SELECT PRIVATE ORATIONS
OF
DEMOSTHENES.

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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.

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1886
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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 Raun 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 labours. 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 another. 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

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1 Mr Penrose's handy volume (now out of print) contained the Speeches against Aphobus, Onetor, Zenothemis, Apaturius, Phormio (Or. 34, πρὸς Φόρμιον), and Lacritus. The Eubulides, Theocritines and in Neaeram 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 Conon, 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), Laecritum (35), Pantaenetum (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 P. S. D. II.
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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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.


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 ρητόρων, ed. W. Dindorf; Oxford, 1853: (also Pollux, and Anecdota Graeca, ed. Bekker;

\textbf{DEMOSTHENIC LITERATURE.}

\textbf{I. GENERAL.}

(1) ARNOLD SCHAEFER. \textit{Demosthenes und seine Zeit}, 3 vols., esp. vol. iii part 2, Beilagen; \textit{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. \textit{Die Attische Beredsamkeit}, esp. vol. iii Demosthenes; Leipzig, 1877.

\textbf{II. SPECIAL.}

On Or. 36, 45, 46 and 53.

SELECT LIST OF EDITIONS, &c. xv

(11) R. Duncker. Inter privatarum causarum orationes Demosthenicas quae pro genuinis habendae sint quaeque pro falsis breviter exponitur. Greiffenberg, pars i, 1877. (12) P. Uhle. Quaestiones de orationum Demostheni falso addicatarum 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.


GREEK ANTIQUITIES.


GREEK LAW.

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. 2034), on parchment; of century X. “Primae 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) γραμματείᾳ; in 46 § 12 ἐξείναι ἐπ’ ἀνδρὶ (not ἐπ’ ἀνδρὶ ἐξείναι) θείναι; and in 55 § 5 it has ἵμαν, not ἵμαν. In the last instance, the same mistake has found its way into the critical notes of Dindorf’s Oxford ed.
EXPLANATION OF SYMBOLS, &c. xvii

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 Bavarius (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 (κατὰ Κόνωνος).

r. 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. Bavarius, 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.

<table>
<thead>
<tr>
<th>Items</th>
<th>Values in English money.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$8 \chiαλκοι = 1 \deltaβολος$</td>
<td>$1\cdot62d$</td>
</tr>
<tr>
<td>$6 \deltaβολοι = 1 \deltaραχμη$</td>
<td>$9\cdot72d^*$</td>
</tr>
<tr>
<td>$100 \deltaραχμαι = 1 \muνα$</td>
<td>£4 1s</td>
</tr>
<tr>
<td>$60 \muναι = 1 \tauαλαντον$</td>
<td>£243</td>
</tr>
</tbody>
</table>

Like the ταλαντον of 6000 δραχμαι, the μνα was not an actual coin but only a term used in keeping accounts to denote a sum of 100 δραχμαι.

* 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 business. In the Trapezius 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 Trapezius, see Becker’s Charicletes scene iv; K. F. Hermann, Privatalterthümer § 48; Büchsenschütz, 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.
INTRODUCTION TO OR. XXXVI.

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 (ισοτελής) such civic rights as were not of an expressly political nature, he acquired some property in land, and distinguisned 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 expense⁵. 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 general⁶, and Demosthenes, the father of the orator⁷; 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 land⁸; 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 γυμνα-
⁵ πέον τοῦ ἄθρωτον Ἀθηναίων ἀθραίων εἶναι Πασίων καὶ ἐκ-
⁶ γένους τοὺς ἑκέντα διὰ τὰς ἐνερ-
⁷ γείσις τὰς εἰς τὴν πόλιν.
⁸ Or. 49 πρὸς Τιμόθεου ὑπὲρ χρέως. Cf. note on Or. 36 § 53, p. 48.
⁹ Or. 27 § 11.
¹⁰ Or. 50 § 56 διὰ τὸ Πασίωνος εἶναι καὶ ἑκένταν ἐπεζευγνωσθαι πολ-
¹¹ λάτις καὶ πιστευθῆναι ἐν τῷ Ἐλ-
¹² λάδι οὔκ ἡπόρους, ὃποιοι δεηθεῖν ἀποκλείσασθαι.
blameless reputation, who bears the appropriate name of Pasion.

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 Peireaus, four or five miles distant, transferred his business, including not only his bank but also his shield-manufactory, on lease to his managing clerk Phormion, who, like his employer, was himself originally a slave, and obtained his freedom as the reward of honest service. 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 master. 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. 370. In B.C. 372, we find the latter still managing his business on his own account, and we may therefore fix on B.C. 371 as the probable date of the lease. Pasion left behind him a widow, Archippe by name, and two sons by her, the elder, Apollodorus, who was four-and-twenty years old at his father's death, and the younger, Pasicles, who came of age eight years after (namely, in B.C. 362). 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 Διωνυκῆτον ἀρχεωτος, Ol. 102, 3 = July 370—July 369 B.C.
8 Or. 49 §§ 29, 59. In the archonship of Aleisthenes, 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.).
INTRODUCTION TO OR. XXXVI.

talents, a dwelling-house valued at one hundred minae, maid-servants, gold ornaments and all that formerly belonged to his wife\(^1\). 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 minor\(^2\).

Apollodorus was at Athens in B.C. 370 and appears to have been present at his father's death-bed\(^3\), and some time after this, he was abroad in the public service as trierarch, probably in the year B.C. 368\(^4\). 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 (γραφὴ ἐβρέως). However, a reconciliation was brought about and the charge was not pressed\(^5\).

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

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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.
INTRODUCTION TO OR. XXXVI.

The manufactory, leaving the banking business to his younger brother. For a short time the brothers appear to have superintended their property in person; but not long after, possibly a year subsequent 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 Phormion, namely, 2 talents and 40 minae, out of which one talent 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. 361. 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 ἰστερον 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 difficulty started in the note on § 12 μαθῶν ἐτέρους), 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 ἰσου ἀργυρίου.
4 Or. 36 § 51, cf. § 11.
5 Or. 36 § 37 ad fin.
6 Or. 46 § 13, ἐπὶ Νικοφήμου ἀρχιστός, Ol. 101, 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 intended.

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 claims.

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 talents, 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 (αφορμή) of the business.

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, 1\textsuperscript{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, Tisias¹ 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 ἕγκαλεῖν 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 cussent créé une action spéciale pour les affaires de ce genre?' But cf. Caillemer, le contrat de prêt à Athènes, p. 28—31, where δίκη ἀφορμῆς is distinguished from δίκη ἄργυρου, δίκη χρέος and other terms, and accepted without suspicion as a term of Attic law. Similarly in Meier und Schömann, Att. Process, p. 510.

P. S. D. II.
plea in bar of action, a plea technically known in Greek law as a παραγγελία, 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 justice.

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 first; thus, while he

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1 Cf. Isæus Or. 7 § 3 ei μεν εδώρων ὑμᾶς μᾶλλον ἀποδεχομένους τὰς διαμαρτυρίας ἤ τὰς εὐθύνικας 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-
INTRODUCTION TO OR. XXXVI. xxvii

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 Demosthenes\(^1\), which forms the first of the selections included in the present volume.\(^2\)

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

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\(^1\) The contrary might be inferred from the language of Deinarchus contra Dem. § 111, ( Δημοσθένους) λογογράφου καί μισθοῦ τάς δίκας λέγοντος υπὲρ Κτησίππου καί Φορμίωνος (Compare p. xii). 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. § 187, ἡγραφαῖς λόγον Φορμίωνι (cf. Or. 46 § 1 οἱ γράφοντες καί οἱ συμβουλεύοντες υπὲρ Φορμίωνος). 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. 352, 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-

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¹ This date is accepted by Droysen (Zeitschrift für d. Alterthumswissenschafft 1839 p. 930), Hornbostel (Apoll. p. 20), and A. Schaefer (u. s., p. 168 —9).
² § 11 εὐθὺς ὡς ἀφεὶςαν τουτοῖς μαθώσεως νέα μονταί τήν τραπεζαν κ.τ.λ., § 13 ἐμφαθωσεν ὑστερον Σέλενων κ.τ.λ.
minated before the date of the speech. 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 data.

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 spurious. 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 ἐλευθερον ἀφείσαν...καὶ οὖκ ἐδικαζότο οὔτ' ἐκείνος τότ' οὔτε τοῦτῳ.

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, d'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 κατηγόρεις; οὐχὶ Καλλιτσίος; οὐ πάλιν Μέρωνος; οὐκ Αὐτικλέους; 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.
INTRODUCTION TO OR. XXXVI.

The speech is undoubtedly the genuine work of Demosthenes; this is proved not only by the testimony of Aeschines 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 depreciated, 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 interest.

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'oeuvre dans son genre.' Professor Jebb has with equal truth touched upon 'the moral dignity of the defence for Phormio.'

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.
3 die ethische Wärme welche
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 \( \pi\omega\beta\epsilon\lambda\alpha \), 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.

KATA 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 ψευδομαρτυρίων, 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 κακοτεχνων'); 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 ἀφομογίας).

Apollocdorus 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.
INTRODUCTION TO OR. XLV.

Apollo"dorus 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 challenge 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 original.

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 subtlety, 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

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1 Or. 36 § 7.
2 Or. 45 § 10.
3 nur einige schwache, ja ganz nichtige ἡκατοπρία...; gegenzen-gen...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
INTRODUCTION TO OR. XLV.  xxxv

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. xlv

ΚΑΤΑ ΣΤΕΦΑΝΟΥΥ
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 'hear-say 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 will, 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 quibble. (2) There is no indication elsewhere in other

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1 See Becker’s Charicles, Scene xi, note 37.
2 See note on § 14, and M. Dareste 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 regarded; 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 creditors.

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 subterfuges.

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 bloßer sophismen und spiegel- fechtereien so handgreiflicher und oft fast lächerlicher art, dass 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 Demosthenes, 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 Τιμάθεων υπὲρ χρέους, b.c. 362; Or. 50, πρὸς Πολυκέα περὶ τοῦ ἐπιτηρηρηχήματος, about b.c. 357; Or. 45 and 46, κατὰ Στράφανον ψευδομαρτυρῶν α’ and β’, about b.c. 351; Or. 59 κατὰ Νεαίρας, after b.c. 343;—Or. 47, κατὰ Εὐέργου καὶ Μνησιβοίλου 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 ὁ ἀγαθὸν ἀυμβοῦλον τὰ χρήματα; οὗ τῆς πόλεως πρὸς τὸ παρὸν τὰ βέβαια συμβουλευῖται. τὸν δὲ πονηρὸν κατήγορον τὰ χρήματα; οὗ τοὺς καρποὺς ἀποκρυπτόμενον τῷ πρᾶξιν κατηγορεῖ; τὸν δὲ ἐκ φύσεως προδότην πώς χρήμα αναπερατεῖ; ἀρά γε ὡς σὺ τοὺς ἐντυγχάνουσιν καὶ πιστεύσας κέχρησθαι, λόγους εἰς δικαστήρια γραφόντα μισοῦν τοὺς ἐκφέρειν τοῖς ἀντικικοῖς; ἔγραψα λόγον Φορμίων τῷ τραπεζίντη χρήματα λαβὼν τὸν ἐξήνεγκαν Ἀπολλοδόρῳ τῷ περὶ τοῦ σώματος κρίναντι Φορμίωνα. Id. contra Ctesiphontem § 173, περὶ δὲ τὴν καὶ ἡμέραν διάταυ τὰς ἔστιν; ἐκ τρητάρχου λογογράφου ἀνεφάνη, τὰ παράρηξα καταγελάστως προέμενος ἀπίστως δὲ καὶ περὶ ταύτα δύσι μετα καὶ τοὺς λόγους ἐκφέρειν τοῖς ἀντικικοῖς ἀνεπήρησεν εἰπὶ τὸ βῆμα. ² A. Schaefer, u. s., ii 2, p. 178, and Rehdantz there referred to.
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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 Phormion.

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’.

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, ευρήσετε...τούτου ἀντὶ λογογράφου καὶ μισθού τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἔτερον πολλὸν πλούσιωτατον δυτικά 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 ἔτερον πολλὸν 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 Τιμιόθενον τοῦ στρατηγοῦ λόγον, ψ χρησάμενος Ἀπολλόδωρος εἰλε τὸν ἀνδρα τοῦ ἄφληματος, Δημοσθένης γράφαρ τῷ Ἀπολλόδωρῳ, καθάπερ καὶ τούς πρὸς Φορμίωνα καὶ Στέφανον, ἐφ’ οἷς εἰκότως ἡδόξησε. καὶ γὰρ ὁ Φορμίων ἤγγιξετο λόγῳ Δημοσθένεως πρὸς τῶν Ἀπολλόδωρων, ἀτεχνῶς καθάπερ ἐξ ἐνὸς μαχαίρωσωλίου τὰ κατ’ ἀλλήλων ἐγχειρίδια πολλὸντος αὐτοῦ τοῖς ἀντιδίκοις. (Cf. chap. 4, Δημοσθένης ὁ παθὴ... ἐπεκελεῖτο μαχαίρωσωλίου.) Combr. Dem. et Cic. c. 3, χρηματίσασθαι ἀπὸ τοῦ λόγου Δημοσθένης ἐπιψύχως λέγεται, λογογραφὸν κρίφα τοῖς περὶ Φορμίωνα καὶ Ἀπολλόδωρον ἀντιδίκουs.

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conjecture that Callimachus, who, as head of the Alexandrine library, undertook the prodigious task of settling the canon of the Attic Orators, 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 writers, may have originated in a misunderstanding of the language of his enemy's accusation. The phraseology used by one of them in particular (Zosimus 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,—χαρακτήρες τῶν ἐπηγνώρων. 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 τοῦτον δὴ οὗτος ὅτι καὶ οἱ περὶ τῆς οἰκίας (ὡς οὖν coniectet A. Schaefer) 'Ἀπολλοδόρον λόγοι οὐκ Ἀπολλοδόρων 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 Ἀπολλοδόρος 'ἐγὼ γὰρ—οὐκ οἶδα,' though he professes in c. 1 to confine himself to ὅσα παρὰ Δημοσθένει κατενώθηκαν. In c. 31 he begins an extract from Or. 36 § 52 with the words, ἐν τῷ ἐνεργομένῳ τῶν Ἀπολλοδῶρων. Weil, les Hanaques de Dém. p. xi, demurs to any weight being assigned to the quotation from Tiberius.


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 tradition.

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 Demosthenes.

We find, then, a feebleness of expression shewing itself in repetitions of the same word within short intervals from one another; this clumsiness is most noticeable in the case of the pronouns οὖσ and αὐτός. Again, clause after clause begins with the same relative pronoun, or the same hypothetical particle. 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


2 A. Schaefer Dem. u. s. Zeit, ΠΠ 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, γεγονομένου... γεγονοτα...εγγεγοντο, ib. § 63, συνέβαμεν... βαίνων. — Or. 46 § 28, διαθηρόν...διαθηρών...διατηρήμενο... διατηρεται. Simi-

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

4 Or. 45 § 61, τοῦτο...τοῦτο...τοῦτο...τοῦτο, § 86, ἑαυτόν... τοῦτο...ἐαυτὸν...παυθ...τοῦτον, and similarly § 34, § 83.—Or. 46 § 21, οὖτος...αὐτόν...αὐτόν τοῦτο...αὐτά...ταυτ', and § 6. But cf. Or. 36 §§ 12, 20 and 42.

5 Or. 45 § 49 οὐ...οὐς § 81, εἰ...εἰ...εἴρα...εἰ. Or. 46 § 23, εἶπε...εἶπε...εἴρε...εἴ...ἐι...εἴβο...εἴπερ... τοίνυν though common in the genuine orations occurs 14 times at least in the 29 sections of Or. 46. 'Non negaret potest vividioribus transgressiendi figurae, 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 Stephanus. Even this speech supplies instances of un rhythmical construction, 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 oration.

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 Polycles 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 cleverness; and in that against Neaera he is called upon to address the court on behalf of a younger and less experienced speaker. Apollodorus obviously laid himself out

1 Benseler de hiatus 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 — προσέλθειν πρῶτον, but the objection is perhaps hypercritical. For anacoluthon, cf. Or. 45 § 3; for had writing, Or. 46 § 17.
3 Or. 45 § 83, Or. 46 § 13 (Lortzing p. 88, 89).
4 § 17 οὐδὲ ἔδοκον ἐμὲ οὐτω δεινὸν ἔσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.
5 Or. 59 § 14, νῦν ὑντα καὶ ἀπείρως ἔχοντα τοῦ λέγειν, while Apollodorus πρεσβύτερος ἐστι... καὶ ἐμπειροτέρως ἐχει 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-assertion\(^1\), and elsewhere we even find him apolo-
gising for his loudness of voice (as well as his hurried gait
and ill-favoured countenance), as his misfortune and not his
fault\(^2\).

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, Polyclees, 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 improve-
ment in the speaker's rhetorical ability brought about by time
and experience\(^3\), 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 ἀναιδεία.

2 Or. 45 § 77. A. Schaefer understands the passage differen-
tly; after referring to the loudness of voice attributed to
Apoll. in Or. 36, he continues:
"Wenn dagegen Apollodor er-
dklärt: Ich rechne mich selber, was Gesichtsbildung, raschen
Gang und laute Rede betrifft, nicht unter die von der Natur
glicklich begabten..., so will er
damit nur ein selbstgefalliges
prunken und stolzieren von
sich ablehnen, ohne andeuten
tzu wollen, er sei missgestalt-
triges Schrittes und schwach-
stimmmig." 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 com-
munication 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, 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 writings. In one passage indeed (§ 77) we have a close parallel with the Pantaenetus (§ 55), 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 Pasicles, who, though a brother of Apollodorus, took the side of his opponent Phormion, and a conjecture has

1 § 14, εμπειροτέρως ἔχει τῶν νόμων, and § 15 ὑπέρ τῶν θεών καὶ τῶν νόμων καὶ τοῦ δικαίου καὶ ὑμῶν αὐτῶν, compared with Or. 46 § 29 ὑπέρ τῶν αὐτῶν καὶ ἐμοὶ καὶ τοῦ δικαίου καὶ τῶν νόμων.

2 § 14 παραξυνόμος, § 19 παραπλήτασμα, § 70 δόκητος (in sense 'houseless'), § 85 ἐπίχαρτος, § 63 and § 65 ὑποσίπτευν τω (also in Or. 59 Neer. § 43).

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

been half hazarded that it was for Apollodorus that those speeches were composed; 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 expression.

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 ἀνέκδοτοι ένδον καταγγέλσκεις and p. 27, 22, ἀγαμον ένδον καταγγέλσκεις.
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. 350\(^1\). It was a year in which the efforts of Athens to recover Euboea 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 Apollodorus\(^2\). In this impeach-

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\(^1\) The *archon eponymus* of that year [Ol. 107, 3] was one Apollodorus, probably not the son of Pasion.

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 pronounced by the latter in the Olynthiac orations, and, when it was too late, carried to a successful issue twelve years afterwards in the autumn of 333, 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 letter, supporting this hypothesis and also shewing that the style of the first speech against Stephanus, apart from its general resemblance to that of Demosthenes, 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 word. 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

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 Demos-
thenic authorship of the first speech (though the value of that
testimony is impaired by his attributing the second speech 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
hypothesis.

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 genuine-
ness of the first speech against
Stephanus 'could hardly have
been doubted but for the desire
to vindicate the orator's moral-
ity....The morality of Demos-
thenes' conduct may in this
case perhaps be dubious, but it
is not so palpably bad as has
been supposed....But...he at-
tacks 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 pre-
cisely here rather than in the
change of sides that we feel the
real discredit lies' (S. H. Butch-
er, 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 ἀπογραφὴ, 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.

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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 (απογραφαι): 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 απογραφη is represented as the prosecutor; in the present case, although the promoter of the απογραφη 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 defence. Owing to the general character of its contents, it is usually classed among the

1 Caillemier, s.v. Apographè, in Daretberg and Saglio's Dict.
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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 (ψευδοκλητεία 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 Arethusa
tius 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 Arethusa
ius escaped the penalty of death\(^1\), and had inflicted on him a fine of one talent, for the payment of which his brothers became jointly responsible. Arethusa 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 Arethusa, 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 \(\psi\varepsilon\iota\delta\sigma\kappa\alpha\lambda\gamma\tau\varepsilon\iota\alpha\), but this seems scarcely probable.
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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 before. Again, we find needless repetitions within the limits of a single sentence; further, we have a certain clumsiness in the repetition of pronouns such as οὗτος and αὐτός; we observe a disproportionate number of harsh constructions, 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 Apollodorus. 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 Demosthenes; and, lastly, there is a

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1 e.g. not content with Ἀρε- θούσιοι, οὕτε ἐγέρσατο εἶναι in § 2, the writer in § 10 has the words, 'Ἀρεθούσιος οὗ τάν- δράποδ' ἐστι ταύτα ἀ νύν ἀνα- γέρσαται, again in § 14 'Ἀρε- θούσιος οὕπερ ἐστὶ τάνδράποδα ταύτα, and similarly in § 19. The words in § 7 οἴς εἰσίν μοι βοηθήσαι αὐτῷ ὦσπερ καὶ ἐν τῷ ἐμπροσθὲν χρόνῳ ἦν περὶ αὐτὸν ἀλήθινος φίλος, are partially repeated in § 8 and § 12. Again in § 24, τὰς βασάνους is unnecessarily followed by the closer definition, ὅτι εἶπον οἵ ἀνθρωποι. (Cf. A. Schaefer, u. s., p. 187—190; Lortzing, Apoll. p. 30 etc.; and sec especially Blass, Att.

2 e.g. § 4, οἴκειος διεκελεθή... οἰκείως διεκείμενος.

3 § 6 ad init. αὐτόν...τούτων... αὐτῷ...αὐτός. Also, ad fin. τούτων...τούτων...αὐτός...τούτων τούτων...αὐτῷ...αὐτῶν. Cf. §§ 4 and 8.

4 See §§ 11, 12, 24, 29.

5 § 15, ἐβάδιζον ἐτὶ τὸν κλη- τήρα τὸν ὀμολογοῦντα κεκλητευ- κέναι...τῆς ψευδοκλητείας com- pared with Or. 49 § 56, μή... ἐτὶ τόνδε κακοτεχνών ἔλθομε; and esp. Or. 52 § 32, ἐτὶ τὸν Κηφισιάδην βαδίζειν τῶν ὀμολο- γοῦντα κεκομισθάναι καὶ ἔχειν τὸ αργύρον.

6 Or. 59 (κατὰ Νεαρᾶς) 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, Harpocration⁴, 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

(ἄπτιον ὄντα καὶ πολλαχή τῆς τοῦ ρήτορος δυνάμεως ἐνδεέστερον Ἀργ.). 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 ἀ μὲν ἡδικητάς, ὡς ἀνδρὸς Ἀθηναῖοι, ὑπὸ Στεφάνου... ὡς δ᾽ ἐστὶ...τόσο ὑμῖν βούλομαι σαφῶς ἐπιδείξα, compared with

Or. 53 (Nicostr.) § 19 ἀ μὲν τολμῦν ἀδικοῦμενος, ὡς ἀνδρὸς δι-κασταλ, ὑπ’ αὐτῶν...ὡς δ᾽ ἐστὶν... ἐπιδείξει ὑμῖν (noticed by Reh-

⁴ Or. 59 § 14. Also the tedious references to the plea of revenge, Or. 59 § 1 ὡς’ ὁ γύρος ὑπάρχων ἄλλα τιμωροῦμενος κ.τ.λ. and cf. § 18 ἐκ μικρῶν παιδίων with Or. 53 § 19, ἐκ μικρῶν παιδαρίου, while παιδαρίου μικρῶν, though common enough in itself, also happens to occur in Or. 59 § 50.

¹ ἐν γρήγορος κ.τ.λ. ἄνογγοι, 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. 368. 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 ff., 10; Sigg, Apoll. p. 403 f. (Blass, Att. Ber. ii 460).

Droysen (Zeitschrift fü r d. Alterthumswissenschaft 1889 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 Pansanias (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 lxxx 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 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. 369. Thus if we allow a fair interval of time for the events mentioned in the speech subsequent to the triarchy, 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 ἕπειδὴ ἐτελεύτησεν ὁ πατήρ...χρόνου δὲ προβαίνοντος. But it is fair to remark that the subsequent expression ‘wherever 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.
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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 commentary\(^1\). 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.
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ΚΑΤΑ ΚΟΝΩΝΟΣ 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 (αικιας 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
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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 placed. 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 βαιῶν πρὸς τοὺς τετταράκοντα, αἱ δὲ τῆς ὑβρεως (δικαί) πρὸς τοὺς θεσμοθέτας. See esp. Caillemer in Dict. des Antiquités (Daremberg et Saglio) s.v. Aikias dikè; or Meier and Schömann, Att. Process p. 80.
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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
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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. 343; 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 direction. 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. 313) § 326, περὶ τῆς πρὸς Παιακτῶς χώρας μεθ’ ὄπλων ἐξερχόμεθα, οὗ ἐστὶν υἱὸς Φωκείς σέ βοηθείᾳ εἰς τὸν Ἑλλάδας, the Scholiast remarks φρούρια δὲ λέγει μεταξὺ τῆς Ἀττικῆς καὶ Βοιωτίας. πολέμου γὰρ τότε πρὸς Θεβαίων ὄντος διὰ τὴν Εὔβοιαν ἀναγκαίον ἦν τὰς ἐν τῇ Βοιωτίᾳ αἰεβολάς παρὰ τῶν Ἀθηναίων φυλάττεσθαι.

2 A. Schaefer, Dem. u. s. Zeit, III 2, p. 251, who notices that on Dem. Mid. § 193, ὅσοι τὰ φρούρια ἦσαν ἔρημα λελουπότες
ancient and modern critics alike. It is one of the few private orations whose genuineness has never been doubted. 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 orations². 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. ii 399.
2 Eusebius, Praepar. Evang. quoting from Porphyry (περὶ τοῦ κλέπτας εἶναι τοῦ Ἑλλήνας). x 3 p. 775 Migne, Δείραρχος ἐν τῷ πρῶτῳ κατὰ Κλεομέδωτα αἰκίας πολλὰ μετενήφωχεν αὐτοῖς ὁνόμασιν ἐκ τοῦ Δημοσθένους Μετὰ (sic) Κώνωνος αἰκίας.
3 e.g. Hermogenes quoted on §§ 1, 4.
4 Dionysius, de admir. vi discendi Dem. 13, ταῦτα οὐ καθάρα καὶ ἄκριβὴ καὶ σαφὴ καὶ διὰ τῶν κυρίων καὶ κοινῶν ὁνομάτων κατεσκευασμένα, ὅπερ τά Δυσίον:... τι δ’ οὐχὶ σύντομα καὶ στρογγύλα καὶ ἀληθείας μεστὰ καὶ τὴν ἀφέλη καὶ ἀκατάσκευα ἐπιφαίνοντα φύσιν, καθάπερ ἐκεῖνα:...οὐχὶ δὲ καὶ πιθανὰ καὶ ἐν ἵδει λεγομένα τινι καὶ τὸ πρεπὸν τοὺς ὑποκείμενοι προσώποις τε καὶ πράγματι φυλάττοντα: ήδονῆς δ’ ἅρα καὶ πειθοῦς καὶ χαρίτων, καὶ ὑπὸ τε καὶ τῶν ἀλλων ἀπάντων, τοῖς Δυσίων ἐπιθυμοῦν, ἅρα 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’égaler 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 mouvements oratoires dont l’élancement et la variété nous avertissent que l’élocution 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.

The whole story is told and commented on with exquisite grace. The tone is that of a middle-aged \(^1\) 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 exists.\(^2\)

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 Greeks.\(^3\) 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 pleasant-ries practised by students at the University of Athens at the expense of the 'freshmen' (*οἱ νεόλατροὶ*), 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 \(υπὲρ τὴν ἡλικίαν\) (and the context).


\(^3\) 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 after.

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 security; 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 λιν ψαθερόν καὶ ἄνήμερον τοῖς δὲ προείδοσι καὶ μάλα ἥδυ καὶ φελάνθρωπον. 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' Εὔθρου καὶ Μηνασσαύλου, 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.
PROS KALAIKLEA PERI XWRIOU.  

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

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1 περὶ χώριον βλάβης is the title given by Harpocration, in one of his articles (s.v. χλήδος 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 Hyperides\(^1\), but the genuineness of the speech before us can hardly be seriously contested\(^2\), though it has been suggested that it was written by Demosthenes in his younger days\(^3\). 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!’

\(^1\) \(\pi\epsilon\iota\ \dot{o}x\epsilon\tau\omicron\omicron\upsilon\) and \(\pi\epsilon\iota\ \tau\omicron\nu\ \dot{o}r\iota\omicron\nu\ \ p.\ 88\ (ed.\ Blass)\) fragm. 131 \(\delta\iota\omicron\nu\ \tau\omicron\nu\ \alpha\nu\omega\mu\alpha\lambda\omicron\nu\ \tau\omicron\nu\ \chi\omega\rho\iota\omicron\nu\ \tau\omicron\nu\ \alpha\nu\theta\iota\rho\iota\omicron\nu\ \alpha\varphi\ai\iota\rho\omicron\omicron\omicron\omicron\omicron\omicron\omicron\nu\ \kappa\alpha\tau\alpha\sigma\kappa\epsilon\nu\eta\omicron\upsilon\).\fragm.\ 158, \(\dot{o}x\epsilon\tau\omicron\omicron\kappa\rho\alpha\nu\alpha\nu\ (=\ \alpha\iota\ \tau\omicron\nu\ \dot{o}x\epsilon\tau\omicron\omicron\nu\ \alpha\rho\chi\alpha\lambda).\)

\(^2\) 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, s.s., iii 2, 256.
Introduction to Or. LV.

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 inconvenience. 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).

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.
2 Cf. M. Caillemer’s article on Aqua in Daremberg et Saglio, Dict. des Antiquités.
priestor, led to a stream of intermittent rain-water gradually forming a channel for itself (μὰλλον ὡδοποιεῖ § 11) through a burial-ground ¹ 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 existed ².

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 ἱδάτων πέρι γεωργοῖς παλαιόι καὶ καλοὶ νόμοι κείμενοι οὐκ ἄξιον παραχεῖτων λόγοις, ἀλλ’ ὁ βουληθεὶς ἐπὶ τὸν αὐτὸν τόπον ἁγεῖν ὑδὸν ἁγέτω μὲν ἁρχόμενος ἐκ τῶν κοινῶν ναμάτων...ἡ δ’ ἂν βουληται ἁγεῖν, πλὴν δ’ οἰκίας, ἡ ἱερῶν τι νῶν ἡ καὶ μνημάτων, ἁγέτω.
² Edmond About, quoted on p. 231.
XXXVI.

ΠΑΡΑΓΡΑΦΗ ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

ΤΠΟΘΕΣΙΣ.

Πασίων ὁ τραπεζίτης τελευτών ἐπὶ δύο παισίν ἐξ Ἀρχίππης, Ἀπολλοδώρῳ καὶ Πασικλέι, Φορμίωνα οἰκέτην ἐαυτοῦ γενόμενον, τετυχηκότα δὲ ἐτὶ πρότερον ἐλευθερίας, ἐπίτροπον τοῦ νεωτέρου τῶν παίδων Πασικλέους κατέλυτε, καὶ τὴν μητέρα αὐτῶν, παλ-5 λακὴν ἐαυτοῦ γενομένην, ἔδωκεν ἐπὶ προικὶ γυναίκα. Ἀπολλόδωρος οὖν νέμεται πρὸς τὸν ἀδελφὸν τὴν πατρίαν οὐσίαν πλῆν τῆς τραπέζης καὶ τοῦ ἀσπιδο-δοτηγείου· ταῦτα γὰρ Φορμίων ἐμμείσθωσε παρὰ Πασίωνος εἰς ὀρισμένον χρόνον τινὰ. καὶ τέως μὲν ἐλάμβανε τὸ ἦμισυ τῆς μισθώσεως ἐκάτερος, ὕστερον δὲ καὶ αὐτὰ νέμονται, καὶ γνησίωτερα τὸ μὲν ἀσπιδο-

1. τελευτῶν ἐπὶ δύο παισίν] 'Dying with (in possession of) two children,' i.e. 'leaving two children behind him at his death'; an idiom not un- frequent in late Greek, e.g. Herodian (fl. A.D. 238) iv 2 § 1, ἐδὸς ἄστι Ῥωμαίους ἐκθειάζειν βασιλέως τοὺς ἐπὶ παισὶ διαδό- χοις τελευτήσαντας. Or. 27 Arg. 5. παλλακίων] 'Quo iure Libanius Archippam, quae et in testimonio Pasionis (Or. 45 § 28) et alibi (36 §§ 30, 31; 46 § 13) uxor (γυνῆ) eius dicitur, hoc loco παλλακίων vocaverit, non appareat' (Huettnner).

6. ἐπὶ προικί] For the construction cf. Or. 28, Aphob. B, § 16, τοῦτῳ τὴν ἐμὴν μητέρα ἐγγόνων ἐπὶ ταῖς ὀγδόηκοντα μναῖς, ib. § 19; 41 § 6. The marriage portion of Archippae amounted to five talents, as we learn from the First Speech against Stephanus, Or. 45 § 74, cf. ib. § 28, ἡκοθ- σατε τὸ πλῆθος τῆς προικᾶς, τάλαντον ἐκ Πεταρῆδου, τάλαντον αὐτόδεν, συνοικίαν ἐκατὸν μνῶν, θεραινας καὶ χρυσία κ.τ.λ.

12. αὐτὰ] They share between them the properties themselves, viz. when Phormion's lease of them had expired.
21. εἰληχε] In Grammarian's Greek, this stands either for λαχάνης or έλαχης. So ηπόμουε is used in the Argument to Or. 31, line 31, and so ηπολήκεν below. 

δίκην 'άφορμήν] 'A suit referring to capital,' 'a suit for the recovery of banking stock.' §12 ἐγκαλαύην 'άφορμήν.

22. οἱ Ἀττικοὶ Harpocration s.v. ἐπιψηφίζειν: παρά τοῖς Ἀττικοῖς: s.v. πρωτανεία: παρά τοῖς ἄλλοις Ἀττικοῖς (after naming Isocrates).

23. ἔνθηκην] Harpocration s.v. 'άφορμήν ὅταν τις ἀργύρων δῷ ἐνθήκην, 'άφορμή καλεῖται ἰδίως παρὰ τοῖς Ἀττικοῖς. And similarly Hesychius, and Phrynichus, ed. Rutherford p. 304. For this late Greek equivalent to 'άφορμή references are given in Sophocles' Lex. of Rom. and Byzantine Greek to Phrynichus 223 (fl. A.D. 180) and Basilius 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 statute enacting that, on matters on which a release and quittance has once been granted, no subsequent litigation shall be lawful.' See note on § 25 'άφεις καὶ ἀπαλλάξας. Pollux: παραγραψάμενοι ὅταν τις μὴ εἰσαγόγμενοι λέγει εἶναι τὴν δίκην, ἢ ὡς κεκρμένοι, ἢ διαίτης γεγενημένης, ἢ ὡς 'ἄφεις μένοι, ἢ ὡς τῶν χρόνων ἐξηκτόνων (§ 26) ἐνάπε δὲ 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.)

παρεξήμονος] 'adducing,' = προεσχάμονος. A use of the participle analogous to παρέχειν μάρτυρας (Or. 27 § 8), said of one who is pleading his own cause, and so, inf. § 34, and often elsewhere. P.]

25. ἀπτεται τῆς εὐθείας] Sc. δίκης. 'Touces on, handles, grapples with, the general issue,' εὐθύκεια being the direct course
of an action argued on the merits of the case, as opposed to παραγραφή. Or. 34 ὑπότ. 1. 32, and ib. § 4, εὐθυδικίαν εἰσίωντα. Or. 45 § 6 (where Apollodorus is speaking of the defendant in the present case) προλαβών μονὸν ὡστε πρότερον λέγειν διὰ τὸ παραγραφήν εἶναι καὶ μη εὐθυδικία (ἃριστο- ἀν) εἰσίναι.

27. τούτῳ 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.) δεικνύον ὡς θαρρεῖ μὲν τῇ εὐθείᾳ, ἐκ περισυπάς δὲ αὐτῷ καὶ παραγραφὴν ὅ 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 ἐωσθῆς, and § 30, ἦσον αὐτὸν ὑπελήφατε, ὅτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ εἰκασταφρόνητον εἶναι, ἐστί δὲ βάρβαρος ὡστε τὰ μικέν ὡς αὐτῷ προσήκε τιμᾶν, τῷ δὲ κακοφρόνησαι καὶ διορύξαι πράγματα οὐδενός λειτεται. In § 77, Apollodorus himself apologizes for his broad brogue or loud voice (καλεῖν μέγα); the speaker of πρὸς Πανταίνετον makes similar excuses for his διάλεκτον (Or. 37 §§ 52, 55); and a like tribute to the sensitiveness of an Attic audience is paid by the Mytilenean in Antiphon's de Caede Herodis (Or. ν § 5) δείχνων υἱοῖς ...

...έαν τι τῇ γλώσσῃ ἀμάρτω, συγγνώμην ἢξειν μοι καὶ ἡγεῖσαι ἀπειρία αὐτῷ μᾶλλον ἡ ἁδικλὰ ἡμαρτήσαι. Cf. Cicero Or. §§ 24—27. ἀδικνότως ἢξει] 'Is quite in-
XXXVI. ΠΑΡΑΓΡΑΦΗ

Bekker

§§ 1—3

By referring mainly to his inexperience and want of facility in speaking, Thus in Antiphon u. s. v § 2 ή τοῦ λέγενος ἀδόαμλος is contrasted with ἡ ἐπιστεία τῶν πραγμάτων. It is suggested by Blass, Att. Ber. iii 405, that ἀδόαμλος refers to feebleness of health, but this appears improbable.

ὅπατε] In a general sense, 'you all of yourselves observe.' Or. 3 Olynth. § 1 τοῖς λόγοις... ὤργ γενόμενον.

τοῖς ἐπιστηδείοις] as his συνήγοροι. Hyperid. Euxen. 26 τι τοῦτον τῶν ἐν τῇ πόλει βελτιών ἡ δημοτικότερον ἐστί... ἡ ὅποταν τις ἰδιώτης εἰς ἀγώνα καὶ κίνδυνον καταστάς μὴ δύνηται ύπερ ἑαυτοῦ ἀπολογείσθαι, τοῦτον τοὺς βουλόμενον τῶν πολιτῶν αναβάντα βοηθήσα αὐτῷ.

Λέγεναι καὶ διδάσκειν Dem. is particularly fond of coupling together words that are nearly synonymous with one another, e.g. in the next line, εἴδότες καὶ μεμαθηκότες, and in the next, δίκαια καὶ εὐθορκα. § 4 ἀκούσαι καὶ μαθεῖν, § 12 λέγεναι καὶ ἐπιδιώκωναι, § 18 πεπραγμένα καὶ γεγενημένα, § 29 ὅτι καὶ ἵστη, § 32 δόντω καὶ ἐπισκέψαντως, § 47 κοιμεῖν καὶ περιστέλλειν, § 61 φυλάττετε καὶ μέμνησθε. Also § 16 αἰτίας καὶ ἐγκλήματα (cf. § 61), § 2 ἱσχύρα καὶ βέβαια.

Similarly in Or. 20 § 163 λέγειν καὶ διεξέναι, 21 § 17 εἰπεν καὶ διαγράφατα (Huettnen). This characteristic of his style is noticed by Dionysius Hal. peri τῆς Δημ. δεσμότητας 58, and is illustrated by Blass, Att. Ber. iii 94.

ἀ ἄν ἡ δίκαια κ.τ.λ.] The relative clause to ταῦτα ψηφισθησάτα is placed before it partly for increased emphasis, partly to bring δίκαια closer to τά δίκαια in the previous context.

2. ἐκκρούοντες χρόνον εἰμποιώμεν] 'With the evasive object of wasting time,' or (with Kennedy) 'for the sake of evasion and delay.' The phrase χρόνον εἰμποιεῖν occurs in Or. 9 § 71, 23 § 93. Cf. Or. 47 § 63, διεκριθα σείματοι......τεχναῖς τοῦ χρόνου ἐγγενετὰ. For εἰμποιώντες, cf. Or. 54 § 30; 40 § 45 τὴν δίκην ὄτι πλείστον χρόνον εἰκρούειν, ib. 43; and for the general sense, Thuc. iii 38, χρόνου διατηρήσα εἰμποίον κατὰ Ἱππ. Δ, § 4, p. 1102, χρόνον γεγομένου καὶ τῆς γραφῆς εἰκρούομενης. Liddell and Scott (ed. 6) give a phrase εἰκρούειν χρόνον, 'to waste time,' and, to prove it, inadvertently refer to the last passage and to the words of the text, where χρόνον clearly comes after εἰμποιώμεν (corrected in ed. 7, 1883).
The page contains a complex set of Greek and Latin textual snippets, with references and comments on legal and historical matters. Here's a structured breakdown of the text:

1. **Introductory Note**
   - Reiske
   - Page 945: ΤΠΕΡ ΦΟΡΜΙΩΝΟΣ.
   - The page discusses the legal and historical context of certain cases and instances.

2. **Legal Text**
   - Greek text: άδικονθ’ έαντόν υότοςι, απαλλαγή της αυτῷ γένηται παρ’ ύμιν κυρία. Οσα γὰρ παρὰ τοὺς ἄλλους ἐστὶν ἀνθρώπους ἵσχυρα καὶ βέβαια ἰδεῖν τοῦ παρ’ ύμιν ἀγωνί.
   - Latin text: 29. Τοῦτοι δ’, ὅσων κύριος τῶν τούτων κατελείφθη, διαλύσασα καὶ παραδόνδικα, καὶ πάντων ἀφεθεῖς μετα ταῦτα τῶν ἐγκλημάτων, ὤμως, ὥς ὅρατε, ἔπειδη φέρει τοῦτον οὐχ οἶδος τ’ ἐστὶ, δίκην ταλαντών εἰκοσὶ λαχών αὐτῷ ταύτην συκοφαντεί. ἐξ’ ἀρχῆς οὖν ἀπαντά τά

3. **Historical and Comparative Notes**
   - The page references works by Isaeus, Isocrates, Apollodorus, and Panaetius, among others.
   - Latin text: For διαλύειν τι, cf. 20 § 12 κοινῇ διάλυσα τά χρήματα, 23 § 2; 29 § 7; 41 § 8. For another construction διαλύειν τινά, cf. § 50.
   - Greek text: 3. τούτον, ἀφεθεὶς — ἐγκλημάτων] Or. 45 §§ 5, 40; Lys. 3 § 25 ἐφεδρέων τῶν ἐγκλημάτων, Isaeus 5 § 1 ἀφήκαμεν ἀλλήλους τῶν ἐγκλημάτων.

4. **Further Discussion**
   - The text discusses the implications of the legal decisions and the context in which they were made.
   - Greek text: έπειδὴ φέρει τοῦτον οὐχ οἶδος τ’ ἐστὶν ἰδέας Ὀ. ἦσσαν καὶ δικαίως, ὡς ἔχειν τοῦτον ἠμαρτήσεις καὶ ἀποτελεῖται ἀπὸ τὴν ἕρμην ἀφορμήν, δίκην ἡγακάσθην λαχέων. For φέρειν cf. 21 § 197 ὅν, ὅπως οὐκ ἐδίων οὐκ ἐδίων τε ἔχειν φέρειν. — For δίκην λαχών, cf. Or. 51 § 1, ἐπειδὴ δίκην ν. συκοφαντεί] Cf. Or. 55 § 1 n.

5. **Conclusion**
   - The text concludes with an emphasis on the importance of due process and legal rights.

The page is rich in historical and legal context, providing a detailed analysis of legal procedures and their consequences.
πραγμέντα τούτῳ πρὸς Πασίωνα καὶ Απολλόδωρον ὃς ἀν δύνομαι διὰ βραχυτάτων εἰπεῖν πειράσομαι, ἦν ὥν εὐ οἶδ᾽ ὅτι ἥ τε τοῦτον συκοφαντία φανερὰ γενήσεται, καὶ ὃς οὐκ εἰσαγόγυμον ἢ δίκη γνώσεσθε ἀμα ταῦτ᾽ ἀκούσαντες.

4 Πρώτων μὲν οὖν ὑμῖν ἀναγνώσατε τὰς συνθῆκας,
καθ’ ἀς ἐμίσθωσε Πασίων τὴν τράπεζαν τούτῳ καὶ
tὸ ἀσπιδοπηγεῖον. καὶ μοι λαβὲ τὰς συνδήκας καὶ
tὴν πρόκλησιν καὶ τὰς μαρτυρίας ταυταί.

ΣΥΝΘΕΚΑΙ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΤΡΙΑΙ.

Ἀι μὲν οὖν συνθήκαι, καθ’ ἀς ἐμίσθωσεν ὁ Πασίων
tούτῳ τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον ἤδη καθ’
ἐαυτὸν ὄντι, αὐταὶ εἰσιν, ὥ ἄνδρες 'Ἀθηναίωι' δεῖ δ’
ὑμᾶς ἀκούσαι καὶ μαθεῖν ἐκ τίνος τρόπου προσώφειλε
τὰ ἐνδέκα τάλαντα ὁ Πασίων ἐπὶ τὴν τράπεζαν. οὐ 5
γὰρ δι’ ἀπορίαν ταῦτ’ ὥφειλεν, ἄλλα διὰ φιλεργίαν. ἦ

ἐναυτοῦ ἐκάστου...προσγέγραπται
dὲ τελευταίοι 'ὁφειλεὶ δὲ Πασίων ἐνδέκα τάλαντα εἰς 
tὰς παρακατὰ-
θήκας.'

ἀσπιδοπηγεῖον] Or. 45 § 85, ὁ ἐμὸς ὑμῖν πατὴρ (Pasion)
χιλιᾶς ἐδωκεν ἀς πίδας.

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, προ-
καλοῦνται, n. and infr. § 7 n.

ἡδὴ καθ’ ἐαυτῶν ὄντι] ‘Doing
business on his own account, as
his own master,’ no longer sub-
ject, as a slave, to the control of
another, though still a μέτοκοι.
This rendering is supported by
C. R. Kennedy and M. Da-
reste. Similarly in Reiske’s in-
dex: ‘when he had left his
master’s service, and gone into
business for himself, in his own
name, at his own risk.’ καθ’
ἐαυτῶν is often used of being
‘by oneself,’ separate from
others; 21 § 140 καθ’ ἐαυτῶν
ἐχόντες, 10 § 52 γεγόνασι καθ’
αὐτοὺς ἐκαστοί.

προσώφειλε κ.τ.λ.] The de-
fendant has to explain how it
comes to pass that Pasion is
entered in the articles of agree-
ment 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 bank-
king business had not yet ac-
quired the rights of citizens-
ship, 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
ὁφειλε where the repetition of
the preposition is not neces-
sary, cf. Cic. Catil. iv 1, per-
ferreman...feram. Cf. Or. 53 § 4.

5. ἄπορίαν...φιλεργίαν] ‘Not
want but thrifty,’ or (with Ken-
nedy) ‘Not on account of po-
verty, but on account of his
industry in business.’ In Or.
45 § 33 Apollodorus insinuates that the debt arose from Phor- 

mion's mismanagement.

έγγειος οὐσία] ‘Property in 

land,’ ‘real property,’ also call-

ed φανερά οὐσία. Παροιμ. άργυρός οὐσία καὶ φανερά: φανερά μὲν ἡ 

ἐν χρήματι καὶ σώματι καὶ 

σκέυεσι, φανερὰ δὲ ἡ ἐγγειος. Λυ-

ςια, fragm. 91, τοῦ νόμου κελευ-

ωντος τοὺς ἐπιτρόπους τοῖς ὀρφα-

νοῖς ἐγγειον τὴν οὐσίαν καθιστάναι (Suidas s. v. ἐγγειον).

ἀργυρόν πρὸς ταύτη] In ad-

dition 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 profes-

sion. P.]

ἐν οὖν τοῖς πεντήκοντα... ἐνδεκα] 

We have just been told that 

Pasion had more than 50 talents 

of his own money (ἀργυρόν ἵδιον) 

lent out at interest, and we now 

find that ἐν τοῖς πεντήκοντα ταλ-

άντων there were 11 talents from 

the bank-deposits, profitably in-

vested. The latter could hardly 

be called ἵδιον ἀργυρόν, unless 

the words are used loosely in 

the general sense of ‘per-

sonal property’ as opposed to 

ἐγγειος οὐσία or ‘real property.’ 

But we should perhaps strike 

out ἵδιον and attribute its in-

sertion to an accidental repe-

tition of πλέον, as ΙΔΙΟΝ and 

ΠΛΕΟΝ are not very unlike one 

another. Blass accepts this, 

pointing out that ἵδιον is also 

open to objection on rhythmical 

grounds. Or again, keeping 

ἵδιον we might alter ἐν ὀὖν into 

ἐπί οὖν ‘in addition to,’ ‘over 

and above’ the 50 talents. He-

raldus proposed σίν οὖν, and 

G. H. Schaefer unsuccessfully 

attempts to show that ἐν may 

mean ‘besides,’ by quoting the 

quasi-adverbial use of ἐπί 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 ήτι. Perhaps ἵδιον 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 

can borrow of me, as a banker, 

privately £500, and I may let 

him have £500 more belonging 

to the bank. On the large pro-

fits 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 (ἵδιον), qui est seul 

créancier des emprunteurs, tout 

en restant débiteur des dépo-

sants.’ Dareste, who agrees with 

A. Schaefer, Dem. u. s. Zeit III 

2, 132.

ἐνεργά] ‘Out on interest,’ 

‘profitably invested,’ as opposed 

to ἀργά ‘lying idle.’ Or. 27 § 7
παρακαταθήκη] Plato defin, p. 415 δώμα μετά πόσων. Claims for the repayment of such banking deposits form the subject of two of the forensic orations of Isocrates, the Trpeziticus and the ἀμάρτυρος πρὸς Εὐδόκων.

6. μήπω 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. Οἰκονομ. π. 4 μετοίκων τῶν ἐπὶ δανεικώτων ἐπὶ κτήμασιν οὐκ οὖσα οὕτως ἐγκτῆσεις, ἐπηφάσαντο τὸ τρίτον μέρος ἐλαφέοντα τοῦ δανειοῦ τῶν βουλόμενον κυρίως ἐχειν τὸ κτήμα (Büchsschütz, Besitz und Erwerb im Griechischen Alterthume, pp. 492—3, K. F. Hermann, Rechtssult, p. 89 ed. Thalheim).

[On the insecurity of lending money on houses or lands, except for citizens, see Boeckh, P. Ε. pp. 140 and 634 Lewis, 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 μήπω οὖσα, 's i nondatum esset,' is very different from οὖσω οὖσα, 'cum nondatum esset.' P.]

ἐπὶ γῆ...ἀλλοκώσις] Cf. ἐγγυον, ἐγγειον, δανεισμα and Or. 34 § 23 ἐγγειον τόκοι. (K. F. Hermann, Privatalterthümer § 49, 9 and Büchsschütz u. s. p. 490.)

συνοικίας] See n. on Or. 53 § 13 τίθηµι τήν συνοικίαν ἐκκαί-δεκα μνών. Houses built in blocks and let out to families were commonly so called. [This is oίκειον μετ' ἀλλων opposed to μονώρρυθμον δόμοι in Aesch. Suppl. 960. The συνοικίαι were chiefly let as lodgings for the μετοίκοι.]

(See C. R. Kennedy, Dem. 1 p. 252.) Boeckh, P. Ε. p. 140. P.]

ἡ τοῖς ἄλλως χρήστας, 'Than the others, to whom Pasion had lent it, debtors to the bank.' Perhaps the word χρήστας is interpolated. P.]

οῖς προειμένος ἦν] In the me-
because he had been put in charge of the bank, and
was, therefore, to give away, to give freely. But it
here means 'to lend' as in Plato Demod., 384. Cf. Or. 56
8, 2, 48, 50.

' Ces onze talents provenant de dépôts constituent
une dette exigible de la part des dépositaires, et par suite un dan-
ger 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 crânier de ses emprunteurs,
mais il devient débiteur, envers la banque, d'une somme égale
de sa créance sur ces derniers.' Dareste.

7. τοῦ ἑπικαθήμενον] 'The
manager, the clerk, of the bank.' Elsewhere Phormion himself is
described by Apoll. as τῶν ἑπι-
καθήμενον ἐπὶ τῆς τραπέζης (Or.
49 § 17) and καθήμενον καὶ διοι-
kοιντα ἐπὶ τῇ τραπέζῃ (Or. 45
§ 33), Isoc. Or. 17 (Trapez.)
§ 12, Pollux iii 84 ἑπικαθήμενος
τραπέζῃ, S. Matt. ix 9 καθήμενον
ἐπὶ (in charge over) τὸ τελῶνον.

ἀρρωστίας] Pasion's failing
health is touched upon in Or.
52 § 13 ἀδυνάτως ῥήσῃ ἐχοντα καὶ
μόγις ἔστε ἀναβαινόντα καὶ τῶν
ὀφθαλμῶν αὐτῶν προδιδόντα and
in Or. 49 § 42 ἐλέγεν ἀρρωστῶν
ὁ τί ὀφελεῖν αὐτῷ ἐκάστων.

μαρτυρίας...παρ' οἷς] = μ. τοῦτων
τῶν μαρτυρῶν παρ' οἷς, 'the de-
positions of the persons to whose
keeping the will has been en-
trusted' (cf. Isaeus 6 § 7; 9 §§ 5,
6, 18). In times when there
were no probate-courts, it is
obvious that the greatest pre-
cautions 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 Apollon-
dorus (ib. §§ 5, 22) denounces
as a forgery (ὑπέποτε γενο-
μένη...κατεσκευασμένη). The al-
leged terms are given ib. § 28,
quoted in part in ὑπόθεσις l. 6 n.
The plural παρ' οἷς is inaccu-
rate, as the will appears to have
been in the custody of a single person only. Probably the only instances we have of a will being in official custody are (1) Isaenus 1 §§ 14, 15, where it is in the hands of one of the ἀστυνόμων, and (2) an inscription from Amorgos (C. I. G. 2264 u), κατὰ τὰς διαθήκας τὰς κειμένας ἐν ἱερῷ τῆς Ἀφορδίτης καὶ παρ᾽ Ἐνυσώμιδῃ τῷ ἄρχοντι καὶ παρὰ τῷ θεσμοθέτῃ Κτησιφῶντι (Meier and Schömann, p. 37, note 31 ed. Lipsius). § 8. πρόκλησις] To establish Passian’s will, Stephanus and two others deposed that they were present when Phormion challenged Apollodoros to open the will, and that the latter refused. In Or. 45 Apollodoros 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 ἐστελευτηκεί] Or. 46 § 15 ἐστελευτηκαί ἐπὶ Δυσινικίτου ἄρχοντος (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 secure a faithful performance of the guardian’s trust by connecting him more closely with the family of his ward (cf. 55 § 31). Diogenes Laertius, i 56, quotes a law, perhaps wrongly ascribed to Solon, τὸν ἐπίτροπον τῇ ὀρ- φανῶν μητρὶ μὴ συνοικεῖν. (K. F. Herrmann, Privat. § 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). τοῦτον] The claimant Apol- lodorus, whom the orator purposely represents as thriftless and unscrupulous at the very first. λογίζομενοι] ‘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 ἔξελώσας alone, and not with τὰ λοιπὰ νέμειν. The partition of the property was sufficiently provided for by the law, ἀπαντας
XXXVI. ΠΑΡΑΓΡΑΦΗ [§§ 8—11]

οδ’ ἀν οὖτος ἐκ κοινῶν τῶν χρημάτων ἀναλώσῃ, τούτων ἡξελόντας ἀντιμορεῖ τὰ λοιπὰ νέμειν, οὔτ’ ὀτιοῦν ἔσται περιών, νεῖμασθαί τὰ οὖντα ὑπὲρ τοῦ παιδὸς 947 ἐγνωσαν. καὶ νέμονται τὴν ἀλήθν οὐσίαν πλὴν ὧν ἐμεμίσθωτο οὖσιν· τούτων δὲ τῆς προσόδου τὴν ἡμι-

tούτων Z et Bekk. st. cum Σ. τούτωσ Reiske, Bekk.
j Bekk. st. et Voemel. ἀντιμορεῖ (sine accentu) Σ, ἀντιμορεῖ (sic) Ff. τὰς ἀντιμοριάς Reiske et Bekk. 1824 cum Δtr.

tοῦς γνησίους ἵσομολοις ἔλαι τῶν πατρῴων (Isaæus 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.

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

ἀντιμορεῖ['] 'Share for share,' cf. § 32 τὰ μητρώα πρὸς μὲ ρος ἰξίους νέμεσθαι. The adverb does not appear to occur elsewhere, and its form is suspiciously like the late Greek words ἀνωνυμεῖ, αὐτολεξεῖ, αὐτοψεῖ, παμπληθεῖ, πανεβεῖ. In earlier Greek almost the only instances found are αὐτοβοεί (Thuc.) and πανδημεῖ (Thuc. Andoc. Lys. Isocr.).

[A more probable reading would be τοῦτοις ἡξελόντας ἀντιμορίας, '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 ἀντιμορεῖ νέμειν seems unnatural, to say nothing of the form of the adverb; and ἡξελόντας seems to require a definite accusative. P.] Blass prefers τοῦτοι (neut. referring to ὅσα) and takes ἀντιμορεῖ with ἡξελόντας.

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 ἀλήθν 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 οὖτος πρὸς τὸν ἀδελφόν, of one of the parties immediately interested.' For νεῖμασθαι used in the middle voice generally (but not always) of the heirs, cf. §§ 11, 32, 38, Or. 39 § 6 τὸ τρέτον νεῖμασθαι μέρος, 47 § 35 νεῖμευμένοις εἰς (τὴν οὖσιν πρὸς τὸν ἀδελφόν), Lysias 16 § 10; 19 § 46; 32 § 4; Isaæus 1 § 16 οἱ τοῦτοι φίλοι...ὁξίους νεῖμασθαί τὴν οὖσιν; 7 §§ 5, 25. The active διένεμεν is applied to the father dividing his property among his sons in Or. 43, Macart. § 49 (followed by νεῖμαμε-νοι, of the sons) and in Lysias 19 § 46.

νεῖμασθαί] The subject is not the 'brothers,' but the 'guardians,' as is clear from the subsequent verbs νέμονται and ἀπεδίδοσαν.
9. ἀπεδίδοσαν] The guardians paid Apollodorus the share due to him, viz. half the rent of the bank and shield-manufactory. ἀποδόσαν is 'to pay a man his due,' as in Isaiaus 5 § 21 ous ἔδει αὐτοῦ ἀποδόσαν τὴν τιμὴν, ἡμᾶς τὴ μέρη ἀποδόσαν, and frag. 29 ἀποδοθοκότας μισθόσεις. Cf. Or. 41 § 9 τὴν τιμὴν: 34 § 13 δάνειον; 15 § 17 χάριν; 16 § 2 εὐνοίαν. See note on 53 § 10.

'χρι 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 Plat. Arist. 10,9 τῆς βραδυτήτος αὐτοῦ ἐνεκαλεῖ. In § 12 we have ἐγκαλοῦν ἄφοριμων.

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 Mündlichkeit nach Attischem Rechte.) ἀφῆκαν τῆς μισθώσεως κ.τ.λ.] Or. 45 § 5 μάρτυρας ὡς ἀφῆκα αὐτὸν τῶν ἐγκλημάτων παρέσχετο φευγδεῖς, καὶ μισθώσεως τινος ἐκενορμημένης καὶ διαθήκης οὐδεπώποτε γενομένης.

[The forms ἀφήκατε and ἀφήκαν and παρέδωκαν §§ 14, 14 are rather unusual. The Attics prefer in the plural the inflexion of the second aorist, ἀφείμεν, ἀφεῖτε, ἀφέσατε. 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 ἀπηγείτε following.—For this sense of προσφέιλειν cf. Ar. Ran. 1134. P.]
11. a'ρεσω] The choice lay with him by virtue of being the elder brother (§ 34).

cαι τον 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.— ιδια αφορμη is private banking-stock, as opposed to deposits, παρακαταθηκαι (cf. § 11).—ταλαντον = 60 minae.

το μεν γαρ—άλλοτρων] '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.

ηδον] 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-
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. τολλά—ἐπιδιεικνύοντα] Or. 20 § 163 τολλά δ' ἀν τις ἔχοι λέγειν ετί καὶ διεξέται.

σημεία...τεκμήριον] Or. 54 § 9. συνοφαντεῖν κ.τ.λ.] Kennedy: 'This claim of the plaintiff's to a sum of banking-stock is false and fraudulent.' — ἐγκαλοῦντ' ἀφορμῆν, the first distinct reference 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.

τοῦτον...τοῦτον... τοῦτον] The first two refer to the defendant, the third to the plaintiff, Apollodorus. The ambiguity arising from the same pronoun being applied to two different persons, would be readily dispelled by the orator's delivery. Cf. § 421.

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

μισθὸν ἐτέροις κ.τ.λ.] i.e. to Xenon and the others in § 13. The argument is: assume the defendant defrauded the plaintiff 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 alleged 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 Apollodorus the subject of the sentence μισθὸν—φανήσεται,
ταύτα τοῦ ἴσου ἀργυρίου οὖν φανήσεται προσμεμισθών κως ἴδιαν ἀφομήν. καίτοι εἰ, ἢν ὁ πατήρ παρέσχειν, ὑπὸ τούδε ἀπεστέρητον, αὐτὸν γὰρ προσήκειν ἑκείνους ἀλλοθεν πορίσαντα δεδωκέναι. ὡς τοίνυν ταύτ' ἀληθῆ λέγω, καὶ ἐμίσθωσεν ὑστερον Ξένων καὶ Εὐφραίω καὶ Εὐφρωνι καὶ Καλλιστράτω, καὶ οὐδὲ τούτως παρεδώκειν ἴδιαν ἀφομήν, ἀλλὰ τὰς παρακαταθήκας καὶ τὴν ἀπὸ τούτων ἐργασίαν αὐτῆς ἐμισθώσαντο, λαβὲ μοι τὴν τούτων μαρτυρίαν, καὶ ὡς τὸ ἀσπιδοτηγείον εἰλετο闲.

ΜΑΡΤΥΡΙΑ.

13. Μεμαρτύρηται μὲν τοίνυν ὑμῖν, ὦ ἀνδρεὶς Αθηναῖοι, ὅτι καὶ τούτως ἐμίσθωσαν καὶ οὐ παρέδωκαν ἴδιαν ἀφομὴν οὐδεμίαν, καὶ ἐλευθέρους ἀφείσαν ὡς

14. Μεμαρτύρηται μὲν τοίνυν ὑμῖν, ὦ ἀνδρεὶς Αθηναῖοι, ὅτι καὶ τούτως ἐμίσθωσαν καὶ οὐ παρέδωκαν ἴδιαν ἀφομὴν οὐδεμίαν, καὶ ἐλευθέρους ἀφείσαν ὡς

Coniect G. H. Schaefer. ἀπεστερεῖτο Σ. ἀποστερεῖτο ΦΦ, ἀπεστερεῖτο Voemel,

καὶ ὡς—εἰλετο delenda esse censuit G. H. Schaefer ab Huettnero 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 Ph ormion’s lease expired; we must therefore conclude that the elder brother acted as agent on behalf of his less experience younger brother.

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

13. τούδε...αὐτῶν] Defendant and plaintiff respectively.—νῦν ‘in that case,’ referring to the hypothesis ei — ἀπεστέρητο.—

αὐτῶν, standing first in the clause, must mean ipsum.

The sense is: ‘Surely, if Apollodorus had been defrauded by Phormion of capital supplied by Pasion, he would himself (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.

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

αὐτῶν] ‘Alone’; explained by ω το παρέδωκαν ἴδιαν ἀφομήν.

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

ἐλευθέρους ἀφείσαν] Or. 29
μεγάλα ευ πεποιθήτες, καὶ οὐκ ἐδικάζοντο οὐτ' ἐκεῖνοι τὸτ' οὔτε τούτῳ. ὅν μὲν τοίνυν χρόνον ἡ μήτηρ ἔζη ἡ πάντα ταῦτ' ἀκριβῶς εἰδύια, οὔτεν ἐγκλημα πώτερ ἐποίησατο πρὸς τουτοῦ Φορμίωνα Ἀπολλό-
949 δώρος· ὃς δ' ἐτελεύτησεν ἐκείνη, τρισχιλίας ἐγκαλέσας ἀργυρίου δραχμῶς πρὸς αἰς ἐδώκεν ἐκείνη δισχιλίαις τοὺς τούτον παιδίοις, καὶ χιτωνίςκον τινὰ καὶ θερά-
πανω, ἐσυκοφάντει. καὶ οὔτ' ἐνταῦθα τούτων οὔτεν 15 ὅν οὐν ἐγκαλεῖ λέγων φανήσεται. ἐπιτρέψας δὲ τῷ τῇς ἑαυτοῦ γυναικὸς πατρὶ καὶ τῷ συγκηδεστῇ τῷ

1 ἀκριβῶς ταῦτ' εἰδύια Ζ et Voemel cum Σ. ἀκριβῶς εἰδύια ταῦτα Φθ. ταῦτ' ἀκριβῶς εἰδύια Bekk.

§§ 25, 31 τῶν Μιλάνων ἐλεύθερον εἶναι ἄφεθέντα, 47 § 55 ἀφειμένη ἐλεύθερα...ἀφεῖθη ἐλεύθερα, § 72 ἄφειτο...ἐλεύθερα. Χενών, Ευ-

phraen 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 ευ πεπο-

θήτες). 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 Apollon 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 Apol-

lodorus 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 Phormion's children 2000 drachmas, but Apollodorus claims more than that sum also as his own. His avaricious and mean char-

acter is shown by his claim to a χιτωνίςκον, 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. Π.]

χιτωνίςκον] Or. 21 § 216 ὀδομάτιον προέστη καὶ μικρὸν γυμνὸν ἐν τῷ χιτωνίςκῳ γενέσ-

θαι.

