν ἐπιτιμᾶν, οὗτος αὐτὸς πρότερος πολλῶ δεινότερ' εἶργασται.

ΜΑΡΤΥΡΙΑΙ.

7 Ὡν μὲν τοίνυν οὐδένα ὦμην δεῖν λόγον ποιεῖσθαι,

Ἔ μα τούς θεούς, οὐ μὴν ἔγωγε *Z cum libris Demosthenis*; οὐ μὴν ἔγωγε μα τούς θεούς *Bekker cum Dionysio*.

6. μετὰ ταῦτα οἶα—προσῆκε] These few words as printed in Dindorf's ed. include no less than seven instances of *hiatus*, five of which can however be readily removed by elision. Benseler, who has exhaustively treated this subject in his volume *de hiatus in oratoribus Graecis*, says of the speeches of Dem. against Conon and Callicles: *orator solet verba ita coniungere et collocare, ut plerumque vocalium concursus evitetur*. p. 152.

τοῖς...ἀμαρτηθεῖσιν] Neuter, sc. ὑπὸ τῶν νιέων τῶν Κόνωνος.

πρότερος] as a ringleader in acts of aggression.

Here follows the narrative proper.

§§ 7—9. Not long after our return from the camp, I was taking my usual evening walk in the market-place with a friend of mine, when a son of the defendant, Ctesias by name, who was intoxicated at the time, caught sight of us, and after raising a

yell and muttering something indistinctly to himself, went off to a part of the town where a large party, including his father, had met for a carouse; summoned them to his standard, and made them march with him down to the market-place. On closing with us, one of them fell upon my friend and pinned him, while Conon and his son and another attacked myself, stripped me of my cloak, dashed me into the mud, jumped upon me, and otherwise grossly maltreated me. The language I heard them use, as I lay helpless on the ground, was simply awful, and would hardly bear repeating. Conon himself meanwhile set up a crowing like a victorious game-cock. When they had left me, some people, who happened to come up, carried me home, and afterwards took me to a public bath, where they washed me all over, and brought the surgeons to see me. I will now call evidence, to attest to these facts.

ταύτ' ἔστιν. χρόνῳ δ' ὕστερον οὐ πολλῶ περιπατοῦντος, ὡσπερ εἰώθειν, ἑσπέρας ἐν ἀγορᾷ μου μετὰ Φανοστράτου τοῦ Κηφισιέως, τῶν ἡλικιωτῶν τινὸς, παρέρχεται Κτησίας ὁ υἱὸς ὁ τούτου, μεθύων, κατὰ τὸ Λεωκόριον, ἐγγυὸς τῶν Πυθοδώρου. κατιδὼν δ' ἡμᾶς καὶ κραυγᾶσας, καὶ διαλεχθεῖς τι πρὸς αὐτὸν οὕτως ὡς ἂν μεθύων, ὥστε μὴ μαθεῖν ὅ τι λέγοι, παρήλθε πρὸς

7. περιπατοῦντος κ.τ.λ.] Hor. Sat. i 6, 113 *vesperinumque perfero Saepe forum.*

ἑσπέρας.] Cf. *νυκτὸς* in § 28; Madvig's *Gk. Syntax* § 66 a, Farrar's *Gk. Syntax* § 46 n. and Abbott's *Shaksp. Gr.* § 176.

ἐν ἀγορᾷ] The article is omitted, as in *ἄστν* and *πόλις* (when used of Athens); below we have *εἰς τὴν ἀγοράν*. Similarly *εἰς βαλανεῖον* in § 9, followed by *εἰς τὸ βαλανεῖον* in § 10.

The *agora* probably extended at this time over the inner Cerameicus, the district to the N.W. of the Acropolis.

τοῦ Κηφισιέως] The deme Κηφισία belonged to the tribe Erechtheis, and lay 12 miles N.E. of Athens at the foot of Pentelicus. It still retains its ancient name.

κατὰ] 'opposite to,' as Aesch. Theb. 528, *τύμβον κατ' αὐτὸν διογενοῦς Ἀμφίονος*, and so frequently in Thucyd. in the sense of 'off' a coast, or river.' P.]

Λεωκόριον] The monument of the daughters of Leos (Praxithea, Theope, Eubule), who, at the command of an oracle, sacrificed themselves for their country. Or. 60 (Epitaph.) § 29 (*αἱ Λεὼ κόραι*) *ἑαντὰς ἔδοσαν σφάγιον τοῖς πολίταις ὑπὲρ τῆς χώρας*. Cicero de Nat. Deor. iii § 50. Harpocration states that it was *ἐν μέσῳ τῷ Κεραμεικῷ*, i. e. in the midst of the inner

Cerameicus, the N.W. district of Athens, lying within the walls, as opposed to the *outer Cerameicus*, the *κάλλιστον προάστειον* where the Athenian warriors were buried (Thuc. ii 34, Arist. Aves 395). It was close to the *Leocorium* that Hipparchus was slain by Harmodius and Aristogeiton (Thuc. vi 57).

τῶν Πυθοδώρου] 'The premises (or shop) of Pythodorus,' either understanding *οἰκιῶν*, or more probably *δωμάτων*, like the expression which occurs twice in Or. 43 Macart. § 62 (*νόμος*) *εἰς τὰ τοῦ ἀποθανόντος εἰσείναι*. Theocr. ii 76 *μέσαν κατ' ἀμαξιτόν, ἃ τὰ Λύκωνος*. [Ar. Vesp. 1440, *οὔτῳ δὲ καὶ σὺ παράτρεχ' εἰς τὰ Πιττάλου*. P.]

Pythodorus is possibly the friend of Pasion mentioned in Isocr. Trapez. § 33 *Πυθόδωρον τὸν σκηνίτην καλούμενον*, quoted by Harpoc. s. v. *σκηνίτης*: *ἔοικεν ἐπώνυμον εἶναι. μήποτε* (perhaps) *δὲ ὡς ἀγοραῖον καλούμενον, ἐπειδὴ ἐν σκηναῖς ἐπιπράσκετο πολλὰ τῶν ὀνίων*.

διαλεχθεῖς] Cf. § 5 *λοιδορηθεῖς*. —*ὡς ἂν μεθύων*, sc. *διαλεχθεῖν*. See on Or. 34 § 32.—*μαθεῖν*, sc. *ἡμᾶς*.

πρὸς Μελίτην ἄνω] A hilly district within the walls, comprising part of the western half of Athens, and including the hill of the 'Pnyx' and that of

Μελίτην ἄνω· ἔπινον γὰρ ἐνταῦθα (ταῦτα γὰρ ὕστερον ἐπυθόμεθα) παρὰ Παμφίλῳ τῷ κναφεῖ Κόνων 1259 οὔτοσι, Θεότιμός τις, Ἀρχεβιάδης, Σπίνθαρος ὁ Εὐβούλου, Θεογένης ὁ Ἀνδρομένους, πολλοί τινες, οὓς 8 ἐξαναστήσας ὁ Κτησίας ἐπορεύετο εἰς τὴν ἀγοράν. καὶ ἡμῖν συμβαίνει ἀναστρέφουσιν ἀπὸ τοῦ Φερρεφαττίου

the Nymphs. Schol. on Ar. Aves 997 τὸ χωρίον...ὧ περιλαμβάνεται καὶ ἡ Πνύξ...Μελίτη γὰρ ἄπαν ἐκεῖνο, ὡς ἐν τοῖς ὀρισμοῖς γέγραπται τῆς πόλεως. That it was near the *agora* is implied by the present passage, as well as by Plato Parm. 126 c, where Cephalus meets Adeimantus and Glaucon in the *agora*, and they conduct him to Antiphon, οἰκεῖ δὲ ἐγγὺς ἐν Μελίτῃ. It was so called from the nymph Melite, wife of Hercules (Leake's *Athens* i 441, 485; Dyer's *Athens* 97).

ἔπινον κ. τ. λ.] Either Pamphilus had invited Conon and his set to a friendly symposium, or, which is more probable, his shop was their place of lounge. Xsias 24 § 20 ἕκαστος ὑμῶν εἰθισται προσφοιτᾶν ὁ μὲν πρὸς μυροπωλεῖον, ὁ δὲ πρὸς κουρεῖον ὁ δὲ πρὸς σκυτοτομεῖον, ὁ δ' ὕποι ἂν τύχη, καὶ πλείστοι μὲν ὡς τοὺς ἐγγυτάτῳ τῆς ἀγορᾶς κατεσκευασμένους, ἐλάχιστοι δὲ ὡς τοὺς πλείστον ἀπέχοντας αὐτῆς. (See Becker's *Charicles* p. 279.)

τῷ κναφεῖ] 'the fuller.' As woollen cloaks would be spoiled by ordinary washing, they were regularly sent to the fuller to be scoured. The process consisted in rubbing in a kind of alkaline marl (fullers' earth), Κιμῶλα γῆ, Ran. 713, and carding (κνάπτειν) to raise the nap (Jebb's *Theophrastus* xxv 13, and St John's *Manners and Customs of Ancient Greece* iii 232).

Ἀρχεβιάδης] § 34 note.

Σπίνθαρος ὁ Εὐβούλου] This Eubulus was probably the orator and statesman, one of Demosthenes' most formidable opponents. This supposition is strongly confirmed by the fact that the orator in question is known as Εὐβουλος Σπινθάρου Προβαλλισιος. The person mentioned in the text would, according to the common custom, be called Spintharus, after his grandfather. Cf. note on Or. 39 § 27. (A. Schäfer's *Dem. u. s. Zeit*, i 190 n.)

ἐξαναστήσας] The word is sometimes used as a military term of starting soldiers from ambush, as in Thuc. ii 68, iii 7 and 108 § 3 ἐξανάσταντες, and Xen. Hell. iv 8 § 37; cf. *Iliad* i 191. The orator makes his client, a young soldier, characteristically describe the scuffle in the language of military life. Similarly, a few lines below, ἀνεμίχθημεν, 'when we closed with one another.'

8. συμβαίνει...καὶ περιτυγχάνομεν] A simple and somewhat archaic form of phrase instead of ὅτε περιτυγχάνομεν. Thuc. i 50, ἥδη ἦν ὀπὲ καὶ οἱ Κορίνθιοι ἐξαπίνης πρύμναν ἐκρούοντο. Soph. Phil. 354 (Kühner § 518, 8).

Φερρεφαττίου] The site of the temple of Persephone is uncertain; it is supposed to have been south of the Leocorium, and close to the statue of

καὶ περιπατοῦσι πάλιν κατ' αὐτό πως τὸ Λεωκόριον εἶναι, καὶ τούτοις περιτυγχάνομεν. ὡς δ' ἀνεμίχθημεν, εἰς μὲν αὐτῶν, ἀγνώστους, ^h Φανοστράτῳ προσπίπτει καὶ κατεῖχεν ἐκείνον, Κόνων δ' οὔτοσὶ καὶ ὁ υἱὸς αὐτοῦ καὶ ὁ Ἀνδρομένους υἱὸς ἐμοὶ περιπεσόντες τὸ μὲν πρῶτον ἐξέδυσαν, εἶθ' ὑποσκελίσαντες καὶ ῥάξαντες εἰς τὸν βόρβορον οὔτω διέθησαν ἐναλλόμενοι καὶ ὑβρίζοντες ὥστε τὸ μὲν χεῖλος διακόψαι, τοὺς δ' ὀφθαλμοὺς συγκλεῖσαι· οὔτω δὲ κακῶς ἔχοντα κατέλιπονⁱ ὥστε μήτε ἀναστήναι μήτε φθέγξασθαι δύνασθαι. κείμενος δ' αὐτῶν ἤκουον πολλὰ καὶ δεινὰ λεγόντων. καὶ τὰ μὲν ἄλλα καὶ βλασφημίαν ἔχει τινὰ, 9 καὶ ὀνομάζειν ὀκνήσαιμ' ἂν ἐν ὑμῖν ἔνια, ὃ δὲ τῆς

^h Σ. + τῷ Bekker et Z.

ⁱ Bekker cum Dionysio. καταλιπεῖν Z cum FΣΦ. καταλείπειν kr.

Triptolemus, but we have no data worth mentioning besides the vague indications of the present passage (Leake's *Athens* i 488, and Wordsworth's *Athens and Attica*, p. 150).

εἰς μὲν—ἐκείνον] 'One of them, whom I failed to identify, suddenly fell on Phanostratus, and pinned him.' The present προσπίπτει gives a vivid effect to the description, and the imperfect κατεῖχεν must also be noticed as implying that the plaintiff's friend was held fast during the whole of the ensuing scuffle, and therefore could offer no assistance.—ὁ υἱὸς αὐτοῦ, Ctesias.—ἐξέδυσαν, 'stripped me' of my cloak; § 9, ᾗχοντο θοιμάτιον λαβόντες μου.

εἶθ'—συγκλεῖσαι] 'next, they tripped me up, and made me fall heavily into the mud, and by leaping upon me, and maltreating me, they put me in

such a condition that they cut my lip right through, and bunged up my eyes.'

9. τὰ μὲν ἄλλα—ἐν ὑμῖν ἔνια] i. e. 'much of what they said was most abusive, and some of it I should be sorry to repeat in your presence.' Cf. Or. 18 § 103, ὅσ' ὀκνήσαιμ' ἂν πρὸς ὑμᾶς εἰπεῖν, 21 § 79, οὐ γὰρ ἔγωγε προαχθεῖην ἂν εἰπεῖν πρὸς ὑμᾶς τῶν τότε ῥηθέντων οὐδέν, 2 § 19, and esp. Aeschin. 1 § 55, τοιαῦτα ἀμαρτήματα καὶ τοιαύτας ὑβρεῖς... οἷας ἐγὼ μὰ τὸν Δία τὸν Ὀλύμπιον οὐκ ἂν τολμήσαιμι πρὸς ὑμᾶς εἰπεῖν· ἂ γὰρ οὗτος ἔργω πρᾶττων οὐκ ἠσχύνετο, ταῦτ' ἐγὼ λόγῳ σαφῶς ἐν ἱμῖν εἰπὼν οὐκ ἂν ἐδεξάμην ζῆν. Cic. Ver. ii 1 § 32.

This rhetorical device of professing to have compunctions at repeating the bad language of one's opponent is sufficiently obvious. The effect is threefold.

ὑβρεώς ἐστι τῆς τούτου σημεῖον καὶ τεκμήριον τοῦ πᾶν τὸ πρᾶγμα ὑπὸ τούτου γεγενῆσθαι, τοῦθ' ὑμῖν ἐρῶ· ἦδε γὰρ τοὺς ἀλεκτρυόνας μιμούμενος τοὺς νενικηκότας, οἱ δὲ κροτεῖν τοῖς ἀγκῶσιν αὐτὸν ἠξίουσαν ἀντὶ πτερύγων τὰς πλευράς. καὶ μετὰ ταῦτα ἐγὼ μὲν ἀπεκομίσθην ὑπὸ τῶν παρατυχόντων γυμνός, οὔτοι δ' ὄχοντο θοιμάτιον λαβόντες μου. ὡς δ' ἐπὶ τὴν θύραν ἦλθον, κραυγὴ καὶ βοῇ τῆς μητρὸς καὶ τῶν θερα-

(1) The court is left to imagine that the terms of abuse were singularly offensive. (2) The plaintiff is accredited with being a man of high principle for hesitating to repeat the abominable language of his opponent, —for what Aristotle would call his *δυσχέρεια τῶν αἰσχυρῶν*. (3) The court is flattered by the compliment implied in the assurance that the language was too indecent to be repeated in their hearing. Cf. Arist. Rhet. III 7, παθητικὴ δὲ, ἐὰν μὲν ἦ ὕβρις, ὀργιζομένου λέξις, ἐὰν δὲ ἀσεβῆ καὶ αἰσχυρὰ, δυσχεραίνοντος καὶ εὐλαβουμένου καὶ λέγειν.

σημεῖον] To be taken with ὑβρεως; τεκμήριον with τοῦ γεγενῆσθαι. The former is 'an indication,' 'a sign'; the latter 'a conclusive proof' (note on Isocr. ad Dem. § 2). Or. 36 § 12.

ἦδε—πλευράς] 'he began to crow, mimicking the fighting-cocks that have won a victory, while the rest bade him flap his elbows against his sides, like (*lit.* in lieu of) wings.'

We find representations of cock-fighting on ancient gems and vase-paintings; and, if the authority of Aelian (var. hist. II 28) may be trusted, it was a political institution at Athens,

and took place in the public theatre once a year. (See esp. Becker's *Charicles* p. 77 n., also pp. 80—81, where the whole scene described in the text is admirably woven in with the adventures of Charicles.)

[Plato, Theaet. p. 164, φαινόμεθά μοι ἀλεκτρυόνος ἀγενοῦς δίκην, πρὶν νενικηκέναι, ἀποπηδήσαντες ἀπὸ τοῦ λόγου ἄδειν. Ar. Vesp. 705, καθ' ὅταν οὗτος γ' ἐπισίξη ἐπὶ τῶν ἐχθρῶν τιν' ἐπιρρύξας, ἀγρίως αὐτοῖς ἐπιπηδᾷς. The fighting-cock springs upon its adversary, and uses its spur to strike the head. P.]

γυμνός] sc. ἀνευ τοῦ ἱματίου, stripped of his cloak, as is clearly shown by the following clause. Or. 21 § 216 γυμνός ἐν τῷ χιτωνίσκῳ. Aeschin. I § 26 ῥίψας θοιμάτιον γυμνός ἐπαγκρατίαζεν. Ar. Lys. 150 ἐν τοῖς χιτωνίοισι...γυμναί. Nub. 497, κατάθου θοιμάτιον...γυμνοῦς εἰσιέναι νομίζεται. Hermann *Privatalt.* § 21 p. 175 Blümner.—ὄχοντο, in its usual pluperfect sense, 'after stripping me of my cloak, they had taken to their heels.'—ἦλθον, possibly first person singular, but more probably third person plural, referring to οἱ παρατυχόντες. But cf. § 20, ὑγιῆς ἐξελθὼν φοράδην ἦλθον οἰκάδε.

παινίδων ἦν, καὶ μόλις^ῃ ποτὲ εἰς βαλανεῖον ἐνεγκόν-
τες με καὶ περιπλύναντες ἔδειξαν τοῖς ἰατροῖς. ὡς
οὖν ταύτ' ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας
παρέξομαι.

1260

ΜΑΡΤΥΡΕΣ.

Συνέβη τοίνυν, ὧ ἄνδρες δικασταὶ, καὶ Εὐξίθειον¹⁰
τουτονὶ τὸν Χολλείδην, ὄνθ' ἡμῖν συγγενῆ, καὶ Μει-
δίαν μετὰ τούτου ἀπὸ δείπνου ποθὲν ἀπίοντας περιτυ-
χεῖν πλησίον ὄντι μοι τῆς οἰκίας ἤδη, καὶ εἰς τὸ βαλα-
νεῖον φερομένῳ παρακολουθῆσαι, καὶ ἰατρὸν ἄγουσι
παραγενέσθαι. οὕτω δ' εἶχον ἀσθενῶς ὥσθ', ἵνα μὴ
μακρὰν φεροίμην οἴκαδε ἐκ τοῦ βαλανείου, ἐδόκει τοῖς
παροῦσιν ὡς τὸν Μειδίαν ἐκείνην τὴν ἑσπέραν κομίσαι
με^κ καὶ ἐποίησαν οὕτως· λαβὲ οὖν καὶ τὰς τούτων
μαρτυρίας, ἵν' εἰδῆθ' ὅτι πολλοὶ συνίσασιν ὡς ὑπὸ
τούτων ὑβρίσθην¹.

^ῃ μόλις Z et Bekker st. cum Σ.

^κ Bekker. om Z cum Σ.

¹⁻¹ ἵν'—ὑβρίσθην om. r.

εἰς βαλανεῖον] a public bath, as
is shown by § 10, ἵνα μὴ μακρὰν
φεροίμην οἴκαδε ἐκ τοῦ βαλανείου.
See Becker's *Charicles* p. 147—
152.—For the context, cf.
Lysias, fragm. 75 (of a boy who
had been severely thrashed)
οὐ δυναμένου δὲ βαδίζειν ἐκόμισαν
αὐτὸν εἰς τὸ δεῖγμα ἐν κλίνῃ, καὶ
ἐπέδειξαν πολλοῖς Ἀθηναίων.

§ 10. I was followed to the
bath by Midias and by a
relative of mine who was return-
ing with him from dinner; and
as I was too weak to be carried
home again that evening, I was
taken to the house of Midias
for the night, as will be proved
by evidence.

10. Χολλείδην] 'Of Χολλεῖδαι,'
(Or. 35 § 20), a deme of the
tribe Leontis, probably situated

south of Hymettus and west
of Mons Anhydrys, or Hymet-
tus minor (Leake's *Athens*, II
57 and Wordsworth's *Athens
and Attica*, chap. xxv).—του-
τονὶ implies that Euxitheus was
present in court; the other,
Midias (probably the same as
the subject of the well-known
oration of Dem.), was absent.—
τῆς οἰκίας, Ariston's home.

τὸ βαλανεῖον] with the article,
in reference to βαλανεῖον already
mentioned without the article.
So in § 7, ἐν ἀγορᾷ...εἰς τὴν
ἀγορὰν.

ἄγουσι] The construction is
καὶ παραγενέσθαι αὐτοῖς ἄγουσιν
ἰατρὸν.

ὡς τὸν Μειδίαν] 'to Midias'
house.' For ὡς introducing an
accusative of motion towards a

ΜΑΡΤΥΡΙΑΙ.

Λαβὲ δὴ καὶ τὴν τοῦ ἱατροῦ μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

- 11 Τότε μὲν τοίνυν παραχρῆμα ὑπὸ τῶν πληγῶν ὧν^m ἔλαβον καὶ τῆς ὑβρέως οὕτω διετεθήν, ὡς ἀκούετε καὶ μεμαρτύρηται παρὰ πάντων ὑμῖν τῶν εὐθύς ἰδόντων. μετὰ δὲ ταῦτα τῶν μὲν οἰδημάτων τῶν ἐν τῷ προσώπῳ καὶ τῶν ἑλκῶν οὐδὲν ἔφη φοβεῖσθαι λίαν ὁ ἱατρὸς, πυρετοὶ δὲ παρηκολούθουν μοι συνεχεῖς καὶ ἀλγήματα ὅλου μὲν τοῦ σώματος πάνυ σφοδρὰ καὶ δεινὰ, μάλιστα δὲ τῶν πλευρῶν καὶ τοῦ ἥτρου, καὶ τῶν σιτίων
- 12 ἀπεκεκλείμηνⁿ. καὶ ὡς μὲν ὁ ἱατρὸς ἔφη, εἰ μὴ κάθαρσις αἵματος αὐτομάτη μοι πάνυ πολλὴ συνέβη περιωδύνῳ ὄντι καὶ ἀπορομένῳ ἤδη, κὰν ἔμπυος γενόμενος

^m Bekker. ἄς Ζ cum ΣΦΔ¹rk.

ⁿ Bekker cum Δ¹. ἀπεκεκλείσμη Ζ cum ΕΦΡ. ἀπεκλείσμη Σ.

person, cf. Thuc. iv 79, ἀφίκετο ὡς Περδίκκαν καὶ ἐς τὴν Χαλκιδικὴν.

§§ 11, 12. *The surgeon and others have deposed to the immediate consequences of the assault; afterwards, though he expressed no great fears about my external bruises, unintermittent attacks of fever ensued, attended by extreme internal pain. I was quite unable to eat; and, but for a violent discharge of blood at a critical time, death would have resulted, as will be proved by medical evidence.*

11. τῶν σιτίων ἀπεκεκλείμην] 'I was cut off from, debarred from, my food,' 'too ill to eat anything.' Hesychius explains ἀποκεκλήσθαι σιτίων· ἀνορέκτως ἔχειν τροφῆς.—Strict Atticists prefer ἀπεκεκλήμην (from old Attic κλήω) to ἀπεκεκλείμην

and ἀπεκεκλείσμη (Veitch *Gk. Verbs*).—ἥτρου, 'the pit of the stomach.'

12. εἰ νῆ—διεφάρην] 'If a copious discharge of blood had not spontaneously occurred, while I was in extreme agony and at the very crisis of the malady, I should have died of internal suppuration.' [An injury caused by the stamping upon him when down, was relieved at last by passing blood from some internal hemorrhage. P.] περιωδύνῳ is possibly a technical term; at any rate it is used by Hippocrates, 'the Father of Medicine,' and he also has περιωδυνεῖν, περιωδυνία and περιωδυνᾶσθαι [μοῖρα μὴ περιώδυνος μηδὲ δεμνιοτήρης occurs in Aesch. *Ag.* 1423. P.].—ἀπορομένῳ is either *passive*, 'despaired of,' or more probably *middle*, 'doubtful of my recovery', οὐκ εἰδὼς εἰ πε-

διεφθάρην· νῦν δὲ τοῦτ' ἔσωσε τὸ αἷμα ἀποχωρήσαν.
ὡς οὖν καὶ ταύτ' ἀληθῆ λέγω, καὶ παρηκολούθησέ μοι
1261 τοιαύτη νόσος ἐξ ἧς εἰς τοῦσχατον ἦλθον, ἐξ ὧν ὑπὸ
τούτων ἔλαβον πληγῶν, λέγε τὴν τοῦ ἱατροῦ μαρ-
τυρίαν καὶ τὴν τῶν ἐπισκοπούντων.

ΜΑΡΤΥΡΙΑΙ.

“Ὅτι μὲν τοίνυν οὐ μετρίας τινὰς καὶ φαύλας λα- 13
βῶν πληγὰς, ἀλλ' εἰς πᾶν ἐλθὼν διὰ τὴν ὕβριν καὶ τὴν
ἀσέλγειαν τὴν τούτων πολὺ τῆς προσηκούσης ἐλάττω

ριφεύξομαι § 28.—On the quantity of ἔμπνος, see *Excursus* (B), p. 236.

τοῦτ' ἔσωσε] The construction is τοῦτο τὸ αἷμα, ἀποχωρήσαν, ἔσωσέ με, ‘the passing of this blood saved my life.’

παρηκολούθησε—πληγῶν] Constr. τοιαύτη νόσος, ἐξ ἧς εἰς τοῦσχατον ἦλθον, παρηκολούθησέ μοι ἐκ τῶν πληγῶν, ἄς ὑπὸ τούτων (sc. Conon, Ctesias and Theogenes) ἔλαβον.

τῶν ἐπισκοπούντων] ‘those who came to see me,’ ‘visited me in illness.’ Xen. *Cyrop.* viii 2 § 25, ὁπότε τις ἀσθενήσειε τῶν θεραπεύεσθαι ἐπικαιρίων, ἐπεσκόπει καὶ παρέιχε πάντα ὅτου ἔδει; also in *middle*, Xen. *Mem.* iii 11 § 10, ἀρρωστήσαντος φίλου φροντιστικῶς ἐπισκέψασθαι. Or. 59 § 56, τὰ πρόσφορα τῇ νόσῳ φέρουσαι καὶ ἐπισκοπούμεναι.

§§ 13—15. Let me now tell you beforehand of the course which Conon will take in his reply. He will divert your attention from the facts and try to throw ridicule on the whole affair. He will tell you it was only the playful pleasantry that is common among young men about town. He will misrepresent us as just like his sons in character, and only

different in being hard on other people. But the jury will be inflicting what I may call a fresh outrage upon me, if they are going to believe the defendant's bare assertion about our respective characters and to allow no weight to the evidence of our life and conduct.

13. εἰς πᾶν ἐλθὼν] While πᾶν ποιεῖν and πάντα ποιεῖν are invariably used in the active sense of ‘straining every nerve,’ ‘leaving no stone unturned,’ εἰς πᾶν ἐλθεῖν and similar phrases have often (like εἰς τοῦσχατον ἐλθεῖν of the last section) the passive notion of being reduced to the utmost extremity, as in the present passage.

Thus (i) in *active* sense we have Xen. *Cyr.* v 4 § 26 πάντα ἐπόλουν πείθοντες τὸν βασιλέα, Anab. iii 1 § 18 ἐπὶ πᾶν ἐλθοι, ὡς ἡμᾶς τὰ ἔσχατα αἰκισάμενος πᾶσιν ἀνθρώποις φόβον παράσχοι, Soph. O. T. 265 κάπι πάντ' ἀφίξομαι ζητῶν τὸν αὐτόχειρα.

(ii) in *passive*; Xen. *Hell.* vi 1 § 12 οἶδα δέ, ὕψ' οἷας δυνάμεις...εἰς πᾶν ἀφίκετο βασιλεύς, and v 4 § 29. Plato *Symp.* 194A, μάλ' ἄν φοβοῖο καὶ ἐν παντὶ εἶης.

τῆς προσηκούσης ἐλάττω δίκην] ‘I have entered on an action much below the merits

δίκην εἴληχα, πολλαχόθεν νομίζω δῆλον ὑμῖν γεγενησθαι. οἶμαι^ο δ' ὑμῶν ἐνίους θαυμάζειν τίνα^ρ ποτ' ἐστὶν ἂ πρὸς ταῦτα τολμήσει Κόνων λέγειν. βούλομαι δὴ προειπεῖν ὑμῖν ἂ ἐγὼ πέπυσμαι λέγειν αὐτὸν παρεσκευάσθαι, ἀπὸ τῆς ὕβρεως καὶ τῶν πεπραγμένων τὸ πρᾶγμ' ἄγοντα εἰς γέλωτα καὶ σκώμματα ἐμβαλεῖν
 14 πειράσασθαι, καὶ ἐρεῖν ὡς εἰσὶν ἐν τῇ πόλει πολλοὶ, καλῶν κάγαθῶν ἀνδρῶν υἱεῖς, οἳ παίζοντες οἷα ἄνθρωποι νέοι σφίσιν αὐτοῖς ἐπωνυμίας πεποιήνται, καὶ καλοῦσι τοὺς μὲν ἰθυφάλλους, τοὺς δὲ αὐτοληκίθους,

^ο οἶμαι Z cum Σ.

^ρ A¹kr. τί Z cum Σ.

of the case.' Cf. latter half of § 1.

τίνα ποτ' ἐστὶν ἂ] The Zürich editors and Westermann prefer τί ποτ' ἐστὶν ἂ, 'what is the import (*sing.*) of the points (*plur.*) that Conon will urge in his defence.' τί...ἂ is more idiomatic than τίνα...ἂ, and is found in Or. 4 § 10; 19 § 288; 21 § 154; 36 § 28; 37 § 36.

ἀπὸ τῆς ὕβρεως—ἐρεῖν] In apposition to λέγειν παρεσκευάσθαι, and loosely dependent on πέπυσμαι. A simpler construction might have been brought about by closing the sentence with παρεσκευάσθαι and then beginning afresh with some such sentence as the following; ἀπὸ γὰρ τῆς ὕβρεως καὶ τῶν πεπραγμένων τὸ πρᾶγμ' ἀπαγαγὼν, εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν πειράσεται, καὶ ἐρεῖ κ.τ.λ., and in English translation this would give a clearer sense than any slavishly literal rendering of the more complex construction in the text. 'He will divert your attention from the wanton outrage and the actual facts of the case; and will endeavour to turn the whole

affair into mere jest and ridicule.' That εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν is the construction (and not καὶ σκώμματ' ἐμβαλεῖν πειράσασθαι, καὶ ἐρεῖν,) appears from (Dem.) Phil. 4 § 75, τὸ πρᾶγμα εἰς γέλωτα καὶ λοιδορίαν ἐμβalόντες, cf. Aeschin. 1 § 135 τὸ πρῶγμα εἰς ὄνειδος καὶ κινδύνους καθιστάς and εἰς γέλωτα καὶ λῆρόν τινα προτρεπόμενος ὑμᾶς, Lysias frag. 75, 1 εἰς σκώμματά τε αὐτοῖς καὶ ἀντιλογίαν καὶ ἔχθρον καὶ λοιδορίαν κατέστησαν. —Hesychius, referring perhaps to the present passage, has σκώμματα· λοιδορήματα γέλωτος χάριν.

14. ὡς εἰσὶν] followed in the latter half of the sentence by acc. c. inf.

καλῶν κάγαθῶν] See note on Or. 4, 5 § 65. Trans. 'sons of respectable people, who in their youthful frolics have given themselves nicknames.' σφίσιν αὐτοῖς is not necessarily limited to the reflexive sense, but is sometimes almost equivalent to the reciprocal pronoun ἀλλήλοις (see Isocr. Paneg. § 34).

ἰθυφάλλους αὐτοληκίθους] 'Priapi and Sileni.' Kennedy

ἐρώσει δ' ἐκ τούτων ἑταιρῶν τινὲς, καὶ δι' καὶ τὸν υἱὸν τὸν ἑαυτοῦ εἶναι τούτων ἓνα, καὶ πολλάκις περὶ^α ἑταίρας καὶ εἰληφέναι καὶ δεδωκέναι πληγὰς, καὶ ταῦτ' εἶναι νέων ἀνθρώπων. ἡμᾶς δὲ πάντας τοὺς ἀδελφοὺς παροίνους μὲν τινὰς καὶ ὑβριστὰς κατασκευάσει^β, ἀγνώμονας δὲ καὶ πικρούς. ἐγὼ δ', ὧ ἄνδρες δικασταί, 15 χαλεπῶς ἐφ' οἷς πέπουθα ἐννοχῶς, οὐχ ἦπτον τοῦτ' ἀγανακτήσαιμ' ἂν καὶ ὑβρισθῆναι νομίσαιμι, εἰ οἶόν τ'

^α Bekker. καὶ περὶ Ζ cum Σ.

^β Bekker. παρασκευάσειν Ζ cum Σ, κατεσκευάκασι ΦΦ, κατασκευάσει Α¹kr.

(following the French translation of Auger). For an account of the word *αὐτολήκυθος*, see *Excursus (C)*, p. 227.