15. ἐπιτρέψας κ.τ.λ.] The plaintiff submitted the claims to the arbitration of Deinas and Nicias (§ 17), his own father-in-

law and brother-in-law respectively. Pollux: ἔλεγον δὲ ἐπιτρέ-

ψαν διαίταν, καὶ ἡ διαίτα ἐκαλεῖτο ἐπιτροπῆ.
αὐτοῦ]

καὶ Λυσίνω καὶ Ἄνδρομενεὶς, πεισάντων τοῦ
tων Φορμίωνα τουτοῦ δοῦνα δωρεὰν τὰς τρισχιλίας καὶ
tὸ προσῶν καὶ φίλων μᾶλλον ἔχειν τοῦτον ἦ διὰ
tαυτ' ἐχθρὸν αὐτὸν εἶναι, λαβῶν τὸ σύμπαν πεντα-
cικσχιλίας, καὶ πάντων ἀφεῖς τῶν ἐγκηλμάτων τὸ
16 δεύτερον εἰς τὸ ἱερὸν τῆς Ἀθηνᾶς ἐλθὼν, πάλιν, ὡς
ὀρᾶτε, δικάζεται, πάσας αἰτίας συμπλάσας καὶ ἐγκηλ-
ματα ἐκ παντὸς τοῦ χρόνου τοῦ πρὸ τοῦτο (τοῦτο
gάρ ἐστὶ μέγιστον ἀπάντων), ὃ οὐδεπώπτωτ' ἦτιάσατο.
ὅς τοῖνυν ταύτ' ἀληθῆ λέγω, λαβὲ μοι τὴν γνώσιν
tὴν γενομένην ἐν ἀκροτόλει, καὶ τὴν μαρτυρίαν τῶν
παραγενομένων, ὅτ' ἥφιει τῶν ἐγκηλμάτων ἀπάντων
Ἀπολλόδωρος, λαμβάνων τοῦτο τὸ ἀργύριον.

καὶ δοῦναι δωρεὰν] By 'making a
present' of the 3000 drachmae, Φορμίων satisfies Apollodorus
without admitting his legal
claim to the sum. Or. 19 § 170;
42 § 19; Issaeus 2 § 31 διήγησαν
ἰμάς ἀποστῆναι ὅν οὕτος ἀμφι-
σήτησε καὶ δοῦνα δωρεὰν' οὐ
gάρ ἔφασαν εἰναι ἄλλην ἀπαλλά-
γὴν οὐδελαίαν, εἰ μὴ μεταλήγονται
οὕτω τῶν ἑκείνων.

τὸ προσῶν] Not the 2000
drachmae of § 14; for they
were already given by the mo-
ther (ἐδοκεῖν ἑκείνην), but the 'ad-
ditional articles' ἵτιωτίκας καὶ
θεράπαια. [τὸ προσῶν may how-
ever refer to πρὸς αἷς κ.τ.λ. supra.
He got the 3000 and the 2000
also that had been left to Φορ-
mίων'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 Φορ-
mίων has kept back some of Pas-
on's money! But (he argues) the
discharge then given justifies
the παραγεφή now put in. P.
ἀφεῖς...τὸ δεύτερον] The
former release is mentioned in
§ 10 fin. This second release is
solemnly given in the temple of
Ἀθηνᾶς on the Ἀερόπολις. Ἰσορ.
Τραπεζ. § 20, ταυτα συγγρα-
ϕαντε καὶ ἀναγαγόντες εἰς ἀκρό-
τολιν Πύρωνα...διδομεν αὐτῷ
φιλάττειν τὰς συνθῆκας, ib. 17
and Andoe. I § 42.

16. συμπλάσας] 'Having con-
cocted,' 'fabricated,' 'patched
up,' 'put into shape,' Ἀεσχίν.
3 § 77 τῶν δεν συμπλάσας ἐαυτῷ
ἐνυψινιν κατεψῴσατο. The met-
aphor (as in the words feigning
and fiction) is from the mould-
ing of clay in the hands of the
potter. Cf. § 33 πλάσμα.

τὴν γνώσαν] 'The award' of
the arbitrators. Or. 27 § 1,
τοῖς οἰκελοῖς εἰ πετρεπειν and τοῖς
"Akuóete tῆς γυνῶσεως, ὁ ἄνδρες δικασταί, ἵνα 17 ἐγνω Δευνίας, ὡς ἡν θυγατέρα οὕτος ἔχει, καὶ Νικίας ὡς τῆν ἀδελφὴν τῆς τοῦτον γυναικὸς ἔχων. ταῦτα τοῖνυν λαβὼν καὶ ἀφεὶς ἀπάντων τῶν ἐγκλημάτων, ὦστερ ἢ πάντων τεθνεῶτων τοῦτων ἢ τῆς ἀλήθειας ὡς γενησομένης φανερᾶς, δίκην τοσούτων ταλάντων λαχών τολμῆ ἀκιάζεσθαι.

Τά μὲν οὐν πεπραγμένα καὶ γεγενημένα Φορμίων 18 πρὸς Ἀπολλόδωρον ἐξ ἀρχῆς ἀπαντὴ ἀκηκοάτε, ὡς 950 ἄνδρες Ἀθηναίοι. οἴμαι" δ' Ἀπολλόδωρον τοιοῦτον οὐδὲν ἔχοντα δίκαιον εἰπεῖν περὶ ὧν ἐγκαλεῖ, ἀπερ παρὰ τῷ διαίτητη λέγειν ἐτόλμα, ταῦτ' ἐρεῖν, ὡς τὰ

"Σ. οἴμαι Ζ (see Veitch, Gk. Vbs., and Dindf. Praef. p. xiii).

§ 46 (of two arbitrators) συνελθότες ἐν τῷ ἱερῷ, and Or. 54 § 26, τὸν λίθον, n.

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

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

τοσούτων ταλ.] § 3, ταλαντῶν εἴκοσι.

τολμᾶ] 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 before the arbitrator, that his mother destroyed his father's papers at the defendant's instigation. 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 plaintiff 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 μένον ἤκτη. Transition from the ἑκτάρια or προβολεία to the μαρτύρια or 'proofs' (Ar. Rhet. iii 13), from the brief recital of the transactions between plaintiff and defendant (§§ 4—17) to the legal and other arguments.

τῷ διαίτητη] Pollux: πᾶλαι δ' οὖν εἰδα (τ?) δίκη πρὶν ἐπὶ διαίτητας ἐκθέω εἰσήγητο (viii 126). Cf. 54 § 26, ἢ διαίτα n.
γράμματα ἢ μῆτηρ ἡ φάνικε πεισθεῖσα ὑπὸ τοῦτον, καὶ τούτων ἀπολωλότων οὐκ ἔχει τίνα χρή τρόπον ταύτ᾽ εἰς ἐκείνην ἀκριβῶς. περὶ δὴ τούτων καὶ ταύτης τῆς αὐτίας σκέψασθε ἥλικ᾽ ἄν τις ἔχοι τεκμήρια εἰπεῖν ὑπὸ πεφυγέται. πρώτον μὲν γὰρ, ὃ ἀνδρὲς Ἀθηναίοι, τίς ἀν ἐνείματο τὰ πατρῴα μὴ λαβῶν γράμματα εξ ὑμ. ἐμελλέν πρὸς ἀνάκλησιν τῆς καταλειψθέντας ὑσίαν; οὕτε ἐς ἤττον. καίτοι δυνών δέοντα εἰκοσὶ ἐτή ἐστὶν εξ ὑμ. ἐνείμω, καὶ οὖκ ἂν ἔχοις ἐπιδείξαι ὡς ἐνεκάλεσας 20 πότοποι ὑπὲρ τῶν γραμμάτων. δεύτερον δὲ, τίς οὖν ἂν, ἡμικα ὁ Πασικλῆς ἀνύρ γεγονός ἐκομίζετο τὸν λόγον τῆς ἐπιτροπῆς, εἰ ὅποιον τὰ γράμματ᾽ ὄνειν τὴν μητέρα αὐτίκας ἐκεῖθεν ὑπὸ ἀνατρικέναι, τούτῳ ταύτ᾽ ἐδή-

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, ὁ τραπεζίται ἐσώθων ὑπομνήματα γράφεσθαι ὡς τε δίδασκαι 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's 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, πολλὰ ἄναλοκεων, 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. υπὲρ τῶν γραμμάτων] εἰς περὶ τήσις ἀφανίσεως αὐτῶν. 20. ἀνύρ γεγονός] Cf. § 10, δοκιμασθέντος Πασικλῆου. 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, τότερον ἐπιτροπευθῆς ἀπεδέχατ’ ὁ τοῦτον τὸν λόγον παρὰ τῶν ἐπιτρόπων; τούτῳ...τούτῳ] 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
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?'

'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, τρίτον δ', ἕκ ποίων γραμμάτων τὰς δίκας ἐλάχισται; οὔτος γὰρ πολλοῖς τῶν πολιτῶν δίκας λαγχάνων πολλὰ χρήματα εἰσπέπτρακται, γράφοις εἰς τὰ ἐγκλήματα "ἐβλαψε μὲν ὁ δείκτης ὁποδείκουε ἐμοὶ τὸ ἀργύριον, ὁ "κατέλυσεν ὁ πατὴρ ὁφείλοντα αὐτοῦ ἐν τοῖς γράμμαμα "μασιν." καίτοι χρῆσθαι τὰ γράμματα," ἕκ ποίων 21 γραμμάτων τὰς δίκας ἐλάχισται; ἄλλα μὴν ὅτι ταυτ' ἀληθῆ λέγω, τὴν μὲν νομίζω ἀκηκοάτε, ἢν ἐνείματο, καὶ μεμαρτύρηται υἱῶν τῶν ἰδίων ὁμών ἄναγγελεῖται υἱῶν τὰς μαρτυρίας. λαβῆθε τὰς μαρτυρίας μοι.

ΜΑΡΤΥΡΙΑΙ.

951 Οὐκοῦν ἐν ταύταις ταῖς λήξεσιν ὁμολόγηκεν ἀπειληφέναι τὰ τοῦ πατρὸς γράμματα· οὐ γὰρ δὴ συκοφάντων ζ ὑποτελείπειν Ζ et Voemel cum Σ. -ἐλευθείριν Bekk. 

21. ἕκ ποίων γραμμάτων] If there were no papers, then the grounds of your actions were fraudulent, συκοφάντων, inf. In Or. 49, Pasion's papers are expressly cited, e.g. § 43, κελεύοντος ἐνεγκέιν τὰ γράμματα ἀπὸ τῆς τραπέζης καὶ ἀντίγραφα αἰτοῦντος...ἐξενεγκεῖν ἑδωκα ἐγεῖν τὰ γράμματα καὶ ἐγκράφασθαι υἱῶν οὔτος ὁφείλειν, and § 59, τοῖς γράμμασι τοὺς τραπεζητικοῖς.

Λήξεων μαρτυρίαι] 'The depositions in support of' (or ‘verifying’) 'these plaintiffs.' For λήξις, cf. supr. δίκας ἐλάχισται, also Or. 45 § 50, τῇ τοῦ διώκοντος λήξει ἤν ἐγὼ τοὺς ψευδομαρτυρίους εἴληχα, and Or. 33 § 35, ἐγκέκληκε καὶ...τὴν λήξιν πεποίηται.
φαντείν γε, οὔδ' ὅν οὐκ ὠφείλον οὕτω δικάζεσθαι φήσειν ἂν.

22 Νομίζω τοίνυν, ὅ ἀνδρεὶς Ἀθηναῖοι, μεγάλων καὶ πολλῶν ὄντων ἐξ ὑπ' ἑστίν ἰδείν οὐκ ἀδικοῦντα Φορ-

μίωνα τούτων, μέγιστον ἀπάντων εἶναι, ὅτι Πασικλῆς,

ἀδελφὸς ὅν Ἄπολλοδόρων τούτων, οὕτε δίκην εἰληχεῖν

ὅτα ἀλλ' οὐδὲν ὅν οὕτως ἐγκαλεῖ. καὶ τοῦ οὐ δήπο-

τὸν μὲν πάιδα ὑπὸ τοῦ πατρὸς καταλειψθέντα, καὶ οὐ
tῶν ὄντων κύριος ἦν, ἐπίτροπος καταλειμμένος, οὐκ
ἀν ἡδίκει, σὲ δὲ, ὅς ἀνὴρ καταλείψθης τέτταρα καὶ
εἰκοσιν ἐτη γεγονός, καὶ ύπὲρ σαυτοῦ ῥάδιως ἀν τὰ
dίκαια ἐλάμβανες εὐθὺς, εἰ τι ἡδίκοι. οὐκ ἔστι ταῦτα.

ώς τοίνυν ταῦτ' ἄληθὴ λέγω καὶ ὁ Πασικλῆς οὐδὲν

ἐγκαλεῖ, λαβέ μοι τὴν τοῦτον μαρτυρίαν.

§ 22. Argument from the silence of plaintiff's younger

brother. Pasicles, as a minor, had been much more likely 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 τούτων] τούτων need not refer to Apollodoros, but

may be taken with Φορμίωνα, cf. infr. Ἀπολλοδόρου τούτων,

and §§ 15, 18, 26, 28, 47, 57.

οὐτ' ἀλλ' ἐπίτροπος] sc. οὐτε ἀλλο οὐδὲν ἐγκαλεῖ ὅν οὕτως (ἐγκαλεῖ).

τὸν] Construe with καταλειψθέντα, παῖδα being a predicate.

κύριος...ἐπίτροποι] Cf. Or. 38

§ 6, τῶν ἐπίτροποι οὐ μετὰ τῶν ἐκείνου βάπτων τῶν ἴμετέρων
ἐγένοντο κύριοι. κύριος here refers to the property, ἐπίτροπος
to the person of the ward (Schö-

mann on Isaeus i § 10).

σὲ δὲ] sc. ἄν ἡδίκει. Notice the double force of the negative,

οὐ δήπο τούτων οὐκ ἄν ἡδίκει, '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 ἐφι. [Expectabam, ὃ

ἀδέν σὲ μὲν ἄν ἡδίκει, τὸν δὲ παῖδα οὐ. Shilleto, De Fals.

Leg. § 390, not. crit. Π.]

ὁ Πασικλῆς οὐδὲν ἐγκαλεῖ] 'Brings no claim against Phormion,' i.e.

for property of his father's

withheld. Cf. Or. 45 §§ 83, 84,

where Apollodoros meets the objection arising from the si-

lence 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
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 Manufacturing, 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 εἰσαγωγὸμον] Cf. ὑπόθεσις 1. 23, ν. — διαλογισμοῦ, a reckoning up, or producing of accounts as between the two parties, Phormion and Apoll. Cf. § 60.

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

24. ἐκ τῶν νόμων] Contrasted with παρὰ τούς 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.
25. Ακούστε τοῦ νόμου λέγοντος, δὲ ἄνδρες Ἀθηναῖοι, τά τε ἄλλα ὅν μὴ εἶναι δίκας καὶ ὅσα τις ἀφήκεν ἢ ἀπήλλαξεν. εἰκότως: εἰ γὰρ ἐστὶ δίκαιον, ὅν ἄν ἀπαξ γένηται δίκη, μηκέτ' ἐξεῖναι δικάζεσθαι, πολὺ τῶν ἀφεθέντων δικαιότερον μὴ εἶναι δίκας. οὐ μὲν γὰρ ἐν ὑμῖν ἡττηθηκαί τάχ', ἂν εἴποι τοῦτο ὡς ἐξηπατήθητε ὑμεῖς; οὐ δὲ αὐτοῦ φανερῶς καταγγυλοὺς καὶ ἀφείς καὶ ἀπαλλάξας, τίν' ἂν εαυτὸν αὐτίκαν αἰτιάσαμενος τῶν

καὶ ὅσα—μὴ εἶναι δίκας propter ὄριον ἔλεγον omisit Σ, supplement manus multo recentior.

25. άκούστε κ.π.λ.] Ορ. 38, παραγραφή πρὸς Ναυσίμχαον, § 5, άκούστε τοῦ νόμου σαρδῶς λέγοντος ἔκαστα ὅν μὴ εἶναι δίκας, ὅν ἐν ἔστων, ὄριοι τοῖς ἄλλοις κὕρων, περὶ ὅν ἄν τις ἀφ' καὶ ἀπαλλάξῃ, μὴ δικάζεσθαι. Cf. 37 §§ 1, 19; 33 § 3.

ὁν μὴ εἶναι δίκας] Infinit. 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.π.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' ἐξεῖναι δικάζεσθαι] Or. 38 § 16 ἀπαξ περὶ τῶν αὐτῶν πρὸς τὸν αὐτὸν εἶναι τὰς δίκας. 20 Λεπτ. § 147 οἱ νόμοι δ' οὐκ ἔστι διὶ πρὸς τὸν αὐτὸν περὶ τῶν αὐτῶν οὔτε δίκας οὔτ' εὐθύνας οὔτε διαδικασίαν οὔτ' ἄλλο τοιοῦτ' οὐδὲν εἶναι.

ἐξηπατήθητε] Or. 37 § 20 περὶ ὅν ἔγρω τὸ δικαστήριον, εἰτιν εἰπεῖν ὡς ἐξαπατηθηκαί τὸν ἐποίησε... ὁ δ' αὐτὸς ἐπεισάθη καὶ ἀφήκεν, οὐκ ἐν δῆπονθεν εἰπεῖν ὡς αὐτὸν αἰτιάσασθαι ὡς οὐ δικαίως ταύτ' ἐποίησεν.

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

ἀφεῖς καὶ ἀπαλλάξας] It is clear the words do not mean the same thing, for below we have γέγονεν ἀμφότερα καὶ γάρ ἀφήκει καὶ ἀπήλλαξε. Similarly 37 § 1 and 38 § 1 after ἀφεῖς καὶ ἀπαλλάξας we have γεγονόμενον ἀμφότερων, and in 37 § 19 after ὅν ἄν ἀφ' καὶ ἀπαλλάξας τις we have ἀμφότεροι ἔστι πεπραγμένα.

ἀφέναι is very frequently used of the lender, or the landlord, who, on settlement
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 33 §§ 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 τῶν δανειαστῶν ἀπῆλλαξεν, 49 § 17; 53 § 11; 33 § 9 and Isaacs Or. 5 Dicaeog. § 28 ἀπαλλάσσειν τῶν χρηστῶν). Setting 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 ἀφείμεν καὶ ἀπῆλλαξεν ἀλλήλους ωσε μὴ τοῦτω πρὸς ἐμὲ μήτ' ἐμοί πρὸς τούτον πᾶγμε εἶναι μηδέν.

The present passage is the subject of the following article in Harpocration. ἀφείς καὶ ἀπαλλάξας: τὸ μὲν ἀφείς ὅταν ἀπολύσῃ τίς τινα τῶν ἐγκλημάτων ὦν ἐνεκάλει αὐτῷ, τὸ δὲ ἀπαλλάξας, ὅταν πέσῃ τὸν ἑγκαλοῦτα ἀποστήναι καὶ μηκέτι ἑγκαλεῖν (recte). Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ, ἐστὶ δὲ καὶ οὕτως εἰπεῖν, ὅτι ἀφίησι μὲν τις αὐτῶν μόνον ὥσιν ἐγκάλη, ἀπαλλάττει δὲ, ὅταν μὴ δὲ ἄλλον τινα λόγον ὑπολίπηται ἐαυτῷ πρὸς τὸν ἑγκαλοῦμεν. Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ "ὢ" ἀπαλλαγή τις αὐτῷ γένηται παρ' ἕμοιν 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.; 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 ἀφίησαν, ἀπαλλάττεται [passive]; he who ἀπαλλάττει, ἀφίηται [passive]. I cannot conceive anything plainer." But owing to the two-fold use of ἀπαλλάττω, 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 ἀφείμενος and ἀφείς, ἀφίησα 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
einai dikas, osa ths afikev & apyllaazev. & tòde gégonen amfotera: kai gar afike kai apyllaazev. ós d' álthi légo, memartúrtau umín, ó andres 'Athnaiou.

26  Labe dé mi kai tôn tis proseemias nómon.

NOMOS.

'Ô mèn toýnyn nómos, ó andres 'Athnaiou, saphôs óutoi tôn xronon órison' 'Aptolloydoros d' oútosi paraleluthotan étow pléon h ekosi ti thn éauton siko-fantían áxiou peri pléionous umàs poísas thn tòn nómon, kath' ou's ómwmokótes dikáxet. kaitoi pâsi mén tois nómos prosféchent eikós èst' umàs, oux hìksta 27 dé toúto, ó andres 'Athnaiou. dokei xar mi mou kai ó Solon oudevois álloan énka theinai autòn h tôn mì

quit of all claims.'—The distinction drawn in Platner's Process i 146, is that âφeiwei regards the release from an existing obligation mainly from the point of view of the person granting the release, whereas ἀπαλλάσσει 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.)—Harpocr. Δημοσθέ-νης ὑπὲρ Φορμίωνος τῆς τῶν ε' ἐτῶν ἀπό λέγοι προθεσμίαν ὁ ἰάτωρ, ὥσ ἐν τῷ λόγῳ ὑποσημαίνετ. See Or. 38 §§ 17, 27, and cf. Isaeus, 3 § 58, and Plato Leg. p. 954c. (Caillemer, la Prescription à Athènes, 1869, and K. F. Hermann, Privatalt. § 71, 5 and 6 = Rechtsalt. p. 106 Thalheim.)

πλέον ἢ εἰκοσί] 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.


27. dokesi ὁ Solon] A favourite rhetorical device, to remind the dicasts of the solemnity and high authority of the law they administer.
συνομαντείσθαι ύμας. τοῦς μὲν γὰρ ἄδικομένους τὰ 953 πέντε ἐτη ἱκανὸν ἡγήσατ' εἰναι εἰσπράξασθαι· κατὰ δὲ τῶν ψευδομένων τὸν χρόνον ἐνόμισε σαφέστατον ἐλεγχον ἐσεσθαί. καὶ ἀμα ἐπειδὴ ἀδύνατον ἔγγυον ὃν τοὺς τε συμβάλλοντας καὶ τοὺς μάρτυρας ἀεὶ ξῆν, τὸν νόμον ἀντὶ τούτων ἔθηκεν, ὅπως μάρτυς εἴη τοῦ δικαίου τοῖς ἑρήμοις.

* Bekk. καὶ ἀμα καὶ Ζ et Voemel εἰς Σ.
* μαρτυρησείη Voemel (μαρτυρησει η Σ).

τοῖς ἄδικομένους...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 honestone, 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.

(ἐλεγχον ἐσεσθαί sc. si per tot annos taceissent. 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 crit, 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 Atticī§ 1587, and K. F. Hermann, Privatalt. § 71, 6 = Rechtsalt. p. 106 Thalheim.) Here therefore it merely means κατὰ τῶν συκοφαντοῦντων.

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

τῶν χρόνων—ἐλεγχον] Lysias Or. 19 § 61 τῶν χρόνων ὑμεῖς σαφέστατον ἐλεγχον τοῦ ἀληθοῦς νομίσατε.

τῶν νόμων 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 Pason is not only expressly proved by the will, but is in—
ferentially concluded from the plaintiff's own admission; for on his mother's death he permitted her two children by Pheron to share her property equally with himself and Pasicles, her two children by Pasicles, and thus allowed the legality of this second marriage.

28. ἰδεῖς ὁμοιὸς κ.τ.λ.] Or. 37 § 44 ἐγὼς, ὅ τι ποτ' ἐρεῖ πρὸς ύμᾶς, θαναμάξω.


μηδὲν ὁρῶντες] i.e. ἢν καὶ μηδὲν ὀρᾶτε. Goodwin, Moods and Tenses, § 52, 1.

παρὰ τῶν κυρίων ἀπαλλαγεῖς ὡσπερ ὁ τούτων πατὴρ] 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. ὧντι καὶ ἴσων] Who is still 'alive and in being.' The redundancy is intended to strengthen the emphasis. Cf. De Corona § 72 τὴν Μοῦσῳ λεῖαν καλουμένῃ τὴν Ἐλλάδα οὖσαν ὄφθηναι ἴσων καὶ ὧντων Ἀθηναίων.

τελευτησάσης...ἐδώκε τὴν ὑπατέρα] 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 ἐδώκε 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
that the woman had either been divorced from her husband, or was not his lawful wife.

30. ούμων...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.’

αὐτῶν ὑβρίζον κ.τ.λ.] Disgracing, outraging, casting contempt upon, himself and his family. Though you threatened Phormion with a γραφὴ ὑβρίσεως for marrying your mother (Or. 45 § 3—4), your father was guilty of no ὑβρίς to his family in arranging for that marriage.


υμων...ὑμετέραν] ‘You and yours.’ ‘Your family.’ Cf. Or. 55 § 5, n.

π. 954] ΤΠΕΡ ΦΟΡΜΙΩΝΟΣ. 20

τὴν θυγατέρα τὴν ἐαυτοῦ. καὶ πολλοὺς ἂν ἔχοι τις εἰπεῖν τοιούτους. εἰκότως’ ύμων μὲν γὰρ, ὦ ἄνδρες 30 Ἀθηναῖοι, τοῖς γένει πολίταις οὐδὲ ἐν πλῆθος χρημάτων ἀντὶ τοῦ γένους καλὸν ἔστιν ἐλέσθαι; τοῖς δὲ τούτῳ μὲν δωρεὰν ἢ παρ’ ύμῶν ἢ παρ’ ἄλλων τινῶν λαβοῦσι, τῇ τύχῃ δ’ ἐξ ἀρχῆς ἀπὸ τοῦ χρηματίσασθαι καὶ ἐτέρων πλείω κτήσασθαι καὶ αὐτῶν τοῦτων ἀξιωθείσι, ταυτ’ ἐστὶ φυλακτέα. διόπερ Πασίων ὁ 954 πατήρ ὁ σος οὐ πρῶτος οὐδὲ μόνος, οὐδ’ αὐτῶν υβρίζων οὐδ’ ύμας τοὺς νιέσεις, ἀλλὰ μόνην ὅρων σωτηρίαν τοῖς ἐαυτοῦ πράγμασιν, εἰ τοῦτον ἀνάγκη ποιῆσειν οἰκεῖον ύμίν, ἐδωκε τὴν ἐαυτοῦ γυναῖκα μητέρα δ’ υμετέραν τοῦτο. πρὸς μὲν οὖν τὰ συμφέροντα ἐὰν ἐξετάζῃς, 31 καὶ ἐτέρων πλείω κτήσασθαι om. Huettner cum Aυτ.
31. πρὸς γένους δόξαν ἀναίνει. By your father's special grant and injunction.

32. δόντος κ. ἐπισκήψαντος} 'Share and share alike.' § 8, ἀντιμορεῖ νέμειν, νέμεσθαι. On παιδῶν . . . ἐπισκήψαντον ἑαυτὸν μέρος, μέρος ἐπισκήψαντος. 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 χρήσει καὶ ἐγγύτητι γυναικὸς ἤγγελος ιδίων ἰδιῶν ἰδίων Ἰσα. de Ciron. § 19, pro Eu- 

In 955 let answer with which no charge plaintiff's in marriage, Dorus, property Private alt. Aves, 1640—

955 πρὸς τῷ διαιτητῇ, περὶ ὃν προακηκοέναι βέλτιον ἐσθ' ύμᾶς, ἐνα μὲν τὸ παράπαν μὴ γενέσθαι διαθήκην, ἀλλ' εἶναι τούτο πλάσμα καὶ σκευόρημα ὅλον, ἔτερον δ' ἕνεκα τούτου πάντα ταῦτα συγχωρεῖν τὸν πρὸ τοῦ

1 addidit Reiske.

Aves, 1610—73. (K.F. Hermann Privatalt., § 29, 5 = p. 253 Blümner, and § 57, 2 = Rechtsalt. p. 7 Thalheim.)

tο τέταρτον μέρος] The property is divided into four parts, one of which is taken by Apollo-
dorus, another by his brother Pasicles. The other two go to the children of the second mar-
rriage, who must have been two in number.

αφεῖναι τῶν ἐγκλ. § 3 αφε-


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 cer-
tainly to have brought it forward at the time of the subsequent lease.

33. εἰσεῖν...λέγειν] Almost identical in meaning and used, as often, for variety of expression. Phil. pi § 11, ταῦθ' ἃ πάντες μὲν ἀεὶ γλαύχονται λέγειν, αἰών ὅ ὑμνεῖσθαι εἰς ὁδεῖς εἰσεῖν δεδίνηται. Isocr. ad Dem. § 41 and Paneg. § 11 n.

πλάσμα κ. σκευόρημα ὅλον] 'A figment and a forgery from beginning to end.' Hesych. σκευό-

ρημα: πλάσμα, κακουργία, κατα-

σκευή, τὸ γιγνόμενον κατασκευάσμα εἰς βλάβην, and id. σκευωρία: κατασκευή. Pollux x 15 τάχα δ' ἀπὸ τοῦτων (sc. σκευῶν) καὶ ἣ σκευοποιία καὶ ἡ σκευορία καὶ τὸ ἐκσκευοποιημένον πράγμα, ὑς Ἰ-

σαίος ἐν τῷ περὶ τοῦ 'Αρχεπόλιδος κλήρου διαθήκην δὲ τεττάρων ὑπ' αὐτῶν ἐσκευοποιημένων.

In Or. 45 § 42 Apollodorushim-

self, in criticising the διαθήκη, concludes with the words πάντα πεπλασμένα καὶ κατασκευασμένα ἐλέγχεται. Cf. ib. 29 πλάσμα ὅλον ἐστὶν ἡ διαθήκη, and 41 § 24 σκευόρημα.

tὸν πρὸ τοῦ χρόνον] 'During
the former period.’ προτού sometimes spelt as one word προτόου.
oυίχι δικάζοντα] See Shilleto on Thuc. 1 p. 153,
μίσθωσιν φέρειν] We have frequently had μίσθωσιν in the sense of ‘lease’; we here find it
used like μίσθομαι for ‘rent’ (§§ 36, 51). Or. 28 § 12 ἀποδέ-
dωκε τὴν μίσθωσιν followed by λαβών τὴν πρόσοδον.
34. πρεσβεία] By right of
primogeniture (§§ 29). Pol-
lux: πρεσβεία ἑστὶ γέρα τὰ τοῖς
πρεσβυτέροις δέδομένα. The re-
 cognition 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 forlodgings, and a
lodging-house have been inhab-
ited by the proprietor him-
self” (Boeckh, Publ. Econ. 190).

Apol., may have already had a
household of his own and his
father may therefore have as-
signed him a συνοικία. (A.
Schaefer Dem. u. s. Zeit, i 2,
133.) Cf. § 6 ἐπὶ συνοικίαι, n.

35. ὑποσχέσεων] He will tell
you, perhaps, that Phormion pro-
mised to pay a good rent (ὑπο-
σχεῖτο § 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 μεθεσταὶ ἐγγυ-
νοῦτο. 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
P. 956] ΤΠΕΡ ΦΟΡΜΙΩΝΟΣ. 33

λαγμένον μισθωταί τούτως ἐγένεντο τῆς τραπέζης καὶ τοῦ ἀσπιδοπιηγείου. καίτοι τόθ', ὁπηνίκα ἐμίσθωσεν ἐκείνοις, τόδε ἐγκαλεῖν παραχρῆμα ἔχρην, εἴπερ ἄληθῆ ἦν ὑπὲρ ὅν τότ' ἀφεὶς νῦν τούτῳ δικάζεται. ὡς τοίνυν ἄληθῆ λέγω, καὶ πρεσβεῖά τε τὴν συνοικίαν ἔλαβε κατὰ τὴν διαθήκην καὶ τοῦτο ὅπως ἐγκαλεῖν φετο δεῦν, ἀλλ' ἐπίνειν, λαβεὶ τῇν μαρτυρίᾳ.

ΜΑΡΤΥΡΙΑ.

"Ἰνα τοίνυν εἰδήτε, ὥς ἄνδρες Ἀθηναίοι, ὡσα χρήματ' 36 ἔχουν ἐκ τῶν μισθῶσεων καὶ ἐκ τῶν χρεῶν ὡς ἀπορῶν καὶ πάντα ἀπολωλεκὼς ὤδυρεῖταιν, βραχέα ἡμῶν 956 ἀκούσατε. οὕτος γὰρ ἐκ μὲν τῶν χρεῶν ὡμοῦ τάλαντ' εἰκοσιν εἰσπέπρακται ἐκ τῶν γραμμάτων δῶν ὁ πατὴρ κατέλιπεν, καὶ τούτων ἐχει πλέον ἡ τὰ ἡμίση τολ-

ο Σ. τοίνυν ταῦτ' Ζ.
ρ Bekk. ὤδυρεῖται Ζ et Bekker st. cum FSΦ.
α Bekk. κατελιπεν Ζ cum Σ.
πλέον Bekk. πλείων Ζ cum Σ. πλείω ΦΦ.

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 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. μισθῶσεων) 'Rents.' Cf. § 33 μίσθωσιν ἄρεων, n. ὤδυρεῖται 21 § 186 ὤδυρεῖται καὶ πολλών λόγων καὶ ταπεινοὺς ἐρε.
εἰσπέπρακται ἐκ τ. γραμ. § 21 ἐκ ποιῶν γραμμάτων, n.
37 λῶν γὰρ τὰ μέρη τὸν ἀδελφὸν ἀποστερεῖ. ἐκ δὲ τῶν μισθῶσεων, ὁκτὼ μὲν ἔτων Ἀπολλόδορος χεῖρ τῆς τράπεζας, ὁγιούκοιτα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, τὸ ἱμίου τῆς ὀλὴς μισθῶσεως· καὶ ταῦτ’ ἐστὶ δέκα τάλαντα καὶ τετταράκοντα μνᾶς· δέκα δὲ ἔτων μετὰ τάυτα, ὥν ἐμισθοσαν ὑστερον Ξένων καὶ Εὐφραίω καὶ Εὐφρον καὶ καλλιστάτῳ, τάλαντον \textsuperscript{u} τοῦ ἐνιαυτοῦ ἐκάστου. χωρίς δὲ τούτων, ἔτων ἵσως εἰκοσι τῆς ἐξ ἀρχῆς νεμηθεὶν.

\textsuperscript{a} Ζ ἐν Dindf. et Voemel cum Σ. ἀποστερεῖ Bekk. ἀποστερῶν \textsuperscript{t} ταύτα Ζ.

\textsuperscript{u} καὶ δισχίλιας sine causa addidit Voemel.

ἀποστερεῖ.] 'Was continually defrauding' his brother of his shares in many of the debts.

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

ὁγιούκοιτα 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. 1600) 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.

Εὐφραίων] In Or. 49 πρὸς Τιμόθεων § 44, Phormion and Euphræus are mentioned by Apollodorus, as having paid from Pasion's bank certain sums of money to persons named by Timotheus. Like Phormion, Euphræus had risen from a subordinate position, to be one of the lessees of the bank. Cf § 14 ἔλευθρον ἅφεσαν, n.

τάλαντον] This is the rent of the shield-manufactory alone, as appears from § 11 τὸ (ἀσπίδο-πηγείων) τάλαντον ἐφερεν. It is this rent alone that is here referred to. Xenon and his partners paid a total sum of 2\textsuperscript{t} 40 m for the whole business, consisting of the manufactory and the bank. The rent of the manufactory (\textsuperscript{1t}) belonged to Apollodorus, that of the bank to Pasicles (\textsuperscript{1t} 40 m). The rent thus paid for the whole business was the same as that which had been paid by Phormion (τοῦ ἰσοὺ ἀργυρίου, § 12). It is from not understanding this, that Voemel was led to conjecture τάλαντον καὶ δισχίλιας, i.e. 1\textsuperscript{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. ἔτων ἵσως εἰκοσι] 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 \textit{εἰεύμα} will become 10\textsuperscript{t}, though it is really less; and the half of the item \textit{εἰςπράξατο} may be put
σης ουσίας, ἣς αὐτὸς ἐπεμελεῖτο, τὰς προσόδους, πλέον ἡ μνάς τριάκοντα. ἐὰν δὲ ἀπαντᾷ συνήθετε, ὅσα ἐνει- ματο, ὅσα εἰσεπράξατο, ὥσ' εἰλήφη μίσθωσιν, πλέον ἡ τετταράκοντα τάλαντα εἰληφώς φανήσεται, χωρὶς ὅν οὗτος εὖ πεποίηκε, καὶ τῶν μητρώον, καὶ ὀν ἄπο τῆς τραπέζης ἔχων οὐκ ἀποδίδοσι πένθ᾽ ἡμιταλάντων καὶ ἐξακοσίων δραχμῶν. ἀλλὰ νὴ Δία ταῦθ᾽ ἡ πόλις 39 εἰλήφη, καὶ δεινὰ πέποιθαι πολλὰ καταλειτουργη-

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

ἐνέιματο more than 30
for eighteen years = more than 540 =
more than 9
εἰσεπράξατο 20'; ἔχει
πλέον ἡ τὰ ἡμίον or more than 10', say 11
eἰλήφη μίσθωσιν from Phrömion for the bank and manufactory 80 for eight years = 10 40
from Xenon, &c., for the manufactory alone, 1 for ten years = 10

Total more than 40 40

ἀν οὗτος εHELL.] Referring probably to Phrömion's free gift of 3000 dr. (§ 15).—τῶν μητρώο-, 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 ἐπήρει 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 ἡμιταλάντων). The plaintiff's unpaid debt of 156 is with a bitter emphasis mentioned last in the list of his resources.

39. ἀλλὰ νὴ 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.

cαταλειτουργικῶς] 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. Isæus Or. 5 § 43 οὔτε γὰρ εἰς τὴν πόλιν οὔτε εἰς τοὺς φίλους φανερὸς ἐλατανθεὶς οὐδέν. ἀλλὰ μὴν οὖν δὲ καθιστηρόφηκας, οὐ γὰρ πώτερον ἐκτησάμεν ἔπον πλεόνου ἄξιον ἢ τριῶν μιῶν οὔτε κατευγνοτρόφηκας, ἐπεὶ οὖν ἰενύης ἐκτησάμεν ἐπὶ τοσοῦτος ἄγροι καὶ κτίσμα. [So καταχράζεσθαι, 'to give away in presents;' καταχρῄσθαι, καταπροδωτεῖν, καταδιωκεῖν, καταπολεμεῦσθαι, καθυπκρίνεσθαί τιμα, De Fals. Leg. §§ 302, 389. P.]
κώς. ἀλλ' ἂ μὲν ἐκ κοινῶν ἑλειτούργεις τῶν χρημάτων, σὺ καὶ ὁ ἀδελφός ἀνηλώσατε· ἢ δ' ὦ στεροῦ, οὐκ ἔστιν ἀξια μὴ ὅτι δυοὶ ταλάντων προσόδου, ἀλλ' οὐδ' εἰκοσι μνών. μηδὲν οὖν τὴν πόλιν αἰτιῶ, μηδ' ἂ σὺ τῶν ὄντων αὐτχρῶς καὶ κακῶς ἀνηλώκας, ὡς ἢ πόλις 40 εἰλήφη, λέγε. ὅν δ' εἰδήτε, ὁ ἀνδρεὶς Ἀθηναῖοι, τὸ τε πλήθος τῶν χρημάτων ὃν εἰλήφη, καὶ τὰς λειτουργίας ἢ λειτειτούργηκες, ἀναγρωστεῖ τῷ καθ' ἐν ἔκαστον. λαβέ μοι τὸ βιβλίον τούτῳ καὶ τὴν 957 πρόκλησιν ταυτην' καὶ τὰς μαρτυριάς ταυτασί.  

BIBLION*. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

41. Τοσαύτα μὲν τοίνυν χρήματα εἰληφός καί χρέα πολλῶν ταλάντων ἔχων, ὅτι μὲν παρ' ἑκόντων, τὰ δ' ἐκ τῶν δικῶν εἰσπράττει, ἢ τῆς μισθώσεως ἐξω τῆς τραπέζης καὶ τῆς ἀλλης ὑπόστας, ἢν κατέλυπε Πασίων, ὕφειλετο ἐκεῖνῳ καὶ νῦν παρειλήφασιν οὐτοί, καὶ τοσαύτ' ἀνηλώκας ὅσ' ὑμεῖς ἥκούσατε, οὐδὲ πολλοστὸν μέρος τῶν προσόδων, μὴ ὅτι τῶν ἀρχαίων, εἰς τὰς λει-

* Bekk. om. Ζ cum Σ.

w Bekk. ταῦτην Ζ et Voemel cum Συ.

* addidit Reiske.

ek kouνων 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).

eleitourgheis] 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 λειτουργια were the τρεχαρχία and χρηγία referred to in § 41 fin.

μή 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.)

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

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

41. ἢ τῆς μισθ. κ.τ.λ.] The order is ἢ (ἐξω τῆς μισθώσεως τῆς τραπέζης κ.τ.λ.) ὕφειλετο τῷ Πασίων καὶ δ' οὕτωι (sc. Απόλλ., and Pasicles) παρειλήφασιν.

οὐδὲ πολλοστὸν κ.τ.λ.] 'The smallest fraction of his income,
τουργίας, ὅμως ἀλαξονεύονται καὶ τριπεραρχίας ἔρει καὶ χορηγίας. ἐνώ δ', ὡς μὲν οὖν ἀληθὴς ταῦτ' ἔρει, 42 ἐπέδειξα, οὐμαί' μέντοι, κἀν εἰ ταῦτα πάντ' ἀληθῆ λέγοι, κάλλιον εἶναι καὶ δικαιότερον τόνδε ἀπὸ τῶν αὐτῶν λειτουργεῖν ὑμῖν ἢ τοῦτο δόντα τα τούτον, μικρὰ τῶν πάντων αὐτοὺς μετασχόντας, τόνδε μὲν ἐν ταῖς ἐσχάταις ἐνδείκτης ὅρᾶν, τούτον δ' ὑβρίζοντα καὶ εἶς ἀπέρ εἰσθέν ἀναλύσκοντα. ἀλλὰ μὴν περί γε τῆς 43

v Σ. οἴομαι Ζ (cf. § 18).

not to say (I needn't say) of his capital.' This explains τοσαυτ', tautilla.

ἀλαξονεύονται ...... τριπεραρχίας ἔρει] 'Will in bragging terms talk of his trierarchal (and choragic) expenses.' Of such ἀλαξωεία there are instances again and again in Dem. and the other orators, e.g. Midias p. 566 seqq. Or. 38 § 25 τάχα τοῖς ἰσοῦ καὶ τριπεραρχίας ἔρυσι καὶ τὰ ὑπάτα ὡς ἀνηλόκασαν 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 τριπεραρχία 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 Πολυκέα) 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 αὐτῶν] '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.—τοῦτο δόντα τα τούτον, 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...τούτον δ'] Defendant and plaintiff respectively. εἰς ἀπέρ εἰσθέν 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 μέτριοι κατὰ πᾶσας τὰς εἰς ἐμαυτόν δαπάνας εἶναι πολύ τούτου καὶ τούτων ἐτέρων εὐτάκτωτερον ζων ἀν φανείν.

§§ 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.
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. ὡν = περὶ τοὺν ἄ. 

Πασίων ὡς ἀρ. ἐστὶν Φόρ. 

§ 80, Apollodorus unfairly says of Phormion, ἐὰν ἐπεί, πένης ἄν ἐὰν τὰ του 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? οὔτε γάρ σοι πατήρ παρέδωκεν, ὃδ' εὑρες. 

ἕκτησαθ' εὑρὼν] 'Got it by good luck,' as a 'godsend,' a 'windfall,' a εὑρίσκω of Ἑρμαῖον. Passages like the present and the parallel from Or. 45 § 81 (given above) should be quoted in Liddell and Scott (s. v. εὑ-ρίσκω, 4).


δίκαιος] 'Honest.'

ἐπιστευθῇ] 'Won his master's confidence,' 'was trusted.' So in Or. 50 § 56, Apollodorus describes the wide extent of his
καὶ χρήμασιν ἐργαζομένους ἀνθρώπους φιλεργόν δόξαι καὶ χρηστὸν εἶναι τὸν αὐτὸν θαυμαστὸν ἥλικον. οὕτ' οὖν ἑκεῖνῳ τοῦθ' οἱ κύριοι παρέδωκαν, ἀλλ' αὐτὸς ἔφυ
958 χρηστὸς, οὔτε τῶδε ὁ σῶς πατήρ: σὲ γὰρ ἂν πρότερον τοῦτο χρηστὸν ἐποίησεν, εἰ ἦν ἐπ' ἑκεῖνῳ. εἰ δὲ τούτῳ ἀγνοεῖς, ὅτι πίστις ἀρμομῆν πασῶν ἐστὶ μεγίστη πρὸς χρηματισμὸν, πᾶν ἀν ἀγροίσειας. χωρίς δὲ τούτων

father's connexion and good credit (ἐπεξεργάσατοι πολλοῖς καὶ πιστεύοντες 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 ἥλικον ἐστὶν ἀνθρώπος ἐργαζομένον εν 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 εν ἐμπορίῳ with the preposition, and ἐργάζεσθαι χρήμασιν without. Cf. Or. 57 § 31, ἐν τῇ ἀγορᾷ ἐργάζεσθαι with Or. 33 § 4, where τῇ ἐργασίᾳ τῆς κατὰ βάλλατον is followed by τοῦτοι (sc. τοῖς χρήμασιν) πειράμαται 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. ἐφ' χρηστὸς below). G. H. Schaefer says, 'dativus regitur a verbo δόξαι. Deinde ἄτι ἐξῆς est: τὸν αὐτὸν δόξαι εἶναι φιλεργὸν καὶ χρηστὸν.' But the position of δόξαι and εἶναι makes against this construction. Cf. Læsch. Theb. 592, οἷς ὁδεῖν 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 χρηστός: 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 διδάκτος ἄρετή, καὶ τὸ φίλου ἀπαν κράτιστον, are perhaps held in view, though it is seldom that Demosthenes enters on the region of philosophy. P.]

πίστις ἀρμομῆ] 'If you don't know that for money-making the best capital of all is good credit; then, what do you know?'] Cf. § 12 n. χωρίς...πατρί[ An accidental
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,’ έφικησθαί, sc. τῷ λόγῳ. Or. 14 § 1, ὁν δ’ εἶναι, ὃς ἦν ἀξίων ἐφικήσθαν τῷ λόγῳ δύναιτο. For the genitive, cf. Isocr. 4 § 187; 9 § 49; 10 § 13. 45. χλανίδα] A mantle, ‘alight upper garment of fine wool. Aeschin. Timarch. § 131, τὰ κομψά ταῦτα χλανίσκα … καὶ τὸν μαλακὸν χιτωνίσκον. Dem. Or. 21 § 133 (of Midias), χλανίδας καὶ κυμβάς καὶ κάδων έχον. Pollux vii 48: χλανὶς δὲ ἰμάτιων λεπτόν. K. F. Hermann, Privat- allt. § 21 p. 177 ed. Blümner. Αλυσία] ‘Redeemed’ from her owner. Herod. ii 135 (of Rhodópis), ἀπίκουσα κατ’ ἐργασίαιν ἐν ηὔῃ χρημάτων μεγάλων ύπ’ ἀνδρός Μυτιληναίου. A. Vesp. 1353, ἐγὼ σε… οὐσάμενον έγὼ παλαιάτην. Dem. Or. 48 § 53, έταίραν οὐσάμενον ένδον ἔχει. [It may be remarked that Demo- sthenes is particularly fond of using perfect passives in the medial sense. P.] έκδεδωκας] Given away in marriage. Or. 59, κατὰ Νεαρᾶς, § 73, (ἡ ἀνθρωπος) έξεδοθη τῷ Διονυσῷ γυνῇ, and Or. 27 § 69, θυγατέρας παρὰ σφῶν αὐτῶν έκ- δώτας. καὶ ταύτα γυναίκ’ ἔχων……] ‘And that too, when you have a wife.’ In his speech πρὸς Πολυκέλα, Apollodorus, contrary to what might be expected from the present passage, speaks in affectionate terms of his wife. Or. 50 § 61, ἡ γυνὴ ἐγὼ περὶ πλεῖστον ποιοῦσα ἀσθενώς διέκειτο τολμών χρόνων. παίδας άκολούθους] Or. 21 (Midias) § 158, τρεῖς άκόλουθους ἡ τέταρτα αὐτὸς ἄγων διὰ τῆς ἀγορᾶς σοφεί. Xen. Mem. i 7 § 2, σκέφθη τε καλὰ κέκτηται καὶ ἄκολούθους πολλὸν περιάγοντα. (Becker, Charicles ii 21, ed. 2 =p. 362 of Eng. ed.)
ΤΗΡ ΦΟΡΜΙΩΝΟΣ.

Unfortunately, the text is not in English and contains Greek. It appears to be a page from a Greek literary text, possibly a translation or commentary on a passage from Xenophon. The text is not translatable without advanced knowledge of Greek literature and syntax. It is likely a discussion or commentary on a specific passage from a text by Xenophon, with references to other works and authors.

The text includes various Greek terms and phrases, such as "ἕκεινος πολλῶν ἐνδείξις ἐστιν", which translates to "he signifies to many what is necessary." The context of the text seems to involve a discussion of actions and mentions of "τὸν Φορμίωνα" (Phormio), who is not his 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. ὃς, § 50 and 23 § 100 ἦδη δὲ τινα εἰδον. — ἐκείνῳ, to Antimachus. ἄνεμωσίνης] 'Heartlessness,' 'want of proper feeling'; 'churlishness.' Or. 54 § 14, ἄγνωμον καί πικροῦς. Or. 14 § 5; 18 §§ 207, 252; 60 § 20. [The polite Greeks had many terms of this kind, ἄνεμωσις, ἁμαρτία, ἀπαιδευσία, ἀπειροκαλία. P.]

47. ὃς τίτι τινα μετά τοῦ Φορμίωνα. 'Nor is Phormio's position unknown to him.' Kennedy. For the
of citizenship. [A metaphor from putting on and gracefully adjusting clothes. Whence he adds ευσχημονεστάτα. P.]


\[\text{ἀγεῖς εἰς μέσον κ.π.λ.}\] 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.'

\[\text{48. εἰς τοῦθεν ἦκεις μανίας}\] Cf. § 46, εἰς τοῦθεν ἦκεις ἀγνωστήνης. Madvig Gk. Syntax, § 50 ad fin. 27 § 24; 33 § 19; 40 §§ 28, 49, 58; 56 § 3.

\[\text{μηδὲν} \; \text{υπόλογον εἶναι}\] Lit. 'should not be taken into account against him,' 'should not detract from his credit.' A metaphor from book-keeping, appropriate in a speech on banking stock. Lys. 28 § 13, οὐδὲ ἀδίκους τούτους φημι δὲν εἶναι υπόλογον τὴν ἑκατέραν φιλήμ, ib. 4 § 18; Plat. Lach. 189 b.

[Cf. ὁ παράλογος, ὁ κατάλογος, ὁ μετάμελος, 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.]

\(\text{Σ.} \; \text{αἰσθάνη} \; \text{Ζ.}\)

\(\text{i Σ.} \; \text{τὰ αὐτὰ} \; \text{Ζ.}\)

\(\text{ii—j 'verba interpolata,' Huettner.}\)
Είτε τὸν σώσαντα μὲν ἐξ ἀρχῆς τὰ πράγματα καὶ τὸν ἀκρογόνον αὐτῶν, παρασχόντα τῷ πατρὶ τῷ τοῦτον, τοσαῦτα δ’ αὐτὸν τοῦτον ἀγαθὰ εἰργασμένον ὃς ὑμεῖς ἀκηκόατε, τοῦτον οἴεται δεῖν ἐλών θηλυκαίην δίκην ἀδίκως ἐκβάλειν. οὐ γὰρ ἄλλο γὰρ ἔχοι οὐδὲν.

§§ 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. ἐκβάλειν In Or. 45 κατὰ Στεφάνου Α § 70, Apollodorus tamts Stephanus (one of Phormion’s witnesses in the present trial) with turning his own uncle out of his patrimony for arrears of debt: τοκίσων...ἐξ ἐβαλεῖς ἐκ τῆς πατρίδος οὐσιάς.

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.

ἔχοι οὐδὲν ἄν] Notice the strong affinity or attraction that ἄν has to the negative; which is the reason of the common hypothesis οὐκ ἄν υἱμαί σε ποιεῖν,
XXXVI. ΠΑΡΑΓΡΑΦΗ [§§ 49—52

44

αν ποιήσαι. εἰς μὲν γὰρ τὰ ὄντα εἰ βλέπεις ἄκριβῶς, ταῦθ' εὐφρήσεις ὅν ἔστιν, ἐὰν", ὁ μη γένοιτο, ἡματη-50 ὥσιν ὄντοι. ἀρχαὶ τῶν 'Αριστόλοχον" τῶν Χαριδήμου; ποτ' εἰχεν ἄγρων, εἰτά γε νῦν πολλοί: πολλοῖς γὰρ ἐκεῖνοι ὁφείλων αὐτὸν ἐκτήσατο. καὶ τὸν Σωφίνομον καὶ τὸν Τιμόδημον καὶ τοὺς ἄλλους τραπεζίτας, οὔ, ἐπεὶ διαλύειν ἐδέσθησαν οἷς ὁφείλον, ἡμέστησαν ἀπάνω-55 ὅσων τῶν ὄντων. σὺ δ' οὐδὲν οἰεὶ δεῖν σκοπεῖν οὐδὲν ἄν ὁ πατήρ σου πολλά βελτίων ὢν καὶ ἁμένοιν σοῦ

51 φρονοῦν πρὸς ἀπαντ', ἐβουλεύσατο' οὐ, ὁ Ζεῦ καὶ θεοί, τοσοῦτοι τοῦτον ἤγειτο σοῦ πλείονος ἄξιον εἶναι καὶ σοὶ καὶ ἑαυτῷ" καὶ τοῖς ὑμέτεροις πράγμασιν, ὡστε ἀνδρὸς ὄντος σοῦ τοῦτον, οὐ σὲ τῶν μισθώσεων κατέλυται ἐπίτροπον καὶ τὴν γυναῖκα ἔδωκε καὶ ζῶν αὐτόν ἐτίμα, δικαίως, ὁ ἄνδρες 'Αθηναίοι: οἱ μὲν γὰρ ἄλλου τραπεζίτας μίσθωσιν οὐ φέροντες, ἀλλ' αὐτόι ἑαυτοὶ

m Bekk. αὐτὰ Ζ cum FΣΦΒ. n ΣτΑ1. ἀν Ζ.

α Σ. 'Αρχίλοχον Ζ. p add. ΣΑ1. om. Ζ.

α Σ. αὐτῷ Ζ. r ἐτίμα. Ζ. s Σ. αὐτοῖς Ζ.


50. 'Αριστόλοχον' In 45 § 64 Stephanus is described as emigrating 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' εἰχεν ἀγρών κ.τ.λ.] 'He had a farm once;'-'he owned some land in his day; that land has passed to many owners now.' ποτ' (οἶμι) is seldom found in so emphatic a position.

—πολλοὶ (sc. ἐξουσι τῶν ἀγρῶν).

διαλέκτων] sc. (τοῦτοσ) οἰς ὁφείλον 'to settle with, to satisfy, their creditors.' Cf. Or. 37 § 12 note; 30 § 8; 34 § 40; 49 § 29. ἡμέστησαν] 'Had to give up,' 'were ousted from.' 45 § 64, ἀπώλεσα καὶ τῶν ὄντων ἔξετα. Apatur. § 25, Pantaen. 37 § 49, Antiphon 2 b § 9, τῆς οὐδας ἐκστράδεως, Ar. Acham. 615 (K. F. Hermann Privatalt. § 71, 3 = Rechtsalt. p. 106 Thalheim). ἐκστίναι (like ἐκπεσείων) would answer as a passive to ἐκβαλεῖν. The special word for becoming bankrupt is ἀνασκευασθαι (contrasted with κατασκευασθαι to establish a bank); Dem. Apatur. 33 § 9, τῆς τραπεζίς ἀνασκευα-

σθείσης. Ορ. 49 § 68, τὸς ἀνα-

σκευασμένος τῶν τραπεζίτων. Cf. ἴναι § 57, ἀφάρεσαι, ά. 51. ἑαυτοῖς ἔργον, τάντα ἀπω-

λοντο] This frequent failure of
bankers on their own account, if truly stated, seems remarkable.

52. ταύτα ἀφαίτωσιν] Solemn imprecactions on those who violated the conditions of the will.

ἔλαυνες, 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: ἔλαυνες, 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 πλείου ἐπὶ τοῦ αὐτοῦ νόμιματος ἐπιμονὴ μετὰ αὐξησεως. His words are: ἐπιμονὴ δὲ ἐστὶν ὅταν τις πλεῖον ῥήματα ὀφθαλμα ἐπιβάλλῃ, ὡς ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τῶν Ἀπολλόδωρου, ἄγεις (sic), εἰληφότι πάντ’ ἀπόλολεν, ὡς φης: εἰ δ’ ἥσθα ἐπιεικής, οὐκ ἂν ποτὲ αὐτὰ ἁνίλωσα.

ἐπὶ ἐκείνης conicit Huettner, exsecrationes istas extra testamentum inscriptas esse arbitratum.

add. Σαλ. om. Ζ.

v Z et Dind. et Voemel cum Σαλ. διώκεις, συκοφαντεῖς Bekk.

w παύσει Ζ.

x γυώγη Ζ.

v φῆς rectius scribi docuit Cobet ad Hyper. or. ed. ii p. 108 (Huettner).
§§ 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' ἐγὼγε μὰ τὸν Δία καὶ θεοὺς πανταχῆ σκοπῶν οὐδὲν όρῶ, διότι ἂν σοι πεισθέντες τουδὲ καταψηφίσαυτο. τί γὰρ; ὃτι πλησίον ὄντων τῶν ἀδικημάτων ἐγκαλεῖς; ἀλλ' ἔτεσι καὶ χρόνοις υπετερον αἰτιᾶ. ἀλλ' ὅτι τούτων ἀπράγματον ἦσθα τοῖς χρόνον; ἀλλὰ τίς

* Bekk. διὰ τὸ Z et Voemel (diatē Σιλλ).

suspected by Seager, who suggests the emendation ἔτεσι καὶ χρόνοις τοσοῦτοι υπετερον (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 υπετερον μετὰ τῶν Αρβανάς ἀδίκημον. We may compare Lysias 3 § 39, οἱ μὲν ἄλλοι...ἀργίζουμεν παραχρήμα τιμωρίσαται ἤγγονος, οὕτος δὲ χρόνος υπετερον. But the two phrases ἔτεσιν υπετερον and χρόνοις υπετερον, however defensible in themselves separately, do not apparently occur in combination elsewhere; and it may therefore be worth while to suggest either ἀλλὰ τοσοῦτοι χρόνοις υπετερον, or simply ἀλλὰ χρόνοις υπετερον 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, παρεκληθότων ἐτῶν πλέον ἡ εἰκός, and § 38, ἐτῶν ἰσος εἰκός. (Mr Shilleto suggests as a parallel to ἔτεσι καὶ χρόνοις, Cic. Verr. p 3 § 21, tot annis atque adeo saeculis tot.)

ἀπράγματοι] Often used of quiet and easy-going people who shrink from litigation. Or. 40 § 32, ἀπράγματοι καὶ ὦ φιλόδικος, 42 § 12. Cf. ἀπραγμοσύνη and its opposites, πολυπράγματον, πολυπραγμοσύνη. So also, in the next line, πράγματα
πράττων, as is clear from the rest of the sentence, refers to the plaintiff's incessant litigation. Or. 27 § 1, οὐδὲν ἄν ἐδεί δικώς οὐδὲ πραγμάτων. 51 § 24.

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

κρίνων τινάς] The force of the sentence is much improved by Dobree's almost certain emendation κρίνων τίνας οὗ; οὐχὶ Τιμομάχου κατηγόρεις; κ.τ.λ., where the loss of οὗ would be accounted for by οὐχι following immediately after. Or. 37 § 14, πολλά δεχθέντο καὶ τί οὕ ποιήσαντος; 47 § 43, δεσμένων ἀπάντων καὶ ἰκετεύοντων καὶ τίνα οὐ προσπεμπότων; 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 Polycles (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 ἀπίστα), he uses the strongest language against Timomachus, mainly for his treasonable collusion with an exiled relative, Callistratus. (See next note.) Timomachus was condemned, and put to death (Schol. on Aeschin. 1 § 56).

Καλάπτου τοῦ νῦν...ἐν Σικελίᾳ] The context shows that this Callippus (who must not be confounded with the plaintiff in the speech of Apollodorus πρὸς Καλάπτου 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 λαυμπρός ἐν τοῖς ἄγωσι καὶ διάσημος. Ultimately, in the spring or summer of 355, Dion was assassinated by Callippus, who after usurping the government for thirteen months, was defeated.
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 Σικελία. The Athenian fleet (with Callippus) reached Athens from the Thracian coasts in Feb. 360, and Callippus started for Syracuse from Zancynthus 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 (δημοσία 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 δικαι ὕδαι. 54. Ἀπολλόδωρον ὄντα κ.τ.λ.] aculeatum et amarium 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 Atticam 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, π 173, and μέρος τι in Thuc. iv 30.
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 ...οἷον ἑαυτὸν τὸ ἄριστον παντελῶς δειτεῖσθαι παρέχει).

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

α’ ’οὖν ὀμοίως οὕτωσι, σκοπεῖτε] Look here, upon this picture, and on this.
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ΜΑΡΤΥΡΙΑ.

57 Τοσαύτα τοίνυν, ὁ ἀνδρεὶς 'Αθηναῖοι, Φορμίων χρήσιμον γεγονός καὶ τῇ πόλει καὶ πολλοῖς ύμῶν, καὶ οὐδένα οὔτ' ἵδα οὔτε δημοσία κάκων οὐδὲν εἰργασμένος, οὔτ' ἄδικον Ἀπολλόδωρον τουτοῦ, δεῖται καὶ ἰκετεύει καὶ ἄξιοι σωθήναι, καὶ ἡμεῖς συνδεόμεθα οἱ 962 ἐπιτήδειοι ταῦθ' ὑμῶν. ἐκείνῳ δ' ύμᾶς ἀκούσαι δεῖ. τοσάυτα γὰρ, ὁ ἀνδρεὶς 'Αθηναῖοι, χρήματ' ύμῖν ἀνεγνώσθη προσεθυπορηκώς ὡς' οὔθ' οὔτος οὔτε οὔτ', ἀλλος

ο' legendum fortasse ταῦθ'.

§ 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 ἄξιοι σωθήναι] Requests, implores and claims your protection. Or. 27 § 68, and 57 § 1, δέομαι καὶ ἰκετεύω καὶ ἀντιβολῶ.

χρήμαθ' ύμῖν ἀνεγνώσθη προσεθυπορηκώς] 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 (ορ χρημάτων) has two senses, (1) 'to be well off'; (2) 'to supply money.' 'εὐπορεῖν, says Lobeck(Parerga p. 505), 'non solum significat abunde habere...sed etiam suppettirae: ἐπικουρίαν ταῖς ἥρειαις ἐξευπορεῖν Plato Legg. xi 153; χρήμαθ' ύμιν προσ-
The deities κέκτηται. πίστις μέντοι Φορμίωνι παρὰ τοῖς εἰδόσι καὶ τοσοῦτον καὶ πολλῷ πλειόνων χρημάτων ἔστι, δι' ἧς καὶ αὐτὸς αὐτῷ καὶ ὑμῖν χρήσιμός ἐστιν. ἀ μὴ προῆσθε, μὴ ἐπιτρέψητε ἀνατρέψαι τῷ μιαρῷ 58

εὐπορήκως Dem. Phorm. 962. Cf. Apat. 894, 14 (= Or. 35 § 7 εὐπορήσειν αὐτῷ δέκα μνάς); de reb. Chers. p. 94 (συνευποροῦντας ἐκεῖνως χρημάτων); Bocc. p. 1019 (=Or. 40 § 36 χρήματα εὐπορήσας); Neer. 1569, 10; Aeschin. Timarch. p. 121; Lycurg. 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 μνάς συνευπορήσα.)

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 (οὕτως 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 ὁφρομή κ.τ.λ.

58. ἀ μὴ προῆσθε] 'Do not throw this away,' i.e. 'do not sacrifice these advantages to the interests of the plaintiff.'

μὴ 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 κονίασας οὕδας ἀνατρέψῃ πολὶ δῆλων ὅν Δαρείως ἵππων οὐκ ἂνευ θεῶν τινός, i.e. 'injurioso pede protruerē.' P.] In Theb. 1076 the context shows that the metaphor is not from an earthquake, but from the capsizing of a ship, πῶλιν μὴ ἀνατρέψῃσαι μὴν ἀλλοδαπῶν κύωνι φωτίων κατακλυσθήναι, 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 σκαῖρος), 19 § 250 οὐχ ὅπως ὤρθη πλεύσεται (ἡ πόλις) προεδέτησε, ἀλλ' ἀνέπτρεψε καὶ κατέδυσε. Aeschin. 3 § 158 πλοῖον ἀνατρέψῃ καὶ τὴν πῶλιν ἀδύνα ἀνατερόφατα. It is metaphorically applied in Dem. 18 § 296 to the ὅραι τῶν ἀγαθῶν καὶ κανόνες, in 25 Aristog. 1 § 28 to τὰ κοινὰ δίκαια and in § 32 to τὴν πῶλιν; in Aeschin. 1 § 187 to τὴν κοινὴν παιδείαν, in § 190 to
τούτω ἀνθρώπω, μηδὲ ποιήσητε αἰσχρόν παράδειγμα, ὡς τὰ τῶν ἐργαζομένων καὶ μετρίως ἔθελόντων ζην τοὺς βδελυγοὺς καὶ συκοφάντας ὑπάρχει παρ' ὦμοιν λαβεῖν' πολὺ γὰρ χρησιμωτέρα ὦμοιν παρὰ τῶδε ὄντα ὑπάρχει. ὅρατε γὰρ αὐτοὶ καὶ ἀκούσετε τῶν μαρτύρων, 59 οἷον ἔαυτὸν τοῖς δειθέσθη παρέχει. καὶ τούτων οὐδὲν ἔνεκα τοῦ λυσιτελοῦντος εἰς χρήματα πεποίηκεν, ἀλλὰ φιλανθρωπία καὶ τρόπου ἐπιεικεία. οὐκόνοι ἀξίων, ὃ ἄνδρες Ἀθηναίοι, τὸν τοιοῦτον ἀνδρά προέσθαι τούτῳ, οὐδὲ τηνικάντα ἐλεεῖν ὦτ' οὐδὲν ἐσται τούτω πλέον,
άλλα νῦν ὅτε κύριοι καθέστατε σώσατε οὐ γὰρ ἐγώ· ὁ ἄλλος καιρὸν ἐν τίνι ἀν μᾶλλον βοηθήσει τις αὐτῷ. τὰ μὲν οὖν πολλὰ ὄν Ἀπολλόδωρος ἐρεῖ, νομίζετ' ὅστις εἶναι λόγον¹ καὶ συκοφαντίας, κελεύετε δ' αὐτὸν ὑμῖν² ἐπιδείξαι ἢ ὅσον ὑπεθέν ταὐτό, ὡς ἦν πατήρ, ὡς ἦστι τις ἄλλη μίσθωσις πλὴν ἥς³ ἡμεῖς δεικνύμεν, ἢ ὅσον ἀφῆκεν αὐτὸν διαλογισάμενος τῶν ἑγκλημάτων ἀπάντων ᾧ ἐγὼ ὁ κηδεστὴς ὁ τοῦτον καὶ οὗτος αὐτὸς συνεχόρησεν, ἢ ὅσο διδάσκων οἱ νόμοι δικάζονται τῶν οὕτω πραξάντων, ἢ τῶν τοιοῦτων τι δεικνύναι. ἕαν δ' ἄπορῶν αἰτίας καὶ βλασφημίας λέγην καὶ κακο- 963 λογήν⁴, μὴ προσέχετε τὸν νοῦν, μηδ' ὑμᾶς ἢ τοῦτον κραυγὴν καὶ ἀναίδεια ἐξαπατησῆς, ἀλλὰ φυλάσσετε καὶ

¹ λόγους maluit Reiske.
² Bekk. om. Ζ et Bekker st. cum Σ ubi per imprudentiam (ut videtur) ύμιν in versu extreemo praetermissum.
³ Bekk. ήν Ζ et Bekker etiam ΦΦ.
⁴ καὶ κακολογὴ delenda esse existimat Huettnner, 'nam κακολογεῖν idem declarat, quod βλασφημίας λέγειν, ot verbum satis rarum est apud antiquos scriptores; cf. Lys. 8 § 5, Pseudodem. 25 § 94'.

καιρὸν ἐν τίνι] Confused between ἐν τίνι καιρῷ, and καιρὸν ἐν ὑ. κ.λ. Cf. Or. 56 § 21 n., and Plat. Rep. p. 399 e βίου ρωθήματι ἰδείν κοσμίων τε καὶ ἀνδρείου τίνες εἰσίν· οὕς ἑθυτα κ.λ. Cf. Isocr. ad Dem. § 5 συμβουλεῦειν, ἧν χρῆ...ὁρέσθαι καὶ τίνων ἐγγών ἀπέχεσθαι. n. 60. λόγον καὶ συνοφ.] i.e. empty talk and baseless misrepresentation. For λόγος, 'mere talk,' cf. Or. 20 § 101, εἰ δὲ ταῦτα λόγους καὶ φλευρὰς εἶναι φήσεις, ἐκεῖνο γ' οὐ λόγος, 8 § 13 λόγοι καὶ προφάσεις, 20 § 101 λόγοι καὶ φλευρὰς. Similarly λόγοι in 30 § 34 and λόγος in 20 § 92.

ἐπιδείξαι] Plaintiff is challenged to prove his statements, not to rest content with vague calumny.

dιαλογισάμενος] See § 23, ἐγκλημάτων ἀ ἐγνω] Claims which were the subject of the award (γνώσις) of Deinias, 'ἀ ἐγνω, quae discipitavit.' G. H. Schaefer. Cf. § 17 init.

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

61. λέγη] 'Go on talking,' φυλάσσετε καὶ μεμνησθε] 'Keep in mind and remember'. Or. 20 §§ 163, 167; 23 § 219 ταῦτα φυλάσσετε καὶ μεμνημένου κάθησθε, 45 § 87.
54  

XXXVI. ΤΠΕΡ ΦΟΡΜΙΩΝΟΣ. [§§ 61, 62

μέμνησθε ὃς ἡμῶν ἀκηκόατε. κἂν ταῦτα ποιήτε, αὐτὸί τ' εὑροκήσετε καὶ τούτων δικαίως σώσετε, ἄξιον ὄντα νῇ τὸν Δία καὶ θεοὺς ἄπαντας.

62 Ἀνάγνωσθι λαβὸν αὐτοῖς τὸν νόμον καὶ τὰς μαρτυριὰς τασδὶ.

ΝΟΜΟΣ. ΜΑΡΤΥΡΙΑΙ.

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

1 Σ. οἴομαι Z (cf. § 18).

62. τὸν νόμον καὶ τὰς μαρτυριὰς] The context does not show what law or what depositions are referred to: possibly another νόμος of the same general purpose as that recited before, § 25 (ὡν 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 (Codon); and also at the end of the 7th and 8th speeches of Isaeus.

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

ἐξέρα τὸ ὕδωρ] ‘Pour out the water.’ See Mídias, § 129. (Cf. ἐξεράν 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 κλεψύδρα, pointedly calls on the attendant to empty the ‘waterclock’ (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 τοῖς δικαστάσ ὧστε φωνὴν μηδ’ ἡρτη

νοῦν ἐθέλειν ἁκοῦεν ἡμῶν προσο-

φλῶν δὲ τὴν ἑπωβελίαν καὶ οὐδὲ

λόγου πυχεῖν ἀξιωθείς, ὥσ οὐκ οἶο

εἶ τις πώποτε ἄλλος ἀνθρώπων,

αὐτὴν τιμῆσα, ὡνάπεξ Ἁθηναίοι,

καὶ χαλεπῶς φέρων.
XLV.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

ΤΠΟΘΕΣΙΣ.

"Ότε Ἀπολλόδωρος ἐκρίνε Φορμίωνα τῆς τραπέζης ἀφορμὴν ἐγκαλῶν, ο δὲ τὴν δίκην παρεγράψατο, ὁ δὲ Στέφανος μετ' ἄλλων τινῶν ἐμαρτύρησε Φορμίωνι, ὡς ἂρα ὃ μὲν Φορμίων προύκαλεῖτο Ἀπολλόδωρον, εἴ 1101 μὴ φησίν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν τοῦ 5 πατρὸς Πασίωνος, Φορμίωνος p παρασχεῖν ἀνοίξαι τὰς διαθήκας αυτὰς, ὃς ἔχει καὶ παρέχεται Ἀμφίας, Ἀπολλόδωρος δὲ ἀνοίξειν ὦν ἡθέλησεν, ἐστὶ δὲ ἀντίγραφα τάδε τῶν διαθηκῶν τῶν Πασίωνος. ταύτην ἐμαρτύρησαν τὴν μαρτυρίαν οἱ περὶ Στέφανον, τοῦ 10

[Δημοσθένους] κατὰ Στέφανον ψευδομαρτυρῶν α. Ἐν τῇ Ορ. 36, 1. 22, οἱ παραγγελόμενοι μὲν δὲν εἰδοὶ ἔν λήγειν τῷ Δημοσθένῃς εἴη σημαντικός ἡ κατασκευασμὸν τῆς ὑποθέσεως. Αὐτὸ οὖν ἐν τῇ ὁμοσπονδίᾳ τῆς ἐπιφάνειας παραθέτεται τῇ Ορ. 36, 1. 22, ἀπὸ τῶν διαθηκητῶν τῆς 5 Ἀμφίας, ἀπὸ τοῦ δὲ Στέφανου, ὅταν ἐκρίνει τὴν δίκην τῆς Φορμίωνος, παρασχέσθαι τὰ διαθήκην τὴς Πασίωνος τοῦ πατρὸς τοῦ, ὡς ἀνοίξαι τὰ διαθήκην αυτὰς, ὃς ἔχει καὶ παρέχεται τῇ Αμφίας.

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

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

3. Στέφανος ἐμαρτύρησε κ.τ.λ.] See infra § 8. The ἄλλοι τινὲς are called "Εὐδός and Σκόθης in the document there quoted.

4. ἐλ μὴ φησίν] '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. ἐστὶ δὲ ἀντίγραφα κ.τ.λ.] The clause is continued from ὡς, 'that the document produced is a copy of Pasion's will.'
XLV. KATA STEFANOTH [Argument

'Απολλοδόρου λέγοντος κατὰ τοῦ Φορμίωνος ὡς ἄρα τὰς διαθήκας πέπλακε καὶ τὸ ὅλον πράγμα σκευωρήμα ἔστιν. ἦτηθείς τοῖνυν τὴν δίκην Ἀπολλόδωρος ύπέρ τῆς μαρτυρίας ὡς ψευδώς ούσης τῷ Στεφάνῳ 15 δικάζεται.

1. Καταψευδομαρτυρηθείς, ὃς ἀνδρεὶς Ἀθηναῖοι, καὶ παθῶν ὑπὸ Φορμίωνος ὑβριστικὰ καὶ δεινὰ δίκην παρὰ τῶν αἰτίων ἦκοι ληψόμενος παρ᾽ ἕμν. δέομαι δὲ πάντων ὑμῶν καὶ ἱκετεύω καὶ ἀντιβολῶ πρῶτον

12. πέπλακε...σκευωρήμα] Or. 36 § 33, πάζαμα καὶ σκευώρημα ὅλον, and infra § 42.

12—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 προαίθων (Ar.Rhet.11114) or, as we should say, the key-note of the whole speech is struck in the opening words: ὑβρισθεῖς ὃς ἀνδρεὶς δικασταὶ καὶ παθῶν ὑπὸ Κόνωνος κ.τ.λ.—The appeal ad captandum benevolentiam, πρῶτον μὲν εὐνοίκος ἀκώσατο μου, also occurs in Or. 54 § 2, and similarly the formula εἰτ ἐὰν (ἡδοκήσατι καὶ παρανευμωσθαι) δοκῶ, βοηθήσται μοι τὰ δίκαια, and lastly the promise of brevity, ὥς ἄν οἶος τε ὅ διὰ βραχυτάτων. καταψευδομαρτυρηθείς] 'Crushed by' (or 'having been the victim of') false testimony.' Cf. Or. 33 § 37, and Plat. Gorg. 472 b. Ναπροε. κατα-ψευδομαρτυρησάμενος ἀντὶ τοῦ παρασχῶν τὰ ψεύδη (αὐτψευδή;) μαρτυρήσωτας. Δημοσθένης εἰ τῷ κατὰ Στεφάνον. The lexicographer intended doubtless to refer to Or. 29 (ὑπὲρ Φάνου πρὸς Ἀφόβον ψευδομαρτυρὺν) § 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 Στεφάνον καὶ ὑπὲρ Φάνον (A. Schaefer in Neue Jahrb. 1870, vol. 101 p. 528).

δέομαι ... ἱκετεύω ... ἀντιβολῶ] Cf. infra §§85, Or.27 (Aphobus A) § 68, and 57 (Eubul.) § 1; Lyons Or. 18 § 27, and 21 § 21. Such combinations of two or three nearly synonymous verbs are very common in the undisputed speeches of Demosthenes
§ 1, 2. p. 1102] ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

μὲν εὔνοικὸς ἀκούσαι μου· μέγα γὰρ τοῖς ἡτυχηκόσιν, ὡσπερ ἔγω, δυνηθῆναι περὶ ὅν πεπόνθασιν εἰπεῖν καὶ εὐμενῶς ἑχόντων ὑμῶν ἀκροτῶν τυχεῖν· εἰτ’ ἔαν ἄδικεῖσθαι δοκῶ, Βοηθῆσαι μοι τὰ δίκαια. ἐπιδεῖξον 52 υἱὸν τουτοῦ Στέφανον καὶ μεμαρτυρηκότα τὰ εὐθυνή, 1102 καὶ δὲ ἀσχορκερδίαν ἀν τοῦτο πεπονηκότα, καὶ κατήγορον αὐτὸν αὐτοῦ γιγνόμενον· τοσαυτῇ περιφάνειᾳ τοῦ πράγματός ἐστιν. εὖ ἀρχής δ’ ὁς ἄν οἶος τε ὁ διὰ βραχυτάτων εἰπεῖν πειράσομαι τὰ πεπραγμένα μοι

c om. Z cum libris. addidit Reiskius.

(ε.γ. Or. 36 § 47, ἀγεὶς εἰς μέσων, δεικνύεις, ἐλέγχεις; ib. 52, ἐλαύνεις, συκοφάντεις, διώκεις; ib. 57, δεῖται καὶ ἱκετεύει καὶ ἄξιος; Or. 54 § 33, δικάσωμεν καὶ μωσὶ καὶ ἐπεξέρχομαι). The speech ὑπὲρ φορμι- ωνος 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.)
eὐμενῶς] Almost equivalent to εὔνοικός in the last sentence; εὐμενής, however, is not so triv- ial a word as εὔνως. The former is frequent in Attic verse, the latter is generally found in prose; the former is most often used of the gracious conde- scension of a deity; the latter of the kindly feelings of ordinary human beings. Or. 4 § 45, τὸ τῶν θεῶν εὐμενῆς, illustrates the rule, while the exception in the present passage may be paralleled from Herod. vi 237, εὐνόω δὲ ἔστω...εὐμενέστατον πάντων.

[Add Eur. Alc. 319, οὐκέν τιμῶν εὐμενέστερον, El. 601, ἐστὶν τί μοι κατ’ Ἀργος εὐμενὲς φίλων; Aesch. Suppl. 488 and 518 Dind. P.]

2. τὰ πενήντα] ’Additum arti- culum hoc vel illud testimonium peculiari indicat, contra mar- τυρεῖν πενήντα (cf. § 41) vel ἄληθη (§ 52) tantummodo significat martureῖν πενήντων vel ἄληθῶν’ (Beels, Diatribe, p. 79). See Or. 47 §§ 1, 2 τὰ πενήντα μαρτυ- ρεῖν; ib. § 4 πενήντα μ. thrice. [inf. § 5, τὰ πενήντα μοι κατεμαρτυρύ- σεν, ‘gave this false evidence against me.’ Thus often in the Tragic poets τὰ δευά, where some special atrocity is described. But here we may render, ‘has given evidence which was false.’ P.]
tοσαυτῇ 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), ῥάδιας ἐξελέγχας διὰ τὴν περιφάνειαν τῶν πράγμα- των. Isaeus, Or. 7 § 28, τοσαυτῇ περιφάνειᾳ τῆς ἔριδος ποιήσαψ ἐγένετο παρ’ αὐτοῖς...ἐπὶ τοσαύτων μαρτύρων ἔγγονεν ἡ πολισία. Cf. Hom. Od. i 426, μερικὰ πτω ἐν χώρᾳ, and ib. ν 476, ἐν περι- φανομένῳ.
πρὸς Φορμίωνα, ἐξ ὅν, ἀκούσαντες, τὴν τ' ἐκείνου επονηρίαν καὶ τούτους, ὥστε τὰ ψευδή μεμαρτυρίσατο, γυνώσεσθε.

3 Ἔγω γὰρ, ὁ ἀνδρεὶς δικασταῖ, πολλῶν χρημάτων ὑπὸ τοῦ πατρὸς καταλειφθέντων μοι, καὶ ταῦτα Φορμίωνος ἔχοντος, καὶ ἔτι πρὸς τούτος τὴν μητέρα γῆ-μαντός τὴν ἐμὴν ἀποδημούντος ἐμὸν δημοσίᾳ τρηπαρ- τὴν τε τοῦτον Ζ. cum libris. τὴν τ' ἐκείνου Bekker cum γρ. FFB.

ἐξ ὅν...γυνώσεσθε] This being the syntax, ἀκούσαντες must be taken by itself, ‘when you have heard it.’

ἐκείνου] sc. Φορμίωνος.

§§ 3—8. Narrative (διήγεσις). 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 ἀποδημούντος, ‘cum publice (in causa publica) abesse.’ The fondness of the Greeks for participles is shown by the addition of τρηπαρχεῖοντος which is subordinate to, and explanatory of, ἀποδημούντος. Or. 36 § 25, and Madv. Gk. Synt. § 176, d.

This triarchy of Apollo- dorus 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.
χοιντος ύμιν (δυ τρόπον δε, ουκ ἵσως καλὸν νιεὶ περὶ μητρὸς ἀκριβῶς εἰπεῖν), ἑπειδὴ καταπλεύσας ἡζθο- μην καὶ τὰ πεπραγμένα εἶδον, πολλὰ ἀγανακτήσας καὶ χαλεπὸς ἔνεγκὼν δίκην μὲν οὐχ οἷς τ’ ἤν ἵδιαν λαχεῖν (οὐ γὰρ ἤσαν ἐν τῷ τότε καιρῷ δίκαια, ἀλλ᾽ ἀνε- 4 βάλλεσθε ύμεῖς διὰ τὸν πόλεμον), γραφὴν δὲ ὑβρεως γράφομαι πρὸς τοὺς θεσμοθέτας αὐτῶν. χρόνον δὲ γιγνομένου, καὶ τῆς μὲν γραφῆς ἐκκρονομένης, δικῶν

esp. τοῦτων δὲ τοῦς ἐπὶ Δυσνι-κῆτον ἄροχο]τοι πρέα[εις διακο- μίζεις τὴν ὠμολογίαν. The trier- archy 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 ἀπεδήμοιον τριγεραχῶν, τετελευ- τικεί δ’ ὁ πατὴρ παλαι, δὴ ὁὔτος ἔγημε, παλαι, 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 tem- pore, etc. p. 9; A. Schaefer, Dem. und seine Zeit, in 2, 146; and Lortzing, Apollodorus, p. 3.)

δίκην ἵδιαν...γραφὴν ὑβρεως] 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 be- tween Athens and Thebes in the period between the battle of Lenatra in b.c. 371, and the death of Epaminondas at the battle of Mantineia in b.c. 362. The courts were not sitting for ordinary business, perhaps be- cause there was no pay for the dicasts (cf. Or. 39 § 17); and the only process that was avail- able under the circumstances was a public action. So (just below) δικῶν ὅποι ὄνομαν means, as the courts continued closed for private suits. ὑμείς refers to the citizens generally, who are said, in the medial sense, ‘to have had the sessions (τὰς δικας) postponed.’

θεσμοθέτας] Isocr. Or. 20, κατὰ Δαχίτου § 2, περὶ τῆς ὑβρεως... ἔξεστι τῷ θεολογείῳ τῶν πολιτῶν γραφαμένω πρὸς τοὺς θεσμοθέτας εἰσεδείθων εἰς ὑμᾶς. (Hermann, Privatalt. § 61, 9, 19 = Rechtsalt. ed. Thalheim § 6, pp. 35, 37; Meier and Schömann, p. 323.)

χρόνου γιγνομένου—γραφῆς ἐκ- κρονομένης] See note on Or. 36§ 2, ἦν ἐκκρονοίστης χρόνους ἐμπαίωμεν. For χρόνου δὲ γιγνομένου, Reiske
ingeniously, but perhaps unnecessarily, proposes χρόνον δ’ ἐγγεγραμένου, which at any rate modifies the slight inelegance of the triple repetition γεγραμένου ...γέγραμται...ἐγέγραμτο. Cf. Or. 47 § 63, χρόνου ἐγγεγραμέθη.

φιλάνθρωποι λόγοι] ‘Kindly overtures’ (blanditiae, G. H. Schaefer). De Corona, § 298, ούτε φιλάνθρωπα λόγον οὔτε ἐπαγγέλων μέγεθος. Midias, § 75, οὔτε κλάσατα οὔτε δεχόμενα...οὔτε φιλανθρωπον...οὔτε ὡτιον πρὸς τοὺς δικαστᾶς ποιήσατα, where perhaps bribery is tacitly meant. (Cf. Shilleto on Fals. leg. § 117.)

μέτριοι...ταπεινοὶ] i.e. ‘both moderate and reasonable in their terms.’ Fals. leg. § 15, μετρίους λόγους, where Shilleto quotes Ulpian: ήγαν ἐπιεικείας, φιλανθρώπους.

5. ἦνα...συντέμω] The reason for the speaker’s hurrying over this part of his statement is partly because the overtures of reconciliation on Phormion’s side, which he takes credit to himself for candidly admitting, are really more to Phormion’s credit than to his own.

δίκην] i.e. the suit κατὰ Φορμίωνος, to meet which a special plea is put in on Phormion’s behalf in Or. 36. The words ἐπείδη τάχατα ἐξούσια 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 opponent’s suit on the ground that it infringed the ‘statute of limitations’ (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 partially concerned (Or. 36 § 53).
παρεγράφατο κ.τ.λ.] See notes on p. 2. For μάρτυρας ὃσ ἄφηκα, 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. παραγραφή πρὸς Κάλλιμαχον § 1, φείδην τὴν ὀδηγῆσαι πρότερον λέγον τῶν διώκτων. See on Or. 34 § 4, κατηγορεῖν τοῦ διώκτου, and ibid. § 1, ἐν τῷ μέρει λεγόντων. — προλαβὼν = φθάσας, 'having got the advantage of me.'
εὐθυδικία εἰσίναι] We might expect the ace. as in Or. 34 § 4, εὐθυδικικοὶ εἰσώσατα, ὃ κατηγορεῖν τοῦ διώκτου (cf. Or. 36 Arg. l. 25 ἀπετέλεσε τῆς εὐθείας n.); but the dat. is found in Isaeus, Or. 6 (Philoctem.) § 53, μὴ διαμαρτυρήσῃ κωλύειν ἀλλ' εὐθυδικία εἰσίναι. τὴν ἐπιστελλεῖν] 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, Ἀπoll. had to pay, in addition to costs, a sixth part of 20 talents, 3t 20m —£666, if (with Goodwin) we reckon the talent at £200. (Boeckh, Publ. Econ. Book 11 chap. 10, pp. 473, 482 trans. Lamb.)—For ὀὐδὲ λόγου τυχεῖν cf. § 15, ἀπεκλείσθην τοῦ λόγου τυχεῖν.
7. οὐκ ἄν οἴδ' ὃ τι ἄλλο εἰσχῶν] ἄν is often attracted to the negative and separated from its verb (e.g. εἰσχῶν) by the interposition of οὐδ' (as here), οὕτω, διόκω, φημὶ (as elsewhere). (Cf. note on Or. 37 (Pant.) § 16, οἴδ' ἄν εἰ τί γενόστοι φήμην δικάραν μοι λαχεῖν, also Goodwin's Moods and Tenses § 42, 2, and Shilleto on Thuc. 1 76 § 4.) It is quite
unnecessary to accept the suggestion of Cobet οὐκ οἶδ’ ἄν ὁ τι (Nov. Lect. 581), or that of Dobree ‘distingue autós οὐκ ἂν, οἶδ’ ὁτι, ἄλλο εἰχόν.’

πρὸς ἐκείνους εἰσίων] sc. εἰς δικαστήριον, ‘When I proceed against them,’ Endius and Scythes, contrasted with οὕτως, the present defendant. Compare § 17, ἐπὶ τοῦτον ἤα, infr. § 11 τοις εἰσίων πρὸς... and Or. 54 § 32 ad fin. εἰσίνα, 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 πῶτοτε δίκην πρὸς ὑπαίς εἰσήλθομεν, οὔτ’ ἐγκαλούντες οὔτ’ ἐγκαλούμενοι υἱῷ ἑτέρων.

8. εἰς αὐτής] ex ipsa, perhaps, rather than ex ea.—On ἐπίλαβε τὸ ὤδρο εἰς note on Or. 54 § 36.

Στέφανος Μενεκλέους k.t.l.] Like many, if not most of the documents inserted in the speeches of the Attic Orators, this deposition has been regarded as spurious. Its purport is to be found in §§ 9—26 and in Or. 46 § 5. The names of Tisias, Cephisophon and Amphiias 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 (§§ 23, 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)
γένος Λαμπρέως, Σκύθης 'Αρματέως Κυδαθναιεύς μαρτυρούσι παρείναι πρὸς τὸ διαίτητ' Τισία 'Αχαρνεί, ὅτε προποικαλεῖτο Φορμίων 'Απολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθήκων τῶν Πασίωνος τὸ γραμματεῖον ὁ ἐνεβάλετο Φορμίων εἰς τὸν ἐξίνον, ἀνοίγειν τὰς διαθήκας τὰς Πασίωνος, ἃς παρείχετο πρὸς τὸν διαίτητ' 'Αμφιας ὁ Κηφισοφῶντος κηδε-στής. 'Απολλόδωρον δὲ οὐκ ἐθέλειν ἀνοίγειν εἶναι δὲ τὰ ἀντίγραφα τῶν διαθήκων τῶν Πασίωνος.

*Hkousate μὲν τῆς μαρτυρίας, ὃ ἄνδρες δικασταῖ, 9 νομίζω δ' ὑμᾶς, εἰ καὶ μηδὲν τῶν ἄλλων αἰσθάνατε*

h Λαμπρέως Bekker 1824. "immo Λαμπρέως" Z, et Bekker st.

i τὰ Bekker. ταίτα (Dobree). τάδ' (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 "Εὔδως 'Επιγένους Λαμπρέως is given in one ms only (Φ). An inscription, however, of B.C. 325 gives the name Κριτόδημος 'Εὐδω τοῦ Λαμπρέως whose father may be the "Εὔδως 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, 'Αρματέως, does not occur elsewhere, except in Stephanus of Byzantium, who makes it mean 'an inhabitant of Harmo' 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 der Attischen Redner eingelegeten 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.

προοικαλεῖτο...ἀναίγειν] '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 ἐξίνον see note on Or. 54 § 27.

εἶναι τὰ ἀντίγραφα κ.τ.λ.] A loosely expressed sentence. τὰ ἀντίγραφα τῶν διαθήκων cannot be construed as the subject, and unless we accept either τὰδ' or ταίτ' 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, τούτο γε αυτὸ θαυμάζειν, τὸ τῆς μαρτυρίας εἶναι πρόκλησιν, τὴν δὲ τελευτὴν διαθήκης. οὐ μὴν ἀλλ’ ἐγωγ’ ὦμαι δεῖν, ἐπειδὰν, ὅ τὸν 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 convicted, 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 depositing 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. ii 2, p. 171). So far, the case clearly tends against Apollodorus.

9. οὐ μὴν ἀλλ’...] ‘Neverthe-

less’, ‘however’, ‘not but that.’ The ellipse which this combi-

nation of particles always in-

volves may be here supplied by some such words as οὐ μὴν (ὑμᾶς τοῦτο χρη θαυμάζειν) or (παρα-


tὸν μεμαρτ...κεφαλ] sc. ἐμὲ οὐκ ἑδελεω ἀνοίγειν.—τηρικαῦτα

se. in §§ 15—28.
μαρτυρημένων ὡσπερεὶ κεφάλαιον ἐστιν, ἐπιδείξας ψεύ-
δος ὃν, τηρικαυτ’ ἦδη καὶ περὶ τῶν τοιούτων ποιεῖσθαι
τοὺς λόγους. ἔστι δὴ μεμαρτυρημένον αὐτοῖς προκα-
το λείσθαι Φορμίωνα ἀνοίγειν τὰς διαθήκας, ἂς παρέχειν
πρὸς τὸν διαιτητὴν Τισίαν Ἀμβέαν τὸν Κηφυσοφῶν-
τος κηδεστήν ἐμὲ δ’ οὐκ ἔθελεν ἀνοίγειν εἶναι δὲ
ἀς αὐτοὶ μεμαρτυρήκασι διαθήκας, ἀντιγράφουσι ἐκεὶ-
νοῦν. εἴθ’ ἡ διαθήκη γέγραπται. ἐγὼ τοῖνυν περὶ μὲν 11
τοῦ προκαλεῖσθαι με ἣ μὴ ταύτα Φορμίωνα οὐδὲν τῶ
λέγω, οὐδὲ ὑπὲρ τοῦ τὰς διαθήκας ἀληθεῖς ἢ ψευδεῖς
εἶναι, ἄλλ’ αὐτίχ’ ύμᾶς περὶ τούτων διδάξω’ ἄλλ’ ἄ
μεμαρτυρήκας, μὴ μ’ ἔθελεν τὸ γραμματεῖον ἀνοί-
γειν. ὥδε δὴ σκοπεῖτε. τοῦ τις ἄν ἐνεκαὶ ἐφευγεν ἀνοί-
γειν, τὸ γραμματεῖον; ἦν’ ἡ διαθήκη νῦ Ἰά μὴ φανερὰ
γένοιτο τοῖς δικασταῖς. εἰ μὲν τοῖνυν μὴ προσεμαρτύ-
12 ροῦν τῇ προκλήσει τὴν διαθήκην οὕτω, λόγον εἰχὲ
τιν’ ἄν τὸ φεύγειν ἐμὲ ἀνοίγειν τὸ γραμματεῖον* προσ-
μαρτυροῦντων δὲ τούτων καὶ τῶν δικαστῶν ὄρμιώς

\[ \text{1} \text{εἴνεκεν Ζ} \text{εἰς Σ}. \]

10. ἂς παρέχειν] so. μαρτυ-
ροῦσα. For the infinitive in
the relative clause influenced by
the principal verb, cf. Or. 36 § 25.
ἐπέ’ ἡ 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, sequi-
tur exemplum testamenti.’ Sea-

11. περὶ...ὑπὲρ] These prepo-
sitions are here, as often, prac-
tically synonymous. Cf. infra
§ 50, and Fals. Leg. § 94, p. 371,
οὐ περὶ τοῦ εἰ παρεγένει ἐφήνην...
ἀλ’ ὑπὲρ τοῦ ποιαν τινά.
τοῦ τις ἄν ἐνεκα ἐφευγεν κ.τ.λ.]
‘What reason would any one
have had for declining, &c.’

P. S. D. II.
The ἀνν strictly belongs to the apodosis ἦν, but is here, as often, put as early as possible. Cf. Or. 36 § 42, ὅμως...καί εἰ...λέγει, κάλλων εἶναι. Sometimes the construction of the apodosis shows that καί εἰ is regarded as much the same as καί εἰ, e.g. Plato Meno 72 c, καί εἰ πολλαί καί παντοδαπαί εἶσαι, ἐν γέ τι εἶδος τοῦτον ἀπασάν ἔχουσιν. Kühner, Gk. Gr. § 398, p. 210. Buttmann calls this "ἐν consopilum," where its force is, as it were, dormant. It is peculiar to the later or middle Attic.

§ 12. ὡ—ἐχρόμην] Or. 36 § 47, ὡν—ἐφαίνετο π.

ἀλλ' ἄττα τῶν κτ.λ.] = ἀλλ' ἄττα ἦ 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 ἐτέρος, ἄλλοτρος, διάφορος) cf. Xen. Mem. iv 4 § 25, πότερον τοὺς θεοὺς ἡγῆ τὰ δίκαια νομοθετεῖν ἦ ἄλλα τῶν δικαίων. ἄλλοτρος is so used in Dem. 18 § 182, but I cannot find any similar use of ἄλλος in Demosthenes.—Dobree suggests ἄλλ' ἄττα ἄντι τῶν.

τεκμηρίῳ κτ.λ.] sc. τοῖς ἐχρόμην τεκμηρίῳ ὡς καὶ τᾶλλα κατασκεύαζον.—In the next clause ἄντων ('to give evidence himself') is contrasted with the several witnesses, οἱ περὶ Στέφανον.

ἐδελήσαντος μὲν] i.e. εἰ μὲν ἡθλησε, contrasted with εἰ δ' ἐφευγε. We should naturally expect ἐδελήσαντα, 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, ἀπενείκαστο αὐτῶν (sc. τοῦ τάππου) οὐδέποτε ἀπέλυε τῶν πάππων. (Kühner, Gk. Gr. § 494 b, Madvig, Gk. Syntax. § 181 R 6.)

ὑπεύθυνον] Liable to a prosecution for false witness.
πάλιν αυτο τον ικανόν τεκμήριον ἢν μοι τοῦ πεπλάσθαι τὸ πράγμα. καὶ δὴ καὶ συνέβαινεν ἐκεῖνος μὲν ἐνα εἶναι, πρὸς ὅν τὰ πράγματα ἐγγυνετὸ μοι, ὡς δ' οὕτωι μεμαρτυρήκασι, πρὸς πολλούς. ἐστιν οὖν ὡστις ἂν ῥήμα ταῦτα εἶλετο; ἐγὼ μὲν οὖνδένα ἑγοῦμαι. οὐ 14 τοίνυν οὔδε κατ' ἄλλου πιστεύειν ἐστέ δίκαιοι. καὶ γὰρ, ὦ ἀνδρεῖς 'Αθηναίοι, ὅσοι μὲν πρόσεστιν ὁργῇ τῶν πραττόμενων ἡ λήμμα τι κέρδους ἢ παροξυσμὸς ἢ φι-

1 Bekker (st. Leipzig ed.), 'ἀν 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 ἡξίον... ἐλάμβανον... ἤναβον) is put without ἃν.— Malin καὶ δὴ κἂν συνεβαινεν et mox εστων οὖν ὡστις ἂν ῥήμων; says Dobree, comparing § 33 bis, and also proposing in § 34 τὸ 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 ἃνα, 'in which case it would have happened that, &c.' The addition of ἃν would be quite out of place here, though it is necessary in the clause ἑστων οὖν ὡστις ἂν ῥήμων, 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 οὖνοι μεμαρτυρήκασι), sc. εὶ τῶν παρασχὼν ἡξίον μαρτυρεῖν, including the subsequent subdivision of that supposition into the two further hypotheses, ἐθελήσαντοι μὲν κ.τ.λ. and εἰ δ' ἔφευγε κ.τ.λ.

πρὸς πολλοὺς] sc. τὰ πράγματα γενέσθαι μοι.

14. οὐ...οὔδε κατ' ἄλλου πιστεύειν] 'Well then, you cannot fairly believe it of any one else either.'

ὁσιο...τῶν πραττόμενων] The participle is best taken not as gen. after ὁργῇ but after ὅσοι, 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 (Kubul.) § 49, ἡ πόλις πάσα... ὀργυζόμενα παροξυστά, ib. § 2, Or. 47 (Eugerg.) § 19; also the adj. in Or. 20 (Lept.) § 105, λόγοι παροξυστικοί πρὸς τὸ...πείσαι.
λογισμός 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 defendant 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 (Amphiias), 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 θέλειν] θέλω is the proper form in Attic prose, θέλω in Attic verse, but the latter is occasionally found in Dem. in such formulae as ἄν θέσεις θέλη. (See Veitch Gk. Vb.) The Paris ms Σ has θέλω, which was adopted in Dindorf’s earlier editions.

τροκλησεῖς] Harpocr. s. v. εὐθέσαν ὑπὸ τὸ δικάζωντο τινὲς, ἐξαιτεῖν ενιοτε θεραπαῖν ηθοπ-. 
μαρτυρεῖν. οἷον γὰρ ἂπαντας ὠμᾶς εἰδέναι ὀτι ὁ σᾶς μὴ δυνατὸν πρὸς ὠμᾶς ἀγαφεῖν ἐστὶ τῶν πεπραγμένων, τούτων προκλήσεις εὐρέθησαν. οἷον βασανίζειν οὖκ ἐστιν ἐναντίον ὠμῶν: ἀνάγκη τούτου πρόκλησις εἶναι. οἷον εἰ τι πέπρακται καὶ γέγονεν ἕξω ποιοῦ τῆς χώρας, ἀνάγκη καὶ τούτου πρόκλησις εἶναι πλεῖν ἐν βαδίζειν

ποινας εἰς βάσανον ἢ εἰς μαρτυρίαν τοῦ πράγματος, καὶ τοῦτο ἐκάλεσε προκαλεΐσθαι, τὸ δὲ γραμματεῖα τὸ περὶ τούτου γραμμóμενον ὑ-νομάζετο πρόκλησις. παρὰ πολλοῖς δὲ ἦστι βήταιροι. Δημοσθένος δ' ἐν τῷ κατὰ Στεφάνου καὶ περὶ ὣν πρόκλησις γίνεται ἡρμῆι. Her- mann, Public Antiquities, § 141, 20.

16. βασανίζειν οὐκ ἐστὶν ἐναντίον ὠμῶν] In Dobrez's Adversaria, we have the suggestive note 'Qu. interro. 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 ad- ministration of torture in open court was not allowed.—We find Aeschines (Fals. Leg. § 126) proposing to 'question' certain slaves in public: ἄγωμεν δὲ καὶ τοὺς οἰκέτας καὶ παραδώμενοι εἰς βάσανον...παρέστα τῇ ὁ ὁδημοῦ καὶ βασανίζει ἐναντίον ὑμῶν, ἣν κελεύητε...κάλει μοι τὸν σαντα κε-κέτας δέν 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 ἣν 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 Εὐθέγον ψευδομαρτυρίων § 17, we read: ἐδει αὐτὸν, εἴπερ ἀληθῆ ἢν ἄφασιν αὐτῶν προκαλεῖσθαι, κλη- ρονύμων τῶν δικαστηρίων κομὶ- σαντα τὴν ἀνθρωπίνην, λαβόντα τῶν κήρυκα, κελεύνει ἐμε, εἰ βουλλάμην, βασανίζειν, καὶ μάρτυρας τοὺς δι- καστὰς εἰσώντας ποιεῖσθαι ὃς ἔτωμις ἐστὶν παραδούσῃ (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 'ques- tion' 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.

οἷον—ἕξω τῆς χώρας] As an illustration of this form of Challenge, we find in Or. 32 the plaintiff (Zenothemis) borrow- ing money in Syracuse (§ 4) and the defendant challenging him at Athens to sail to Syracuse and appear before the author- ities there (§ 18). Cf. ex iure manum consortium voco in Cicero pro Murena § 26 (with Mr Heitland's note).

πλεῖν ἐν βαδίζειν] Here, as often, contrasted with one an- other, as the ordinary words
for 'going by sea or by land,'---Pals. Leg. § 164 oun'  ἐπείγεσθαι βαδίζονσθαι πλεῖον ἀυτῶς ἐπι-γείει.

17. ποικίλῃ στοά] '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 bracatis illita Medis Porticus. It is placed east of the market of the Ceramicus in Curtius, Text der sieben Karten p. 35.

The public arbiters had particular buildings assigned them according to the tribe to which they belonged; thus in Or. 47 § 12 the arbitration takes place in the Heliaeae, οἱ γὰρ τὴν Οἰνηδά διὰ τὴν Ἐρεξθηδά διατώντες ἐν τοίς κάθηται.

ἐχρῆν] As usual, without ἄν. We might have had εἰτῆρ ἄλληθες ἢν, ἐνέβαλεν ἂν τὸ γραμματεῖον, implying ἄλλ' ὧν ἐνέβαλεν, whereas the sentence as it stands does not require ἄν because it implies not ἄλλ' ὧν ἐχρῆν, but ἄλλ' ὧν ἐνέβαλεν. So also with ὅφελον, ἔμελλων, ὡδε, προσήκεν; 'sed multo latius patet haec ratio... Omnino, ubi dicamque non potest contrarium opponit, recte absque particula.'---Hermann de particula 14 § 21. On a similar principle we have τὰ ἐπεξεργαζόμενα above, which follows the analogy of δίκαιον ἢν, εἰκὸς ἡν, &c.

tὰ σημεῖα] Probably the seals attached to the will (cf. Becker's Charicles, Sc. ix note 14), and not those on the deposition-case or ἐξίνος (as supposed in Stark's addenda to Herrmann's Privatatt. § 65, 9). On the ἐξίνος cf. Or. 39 § 18, σεσημασμένοι τῶν ἐξίνων, and note on Or. 54 § 27. For the opening of the seals of a will, see Ar. Vesp. 581, κλάειν ἡμεῖς μακρὰ τὴν κεφαλὴν εἰπώντες τῇ διαθήκῃ, καὶ τῇ κόρῳ τῇ πάντω σημείωσιν ἐπούσῃ.

Ὑά] 'perhaps old Attic, Plat. Theaet. 180, Rep. 449' Veitch, Greek Verbs s. v. εἰμ. As first person ἦν is rare, but προσέχειν is not. In § 6 we have had ἄπήν. See Cobet, Variae Lect. p. 307.
18. eis...oùdeis] 'No single witness has accepted the whole responsibility'; cf. §38 dieiənto τάδικήματα. eis oûdeis is a much stronger negative than oûdeis. Or. 21 (Midias) §12, eis yap oûdeis èstn éf' ò...ouv dikaios òv apòdów-levai fainhèrstai. Cf. Fals. Leg. § 201, eis ouv' ótòvòn. ó μên...ó de] Cephalisphon (§§ 21, 22)...Amphias (Ὁ Κήρυσσ-φώντος κῆδεστης, § 10).—The subject of èkastos (ὁ μên...ὁ de) is meimartýrēke implied by the former part of the sentence. This is all that is meant by Dobree's punctuation 'Distinguimus ó de, pêrmefthēs,' to show that pêrmefthēs is subordinate to pár-echein and is not to be taken with ó de. Trans. 'another, that he produced the will on being sent by him (Amphias).'

19. parapetásmat] sc. pòrfos-sei (Or. 46 § 9 πρόφασι...τῶν πρό-κλησιν), pòrfos-ματι, as a 'clack,' or 'pretext,' lit. a 'screen' or 'curtain.' Plat. Protag. 316 ε ταῖς τέχναις ταύταις παραπέ-τασιν εχέρασσατο, immediately after pòrfos-ματι pòfioin và kai pòrkaLpòtēsthai. ós vàn máliost' oí dikastai...
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:

"Ill vero, provocationis prae- texta usi, de testamento testati sunt co modo, quo facillime judicis hoc patris testamentum esse credere, ego autem ab oranda causa mea exclusi debemus[, ip- si vero—falsa testati esse deprec- henderentur; atqui contrarium spersabant. Illa enim auta de, (hic voce paullum subsistit orat- tor) ϕωφαθείεν τά ψευδή μεμαρ- τυρκότες, ironice dicta esse patet’ (Opuscula iv 27 de par- ticula ἀν ἔτη).

Dobree says: ‘Sensus est: ita rem administrarunt, ut tune quidem judices deciparent; postea autem hoc palam fieret, quamvis id non praeviderent.— Qu. de modorum permutatione. Similis locus F. Leg. 424. 16’ τοσοῦτ’ ἀπεχομεν τοῦ τοιοῦτον τι ποιεῖν, ὥστε θαμαζόμενοι καὶ γη- λοῦν καὶ βούλομεν ἃν αὐτὸς ἔκα- στος τοιοῦτος εἶναι.

[I suggest ὥσ ἃν εἰ μᾶλλα, and perhaps ὅστις γε ἑνά (though ὅστις δὲ might mean ‘yet these’ &c). ‘They gave their evidence so, that if the dicasts were ever so much per- suaded, and I was stopped from further proceedings then, yet they will be detected in having lied.’ ὥσ ἃν ϕωφαθείεν is a vir- tual synonym of ὥστε ϕωφαθήναι.

See Æsch. Ag. 357, ὃπως ἃν βέλος ῥήλθον σκύψειεν.

For the use of ἀν in apodosis, cf. Or. 21 (Mīd.) p. 517 § 100, ἐλ σὲ τὶς πένης μοῦ δὲν ὁδύκηκώς ταῖς ἐσχάταις συμφοράς ἀδίκω ὑπὸ τοῦτον περιπέτευκε, τοῦτο δ’ οὐδὲ συνοργισθήσησθε; and for ὥσ ἃν with optative equivalent to ὑστε, see Plat, Phaedr. p. 230 ν, καὶ ὃς ἀκμὴν ἔχει τῆς ἀνθης, ὥσ ἃν εὑριστέστων παρέχοι τὸν τόπον, ‘see how this willow is in full blossom, so as to fill the place with fragrance!’ Symp. p.187 ν, τοῦ μὲν κοσμιοὶ τῶν ἀνθρώ- πων, καὶ ὃς ἃν κοσμιμωτέροι γίγ- νοντο οἱ μῆτις ὄντες, δεὶ χαρι- βεσθαι. R.]

§§ 19—23. To prove this, take the evidence of Cephisophon. He deposes to a document having been left him by my father, in- scripted ‘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 de- ponent.’—Now, had Phormion’s name appeared outside, the de- ponent might reasonably have kept the document for Phormion; further, had it really been en- dorsed ‘Pasion’s Will,’ it would have belonged to me by inherit- ance like the rest of my father’s
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 Cephasophon. 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. Cephasophon, 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?

Martialia] The wording of this deposition is identical with that of the speech itself (§§ 18 and 20), with the exception of the clause ἕνδικτο τοῦ πατρός, (naturally suggested by καταλειφθήναι,) and the description of the witness as Κεφάλωνος Ἀφιδναῖος. Κεφάλων is a parallel form of Κεφάλων and is found elsewhere (Plut. Arat. 52). One Κηφισοφών 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 (Bocekh, Seenesen p. 442). The composer of the deposition may have been led to assign Cephasophon to Aphidna by a passage in Or. 59 κατὰ Νεάρας §§ 9—10, where a person of that name bribes one Stephanus of Erocaiae to charge Apollo- dorus 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 Κηφισοφων Κεφαλωνος Ἀφιδναῖος (C. I. A. ii 1, 114 c. 6 quoted by Kirchner p. 28).

20. ἐμβαλεῖν] sc. εἰς τὸν
XLV. KATA STEFANOT [§§ 20—24

γῆς αἷων, καὶ δίκην ἄν ύμᾶς παρ’ αὐτὸν λαβέων, γραμματεῖον δ’ αὐτῷ καταλειφθῆναι μαρτυρῆσαι φαύλου καὶ οὐδέν. ἔστι δὲ τούτ’ αὐτὸ τὸ δηλοῦν καὶ κατηγο-
21 ῶν ὅτι πᾶν τὸ πράγμα κατεσκενάκασιν. εἶ μὲν γὰρ ἐπὶ τῆς διαθήκης "Πασίωνος καὶ Φορμίωνος" ἡ "πρὸς Φορμίωνα" ἡ τοιοῦτο τι, εἰκότως ἄν αὐτὴν ἐτῆ-
22 ρεῖ τούτῳ εἰ δ’, ὡσπερ μεμαρτύρηκεν, ἐπὶ τῆς "διαθήκης "Πασίωνος," πῶς οὐκ ἄν ἀνηρήμην αὐτὴν ἔγορα, συνει-
δώς μὲν ἐμαυτῷ μέλλοντι δικάζεσθαι, συνειδώς δ’ ὑπε-
ναντίαν ὤναν, εἴπερ ἦν τοιαύτη, τοῦς ἐμαυτῷ συμ-
φέρουσι, κληρονόμοι δὲ ὅν καὶ ταύτης, εἴπερ ἦν τοῦ-

ἐχιν, § 17.—ὀργῇ, the indigna-

tion of the court.—ἀν λαβέων, depends, like the previous
clause, on ἔγειτο.

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 inscripisset; de utrisque enim, et Phormione et filiis, in eo,constituerat’; (Lortzing Apoll.
p. 78).—ἐπηρετοτοῦτος.Φορμίων.

‘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 ἄν ἀνηρήμην...] ‘I should of course have ap-
propriated it.’ The plaintiff actu-
ally says that if the terms of
the will were such as alleged
and if it had been really in-
scribed ‘Pasion’s Will’ (διαθήκη
is emphatic; had the endorse-
ment been, not merely, ‘This is
Pasion’s,’ but ‘This is Pasion’s
will,’ &c), then he would cer-
tainly have claimed it as heir to his
father’s property and, finding it
detrimental to his own inter-
ests, would have kept it close.’

The effrontery of this statement is sufficiently startling.

As regards the phrase διαθήκην ἀναφερόμενοι, it may be noticed that in Isaeus Or. 6 (Philoct.,) §§ 30—
33, we have πείθουσα τῶν Εὐκτή-
μονα τὴν διαθήκην ἄν ελείν ὡς ὁ
χρησίμην ὤναν τοῖς πασί; followed
by ο Ἐυκτήμων ἔλεγεν ὅτι
βούδωσαι ἄνελεσθαι τὴν διαθήκην
and πουσάμενοι πολλοὺς μαρτυρεῖν
ὡς οὐκέτι αὐτῷ κένοτο ἡ διαθήκη,

κέχετο ἀρπών. Cf. also Isaeus
Or. 1 (Cleonym.) § 14, ἀσθενῶν...
ἐβουλήθη ταύτας τὰς διαθήκας
ἀνελεῖν, where Schömann re-
marks ἀναφείν est liceum tollere,
rescindere: ἀναφερόμενον, de
contractuum testamentorum-
que tabulis, proprile est repetere
ab eo, apud quem depositae
fuerunt, quod sit a sublaturo.’

In these passages, however, the
phrase is used of a testator re-
voking his own will; here of an
heir claiming his father’s will,
with a view to suppressing it.

Cf. note on Or. 34 § 31.
By its being produced, not by, but to Phormion.—eiασθαι δ' 'and yet let alone, (not made away with,) by myself.' (See last note.) The pf. pass. eiασθαι is apparently never used elsewhere.

That he had the document in his own keeping.

'Were present in the first instance' as witnesses when Pasion made his will. But it may be remarked 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, Sc. 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 Phormion 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.

That rightly or wrongly it may ap-
[Μαρτυρούσι παρείναι πρός τῷ διαιτητή Τισία,
ὅτε προοικάλειτο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος.]

25 Ἐπίσχες. ἐνθυμεῖσθε ὅτι τῶν διαθηκῶν γέγραπται τῶν Πασίωνος. καὶ τοῖς χρήσ τοὺς βουλομένους τάληθη μαρτυρεῖν, εἰ τὰ μάλιστ' ἐγένετο ἡ πρόκλησις, ὥς οὐκ ἐγένετο, ἐκεῖνος μαρτυρεῖν. λέγει τὴν μαρτυρίαν ἀπ' ἀρχῆς πάλιν.

ΜΑΡΤΥΡΙΑ.

Μαρτυροῦσι παρείναι πρός τῷ διαιτητή Τισία. Μαρτυρούμεν· παρῆμεν γὰρ δή. λέγει.
ὅτε προοικάλειτο Φορμίων Ἀπολλόδωρον.
Καὶ τούτο, εἰπερ προοικάλειτο, ὅρθως ἂν ἐμαρτύρουν.
εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος.

26 Ἐχε αὐτοῦ. οὐδ' ἂν εἰς ἐτί δὴπον τοῦτ' ἐμαρτύρησεν, εἰ μὴ τις καὶ παρὴν διατιθεμένω τῷ πατρὶ τῷ ἐμῷ; ἀλλ' εὐθὺς ἂν εἴπε "τὶ δ' ἡμεῖς ἴσμεν, εἰ τινὲς " εἰς διαθηκὴν Πασίωνος"; καὶ ἡγάφειν ἂν αὐτὸν ἥξιωσεν, ὡσπερ" ἐν ἀρχῇ τῆς προκλήσεως, "εἰ μὴ " φησι ἐγὼ ἀντίγραφα εἶναι τῶν διαθηκῶν, ὅν φησι

ο fortasse delendum.

pear that my father made this will.' A singular expression, the adverbs belonging to δόξη and not to διαθέσθαι.

25. ei tā māliusta] 'If it were ever so true that the challenge took place, which I utterly deny.'—ἐκεῖνος, 'in a form which I am about to show,' viz. in § 26 τῶν διαθηκῶν (not τῶν Πασίωνος) but ὃν φησι Φορμιῶν Ἐλπιδίων καταλιπτέων. 26. ei tīs eis] 'if there is any will of Pasion's at all.'
“Форми́вон Πασίωνα καταλιπτείν,” ου “τῶν Πασίων-"νος.” τούτο μὲν γὰρ ήν εἶναι διαθήκας μαρτυρεῖν ὀπερ ἢν τούτους βούλημα, ἐκείνο δὲ φάσκειν Φορμ-μίωνα: πλείστον δὲ δῆπον κεχώρισται τὸ τ’ εἶναι καὶ τὸ τούτον φάσκειν.

"Ινα τοίων εἴδήτε υπὲρ ἡλίκων καὶ ὀσων ἦν τὸ 27 κατασκευάσματο τῆς διαθήκης, μικρὰ δοκοῦσάτε μου. ἦν γὰρ, ὃ ἀνδρές. Αἴθημαίοι, τούτο πρῶτον μὲν υπὲρ τοῦ μὴ δούναι δίκην ὃν διεφθάρκει ἦν ἐμοὶ μὲν οὐ καλὸν λέγειν, ὑμεῖς δ’ ίστε, κἂν ἐγὼ μὴ λέγω, ἐπειδ’ υπὲρ τοῦ κατασχείν ὤσα ἦν τῷ ἤμετέρῳ πατρί χρήματα παρὰ τῇ μητρί, πρὸς δὲ τούτους υπὲρ τοῦ καὶ τῶν ἀλ-λων τῶν ἤμετέρων ἀπάντων κυρίων γενέσθαι. ὅτι δ’

φάσκειν] (sc. εἶναι διαθήκας.) Here, as often, used with the collateral notion of saying what is untrue. Thus both φησιν and φάσκεω are used in Soph. El. 319 of promising without performing: φησιν γε φάσκων δ’ οὐδὲν ὅν λέγει ποιεῖ. [For the whole sentence, cf. Eur. Alc. 528, χωρίς τὸ 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 seducing one who shall be nameless, (2) to secure all my father’s money that was in my mother’s hands; and (3) to obtain control over all the rest of the family property.

27. κατασκευάσμα. The ‘fabrication,’ ‘forgery,’ of the will. Cf. κατασκευάζειν in §§ 13 and 20. ὃν διεφθάρκει ἦν...] ‘To escape the penalty of having corrupted her whose name I cannot here mention without impropriety, but whom you yourselves know without my naming her.’ (For this delicacy of allusion, cf. note on § 3.)—ὡν διεφθάρκει ἦν is equivalent to τῆς διαφθορᾶς τῆς γυναικὸς ἦν (or τοῦ διεφθάρκειυ τάτην ἦν). The substantive is here ‘thrown into’ the verb as in Fals. Leg. § 238 p. 415, εν αὐτῶς οἰς ετίμασθε, ‘in the very honours you enjoyed,’ where Shilleto quotes de Corona § 312 ἐφ’ οἰς ἔλυκρον and a striking instance from Plato, Phaedo p. 94e. We may add Midias §189 p. 576, ἐφ’ οἰς ἐλειτουργοῦν υβρίζειν, and Ar. Ach. 677, οὐ γὰρ ἄξιως ἐκείνων ἦν ἐνανιαχθαμεν γηροβοσκουκεθεὶς υφ’ ὦμοι. Cf. inf. § 68 and Or. 55 § 32.

υπὲρ τοῦ κατασχείν] ‘for the purpose of securing.’ So inf. § 47, ὅπως τὴν ἀφομηνή τῆς τραπε-ζίς καταφεύσῃ. κυρίω γενέσθαι] The dative is used as though the sentence had begun with ἡ διαθήκη κατασκευ-αστο Φορμίων instead of with its equivalent in sense ἦν τὸ
οὔτω ταύτ’ ἔχει, τῆς διαθήκης αὐτῆς ἀκούσαντες γνώ- 
σιθε’ φανήσεται γὰρ οὐ πατρὸς ὑπὲρ τίθ’ 
νίεων γράφον- 
tος ἐοἰκία διαθήκη, ἀλλὰ δοῦλον λελυμασμένον τὰ 
28 τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκοποῦντος. λέγε 1110 
δ’ αὐτοῖς τὴν διαθήκην αὐτὴν, ἢν οὔτοι μετὰ τῆς προ-
κλήσεως μεμαρτυρήκασιν’ ὑμεῖς δ’ ἐνθυμεῖσθε ἀ λέγω.

ΔΙΑΘΕΣΗ.

8 [Τάδε διέθετο Πασίων Ἀχαρνέως’ δίδωμι τὴν 
ἐμαυτοῦ γυναικα Ἀρχιππην Φορμίων, καὶ προίκα 
ἐπιδίδωμι Ἀρχιππή τάλαντον μὲν τὸ εκ Πεπαρῆθου, 
tάλατον δὲ τὸ αὐτόθεν, συνοικίαν ἐκατὸν μνὸν, 
θερα-
pαίνας καὶ τὰ χρυσία καὶ τὰλλ’ ὅσα ἔστιν αὐτῇ ἔνδον. 
ἀπαντα ταῦτα Ἀρχιππή δίδωμι.]

κατασκεύασμα τὰ τῆς διαθήκης. 
The regular construction would 
of course require κύριον. 
λελυμασμένον] Also a de-
ponent perfect in Or. 19 § 105 
and Or. 21 § 178 (λελύμα-
tαι). 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, dishonour-
ed, his master’s household, 
damaged his master’s property,’ 
tὰ τῶν δεσποτῶν refers to his 
master’s wife [but is expressed 
purposely in a general way. 
Aeschylus however uses γυναι-
κὸς λυμαντήριος in this sense, 
Ag. 1413 and Cho. 751. P.] 
28. διαθήκην μετὰ τῆς προ-
κλήσεως] § 12 προσεμαρτύρων τῇ 
προκλήσει τὴν διαθήκην καὶ § 15 
πρόκλησιν ὅμοι διαθήκης μαρτυρεῖν. 
The miss have πρὸ, which is 
altered by Reiske into μετὰ and 
by Dobree into διά (cf. § 31 τὴν 
μίσθωσιν ἢν τὸν αὐτόν τρόπον διὰ 
προκλήσεως ἐνεβάλωτο).

τάδε διέθετο] The usual for-
mula. Thus, Plato’s will began: 
τάδε κατέλυτε Πλάτων καὶ δίεθε-
tο, and Aristotle’s: τάδε διέθετο 
’Αριστοτέλης (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 συνοι-
κίαν see notes on Or. 36 §§ 6 
and 34.

Πεπαρῆθου] A small island, 
N.W. of Euboea. As it was 
an Athenian colony, Athenians 
could hold property there (Da-
reste). Its wine is mentioned 
in 35 § 35.
Theoúzate, ὦ ἀνδρεὶς Ἀθηναῖοι, τὸ πλῆθος τῆς προικὸς, τάλαντον ἐκ Πεπαρῆθου, τάλαντον αὐτόθεν, συνοικεῖαν ἐκατὸν μνῷν, θεραπαίνας καὶ χρυσία, καὶ τάλλα, φησὶν, ὡσα ἐστὶν αὐτῇ, δίδωμε, τούτῳ τῷ γράμματι καὶ τοῦ ξητήσας τι τῶν καταλειφθέντων ἀποκλείων ήμᾶς.

Φέρε δὴ δεῖξω τὴν μίσθωσιν ὕμῖν καθ’ ἥν ἐμεμή-29 σθωτο τὴν τράπεζαν παρὰ τοῦ πατρὸς ὦτος. καὶ γὰρ ἐκ ταύτης, καὶ πέρ ἐσκευωρημένης, ὀψεσθε ὅτι πλάσμα ὅλον ἐστὶν ἡ διαθήκη. δείξω δ’ ἦν ὦτος παρέχετο μίσθωσιν, οὐκ ἄλλην τινὰ, ἐν ἐν προσυγγραται ἐνδεκα τάλαντα ὅ πατρή ὀφείλων εἰς τὰς παρακαταθήκας καὶ τοῦ ξητήσας...ἀποκλείων] See on Or. 40 §15, ἔως τι ὦτοι τῶν πατρῶν ἐπιζητόμενοι.

§§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 villany 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 καὶ πέρ ἐσκευωρημένης reads unlike the style of Demosthenes. P.]

πλάσμα] Cf. ἐπιλακε in line 10 of Argument, and Or. 36 §33. Hesychius has πλάσμα: σχημα-τισμός ('pretence'). ψεῦδος. ἡ κτίσμα.

ἐνδεκα τάλ.] The origin of this 'debt' is carefully explained in Or. 36 §§4—5 (see note on προσωφήλε 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-
posits to Phormion.’ See § 31 fin. P.]

30. οὐ εἵ τῇ μήτρι δοθέντων 'As my mother’s dowry.’ Or. 40, περί προκόσ, § 6, εκδόντος αὐτήν... καὶ πρὸ κάλαντον ἐπιδύντος.

πάντες ἰδέσεων κ.π.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 Apollo-
dorus, 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 ἄφανες διὰ τῆς τρα-
πέξης ποιήσαται.

κεκοιμηθα] In middle sense. Or. 41 § 11, οὐκ ἀνενηφόρασι κεκοιμημένοι (τὴν φίλαν). Or. 56 (Dionysod.) § 3, δέω δ’ αὐτὸν ἐν τῇ πέρσῳ ὄρα κεκοιμηθαί τὰ χρήματα. Trans. ‘that whatever sums he might be proved to possess, he might pretend he had recovered in the way of debts.’

σολοκίζει τῇ φωνῇ, βάρβαρον] (See note on Or. 36 § 1, τὴν ἀπει-
ραν τοῦ λέγειν.) σολοκός is a word of narrower meaning than βάρβαρος and is applied mainly to faults of pronunciation or mistakes in Grammar, es-
pecially Syntax, due to foreign extraction. The word βάρβαρος originally referred to language (as an onomatopoetic word con-
nected with the Sanskrit varva, ‘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 sig-
nification and embraced all that was non-Hellenic in the customs, the politics, the laws, and the moral and intellectual characteristics of foreign na-
tions. (Cf. Isocr. Paneg. § 3 n.)

Hesychius (possibly with the present passage in view) has the gloss σολοκίζει βαρβαρίζει, and Aristotle (περὶ σοφιστικῶν ἐλεγχῶν § 3) explains σολοκίζειν by τῇ λέξῃ βαρβαρίζειν and (in § 14) illustrates it by instances from the rules of gender. The distinction drawn between βαρ-
βαρισμὸς and σολοκισμὸς by Zeno and the Stoics, and ac-
ccepted by the writers on Rhetoric, is perhaps best expressed by Quintilian: ‘vitium quod fit in singulis verbis, sit barbarismus ...
...eucte vitia omnia ex pluribus vocibus sunt, quorum est soloe-
cismus’ (b 5, 6 and 34).

βάρβαρον καὶ εἰκαταφρόνητον] Ar. Nubes 492 ἀμαθῆς...καὶ βάρ-
βαρος.
Δὲ βάρβαρος οὖτος τῷ μισεῖν οὐς αὐτῷ προσήκε τιμᾶν τῷ δὲ κακογρηγῆσαι καὶ διορύξαι πράγματα οὖθενος λείπεται. λαβὲ δὴ τὴν μίσθωσιν, καὶ λέγε, ἵνα τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλοντο.

ΜΙΣΘΩΣΙΣ ΤΡΑΠΕΖΗΣ.

'[Κατὰ τάδε ἐμίσθωσε Πασίων τὴν τράπεζαν Φορμίων. μίσθωσιν φέρειν Φορμίωνα τῆς τραπεζῆς τοῖς παισὶ τοῖς Πασίωνος δύο τάλαντα καὶ τετταράκοντα μιᾶς τοῦ ἐνιαυτοῦ ἐκάστου, χωρὶς τῆς καθ’ ἡμέραν διοικήσεως. μὴ ἔξειναι δὲ τραπεζιστέυσαι χωρὶς Φορμίων, εἰώ μὴ πελή τοὺς παιδὰς τοὺς Πασίωνος. ὁφείλει δὲ Πασίων ἔπι τὴν τράπεζαν ἐνδεκα τάλαντα εἰς τὰς παρακαταθήκας.]

'Ας μὲν τούνων παρέσχετο συνθήκας ὡς κατὰ ταῦτα 32 τας μισθωσάμενος τὴν τράπεζαν, αὐταί εἰσιν, ὧν ἄνδρες δικασταί. ἀκούετε δ’ ἐν ταύτας ἀναγιγνωσκομέναις μίσθωσιν μὲν φέρειν τοῦτον, ἀνεν τῆς καθ’ ἡμέραν διοικήσεως, δύο τάλαντα καὶ τετταράκοντα μιᾶς τοῦ ἐνιαυτοῦ ἐκάστου, μὴ ἔξειναι δὲ τραπεζιστεύειν αὐτῶ,

υ μίσθωσις 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 δια-κείμεθα καὶ διορωφόμεθα κατὰ πόλεις. Or. 35 (Lacr.) § 9, οία ἐτοιχωρύγχασαν οὕτῳ περὶ τὸ δάνειον, and Philostratus 552 (quoted by Liddell & Scott), τοι-χωρυχεῖ 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, ἐκρινε Φιλόνεικον καὶ δι’ ἐκείνου τῶν σοι πεπραγμένων κατηγόρει, where Shilleto quotes the pre-

sent passage.

κατὰ τάδε ἐμίσθωσε] Similarly in an inscription recording a lease of the year 300 B.C. we have: κατὰ τάδε ἐμίσθωσαν 'Ἀρ-τίμαχος Ἀμφιμάχου...τὸ ἐργασ-τήριον τὸ ἐν Πειραιᾷ...Εὐκράτει Ἐξεκηκόν Ἀφίδναίῳ (Revue Ar-चεόλ. 1866, xiv 352); and in an inscription of 345 B.C. κατὰ τάδε ἐμίσθωσαν Ἀλεξάνδρα τὴν Φι-λαίδα Αὐτοκλεί (C. I. G. 93). Kirchner p. 39.

32. τῷ καθ’ ἡμέραν διοική-σεως] 'The daily expenditure' involved in managing the bank, paying under-clerks, &c.
33. έξιλου...χωρίου...γραμματείων] The bench (desk or counter)...the site (in the marketplace)...the banking-books (ledgers, &c).

ψφειλήκει ἡ τράπεζα] Phormion'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 previous clause δι' ὦ ψφειλήκει ἡ τράπεζα. It is quite true that ἡ τράπεζα ἐνεδέσε ἅρματων, 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.—On καθῆμενον κ.τ.λ.ν. Or. 36 § 7, n. ἐν τῷ μυλῷ] 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 n. 1, 18, herus si redierit, Molendum usque in pistriño, vapolandum, habendae compedes. In Lysias Or. 1 § 18 a master threatens his θεράπταινα with the punishment μαστγωθείλαι eis μυλώνα 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. Cyc. 240, εἰς μυλώνα καταβαλείν, and Pollux, ίνα κολαζόνται οἱ δοῦλοι, μυλώνες κ.τ.λ. (K. F. Hermann, Privatcell. § 24, 9, p. 216 Blümner.) 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).—μύλων is, in respect of accent, a
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.)

[ὑφήρητα. 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 τραπεζιτεύων] 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 ἄν 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
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 προφοίηθη ὅπως τι παρεσκευάσεν ὅτως. P.]

35. καὶ τῆς μὲν ἐργασίας ἐφθόνησεν] The subject is τῆς ἀνθρώπων repeated from the previous sentence.

οὗ] sc. ὅνειδος, viz. the disgrace of the γυναῖκα τοῦτῷ δεδοκέναι.

τιγχόν γε τῆς παρ' ἦμῶν 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, ὑφισμαένου τοῦ ὅμοιον τοῦ 'Ἀθηναίων 'Αθηναίων εἶναι Πασίωνα καὶ ἕκυνους τοὺς ἑκεῖνοι διὰ τὰς εἰργασίας τάς εἰς τὴν πόλιν followed by τῆς τοῦ ὅμοιον δωρεᾶς. Or. 36 § 47. [τιγχόν 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.]

ὡσπερ ἄν] sc. διδόη. 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.