ἐρώσει κ.τ.λ.] The construction is *τινὲς ἐκ τούτων ἐρώσειν ἑταιρῶν*. —καὶ δὴ καὶ, used in descending to particulars after a general statement. Or. 55 § 10. The construction here changes from *ὡς εἰσὶν* to the acc. with infin.—*περὶ ἑταίρας* gen. sing., not acc. pl. [See Or. 21 § 36 p. 525 and Ar. Vesp. 1345. P.]

εἰληφέναι καὶ δεδωκέναι πληγὰς] These phrases are used to supply the lack of a perf. passive and active of *τύπτω*, as the Attic prose writers know nothing of the forms *τετύφθαι* and *τετυφέναι*. See *Excursus (A)* on *τύπτω*, p. 221.

παροίνους... ὑβριστὰς... ἀγνώμονας... πικρούς] 'drunken' and 'insolent'; 'unforgiving' and 'ill-tempered.' The four epithets, separated into pairs by *μὲν* and *δὲ*, refer, in the case of the first couple, to the actual 'assault and battery'; in the case of the second, to the lawsuit that had since resulted. Conon will in his artful way represent us as really wild sparks

like himself, who are yet inconsistent enough to be churlish and ill-tempered, instead of genial and good-humoured as *πάροινοι* and *ὑβρισται* ought to be.

κατασκευάσει] in bad sense, 'to misrepresent,' 'trump up a story,' 'make out falsely.' Cf. Or. 45 § 82. *παρασκευάσειν*, the reading of the Paris MS Σ, depends, like the previous infinitives, on the remote verb *πέπυσμαι*.

15. χαλεπῶς — ἐννοχῶς] 'deeply indignant as I am at the wrongs I have suffered.' Or. 21 § 108 ἐγὼ γὰρ ἐννοχῶς χαλεπῶς ἐφ' οἷς περὶ τὴν λειτουργίαν ὑβρίσθην, ἔτι πολλῶ χαλεπώτερον... τούτοις τοῖς μετὰ ταῦτα ἐνήνοχα καὶ μᾶλλον ἠγανάκτησα, 58 § 55 πρῶος ἐπὶ τοῖς γιγνομένοις φέρειν.

τοῦτ' ἀγανακτήσαιμ' ἂν] Or. 8 § 55, ἀγανακτῶ αὐτὸ τοῦτο, εἰ τὰ μὲν χρήματα λυπεῖ τινὰς ὑμῶν εἰ διαρπασθῆσεται. ἀγανακτεῖν and similar verbs implying mental emotion, though occasionally followed by a dative with or without ἐπὶ, may have an accusative neuter pronoun (Kühner, *Gk. Gr.* § 410 c 5). *τοῦτο* is explained by *εἰ ἀληθῆ*

εἰπεῖν, εἰ ταῦτ' ἀληθῆ δόξει Κόνων οὔτοσι λέγειν περὶ ἡμῶν, καὶ τοσαύτη τις ἄγνοια παρ' ὑμῖν ἐστὶν ὡσθ' ὁποῖος ἂν τις ἕκαστος εἶναι φῆ ἢ ὁ πλησίον αὐτὸν αἰ- 1262
τιάσῃται, τοιοῦτος νομισθήσεται, τοῦ δὲ καθ' ἡμέραν βίου καὶ τῶν ἐπιτηδευμάτων μηδ' ὅτιοῦν ἐστὶν τοῖς
16 μετρίοις ὄφελος. ἡμεῖς γὰρ οὔτε παροινούντες οὐδ' ὕβριζοντες ὑπ' οὐδενὸς ἀνθρώπων ἐωράμεθα, οὔτ' ἄγνω-

* Baiter (Dind. et Westermann): οὔθ' retinet Bekker st. qui in versu proximo οὐδὲ scribit.

δόξει οὔτοσι λέγειν, 'deeply indignant as I am at the wrongs I have suffered, I should (if you will pardon the expression) feel no less resentment at this, and should deem myself the victim of a fresh outrage at your hands, if Conon shall be held by you to be speaking the truth about us...' εἰ οἶόν τ' εἰπεῖν must be understood as a parenthetical apology for using the strong word ὑβρισθῆναι to express the outrage that will be done to the feelings of honest men like the plaintiff, if the defendant's bare assertion is believed outright, and if no weight is given to the unimpeachable testimony presented on the other hand by the exemplary lives of himself and his brothers. Cf. esp. § 43 εἰ προσυβρισθεὶς ἀπειμι καὶ δίκης μὴ τυχῶν.

αὐτὸν αἰτιάσῃται] sc. εἶναι, 'that, whatever sort of person each one shall assert that he is, or his neighbour shall accuse him of being, such he shall be considered to be, and respectable citizens shall have no advantage at all from their daily life or conduct.' Aeschin. 1 § 153 and 2 § 5.

§§ 16—17. As to our own

character, no one has ever seen us playing drunken pranks on other people, and we cannot see how our opponents can call us 'hard' on others, if we claim redress. Conon's sons are welcome to belong to their disorderly clubs, but I shall be surprised if this or any similar plea will enable them to escape with impunity.

16. οὔτε παροινούντες οὐδ' ὕβριζοντες... οὔτ' ἄγνωμον κ.τ.λ.] This refers to § 14, παροίνους... καὶ ὑβριστὰς... ἄγνωμονα δὲ καὶ πικροῦς. The MSS have οὔθ' ὕβριζοντες, which Baiter alters into οὐδ' ὕβριζοντες. It would be better perhaps (with Bekker) to leave οὔθ' ὕβριζοντες, and to alter οὔτ' into οὐδ' before ἄγνωμον. The break between the second clause and the first is clearly greater than between the two parts of the first (viz. παροινούντες and ὕβριζοντες).

ἐωράμεθα] This form of the perf. of ὀρᾶν (for the older Attic ὠμμαι, the 2nd and 3rd sing. of which occur in Dem.) is also found in Isocr. antid. § 110, μηδ' ὑφ' ἐνὸς ἐωρᾶσθαι, possibly the earliest extant instance (the *antidosis* belongs to B.C. 355; the present speech to B.C. 355 or 341).

μον οὐδὲν ἡγούμεθα ποιεῖν, εἰ περὶ ὧν ἡδίκημέθ' ἀξιού-
 μεν κατὰ τοὺς νόμους δίκην λαβεῖν. ἰθυφάλλοις δὲ
 καὶ αὐτοληκύθοις συγχωροῦμεν εἶναι τοῖς υἱέσι τοῖς
 τούτου, καὶ ἔγωγ' εὐχομαι τοῖς θεοῖς εἰς Κόνωνα καὶ
 τοὺς υἱεῖς τοὺς τούτου καὶ ταῦτα καὶ τὰ τοιαῦτα ἅπαντα
 τρέπεσθαι. οὗτοι γάρ εἰσιν οἱ τελοῦντες ἀλλήλους τῶ 17
 ἰθυφάλλῳ, καὶ τοιαῦτα[†] ποιοῦντες ἂ πολλὴν αἰσχύνην
 ἔχει καὶ λέγειν, μὴ ὅτι γε διὴ ποιεῖν ἀνθρώπους μετρί-
 ους. ἀλλὰ τί ταῦτ' ἐμοί; θαυμάζω γὰρ ἔγωγε, εἴ τίς
 ἐστι πρόφασις παρ' ὑμῖν ἢ σκῆψις εὐρημένη δι' ἣν, ἂν
 ὑβρίζων τις ἐξελέγχηται καὶ τύπτων, δίκην οὐ δώσει.
 οἱ μὲν γὰρ νόμοι πολὺ τὰναντία καὶ τὰς ἀναγκαίας

[†] Bekker. τὰ τοιαῦτα Ζ cum Σ.

συγχωροῦμεν κ.τ.λ.] They are welcome, so far as we are concerned, to the attributes of Priapi and Sileni. For the dat. cf. § 44, πονηροτέροις ἡμῖν εἶναι συνέβαινεν.

εἰς Κόνωνα...τρέπεσθαι] Passive; 'recoil upon the head of Conon.' Ar. Ach. 833, πολυπραγμοσύνη νῦν εἰς κεφαλὴν τρέποιτ' ἐμοί. (Dem.) Epist. 4 § 10, οἱ θεοὶ...τὴν ἄδικον βλασφημίαν εἰς κεφαλὴν τῷ λέγοντι τρέπουσι.

οἱ τελοῦντες κ.τ.λ.] 'who initiate one another with Priapic rites.'—πολλὴν αἰσχύνην ἔχει, 'involve deep disgrace even to speak of.'—μὴ ὅτι γε, *nedum*. Cf. Plato, Phaedr. 240 D, Crat. 427 E, and see note on Or. 34 § 14.

§§ 17 cont.—20. Compare the spirit of our laws with the course which Conon proposes to take. The laws, I understand, affix a penalty even to minor offences, to preclude the perpetration of graver crimes, to prevent men (for instance) being gradually led

from wrangling to blows, from blows to wounding, from wounding to murder. Conon, on the contrary, will make light of the whole affair and will raise a laugh to get himself acquitted. Why! none of you would have laughed had you seen me when I was being brutally maltreated, and when I was carried helpless to my home.

17. θαυμάζω γὰρ] The English idiom requires us to leave γὰρ untranslated, or else to render it by the exclamation 'why!'—'What has all this to do with me? Why! for my part, I am surprised if in your court they have discovered any plea or pretext, thanks to which a man, if convicted of outrage and assault, shall escape punishment.'

οἱ μὲν γὰρ νόμοι κ.τ.λ.] The influence of μὲν extends over the whole of the two following sections, it is then caught up and reiterated in the clause εἰτ' ἐν μὲν τοῖς νόμοις οὕτως. Thus the first μὲν has no δὲ corresponding

προφάσεις, ὅπως μὴ μείζους γίγνωνται, προείδοντο, οἶον (ἀνάγκη γάρ μοι ταῦτα καὶ ζητεῖν καὶ πυνθάνε-
18 σθαι διὰ τοῦτον γέγονεν) εἰσὶ κακηγορίας δίκαι φασὶ τοίνυν ταύτας διὰ τοῦτο γίγνεσθαι, ἵνα μὴ λοιδορού-

to it, until we reach the words ἀν δ' εἴπη Κόνων. 'The laws say so and so...' 'Not so Conon.'

τὰς ἀναγκαίας προφάσεις κ.τ.λ.] i.e. προείδοντο ὅπως μὴδ' αἱ ἀναγκαῖαι προφάσεις μείζους γίγνωνται. Thus, to use the illustration supplied below by Demosthenes himself, abusive language is a πρόφασις for dealing blows; blows again are a πρόφασις for inflicting wounds; lastly wounding, for homicide. The laws, by ordaining a legal remedy at each stage, (1) defamation, (2) assault, (3) unlawful wounding, interpose to prevent defamation, which is a pretext for assault, growing into actual assault; similarly assault developing into unlawful wounding, and ultimately into homicide. 'The laws on *their* part have, on the very contrary, made provision, even in the case of pleas of necessity, against the development of those pleas into greater proportions.'

[The meaning is, that the law, by providing an action for every kind of insult, has made it unnecessary for the aggrieved to resort to extremes in avenging himself. By ἀναγκαῖα πρόφασις he means, for instance, the plea, that a man was insulted and he was obliged to resent it. The law says, 'that obligation must not be pressed too far, so as to justify you in taking very violent revenge.' P.]

ἀνάγκη γάρ... γέγονεν] The plaintiff, a quiet, common-place soldier, is here on the verge of

displaying a familiarity with legal technicalities which would be not only out of keeping with his ordinary character, but would be resented by those of the jury who happened to be less versed in legal learning. The court would be apt to ascribe his acquaintance with the details of the law of defamation, assault, and homicide to that over-litigiousness of character which was as unpopular, as it was common, at Athens; or, at the very least, they would put him down as a pedant. Hence Demosthenes introduces a passing apology, explaining that the plaintiff, honest man, owes all his legal lore to the enquiries rendered imperative by the maltreatment he had received from the defendant. Hence, too, the skilful disclaimer of superior knowledge involved in the subsequent phrases; φασί... γίγνεσθαι and ἀκούω... εἶναι. Cf. Lysias Or. 19 §§ 5, 53.

κακηγορίας δίκαι] Isocr. κατὰ Λοχίτου (an αἰκίας δίκη like the present case), § 3 (οἱ θέντες ἡμῶν τοὺς νόμους) οὕτω... ἠγήσαντο δεινὸν εἶναι τὸ τύπτειν ἀλλήλους, ὥστε καὶ περὶ κακηγορίας νόμον ἔθεσαν, ὃς κελεύει τοὺς λέγοντάς τι τῶν ἀπορρήτων πεντακοσίας δραχμὰς ὀφείλειν. Cf. Lysias, Or. 10 §§ 6—12, Dem. Or. 23 § 50, Or. 21 § 32.

18. λοιδορούμενοι] 'reviling one another.' For the reciprocal sense, cf. Or. 54 § 40, ἐχθροὺς ἀλλήλους ... λοιδορουμένους καὶ πλύνοντας αὐτοὺς τὰ πόρρητα, and

μενοι τύπτειν ἀλλήλους προάγωνται. πάλιν αἰκίας εἰσίν· καὶ ταύτας ἀκούω διὰ τοῦτ' εἶναι τὰς δίκας, ἵνα μηδεῖς, ὅταν ἦττων ᾖ, λίθῳ μηδὲ τῶν τοιούτων ἀμύνηται μηδενί, ἀλλὰ τὴν ἐκ τοῦ νόμου δίκην ἀναμένη. τραύματος πάλιν εἰσὶ γραφαὶ τοῦ μὴ τιτρωσκομένων τινῶν φόνους γίγνεσθαι. τὸ φαυλότατον, οἶμαι, τὸ 19 τῆς λοιδορίας, πρὸ τοῦ τελευταίου καὶ δεινοτάτου προ-

Ar. Ranae 857, πρᾶνως ἔλεγχ' ἐλέγχου, λοιδορεῖσθαι δ' οὐ θέμις ἄνδρας ποιητὰς ὥσπερ ἄρτοπωλίδας.

As λοιδορεῖσθαι is used in the sense of *κακῶς ἀγορεύειν ἀλλήλους*, so also λοιδορία sometimes occurs as an equivalent for the precise technical term *κακηγορία*. Hence we have in Ar. Vesp. 1207 εἶλον διώκων λοιδορίας (sc. *κακηγορίας*), and Athenaeus (xii 525 b) quotes from Antiphon ἐν τῷ κατ' Ἀλκιβιάδου λοιδορίας, possibly meaning a speech in a *δίκη κακηγορίας*.

αἰκίας] sc. δίκαι, of which the present case is an instance.

For the general sense of the following sentences, cf. Isocr. κατὰ Λοχίτου Or. 20 § 8 πολλὰκις ἤδη μικρὰ προφάσεις μεγάλων κακῶν αἰτιαὶ γεγόνασι, καὶ... διὰ τοὺς τύπτειν τολμῶντας εἰς τοῦτ' ἤδη τινὲς ὀργῆς προήχθησαν ὥστ' εἰς τραύματα καὶ θανάτους καὶ φυγὰς καὶ τὰς μεγίστας συμφορὰς ἐλθεῖν.

ἵνα μηδεῖς—μηδενί] 'to prevent anyone, when he is the weaker party, defending himself with a stone or any similar missile,' e.g. an ὄστρακον, Lysias Or. 4 § 6. See Mahaffy's *Social Greece* pp. 358—360.

τραύματος... γραφαὶ] (Lysias) Or. 6 κατ' Ἀνδοκίδου § 15 ἂν τις ἄνδρὸς σῶμα τρώσῃ, κεφαλὴν ἢ πρόσωπον ἢ χεῖρας ἢ πόδας, αὐτὸς κατὰ τοὺς νόμους τοὺς ἐξ Ἀρείου

πάγου φεύξεται τὴν ἀδικηθέντος πόλιν, καὶ εἰάν κατῆ, ἐνδειχθεὶς θανάτῳ ζημιωθήσεται.

The fourth oration of Lysias is a very brief defence in a case of 'malicious wounding,' *περὶ τραύματος ἐκ προνοίας*. The defendant endeavours to prove the absence of *πρόνοια* (malice pre-pense), and implores the *βουλή* (ἢ ἐξ Ἀρείου πάγου) to rescue him from banishment (§§ 6, 12, 20). In Aeschin. Ctesiph. § 51 a *τραύματος γραφή* instituted by Demosthenes is mentioned; and Demosthenes himself (Aristocr. § 24) quotes the law *τὴν βουλήν δικάζειν φόνου καὶ τραύματος ἐκ προνοίας κ.τ.λ.*

τοῦ μὴ... φόνους γίγνεσθαι] The *genitive* of a clause containing an accusative of the subject and an infinitive is often used (especially with *μὴ*) to denote the *object* or *motive*; the *dative*, the *means* and *instrument* or *cause* (Madvig's *Greek Syntax*, § 170, and the commentators on Thuc. ii 102; vi 33; viii 87 § 3.)

19. τὸ τῆς λοιδορίας κ.τ.λ.] 'the least of these evils, namely, abusive language, has been provided for by the laws, for the avoidance of (πρὸ) &c.'—*προεώραται*, which may have either a middle or a passive sense, has here almost certainly the latter, especially as we have just had *εἰωράμεθα* as a *passive* in § 16.

εώραται, τοῦ μὴ φόνον γίγνεσθαι μηδὲ κατὰ μικρὸν ὑπάγεσθαι ἐκ μὲν λοιδορίας εἰς πληγὰς, ἐκ δὲ πληγῶν 1263 εἰς τραύματα, ἐκ δὲ τραυμάτων εἰς θάνατον, ἀλλ' ἐν τοῖς νόμοις εἶναι τούτων ἐκάστου τὴν δίκην, μὴ τῆ τοῦ προστυχόντος ὀργῇ μηδὲ βουλήσει ταῦτα κρίνεσθαι. 20 εἶτ' ἐν μὲν τοῖς νόμοις οὕτως· ἂν δ' εἶπη Κόνων “ ἰθύ-
 “ φαλλοὶ τινὲς ἐσμεν ἡμεῖς συνειλεγμένοι, καὶ ἐρῶντες
 “ οὓς ἂν ἡμῖν δόξῃ παίομεν καὶ ἄγχομεν,” εἶτα γελά-
 σαντες ὑμεῖς ἀφήσετε; οὐκ οἶμαί^u γε. οὐ γὰρ ἂν γέλως ὑμῶν ἔλαβεν οὐδένα, εἰ παρῶν ἐτύγχανεν, ἡνίκα εἰλκόμεν καὶ ἐξεδύομεν καὶ ὑβριζόμεν, καὶ ὑγιῆς ἐξε-
 λθὼν φοράδην ἦλθον οἴκαδε, ἐξεπεπηδήκει δὲ μετὰ ταῦθ' ἢ μήτηρ, καὶ κραυγὴ καὶ βοή τῶν γυναικῶν τοσαύτη παρ' ἡμῖν ἦν ὥσπερανεὶ τεθνεώτος τινος,

^u οἶμαί Ζ cum Σ.

προεώραμαι occurs as passive in Arist. Met. II 1, and προεωρᾶσθαι as middle in Diod. Sic. xx 102. Westermann here supplies ὁ νόμος, and thus takes it as a middle; but Dem. in the present passage and its context appears to prefer the plural οἱ νόμοι, though ἐκ τοῦ νόμου occurs four lines back.

ἐκ λοιδορίας εἰς πληγὰς] 40 § 32 ἐξ ἀντιλογίας καὶ λοιδορίας πληγὰς συναψάμενος.

20. ἐν μὲν τοῖς νόμοις] reiterates οἱ μὲν γὰρ νόμοι in § 17.

ἰθύφαλλοι—ἄγχομεν] ‘we belong to the Priapus-club (§ 34, ἐπειδὴν συλλεγῶσι) and in our love-affairs (§ 14) strike and throttle whom we choose.’

εἶτα] an indignant exclamation. — γελάσαντες ... ἀφήσετε. Cf. Or. 23 § 206, ἂν ἐν ἡ δού' ἀστεῖα εἴπωσι...ἀφίετε. Horace, Sat. II 1, 86, solventur risu tabulae; tu missus abibis.

εἰλκόμεν—οἴκαδε] The rhe-

torician Aristides (Spengel, Rhet. Graeci II 495) quotes this sentence to exemplify σφοδρότης, or vehemence of style. On ἐξεπεπηδήκει he remarks, οὐκ εἶπεν ἐξεληλύθει, ἀλλὰ ἐμφαντικώτερον τῇ ὀνομασίᾳ, ἐξεπεπηδήκει ἢ μήτηρ· ἐν γὰρ τῷ ὀνόματι ἢ ἐμφασίς.

φοράδην] Hesychius, ὁ φερόμενος βασταγμῶ [by the hands of men (not in a wheeled car) P.].

τεθνεώτος] The compound tenses ἀποθνήσκω, ἀποθανοῦμαι, ἀπέθανον (which are frequent in Attic prose and comedy, but are not used in tragedy) have no corresponding perfect, but take instead the simple forms τέθνηκα, τεθνάαι, τεθνεώς. ἀποτεθνεώς and the like are never found in Attic verse or prose (Cobet, nov. lect. 29 and Veitch, Greek verbs). Cf. Plato, Phaedo 64 A, ἀποθνήσκει τε καὶ τεθνάαι, and 71 C, ἐκ τῶν τεθνεώτων, followed

ὥστε τῶν γειτόνων τινὰς πέμψαι πρὸς ἡμᾶς ἐρησομέ-
 νους ὅ τι ἐστὶ τὸ συμβεβηκός. ὅλως δ', ὧ ἄνδρες 21
 δικασταὶ, δίκαιον μὲν οὐδενὶ δῆπου σκῆψιν οὐδεμίαν
 τοιαύτην οὐδὲ ἄδειαν ὑπάρχειν παρ' ὑμῶν^v δι' ἣν
 ὑβρίζειν ἐξέσται· εἰ δ' ἄρ' ἐστὶ τῷ, τοῖς δι' ἡλικίαν
 τούτων τι πράττουσι, τούτοις ἀποκεῖσθαι προσήκει
 τὰς τοιαύτας καταφυγὰς, κἀκείνοις^w οὐκ εἰς τὸ μὴ
 δοῦναι δίκην, ἀλλ' εἰς τὸ τῆς προσηκούσης ἐλάττω. 22
 ὅστις δ' ἐτῶν μὲν ἐστὶ πλειόνων ἢ πεντήκοντα, παρῶν
 δὲ νεωτέροις ἀνθρώποις καὶ τούτοις υἱέσιν, οὐκ ὅπως
 ἀπέτρεψεν ἢ διεκώλυσεν, ἀλλ' αὐτὸς ἡγεμὼν καὶ πρῶ-
 τος καὶ πάντων βδελυρώτατος γεγένηται, τίν' ἂν
 οὗτος ἀξίαν τῶν πεπραγμένων ὑπόσχοι δίκην; ἐγὼ
 μὲν γὰρ οὐδ' ἀποθανόντα οἶμαι. καὶ γὰρ εἰ μὴδὲν

^v Bekker st. cum Σ^Ak: *legebatur ὑμῖν*.

^w A¹kr. καὶ ἐκείνοις Ζ cum Σ.

in the very next line by ἐκ τῶν ἀποθανόντων.

§§ 21—23. *It is only those who are misled by their youth into acts of outrage that deserve any indulgence, and even in their case, such indulgence ought not to get them off altogether, but should extend simply to mitigation of their penalty. But Conon is more than fifty years of age, and therefore inexcusable; and yet, instead of stopping younger men, and those his sons, from doing wrong, he was the ring-leader of them all.*

Even the penalty of death would be too small for his crimes, for the conduct of his sons in their father's presence proves that he himself had no reverence for his own father.

21. δίκαιον μὲν] The rule of strict justice, stated broadly (ὅλως, 'speaking generally'), as

contrasted with the concessions granted in special cases on the principles of equity (or ἐπιείκεια) implied in the next sentence.

τούτοις] repeats the previous dative τοῖς...πράττουσι ('to these, I say'), and is itself emphatically reiterated in the subsequent κἀκείνοις, referring pointedly to the plaintiff's opponents.

εἰς] 'to the extent of.' For this sense, see my note on Eur. El. 1072. P.]

22. παρῶν δὲ—γεγένηται] Cf. § 6 ad fin.

τίν' ἂν—δίκην;] i.e. 'Is there any punishment to which he could submit, that would be adequate to his crimes?'—On ἀποθανόντα, cf. note on § 20, τεθνεώτος.—With οἶμαι we understand ἀξίαν ἂν τῶν πεπραγμένων ὑποσχεῖν δίκην.—ἄπερ νυνὶ, sc. πεποιηκῶς φαίνεται.

αὐτὸς εἶργαστο τῶν πεπραγμένων, ἀλλ' εἰ παρεστη- 1264
 κότης τούτου Κτησίας ὁ υἱὸς ὁ τούτου ταυθ' ἄπερ^x
 νυνὶ πεποιηκῶς ἐφαίνετο, τοῦτον ἐμισεῖτ' ἂν δικαίως.
 23 εἰ γὰρ οὕτω τοὺς ἑαυτοῦ προῆκται παῖδας ὥστ' ἐναν-
 τίον ἐξαμαρτάνοντας ἑαυτοῦ, καὶ ταῦτα ἐφ' ὧν ἐνίοις
 θάνατος ἢ ζημία κείται, μήτε φοβεῖσθαι μήτ' αἰσχύ-
 νεσθαι, τί τοῦτον οὐκ ἂν εἰκότως παθεῖν οἴεσθε; ἐγὼ
 μὲν γὰρ ἠγοῦμαι ταυτ' εἶναι σημεῖα τοῦ μηδὲ τοῦτον
 τὸν ἑαυτοῦ πατέρα αἰσχύνεσθαι· εἰ γὰρ ἐκείνον αὐτὸς
 ἐτίμα καὶ ἐδεδίει, κὰν τούτους αὐτὸν ἠξίλου.

24 Λαβὲ δὴ μοι καὶ τοὺς νόμους, τὸν τε^y τῆς ὕβρεως

^x Bekker st. cum Σ. + οὔτος A¹kr.

^y τὸν τε addidit Dind. τοὺς A¹kr. om. Z et Bekker st. cum ΣΦ.

τοῦτον ἐμισεῖτ' ἂν δικαίως] 'even then you would have abhorred the defendant, and rightly too!' or (with Kennedy) 'even then he would have deserved your execration.'

23. προῆκται] Perfect passive with *middle* sense 'has had them brought up' (Liddell and Scott), or simply 'has trained them,' (*gezogen hat*). This explanation is due to Reiske, and is probably right. But the general sense of προάγω, 'to lead on by little and little' (§ 18, προάγονται), may perhaps warrant our understanding it of Conon's permitting his sons to be constantly taking liberties, and going step by step from bad to worse. προῆκται may in the latter case be rendered 'has spoilt' (*verzogen hat*, Westermann and G. H. Schaefer), but the two meanings are almost identical, and the general sense the same.

καὶ ταῦτα ἐφ' ὧν—κείται] 'and that too in the case of acts, for

some of which the penalty ordained is death' (referring to laws against ὕβρις and περὶ τῶν λωποδυτῶν, cf. § 1 *ad fin.*). ἐφ' ὧν ἐνίοις stands for ἐπὶ τούτων ὧν ἐνίοις [or, perhaps, καὶ ταῦτα (ἐξαμαρτάνοντας) ἐφ' ὧν ἐνίοις. P.] τοῦτον] Conon; ἐκείνον, his father (who was probably dead, as we may take αἰσχύνεσθαι as an *imperfect imperative*); τούτους, his sons.—The construction of the last clause is ἠξίλου ἂν καὶ τούτους (τιμᾶν καὶ δεδιέναι) αὐτόν.

§§ 24, 25. Take and read the statutes on brutal outrage and on highway robbery, to both of which the defendant is amenable, though I have declined to claim redress under these statutes. Further, had death ensued, he would have been chargeable with murder.

24. τὸν τε τῆς ὕβρεως] In Or. 21 (Mid.) § 46, a document is given, purporting to be the law in question.

καὶ τὸν περὶ τῶν λωποδυτῶν· καὶ γὰρ τούτοις ἀμφοτέροις ἐνόχους τούτους ὄψεσθε. λέγε.

NOMOI.

Τούτοις τοῖς νόμοις ἀμφοτέροις ἐκ τῶν πεπραγμένων ἐνοχος Κόνων ἐστὶν οὕτως· καὶ γὰρ ὕβριζε καὶ ἐλωποδύτει. εἰ δὲ μὴ κατὰ τούτους προειλόμεθ' ἡμεῖς δίκην λαμβάνειν, ἡμεῖς μὲν ἀπράγμονες καὶ μέτριοι φαινοίμεθ' ἂν εἰκότως, οὗτος δ' ὁμοίως πονηρός, καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνου καὶ τῶν δεινο- 25
τάτων ἂν ἦν ὑπόδικος. τὸν γοῦν τῆς Βραυρωνόθεν ἱερείας πατέρα ὁμολογουμένως οὐχ ἀψάμενον τοῦ τε-

τὸν περὶ τῶν λωποδυτῶν] The periphrasis is due to the fact that the crime has no name specially appropriated to it in Attic Greek of the best age (λωποδυσία is found only in a glossary, and λωποδυσίου δίκη in the rhetorician Hermogenes, fl. A. D. 170). Cf. § 1, where λωποδυτῶν ἀπαγωγὴ is parallel to ὕβρεως γραφαί.—See Mayor's note on Cicero, Phil. II § 8.—Xen. Mem. I 2 § 62 κατὰ τοὺς νόμους, ἐὰν τις φανερός γένηται κλέπτων ἢ λωποδυτῶν ἢ βαλαντιοτομῶν ἢ τοιχωρυχῶν ... τούτοις θάνατός ἐστιν ἢ ζημία.

ἀπράγμονες καὶ μέτριοι] 'Quiet and inoffensive,' Or. 42 § 12 μετρίου καὶ ἀπράγμονος πολίτου μὴ εὐθὺς ἐπὶ κεφαλῆν εἰς τὸ δικαστήριον βαδίζειν. Cf. Or. 36 § 53.

25. εἰ παθεῖν τί μοι συνέβη] a common euphemism for death. Or. 23 (Aristocr.) § 59 ἂν ἄρα συμβῆ τι παθεῖν ἐκείνω. A frequent formula at the beginning of a Greek will was: ἔσται μὲν εὖ, ἐὰν δέ τι συμβαλεῖ, τότε διατίθεμαι (Diog. Laert. V II § 51). Cf. Cicero, Phil. I § 10, *si quid*

mihī humanitūs accideret, and Sheridan's *Rivals*, v 3 (just before a duel), 'But tell me now, Mr Acres, in case of an accident, is there any little will or commission I could execute for you?'

γοῦν] 'for instance,' or, 'at any rate,' one person was condemned for such an offence. Tr. 'the father of the priestess at Brauron, though he confessedly had not laid a finger on the deceased, and merely because he encouraged the assailant to hit him again, was outlawed by the court of the Areopagus.' P.]

τῆς Βραυρωνόθεν ἱερείας] Priestess of Artemis, who was specially worshipped at Brauron, the ancient deme near the western coast of Attica, where Orestes and Iphigenia are said to have landed with the statue of the Taurian goddess. Wordsworth's *Athens and Attica* c. xxviii: 'The daughter of Agamemnon was brought here, as the legend related [*Iph. T.* 1461], from the gloomy regions of the Tauric Chersonesus, and placed as a priestess of Diana's temple in

λευτήσαντος, ὅτι τῷ πατάξαντι τύπτειν παρεκελεύσατο, ἐξέβαλεν ἢ βουλή ἢ ἐξ Ἀρείου πάγου. δικαίως εἰ γὰρ οἱ παρόντες, ἀντὶ τοῦ κωλύειν τοὺς ἢ δι' οἶνον ἢ δι' ὄργην ἢ τιν' ἄλλην αἰτίαν ἐξαμαρτάνειν ἐπιχειροῦντας, αὐτοὶ παροξυνούσιν, οὐδεμί' ἐστὶν ἐλπίς σωτηρίας τῷ περιπίπτοντι τοῖς ἀσελγαίνουσιν, ἀλλ' ἕως ἂν ἀπέπωσιν, ὑβρίζεσθαι ὑπάρξει· ὕπερ ἐμοὶ συνέβη.

this cheerful valley, where she was said to have lived and died; and where her supposed tomb was shown in after ages.' The principal ceremony in the Brauronia, held every five years, was the rite performed by the young girls of Attica, dressed in saffron-coloured attire, who played as bears in honour of the goddess. Ar. Lys. 645 κᾶτ' ἔχουσα τὸν κροκωτὸν ἄρκτος ἢ Βραυρωνίους. Leake's *Athens* II 72, and Dict. Ant. s. v. *Brauronia*.

πατάξαντι τύπτειν] See *Excursus* (A) p. 221.

ἐξέβαλεν] not 'expelled' from its own body, but 'banished' from the country. A. Schaefer, *Dem. u. s. Zeit* III 2, 114 n.

The charge in this case would be what is technically called *βούλευσις*, which is best defined as 'id crimen, quo quis, quacunque sit ratione, ipse tamen a necando manus abstinens hominem morti studeat dare' (Forchhammer, *de Areopago*, p. 30). Harpocration s. v. says that the term is used ὅταν ἐξ ἐπιβουλῆς τις τιμὴ κατασκευάσῃ θάνατον, εἴαν τι ἀποθάνῃ ὁ ἐπιβουλευθεὶς εἴαν τε μή. He adds that, according to Isaeus and Aristotle, such charges came before the court ἐπὶ Παλλάδιω; but, according to Deinarchus, before the

Areopagus,—as in the present instance. The apparent discrepancy as to the tribunal for hearing such cases, may be reconciled by the fact that the court at the Palladium was reserved for charges of *φόνος ἀκούσιος* (Aristocr. § 72), whereas that of the Areopagus had cognisance of *φόνος ἐκ προνοίας* (Sauppe, *Or. Att.* II. 235; see also Meier and Schömann, p. 312, note 532 Lipsius; and the discussion in Zink's *Dissertatio* pp. 3—10).