стеρέας] which Apoll. does not admit.
ısın ou̇deis toûn en tê póleî faîvetai; kaltoû toutô 36 mên auû touto âgâphtôton ūn, to têς deîspôînûς âξω-
thêmâv têî pâtêî de ouûde laîmßànoûnti d tosoûta chrî-
mata, ûsa faûs didôûnta ouûtoû, ëûloûgôn ūn prâçai
tauûta. Allî ouûs â tôis eîkôsî, tôis chrônous, tôis
peîpragmêvoûs êxeîlêgketaî psêudê, tauûta martrûreiv
ouû ìwivhsev ouûtoûl Ïstéfâvos.

Eîta lêgei perieîw òûs ëmârturhse mên Nîkoûklê 37

d Bekker. laîmßànoûta ì ouûl Ï.

naî, n.). Isaeus Or. 3 (Pyrrhus) § 51, òkeiî ð' ân tis úmîn ouûtoû
anâwîs ë tôûlûrîs eîaspôîtou gê-
vêthai òîsê mêdê tôd dêcakon mê-
ros êpipodôs êkôdînai têî grâgîa
thugatî tôw pattrîw; Eur. Hipp.
628, pôrōðheîs...pattîr fêrânas,
âpîkîs... Hyperides, Lycoûphron
col. 11 line 16 (quoted by Shil-
letoû), eûûs ëxeîdôðh, tàlαàtoû
àrûgarîa pserbêntos auûtî Eûbî-
muû. The commoner term was
ëpîdônai (cf. §§ 30, 54, òc).
ouû ouûdeis k.î.l.) The mother of
Demosthenes had a dowry of
only 80îa; the mother of Man-
theuûs 60îî; the two daughters of
Polyeûcûtûs 40î each. (Darestî.)

36. laîmßànoûta chrîmata] Not
even if he got from Phormiôn
(viz. as a bribe for leaving him
his wife) the same large amount
which the defendants pretend
that he gave Phormiôn as a
marriage portion.—fâsî diôûta,
supply prâçai tauûta.

tôîs ekôsî...êxeîlêgketaî psêudê]
‘That which the facts, the dates,
the probabilities of the case,
show to be false, Stephanus the
defendant has not scruûped to
bear witness to.’ Kennedy. For
tôîs ekôsî see esp. §§ 9—14. tôîs
chrônous seems inexplicable, ex-
cept as a rhetorical flourish, for

we have had nothing like an
argument from dates; and Do-
bree rightly asks Quomodo?.
Even tôîs peîpragmêvoûs is barely
justifiable, unless it is to be
referred to §§ 15—18.

§§ 37—39. Phormiôn attempts
to prove the existence of the
‘will,’ by going about saying
that Nicocîles gave evidence
to having been guardian, and Pa-
sicles to having been in ward-
ship, under the will. Why then
were not the terms of the will
deposèd to by Nicocîles and Pa-
sicles, 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 an-
other? 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, depose to the contents
—the scandalous contents—of
the ‘will.’

37. Nîkoûklê] His evidence is
not expressly mentioned in Or.
36; that of Pasicles is referred
to in § 22 of that speech.
κατὰ τὴν διαθήκην. ἐμαρτύρσατο δὲ Πα-σικλῆς ἐπιτροπευθῆναι κατὰ τὴν διαθήκην. ἐγὼ δὲ αὐτὰ ταῦτα οὐκ ομαί τεκμηρία εἶναι τοῦ μὴ τὲ ἐκείνους τὰς λαθῆ μὴ τούσδε μεμαρτυρηκείναι. ὁ γὰρ ἐπιτροπεύσατο κατὰ διαθήκας μαρτυρῶν δῆλον ὅτι καθ’ ὅποιαν ἁν εἰδείη, καὶ ὁ ἐπιτροπευθῆναι κατὰ διαθήκας μαρτυρῶν δῆλον ὅτι καθ’ ὅποιαν ἁν εἰδείη. τί οὐν μαθόντες ἐμαρτυρεῖτε ὑμεῖς ἐν προκλήσει διαθήκας, ἀλλ’ οὐκ ἐκείνους εἰδάτε; εἰ γὰρ αὐτὴ μὴ φήσουσιν εἰδέναι τὰ γεγραμμένα ἐν αὐταῖς, πῶς ὑμᾶς οὖν τ’ εἰδέναι τοὺς μηδαμὺς μηδαμῶς τὸ πράγματος ἐγγύς; τί ποτ’ οὖν οἱ μὲν ἐκείνα, οἱ δὲ ταῦτα ἐμαρτύρθησαν; ὁπερ εἰρήκα 39 καὶ πρότερον, διείλοντο τάδικήματα, καὶ ἐπιτροπεύσατο μὲν κατὰ διαθήκην οὐδὲν δεινὸν ἡγεῖτο μαρτυρεῖν ὁ μαρτυρῶν, οὐδ’ ἐπιτροπευθῆναι κατὰ διαθήκην, ἀφαιροῦν ἐκάτερος τὸ μαρτυρεῖν τὰ ἐν ταῖς διαθήκαις ὑπὸ τούτων γεγραμμένα, οὐδὲ καταλιπτεῖν τὸν πατέρα αὐτοῦ

ο ταθοντες H. Wolf et Dindl. (1867). μαθοντες Bekker Z et Dindl. (1846 and 1855) cum libris. κατὰ τὴν διαθήκην ορ. 36 § 8, Φορμίλων τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παίδα ἑπτρόπευνεν. καθ’ ὅποιαν ἁν 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. § 170 (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.]

ἦμεῖς] sc. οἱ περὶ Στέφανον.—

ἐκείνους, Nicocles and Pasicles. οἱ μὲν...οἱ δὲ! Nicocles and Pasicles...οἱ περὶ Στέφανον,—εἰρήκα καὶ πρότερον refers to § 18,

39. ἀφαιρῶν ἐκάτερος] 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’;
επιγεγραμμένον γραμματείον διαθήκην, ούδὲ τὰ τοι- 
αύτα: διαθήκας δὲ μαρτυρεῖν, εὖ αἰσ χρημάτων το-
σούτων κλοπῆ, γυναικὸς διαφθορά, γάμου δεσποίνης,
πράγματα αἰσχύνην καὶ ύβριν τοσαίτην ἔχοντα, οὐ-
δεὶς ἡθελε πλὴν οὕτω, πρόκλησιν κατασκευάσατε,
παρ’ ὃν δίκαιω τῆς ὀλής τέχνης καὶ κακουργίας δίκης
λαβεῖν.

"Ἰνα τοῖνυν, ὦ ἀνδρεῖς Ἀθηναῖοι, μὴ μόνον ἐξ ὃν 40
ἔγω κατηγορῶ καὶ ἐλέγχω δήλος ὑμῖν γέννηται τὰ ψευδή
μεμαρτυρήκως οὐτοσι Στέφανος, ἀλλὰ καὶ εξ ὃν πεποί-
ηκέν ό παρασχόμενος αὐτόν, τὰ πεπραγμένα ἐκεῖνον
βούλομαι πρὸς ὑμᾶς εἰπεῖν. ὅπερ δ’ εἰπον ἄρχόμενον
τοῦ λόγου, δείξω κατηγόρους γιγνομένους αὐτοὺς ἕαυ-
τῶν. τὴν γὰρ δίκην, ἐν ἡ ταύτα ἐμαρτυρήθη, παρε-
γράψατο Φορμίων πρὸς ἡμὲ μὴ εἰσαγόγιμον εἴναι ὃς
ἀφέντος ἐμοῦ τῶν ἐγκλημάτων αὐτῶν. τοῦτο τοῖνυν 41
ἔγω μὲν οἶδα ψευδος ὅν, καὶ ἐλέγξω δὲ, ὅταν εἰς ὅ

§ 18, ὦ ἐπιγεγράφαν ἀμαθή Ἁσιώνος.

For ἐπιγεγραμμένον διαθήκην cf. Virg. Ecl. iii 196, 'inscripti
nomina regum...flores.'

χρημάτων κλοπῆ] § 34 ύβριν-
ται καὶ § 81 init.—γυναικὸς δια-
φθορά §§ 27 and 3.—On ύβριν cf.
§ 4, where the γάμος leads to a
γραφή ύβρεως being threatened by
Apollodorus.

§§ 40—42. In bar of the pre-
vious action, Phormion pleaded
a discharge denied 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 as-
suming 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 pre-
cautions of having witnesses pre-
vent when he gave a discharge
to a lessee with a view to getting
rid of any claims against him-
self on the part of that lessee;
and yet allow the 'lease' it-
self and the 'will' to remain
sealed to his detriment. The plea
is therefore inconsistent with the
evidence and the lease is incon-
sistent with the will; and thus
the whole affair is proved to be a
fabrication and a fraud.

40. παραγράψατο ... ὃς ἀφέν-
tος] See notes on Or. 36 Ar-
gument l. 23 and ib. § 25. The
distinction there drawn between
ἀφενός and ἀπαλλάττεων may be
exemplified thus:

ἀφήκε μὲν 'Ἀπόλλωδωρος ὁ ἀπαλ-
λαγεῖς, ἀπηλλαξέ δὲ Φορμίων ὁ
ἀφεθεῖς.
XLV. KATA STEFANOT [§§ 41—44

πρὸς τοὺς ταῦτα μεμαρτυρηκότας: τοῦτῳ δὲ οὐχ οἶδον τε τοῦτ’ εἰπεῖν. εἰ τοῖν πρὸς δὲ τὸν άληθῆ πιστεύοντα εἰναι τὴν άφεσιν, οὗτῳ καὶ μάλιστ' ἂν οὗτος φανεῖ θευδὴ με-
μαρτυρηκως καὶ κατεσκευασμένης διαθήκης μάρτυρις
gεγονός. τις γὰρ οὗτος ἀφρων ὡστε άφεσιν μὲν ἐνα-
tιόν μαρτύρων ποιήσασθαι, τοῦ βεβαιαίν αὐτῷ
τὴν ἀπαλλαγὴν εἶναι, τὰς δὲ συνθήκας καὶ τὰς διαθή-
κας καὶ τάλλα, ὑπὲρ ὑπὸ ποιεῖτο τὴν άφεσιν, σεσημασμένα
42 ἐάσαι καθ' αὐτοῦ κεῖσθαι; οὐκοῦν ἐναντία μὲν ἢ
παραγραφή πάσι τοῖς μεμαρτυρημένοις, ἐναντία δὲ,
ην ἀνέγνων ύμῖν ἀρτι, μίσθωσις, τῇδε τῇ διαθήκῃ;

h αὐτῷ Ζ.

41. τοῦτῳ 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 Apollodorus. P.]

τοῦ βεβαιαίν αὐτῷ τὴν ἀπα-
λαγὴν εἶναι. The plaintiff’s ob-
ject in having witnesses to his
alleged ἀφεσις of Phormion
would be to ensure his own
ἀπαλλαγή, that is, his getting
quit of any counter-claim on
the part of the latter. Or. 33
§ 3, πάντων ἀπαλλαγῆς καὶ ἀφέ-
σεως γενομένης.

If ἀπαλλαγή were synonymous
with ἀφεσις, 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 ἀφεσις in presence of wit-
nesses 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 τάλλα 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 re-
fraining from suppressing them
is thus inconsistent with the
alleged grant of a release to
Phormion,—ποιήσασθαι ἀφέσιν
not ‘to get’ but ‘to give a re-
lease,’ ‘ἀφεῖναι, as ‘any verb
in Greek may be resolved into
the cognate substantive with
ποιῆσθαι.’ Shilleto on Fals.
Leg. § 103.

42. ἐναντία μίσθωσις...διαθή-
κη] §§ 34—36. For πεπλα-
σμένα cf. Or. 36 § 33.—ἐκ τοῦτον
τοῦ τρόπου, ‘in this manner,’
Kennedy, doubtless following
Bekker’s text (ἐκ τοῦ τοῦτον
τρόπου), translates: ‘just what
you might expect from this
man’s character.’
ouδὲν δὲ τῶν πεπραγμένων οὔτ’ εὐλογον οὔθ’ ἀπλούν ὀψθ’. ὁμολογούμενον αὐτὸ ἑαυτῷ φαίνεται. ἐκ δὲ τοῦ τοῦ τρόπου1 πάντα πεπλασμένα καὶ κατεσκευα-
σμένα ἐλέγχεται.

'Ως μὲν τοῖς ἔστιν ἀληθῆ τὰ μεμαρτυρημένα, 43 οὔτ’ αὐτὸν τούτον οὔτ’ ἄλλον ὑπὲρ τούτου δεῖξαι δυ-
νήσεσθαι νομίζω. ἀκοῦω δ’ αὐτὸν τοιοῦτον τι παρε-
σκευάσθαι λέγειν, ὅς προκλήσεως ἔστιν ὑπεύθυνος, 
οὐχὶ μαρτυρίας, καὶ δυὸν αὐτῷ ἐποίηκεν δοῦναι λό-
γον, οὐ πάντων τῶν γεγραμμένων, εἰτέ προϋκαλεῖτό 
με ταῦτα Φορμίων ἢ μή, καὶ εἶ μὴ ἐδεχόμην ἐγὼ. ταῦτα 
μὲν γὰρ ἀπλῶς αὐτὸς μεμαρτυρηκέναι φήσει, τὰ δ’ 
ἀλλὰ ἐκεῖνον προὐκαλεῖσθαι, εἰ δ’ ἔστιν ἢ μὴ ταῦτα, 
οὐδὲν προσήκειν αὐτῷ ἐποίηκεν. πρὸς δὴ τὸν λόγον 44 
τοῦ τοῦ καὶ τὴν ἀναιδείαν βέλτιον ἔστι μικρὰ προειπεὶν 
ὑμῖν, ὅπως μὴ λάθητε ἐξαπατηθέντες. πρῶτον μὲν, ὅταν 
ἐγχειρῆ λέγειν τοῦτο, ὅσ’ ἁρα οὐ πάντων ὑπεύθυνος ἔστιν, ἐνθυμεῖσθε ὅτι διὰ ταῦτα ὁ νόμος μαρτυρεῖν ἐν 
γραμματείᾳ κελεύει, ὅπως μὴ τ’ ἀφελεῖν ἐξῆ γνήτε προσ-

1 Z et Dind. cum libris. τοῦ τοῦ τρόπου Bekker cum Reiskio.

§§ 43—46. Stephanus will urge, that he is not responsible 
for a deposition but for a chal-
lenge, 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 busi-
ness, 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 evi-
dence of a pretended challenge 
that never took place. This is 
clear from what follows: δεῖ 
aυτὸν δοῦναι λόγον εἰτέ προϋκα-
λεῖτο Φ. ἢ μή.

44. μαρτυρεῖν ἐν γραμματείᾳ] 
‘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 sub-
terfuge for himself when con-
victed of falsehood.’ C. R. 
Kennedy in Dict. Antiq. s. v. 
Martyria.
The rav...The You see...so...not described...some...be...ought...inadmissible.

For the gen. cf. Or. 24 § 103, εάν τις ἀλώ κλοπῆς καὶ μὴ τιμηθῇ ὑπάσταυ... καὶ εάν τις ἀλοῦσ τῆς κακώσεως τῶν γονέων..., κἀν ἀστρατελας τις ψφη. (Kühner, Gk. Gr. § 419, 2 p. 331.)—ὅν βούλεται, supply μόνον.

ἀντιγραφαὶ] You have pleaded’ in answer to the indiction or plaint (λήγεις); see Dict. Antiq. s. v. Antígraphe. ‘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, ἀ ἐπίθεταν περὶ τοῦ πράγματος, καὶ τὰ τῶν ὁμογνώστων καὶ τὰ τῶν φεύγοντος, ἀντιγραφῆ, καὶ τὰ μαρτύρα. Δημ. κατὰ Στεφάνου...

The document that follows, is the only specimen of an ἀντι-
Ταῦτα οὕτως αὐτὸς ἀντεγράφατο, ἀ χρὴ μνημονεύειν ὑμᾶς, καὶ μὴ τοὺς ἐπὶ ἐξαπάτη νῦν λόγους ὑπὸ τοῦτον ῥηθησομένους πιστοτέρους ποιεῖσθαι τῶν νόμων καὶ τῶν ὑπὸ τοῦτον γραφέντων εἰς τὴν ἀντιγραφήν.

Πιστάνομαι τοῖνυν αὐτοὺς καὶ περὶ ὅν ἔλαχον 47

ἐπὶ ἐξαπάτη] Or. 20 (Lept.) § 98, ἐξαπάτης ἑνεκα.—ῥηθησομένους. This future is used chiefly in the participle and infinitive, while the ‘third future’ is probably confined to the third person singular ἐρημέραται (Veitch Greek Verbs s. v. *ἐρω). ῥηθῆσατα however is found in Thuc. 173, Ar. Ethics iv 1, 14, and Rhet. 1 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 ὅν ἔλαχον] The original indictment of Phorruon in the ἀνθρώπισις to which Or. 36 is a παραγραφή.—δῖπως κατάσχοι, sup. § 27.—ἐπον καὶ
XLV. KATA ΣΤΕΦΑΝΟΤ [§§ 47—52]

tην ἑξ ἀρχῆς δίκην ἐρεῖν καὶ κατηγορῆσειν, ὡς συκο-
φαυτῆματα ἢν. ἐγὼ δ' ἔν μὲν τρόπον ἐσκευωρήσατο
tὴν μῦθοσιν, ὅπως τὴν ἀφορμὴν τῆς τραπέζης κατά-
σχοι, εἰπον καὶ διεξῆλθον ύμῖν, ὑπὲρ δὲ τῶν ἄλλων
οὐκ ἀν ὅλος τ' εἰην λέγειν ἀμα καὶ τούτους ἐλέγχειν
περὶ τῆς μαρτυρίας· οὐ γὰρ ἰκανὸν μοι τὸ ὕδωρ ἐστὶν.

48 ὃτι δ' ὑπὸ ὑμεῖς ἐθέλοιτ' ἀν εἰκότως ἄκουειν περὶ τού-
tων αὐτῶν, ἐκεῖθεν εἰσεσθε, ἃν λογίσησθε πρὸς ύμᾶς
αὐτοὺς ὃτι οὔτε ύμῖν ἐστὶ χαλεπὸν περὶ ὃν μὴ κατηγο-
ρηται λέγειν, οὔτε\[ψευδεὶς ἀναγροῦντα μαρτυρίας
ἀποφεύγειν. ἀλλ' ὑπότερον γε δίκαιον τούτων οὐδ' ἄν
eἰς ψήφειν εἰναι, ἀλλ' ὃ ἐγὼ προκαλοῦμαι ύμῖν.

49 σκοπεῖτε δὲ ἀκούσαντες. ἐγὼ γὰρ ἄξιον, ὅσ ἐνε ἀφει-
lουτό με ἐλέγχουσι περὶ τῶν ἐγκλημάτων, όσ ἐπο-
ρῆσικον ἦν ῥηθήματι, μὴ ἕςτεν αὐτοὺς ύμῖν, αἰς δ' ἀφελοῦντο
μαρτυρίας, ὡς εἰσίν ἀληθεῖς, δεικνύοι. εἰ δ' ὅταν μὲν
τὴν δίκην εἰσίω, τὰς μαρτυρίας με ἐλέγχειν ἀξιώσου-
σιν, ὅταν δὲ ταύτας ἐπεξεῖς, περὶ τῶν ἑξ ἀρχῆς ἐγκλη-
μάτων λέγειν με κελεύσουσιν, οὔτε δίκαια οὔτε ύμῖν

50 συμφέροντα ἐροῦσιν. δικάσειν γὰρ ὅμωμοκατε ὑμεῖς
οὐ περὶ ὅν ἄν ὁ φεύγων ἄξιοι, ἀλλ' ὑπὲρ αὐτῶν ὃν ἄν
ἡ δίωξις ἢ. ταύτην δ' ἀνάγκη τῇ τοῦ διώκουτος λήξει

α οὔτε τότε optime Dobree.

dieξῆλθον 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 in-
dictment, just as formerly it
was easy enough for them to
get an acquittal by reciting
false depositions.'

Whether we read οὔτε τότε
ψευδεὶς or not, we must in either
case take the second clause as a
pointed reference to the former
trial.

49. αἰς δὲ ἀφειλοῦντο μαρτυρίαις
sc. τοὺς ἐλέγχους.—On τὴν δίκην
eἰσίω, see note on § 7 πρὸς ἐκεί-
nους εἰσίω.

50. περὶ...ὑπὲρ] § 11 n.

δίωξις] (Dem.) Or. 47 § 70, νὲν νῦν τούτων κελεύναι τὴν
dίωξιν εἰναι. The word is also
found in Antiphon Or. 6 § 7, τὴν δίωξιν εὑσσεβείας ἐνεκα ποιεῖσ-
θαν.—On λήξει...εἴληξα cf. Or.
36 § 21 λήξεων.
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.


tά πεπραγμένα] The facts of the case on its merits, as opposed to the special plea. See note on Or. 36 Argument 1. 25 ἀπτεται τῆς εὐθείας κ.τ.λ.

άσθενεῖς 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).
XLV. ἘΣΤΕΦΑΝΟΤ [§§ 52—55]

δείξῃ δεινότερα εἰργασμένου, ὑποφεύγειν αὐτῷ προσήκει, ἄλλ᾽ ἄν αὐτὸς ὡς ἁληθὴ μεμαρτύρηκεν ἀποφήγη.

53 ἝΦ᾽ ὁ τοίνυν, ὁ ἄνδρες Ἀθηναίοι, μάλιστ᾽ ἀπολολείαι δίκαιοι ἐστίν οὕτωσι Στέφανος, τούτ᾽ ἀκούσατε μου. δεινὸν μὲν γὰρ ἐστίν εἰ καὶ καθ᾽ ὅτου τις οὖν τὰ ψευδὴ μαρτυρεῖ, πολλῷ δὲ δεινότερον καὶ πλείους ὄργης ἄξιον, εἰ κατὰ τῶν συγγενῶν οὐ γὰρ τοὺς γεγραμμένους νόμους ὁ τοιοῦτος ἄνθρωπος μόνον, ἀλλὰ καὶ τὰ τῆς φύσεως οἰκεῖα ἀναφερόμενα. τούτῳ τοῖνυν

§§ 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, Deinitas, 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. ἀπολολεῖαι] ‘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 οὗτος ὀστείων; like ὁπωστιών = ὅπως καὶ ὁπωσοῦν.

τὸν γεγραμμένον νόμον... τὰ τῆς φύσεως οἰκεία] Soph. Antig. 454, οὐ γὰρ σθένει τοσοῦτον φιλομὼν τὰ σὰ καταργμαθ᾽ ὅστ᾽ ἀγγαπητὰ κάσφαλὴ θεών νόμων δύνασθαι θυτῶν ὑπὲρδραμέων. There, as here, the unwritten law of natural affection is contrasted with human ordinances.

'Intelligi'se (asks Cobet) quae sint tā tēs φύσεως οἰκεία or posita tōs nómois tōs γεγραμμένως? Non opinor. Seul latet in oikeia vocabulum quo non est aliud apud Oratores tritius et frequentius, nempt tā τῆς φύσεως δίκαια ἀναφερόμενα, veluti in Orat. xxv 28 προσφάταις πλάτω καὶ ψευδείς αἰτίας συντιθέσαι τὰ κοινά δίκαια ἀνατρέψειν οἶεῖ. Rectissime igitur compomuntur tā τῆς φύσεως δίκαια et tā τῶν νόμων δίκαια, quae commemorat idem Orator xxv 3 μεθ᾽ ἐαυτοῦ δειξών ἐκάστορο τὰ τῶν νόμων δίκαια’ (NovaeLectiones p. 619).—tā τῆς φύσεως οἰκεία 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 willfully 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-
religious sanction. See Cox, Hist. of Greece, i pp. 15—18. P.]

54. ὁ τῆς ἑρμῆς γυναικὸς πατὴρ] i.e. Deinias, father of the Theomnestus who speaks the first 15 §§ of Or. 59 κατὰ Νεάδας, 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).

[Deinias] Hesych. ἀνέψιαδοὺς ἐκ τοῦ ἀνεψίαυ γεγονός, ἥ τῆς ἀνέψιας, second cousins. The form of the word follows the analogy of λυκεῖδες, κυνα-δεῦς, ἄδελφιδος, θυγατριδοῦς, ἀλωπεκίδος, the terminations in -ιδεῖς, -ιδεῖς, -αδεῖς, -αδεῖς (οῖς) being a kind of patronymic


[Deinias] Fals. Leg. § 290, ὑπὲρ συγγενῶν καὶ ἀναγκαίων. Cf. Or. 36 § 30, ἀνάγκη...οικεῖον.

55. [Deinias] Theomnestov 'Athmonev] 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
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γατέρα αὐτοῦ ἐκδοῶναι Ἀπολλοδόρῳ κατὰ τοὺς νόμους γυναῖκα ἔχειν, καὶ μηθεπώποτε παραγενέσθαι, μηδὲ αἰσθέσθαι ὅτι Ἀπολλοδόρος ἀφήκε τῶν ἐγκλημάτων ἀπάντων Φορμίωνα.]

56 "Ὀμοίως γε ὁ Δεινίας, ὁ ἄνδρες δικασταῖ, τούτῳ, ὃς ὑπὲρ τῆς θυγατρὸς καὶ τῶν θυγατριδῶν καὶ ἐμοῦ τοῦ κηδεστοῦ διὰ τὴν συγγένειαν οὐδὲ τάληθὶ μαρτυρεῖν ἐθέλει κατὰ τοῦτον. ἀλλ' οὖν οὗτοι Στέφανος, οὐκ ἄκυνησε καθ' ἰμῶν τὰ ψευδὴ μαρτυρεῖν, οὖν, εἰ μηδένα τῶν ἄλλων, τὴν αὐτοῦ μητέρα ἃσχύνηθη τοῖς ἀπ' ἐκείνης οἰκείοις τῆς ἐσχάτης ἐνδέλαις αἵτιοι γενόμενοι.

(note on Or. 39 § 27). But of the numerous persons named Deinias or Thoemnestus, not one is described in any inscription as Ἀθμονεῖς, 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, οὔτε τάληθυ μαρτυρεῖν ἐθέλε. 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 referring 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. ὁμοίως γε] Or. 24 (Timocr.) § 106, ὁμοίως γε, οὔ γὰρ; Σώλων νομοθέτης καὶ Τιμοκράτης, ib. 181 and Or. 22 (Androt.) § 73, δομοίων γε, οὔ γὰρ.

ἀλλ'—οὐκ ἄκυνησε] Elsewhere, we have the ἀλλ' repeated, e.g. Or. 21 (Midas) § 200, ἀλλ' οὖν Μαδίας, ἀλλ' ἀπὸ τῆς ἡμέρας ταὐτῆς λέγει κ.τ.λ. and Or. 23 (Aristocr.) § 89, ἀλλ' οὖν Ἄριστοκράτης, ἀλλ' προπηλακίζει μὲν κ.τ.λ. Passages like these lead Dobsree to say, 'multim al' oûk ἄκυνησε,' but either construction is allowable.—οὕνεκα τῶν ἄλλων, sc. ἀσχύνηθη. 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.
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?

The form επιλάγγυν is post-Homeric and is used in compounds with the sense 'strike with terror or amazement' (Veitch Gk. Vbs. s. v. πλήσω). For the simple verb, επιλάγγυν 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 τῇ δὲ πληγήμα χθονὶ and Eur. Orest. 497 πληγεῖς θυγατρός τῆς ἐμῆς ὑπὲρ (ὑπαί) κάρα. πληγεῖς τῷ κακῷ, for επιλαγεῖς, is remarkable; as if a Roman had said malo percussus, for perculsum. P.]

ἀποδυρμένος τὰ πλείστα πρὸς ὑμᾶς 'by unburdening to you all that I can of my past sorrows.' Hdt. 1 141 πρὸς τῷ γάλαμα ἀποδύρεσθαι οἷα κυνονεῖν παθένειν.

ῥῶν ἐσομαι] 'I shall feel relieved' or (to translate it still more closely) 'I shall feel easier.' For this use of ῥῶν, cf. Eur. Ion 875 στέρων ἀπονσαμένη ῥών ἐσομαι. Here. Fur. 1407, φιλτρον τούτ' ἐχὼν ῥῶν ἐσει.

58. τῆν ἀρχήν] 'the magistratc, in whose possession the sealed casket of depositions was kept until the trial. Cf. notes on Or. 53 § 24 τῆν ἀρχήν and on Or. 30 § 9 where ἀρχήν, like magistratus in Latin and authorities in English, is used of the holder of the office as well as of the office itself. 'Portentous Reiskius τῆν 'Αρχήν παντως,' says Dobree,—Archippe having
died eight or ten years before the suit against Phormion.

tōν ἐχίνου κεκινηκέναι] ‘had tempered with the deposition
case.’ kineiv is similarly used elsewhere in the sense of ‘med-
dling with unlawfully’, in Or. 22 Androt. § 71 and Or. 24 Timoer.

ὡς ἔξορκώσαμι] ‘that I might put a witness on his oath,’ sc.
tῶν μάρτυρα implied in the pre-
ceeding μαρτυριαν. Or. 54 § 26, 
tῶν παρών ἵμιν (sc. μαρτύ-
ρων) καθ' ἑνα ὑποστὰ πρὸς τὸν
λίθον ἁγόντες καὶ ἐξορκεῖσαν.

ἐξομυνών] ‘to take an oath of
§ 176 ἂν μαρτυρέων ἢ ἐξομυ-
νῶσθαι ἀναγκάσα. εάν δ' ἐξομυ-
νῶσθων, ἐπιστροφοῦται ἐξελέγχω
παρ' ἵμιν φανερῶ. Pollux: ἐξο-
μυσία δὲ, ὅταν τις ἤ τροπαῖος
ἀρέσχει ἢ ἐπ' άλλην τινα δημοσίαν
ὑπηρεσίαν, ἀρρωστεῖν ἢ ἀδύνατεῖν
φάσκων ἐξομυσίαν ἢ γείτων ἢ δι'
ἐτέρων. ἐξώμυνυντο δὲ καὶ οἱ

κληθέντες μάρτυρας, εἰ φάσ-
κονει μὴ ἐπιστασθαν ἐφ' ἢ ἐ-
καλοῦντα. Isaeus Or. 9 (As-
typh.) § 18 καλεῖ Ἰεροκλέα Ἰν
ἔναντι παρῆν μαρτυρίαν ἢ ἐξο-
μυσθη. ΜΑΡΤΥΡΙΑ. ἀκριβῶς
μὲν ἰδεῖν τῆς ἄρνετον ἀνδρός
ἐστιν, αὐτὸν οἶδεν, ἐξομυνοῦσθαι,
tῶν ἢ μὴ γενομένων πίστιν ἐθέ-
λειν ἐπιστεύει ἢ μὴ εἰδεναι γενο-
μένα. Or. 29 § 20; Or. 58 (Theo-
erines) § 7; Or. 59 § 28.

59. κακῶν ἀλλότριων κλέπτης
κ.τ.λ.] ‘did not shrink from being
set down as having stolen what
stood in other people’s ways,’
κακῶν ἀλλότριων κλέπτης 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

κέναι μὲ καὶ τὸν ἐχίνων κεκινηκέναι. 

υὸν δὲ ἀφ’ ὅν ὑστερον πέπνυμαι, πρὸς ἀυτῷ τῷ διαίτητῃ Στέφανον

tουτοῦν αὐτῶν ύψηρημένων εὐρίσκω, πρὸς μαρτυριὰν
tιμᾶ, ὡς ἔξορκώσαμι, ἀναστάντος ἐμοῦ. καὶ ὅτι ταῦτ' 

ἀληθὴ λέγω, πρῶτον μὲν ὑμῖν μαρτυρήσουσί τῶν τού-

tοις παρόντων οἱ ἴδιες. οὐ γὰρ ἐξομυνύαι ἐθελήσειν

59 αὐτοῦς οἴμαι. εἰς δ' ἄρα τοῦτο ποίησως ὑπ’ ἀνα-

dείας, πρόκλησιν ὑμῖν ἀναγνώστει, εἰς ἢς τούτους

t' ἐπιστροφοῦται ἐπ' ἀυτοφόρῳ λήψεσθε καὶ τούτων

ὁμοίως ύψηρημένων τὴν μαρτυρίαν εἶσεσθε. καίτοι

ἀντί, ὁ ἄνδρες Ἀθηναίοι, κακῶν ἀλλότριων κλέπτης

" οἴμαι Ζ εὑρίσκεις (cf. § 51).

x fortasse καὶ τῶν κλέπτων καὶ ἐκὼν. eadem quae ipse anno 1875

protuleram, postea eodem Aristophanis loco laudato protulit G. 

Gebauer, de argumenti ex contrario formis, 1877, p. 8.

XLV. ΚΑΤΑ ΣΤΕΦΑΝΟΤ

§§ 58—60

[§§ 58—60]
dicta sunt. Reiske says 'Fur alienorum malorum est Graecis ille qui mala, frandes, scelera, clam, in occulto exsequitur et perficit, non spoue 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 κακά ἄλλοτρια can mean anything but mala quae alius patitur, proposes to read κακά with the sense 'qui quid furatur, ut scleribus alius accommodet.' Another critic (Beels, diatribe p. 100) says: 'κακών ἄλλοτρίων κλέπτης lepidē vocatur Step- h anus, qui in gratiam Phormionis et fortasse eius iussu, testimoniun e capsula surripuerat.' In Plato Rep. 346 ε we have μηδένα ἐθέλειν ἑκόντα ἄρξειν καὶ τὰ ἄλλοτρια κακά μεταχειρίζεσθαι ἀροφθοῦντα ('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 κακών may be corrupt and should be altered into καὶ τῶν where καὶ emphasizes the whole clause τῶν ἄλλοτριῶν κλέπτης ύπέμεινεν ὁνομασθῆναι, τί ἄν ἤγεισθε ποιῆσαι τοῦτον ύπὲρ αὐτοῦ; λέγε τὴν μαρτυρίαν, εἴτε τὴν πρόκλησιν 60 ταύτην.

ΜΑΡΤΥΡΙΑ.

[Μαρτυροῦσι φίλοι εἰναί καὶ ἐπιτήδειοι Φορμί-

τοῦτον ἄλλου τοῦ Ζ ἐκείνῳ ΦΣΦ; ύπὲρ ἄλλου του Voemel. τοῦτον ύπὲρ αὐτοῦ Bekker cum γρ. ΦΦ. 'sensui satisfaceret deuménon vel αὐτοῦτος τού. Cf. § 62.' Sauppe.

2 testimonium om. Σ.

λοτρίων κλέπτης ύπέμεινεν ὁνομασθῆναι, and not τῶν ἄλλοτρίων only. [The latter construction would inappropriately import into the passage some of the humour of the lines in Aristoph. Ranae 610 εἶτ' οὔχι δεινα ταῦτα, τῶπτεν τοιοῦ κλέµεντα, πρὸς τ' ἄλλοτρία '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 ἑκόνων, comparing § 62 where ὁ τὴν τοῦ κλέπτης φανήσαι (δέξας) μὴ φυγὼν is parallel to ὃς καὶ μηδεὶς ἐκέλευεν ἐθελοντὴς (ἕκων) πονηρῷ ἦν.

ἄλλοτρίων in any case is intended to point the contrast with ύπὲρ αὐτοῦ in the second half of the sentence.

[καὶ τῶν ἄλλοτρίων κλέπτης seems a highly probable emendation; nor is there any difficulty in καὶ referring to the general character of a κλέπτης τῶν ἄλλοτρίων. P.] Cf. also Or. 28 § 22 ἄλλα καὶ τάλλοτρα ἀποστε- ρῶν ἀποδέδεικται.

60. μαρτυροῦσι κ.τ.λ. The composer of the present document and the next and of that

7—2
ον, καὶ παρείναι πρὸς τῷ διαίτητη Τισία, ὅτε ἦν ἀπόφασις τῆς διαίτης Απολλοδόρῳ πρὸς Φορμίωνα, καὶ εἰδέναι τὴν μαρτυρίαν ύφηγημένον Στέφανον, ἦν αἰτιᾶται αὐτὸν Ἀπολλοδόρος ύφελέσθαι.]

'Ἡ μαρτυρεῖτε, ἡ ἐξομοίασθε.

Εἴσομοσια.

61 Ὅνε ἀδήλων ἦν, ὃ ἀνδρεῖς δικασταὶ, ὅτι τούτῳ ἐμελλον ποιῆσειν, προθύμως ἐξομεῖσθαι. Ἰνα τοῖνυν παρα-χρήμα ἐξελεγχθόσιν ἐπιωρκηκότες, λαβέ μοι ταῦτην τὴν μαρτυρίαν καὶ τὴν πρόκλησιν. ἀναγίγνωσκε.

Μάρτυρια.

7[Μαρτυροῦσι παρείναι, ὅτε Ἀπολλοδόρος προὐ-καλεῖτο Στέφανον παραδοῦναι τὸν παῖδα τὸν ἀκόλου-θον εἰς βάσανον περὶ τῆς ύφαιρέσεως τοῦ γραμματείου, καὶ γράμματα ἦν ἐτοιμὸς γράφειν ᾧ Ἀπολλοδόρος, καθ’ ὧν τι ἔστι ἡ βάσανος. ταῦτα δὲ προκαλοῦμένου

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 ἀτφαίνω, 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 μαρ-τυρία 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’ ὧν τι ἔστι ἡ βάσανος] 'The terms of the torture.' Cf. Ar.
Απολλοδόρου ουκ ἑθελήσαι παραδοῦναι Στέφανον, ἀλλὰ ἀποκρίνασθαι Απολλοδόρῳ δικὰςεσθαί, εἰ βούλοιτο, εἰ τί φησιν ἀδικεῖσθαι ύφ’ ἑαυτοῦ.]

ΠΡΟΚΛΗΣΙΣ.

Τῆς ὡς οὖν ὑπὲρ τοιαύτης αἰτίας, ὡς ἄνδρες δικα- 62 σταλ, εἰπερ ἐπίστευεν αὐτῷ, οὐκ ἑδέξατο τὴν βάσανον; οὐκοῦν τῷ φεύγεις τὴν βάσανον ύφηρημένος ἑξελέγχεται. ἃρ’ οὖν ἄν ὑμῖν αἰσχυνθῆναι δοκεῖ τὴν τοῦ τὰ ψευδῆ μαρτυρεῖν δόξαν ὁ τὴν τοῦ κλέπτης φανῆναι μὴ φυγῶν; ἦ δεηθέντος ὀκνῆσαι τὰ ψευδῆ μαρτυρεῖν, ὅσ ἄ μηδείς εκέλευεν a ἐθελοντῆς πονηρὸς ἦν;

Δικαίως τοῖνυν, ὡς ἄνδρες Ἀθηναίοι, τούτων ἀπάν- 63 τῶν δοὺς δίκην, πολὺ μᾶλλον ἄν εἰκότως διὰ τὰλλα κολασθεῖν παρ’ ὑμῖν. σκοπεῖτε δὲ, τὸν βίον ὃν βεβλιῶκεν ἐξετάζοντες, ὦτος γὰρ, ἵνικα μὲν συνέβαινεν εὐ-

Ran. 618—625 (a) καὶ πῶς βασανίσω; (β) πάντα τρόπον κ.τ.λ... (a) κἂν τι πηρᾶσω γέ σοι τὸν παῖδα τύπων τἀργυρῶν σοι κείσεται. Antiphon vi (de Choreuta) § 23 ὡριολόγιον πείας τὸν δεσπότην παραδώσειν αὐτῷ βασανίζειν τρόπῳ ὑποψι βουλιστο. 62. τῶν τοῦ κλέπτης φανῆναι (δόξαν), 'the discredit of being proved a thief.' ('Who did not shrink from becoming a thief.' Kennedy.)

δεηθέντος] se. τινός. See Kühner Gk. Gr. § 486 A, 2, p. 641 'on the gen. absol. without any substantive like ἄνθρωπων, παραγόμενοι 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. δοῦς...ἀν...κολασθεῖ...δοῦ...ἀν κολασθεῖ... ἴνικα συνέβαινεν εὐτυχεῖν Ἀριστολόχῳ] See Or. 36 § 50.—Note συνέβαινεν followed soon after by βαίνων."


[σα βαίνων ἐβάδουεν ὑποπεπτοκός ἐκείνῳ]  'Walked in step with that person and cringed to him.'  'Cringed to him, as he walked beside him.' Harpocr. ἵσα βαίνων Πυθοκλείς Δημοσθενίς ἐν τῷ κατ' Αἰσχίνου (Fals. Leg. § 315) ἀντι τοῦ σιών ἀεὶ καὶ μηδὲ βραχύ ἀφιστάμενος· καὶ ἐν τῷ κατά Στεφάνου α' φησίν 'Ἀριστολόχω τῷ τραπεζίτῃ ἵσα βαίνων ἐβάδοις.' Μένανδρος· παρ' αὐτὸν ἵσα βαίνων· ἐτάφρα πολυτέλης. ('Ἀριστολόχω really comes after συνέβαινειν and is understood after ἵσα βαίνων.) Shilleto u. s. explains it here as 'truckling to, and adapting his pace to his companion's.' The phrase became common in later Greek, e.g. Aellephon Ep. iii 56 ἐπαρέεις σεαυτόν, οὐδὲν δέχεσθαι, καὶ βαδίσεις ἐν α. δή [καὶ τῶν πλήρων εἰ] τοῦτο ὅτι τοῦ λόγου, Πυθοκλεῖς. See note on § 68.

ὑποπεπτωκός] inf. 65; Or. 59 (Neater.) § 43 ὑπέσεας Καλλιστράτης, Isaeeus Or. 6 § 29 ὑποπεπτωκότες οὖδε τῇ ἀνθρώπῳ.

64. τῶν ὄντων ἐξέστη] Or. 36 § 50 ἐξέστησαν ἄπαντων τῶν ὄντων.

diaforhtēs] In pass. gener-

ally of things, here of the person, plundered. [But it is an uncommon word, Eur. Bacch. 746 ὥθωνον δὲ διεφοροῦντο σαρκός ἐνυτά, 'the cattle had their flesh (or hides, perhaps) carried off in different directions.' Ibid. 739 ἄλλαι δὲ δαμάλας διεφόρουν σταράμασιν. P.]

'Ἀπόληξις] Harpocr. εἰς τῶν i·συγγραφέων, δν Πλάτων κωμωδεῖν Σοφιστάς. (For i· the miss have ν·, corrected by Cobet who explains it of the ten συγγραφεῖς in Thuc. viii 67.) 'Ἀπόληξις Προστάκτου occurs in Or. 43 ὅν 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.

ἔφρακε] respexit, 'has had his eye upon,' i.e. has courted. A remarkable use. P.]

πρεσβευτὴς] 'Agent.' Or. 32 Zenoth. § 11 πρεσβευτὴν ἐκ βουλῆς τινα λαμβάνομεν... One who negotiates for another is named after a political custom 'an ambassador.'
eis Βυζαντίων πλέων, ἥνικα ἔκεινοι τὰ πλοία τὰ τοῦτον κατέσχον, τὴν δὲ δίκην ἔλεγε τὴν πρὸς Καλχηδονίους, τὰ ψευδὴ δ' ἐμοῦ φανερῶς οὗτο καταμεμαρτύρηκεν. εἰδ' ὁς εὐνυχοῦντος ἐστὶ κόλαξ, κἂν ἀτυχάσι, τῶν 65 αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων πολιτῶν πολλῶν καὶ καλῶν κάγαθῶν ὄντων μηδενὶ μηδ' εὖ ἵσον χρῆται, τοῖς δὲ τοιούτοις ἔθελοντις ὑποτίπτετε, καὶ μὴ τ' εἰ τινὰ τὸν οἰκεῖον ἀδικήσει μὴ τ' εἰ παρὰ τοῖς ἄλλοις φαύλην δόξαν ἐξει ταῦτα ποιῶν μητ' ἄλλο μηδὲν σκοπεῖ, πλὴν ὅπως τι πλέον ἢτεί, τούτον οὐ μισεῖν ὡς κοινὸν ἐχθρὸν τῆς φύσεως ὅλης τῆς ἀνθρωπίνης προσήκει; ἐγὼ γ' ἄν φαίνει, ταῦτα μέντοι τὰ τοσαῦτην 66 ἔχοντα αἰσχύνην, ὁ ἀνδρὲς Ἀθηναῖοι, ἐπί τῷ τὴν πόλιν φεύγειν καὶ τὰ οὐτὰ ἀποκρύπτεσθαι προήρηται πράττειν, ἠ' ἐργασίας ἅφανεις διὰ τῆς τραπέζης ποιηταί καὶ μήτε χορηγῇ μήτε ἀπηρασχῆ μήτ' ἄλλο μηδὲν ὧν προσήκει ποιή, καὶ κατείργασται τοῦτο. τεκμήριον δὲ ἔχων γὰρ οὐσίαν τοσαῦτην ὡστε ἐκατὸν μνᾶς

XLV. KATA STEFANOT [§§ 66—68

épíδοναι τῇ θυγατρὶ, οὐδέ ἠμπαράν εὐφαρατοι λειτουργίαιν ὡφὶ ύμῶν λειτουργῶν, οὐδὲ τὴν ἐλαχίστην. καὶ τοῖς πόσῳ κάλλιον φιλοτιμοῦμενον ἐξετάζομαι καὶ προθυμοῦμενοι εἰς ἄ δεὶ τῇ πόλει, ἡ κολακεύοντα καὶ τὰ ψευδή μαρτυροῦντα; ἄλλα ἐπὶ τῷ κερδαίνειν πάν ᾧν ὦτος ποιήσειεν. καὶ μὴν, ὦ ἀνδρεῖς Ἀδηναῖοι, μᾶλλον ἄξιον ὀργίλως ἔχειν τοῖς μετ’ εὐπορίας πονηρῶς ἢ τοῖς μετ’ ἐνδείας, τοῖς μὲν γὰρ ἡ τῆς ἀνάγκης 1122 χρεία φέρει τινὰ συγγνώμην παρὰ τοῖς ἀνθρωπίνως λογιζομένως· οἱ δ’ ἐκ περιουσίας, ὅσπερ ὦτος, πονηρὸς οὐδεμίαν πρόφασιν δικαίαν ἔχοιεν ἀν εἰπείν, ἄλλα αἰσχροκερδία ὣν καὶ πλεονεξία καὶ ύβρει καὶ τῷ τάς αὐτῶν συστάσεις κυριωτέρας τῶν νόμων ἄξιον

a Bekker. λειτουργίαν ἐφάρατα Ζ εἰς F.

e -εἰς Ζ. -ης Σ prima manus.

ἐξετάζομαι] ‘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 ὀράματος, Δημοσθένης κατὰ Στοβαύον. καὶ ἐν τῷ κατ’ Ἀνδροπιώνος (§ 66) ‘ἐξετάζομαι’ φησιν ἄντι τοῦ ὁφθής, εὑράβης. Cf. de Cor. §§ 115, 173, 197.

ἄλλα ἐπὶ τῷ κ.τ.λ.] ‘Unfortunately, the defendant is a person who will do anything to get money.’ Kennedy.

67. ἡ 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 ἡ τῆς χρείας ἀνάγκη. He also has οὐδεμίαν δικαίαν πρόφασιν ἔχουσιν, besides, for obvious reasons, omitting ὦτος εὐπορίας. (Florilegium 46, 72 p. 316.) The extract proceeds with the words πολλὰ δ’ ὧν κακὰ πράγματα τοὺς ἐλευθέρους ἡ πεινὰ βιαζέται ποιεῖν ἐφ’ ὦτος ἐλευθερό δικαίωτερον ἡ προσπαθεῖσα, 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’ ὧν κακὰ πράγματα we should therefore restore δοιλικὰ πράγματα from Demos-thenes himself, and print the passage as a separate extract.

συστάσεις] ‘plots,’ ‘conspiracies,’ parties, political interests, studia, étairia. Or. 37 § 39 περιτότηται τοὺς μὲν ἐπόντιο, τὸ ἐργαστηρίον τῶν συνεστώτων. [Eur. Andr. 1088 εἰς δὲ συστάσεις κύκλους τ’ ἐξώρει λαὸς οἰκήτωρ
δίδωμι ταῦτα φανήσονται πράττοντες. ὑμῖν δὲ οὐδὲν τούτων συμφέρει, ἀλλὰ τὸν ἀσθενή παρὰ τοῦ πλουσίου δίκην, ἃν ἀδικήται, δύνασθαι λαβεῖν. ἔσται δὲ τούτῳ, ἐὰν κολάζητε τούς φανερῶς οὕτως εἰς εὐπορίας πονηροῖς.

Οὐ τοίνυν οὐδ’ ἄ πέπλασται καὶ βαδίζει οὕτως 68 παρὰ τοὺς τοίχους ἐσκυθρωπάκως, σωφροσύνης ἀν τις θεοῦ. Thuc. π 21 κατὰ συντάσσεις γενόμενοι. So also οἱ συντάσσεις in Ar. Lysistr. 577. P.] Cf. Or. 46 § 25. εἰς εὐπορίας πονηροῖς] ‘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 exactation of interest from his debtors.

68. ἀ πέπλασται κ.τ.λ.] explained by the contrast immediately after, τῶν ἀπλῶς ὡς περφάκασα βαδίζουσι καὶ φαιδοῦσι. ἀ πέπλασται καὶ βαδίζει instead of ἐν ἔχει πεπλασμένη ὡς καὶ τὸ σεμνὸν βάδισμα, is a fresh instance (like ἦν 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.

ἐσκυθρωπάκως] Or. 54 § 34 μεθ’ ἰμέραν μὲν ἐσκυθρωπάκως καὶ λαμβαῖνειν φασι... For this and similar words expressing sullen and morose demeanour the student should read the speech of Herecles 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 ταχύς βαδίζων καὶ τοιοῦτος οὐ ὁ ἄτρεμος. Again Plato, Charm. p. 159b, expressly mentions ‘walking quietly in the streets’ as a mark of σωφροσύνης, σωφροσύνη τὸ κοσμίως πάντα πράττειν καὶ ἰσχυρῇ ἐν τε ταῖς ὁδοῖς βαδίζειν καὶ διαλέγεσθαι. Aristotle ascribes κίνησις βραδεία und φωνῇ βαρείᾳ to his μεγαλόψυχος (Eth. τν 9—3), and Theophrastus characterises the ‘Arrogant man’ (ὁ υπέρήφανος) as δεινό... ἐν ταῖς ὁδοῖς πορεύομεν μὴ λαλεῖν τοῖς ἐντυγχάνουσι, κατώ
Το πρόβλημα του τρόπου το σχήμα τούτο έστη, και το τής διανοιας ἀγριόν και πικρόν ἐνταῦθα δῆλοι. σημείον δὲ τοσοῦτον γὰρ ὄντων τὸ πλήθος 'Αθηναίων, πράττων πολὺ βέλτιον ἢ

κεκυφὼς. Cf. Alexis ap. Athen. 1 p. 21 § 38 ἐν γὰρ νομίζω τούτο τῶν ἀνελευθέρων εἶναι, τὸ βαδίζειν ἀροβύμιν ἐν ταῖς ὁδοῖς. Soph. fragm. 234 β ὡς ὕψος στειχομεν’ οὐ γὰρ ἐσθ’ ὡς σπουδὴς δικαίας μάμων ἀψεται ποτε. Aleiphon τ. 34 § 1 έξ ού φιλοσοφεῖν ἐπινοήσας, σέμως τὸς ἐγένου καὶ τὰς ὀφέις ὑπὲρ τοὺς κροτάφους ἐπήρας. εἶτα σχήμα ἔξων καὶ βιβλίων μετὰ χειρᾶς εἰς τὴν 'Ακαδμίαν οὐσεις. Cf. supr. § 63 ιεα βαινῶν κ.τ.λ. and infr. § 77. σχέσει] cf. τὸ σχῆμα inf. § 69. [διάγειν εν σχέσει seems unlike Demosthenes. The same may be said of ποιεῖν ἀδικήτων, 'to deprive of a home,' § 70. P.]

τοῖς ... φανδροῖς ... προσέθηκα τις ἄν καὶ δεηθεῖν] The 'Surly man' (ὁ αὐθάδης) is characterised by Theophrastus as ἀπτ προσαγορευθεῖς μὴ ἀντιπροσεπεῖ, and the 'Arrogant man' as προσελθεῖν (to greet) πρότερος οὔδεν θέλησα. —φανδροῖς, 'cheerful,' 'bright' (as we say).

dεηθεῖν καὶ ἐπαγγελεῖν] 'prefer a request and make a pro-
mise (or proposal).’ The two words are correlative to one an-
other like ‘asking and granting a favour.’ ἐπαγγελεῖν is an
emendation for ἐπαγγελεῖν proposed by H. Wolf and accepted
by Reiske and others. Dobree unnecessarily suggests 'Quaere
an potest = ἐπαγγελεῖν, i.e. open peteret.’ This would in-
volve a needless repetition of the
idea of δεηθείν. [Besides, ἐπαγ-
γελεῖν is rather 'to make a
profession of,' ‘to propose that
some one should accept your
service’ in some matter. P.]

πεπλασμένοι καὶ σκυθρωποῖς
'Affected and sullen characters.'

69. πρόβλημα τοῦ τρόπου
‘A cloak to mask his real cha-
acter.’ Soph. Phil. 1008 οῖως
μ’ ὑπῆλθες, ὡς μ’ ἑθνάτῳ λαβὼν
πρόβλημα σαντού παίδα τὸν
ἀγόντ’ ἐμοὶ. Cf. παραπέτασμα
supr. § 19, also πρόσχημα in the
sense of ‘an excuse.’

ἐνταῦθα δῆλοι] ‘He shows
herein the real rudeness and
malignity of his temper.’
the service did you ever contribute?" Cf. Or. 53 § 9 ἐρανον αὐτῷ...εἰσήγας.

συμβάλλωσα] 'to whom have you ever lent any aid?' (Kennedy). συμβάλλωσα (with perf. pass. used as mid.) is here used in a general sense of helping, as in Or. 21 (Mid.) § 133 συμβαλλόμενον τοῖς συμμάχοις. Cf. 59 § 69 εἰς ἐκδοσιν...τῇ ὑπατρίᾳ συμβάλλωσα, followed by εἰσενεγκέναι εἰς τὴν ἐκδοσιν (§ 70). It is used of 'contributing' ib. § 113 πρόκα...συμβάλλεται, Lys. 4 § 10 τῷ ἡμισί τοῦ ἀγρυπνοῦ συνεβάλομεν. We have the active use in Or. 34 § 1, συμβάλλειν πολλοῖς συμβάλλειν.

70. ἐξέβαλε] 'ousted from his patrimony,' cf. Or. 36 § 49 ἐκβαλλεῖν. The debtor in such a case would be said ἐκπεθανεῖν or ἐκστήναι τῶν ὄντων, ib. § 50. Or. 29 § 2 λιαν ὤμοι καὶ πικρᾶς ὄλτα συγγενῆ τοῦτον ἐκ τῆς ὄντος ἀπάσης ἐκβέβληκα.

θέων] his (maternal) uncle, not πατρινοί. 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 ἐρημός Ηδτ., π. 34, cf. ν 10. So in Plat. Legg. 778 b, etc. I and S). Unless we accept it in the sense of 'houseless,' it would be necessary either (as Reiske says) to alter παῦδα into οἶκον or to read ἀοίκον (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 περιμένων ἀοίκητος ἐστώς, ἀχρί δὲ ὁ Μητρόπορος ἔξειριγαζέτο μαί τοῦ οἶκον. ('Ἀλεξάνδρου λογιττῦ.)

τὸ σαυτοῦ μέρος] 'quod ad te attinet.' Fals. Leg. § 82 οὕτω διέθηκας αὐτοῖς τὸ μέρος σὺ. So also to τὸν μέρος Soph. Ο. C. 1566.

ὑπερήμερον εἰσέπραξεν] 'levied judgment on a defaulter.' (Kennedy.) Dem. Or. 33 (Apat.) § 6. Or. 21 (Mid.) §§ 81, 89 συνήθη
XLV. KATA ΣΤΕΦΑΝΟΤ | §§ 70—74

εἶτα ὅν ὄρατε ἐπὶ πάντων οὕτως ἀγριόν καὶ μιαρόν, τούτου ὑμεῖς ἥδικηκότα ἐπὶ αὐτοφόρῳ λαβόντες οὐ τιμωρήσεσθε; δεινὰ ἁρα, ὡ ἁνδρεῖς δίκασται, ποιήσετε καὶ οὐχὶ δίκαια.

71 Ἀξιον τοῖνοι, ὡ ἁνδρεῖς Ἀθηναῖοι, καὶ Φορμίων τῷ παρασχομένῳ τούτῳ νεμεσθάι τοῖς πεπραγμένοις, τὴν ἁναίδειαν τοῦ τρόπου καὶ τὴν ἁχαριστίαν
dὲ ὑπερήμερῳ γενομένῳ λαθείν αὐτῷ διὰ τὸ ἀδικηθῆναι. In Theophrastus the 'Penurious man' (ὁ μικρολόγος) is described as δεινὸς ὑπερημερίαν πράξας καὶ τόκον τό- κου ἀπατήσας. Pollux: (speaking of debt) ὁ οὖν ἐκτίσας κατὰ προθεσμίαν ὑπερήμερος. Harpocr. ὑπερήμερος οἱ δίκην ὀφλόντες ὄποιαν καὶ τὰ ἐπίτιμα τοῖς ἔλοντι μὴ ἀποδίδοντες ἐν ταῖς τακ- ταις προθεσμίαις...

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 μισοῦν Ἀθηναῖον τοὺς δανείσαντας. Thus, in the Epistles of Alciphron, borrowed doubtless in part from the later Attic Comedy, in a letter beginning μέγα κακῶν εἰσών οἱ κατὰ τὴν πόλιν τοκογύροι, the money-lender is described as πρεσβύτης, ὄφθαιρα μικρῶν, συν- εσπακτάς τὰς ὀρφῶς (1 26), cf. ib. π 3 § 2 ὁ Χρέμης ὁ κατεσκλη- κός, ὁ κατεσκακός τὰς ὀρφῶς, ὁ ταυρηδῶν πάντως 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 — ἥδικηκότα 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. νεμεσθάι] A poetic verb, rarely found in good Greek prose. It occurs, however, in Or. 20 (Lept.) § 161 τοιαῦτα... οἷς μηδεὶς ἄν νεμεσθάι; twice in Plato, and also in Arist. Rhet. π 9. Here, as elsewhere, νεμε- σάν is used in its regular sense of ‘indignation at undeserved good fortune’ (Arist. Eth. π 7 § 15 ὃ νεμεστικός λυπεῖται ἐπὶ τοῖς ἁναίξιοις εὐ πράττουσι).
ιδόντας. οἷμαι γὰρ ἀπανταὶ ὡμᾶς εἰδέναι ὧτι τοῦτον, ἡνίκ’ ὅνιος ἡν, εἰ συνεβῆ μάγειρον ἥ τινος ἄλλης τέχνης δημιουργὸν πρίασθαι, τὴν τοῦ δεσπότου τέχνην ἀν μαθὼν πάρρῳ τῶν νῦν παρόντων ἦν ἀγαθὸν. ἐπειδὴ 72 δὲ ὁ πατὴρ ὁ ἡμέτερος τραπεζίτης ὃν ἐκτῆσατ’ αὐτῶν καὶ γράφματα ἑπαίδευσε καὶ τὴν τέχνην ἐδίδαξε καὶ χρημάτων ἐποίησε κύριον πολλῶν, εὐδαιμόνων γέγονε, τὴν τύχην, ἥ πρὸς ἡμᾶς ἀφίκετο, ἀρχήν λαβὼν πάσης τῆς νῦν παρούσης εὐδαιμονίας. οὐκοῦν δεινῶν, ὃ γὰρ 73 καὶ θεοί, καὶ πέρα δεινῶν, τοὺς Ἑλλήνας μὲν ἀντί βαρ- βάρου ποιῆσαντας, γνωρίμουν δὲ ἀντ’ ἀνδραπόδου, το- σοῦτων ἀγαθῶν ἡγεμόνας, τούτων περιοράν ἐν ταῖς ἐσχάταις ἀπορίαις ὡντας ἐχοῦτα καὶ πλουτοῦντα, καὶ εἰς τοῦθ’ ἥκειν ἀναίδειας ὡστε, ἵς παρ’ ἡμῶν τύχης μετέσχε, ταύτης ἡμῖν μη τολμάν μεταδόθαι. ἂλλ’ 74 αὐτὸς μὲν οὐκ ὄκνησε τὴν δέσποιναν γῆμαι, καὶ ἥ τὰ 1124 καταχῦσματα αὐτοῦ κατέχεε τὸθ’ ἡνίκα ἑωνήθη, ταύτη

ἀν μαθῶν... ἦν] ἄν belongs solely to ἦν, the principal verb of the apodosis, although it is placed immediately before the emphatic participle μαθῶν. See Goodwin’s Moods and Tenses § 42, 3 note 1.

72. τραπεζίτης ὃν] The participial clause is here, as often, more emphatic than the principal verb ἐκτῆσατο. ‘Since my father, into whose hands he came, was a banker.’

73. γνώριμων] Kennedy renders this: ‘a friend instead of a slave.’ γνώριμως however is a weaker word than φίλος, though it is curiously placed after it by an anti-climax in Or.18 (de Coro- na) § 284 ἐξὸν ἡ φίλος ἡ γνώ- ριμος. But in the present pas- sage, the context leads us to prefer translating it: ‘a man of note instead of a mere slave.’

tosoútōn 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. Ἀν. 157 πρὸς γὰρ τὸν ἐχοῦτ’ ὁ φθόνος ἑρπεῖ. P.

ἀναίδειας] For the gen. cf. Or. 36 § 48 εἰς τοῦθ’ ἥκεις μινίας.

74. καταχῦσματα] Hар.once. Δημοσθένης ἐν τῷ κατὰ Στεφάνου α’, ὧτι τῶν νεονήτων ὁι δεσπότων τραγήματα κατέχεον Ἀριστοφάνης Πλούτωρ ἄρηοι (Ἀρ. Plut. 768 φέρε νῦν ἰδίως ἐλξώ κομίσω κατα- χύσματα ὁσπέρ νενήτωσαν ωφ- θαλμὸς 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
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.

προίκα πέντε κ.τ.λ.] § 28.

οὐσία 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.

ἐπικάζωντο] The regular word used of the suitors under such circumstances was ἐπι-δικάζεσθαι (Or. 43 Macart. § 55 τῆς ἐπικλήρων ἐπιδικαζέσθαι and ἐπιδικάζόμεν γένει ὧν ἑγγυτάτω). Hence, ἐπικάζωντο 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. 48 § 75), public notice was given of the claim, and if no one appeared to dispute it, the Archon adjudged the heiress to him (ἐπικάζασθαι αὐτῷ τῇ ἐπικλήρῳ). 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. Epiclerus), Or. 43 § 54 lex, τῶν ἐπικλήρων ὡστὶ θητικὸν τελοῦσιν, εἶδ' μὴ βούλησθαι ἔχειν ὁ ἐγγυτάτω γένους ἐκδίδοτα ἐπίδον.
k.t.l. (Cf. K. F. Hermann, Public Antiq. § 120, notes 6—12; Privatalt. § 64, notes 10 and 11 = Rechtsalt. p. 57 Thalheim, with Pollux in 33; and see Aristoph. Vesp. 583—7.)

θεϊον] Phormion’s sons being, like Apollodorus, sons of Archippe, would be ‘uncles’ to the daughters of their half-brother Apollodorus.—ήμεις is emphatically contrasted with el πίνης οὕτως ἡ πόλις (supra), as ὅν ἔγω ἔχω inf. with the implied οὕτως (or ὅν αὐτός) ἔχει.

76. ἔξετάζομενος] ‘scrutinised’, ‘narrowly examined’, ‘called to account’, ‘taken to task’ (§§ 80, 82; 2 § 27 πικρῶς ἔξετάζασι). Liddell and Scott refer to this passage, and explain it ‘to question by the torture,’ comparing Polybius xv 27 § 7 (φιλοτίμως ἔξετάζαι πᾶσαν προσπέφειτα 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 Polybius 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 ἔξετάζασι failed. [The verb is here used for ἔλεγχομένους τὴν ὁδίναν, ‘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 ἔξετάζεσθαι (Ar. Eccl. 729), or ἔξετάζων τοιεῖον, 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
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77 ἐπιδείξεων. ἔγω δ’, ὁ ἄνδρες Ἀθηναίοι, τῆς μὲν ὑψωσ τῇ φύσει καὶ τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα οὐ τῶν εὐτυχῶς πεφυκότων ἐμαυτὸν κρίνω’ ἐφ’ οίς γὰρ οὐδὲν ὑφελούμενον λυπῶ τινας, ἔλαττον ἔχω πολλαχοῦ τῷ μέντοι μέτριοι κατὰ πάσας τὰς εἰς ἐμαυτὸν δαπάνας εἶναι πολὺ τοῦτο καὶ τοιούτων

78 ἐτέρων εὐτακτότερον ζῶν ἄν φανεῖν. τὰ δ’ εἰς τὴν πόλιν καὶ ὅσα εἰς ψῆφις, ὅς δύναμαι λαμπρόταται, ως ψῆφις σύνιστε, ποιοῦ οὐ γὰρ ἀγνοῶ τοῦθ, ὅτι τοῖς μὲν γένει πολίταις ψῆφιν ἵκανον ἐστὶ 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 ὑψωσ 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 ἀξίων ἀπ’ δῆσεως...οὔτε φελεῖν οὔτε μοισὲν οὐδένα, ἀλλ’ ἐκ τῶν ἐργῶν σκοπεῖν...πολλοὶ μὲν γὰρ μικρὸν διαλεγόμενοι καὶ κοσμίως ἀμ-πεχόμενοι μεγάλων κακῶν αἶτων γεγόνασιν, ἄτερον δὲ τῶν τοιούτων ἀμελοῦντες πολλὰ κάθαρα ὑμᾶς εἴσιν εἰργασμένοι. See also note on § 68 and cf. particularly Or.

37 (Pant.) § 52 Νικόβουλος ἐπι-φθονός ἐστὶ καὶ ταχέως βαδίζει καὶ μέγα γὰρ φθέγγεται καὶ βακτη-ρίαν φορεῖ, and esp. § 55 where Nicobulus says of himself οὐχί λέληθα ἵμαντον, οὐδ’ ἀγνοοῦ ὡς τὸν εἶ πεφυκότων κατὰ ταύτα ὄν ἀνθρωπῶν, οὐδὲ τῶν λυστε-λούντων ἑαυτοῖς, εἰ γάρ ἐν οἷς μιθὲν ὑφελοῦν μαί ποιῶν, ὄντω τινας, πῶς οὐκ ἄτυχω κατὰ τοῦτο τῷ 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. In- trad. p. xlvi.