Ἀρείου πάγου] The form Ἀρειόπαγος is apparently only found in late inscriptions. (See note on Isoer. Paneg. § 78 καλοῖς κάγαθοῖς.)

ἕως ἂν ἀπέπωσιν] 'till they are tired,' sc. οἱ ἀσελγαίνοντες. Cf. § 27, ἐπειδὴ δ' οὖν ποτ' ἀπέπων. Reiske (*index Graec.*) is clearly wrong in his rendering *deliquerint animis sub verberibus*: had the clause referred to the victim, the singular would have been used, to correspond to τῷ περιπίπτοντι.

§§ 26—29. *At the arbitration my opponents, by wasting time and introducing irrelevant matters, protracted the proceedings beyond midnight, to the disgust of all the bystanders, and at last even of themselves. They then, with an evasive object, put in a challenge, offer-*

1265 Ἄ τοῖνυν, ὅθ' ἡ δίαῖτα ἐγίγνετο, ἐποίουν, βούλο- 26
μαι πρὸς ὑμᾶς εἰπεῖν· καὶ γὰρ ἐκ τούτων τὴν ἀσέλ-
γειαν θεάσεσθε αὐτῶν. ἐποίησαν μὲν γὰρ ἔξω μέσων
νυκτῶν τὴν ὥραν, οὔτε τὰς μαρτυρίας ἀναγιγνώσκειν
ἐθέλοντες οὔτε ἀντίγραφα διδόναι, τῶν τε παρόντων
ἡμῖν καθ' ἓνα οὕτωςι πρὸς τὸν λίθον^z ἄγοντες καὶ ἐξ-

^z Dind. et Westermann. βωμὸν Z et Bekker st. cum libris.

ing to surrender certain slaves to be examined by torture as to the assault, and they will make much of this challenge. But had it been a bona fide offer, it would have been made not at the last moment, but long before.

26. ἡ δίαῖτα] Civil actions at Athens, before being brought into court, were almost invariably referred to arbitration. The Arbitrators (δαιτηταί) were either public and appointed by lot (κληρωτοί) or private and chosen (αἰρετοί) by the parties to the impending suit. In cases brought before a public arbitrator the parties might appeal to a higher Court; whereas the decision of a private arbitrator was final. See esp. Or. 21 (Mid.) § 94 τὸν τῶν δαιτητῶν νόμον. The δίαῖτα here described was of the former kind. (See further Dict. Antiq. s. v. δίαῖτα and *Excursus* to Kennedy's *Demosth. Leptines* &c pp. 395—403, or Hermann's *Public Antiquities*, § 145, 10 &c. Cf. Wayte on Androt. § 27.)

ἐποίησαν—ὥραν] 'They prolonged the time beyond midnight.' For the plural νύκτες in the sense *nocturna tempora* cf. Plato *Phileb.* 50 D νῦν οὖν λέγε πότερα ἀφίης με ἢ μέσας ποιήσεις νύκτας, *Protag.* 310 c, and *Symp.* 217 D πόρρω τῶν νυκτῶν. *Ar. Nub.* 1, τὸ χρῆμα τῶν νυκτῶν ὅσον.

οὔτε—διδόναι] 'by refusing to read aloud the depositions or to put in copies of the same.' The depositions were indispensable, and the defendants' refusal would obviously protract the proceedings, and lead to lengthy debates between the Arbitrator and the parties to the suit.—τῶν παρόντων sc. μαρτύρων.—καθ' ἓνα = ἕκαστον, 'one by one,' *singillatim*. Or. 9 § 22, καθ' ἓν οὕτωςι περικόπτειν καὶ λωποδυτεῖν τῶν Ἑλλήνων (index to *Buttmann's Midias* s. v. κατά).

οὕτωςι] 'merely,' *sic temere*, Homer's αὕτως, or μὰψ οὕτως, 'just bringing our witnesses up to the altar and putting them on their oath and nothing more,' without allowing them to proceed with their depositions.

λίθον] The mss have βωμὸν, which is retained by the Zürich editors but altered into λίθον by others on the authority of Harpocration: λίθος· Δημοσθένης ἐν τῷ κατὰ Κόνωνος τῶν τε παρόντων καθ' ἓνα ἡμῖν οὕτωςι καὶ πρὸς τὸν λίθον ἄγοντες καὶ ἐξορκούντες (sic). εἰσκασι δ' Ἀθηναῖοι πρὸς τινι λίθῳ τοὺς ὄρκους ποιεῖσθαι ὡς Ἀριστοτέλης ἐν τῇ Ἀθηναίων πολιτεία καὶ Φιλόχορος ἐν τῷ γ' ὑποσημαίνουσι. So Hesychius, λίθος· βῶλος, βωμὸς καὶ βάσις. τὸ ἐν τῇ Ἀθηναίων ἐκκλησίᾳ βήμα. *Plutarch, Solon* 25, ὠμνεν

ορκίζοντες, καὶ γράφοντες μαρτυρίας οὐδὲν πρὸς τὸ πρᾶγμα, ἀλλ' ἐξ ἑταίρας εἶναι παιδίον αὐτῷ τοῦτο καὶ πεπονθέναι τὰ καὶ τὰ, ἃ μὰ τοὺς θεοὺς, ὧ ἄνδρες δικασταί, οὐδεὶς ὅστις οὐκ ἐπετίμα τῶν παρόντων καὶ ἐμίσει, 27 τελευτῶντες δὲ καὶ αὐτοὶ οὗτοι ἑαυτοῦς. ἐπειδὴ δ' οὖν ποτ' ἀπέλιπον καὶ ἐνεπλήσθησαν ταῦτα ποιούντες, προκαλοῦνται ἐπὶ διακρούσει καὶ τῷ μὴ σημαν-

ῶρον ἕκαστος τῶν θεσμοθετῶν ἐν ἀγορᾷ πρὸς τῷ λίθῳ. Similarly what Theophrastus (ap. Zenob. proverb. iv 36) calls the ὑβρεως καὶ ἀναιδείας βωμούς on the Areopagus, Pausanias describes as λίθους (i 28 § 5).

The word βωμόν was perhaps originally an interlinear or marginal explanation of λίθον, and subsequently thrust the right word from the text.

The δαιτηται might hold their arbitration in any temples, halls or courts available, e. g. in the temple of Hephaestus as in Isocr. Trapez. § 15, ἐλόμενοι δὲ βασιανιστὰς ἀπητητήσαμεν εἰς τὸ Ἡφαιστεῖον (Dem. 33 § 18). So in Or. 36 § 16 we have seen the temple of Athene on the Acropolis mentioned as the scene of an arbitration. In any case an altar for the administration of oaths would be readily at hand, and it is unnecessary to suppose that in the present passage any special public altar is intended. Indeed, βωμός, with its synonym λίθος, does not always mean an altar, as it may also be used of a small platform or step of stone. Cf. Favorinus (quoted by Hager in *Journ. of Philol.* vi 21) βωμός· οὐ μόνον ἐφ' ᾧ ἔθνον ἀλλὰ καὶ κτίσμα τι ἀπλῶς καὶ ἀνάστημα, ἐφ' οὗ ἐστι βῆλαι τι καὶ τεθῆναι. βωμοῖς· βαθμοῖς.

ἐξορκίζοντες] Also used in

Aeschin. fals. leg. § 85, ἐξώρκιζον τοὺς συμμάχους, in the same sense as the more common ἐξορκοῦν (for which see Or. 45 § 58).

οὐδὲν πρὸς τὸ πρᾶγμα] sc. οὔσας, 'utterly irrelevant.'—τοῦτο, sc. Ctesias. They brought all sorts of irrelevant depositions, one of which was that Conon's son was illegitimate [and therefore Conon was not legally responsible for his actions; further that he, Ctesias, has undergone certain ill treatment which justified the outrage he committed on Ariston. P.]

ἃ] The antecedent is not τὰ καὶ τὰ, but the general sense of the whole of the preceding clauses; 'a course of conduct which, &c.'

τελευτῶντες—ἑαυτοῦς] sc. ἐπετίμων καὶ ἐμίσουν, 'at last they were indignant at and disgusted with themselves.' The speaker feeling that, by implying that his opponents had had the sense to desist, he has made too much of a concession to them, hurries over his admission, and in the next sentence cuts the matter short by the opening words ἐπειδὴ δ' οὖν, i. e. 'whether this was the real reason or no, at any rate when at last they *did* desist, &c.'

27. προκαλοῦνται—γράψαντες] 'with a view to gaining

θῆναι τοὺς ἐχίνους ἐθέλειν ἐκδοῦναι περὶ τῶν πληγῶν παίδας, ὀνόματα γράψαντες. καὶ νῦν οἶμαι^a περὶ τοῦτ' ἔσσεσθαι τοὺς πολλοὺς τῶν λόγων αὐτοῖς. ἐγὼ δ' οἶμαι^b δεῖν πάντας ὑμᾶς ἐκεῖνο σκοπεῖν, ὅτι οὗτοι, εἰ τοῦ γενέσθαι τὴν βάσανον ἔνεκα προῦκαλοῦντο, καὶ ἐπίστευον τῷ δικαίῳ τούτῳ, οὐκ ἂν ἤδη τῆς διαίτης ἀποφαινομένης, νυκτὸς, οὐδεμιᾶς ὑπολοίπου σκῆψεως²⁸ οὔσης, προῦκαλοῦντο, ἀλλὰ πρῶτον μὲν πρὸ τοῦ τὴν

^a οἶμαι Z cum Σ.^b Σ. οἶμαι Z.

time, and preventing the cases for the documents from being sealed up, they put in a challenge, tendering certain slaves, whose names they wrote down, to be examined as to the assault.'

The *πρόκλησις*, or challenge, demanding or offering an inquiry into a special 'issue' before an Arbitrator very frequently related to the testimony of slaves presumably cognisant of the matter in dispute. In many cases the challenge would take the form of demanding that the opponent's slaves should be given up to torture, (to elicit facts which that opponent was alleged to have concealed or misrepresented (Dict. Antiq. p. 398 a). Harpoer. quoted on Or. 45 § 15. (See Or. 45 § 59—62, and Or. 59 § 124—5.)

In the present instance Conon offers to allow certain slaves to be examined. The plaintiff evidently refuses, and this refusal, he says, is sure to be made a strong point against him. He therefore insists that the *πρόκλησις* in question was a mere ruse to protract the proceedings before the Arbitrator, and that had it been a *bona fide* offer it would have been

made at an earlier date, and with all the proper formalities (§ 27—29).

τοὺς ἐχίνους] All the legal documents (*μαρτυρίαί, προκλήσεις &c.*) produced during an arbitration or, indeed, any preliminary examination, e.g. an *ανάκρισις*, were enclosed in one or more caskets, or *ἐχίνοι* (possibly of a cylindrical shape), which were sealed up and carefully preserved, to be ready in the event of an appeal. See Or. 45 §§ 17 and 57, Or. 39 § 17, Or. 47 § 16, and cf. Or. 48 (Olymp). § 48, *τὰς συνθήκας πάλιν σημήνασθαι, τὰ δ' ἀντίγραφα ἐμβαλέσθαι εἰς τὸν ἐχίνον.*

τῷ δικαίῳ τούτῳ] 'this plea.' ἤδη διαίτης ἀποφαινομένης] 'when the award was just being announced.' ἀποφάνεσθαι, (1) in middle of the διαίτητός Or. 33 (Apat.) § 19, εἰς ὧν (sc. ἄνευ τῶν συνδαιτητῶν ἀποφανείσθαι ἔφη τὴν δίαitan, § 20 ἐρήμην κατ' αὐτοῦ ἀπεφῆνато τὴν δίαitan (cf. § 21 τὴν ἀπόφασιν ἐποίῆσато: (2) in passive (as here) of the award itself. Reiske's Index (to which these references are due) is wrong in rendering it as a past sense, *sententia iam pronuntiata*.

δίκην ληχθῆναι, ἡνίκ' ἀσθενῶν ἐγὼ κατεκείμεν καὶ, οὐκ εἰδὼς εἰ περιφεύξομαι, πρὸς ἅπαντας τοὺς εἰσιόν-
 τας τοῦτον ἀπέφαινον τὸν πρῶτον πατάξαντα καὶ τὰ
 πλείεσθ' ὧν ὑβρίσμεν διαπεπραγμένον, τότε ἂν εὐθέως
 ἦκεν ἔχων μάρτυρας πολλοὺς ἐπὶ τὴν οἰκίαν, τότε ἂν
 τοὺς οἰκέτας παρεδίδου καὶ τῶν ἐξ Ἀρείου πάγου τινὰς
 παρεκάλει· εἰ γὰρ ἀπέθανον, παρ' ἐκείνοις ἂν ἦν ἡ 1266
 29 δίκη. εἰ δ' ἄρ' ἠγγνόησε ταῦτα καὶ τοῦτο τὸ δίκαιον
 ἔχων, ὡς νῦν φήσει, οὐ παρεσκευάσατο ὑπὲρ τηλι-
 κούτου κινδύνου, ἐπειδὴ γ' ἀνεστηκὼς ἤδη προσ-
 εκαλεσάμεν^ο αὐτὸν, ἐν τῇ πρώτῃ συνόδῳ πρὸς τῷ
 δαιτητῇ παραδιδούς ἐφαίνεται ἄν' ὧν οὐδὲν πέπρακται
 τούτῳ. ὅτι δ' ἀληθῆ λέγω καὶ διακρούσεως ἕνεκα ἢ
 πρόκλησις ἦν, λέγε ταύτην τὴν μαρτυρίαν· ἔσται γὰρ
 ἐκ ταύτης φανερόν.

^ο προεκαλεσάμεν A¹kr.

28. τὸν πρῶτον πατάξαντα] 'I was pointing out the defendant, to all who came to see me. as the man who struck the first blow.' In a case of assault, the question who struck the first blow would be, of course, important. Or. 47 § 40 βούλομαι τοὺς μάρτυρας παρασχέσθαι οὐ εἰδὼν με πρότερον πληγέντα. ἢ δ' αἰκία τοῦτ' ἔστιν, ὅς ἂν ἄρξη χειρῶν ἀδίκων πρότερος. Cf. Or. 23 § 50, Isocr. Or. 20 § 1, Lysias, Or. 4 § 11.

ἔχων μάρτυρας πολλοὺς] To give full and legal attestation to the πρόκλησις. So also in Or. 45 § 61, and elsewhere, a πρόκλησις is attested by a μαρτυρία.

ἐξ Ἀρείου πάγου τινὰς] as special witnesses. § 25 εἰ παθεῖν τί μοι συνέβη, φόνου... ἂν ἦν ὑπόδικος. The speaker implies that had death ensued, Conon would have been liable to a charge

of φόνος ἐκ προνοίας. On the jurisdiction of the Areopagus in cases of homicide, see especially §§ 65—70 of the speech against Aristocrates, Or. 23.

τοῦτο τὸ δίκαιον sc. τὴν πρόκλησιν.

29. εἰ...οὐ] Cf. § 33 ad fin. προεκαλεσάμεν] 'I cited, summoned him,' served him with a πρόσκλησις, not to be confounded with προεκαλεσάμεν, 'I challenged him, put in a πρόκλησις.' Several mss actually have προεκαλεσάμεν,—a manifest blunder.—'If he did not know this serious responsibility, and if having (as he will now tell you) this plea on his side (i.e. the offer of the slave), he took no precautions against so serious a peril (i.e. the charge of murder), yet at least, when on my recovery I issued a summons against him, in our first meeting before the Arbitrator he

ΜΑΡΤΥΡΙΑ.

Περὶ μὲν τοίνυν τῆς βασάνου ταῦτα μέμνησθε, 30
τὴν ὥραν ἡνίκα προῦκαλεῖτο, ὧν ἕνεκ' ἐκκρούων ταῦτ'
ἐποίει, τοὺς χρόνους τοὺς πρώτους, ἐν οἷς οὐδαμοῦ
τοῦτο βουλευθεὶς τὸ δίκαιον αὐτῷ γενέσθαι φαίνεται,
οὐδὲ προκαλεσάμενος, οὐδ' ἀξιώσας. ἐπειδὴ τοίνυν
ταῦτα πάντα ἠλέγχετο, ἄπερ παρ' ὑμῖν, πρὸς τῷ διαι-
τητῇ, καὶ φανερώς ἐδείκνυτο πᾶσιν ὧν ἔνοχος τοῖς
ἐγκεκλημένοις, ἐμβάλλεται μαρτυρίαν ψευδῆ, καὶ 31
ἐπιγράφεται μάρτυρας ἀνθρώπους οὓς οὐδ' ὑμᾶς

would have shown himself willing to give up the slaves.'

§§ 30—33. *He thereupon put in false evidence, alleging that certain witnesses, boon companions of his own, deposed that they found the defendant's son and myself fighting in the market-place and that the defendant did not strike me. On my own part, I produce the evidence of strangers who came up by accident, attesting that they saw me struck by the defendant. What motive could these strangers have had for giving 'false evidence' on my side?*

30. ὧν ἕνεκ' ἐκκρούων ταῦτ' ἐποίει] As delay and evasion were the object (ὧν ἕνεκα) of the defendant's conduct (§ 27 ἐπὶ διακρούσει and § 29 διακρούσεως ἕνεκα), we may at first sight suspect (with Westermann) that ἐκκρούων is an interpolation; it may, however, be defended on the ground that it enables the speaker to reiterate emphatically the real motive of his opponent,—'his purpose, his evasive purpose, in so doing.' In this view, we may, if we please, punctuate the passage thus: ὧν ἕνεκα, ἐκκρούων, ταῦτ' ἐποίει. Cf. *Fals. leg.* § 144,

ἐκκρούσας εἰς τὴν ὑστεραίαν, and see *Or.* 36 § 2; 45 § 4; 40 §§ 44, 45.

ἀξιώσας] sc. τὸ δίκαιον γενέσθαι, 'to have claimed to have this plea allowed him,' i.e. the plea founded on his appeal to the evidence of his slaves.

ἠλέγχετο] The construction is, οὗτος ἠλέγχετο ταῦτα πάντα πρὸς τῷ διαιτητῇ ἄπερ (*accusative*) νῦν παρ' ὑμῖν ἐλέγχεται. Thus the nominative to ἠλέγχετο is the same as that of ἐδείκνυτο in the next clause, and no change of construction is requisite.

πᾶσι] not masc., but to be taken with τοῖς ἐγκεκλημένοις.

31. ἐμβάλλεται] *Or.* 40 § 21 μαρτυρίαν οὐδεμίαν ἐμβεβλημένος, *ib.* §§ 28, 58; cf. 27 §§ 51, 54; 28 § 1; sc. εἰς τὸν ἐχθρὸν (§ 27), *Or.* 49 § 65, ἐμβαλομένου ἐμοῦ ὄρκον εἰς τὸν ἐχθρὸν, and 45 § 6. *Trans.* 'puts in a false deposition endorsed with names which, I take it, you will recognise, when you hear them.'

ἐπιγράφεται] *Or.* 53 § 14, κλητῆρα ἐπιγράφεται. The phrase hardly means 'to give in one's list of witnesses' (L and S), but rather 'to have their names inscribed as witnesses.' ἐπι-

ἀγνοήσειν οἶμαι^d, ἐὰν ἀκούσητε, “ Διότιμος Διοτίμου
 “ Ἴκαριεύς, Ἀρχεβιάδης Δημοτέλους Ἀλαιεύς, Χαι-
 “ ρέτιμος^e Χαριμένους^f Πιτθεύς^g μαρτυροῦσιν ἀπιέναι
 “ ἀπὸ δείπνου μετὰ Κόνωνος, καὶ προσελθεῖν ἐν ἀγορᾷ
 “ μαχομένοις Ἀρίστωνι καὶ τῷ υἱῷ τῷ Κόνωνος, καὶ
 32 “ μὴ πατάξαι Κόνωνα Ἀρίστωνα,” ὡς ὑμᾶς εὐθέως
 πιστεύουστας, τὸ δ’ ἀληθὲς οὐ λογιουμένους, ὅτι πρῶ-
 του μὲν οὐδέποτ’ ἂν οὔθ’ ὁ Λυσίστρατος οὔθ’ ὁ Πα-
 σέας οὔθ’ ὁ Νικήρατος οὔθ’ ὁ Διόδωρος, οἱ διαρρήδην

^d οἶομαι Z cum Σ.

^e Bekk. cum r. Χαιρήτιος Z cum FΣ ; χαιρίτιος Φ.

^f Bekk. Χαιριμένους Z cum ΣrA¹.

^g Πιθεύς Σ (Dind. ed. Oxon. 1846).

γράφεται, it will be noticed, is previous in order of time to ἐμβάλλεται. This ὕστερον πρότερον enables the speaker to lead up more easily to the mention of the names of the witnesses.

The following μαρτυρία is indisputably authentic, and therefore serving as a standard by which others purporting to be original depositions may be tested. See notes on Or. 35 (Lacr.) § 10 and Or. 45 § 8.

Ἴκαριεύς ... Ἀλαιεύς ... Πιτθεύς] The names of the corresponding demes are (1) Ἴκαρία, belonging to the tribe *Aegeis*, and placed by Leake p. 103 ‘in the southern part of Diacria, not far from the Marathonian district.’ (Bursian, however, identifies the Ἰκάριον ὄρος with the southern spur of Cithaeron towards Megara, *Geogr.* I 251.)

(2) Ἀλαί, a name common to two sea-coast demes, the first Ἀλαί Αἰξωνίδες of the tribe *Cecropis* S.W. of Athens and N.W. of Cape Zoster; the second Ἀλαί Ἀραφηνίδες of the tribe *Aegeis* on the east coast of

Attica near Brauron.

(3) Πίθος, of the tribe *Cecropis*, placed by Bursian N.E. of Athens, near the southern spurs of Pentelicus (*Geogr.* I. 345). The spelling Πιθεύς is found in the Paris MS Σ, instead of Πιτθεύς of other MSS. The latter is recognised by Harpocr. s. v. Πιτθεύς· δῆμος τῆς Κεκροπίδος ἢ Πιτθός (*sic*).—For Ἀρχεβιάδης see note on § 34.

μὴ πατάξαι Κόνωνα Ἀρίστωνα] The sense shows that Conon is the subject, Ariston the object. The order of the words is, in itself, inconclusive.

ὡς—λογιουμένους] The accusative absolute of the participle is here used with ὡς, as often with ὡσπερ (*quasi vero*): ‘imagining that you will at once give credence, instead of drawing the true inference.’

32. ἂν] is constructed with ἠθέλησαν, five lines distant.

Νικήρατος] possibly the Niceratos to whom Demosthenes pathetically refers in Or. 21 (Mid) § 165 Νικήρατος ὁ τοῦ Νικίου ἀγαπητὸς παῖς, ὁ παντά-

μεμαρτυρήκασιν ὄραν ὑπὸ Κόνωνος τυπτόμενον ἐμέ
καὶ θοιμάτιον ἐκδύόμενον καὶ τᾶλλα ὅσα ἔπασχον
ὑβρίζομενον, ἀγνώτες ὄντες καὶ ἀπὸ ταυτομάτου παρα-
1267 γενόμενοι τῷ πράγματι τὰ ψευδῆ μαρτυρεῖν ἠθέλη-
σαν, εἰ μὴ ταῦθ' ἐώρων πεποιθότα· ἔπειτ' αὐτὸς ἐγὼ
οὐδέποτ' ἂν, μὴ παθῶν ὑπὸ τούτου ταῦτ', ἀφείς τοὺς
καὶ παρ' αὐτῶν τούτων ὁμολογουμένους τύπτειν ἐμέ,
πρὸς τὸν οὐδ' ἀψάμενον πρῶτον εἰσιέναι προειλόμην.
τί γὰρ ἂν; ἀλλ' ὑφ' οὗ γε πρώτου ἐπλήγην καὶ μάλισθ' 33
ὑβρίσθην, τούτῳ καὶ δικάζομαι καὶ μισῶ καὶ ἐπεξέρ-
χομαι. καὶ τὰ μὲν παρ' ἐμοῦ πάνθ' οὕτως ἐστὶν ἀληθῆ
καὶ φαίνεται· τούτῳ δὲ μὴ παρασχομένῳ τούτους μάρ-

πασιν ἀσθενῆς τῷ σώματι. If so, he would be a great-grandson of the Nicias, who commanded in the Sicilian expedition.

θοιμάτιον ἐκδύόμενον] § 35. Lysias Or. 10 § 40 (with reference to the term λωποδύτης) εἰ τις ἀπάγοι τινὰ φάσκων θοιμάτιον ἀποδεδύσθαι ἢ τὸν χιτωνίσκον ἐκδεδύσθαι, where θοιμάτιον (as here) and χιτωνίσκον are the object and not the subject.

τὰ ψευδῆ] Cf. Or. 45 § 2 'if they had not actually seen the assault, they would never have consented to give false evidence,' i.e. evidence which, on that supposition, would have been false, τὰ ψευδῆ ἂν ὄντα εἰ μὴ ταῦθ' ἐώρων.

ἔπειτ' αὐτὸς ἐγὼ] refers to ὅτι πρῶτον μὲν (οἱ μάρτυρες) and still subordinate to the distant ὅτι.

πρῶτον] adverb, to be taken with εἰσιέναι, contrasted with ὑφ' οὗ πρώτου ἐπλήγην. 'I prosecute first the man who struck me first of all the assailants.' This seems better than to take it with ἀψάμενον, 'him who did not even touch me first.'

εἰσιέναι] εἰς τὸ δικάσθηριον. Reiske's index shows that this verb is used in Dem. of either litigant or both, or again of the cause itself, or even with δίκην or γραφήν as accusative after it. See note on Or. 45 § 7.

33. τί γὰρ ἂν] 'Why should I?' The mss have the interpolation, ἢ διὰ τί; probably a mere explanation of τί; as equivalent to διὰ τί;

δικάζομαι ... μισῶ ... ἐπεξέρχομαι] 'Sue ... abhor ... prosecute (visit with vengeance),' 'he it is whom I sue and prosecute as my enemy.' The collocation of μισῶ, expressive of inward feeling, between δικάζομαι and ἐπεξέρχομαι, indicating outward acts, is curious. The latter word is probably immediately suggested by μισῶ, 'not only do I hate him in my heart, but I carry out that hatred to its practical issue by prosecuting him.'

φαίνεται] sc. ἀληθῆ ὄντα, not 'appears,' but 'is proved to be,' 'is clearly true':—μὴ παρασχομένος = εἰ μὴ παρέσχετο.

τυρας ἦν δῆπου λόγος οὐδεὶς, ἀλλ' ἠλωκέναι παρα-
 χρήμα ὑπήρχε σιωπῇ. συμπόται δ' ὄντες τούτου καὶ
 πολλῶν τοιούτων ἔργων κοινωνοὶ, εἰκότως τὰ ψευδῆ
 μεμαρτυρήκασιν. εἰ δ' ἔσται τὸ πρᾶγμα τοιοῦτον,^h ἐὰν
 ἴπαξ ἀπαναισχυνηθῶσι τινες καὶ τὰ ψευδῆ φανερώσ
 34 πάνδεινον ἔσται πρᾶγμα. ἀλλὰ νῆ Δία οὐκ εἰσὶ τοιοῦ-

^h 'Reiskius, (ὥστ') ἐὰν ἄπαξ—οὐδὲν εἶναι τῆς ἀληθ. Hoc quidem
 speciose, sed illud non puto necesse.' Dobree.

εἰκότως] to be taken with τα
 ψευδῆ μεμαρτῦρηκασι, not with
 κοινωνοί.

εἰ δ' ἔσται κ.τ.λ.] 'If it
 comes to such a pass, if once
 certain persons are lost to all
 sense of shame and openly dare
 to give false evidence, and (con-
 sequently) truth has no advan-
 tage, it will be an atrocious
 state of things.' The simple
 construction would have been
 as follows: ἐὰν δὲ ἄπαξ ἀπαναι-
 σχυνηθῶσι τινες καὶ τὰ ψευδῆ
 φανερώσ τολμήσωσι μαρτυρεῖν,
 οὐδὲν ἔσται τῆς ἀληθείας ὄφελος·
 εἰ δὲ ἔσται τὸ πρᾶγμα τοιοῦτον,
 πάνδεινον ἔσται.

As it is, Demosthenes, by
 writing τοιοῦτον in the early
 part of the sentence, leads us
 to expect ὥστε, which however
 never comes; we have, instead,
 the clause ἐὰν, κ.τ.λ., exegetical
 of τοιοῦτον. Again οὐδὲν τῆς
 ἀληθείας ὄφελος is in sense the
 apodosis of ἐὰν...τὰ ψευδῆ τολ-
 μήσωσι μαρτυρεῖν, but in con-
 struction is made part of the
 protasis, πάνδεινον ἔσται πρᾶγμα
 being left to do duty as an apo-
 dosis, and πρᾶγμα necessarily
 repeated owing to the long
 interval that separates the
 apodosis from τὸ πρᾶγμα in the
 protasis.

For εἰ—οὐδὲν, see note on

Or. 34 § 48.

ἀπαναισχυνηθῶσι] used of
 unblushing effrontery. Cf. ἀπ-
 αυθαδίξεσθαι. Or. 29 § 20, τὸ
 μὲν πρῶτον ἀπηναισχύντει, τοῦ δὲ
 δαιτητοῦ κελεύοντος μαρτυρεῖν ἢ
 ἐξομνύειν, ἐμαρτῦρησε πάνν μόλις.

34. ἀλλὰ νῆ Δία] used, as
 often, like *at enim*, to introduce
 emphatically an anticipated re-
 joinder on the part of the op-
 ponents. 'Oh but, good hea-
 vens! they are not such cha-
 racters as I make them out.'
 The phrase may be seen in its
 fullest form in Or. 20 § 3 ἀλλὰ νῆ
 Δι' ἐκεῖνο ἀν ἴσως εἴποι πρὸς ταῦτα.

§§ 34—37. Many of you
 know the characters of the wit-
 nesses for the defence,—men who,
 in the daytime, affect an aus-
 terity which is very inconsistent
 with their conduct when they
 meet together. They will un-
 scrupulously contradict the evi-
 dence on our side; but you will
 remember that I rely on medical
 witnesses, whereas my oppo-
 nents have no independent tes-
 timony, and, but for themselves,
 could get no evidence at all a-
 gainst me. People who break
 into houses, and assault persons
 in the streets, would surely have
 no scruple about putting down
 false evidence on a paltry piece
 of paper.

τοι. ἀλλ' ἴσασιν ὑμῶν, ὡς ἐγὼ νομίζω, πολλοὶ καὶ τὸν Διότιμον καὶ τὸν Ἀρχεβιάδην καὶ τὸν Χαιρέτιμον¹ τὸν ἐπιπόλιον τουτουῖ, οἱ μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι καὶ λακωνίζειν φασὶ καὶ τρίβωνας ἔχουσι καὶ ἀπλᾶς

¹ Bekk. Χαιρήτιον Ζ cum FΣΦ. Cf. § 31.

34. Ἀρχεβιάδην] This worthy, who has already been mentioned among the witnesses in §§ 7 and 31, and must not be confounded with the still less known Ἀρχεβιάδης ὁ Λαμπρεύς (Or. 52 § 3), was evidently quite a 'character,' judging from Plutarch's description of him as 'a man of sour countenance who always wore a coarse cloak and had grown a prodigious beard.' Phocion x *init.* ἦν δέ τις Ἀρχεβιάδης ἐπικαλουμένος Λακωνιστής, πρόγωνα τε καθεϊμένος ὑπερφνῆ μεγέθει καὶ τρίβωνα φορῶν ἀεὶ καὶ σκυθρωπάζων· τοῦτον ἐν βουλῇ θορυβούμενος ὁ Φωκίων ἐπεκαλεῖτο τῷ λόγῳ μάρτυν ἅμα καὶ βοηθόν. ὡς δὲ ἀναστὰς ἐκείνος ἂ πρὸς χάριν ἦν τοῖς Ἀθηναίοις συνεβούλευεν, ἀψάμενος αὐτοῦ τῶν γενεῖων "ὦ Ἀρχεβιάδῃ" εἶπε "τί οὖν οὐκ ἀπεκείρω;" It will be observed that Plutarch's anecdote contains several points of coincidence with the passage before us.

τὸν ἐπιπόλιον] 'the grey-headed man yonder' (present in court). Aristot. de gen. anim. v 5 § 3 ἐπιπολιούνται αἱ τρίχες 'the hair grows grizzled.' [ἐπιπόλιος is perhaps much the same as the Homeric μεσαιπόλιος, *Il.* XIII 361, whether the sense is 'grey on the top,' or 'half grey,' 'grizzled.' P.]

μεθ' ἡμέραν κ.τ.λ.] Or. 45 § 80.

ἐσκυθρωπάκασι] i. e. 'assume a sour expression and a frown-

ing brow.' Cf. Or. 45 § 68.

λακωνίζειν φασὶ] i. e. 'pretend to imitate the Laconians.' Plato Protag. 342 B, οἱ μὲν (sc. ἐν ταῖς πόλεσι λακωνίζοντες) ὠτά τε κατάγνυνται (i. e. get their ears battered in boxing) μιμούμενοι αὐτοῦς, καὶ ἱμάντας περιειλίττονται καὶ φιλογυμναστοῦσι καὶ βραχείας ἀναβολὰς φοροῦσιν, ὡς δὴ τοῦτοις κρατοῦντας τῶν Ἑλλήνων τοὺς Λακεδαιμονίους. Ar. Aves 1281 ἐλακωνομάνουν ἀπαντες ἄνθρωποι τότε | ἐκόμων, ἐπέινων, ἐρρύπων, ἐσκρατοῦν, | ἐσκυταλιοφόρου (v. Becker's *Characterics* p. 63 with n. 8).