τῷ μέντοι μέτριοι — φανεῖν] 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 li- centiousness of life.

78. τοὺς ποιητοὺς] Or. 53 § 18 (of Apollodorus) κατὰ ψῆφισμα πολίτης (Hermann, Political Antiquities § 117).
the tendency to extravagant outlay on tombs was checked at Athens by a legal enactment referred to by Cicero, Legg. p. 64, post aliquanto propter has amplitudeus sepulcrorum...lege sanctum est, ne quis sepulcrum faceret operosius quam quod decem homines effecerint triduo, ib. 66. Cf. Plato, Legg. p. 959 το ἔστω δή νόμος οὗτος: τῷ μὲν δη τοῦ μεγα-
τοῦ τιμήματος εἰς τὴν πάσαν τα-
θήμβαν κ.τ.λ. Plato even suggests that the tomb or barrow (κώμα) should not take more than the work of five men for five days and that the inscription on the stele should not be more than four lines long, ib. p. 958 e.—lysius or 32 § 31 εἰς τὸ μνῆμα τοῦ πατρὸς οὐκ ἀναλώσας πέντε και ἐλεόσι μνᾶς εἰς πεντακαυχύλων δραχμῶν, τὸ μὲν ἴμαντεντο γίνεται τὸ δὲ τοῖς λελογισται (cf. becker, charicles 1108 = p. 395 of engl. abridg.).

79. ἔταιρεν δομήσωμαι] aes-
chin. Timarch. § 13 τῷ παιδί... ὁς ἐν ἐκμισθῳ ἔταιρειν.

τῆς πόλεως... παρρησίας ἀπε-
στέρηκα] νόμος γὰρ ἦν τὸν ἡπα-
ρήκοτα μὴ πολιτεύεσθαι argument to dem. fals. leg. p. 338. or. 59 § 29. this forms the main point of the speech κατ' ἀνδροτιώνων. see also ar. equit. 877. aeschin. Timarch. §§ 19—32 (hermann, privatalt. § 29, 22 = p. 258 blümner).

tο μνῆμα μνημονεύειν...ἀνηλω-
κὸς πλέον ἢ τάλαντα δίο] the tendency to extravagant outlay on tombs was checked at Athens by a legal enactment referred to by Cicero, Legg. p. 64, post ali-
quanto propter has amplitudeus sepulcrorum...lege sanctum est, ne quis sepulcrum faceret operosius quam quod decem homines effecerint triduo, ib. 66. Cf. Plato, Legg. p. 959 το ἔστω δή νόμος οὗτος: τῷ μὲν δη τοῦ μεγα-
tοῦ τιμήματος εἰς τὴν πάσαν τα-
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πλησιον τοῦ τῆς δεσποίνης] archippe, his former master's wife. [τῆς ἀδικίας ἦς—ἁδικήκεν. the genitive by attraction for the cognate accusative, ἁδικεῖν τινα (μεγάλην) ἁδικίαν. p. ]

80. σὺ τῶν ἀλλῶν] strongly emphatic: 'you (of all men) presume!' &c. on ἐστάτεων, cf. § 76.

μεθ' ἤμεραν...σώφρον, τὴν δὲ νύκτα...] Or. 54 § 34 μεθ' ἤμε-
ραν μὲν ἐσκυθρωπάκασι κ.τ.λ.
XLV. KATA STEPHANOT [§§ 80—82]

"Εφ' οϊς θάνατος ἡ ζημία, ταῦτα ποιεῖς. τονηρὸς, ὃ ἀνδρὸς Ἀθηναίοι, τονηρὸς οὗτος ἄνωθεν ἐκ τοῦ ἀνακείου κάδικος. σημείων δὲ· εἰ γὰρ ἦν δίκαιος, πένης ἄν ἦν τὰ τοῦ δεσπότου διοικήσας. νῦν δὲ τοσούτων χρημάτων τὸ πλῆθος κύριος καταστάς, ὥστε τοσαῦτα λαθεῖν ἀπ' αὐτῶν κλέψας ὡσ τῶν κέκτηται, οὐκ 81 ὁφελεῖν ταῦτα, ἀλλὰ πατρῷα ἐχεῖν ἤγειται. καὶ τοὺς πρὸς θείων, εἰ κλέπτην σε ἄπήγον ὃς ἐπ' αὐτοφόρῳ

"Εφ' οϊς θάνατος ἡ ζημία] e.g. certain forms of ζημία (K. F. Hermann, Privatalt. § 61, 20 = Rechtsalt. p. 37 Thalheim, where Lysias is quoted, τοὺς ὑψίστους δύσκατας ἔξεστιν ὑμῶν θανάτῳ ζημίον). §§ 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.

τονηρὸς...ἀνωθεν ἐκ τοῦ ἀνακείου] A knave, an arrant knave and a villain of old since he left the temple of Castor. ἄνωθεν is a maiorumibus, τονηρὸς κάκος τονηρῶν, cf. Or. 58 § 17 τονηρὸς ἐκ τριγυνίας. Or. 44 (Leochar.) § 5 οὐδὲν ἂν ἔδει ἂν ὦ ε ἐξεταζέν τὸ γένος τὸ ἡμέτερον. The ἀνακείον is the temple of the Dioscuri or "Ἀνακεῖα, as they were called (Plut. Thes. 33, Cic. Nat. Deor. iii § 53). It was one of the places where slaves were sold; Διοσκόρων ἱερῶν, οὐ νῦν οἱ μασθοφοροῦντες δοῦλοι ἑστάσιν (Bekker Anecd. 212). Ηαρποερ. ἀνακεῖον. ἀνάκτορον. ἴημισθησένην ἐν τῷ κατὰ Στεφάνου, ἱερῶν τῶν Διοσκόρων. Moeris, ἀνάκεια καὶ ἀνάκιον Ἀττικός (cf. ἀνακεῖον Thuc. viii 93), Δίασκόρου καὶ Διοσκόρειον Ἑλληνικός. Pollux i 37, ἐστατὶ δὲ ἑντιμοι...Διοσκόρων Ἀθήνην Ἀνάκεια. The temple stood S.E. of the market of the Ceramicus (E. Curtius, Text der sieben Karten p. 53).

Cf. Seneca de constantia sapiens 13 'non molestae ferae, si mihi non reddiderit nomen ali-quis, ex his qui ad Castoris negotiantur, nequam mancipia ementes vendentesque, quorum tabernis pessimorum servorum areae refertae sunt.'

81. κλέπτην σε ἄπήγον κ.τ.λ.]
See Or. 54 § 1 τη των λαποδω-των ἀπαγωγή n.—ἐπ’ αὐτοφώρῳ, flagrante delicto.

ἀνάγει[ν] ἀναφέρεις, sc. ἐκεῖσε ὅθεν (οὐ εἰς τοῦτον ἄφ’ οὐ) εἰληφ-φας. 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.

οὗτε πατὴρ παρέδωκεν, οὕθ’ εὗρε[ν] Or. 36 § 43 οὐδὲ γὰρ Πασίων ὁ σῶς πατὴρ ἐκτήσαθι εὐρὼν οὐδὲ τοῦ πατρὸς αὐτῷ παραδόθητο. —πατήρ, here (as often) without the article.

dοῦλον οἱ δ’ ἐλεύθεροι, the first four words of which are quoted by Arist., Pol. 1 2 § 4, with the comment ὡς ταὐτὸ φύσει βαρ-βάρων καὶ δοῦλων οὐ.

ἐπὶ τοῖς εἰργασμένοις] 'for what you have done,' Aesch. Suppl. 6 φεύγομεν οὕτων ἑφ’ αἰματι δημηγαλιαν. Mid. p. 519 φεύγειν ἑφ’ αἰματι. P.] Dem. 3 § 24 τὴν ἐπὶ τοῖς ἐργοῖς δόξαν.

ἐξήταξεν] i.e. in Or. 36 §§ 43 and 48, ἐγενετο Πασίων Ἀρ-χεστράτου. Ὄν ἐξήταξεν, cf. § 76.

82. μείζον] sc. προσθηκε ρο-νείν, which is also understood in both the next two clauses.

σὐ δοῦλος ἴσθα] Emphatically placed at the close of the pas- sage.
Τάχα τοινυν ἄν ίσως καὶ τοῦτο τις αὐτῶν εἴποι, ὡς ἀδελφὸς ὄν ἔμοι Πασικλῆς οὐδέν ἐγκαλεὶ τῶν αὐτῶν τοῦτο πραγμάτων. ἐγώ δ', ὦ ἄνδρες Ἀθηναίοι, καὶ περὶ Πασικλέους, παρατησάμενοι καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦτο ὡστε ὑπὸ τῶν ἐμαντῶν δούλων ύβρίσθαι οὐ δύναμαι κατασχεῖν, ὧν τέως οὐδέ τῶν ἄλλων λεγόντων ἀκοῦειν. ἔγω γὰρ ὁμομήτριον μὲν ἀδελφὸν ἐμαντοῦ Πασικλέα νομίζω, ὁμοπάτριον


§§ 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 ύβρισθεῖς, which makes it necessary to take ὡστε with οὐ δύναμαι κατασχεῖν and at first sight leaves εἰ without a verb. To remove the supposed difficulty, Dobree reads ύβρίσθαι, placing παρατησάμενος—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 ύβρίσθαι frustra tentat. Interpretationes egebat locus, non conjecturae.’ The passage should run as follows: ἔγὼ δ' ὦ ἄνδρες Ἀθηναίοι καὶ περὶ Πασικλέους, (παρατησάμενοι καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦτο ὡστε ὑπὸ τῶν ἐμαντῶν δούλων ύβρισθεὶς οὐ δύναμαι κατασχεῖν, ὧν τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκοῦειν ἐδόκουν ἐρώ καὶ οὐ σιωπήσομαι) ἔγω γὰρ...νομίζω. ‘γὰρ post parenthesin saepere fraudi fuit criticis’ (Fals. Leg. § 107 not. crit.).

[The passage is slightly ἀνακολούθω, but it can hardly be doubted that we must construe προεληλυθὼς εἰς τοῦτο ὡστε—ὑβρισθεῖς οὐ δύναμαι κατασχεῖν, ‘having reached such a point that—I am unable to restrain (my feelings),’ and συγγνώμην ἔχειν (ἐμοί) εἰ—ἐρώ καὶ οὐ σιωπήσομαι. The ἔγω δ’ at the beginning is resumed at ἔγω 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 ἔγω καὶ περὶ Πασικλέους—ἐρώ, but he lost himself, as it were, in the maze of the intervening clauses. P.]
84. *paraπeπtπwβẉ* [‘Court-ing,’ ‘flattering.’] As this verb does not seem to occur elsewhere in this sense, H. Wolf and Dobree would prefer *υπoπeπtπwβẉ* as in §§ 63, 65; but the text is supported by the MSS and by Harpocration, who says: *aνtι των υποπεπτπwβων.* *Δημοσθένης* ἐν τῷ κατὰ Στεφάνου.— paraπeπtπwβẉ implies subservience of a less abject and cringing form than υποπεπτπwβẉ, which would be too strong a word for this context. *‘υπoπιπtπeνωσ est ad pedes alicuius, paraπιπtπeνω ad latus alicuius succumbere’* (Lortzing, *Apoll.* p. 90).

Πασικλά] 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 contrast 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. *δειμαί...αντιβολά...ικετεύω*] Cf. § 1.

τοῖς τούτοις κόλαξιν] i.e. Stephanus and his friends (not excluding Pasicles).


ἀπιδὰς] The father, Pasion, had a shield manufactory, as we learn from Or. 36 § 4.

ἐπίδοσα] Used of voluntary free gifts for state purposes
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ρώςας ἑτηράρχησε τριηραρχίας. καὶ τάυτα, οὐκ ὄφειλεν ὑμᾶς νομίζουν χάριν ὑμῖν, ὑπομιμήσκοι ἡμεῖς γὰρ ὄφειλομεν ὑμῖν· ἀλλὰ ἵνα μὴ λάθω τι παθῶν τούτων αὐξίων: οὐδὲ γὰρ ὑμῖν ἀν γένοιτο καλὸν.

(ἐπιδώσεις) 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.

ἐτηράρχησε 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 χορηγεῖ καὶ τριηραρχεῖ καὶ τὰς ἀλλὰς λειτουργίας λειτουρ-γεί. But the clause πέντε τριη-ρεις ἐθελοντές ἐπιδόως is virtually an adjectival phrase descriptive of the nature of the triarchies. 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 serviant 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.)

'Speciosae Reiskiuni est etηράρ-χησε τριηραρχίας i.e. πέντε' Dobe. Compare Antiphon 5 § 77 καὶ χορηγίας ἔχορηγε καὶ τέλη κατετίθει, Andoc. 1 § 73 εὐθύνας ὑφλον ἄρειντες ἀρχάς, Dem. 18 § 114, 24 § 150, Kühner's Gk. Gr. π. 255 n. 3, Lobeeck's Parallelomena 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 triarchial services of Apollo- dorus, 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.
Πολλά δ' ἐχον εἶπεν περὶ ὧν ὑβρίσμαι, οἷς ἰκα-86 νῶν ὄν τὸ ὕδωρ ὅρῳ μοι. ὡς οὖν μάλιστ' ἂν ἀπαντᾷς ὑμᾶς ἡγοῦμαι γνῶναι τὴν ὑπερβολὴν ὅπως ἡ δικήμεθ' ἡμεῖς, φράσω· εἰ σκέψασθο πρὸς ἐαυτὸν ἐκαστὸς ὑμῶν τίν' οἴκοι κατέλιπεν οἰκήτην, εἴθ' ὑπὸ τούτου πεπον-θόθ' ἐαυτὸν θείη ταύθ' ἀπερ ἡμεῖς ὑπὸ τούτου. μή γὰρ εἰ Σύρος ἡ Μάνης ἡ τίς ἐκαστὸς ἐκεῖνων, οὕτως δὲ Φορμίων' ἀλλὰ τὸ πρᾶγμα τὸ αὐτὸ δουλοί μὲν ἐκεῖνοι, δοῦλοι οὗτοι ἤν, δεσπόται δ' ὑμεῖς, δεσπότης δ' ἦν ἐγὼ. ὥς τοῖνυν ὑμῶν ἂν ἐκαστὸς δίκην ἄξιώσει 87 λαβείν, ταύτην νομῖζεις κάρμοι προσήκεον νῦν· καὶ τὸν ἄφηρμενὸν τῷ μαρτυρήσαι τὰ ψευδή καὶ ὑπὲρ τῶν νόμων καὶ ὑπὲρ τῶν ὄρκων, οὓς ὁμοροκότες δικάζετε, τιμωρήσασθε καὶκ' παράδειγμα ποιήσατε τοῖς ἄλλοις, μημονεύοντες πάντα ὁσα ἀκηκοάτε ὑμῶν, καὶ φυλάττοντες, εὰν παράγεων ἐπιχειρῶσιν ὑμᾶς, καὶ πρὸς ἐκα-στον ἀπαντῶντες, εὰν μὴ φῶσιν ἄπαντα μεμαρτυρι-κέναι, "τι οὖν ἐν τῷ γραμματεῖῳ τέγραπται; τι οὖν “οὐ τότε ἀπηλείφου; τὸς ἡ παρά τοῖς ἀρχουσιν ἀντι-"γραφή;" εὰν μεμαρτυρικέναι τὸν μὲν ἐπιτροπευθῇ-88 ναι κατὰ διαθήκας, τὸν δ' ἐπιτροπεύσαι, τὸν δ' ἐχειν,

86. οἷς ἰκανὸν τὸ ὕδωρ] Or. 54 § 36.
μὴ γὰρ......] se. σκέψιται, unter-standert from σκέψατο in the previous sentence.
Σύρος ἢ Μάνης] Both com-

τὸν τε Μάνην ἢ Σύρα βωστρέσατω ὑκ τοῦ χωρίου. ῾Ρ.]
87. τὸν ἄφηρμενὸν] Him (i.e. Stephanus) who by false testi-
mony has robbed me of it (i.e. of my right to a verdict, τὸ δίκην λαβεῖν).

μημονεύοντες...... φυλάττοντες] Or. 36 § 61.

κ' habet Σ a me collatus. om. Ζ et Bekker st.

88. τὸν μὲν ἐπιτροπευθῆναι κ.τ.λ.] §§ 37, 38.

τὸν δ' ἐχειν] 'Has the docu-
ment in his custody,' i.e. the
ποίας; ἐν αἷς τὶ γέγραπται; ταῦτ' ἐρωτᾶτε· ἄ γαρ ὅuin μεμαρτυρήκασιν, οὐδεὶς ἐκεῖνοι προσμεμαρτύρηκέν. ἐὰν δ' ὁδύρωνται, τὸν πεπονθότα ἐλεεινότερον τῶν δωσόντων δίκην ἤγεισθε. ταῦτα γὰρ ἄν ποιήτε, ἐμοὶ τε βοηθήσετε, καὶ τούτους τῆς ἕκανοι κολακείας ἐπισχήσετε, καὶ αὐτοὶ τὰ εὐφράκα ἐσεθεὶ ἐψηψιμένοι.

1 Bekker. τὰς Ζ ευμ ἘΣΦ.

γραμματεῖον inscribed διαθήκη Πασίωνος § 16, ὁ μὲν γραμματεῖον ἐκεῖν ἐφ' ὦ γεγράφθαι διαθήκη Πασίωνος.

ἄ γαρ] None of the witnesses corroborate one another; one group depose to one series of isolated facts; another to another.—ὁυτοί, Stephanus and his supporters.—ἐκεῖνοι, Pasi-

cles and Nicocles.

ἐὰν ὁδύρωνται] Alluding to the pathetic appeals of the peroration. Cf. the miserables epilogi of Cicero and the Ἐλέον εἰσβολῆ of the Greek Rhetori- cians (Volkmann's Rhetorik § 27).

eὐφράκα κ.τ.λ.] So in the former speech on the other side; Or. 36 § 61 αὐτοὶ εὐφράκη-

σετε.
XLVI.

KATA STEFANOU
ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

ΤΙΟΘΕΣΙΣ.

[Ἐν τούτῳ τῷ λόγῳ καὶ τῶν φθασάντων τινα ἐπι-
κατασκευάζεται, καὶ ἕτερα προσεισάγεται, εἰ καὶ
παράνομοι αἱ διαθήκαι.]

Argumentum a manu recentiore in Σ supra scriptum.

a Wolf. προσεισάγοντα vulgo.

aa 'ιμπό ὡς καὶ vel ὡς καὶ. αἱ Bekkerus addidit. 'Ζ.

1. 1. τῶν φθασάντων τινα ἐπι-
κατασκευάζεται] '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.'

φθασάντων in this sense is found
only in late Greek, e.g. Argument
to Or. 4 (Philippic) τῶν φθάσαντι
(λόγῳ), and Aelian Var. Hist.
1 34 τὰ φθάσαντα, 'the matters
before-mentioned,' ἐπικατασκευά-
ζεται (according to Sophocles'
Lex. of late Greek) is found in
Dio Cassius 50, 23, 3 ('to con-
struct on') and Eusebius Π 557
α ('to prepare after'). It is here
perhaps middle, and not passive.
—προσεισάγω is found in Dio-
genesis 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 pal-
pably convicted of having given
false testimony.
"Oti mēn ōuk ἀπορήσειν ἐμελλει Στέφανος οὐτοσι 1129 ὃ τι ἀπολογηστεῖ ταῖς μαρτυρίας, παράγων τῷ λόγῳ, ὡς οὐ πάντα μεμαρτύρηκε τὰ ἐν τῷ γραμματεῖῳ γεγραμμένα, καὶ ἔξαπατῶν ὑμᾶς, καὶ αὐτὸς σχεδὸν τὰ ὑπενόου, ὡς ἀνδρεῖς δικασταί. πανοιργὸς τε γὰρ ἐστὶ καὶ οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίωνος πολλοί, ἀμα τ' εἰκός ἐστι τοὺς ἐγχειροῦντας τὰς ψευδῆς μαρτυρεῖν καὶ τὴν ἀπολογιάν εὐθέως ὑπὲρ αὐτῶν μελετῶν. ὅτι δ' ἐν τοσοῦτο λόγῳ οὐδαμοῦ μάρτυρας παρεσχετο ὑμῖν ὡς ἡ διαπειράματα τῷ πατρὶ τῷ ἐμῷ παρεγένετο ποι αὐτὸς ταῦτην τὴν διαθήκην, ὡστ' εἰδέναι ταῦτα ὅτι ἀντιγραφὰ ἐστίν ὅν ὁ πατήρ μου διέθετο, ὅ ἀνοιχθὲν εἰδε τὸ γραμματεῖον ὁ φασὶ διαθέμενον ἐκείνον καταλιπεῖν, ταῦτα συμμεμηνησθε μοι.

1. παράγων—ὑπενόου] Ἀπολλοδορος 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 ἀπολογιαν...μελετάν] `prepare their defence.' μελετάν, 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 purporting to be a copy of the same. Cf. Isaeus Or. 4 (Nicostratus) § 13 τῶν διαπειράματα τοῖς πολλοῖς οὐδὲ λέγουσι τοὺς παραγινόμενος ὧ τι διατίθενται, ἀλλ' αὐτοῦ μόνον, τοῦ καταλείπον διαθήκες, μάρτυρας παριστάται, τοῦ δὲ συμβαινοντός εστὶ καὶ γραμματείον ἀλλαγῆ οὐδὲ καναντία ταῖς τοῦ τεθεσθε διαθήκαις μεταγραφῆς, οὐδὲ γὰρ μάλλον οἱ μάρτυρες εἰσονται ει ἐρ' αἱς εκλήθησιν διαθήκαις, αὐταὶ ἀποφαίνονται (Becker, Charicles, Scene ix note 18).

The inelegance of the triple repetition διαπειράματα...διαθέτει...διαθέμενον is considered open to criticism by A. Schaefer, Dem. u. s. Zeit, ii 2, 187.

ἐκείνον] not αὐτὼς, either because it refers to a person deceased, or to distinguish τὸν πατέρα from the subject of the sentence, Στέφανος. P.]

συμμεμηνησθε] A verb apparently never used elsewhere, except in late Greek.
3. ὅποτε] See the note on Or. 34 § 53 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 μαρτυρικώς] Or. 45 § 43 προκλησισώς ἐστιν ὑπεύθυνως, οὐχὶ μαρτυρικᾶς. 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.
5. *periphanew*] § 3; the corresponding substantive *periphanew* 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. *akoyn...marturein* 'to give hearsay evidence.' Or. 57 (En-bul.) § 4 *oude* *marturein* *akoyn* *esw* *oi* *nomyoi*, 44 (Leoch.) § 55. Isaenus Or. 6 (Philoctemon) § 54 (dikaios) *oik* *mu* *parageneito*, *allo* *kouseti* *tis*, *akoyn* *marturein*, 8 (Kiron) §§ 6, 14, 29. Examples of this kind of evidence are found in Or. 43 (Macart.) §§ 36, 42, 44—46. Meier and Schoemann, *Attische Process* p. 669 fin.

† των *adunaton* και *upetroi* *ekmarturian* 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 (Laer.) §§ 20, 34. Isaenus Or. 3 (Pyrrhus) §§ 20—27, esp. § 20 παρα *twn* *asdeventwn* *h* *apolymein* *melekontw* *otan* *tis* *ekmarturian* *pougetai*... Harpoeration, *ekmarturia*; diaferei *tis* *marturias*, *ot* *me* *marturía* *twn* *paron- twn* *estin*, *h* *ekmarturía* *twn* *apóntwn*. *saphésta* δ* e peri* *tou* *dida*σκουσι Δημοσθένης τε
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 ἐπισκέψεις, the process of bringing an action for false witness, cf. Arist. Pol. ii 12 § 11 Χαρωνόν τοῦν οὖν ἐστὶ πλὴν αἰ δίκαι τῶν ψευδομαρτυρῶν, πρῶτος γὰρ ἐποίησε τὴν ἑπισκέψιν. Or. 47 §§ 1 and 5 Θεόφημος αὐτοῦ ὡς ἀληθὲς μεμαρτυρηκόσων οὐκ ἐπεσκύφατο ὡσαυτὸς ἐπεξέρχεται τῶν ψευδομαρτυρῶν, ib. 51. Or. 29 §§ 7, 41 and Or. 34 § 46 note. Cf. Meier and Schömann, p. 385.

'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 Dict. Ant. s. v. ἐκμαρτυρία). Cf. Schol. on Aeschin. Fals. Leg. § 19 el ἐπανελθὼν ἐκεῖνος (sc. ὁ ἐκμαρτυρήσας) εἰπέρ, ὅτι οὐδὲν εἴπον, ἐκρίνοντο οὕτως (sc. οἱ μαρτυρήσαντες) ὡς αυκοράφανται.

§§ 9—10. The defendant has also given evidence contrary to
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Under cover of another lie. Under cover of the testimony of the defendant and his friends. Plutarch has virtually given evidence in his own cause; which is illegal, and

the favourable antithesis between Nozio and *ydr. of Thucydides and the fable. testimony of the defendant, which shall be sustained by no other evidence, and

false testimony shall be made more disastrous by the defense. So below, "putting on disguise."

fortasse per errores omnis." Debrece.
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).

αὐτὸς τοῦτον] = κατ' αὐτὸ τοῦτο above.

οὐ δὲ καὶ ὑπόδικος τῶν ψευδομαρτυρίων ὁ μαρτυρήσας αὐτοῦ τούτου, ὅτι μαρτυρεῖ παρὰ τὸν νόμον καὶ ὁ προβαλόμενος κατὰ ταυτά.

Σκέψασθε τοίνυν τούτοις τῶν νόμων, ὡς κελεύει Ἱούλιος τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή.

οὐδὲ οὐδὲ οὐδὲν εἰσαγάγεις ἕνεκα ἀποκρίνασθαι ἀλλήλους τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή.

'Εστω δὲ καὶ υπόδικος τῶν ψευδομαρτυρίων ὁ μαρτυρήσας αὐτοῦ τούτου, ὅτι μαρτυρεῖ παρὰ τὸν νόμον καὶ ὁ προβαλόμενος κατὰ ταυτά.

'Εστὶ τοίνυν κἂν ἀπὸ τοῦ γραμματείου γυνῆς τις, ἵνα ἡ μαρτυρία γεγραμμένη, ὅτι τὰ ψευδάμενα μεμαρτύρηκεν. λελεκυμένον τε γάρ ἐστι καὶ οὐκοθέν

The person who produced the false witness, προφήτησας, was liable to what was called a δίκη κακοτεχνῶν for conspiring to defeat the ends of justice. Or. 47 § 1 τῶν προβαλόμενος ὑπόδικον ἐχθρὸν τῶν κακοτεχνῶν.

§ 11. That the defendant's evidence is false may be concluded from the material on which it is written. 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 οἵκοθεν τὰς μαρτυρίας κατ-
εσκευασμένας μαρτυρεῖν, τοὺς δὲ τὰς προκλήσεις μαρτυροῦντας τοὺς ἀπὸ ταυτομάτου προστάταις ἐν¹
μάλθῃ γεγραμμένην τὴν μαρτυρίαν, ἵν', ἀν'' τι προσ-
γράψαι ἢ ἀπαλείψαι βουληθῆ, ῥάδιον γ''τ.²

¹ Z cum Reiskio. καί ἐν Bekker cum libris.
² el...βουληθ'; Z cum libris. 'malim έβουλήθη vel βουληθεί' Sauppe.
³ γ' H. Wolf. ὡν Z cum libris.

(evidence to which might be given by any duly qualified per-
son even accidentally present) would naturally be rapidly writ-
ten on the spot ἐν μάλθῃ, 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. Ken-
ney 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 stilius, and a whitened
surface on which the letters
could be conveniently laid on
with black pigment (μέλαν).

For λευκωμένοι cf. Dem. Or.
24 (Timocr.) § 23 Lex, ὁ τίθει
tῶν καυνῶν νῦν, ἀναγράφας εἰς
λευκωμα, ἐκτιθέντω πρόσθε τῶν
ἐπωνύμων. Bekker's Anecd.
(Λέξεις ῥητορικά) p. 277 λεύ-
κωμά ἐστι πίναξ γύψη ἀληθι-
μένος, πρὸς γραφήν πολιτικῶν
γραμμάτων ἐπιτίθεος (we may
compare the Roman album and
contrast the black boards of our
class-rooms).

For ἐν μάλθῃ ib. p. 278 μά-
λθη; μεμαλαγμένος κηρός ἢ ἀλλο
tι τοιοῦτον, ὡ τὰ γραμματεῖα
πράττεται. Pollux x 58: ὃ δὲ ἐνών
τῇ πυκκίδι (σε. καλεῖται) κηρός ἢ
μάλθῃ ἢ μάλθα. Ὡρόδοτος μὲν
gάρ κηρῶν εἴρηκεν, Κατῖνος δὲ ἐν
τῇ Πυκκίδι μᾶλθῃ ἐφ᾽. Ἀρισ-
tοφάνης δὲ ἐν τῷ Γερουτάδῃ 'τὴν
μάλθαν ἐκ τῶν γραμματεῖων σφ-
thiouν. Ἡρακλ., μάλθῃ ὁ μεμα-
lαγμένος κηρός' Δημοσθένης ἐν
τῷ κατὰ Στεφάνου, Ἡπιώνας,
ἐπιτη τάλη ἡ τρόπιν παραχρῆ-
sas. And similarly Hesychius and
Suidas. (Bekker's Charri-
cles,Scene ix notes 12 and13,and
Beels, diatride p. 116—119.)

οἰκοθεν κατεσκευασμένον] a
'pregnant' expression, equiva-
 lent in sense to οἰκοθεν κατε-
skeuasaménon καλ 'οἰκοθεν ἀπηγ-
μένον. Similarly below, where
Reiske unnecessarily proposes
οἰκοθεν ἐπιφερομένας τὰς μα-
τυρίας κατεσκευασμένας μαρτυρεῖν.
For the general drift of the ar-
gument and its imputation of
deliberate design, cf. Cic. Phil.
ii § 85 unde diadema? non enim
abjectum sustuleras, sed attu-
leras domo mediatum et cogi-
tatum scelus.

τοὺς προστάτας] These words
are rather obscure. Kennedy
renders προστάτας as equivalent to παρόντας. Rather, perhaps, 'who stand forward voluntarily.' P.]

ἀν βουλήθη] The vulgata lection used to be ei, altered by G. H. Schaefer into έαν to avoid the anomaly of ei with the subjunctive, a construction described as 'poetical' in Bekker's Anecdota (p. 144). See, however, the commentators on Thuc. vi 21 § 1 ei ξυστώσων, Hermann's Opuscula 1 280 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, ei τιν...προστιθησαί...ή το λαο προστιθήσα, where-as in § 207 we find the regular construction ei τιν προστιθησαί ται δεσμοι καν το λαο των προστιθησητε (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...θεναι] κείμαι 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:

ό νομοθέτης τέθεικε τον νόμον.
ή πόλις τέθειται τον νόμον.
ό νόμος κείται.

(See further in notes on Or. 34 § 16, Or. 39 Argument, line 23, and on Isero. 1ad Dem. § 36.) μηδε νόμον...έπ' ἀνδρί θειναί] Just as a privilegium was for-
hidden 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’ ἄνδρι νόμον ἔξειναι θείναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πάσαν Ἀθηναίος, εἰ δὲ ἐξαισχύνοις δόξῃ κρύβοντι ψηφίζομένος, and see Dem. Or. 24 (Timocrates) § 59, and 23 (Aristoc.) § 86.

13. ὃ μὲν νόμος... ὃ δὲ πατήρ k.τ.λ.] The sentence is rather loosely written, and the sense might have been brought out better by some such arrangement as this: ὃ μὲν νόμος... κελεύει, ὃ δὲ πατήρ Φορμίων ὁπω Ἀθηναίων γενομένως ἔδωκε τὴν ἐαυτοῦ γυναίκα: ἔτελεύτησε γὰρ k.τ.λ. A similar looseness of structure may be noticed in §§ 25 and 15—ἐπὶ Δυσινίκητον b.c. 870. ἐπὶ Νικοφήμου b.c. 360. τῆς δωρεᾶς] καὶ τῆς πολιτείας.

Or. 36 § 30.

14. ὃς μὲν ἐπεποίητο 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 νέοις αὐτοῦ ὀνείδες ὀνείδει ἐν διαθήκῃ γράφει δόσαι ὀνείδεμαν, διότι ὁ νόμος αὐτὸς ἀποδίδοισι τῷ νικί τὰ τοῦ πατρὸς καὶ ὀδὴ διαθέσειν εἴρ ὅτι ὃς ὁδεῖ παιδές γνησίως. K. F. Hermann, Rechtsalt. ed. Thalheim § 10 p. 63.
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.’ ἐπετείχεισθαι refers to ‘family adoption’ (Or. 44 Leoch. ad fin.), and the plaintiff argues as though it meant the same as ἐπετείχοστο πολιτής.

ἀπείτεσθαι...ἐπετείκασθαι. Or. 52 (Callippus) § 19 οὔτε ἀφισσατο βυτήσαντα οὔτε ἀπείκοστα περὶ τοῦ ἄργυρου. ἀπείτεσθαι may be paralleled by the phrase in Roman law eiurare hereditatem. For ἐπετείκασθαι 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 τοῦτων τοῦ παρανόμων] A certain correction of the old reading ὑπὸ τοῦτων τοῦ παρανόμου. Cf. Isaeus Or. 9 ad fin. εἰ τοῦτων ἐποίησατο οὐν οὔ τῷ πατρὶ πολεμιστότατον ἢν, πῶς οὐ δόξει τοῖς ἀκούσαις παρασελήν ἤ ὑπὸ φαρμάκων διεφθάρασθαι; and ib. Or. 6 (Philoct.) § 9 οὕτω δὲ τὸν κοινὸν ἀπαίσι κεῖται, ἐξεῖσαι τὰ ἑαυτοῦ διαθέσαι, εὰν μὴ παιδεῖς ως γνήσιοι ἄρρενες, εάν μὴ ἁρὰ μανεῖς ἤ ὑπὸ γήρως ἢ δὲ ἀλλο τι τῶν ἐν τῷ νόμῳ παρανόμων διαθήσαι, Plut. Sol. 21, [Dem.] 48 § 56.—On φαρμάκων see further in § 16 φαρμακώντα.—νόσου ἐνεκεν 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).
XLVI. KATA STÉFANOT [§§ 15—17]

15. Τὸν μὲν νόμον τοῖνυν ἀκηκόατε, ὅς οὐκ εὖ διαθήκας διαθέσθαι, εἰὼν παιδεὶς ὁ διὰ γνήσιοι. οὕτω δὲ φασὶ ταῦτα διαθέσθαι τὸν πατέρα, ὥς δὲ παρεγένοντο ὦκ ἔχουσιν ὑποδείξαι. ἄξιον δὲ καὶ τὸδε ἐνθυμηθήναι, ὅτι ὥσιν µὴ ἐπεποίηντα, ἀλλ' ἦσαν πεφυκότες γνήσιοι, τούτους ὁ νόμος δίδωσιν, εἰὼν ἀπαιδεῖς ὅσι, διαθέσθαι τὰ ἑαυτῶν. ὁ τοίνυν πατὴρ ἠµῶν ἐπεποίητο ὑπὸ τοῦ δήµου πολίτης, ὡστε οὐδὲ κατὰ τοῦτο ἔξῆν αὐτῷ διαθέσθαι διαθήκην, ἀλλος τε καὶ περὶ τῆς γυναικὸς, ἦς οὐδὲ κύριος ἐκ τῶν νόµων ἦν, παιδεῖς τε ἦσαν αὐτῶν. σκέψασθε δὲ καὶ δίοτι οὐδ' ἀν ἄπαις τας γυναῖκες, κύριος ἔστι τὰ αὐτοῦ διαθέσθαι, εἰὼν µὴ εὗ φρονήνει νοσοῦντα δὲ ἡ φαρμακῶν ἡ γυναικὶ πειθόμενον ἡ

9 ἐποδείξαι Ζ. ὑποδείξαι 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 ἐνθυμοµένους ὅτι followed by καὶ διότι. Isocr. Paneg. § 48 n. Here σκέψασθε δὲ καὶ διότι corresponds in sense to ἄξιον δὲ καὶ τὸδε ἐνθυµήθηναι, ὅτι in the previous section.

εὗ φρονήν] Isaeus Or. 7 § 1 εἰ τις αὐτὸς ζῶν καὶ εὗ φρονῶν ἐποίησατο, contrasted with εἰ τις τελευτήσεις μέλλων διέθετο, εἰ τι πάθω, τὴν ὅποιαν ἐτέραν. Eur. Ion 520, εὗ φρονεῖς μὲν; i.e. ἀρα ἐμφασεν εἰ;—On νοσοῦντα see above, § 14 νοσὸν ἔεκεν.

φαρμακῶν] Harpocr. ἰησοῦ τε θεοῦ τῷ κατὰ Στεφάνου. ἐστὶ δὲ φαρμακῶν ὁ ὑπὸ φαρμακῶν βεβλαμμένος, ὡς καὶ Θεόφραστος εἶν εὐ Νόµων ὑποστημαινει. [φαρμακάν is one of a class of verbs implying mental or bodily affection, e.g. λημάνω, 'to have blear eyes,' ποδαγρᾶν, χαλαζίν, φονᾶν, 'to be blood-thirsty,' θανατᾶν, 'to have a desire for death,' Plat. Phaedo p. 64 ν, τοµᾶν 'to require the knife' &c. The verbs themselves are less commonly used than their participle, P.] Cf. Rutherford's New Phrynichus p. 153.

εὗ δοκοῦσιν εὗ 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
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...πῶδοντι...τοῦτῳ δοῦναι] The juxtaposition of these two datives, referring to two different persons, is extremely harsh. The order is: δοκεῖ ὡμίν ἀκόλουθον εἶναι (Πασίων), τῷ μή δόντι ἐξουσιαν ἐργάζεσθαι τῷ τῆς τέχνης ἤμιν ἐργάζεσθαι, τούτῳ τῆς γυναίκας δοῦναι τῆν αὐτῶς καὶ τῶν παίδων ἐὰν σαί κοινωνὸν αὐτῷ γενέσθαι. καὶ μὴ βανμάζετε, εἰ τάλλα σκευοφυμένους αὐτοὺς τὰ ἐν τῇ μεθώσει τούτῳ παρέλαθεν. ἦσος μὲν γὰρ οὐδὲ προσεῖχον ἀλλὰ ὀνειδί ἢ τῶ τὰ χρήματα ἀποστερῆσαι καὶ τῷ προσοφελῶντα τὸν πατέρα ἐγγράψαι· ἐάτα δὲ οὐδὲ ἐδόκοι σὺν ὑπὸ νεών ἐσεθάναι ὅστε ταῦτα ἀκριβῶς ἐξετάσαι.

r Bekker cum correcto Σ. δὲ Ζ cum Σ (prima manu).

For σκευοφυμένους cf. Or. 45 § 5. ἐγγράψαι] Specially used of 'registering' a man as debtor. Cf. Or. 53 § 14. οὖντω δεινῶν] '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 a fiancée for lawful wedlock by her guardians, i. e. certain near relations, such
18. Σκέψασθε τοίνυν καὶ τοὺς νόμους, παρ’ ὅν κελεύ- ουσι τὰς ἐγγύας ποιεῖσθαι, ἵν’ εἴδητε καὶ ἐκ τούτων ὡς κατεσκευασμένης διαθήκης ψευδής μάρτυς γέγονε Στέφανος οὕτωσι. Λέγε.

ΝΟΜΟΣ.

'Ἡν ἂν ἐγγύησῃ ἐπὶ δικαίοις δάμαρτα εἶναι ἣ
πατὴρ ἣ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρὸς,
τὰ ταύτης εἶναι παῖδας γυνήσιοις. ἕνω δὲ μηδεὶς ἢ
τούτων, ἕνω μὲν ἐπικληρός τις ἢ, τὸν κύριον ἔχειν, ἕνω
δὲ μὴ ἢ ἢ, ὧτῳ ἂν ἐπιτρέψῃ, τοῦτον κύριον εἶναι.

19. Οὐτοὶ μὲν τοίνυν ὁ νόμος οὗς ἐποίησε κυρίους
εἶναι, ἀκηκόατε ὅτι δ’ οὐδεὶς ἢν τούτων τῇ μητρί, οἱ
ἀντίδικοι μοι αὐτοὶ μεμαρτυρήκασιν. εἰ γὰρ ἢν, παρεῖ-
χοντ’ ἂν. ἢ μάρτυρας μὲν ψευδῆς ὁδεσθ’ ἄν
παρασκε-
σθαί καὶ διαθήκας οὐκ οὕσας, ἀδελφὸν δὲ ἡ πάππον ἡ πατέρα οὐκ ἄν, εἴπερ ἦν δυνατὸν ἑνεκα χρημάτων; ὅποτε τοίνυν μηδεὶς φαίνεται ἃν τούτων, τότε ἀνάγκη ἐπικλήρου τήν μητέρα ἤμων εἶναι. τῆς τούτων ἐπικλήρου ρου σκοπείτε τίνας κελεύουσιν οἱ νόμοι κυρίους εἶναι. λέγε τὸν νόμον.

ΝΟΜΟΣ.

[Καὶ ἐὰν ἐξ ἐπικλήρου τις γένηται, καὶ ἁμα ἡβήσῃ ἐπὶ δίετες, κρατεῖν τῶν χρημάτων, τόν δὲ σίτον μετρεῖν τῇ μητρὶ.]

Οὐκοῦν ὁ μὲν νόμος κελεύει τοὺς παίδας ἡβήσαντας κυρίους τῆς μητρὸς εἶναι, τὸν δὲ σίτον μετρεῖν τῇ μητρὶ. ἐγὼ δὲ φαίνομαι στρατευόμενος καὶ τριμηριχῶν ὑμῖν, ὅτε οὗτος συνφύκησε τῇ μητρὶ. ἀλλὰ μὴν 21 ὅτι ἐγὼ μὲν ἀπεδήμοιον τριμηριχῶν, ἐτετελευτήκη δ’ ὁ πατὴρ 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 τετελευτήκη Ζ οὔτις 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. ἐπιδεῖτες ἡβήσαι: Δημοσθένης ἐν τῷ κατὰ Στεφάνου. At the end of his article he quotes Hyperides (frag. 223) ἐπεὶ δὲ ἐνεγράφην ἐγὼ καὶ δὸ νόμος ἀπέδωκε τὴν κομίδον τῶν καταλειθυτῶν τῇ μητρὶ, ὃς κελεύει κυρίους εἶναι τὴν ἐπικλήρον καὶ τῆς οὐσίας ἀπάσης τῶν παίδας, ἐπειδὰν ἐπιδεῖτες ἡβήσαιν. Cf. Isaeus frag. 90, id. Or. 10 § 12 and Or. 8 § 31. (See A. Schaefer, Dem. π. 2, 19—39, esp. p. 25, Eintritt der Mündigkeit nach Attischen Rechte, where ἐπιδεῖτες ἡβησαὶ 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 ἐπικλήροι see note on Or. 45 § 75. (Cf. Lortzing, Apoll. p. 85 and A. Schaefer u. s. p. 176.) στρατευόμενοι κ.τ.λ.] And therefore of full age; referring back to παίδας 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
autōn ἐξήτουν καὶ ἤξίουν περὶ αὐτοῦ τούτου βασανίζεσθαι αὐτὰς, εἰ ταῦτ’ ἀληθῆ ἐστι, καὶ ὦς προεκαλούμην, λαβέ μοι τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

[Μαρτυροῦσι παρέδωσαι, ὅτε προνεκλείτο Ἀπολλόδωρος Φορμώνα, ὅτε ἤξιον ἀποδοθεῖν Ἀπολλόδωρος Φορμώνα τὰς θεραπαίνας εἰς βίασαν, εἰ μὴ φησὶ Φορμίων καὶ πρότερον διεφθαρκέναι τὴν μητρὰ τῆς ἐμῆς, πρὶν οὗ ἀποσκοπήναι Φορμίων γῆμαι ἐγγυησάμενος αὐτὴν παρὰ Πασίωνος. ταῦτα δὲ προκαλομένου Ἀπολλόδωρου οὐκ ἠθέλησε Φορμίων παραδοθῆναι τὰς θεραπαινας.]

22 Τὸν τούτου νόμον ἐπὶ τούτους ἀνάγινωθι, ὡς κελεύει ἐπιδικασίαι καὶ τῶν ἐπικλήρων ἀπασῶν, καὶ ἔκεινοι καὶ ἀστῶν, καὶ περὶ μὲν τῶν πολιτῶν τὸν ἄρχοντα

plaintiff wishes to insinuate that, though some time elapsed before the marriage proper (ἐγγενεῖ), 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 μητρὰ τῆς ἐμῆς] 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 ‘heiress,’ 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 ‘heiress.’ 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, p. 2, 176.) On ἐπιδικασίᾳ τῶν ἐπικλήρων see note on Or. 45 § 75.
because it was in this month that most of the magistrates vacated office and passed their audit.

'Without legal adjudication.' See K. F. Hermann, Privatalt. § 66, notes 1 and 2 = p. 72 Thalheim.

23. eiτε...eτε...eτε...eτε...el...eιτε] el is here repeated in various forms no less than six times in the same sentence; cf. Or. 53 § 23 where ei occurs twice. But even the undisputed writings of Demostenes 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) 'qu anchman hic et ἡμὲν et ei δὲ inter se opponuntur quae non est vera repetitio.' (Lortzing, Apoll. p. 33.)

'Those of your number who were drawn
XLVI. KATA ΣΤΕΦΑΝΟΤ [§§ 23—26

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.

Every man of full age and sound mind, not under durance 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.
26. σωνδεκάζη] 'Bribe the Heliaea.' Pollux v. i. 42: δώρων κατά τοῦ ἐπὶ δώρους δικασάντως ἢν ᾧ γραφῆ, δέκασ μόνον δὲ κατὰ τοῦ διαφθείραντος καὶ ὁ μὲν δικάζε- σθαι ὁ δὲ δικάζεσθαι ἐλέγετο (ib. vi 190). Or. 21 (Mîd.) § 118 lex, ἐὰν τις...διὸ ἐτέρῳ ἢ διαφθείρῃ τυνάς ἐπαγγελμένοις, ἐπὶ ἀλαβή τοῦ ὅμιον...ἀτίμως ἐστω. δεκασίζωs 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 π 9 § 6, ὁ γὰρ ἀδέκαστος κρίνομεν (ἢν ἠδονή), and Aeschines, Timarch, § 86, has σωνδεκάζειν τὴν ἐκκλη- σίαν καὶ τάλλα δικασθῆρα καὶ ὑπάρχειν δικασθηρία καὶ ἱ. § 87 μαρτυρεῖν τοῦ μὲν ὡς ἐδέκαστο τὸ ὅμιον ἐδέκαστο. Cf. Isoc. Or. 8 § 50 διὰ τῆς ἕκμας ἐπίκειμεν, ἐὰν τις ἀλλη λ ἐδέκαζω, and Lyssias Or. 29 § 12 δεκασαμένοι. So in Latin, we have decuariae used of organised bribery at elections, Cicero, pro Plancio § 45 decu- riatio tribulum and decuriasses Plancium, conscripisse. Cf. the obscure name given to bribed dicasts at Athens, Δόκου 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 Δόκου δεκάς from the statue of Lycus near the law-courts. Meier and Schömann, Att. Process p. 150. Harpocr. s. v. δεκάζωs.

The usual phrase for bribery is χρήμασι φθείριν (or διαφθεί- ριν), though the euphemism χρήμασι πείται is still more fre- quent. It is curious to note how frequently the word δωροδοκία occurs, and how rarely δεκασίζωs 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 δεκασίζωs.

ἐταιρεῖαν ἐπὶ καταλύεται τοῦ ὅμιου] Thuc. viii 54, ο Πελο- ανδρος τᾶς ἐννωμοσίας...ἀπάσας ἐπελθὼν καὶ παρακελευσάμενος ὅπως...καταλύσεται τοῦ ὅμιου 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 pri- vate 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 σώδικαs and the συνήγοροs that Aristophanes al- ludes in Vesp. 694. P.]
XXVI. KATA STEFANOT [§§ 26—29

mosiai, to
tovn e

§ 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.

ta xiromata] se. the Banking-stock, which is the subject of Or. 36. The egrapstirion 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?

katalleipousin] 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.'

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τίθενται. πῶς οὖν ὑμεῖς ἢστε ὅτι ἀντίγραφά ἐστὶ τῶν διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ γραμμένα;

Δέομαι δ’ ὑμῶν ἀπάντων, ὡ ἀνδρεὶς δικασταὶ, καὶ 29 ἰκετεύω βοηθῆσαι μὲν ἐμοί, τιμωρῆσασθαι δὲ τοὺς ἑτοίμους οὕτω τὰ φευγὴ 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 διατίθε-μενοι...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

ΤΙΠΟΘΕΣΙΣ.

'Απολλόδωρος γραψάμενος ψευδοκλητείας Ἀρεθούσιον εἶλεν. ὀφείλοντος δὲ τοῦ Ἀρεθουσίου τάλαντον τῇ πόλει καὶ ἀποδοῦναι μὴ δυνηθέντος, καὶ διὰ τοῦτο εἰς τὰ δημόσια ἀπογραφομένης αὐτοῦ τῆς οὐ-5 σίας, ἀπογράφει ὁ Ἀπολλόδωρος οἰκέτας ὡς ὄντας Ἀρεθουσίου, ὁ δὲ Νικόστρατος μεταποιεῖται ὡς ἰδίων καὶ ἐκεῖνῷ προσηκόντων οὐδέν. ἔπει δὲ τὸ πράγμα μοχθηρόν ἔστι, διὰ τούτο ὁ ρήτωρ διηγεῖται τηλικά

a πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων Ζ.
b [ὁ δὲ Νικόστρατος] Ζ. 'addidit Bekker cum H. Wolf.'
c om. Ζ. 'addidit Dindf. ex Σ.'


§§ 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
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 re-
lat ing, so far as time permits, the most atrocious and flagrant
of all the wrongs which they have inflicted upon me.

оіоеμενος δέων τιμωρεύσαται] 'To
avoid the fatal charge of συκο-
φαντία, any one prosecuting a
fellow-citizen for some public
offence endeavoured to shew that
he had private and per-
sonal grounds of enmity against
the accused; and if he suc-
cceeded in proving this, it was
considered the most natural and
reasonable thing in the
world that he should endeavour
to satisfy his hatred by becom-
ing 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.

tό μέγεθος] 'the size', 'the
amount', 'the paltness of the
specification.' Herod. i 74,
μεγάλει 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. xii p. 96 Lamb).
Reiske, however, explains τό
μέγεθος τής ἀπογραφῆς: μαγνι-
tudo ineaeae millii homidae, si
causa cadam.

τής ἀπογραφῆς] 'the specifi-
cation', or 'inventory', of pro-
PERTY, used especially of infor-
mation as to State property
alleged to be unlawfully held
by a private person. Har-
porestation, ἀπογραφή: ὅταν τις
λέγη τινα ἔχειν τι τῶν τῆς πό-
λεως, ἀπογραφήν ποιεῖται ο ἐνα-
γόνενος, δηλῶν πόλεν ἔχει τα
χρήματα καὶ τόσα ταύτα εἰῆ...τι
de ἦν τό κινδύνεμα τῷ τήν ἀπο-
γραφὴν ποιούμενον, ἐν τῷ Δη-
mοσθένους πρὸς Νικόστρατον περί
τῶν Ἀρεθουσίῳ ἀνδραπόδων, εἰ
gνήσιος, δήλων γίγνεται. He-
σεχίνου, ἀπογραφήν ἀρέθυσιν ἦ
γνωμένη κρίσισιν. Cf. Or. 22
(Androt.) § 51, τό τά χωρία δη-
με νεέναι καὶ τάς οἰκίας, καὶ ταύτ
ἀπογράφειν, 37 § 7, 40 § 22.
Meier and Schömann, pp. 253—
260.

οὐ δήπου...ἀπέγραψα ἀν...ἀνδρά-
pοδα] 'I should not have sche-
duled slaves worth two minas and a half.’ Kennedy.

χιλιῶν 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 τῶν ἐγχειρήσαντα συκοφαντεύοντοι (in an ἀπογραφή) εὖθετ ἤτίμωσαν τὸ πεμπτὸν μέρος τῶν ψήφων οὐ μεταδόντες, Lysias 18 § 14 χιλιαίς δραχμαῖς ἐξήμωσατε τὸν βουλόμενον τὴν ἡμετέραν γῆν δημοσίαν ποιήσα. Or. 58 (Theocrit.) § 6 ἐὰν ἐπεξείως τις μὴ μεταλάβῃ τὸ πεμπτὸν μέρος τῶν ψήφων, χιλιαὶ ἀποτίνες, κἂν μὴ ἐπεξή, χιλιὰς ἐτέρας, ἵνα μὴ συκοφαντή μηδεὶς μὴ· ἀδειὰν ἔχων ἐργαλαβῇ καὶ καθυσκῇ τὰ τῆς πόλεως.


ὡστ’ οὐκ ἂν ἐξευρέθω] A mixed phrase between ὡστ’ οὐκ ἂν ἐξεύρουμι and ὡστ’ μη ἐξεύρεῖν. The use of ἂν with ὡστε and the infinitive is rare, but it occurs when a mere contingent result is described. P.]

2. αὐτὸς 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. § 387).

τούνομα παρέχειν] ‘to lend his name,’ i.e. allow himself to be used as a cat’s paw. [Eu-ripides 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 eido-λον. 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: οὖ γὰρ ἂν ἐὰν ποτὲ ἑτερον ἀπογράψα, ‘for I never should have allowed another, &c.’ P.
(or γὰρ ἂν ποτε ἔτερον ἀπογράψαι, εἴπερ ἐγὼ αὐτὸς ἁδικοῦμην), διὰ μὲν ταῦτ' ἀπέγραψα. ἀπογράψας δὲ ἔδω ἀποδείξω τὰνδράποδα Ἀρεθυσίου οὖντα, οὕτε 1247 ἐγέρραπτο εἶναι, τὰ μὲν τρία μέρη, ὅ ἐκ τῶν νόμων τὸ ἴδιωτη τὸ ἀπογράψαντι γίγνεται, τῇ πόλει ἀφίμην, αὐτὸν δ' ἐμοὶ τετιμωρῆσθαι ἀρκεῖ μόνον. εἰ μὲν οὖν 3 μοι ἢν ἱκανὸν τὸ ὤδωρ διηγήσασθαι πρὸς ὑμᾶς τὰ εξ ἀρχῆς, ὅσ' ἀγαθὰ πεπονθότες ὑπ' ἐμοὶ οἶδα με εἰργασ- μένου εἰσίν, εὖ οἶδ' ὅτι ὑμεῖς τ' ἂν μοι ἐτί μᾶλλον συγγνώμην ἐχέσθε τοῦ ὀργίζεσθαι αὐτοῖς, τούτους τ' ἀνοσιωτάτους ἀνθρώπων ήγήσασθε εἶναι νῦν δ' οὐδὲ διπλάσιον μοι τούτου ὤδωρ ἱκανὸν ἂν γένοιτο. τὰ μὲν οὖν μέγιστα καὶ περιφανῆ τῶν ἀδικημάτων, καὶ ὅπο- θεν ἡ ἀπογραφὴ αὐτῇ γέγονεν, ἐρὸ πρὸς ὑμᾶς, τὰ δὲ πολλὰ ἐᾶσον.

τὰ τρία μέρη] Three-fourths of the valuation was allowed by law to be paid to the individual who brought the action. Boeckh, Sec-urkunden p. 535 ἀφείκε Παλύ- ευκτος ὁ ἀπογράψας τά ἐκ τῶν νό- μων καὶ τῆς ἀπογραφῆς Σωπόλιδι τὰ γεγονόμενα εἰς τὴν ἐπιτιμίαν (penalty). It has been inferred from the inscription just quoted that this regulation was not con- fined (as Boeckh supposed) to concealed property, which was discovered by the informer. (Publ. Econ. πι χαπ. xiv p. 395 Lewis², p. 512 Lamb). Cf. Meier and Schömann p. 260, note 321 Lipsius, and Hermann, Public Antiquities § 136, 14.—τῷ ἴδιωτῃ τῷ ἀπογαγαντὶ, 'to the individual informer' Kennedy. ὁ ἴδιωτῆς is here contrasted with ἡ πόλες.

ἄφημα] remitto atque con PDO, Reiske.

3. εἰ ἦν ἱκανὸν...ὑμεῖς ἂν συγ- γνώμην εἰχέτε...ὑνὲ δὲ οὐδὲ διπλά- σιον...ἱκανὸν ἂν γένοιτο] The student will be careful to dis- tinguish 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 ὤδωρ cf. Or. 54 § 36.

οὐαὶ...οὐαί] '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, αἳ ἐραὶ ὀράσας οὐλα ἑγαχαίει κακά, also Ovid, Fasti v 460, ceritate sim qualis quia modo qualis eram; and Cornelius Nepos, Atticus, 18, 3, notans quis a quo ortus quos honores quibusque temporibus ce- pisset.
4. Νικόστρατος γὰρ οὕτως, ὁ ἀνδρες δικασταὶ, γείτων μοι ὅν ἐν ἀγρῷ καὶ ἡλικιωτής γυνωρίμως μέν μοι εἴχε καὶ πάλαι, ἐπειδὴ δὲ ἐτελεύτησεν ὁ πατήρ καὶ ἐγὼ ἐν ἀγρῷ κατώκουν, οὔπερ καὶ νῦν οἰκῶ, καὶ μᾶλλον ἄλληλοις ἡδὶ ἐχρώμεθα διὰ τὸ γείτονές τε εἰναι καὶ

§§ 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.

γυνωρίμως εἴχε] γυνώριμος is a much weaker word than φίλος, as has already been noticed, on Or. 45 § 73. The gradually increasing intimacy between Allobdorus and Nicostratus is well expressed by the successive phrases (1) γυνωρίμως εἴχε, (2) μᾶλλον ἄλληλοις ἐχρώμεθα, (3) πάνω οἰκείως διεκάιμεθα of the present section, and (4) φίλος ἄληθῶς of § 12. Cf. 33 § 5 γυνωρίμως ἐχω...πάνω οἰκείως χρώμα.

ἐτελεύτησεν ὁ πατήρ] The death of Pasion took place b.c. 370 (Or. 46 § 13).

κατώκου...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 κατώκου. In such cases it is unnecessary to repeat the preposition, e.g. Eur. Bacch. 1065 κατήγεν ἥγεν ἥγεν εἰς μέλαιν πέδων and Orest. 181, δοξώμεθα, οἰκόμεθα, where Porson remarks that, when a verb is repeated, it is generally used first in its com-
pound, then in its simple form. Or. 36 § 4 προσώφειλε...δίφελε, 33 § 18 εξείσευν...έννοιευν.
μᾶλλον...ήλικιάται] ‘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 ἐπιτήδειοι μοι εἰσίν καὶ χρώμεθα’ ἄλληλαις ὑσ ὁγὸν τε μάλιστα.
χρόνου προσβαίνοντος] Soph. Phil. 285, ὁ μὲν χρόνος δὴ διὰ χρόνου προσβαίνει μοι.
δημοσία τριηραρχῶν] This reference to the speaker’s public services is dexterously inserted to ingratiating him with his audience, as well as to lead up to the subsequent narrative συμβάινει 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 308 b.c. See Introd. p. lvii.

dia ταχέων] Thuc. 1 80, διὰ ταχέων ἔλθειν, Isocr. 14 § 3 διὰ βραχέων ἀν ἐποιησάμεθα τοὺς λόγους followed by ἀναγκαίοι διὰ μακροτερῶν δήλωσα (Kühner Greek Grammar p. § 434, 1, d). Or. 50 (Polycel.) § 12 ἀναγόμενοι διὰ τάχους, 47 (Eurip.) § 49.
ἀνήγματα] ἀναγέσσαι is constantly contrasted with κατάγεσσαί; the latter word occurs in § 6 κατὰχθές εἰς Λύγμαν. The verb, with its corresponding substantive ἀναγωγή, 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. 1 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 p. 636, Far off at sea a fleet deserted Ætnys in the clouds, and in Ruskin’s thorny slopes of down overlooked by the blue line of lifted sea (Modern Painters iii iv 14 § 51).

епιστέλλω...ὅτι ἀνήγματι καὶ
oic oivos τ' εἰπὲν oikade afikestei, iva μη katakowloumi 1248
touς presebeis touτω de prosegeta δηπιμελεισθαι te
tων oikoiv kai doiokein, aposte kai en τω γμπροσθεν
6 χρονων. en de τη μη αποδημα αποδιδρασκουσιν αυτων
oiketai treis eξ agroo para touτou, oi meν diω δωn eγω
edwka auτiφ, o de eis 6ωi auτous ekteistato. diwkoiv oun
ališketai upo tρηρουs kai katihkth eis Aγιwvan, kai
ektei eπραθη. epeidh de katelpwswa eγω tρηραρχων,
preserχetai moι Deνwν o aδελφος o touτou λεγων
tiν te touτou συμφωναν, auτωs te ὅτι δι ωποριαν
εφοδιων ου πεπορευμενος ειη επι touτou pεμπτους
touτou auτoβh eπιστολας, kai αμα λεγων προς εμε 6ω
7 ακουν αυτων δεινωσ διακεισθαι. ακουσaς δ' eγω ταυτα
kai συναχθεσθεις επι τη ατυχια τη touτou pεμpw
tou Deνwνα τον aδελφον auτωi eυθυς επι touτou,

§ Bekker. ἣν Ζ cum ΣτΑ1 et Φ (prima manu).

h auτiφ Ζ.

oιχ oivos τ' εἰπὲν] The historic
present ἐπιστέλλω being virtu-
ally a secondary tense has the
optative εἰπὲν in the dependent
clause. For the combination of
the indicative ανήγμα with
the optative εἰπὲν, we may com-
pare Or. 59 (Neaer.) § 81 λέγων
ὅτε οὐκ ᾑδει... ἀλλ' ἐξαπατήθην,
47 (Energ.) § 50 λέγων ὅτε... δεί
... καὶ κελεύον, ib. 68 ὡς εἴχων...
cαὶ... τελευτήσειν, and esp. 27
(Aphob. λ) § 19 ἐτύλµα... λέγων
ὡς χρεά τε παμπολλά ἐκτέτυκεν...
cαὶ ὡς πολλὰ τῶν ἐμῶν λάβον.
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 indica-
tive to the optative (Goodwin,
Moods and Tenses § 70, 2, R 2).
The miss appear to have been
misled by the indicative ανήγμα
into writing ἥν instead of εἰπὲν.

κατεκωλύμα] Or. 33 § 13 τοῦ
eis Σικελίαν πλοῦ διὰ τοῦτον κα-
tεκωλύη.

6. παρὰ τοῦτου] 'From the
defendant's house.' — δὲ εἰγω
κ.τ.λ. i.e. 'of the number of
those whom I had given him.'

κατεπλευσα τριεραρχων] 'When
my voyage as trierarch came to
an end.' Or. 50 § 12 κατεπλευσα
τοὺς πρεσβεῖς ἀγων. For the pre-
position in κατεπλευσα cf. κατή-
χθη ἀνήζων, and see note on
ἀνήγμα συμην § 5.

επί τοῦτο] 'In quest of him,'
'to fetch him back.'
7. *ἐπένεια*] Not 'praised,' but, rather, 'thanked.' Cf. § 13, *ἐπανέσεσα* με *ἐκέλευσε* κ.τ.λ. So also in Ar. Ianae 508, *κάλλιστ*, *ἐπανώ*, 'thank you!' where however the notion of declining the offer is also involved.

*ἀληθινὸς* φίλος] *ἀληθινὸς* is the Latin *verus*; *ἀληθὴς* verax. 'We may affirm of the *ἀληθὴς* 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 *χρυσός*, ἀρετή, &c.; *ἀληθὴς* is more directly contrasted with *φευγός*, as *ἀληθῆς* λόγος. But the distinction is not always observed. Euripides has *ἀληθὴς* φίλος Suppl. 867, and *σαφὴς* φίλος is not unusual in the same sense. P.] Cf. note on Or. 40 § 20.

*κλαίων*] 'In Tragedy κλαίω and *κλαῖο*; in Aristophanes κλαῖω prevails, in Attic prose κλαίω and κλάω, the latter gaining ground.' Veitch, *Greek Verbs*.

*ἐκκοσί* μνών] Aristotle, *Eth.* v 10 § 9, gives as an example of νομικῶν δίκαιων, conventional right, *τὸ μὲν ἀντιστάθη, the right of every man to claim his freedom on payment of one mina,—perhaps referring only to slaves. P.*

*λελυμένος* Isaeus Or. 5 § 44 οὐδ' ἐκ τῶν πολέμων ἐλύσω σύνθεσα, Lysias Or. 19 § 50, Dem. Fals. Lég. § 169.

*ἐκέλευσε*] '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. *ἐλκὺ ἐν ταῖς κνήμαισι*] Ar.
Eq. 907, τὰν τοῖσιν ἀντικνημίως ἐλκύσσα περιαλείφειν.

οὐ μὴ ἑθέλησε] 'There is little chance of his consenting.'

Neostratus would naturally refuse to display the savor left by the gallow's 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 ὄν μὴ has here, as elsewhere, the force of an emphatic future with ὃν. 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 ὃν μὴ ἔλογον, ὃν μὴ ἔλογον, and ὃν μὴ ληφθοῦ, but seem to have preferred ὃν μὴ πράξει to ὃν μὴ πράξῃ. But here too MSS generally vary. P.] This construction must be distinguished from the special use of ὃν μὴ with the second person of the fut. indic., to express a strong prohibition (Goodwin, Moods and Tenses § 89, 1 and 2).


ὅτι ἐν τῷ ἐμπροσθεν χρόνῳ εἴην ἄντω φίλοις ἀληθινοῖς, καὶ νῦν ἐν τῷ συμφορᾷ βοηθήσουμι ἄντω, καὶ τὰς τε τριακοσίας, αἰς τῷ ἀδελφῷ ἀντίκα ἐδώκα ἐφόδιον ὄτε ἐπορεύτω ἐπὶ τούτων, ἀφεῖν ἄντω, χιλίας τε δραχμὰς ἔρανον

k ἑθέλησε Dobree. ὃν μὴ ἑθέληση Z. ἑθέληση S. ἑθέληση Bekker. ¹ G. H. Schaefer. βοηθήσαμι libri.
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 ταύτα οὐκ ἔγραφα δὲ, οὖδ’ ἔγραφα μὲν οὐκ ἐπρέσβεσα δὲ, οὖδ’ ἐπρέσβεσα μὲν οὐκ ἐπεσεὶα δὲ τοῖς Ὁμβαίους. Kennedy neatly translates: ‘nor did I content myself with mere words; but what I promised I performed.’

διαφόρως—τῷ Φορμίωνι] The context shows that the reference is to the estrangement between Apollodorus and Phormion shortly after the death of Pasion in 370 b.c.—τῷ 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 Arethusa; 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.
10. ἀπαίτοιεν ἀπαιτεῖν (cf. ἀπολαμβάνειν) is 'to ask for one's due,' 'to request repayment of what is one's own.' Andocides Π § 22, ἀ...ἀφείλεσθε, ταῦτ' ὑμᾶς, ei μὲν βούλεσθε, αἰτῶ, ei δὲ [μὴ] βούλεσθε, ἀπαίτω. Or. 33 § 6 οἱ χρήσται κατήπειν αὐτὸν ἀπαίτουντες, and Or. 49 § 2.

So ἀποδόναι 'to pay what is due,' 'to make full payment of the sum borrowed.' Or. 49 § 2 οἱ μόνον οὐκ ἀπέδωκε χάριν ἀλλὰ καὶ τὸ δοθὲν ἀποστερεῖ με. In Arist. Rhet. Π 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 ἀμαρτωλοί δανείζονσιν, ὦ ἀπολάβωσι τὰ ἱσα.

dιπλάσιον ὀφείλειν] Or. 56 § 20. Cf. Revue archéologique, 1866 no. 11 (quoted by Dareste), ἵνα δὲ μὴ ἀποδίδῃ τὴν μίσθωσιν κατὰ τὰ γεγραμμένα ἤ μὴ ἐπισκευάζῃ ὀφείλειν αὐτῷ τὸ διπλάσιον, and the stipulatio dupliae of Roman law.

tὸ χωρίον τὸ ἐν γειτόνων μοι 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 ἐγγείτόνω, found in three good mss (2A1B). Inept Reiskius, says Dobree, who refers to Ar. Plut. 435, ἡ κατηνάλυσι τῶν γειτόνων. For ἐκ γειτόνων cf. Lycurgus, (Leocrates) § 21 οὐδὲ τὰ ὀρα τῆς χώρας ἀσχολούμενος ἀλλ' ἐκ γειτόνων τῆς ἐκθέσεως αὐτῶν παροικίας μετακόμισιν (cf. e vicinia and easadversum in the sense of prope). For ἐκ γειτόνων we find no parallel earlier than Lucian, φιλοφιλέονς § 25 ἐν γειτόνων δὲ ἧμιν ὑκεῖ and convidium § 22; also Icaromenippus § 8, ἐν γειτόνων ἐστὶ τὰ δόγματα καὶ μὴ πολὺ διεστήκοτα ('their doctrines are next door to one another and differ but slightly').

πρίσασθαι ..., ὀνειδίας] The former is used as the aorist of the latter; ὀνειδίας (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, πρίαμῳ followed by ὀ ὀνούμενος; similarly in Lysias, Or. 7 § 4, πρὶς ὀνούμενος occurs with ὀ ὀνούμενος in the very next sentence. Cf. Rutherford's New Phrynichus p. 210.

τίδεσθαι] lit. 'to get security given you,' hence 'to lend
money on security' of land, &c; 'to lend on mortgage,' as opposed to 'to give security,' 'to put in pledge,' 'to mortgage,' 'to borrow on security.'—Hermann, Privatalt., § 68, 15 = p. 90 Thalheim, quotes Dionys. de Isaco 13 (Is. frag. 29), which illustrates the general sense of the present passage; δανειομένων οὖσις ἀν ἐδώκεν ἐπὶ αὐτοῖς ἐτὶ πλέον οὖν ἀποδέδωκά τις μισθώσεις. Αὐν ἀπογέγρασται] 'which have been scheduled in the present suit (entered in the ἀπογραφή, or specification).' ὡς ἀνοφειλημένων — ἀργυρίων] '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 ἐνεπικύρωσατο ἐν τῇ οὐσίᾳ τῇ ἑκείνῳ ἐνοφειλημένον αὐτῷ τοίτο τῷ ἀργυρίῳ. 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. 250, ἐπὶ διανείσασθαι ἐπὶ τοῖς αὐτοῖς ἐνεχύρωσι. Or. 35 (Isacr.) § 21 ἐστιν ἐν τῇ συγγραφῇ ὁτι ὑποτελέσα ταῦτ' ἐλεύθερα (unencumbered) καὶ οὐκεὶ οὖν ὁφείλοντες, καὶ ὅτι οὐδ' ἐπιδιανείσανται ἐπὶ τοῦτος παρ' οὖνέσι. See also Or. 34 §§ 6, 50.

11. ἵνα μὴ ὑπὸ τοῦ ἀποδέδωκα, τὰς χιλίας δραχμὰς, ἀπόλονται] i.e. ἵνα μὴ αἰτὶ τὰς χιλίας δραχμῖς, ἀπόλονται, τὰς δραχμὰς is here attracted into the same case as the relative ὅ, the object of ἀποδέδωκα. Or. 20 (Lept.) § 18, οὐδεὶς ἐστὶν ἀσέλγης, οὐδ' ὡς αὐτός ἐγγαμη, τοῦς ἀφ' Ἀρνοῦδιον καὶ Ἀριστογείτονας. See Kühner, Gk. Gr. π. 556, 4. ἀγώνυμοι] 'liable to seizure.' Or. 23 (Aristoc.) § 11 ἢν τις αὐτοῦ ἀποκτείνῃ, ἀγώνυμον εἶναι. ἀπαλλάξε] Or. 34 § 22 τοὺς διανείσασθαι απῆλλαξεν. See note on Or. 36 § 25. τοῦ λυσαμένου...ἐναί 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.
indeed, inasmuch you'

12 ἀντερ ἰν] sc. ἀποκρίνατο. οὐκ ἃν νομίσας ἀδικηθήναι] i.e. οὐ νομίσας ἀδικηθήναι ἰν. ἰν is often separated from its verb by such words as οἴμαι, δοκῶ, οἶδα, νομίζω. Xen. Cyrop. vii 7 § 25 ἡδές ἰν μαί δοκῶ καίνων-νήσαι (Goodwin, Moods and Tenses, § 42, 2, p. 62). This is most frequently the case when ἰν is closely attracted to an emphatic negative, e.g. Or. 36 § 49, οὐ γὰρ ἅλλο γ' ἔχοις οὔδεν ἰν τοιχαί.

οτι, ὥς 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, ὥ δέσποτα, οὐ ἰπ' (Goodwin, Moods and Tenses, § 79).

ἐπειδή...οὐ δύνασαι κ.τ.λ.] G. H. Schaefer suggests ἐπειδή δ' οὐ δύναμαι (for δύνασαι) πορίσαι...ἀργυρίῳ γάρ (for μέν) ἐμοι οὐ πάρεστιν...τῶν (οίν. δὲ) κτη-μάτων...κήρυμ ὦ τοι βούλει. He holds that this reply suits the request of Nicostratus in § 11, πώρων τὸ ἐξελεύτων 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 οὐ δ' ἄντ'δ', are more appropriate as a contrast to the second person δύνασαι than to the proposed substitution δύ-ναμαι. 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.'

κήρυμ] here, as elsewhere, of a friendly loan, commodare, as contrasted with δανεῖσθαι, which is generally used of a money-lender’s loan on interest, mutuo dare. Or. 49 (Timoth.) § 23, στρώματα καὶ ἵδατα καὶ φάλας ἀργυρὸς δύ...ἐκχρήσε, καὶ τὴν μνᾶν τοῦ ἀργυρίου. ἦν ἐδανείσθη, ἐδάνεισθεν, where, in the very next section, ἐδανείσθαι is applied to the furniture as well as to the money; τὰς φάλας... ἂς ἤτοισα ὑπέτερ καὶ τὰ στρῶ-ματα καὶ τὴν μνᾶν τοῦ ἀργυρίου ἦν ἐδανείσθαι. Fals. Leg. p. 394 ἐχρησά τάργυριον.
епилония ἀργυρίου ὅσον ἐνδεί σοι, ἐνιαυτόν ἀτόκῳ χρήσανται τῷ ἀργυρίῳ καὶ ἀποδόταιν τοῖς ἐξίνοις. συνλέγας δὲ ἔρανον, ὡσπερ αὐτὸς φής, λύσαι μοι. ἀκούσας δὲ ὦτος ταῦτα καὶ ἐπανέσας με ἐκέλευσε τὴν ταχύστην πράξαι, πρὶν ἐξήκειν τὰς ἡμέρας ἐν αῖς ἐφι δεῖν τὰ λύτρα καταθέναι. τίθημι οὖν τὴν συνοικίαν ἐκκαίδεκα μιῶν Ἀρκέσαντι Παμβωτάδῃ, ὅν αὐτὸς ὦτος προοίμισεν, ἐπὶ ὥκτῳ ὀβολοῖς τὴν μιᾶν δανεισάντι τοῦ

r Bekker. προοίμισεν Συμ. Δτ (προοίμισεν Ε', προοίμισεν Σ 'ίτερα σ in προσ a manum recentiorem deleta' Dind.).

θέντα κτ.τ.λ.] sc. θεώνται τι (τῶν κτιμάτων) τοῦ ἀργυρίου καὶ χρήσανται κτ.τ.λ. For the genitive (of price) cf. ἰνηκρά § 13, τίθημι τὴν συνοικίαν ἐκκαίδεκα μιῶν. (For numerous instances of gen. after words like ὄνομασθαι, πωλεῖν, περιβολοῦσθαι, see Kühner, Π. § 418, 6 a).—ὅσον ἐνδεί sc. 16 minae, Apollodorus having already (§ 8 fin.) provided 10 out of the 26 minae (§ 7 fin.).


λύσαι μοι] sc. τὸ κτήμα. 'Re-

lease my property from the mortgage,' or (with Kennedy), 'pay off my mortgage as you promise.' So, in another speech delivered by Apollodorus, Or. 50 (Polyceles) § 28 ὅσα λύσαται μοι τὸ χωρίον, ἀποδόται...τρα-

κοντα μιᾶς.

13. τὴν συνοικίαν] not 'the

'lodging-house' mentioned in

Or. 45 § 28, for that belonged
to his mother who did not die
until 360 n.c.; but another, pos-
sibly 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, Areses would fur-
ther receive interest (from
Apollodorus) at the rate of 16
per cent. on the 16 minae.
Cf. Or. 36 § 6, ἐπὶ συνοικίαις δεδα-
νεικῶς ἥν (with note). Aeschin.
Timarch. § 124 ὅποιν πολλοὶ
μισθοφόραι μίαν οἰκίαν διεί-

νεοὶ ἔχοντες, συνοικίαις καλού-


νεοὶ, ὅπον δὲ εἰς ἐνεκεί, οἰκίαιν.

Παμβωτάδῃ] Harpocrates,
Δημοσθένης ἐν τῷ πρὸς Νικόστρα-

tον. Παμβωτάδαι τῆς Ἐρεχθησίδος δήμος. Σuidas gives the

name of the dēme as Παμβωτάς.
On προοίμισεν, 'introduced,' cf.

Or. 37 (Pant.) § 11.

ἐπὶ ὥκτῳ ὀβολοῖς τὴν μιᾶν τοῦ

μηρὸς 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 dou-
ble the number of obols to find
the rate per cent. per annum.
Thus ἐπὶ πέντε ὀβολοῖς is 10 per
cent. again ἐπὶ δραχμῆς (i.e. ἐφ' ἐξ ὀβολῶν) is 12 per cent. and ἐπὶ τρίτων ἑμιοβολῆς (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 Diet. 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 ὡσ] 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.'

ὄ τι χρήσαμην] 'What to do with (how to treat) the matter.' Or. 40 § 18 and Lysias 9 § 5 ἀπορούμενος δὲ καὶ συμβουλεύομενός τινὶ τῶν πολιτῶν τι χρήσαμαι τῷ πράγματι.

ὡ ἀποστέρησε...καὶ ἀπορούμενος ἑγὼ κ.τ.λ., ὡσ μὴ εἰσπράττοιμι] ὡσ μὴ is somewhat out of place, indeed ὡσ is really superfluous, as the whole sentence depends on the particle of purpose ἓνα.—ἀφεῖν, § 8.

14. τῶν ἀντιδικῶν] Referring principally to his opponent Phormion (cf. § 9, διαφάρως ἐχειν τῷ Φορμίων, and § 14 ad fin. τῶν οἰκελῶν τῶν ἀδικοῦντων με). But a litigious person like Apollo- dorus doubtless had many such opponents, even apart from those whose lawsuits are expressly
recorded in the orations that have come down to us (see Or. 36 § 53).

tous logos ekferei mou eidoi] 'Divulges my arguments, with which he was acquainted.'

εγγράφει 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 (v.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 Badaeus (sic Badaei commentarii linguae Graecae) et lexica Graeca Latinaque omnia desistunt. Quaesivi apoklypso (sic), quaesivi ἐμφανὴς, quaesivi κατάστασις, quaesivi ἐξ ἐμφανῶν καταστάσεως. Sed aut muta aut aposteriōns omnia. Doctores, si boni viri sunt, explicanto potius, quam me sugillanto.'

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 ἐπιβολὴ 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 contumacia, and to have him registered as owing 610 drachmae to the public treasury. Cf. Meier and Schömann, Att. Process, p. 758.

εγγράφει 'registers (against me),'—a common term for a formal entry or registration, especially of a debt or fine. Or. 43 § 71 lex, εγγραφών οἱ ἄρ-
χορτες...τὸς πράκτορας (the collectors) ὁ τῶν δημοσίων γέγρεται. Or. 27 § 38 προσοφέρεται ἡμᾶς εἴνας ἐνέγρησεν. Or. 25 (Aristog. a) § 4. ὅρθοντα τῷ δημοσίῳ καὶ ἑγγεγραμμένον ἐν ἀκροπόλει (cf. ib. § 70, ἐγγράφονται πάντες οἱ ὀφλικαίουσες, δρος δ' ἢ σαιής ἢ παρὰ τῇ θεῷ κειμένη). Or. 40 § 23.

τῷ δημοσίῳ] Φορ τὸ δημόσιον in the sense of τὸ κοινὸν 'the treasury,' cf. Isaeus, Or. 10 § 20 εἶμι τι ἀτύχημα πρὸς τὸ δημόσιον συνέχει. Mid. § 182 and Deinarchus, Or. 2 § 2, ὀφείλου τῷ δημοσίῳ. See Or.39 (Boeot.) § 14.

ἀπρόσκλητον] This is the reading of the codex Augustanus prima (A1), first accepted by Reiske for the vulgata lectio ἀπόκλητος. ἀπρόσκλητος ἐπιβολή 'a fine without a citation,' here means 'a fine inflicted in a case for which no citation has been issued.' Similarly iv.σα § 15 ἀπρόσκλητον δίκην and Mid. § 92 τὴν κατὰ τὸ διαίτητον γνώσιν, ἣν ἀπρόσκλητον κατεσκέψασεν, αὐτὸς κυρίων ἑαυτῷ πεποίησα.

ἐξ ἐμφανῶν καταστάσεως κ.τ.λ.] 'a fine upon a writ of exhibit,' lit. 'arising out of an ἐμφανῶν κατάστασιν, i.e. a case of formal production of property in court.'

Isaeus, Or. 6 § 31, ἀπίτητε τὸν Πυθαδορὸν τὸ γραμματέων καὶ προσεκαλέσατο εἰς ἐμφανῶν κατάστασιν, καταστάσιος ἐξ ἐκείνου πρὸς τὸν ἀρχιτέκτονα, ἔλεγεν ὡς βουλούμενοι 'ἐνυπολοῦντας' τὴν διάθηκὴν. Dem. Or. 56 § 3 τὸ ἐνέχυρον καθίστησι εἰς τὸ ἐμφανὲς. ib. § 38, ἢν μὴ παρασχῆ τὰ ὑποκείμενα ἐμφανὴς. Or. 52 § 10 μάρτυρις ἔχων ἥξιον ἐμφανή κατασκεύασαι τὰ χρήματα. Cf. the Roman exibitio (Ulpius, Digest, 29, 3, 2, exhibitio tabularum testamenti); and actio ad exhibitendum (Ulpius, Digest, 43, 29, 1, exhibiture est in publicum producere). Hence comes our common legal term, an exhibit or writ of production. With ἐμφανή κατασκευασαι, 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.

ἐπιβολήν] Harpocr. ἐπιβολή: ἡ ζημιά. Lysias, Or. 20 § 14 ἡμάς κατασκευασαι ἐπιβολαστικά καὶ ἡμοῦντες, and ib. Or. 30 § 3. ἐπιβολή is a certain correction for ἐπιβολῆν, a mistake possibly due to τὴν ἐπιβολῆν in the middle of the next section. Another instance of the same confusion may be noticed in Isoc. Paneg. § 118 διαμαρτωλοῦ τῆς ἐπιβολῆς where the best ws wrongly has ἐπιβολῆσι ζημιάς. ἦτε ἄλκιδον...ποιησάμενος τὴν δίκην] 'having got the case brought on by means of Lyceidas,' who as the tool of Nicos-tratus was either a merely no- minal prosecutor or possibly a venal arbitrator. For this use
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' ὄντων ἐπιγραφάμενος, and Or. 54 § 31 ἐπιγράφεται μάρτυρας, i.e. 'endorses on the deposition the names of certain persons as witnesses.'

ἀνακρινοῦμην ... 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.'


ἐνδεικνύοναι μὲ] 'to lay an information (ἐνδείκνυσι) against me' for undertaking a prosecution, while still a debtor to the treas-

sury. Or. 58 (Theocrin.) § 14 κελεύει (ὁ νόμος) κατὰ τὲ τῶν ὀφειλόντων τῷ δημοσίῳ τὰς ἐν- 
dείξεις τῶν βουλόμενον ποιεῖθαν 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]. He-

sychius, ἢ μὴ τινοῦσα τῶν κα-
lομένων κλήτων κατὰ τὸν νό-

μον' καὶ διὰ τὸ τοῦτο ὦκ ἤν εἰσ- 

ἀγώνιος.

κλητῆρας ἐπιγραφάμενοι] i.e. 'having endorsed it with the names of witnesses to a cita-
tion.' As the δίκη was ἀπρόσ-
kλητος, i.e. as there were no 

κλήτρες, this endorsement was virtually a forgery.
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 acquit me in the penalty proposed by my opponents themselves, a fine of one talent.

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 ὕμνην and ἐβάδιζων as principal verbs, and to begin a new English sentence with the first words of the apodosis, ἐλθὼν εἰς τὸ χωρίον κ.τ.λ.

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nymph, elphant eis to xwriwn tis yuvtos, osa eyn' futa akrodrwn genoia embeblimenwa, kai toa anadevdra-

commonly found after diwekei, eliagw eis the legal sense). Plato, Leg. 886 b, episxetw phonon to kteiavnti. Or. 49 (Apollodorns v. Timo-

theus) § 56 mh... epi tovde kaka-
tekynv eldweui. The phrase badi-
zew epi twa is found in a similar sense in Or. 52 (Apollod. v. Callippus) § 32 epi ton Kfposa-

dhn badizew. Cf. 56 §§ 15, 18, and 42 § 12 eis to dikastbhrw baidzei.

os eyn' futa—dievein] 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.'

akrodrwv] The primary sense of the word is 'fruit,' the second-
ary 'fruit-trees.' Though used in early writings of any edible fruit, later authorities restrict it to the hard-shelled varieties alone. Cramer's Aneudota Ox-
oniensia p. 357 'Orphevs akrodrna p'asav oporaw kalwv G'ldnov de kal oia ta phytovngika svntazamevo akrodrwva fasii ta skpyn exwnta, oov roias, kara, amvghala kai el ti ovmow (pomegranates, nuts, almonds and the like), oporawa de to asekpti o'ma, apto kai o'mow (apples, pears, &c). Similarly Democritus, Geoponi-
ca x 74, akrodrwv kaietw osa eixwthn kelwovs eixe. In Xeno-
phon, Oeconom. 19 § 12 we have tawla akrodrwv p'nts after mention of vines and fig-trees, and in Plato, Critias, 115 b, tov

'numbers karpon, ton te xwron (dif-
ferent kinds of grain)... kai ton o'sos xilan (fruits of hard rind).

P. S. D. II. 11
daς εξέκοψε, καὶ φυτευτήρια ἐλαών\(^d\) περιστοίχων κατ·
έκλασεν, οὕτω δεινῶς ὡς οὐδ’ ἀν οἱ πολέμιοι διαβείεν.
16 πρὸς δὲ τούτους μεθ’ ἡμέραν παιδάριον ἀστὸν εἰςπέρ-

\(^d\) Bekker cum rA\(^1\).

ἐλαών Ζ cum ΨΦ.

'Αρχίλοχος' πάρελθε, γενναίος γὰρ
eis. ἦ τὰ ἐπιγεγεννημένα, οίνον
tά ἐπιμεθεβλημένα· ὁ γὰρ
'Αριστοτέλης καὶ ἐπεμβολάδας ἀ-
pίοις ὁμομάζει τὰς ἐγκεκτερι-
μένας. (The second explanation is
clearly wrong. I only cite it
to illustrate the next note.)

ἐπιμεθεβλημένα] 'grafted.' Har-
plocration s. v. αὐτὶ τοῦ ἐγκεκ-
τρισμένα Δημοσθένης ἐν τῷ πρὸς
Νικόστρατον, καὶ 'Αριστοτέλης δ’
ἐμβολάδας ἀπίους λέγει τὰς τοιαύ-

ἀναδενδράδας] 'trained vines',
growing on trees, 'tree-vines.'
The climbing vine is contrasted
with the ground-vine of Lesbos
in the Pastor of Longus, ι 1
πάσα κατὰ τὴν Λέσβον ἄμπελος
tαπεινή, οὗ μετέωρος οὖδὲ ἀνα-
δενόρας, ἀλλὰ κάτω τὰ κλήματα
ἀποτείνουσα καὶ ὡσπερ κιττὸς
νεμομένη. Cf. Polyb. xxxiv ΙΙ 1,
ἀνανδενόρης οἶνος and Geoponica
ν 61, ἀναδενδρίτες, also Strabo
ν π. 231, τὸ δὲ Καίκουβου (Cae-
cculus) ἐλόδες οὗ εὐνοιοτάτην ἄμ-
πελον τρέφει τὴν δενδρίτην.
Columella ιν 1, 8, vitis arbus-
tiva, and Pliny N. H. xvii 23
§ 199 sqq. nobilia vina non nisi
in arbusitis signi. The best
trees for the purpose were, ac-
tording to Pliny, the elm (amicta
vitilis ulmo of Hor. Ep. ι 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, ι 344—8.)

φυτευτήρια] nursery-beds of
young olive-trees.

ἐλαών περιστοίχων] i.e. 'olives
planted round the beds of the
garden.' Harpocr. περίστοιχοι:
Δημοσθένης ἐν τῷ πρὸς Νικόστρα
tον περί τῶν 'Ἀρεβουνίῳ ἀνδρα-
pίδων. Δίδυμος δὲ τι γένος ἐλαών
περιστοίχους καλεῖ ἃς Φιλάχορος
στοιχάδας προσηγόρευε. μήποτε
('perhaps') δὲ περιστοίχους κέ-
κληκεν ὁ ἴητωρ τὰς κύκλῳ περὶ
tὸ χαρίον ἐν στωικῷ περικύκλῳ
(cf. Ατ. Αich. 997, περὶ τὸ χαρίον
ἀπαν ἔλδας ἐν κύκλῳ). Pollux ν
36, Σόλων δὲ καὶ στοιχάδας τι-
νᾶς ἐλάσας ἐκάλεσε ταῖς μορίαις
αὐτισθεῖς, ἅς τὰς κατὰ στοιχοῦ
πεφυτευμένας [Lucer. ν 1378, ut-
que oleaceum caerulea distinguens
inter piaga currere posset. P.]
On the laws protecting the cul-
tivation of the olive in Attica
and providing for the preserva-
tion of the sacred olives (or
μορίαι) and even of the hollow
trunk of an olive tree, see the
interesting speech of Lysias, Or.
7, περὶ τοῦ στιγοῦ, esp. § 2, ἀπε-
γράφη τὸ μὲν πρῶτον ἐλαῖαν ἐκ
τῆς γῆς ἀφανίζει, καὶ πρὸς τοὺς
ἐωνημενοὺς τους καρποὺς τῶν μο-
ρίων πυθαμομένου προσήγειν ...
νυνὶ με σηκόνος φασίν ἀφανίζειν.
See also Dem. Or. 43 (Macart.)
§§ 69—71.

16. παιδάριον ἀστὸν] i.e. a
little boy, who was free born.
It was expected that Apollodora
would have mistaken the
boy for a slave and either bound
or beaten him, thereby render-
ing himself liable to an indict-
ment for assault (δίβρος).

Aeschines (Timarch. Ι 16) quotes a 'law of Solon': ἀν τις
Ἀθηναίων ἑλεύθερον παιδὰ ὑδρὶσῃ,
γραφέσθω ὁ κύριος τοῦ παιδός πρὸς τοὺς θεσμοθέτας...ἔνοχοι δὲ ἐστώσαι παιδὸς ταῖς αἰτίαις καὶ οἱ εἰς τὰ οἰκετικά σώματα ἔξα-
μαρτάνωντες, and similarly Dem. Mid. §§ 47—48. According to
these two passages, it was permissi-
able to institute a γραφή ἄβρεως
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 neces-
sarily meant is that if the
lad maltreated were free born,
the indictment (however un-
justifiable in the present in-
stance) would have been easier
to bring forward than in the
case of a slave. (Becker's Cha-
ricles π p. 31—32 = p. 367 of
English Abridgement. Her-
mann, Privatall. § 60.)

ἐκέλευν—ἐκτίλλευν] 'prompted
him to pluck off the flowers
of my rose-bed.' ἐκέλευν, 'put
him up to...,' 'persuaded him.'
[ἐκτίλλευν is perhaps 'to pick
off the young shoots as they
were growing.' P.].

The rhetorician Hermogenes
quotes the phrase τὴν ῥοδωνίαν ἐκτίλλευν as an instance of ἀφέ-
λεια (Spengel, Rhetores Graeci π 353). Harpocration has the
following article, ῥοδωνία: ἄη-
μοσθήνης ἐν τῷ περὶ τῶν Αρεθυ-
σίου ἀνάραπτον. ῥοδωνία ἐστὶν
ἡ τῶν ῥόδων φυτεία ωσπερ λωνά.
ἡ τῶν ἱων, ὦς 'Ἐκαταίος ὑν α' περι-
γήσεως δηλό. Similarly Pollux
1 229, who gives λωνά as the
only parallel he can remember
to the formation of the word
ῥοδωνία (cf. rosaria, violaria).

To a modern reader, the
mention of a rose-bed is imme-
diately 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 arti-
cles 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 ὄδωρ...ἐκ
tῶν φρεάτων ἄβλεπτων, ὡστε μηδὲ
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 (πη-
θεῖ τε φίλλων καὶ ὀλυγότητι καὶ
tραχύτητι καὶ λεωτήτι καὶ χρο-
ᾶ καὶ εὕομαι, Hist. Plant. vi 6).
To the Greek, says Ruskín, '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
π 4 13 § 13). 'A Greek de-
spies flowers,' says Mr Bent,
unless 'they are sweet-smelling
or useful for something' (Cy-
clades, 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

11—2
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 κύποις εώδεσι in Ar. Aves 1067. The passage in Eur. El. 777, κυρέ] δὲ κύποις ἐν κατάρρητοις βεβώσι, δρέ-πων τερείνης μυρίσίνης κάρφρα πλά-κους, 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, i 301—334, esp. p. 304, 305: Büchsenschütz, Besitz u. Erwerb p. 72, and Schleiden, die Rose.)

17. ἀνακεκριμένου] passive form in middle sense (§ 14 ἀνακρι-νόμεν τάς δίκας): ‘when I had brought to the preliminary ex-
amination my indictment for false citation, &c.’

τηρήσας—ἐβοήθησαν]. The at-
tack reminds us partly of the murder mentioned by Cicero, pro Cluentio § 37, in arenarías quasdam extra portam Esquili-
namin 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 excel-
 lent Atlas von Athen by Dr E. Curtius, the third map indicates ‘recent quarries’ at this point, just north of the ancient βαραθρόν. In Murray’s Greece, 1884, 1 341, the incident de-
scribed in the text is oddly sup-
pposed to have happened to De-
mosthenes.

πῦς] Or. 47 § 38 παίει πῦς τὸ στόμα.

κἀν ἐδέχει.] The mss have καὶ ἐδέχα, ‘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
rescued me.' This is more graphic than the sense given by Schaefer’s emendation καὶ ὤθει.

eʿaʾelōw...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 λαυ-πὸν μέρος τῆς ἡμέρας ταῦτα πράξαι (i.e. βασανίας). πρὸς ἐνδεκά γὰρ ἀμφόρεα ἐν διαμεμετρημένῃ τῇ ἡμέρᾳ κρίνομαι. Dem. Fals. Leg. § 120, ὦ γὰρ ἄγων καίνοις ὡς πέρ ὅμοια, καὶ τοῦτο ἀμαρτύροι τρὶς πρὸς διαμεμετρημένην τὴν ἡμέραν αἵρεις διὰκών, ὅπλον ὅτι πάνω εἰς τις. Ἡποκρ. s. v. μέρος τι ὑδάτι ἐστὶ πρὸς μεμετρημένον ἡμέρας μέρος μέρος δὲ μεμε-μετρέστο δὲ τῷ Ποσειδώνι…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).

tὰ ψευδὴ κεκλητευκότα] § 15. 18, ἐν τῇ τιμίᾳ] In an ἄγων τιμητός, the declaration of the first verdict, that of condemnation, was followed by the τιμίᾳ or fixing of the penalty, with the ἀντιτιμίᾳ, 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 ἀ.) τιμίᾳ…ἐτιμύνων] The active is used of the court, the middle of the parties to the suit (autol sc. the defendant Arethusius and his friends). Plato Apol. p. 38 ἀ εἰ μὲν γὰρ ἦν χρήσισα, says Socrates, ἐτι-μήζων ἄν χρημάτων ὅσα ἐμελ-λον ἐκτίσεων νῦν δὲ ὡς γὰρ ἐστίν, εἰ μὴ ἄρα ὅσον ἄν ἐγὼ δυναλμὲν ἐκτίσαι τοσοῦτον βούλεσθε μοι τι-μήσαι (of the Jury).
στῶν μηδὲν δι’ ἐμοὶ τοιοῦτον πρᾶξαι, ἀλλὰ συγχωρήσαι οὐσομερ αὐτοὶ ἐτιμῶντο, ταλάντου, σὺχ ἵνα μὴ ἀποθάνῃ ὁ Ἀρεθούσιος (ἀξία γὰρ αὐτῷ θανάτου εἰργαστο εἰς ἐμὲ), ἀλλʼ ὦ’ ἐγὼ Πασίωνος ὑμοὶ καὶ κατὰ ψῆφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτοπῶς εἰμι. ὥς δʼ ἀληθῆ εἰρήκα πρὸς ὑμᾶς, τούτων ὑμῶν μάρτυρας πάντων παρέξωμαι.

ΜΑΡΤΥΡΕΣ.

19 Ἀ μὲν τοῖνυν ἀδικούμενος, ὃ ἀνδρεῖς δικασταὶ, ὑπ’ αὐτῶν τὴν ἀπογραφὴν ἐποιησάμην δεδήλωσκα ὑμῖν ὥς δ’ ἐστών Ἀρεθούσιον τανδράποδα ταῦτα καὶ ὑμετέρα ἐν τῇ οὐσίᾳ τῇ ἐκείνῳ ἀπέγραψα ἐπιδείξω ὑμῖν. τὸν μὲν γὰρ Κέρδωνα ἐκ μικροῦ παιδαρίου ἑξεβρέψατο καὶ ὡς

di’ ἐμοὶ] 'through my agency,' Reiske conjectures di’ ἐμὲ, 'on my account,' which would also make good sense, though disapproved by Dobree, who refers in support of di’ ἐμοὶ to Or. 51 § 17 ἀσπερ...χάριν τιθεμένον διὰ τῶν τοιούτων τοῖς ἀμελοῦσιν ὑμῶς, ἀλλʼ οὗ διὰ τῶν βελτίων τοῖς ὑπηρετοῦσιν ἀ δεὶ χαρίζεσθαι προσήχουν.

Πασίωνος ὑμ] 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 Nicostratus 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.

tὸν μὲν γὰρ Κέρδωνα] contrasted with τὸν δὲ Μάννιν in § 20. Κέρδων is a slave-name expressive of knavish cunning (cf. η κέρδα, 'the wily one,' i.e. 'the fox'). Digest xxxviii 1, 42 Cerdonem servum meum nummiiti volo (quoted by Mayor on Juv. iv 153 tollat sua munera Cerdo).

ἐκ μικροῦ παιδαρίου] Plat. Symp. 207 ὁ ἐκ παιδαρίου, Or.
59 (Apoll. katá Xeáiras) § 18, ταῦτα παιδικας ἐκ μικρῶν παι-
diōn ἐκτῆσατο, and similarly the
far more frequent phrases ἐκ παιδός (Or. 27 § 4), ἐκ νέου, ἐκ μειραλίου.
20. παρ’ οἷς τοινυν—[παρ’ ἐκείνων] παρ’ οἷς τοινυν εἰργάσατο πώποτε ὃς τοὺς μι-
θοὺς Ἀρεθούσιος ἐκομίζετο ύπερ αὐτοῦ, καὶ δίκας ἐλάμβανε καὶ ἐδίδουν, ὅποτε κακὸν τι ἐργάσαιτο, ὃς
dεσπότης ὄν, τούτων ὑμῖν τοὺς εἰδότας μάρτυρας
παρέξομαι.

MACRITREX.

Τὸν δὲ Μάνην, δανείσας ἀργύριον Ἀρχετόλιδι τῷ
for emphatic contrast with ὁ ἐρειπαί· ἐπείδη ὁ έρειπε ἄποδονδιν ο Ἀρχεπολις ὄυτε τόν τόκον ὄυτε τῷ ἀρχαῖον ἄπαν, ἐν- απετίμησεν αὐτῷ. καὶ ὅτι ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μᾶρτυρας παρέξομαι.

ΜΑΡΤΤΡΕΣ.

21 Ἔτι τοῦν καὶ ἐκ τῶν θεοφράστους, ὃ άνδρες δικαι- σταί, ὅτι εἰσὶν Ἀρεθουσίον οἱ ἄνθρωποι ὑπότε γὰρ οἱ ἄνθρωποι οὕτῳ ἢ ὑπόραν πολιάντω ἢ θέρος μισθοῖν-

ε ὄυτε τῷ ἀρχαῖον, ἄπαν ἐναπετίμησεν αὐτῷ Reiske, G. H. Schae- fer, Z, Dind, (Oxon. 1846), et Bekker st.

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 87 τα ἐνέχυρα πρὸς τὴν αξίαν ἐναποτι- μηθήναι ἐκλέυσε (i.e. Caesar ordained that the securities on which money had been borrow- ed should be valued and trans- ferred to the creditors in place of a money payment).

The editors who place a comma after τῷ ἀρχαῖον, con- strue ἄπαν with ἐναπετίμησεν αὐ- τῷ, 'handed him over in full payment,' 'paid off the whole sum in the person of Manes.'

21, ὑπόραν πολιάντω κ.τ.λ. de Cor. § 51 τοῦς θερμάτας ή τοὺς ἄλλο τι μισθοῦ πράττοντας and ἱδ. § 262 σύκα καὶ βότρυς καὶ ἐλάς συλλέγων ὡσπερ ὑπ' ὁρό- νυς ἐκ τῶν ἀλλοτρίων χωρίων. 'Whenever they bought up the produce of an orchard or hired themselves out to reap a har- vest, it was Arethusius who made the bargain on their be- half for the purchase or for the wages respectively.' μισθοῖνε- νος refers back to θέρος μισθοῦν ἐκθερίσαι, just as ὑπόραν κ.τ.λ. corresponds to πολιάντω. The latter
to ἐκθέρισαι ἢ ἀλλο τῶν περὶ γεωργίαν ἔργων ἀναρρέω. Ἀρεθοῦσιος ἦν ὁ ὁφοῦμενος καὶ μισθοῦμενος ὑπὲρ αὐτῶν. ὥς δ’ ἀληθὴ λέγω, καὶ τούτων ὦμών τοὺς μάρτυρας παρέξομαι.

ΜΑΡΤΤΡΕΣ.

"Οσας μὲν τοίνυν μαρτυρίας παρασχέσαει εἴχον 22 ὦμην, ὡς ἐστιν Ἀρεθόουσιον τανδράποδα, δεδήλωκα ὦμην. Βουλομαι δὲ καὶ περὶ τῆς προκλήσεως εἰπεῖν, ἢν οὖτοι μὲ προφαλέσαντο καὶ ἔγα τούτοις. οὔτοι μὲν γὰρ μὲ προφαλέσαντο, ὅτε ἡ πρότα ἀνάκρισις ἦν, φάσκοντες ἑτοίμοι εἶναι παραδιδόναι ἐμοὶ αὐτῷ τανδράποδα

verb having no present participle of its own, ὁφοῦμενος commonly takes its place and is so used in the present passage. Cf. note on § 10, where πριάσθαι is followed by ὄφείσθαι.

§§ 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 Arethoüs, 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.

ἡ ... μὲ προφαλέσαντο] For the double acc. cf. Or. 56 § 17 προφαλείσθαι τινα πρόκλησιν.

ἡ πρότα ἀνάκρισις] ‘the first preliminary investigation,’ see note on ἀνάκρουσιν § 14 supra.

παραδιδόναι ... τανδράποδα 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—9).—ἐμοὶ αὐτῷ emphatic, just as, six lines further, εἰ ἐμοὶ ἑξεδίδοσαν contrasted with διημοσία. 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.
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. e1...e1] Two or even three protases, not co-ordinate, may belong to one apodosis, e.g. Plat. Men. 74 b, e1 τίς σε ἀνέροιτο τοῦτο, τί ἐστι σχῆμα; e1 αὐτῷ εἶπες ὅτι στρογγυλῆς, e1 σοι εἶπεν ἄπερ ἐγὼ, εἶπες δήπου ἂν ὅτι σχῆμα τι (Goodwin, Moods and Tenses § 55. 1).

The reiteration of e1 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. oûte τῆς βασανοῦ κύριος εγγυόμεν] i.e. I did not acquire control of the 'question,'—authority over the examination.

οûte καλῶς ἔχειν] sc. ἡγούμην, 'it was unsuitable, I thought, for myself to decide as to the answers of the slaves.'

τὴν ἀρχήν] sc. τῶν ἐνδεκα, as appears by comparing § 23, μετὰ (τῆς βούλης) ἡ μετὰ τῶν ἐνδεκα. Reiske wrongly renders: 'illum Archontem ad causam tribunal habe causam pertinentem, aut dextores a senatu.' Frequently it is the context alone that decides whether ἡ ἀρχή or even oi ἀρχώτεροι refers to the Archons or to some other public functionaries. Thus in Or. 22 (Androt.) § 26, τῶν ἀρχών ἐφήγην refers to the Eleven, and in Lysias, Or. κατὰ τῶν στιτοπώλων §§ 5 —10, oi ἀρχώτεροι is several times used of the five στιτοφώλακες in the Peiraæans. On τὴν ἀρχήν for 'the authorities,' abstract for concreto, see note on Or. 45 § 58.

γράφεσθαι] 'to have the answers written down,' or 'to
take down the answers.' Plato Theaet. 143 ι, ἐγραψάμην ὑπο-

μνήματα, 'I wrote me down some memoranda.' This sense of the middle must not be con-

founded with the technical meaning 'to indict.'

κατασημανέμενος] 'having sealed up the testimony ex-
torted.' The documents were put into an εχίνος or 'casket,'

which was sealed up and afterwards produced in court and

there opened. Or. 54 § 17 ση-

μαθήματι τοὺς εχίνους.

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. Har-

poer. βάσανος: 'Ἀντιφών' ἄθος ὀϋτως καλεῖται, ἣ το χρυσὸν παρα-
tριβάμενον δοκιμάζεται. 'Ὑπερέ-

βις ἔν τῷ κατ' 'Ἀντίου τα ἐν
tοῖς βασάνοις εἰρημένα ὑπὸ
tῶν βασανίζομένων καὶ ἀναγρα-

φέντα βασάνους ὠδήμασε. (Anaxi-

menes) rhet. xvi 1, βάσανος ἐστι

μὲν ὀμολογία παρὰ συνειδότος, ἄκοντος δὲ.

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).

υνα—ἐψηφίσασθε] For ἵνα 'in which case,' cf. Or. 36 § 47. ἐκ τοῦτων should be taken with ἐψηφίσασθε and not with ἀκοῦ-

σαντες, cf. Or. 45 § 2 εἰ ἐν (ἀκοῦ-

σαντες)...γρῶσεσθε.

25. ιδία βασανίζομένων τῶν ἄνθρωπων] equivalent to εἰ ιδία ἐβασανίζοντο. Hence in the cor-

responding clause, instead of δημοσία δὲ, which would have been equally good Greek, we have εἰ δὲ δημοσία σο. 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.]

οὶ ἄρχοντες] 'The Eleven,'

See note on τῆν ἄρχην in § 24.
§§ 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 Nicostratus.

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 Nicostratus.

26. 

27. 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.


28. πένης δὲν φαίνεται] 'is made out to be a poor man.

προσφέρεσθαι] 'to behave,'

Or. 40 § 40.

ἀποδείκνυσι] 'having disclosed' (delivered a formal specification of) 'the estate of Arethusins'—τοῦτων 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 ὀρφανὸς τῷ ὀφλῆματος, and it is then resumed by the repetition of εἰ ὁ οὖν.

ὀρφανὸς ἢ ἐπικάλημα] 'orphan-son or heiress,' meaning by the latter 'orphan-daughters,' 'portionable-sisters'; 'an ‘heires' 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, ἐντυρίας κτήματα πλεούν ἀντὶ τῶν ἐσχάτων ἀπορῶν.—τροφᾶς μητρί, 'a mother's maintenance.'

ὁδυρόμενος 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.
1. 2. *τετυπτήσθαι*] In Classical Greek, we should have had the phrase πληγάς εἰληφέναι. The tenses from *τυπτόω, 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 τετυπτηκέν and τετυπτήσαν. Again, in Lucian (Demo- nax § 16) we read ἐπεὶ δὲ τις ἀθλήσῃ...ἐπάταξεν αὐτὸν εἰς τὴν κεφαλὴν Λίθῳ καὶ αἷμα ἔρρησθαι, οἷς μὲν παρόντες ἡγανάκτον ὡς αὐτὸς ἐκαστος τετυπτὴσαν, where ἐπάταξεν is correctly used (as in Classical Greek Prose) instead of the aorist active of τύπτω, while τετυπτήσαν is only a late form, for which writers of the best age would have written either πεπληγμένον or πληγήν εἰληφέως.

The κατὰ Κόσωνος 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. ἐυχερῶς ἔχειν κ.τ.λ.] ‘make no difficulty about lying,’ Or. 21 (Mid.) § 103, τὸν μιαρὸν καὶ λίαν εὐχερῆ τὸν κοινορτὸν Εὐκτή- μονα. So φράσις ὀμνύναι ἐν εὐθέω § 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.
‘Τβρισθεὶς, ὁ ἄνδρες δικασταῖ, καὶ παθὼν υπὸ τὸν Κόνωνος τουτοῦ τοιαῦτα ὅστε πολὺν χρόνον πάνυ μήτε τοὺς οἰκείους μήτε τῶν ιατρῶν μηδένα προσδοκᾶν περιφεύγεσθαι με, ὑγίανας καὶ σωθεῖς ἀπροσδοκήτως ἐλαχὸν αὐτῶν τὴν δίκην τῆς αἰκίας ταυτην. πάντων

1. ύβρισθεὶς—ταυτη[1] The opening sentence is best rendered by treating ύβρισθεὶς and παθὼν as principal verbs, and beginning a fresh sentence with the word ὑγίανα, 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 π 276). Here, as in Or. 45, the keynote of the whole speech is struck by the opening word, ύβρισθείς. Cf. also Or. 21 (Mid.) § 1 τὴν μὲν ἀσέλγειαν, ὁ ἄνδρες δικασταῖ, καὶ τὴν ὑγίαν κ.τ.λ. πολὺν χρόνον πάνυ] For this position of πάνυ, placed after πολὺν, and even separated from it, cf. Plato, Hipp. Maj. 282 e ἐν ὅλῳ χρόνῳ πάνυ, Or. 30 § 2 ύβριστικῶς υπ’ αὐτοῦ πάνυ ἔξεβλόθη, and (Dem.) Prooem. 18 βραχὺ τί μοι πεινῶθητε πάνω. ἐλαχὸν...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 (κληρον τὰς δίκες); hence the applicant for leave to bring an action is commonly said λαργάνειν 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 (αἰκία δίκη), instead of a public indictment for wanton outrage (ὑβρεως 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.


Lexica Segueriana p. 355, αἰ- κία διαφέρει υβρεως, ὅτι αἰκία μὲν ἡ διὰ πληγῶν, υβρις δὲ καὶ ἀνέων πληγῶν μετὰ προπηλακισμοῦ καὶ ἐπιθευμόν ὁποδ καὶ εὑθυναι ἐλάστουσα τῆς αἰκίας. See also Or. 87 § 33.
The active and middle senses of this verb are also found side by side in Xen. Anab. ii 1 § 17, ἐμβολευμένους ἐμβολεύεις 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 λωποδιτής (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, οὕτω δὲ ὕχοντο θαλμάτιον λαβόντες μοι). Cf. Isoc. antid. § 90, τούτου ἀπαγαγών αὐτροποδιτῶν καὶ κλέπτων καὶ λωποδίτων, Dem. Or. 22 § 26, Aeschin. Timarch. § 91, Lysias Or. 10 § 10, and 13 § 68 ἐνθάδε λωποδιτῶν ἀπήγαγε, καὶ ὡμεὶς κρίναντες αὐτὸν ἐν τῷ δικαστήρῳ καὶ καταγάντες αὐτοῦ βάραντον ἀποτμήσαν τίμησεν παρέδωκε. Hermann, Rechtsalt. p. 41 Thalheim; Meier and Schömann p. 229 (n. 208 Lipsius).

ὑβρεως γραφαῖς] here contrasted with aἰκίας δίκη.—Harpocr. γραφήν· ὅτι διδειν τὸν ἐγκληματος ὄνομα. δίκην ἱδία λέγεται ἐπὶ ἰδιωτικῶν ἐγκλημάτων, ὥς σαφές ποιεὶ Δημοσθένης ἐν τῷ κατὰ Κόνωνος.

[The plural γραφαὶ shows that more than one public indictment could have been framed. See also Or. 21 (Mid.) § 28, καὶ δικαὶ ἱδία δίδοσιν ὁ νόμος μοι καὶ γραφὴν ὑβρεως. 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) μὴ τὴν ἡλικίαν μὴ γαλοῦτεν υπολογίσανες, 29 § 1. The task of instituting and carrying to its issue a γραφὴ ὑβρεως would be more laborious and would require greater skill and experience than was involved in a δίκη aἰκίας. A young man like Ariston would find himself in an awkward and invidious position, as prosecutor in so ambitious a case as a γραφὴ ὑβρεως,
not to mention his being unequally matched 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 ἀπεπόνθεν. For the gen. cf. Or. 36 § 9 πᾶς ἐνεστ’ ἐγκαλεῖν αὐτῷ μισθῶσεν.

[ὑπὲρ τὴν ἥλικιάν 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.]

[ἰδίαν] ἀντὶ τοῦ ἰδιωτικῶν Δημοσθένης ἐν τῷ κατὰ Κόνωνος. ἐλέγετο δὲ τὸ ἱδίον καὶ ἰδιωτικόν ὡς ὁ αὐτὸς ρήτωρ ἐν τῷ κατὰ Ζηνόθεμον (§ 32 πράγμα ἱδίων), Harpocratio.

[ἢδιστ’ ἐν κρίνας, for καίτοι ἠδιστ’ ἀν ἔρμινα, 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 ἦνα μη ἀποθάνυ σκ.λ.

‘Ce cri de haine a quelque chose de naïf et de sauvage; le

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plaintant 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).


2. δενής—τούτου] ‘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.

P. S. D. II.
κήσθαι καὶ παραγενομήσθαι δοκῶ, βοηθήσαί μοι τὰ δίκαια. ἐξ ἀρχῆς ὑώ ἐκαστὰ πεπρακται, διηγήσομαι πρὸς ὑμᾶς, ὡς ἀν ὄντος τε ὦ διὰ βραχυτάτων.

The passive is formed just as if the verb were directly transitive in the active, i.e. as if the active construction were παραγενομένον, and not εἰς τινα. So also the active παραγενομήσθαι for its corresponding passive (see below § 4 init. and § 5 fin.).

βοηθήσαί μοι τὰ δίκαια] 'assist me to my rights.' For the phrase and the context, cf. Or. 27 § 3 δέομαι νῦν...μετ’ εὐφοίας τ’ ἐμοῦ ἀκούσαι κἂν ἰδίκησαι δοκῶ, βοηθήσαί μοι τὰ δίκαια, ποιήσομαι δ’ ὡς ἐν δύναμι διὰ βραχυτάτων τοῖς λόγοις, ib. § 68, Or. 35 § 5; 38 § 2; 40 § 61. A fuller phrase may be noticed in § 42 of this speech, βοηθεῖν καὶ τὰ δίκαια ἀποδίδοναι. Kühner, Gr. Gr. 264 § 410 c, quotes Xen. Mem. π 6 § 25 ὅπως αὐτὸς τε μὴ ἀδίκησαι καὶ τοῖς φίλοις τὰ δίκαια βοηθεῖν δύνηται,—ηιτω Rechte verhelfen. It is an extension of the cogn. acce. βοηθεῖν βοηθεῖν.

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 προσήμων 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 προσέγγισις (Arist. Rhet. ιιι 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 vie et familière simplicité, ce récit dut plaire aux juges, vétérains 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-
"Εξήλθομεν, έτος τουτί τρίτον, είς Πάνακτον φρούρας ήμών προγραφείς. ἐσκήνωσαν οὖν οί νείες οἱ Κόνωνος τουτού ἐγγὺς ήμῶν, ὡς οὐκ ἂν ἐβουλόμην ἡ γὰρ ἐξ ἀρχῆς ἔχθρα καὶ τὰ προσκρούσματ’ ἐκείθεν ήμῖν συνέβη, ἐξ δ’ ἀκούσεαθε. ἐπινυν ἐκάστοτε οὕτω τὴν ἡμέραν, ἐπειδὴ τάχιστα ἀρστήσαμεν, ὅλην, καὶ τοῦθ’ ἐως περ ἢμεν ἐπὶ τῇ φρουρᾷ, διετέλουν ποιούντες. ἡμεῖς δ’ ὅσπερ εὐθάδ’ εἰώθαμεν, οὕτω διήγομεν καὶ ἐξω. ἦν οὖν δειπνοποιεῖσθαι τοὺς ἀλλοίς ὁράν συμβαίνοι, ταῦτην ἄν ἡδή ἐπαρφόνου οὕτω, 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 περίπολος, but as part of the regular troops. This may be inferred from § 5, where the στρατοπέδου, στρατηγὸς and ταξιάρχων are mentioned, and where there is apparently an absence of the strict discipline which was usual in the case of ἐφησοί (Zink p. 19).

ἐτος τουτί τρίτον] ‘two years ago’ (sc. ἐστὶ), Dem. Ol. 3 § 4 ἀπηγγελθ...τρίτον ἦ τέταρτον ἐτος τουτ, Ἡραίον τείχος πολιορκών.

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 Demi p. 128), Harpocration has this article; Πάνακτος Ἀρμοθένης κατὰ Κόνωνος πόλις ἐστὶ μεταξὺ τῆς Ἀττικῆς καὶ τῆς Βοιωτίας. He further notes that Thucydides (v 42) makes the word neuter, and Menander masculine.

φρούρας...προγραφείς] ‘being ordered out on garrison duty.’ For προγράφειν, in the sense of ‘putting up a public notice’ at head-quarters, compare Arist. Aves 418, ἀκούσετε λεψ τοὺς ὀπλίτας νυμεὶν ἃν ἀνελμούνων βσόπ’ ἀπέταιν πάλιν οὐκαδε, ἕκοπεῖ δ’ ὅ τι ἃν προγράφωμεν ἐν τοῖς πωναῖοι, καὶ Ἀριστοτ. ἐν Αἴθραῖον πολιτεία (quoted by Harpocration s. v. στρατεία), ὅταν ἡλικιὰν ἐκκέμψωσι, προγράφωσιν ἀπὸ τίνος ἀρχαντος ἐπό- νυμον μέχρι τίνος δεὶ στρατεύεσται.

ὡς οὖν ἂν ἐβουλόμην] sc. σκηνώσατι αὐτοῦ, ‘and would to heaven they had not!’ προσκρούσματα] ‘collisions.’ Or. 39 § 18, πολλοὶ προσκρούειν and Or. 37 § 15, ὃ φιλὸς ἤν... τούτῳ προσκρούκατο, 33 § 7. ἐξ δ’ ἀκούσεαθε] Or. 14 § 17 δ’ ἀκούσεαθε. ἀρστήσαντες...δειπνοποιεῖσθαι] On ἀριστήσαντα καὶ δειπνοῦν, see Becker’s Charicles p. 313, ed. 3.

The optative ἀρστήσαντα denotes frequent and repeated action, which is also clearly brought out by ἐκάστοτε and διετελοῦν ποιούντες.

4. ὁράν] Not to be translated ‘hour,’ but ‘time,’ as
μὲν πολλὰ εἰς τοὺς παῖδας ἡμῶν τοὺς ἀκολούθους, τελευτῶντες δὲ καὶ εἰς ἡμᾶς αὐτοὺς φήσαντες γὰρ κατ
νίζειν αὐτοὺς ὁ φησιοκυμένους τοὺς παῖδας ἦ κακῶς λέγειν, ὅ τι τύχοιεν, ἔτυπτοι καὶ τὰς ἁμίδας κατεσκε
dάννυνον καὶ προσεύρουν καὶ ἁσελγεῖας καὶ ὦβρεως οὐδ̣ ὁποῖου ἀπέλευπον. ὁρῶντες δ᾽ ἡμέως ταῦτα καὶ λυποῦμενοι τὸ μὲν πρῶτον ἀπεπεμψάμεθα, ὥς δὲ

b αὐτοὺς Ζ.

c Bekker. ἁμίδας Ζ cwm γ; ἁμίδας Σ.

d Bekker. κατεσκεδάννυσον.

e Bekker. ἀπέλευπον Ζ cwm ΦΣΦγ.

όρα 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 ἔδων ὡραν οὐδένον κοινήν θεῶν (Eumen. 109) and τὴν τεταγμένην ὥραν (Bacch. 724), the rendering 'hour' should be avoided as open to misconstruction.

tαύτην....ἐπαρφύνου....εἰς τοὺς παῖδας] Liddell and Scott (ed. 6) inadvertently quote this passage as an instance of παρωνεῖν being used transitively 'like ύβρίζειν,' whereas ταύτην is obviously the accusative of time (sc. τὴν ωραν) and the object of παρωνεῖν is expressed by εἰς τοὺς παῖδας (this has been corrected in ed. 7). For the corresponding passive to this intransitive active, see § 5 fin. παρωνομένους. [παρωνεῖν and παρωνεῖν mean, not 'to be intoxicated,' but 'to be abusive over one's cups.' P.]

οὶ τὶ τύχωκεν] This clause is to be taken ἀσυνέτως. 'Pretending, in short, anything they pleased.' The full construction would be: φήσαντες ὃ τι τύχωκεν φήσαντες.

ἔτυπτον] See Excursus (A) on p. 221.
πάντες οἱ σώσιται] 'not I alone, but all the messmates in a body.' Kennedy. Cf. Lysias Or. 13 § 79 οὕτε αυστηρότατα τοῦτῳ οὖθεις φανήσεται οὕτε σύσκαιρος γεγομένος.

εἰς[ ] placed last for emphasis and also to avoid hiatus (Rendallz on Phil. 1 § 34).

5. λοιδορθέντος 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 λοιδορθέθει used in the sense of the aorist middle, cf. διαλέχεται in § 7.— On κακάτας, cf. note on Or. 34 § 2.

έπειδὴ θάττον συνεσκότασεν] 'As soon as ever it grew dark,' 'no sooner was it dusk than...'. For ἐπειδὴ θάττον (which is less common than ἐπειδὴ τάχιστα, § 3), cf. Or. 37 § 41 ἐπειδὴ θάττον ἀνείλετο, Plato Protag. 425 c, ἐπειδὴν θάττον συνήχει τις, Xen. Cyrop. tii 3—20 ἴπ ταττόν.

εἰςπεπήδησαν] Aeschin. 1 § 59 εἰςπεπήδησαντες νῦκτωρ εἰς τῷ οἷκαν.

τοιχαὶ] 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.

παροιμιομένους] Fals. leg. § 198 ἀπώλεται ἐν παροιμιομένη. The active construction is παρωθεῖν εἰς τινα, cf. § 4 and see note on Isoc. ad Dem. § 30, πιστευθέντες.
6. metà taúta oía—προσήκε] 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 coniunquere et collocare, ut plerumque vocalium concursus evitetur. p. 152.

τούς...άμαρτηθείσων] Neuter, sc. ἐπὶ τῶν νεῶν 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 defiendant, 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.
taut' eisitw. chronw e' ysteron ou pollw peripatoynitos, osper eiothein, espetras ev angora mou meta Fainostratou tov Kephisiwos, twn hillikiotwv tivos, parerxetai Ktwsia o vid o toytov, mebwn, kata to Leukorion, engus tov Puzodwrwv. kaptow o' hmas kai kranagasa, kaia dialexheis ti pro's aytov oytov ois an mebwn, oste me' mabein o ti legou, parhlelhe pro's

7. peripatoynitos k.t.l.] Hor. Sat. i 6, 113 vespertimumque pererro Saepe forum.


en angora] The article is omitted, as in astu and tolais (when used of Athens); below we have eis twn angoran. Similarly eis balanwv in § 9, followed by eis to balanwv in § 10.

The agora probably extended at this time over the inner Cera-
meicus, the district to the N.W. of the Acropolis.

tov Kephisiwos] The deme Kephisia belonged to the tribe Erechtheis, and lay 12 miles N.E. of Athens at the foot of Pentelicus. It still retains its ancient name.

catla] 'opposite to,' as Aesch. Theb. 528, tymmov cat' avtoyn diogenouis 'Amphiwos, and so fre-
quently in Thucyd, in the sense of 'aff a coast, or river.' P.]

Leokorov] The monument of the daughters of Leos (Praxithera, Theope, Enbule), who, at the command of an oracle, sacrificed themselves for their country. Or. 60 (Epitaph.) § 29 (ai Leos kora) einaiv edosan sfagion tois poltaias uper thew, Cicero de Nat. Deor. III § 50. Harpocration states that it was ev meSw tov Keraumeikw, i.e. in the midst of the inner

Cerameicus, the N.W. district of Athens, lying within the walls, as opposed to the outer Cera-
meicus, the kallastos proasteiow where the Athenian war-
riors were buried (Thuc. ii 34, Arist. Aves 395). It was close to the Leocorion that Hip-
 parchus was slain by Harmodius and Aristogeiton (Thuc. vi 57).

tovv Puzodwrwv] 'The premises (or shop) of Pythodorus,' either under-
standing oikwv, or more probably dymatwv, like the ex-
pression which occurs twice in Or. 43 Macart. § 62 (vwmov) eis ta tov apothavnitos eiswavn. Theoc. ii 76 mesavn kat' amazi-
tov, a ta Luvwos. [At. Vesp. 1440, aitew de kai ou paratpex' eis ta Nettalov. P.]

Pythodorus is possibly the friend of Pasion mentioned in Isoc. Trappez. § 33 Puzodwrwv tov skntrtn kalwmenwv, quoted by Harpoc. s.v. skntrtn: 'Ouk ev wvwnom evnav. mhptote (perhaps) de ois agorav ian kalwmenwv, epeidh ev skntrtn evpirasketo polla tov oivwn.

dialexheis] Cf. § 5 luvorhtheis.

—ws an mebwn, sc. dialexheis. See on Or. 31 § 32.—mabein, sc. hmas.

pro's Melitwn ano] A hilly district within the walls, com-
prising part of the western half of Athens, and including the hill of the 'Pnyx' and that of
The Nymphs. Schol. on Ar. Aves 997 τὸ χωρίον...ὡς περιλαμβάνεται καὶ ἡ Πινύ...Μελητὴ γὰρ ἀπαν ἐκεῖνο, ὅσ ἐν τοῖς ὄργοισ γέγραψα- ται 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 Glaucus in the agora, and they conduct him to Antiphon, οἰκεὶ δὲ ἐγγύς ἐν Μελητῇ. It was so called from the nympha Melite, wife of Hercules (Leake’s Athens 1 441, 485; Dyer’s Athens 97).

έπιων 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. Lysias 24 § 20 ἔκαστος ύμων εὐδῆσται προσφοιτὸν ὁ μὲν πρὸς μυρταλείον, ὁ δὲ πρὸς κουφεῖον ὁ δὲ πρὸς σκυτομείον, ὁ δ’ ὑπὸ ἄν τύχη, καὶ πλείστοι μὲν ὡς τῶν ἐγγυντῶν τῆς ἀγορᾶς κατεσκε- ασόμενοι, ἐλάχιστοι δὲ ὡς τῶν πλείστων ἀπέχονται αὐτῇ. (See Becker’s Charicles p. 279.)

τῷ κναφεί] ‘the fuller.’ As woollen cloaks would be spoiled by ordinary washing, they were regularly sent to the fuller to be scourd. The process con- sisted in rubbing in a kind of alkaline marl (fullers’ earth), Κιμωλία γῆ, Ran. 713, and card- ing (κναπτεῖ) to raise the nap (Jebb’s Theophrastus xxv 13, and St John’s Manners and Customs of Ancient Greece iii 232).

Σπινθάρως ὁ Ἑὐβοῦλος] 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 Ἑυβοῦλος Σπινθάρων Προβαλίαιος. The person men- tioned 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 ἐξαναστάτες, and Xen. Hell. iv 8 § 37; cf. Iliad i 191. The orator makes his client, a young soldier, charac- teristically describe the scuffle in the language of military life. Similarly, a few lines below, ἀνεμικχήμεν, ‘when we closed with one another.’

8. συμβαίνει...καὶ περιτυχάνο- μεν] A simple and somewhat archaic form of phrase instead of ὅτε περιτυχάνομεν. Thuc. i 50, ἡδη ἦν ὅδε καὶ οἱ Κορίνθιοι ἔσπειρισαν πρώμαν ἐκρούσατο. Soph. Phil. 354 (Kühner § 518, 8).

Φερρεφαττίον] The site of the temple of Persephone is un- certain; it is supposed to have been south of the Leocorium, and close to the statue of
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).

el's men—ἐκείνων] '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 κατείχειν 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.—ού νίος αὐτοῦ, Ctesias. —ἐξεδύσαν, 'stripped me' of my cloak; § 9, φέεντο θοιμάτων λαθώντες μοι.

εἰθ'—συγκλείδωα] '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. τα μὲν ἄλλα—ἐν ψυ κ' ἐνα] 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, δο' ἄκνησαμ' ἀν πρός ύμας εἰπείν, 21 § 79, οὐ γὰρ ἐγώ ἐπτραχεῖν ἀν εἰπείν πρὸς ύμας τῶν τότε ῥηθέντων οὐδέν, 2 § 19, and esp. Aeschin. 1 § 55, τοιαύτα ἀμαρτήματα καὶ τοιαύτας θρείες... οἶδα ἐγὼ μά τον Δια τὸν Ὅλυμπιον οὐκ ἀν τολμήσαι πρὸς ύμας εἰπείν ὧ' γὰρ οὗτος ἔργῳ πράττων οὐκ ἡχύνετο, ταῦτ' ἐγὼ λόγῳ σαφῶς ἐν ἴμιν εἰπών οὐκ ἀν ἔδεξαμένης ἤν. Cie. 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.
The court is left to imagine that the terms of abuse were singularly offensive. 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 δυσχερεία τῶν αἰσχρών. 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 ἢ ὑβρίσ, ὀργιζομένου λέξις, ἐὰν δὲ ἀσεβὴς καὶ αἰσχρὰ, δύσχεραινοτος καὶ ἐνια-βουμένου καὶ λέγειν, σημείων. To be taken with ὑβρεῖς; τεκμήριον with τοῦ γε-γενήθαι. The former is 'an indication,' 'a sign'; the latter 'a conclusive proof' (note on Isoer. ad Dem. § 2). Or. 36 § 12.

'ἡδε—πλευρᾶς] '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. π 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. 161, φαινομένη μοι ἀλεκτρυόνος ἁγεννώδος δίκην, πρὸν νευκκιέναι, ἀπο-πνήσατες ἀπὸ τοῦ λόγου ἔδειν. Ar. Vesp. 705, καθ' ὅταν αὐτός γ' ἐπισίζη ἐπὶ τῶν ἐχθρῶν τιν' ἐπιφρέας, ἁγρίως αὐτοῖς ἐπιτηδέας. The fighting-cock springs upon its adversary, and uses its spur to strike the head. P.]

'γυμνὸς] sc. ἀνευ τοῦ ἰματίου, stripped of his cloak, as is clearly shown by the following clause. Or. 21 § 216 γυμνὸς ἐν τῷ χιτωνίσκῳ. Aeschin. 1 § 26 ρίψας θοίματον γυμνὸς ἐπαγκρα-τίαζεν. Ar. Lys. 150 ἐν τοῖς χιτωνίσῳ...γυμναί. Nub. 497, καθάνθανθο τοιμαίον...γυμνὸς εἰσίη-ναι νομίζεται. Hermann Pri- vatelli. § 21 p. 175 Blümner.—'émon, in its usual pluperfect sense, 'after stripping me of my cloak, they had taken to their heels.'—ἐλθον, possibly first person singular, but more probably third person plural, referring to οἱ παρατηρήτες. But cf. § 20, ύψις ἐξελθὼν φορά-δην ἐλθον οἰκάδε.
pains when, and possibly from the fact that people were subject to various kinds of injury, we may infer that there was a house of hospitality on this occasion.  