τρίβωνας] Sometimes mentioned as characteristic of Laconians. Plutarch Nicias 19: τοὺς Σικελιώτας...σκώπτοντας εἰς τὸν τρίβωνα καὶ τὴν κόμην (of Gylippus the Spartan general)...ἐν τῇ βακτηρίᾳ καὶ τῷ τρίβωνι τὸ σύμβολον καὶ τὸ ἀξίωμα τῆς Σπάρτης καθορῶντες... Athenaeus XII 50, p. 535 (quoting the historian Douris) Πανσανίας ὁ τῶν Σπαρτιατῶν βασιλεὺς, καταθέμενος τὸν πάτριον τρίβωνα, τὴν Περσικὴν ἐνεδέυετο στολήν. [At the same time, the regular dress of the old Athenian dicast or ecclesiast was the τρίβων and the βακτηρία, both often mentioned in Aristoph. e.g. *Vesp.* 33. P.]

ἀπλᾶς ὑποδέδενται] 'wear single-soled shoes,' sc. ἐμβάδας. Harpocration ἀπλᾶς Δημ. κατὰ Κόνωνος. Καλλίστρατος φησι τὰ μονόπελμα τῶν ὑποδημάτων οὕτω καλεῖσθαι. Στράτις Λημνομέδᾳ 'ὑποδήματα σαντῶ πρίασθαι τῶν

ὑποδέδενται, ἐπειδὴν δὲ συλλεγῶσι καὶ μετ' ἀλλήλων
 35 γένωνται, κακῶν καὶ αἰσχυρῶν οὐδὲν ἐλλείπουσι· καὶ
 ταῦτα τὰ λαμπρὰ καὶ νεανικά ἐστιν αὐτῶν· “οὐ γὰρ
 “ἡμεῖς μαρτυρήσομεν ἀλλήλοις; οὐ γὰρ ταῦθ' ἐταίρων
 “ἐστὶ καὶ φίλων; τί δὲ καὶ δεινὸν ἐστὶν ὧν παρέξεται
 “κατὰ σοῦ; τυπτόμενόν φασί τινες ὄρᾶν; ἡμεῖς δὲ
 “μηδ' ἠφθαι τὸ παράπαν μαρτυρήσομεν. ἐκδεδύσθαι 1268
 “θοιμάτιον; τοῦτ' ἐκείνους πρότερον πεποιηκέναι ἡμεῖς
 “μαρτυρήσομεν. τὸ χεῖλος ἐρράφθαι; τὴν κεφαλὴν δέ
 36 γ' ἡμεῖς ἢ ἕτερόν τι κατεαγένας φήσομεν.” ἀλλὰ καὶ
 μάρτυρας ἰατροὺς παρέχομαι. τοῦτ' οὐκ ἐστὶν, ὧ ἄν-
 δρες δικασταί, παρὰ τούτοις· ὅσα γὰρ μὴ δι' αὐτῶν,
 οὐδενὸς μάρτυρος καθ' ἡμῶν εὐπορήσουσιν. ἢ δ' ἀπ'
 αὐτῶν ἐτοιμότης οὐδ' ἂν εἰπεῖν μὰ τοὺς θεοὺς δυ-

ἀπλῶν.' Bekker, *Anecd.* 205 ἀπλαῖ· ὑποδήματος εἶδος Λακωνικοῦ κ.τ.λ. They had only one thickness of sole and were apparently more like slippers than shoes. (Becker, *Charicles*, p. 449.) There was also a more elaborate kind of shoes known as *Λακωνικά* (Ar. *Vesp.* 1158). For the general drift of the sentence cf. Isaeus Or. 5 § 11 *ὄνειδίζει καὶ ἐγκαλεῖ αὐτῷ ὅτι ἐμβάδας καὶ τριβῶνια φορεῖ ὡσπερ ἀδικούμενός τι εἰ ἐμβάδας Κηφισόδοτος φορεῖ, ἀλλ' οὐκ ἀδικῶν ὅτι ἀφελόμενος αὐτὸν τὰ ὄντα πένητα πεποίηκεν.*

συλλεγῶσι] sc. *νυκτὸς*, contrasted with *μεθ' ἡμέραν μὲν*.

κακῶν καὶ αἰσχυρῶν] 'wickedness and indecency.'

35. τὰ λαμπρὰ καὶ νεανικά] 'their splendid and spirited pleas.'

οὐ γὰρ κ.τ.λ.] 'What! sha'n't we, &c.' *quidni igitur?*

ὧν παρέξεται] constr. *τί δὲ καὶ δεινὸν ἐστὶν ἐκ τούτων ἃ παρέξεται ὁ Ἀρίστων κατὰ σοῦ;* 'is there any serious harm, anything

really worth fearing?'

ἠφθαι] passive, referring to Ariston, like *τυπτόμενον* just before. 'ἡμῶν is pf. mid. in Soph. Tr. 1009 (*ἠπται*) and Pl. Phaedr. 260 (*ἠφθαι*)' (we may add Dem. Or. 51 § 5, *ἠφθαι τῆς τριήρους τούτους*); 'pf. passive in Eur. Hel. 107, Ar. Pl. 301 and Thuc. iv 100.' Veitch, *Greek Verbs*.

ἐρράφθαι] § 41, τὸ χεῖλος διακοπεῖς οὕτως ὥστε ῥαφῆναι. This was doubtless part of the surgeon's evidence in § 10.

κατεαγένας] second perfect in passive sense. For other constructions, cf. Plato *Gorg.* 469 D, *τῆς κεφαλῆς κατεαγένας* and Lys. Or. 3 § 40 *καταγείς τὴν κεφαλὴν ὑπ' αὐτοῦ*.

36. ὅσα μὴ] 'except what is (posed) by means of themselves'; 'nam nisi quod sibi ipsi testantur nullum adversus nos testem habebunt. Plutarch *Timol.* 3, *πρῶτος διαφερόντως ὅσα μὴ μισοῦραννος εἶναι καὶ μισοπόνηρος.*' G. H. Schaefer.

ἢ—ἐτοιμότης] On this circum-

ναίμην ὅση καὶ οἶα πρὸς τὸ ποιεῖν ὀτιοῦν ὑπάρχει.
ἵνα δ' εἰδῆτε οἶα καὶ διαπραττόμενοι περιέρχονται,
λέγε αὐτοῖς ταυτασὶ τὰς μαρτυρίας, σὺ δ' ἐπίλαβε
τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑΙ.

Τοίχους τοίνυν διορύττοντες καὶ παίοντες τοὺς 37
ἀπαντῶντας, ἄρ' ἂν ὑμῖν ὀκνησαι δοκοῦσιν ἐν γραμ-
ματειδίῳ τὰ ψευδῆ μαρτυρεῖν ἀλλήλοισι¹ οἱ κεκοινωνη-

¹ Bekk. om. Σ *prima manu*.

locution, see Kühner, *Gk. Gr.*
II p. 288.

ὅση καὶ οἶα] *quanta et qualis*.
'In heaven's name, I could not
tell you the *extent* and the *cha-*
acter of the readiness existing
on their part to perpetrate any-
thing in the world.' Cf. the
common collocation *τοσοῦτος καὶ*
τοιούτος (e.g. § 37), which may
often be conveniently para-
phrased as above.

ἵνα εἰδῆτε] The speaker uses
the plural in addressing the δι-
κασταί, and passes off to the
singular λέγε, on turning to the
clerk of the court.

ἐπίλαβε τὸ ὕδωρ] Or. 45 § 8;
57 § 21; Lysias Or. 23 §§ 4, 8,
11, 13, 15; Isaeus Or. 2 § 34;
3 § 12. The *κλεψύδρα* (Becker's
Charicles, p. 212 n.) was always
stopped by the functionary in
charge of it (ὁ ἐφ' ὕδωρ) during
the recitation of documents: it
was only the duration of the
speech proper that was reckoned
in the allowance of time mea-
sured by the *κλεψύδρα*. Or. 36
ends with the words ἐξέρα τὸ
ὕδωρ, 'pour out the water,'
implying that the orator had
found it unnecessary to avail
himself of the full allowance
of time. The Orators frequently
used ὕδωρ in the sense of 'time

allotted' for a speech, e.g. ἐν
τῷ ἐμῷ ὕδατι ἐν μικρῷ μέρει τοῦ
παντὸς ὕδατος. So Or. 41 fin.
πρὸς ὀλίγον ὕδωρ ἀναγκαζόμενος
λέγειν, infra § 44; 40 § 38; 44
§ 45; 53 § 3; 59 § 20; Deinarchus
Or. 1 § 114; 2 § 6. Aeschin.
Fals. leg. § 126 πρὸς ἕνδεκα
ἀμφορέας ... κρίνομαι, Dem. Or.
43 § 8. Cf. Pliny, Ep. II 11 §
14 *dixi horis paene quinque;*
nam duodecim clepsydris quas
spatiosissimas acceperam sunt
additae quattuor.

When Goethe visited Venice,
in Oct. 1786, and went to see a
trial in the Ducal Palace, he
found a custom in force singu-
larly similar to that implied in
the text. Whenever the advo-
cate spoke, the time that elapsed
was measured with an hour-
glass, which was laid on its
side while the depositions were
read: 'so lange nämlich der
Schreiber liest, so lange läuft
die Zeit nicht' etc. (*Italiänische*
Reise p. 68 Düntzer).

37. τοίχους διορύττοντες] The
documents just read have de-
posed to the defendant's wit-
nesses being guilty *inter alia*
of housebreaking (*τοιχωρυχία*).
Hermann, *Rechtsalt.* ed. Thal-
heim p. 40 f.

γραμματειδίῳ] 'a mere bit of

κότες τοσαύτης καὶ τοιαύτης φιλαπεχθημοσύνης καὶ πονηρίας καὶ ἀναιδείας καὶ ὕβρεως; πάντα γὰρ ταῦτ' ἔμοιγ' ἐν τοῖς ὑπὸ τούτων πραττομένοις ἐνεῖναι δοκεῖ. καίτοι καὶ τούτων ἕτερ' ἐστὶ πεπραγμένα τούτοις δεινότερα, ἀλλ' ἡμεῖς οὐχ οἰοί τε γενοίμεθ' ἂν πάντας ἐξευρεῖν τοὺς ἠδίκημένους.

38 Ὁ τοίνυν πάντων ἀναιδέστατον μέλλειν αὐτὸν ἀκούω ποιεῖν, βέλτιον νομίζω προειπεῖν ὑμῖν εἶναι. φασὶ γὰρ παραστησάμενον τοὺς παῖδας αὐτὸν κατὰ τούτων ὀμείσθαι, καὶ ἀράς τινὰς δεινὰς καὶ χαλεπὰς

paper,' 'a paltry document.' Or. 56 § 1 ἐν γραμματειδίῳ δυοῖν χαλκοῖν ἔωρημένῳ καὶ βιβλιδίῳ μικρῷ πάνν. Isocr. Trapez. § 34. The diminutive is thrown into effective contrast by the subsequent τοσαύτης καὶ τοιαύτης.

φιλαπεχθημοσύνης] 'malignity,' 'quarrelsomeness,' used also by Isocr. antid. § 315, ὠμότητα καὶ μισανθρωπίαν καὶ φιλαπεχθημοσύνην. Dem. Or. 24 § 6 πονηρῷ καὶ φιλαπεχθῆμονι καὶ θεοῖς ἐχθρῷ.

καίτοι—τούτοις] a fortuitous hexameter.

§§ 38—41. *I must warn you that Conon will try to impose upon you by swearing by the lives of his own sons and by other strange imprecations. His recklessness about oaths is proved by what I have heard of the profanity of his youthful days; and surely Conon, who would think nothing of perjury, is not to be credited in comparison with myself, who, so far from swearing by the lives of my children, would not swear at all, except under compulsion, and even then, only in a lawful manner. Such an oath I was willing to take for the truth's sake; and, in self-defence against the perjury of*

my opponent, I challenged him to accept my offer to take the oath, and I now solemnly swear that Conon whom I now prosecute really assaulted and brutally maltreated me.

38. παραστησάμενον τοὺς παῖδας] The practice of exciting the compassion of the jury by bringing the children into court is often referred to, e.g. Or. 21 § 99, παῖδια γὰρ παραστήσεται καὶ κλαήσει καὶ τούτοις αὐτὸν ἐξαιτήσεται, and Hyperides, Euxenipp. ad fin. ἐγὼ μὲν οὖν σοὶ Εὐξένιππε βεβοήθηκα ὅσα εἶχον. λοιπὸν δ' ἐστὶ δεῖσθαι τῶν δικαστῶν καὶ τοὺς φίλους παρακαλεῖν καὶ τὰ παῖδια ἀναβιβάζεσθαι, (see especially Aristophanes' ridicule of the custom in *Vespae* 568—74 and 976—8). But in the present case a still more sensational effect is to be produced by Conon's laying his hands upon his children's heads and praying that the direst curses may come down upon them, if his statements are false.

κατὰ τούτων ὀμείσθαι] 'to swear by them,—by their lives.' κατὰ implies the basis on which the oath rests [or, perhaps, hostile action directed against the

ἐπαράσσεσθαι^κ καὶ τοιαύτας, οἷας ἀκηκῶς γέ τις θαυμάσας ἀπήγγειλεν¹ ἡμῖν. ἔστι δὲ, ὧ ἄνδρες δικασταί, ἀνυπόστατα μὲν τὰ τοιαῦτα τολμήματα· οἱ γὰρ οἶμαι βέλτιστοι καὶ ἥκιστ' ἂν αὐτοί τι ψευδάμενοι μάλισθ'

1269 ὑπὸ τῶν τοιούτων ἐξαπατῶνται· οὐ μὴν ἀλλὰ δεῖ πρὸς τὸν βίον καὶ τὸν τρόπον ἀποβλέποντας πιστεύειν. τὴν 39 δὲ τούτου πρὸς τὰ τοιαῦτ' ὀλιγοῖαν ἐγὼ πρὸς ὑμᾶς ἐρῶ· πέπυσμαι γὰρ ἐξ ἀνάγκης. ἀκούω γὰρ, ὧ ἄνδρες δικασταί, Βάκχιόν τέ τινα, ὃς παρ' ὑμῖν ἀπέθανε, καὶ

^κ 'Bekk. cum H. Wolfio et corr. Σ.' -σασθαι Z cum k.

¹ ἀπήγγελλεν Z et Bekker st. cum ΣΦ.

object sworn by. So in Ar. Equit. 660, κατὰ χιλίων παρηνεσα εὐχὴν ποιήσασθαι χιμάρων, the vow is, as it were, aimed at the lives of the creatures to be sacrificed. P.] Thuc. v 47, ὁμνύτων τὸν ὄρκον κατὰ ἱερῶν τελείων, Isaeus Or. 7 § 16, ὁμνύναι καθ' ἱερῶν, Lys. Or. 32 § 13, ἐπιρκήσασα κατὰ τῶν παίδων τῶν ἐμαυτῆς, Dem. 29 § 26 ἡ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς πίστιν ἠθέλησεν ἐπιθεῖναι, 19 § 292; 21 § 119. (Kühner's *Greek Grammar*, § 433 fin.)

We find a curious parallel in a charge made as follows against Demosthenes himself by Deinarchus, Or. 1 § 71, ποῦ τοῦτ' ἐστὶ δίκαιον... τοὺς μὲν νόμους προλέγειν... παιδοποιεῖσθαι κατὰ τοὺς νόμους... σὲ δὲ τοὺς οὐ γεγενημένους υἱεῖς σαυτῷ προσποιεῖσθαι παρὰ τοὺς νόμους τῶν ἐν ταῖς κρίσεσιν ἔνεκα γιγνομένων ὄρκων.

ἀκηκῶς—ἀπήγγειλεν] i.e. 'our informant listened to them in amazement.'

ἀνυπόστατα] not exactly 'intolerable' but 'irresistible,' 'impossible to withstand.' The most upright of men and those who are least likely to tell a

falsehood themselves (the jury for instance) are most likely to be deceived by such asseverations (ὑπὸ τῶν τοιούτων sc. τολμημάτων).

οἱ οἶμαι βέλτιστοι] For the position of οἶμαι, cf. Plato Gorg. 483 c, ἡ δὲ γε οἶμαι φύσις, and Rep. 504 a, ἐξ οἶμαι τῆς ἀκροτάτης ἐλευθερίας.

οὐ μὴν ἀλλὰ]= 'not but that.' The phrase is always elliptical: here we may supply οὐ μὴν (ὑπὸ τῶν τοιούτων δεῖ ἐξαπατᾶσθαι) ἀλλὰ...

πρὸς τὸν βίον—πιστεύειν] 'You must turn your eyes (away from ἀπὸ... his solemn assurances in court) to his life and character, and then believe him (if you can).'

39. πρὸς τὰ τοιαῦτα] sc. ὄρκους.

πέπυσμαι—ἀνάγκης] i.e. the defendant has forced the enquiry upon me (cf. § 17 fin. ἀνάγκη...)

παρ' ὑμῖν ἀπέθανε] 'was condemned to death in your court, —by your verdict.'

Ἄριστοκράτην] Probably identical with the person mentioned in Or. 38 § 27 τῶν αἰσχυρῶν ἐστὶ

Ἄριστοκράτην τὸν τοὺς ὀφθαλμοὺς διεφθαρμένον καὶ τοιοῦτους ἑτέρους καὶ Κόνωνα τουτοῖς ἑταίρους εἶναι μειράκια ὄντας καὶ Τριβαλλοὺς ἐπωνυμίαν ἔχειν· τούτους τὰ τε Ἐκαταῖα κατεσθίειν^m, καὶ τοὺς ὄρχεις τοὺς

^m Bekk. cum A¹kr et Maximo Sophista in Fabricii Bibl. Gr. ix 584. κατακαίειν FΣΦ. om. Z et Westermann.

..τὰ μὲν ὄντα κατεσθιόντας καὶ παρονοῦντας μετὰ Ἄριστοκράτους καὶ Διογνήτου καὶ τοιούτων ἑτέρων αἰσχυρῶς καὶ κακῶς ἀνηλωκέναι.

τὸν τοὺς ὀφθ. διεφθαρμένον] ‘the man with the bad eyes’ (perhaps blind from ophthalmia, *luscus*). For pass. of διαφθεῖρω used of impaired sight or hearing, and similar physical defects, cf. Aeschin. i § 102 πρεσβύτης διεφθαρμένος τοὺς ὀφθαλμούς, Hdt. i 34 ἦσαν τῷ Κροίσῳ δύο παῖδες, τῶν οὐτερος μὲν διέφθαρτο, ἦν γὰρ δὴ κωφός, and *ib.* 38 διεφθαρμένος τὴν ἀκοήν. Dem. Or. 13 § 13 δεῖ τὰ ὦτα πρῶτον ὑμῶν ἰάσασθαι, διέφθαρται γάρ.

Τριβαλλοὺς] See *Excursus (D)* p. 228.

τὰ Ἐκαταῖα] Once every month, at the time of the new moon, dishes of food were set out for Hecate in the evening at the places where three roads met; and the food thus offered was not unfrequently eaten by poor people. Cf. Arist. *Plutus*, 594—7, παρὰ τῆς Ἐκάτης ἔξεστιν τοῦτο πυθέσθαι | εἶτε τὸ πλουτεῖν εἶτε τὸ πεινῆν βέλτιον. φησὶ γὰρ αὕτη | τοὺς μὲν ἔχοντας καὶ πλουτοῦντας δεῖπνον κατὰ μῆν’ ἀποπέμπειν, τοὺς δὲ πένητας τῶν ἀνθρώπων ἀρπάζειν πρὶν καταθῆναι (with the *Scholía*). [Juvenal v 85, ‘*exigua feralis cena patella*,’ Psalm cvi 28, ‘they ate the offerings of the dead.’ This act, and the eating of the καθάρματα, which had a mysti-

cal import, are cited as instances of impious bravado in things sacred, which augured ill for Conon’s paying any regard to the obligations of a solemn oath. P.] In Lucian’s dialogues of the dead (i § 1 = p. 331 R) Diogenes asks Pollux to invite from the upper world Menippus the Cynic, who is sure to bring his wallet well stocked with broken victuals, λέγε αὐτῷ..., ἐμπλησάμενον τὴν πήραν ἠκειν θερμῶν τε πολλῶν καὶ εἰ που εὔροι ἐν τῇ τριόδῳ Ἐκάτης δεῖπνον κείμενον ἢ ὡδὸν ἐκ καθαρσίου ἢ τι τοιοῦτον.

Hemsterhuis in an exhaustive note on the above passage (Vol. II p. 397—400 ed. Bipont.) also quotes Plutarch II p. 290 D, (the dog) χθονία δεῖπνον Ἐκάτη πεμπόμενος εἰς τριόδους ἀποτροπαίων καὶ καθαρσίων ἐπέχει μοῖραν, *Quaest. Rom.* p. 280 B, *Symp.* VII p. 708 F. We may add Charicleides cited by Athenaeus VII 325, δέσποιον Ἐκάτη, τριοδίτι, τρίμορφε, τριπρόσωπε, τρίγλαις (mullet) κηλυμένα.

After the word Ἐκαταῖα some of the MSS (including Σ) have κατακαίειν, ‘to burn up,’ which is not likely to be the right reading; others have κατεσθίειν, which makes good sense and is commonly accepted. Of Reiske’s conjectures (κατ’ ἀγυῖας and καταπίνειν) neither can be considered probable. Baiter leaves out the verb, thus making συλλέγοντας

ἐκ τῶν χοίρων¹¹, οἷς καθαίρουσιν ὅταν εἰσιέναι μέλλωσι, συλλέγοντας ἐκάστοτε συνδειπνεῖν ἀλλήλοις, καὶ ῥῆου ὀμνύναι καὶ ἐπιорκεῖν ἢ ὄτιοῦν. οὐ δὲ Κόνων ὁ τοιοῦτος 40

¹¹ τὰς ὄρνεις (ὄρνις kB) τὰς ἐκ τῶν χωρῶν (χορῶν kA¹) αἰς libri.

govern Ἐκαταῖα as well as ὄρνεις. Westermann suggests κλέπτειν but follows Baiter. κατακαλεῖν may perhaps be accounted for by supposing that Ἐκαταῖα or καταῖα was erroneously written twice by an early copyist; a subsequent copyist might alter this into the nearest verb he could think of, κατακαλεῖν; this would be seen to be wrong by a still later writer, who would substitute the intelligible word κατεσθίειν.

τοὺς ὄρνεις τοὺς ἐκ τῶν χοίρων] The MSS have τὰς ὄρνεις (or ὄρνις) τὰς ἐκ τῶν χωρῶν (or χορῶν) αἰς. But birds are out of place in an expiatory sacrifice prior to a public assembly, and the use of young pigs for this purpose is distinctly attested by ancient authorities (e.g. Schol. on Ar. Ach. 44). We must therefore accept the certain emendations given in the text, and originally proposed by Hemsterhuis (in his note on Lucian above referred to).

Harpocr. (and Photius) καθάρσιον· Αἰσχίνης κατὰ Τιμάρχου (§ 23, speaking of the ἐκκλησία, ἐπειδὴν τὸ καθάρσιον περιενεχθῆ), ἔθος ἦν Ἀθήνησι καθαίρειν τὴν ἐκκλησίαν καὶ τὰ θέατρα καὶ ὅλως τὰς τοῦ δήμου συνόδους μικροῖς πάνυ χοιριδίους ἅπερ ὠνόμαζον καθάρσια· τοῦτο δ' ἐποίουν οἱ λεγόμενοι περιστάρχοι, οἵπερ ὠνόμασθησαν οὕτως ἦτοι ἀπὸ τοῦ περιστεῖχειν ἢ ἀπὸ τῆς ἐστίας. (Ar. Eccl. 128, ὁ περιστάρχος περιφέρειν χρῆ τὴν...γαλῆν, Ach. 44 ὡς ἂν ἐντὸς ἦτε τοῦ καθάρματος.)

καθαίρουσιν] A plural indefinite, with the subject omitted; cf. the frequent use of φασί, λέγουσι, ὀνομάζουσι.

εἰσιέναι] sc. εἰς τὴν ἐκκλησίαν, etc. Hence εἰσιτήρια (Fals. leg. § 210 with Shilleto's note).

ἢ ὄτιοῦν] 'They think less of swearing and perjuring themselves than anything else whatsoever,' 'than anything else in the world.' Or. 56 § 15 οὐδὲν γε μᾶλλον ἢ ὄτιοῦν.

40. οὐ δὲ...οὐδὲ πολλοῦ δεῖ] Here, as usual in this phrase, οὐδὲ reiterates the preceding negation (οὐ δὲ), but does not negative πολλοῦ δεῖ although closely pronounced with it. (Cf. Fals. leg. § 33 οὐ γὰρ...τὰ πράγματ' ἐστὶ φαῦλα...οὐδὲ πολλοῦ δεῖ, with Shilleto's note.) We have an apparent exception to this rule in Or. 18 § 20 φανήσεται γὰρ οὐδὲ πολλοῦ δεῖ τῆς γενησομένης ἀξιου αἰσχύνης, where there is no preceding negative expressed. The exception may however be explained on the supposition that φανήσεται is ironical and therefore implies a negative: οὐ γὰρ φανήσεται τῆς γενησομένης ἀξιου αἰσχύνης, οὐδὲ πολλοῦ δεῖ.

οὐ δὲ κ.τ.λ. A very elegant and idiomatic passage: 'Conon then, as a character such as I have described, is not to be trusted on oath; far from it, indeed. No! the man who would not take even an oath that he intends to observe by any object you do not recognise (i.e. such as Conon swears by),

πιστός ἐστὶν ὁμνύων· οὐδὲ πολλοῦ δεῖ· ἀλλ' ὁ μῆδ' εὐ-
ορκον μῆδ' ἐν ὁμόσας^ο ὧν μὴ νομίζετε^π, κατὰ δὲ δὴ
παίδων μῆδ' ἂν^α μελλήσας, ἀλλὰ κἂν^ρ ὅτιοῦν παθῶν

^ο ἂν ὁμόσας μῆδ' ἐν γ.

^π Σ. νομίζεται A¹kr. ὁμόσας, κατὰ δὲ δὴ παίδων ὧν μὴ νομίζετε Bekker cum libris, quod ad verborum ordinem attinet, 'sententia perversa iam a Wolfio notata.'—'Lege ὧν μὴ νομίζεται μῆδ' ἐν μελλήσας, qui ne in animum quidem induxerit ut novo et inusitato more per liberorum capita iuret... Imo transpone, ὁμόσας ὧν μὴ νομίζεται, κατὰ δὲ δὴ τῶν παίδων μῆδ' ἂν μελλήσας.' Dobree. ὁμ. ὧν μὴ νομίζετε, κατὰ δὲ δὴ παίδων μῆδ' ἂν μελλήσας Sauppe.

^α μῆδ' ἐν ΣFφ.

^ρ καὶ A¹kr.

and would not for a moment think of doing so on the lives of his children, but would rather suffer anything than that,—and who, even when constrained, will take none but a customary oath,—I say, such a man is more to be trusted than one who swears by his sons and offers to undergo the fiery ordeal.' P.]

ὁ μῆδ'—μελλήσας] The mss have ὧν μὴ νομίζετε (or νομίζεται) after κατὰ δὲ δὴ παίδων. There are two objections to this: (i) the plaintiff describes himself as one who is 'reluctant to swear even to the truth' (μῆδ' εὐορκον μῆδ' ἐν ὁμόσας), whereas in § 41 he publicly swears to having been assaulted by the defendant: (ii) an oath by the lives of one's children is described as 'contrary to usage' (ὧν μὴ νομίζετε), whereas this very oath is elsewhere attributed to the mother of Demosthenes. Or. 29 §§ 26, 33, 54, 56 ἢ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς...πίστιν ἠθέλησεν ἐπιθεῖναι... ἢν μῆδεις ὑμῶν νομίζετω καθ' ἡμῶν ποτ' ἂν ὁμνύναι ταῦτ' ἂν ἐθέλειν, εἰ μὴ σαφῶς ᾗδει τὰ εὐορκα ὁμουμένη. Or. 19 § 292.

These objections are removed by the transposition adopted in the text.

If an easier alteration is preferred, we may retain the order as it stands in the mss, simply inserting μῆδ' ἐν after ὧν μὴ νομίζετε, and accounting for its loss by its similarity to the subsequent μῆδ' ἂν. The mss vary between μῆδ' ἂν and μῆδ' ἐν, and this proposal combines the two alternative readings. The sentence would then run thus: ὁ μῆδ' εὐορκον μῆδ' ἐν ὁμόσας, κατὰ δὲ δὴ παίδων, ὧν μὴ νομίζετε μῆδ' ἐν μῆδ' ἂν μελλήσας. Thus ὧν μὴ νομίζετε depends on μῆδ' ἐν and does not refer to παίδων, the sense of the second clause being that Ariston would never dream of taking any such oath, by his children's lives, as would be contrary to general usage. Below, he describes himself as ὁμνύων ὡς νόμιμον. See Dobree quoted in critical notes.

μῆδ' εὐορκον] Isocr. ad Dem. § 23 ἔνεκα δὲ χρημάτων μῆδ' ἐνα θεῶν ὁμόσας, μῆδ' ἂν εὐορκεῖν μέλλης.

κἂν ὅτιοῦν παθῶν πρότερον.] 'Would submit to anything sooner than that,' i.e. rather than swear by an oath contrary

πρότερον, εἰ δ' ἄναγκαῖον, ὁμνύων ὡς νόμιμον, ἀξιοπιστότερος τοῦ κατὰ τῶν παίδων ὁμνύοντος[†] καὶ διὰ τοῦ πυρός. ἐγὼ τοίνυν ὁ δικαιότερόν σου πιστευθεὶς ἂν κατὰ πάντα, ὦ Κόνων, ἠθέλησα ὁμόσαι ταυτί, οὐχ

^s δ' ἄρ' Bekker cum A¹kr.

^t ὁμνύοντος Bekk. cum A¹kr.

to the country's use, or by the lives of his children.

The whole sentence is intended to be descriptive of the character of a man who has a solemn regard for the obligations of an oath; hence the use of μή. A person of such a character, says the plaintiff, is more trustworthy than one who is ready to take any oath you please. The characters contrasted are of course those of the plaintiff and defendant respectively, but this is only implied until we reach the next sentence, ἐγὼ...ὁ δικαιότερόν σου πιστευθεὶς ἂν, when the contrast is brought home to the case at issue.

καὶ διὰ τοῦ πυρός] It is doubtful whether we can explain this of any ordeal by fire like that referred to in Soph. Antig. 264 (ἤμεν δ' ἔτοιμοι καὶ μύδρους αἴρειν χερσῶν, καὶ πῦρ διέρπειν καὶ θεοὺς ὀρκωμοτεῖν), and possibly implied in Ar. Lysistr. 133, ἀλλ' ἄλλ' ὅ τι βούλει, κἂν με χρῆ, διὰ τοῦ πυρός ἐθέλω βαδίζειν, which however may be only a strong metaphor expressive of readiness to endure any amount of torture. Sometimes διὰ πυρός is used of 'braving the extremest perils,' 'going through fire and water' as in Xen. Symp. iv. 16, ἔγωγ' οὖν μετὰ Κλεινίου κἂν διὰ πυρός λολῆν, and Oec. xxi 7, ἀκολουθητέον...καὶ διὰ πυρός καὶ διὰ παντὸς κινδύνου (L and S s. v. πῦρ).

In the present passage διὰ

τοῦ πυρός possibly contains an allusion to some strange form of self-devotion, one of the ἀραι δεῖναι καὶ χαλεπαὶ obscurely hinted at in § 38. G. H. Schaefer simply says: 'vertam, vel dum ara ardet,' i.e. 'one who swears by his children even while the flame is burning on the altar,' and C. R. Kennedy renders the words: 'and before the burning altar.' (Cf. Or. 43 § 14 λαβόντες τὴν ψῆφον καομένων τῶν ἱερείων.)

This is hardly satisfactory, and it is not improbable that the text is corrupt and that we should read καὶ διὰ τοῦ πυρός λόντος, where the participle would easily have been lost by *homoeoteleuton* with ὁμνύοντος.

πιστευθεὶς ἂν] See on § 1 *ad fin.* For the passive, formed just as if the active were directly transitive, and took the accusative, cf. § 5 παροινουμένους and § 2 παρανενομηῆσθαι.

ἠθέλησα ὁμόσαι ταυτί] The general drift of this oath must have been given by the πρόκλησις which was read to the jury; it is also indicated in the asseverations of § 41.

It is clear that this Challenge was refused by the defendant. The plaintiff would therefore be able to point to this refusal as a fact in his own favour, just as the defendant would in the case of the πρόκλησις tendered by him and rejected by the plaintiff (§ 27).—In the next line καὶ emphasizes ὅτιοῦν.

ὑπὲρ τοῦ μὴ δοῦναι δίκην ὧν ἠδίκηκα, καὶ ὅτι οὖν ποιῶν, ὡσπερ σὺ, ἀλλ' ὑπὲρ τῆς ἀληθείας καὶ ὑπὲρ τοῦ μὴ προσυβρισθῆναι, ὡς οὐ κατεπιорκηθησόμενος¹¹ τὸ πρᾶγμα. λέγε τὴν πρόκλησιν.

ΠΡΟΚΛΗΣΙΣ.

41 Ταῦτ' ἐγὼ καὶ τότ' ἠθέλησα ὁμόσαι, καὶ νῦν ὁμνῶ τοὺς θεοὺς καὶ τὰς θεὰς ἅπαντας καὶ ἀπάσας^v ὑμῶν ἔνεκα, ὧ ἄνδρες δικασταί, καὶ τῶν περιεστηκότων, ἧ μὴν παθῶν ὑπὸ Κόνωνος ταῦτα ὧν δικάζομαι, καὶ λα- 1270 βῶν πληγὰς, καὶ τὸ χεῖλος διακοπεῖς οὕτως ὥστε καὶ ραφῆναι, καὶ ὑβρισθεὶς τὴν δίκην διώκειν. καὶ εἰ μὲν εὐορκῶ, πολλὰ μοι ἀγαθὰ γένοιτο καὶ μηδέποτ' αὐθις τοιοῦτο μηδὲν πάθοιμι, εἰ δ' ἐπιορκῶ, ἐξώλης ἀπολοίμην

¹¹ Dobree. κατεπιорκησόμενος Z et Bekker st. cum libris.

^v πάσας Z cum Σ.

κατεπιорκηθησόμενος] An emendation for κατεπιорκησόμενος, the future middle, which if retained, must be taken as passive in sense, 'inasmuch as I am determined not to lose the case by your perjury.' [Or, 'as one who had no idea of having the case decided against him by perjury.' P.] For the use of κατα- cf. καταρραθυμῆναι ('to lose by negligence') in Or. 4 § 7, τὰ κατερραθυμημένα πάλιν ἀναλήψεσθε, and κατεπάδειν, 'to subdue by charming' (Pl. Gorg. 483 E).

41. τῶν περιεστηκότων] Aeschin. Ctesiph. § 56 ἀποκρίνομαι ἐναντίον σοι τῶν δικαστῶν καὶ τῶν ἄλλων πολιτῶν ὅσοι δὴ ἐξῶθεν περυστᾶσι, and Dem. de Cor. § 196.

What applies above to private orations of great public importance, applies *mutatis mutandis* to the present speech, which was probably listened to by a

considerable body of citizens, besides the forty δικασταί before whom this case was apparently tried (see *Introduction* p. lxi).

καὶ εἰ μὲν εὐορκῶ—ἔσσεσθαι] Quoted by Aristides (ii 487 *Rhet. Graeci*, Spengel), together with the famous adjurations of the speech *de Corona* (§§ 1 and 141), to exemplify ἀξιοπιστία brought about by ὅρκοι and ἀρά.

ἐξώλης] Or. 49 § 66; Fals. leg. § 172, ἐξώλης ἀπολοίμην καὶ πρόωλης εἰ..., and in § 70 (after quoting the solemn form of imprecation used before the meetings of the βουλή and ἐκκλησία) the orator adds: εὐχεσθ' ἐξώλη ποιεῖν αὐτὸν καὶ γένος καὶ οἰκίαν.

Ariston is here taking an oath almost as strong as that which he finds fault with in Conon; but he would probably plead that he was only swearing 'in the customary manner,' ὡς νόμιμον (§ 40).

αὐτός τε καὶ εἴ τί μοι ἔστιν ἢ μέλλει ἔσεσθαι. ἀλλ' οὐκ ἐπιorkῶ, οὐδ' ἂν Κόνων διαρραγῇ. ἀξιῶ τοίνυν 42 ὑμᾶς, ὧ ἄνδρες δικασταί, πάνθ' ὅσα ἐστὶ δίκαια ἐπίδειξαντος ἐμοῦ καὶ πίστιν προσθέντος ὑμῖν, ὥσπερ ἂν αὐτὸς ἕκαστος παθὼν τὸν πεποιηκότα ἐμίσει, οὕτως ὑπὲρ ἐμοῦ πρὸς Κόνωνα τουτονὶ τὴν ὀργὴν ἔχειν, καὶ μὴ νομίζειν ἴδιον τῶν τοιούτων μηδὲν ὁ καὶ ἄλλω τυχὸν συμβαίη, ἀλλ' ἐφ' ὅτου ποτ' ἂν συμβῆ, βοηθεῖν καὶ τὰ δίκαια ἀποδιδόναι, καὶ μισεῖν τοὺς πρὸ μὲν τῶν ἀμαρτημάτων θρασεῖς καὶ προπετεῖς, ἐν δὲ τῷ δίκην ὑπέχειν ἀναισχύντους καὶ πονηροὺς καὶ μήτε δόξης μήτε ἔθους μήτ' ἄλλου μηδενὸς φροντίζοντας πρὸς τὸ μὴ δοῦναι δίκην. ἀλλὰ δεῖσεται Κόνων καὶ κλαίη- 43

διαρραγῇ] sc. λέγων ὡς ἐπιorkῶ, 'not even if Conon burst with saying that I forswear myself'—or (as we should put it)—'say so till he bursts.' De Cor. § 21 ὁ σὸς κοινωνός, οὐχ ὁ ἐμός, οὐδ' ἂν σὺ διαρραγῆς ψευδόμενος.

πίστιν]= ὄρκον, Or. 49 § 42 πίστιν ἠθέλησα ἐπιθεῖναι.

§§ 42—43. *This is no private interest of myself alone; Conon will appeal to the compassion of the jury, though the victim of such an outrage deserves their pity, rather than its perpetrators. I therefore claim from the jury the same feeling of resentment against Conon, as each one of them would have felt in his own case.*

42. πάνθ'—δίκαια] perhaps = πάντα δίκαια ὅσα ἔστι (not πάντα ὅσα δίκαιά ἐστι). If so, we should read ἔστι for ἐστί.—πίστιν προσθέντος § 41, alluding to νῦν ὁμνύω κ.τ.λ.—παθὼν = εἰ ἔπαθεν.

τὴν ὀργὴν ἔχειν] Or. 21 (Mid.) § 70, εἰ τοίνυν τις ὑμῶν ἄλλως πῶς ἔχει τὴν ὀργὴν ἐπὶ Μειδίαν ἢ ὡς δεῖν αὐτὸν τεθνᾶναι, οὐκ ὀρθῶς

ἔχει. P.]

δ—συμβαίη]= δ καὶ ἄλλω (τυχὸν) συμβαίη ἂν, 'which might, perchance, happen to another.' For acc. abs. τυχὸν (like παρασχόν, ἐξόν, μετόν, Kühner § 487, 3) cf. Isocr. Paneg. § 171 τυχὸν ἂν τι συνεπέρανεν and Dem. de Cor. § 221 ἐπεπέισμην δ' ὑπὲρ ἐμαντοῦ, τυχὸν μὲν ἀναισθητῶν, ὅμως δ' ἐπεπέισμην.

τὰ δίκαια ἀποδιδόναι] 'To grant him the claims which are his due'; ἀπο-, as in ἀπολαμβάνειν, 'to receive one's due,' 'to accept full payment.' See note on Or. 53 § 10.

πρὸ] Not 'previous to,' but 'in the presence of,' 'at.' [Cf. however Or. 21 (Mid.) § 30 νόμους ἔθεσθε πρὸ τῶν ἀδικημάτων ἐπ' ἀδήλοισ τοῖς ἀδικήσουσιν. P.]

μήτε ἔθους... φροντίζοντας] Cf. § 40 ὧν μὴ νομίζετε.

43. δεῖσεται... καὶ κλαίσει] Or. 30 § 32 ἀναβὰς ἐπὶ τὸ δικαστήριον ἔδειτο, ἰκετεύων ὑπὲρ αὐτοῦ καὶ ἀντιβολῶν καὶ δάκρυσιν κλαίων. Cf. Or. 53 § 29.—προσυβρισθεῖς is further explained by δίκης

σει^w. σκοπεῖτε δὴ πότερός ἐστιν ἑλεεινότερος, ὁ πεπονθὼς οἷα ἐγὼ πέπονθα ὑπὸ τούτου, εἰ προσυβρισθεὶς ἄπειμι καὶ δίκης μὴ τυχὼν, ἢ Κόνων, εἰ δώσει δίκην; πότερον δ' ὑμῶν ἐκάστῳ συμφέρει ἐξεῖναι τύπτειν καὶ ὑβρίζειν ἢ μὴ; ἐγὼ μὲν οἶμαι^x μὴ. οὐκοῦν, ἂν μὲν ἀφιήτε, ἔσονται πολλοὶ, εἰ δὲ κολάζητε, ἐλάττους.

44 Πόλλ' ἂν εἰπεῖν ἔχοιμι, ὧ ἄνδρες δικασταὶ, καὶ ὡς ἡμεῖς χρήσιμοι, καὶ αὐτοὶ^y καὶ ὁ πατήρ, ἕως ἔζη, καὶ τριηραρχοῦντες καὶ στρατευόμενοι καὶ τὸ προσταττόμενον ποιοῦντες, καὶ ὡς οὐδὲν οὔθ' οὔτος οὔτε τῶν τούτου οὐδεὶς· ἀλλ' οὔτε τὸ ὕδωρ ἰκανὸν οὔτε I 271 νῦν περὶ τούτων ὁ λόγος ἐστίν. εἰ γὰρ δὴ ὁμολογούμενως ἔτι τούτων καὶ ἀχρηστοτέροις καὶ πονηροτέροις ἡμῖν εἶναι συνέβαιεν, οὐ τυπτητέοι οὐδὲ ὑβριστέοι δήπου ἐσμέν.

^w κλαιήσει Z cum Σ.

^x οἶομαι Z cum Σ.

^y καὶ αὐτοὶ A¹kr. om. Z cum FΣΦ.

μὴ τυχὼν. See note on § 15, ὑβρισθῆναι.

ἢ μὴ] sc. ἐξεῖναι, not συμφέρει. The latter would require οὔ.

ἂν μὲν ἀφιήτε κ.τ.λ.] Isocr. κατὰ Δοχίτου (αἰκίας) § 18, τοὺς ἄλλους πολίτας κοσμωτέρους ποιήσετε καὶ τὸν βίον τὸν ὑμέτερον αὐτῶν ἀσφαλέστερον καταστήσετε.

§ 44. I might say much of the public services of my family, and show that my opponents have done you no such service. But time would not suffice, nor is this the point at issue. For even supposing we were ever so inferior to our opponents, that is no reason why we should be beaten and insulted.

44. χρήσιμοι] χρήσιμος is almost invariably used with εἰς τι, πρὸς τι, ἐπὶ τι or the simple dat.,

but is here placed absolutely.

τριηραρχοῦντες] See Or. 36 § 41.

ὡς οὐδὲν]=ὡς κατ' οὐδὲν γέγονε χρήσιμος (understood from χρήσιμοι above).—On τὸ ὕδωρ, see § 36.

τούτων...ἀχρηστοτέροις] More unserviceable, more useless, to the state than our opponents. For the dat. συνέβαιεν ἡμῖν εἶναι ἀχρηστοτέροις cf. § 16 αὐτοληκτύθοις συγχωροῦμεν εἶναι τοῖς νιέσι.

ἀχρηστος is here contrasted with χρήσιμος and, as often in the Orators, is used in the same sense as ἀχρεῖος in earlier Greek writers.

τυπτητέοι] formed like τυπτήσω as if from *τυπτέω, cf. τετυπτήσθαι in *Argument* 1. 2. See *Excursus* (A), *infra*.

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν· οἶμαι^x γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων.

^x οἶμαι Ζ *cum* Σ.

οὐκ οἶδ'—εἰρημένων] The very same sentence (with the addition of the phrase *ἐξέρα τὸ ὕδωρ*) occurs at the close of Or. 36. On ὅ τι δεῖ, see note on 36 § 62.

A longer speech might appropriately have closed with a

recapitulation and a formal peroration; but in the present instance neither is necessary. Arist. Rhet. III 13 ὁ ἐπίλογός ἐστιν οὐδὲ δικανικοῦ (λόγου) παντός, οἷον ἐὰν μικρὸς ὁ λόγος καὶ τὸ πρᾶγμα εὐμνημόνευτον.

EXCURSUS (A).

On the defective verb τύπτω (§§ 4, 25, 32, 35, &c.).

The verb *τύπτω* forms a familiar paradigm in almost all the elementary Greek Grammars in ordinary use, where, as every schoolboy knows, it is conjugated at full length with its three perfect tenses, its five futures, and its six aorists; and it must be admitted that, for the purposes of a paradigm, the verb in question is in several respects admirably adapted. Had the selection fallen on a verb ending in *-ω* with a *vowel* for the last letter of its stem, e.g. *λύ-ω*, or *τιμά-ω*, our model verb would have had one aorist only in each voice, *ἔλυσα*, *ἐλυσάμην*, *ἐλίθην*; *ἐτίμησα*, *ἐτιμησάμην*, *ἐτιμήθην*. Had a *verbum purum* ending in *-μι* been taken, e.g. *φη-μί*, *δίδω-μι*, *ἴστη-μι*, the beginner would have had to face a very complex conjugation at the very outset of his task. *τύπτω* is unencumbered with the special irregularities of verbs ending in *-μι*, and has the advantage of two *theoretically possible* aorists in each voice; indeed, as Veitch has pointed out, it is 'one of the very few verbs that have the second aorist active and passive in actual use' (though the

former is very rare, while in *Attic prose* neither is ever found). Again, as compared with some other *verba impura*, with a *consonant* for their characteristic letter, it has this advantage; that the stem-vowel remains unchanged throughout, and is thus identical in (for instance) the aorist and present participle alike ($\tau\upsilon\pi\text{-}\epsilon\acute{\iota}\varsigma$ and $\acute{\tau}\upsilon\pi\text{-}\tau\omega\nu$), whereas in $\lambda\acute{\epsilon}\iota\pi\omega$, $\phi\acute{\alpha}\iota\nu\omega$, $\tau\acute{\eta}\kappa\omega$ as compared with $\acute{\epsilon}\text{-}\lambda\iota\pi\text{-}\omega\nu$, $\acute{\epsilon}\text{-}\phi\acute{\alpha}\iota\nu\text{-}\eta\nu$, $\acute{\epsilon}\text{-}\tau\acute{\alpha}\kappa\text{-}\eta\nu$, the stem-vowels which appear in the aorist have suffered modification in the present; also the consonantal relations between the different tenses are simpler than in the case of some other verbs; thus, while β in $\acute{\epsilon}\text{-}\beta\lambda\acute{\alpha}\beta\text{-}\eta\nu$ becomes π in $\beta\lambda\acute{\alpha}\pi\text{-}\tau\omega$, no such alteration is necessary in passing from the $\text{-}\tau\upsilon\pi\text{-}$ of the second aorist to the strengthened form $\tau\upsilon\pi\tau\text{-}$ of the present.

The verb is not without an interest of its own in the history of grammar; and though it may be rash to conjecture whether it owed its first selection to the grim humour of some *plagosus Orbilius* of old times, intent on bringing each tense's meaning home to his pupils' memories by the help of his ferule, it may be interesting to note that this particular paradigm is found in the early Greek Grammars which appeared in Italy at the revival of learning, as for instance in the *Erotemata* of Chrysoloras, a distinguished scholar, who (in the dedication of a copy in my possession, printed at Venice at the Aldine press in 1517) is described as *Manuel Chrysoloras, qui primus Iuniorum reportavit in Italiã literas græcas**. The paradigm may also be traced still further

* On Chrysoloras, see Hody, *de viris illustribus* cap. ii, and Voigt's *Humanismus* i^o 225. 234; and cf. Hallam's *Literature of Europe* i 99 ed. 1854, where the *Erotemata* is described as 'the first, and long the only, channel to a knowledge of Greek, save oral instruction,' and Mullinger's *History of the University of Cambridge*, i pp. 391—396, where it is called 'the Greek Grammar

back to the Canons of Theodosius, an Alexandrine grammarian of the age of Constantine the Great, who expounds all the parts, regardless of usage, and at considerable length (viz. on pp. 1008—1044 of Θεοδοσίου γραμματικῶν εἰσαγωγικοὶ κανόνες περὶ κλίσεως ῥημάτων in Bekker's *Anecdota Græca*, vol. III). The Grammar of Theodosius is in its turn founded on that of a more celebrated Greek scholar, Dionysius the Thracian, who taught at Rome in B.C. 80. The τέχνη γραμματικῆ of the latter is a short work, occupying only pp. 629—643 in Bekker's *Anecdota Græca*, vol. II; it was a standard text-book for many centuries and is the original basis of all subsequent grammars. I quote a few words from chap. xv, which bear on our present subject: διαθέσεις δὲ εἰσι τρεῖς, ἐνέργεια, πάθος, μεσότης· ἐνέργεια μὲν οἷον τύπτω, πάθος δὲ οἷον τύπτομαι, μεσότης δὲ ἢ ποτὲ μὲν ἐνέργειαν, ποτὲ δὲ πάθος παριστῶσα, οἷον πέποιθα, διέφθορα, ἐποιησάμην, ἐγραψάμην*. Shortly after, he proceeds: ἀριθμοὶ δὲ τρεῖς, ἐνικός, δυϊκὸς καὶ πληθυντικός· ἐνικός μὲν οἷον τύπτω, δυϊκὸς δὲ οἷον τύπτετον, πληθυντικός δὲ οἷον τύπτομεν· πρόσωπα δὲ τρία, πρῶτον, δεύτερον, τρίτον· πρῶτον μὲν οἷον τύπτω, δεύτερον οἷον τύπτεις, τρίτον οἷον τύπτει.

of the first century of the Renaissance.' 'It served Reuchlin for a model at Orleans, was used by Linaere at Oxford and Erasmus at Cambridge, and long continued to hold its ground against formidable rivals,' p. 395. The date of his arrival in Italy was about 1396.—The Aldine edition above referred to is of course a reprint. It was first printed in 1481. Hallam I p. 180 ascribes to about the year 1480 a small quarto tract of great rarity, entitled *coniugationes verborum Græcæ, Daventria noviter extremo labore collectæ et impressæ*, containing nothing but τύπτω in all its voices and tenses, with Latin explanations.

* It is quoted ἐτυψαμην in Graefenhan, *Geschichte der Classischen Philologie*, II p. 481, q. v.; but Dionysius appears in the rest of the chapter to confine himself to tenses in actual use and is therefore likely to have avoided ἐτυψάμην.

But, however well this verb may be adapted as a typical form for the beginner, and however interesting it may be as a tradition of the earlier grammarians, it cannot be too clearly understood that very few of the tenses are really used by the best Greek authors. The tenses given in the paradigm are all formed regularly on the principles of *analogy* alone, regardless of the opposite principles of *anomaly* which prevail in the usage of the Greek writers themselves. In *Attic Prose* none of the tenses given in the grammars are found except the present and imperfect, active and passive, *τύπτω* and *ἔτυπτον*, *τύπτομαι* and *ἐτυπτόμην*. The future active is not *τύψω* but *τυπήσω*, and the aorists in use are borrowed from other verbs, and are really *ἐπάταξα* and *ἐπλήγην*. *ἔτυψα* is never found in Attic Prose, and the reference to Lysias, *fragment* 10, 2, given in Veitch's *Greek Verbs*, and repeated, apparently without verification, in Liddell and Scott's *Lexicon*, supplies us with no real exception. The passage, when examined, proves to be part of an exposition of a possibly genuine speech of Lysias, written by the anonymous author of the *προλεγόμενα τῶν στάσεων* (*Rhetores Graeci* VII p. 15 Walz, cf. Spengel's *Artium Scriptores* p. 137). The words used by this late writer are: *ἐγκύμονά τις ἔτυψε κατὰ γαστρὸς καὶ κρίνεται φόνου*, where Lysias himself would undoubtedly have written *ἐπάταξεν*, as is proved by a passage in Or. 13 § 71, *ὁ Θρασύβουλος τύπτει τὸν Φρύνιχον καὶ καταβάλλει πατάξας*. The following passages will further illustrate the prose usage of this defective verb, Lysias, Or. 4 § 15, *πότερον ἐπλήγην ἢ ἐπάταξα*; id. Or. 1 §§ 25—27, where *πάταξας καταβάλλω* is followed by the corresponding passive forms *πληγείς κατέπεσεν*, Dem. Or. 4 § 40, *ὁ πληγείς κἂν ἐτέρωσε πατάξῃς*, Thuc. VIII 92, *ὁ Φρύνιχος πληγείς* followed by *ὁ πατάξας διέφυγεν*. Again in Plato's *Laws*, p. 879 D—2,

we have τύπτοντα and τύπτειν followed by πατάξαι, and soon after, τύπτει τῇ μάστιγι followed by ὅσας ἂν αὐτὸς πατάξῃ : so in p. 880 B, εἰάν τις τύπτῃ τὸν πρεσβύτερον...τῇ τοῦ πληγέντος ἡλικία, and in p. 882 the last two forms occur twice over. Cf. Aristot. *Eth.* v 5 § 4, ὅταν ὁ μὲν πληγῇ ὁ δὲ πατάξῃ, *Rhet.* i 15 § 29, ὁμοία καὶ εἰ ἰσχυρὸς ἀσθενῇ πατάξαι ἢ πληγῆναι προκαλέσαιοτο, *Eth.* v 5 § 4, εἰ ἀρχὴν ἔχων ἐπάταξεν, οὐ δέῃ ἀντι-πληγῆναι, καὶ εἰ ἀρχοντα ἐπάταξεν, οὐ πληγῆναι μόνον δεῖ ἀλλὰ καὶ κολασθῆναι. *Rhet.* i 15 § 29, πατάξαι ἢ πληγῆναι, *de anima* B, 8, p. 419 b 15, τὸ τύπτον καὶ τὸ τυπτόμενον...ἂν πληγῇ, p. 420 a 24, οὐ δὴ πᾶν ψοφεῖ τυπτόμενον καὶ τύπτον, οἷον εἰάν πατάξῃ βελόνῃ βελόνῃ, p. 423 b 16, πληγεῖσα ἐπάταξεν, *Soph. Elench.* p. 168 a 6, ἂν τις τύπτῃ τοῦτον καὶ τοῦτον, ἀνθρωπον ἀλλ' οὐκ ἀνθρώπους τυπτήσῃ, and *Meteorologica*, p. 368 a 18, τύπτων...τύπτον...τύπτεται, p. 371 b 10, ἧ μέλλει πατάξειν κινεῖται πρὶν πληγῆναι, while three lines below we find ὁ εἰάν πατάξῃ.—Among other parts similarly borrowed we have πέπληγα, πέπληγμαί, πεπλήξομαι and πληγήσομαι.—So in Latin, *ferio*, *percussī*, etc.

But one of the best studies on this point of usage is the Speech of Demosthenes κατὰ Κόρωνος, where we find the following forms; in § 81 τύπτειν, in § 17 τύπτων, in § 4 ἔτυπτον, in §§ 32 and 35 τυπτόμενον, with the verbal τυπτητός in § 44. Again in § 31 we have πατάξαι (not τύψαι or πλῆξαι), and in § 33 ἐπλήγην (not ἐπατάχθην, or ἐτύπην, much less ἐτύφθην). Further in § 25 πατάξαντι stands side by side with τύπτειν; and lastly we have the phrases πληγὰς ἐνέτειναν (§ 5) and εἰληφέναι καὶ δεδωκέναι πληγὰς (§ 14), which assist in making up for the defective tenses. It is reserved for the late writer who composed the *Argument* to use the unclassical form τετυπτήσθαι.

For the usage of this verb in Attic Verse, see Veitch's excellent book on *Greek Verbs*, where it will be noticed

that almost the only part used besides those found in Prose is τυπέις; the student should also read the interesting criticisms of Cobet in pp. 330—343 of his *Variæ lectiones*, and the corresponding passage in Rutherford's *New Phrynichus*, p. 257 ff.

[The above Excursus, in the form in which it appeared in 1875, has been translated into German by Dr L. Schmidt in the *Paedagogisches Archiv*, xxv(i) 1883, p. 62—5.]

. EXCURSUS (B).

On the quantity of ἔμπνος (Or. 54 § 12).

In Soph. *Phil.* 1378, the phrase ἔμπνος βάσις is used with reference to the festering foot of Philoctetes, but the position of the words, at the end of an iambic line, leaves the quantity undetermined. This may however be ascertained (1) by the accent of the word from which it is derived, viz. πύον, which according to the express statement of the grammarian Arcadius should never be written πῶον; (ii) by the fact that Empedocles makes the first syllable of πύον short. We may further notice that the adjective and its derivatives occur (as might be expected) not unfrequently in Hippocrates and the medical writers; and that one of these, Galen (lib. xiii p. 876), quotes in full an Elegiac poem in which Andromachus the elder, in describing the virtues of his potent antidote, or θηριακὴ δι' ἐχιδνῶν, has the following couplet, which determines the quantity of the word :

καὶ μογερῶν στέρνων ἀπολύσεται ἔμπνον ἰλύν
πινομένη πολλοὺς μέχρῃς ἐπ' ἡλείους.

Hence we conclude that the lexicons of Liddell and Scott (ed. 6*) and of Pape are unwarranted in marking

* In ed. 7 (1883) the quantity is not marked.

the penultimate as long;—an oversight which does not occur in the fourth edition of the former lexicon, and is doubtless due to a confusion between the quantities of τὸ πῦρον, the Latin *pus*, and ὁ πῦός, the Lat. *colostra* (or beestings).

EXCURSUS (C).

On the meaning of αὐτολήκυθος (Or. 54 § 14).

The exact meaning of this word is difficult to determine, and the Grammarians content themselves with giving us a wide choice of conflicting explanations. Harpocration, for instance, has the following article.

Αὐτολήκυθοι: Δημοσθένης κατὰ Κόϊωνος, (1) ἦτοι ἀντὶ τοῦ εὐζώνου τινὰς καὶ ἐτοίμους πᾶν ὄτιοῦν ποιεῖν καὶ ὑπομένειν, (2) ἢ ἀντὶ τοῦ πένητας καὶ μηδὲν ἄλλο κεκτημένους ἢ ληκύθους, (3) ἢ αὐτουργούς, (4) ἢ ἀντὶ τοῦ εἰς πληγὰς ἐτοίμους καὶ οἶον τύπτοντας καὶ μαστιγοῦντας καὶ ὑβρίζοντας, (5) ἢ λέγοι ἂν τοὺς ἐκ προχείρου διδόντας ἀργύριον....

He further states that Menander used the word in two of his comedies, and attempts to support the last of the above interpretations by showing from Diphilus, that money was occasionally carried about in the *λήκυθος*: and the last but one by appealing to Menander for the fact that the thong or strap (*ίμάς*), by which the *λήκυθος* was suspended about the person, might be detached from the flask and used as a whip. None of these five explanations is convincing and the last two are almost certainly wrong. An indication of the true meaning may however be gathered from the second. Any respectable Athenian in going to the public baths would be naturally attended by his slave carrying the master's *λήκυθος* or oil-flask, &c. Compare, for the Roman custom, Varro *R. R.* 1 55 § 4 (*olea dominum in balnea sequitur*). The fraternity of young men alluded

to in the text, may have gone on the principle of discarding the attendance of their slaves and carrying their own *λήκυθοι*, either to be free from the slight restraint which the company of their servants might put upon their practical jokes and wild escapades, or by way of assuming a lower grade of respectability than their birth would warrant, and availing themselves of that disguise either as a mere freak of youthful pleasantry or as a cloak for acts of outrage and disorder. If this view is tenable, the general sense of the title may be kept up by some such rendering as 'gentleman beggars,' 'amateur tramps.'

This explanation is in part confirmed by one of the guesses recorded in Bekker's *Anecdota Graeca* 465, 17 where *αὐτολήκυθος* is explained *ὁ πένης ἀπὸ τοῦ ἑαυτῷ τὰς ληκύθους εἰς τὰ βαλανεῖα εἰσφέρειν*. Again, Hesychius has *αὐτολήκυθοι οἱ πένητες, οἱ μόνην λήκυθον ἔχοντες ἢ δι' ἑαυτῶν βαστάζοντες τὴν λήκυθον, οὐ δι' οἰκετῶν*. Pollux x 62, refers to the passage in Demosthenes, and quotes a parallel from the comic poet Antiphanes, Meineke *Com. Graec. fragm.* III 7, *καὶ αὐτοληκύθους δέ τινας Δημοσθένης ἐν τῷ κατὰ Κόνωνος ὀνομάζει οὐς σαφέστερον ἄν τις ἐν τῷ Ἀντιφάνους Ἀθάμαντι κεκληῖσθαι λέγοι*.

*χλαμύδα καὶ λόγχην ἔχων
ἀξυνακόλουθος ξηρὸς αὐτολήκυθος.*

As another nickname attaching to one of these Clubs we have *Τριβαλλοὶ* in § 39; and in Athenaeus a coterie of Athenian wits is mentioned in the time of Philip of Macedon and therefore nearly coincident in date with the Clubs in the text; these wits or *γελωτοποιοί* went by the name of 'the sixty' (*Athen.* xiv 614). Cf. also Lysias, *fragm.* 53, *κατὰ Κινησίον: οὐ μετὰ τούτου ποτὲ Ἀπολλοφάνης καὶ Μυσταλίδης καὶ Λυσίθεος συνεισιτῶντο, μίαν ἡμέραν ταξάμενοι τῶν ἀποφράδων, ἀντὶ νομηνιαστῶν κακοδαιμονιστὰς σφίσιν αὐτοῖς τοῦνομα θέμενοι*;

EXCURSUS (D).

On the Τριβαλλοὶ of Or. 54 § 39.

The Triballi were a wild Thracian people occupying the region north of the range of Haemus and south of the Danube, now known as Servia. Their character is often described in unfavourable terms: thus Isocrates (*de pace* § 50) speaks of their *δυσγένεια* as opposed to the *εὐγένεια* of Athens, and (*Panath.* § 227) denounces them as leagued against all their neighbours: ἅπαντές φασι ὁμοοεῖν μὲν (τοὺς Τριβαλλοὺς) ὡς οὐδένας ἄλλους ἀνθρώπους, ἀπολλύναι δ' οὐ μόνον τοὺς ὁμόρους καὶ τοὺς πλησίον οἰκοῦντας ἀλλὰ καὶ τοὺς ἄλλους ὅσων ἂν ἐφικέσθαι δινηθῶσιν. Lastly the comic poet Alexis (who flourished in B.C. 356, a date but slightly anterior to the present speech), attacking, apparently, some rude and uncivilised custom, describes it as too barbarous even for the Triballi, οὐδ' ἐν Τριβαλλοῖς ταῦτά γ' ἐστὶν ἔνομα | οὐ φασι τὸν θύοντα τοῖς κεκλημένοις | δείξαντ' ἰδεῖν τὸ δειπνον, εἰς τὴν αὔριον | πωλεῖν ἀδείπνοις ἄπερ ἔθηκ' αὐτοῖς ἰδεῖν (ap. Athen. xv p. 671). Cf. Ar. *Aves* 1530.

According to the speaker, Conon and his two companions were, as mere striplings (*μειράκια*), known by a name borrowed from these lawless Triballi. Now if the speech was (as is very probable) delivered in B.C. 341 (see p. lxiii) when Conon was rather more than 50 years of age (§ 22), he would be a *μειράκιον*, or about 15 years of age, 35 years previous, viz. B.C. 376. By a coincidence which has apparently remained unnoticed, this brings us to the very year in which the wild Triballi crossed the Haemus with a strong force, ravaged the southern coast of Thrace near Abdera and were forced to retreat by the Athenian commander Chabrias (Diodor. xv 36). The name of the barbarous tribe would therefore be

on the lips of all Athens during the youth of Conon and his friends, and would readily find currency as a slang term of the day.

We may compare with the Τριβαλλοὶ, the disorderly Clubs to which Conon's son belonged, the ἰθύφαλλοι and αὐτολήκυθοι of § 14; and we may suggest in passing that the special form of the appellation, apart from its general applicability, probably turned on a play of words (e.g. τριβειν τοὺς ἄλλους or others more or less obvious). Cf. Photius s.v. (quoting this passage) οἱ ἐν τοῖς βαλανείοις ἀναγώγως διατριβόμενοι...οἱ δὲ τοὺς εἰκαίους καὶ τοὺς βίους κατατρίβοντας. Hesychius (*inter alia*) οἱ ἐπὶ τὰ δεῖπνα ἑαυτοὺς καλοῦντες. The *Scholia* on Aeschines i § 52 (τούσδε τοὺς ἀγρίους ἄνδρας) couple together Τριβαλλοὶ (cf. Plin. *N. H.* vii 2) and Κένταυροι as infamous appellatives, and lastly the comic poet Eubulus (fl. B.C. 375) has the line Τριβαλλοποπανόθρεπτα μειρακύλλια.

As an exact parallel to the Triballi in the text and the other clubs already mentioned, we have in English literature the 'nocturnal fraternity of the Mohock-club,—a name borrowed from a sort of cannibals in India' (i.e. North America). The practical jokes of that 'worthy society of brutes,' and 'well-disposed savages,' will be familiar to the readers of the *Spectator* (Nos. 324, 332 and 347; *anno* 1712). Cf. also Gay's *Trivia* iii 325—328:

Who has not heard the *Scowrer's* midnight fame?
 Who has not trembled at the *Mohock's* name?
 Was there a watchman took his hourly rounds,
 Safe from their blows, or new-invented wounds?

As German parallels we have the names *Polacken*, *Tartaren*, *Husaren*, and *Kroaten* (quoted by Reiske); similarly in French, *Cosaques* and *Pandours* (mentioned by M. Dareste).

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ.

ΥΠΟΘΕΣΙΣ.

Καλλικλῆς, πρὸς ὃν ὁ λόγος, καὶ ὁ τὴν δίκην ὑπ' ἐκείνου φεύγων^α γείτονες ἦσαν ἐν χωρίῳ, ὁδῶ μέση διειργόμενοι. δυσομβρίας^β δὲ συμβάσης, εἰς τὸ Καλλικλέους χωρίον ὕδωρ ἐμπροσθὸν ἐκ τῆς ὁδοῦ κατελυμνήνατο. ἐπὶ τούτῳ διώκει βλάβης τὸν γείτονα· εἶναι 5 γάρ φησιν ἐν τῷ Τισίου χωρίῳ χαράδραν εἰς ὑποδοχὴν τοῦ ὕδατος τοῦ ἐκ τῆς ὁδοῦ ποιηθεῖσαν, ἣν ἀποικοδομήσαντα^γ νῦν αἰτίαν ἑαυτῷ βλάβης γενέσθαι. ὁ δὲ τοῦ Τισίου παῖς πρῶτον μὲν παλαιὸν καὶ οὐ δι' ἑαυτοῦ τὸ ἔργον δαίκνυσι· ζῶντος γὰρ ἔτι καὶ τοῦ 10 Καλλικλέους πατρὸς ἀποικοδομηθῆναι τὴν χαράδραν φησὶν ὑπὸ τοῦ Τισίου· ἔπειτα συνίστησιν ὡς οὐδὲ χαράδρα τις τὸ χωρίον ἐστὶ^δ. διασύρει δὲ καὶ τὴν

^α Bekker st. cum H. Wolfio. διώκων libri. διωκόμενος Z, coniecit Sauppe.