MARTRES.

Συνεβή τούς, ὃ ἄνδρες δικασταί, καὶ Εὐξίθεον ὁ τούτοι τὸν Χολλείδην, ὃνθ' ἤμιν συγκενή, καὶ Μείδιαν μετὰ τοῦτον ἀπὸ δείπνου ποθὲν ἀπιόντας περιτυχεῖν πλησίον ὑμῖν μοι τῆς οἰκίας ἦδη, καὶ εἰς τὸ βαλανεῖον φερομένῳ παρακολουθήσας, καὶ ἱατρὸν ἄγουσι παραγενέσθαι. οὗτω δ' εἴχον ἀσθενῶς ὡςθ', ἢν μὴ μακρὰν φεροῖμην ὥκαδε ἐκ τοῦ βαλανείου, ἔδοκε τοῖς παροῦσιν ὡς τὸν Μείδιαν ἐκείνην τὴν ἐσπέραν κομίσας μὲ καὶ ἐποίησαν οὗτος λαβῆ ὤν καὶ τὰς τοῦτων μαρτυρίας, ἕνεκ' εἰδήθ' ὅτι πολλοὶ συνίσασιν ὡς ὑπὸ τοῦτον ὑβρίσθην.

1 ἐσ βαλανείου] a public bath; as is shown by § 10, ἢν μὴ μακρὰν φεροῖμην ὥκαδε 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) ὅποιν δυναμένου δὲ βαδίζον ἐκόμισαν αὐτὸν εἰς τὸ δείγμα ἐν κλίνῃ, καὶ ἐπεδείξειν πολλοὺς Ἀθηναίους.

§ 10. I was followed to the bath by Midias and by a relative of mine who was returning 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 Χολλείδα,’ (Or. 35 § 20), a deme of the tribe Leontis, probably situated south of Hymettus and west of Mons Alythrus, or Hymettus minor (Leake’s Athens, ii 57 and Wordsworth’s Athens and Attica, chap. xxv).—τοῦτοι 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 ἄγορᾳ...εἰς τὴν ἄγοραν.

ἄγουσι] The construction is καὶ παραγενέσθαι αὐτοῖς ἄγουσιν ἱατρόν.

ὡς τὸν Μείδιαν] ‘to Midias’ house.’ For ὡς introducing an accusative of motion towards a
11. Tότε μέν τοίνυν παραξρήμα υπό τών πληγών ón m' ἔλαβον καὶ τῆς ύβρεως οὕτω διεστέθην, ὡς ἀκοούσας καὶ μεμαρτύρηται παρὰ πάντων ὡμίν τῶν εὐθὺς ἱδόντων. μετὰ δὲ ταῦτα τῶν μέν οἰδημάτων τῶν ἐν τῷ προσώπῳ καὶ τῶν ἐλκών οὐδὲν ἔφη φοβεῖσθαι λίαν ὁ ἱατρὸς, πυρετοῖ δὲ παρικολουθοῦν μοι πυνεχέοις καὶ ἀλγήματα ῥολοῦ μὲν τοῦ σώματος πάνυ σφοδρά καὶ δεινὰ, μάλιστα δὲ τῶν πλευρῶν καὶ τοῦ ἄτρου, καὶ τῶν σιτίων ἀπεκεκλείμην. καὶ ὡς μέν ὁ ἱατρὸς ἔφη, εἰ μὴ κἀθαρσίας αἵματος αὐτομάτη μοι πάνυ πολλὴ συνέβη περιωδών ὄντι καὶ ἀπορομμένῳ ἕδη, κἂν ἐμπυνὸς γενόμενος

m Bekker. ὥς Ζ cum ΣΦΑίρκ.

n Bekker cum Δ. ἀπεκεκλείσῃς Ζ cum Φφ. ἀπεκεκλείσης Σ.

person, cf. Thuc. iv 79, ἀφίκετο ὡς Περδίκκαν καὶ ἐς τὴν Χαλκείδην.

§§ 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, intermittent 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, debared from, my food,' 'too ill to eat anything.' Hesychius explains ἀποκεκληθαίτω σιτίων: ἀνορέκτως ἔχειν τροφῆς.—Strict Atticists prefer ἀπεκεκλήμην (from old Attic κλήσι) to ἀπεκεκλείμην and ἀπεκεκλείσης (Veitch Gk. Verbs).—ήτρου, 'the pit of the stomach.'

12. εἰ νὴ—διεφάρμην] '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.] περιωδόν ὅστις is possibly a technical term; at any rate it is used by Hippocrates, 'the Father of Medicine,' and he also has περιωδήνεις, περιωδίναιa and περιωδηνάσθαι [μοίρα μὴ περιωδόνυς μη—δὲ δεμυστήρης occurs in Aesch. Αγ. 1423. P.].] ἀπορομμένου is either passive, 'despaired of,' or more probably middle, 'doubtful of my recovery', οὔκ εἰδὼς εἰ πε-
MACRITRIAI.

"Oti mèn toinun ou metriaas tinais kai faulias la-13
bòn plhngas, 'All' eis pàn elthwv dia tìn orbriw kai tìn
asideýgeian tìn tou'ton polù tìn pròsekhoush elàttw

diefbhárnhv vìn dé tou't ëswse to aima òpoxhorhshav.
òs ouv kai tai' álhth légyo, kai parékoloúthshse mou
1261 touiáuth nósose ëx ìs eis tou'schaton ìlðhov, ëx òn úpò
tou'ton élabaion plhngow, lége tìn tòu íatropu mar-
turían kai tìn tòn ëpsiokpotúntow.

P. 1261] LIV. KATA KONWNOS AIKIAS. 189

1261 tou't ëswse] The construction
is touto to aima, òpoxhorhshav,
ëswse me, 'the passing of this
blood saved my life.'

parékoloúthshse—plhgwn] Con-
str. touiáuth nósose, ëx ìs eis
tou'schaton ìlðhov, parékoloúthshse
moi ëk tòn plhgwn, òs úpò tou'
twv (se. Conon, Ctesias and
Theogenes) élabaion.

tòn ëpsiokpotúntow] 'those who
came to see me,' 'visited me
in illness.' Xen. Cyrop. viii
2 § 25, òpòte tis ìsdeýngseie tòn
therapeúèsothei épikaríwv, èpeso-
kupé ai kai paraíchei vànta òtou
ëdei; also in middle, Xen. Mem.
i i11 § 10, àrrwstfántos filwv
frwnistikwv ëpikèfshasai. Or.
59 § 56, tò pròsofora tì nóso
férwsoi kai ëpsiokpotúmei.

§§ 13—15. Let me now tell
you beforehand of the course
which Conon will take in his
reply. He will divert your at-
tention 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 mis-
represent 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 defend-
ant's bare assertion about our
respective characters and to allow
no weight to the evidence of our
life and conduct.

13. eis pàn elthwv] While pàn
poeiow and pànta poeiow are
invariably used in the active
sense of 'straining every nerve,'
'leaving no stone unturned,'
eis pàw elthein and similarphrases
have often (like eis tou'schaton
elthein 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 pànta
époiow peibontes tòn basteia,
Anab. ii i 1 § 18 épi pàw elthwv,
òs èmías tà ësgarta aiwòs ànoi
pàsów ànuwròsqn phóbwv para-
sgow, Soph. O. T. 265 kapi
tànta àfi-
èmai ëgntow tòn au'thotexwra.

(ii) in passive; Xen. HELL.
v i i § 12 ódia de, òpò ouv di-
dwos...eis pàw àfiuketo basilewv,
and v 4 § 29. Plato Symp. 194a,
mé' avn phoósoi kai én pànti eis.

tí pòswkhoush elàttw ìk-
nr] 'I have entered on an
action much below the merits
of the case.' Cf. latter half of § 1.  

†na τοτ' ἄστιν ἀ] The Zürich editors and Westermann prefer τι ποτ' ἄστιν ἄ, 'what is the import (sing.) of the points (plur.) that Conon will urge in his defence.' τί...ἀ is more idiomatic than †na...ἀ, and is found in Or. 4 § 10; 19 § 288; 21 § 154; 36 § 28; 37 § 36.  

ἀπὸ τῆς ὑβρεως—ἐρεῖν] In opposition to λέγειν παρεσκευάσθαι, and loosely dependent on περιπυρμαί. 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 ὑβρεως καὶ τῶν πεπραγμένων τὸ πρᾶγμα ἀπαγαγών, εἰς γέλωσα καὶ σκώμματι ἐμβαλεῖν πειράσεσθαι, καὶ ἑρεῖ 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 γέλωσα καὶ σκώμματι ἐμβαλεῖν is the construction (and not καὶ σκώμματι ἐμβαλεῖν πειράσεσθαι, καὶ ἑρεῖ) appears from (Dem.) Phil. 4 § 75, τὸ πράγμα εἰς γέλωσα καὶ λοιδορίαν ἐμβαλόντες, cf. Aeschin. 1 § 135 τὸ πρόγμα εἰς ὄρειδος καὶ κυνύδους καθιστάς καὶ εἰς γέλωσα καὶ ληρόν τινα προτερπόμενον ὤμας, Lysias frag. 75, 1 εἰς σκώμματα τε αὐτοῖς καὶ ἀντιλογίαν καὶ ἐχθρον καὶ λοιδορίαν κατέστησαν.—Hesychius, referring perhaps to the present passage, has σκώμματα· λοιδορίματα γέλωσις χάριν.  

14. ὡς εἰσὶν] followed in the latter half of the sentence by ace. c. inf.  

καλῶν καγαθῶν] See note on Or. 4, 5 § 65. Trans. 'sons of respectable people, who in their youthful frolics have given themselves nicknames.' σφίσων αὐτοῖς is not necessarily limited to the reflexive sense, but is sometimes almost equivalent to the reciprocal pronoun ἀλλήλοις (see Isocr. Paneg. § 34).  

ἱδυφάλλους ...... αὐτοληκυθῶν] 'Priapi and Sileni.' Kennedy
(following the French translation of August). For an account of the word αὐτολόγικος, see Excursus (C), p. 227.

The construction in τινές ἐκ τούτων ἔρωσιν ἐταίρων. —καὶ δὴ καί, used in descending to particulars after a general statement. Or. 55 § 10. The construction here changes from ὡς εἰσίν in the acc. with infin.—perl ἐταίρας gen. sing., not acc. pl. [See Or. 21 § 36 p. 525 and Ar. Vesp. 1345. P.]

eἰληφέναι καὶ δεδωκέναι πληγάς] These phrases are used to supply the lack of a perf. passive and active of τῶπτω, as the Attic prose writers know nothing of the forms τετυφθαί and τετυφέναι. See Excursus (A) on τῶπτω, p. 221.

παροίνους...ὑβριστὰς...ἀγνώμονας...πικρῶς] ‘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 υβρισταί ought to be.

κατασκευάζει] in bad sense, ‘to misrepresent,’ ‘trump up a story,’ ‘make out falsely.’ Cf. Or. 45 § 82. παρασκευάζων, the reading of the Paris ms Σ, depends, like the previous infinitives, on the remote verb πέπνυμαι.

ἡδ. 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 υβρισάμην, ἐπὶ τοῦλον χαλεπότερον...τοὺς τοῖς μετὰ ταῦτα ἐννοχά καὶ μᾶλλον ἅγανάκτησα, 58 § 59 πρᾶσι ἐπὶ τοῖς γεγομένοις φέρεων.

τοῦτον ἀγανακτήσαμι ἄν] Or. 8 § 55, ἀγανακτῶ αὐτὸ τοῦτο, εἰ τὰ μὲν χρήματα λυτεῖ τινας ψυχῶν εἰ διαρπασθῆσεται, ἀγανακτεῖν and similar verbs implying mental emotion, though occasionally followed by a dative with or without ἐπι, may have an accusative neuter pronoun (Kühner, Gk. Gr. § 410 e 5). τοῦτο is explained by εἰ ἀληθή
eipetw, el taut' althi doxei Koniw outosi legein peri ymow, kai tosaunti tis 'agwia par' ymwn estin ws ws' otpoiws an tis ekastos elnav phi 'o plhriw an apwv ai- 1262 tiarsetai, toioutos nomosbhssetai, tov de kath ymeran blw kai tov epitheummatwn yhd' ymioin estai tois 16 metrioi ophelos. ymeis gar ou'te paronwntes ou'd' ypbrizontes up' ou'denos anbrwpon eforameba, ou't' 'agw-

Baiter (Dind. et Westermann): ou'd' retinet Bekker st. qui in versu proximo ou'de scribit.

doxei ou'tos o '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...' ei o'wv t' epteiv must be understood as a parenthetical apology for using the strong word ypbrizhna 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 ei prosoypismveis apeymi kai dikhs my' tuxwn.

'auton aitiasetai] sc. elnav, '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. I § 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 class, but I shall be surprised if this or any similar plea will enable them to escape with impunity.

16. ou'te paronwntes ou'd' ypbrizontes...ou't' 'agwmon k.t.l.] This refers to § 14, paronwntes... kai ypbristhas... 'agwmonas de kai pikrous. The xws have ou'd' ypbrizontes, which Baiter alters into ou'd' ypbrizontes. It would be better perhaps (with Bekker) to leave ou'd' ypbrizontes, and to alter ou't' into ou'd' before 'agw- mon. The break between the second clause and the first is clearly greater than between the two parts of the first (viz. paronwntes and ypbrizontes).

eforameba] This form of the perf. of dran (for the older Attic wma, the 2nd and 3rd sing. of which occur in Dem.) is also found in Isocr. antid. § 110, ywv' yw' enos eforasetai, possibly the earliest extant instance (the antidosis belongs to B.C. 355; the present speech to B.C. 355 or 341).
μον οὐδὲν ἥγομεθα ποιεῖν, εἰ περὶ δὲν ἡδικήμεθ' ἀξιοῦμεν κατὰ τοὺς νόμους δίκην λαβεῖν. ἤθυφαλλοις δὲ καὶ αὐτολκύθοις συνγχωροῦμεν εἶναι τοῖς νίεσι τοῖς τούτοις, καὶ ἐγὼ ἐυχομαι τοῖς θεοῖς εἰς Κόνωνα καὶ τοὺς νίεσι τοὺς τούτου καὶ ταῦτα καὶ τὰ τοιαύτα ὑπαντα τρέπεσθαι. οὐτοὶ γάρ εἰσιν οἱ τελοῦντες ἀλλήλους τῷ 17 ἤθυφαλλῳ, καὶ τοιαύτα ποιοῦντες ἃ πολλὴν αἰσχύνην ἔχει καὶ λέγειν, μὴ ὅτι γε δὴ ποιεῖν ἀνθρώπους μετρίους. ἀλλὰ τὰ ταῦτ' ἐμοὶ; θαυμάζω γὰρ ἐγώγε, εἰ τίς ἐστι πρόφασις παρ' ύμῖν ἢ σκῆψις εὐρημένη δι' ἥν, ἂν ύβρίζων τις ἐξελέγχηται καὶ τύπτων, δίκην οὐ δώσει. οἱ μὲν γὰρ νόμοι πολὺ τάναντι καὶ τὰς ἀναγκαίας

συνγχωροῦμεν κ.τ.λ.] They are welcome, so far as we are concerned, to the attributes of Priapi and Sileni. For the dat. cf. § 44, πονηρότερος ἕμν εἶναι συνέβαινεν.

εἰς Κόνωνα...τρέπεσθαι] Passive; 'recoil upon the head of Conon.' Ar. Aech. 833, πολυπραγμοσύνη νῦν εἰς κεφαλήν τρέποι ἐμοὶ. (Dem.) Epist. 4 § 10, οἱ θεοὶ...τὴν ἄδικον βλασφημίαν εἰς κεφαλήν τῷ λέγοντι τρέπουσιν.

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, νεδών. Cf. Plato, Phaedr. 240 b, 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.' — αἱ 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
to it, until we reach the words ἄν δὲ εἶπεν Κόνων, 'The laws say so and so...' 'Not so Conon.'

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 ἄναγκαια 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 γὰρ...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 skillful disclaimer of superior knowledge involved in the subsequent phrases; φασί... γέγονεν καὶ οὖν...εἶναι. Cf. Lysias Or. 19 §§ 5, 53.

κακηγορίας δίκαια] Isocr. κατὰ Δοξίτον (αν αἰκίας δίκη like the present case), § 3 (οἱ θέντες ἤμιν τοινύσιοι) οὕτω... ἤγγισαντο οὖν εἶναι τὸ τύπτειν ἀλλήλους, ὡστε καὶ περὶ κακηγορίας νόμον ἔθεσαν, ὅς κελεύει τοὺς λέγοντας τι τῶν ἀπορρήτων πεντακοσίας δραχμὰς ὀδεύειν. Cf. Lysias, Or. 10 §§ 6—12, Dem. Or. 23 § 50, Or. 21 § 32.

18. λοιπορούμενον] 'reviling one another.' For the reciprocal sense, cf. Or. 54 § 10, ἐγθροῦς ἀλλήλοις ... λοιπορούμενοι καὶ πλύνοντας αὐτοῦς τᾶπόρρητα, and
The fourth oration of Lysias is a very brief defence in a case of 'malicious wounding,' περί τραυμάτων ἐκ προνοιῶν. The defendant endeavours to prove the absence of πρόφοα (malevolent purpose), and implores the βουλὴ (ἡ ἐξ Ἀρείου πάγου) to rescue him from banishment (§§ 6, 12, 20). In Aeschin. Ctesiph. § 51 a τραυμάτων γραφή instituted by Demosthenes is mentioned; and Demosthenes himself (Aristocr. § 24) quotes the law τὴν βουλὴν δικάζειν φόνον καὶ τραυμάτων ἐκ προνοιῶν κ.τ.λ.

τοῦ μῆ…φόνου γλύπτεσαι] The genitive of a clause containing an accusative of the subject and an infinitive is often used (especially with μή) to denote the object or motive; the dative, the means and instrument or cause (Madvig's Greek Syntax, § 170, and the commentators on Thuc. π 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.—προσώπατα, which may have either a middle or a passive sense, has here almost certainly the latter, especially as we have just had ἐωράμεθα as a passive in § 16.

13—2
εώραται, τοῦ μὴ φόνου γήγενσθαι μηδὲ κατὰ μικρόν ὑπάγεσθαι ἐκ μὲν λοιδορίας εἰς πληγάς, ἐκ δὲ πληγῶν 1263 εἰς τραύματα, ἐκ δὲ τραύματων εἰς θάνατον, ἀλλ' ἐν τοῖς νόμοις εἶναι τούτον ἕκαστον τὴν δίκην, μὴ τῇ τοῦ προστυχόντος ὑργῇ μηδὲ βουλήσει ταῦτα κρίνεσθαι. 

20 εἰτ' ἐν μὲν τοῖς νόμοις οὕτως· ἀν δ' εἴπῃ Κόνων "ἰθυ—

"φαλλοὶ τινὲς ἐσμέν ἡμεῖς συνελεγμένοι, καὶ ἐρώτεις "οὐς ἄν ἡμῖν δόξη παλομὴν καὶ ἄγχομεν," εἶτα γελάσαντες ἡμεῖς ἀφῆσετε; οὐκ οἴμαιν γε. οὐ γὰρ ἂν γέλως ἦμὼν ἐλαβέν οὐδένα, εἰ παρὸν ἐτύγχανεν, ἢμικα εἰλκόμην καὶ ἔξεδυμην καὶ ὑβριζόμην, καὶ ἔμυς ἔξ- 

ελθὼν φοράδην ἦλθον οἰκάδε, ἐξεπετηδήκει δὲ μετὰ ταύθ' ἡ μῆτηρ, καὶ κραυγῇ καὶ βοή τῶν ὑμνακῶν τοσαύτη παρ' ἡμῖν ἴν ὡσπερ εναδε τεθνεῶτός τινος,

„οἴμαι 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 ἐπιεικεία) implied in the next sentence.

τούτοις] repeats the previous dative τοῖς...πράττουσι ('to these, Ισαγ'), and itself emphatically reiterated in the subsequent κακείνοις, referring pointedly to the plaintiff's opponents.

 eius] 'to the extent of.' For this sense, see my note on Eur. El. 1072. P.

22. παρὼν δὲ—γεγένηταί] Cf. § 6 ad fin.

τίν ἂν—δίκηρ;] 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 οἷμα we understand ἀξίαν ἂν τῶν πεπραγμένων ὑπόσχειν δίκην.—ἀπερ νυν, se. πεποιηκὼς φαίνεται.
24 Δαβὲ δὴ μοι καὶ τοὺς νόμους, τὸν τε ὑβρεῖς

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* Bekker st. cum Σ. +οὕτως Λʻkr.

υ τὸν τε addidit Dind. τοὺς Λʻkr. om. Z et Bekker st. cum ΣΦ.

τοῦτον ἐμισεῖτ' ἀν δικαίως] 'even then you would have abhorred the defendant, and rightly too!' or (with Kennedy) 'even then he would have deserved your execration.'

23. προήκται] 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, προάγωνται), 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. προήκται 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 ἑφ᾽ ὑν—κεῖται] 'and that too in the case of acts, for some of which the penalty ordained is death' (referring to laws against ὑβρας and περὶ τῶν λασποῦτων, cf. § 1 ad fin.). ἑφ᾽ ὑν ἐνίοις stands for ἐπὶ τοὺτων ὅν ἐνίοις [or, perhaps, καὶ ταῦτα (ἐξαιμαρτάνουτα) ἑφ᾽ ὑν ἐνίοις. P.] τοῦτον] Conon; ἐκεῖνον, his father (who was probably dead, as we may take αἰσχυνεσθαι as an imperfect imperative); τοῖς, his sons.—The construction of the last clause is ἥξιον ἀν καὶ τούτων (τιμᾶν καὶ δεδείναι) αὐτῶν.

§§ 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 ὑβρεῖς] 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 τούτοις ὤψεσθε. λέγε.

**NOMOI.**

Τούτοις τοῖς νόμοις ἀμφοτέρους ἐκ τῶν πεπραγμένοις ἐνόχος Κόνων ἐστὶν οὔτος: καὶ γὰρ ὑβρίζε καὶ ἐλωποδύτει. εἰ δὲ μὴ κατὰ τούτους προειλόμεθ᾽ ἤμεις δίκην λαμβάνειν, ἤμεις μὲν ἀπράγμονες καὶ μέτρους φαινούμεθ᾽ ἀν εἰκότως, οὕτος δὲ ὁμοίως πονηρός, καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνοι καὶ τῶν δεινότατων ἀν ἢν ὑπόδικος. τὸν γοὺν τῆς Βραυρωνόθεν ἱερείας πατέρα ὁμολογουμένως ὑπὸ ἀψάμενον τοῦ τε-

tὸν 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 (λωποδοσία is found only in a glossary, and λωποδοσίου δίκη in the rhetorician Hermogenes, fl. A.D. 170). Cf. § 1, where λωποδύτων ἀπαγωγή is parallel to ὑβρεῖος γραφαῖ.—See Mayor’s note on Cicero, Phil. p § 8.— Xen. Mem. i 2 § 62 κατὰ τοὺς νόμους, ἦν τὸν φανερὸς γένηται κλέπτων ἢ λωποδυτῶν ἢ βαλαντικοπλων ἢ τοιχωρικών ... τοῦτος δεινότατος ἦστιν ἡ ἡμία. ἀπράγμονες καὶ μέτρους ‘Quiet and inoffensive,’ Or. 42 § 12 μετρου καὶ ἀπράγμονος πολιτοῦ μὴ εὐθὺς ἐπὶ κεφαλῆς εἰς τὸ δικαστήριον βαδίζειν. Cf. Or. 36 § 53.

25. εἰ παθεῖν τί μοι συνέβη] a common euphemism for death. Or. 23 (Aristocr.) § 59 ἀν ἄρα συμβῇ τι παθεῖν ἐκεῖνω. A frequent formula at the beginning of a Greek will was: ἠσταὶ μὲν εὖ, ἦν δὲ τὶ συμβαίνῃ, τάδε διατηθείαι (Diog. Laert. v ii § 51). Cf. Cicero, Phil. 1 § 10, si quid

nihi humanitus 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?’

γοὺν] ‘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
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 κατ’ ἑχονσα τῶν κροκωτῶν ἄρκτος ἡ Βραυροφίαν. Leake's Athens ii 72, and Dict. Ant. s. v. Brauroonia.

πατάξαντι τύπτειν] See Excursus (A) p. 221.

ἐξεβάλεν] not 'expelled' from its own body, but 'banished' from the country. A. Schaefer, Dem. u. s. Zeit iii 2, 114 n.

The change in this case would be what is technically called boleusio, which is best defined as 'id crimen, quo quis, quacunque sit ratione, ipse tamen a necando manus absinens hominem morti studet dare' (Forchhammer, de Areopago, p. 30). Harpocrat. s. v. says that the term is used ὅταν ἡ ἐπίσημολης τῆς των κατασκευάση τόνταν, ἡν τι ἀποθάνη ὁ ἐπίσημολευθεὶς ἡν τε μη. He adds that, according to Isaeus and Aristotle, such charges came before the court ἐπὶ Παλλαδίῳ; 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 ἀκόσιος (Aristocr. § 72), whereas that of the Areopagus had cognisance of φόνον ἐκ προονίας (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).

Ἄρειον πάγον] The form Ἀρειόπαγος is apparently only found in late inscriptions. (See note on Isocr. Paneg. § 78 καλοὶ κάγαθοι.)

ἐὼς ἄν ἀπείπωσιν] 'till they are tired,' sc. οἱ ἀσελγαίνοντες. Cf. § 27, ἐπείδη δ’ οὖν ποτ’ ἀπείπων. Reiske (index Graec.) is clearly wrong in his rendering deliqerint 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-
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. η δίαιτα] Civil actions at Athens, before being brought into court, were almost invariably referred to arbitration. The Arbitrators (διαιτηταί) were either public and appointed by lot (αληθοτά) or private and chosen (αλφεοτά) 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 (Mld.) § 94 τῶν τῶν διαίτων νόμων. The δίαιτα here described was of the former kind. (See further Dict. Antiq. s. v. δίαιτα and Excursus to Kennedy's Demosth. Leptines &c pp. 395—403, or Hermann's Public Antiquities, § 115, 10 &c. Cf. Wayte on Androt. § 27.)

ἐποίησαν—ἐδῶν] 'They prolonged the time beyond midnight.' For the plural νυκτες in the sense nocturna temporα cf. Plato Phileb. 50 ν ὄντων λέγει πότερα ἀργύριος μὲ ἡ μέσας παροικίαι νυκτες, Protag. 310 c, and Symp. 217 ν 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 σε μαρτύραν.—καθ᾽ ἐνα = ἱκαστὸν, 'one by one,' singillatim. Or. 9 § 22, καθ᾽ ἐν ὀφθαλμί περικόπτει καὶ λασποῦτει τῶν Ἑλλήνων (index to Buttmann's Mädius s. v. κατα).

οὐτωσὶ] 'merely,' sic tenere, Homer's αὐτῶς, or μᾶφ ὀὕτως, '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.

Λίθων] The MSS have βωμῶν, which is retained by the Zürich editors but altered into λίθων by others on the authority of Harpocrates: Λίθους Δημοκρήτης εἰς τῷ κατά Κόσμων τῶν τε παρόντων καθ᾽ ἐνα ἡμῶν ὀφθαλμί καὶ πρὸς τὸν Λίθων ἀγώντες καὶ ἐξορκώντες (sic). ἐκάκη δὲ Ἀθηναίων πρὸς τῶν λίθων τούτων ὀρκοῦσι ποιεῖσθαι ὡς Ἀριστοτέλες εἰς τῇ Ἀθηναίων πολιτεία καὶ Φιλόχορος εἰς τῷ γ᾽ ὄπωσμενοιν. So Hesychius, Λίθος βυθός, βωμῶς καὶ βάσις. τὸ εἰς τῇ Ἀθηναίων ἐκκλησίᾳ βῆμα. Flutarch, Solon 25, ὁμονευν
ορκίζοντες, καὶ γράφοντες μαρτυρίας οúdeν πρὸς τὸ πράγμα, ἀλλ’ ἔξετάρας εἶναι παιδίον αὐτῷ τούτῳ καὶ πεπονθέναι τὰ καὶ τὰ, ἃ μᾶ τοὺς θεοὺς, ὃ ἀνδρεῖς δικασταὶ, οὐδείς ὅστις οὐκ ἐπετίμα τῶν παρόντων καὶ ἐμὶ—

27 σει, τελευτῶντες δὲ καὶ αὐτοὶ οὗτοί ἑαυτοῦ. ἐπειδὴ δ’ οὖν ποτ’ ἀπείτων καὶ ἐνεπλήσθησαν ταῦτα ποιοῦντες, προκαλοῦνται ἐπὶ διακρούσει καὶ τῷ μη σημαν-

όρκον ἔκαστος τῶν θεσμοθετῶν ἐν ἀγορᾷ πρὸς τῷ λίθῳ. Similarly what Theophrastus (ap. Zenob. proverb, iv 36) calls the ἱβρεως καὶ ἀναδείας βωμῶν εἰς τὸ Ἀρεοπαγῖον, Pausanias describes as λίθοιν (1 28 § 5).

The word βωμῶν was perhaps originally an interlinear or marginal explanation of λίθον, and subsequently thrust the right word from the text.

The διαιτηταὶ might hold their arbitration in any temples, halls or courts available, e. g. in the temple of Hephaestus as in Isov. Trapez. § 15, ἐλώμεναι δὲ βασανοτάσ ἀπηρημάζον εἰς τὸ Ἡφαῖστεῖον (Dem. 33 § 18). So in Or. 36 § 16 we have seen the temple of Athene on the Ἀκρόπολις 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, βωμῶν, 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) βωμῶς· οὐ μόνον ἐφ᾿ ὄν ἔθνον ἄλλα καὶ κτίσμα τι ἀπλῶς καὶ ἀνάσταμα, ἐφ᾿ οὐ ἐστι βηνὰ τί καὶ τεθηναί. βωμῶν· βαλμῶν.

έξορκίζοντες] Also used in Aeschin. fals. leg. § 85, ἐξορκίζων τοὺς συμμάχους, in the same sense as the more common ἐξορκοῦν (for which see Or. 45 § 58), οὐδέν πρὸς τὸ πράγμα] sc. ὀφθαλμα, ‘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. Π.]

ἀ] The antecedent is not τὰ καὶ τὰ, but the general sense of the whole of the preceding clauses; ‘a course of conduct which, &c.’

tελευτῶντες—ἐαυτοῖς] sc. ἐπετίλμουν 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
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 ἀπόκλησις, 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). Harpocr. quoted on Or. 45 § 15. (See Or. 45 § 59—62, and Or. 59 § 121—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 ἀπόκλησις 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).

[274] All the legal documents (μαρτυρίαι, προκλήσεις &c.) produced during an arbitration or, indeed, any preliminary examination, e.g. an ἀνάκρεας, were enclosed in one or more caskets, or ἐξώνες (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 ἀποθήκες πάλιν σημαίνοντα, τὰ δ' ἀντίγραφα ἐμπαλέσθαι εἰς τὸν ἐξώνα.

τῷ δικαίῳ τούτῳ 'this plea,' ἣδε δίαιτης ἀποφανομένης 'when the award was just being announced.' ἀποφαίνεσθαι, (1) in middle of the διαίτης Or. 33 (Apat.) § 19, εἰς ὅν (sc. ἀνευ τῶν συνδιαιτητῶν ἀποφαίνοις ἐφ' τήν διαιτὴν, § 20 ἐρήμην κατ' αὐτοῦ ἀπεφήνον τῇ διαιτῇ (cf. § 21 τὴν ἀποφάσιν ἐποίησατο; (2) in passīne (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.
28. τόν πρώτον 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 βοσλόμαι τοῦς μάρτυρας παρασχέσαι οἷς εἰδὼν με τρόπερον πηγέντα. ἡ δ’ αἰκία τούτ’ ἑστιν, ὅσ ἂν ἄρ’ ἤριζε Χειρῶν ἀδίκων πρότερος. Cf. Or. 23 § 50, Isoc. Or. 20 § 1, Lysias, Or. 4 § 11.

ἐξων 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 τινας] as special witnesses. § 25 εἰ παθεῖν τι μοι συνέβη, φόνον...ἀν ἦν ὑπόδικος. The speaker implies that had death ensued, Conon would have been liable to a charge of φόνος ἐκ πρωνας. On the jurisdiction of the Areopagus in cases of homicide, see especially §§ 65—70 of the speech against Aristocrates, Or. 23.

tοῦτο τὸ δίκαιον σα. τὴν πρόκλησις

c Προεκαλεσάμην Λ' Κρ.

29. εἰ...οὗ] Cf. § 33 ad fin. προεκαλεσάμην] 'I cited, summoned him,' served him with a πρόσκλησις, not to be confounded with προκαλεσάμην, 'I challenged him, put in a πρόκλησις.' Several ms actually have προεκαλεσάμην,—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
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. ὃν ἕνεκ' ἐκκρούον ταύτ', ἐποίει. As delay and evasion were the object (ὡν ἑνεκα) of the defendant's conduct (§ 27 ἐπὶ διακρόσει and § 29 διακροσίως ἕνεκα), we may at first sight suspect (with Westermann) that ἐκκρούον 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: ὃν ἑνεκα, ἐκκρούον, ταύτ', ἐποίει. Cf. Fals. leg. § 144, ἐκκρούονας εἰς τὴν ὑστεραίαν, and see Or. 36 § 2; 45 § 4; 40 §§ 44, 45.

ἀξιώσας] sc. τοῦ δίκαιου γενέσθαι, 'to have claimed to have this plea allowed him,' i.e. the plea founded on his appeal to the evidence of his slaves.

ἡλέγχετο] The construction is, οὕτως ἡλέγχετο ταύτα πάντα πρὸς τῷ διαίτητα ἀπερ (accusative ἕναν παρα ὑμῖν ἑλέγχεται. Thus the nominative to ἡλέγχετο is the same as that of ἑδείκνυτο in the next clause, and no change of construction is requisite.

πᾶν] not masc., but to be taken with τοῖς ἑγκεκλημένοις.

31. ἐμβάλλεται] Or. 40 § 21 μαρτυρίας ὁμοθέματι ἐμβεβλημένοις, ib. §§ 28, 58; cf. 27 §§ 51, 54; 28 § 1; sc. εἰς τὸν ἑκίνων (§ 27), Or. 49 § 65, ἐμβαλμένου ἔμοι ὅρκον εἰς τὸν ἑκίνων, and 45 § 6. Trans. 'puts in a false deposition endorsed with names which, I take it, you will recognise, when you hear them.'

ἐπιγραφεῖται] Or. 53 § 11, κή-τηρα ἐπιγραφεῖται. The phrase hardly means 'to give in one's list of witnesses' (L and S), but rather 'to have their names inscribed as witnesses.'
γράφεται, it will be noticed, is previous in order of time to ἐμβάλλεται. This ὑστερον πρό-
τερον 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 depictions may be tested. See notes on Or. 35 (Lacer.) § 10 and Or. 45 § 8.

I'καρεύς ... Αλαιεύς ... Πιτθεύς]
The names of the corresponding demes are (1) Ι'καρα, belonging to the tribe Αἰγείς, and placed by Leake p. 103 'in the southern part of Diaeria, not far from the Marathonian district.' (Bursian, however, identifies the Ι'καρον ὄρος with the southern spur of Cithaeron towards Megara, Geogr. 1 251.)

(2) 'Αλαι, a name common to two sea-coast demes, the first 'Αλαὶ Ἀἰξινόες of the tribe Κε-
cropis S.W. of Athens and N.W. of Cape Zoster; the second 'Αλαὶ ᾿Αραφηνίας of the tribe Αἰγείς on the east coast of Attica near Brauron.

(3) Πιθός, of the tribe Κε-
cropis, placed by Bursian N.E. of Athens, near the southern spurs of Pentelicus (Geogr. 1 345). The spelling Πιθεύς is found in the Paris ms Σ, instead of Πιτθεύς of other mss. The latter is recognised by Harpoc.
s. v. Πιτθεύς δήμος τῆς Κεκρο-
pίδος ἢ Πιτθός (sic).—For 'Αρχε-
βαΐδης see note on § 34.

μὴ πατάξαι Κόωνων ᾿Αρίστωνα]
The sense shows that Conon is the subject, Ariston the object. The order of the words is, in itself, inconclusive.

ὁ—λογουμένους] The accusa-
tive absolute of the partici-
piple is here used with ὁ, as often with ὁστερ (quasi verum): 'imagining that you will at once give credence, instead of drawing the true inference.'

32. ἄν] is constructed with ἰδέλθησαν, five lines distant.

Νικήρατος] possibly the Ni-
ceratos to whom Demosthenes pathetically refers in Or. 21 (Mid) § 165 Νικήρατος ὁ τοῦ Νι-
kion ἀγαπητὸς παῖς, ὁ παντά-
μεμαρτυρήκασιν ὁρᾶν ὑπὸ Κόνωνος τυπτόμενον ἐμὲ καὶ θοιμάτιον ἐκδούμενον καὶ τάλλα ὅσα ἔπασχον 
ὑβρίζομενον, ἀγνώτες ὄντες καὶ ἀπὸ ταυτομάτου παρα-
1267 γενόμενοι τῷ πράγματι τὰ γεννεῖ μαρτυρεῖν ἡθέλη-
σαι, εἰ μὴ ταῦθ᾽ εὕρον πεποιθότα· ἐπειτ' αὐτὸς ἑγὼ 
ουδέποτ' ἂν, μὴ παθῶν ὑπὸ τούτον ταῦτ', ἀφείς τοὺς 
καὶ παρ' αὐτῶν τούτων ὁμολογουμένους τύπτειν ἐμὲ, 
πρὸς τὸν οὖν ἅφαμεν Πρῶτον εἰσιέναι προειλόμην.
τί γὰρ ἂν; ἀλλ' ὑφ' ὅτι πρὸς τόν ἐπιλήγην καὶ μάλισθ᾽ 33 
ὑβρίσθην, τοῦτο καὶ δικάζομαι καὶ μισῶ καὶ ἐπεξέρ-
χομαι. καὶ τα μὲν παρ' ἐμοί πάνθ' οὕτως ἐστίν ἀληθῆ 
καὶ φαίνεται· τοῦτῳ δὲ μὴ παρασχομένῳ τούτους μάρ-

πασιν ἄσθενῆς τῷ σώματι. Ισο, 

he would be a great-grandson 
of the Nicias, who commanded 
in the Sicilian expedition.

[θοιμάτιον ἐκδούμενον] § 35. 
Lysias Or. 10 § 40 (with reference 
to the term λωπωδύτης) εἰ 
tις ἀπάγοι τινὰ φάσκων θοιμάτιον 
ἀποδεδόσθαι ἢ τῶν χιτωνίσκον 
ἐκδοσίσθαι, where θοιμάτιον (as 
here) and χιτωνίσκον (as 
were not the subject). 

τὰ γεννεῖ] 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 γεννεῖ ἄν ὄντα εἰ 
mη ταὐθ᾽ ἑωρον. 

ἐπειτ' αὐτὸς ἑγὼ] refers to ὅτι 
πρῶτον μὲν (οἱ μάρτυρες) and still 
subordinate to the distant ὅτι. 

πρῶτον] adverb, to be taken 
with εἰσίεναι, contrasted with 
ὑφ' ὅτι πρῶτον ἐπιλήγην. ‘I pro-
secute first the man who struck 
me first of all the assailants.’ 
This seems better than to take 
it with ἅφαμεν, ‘him who did 
not even touch me first.’

eiσιéναι] εἰς τὸ δικαστήριον. 
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 ὧν 
or γραφήν as accusative after it. 
See note on Or. 45 § 7.

33. τί γὰρ ἂν] ‘Why should I?’ 
The ms have the interpolation, 
ἡ διὰ τί; probably a mere ex-
planation of τί; as equivalent to 
διὰ τί;

δικάζομαι ... μισῶ ... ἐπεξέρχο-
μαι] ‘Sne... 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 πα-
ρασχόμενος = εἰ μὴ παρέσχετο.
eikōtow] to be taken with τα ψευδή μεμαρτυρηκασι, not with κοινωνον.

ei δ' ἕσταται 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 (consequently) truth has no advantage, it will be an atrocious state of things.' The simple construction would have been as follows: εάν δὲ ἄπαξ ἀπανασχυντήσωσι τινες καὶ τὰ ψευδὴ φανερῶς τολμήσωσι μαρτυρεῖν, οὐδὲν ἕσταται τῆς ἀληθείας ὦφελος· εἰ δὲ ἕσταται τὸ πράγμα τοιοῦτον, πάνθευνον ἕσταται.

As it is, Demosthenes, by writing τοιοῦτον in the early part of the sentence, leads us to expect ὡστε, which however never comes; we have, instead, the clause εάν, κ.τ.λ., exegetical of τοιοῦτον. Again οὐδὲν τῆς ἀληθείας ὦφελος is in sense the apodosis of εάν...τὰ ψευδὴ τολμήσωσι μαρτυρεῖν, but in construction is made part of the protasis, πάνθευνον ἕσταται πράγμα being left to do duty as an apodosis, and πράγμα necessarily repeated owing to the long interval that separates the apodosis from τὸ πράγμα in the protasis.

For ei—οὐδέν, see note on Or. 34 § 48.

ἀπανασχυντήσωσι] used of unblushing effrontery. Cf. ἀπανασχυντήσωσιν. Or. 29 § 20, τὸ μὲν πρῶτον ἀπηρασχυντεῖ, τοῦ δὲ διαιτητοῦ κελεύστως μαρτυρῆν ἢ ἐξομνύειν, ἐμαρτυρήσε τῶν μᾶλλος.

34. ἀλλὰ νὴ Δία] used, as often, like at enim, to introduce emphatically an anticipated rejoinder on the part of the opponents. ‘Oh but, good heavens! they are not such characters as I make them out.’ The phrase may be seen in its fullest form in Or. 20 § 3 ἀλλὰ νὴ Δ' ἔκεινον ἢ Ἰως εἰποὶ πρός ταῦτα.

§§ 34—37. Many of you know the characters of the witnesses for the defence,—men who, in the daytime, affect an austerity which is very inconsistent with their conduct when they meet together. They will unscrupulously contradict the evidence on our side; but you will remember that I rely on medical witnesses, whereas my opponents have no independent testimony, and, but for themselves, could get no evidence at all against 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.
31. 'Αρχεβιάδην] This worthy, who has already been mentioned among the witnesses in §§ 7 and 31, and must not be confounded with the still less known 'Αρχεβιάδης ο Λαμπτρεύς (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 iii. ἢν δὲ τις 'Αρχεβιάδης ἐπικαλομένος Λακωνιστῆς, πώγωνα τε καθεμένον ὑπερφήνι μεγέθει καὶ τρίβωνα φορῶν αὐτῆς, καὶ σκυθρωπάξων τούτον ἐν βουλής θορυβομένον ὁ Φωκίων ἐπεκαλείτο τῷ λόγῳ μάρτιν ἁμα καὶ βοηθῶν. ὥσ δὲ ἀναστάς ἑκείνον ὁ πρὸς χάμω ἢν τοῖς Ἀθηναίοις σωβεβουλεύειν, ἀφάμενον αὐτοῦ τῶν γενεάων "ὁ 'Αρχεβιάδη" εἰπε "τί ὅνω ὅτε ἀπεκεφάλω;" It will be observed that Plutarch's anecdote contains several points of coincidence with the passage before us.

τὸν ἐπιτόλον] 'the grey-headed man yonder' (present in court). Aristot. de gen. anim. ν 5 § 3 ἐπιπολοῦνται αἱ τρίχαι 'the hair grows grizzled.' [ἐπιτόλος is perhaps much the same as the Homeric μεσαντόλος, II. 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.

'λακωνισμοὶ] i.e. 'pretend to imitate the Laconians.' Plato Protag. 342 b, οἱ μὲν (sc. ἐν ταῖς πόλεσι λακωνισμοῖς) ὡτά τε καταγγέλλει (i.e. get their ears battered) μιμούμενοι αὐτοὺς, καὶ ἰμάντας περεύστησαν καὶ φλογιμαστοῦσαν καὶ βραχείαν ἀναβολᾶς φοροῦσιν, ἦς δὴ τούτοις κρατοῦτα τῶν Ελλήνων τῶν Ἀθηναίων. Ar. Aves 1281 ἐλακωνομόν τούν ἀπαντεῖ ἄνθρωποι τὸτε ἐξόμοι, ἐπεινὼς, ἐρρύτων, ἀσκαράτων, ἐσκυθρωπάροι (v. Becker's Chari- cles p. 63 with n. 8).

τρίβωνα] Sometimes mentioned as characteristic of Laconians. Plutarch Nicias 19; τοὺς Σικελωτὰς...εἰσποττοῦσα εἰς τὸν τρίβωνα καὶ τὴν κόμην (of Gyllippus the Spartan general) ἐν τῇ βακτηρίᾳ καί τῷ τρίβωνι τὸ σύμβολον καὶ τὸ ἐξώμα τῆς Σαρτης καθοριστεῖ...Athanaens xii 50, p. 535 (quoting the historian Douris) Πανσαφιαὶ δ ὑπὸ τῶν Σαρτητῶν βασιλέως, καταθέμενος τὸν πάτριον τρίβωνα, τὴν Περσικὴν ἐνεδίετο στολὴν. [At the same time, the regular dress of the old Athenian deist or ecclesiast was the τρίβων and the βακτηρία, both often mentioned in Aristoph. e.g. Vesp. 33. P.]

ἲπλᾶς ὑποθέσατα] 'wear single-soled shoes,' sc. ἐμβάδας. Harpocratio ἠπλᾶς Δημ. κατὰ Κόμωνος. Καλλιστρατὸς φιάσα τὰ μονόπελμα τῶν ὑπόδηματος ὦν καλεῖται. Στράττις Λημυσμέδη, ὑποθήματα σαν ὑπάρχαι τῶν

P. S. D. II.
úpoodéntai, épeidh' dé svllleugwsoi kai mév' alllhýnov
35 yéontai, kaka'n kai aícxyrov ou'dén évleipousu' kai
aútha tâ lámpvra kai nevaniká èstiv avtvw. "Oú gar
h'meis mártvyrísomenv ãllhýov; oú gar távth' ètárrw
èsti kai filwv; tî dé kai deivnòn èstiv òv parèxetai
"kata sóv; tuptómevov fassy tines órav; h'meis dé
"mê' ëfðav to parátpavan mártýrísomenv. ékddedvßhav 1268
"thólmátov; tôúte ékeinvn próteron pepoíkénai h'meis
"mártýrísomenv. to xellos èrráfthai; tîn kefalyv dé
36 "h' h'meis ë etervn ti kateagýnavi físsomenv." állh' kai
mártvras iatpous parèxomai. tôúte ouk èstivn, ò av-
drēs dikastai, parâ tòutous. ôsa gar mi' di' avtvw,
oudevos mártvros kath' h'movn evptoríssouv. h' ò ap'
avtvw òtomósths ou'd' ìn éiteivn mà tòus theous ðu-
îplóv.' Bekker, Anecd. 205
âp'la: úpotódhmatos ðidos Lakkón-
kow k.t.l. They had only one
thickness of sole and were ap-
parently more like slippers than
shoes. (Bekker, Charicles, p.
449.) There was also a more
elegant kind of shoes known as
Lakonikai (Ar. Vesp. 1158). For
the general drift of the sentence
cf. Isæus Or. 5 § 11 ðweðízai kai
ëgkalei autw' òti èrídaðas kai
trwbwia foroi õwtep ðokómuvenos
ti el èrídaðas ðÝfíhí àsos foroi,
ál' ouk ãdíkwv òti õfèlómenos
avtvw tâ ðwta pénta pétoíkewn.
svllleugwsoi] sc. ðuykovs, con-
trasted with mév' ëmèravan mév.
kaav' kai aíçxyrov' 'wicked-
ness and indecency.'
35. tâ lámpvra kai neanikâ]
'their splendid and spirited
pleas.'
ùw gar k.t.l.] 'What! sha'n't
we, ñ?' quidni õigitw?
ñw parèxetai] constr. tî dé kai
deivnòn èstiv ëk tòutwv ò parèxetai
ò 'Arkstov kath' sóv; 'is there
any serious harm, anything
really worth fearing?'
ëfðav] passive, referring to
Ariston, like tuptómevov just be-
fore, 'h'mai is pf. mid. in Soph.
Tr. 1009 (ëptav) and Pl. Phaedr.
260 (ëfðav)' (we may add Dem.
Or. 51 § 5, ëfðav tîs trhívov
òtov); 'pf. passive in Eur.
Hel. 107, Ar. Pl. 301 and Thuc.
1v 100.' Veitch, Greek Verbs,
ërráfthai] § 41, tò xellos dia-
kostes õtovs õwte ðaðvnhvai.
This was doubtless part of the
surgeon's evidence in § 10.
kateagýnavi] second perfect in
passive sense. For other con-
structions, cf. Plato Gorg. 469 v,
tîs kefalyv kateagýnavi kai Lys.
Or. 3 § 40 kategýnav ti kefalyv
ùp' avtvw.
36. ðoa ðh'] 'except what is (de-
posed) by means of themselves';
'nâm nisi quod sibi ipsi testa-
buntur nihil adversus nos te-
tem habeunt.' Plutarch Timol.
3, ðrâs diaferóntos õsa ðh' mu-
syronvov õvni kai õmopsýntovos.'
G. H. Schaefer.
ñ—ëtomóstha] On this circum-
location, see Kühner, Gk. Gr. II p. 288.

δη καὶ οὖα] quanta et qualis. ‘In heaven’s name, I could not tell you the extent and the character of the readiness existing on their part to perpetrart anything in the world.’ Cf. the common collocation τοσοῦτος καὶ τοσοῦτος (e.g. § 37), which may often be conveniently paraphrased as above.

[(να εἰδῆτε) The speaker uses the plural in addressing the δικασταί, and passes off to the singular λέγε, on turning to the clerk of the court.

ἐπιλαβε τὸ ὕδωρ] Or. 45 § 8; 57 § 21; Lysias Or. 23 §§ 4, 8, 11, 13, 15; Isaeus Or. 2 § 34; 3 § 12. The κλεφύδρα (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 measured by the κλεφύδρα. Or. 36 ends with the words ἐξῆρα 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 ὅλων ὕδωρ ἀναγκαζόμενος λέγειν, infra § 44; 40 § 38; 44 § 45; 53 § 3; 59 § 20; Deinarchus Or. 1 § 114; 2 § 6. Aeschin. Fals. leg. § 126 πρὸς ἐνδεκα ἀμφόρεις ταῖς διοικήσεωις τις ἐπισκοπήν τοις ἐπιβαίνοντες. When Goethe visited Venice, in Oct. 1786, and went to see a trial in the Ducal Palace, he found a custom in force singularly similar to that implied in the text. Whenever the advocate spoke, the time that elapsed was measured with an hourglass, which was laid on its side while the depositions were read: ‘so lange nämlich der Schreiber liest, so lange läuft die Zeit nicht’ etc. (Italienische Reise p. 68 Dümpter).

37. τοίχους διορύττοντες] The documents just read have been exposed to the defendant’s witnesses being guilty inter alia of housebreaking (τοιχωρυγία). Hermann, Rechtsalt. ed. Thalheim p. 40 f. γραμματείδιῳ ‘a mere bit of
kótès tosoantíth s và tosantíth filapexchymoosúngés kai
poumhrías kai ánaideías kai ñ'bréos; pánta gá ré taht'
émou' év toûs upó toûtov prapatoménov éneína dokeí.
Káitoi kai toûtov éter' éstì pepragména toûtov déi-
nótéra, álì hémeis oux oio té gevoímeth' án pántas
éxeuрей toûs ñ'dikxemévous.
38 "O toûn pánton ánaidéstato méllleiv autôn
ákouw poieín, bélntov nymiçw próeitpev ímín évna.
fasì gá ré parastrapthnoímeno toûs páidas autôn kata
toûtov ómeísthai, kai árás tinas deivás kai xalxepíás
paper,' 'a paltry document.'
Or. 56 § 1 én grámmateúdo dvóv
chalkóv éoxymônov kai biplódw
mikró pánu. Isocr. Trarpe. § 34.
The diminutive is thrown into
effective contrast by the subse-
quent tosantíth và tosantíth.
'quarrelsomeness,' used also by
Isocr. antid. § 315, ómóthea kai
miasanbropián kai filapexchymo-
súngv. Dem. Or. 24 § 6 poumrô
kai filapexchémw và theów éx-
ðrh.
Káito—tóitov] a fortuitous
hexameter.
§§ 38—41. Mæs waran you
that Conon will try to impose
upon you by swearing by the
lives of his own sons and by
other strange imprecaions. 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 prose-
cute really assaulted and bru-
tally maltreated me.
38. parastrapthnoímeno toûs pái-
das] The practice of exciting
the compassion of the jury by
bringing the children into court
is often referred to, e.g. Or. 21
§ 99, páidia gá ré parastrapthnetai
kai klíastei kai toûtov autôn éx-
aístvetai, and Hyperides, Eux-
nipp. ad fin. égâ mén oux sôl
Euxénippe bebohýka ñsâ eivón
loxtov ð' éstì dèv nìthai tîov ókka-
stov kai toûs filovs paraka-
lev và tâ páidia ánabíbáxeiathai,
(see especially Aristophanes'
ridicule of the custom in Vespræ
568—71 and 976—8). But in
the present case a still more
sensational effect is to be pro-
duced 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.
Káta toûtov ómeísthai, 'to
swear by them,—by their lives,'
káta implies the basis on which
the oath rests [or, perhaps, hos-
tile action directed against the
object sworn by. So in Ar. Equit. 660, κατὰ χιλιαν παρηγορεσα ευχην ποιησασθαι χυμαρων, the vow is, as it were, aimed at the lives of the creatures to be sacrificed. P.]. Thuc. v 47, ὀμνισσων των άργων κατα ιερων τελειων, Isaecus Or. 7 § 16, ομνισσαι καπ' ειρων, Lys. Or. 32 § 13, επιορκησασκα κατα των παιδων των εμαυτης, Dem. 29 § 26 ἡ μητηρ κατ' έμοι καλ της δεδελφης πιστων ήθελεσεν επιθευαν, 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 έστι δικαιον...τους μεν νόμους προλεγειν...παιδοποιεσθαι κατα τους νόμους...ετε δε τους ου γεγενημενους εις σαυτω προποιεσθαι παρα τους νόμους των εν ταις κρησεις ένεκα γεγονομενων άργων.

ἀκηκως—ἀπήγγελεν i.e. 'our informant listened to them in amazement.'

ἀνυπόδοτασα] 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 (υπό των των τουούτων σκ. τολμηματων).


οü μην ἀλλα] = 'not but that.' The phrase is always elliptical: here we may supply ου μην (υπό των των τουούτων δεi εξαπατασθαι) ἀλλα...

προσ των βιων—πιστευει] 'You must turn your eyes (away from a πδ...his solemn assurances in court) to his life and character, and then believe him (if you can).'

39. προσ τα τουαιτα] sc. ορκους.

πεπυσμαι—άναγκης i.e. the defendant has forced the enquiry upon me (cf. § 17 fin. άνάγκη...)

παρ' ουμιν άπεθανε] 'was condemned to death in your court, —by your verdict.'

'Αριστοκράτηρι] Probably identical with the person mentioned in Or. 38 § 27 των αισχρων εστι

k Beck. cum H. Wofjo et corr. S, -σασθαι Ζ cum k.

1 άπήγγελλεν Ζ et Bekker st. cum Σφ.
..tā mēn ἀποκατεσθίοντας καὶ παρουσίασε ὑπὲρ Ἀριστοκράτους καὶ Διογένητον καὶ τοιούτων ἐτέρων αἰσχρῶς καὶ κακῶς ἀνηλωκέναι.

τῶν τούτων ὄφθ. διεφθαρμένων] τὸ man with the bad eyes' (perhaps blind from ophthalmia, luscus). For pass. of διαφθέρω used of impaired sight or hearing, and similar physical defects, cf. Aeschin. 1 § 102 πρεσβύτης διεφθαρμένος τῶν ὀφθαλμός, Hdt. i 34 ἦσαν τῷ Κροίῳ δύο παιδία, τῶν ὀφθαλμῶν μὲν διεφθαρμένη, ἢ γάρ δὴ κωφός, and ib. 38 διεφθαρμένος τὴν ἀκοήν. Dem. Or. 13 § 13 διὰ τὰ ὡτά πρώτων ὑμῶν ἱάσασθαι, διεφθαρμένος γάρ.

Τριβαλλοῦς] See Excursus (D) p. 228.

τὰ Ἐκαταία] Once every month, at the time of the new moon, dishes of food were set out for Heceate 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 τῇ Ἐκάτης ἐξεστιν τοῦτο πυθέσθαι εἰτε τὸ πλούσεων εἰτε τὸ πεινήν βέλτιον. φησι γὰρ αὐτῇ τοὺς μὲν ἔχοντας καὶ πλούσιοτας δείπνον κατὰ μῆν’ ἀποπέμπειν, τοὺς δὲ πείνας τῶν ἀνθρώπων ἀράζειν πρὸ καταθέναι (with the Schol. Jn. Venal ν 85, 'εἰσίγα σεβασμος εὐνοι πατελλὰ,' Psalm evi 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.] InLucian's dialogues of the dead (1 § 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... εὐπλησμένον τὴν πήγαν ἤκει θέρμων τε πολλῶν καὶ ἐξ ποιοῦ ἐν τῇ τριῳδῷ Ἐκάτης δείπνῳ κεῖ μεν ἔκ καθάρασιν ἢ τι τοιούτων.


After the word Ἐκαταία 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' ἀγναθά κατα-πινεῖν) neither can be considered probable. Baitei leaves out the verb, thus making κυλλέγοντας
ek ton xoirown", osis kathairoston otan eisicenai mellassi, suillgeontas ekastote s unnedeinvein allhlois, kai ravan omenwa kai epiorkein h otiovn. ou di Konou o toioitos 40

n tas drves (drves KB) tas ek ton xorwn (xorwn krA) ais libri.

govern 'Ekataia as well as drves. Westermann suggests klestein but follows Baiter. kataskeuen may perhaps be accounted for by supposing that 'Ekataia or kataia was erroneously written twice by an early copyist; a subsequent copyist might alter this into the nearest verb he could think of, kataskeuen; this would be seen to be wrong by a still later writer, who would substitute the intelligible word katestheun.

tous drves tou la ek toon xoi-

wron. The mss have tas drves (or drves) tas ek ton xorwn (or xorwn) ais. 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).

Harpocor. (and Photius) ka-

tharosou. Aischnis kata Timaercho (§ 23, of the ekklisia, expeidw to katharosou perinecheth), eidos h Antheta kathairein ton ekklisian kai ta theata kai olws tas ton diwmon synodosoymikoripnon xoiroidiois aper swnomai/on katharos: toito d' esti oui lege-

mevnoi peristairkhein, ouper swnomai/thena esti oui/hou apo ton per-

steixhein h ap'tis estias. (Ar. Eccl. 128, o peristairchos per-

feren xorh ton...gallh, Ach. 44

w5 an evndes yto tou katharomatou.)

kathairostai] A plural indefinite, with the subject omitted; cf. the frequent use of fvasi, legouosi, onoma/zw.

eisieinai] see. eis tin ekkl-

siav, etc. Hence elosc/ria (Fals. leg. § 210 with Shillete's note).

h otiovn] 'They think less of swearing and perjuring them-

selves than anything else whatever, ' than anything else in the world.' Or. 56 § 15 oude ge maillon h otiovn.

40. ou dhi...oude pollov dei] Here, as usual in this phrase, oude reiterates the preceding negation (ou dhi), but does not negative pollov dei although closely pronounced with it. (Cf. Fals. leg. § 33 ou gar...ta pragramat' esti faula...oude pollov dei, with Shillete's note.) We have an apparent exception to this rule in Or. 18 § 20 fvas/etai gar oude pollov dei tis genvsou-

meneis aixion aischnis, where there is no preceding negative expressed. The exception may however be explained on the supposition that fvas/etai is ironical and therefore implies a negative: ou gar fvas/etai tis genvsoumenh aixion aischnis, oude pollov dei.

ou dhi k.t.L. 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),
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 μηδὲν after ὤν μὴ νομίζετε, and accounting for its loss by its similarity to the subsequent μηδὲν ἂν. The mss vary between μηδὲ ὄν and μηδὲν, and this proposal combines the two alternative readings. The sentence would then run thus: ὃ μηδὲν εὐφροκον μηδὲν ἄν ὁμόσας, κατὰ δὲ δὴ παίδων, ὃν μὴν νομίζετε, κατὰ δὲ δὴ τῶν παίδων μηδὲν ἄν μελέλησας. Thus ὃν μὴ νομίζετε depends on μηδὲν 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 ὃν νόμισεν. See Dobree quoted in critical notes.

μηδὲν εὐφροκον] Isocr. ad Dem. § 23 ἑνεκα δὲ χρηματῶν μηδένα θεών ὁμόσας, μηδὲν ἐν εὐφρείνον ἐλέησιν. καὶ ὁτιοῦν παῖδων πρότερον

'Would submit to anything sooner than that,' i.e. rather than swear by an oath contrary
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, εγὼ...ο δικαίωτέρον σου πιστευεῖς ἃν, 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 (ἡμεν δὲ ἐτοιμαὶ καὶ μύδρους ἀφένεις χερον, καὶ πῦρ διέπειν καὶ θεὸς ὀρκωμοτειν), and possibly implied in Ar. Lysistr. 133, ἀλλ' ἀλ' δὲ τι βούλει, κἂν με χρή, διὰ τοῦ πυρός ἑθέλω 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, ἐγώγυ οὖν μετὰ Κλεινίου καὶ διὰ πυρός ίσην, and Oec. xxxi 7, ἀκολουθήτων...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 ἀραὶ δειναί καὶ χαλεπαί obscurely hinted at in § 38. G. H. Schaefler simply says: 'vertam, vel dum avis 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 ψηφον κασμένους 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 ἑόντος, where the participle would easily have been lost by homoeoteleuton with ὁμώνυμος.

πιστευεῖς ἃν] See on § 1 ad fin. For the passive, formed just as if the active were directly transitive, and took the accusative, cf. § 5 παροιμομένους and § 2 παρανομομεθαί. ἡθέλησα ὁμόσαι ταύτα] 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 ὅτι οὖν.
υπέρ τοῦ μὴ δούναι δίκην ὃν ἡδίκηκα, καὶ ὅτι οὐκ ἔχων ποιῶν, ὡσπερ σὺ, ἀλλ' ὑπέρ τῆς ἀληθείας καὶ ὑπέρ τοῦ μὴ προσυβρισθῆναι, ὡς οὐ κατεπιρκηθησόμενος τὸ πράγμα. Λέγε τὴν πρόκλησιν.

ΠΡΟΚΛΗΣΙΣ.

Ταῦτ' ἐγὼ καὶ τὸτ' ἡθέλησα ὁμόσαι, καὶ νῦν ὁμοῖω τοὺς θεοὺς καὶ τὰς θεὰς ἀπαντας καὶ ἀπάσας' ὑμῶν ἔνεκα, ὡς ἀνδρες δικασταί, καὶ τῶν περιστηκότων, ἢ μὴν παθῶν ὑπὸ Κόνωνος ταῦτα ὁν δικάζομαι, καὶ λα-1270 βῶν πληγάς, καὶ τὸ χείλος διακοπεῖς οὕτως ὅστε καὶ ῥαφῆς, καὶ ῥυμισθεὶς τὴν δίκην διώκειν. καὶ εἰ μὲν εὐροκῶ, πολλὰ μοι ἀγαθὰ γένοντο καὶ μηδέποτ' αὕθης τοιοῦτο μηδὲν πάθοιμε, εἰ δ' ἐπισφορκο, ἐξωλῆς ἀπολοίμην

κατεπιρκηθησόμενος] An emendation for κατεπιρκηθησόμενος, 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. καταπληκτείς ('to lose by negligence') in Or. 4 § 7, καταπληκτικαμένα πάλιν ἀναλήψεθε, and κατεπάδευν, 'to subdue by charming' (Pl. Gorg. 483 ε').

41. τῶν περιστηκότων] Aeschin. Ctesiph. § 56 ἄποκρινομαι ἐναντίον σα τῶν δικαστῶν καὶ τῶν ἄλλων πολιτῶν ὅσοι δὲ ἔξωθεν περιεστάται, 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. lxii).

καὶ εἰ μὲν εὐροκῶ—ἐσεσθαί] Quoted by Aristides (ii 487 Rhet. Graeci, Spengel), together with the famous adjurations of the speech de Corona (§§ 1 and 141), to exemplify ἀξιωπιστία brought about by ὅρκος and ἀρ. ἐξώλης] Or. 49 § 66; Fals. leg. § 172, ἐξώλης ἀπολοίμην καὶ προώλης εἰ..., and in § 70 (after quoting the solemn form of imprecation used before the meetings of the βουλῆ and ἐκκλησία) the orator adds: εὐ-χεσθ' ἐξώλης 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 νόμον (§ 40).
diarrhaio], se. λέγων ὡς ἐπιορκῷ, '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 κοινοῦ, οὐχ ὁ ἐμός, οὗτο ἀν σὺ διαρράγῃς πενδόμενος.

πίστων = ὅρκον, Or. 49 § 42 πίστων ἠθέλεσα ἐπιθέειν.

§§ 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. πάντα — δίκαια] perhaps πάντα δίκαια ὡς ἐστὶ (not πάντα ὡς δίκαια ἐστι). If so, we should read ἐστὶ for ἐστὶ.—πίστων προσθέντος § 41, alluding to νῦν ὁμοίων κ.τ.λ.—παθῶν = ei ἐπαθεν.

τὴν ὀργήν ἔχειν] Or. 21 (Mid.) § 70, ei τινῶν τις ὑμῶν ἄλλως πως ἔχει τὴν ὀργήν ἐπί Μειδιαν ἦ ὡς δέον αὐτῶν τεθνάναι, οὐκ ὀρθῶς ἔχει. Ρ.]