^β δηωβρίας Φ. δη βρίας Β. δύο βρίας Σ. *margo editionis Parisiensis* (1570) *habet et δυσομβρίας quod nusquam alias legitur, et ἐπομβρίας* (Z et Bekker st.) *quod occurrit infra § 11 γενομένης ἐπομβρίας.*

^γ ἀποικοδομήσαντα Sauppe, coll. § 12. ἀπωκοδομήσας ΒΦΣ. ἀποικοδομηθεῖσαι Reiske (Bekker st.).

^δ οὐδὲ χαράδρα τις ἀλλὰ χωρίον ἐστὶ *ed. Parisiensis in margine* (cf. § 12 ἀποδείξω χωρίον ὃν τοῦτ' ἀλλ' οὐ χαράδραν).

12. *συνίστησιν*] The word is used in late Greek in the sense 'to give proof of,' e. g. Polyb. III 108 § 4 *ἐπειρᾶτο συνιστάνειν ὅτι...* We may therefore per-

haps render it 'he attempts to prove.' [Perhaps *ἐνίστησιν*, 'he objects.' P.]

13. *διασύρει*] makes light of the damage done. See §§ 23—

συμβάσαν τῷ Καλλικλεί βλάβην ὡς μικρὰν καὶ
 15 οὐκ ἀξίαν τηλικαύτης δίκης, καὶ τὸ ὅλον ἠδίκησθαι
 μὲν οὐδέν φησι τὸν Καλλικλέα, ἐπιθυμεῖν δὲ τῶν
 χωρίων τῶν ἑαυτοῦ καὶ διὰ τοῦτο συκοφαντίας μηχανῶ-
 νᾶσθαι πάσας.

1 Οὐκ ἦν ἄρ', ὦ ἄνδρες Ἀθηναῖοι, χαλεπώτερον οὐ- 1272
 δὲν ἢ γείτονος πονηροῦ καὶ πλεονέκτου τυχεῖν, ὅπερ
 ἐμοὶ νυνὶ συμβέβηκεν. ἐπιθυμίσας γὰρ τῶν χωρίων
 μου Καλλικλῆς οὕτω διατέθεικέ με συκοφαντῶν ὥστε
 2 ἀμφισβητεῖν μοι τῶν χωρίων, ἐξελεγχθεῖς δὲ φανερώς
 καὶ περιγενομένου μου τῆς τούτων σκευωρίας, πάλιν
 δύο δίκας ἐρήμους μου κατεδιητήσατο, τὴν μὲν αὐτὸς

26. Dem. Or. 13 § 12 διέσυρε ('depreciated') τὰ παρόντα καὶ τοὺς προγόνους ἐπήνεσε.

§§ 1, 2. *There is really no greater nuisance, gentlemen, than a greedy neighbour, as I have found to my cost in the case of the plaintiff Callicles. He has set his heart upon my property, and has therefore by every legal means, direct or indirect, made me the victim of a vexatious persecution.*

Though I am no speaker myself, yet, if the court will give me their attention, the facts themselves will prove the baselessness of the present action.

1. οὐκ ἦν ἄρα—τυχεῖν] For οὐκ ἦν ἄρα, 'there is not really after all,' cf. Soph. O. C. 1697 πῶθος καὶ κακῶν ἄρ' ἦν τις, and for this use of ἦν, especially with ἄρα, to express a fact which is and always has been the same, see the examples given in Liddell and Scott, s. v. εἰμί, F.

For the general sense, cf.

Hesiod's *Works and Days* 345 πῆμα κακὸς γείτων, and esp. Aristot. Rhet. II 21 § 15 εἴ τις γείτοσι τύχοι κεκρημένος... φαύλοισι, ἀποδέξαιτ' ἂν τοῦ εἰπόντος ὅτι οὐδὲν γειτονίας χαλεπώτερον.

συκοφαντῶν] 'by his vexatious litigation, his petty persecution.' The word is always difficult to render, and we have generally to be guided by the context for the exact equivalent in English.

κατεσκεύασεν] 'suborned his cousin to claim it from me.' The verb, here followed by the infinitive, most commonly takes an accusative, e.g. § 34 τὸν ἀνεψιὸν κατεσκεύασε, Or. 54 § 14.

2. σκευωρίας] 'intrigue, jobbery.' Or. 36 § 33 πλάσμα καὶ σκευώρημα.

δίκας ἐρήμους—κατεδιητήσατο] 'got two awards (in arbitration) decided against me by default (for non-appearance).' Or. 21 (Mid.) §§ 84, 85 (Στράτων ὁ

χιλίων δραχμῶν, τὴν δὲ τὸν ἀδελφὸν τουτουὶ πείσας Καλλικράτην^ε. δέομαι δὲ πάντων ὑμῶν ἀκούσαί μου καὶ προσέχειν τὸν νοῦν, οὐχ ὡς αὐτὸς δυνησόμενος εἰπεῖν, ἀλλ' ἵν' ὑμεῖς ἐξ αὐτῶν τῶν πραγμάτων καταμάθητε ὅτι φανερώς συκοφαντοῦμαι.

Ἐν μὲν οὖν, ὦ ἄνδρες Ἀθηναῖοι, πρὸς ἅπαντας ³ τοὺς τούτων λόγους παρέχομαι δίκαιον. τὸ γὰρ χωρίου τούτο περιωκοδόμησεν ὁ πατήρ μικροῦ δεῖν πρὶν ἐμὲ γενέσθαι, ζῶντος μὲν ἔτι Καλλιππίδου τοῦ τούτων[†]

^ε Καλλικρατίδην Z et Bekker st. καλλικρατίτην ΣB et γρ. FΦ.

[†] Bekk. cum r. του του τοῦ Σ. τοῦ τούτου Z.

δαιτητῆς) ὡς οὐτ' ἐγὼ συνεχώρουں οὐθ' οὗτος (Midias) ἀπήντα, τῆς δ' ὥρας ἐγίγνετο ὄψέ, κατεδιήτησεν. ἦδη δ' ἐσπέρας οὐσης καὶ σκότους ἔρχεται Μειδίας... καὶ καταλαμβάνει τὸν Στράτωνα ἀπίοντ' ἦδη, τὴν ἔρημον δεδωκότα. τὸ μὲν οὖν πρῶτον οἶός τ' ἦν πείθειν αὐτὸν, ἦν καταδεδιητήκει, ταύτην ἀποδεδιητημένην ἀποφέρειν.

ἔρημος in Attic has usually two terminations only: hence ἐρήμους δίκας, which was perhaps preferred to ἐρήμας δίκας on grounds of euphony. In § 6 however we find ἐρήμην κατεδιητήσασθε, possibly to avoid the ambiguity arising from the ellipse of δίκην, and in § 31 we have ἐρήμην μου καταδεδιητηται τοιαύτην ἑτέραν δίκην.

τὴν μὲν χιλίων] The same suit is described in § 31 (quoted in last note) as similar to the suit in which this speech is spoken. The damages in the latter are also fixed at 1000 drachmae, § 25.

πείσας] sc. καταδαιτηθήσασθαι.

Καλλικράτην] On the part taken in these lawsuits by Callicrates, the brother of the

plaintiff Callicles, see A. Schaefer, *Dem. und seine Zeit* III 2, p. 254 note.

§§ 3—7. (My opponents bring an action for damages on the ground that the building of a wall enclosing my property has stopped a water-course, and thus diverted the drainage of the surrounding hills on to the property of the plaintiff on the opposite side of the road.)

In answer to all their arguments, I have simply to plead that my father built that wall fifteen years before his death, without any objection, formal or informal, on the part of the plaintiff's family, who are now attempting to take advantage of my youth and inexperience.

I also challenge them to prove the existence of the alleged water-course (§ 6).

3. δίκαιον] 'a fair and legal plea.' Or. 54 §§ 27, 29, 42.

γάρ] See note on Or. 53 § 4. —ὁ πατήρ, sc. Tisias § 5.—μικροῦ δεῖν πρὶν, 'almost before' (i.e. 'a very short time after') I was born; not 'within a little before,' 'just before.'

Καλλιπίδου τοῦ τούτων πατρὸς]

πατρὸς καὶ γειτνιῶντος, ὃς ἀκριβέστερον ἦδει δίππου
 τούτων, ὄντος δὲ Καλλικλέους ἀνδρὸς ἤδη καὶ ἐπιδη-
 4 μούντος Ἀθήνησιν· ἐν δὲ τούτοις τοῖς ἔτεσιν ἅπασιν
 οὐτ' ἐγκαλῶν οὐδεὶς πώποτ' ἦλθεν οὔτε μεμφόμενος
 (καίτοι δῆλον ὅτι καὶ τόθ' ὕδατα πολλάκις ἐγένετο^ε);
 οὐτ' ἐκώλυσεν ἐξ ἀρχῆς, εἴπερ ἠδίκηει τινὰ περιοικοδο- 1273
 μῶν ὁ πατήρ τὸ ἡμέτερον χωρίον, ἀλλ' οὐδ' ἀπηγόρευ-
 σεν οὐδὲ διεμαρτύρατο, πλέον μὲν ἢ πεντεκαίδεκ' ἔτη

ε Z et Bekk. st. cum ΣΒΦΦ. ἐλίγητο Bekk. 1824 cum A¹r.

The two sons Καλλικλῆς and Καλλικράτης bear names similar to their father's, Καλλιπίδης, all three being compounds of κάλλος. 'Thus we have Ναυσίφιλος Ναυσικίου, and Καλλίστρατος Καλλικράτους. So also brothers' names sometimes varied but slightly, as Diodotus and Diogeiton' (Becker's *Charicles* p. 220 Eng. ed.). Cf. part i p. 136.

ἀνδρὸς ἦδη] Having attained to man's estate and being resident at Athens, Callicles might have brought an action long ago, if he felt himself aggrieved. P.]

4. καίτοι — ὕδατα πολλάκις ἐγένετο] 'and yet of course it often rained then, just as it does now,'—a touch of quiet humour characteristic of this speech. (ὕδωρ γενέσθαι literally refers to rain, though floods are implied as a necessary consequence. Ar. Vesp. 265 δέεται ὕδωρ γενέσθαι κάπιπνεῦσαι βόρειον αὐτοῖς.)

εἴπερ ἠδίκηει] (As he would have done) if my father was wronging any one... (But he did not prevent him; and not only so,) but &c. P.]

ἀπηγόρευσε] 'forbade.' In Classical Greek, ἀγορεύω and its compounds are seldom found

except in the present and imperfect tenses; the remaining tenses and the verbal derivatives being generally borrowed from ἐρῶ, εἶπον, εἶρηκα, εἶρημαι, ἐρρήθην, ῥηθήσομαι, with ῥῆσις, ῥητὸς, ῥητέον. Thus ἀναγορεύω (to proclaim) has for its imperfect ἀνηγόρευον, while the correct forms for the other parts are, ἀνερῶ, ἀνείρηκα, ἀνεῖπον, ἀνερρήθην and ἀνάρρησις &c, instead of ἀναγορεύσω . . . ἀναγόρευσις &c. The strict rule, however, as to this verb and its compounds, has its exceptions, in the case of προσαγορεύω (e.g. προσαγορευθῆ 40 § 1), and partially also in ἀπαγορεύω. Thus instead of the more usual ἀπέειπε, we here find ἀπηγόρευσε, which also occurs in Dem. Or. 40 § 44 ἀπηγόρευσεν αὐτῷ μὴ δαιτῶν and Arist. Oecon. ii 24; Plat. Theæt. p. 200 ἀπαγορεύσης. In Ar. Pax 107 we have καταγορεύση. (See Cobet's *variae lectiones* p. 35–39 and *novae lectiones* p. 778; *Mnemosyne* n. s. ii p. 127; also Veitch, *Greek Verbs* p. 10, ed. 1871; Shilleto on *Fals. Leg.* p. 397, and Rutherford's *New Phrynichus*, p. 326.)
 διεμαρτύρατο] 'formally protested.' Or. 33 § 20 διαμαρτυραμένου τοῦ ἀνθρώπου ἐναντίον

τοῦ πατρὸς ἐπιβιοῦντος, οὐκ ἐλάττω δὲ τοῦ τούτων πατρὸς Καλλιππίδου. καίτοι, ὦ Καλλίκλεις, ἐξήν δὴ- 5
που τόθ' ὑμῖν, ὀρώσιν ἀποικοδομουμένην τὴν χαρά-
δραν, ἐλθοῦσιν εὐθὺς ἀγανακτεῖν καὶ λέγειν πρὸς τὸν

μαρτύρων, de Cor. § 28 μὴ σιγήσαι... ἀλλὰ βοᾶν καὶ διαμαρτύρεσθαι (ib. 143); Or. 42 § 28. It must not be confounded with διαμαρτύρησε, 'put in a διαμαρτυρία' (see Meier and Schömann, p. 639).

ἐπιβιοῦντος] Sense and usage alike show that this, though at first sight an ambiguous form, is certainly aorist, and not present. Cf. § 32 ἐπεβίω, which also occurs in Thuc. II 65 (of Pericles) ἐπεβίω δύο ἔτη καὶ μῆνας ἕξ καὶ ἐπειδὴ ἀπέθανεν κ.τ.λ. So also Or. 41 §§ 19 and 18 ἐπιβιοῦντος μετὰ ταῦτα πλείον ἢ πένθ' ἡμέρας. The first person ἐπεβίω is naturally rare, as the aorist of this verb is mainly applicable to those who are no longer living; but Thuc. V 26 has, ἐπεβίω διὰ παντός (τοῦ πολέμου). In Attic Greek ἐβίω, like βιώσομαι, βεβίωκα and βεβιωμένος, is used to supplement the defects of ζῆν, which is itself hardly used except in the present and imperfect active. ζήσω is very rare. (See Cobet, *variae lect.* p. 610.)

5. ἐξήν] As usual, without ἄν. See note on ἐχρήν Or. 45 § 17, followed, as here, by ἵνα with the indicative.

ὑμῖν] 'You and yours,' i.e. your father, your brother and (when at home, and not at Athens § 3) yourself. ὑμεῖς never stands for σὺ, and it has been shown elsewhere that the passages quoted from Isocrates to prove the contrary will not bear examination (Isocr. ad

Dem. § 2). So also, in Eur. Bacch. 252 ἀναίνομαι πάτερ | τὸ γῆρας ὑμῶν εἰσορών νοῦν οὐκ ἔχον, the plural ὑμῶν refers to Cadmus and Teiresias, not to the former only. Again in Homer, Odys. XII 81, we have ἦπερ ἂν ὑμεῖς νῆα παρὰ γλαφυρῆν ἰθύνετε, φαίδιμ' Ὀδυσσεῦ, where ὑμεῖς refers to Odysseus and his comrades.

In Latin however the rule is perhaps less strictly kept, and *vester* appears to be used for *tuus* in Catullus 71, 3 *Aemulus iste tuus qui vestrum exercet amorem*, probably the only instance of this exceptional use of plural for singular. The rule is only apparently broken in Virg. Aen. IX 525 *Vos, o Calliope, precor, aspirate canenti*. Here *vos* refers to all the Muses, though Calliope alone is mentioned. (Cf. Aen. I 140 *vestras, Eure, domos*.) So too Cicero pro Deiot. § 29 *vos vestra secunda fortuna, Castor, non potestis sine propinquorum calamitate esse contenti?* (The plural *vos* is at once explained by *felix ista domus* in the previous sentence.)

τὴν χαράδραν] The word is not only used of the torrent itself, but also of the channel cut by the torrent's course (der. χαράσσω). Hesychius χαράδρα· χεῖμαρρος ποταμός. κατάγει δὲ οὗτος παντοῖα ἐν τῷ ρεύματι καὶ κατασύρει. χαράδραι· αἱ χαράξεις τοῦ ἐδάφους. καὶ οἱ κοῖλοι τόποι ἀπὸ τῶν καταφερομένων ὀμβρίων ὑδάτων. The rendering

πατέρα, “Τισία, τί ταῦτα ποιεῖς; ἀποικοδομεῖς τὴν χα-
 “ράδραν; εἴτ’ ἐμπεσεῖται τὸ ὕδωρ εἰς τὸ χωρίον τὸ
 “ἡμέτερον”. ἵν’ εἰ μὲν ἐβούλετο παύσασθαι, μηδὲν
 ὑμῖν^h ἦν δυσχερὲς πρὸς ἀλλήλους^h, εἰ δ’ ὀλιγόρησε
 καὶ συνέβη τι τοιοῦτον, μάρτυσιν εἶχες τοῖς τότε
 6 παραγενομένοις χρήσθαι. καὶ νῆ Δί’ ἐπιδείξαί σεⁱ
 ἔδει πᾶσιν ἀνθρώποις χαράδραν οὔσαν, ἵνα μὴ λόγῳ

^h ἡμῖν ἦν δυσχερὲς πρὸς ἀλλήλους *Bekk. st.* ὑμῖν δυσχερὲς πρὸς ἀλλήλους ἦν *Bekk. 1824.* ὑμῖν *Σ a me collatus*; ἡμῖν *manu prima in ὑμῖν mutatum r.* ὑμῖν ἦν (ἡ Σ, ἦ FΦ) δυσχερὲς πρὸς ἀλλήλους *Z*; δυσχερὲς πρὸς ἀλλήλους ἦ *r* (ἦ *A*¹).

ⁱ ‘ἐπιδείξαί σε γέ, *Reiskius e mss, sed vel lege γέ σε, vel potius dele σε.*’ *Dobree.*

‘water-course’ will suit all the passages in which it occurs in the present speech.

τί ταῦτα ποιεῖς;] ‘What are you about?’ lit. ‘why are you doing this?’ ‘Are you cutting off the water-course?’

ἀποικοδομεῖς] ἀντὶ τοῦ ἀποφράττεις ἀπολαβῶν τινα (?) οἰκοδομήματι. Δημοσθένης ἐν τῷ πρὸς Καλλικλέα. The above explanation from Harpocration, with the awkward *τινὰ*, does not entirely suit this passage, though he specially refers to this speech. But in *Thuc. i 134*, we read of Pausanias, *ἔνδον ὄντα τηρήσαντες αὐτὸν καὶ ἀπολαβόντες εἶσω ἀπωκοδόμησαν*, and it seems likely that the lexicographer, or his transcribers, either had that passage itself in view, or carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.

ἵνα...ἦν] *Goodwin’s Moods and Tenses* § 44, 3, and *Or. 36* § 47. As an exact parallel to the whole of this sentence, we have *Or. 28* § 5 *ἐχρῆν* (like *ἐξῆν, supra*)...*εἰσκαλέσαντας μάρτυρας*

πολλοὺς παρασημήνασθαι κελῦσαι τὰς διαθήκας, ἵν’ εἴ τι ἐγγίγνετο ἀμφισβητήσιμον, ἦν εἰς τὰ γράμματα ταῦτ’ ἐπανελθεῖν.

ὑμῖν] (which is really the reading of the Paris ms Σ, although the contrary would be inferred from the *apparatus criticus* of Dindorf and the Zürich editors), must refer to the defendant’s father Tisias and the family of Callicles the plaintiff. With ἡμῖν which is found in the *codex Augustanus primus* and approved by G. H. Schaefer, the sense is: ‘in which case you and I would have been having no disputes with one another (as we now have).’

εἰ...συνέβη τι τοιοῦτον] i.e. εἰ ἐπέπεσε τὸ ὕδωρ εἰς τὸ χωρίον τὸ ὑμέτερον.—*μάρτυσι*, referring to *διεμαρτύρατο* in § 4.

εἶχες] without *ἄν*, being dependent on *ἵνα*, like the preceding ἦν. ‘*intelligendum de Callicle, qui si tale quid olim factum esset, testibus nunc uti posset.*’ G. H. Schaefer.

6. ἐπιδείξαι... χαράδραν οὔσαν] § 12 *ἐγὼ ἀποδείξω χωρίον ὃν τοῦτ’ ἀλλ’ οὐ χαράδραν.*

μόνον, ὡσπερ νῦν, ἀλλ' ἔργῳ τὸν πατέρ' ἀδικοῦντ' ἀπέφαινες. τούτων τοίνυν οὐδὲν πώποτ' οὐδεὶς ποιεῖν ἠξίωσεν. οὐ γὰρ ἂν οὐτ' ἐρήμην, ὡσπερ ἐμοῦ νῦν, κατεδιητήσασθε, οὔτε πλέον ἂν ἦν ὑμῖν συκοφαντοῦσιν οὐδὲν, ἀλλ' ⁱεἰ ἠνέγκατε τότε μάρτυρα καὶ ἐπεμαρτύ- 7 ρασθε, νῦν^j ἀπέφαινεν ἂν ἐκείνος εἰδὼς ἀκριβῶς ὅπως εἶχεν ἕκαστα τούτων, καὶ τοὺς ῥαδίως τούτους^k μαρτυροῦντας ἐξήλεγχεν. ἀνθρώπου δ', οἶμαι, τηλικούτου καὶ ἀπείρου τῶν πραγμάτων ἵπαντες καταπεφρονή-

^{i-j} Bekk. 1824, et G. H. Schaefer. *εἰ ἠνέγκατε*—νῦν *om.* Z et Bekk. *st. cum* ΣΓΑ¹.

^k Bekk. 1824 *cum* Α¹Α⁵. *τούτοις* Z et Bekk. *st. cum* FΣΦΒ.

ἵνα—ἀπέφαινες] Constr. ἵνα μὴ λόγῳ μόνον ἀπέφαινες τὸν πατέρα ἀδικοῦντα, ὡσπερ νῦν (ἀποφαίνεις), ἀλλ' ἔργῳ (ἀπέφαινες ἀδικοῦντα). λόγῳ and ἔργῳ (on which see Or. 46 § 9) are not to be taken with ἀδικοῦντα.—In the next sentence οὐδεὶς means οὐδεὶς ὑμῶν.

ἐρήμην...κατεδιητήσασθε] See § 2.

εἰ ἠνέγκατε—ἐπεμαρτύρασθε, νῦν] If we retain these words, ἐκείνος will refer to ὁ μάρτυς. If (with the best mss) we omit them, it can only refer to ὁ πατήρ (Tisias, who was no longer alive). The latter makes quite as good sense as the former; if we lose the antithesis between ὁ μάρτυς and τοὺς ῥαδίως μαρτυροῦντας, we gain the contrast between the father who would certainly have held his own, and the son whose youth and inexperience are held fair game by the plaintiff's party (τηλικούτου—καταπεφρονήκατε).

7. ῥαδίως] 'only too readily,' 'recklessly,' 'at random.' Plat. Apol. p. 24 c ῥαδίως εἰς ἀγῶνας καθιστὰς ἀνθρώπους, Leg.

917 B θεῶν ὀνόματα μὴ χραίνειν ῥαδίως, Meno 94 E ῥαδίως κακῶς λέγειν ἀνθρώπους.

τούτους] The reading τούτοις is open to the objection that between κατεδιητήσασθε in the previous and καταπεφρονήκατε in the subsequent context, we expect, *not* the third person τούτοις, but the second person ὑμῖν, just as above we have οὐδὲν πλέον ἂν ἦν ὑμῖν.

If we retain the doubtful words at the beginning of § 7, the argument in favour of τούτοις is yet stronger, and τούτοις is then still less defensible. ('*melior vulgata lectio, τούτους, μάρτυρας scilicet,*' Seager, *Classical Journal*, 1825, no. 61 p. 63.)

τηλικούτου] more commonly of great age (*tantae aetatis*), but here of extreme youth (*tantulae aetatis*). Soph. El. 614 ἦτις τοιαῦτα τὴν τεκοῦσαν ὕβρισην, καὶ ταῦτα τηλικούτος (sc. οὔσα). Antig. 726. Plat. Apol. 25 D τοσοῦτον σὺ ἐμοῦ σοφώτερος εἰ τηλικούτου ὄντος (so old, of Socrates) τηλικόσδε ὦν (so young, of Meletus).

κατέ μου. ἀλλ' ἐγὼ πρὸς ἅπαντας τούτους, ὧ ἄνδρες Ἀθηναῖοι, τὰς αὐτῶν¹ πράξεις ἰσχυροτάτας μαρτυρίας παρέχομαι. διὰ τί γὰρ οὐδεὶς οὐτ' ἐπεμαρτύρατο οὐτ' ἐνεκάλεσεν, ἀλλ' οὐδ' ἐμέμφατο πώποτε, ἀλλ' ἐξήρκει ταῦτ' αὐτοῖς ἡδίκημένοις περιορᾶν;

8 Ἐγὼ τοίνυν ἱκανὰ μὲν ἡγοῦμαι καὶ ταῦτ' εἶναι 1274
πρὸς τὴν τούτων κατηγορίαν. ἵνα δ' εἰδῆτε, ὧ ἄνδρες Ἀθηναῖοι, καὶ περὶ τῶν ἄλλων, ὡς οὔθ' ὁ πατήρ οὐδὲν ἡδίκηει περιοικοδομῶν τὸ χωρίον, οὔτοί τε κατεψευσμένοι πάντ' εἰσὶν ἡμῶν, ἔτι σαφέστερον ὑμᾶς πειράσομαι διδάσκειν. τὸ μὲν γὰρ χωρίον ὁμολογεῖται καὶ
9 παρ' αὐτῶν τούτων ἡμέτερον ἴδιον εἶναι· τούτου δ'

¹ Bekk. αὐτῶν Z (αὐτῶν Σ).

ἐξήρκει—περιορᾶν] 'they were content to submit to these wrongs.' The dative ἡδίκημένοις, subordinate to περιορᾶν, follows the case of αὐτοῖς, which again depends on ἐξήρκει. Cf. Or. 54 §§ 16 and 44. Or. 3 § 23 εὐδαίμοσιν ὑμῖν ἔξεστι γίγνεσθαι. Madvig *Gk. Synt.* § 158 2) 3).—ταῦτ', acc. after ἡδίκημένοις.—περιορᾶν, a verb characteristic of Greek prose and comedy (Porson on Eur. Med. 284 and Cobet var. lect. p. 338).

§§ 8, 9. I contend that my father had a perfect right to build the enclosure, as even the plaintiff himself admits that the land is our own property. This being admitted, a personal inspection would in itself have sufficed to show the jury how groundless the present action is. And this was why I wanted (and my opponents refused) to submit the matter to the arbitration of impartial persons who knew the neighbourhood. Failing this, I must ask the jury for their closest attention while I describe

the position of the properties in question.

8. οὔθ' ...τε] Or. 54 § 26, Madv. *Gk. Synt.* § 208.

ἡμέτερον ἴδιον] 'our own private property,' stronger than ἡμέτερον. So in § 13. —The grammarian Priscian, who curiously regards ἴδιος as an exact equivalent to the Latin *suus*, has the following remark: *quod mirum est, hoc ipsum [id est τὸ ἴδιον] etiam primae et secundae adiungitur personae apud illos ut Ἰσαῖος ἐν τῷ πρὸς Εὐκλείδην: οὐκ ἂν τὰ ἴδια τὰ ἔμαντοῦ (fragm. 60). Demosthenes ἐν τῷ πρὸς Πολυκλέα: οὐ περὶ τῶν ἐμῶν ἰδίων μᾶλλον τιμωρήσεσθε Πολυκλέα ἢ οὐχ ὑπὲρ ὑμῶν αὐτῶν καὶ ἐν τῷ αὐτῷ οὐ περὶ πλείονος ἐποίησάμην τὰ ἔμαντοῦ ἴδια ἢ τὰ ἡμέτερα (Dem. Or. 50 §§ 66, 63). ἐν δὲ τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης· τὸ μὲν γὰρ χωρίον—ἡμέτερον ἴδιον εἶναι. Phroenichus ποαστρίας: ὡς περ ἐμοῦ αὐτῆς ἴδιον, pro quo nos dicimus 'meum proprium,' et 'tuum proprium.' dicitur tamen etiam*

ὑπάρχοντος, ὃ ἄνδρες Ἀθηναῖοι, μάλιστα μὲν ἤδειςτε ἂν ἰδόντες τὸ χωρίον ὅτι συκοφαντοῦμαι. διὸ καὶ τοῖς εἰδόσιν ἐπιτρέπειν ἐβουλόμην ἐγὼ, τοῖς ἴσοις. ἀλλ' οὐχ οὗτοι, καθάπερ νυνὶ λέγειν ἐπιχειροῦσι· δῆλον δ' ὑμῖν καὶ τοῦτ' αὐτίκ' ἔσται πᾶσιν. ἀλλὰ προσέχετε, ὃ ἄνδρες Ἀθηναῖοι, πρὸς Διὸς καὶ θεῶν τὸν νοῦν. τοῦ 10

'*suum proprium illius,*' *ut non putetur abundare 'suum,' sed indubitabilem discretionem significare.* Priscian, *Instit.* p. 1089—90.

9. τούτου δ' ὑπάρχοντος] 'this being admitted,' 'with this fact to begin upon.' Plat. Tim. p. 29 A τούτων ὑπαρχόντων = τούτων ὑποκειμένων, *his positis.*

ἰδόντες] = εἰ εἶδετε, Goodwin's *Moods and Tenses* § 52, 1.

τοῖς εἰδόσι...τοῖς ἴσοις] § 35 ἐτοίμοι ἤμεν ἐπιτρέπειν τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς. Or. 40 § 39 ἐπιτρέπειν...διαιτηγῆ ἴσω. On 'private arbitrators' see note on Or. 54 § 26 ἡ δίαίτα.

In the present instance, the consent of the speaker's opponents was essential, and he insists (for all they urge to the contrary) that it was to their refusal that the failure of his attempt to secure an amicable settlement must be ascribed.

οὐχ οὗτοι] ἐπιτρέπειν ἐβούλοντο.—In the next sentence ὑμῖν and πᾶσι go together, καὶ emphasizing τοῦτο.

προσέχετε—τὸν νοῦν] 'I implore the jury, in the name of all that's sacred, to give me their best attention.' The earnestness of this appeal (πρὸς Διὸς καὶ τῶν θεῶν) is explained by the fact that unless the jury clearly understood the topographical details which here follow, the remainder of the speech would be almost unin-

telligible, and what applies to the original hearers holds equally good for the modern reader. The defendant has just informed the court that an actual inspection of the premises would have been decisive in his favour. He therefore naturally endeavours to compensate for that disadvantage by giving his audience a distinct description of the relative situation of the properties of the contending parties. [In modern courts a map or plan made by a surveyor would be produced. P.]

§§ 10, 11. *The estate of my opponents is separated from my own by a public road, and both are surrounded by a tract of mountainous country. Thus, the drainage from the hills flows partly into our properties, partly on to the road, and in the latter case, it is either carried down the road itself, or, if anything stops its course, it inundates the properties. On one occasion, the water made an inroad into what was subsequently my father's property, and, owing to neglect, made further inroad. Accordingly my father, on coming into possession, built this wall to protect his lands from the encroachments of his neighbours as well as from the inroad of the water.*

10. τοῦ γὰρ—ὁδός ἐστι] lit. 'for the space between their

γὰρ χωρίου τοῦ τ' ἐμοῦ καὶ τοῦ τούτων τὸ μέσον^m ὁδὸς ἔστιν, ὄρους δὲ περιέχοντος κύκλω τοῖς χωρίοις τὸ καταρρέον ὕδωρ τῇ μὲν εἰς τὴν ὁδὸν, τῇ δ' εἰς τὰ χωρία συμβαίνει φέρεσθαι. καὶ δὴ καὶ τοῦτ' εἰσπίπτον εἰςⁿ τὴν ὁδὸν, ἧ μὲν ἂν εὐοδῆ, φέρεται κάτω κατὰ τὴν ὁδὸν, ἧ δ' ἂν ἐνστῆ τι, τηνικαῦτα τοῦτ' εἰς τὰ χωρία ὑπεραί-

^m μέσον Z et Bekk st. τὸ manu antiqua insertum habet Σ.

ⁿ εἰς FΣΦ. legebatur ἐνιοτε εἰς.

property and mine is a road,' i.e. 'there is a road between their property and my own.' τὸ μέσον, however, seems a less satisfactory reading than μέσον.

ὄρους περιέχοντος κύκλω] Xen. Hellen. iv 6 § 8 διὰ τὰ κύκλω περιέχοντα ὄρη. Plat. Critias A τὸ περὶ τὴν πόλιν πᾶν πεδίων ἐκέλην μὲν περιέχον αὐτὸ δὲ κύκλω περιεχόμενον ὄρεσι.

τοῖς χωρίοις] This can hardly be taken with περιέχοντος κύκλω, which would require an accusative, nor again with καταρρέον, as we should then expect τὸ τοῖς χωρίοις καταρρέον ὕδωρ, which indeed is actually printed in Reiske's *Index Graecitatis* (with the explanation 'id est εἰς τὰ χωρία'). Reiske's erroneous quotation may account for this passage being cited in Liddell and Scott as an instance of καταρρεῖν 'c. dat. to rush down to a place' (corrected in ed. 7, 1883).

A better explanation is either to construct it with συμβαίνει (which however is objectionable on account of the repetition of τὰ χωρία in the same sentence), or, better still, to understand it as a kind of *dativus incommodi*. In the latter case we might render as follows: 'between their property and mine

there is a road; a hilly district encircles both; and *unfortunately for the properties* the water that flows down runs (it so happens) partly into the road, partly into the properties.'

[I should regard χωρίοις as the dative in relation to position; 'as these farms have mountains enclosing them on every side.' P.]

καὶ δὴ καὶ] 'and in particular.' After making a general reference to τὸ καταρρέον ὕδωρ, the speaker narrows his description to the water which runs down the road. In the next section, again, καὶ δὴ limits the subject still further to the water which on a special occasion made inroad into his own property.

ἧ ἂν εὐοδῆ] 'wherever it has a free course.' Arist. gen. anim. i 18 ρεῖ ὅπου ἂν εὐοδήσῃ τοῦ σώματος, and (as a passive in intransitive sense) ib. ii 4 εὐοδεῖται μᾶλλον. Cf. *infra* § 11 τὸ ὕδωρ...μᾶλλον ὠδοποιεῖ.

ἧ ἂν ἐνστῆ τι] 'wherever anything stands in the way', 'any obstacle intervenes.' Plat. Phaedo, 77 B ἔτι ἐνέστηκεν (in-stat, obstat) τὸ τῶν πολλῶν (of an objection in argument, ἐνστασις).

τηνικαῦτα κ.τ.λ.] 'why! there-upon it must of course overflow the properties.' τηνικαῦτα,

ρειν ἀναγκαῖον ἦδη. καὶ δὴ κατὰ τοῦτο τὸ χωρίον, II
 ὃ ἄνδρες δικασταί, γενομένης ἐπομβρίας συνέβη τὸ
 ὕδωρ ἐμβαλεῖν ἀμεληθὲν δὲ, οὐπω τοῦ πατρὸς ἔχοντος
 αὐτὸ, ἀλλ' ἀνθρώπου δυσχεραίνοντος ὕλως τοῖς τόποις
 καὶ μᾶλλον ἀστικοῦ, δις καὶ τρίς ἐμβαλὼν τὸ ὕδωρ τὰ
 τε χωρία ἐλυμήνατο καὶ μᾶλλον ὠδοποιεῖ. διὸ δὴ
 ταῦθ' ὁ πατήρ ὕρων, ὡς ἐγὼ τῶν εἰδόντων ἀκούω,
 καὶ τῶν γειτόνων ἐπινεμόντων ἅμα καὶ βαδιζόντων

though almost always used of *time*, occasionally (as here after ἦ, which indicates *place*) bears a more general meaning, 'in that case,' 'under these circumstances.'

11. ἀμεληθὲν] It seems best to regard this as an accusative neuter *absolute* ('neglect having ensued'), and not to take it with τὸ ὕδωρ, much less with αὐτὸ, i.e. τὸ χωρίον. So in Plat. Phaedr. 265 D ὀρισθὲν 'it having been defined.' Or. 50 (Polycl.) § 12 προσταχθὲν. (Kühner § 487, 3, and Goodwin's *Moods and Tenses* § 110. 2.)

In translating, we can best bring out the sense by reserving ἀμεληθὲν to a later point in the English sentence, and rendering the clause οὐπω... ἔχοντος as though it contained the principal verb. Thus: 'now my father was not yet in possession of the property, but a man who disliked the neighbourhood and preferred town life; accordingly neglect ensued, and the water overflowed several times, damaged the land, and was making further inroad.'—For ὠδοποιεῖ, cf. *supra* § 10, εὐοδῆ.

[By μᾶλλον ὠδοποιεῖ, the speaker wishes to show how the rain had made a way for itself al-

most amounting to a *χαράδρα*, though he denies the existence of any recognised *χαράδρα* by the road-side in § 16. P.]

ὕρων...ἐπινεμόντων] For the nominative participle combined with the genitive absolute, cf. Thuc. viii 45 Ἀλκιβιάδης τοῖς Πελοποννησίοις ὑποπτος ὢν καὶ ἀπ' αὐτῶν ἀφικομένης ἐπιστολῆς ...ὑποχωρεῖ (Goodwin's *Moods and Tenses* § 111).

τῶν γειτόνων—χωρίου] 'as the neighbours also (*ἅμα*) encroached and trespassed on the property.' ἐπινέμειν and ἐπινομία are specially used of turning cattle on to a neighbour's land for pasture. Hence the metaphorical use of the word in Aesch. Ag. 485 πιθανὸς ἄγαν ὁ θῆλυς ὄρος ἐπινέμεται ταχύπορος. Among other words compounded with ἐπι and used of encroachments on the debatable borderland of two countries, or on the boundaries of adjacent properties, we have ἐπεργάζεσθαι and ἐπεργασία.

In Plato's *Laws* (pp. 843—4) there is a long and interesting passage, in which the annoyances caused by neighbours are dwelt upon, and suggestions made for legal remedies. We transcribe those portions only which illustrate the clause before us, and indeed the speech

διὰ τοῦ χωρίου, τὴν αἵμασιαν περιωκοδόμησε ταύτην.
 12 καὶ ὡς ταύτ' ἀληθῆ λέγω, παρέξομαι μὲν καὶ μάρτυρας 1275
 ὑμῖν τοὺς εἰδότας, πολὺ δὲ, ὧ ἄνδρες Ἀθηναῖοι, τῶν
 μαρτύρων ἰσχυρότερα τεκμήρια. Καλλικλῆς μὲν γάρ

in general. p. 843 v βλάβαι
 πολλαὶ καὶ σμικραὶ γειτόνων
 γιγνόμεναι, διὰ τὸ θαμίξειν ἔχθρας
 ὄγκον μέγαν ἐντίκτουςαι, χαλεπὴν
 καὶ σφόδρα πικρὰν γειτονίαν
 ἀπεργάζονται. διὸ χρῆ πάντως
 εὐλαβεῖσθαι γείτονα γείτοσι μηδὲν
 ποιεῖν διάφορον, τῶν τε ἄλλων
 πέρι καὶ δὴ καὶ ἐπεργασίας ξυμ-
 πάσης σφόδρα διευλαβούμενον...
 ὅς δ' ἂν ἐπεργάζηται τὰ τοῦ
 γείτονος ὑπερβαίνων τοὺς ὅρους,
 τὸ μὲν βλάβος ἀποτινέτω, τῆς δὲ
 ἀναιδείας ἅμα καὶ ἀνελευθερίας
 ἔνεκα ἰατρυνόμενος διπλάσιον τοῦ
 βλάβους ἄλλο ἐκτίσάτω τῷ βλάφ-
 θέντι...καὶ ἐάν τις βοσκήματα
 ἐπινέμη, τὰς βλάβας (ἀγρο-
 νόμοι) ὀρώντες κρινόντων καὶ
 τιμώντων.

See esp. Donaldson's *New Cratylus* § 174, where this class of words is discussed. He apparently understands ἐπινέμειν in this passage to refer to a 'common trespass'; but this is sufficiently expressed by βαδίζόντων διὰ τοῦ χωρίου, and it is therefore better to give ἐπινεμόντων that special application to the 'encroachment of cattle' which it constantly bears.

αἵμασιαν] Never used in the sense of a 'hedge', but always of a 'wall of dry stones.' In *Odyss.* xviii 359 and xxiv 224—230 αἵμασιαν λέγειν is explained in a *scholium*, οἰκοδομῶν ἐκ συλλεκτῶν λίθων, and Hesychius paraphrases the word τὸ ἐκ πολλῶν λίθων λογάδων ἄθροισμα. Thus in *Theocr.* i 45, a boy watching a vineyard is described as sitting ἐφ' αἵμασιαισι, and in v 93 we have roses

growing in beds beside the garden-wall, ῥόδα τῶν ἀνδῆρα παρ' αἵμασιαισι πεφύκει. Cf. *Plat. legg.* 881 ἀπεριβόλους αἵμασιώδεις τινάς, τειχῶν ἐρύματα.

In Bekker's *Anecdota Graeca* p. 356, we have the definition, τὸ ἐκ χαλίκων ὑποδομημένον τειχίον, where the next few words, κυρίως δὲ τοῖς ἠκανθωμένοις λέγεται φραγμοῖς, show that such walls were sometimes topped with thorns (*Odyss.* xiv 10 ἀλλήν...δείματο...ῥυτοῖσιν λάεσσιν καὶ ἐθρίγκωσεν ἀχέρδω, cf. xxiv 230), just as in England rough stone-walls are frequently finished off with furze and other prickly shrubs. The Greek peasants still give the name αἵμασιαν to the walls built to support the artificial terraces of earth on the hillsides of the Morea (Ross, *Archaeologische Aufsätze* ii 500).

§§ 12—15. *The plaintiff contends I have damaged his estate by obstructing 'the water-course.'* In reply, I shall prove that what he calls a water-course is no such thing, but really part of our own ground, for it has fruit-trees growing in it, which were planted before my father built the enclosure, and it contains a burial-place, made before we acquired the property.

All this is in evidence, gentlemen, as also the fact that the wall was built while the plaintiff's father was still alive, and without any protest on the part of my opponents or the rest of my neighbours.

φησι τὴν χαράδραν ἀποικοδομήσαντα βλάπτειν ἐμὲ αὐτόν^ο. ἐγὼ δ' ἀποδείξω χωρίον ὃν τοῦτ' ἀλλ' οὐ χαράδραν. εἰ μὲν οὖν μὴ συνεχωρεῖτο ἡμέτερον ἴδιον 13 εἶναι, τάχ' ἂν τοῦτο ἠδικοῦμεν, εἴ τι τῶν δημοσίων ᾠκοδομοῦμεν· νυνὶ δ' οὔτε τοῦτο ἀμφισβητοῦσιν, ἔστι τ' ἐν τῷ χωρίῳ δένδρα πεφυτευμένα, ἄμπελοι καὶ συκαί. καίτοι τίς ἐν χαράδρᾳ ταῦτ' ἂν φυτεύειν ἀξιώσειεν; οἰδέϊς γε. τίς δὲ πάλιν τοὺς αὐτοῦ προγόνους θάπτειν; οὐδὲ τοῦτ' οἶμαι. ταῦτα τοίνυν 14 ἀμφότερ', ὧ ἄνδρες δικασταί, συμβέβηκεν· καὶ γὰρ

^ο αὐτόν Ζ.

12. τὴν χαράδραν] emphatic, as is shown by its prominent position and by the next sentence.

βλάπτειν ἐμὲ αὐτόν] The order of words, (1) the infinitive, (2) the subject, (3) the object, is exactly parallel to that in Or. 54 § 31 μὴ πατάξαι Κόωννα Ἀρίστωνα.

χωρίον.....ἀλλ' οὐ χαράδραν] 'private ground and no water-course.' Isocr. ad Dem. § 2 τῶν σπουδαίων ἀλλὰ μὴ τῶν φαύλων εἶναι μιμητάς.

13. εἰ μὴ συνεχωρεῖτο ἴδιον εἶναι, τάχ' ἂν ἠδικοῦμεν, εἴ τι τῶν δημοσίων ᾠκοδομοῦμεν] In this conditional sentence, we have one *apodosis* ἠδικοῦμεν ἂν, corresponding to a double *protasis*. The second *protasis* εἰ...ᾠκοδομοῦμεν reiterates the first with a slight change of idea. The supposition stated at the beginning of the sentence is thus re-stated with some slight redundancy at the end, and reaches the hearer in two parts, which enter his mind separately and there unite. So in Plat. Phaedo 67 E εἰ φοβούντο καὶ ἀγανακτοῖεν, οὐ πολλὴ ἂν ἀλογία

εἶη,...εἰ μὴ ἄσμενοι ἐκέϊσε ἴοιεν. The idiom may be illustrated by the effect upon the brain of the double images of external objects entering the eyes separately and subsequently uniting. Numerous varieties of construction, of which the present is a single instance, are grouped under the general heading of 'Binary Structure' in Riddell's *Digest of Platonic idioms*, § 204.

ἡμέτερον ἴδιον] See note on § 8, *ad fin.*

πεφυτευμένα] 'planted' and not growing wild, like the *ερινεὸς* or *συκὴ ἀγρία*.

τίς ... θάπτειν;] The telling question, 'who would think of burying his ancestors in a water-course?' (a question seriously put, unless perhaps we ought to take it as one of the touches of humor characteristic of this speech), is of course not meant to apply to *all* the tombs subsequently mentioned (§ 14). Some of them were there even before the land came into the speaker's possession.

14. καὶ γὰρ...καὶ] 'for not only...but.' A frequent idiom, though one but little observed. P.]

τὰ δένδρα πεφύτευται πρότερον ἢ τὸν πατέρα περιοικοδομήσαι τὴν αἵμασιαν, καὶ τὰ μνήματα παλαιὰ καὶ πρὶν ἡμᾶς κτήσασθαι τὸ χωρίον γεγενημένα ἐστίν. καίτοι τούτων ὑπαρχόντων τίς ἂν ἔτι λόγος ἰσχυρότερος, ὃ ἄνδρες Ἀθηναῖοι, γένοιτο; τὰ γὰρ ἔργα φανερώς ἐξελέγχει. καὶ μοι λαβὲ πάσας νυνὶ τὰς μαρτυρίας, καὶ λέγε.

ΜΑΡΤΥΡΙΑΙ.

15 Ἀκούετε, ὦ ἄνδρες Ἀθηναῖοι, τῶν μαρτυριῶν. ἄρ' ὑμῖν δοκοῦσι διαρρήδη μαρτυρεῖν καὶ τὸν^ν χωρίον εἶναι δένδρων μεστὸν καὶ μνήματ' ἔχειν τινὰ καὶ τᾶλλ' ἄπερ καὶ τοῖς ἄλλοις χωρίοις συμβέβηκεν; καὶ πάλιν ὅτι περιωκοδομήθη τὸ χωρίον ζῶντος μὲν ἔτι τοῦ τούτων^ν πατρὸς, οὐκ ἀμφισβητούντων δ' οὔτε τούτων οὔτ' ἄλλου τῶν γειτόνων οὐδενός;

^P om. Z et Bekker st. cum FΣΦB.

^q Bekk. τοῦ τούτου Z cum FΦB. τῶν τούτου Σ.

τούτων ὑπαρχόντων] Cf. § 9 init.

15. ἄρ'] We should expect ἄρ' οὐχ, which, like *nonne*, distinctly implies an affirmative answer. But ἄρα is not unfrequently used alone, to denote a simple interrogation, the context showing whether a negative or, as here, an affirmative reply is expected. Xen. Cyr. IV 6 § 4 ἄρα βέβληκα *dis* ἐφεξῆς; (L and S).

μνήματα...τινὰ] Not μνήματα παλαιὰ as before. The description is made as general as possible to show that the piece of ground in question had all the essential characteristics of private property.—τᾶλλ' ἄπερ] The speaker does not specify what is included in this *et cetera*, but the depositions probably went into further detail.

§§ 16—18. The plaintiff speaks of the stoppage of a water-course. Now, firstly, I don't suppose that in the whole of Attica there is such a thing as a water-course by the side of a public road. The water would naturally flow down the road and a water-course would be quite unnecessary. Next, no one surely would think of allowing water passing down the highway to flow into his own land; on the contrary, he would of course dam it off, if it ever made in-road.

Now the plaintiff wants me to let the water flow into my own land, and to turn it off into the road again after it has passed his property. Why then, the owner next below my neighbour opposite will complain. In short, if I take the water from off the

Ἄξιον δ', ὦ ἄνδρες δικασταὶ, καὶ περὶ τῶν ἄλλων 16
 1276 ὧν εἶρηκε Καλλικλῆς ἀκούσαι. καὶ σκέψασθε^r πρῶτον
 μὲν εἴ τις ὑμῶν ἐόρακεν^s ἢ ἀκήκοε πώποτε παρ' ὁδὸν
 χαράδραν οὖσαν. οἶμαι γὰρ ἐν πάσῃ τῇ χώρᾳ μηδε-
 μίαν εἶναι. τοῦ γὰρ ἔνεκα, ὃ διὰ τῆς ὁδοῦ τῆς δημοσίας

^r Bekk. σκέψασθαι Ζ cum ΣΦ.

^s ἐώρακεν Ζ.

road, I cannot let it out again either into the road or into my neighbours' properties. And no other course is open to me; for I presume the plaintiff won't compel me to drink it up.

16. σκέψασθε] The other reading σκέψασθαι (closely connected by καὶ with ἀκούσαι) is perhaps less preferable.

οἶμαι — ἐποίησέ τις;] The speaker, after asking whether any of his audience has ever seen or even heard of a water-course running by the side of a public way, takes upon himself to declare that he does not believe there is anything of the kind in the whole of Attica. The startling character of this assertion, which could hardly have been untrue, is only equalled by the delightful frankness with which he assigns the reason. 'What could induce any one,' he asks, 'to make a channel through his private grounds for water, which, if let alone, would be sure to flow down along the public road?' The passage is singularly suggestive on the state of the mountain roads of Attica. The public road, so called, would in numbers of cases be little better than the path of a mountain-torrent, which might be used in dry weather for purposes of transit, but in very wet seasons would revert to the possession of the

waters. In the days of Demosthenes many of the mountain roads were, we presume, not much better than those of modern Attica, as described with perfect accuracy in Edmond About's lively book on Greek brigandage, *Le Roi des Montagnes*:

"I crossed at a leap the Eleusinian Cephissus . . . One hundred paces further on, the road was lost in a wide and deep ravine, hollowed by the rains of two or three thousand winters. I supposed with some show of justice that the ravine must be the road, for I had noticed in my previous excursions that the Greeks dispense with making a road wherever the water has been kind enough to take that duty on itself. In this country, where man but slightly thwarts the laws of nature, the torrents are royal roads, the rivers turnpike-roads; the rivulets cross-country roads. Storms do the office of highway engineers and the rain is an inspector who keeps up without any control the means of communication, great and small" (p. 45 = p. 42 *Eng. transl.* 1862).

[We must remember that road-making, as we have it, is a modern art, and that the want of roads is still the cause of backward civilisation and commerce in many countries. The hollow or sunken lanes, common

ἔμελλε βαδιεῖσθαι φερόμενον, τούτῳ διὰ τῶν ἰδίων
 17 χωρίων χαράδραν¹ ἐποίησέ τις; ἔπειτα τίς ἂν ὑμῶν
 εἴτ' ἐν ἀγρῷ νῆ Δί' εἴτ' ἐν ἄστει τὸ διὰ τῆς ὁδοῦ ῥέον
 ὕδωρ εἰς τὸ χωρίον ἢ τὴν οἰκίαν δέξαιτ' ἂν αὐτοῦ;
 ἀλλ' οὐκ αὐτὸ τούναντίον, κὰν βιάσηται ποτε, ἀπο-
 φράττειν ἅπαντες καὶ παροικοδομεῖν εἰώθαμεν; οὐ-
 τος τοίνυν ἀξιοῖ με ἐκ τῆς ὁδοῦ τὸ ὕδωρ εἰσδεξάμενον
 εἰς τὸ ἐμαντοῦ χωρίον, ὅταν τὸ τούτου παραλλάξῃ
 χωρίον, πάλιν εἰς τὴν ὁδὸν ἐξαγαγεῖν. οὐκοῦν πάλιν
 ὁ μετὰ τοῦτόν μοι γεωργῶν τῶν γειτόνων ἐγκαλεῖ.

¹ ἂν, vocabuli antecedentis in syllaba ultima absorptum, restituendum esse indicavit H. W. Moss.

in many parts of England, are caused by the excavating power of water running along tracks. The Romans raised their roads (*viam munire*) apparently to avoid this. As an illustrative passage, we may quote Iliad xxiii 420 ῥωχμὸς ἔην γαίης, ἧ χειμέριον ἀλέν ὕδωρ ἐξέρρηξεν ὁδοῖο, βάθνε δὲ χῶρον ἅπαντα. P.] βαδιεῖσθαι] The *Classic* future of βαδίζω (retained even by Plutarch and Lucian); the other forms, βαδίσω and βαδιῶ, are characteristic of the worst Greek, *extrema barbaries* (Cobet, *var. lect.* 329).

17. αὐτὸ τούναντίον] ‘on the very contrary,’ so also in Or. 22 (Androt.) § 6.—ἂν τούναντίον was the common text until corrected by Reiske, on the authority of two mss and the margin of Σ; but the correction is so certain that authority is hardly wanted.

ἀποφράττειν καὶ παροικοδομεῖν] ‘dam and wall it off.’ The former implies an abrupt cutting off of the water by a transverse dam athwart the stream; the latter probably expresses a wall built parallel to the stream

to narrow its course.

οὗτος τοίνυν—ἐγκαλεῖ] ‘This man, Callicles, expects me to take the water from the road (where it has no χαράδρα) into my farm, and, when it has passed his, again to carry it out of my farm into the road. But, in that case, the farmer who occupies next to *him* would complain’; i. e. he would say that I ought to carry it beyond *his* farm also, lest it should come in from the road. It is clear that the defendant’s farm, on one side of the road (§ 10), extended considerably beyond that of the plaintiff Callicles on the other. For he says that, if bound to carry it beyond one farm, he was bound to carry it beyond a second or a third, before he allowed it to re-enter the public road. P.]

ἐξαγαγεῖν] ‘draw off,’ ‘let out,’ *derivare*, Xen. Oec. 20 § 12 τὸ ὕδωρ ἐξάγεται τάφροις.

ἐγκαλεῖ] Not present, but future. The context is decisive and the margin of the Paris ms has ἐγκαλέσει, pointing to the same conclusion, though the

τὸ γὰρ ὑπὲρ τούτου δίκαιον δῆλον ὅτι κακείνοις ὑπάρξει πᾶσι λέγειν. ἀλλὰ μὴν εἴ γε εἰς τὴν ὁδὸν ὀκνήσω 18
τὸ ὕδωρ ἐξάγειν, ἧ που σφόδρα θαρρῶν εἰς τὸ τοῦ πλησίον χωρίου ἀφείην ἄν. ὅπου γὰρ δίκας ἀτιμήτους φεύγω διότι τὸ ἐκ τῆς ὁδοῦ ῥέον ὕδωρ εἰς τὸ τούτου χωρίου διέπεσε, τί πείσομαι πρὸς Διὸς ὑπὸ τῶν ἐκ τοῦ χωρίου τοῦ ἐμοῦ τοῦ ὕδατος εἰσπεσόντος βλαπτομένων; ὅπου δὲ μήτ' εἰς τὴν ὁδὸν μήτ' εἰς τὰ

note seems due to a copyist who did not recognise in ἐγκαλεῖ the regular Attic future. In Or. 23 (Aristocr.) § 123, we have ἐγκαλέσουσιν; so also in Or. 19 § 133. The simple verb καλῶ hardly ever (Cobet says, *never*) has any other future than καλῶ (*var. lect.* 28, 29).

18. ἧ που] 'Surely, I should scarcely be rash enough to turn it on to my neighbour's land'; — 'I should be a very rash man indeed to do so.' For this slightly ironical use of ἧ που, 'to be sure,' cf. Lycurgus § 71 ἧ που τάχως ἂν ἠνέσχετό τις ἐκείνων τῶν ἀνδρῶν τοιοῦτον ἔργον. Soph. Aj. 1008 ἧ ποῦ με Τελαμών...δέξαιτ' ἂν εὐπρόσωπος Ἰλεώς τ' ἴσως χωροῦντ' ἄνευ σοῦ.

ὅπου] 'whereas,' 'in a case where' (without any direct notion of *place*). Isocr. ad Dem. § 49.

δίκας ἀτιμήτους φεύγω] 'am sued for a fixed penalty,' 'am put on my trial in law-suits where the damages are already assessed by law.' The plural refers to the fact that the speaker has been sued by Callicrates as well as by Callicles (§ 2).

δίκη τιμητὸς means 'a suit to be assessed,' i.e. 'a suit in which the penalty or damages have *not* been determined by law.' δίκη ἀτίμητος means the

opposite; 'a suit not to be assessed,' i.e. a suit in which the penalty has *already* been fixed by law.

So Harpocration: ἀτίμητος ἀγὼν καὶ τιμητὸς. ὁ μὲν τιμητὸς ἐφ' ᾧ τίμημα ὠρισμένον ἐκ τῶν νόμων οὐ κείται, ἀλλὰ τοὺς δικαστὰς ἔδει τιμᾶσθαι ὅ τι χρῆ παθεῖν ἢ ἀποτίσαι· ὁ δὲ ἀτίμητος τὸν ναντίον ᾧ πρόσεστιν ἐκ τῶν νόμων ὠρισμένον τίμημα, ὡς μηδὲν δεῖν τοὺς δικαστὰς διατιμῆσαι. Αἰσχίνης κατὰ Κτησιφώντος (§ 210), Δημοσθένης κατὰ Μειδίου (§ 90). Cf. Or. 37 § 40.

Again Pollux (viii 63) has: ἀτίμητος δὲ δίκη, ἣν οὐκ ἔστιν ὑποτιμῆσασθαι ἀλλὰ τοσοῦτου τετίμηται ὅσον ἐπιγέγραπται.

The above explanation is wrongly reversed by Suidas (quoted in Telfy's *Corpus iuris Attici* 747 note), by the *Lexica Segueriana* (on p. 202 and 469 of Bekker's *Anecdota Graeca*), and even in a scholium on § 25 *infra*, χιλίων δραχμῶν δίκην ἀτίμητον φεύγω, a passage which is decisive in favour of Harpocration's distinction.

ὅπου δὲ μήτε] There would seem to have been a law prohibiting the draining of farms on to a public way. Hence he says εἰ εἰς τὴν ὁδὸν ὀκνήσω τὸ ὕδωρ ἐξάγειν. It was equally illegal, of course,

χωρία ἀφείναι^u μοι τὸ ὕδωρ ἐξέσται^u δεξαμένω, τί λοιπόν, ὦ ἄνδρες δικασταί, πρὸς θεῶν; οὐ γὰρ ἐκπιεῖν
 19 γε δῆπου με Καλλικλῆς αὐτὸ προσαναγκάσει. ταῦτα
 τοῖνυν ἐγὼ πάσχω ὑπὸ τούτων καὶ πολλὰ ἕτερα καὶ
 δεινὰ, μὴ ὅτι δίκην λαβεῖν, ἀλλὰ μὴ προσοφλεῖν ἀγα-
 πῆσαιμ' ἄν. εἰ μὲν γὰρ ἦν, ὦ ἄνδρες δικασταί, χαρά- 1277
 δρα πάλιν ὑποδεχομένη, τάχ' ἂν ἠδίκουν ἐγὼ μὴ δεχό-

^u ἀφείναι Z et Bekker st. cum FΦB (ἀφείναι Σ). ἐξεστι Z cum FΣΦ.

to drain on to another's land. Hence he asks what he was to do with the water, if once he admitted it on his farm? And the inference is, that he was right in not admitting it, but in damming it back as far as he could, and letting it run as it might along the road. P.]

οὐ γὰρ ἐκπιεῖν—αὐτὸ προσαναγκάσει] This passage is quoted by Aristides (II 470 in Spengel's *Rhet. Graeci*), ὅταν εἰς ἀτοπον ἀπάγῃς τὸν λόγον, βαρύτερα εἰργασαι, ὡς ἐν τῷ πρὸς Καλλικλέα, οὐ γὰρ δὴ ἐκπιεῖν με αὐτὸ Καλλικλῆς ἀναγκάσει. The rhetorician recognises the force and effectiveness of the sentence, but fails to draw attention to its humour.

§ 19. Now had there been a water-course below my property, to take off the drainage, I might have been doing wrong in refusing to let the water into my land; but, as it is, the water-course alleged is neither passed down to me by any neighbour immediately above me, nor is it passed down by myself to any one else below.

19. μὴ ὅτι—ἀλλὰ μὴ...ἀγαπήσαιμ' ἄν] 'I must be content, I do not say, with obtaining a verdict, but with escaping conviction.' The sense is: 'victimised as I have been, instead of gain-

ing legal satisfaction from my opponents, I must think myself fortunate if I am not convicted to pay them an additional penalty.'

εἰ μὲν γὰρ—παραλαμβάνουσιν ὡσαύτως] In Plato's *Laws* provisions are suggested to prevent damage being incurred in times of heavy rain, either owing to neglect on the part of neighbours in providing an outlet for streams that pass down to them from the higher ground immediately adjacent, or again owing to careless transmission of the streams on the part of the neighbours higher up the hill:—

ἐὰν δὲ ἐκ Διὸς ὕδατα γιγνόμενα, τὸν ἐπάνω γεωργοῦντα ἢ καὶ ὁμότοιχον οἰκοῦντα τῶν ὑποκάτω βλάβητι τις μὴ διδοῦς ἐκροήν, ἢ τούναντίον ὁ ἐπάνω μεθιεις εἰκῆ τὰ ρεύματα βλάβητι τὸν κάτω, καὶ περὶ ταῦτα μὴ ἐθέλωσι διὰ ταῦτα κοινωεῖν ἀλλήλοις, ἐν ἄστει μὲν ἀστυνόμον, ἐν ἀγρῷ δὲ ἀγρονόμον ἐπάγων ὁ βουλόμενος ταξάσθω τί χρῆ ποιεῖν ἐκάτερον· ὁ δὲ μὴ ἐμμένων ἐν τῇ τάξει φθόνου θ' ἅμα καὶ δυσκόλου ψυχῆς ὑπεχέτω δίκην, καὶ ὄφλων διπλάσιον τὸ βλάβος ἀποτινέτω τῷ βλαφθέντι, μὴ ἐθελήσας τοῖς ἀρχουσι πείθεσθαι. Leg. VIII 844 c.

ἠδίκουν...μὴ δεχόμενος] Thus in the fens near Cambridge, an

μενος, ὡσπερ ἀνὰ χᾶτερ^v ἄττα^w τῶν χωρίων εἰσὶν ὁμολογούμεναι χαράδραι· καὶ ταύτας δέχονται μὲν οἱ πρῶτοι, καθάπερ τοὺς ἐκ τῶν οἰκίῶν χειμάρρους, παρὰ τούτων δ' ἕτεροι παραλαμβάνουσιν ὡσαύτως· ταύτην δ' οὔτε παραδίδωσιν οὐδείς οὔτε παρ' ἐμοῦ παραλαμβάνει. πῶς ἂν οὖν εἴη τοῦτο χαράδρα; τὸ δ' 20 εἰσπεσὸν ὕδωρ ἔβλαψε μὲν^x, οἶμαι, πολλάκις ἤδη πολλοὺς μὴ φυλαξαμένους, ἔβλαψε δὲ νῦν καὶ τουτονί. ὁ καὶ πάντων ἐστὶ δεινότατον, εἰ Καλλικλῆς μὲν εἰς τὸ χωρίον εἰσπεσόντος τοῦ ὕδατος ἀμαξιαίους λίθους

^v ἀν' ἕτερ' Z cum H. Wolfio. ἀν θάτερ' FΣΦ. ἀνὰ θάτερ' Bekk. 'ἀνὰ χᾶτερ' ἄττα lege; partim e miss' (Dobree).

^w om. A¹r.

^x Bekk. ἔβλαψεν Z cum FΣΦB.

obligation lies on each tenant to clear out the ditch or dyke bounding his land on one side, and so to give free passage to the water from his neighbour's land. P.] Cf. the *ius aquae ducendae* which was one of the *servitutes* (or limiting obligations), under which property was held in Roman law.

ὁμολογούμεναι χαράδραι] 'recognised, acknowledged, undisputed water-courses.' A curious expression. The nearest approach to it that I can find is (Andoc.) Or. 4 § 17 οὐδὲν ἦττον τῶν ὁμολογουμένων δούλων.

τοὺς χειμάρρους] here 'water-drains,' 'gutters,' like ὑδρορροά Ar. Ach. 922. The word has lost all trace of its primary meaning 'a winter torrent.'

§ 20. *The fact is, that simply owing to the plaintiff's own carelessness, he has suffered from a flood, as others have before him; and the strangest inconsistency of all is, that the plaintiff, while he himself brings to the spot large stones to dam off the*

water when it makes inroad, has actually brought against me a suit for damages, just because my father built a wall round his property with the very same object.

20. μὴ φυλαξαμένους] 'for not being on their guard,' 'owing to their neglect.' μὴ here implies the *reason*, as distinguished from οὐ which would only denote the fact.

ὁ καὶ...δεινότατον, εἰ] Isocr. Archidamus § 56 ὁ δὲ πάντων σχετλιώτατον, εἰ φιλοπονώτατοι δοκοῦντες εἶναι...ῤαθυμότερον βουλευσόμεθα. Paneg. § 128 ὁ δὲ πάντων δεινότατον, ὅταν... (Dem.) Aristog. (25) § 31 ὁ καὶ θαυμαστόν ἐστιν, εἰ κ.τ.λ. In such sentences ὁ δὲ implies a less close connexion with the previous context than ὁ καὶ, and ἐστὶ is frequently omitted (Kühner § 406, 9. Madvig *Gr. Synt.* § 197).

ἀμαξιαίους λίθους] Xen. Anab. iv 2 § 3 ἐκυλίνδων ὀλοιτρόχους ἀμαξιαίους (huge boulders) and Hell. ii 4 § 27, Eur. Phoen. 1157 λάαν ἐμβαλῶν κάρρα ἀμαξοπληθῆ.

προσκομίσας ἀποικοδομεῖ, τοῦ δὲ πατρὸς, ὅτι τοῦτο παθόντος τοῦ χωρίου περιωκοδόμησεν, ὡς ἀδικούντος, ἐμοὶ βλάβης εἴληχε δίκην. καίτοι εἰ ὅσοι κακῶς πεπόνθασιν ὑπὸ τῶν ὑδάτων τῶν ταύτη ῥεόντων ἐμοὶ λήξονται δίκας, οὐδὲ πολλαπλάσια γινόμενα τὰ ὄντα
 21 ἔξαρκέσειεν ἄν μοι. τοσοῦτον τοίνυν διαφέρουσιν οἷτοι τῶν ἄλλων ὥστε πεπονθότες μὲν οὐδὲν, ὡς αὐτίκα ὑμῖν ἐγὼ σαφῶς ἐπιδείξω, πολλῶν δὲ πολλὰ καὶ μεγάλα βεβλαμμένων μόνου δικάζεσθαι τετολμήκασιν οὔτοί μοι. καίτοι πᾶσι μᾶλλον ἐνεχώρει τοῦτο πράττειν. οὔτοι μὲν γὰρ, εἰ καὶ τι πεπόνθασιν, αὐτοὶ δι' αὐτοὺς βεβλαμμένοι συκοφαντοῦσιν· ἐκεῖνοι δὲ, εἰ καὶ μηδὲν ἄλλο, τοιαύτην γ' οὐδεμίαν αἰτίαν ἔχουσιν. ἀλλ'

ἐμοὶ βλάβης εἴληχε δίκην] Or. 29 § 30 ἐγὼ τὴν δίκην ἔλαχον τοῦτω τῆς ἐπιτροπῆς. Kühner § 419, 12.

οὐδὲ πολλαπλάσια] So in § 35 the defendant speaks of his μικρὰ οὐσία.

§ 21. *If all my neighbours were to treat me as the plaintiff has done, I should soon be a ruined man. But while the rest, who have had great losses, are content to bear their misfortune, my present opponents alone, who have lost nothing to speak of, are bringing against me a groundless action for damage entirely due to their own neglect.*

21. πεπονθότες...βεβλαμμένων] cf. § 11 ὄρων...ἐπιμερόντων n.

τετολμήκασιν] τολμᾶν and its tenses are regularly used in Greek prose, while τλῆναι is almost entirely confined to Greek verse (note on Isoer. Paneg. § 96 ἔτλησαν).—τοῦτο πράττειν = δικάζεσθαι.—πᾶσι sc. τοῖς ἄλλοις.

εἰ καὶ] *Notwithstanding—even if*—they have had some

trifling losses. *εἰ καὶ*, without disputing the condition (here *εἰ πεπόνθασι*), represents it as of little consequence. *καὶ εἰ* or *κεὶ* 'even supposing' introduces a condition which is utterly improbable. Kühner § 378.

αὐτοὶ — βεβλαμμένοι] 'they have incurred damage owing to their own fault alone (by not damming off the water as I did), though they vexatiously throw the blame upon me.' The participle here is quite as emphatic as a principal verb.

ἐκεῖνοι αἰτίαν ἔχουσιν] 'whereas the rest of my neighbours, not to mention any other point, at any rate are open to no such imputation as this.' With *μηδὲν ἄλλο* I understand *διαφέρουσι*, and I refer *αἰτίαν ἔχουσι* to *αὐτοὶ δι' αὐτοὺς βεβλαμμένοι συκοφαντοῦσι*. The imputation is *συκοφαντία*, bringing a vexatious charge when they are themselves to blame for want of precaution. Cf. next § *τούτους μὲν μηδὲν ἐγκαλεῖν...τουτονὶ δὲ συκοφαντεῖν*.

ἵνα μὴ πάντα ἅμα συνταράξας λέγω, λαβέ μοι τὰς τῶν γειτόνων μαρτυρίας.

ΜΑΡΤΥΡΙΑΙ.

Οὐκοῦν δεινὸν, ὃ ἄνδρες δικασταί, τούτους μὲν 22
 1278 μηδὲν ἐγκαλεῖν μοι τοσαῦτα βεβλαμμένους, μηδ' ἄλλον
 μηδένα τῶν ἡτυχηκότων, ἀλλὰ τὴν τύχην στέργειν,
 τουτοῦ δὲ συκοφαντεῖν; ὃν ὅτι μὲν αὐτὸς ἐξημάρτηκε

[‘while the rest, however negligent they may have been, are at all events chargeable with nothing of this kind,’ Kennedy. This seems to give the sense; but the precise ellipse with *εἰ καὶ μηδὲν ἄλλο* is obscure. P.]

G. H. Schaefer explains *τοιαύτην αἰτίαν* by the words *τοῦ αὐτοῦ* (*qu. αὐτοί*) *δι' αὐτοῦ* *βεβλάσθαι*, and with *εἰ καὶ μηδὲν ἄλλο* he understands *πεποιήκασι τοῦ φυλάττεσθαι τὴν ἐκ τοῦ ὕδατος ἐσομένην βλάβην*.

αἰτίαν ἔχειν (except in Pl. Phaedo 101 c, where it means ‘have you, i.e. do you know, any cause?’) is nearly equivalent to *δόξαν ἔχειν*, ‘to have the reputation (i.e. either the credit or the imputation) of...’ It occurs in the better sense, ‘to have the credit of’, in Isocr. *de pace* § 138 *τούτων τῶν ἀγαθῶν τὴν αἰτίαν ἔχομεν*. The worse sense, ‘to be open to an imputation’ (as here), is far more common (e.g. Lysias *Or.* 22 § 18, 10 § 28, 13 § 62). Both meanings are combined in Thuc. 1 83 § 3 *τῶν ἀποβαίνοντων τὸ πλεόν ἐπ' ἀμφοτέρας αἰτίας ἔχομεν* (note on Isocr. *Paneg.* § 109). *αἰτίαν ἔχειν* is ‘the usual passive of *αἰτιᾶσθαι*’ (Wayte on Timoor. § 187).

§ 22. *The plaintiff has himself done wrong by advancing his wall and thus narrowing the*

road, and by shooting his rubbish on to the road and thus raising its level.

22. *δεινὸν, τούτους μὲν μηδὲν ἐγκαλεῖν... τουτοῦ δὲ συκοφαντεῖν*] The clause containing *μὲν* is coordinate with that containing *δὲ*, but in English must be subordinate to it. ‘Is it not atrocious, that, *while* my neighbours make no complaint..., the plaintiff brings a vexatious action against me?’ The influence of *δεινὸν* affects the second clause in its contrast with the first. Dem. *Lept.* § 9 *πῶς γὰρ οὐκ αἰσχρὸν κατὰ μὲν τὴν ἀγορὰν ἀψευδεῖν νόμον γεγράφθαι... ἐν δὲ τῷ κοινῷ μὴ χρῆσθαι τῷ νόμῳ τούτῳ* (Isocr. *ad Dem.* § 11 n. *Madvig Gr. Synt.* § 189 a, Cicero *ii Phil.* § 110 l. 6 ed. Mayor, n.).

τὴν τύχην στέργειν] *στέργειν*, in the sense of contented submission, usually has the dative with or without *ἐπὶ*, e.g. Isocr. *de pace* § 6 *στέργειν τοῖς παροῦσι*. The acc. however occurs again in § 30 *ἵψτρα*, also in Hdt. ix 117 *ἔστερξαν τὰ παρεόντα*, Eur. *Phoen.* 1685 *τὰμ' ἐγὼ στέρξω κακά*, Soph. *Ant.* 292, and Isocr. *ad Dem.* § 29 *στέργε μὲν τὰ παρόντα ζῆτει δὲ τὰ βέλτιστα*.

ὃν] *ὃν εἴσεσθε σαφέστερον... ὅτι αὐτὸς ἐξημάρτηκε*. The subject of the subordinate here becomes the accusative of the principal sentence, and all the

πρώτου μὲν τὴν ὁδὸν στενωτέραν^γ ποιήσας, ἔξαγαγὼν ἔξω τὴν αἵμασιαν, ἵνα τὰ δένδρα τῆς ὁδοῦ ποιήσειεν εἶσω^ζ, ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν^α εἰς τὴν ὁδὸν, ἐξ ὧν ὑψηλοτέραν τὴν ὁδὸν καὶ στενωτέραν^γ πεποιῆσθαι

^γ Σ. στενωτέραν Ζ cum Α¹.

^α (1) *Legō τὰ δένδρα τὰ τῆς ὁδοῦ ποιήσειεν εἶσω, scil. τῆς αἵμασιās.*
—(2) *Imo deleta glossa lege τὰ δένδρα ποιήσειεν εἶσω* (Dobree).

^α Bekker st. cum γρ. ΓΦ et Harpocrat. s.v. χλῆδος, cf. § 27. ἐμβαλὼν Ζ et Bekk. 1824. ἐμβάλλον ΓΣΦ.

words down to *συμβέβηκεν* inclusive form an object-sentence to the principal verb *εἴσεσθε*. Lysias, Or. 20 § 34 οὓς οὐπω ἴστε εἴτε ἀγαθοὶ εἴτε κακοὶ...γενήσονται (Madvig, *Gr. Synt.* § 191. Kühner § 600 p. 1083).

στενωτέραν] The old Greek grammarians (e.g. Choeroboscus) state that *στενός* (Ionic *στεινός*) and *κενός* have *ο*, not *ω*, in the comparative and superlative (cf. Ionic *στεινότερος*). But the forms in *ω* have better authority than those grammarians supposed (Kühner I § 154 note 2).

ἔξαγαγὼν...] ‘by advancing—carrying-out—his wall beyond the boundary.’ Thuc. I 93 μείζων ὁ περίβολος πανταχῆ ἐξήχθη τῆς πόλεως. § 27 *ἵνα αἵμασιαν προαγαγόντες κ.τ.λ.*

ἵν’—εἶσω] Not ‘to get his trees within the road’ (Kennedy), but ‘to take in, enclose, the trees of the road.’ A thrust at the *πλεονεξία* of the plaintiff.

χλῆδον] ‘rubbish’; the word is only found in § 27 and in a fragment of Aeschylus quoted below. Harpocration s.v. χλῆδος· Δημοσθένης ἐν τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης· ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν ἐξ ὧν ὑψηλοτέραν καὶ στενωτέραν τὴν αὐτὴν

ὁδὸν πεποιῆσθαι συμβέβηκεν. πᾶν πλῆθος χλῆδος λέγεται καὶ ἐστὶν οἶον σωρός τις, μάλιστα δὲ τῶν ἀποκαθαρμάτων τε καὶ ἀποψημάτων, καὶ ἡ τῶν ποταμῶν πρόσχωσις, καὶ πολὺ μᾶλλον τῶν χειμάρρων ὃ καὶ χέραδος καλεῖται (Piad XXI 319). νῦν δὲ ἔοικεν ὁ ῥήτωρ λέγειν ὅτι χοῦν καὶ φρυγανώδη τινα ἐκ τοῦ χωρίου σωρὸν ὁ Καλλικλῆς εἰς τὴν ὁδὸν ἐμβέβληκεν, ὡς καὶ αὐτὸς ἐξῆς ὑποσημαίνει. κέχρηται δὲ τῷ ὀνόματι πολλοί. Αἰσχύλος Ἀρχαίοις “καὶ παλτὰ κάγκυλητὰ καὶ χλῆδον βαλὼν” (fr. 14). Bekker’s *Anecd. Gr.* 315 ὁ κλῆρος τῶν ἀποκαθαρμάτων, ὃ ἔχων ἰλὸν τινα καὶ βοτανώδη καὶ φρυγανώδη. Hesychius χλῆδος· ὁ σωρὸς τῶν λίθων. [The article shows that χλῆδον does not here mean rubbish generally, but the soil or gravel thrown up from altering the fences. P.]

ἐξ ὧν] The pl. refers to ἔξαγαγὼν...αἵμασιαν and χλῆδον ἐκβαλὼν. The first adjective ὑψηλοτέραν is explained by the latter, the second στενωτέραν by the former:—one of the many forms of *χιασμός* or ‘introverted parallelism.’ This enables the speaker to put his main point in the most emphatic positions (first and last) and the subordinate point between them (note

συμβέβηκεν, ἐκ τῶν μαρτυριῶν αὐτίκ' εἴσεσθε σα-
 φέστερον, ὅτι δ' οὐδὲν ἀπολωλεκῶς οὐδὲ καταβε- 23
 βλαμμένος ἄξιον λόγου τηλικαύτην μοι δίκην εἴληχε,
 τοῦθ' ὑμᾶς ἤδη πειράσομαι διδάσκειν. τῆς γὰρ μη-
 τρὸς τῆς ἐμῆς χρωμένης τῇ τούτων μητρὶ πρὶν τού-
 τους ἐπιχειρήσαί με συκοφαντεῖν, καὶ πρὸς ἀλλήλας
 ἀφικνουμένων, οἷον εἰκὸς ἅμα μὲν ἀμφοτέρων οἰκου-
 σῶν ἐν ἀγρῷ καὶ γειτνιωσῶν, ἅμα δὲ τῶν ἀνδρῶν
 χρωμένων ἀλλήλοις ἕως ἔζων, ἐλθούσης δὲ τῆς ἐμῆς 24
 μητρὸς ὡς τὴν τούτων καὶ ἀποδυραμένης ἐκείνης τὰ
 συμβάντα καὶ δεικνυούσης, οὕτως ἐπυθόμεθα πάντα
 ἡμεῖς, ὧ ἄνδρες δικασταί· καὶ λέγω μὲν ἄπερ ἤκουσα
 τῆς μητρὸς, οὕτω μοι^b πολλὰ ἀγαθὰ γένοιτο, εἰ δὲ
 ψεύδομαι, τὰναντία τούτων· ἢ μὴν ὀρᾶν καὶ τῆς τού-
 των μητρὸς ἀκούειν ἔφη κριθῶν μὲν βρεχθῆναι, καὶ
 ξηρανομένους ἰδεῖν αὐτὴν^c, μηδὲ τρεῖς μεδίμνους,
 ἀλεύρων δ' ὡς ἡμιμέδιμνον· ἐλαίου δ' ἀποκλιθῆναι
 μὲν κεράμιον φάσκειν, οὐ μέντοι παθεῖν γε^d οὐδέν.

^b Bekk. οὕτως ἐμοὶ Z cum FΣΦB.

^c Bekk. αὐτὴν Z cum G. H. Schaefer.

^d Bekk. μέντοι γε Z cum Σ.

on Isocr. ad Dem. § 7, Paneg. § 54).—αὐτίκα, sc. at the end of § 27.—τηλικαύτην δίκην. Cf. § 25 χιλίων δραχμῶν δίκην.

§§ 23—25. *The actual loss sustained was very trifling, as I know on good authority; and as for the old wall which he makes out he was compelled to repair, that must not be put to my account, as the wall neither fell down nor incurred any damage.*

23. χρωμένης ... μητρὶ] 'intimate with.' Dem. Or. 29 § 15 Ἀφ'ὀβρῶ χρώμενον, Or. 33 (Apatur.) § 7, Or. 35 (Lacrit.) § 6 ἐπιτῆδειοί μοι εἰσι καὶ χρώμεθ' ἀλλήλοις.—τῶν ἀνδρῶν, 'their

husbands.'

24. ἐκείνης] sc. τῆς τούτων μητρὸς.

οὕτω—γένειτο] Or. 54 § 41. Ter. Eun. iv 1, 1 *ita medi bene ament*. Prop. i 7, 3 *ita sim felix*. Cic. ad Att. v 15 *ita vivam*.

τὰναντία] a kind of euphemism for πολλὰ κακά. So also Soph. Phil. 503 παθεῖν μὲν εὖ παθεῖν δὲ θάτερα.

κριθῶν—παθεῖν γε οὐδέν] Quoted by Aristeides (ii 544 Spengel Rhet. Gr.) ἐνίοτε δὲ ἡ μὲν ἐννοία ἀφελῆς ἐστίν, ἢ δὲ ἀπαγγεῖλα πολιτικῆ, ὡς καὶ ἐν τῷ πρὸς Καλλικλέα ὁ Δημοσθένης, κριθῶν

25 τοσαῦτα, ὧ ἄνδρες δικασταί, τὰ συμβάντ' ἦν τούτοις, ἀνθ' ὧν ἐγὼ χιλίων δραχμῶν δίκην ἀτίμητον φεύγω. οὐ γὰρ δὴ, τειχίον γ' εἰ^ε παλαιὸν ἐπφοκδόμησεν, ἐμοὶ καὶ τοῦτο λογιστέον ἐστίν, ὃ μῆτ' ἔπεσε μῆτ' ἄλλο δεινὸν μηδὲν ἔπαθεν. ὥστ' εἰ συνεχώρουσιν αὐτοῖς ἀπάν- 1279
των αἴτιος εἶναι τῶν συμβεβηκότων, τά γε βρεχθέντα
26 ταῦτ' ἦν. ὁπότε δὲ μῆτε ἐξ ἀρχῆς ὁ πατήρ ἠδίκηει τὸ χωρίον περιουκοδομῶν, μῆθ' οὗτοι πώποτε ἐνεκάλεσαν τοσοῦτου χρόνου διελθόντος, οἳ τ' ἄλλοι πολλὰ καὶ δεινὰ πεπουθότες μηδὲν μᾶλλον ἐγκαλοῦσιν ἐμοὶ, πάντες τε ὑμεῖς τὸ ἐκ τῶν οἰκιῶν καὶ τὸ ἐκ τῶν χωρίων ὕδωρ εἰς τὴν ὁδὸν ἐξάγειν εἰώθατε, ἀλλ' οὐ μὰ Δί' εἴσω τὸ ἐκ τῆς ὁδοῦ δέχεσθαι, τί δεῖ πλείω λέγειν; οὐδὲ γὰρ ἐκ τούτων ἀδηλον ἔστι φανερώς συκοφαντοῦμαι,
27 οὔτ' ἀδικῶν οὐδὲν οὔτε βεβλαμμένων ἅ φασιν. ἴα

^e Bekk. et corr. Σ. εἰ τειχίον Σ (εἰ in margine manu eadem addito). τειχίον γε r. τειχίον εἰ FB.

μὲν—παθεῖν γε οὐδέν. καὶ τοῦτο δὲ μετὰ σεμνότητος, ὅπου γε αὐτὸ τὸ κύριον λεχθέν κινδυνεύει εὐτέλειαν ποιῆσαι, ὥσπερ εἰ ἔλεγες, οὐ μέντοι ἐκχυθῆναί γε, ἐνταῦθα ὃ δὲ ἀντὶ τοῦ κυρίου καὶ τοῦ κατ' εἶδος, ἐν γένει μεταβαλῶν εἶπεν, οὐ μέντοι παθεῖν γε οὐδέν.

πάσχειν is seldom applied to an inanimate subject; cf. Or. 56 § 23 τοῦτο συνέβη παθεῖν τῇ νηί. κριθῶν—μεδίμνος] 'not even three *medimni* (or four and a half bushels) of barley.' The *medimnos* = six *ἐκτεῖς* = six *modii* = about 12 gallons, or a bushel and a half.—κεράμιον used like the Roman *amphora* as a liquid measure = about six gallons or two-thirds of the Greek *ἀμφορεύς* (μετρητής).

25. χιλίων δραχμῶν δίκην ἀτίμητον] See note on § 18.

ἐπφοκδόμησεν] (cf. ἐπισκενάζειν) refers to repairing the old wall.

ὃ μῆτ' ἔπεσε] 'if the wall neither fell nor incurred any damage whatsoever.' ὃ μῆτε... would in Latin be represented by *quod nec cecidisset nec...*

§§ 26, 27. Summary of previous arguments, and calling of witnesses.

26. οἳ τ' ἄλλοι—ἐμοὶ] Cf. § 21 πολλῶν πολλὰ... βεβλαμμένων—πάντες—εἰώθατε. See § 17 *init.*

οὔτε βεβλαμμένων ἅ φασι] βεβλαμμένων, not neuter, but masc. 'they have not incurred the damage they allege.' § 21 πολλῶν πολλὰ καὶ μεγάλα βεβλαμμένων.

δ' εἰδῆτε ὅτι καὶ τὸν χλῆδον εἰς τὴν ὁδὸν ἐκβεβλήκασι[†] καὶ τὴν αἵμασιαν προαγαγόντες στενωτέραν[‡] τὴν ἰδὸν πεποιήκασι, ἔτι δ' ὡς ὄρκον ἐδίδουν ἐγὼ τῇ τούτων μητρὶ καὶ τὴν ἐμαυτοῦ τὸν αὐτὸν ὁμόσαι προῦκαλούμεν, λαβέ μοι τὰς τε μαρτυρίας καὶ τὴν πρόκλησιν.

ΜΑΡΤΥΡΙΑΙ. ΠΡΟΚΛΗΣΙΣ.

Εἶτα τούτων ἀναισχυντότεροι γένοιντ' ἂν ἄνθρωποι ἢ περιφανέστερον συκοφαντοῦντες, οἵτινες αὐτοὶ τὴν αἵμασιαν προαγαγόντες καὶ τὴν ὁδὸν ἀνακεχωκότες ἑτέροις βλάβης δικάζονται, καὶ ταῦτα χιλίων δραχμῶν ἀτίμητον, οἷ γ' οὐδὲ πεντήκοντα δραχμῶν τὸ παράπαν ἅπαντα ἀπολωλέκασι; καίτοι σκοπεῖτ', ὧ ἄνδρες δικασταί, πόσους ὑπὸ τῶν ὑδάτων ἐν τοῖς ἀγροῖς βεβλάφθαι συμβέβηκε, τὰ μὲν Ἐλευσίνι, τὰ δ'

[†] Z et Bekk. st. ἐκβεβλήκασι FΣΦ. ἐμβεβλήκασι Bekk. 1824.

[‡] στενωτ-Ζ.

27. χλῆδον] See note on § 22. ὄρκον ἐδίδουν] 'offered an oath' in the sense of 'proposed to administer an oath.' On ὄρκον δίδου καὶ λαμβάνειν, see esp. Arist. Rhet. i 15 §§ 27—33.

§§ 28—30. My opponents, after having themselves advanced their wall and raised the road's level, are most shamelessly suing the very victims of their own wrong, for a penalty of a thousand drachmae, while their own loss is less than fifty.

If the plaintiff may enclose his land, we may enclose ours. If my father wronged you, by enclosing, you are just as much wronging me, for if you dam off the water, it will be swept back on my own property and will throw down my wall. But I am not going to complain; I shall simply do my best to protect my

land. The plaintiff shows his prudence in protecting his own property; but in prosecuting me, he only shows his villainy and his infatuation.

28. ἀνακεχωκότες] Cf. § 22 ὑψηλοτέραν τὴν ὁδὸν...πεποιήσθαι συμβέβηκεν.

Ἐλευσίνι] Commonly without ἐν. So also Μαραθῶνι and other locatives of Attic demes. Cobet var. lect. p. 69, 201 and nov. lect. p. 95, 96.

Ἐλευσίς was subject to...occasional encroachments from the river Cephissus, which—although for the greater part of the year quite dry, or finding its way to the sea in three or four slender rills, almost lost in a gravelly bed—sometimes descends from the mountains with such impetuosity as to spread itself over a wide extent of the

ἐν τοῖς ἄλλοις τόποις. ἀλλ' οὐ δήπου τούτων, ὧ ἡ καὶ θεοὶ, παρὰ τῶν γειτόνων ἕκαστος ἀξιώσει τὰς
 29 βλάβας κομίζεσθαι, καὶ ἐγὼ μὲν, ὃν προσήκεν ἀγανακ-
 τεῖν τῆς ὁδοῦ στενωτέρας^h καὶ μετεωροτέρας γεγενη-
 μένης¹, ἡσυχίαν ἔχω· τούτοις δὲ τοσοῦτον περίεστιν,
 ὡς ἔοικεν, ὥστε τοὺς ἡδίκημένους πρὸς συκοφαντοῦσινⁱ. 1280
 καίτοι, ὧ Καλλίκληις, εἰ καὶ ὑμῖν περιοικοδομεῖν
 ἔξεστι τὸ ὑμέτερον αὐτῶν χωρίον, καὶ ἡμῖν δήπου τὸ
 ἡμέτερον ἐξῆν. εἰ δ' ὁ πατήρ ὁ ἐμὸς ἡδίκηει περιοικο-
 δομῶν ὑμᾶς, καὶ νῦν ὑμεῖς ἐμὲ ἀδικεῖτε περιοικοδομοῦν-
 30 τες οὕτως· δῆλον γὰρ ὅτι, μεγάλοις λίθοις ἀποικο-
 δομηθέντος, πάλιν τὸ ὕδωρ εἰς τὸ ἐμὸν ἦξει χωρίον, εἴθ'
 ὅταν τύχη καταβαλεῖ τὴν αἵμασιαν ἀπροσδοκῆτως.
 ἀλλ' οὐδὲν μᾶλλον ἐγκαλῶ τούτοις ἐγὼ διὰ τοῦτο,
 ἀλλὰ στέργω τὴν τύχην καὶ τὰμαντοῦ φυλάττειν
 πειράσομαι. καὶ γὰρ τούτον φράττοντα μὲν τὰ
 ἑαυτοῦ σωφρονεῖν ἡγοῦμαι, δικαζόμενον δέ μοι

^h Σ. γεγενημένης καὶ μετεωροτέρας Ζ.

ⁱ προσσυκοφαντοῦσιν Ζ.

plain, damaging the lands and buildings.' Leake's *Demi of Attica*, p. 154.

τὰς βλάβας κομίζεσθαι] 'to recover the damages.'—μετεωροτέρας=ὑψηλοτέρας, cf. § 22.

29. περίεστιν] More commonly with a genitive: but cf. Mid. § 17 οὐδ' ἐνταῦθ' ἔστη τῆς ὕβρεως, ἀλλὰ τοσοῦτον αὐτῷ περιῆν ὥστε τὸν...ἄρχοντα διέφθειρε.

[τοσοῦτον, i. e. ἀναισχυντίας (or συκοφαντίας), to be supplied from ἀναισχυντότεροι (ἢ περιφανέστερον συκοφαντοῦντες) above, in § 28.—περίεστιν, i. e. ἐκ περιουσίας ἔχουσιν. P.] L and S less well explain it; 'So far are matters come with them that...'

πρὸς συκοφαντοῦσιν] Cf. An-

drot. § 75 τοσοῦτ' ἀπέχει τοῦ τιμῆς τινός...τυχεῖν ὥστ' ἀπειλόκαλος πρὸς ἔδοξεν εἶναι. See note on Or. 37 § 49 πρὸς ἀτιμῶσαι, and 39 § 23 πρὸς μισεῖν.

καὶ ὑμῖν...καὶ ἡμῖν] This idiomatic repetition of καὶ cannot be literally rendered in English.

περιοικοδομῶν-δομοῦντες] Posses παροικοῦ. bis: sed cave facias. construe ἡδίκηει ὑμᾶς περιοικοδομῶν 'by hedging in' etc. Dobree.

30. ἀποικοδομηθέντος] Genitive neuter absolute. We cannot understand either τοῦ ὕδατος or τοῦ χωρίου. Malim ἀποικοδομηθέν, says Dobree.—στέργω, see § 22.

πονηρότατόν τ' εἶναι καὶ διεφθαρμένον ὑπὸ νόσου νομίζω.

Μὴ θαυμάζετε δ', ὧ ἄνδρες δικασταὶ, τὴν τούτου 31 προθυμίαν, μὴδ' εἰ τὰ ψευδῆ κατηγορεῖν νῦν¹ τετόλμηκεν. καὶ γὰρ τὸ πρότερον πείσας τὸν ἀνεψιὸν ἀμφισβητεῖν μοι τοῦ χωρίου συνθήκας οὐ γενομένας ἀπήνεγκε, καὶ νῦν αὐτὸς ἐρήμην μου καταδεδιήτηται τοιαύτην ἑτέραν δίκην, Κάλλαρρον ἐπιγραφάμενος τῶν ἐμῶν δούλων. πρὸς γὰρ τοῖς ἄλλοις κακοῖς καὶ τοῦτο εὔρηται σόφισμα· Καλλάρῳ τὴν αὐτὴν δίκην δικάζονται. καίτοι τίς ἂν οἰκέτης τὸ τοῦ δεσπότου 32 χωρίον περιοικοδομήσειε μὴ προστάξαντος τοῦ δεσπότου; Καλλάρῳ δ' ἕτερον ἐγκαλεῖν οὐδὲν ἔχοντες, ὑπὲρ ὧν ὁ πατήρ πλέον ἢ πεντεκαίδεκα ἔτη φράξας ἐπέβίω

¹ κατηγορεῖν Z et Bekker st. μαρτυρεῖν FΣΦB.

διεφθαρμένον ὑπὸ νόσου] 'Blindly infatuated,' 'having his judgment (or reason) impaired by some malady,' contrasted with σωφρονεῖν in the previous clause.

§§ 31, 32. *The plaintiff's assurance in bringing false charges against me is only of a piece with his producing a forged document on a former occasion, when he prompted his cousin to claim my land. Apart from this, simply to spite me (§ 34), he has brought the same charge against my servant, Callarus, as against myself, though the servant could not have enclosed the land on his own responsibility.*

Their interested motive is proved by the fact that, if I let them have my property, by purchase or exchange, then Callarus is at once held to be doing them no wrong; if I refuse, they make themselves out to be grievously wronged by him, and try to get

an award or a compromise which will secure them my estate.

31. μὴ θαυμάζετε...εἰ] Goodwin's *Moods and Tenses*, § 56.

συνθήκας οὐ γενομένας ἀπήνεγκε] 'put in (or, 'made a return of') false documents, forged contracts that had never been really made.' This is the σκευωρία alluded to in § 2.

ἐρήμην... καταδεδιήτηται] See § 2.

ἐπιγραφάμενος] Having entered on the indictment the name of Callarus, one of my slaves; [for the same action could not be brought twice in the same name. P.]

For another use of ἐπιγράφεσθαι, cf. Or. 54 § 31.

32. ὑπὲρ ὧν κ.τ.λ.] = δικάζονται ὑπὲρ τούτων ἃ ἔφραξεν ὁ πατήρ καὶ πλέον ἢ πεντεκαίδεκα ἔτη ἐπέβίω. See esp. notes on Or. 45 § 27 ὧν διεφθάρκει and § 68 ἃ πέπλασται.

δικάζονται. κὰν μὲν ἐγὼ τῶν χωρίων ἀποστῶ τούτοις ἀποδόμενος ἢ πρὸς ἕτερα χωρία ἀλλαξάμενος, οὐδὲν ἀδικεῖ Κάλλαρως· ἂν δ' ἐγὼ μὴ βούλωμαι τάρμαυτοῦ 1281
 τούτοις προέσθαι, πάντα τὰ δεινότατα ὑπὸ Καλλάρου πάσχουσιν οὗτοι, καὶ ζητοῦσι καὶ διαιτητὴν ὅστις αὐτοῖς τὰ χωρία προσκαταγνώσεται, καὶ διαλύσει
 33 τοιαύτας ἐξ ὧν τὰ χωρία ἔξουσιν. εἰ μὲν οὖν, ὦ ἄνδρες δικασταί, τοὺς ἐπιβουλεύοντας καὶ συκοφαντοῦν-
 τας δεῖ πλέον ἔχειν, οὐδὲν ἂν ὄφελος εἴη τῶν εἰρημένων· εἰ δ' ὑμεῖς τοὺς μὲν τοιούτους μισεῖτε, τὰ δὲ δίκαια ψηφίζεσθε, μήτ' ἀπολωλεκότος Καλλικλέους μηδὲν, μήτ' ἠδίκημένου μήθ' ὑπὸ Καλλάρου μήθ' ὑπὸ τοῦ
 34 πατρὸς, οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν. ἵνα δ' εἰδῆτε ὅτι καὶ πρότερον ἐπιβουλεύων μου τοῖς χωρίοις τὸν ἀνεψιὸν κατεσκεύασε, καὶ νῦν τὴν ἑτέραν αὐτὸς κατεδιητήσατο Καλλάρου ταύτην τὴν δίκην, ἐπηρεάζων ἐμοὶ διότι τὸν ἄνθρωπον περὶ πολλοῦ ποιοῦμαι, καὶ Καλλάρῳ πάλιν εἴληχεν ἑτέραν, ἀπάντων ὑμῖν ἀναγνώσεται τὰς μαρτυρίας.

ΜΑΡΤΥΡΙΑΙ.

35 Μὴ οὖν πρὸς Διὸς καὶ θεῶν, ὦ ἄνδρες δικασταί, προῆσθέ με τούτοις μηδὲν ἀδικοῦντα. οὐ γὰρ τῆς ζη-

διαιτητὴν ὅστις ... προσκαταγνώσεται] an arbitrator who shall actually (go so far as to) adjudge their property to them; give a verdict of condemnation adjudging the property to them. διαλύσεις] 'compromises,' 'settlements.'

§§ 33, 34. Now if conspiracy and paltry persecution are to win the day, my words are merely wasted. But if you detest such conduct and intend to give a just verdict on the ground that neither my father nor my servant

has done any damage or wrong to the plaintiff, then I have already said enough.

§ 35. Lastly, I entreat the jury not to sacrifice me to my opponents, when I have done them no wrong. It is not so much the penalty that I care for, hard though that is for a poor man to pay; but they want to turn me out of the parish by their petty persecution. To prove we were in the right, we were ready to submit to a fair arbitration, and to swear the customary oath; for

μίας τοσοῦτόν τί μοι μέλει, χαλεπὸν ὄν πᾶσι τοῖς μικρὰν οὐσίαν ἔχουσιν· ἀλλ' ἐκβίλλουσιν ὅλως ἐκ τοῦ δήμου με ἐλαίνοντες καὶ συκοφαντοῦντες. ὅτι δ' οὐκ ἀδικοῦμεν οὐδὲν, ἔτοιμοι μὲν ἡμεν ἐπιτρέπειν τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς, ἔτοιμοι δ' ὁμνύειν τὸν νόμιμον ὄρκον· ταῦτα γὰρ ῥόμεθα ἰσχυρότατα παρασχέσθαι^k τοῖς αὐτοῖς ὑμῖν ὁμωμοκόσιν. καί μοι λαβὲ τήν τε πρόκλησιν καὶ τὰς ὑπολοίπους ἔτι μαρτυρίας.

ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

^k *Malim παρέξεσθαι, vel, quandoquidem παρασχέσθαι dat MS, possis ἰσχυρότατ' ἂν παρασχέσθαι. Dobree.*

we felt that that would be the strongest argument with you, gentlemen, who are yourselves upon your solemn oath.

35. χαλεπὸν ὄν] sc. τὸ ζημιῶσθαι. Hard though it falls on those whose property is but small.

ἐλαυνόντες καὶ συκοφαντοῦντες] by their persecution and petty litigation.

ἔτοιμοι μὲν...ἔτοιμοι δὲ] § 20 ἔβλαψε μὲν...ἔβλαψε δέ.

τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς] 'impartial, fair and unbiassed persons, acquainted with the facts.' § 9 τοῖς εἰδόσι...τοῖς ἴσοις.

τὸν νόμιμον ὄρκον] The defendant appears to have offered

to take an oath in the ἀντωμοσία at the ἀνάκρισις, or preliminary examination. Such an oath might be taken by either of the parties, with a view to decide the cause, or some particular point in dispute. But it was only taken by the consent of the adversary, upon a challenge given and accepted (C. R. Kennedy in *Dict. Antiq.*). Cf. Or. 54 § 40, ἠθέλησα ὁμόσαι ταυτί. Aristot. Rhet. i. 15 §§ 27—33.

τοῖς αὐτοῖς ὑμῖν ὁμωμοκόσι] 'to you who are yourselves on oath'; 'vobis iudicibus qui et ipsi iurastis.' Seager *Classical Journal* 1825, no. 61 p. 63.

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