δ.—συμβαίνῃ δ καὶ ἄλλω (τυχῶν) συμβαίνῃ ἄν, 'which might, perchance, happen to another.' For acc. abs. τυχῶν (like παρασχῶν, ἔξων, μετῶν, Kühner§ 487,3) cf. Isoc. Paneg. § 171 τυχῶν ᾧ 

τὰ δίκαια ἀποδιδόναι] To grant him the claims which are his due'; ἀπο-, as in ἀπολαμβάνει, '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.' [Or. however Or. 21 (Mid.) § 30 νῦν ὁμοίως ἑθέσαν πρὸ τῶν ἀδικημάτων ἐπ᾽ ἀδικήσας τοῖς ἀδικήσασιν. Ρ.]

μὴτ ἔθους...φροντίζοντας Cf. § 40 ᾧν μὴ νομίζετε.

43. δείστηκα...καὶ κλαθεὶς] Or. 30 § 32 ἀναβάς ἐπὶ τὸ δικαστήριον ἐδείκτω, ἐκείσεων ὑπὲρ αὐτῶν καὶ ἀντιβολῶν καὶ δάκρυσι κλαίαν.

Cf. Or. 53 § 29.—prosububriseth is further explained by δίκης
44. Ἡμὰς ἤμεις χρήσιμοι, καὶ αὐτοὶ καὶ οἱ πατήρ, ἔως ἐξή, καὶ τριηραρχοῦντες καὶ στρατευόμενοι καὶ τὸ προστατήμενον ποιοῦντες, καὶ ὃς οὔθεν οὐθ’ οὔτος οὔτε τῶν τούτων οὔδεις’ ἀλλ’ οὔτε τὸ ὑδωρ ἵκανον οὔτε 1271 νῦν περὶ τούτων ὁ λόγος ἐστίν. εἰ γὰρ δὴ ὁμολογούμενος ἔτι τούτων καὶ ἀρχηστοτέροις καὶ ποιηστοτέροις ἠμὲν εἶναι συνεβαίνειν, οὐ τυπτητεῖον οὔδε ὑβριστέοι δήποτε ἐσμέν.

μὴ τυχόν. See note on § 15, ύβρισθήναι.

ἡ μὴ 5 sc. ἐξεῖναι, not συμφέρει. The latter would require οὐ.

ἀν μὲν ἀφίητε κ.τ.λ.] Isocr. κατὰ Λοχίτου (αικίας) § 18, τοὺς ἄλλους πολέμας κοσμίωτέρους ποιήσετε καὶ τὸν βλοῶν τὸν ἵμετέρον 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. Forever 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 τί, πρὸς τί, ἐπὶ τί 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 ὑδωρ, see § 36.

τούτων...ἀρχηστοτέροις] More unserviceable, more useless, to the state than our opponents. For the dat. συνέβαινεν ἠμὲν εἶναι ἀρχηστοτέροις cf. § 16 αὐτοληψώθως συγχωροῦμεν εἶναι τοὺς ὑδώρι.

ἀρχηστός is here contrasted with χρήσιμος and, as often in the Orators, is used in the same sense as ἀρχεῖος in earlier Greek writers.

τυπτητέω] formed like τυπτῆσαι as if from *τυπτεόω, cf. τετυπτήσαι in Argument 1. 2. See Excursus (A), infra.
LIV. KATA KONΩΝΟΣ ΑΙΚΙΑΣ. 221

Οὖκ οἶδ᾽ ὃ τι δεῖ πλεῖω λέγειν οἴμαι, γὰρ ύμᾶς οὖδὲν ἁγνοεῖν τῶν εἰρημένων.

* οἴμαι *Ζ* cum Σ.

οὖκ οἶδ᾽—εἰρημένων] The very same sentence (with the addition of the phrase ἐξέρα τὸ ὕδωρ) occurs at the close of Or. 36. On ὃ 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 ἐπίλογος ἔστιν οὐδὲ δικαίως (λόγον) παντὸς, οἷον ἑαυτύ μικρός ὁ λόγος καὶ τὸ πράγμα εἰμινημόνευτον.

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 τυμά-ω, our model verb would have had one aorist only in each voice, ἐλυσα, ἐλυσάμην, ἐλύθην; ἐτύμησα, ἐτυμησάμην, ἐτυμήσθη. Had a verbum purum ending in -μι been taken, e.g. φη-μί, δίδω-μι, ἵστη-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 (\(\tau\nu\pi\epsilon\)s and \(\tau\nu\pi\tau\omega\)), whereas in \(\lambda\epsilon\pi\omega\), \(\phi\alpha\iota\omega\), \(\tau\iota\kappa\omega\) as compared with \(\epsilon\lambda\iota\omega\nu\), \(\epsilon\phi\alpha\varepsilon\nu\), \(\epsilon\tau\alpha\kappa\eta\nu\), 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 \(\beta\) in \(\epsilon\beta\lambda\iota\beta\eta\nu\) becomes \(\pi\) in \(\beta\lambda\alpha\iota\tau\omega\), no such alteration is necessary in passing from the \(-\tau\nu\pi\)- of the second aorist to the strengthened form \(\tau\nu\pi\tau\)- 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 Juniorum reportavit in Italiâ litteras grecas*. The paradigm may also be traced still further

* On Chrysoloras, see Hody, de viris illustribus cap. ii, and Voigt’s Humanismus iii 225, 234; and cf. Hallam’s Literature of Europe 1 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, 1 pp. 391—396, where it is called ‘the Greek Grammar.
EXCURSUS (Δ).

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 γραμματικὸν εἰσαγωγικὸν κανόνες περὶ κλάσεως ῥημάτων in Bekker's Anecdota Graeca, 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 Graeca, 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: διαβέσεις δέ εἰσι τρεῖς, ἐνέργεια, πάθος, μεσότης: ἐνέργεια μὲν οἷον τῦπτω, πάθος δέ οἰον τῦπτομαι, μεσότης δὲ ἡ ποτὲ μὲν ἐνέργειαν, ποτὲ δὲ πάθος παριστώσα, οἶον τέποιθα, διέφθορα, ἐποιησάμην, ἐγραφάμην*. Shortly after, he proceeds: ἀριθμοὶ δὲ τρεῖς, ἐνικός, διικός καὶ πληθυντικός: ἐνικός μὲν οἷον τῦπτω, διικὸς δὲ οἰον τῦπτετον, πληθυντικός δὲ οἰον τῦπτομεν: πρόσωπα δὲ τρία, πρῶτον, δεύτερον, τρίτον: πρῶτον μὲν οἷον τῦπτω, δεύτερον οἰον τῦπτει, τρίτον οἴον τῦπτει.

of the first century of the Renaissance. 'It served Reuchlin for a model at Orleans, was used by Linacre 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 1484. Hallam i p. 180 ascribes to about the year 1480 a small quarto tract of great rarity, entitled coniugationes verborum Graecae, Daventria noviter extremo labore collectae et impressae, containing nothing but τῦπτω in all its voices and tenses, with Latin explanations.

* It is quoted ἐτυψάμην in Graevenhan, Geschichte der Classischen Philologie, π 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 ἔτυπτόμην. The future active is not τύψω but τυπτήσω, and the aorists in use are borrowed from other verbs, and are really ἔπάταξα and ἔπληγην. 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: ἐγκύμονα τις ἔτυψε κατὰ γαστρός καὶ κράνεται φόνον, where Lysias himself would undoubtedly have written ἔπάταξεν, as is proved by a passage in Or. 13 § 71, ὁ Ὀρασίβουλος 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 ἔπάταξα; id. Or. 1 §§ 25—27, where πάταξας κατάβαλλω is followed by the corresponding passive forms πληγεῖς κατέπεσεν, Dem. Or. 4 § 40, ὁ πληγεῖς κἂν ἐπέρωσε πατάξῃς, Thuc. viii 92, ὁ Φρύνιχος πληγεῖς 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 ὅσα ἰν αὐτὸς πατάξῃ: so in p. 880 B, εἶν τις τύπτῃ τὸν πρεσβύτερον...τῇ τοῦ πληγέντος ἥλικίᾳ, and in p. 882 the last two forms occur twice over. Cf. Aristot. Eth. v 5 § 4, ὅταν ὃ μὲν πληγῇ ὃ δὲ πατάξῃ, Rhct. i 15 § 29, ὁμοιά καὶ εἰ ἵσχυρὸς ἀσθενὴς πατάξαι ἢ πληγήναι προκαλέσωτο, Eth. v 5 § 4, εἰ ἀρχήν ἔχον ἐπάταξεν, οὐ δὲ αὔτο-πληγήναι, καὶ εἰ ἄρχουτα ἐπάταξεν, οὐ πληγήναι μόνον δὲ ἄλλα καὶ κολασθήναι. Rhct. i 15 § 29, πατάξαι ἢ πληγήναι, ἐν ἑαυτῷ B, 8, p. 419 b 15, τὸ τύπτον καὶ τὸ τυπτόμενον...ἀν πληγῇ, p. 420 a 24, οὐ δὲ πάν ψοφεῖ τυπτόμενον καὶ τύπτον, οἷον εἴν πατάξῃ βελόνη βελόνην, p. 423 b 16, πληγεῖσα ἐπάταξεν, Soph. Elench. p. 168 a 6, ἂν τὶς τύπτῃ τούτων καὶ τούτων, ἀνθρώπον ἄλλον ὡκ ἄνθρωπον τυπτήσει, and Meteorologica, p. 368 a 18, τύπτον...τύπτον...τύπτεται, p. 371 b 10, ἢ μέλλει πατάξειν κινεῖται πρὶν πληγήναι, while three lines below we find ὃ ἐὰν πατάξῃ.—Among other parts similarly borrowed we have πέπληγα, πέπληγμα, πεπλήξομαι and πληγήσομαι.—So in Latin, ferio, percussi, etc.

But one of the best studies on this point of usage is the Speech of Demosthenes κατὰ Κόνωνος, where we find the following forms; in § 81 τύπτειν, in § 17 τύπτειν, in § 4 ἐτυπτεῖν, in §§ 32 and 35 τυπτόμενον, with the verbal τύπτησιν in § 44. Again in § 31 we have πατάξαι (νοτ τύψαι or πληξέαι), and in § 33 ἐπληγήν (not ἐπατάξηθην, or ἐτύπην, much less ἐτύφθην). Further in § 25 πατάξαντι stands side by side with τύπτειν; and lastly we have the phrases πληγᾶς ἑνέτειναι (§ 5) and εἰληφέναι καὶ δεδωκέναι πληγᾶς (§ 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

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that almost the only part used besides those found in Prose is τωπείς; the student should also read the interesting criticisms of Cobet in pp. 330—343 of his Variae 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 ἐπιπνόος (Or. 54 § 12).

In Soph. Phil. 1378, the phrase ἐπιπνόος 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. πύων, which according to the express statement of the grammarian Arcadius should never be written πύνει; (ii) by the fact that Empedocles makes the first syllable of πύνει 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 θηριακή δι’ ἐχιδνών, has the following couplet, which determines the quantity of the word:

καὶ μογερὼν στέρνων ἀπολύσεται ἐπιπνον ηλών πυσομένη πολλοὺς μέχρις ἐπ’ ἰέλιους.

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 πῦν, 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 Κόνωνος, (1) ἵπποι ἀντὶ τοῦ εὐζώνους τινᾶς καὶ ἑτοίμους πᾶν ὀτιων ἑτοίμων καὶ ὑπομένων, (2) ἵπποὶ τοῦ πένητος καὶ μηδὲν ἄλλο κεκτημένους ἡ ληπύθους, (3) ἵπποι αὐτοργοὺς, (4) ἵπποι τοῦ εἰς πληγάς ἑτοίμους καὶ ὀδον τύπτοντας καὶ μαστιγοῦντας καὶ ὑβρίζοντας, (5) ἵπποι λέγοι ἄν τοὺς ἐκ προχείρον 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 (ἰμάς), 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 αυτολήκυθος is explained ὁ πένης ἀπὸ τοῦ ἐαυτῷ τᾶς ληκύθους εἰς τὰ βαλανεία εἰσφέρειν. Again, Hesychius has αυτολήκυθος: οἱ πένητες, οἱ μόνην λήκυθον ἔχοντες ἤ δὲ ἐαυτῶν βαστάζοντες τὴν λήκυθον, οὐ δὲ 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 ἡ αὐτολήκυθος δὲ τινας Δημοσθένης ἐν τῷ κατὰ Κόσωνος ὄνομαζεν οὕς σαφέστερον α ún τις ἐν τῷ 'Ἀντιφάνους Ἀθάμαντι κεκληθοῖ άλέγον: χλαμάδα καὶ λόγχην ἔχον ἀξυνακόλουθος ἡρὸς αὐτολήκυθος.

As another nickname attaching to one of these Clubs we have Τρυβαλλοί 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 Κινησίων: οὐ μετὰ τούτου ποτὲ Ἀπολλο-φάνης καὶ Μυσταλόθης καὶ Λυσίθεος συνειστικῶς, μίαν ἥμεραν ταξιάμενοι τῶν ἀποφράδων, ἀντί νομγηγνιαστῶν κακο-δαιμονιστᾶς σφίσιν αὐτῶς τούνομα 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 δυσγένεα as opposed to the εὐγένεα of Athens, and (Panath. § 227) denounces them as leagued against all their neighbours: ἀπαντές φασίν ὄμονοιν μὲν (τοὺς Τριβαλλοὺς) ὁς οὐδένας ἄλλους ἀνθρώπους, ἀπολλύναι δ' οὖν μόνον τοὺς ὀμόρους καὶ τοὺς πλησίον οἰκούντας ἄλλα καὶ τοὺς ἄλλους ὥσων ἄν ἐφικέσθαι δυνηθῶσιν. 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, οὖν ὡς Τριβαλλοῖς ταῦτὰ γ' ἔστιν ἔνομα | οὖ φασὶ τὸν θύντα τοὺς κεκλημένους | δείξαντ' ἵδεῖν τὸ δεῖπνον, εἰς τὴν αὔριον | πωλεῖν ἀδείπνοις ἀπερ ἐθηκ' αὐτοῖς ἱδεῖν (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 ἰθόφαλλοι and αὐτολήκτοι 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. τριβεῖν 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 ἐαυτοὺς καλοῦντες. The Scholia on Aeschines i § 52 (τούσ δὲ τοὺς ἀγρίους ἀνδρας) 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 Τριβαλλοποποπανόθρεπτα 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 Scourrer’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 Polachen, Tartaren, Husaren, and Kroaten (quoted by Reiske); similarly in French, Cosaques and Pandours (mentioned by M. Dareste).
ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ.

ΤΙΠΟΘΕΣΙΣ.

Καλλικλῆς, πρὸς ὅν ὁ λόγος, καὶ ὁ τὴν δίκην ὑπ’ ἑκείνου φεύγωνα γείτονες ἦσαν ἐν χωρίῳ, ὡδῷ μέσῃ διειργόμενοι. δυσομβρίας ὑμῖν συμβάσις, εἰς τὸ Καλλικλέως χωρίον ὑδάρ πεσόν ἐκ τῆς ὁδοῦ κατελυμῆνατο. ἐπὶ τούτῳ διόκει βλάβης τὸν γείτονα: εἶναι 5 γὰρ φησίν ἐν τῷ Τισίον χωρίῳ χαράδραν εἰς ὑποδοχὴν τοῦ ὤδατος τοῦ ἐκ τῆς ὁδοῦ ποιηθέσαν, ἢν ἀποικοδομήσαντα νῦν αἰτίαν ἐαυτῷ βλάβης γενέσθαι. ὁ δὲ τοῦ Τισίον παῖς πρῶτον μὲν παλαίον καὶ οὐ δὲ ἐαυτοῦ τὸ ἔργον δείκνυσι· ξώντος γὰρ ἔτι καὶ τοῦ ὁ Καλλικλέως πατρὸς ἀποικοδομηθῆναι τὴν χαράδραν φησὶν ὑπὸ τοῦ Τισίον· ἐπείτα συνίστησιν ὡς αὐτῇ χαράδρα τις τὸ χωρίον ἐστὶ. Λ. διασύρει δὲ καὶ τὴν

a Bekker st. eum H. Wölfl. διόκον Z, coniecit Sauppe.

b δημιεῖας Φ. δη βλας Β. δῶ θλας Σ. margo editionis Parisiensis (1570) habet et δυσομβρίας quod usquam alias legitur, et ἐπομβρίας (Z et Bekker st.) quod occurrit infra § 11 γενομένης ἐπομβρίας.

c ἀποικοδομήσαντα Sauppe, coll. § 12. ἀπωκοδομήσας ΒΦΣ. ἀποικοδομηθεῖσαι Reiske (Bekker st.).

d οὐδὲ χαράδρα τις ἀλλὰ χωρίων ἐστὶ ed. Parisiensis in margine (cf. § 12 ἀποδείξω χώριον ὑπὸ τοῦ ἀλλ’ ἀλλ’ ὑ ὁ χαράδραν).

12. συνίστησιν] The word is used in late Greek in the sense 'to give proof of,' e.g. Polyb. 111 108 § 4 ὑπεράσπισται συνιστάνει ὁτι... We may therefore perhaps render it 'he attempts to prove.' [Perhaps ἐνίστησιν, 'he objects,' P.]

13. διασύρει] makes light of the damage done. See §§ 23—
symbàsas tòν Kalliklēi ñlástiν ós mikráv kai
15 óuk āξíasan τηλικάντης δίκης, kai tò ólòν ἕδικησθαι
mèn ouδèn φησι τòν Kalliklēa, ἐπιθυμεῖν δὲ tòν
χωρίων tòν éautòv kai dia tòvto sūkofaνtías μηχα-
vávthai pásas.

1 Ὅν ήν ἄρ', ὦ ἀνδρεῖς Αθηναῖοι, χαλεπώτερον οὐν
1272 δὲν ἡ γείτωνος πονηροῦ καὶ πλεονέκτου τυχεῖν, ὅπερ
ἐμοὶ νυνί συμβέβηκεν. ἐπιθυμίσας γὰρ τῶν χωρίων
μου Kalliklῆς οὗτο διατέθηκε μετὰ συκοφαντῶν ὡστε
πρῶτον μὲν τῶν ἀνεψίων τῶν ἔαυτοῦ κατεσκεύασεν
2 ἀμφισβητεῖν μοί τῶν χωρίων, ἐξελεγχθεῖς δὲ φανερῶς
καὶ περιγενεμένον μοι τῆς τούτων σκευοφορίας, πάλιν
dύο δίκας ἐρήμους μου κατεδητήσατο, τήν μὲν αὐτῶς

26. Dem. Or. 13 § 12 δέσπυνε
(‘depreciated’) τὰ παρόντα καὶ
tοὺς προγόνους ἐπήρεσε.
§§ 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 in-
direct, made me the victim of a
vexatious persecution.

Though I am no speaker my-
self, yet, if the court will give
me their attention, the facts
themselves will prove the base-
lessness of the present action.

1. όυκ ἧν ἄρ’—τυχεῖν] For
όυκ ἧν ἄρα, ‘there is not really
after all,’ cf. Soph. O. C. 1697
πόθος καὶ κακῶν ἄρ’ ἧν τις, and for
this use of ἧν, especially with
ἀρα, to express a fact which is
and always has been the same,
see the examples given in Lid-
dell and Scott. s.v. eιμι, F.

For the general sense, cf.
Hesiod's Works and Days 345
πήμα κακὸς γείτων, and esp.
Aristot. Rhet. 11 21 § 15 eι τις
gείτων τύχοι κεχρημένοι...φαύ-
λους, ἀποδέξατ' ἀν τοῦ εἰπώτος
ὅτι οὐ δὲν γείτονίας χαλεπώ-
tερον.

συκοφαντῶν] ‘by his vexa-
tious litigation, his petty perse-
cution.’ 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
ἀνεψιόν κατεσκεύασε, Or. 54 § 14.

2. σκευοφορίας] ‘intrigue,
jobbery.’ Or. 36 § 33 πλάσμα καὶ
σκευόρημα.

δίκας ἐρήμους—κατεδητήσατο]
‘got two awards (in arbitration)
decided against me by default
(for non-appearance).’ Or. 21
(Mid.) §§ 84, 85 (Στράτων ὁ
καὶ ἔνα τὸν ἄδελφον τουτοῦ πείσας Καλλικράτην. δέομαι δὴ πάντων ὑμῶν ἀκοῦσαι μου καὶ προσέχειν τὸν νοῦν, ὦ ὑμεῖς ἀυτὸς δυνησόμενος εἰ-πεῖν, ἀλλ' ἣν ὑμεῖς ἐξ αὐτῶν τῶν πραγμάτων καταμάθητε ὅτι φανερῶς συκοφαντοῦμαι.

'Εν μὲν οὖν, ὦ ἀνδρές Ἀθηναῖοι, πρὸς ἀπαντας τοὺς τούτων λόγους παρέχομαι δίκαιον. τὸ γὰρ χωρίων τούτῳ περιοκοδόμησεν ὁ πατήρ μικρὸν δεῖν πρῶν ἐμὲ γενέσθαι, ζώντος μὲν ἐτί Καλλιππίδου τοῦ τούτων

* Καλλικράτιδον Ζ et Bekker st. καλλικρατίτην ΣΒ et γρ. ΦΦ. Bekk. εὐμ ῆ τοῦ τοῦ Σ. τοῦ τούτον Ζ.

διαίτητας) ὡς οὖτ' ἐγὼ συνεχώρων οὖθ' οὕτως (Μιδιᾶς) ἀπέντα, τῆς δ' ἤρας ἐγήγετο ὑφε, κατεδιήτησεν. ἦδη δ' ἐσπέρας οὕσης καὶ σκότους ἔρχεται Μειδίας... καὶ καταλαμβάνει τὸν Στράτωνα ἀπόντι' ἦδη, τὴν ἐργαῖνα δεδώκοτα. τὸ μὲν οὖν πρῶτον οὕς τ' ἦν πείθεων αὐτῶν, ἦν καταδεδήσητησε, ταῦτην ἀποδεδηγημένην ἀποφέρει.

ἐρήμως ἐν Ἀττικῇ has usually two terminations only: hence ἐρήμως δίκας, which was perhaps preferred to ἐρήμως δίκας on grounds of euphony. In § 6 however we find ἐρήμων κατεδιήγητασθε, possibly to avoid the ambiguity arising from the ellipse of δίκες, and in § 31 we have ἐρήμην μου καταδεδηγηταί τοιαύτῃν ἐτέρων δίκες.

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, § 35.

πείσας] σε. καταδιαίτήσασθαι.

Καλλικράτης] On the part taken in these lawsuits by Callocrates, 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. 51 §§ 27, 29, 42.

γὰρ] See note on Or. 53 § 4.

—ὅ πατρός, sc. Tisias § 5.—μικρὸν δὲν πρῶν, ‘almost before’ (i.e. ‘a very short time after’) I was born; not ‘within a little before,’ ‘just before.’

Καλλιππίδου τοῦ τούτων πατρός]
The two sons Καλλικράτης and Καλλικλέους bear names similar to their father’s, Καλλικτίθης, all three being compounds of καλλος. Thus we have Ναυσίφλος Ναυσίνικος, and Καλλιστράτους 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.

ἄνδρος ἕθη] 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.]

1. καίτοι — ύδατα πολλάκις εὔγένετο] ‘and yet of course it often rained then, just as it does now,’ — a touch of quiet humour characteristic of this speech. (ὑδωρ γενέσθαι literally refers to rain, though floods are implied as a necessary consequence. Ar. Vesp. 265 δεῖται οὕδωρ γενέσθαι καταπνεύσαι βόρεων αὐτοῖς.)

εἰπέρ ἢδικεί] ‘As he would have done) if my father was wrongdoing any one... (But he did not prevent him; and not only so,) but &c. P.]

ἀπηγόρευε] ‘forbade.’ In Classical Greek, ἀγορέω and its compounds are seldom found except in the present and imperfect tenses; the remaining tenses and the verbal derivatives being generally borrowed from ἀρχαί, εἰπών, εἰφήκα, εἰφῆκα, ἐφηήθην, ἐφήθησαμαι, with ἐφης, ἐφητος, ἐφέτο. Thus ἀναγορέω (to proclaim) has for its imperfect ἀνηγόρεων, while the correct forms for the other parts are, ἀνερώ, ἀνείρηκα, ἀνεῖτον, ἀνεφήθην and ἀναφέρρος &c, instead of ἀναγορεῦσο... ἀναγορεύεις &c. The strict rule, however, as to this verb and its compounds, has its exceptions, in the case of προσαγορέω (e.g. προσαγορεύθη 40 § 1), and partially also in ἀπαγορέων. Thus instead of the more usual ἀπείτε, we here find ἀπηγόρευε, which also occurs in Dem. Or. 40 § 44 ἀπηγόρευεν αὐτῷ μή διαίταν and Arist. Oecon. 11 24; Plat. Theaet. p. 200 ἀπαγορεύσῃς. In Ar. Pax 107 we have καταγορεύσῃ. (See Cobet’s variæ lectiones p. 35–39 and novæ lectiones p. 778; Mnemosyne n.s. 11 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 ἀνδρόσου ἐναντίον
HEΠΙ ΧΩΡΙΟΤ.

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tου πατρός ἐπιβιούντος, οὐκ ἐλάττω δὲ τοῦ τούτων πατρός Καλλιππίδου. καίτοι, ὁ Καλλίκλεις, ἔξην δὴ- 5 ποὺ τόθ ὑμῖν, ὀρῶσιν ἀποικοδομομένην τὴν χαράδραν, ἐλθοῦσιν εὐθὺς ἁγανακτεῖν καὶ λέγειν πρὸς τὸν

μαρτύρων, de Cor. § 28 μὴ συγγΆσα...ἄλλα βοῶν καὶ διαμαρτύρεσ-θαι (ib. 143); Or. 42 § 28. It must not be confounded with διαμαρτύρωσ, 'put in a διαμαρ-
tυρία' (see Meier and Schömann, p. 639).

ἐπιβιούντος] 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. n 65 (of Pericles) ἐπεβίω δύο ἓτη καὶ μήνας ἔξ ἐκ ἑπεδή ἄπέθανεν κ.τ.λ. So also Or. 41 §§ 19 and 18 ἐπιβιούντος μετὰ ταῦτα πλέον ἡ πένθ᾽ ἡμέρας. The first person ἐπεβίων is naturally rare, as the aorist of this verb is mainly ap-
plicable to those who are no longer living; but Thuc. v 26 has, ἐπεβίων διὰ παντὸς (τοῦ πο-
λέμου). In Attic Greek ἐξόων, like βιωσομαι, βεβιώκα and βε-
βιωμένος, is used to supplement the defects of ἓτην, which is itself hardly used except in the pre-
sent and imperfect active. ἓτην is very rare. (See Cobet, variæ lect. p. 610.)

5. ἐξῆν] As usual, without αὐ. See note on ἐχῆν Or. 45 § 17, followed, as here, by ὑπά with the indicative.

ὑμῖν] 'You and yours,' i.e. your father, your brother and (when at home, and not at Athens § 3) yourself. ὑμῖς never stands for σοῦ, 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 ἀναιρομαι πάτερ ἃ τὸ γῆρα τοῦς εἰσορῶν νοῦς ὅπο ἐχον, the plural νοῦς refers to Cad-

mus and Teiresias, not to the former only. Again in Homer, Odys. xi 81, we have ἢπερ αὐτ ὑμεῖς νῦν παρὰ γλαφυρῷ ἠθύτετε, φαινόμην ὠδύσεις, where ὑμεῖς refers to Odysseus and his com-
rades.

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 in-
stance of this exceptional use of plural for singular. The rule is only apparently broken in Virg. Aen. ix 525 Vos, o Calli-
ope, precor, aspirate canenti. Here vos refers to all the Muses, though Calliope alone is men-
tioned. (Cf. Aen. i 140 ves-
stras, Eure, domos.) So too Cicero pro Deiot. § 29 vos vestra secundu fortuna, Castor, non potestis sive propinquorum ca-
lanitate esse contenti? (The plural vos is at once explained by felix ista domus in the pre-
vious sentence.)

τὴν χαράδραν] The word is not only used of the torrent itself, but also of the channel ent by the torrent's course (der. χαράσσω). Hesychius χαράδρα, χειμαρρὸς ποταμὸς, κατάγει δὲ ὄντος παντοῦ ἐν τῷ ἕγεματι καὶ κατασφύει, χαράδρα, αἱ χα-

ράξεις τοῦ ἐδάφους. καὶ οἱ κόλοι τόποι ἀπὸ τῶν καταφερομένων ὁμβρῶν ὑδάτων. The rendering
‘water-course’ will suit all the passages in which it occurs in the present speech.

‘τι ταύτα ποιεῖς;’ lit. ‘why are you cutting off the water-course?’

...[infra] 12.oro...[infra] 13. ‘What have you about?’

...[infra] 16. ‘Are you doing this?’

...[infra] 17. ‘...are you?...’

...[infra] 26. ‘...are you cutting off the water-course?’

...[infra] 27. ‘...are you about?’

...[infra] 29. ‘...however?...’

...[infra] 30. But in Thuc. 131, we read of Pansanias, ίνδον δόται τηρήσαντες αὐτὸν καὶ ἀπολαβόντες εἰσώ ἀπφοινόμησαν, and it seems likely that the lexicographer, or his transcribers, either had that passage itself in view, or carefully incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.

...[infra] 32. ίνδον...[infra] 35. ‘...Which is found in the codex Augustinus primus,...’

...[infra] 36. ...[infra] 39. ‘...which case you and I would have been having no disputes with one another (as we now have).’

...[infra] 40. ‘...with an...’

...[infra] 41. ‘...either had that passage itself in view, or...’

...[infra] 42. ‘...carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.’

...[infra] 43. ‘...which is found in the codex Augustinus primus,...’

...[infra] 44. ‘...with an...’

...[infra] 45. ‘...either had that passage itself in view, or...’

...[infra] 46. ‘...carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.’

...[infra] 47. ‘...which is found in the codex Augustinus primus,...’

...[infra] 48. ‘...with an...’


\[\text{mer}
\]

\[\text{p. 1273]  ΠΕΡΙ ΧΩΡΙΟΤ.  237}

μόνον, ὡσπερ νῦν, ἀλλ' ἔργῳ τὸν πατέρ' ἀδικοῦντ' ἀπέφανε. τούτων τοῖς νῦν πώποτ' οὔδεὶς ποιεῖν ἥξιωσεν. οὐ γὰρ ἂν οὔτ' ἐρήμην, ὡσπερ ἐμοῦ νῦν, κατεδιηγησασθε, οὕτε πλέον ἂν ἦν ὑμῖν συνοφαντώσων οὐδέν, ἀλλ' ἐὰν ἥνεγκατε τότε μάρτυρα καὶ ἐπεμαρτύρασθε, νῦν1 ἀπέφανεν ἂν ἐκεῖνος εἰδῶς ἀκριβῶς ὅπως εἰχέν ἐκαστα τούτων, καὶ τοὺς ῥαδίως τούτουςκ μαρτυροῦντας εὑρεῖλεγέχειν. ἀνθρώποις δ', οἴμαι, τηλικοῦτοι καὶ ἀπείρον τῶν πραγμάτων ἀπαντεῖς καταπεφρονή-


κ. Bikk. 1824 cum A' Α' 5. τούτους Z et Bikk. st. cum ΓΣΦΒ.

1. ἕνα—ἀπέφανες [Constr. ἔνα μὴ λόγῳ μόνον ἀπέφανες τὸν πατέρα ἀδικοῦντα, ὡσπερ νῦν (ἀποφαίνεις), ἀλλ' ἔργῳ (ἀπέφανες ἀδικοῦντα). λόγῳ and ἔργῳ (on which see Or. 46 § 9) are not to be taken with ἀδικοῦντα.—In the next sentence οὐδεὶς means οὐδεῖς ὑμῖν.

ἐρήμων...κατεδιηγησασθε] See § 2.

εἰ ἥνεγκατε—ἐπεμαρτύρασθε, νῦν] If we retain these words, ἐκεῖνος 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 καὶ τὸς 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 (τηλικοῦτοι—καταπεφρονήκατε).

7. ῥαδίως] 'only too readily,' 'recklessly,' 'at random,' Plat. Apol. p. 24 c ῥαδίως εἰς ἀγώνας καθιστάν ἀνθρώπους, Leg. 917 β θεῶν ὀνόματα μὴ χραίνειν ῥαδίως, Meno 94 ε ῥαδίως κακῶς λέγειν ἀνθρώπους.

τούτους] The reading τούτους is open to the objection that between κατεδιηγησασθε in the previous and καταπεφρονήκατε in the subsequent context, we expect, not the third person τούτους, 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 τούτους is yet stronger, and τούτους is then still less defensible. ('melior vulgata lectio, τούτους, μάρτυρας seilicerī,' Seager, Classical Journal, 1825, no. 61 p. 63.)

τηλικοῦτοι] more commonly of great age (tantae actatis), but here of extreme youth (tantulae actatis). Soph. El. 611 ἢτις τοιαύτα τὴν τεκύουσαι ὕβριαν, καὶ ταύτα τηλικοῦτος (sc. οὐσα). Antig. 726. Plat. Apol. 25 ὁ τοιαύτα ὡς ἐμοῦ σοφότερος εἰ τηλικοῦτον ὄντος (so old, of Socrates) τηλικόσιδε ὡς (so young, of Meletus).
katē μον. ἀλλ' ἐγὼ πρὸς ἀπαντας τούτος, ὡ ἀνδρεῖς Ἀθηναῖοι, τῶς ἀυτῶν πράξεις ἑσχυροτάτας μαρτυρίας παρέχομαι. διὰ τί γὰρ οὖνες οὖτ' ἐπεμαρτύρατο οὖτ' ἐνεκάλεσεν, ἀλλ' οὖν' ἐμέμψατο πώποτε, ἀλλ' ἔξηρκε ταῦτ' αὐτῶς ἱδικημένους περιοράν;

8 Ἐγὼ τοίνυν ἰκανά μὲν ἡγοῦμαι καὶ ταῦτ' εἶναι πρὸς τὴν τούτον κατηγορίαν. ἵνα δ' εἰδήτε, ὡ ἀνδρεῖς Ἀθηναῖοι, καὶ περὶ τῶν ἄλλων, ὡς οὔθ' ὁ πατὴρ οὖν' ἣδικε περιουκοδομῶν τὸ χωρίον, οὕτοι τε κατεψευσμένοι πάντ' εἰσὶν ἡμῶν, ἔτι σαφέστερον ὡμᾶς πειράσομαι διδάσκειν. τὸ μὲν γὰρ χωρίον ὠμολογεῖται καὶ 9 παρ' αὐτῶν τούτον ἡμέτερον ἱδίον εἶναι τούτον δ' εἰσίν.

1 Bekk. αὐτῶν Ζ (αὐτῶν Σ).

εξηρκει—περιοράν] 'they were content to submit to these wrongs.' The dative ἵδικημένος, subordinate to περιοράν, follows the case of αὐτῶς, which again depends on εξηρκεί. Cf. Or. 54 §§ 16 and 44. Or. 3 § 23 εὐδαιμοσιν ὑμῖν ἔσεστι γλυκεσθαι. Madvig Gk. Synt. § 158 2).— ταῦτ', acc. after ἱδικημένος.—περιοράν, 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. οὖν...τε] Or. 54 § 26, Madv. Gk. Synt. § 208. ἡμέτερον ἱδίον] 'our own private property,' stronger than ἡμέτερον. So in § 13.—The grammarian Priscian, who curiously regards ἱδίον as an exact equivalent to the Latin suus, has the following remark: quod mirum est, hoc ipsum [id est τὸ ἱδίον] etiam primae et secundae adiungitur persona sua illos ut ἵσαιος εν τῷ πρὸς Εὐκλείδην: οὐκ ἂν τὰ ἱδία τὰ ἐμαυτῶν (fragm. 60). Demosthenes εν τῷ πρὸς Πολυκλέα: οὐ περὶ τῶν ἐμῶν ἱδίων μάλλον τιμωρήσατε Πολυκλέα ἢ ὁχυρωτίμησατε αὐτόν καὶ εν τῷ αὐτῷ οὐ περὶ πλείονος ἐσορθάμου τα ἐμαυτῶν ἱδία η τα ὑπερέπα. (Dem. Or. 50 §§ 65, 66). ἐν δὲ τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης τὸ μὲν ἐν γὰρ χωρίον—ἡμέτερον ἱδίον εἶναι. Phrone- nichus μοστραίς: ὥσπερ εἰμὶ αὐτῆς ἱδίον, πρὸ γρο νο σις δικίας 'meum proprium,' et 'tuum proprium,' dicitur tamen etiam
'sum proprium illius,' ut non patetur abundare 'sum,' sed indubitabilem discretionem significare. Priscian, Instit. p. 1089—90.

9. τοῦτον δὲ ὑπάρχοντος 'this being admitted,' 'with this fact to begin upon.' Plat. Tim. p. 29 A τοῦτων ὑπαρχόντων = τοῦτων ὑποκειμένων, his positis.

᾿εἶδοντες = εἰ εἶδετε, Goodwin's Moods and Tenses § 52, 1.

tois eidoi...tois istor][ § 35 ἔταιμοι ἤμεν ἐπιτρέπειν τοῖς εἰδῶν, ἵσως καὶ κοινῶς. Or. 40 § 39 ἐπιτρέπειν...διακριτῇ ἴσῳ. On 'private arbitrators' see note on Or. 54 § 26 ἡ διάστα.

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 οὔτε] ἐπιτρέπειν ἐβουλοῖν. In the next sentence ὑμῖν and πάσι 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 Δῶς 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 unintelligible, 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—οὖν ἐστὶ] lit. 'for the space between their
property and mine is a road,' i.e. 'there is a road between their property and my own.'

This can hardly be taken with περιέχοντος κύκλῳ, which would require an accusative, nor again with καταρρέον, as we should then expect 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 καταρρέον ‘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.

ἡ ἄν ἐνοδῇ, ‘wherever it has a free course.’ Arist. gen. anim. 118 ἐπὶ ὀπὸν ἄν εὐδοκησι τοῦ σῶματος, and (as a passive in intransitive sense) ib. 14 εὐδοκησι μᾶλλον. Cf. infirm. § 11 τὸ ὕδαρ...μᾶλλον ὕδοποιεῖ.

though almost always used of time, occasionally (as here after ἧ, which indicates place) bears a more general meaning, ‘in that case,’ ‘under these circumstances.’

11. ἀμεληθεῖν] It seems best to regard this as an accusative neuter absolute (‘neglect having ensued’), and not to take it with τὸ ὑδραρ, much less with αὐτό, i.e. τὸ χωρίον. So in Plat. Phaedr. 204 ν ὀραθέν ‘it having been defined.’ Or. 50 (Polycl.) § 12 προσταχθεῖν. (Kühner § 487, 3, and Goodwin’s Moods and Tenses § 110, 2.)

In translating, we can best bring out the sense by reserving ἀμεληθεῖν to a later point in the English sentence, and rendering the clause οὕτω... 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 ὠδοποίειν, cf. supra § 10, εἴσοδη.

[By μᾶλλον ὠδοποίειν, the speaker wishes to show how the rain had made a way for itself al-
in general. p. 843 Β θλάβαι πολλαί καὶ σιμφωνεῖ γειτονῶν γεγονόμενα, διὰ τὸ θαμίζειν έχθρας ὅγκον μέγαν ἐπικτούσαι, χαλεπὴν καὶ σφόδρα πικρὰν γειτονίαν ἀπεργάζονται. οὐ δὲ καὶ ἐρημίας ἄνωτοι πος ἐν σφόδρᾳ διευλαβοῦμεν... δὲ δὲν ἐπεργάζηται τὰ τοῦ γειτονίου ὑπερβαλλόντων τοὺς ὄρους, τὸ μὲν θλάβος ἀποτείνεται, τῆς δὲ ἀναιείας ἀμή καὶ ἀνέλευθερίας ἐνεκα ἀριστένους διελάσιον τοῦ θλάβους ἀλλο ἐκτισάτο τῷ βλαφθέντι...καὶ εὰν τις βουκήματα ἐπινέῃ, τὰς θλάβας (ἀγκολόμας) ὀρῶντες κρυύντων καὶ τιμώντων.

See esp. Donaldson's New Cratylus § 174, where this class of words is discussed. He apparently understands ἐπινέειν in this passage to refer to a 'common trespass'; but this is sufficiently expressed by βαδιζόντων διὰ τοῦ χωρίου, and it is therefore better to give ἐπινεμόντων that special application to the 'encroachment of cattle' which it constantly bears.

αἱμασίαν] Never used in the sense of a 'hedgerow', but always of a 'wall of dry stones.' In Odys. xviii 359 and xxiv 221—230 αἵμασις λέγεται is explained in a scholiast, οἰκοδομῶν ἐκ συλλεκτῶν λίθων, and Hesychius paraphrases the word τὸ ἐκ πολλών λίθων λογάδων ἄ¬θροισμα. Thus in Theocr. 1 45, a boy watching a vineyard is described as sitting ἐφ' αἱμασίαις, and in ν 93 we have roses growing in beds beside the garden-wall, ῥόδα τῶν ἄνδρα ταρ' αἱμασίαις πεφυκές. Cf. Plat. legg. 881 a περιβόλους αἵμασιωθέν τινάς, τειχῶν ἔριματα.

In Bekker's Anecdota Graeca p. 356, we have the definition, τὸ ἐκ χαλίκων ὕκοδομημένον τειχίον, where the next few words, κυρίως δὲ τοὺς ἕκασθαμένους λέγεται φραγμοῖς, show that such walls were sometimes topped with thorns (Odyss. xiv 10 ἀξίνη...δείματο...ῥυτοῦς λείσαν καὶ ἐβρηγκώσαν ἀχέρδον, 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 αἱμασίας to the walls built to support the artificial terraces of earth on the hillsides of the Morea (Ross, Archaeologische Aufsätze pi 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.
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 Κόνων Ἀριστωνα.

χωρίον......δὲ ὦ χαράδραν] 'private ground and no water-course.' Isoer, ad Dem. § 2 τῶν σπουδαίων ἀλλὰ μὴ τῶν φαίλων εἶναι μημητὰ.

13. εἰ μὴ συνεχερέτο ἵδιον εἶναι, τάχ' ἀν ἥδικονεν, εἰ τὶ τῶν δημοσίων ὁκοδομῶν] In this conditional sentence, we have one apodosis ἥδικονεν ἀν, corresponding to a double protasis. The second protasis εἰ...ὁκοδομῶν 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 φοβοῦστο καὶ ἀγανακτοῖεν, οὐ πολλὴ ἀν ἀλογία εἰ...εἰ μὴ ἀσμενων ἐκείσε ἤον. 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 ὅδω] See note on § 8, ad fin.

πεφυτευμένα] 'planted' and not growing wild, like the ἐρυνεὺς or συκή ἀγρία.

τίς ......δάπτεως;] 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 humour 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...καί] 'for not only ...but,' A frequent idiom, though one but little observed. P.}
The speaker does not specify what is included in this *et cetera*, but the depositions probably went into further detail.
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. ὁμω — ἐποίησε 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 Cephisus ... 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
in many parts of England, are caused by the excavating power of water running along tracks. The Romans raised their roads (viae munirae) apparently to avoid this. As an illustrative passage, we may quote Iliad xxiii 420 ῥωχιῶδς ἐγὼ γαῖης, ὑ χειμέρων ἀλέν ὕδωρ ἔξερρηξέν ὅδοῖς, βάθυς δὲ χῶρον ἀπαντά. P.]

βαδίεσθαι]. The Classic future of βάδισω (retained even by Plutarch and Lucian); the other forms, βάδίσω and βάδιω, are characteristic of the worst Greek, extrema barbaries (Cobet, var. lect. 329).

17. αὐτὸ τοῦναττίνων] 'on the very contrary,' so also in Or. 22 (Androt.) § 6.—ἄν τοῦναττίνων 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 τοῖνυν — 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.]

ἔξαγαγεῖν] 'draw off,' 'let out,' derivare, Xen. Oec. 20 § 12 τὸ ὕδωρ ἔξαγαγεται τάφρως.

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
note seems due to a copyist who did not recognise in ἐγκαλεῖ the regular Attic future. In Or. 23 (Aristoer. § 123, we have ἐγκαλέσων; 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. ἦ ποι] ‘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 ἦ ποι, ‘to be sure,’ cf. Lycurgus § 71 ἦ ποι τάχεως ἄν ἰσόμετο τις ἐκεῖνοι τῶν ἀνθρώπων τουτοῦ ἔργων. Soph. Aj. 1008 ἦ ποι με Τελμαῖο...δεξίω ἄν εὐπρόσωτος ἑλεϊς τ’ ἵσος χρωδύντ’ ἀνεύ σοῦ.

ultimo] ‘whereas,’ ‘in a case where’ (without any direct notion of place). Isocr. ad Dem. § 49.

δίκας ἀτίμητος φεῦγω] ‘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 τιμῆτος 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 Harpoeration: ἀτίμητος ἀγῶν καὶ τιμῆτος. ὁ μὲν τιμῆτος ἐφ’ ὁ τιμῆμα ὄφριμον ἐκ τῶν νόμων οὐ κεῖται, ἀλλὰ τοὺς δικαστὰς ἐδει τιμᾶναί τι τι χρῆ παθεῖν ἡ ἀπότομα. ὁ δὲ ἀτίμητος τοῦ νανατίου ὁ πρόσεστιν ἐκ τῶν νόμων ὄφριμον τιμῆμα, ὡς μηδὲν δειν τοὺς δικαστὰς διατιμῆσαι. Ἀισ- χίνης κατὰ Κτησίφωντος (§ 210), Δημοσθένης κατὰ Μειδίου (§ 90). Cf. Or. 37 § 40.

Again Pollux (viii 63) has: ἀτίμητος δὲ δίκη, ἣν οὐκ ἐστιν ὑποτίμησασε ἀλλὰ τοσοῦτον τε- τιμῆτα ὑπο τειγράττα. The above explanation is wrongly reversed by Suidas (quoted in Telfy’s Corpus juris Atticorum 747 note), by the Lexica Segueriana (on p. 202 and 469 of Bekker’s Anechdota Graecae), and even in a scholion on § 25 ἱθία, χελίων δραχμῶν δίκην ἀτίμητον φεῦγω, a passage which is decisive in favour of Harpoeration’s distinction.

ultimo ἐν 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 ὄδον ὀφνήσω τὸ ὑδατε ἐξάγειν. It was equally illegal, of course,
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. \( \text{μὴ ὅτι—ἄλλα μὴ...ἀγαπήσαυ} \) ἄν \( \text{I must be content, I do not say, with obtaining a verdict, but with escaping conviction.} \) The sense is: 'victimised as I have been, instead of gaining

legal satisfaction from my opponents, I must think myself fortunate if I am not convicted to pay them an additional penalty.'

[LY. ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ §§ 18—20]

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
duceundae* which was one of the *servitutes* (or limiting obliga-
tions), under which property was held in Roman law.

'ωμολογούμενα χαράδρας' ['recognised, acknowledged, undis-
pputed water-courses.'] A curious expression. The nearest
approach to it that I can find is (Andoc.) Or. 4 § 17 οὐδὲν ἦττον

tῶν ωμολογουμένων δοῦλων.

*τῶν χειμάρρων* here 'water-
drains,' 'gutters,' like υδρόφρον Ar. Ach. 922. The word has
lost all trace of its primary meaning 'a winter torrent.'

§ 20. The fact is, that sim-
ply owing to the plaintiff's own
carelessness, he has suffered from
a flood, as others have before
him; and the strangest incon-
sistency of all is, that the plain-
tiff, 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 ob-
ject.

20. μὴ φυλαξαμένους] 'for
not being on their guard,' 'owing
to their neglect.' μὴ here implies
the reason, as distin-
guished from ὁ which would
only denote the fact.

ὁ καὶ...δεινότατον, εἰ] Isocr.
Archidamus § 56 ὁ δὲ πάντων
σχέσιμωτατον, εἰ φιλοτομώτατον
dοκούντες ειναι...φανούτερον βου-
λευσόμεθα. Paneg. § 128 ὁ δὲ
πάντων δεινότατον, ὅταν...(Dem.)
Aristog. (25) § 31 ὁ καὶ θαυμασ-
tὸν ἐστίν, εἰ κ.τ.λ. In such sen-
tences ὁ δὲ implies a less close
connexion with the previous
context than ὁ καὶ, and ἐστὶ is
frequently omitted (Kühner §

iv 2 § 3 ἐκκλίθουν διόπτροχοις
ἀμαξιάιοις (huge boulders) and
Hell. II 4 § 27, Eur. Phoen. 1157
Λᾶν ἐμβαλὼν κάρα ἀμαξιόπληθυ.
Εμοί βλάβης εἶληχε δίκην] Ορ. 29 § 30 ἐγώ τῷν δίκην ἔλαχον τοῦτῳ τῇς ἐπιτροπῆς. Κührner § 419, 12.

οὐδὲ πολλαπλάσια] So in § 35 the defendant speaks of his μικρὰ οὖσια.

§ 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. τεπονθότες...βεβλαμμένοι] cf. § 11 ὅρων...ἐπιμεμόντων ὑν. τετολμηκασιω] τολμᾶν and its tenses are regularly used in Greek prose, while ἀληθῶς is almost entirely confined to Greek verse (note on Isocrr. Paneg. § 96 ἔτηραν).—τούτῳ πράττειν = δικαζέωσαν.—πάσι τοῖς ἄλλοις.

εἰ καί] Notwithstanding even if—they have had some trilling losses. εἰ καί, without disputing the condition (here εἰ πεπόνθασι, represents it as of little consequence. καὶ εἰ or κεῖ even supposing introduces a condition which is utterly improbable. Κührner § 378.

αὐτῷ — 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 αἵτιναν ἔχονσιν] 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 διάφέρωσαν, and I refer αἵτιναν ἔχονσι τοῦτο δὲ αὐτοῖς βεβλαμμένοι εὐκοφαντούσι. The imputation is εὐκοφαντία, bringing a vexatious charge when they are themselves to blame for want of precaution. Cf. next § τούτους μὲν μηδὲν ἐγκαλεῖ...τουτοί δὲ συκοφαντεῖν.
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. *Déiavn, toû tônous mèn μηδὲν ἐγκαλεῖν... tou tônou dé 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 vexation action against me?’ The influence of déiavn affects the second clause in its contrast with the first. Dem. Lept. § 9 ἡδὲ γὰρ ὁκ αἰσχρὸν κατὰ μὲν τὴν ἄγομαν ἀφεσίδειν νόμον γεγράφαται...ἔν δὲ τῷ κοινῷ μὴ χρῆσαι τὸ νόμῳ τοῦτο (Isocr. ad Dem. § 11 n. Madvig Gr. Synt. § 189 a, Cicero Phil. § 110. 6 ed. Mayor, n.).

*τὴν τύχην στέργεων*] στέργεων, in the sense of a contented submission, usually has the dative with or without ἐπί, e.g. Isocr. de pace § 6 στέργεων τοῖς παρόισι. The acc. however occurs again in § 30 ἐπί, also in Hdt. ix 117 ἐπιτρέπει τὰ παρευτά, Eur. Phoen.1685 τὰ τῇ ἐγὼ στέργεωκακά, Soph. Ant. 292, and Isocr. ad Dem. § 29 στέργει μὲν τὰ παρόντα ἤστε δὲ τὰ βέλτιστα.

ἄν] δέν εἴσεσθε σαφῆστερον... ὧτι αὐτὸς ἔξημαρτηκε. The subject of the subordinate here becomes the accusative of the principal sentence, and all the
words down to ἄναψηθὲν inclusive form an object-sentence to the principal verb εἰσῆλθεν. Lysias, Or. 20 § 34 οὗς οὕτως ἔστε εἰτε ἅγαθοι εἰτε κακοὶ...τενῆσχονται (Madvig, Gr. Syntax. § 191). Kühner § 600 p. 1083).

τενθεκτέραν] The old Greek grammarians (e.g. Choroebos-cus) state that τενθος (Ionic τενθος) and κεφος have o, not ω, in the comparative and superlative (cf. Ionic τενθοτερος). But the forms in ω have better authority than those grammarians supposed (Kühner i § 154 note 2).

εὐαγγεῖον...] 'by advancing—carrying-out—his wall beyond the boundary.' Thuc. i 93 μειζων ὁ περίβολος πανταχώ ἐξηχθεὶς η τῆς πόλεως. § 27 ἴση ἀιμασία προαγαγόντες κ.τ.λ.

ὡ']-εἰς] 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. Harpocratian s.v. χλῆδος-Δημοσθένης εἰς τῷ πρὸς Καλλικλέα περὶ χωρίου βλάφθης ἐπειτα δὲ τῶν χλῆδων ἐκβαλὼν ἕως ὑψηλοτέραν καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεποιηθεὶς συμβεβηκέν. πάντως χλῆδος λέγεται καὶ ἕστιν οἷον σωρός τις, μάλιστα δὲ τῶν ἀποκαθαρμάτων τε καὶ ἀποψημάτων, καὶ τὴν ποταμῶν πρόσχωσιν, καὶ πολὺ μάδλων τῶν χειμάρρων ὁ καὶ χέραδος καλεῖται (IIiad xx 319). νῦν δὲ ἔσιν ὁ ῥήτωρ λέγειν ὅτι χοῦν καὶ φρυγανώδη τινα ἐκ τοῦ χωρίου σωρίν ο Καλλικῆς εἰς τὴν ὁδὸν ἄναψηθὲν, ώς καὶ αὐτὸς ἕξης ὑποσημαίνει. κέχρηται δὲ τῷ ὁνόματι πολλοί. Ἀισχύλος Ἀρχείως "καὶ παλτὰ κάγκυλτα καὶ χλῆδον βαλὼν" (fr. 11). Bekker's Anecd. Gr. 316 ὁ κλήρος τῶν ἀποκαθαρμάτων, ὁ ἔσων ἰδίων των καὶ βοτανώδῃ καὶ φρυγανώδῃ. Hesychius χλῆδος: ὁ σωρός τῶν θϊσων. [The article shows that χλῆδον does not here mean rubbish generally, but the soil or gravel thrown up from altering the fences. P.]

ἐκ ὁν] The pl. refers to εὐαγγεῖον...ἀιμασίαιν and χλῆδον ἐκβαλὼν. The first adjective υψηλοτέραν is explained by the latter, the second στενωτέραν by the former:—one of the many forms of χασμός 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 αὐτίκες εἰσεσθε σαφέστερον, ὅτι δ’ οὐδὲν ἀπολογεῖτος οὐδὲ καταβε-23 βλαμμένος ἄξιον λόγου τηλικαύτην μοι δίκην εἰλήχε, τούθ’ ὡμᾶς ἵδη πειράσομαι διδάσκειν. Τῆς γὰρ μη-τρὸς τῆς ἐμῆς χρωμένης τῆς τούτων μητρὶ πρὶν τού-τους ἐπιχειρήσαι με συκοφαντεῖν, καὶ πρὸς ἀλλήλας ἀφικνομένων, οἷον εἰκὸς ἀμα μὲν ἀμφοτέρων οἴκους ἐν ἀγρῷ καὶ γειτνιωσῶν, ἀμα δὲ τῶν ἄνδρων χρωμένων ἀλλήλων ἔως ἔξων, ἐλθοῦσας δὲ τῆς ἐμῆς 24 μητρὸς ὡς τὴν τούτων καὶ ἀποδυραμένης ἐκείνης τὰ συμβάντα καὶ δεικνυόμενης, οὕτως ἐπιθυμεῖνα πάντα ἡμεῖς, ὁ ἄνδρες δικασταί. καὶ λέγω μὲν ἀπερ ἦκουσα τῆς μητρὸς, οὕτω μοιβ' πολλὰ ἀγαθὰ γένοιτο, εἰ δὲ-ψεύδομαι, τάναντα τούτων ἡ μὴν ὅραν καὶ τῆς τού-των μητρὸς ἄκουεν ἐφί κρίθων μὲν βρεχθῆναι, καὶ ἐχραινομένους ἰδεῖν αὐτίνε, μηδὲ τρεῖς μεδίμνους, ἀλεύρων δ’ ὡς ἡμιμέδιμνον ἐλαίαν δ’ ἀποκλιθῆναι μὲν κεράμιον φάσκειν, οὐ μέντοι παθεῖν γεὗδ’ οὐδέν.

b Bekk. οὕτως ἐμοὶ Ζ cum ΦΣΦΒ.
c Bekk. ἀντίθε Ζ cum G. H. Schaefer.
d Bekk. μέντοι γε Ζ cum Σ.

on Isocr. ad Dem. § 7, Paneg. § 54).—αὐτίκαι, sc. at the end of § 27.—τηλικαύτην δίκην. Cf. § 25 χίλιων 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 'Αφόβω χρωμένων, Or. 33 (Ama- tur.) § 7, Or. 35 (Lacrit.) § 6 ἐπιτήδεου μοι εἰσὶ καὶ χρώμεν' ἀλλήλως.—τῶν ἄνδρων, 'their husbands.'

24. ἐκείνης] sc. τῆς τούτων μητρὸς.

οὕτω—γένοιτο] Or. 54 § 41. Ter. Eun. iv 1, 1 ita me ditis bene amem. Prop. i 7, 3 ita sim felix. Cic. ad Att. v 15 ita vícum.

τάναντα] a kind of euphemism for πολλὰ κακὰ. So also Soph. Phil. 503 παθεῖν μὲν εβ παθεῖν δὲ δάτερα.

κριτῶν—παθεῖν γε οὐδέν] Quot- ed by Aristeides (Π 544 Spengel Rhet. Gr.) ἐνίοτε δὲ ἢ μὲν ἔννοια ἀφελής ἐστιν, ἢ δὲ ἀπαγγελεῖ πολιτική, ὡς καὶ ἐν τῷ πρὸς Καλλικλέα ο Νημοσθένης, κριθὸν

79x197]
25 tosaunta, o anwres dikasta, ta symbeta' yu tou'tois, an' oan egw xilion drahmou dikhn atimhtou fevno, ou gar de, teixion y' ei' palaiodon epikhodhmisen, emoi kai touto logištewon estin, o m' epitese m' allo deinou mcheden epathen, osw' ei sunechoron au'touis apan-1279
tow aitios einai tow symbebhkonton, ta ye breyghenta
26 taunt' yu. opote de mite ez arxh' o pati' hei'kei to
xworion perioikodomou, mht' outoi potopei nekeilasen
tosouton xronon dieuthunon, ou t' allou pollla kai
dewa peptonthotes mcheden mallon egkalousun emoi, pa-ntes te umei to ek twn oukion kai to ek twn xorion
udwor eis tin odon ezagein eiwathate, alai ou ma Di' eisw to ek tis odon dechthai, ti dei pleio legein; oude
gar ek touton adhlon wti faferos sukofoantoymai,
27 ou'ti adikwv ou'den ou'te beblammeinov a fasin. ia

* Bekk. et corr. S. ei teixion S (ei in margine manu cadem addito). teixion ye r. teixion ei FB.

epikhodhmisen] (cf. epiiskewa-zeug) refers to repairing the old
wall.

26. ou'ti allou-eimoi] Cf. § 21
pollon polla ... beblammeinov—pantes—eiwathate. See § 17 init.
ou'te beblammeinov a fasin beblammeinov, not neuter, but
masc. 'they have not incurred the damage they allege.' § 21
polloon polla kai megala beblammeinov.
27. χληδον] See note on § 22. ὁρκον ἐδίδουν 'offered an oath' in the sense of 'proposed to administer an oath.' On ὁρκον ὄνταν καλ λαμβάνει, 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 villany and his infatuation.

28. ἀνακεχωκότες] Cf. § 22 ψηλότεραι τῷ ὄνδῳ...πεποιήσαθαι συμβέβηκεν.

'Ελευσίν] Commonly without ἐν. So also Μαραθῶν and other locatives of Attic demes. Cobet var. lect. p. 69, 201 and nov. lect. p. 95, 96.

'Ελευσίς 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
LV. ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ [§§ 28—32]

ἐν τοῖς ἄλλοις τόποις. ἀλλ’ οὐ δήποτε τούτων, ὥς γὰρ καὶ θεά, παρὰ τῶν γειτόνων ἔκαστος ἄξιωσε τὰς 29 βλάπτας κομίζεσθαι, καὶ ἐγὼ μὲν, ὅν προσήκεν ἀγανακτεῖν τῆς ὁδοῦ στενοτέρας καὶ μετεωρότερας γεγενημένης, ἥσυχιάν ἐχὼ τούτως δὲ τοσοῦτον περιέστων, ὡς έσοικεν, ὡστε τοὺς ἱδικημένους πρὸς συκοφαντοῦσιν. 1280 καίτοι, ὅ Καλλίκλεις, εἰ καὶ ὅμιν περιοικοδομεῖν ἔξεστι τὸ ὑμέτερον αὐτῶν χωρίον, καὶ ἤμιν δήποτε τὸ ἡμέτερον εξῆ. εἰ δ’ ὁ πατήρ ὅ ἐμὸς ἥδικεί περιοικοδομοῦντες οὕτως: δῆλον γὰρ ὅτι, μεγάλοις λίθοις ἀποικοδομήθητος, πάλιν τὸ ὑδάρι εἰς τὸ ἐμὸν ἤξει χωρίον, εἰθ’ ὅταν τύχῃ καταβαλεῖ τὴν αἰμασίαν ἀπροσδοκήτως. ἀλλ’ οὐδὲν μᾶλλον ἐγκαλὸ τοῦτος ἐγὼ διὰ τοῦτο, ἀλλὰ στέρνω τὴν τύχην καὶ τάμαντο φιλάττειν πειράσομαι. καὶ γὰρ τοῦτον φράττοντα μὲν τὰ ἐαυτοῦ σωφρονεῖν ἴγούμαι, δικαζόμενον δὲ μοι

h Σ. γεγενημένης καὶ μετεωρότερας Ζ.

i πρὸς συκοφαντοῦσιν Ζ.

plain, damaging the lands and buildings.' Leake's *Demi of Attica*, p. 154.

τὰς βλάπτας κομίζεσθαι] 'to recover the damages.'—μετεωροτέρας = ἴψυλοτέρας, cf. § 22.

29. περιέστων] More commonly with a genitive: but cf. Mid. § 17 οὐδ’ ἐνταῦθ’ ἐστὶ τῆς ἠβρεως, ἀλλὰ τοσοῦτον αὐτῷ περιήν ὡτε τὸν...ἀρχόντα διεύθετε. [τοσοῦτον, i.e. ἀνασυχνίας (or συκοφαντίας), to be supplied from ἀνασυχνότεροι (ἡ περιοικοδομεῖς) above, in § 28.—περιέστων, i.e. ἐκ περιοικοσύνας 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 τιμῶς...τυχεῖν ὡστ’ ἀπελίκαλος πρὸς ἐδέσθε εἶναι. See note on Or. 37 § 49 πρὸς ἀτιμώσαντες, and 39 § 23 πρὸς μισήσαιν. καὶ ἤμιν...καὶ ἤμιν] This idiomatic repetition of καὶ cannot be literally rendered in English.

περιοικοδομοῦν...-δομοῦντες] Posses paroikod. bis: sed cave facias. construe ἠδοκεί μάλλον περιοικοδομοῦν 'by hedging in' etc. Dобree.

30. ἀποικοδομήθητος] Genitive neuter absolute. We cannot understand either τοῦ ὑδάτος οὗ τοῦ χωρίου. *Malin* ἀποικοδομήθητον, says Dобree.—στέργω, see § 22.
blindly infatuated; 'having his judgment (or reason) impaired by some malady,' contrasted with σωφροσίνη 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.


§ 32. [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. Π.]

For another use of ἐπιγραφασθεῖν, cf. Or. 51 § 31.

32. υπὲρ ὧν κ.τ.λ.] = δικαίως] υπὲρ τούτων ὧν ἐφραζέν ὁ πατὴρ καὶ πλέον ἡ πεντεκαίδεκα ἐτή ἐπεβίω. See esp. notes on Or. 45 § 27 ὃν διεφθάρκει and § 68 ἁ πέπλασται.
δικαίωθαι. καὶ μὲν ἐγὼ τῶν χωρίων ἀποστῶ τούτων ἀποδόμενος ἢ πρὸς ἑτερα χωρία ἀλλαξάμενος, οὐδὲν ἀδικεῖ Κάλλαρος · ἂν δὲ ἐγὼ μὴ βούλωμαι τὰμαντοῦ τούτων προείθει, πάντα τὰ δεινότατα ὑπὸ Κάλλαρου πάσχουσιν οὕτω, καὶ ξητοῦσι καὶ διαίτητην ὅστις αὐτῶς τὰ χωρία προσκαταγνώστηαι, καὶ διαλύσεις 33 τοιαύτας ἔξω τὰ χωρία ἐξουσιών. εἰ μὲν οὖν, ὥς ἀν- δρεῖς δικασταί, τοὺς ἐπιβουλεύοντας καὶ συνομοσφοντοῦν- τας δεί πλέον ἔχειν, οὐδὲν ἀν ὀφελοῖς εἴη τῶν εἰρημένων· εἰ δὲ ὑμεῖς τοὺς μὲν τουτούς μυσεῖτε, τὰ δὲ δίκαια ψηφισθείσα, μὴ ἀπολογείκοτος Καλλικλέους μηδὲν, μὴ ἡδίκημενον μὴθ' ὑπὸ Κάλλαρον μηθ' ὑπὸ τοῦ 34 πατρὸς, οὐκ οἵδ' ὦ τι δεί πλείω λέγειν. ἵνα δὲ εἰδήτε ὦτι καὶ πρότερον ἐπιβουλεύον μοι τοῖς χωρίοις τὸν ἀνεψίους κατεσκεύασε, καὶ νῦν τὴν ἐτέραν αὐτὸς κατε- διητήσατο Κάλλαρο ταύτην τὴν δίκην, ἐπηρεάζων ἐμοὶ διότι τὸν ἀνθρωπὸν περὶ πολλοῦ ποιοῦμαι, καὶ Κάλλαρῳ πάλιν εἰληχεῖν ἐτέραν, ἀπάντων ύμῖν ἀναγνώστηαι τὰς μαρτυρίας.

ΜΑΡΤΥΡΙΑΙ.

35 Μὴ οὖν πρὸς Δίος καὶ θεῶν, ὥς ἀνδρεῖς δικασταί, προῆσθε με τοῦτοις μηδὲν ἀδικοῦντα. οὐ γὰρ τῆς ξη-
we felt that that would be the strongest argument with you, gentlemen, who are yourselves upon your solemn oath.

35. χαλεπὸν ὃν] sc. τὸ ἡμιοῦσθαι. Hard though it falls on those whose property is but small.

[ἐλαυνόντες καὶ συκοφαντοῦντες] by their persecution and petty litigation.

[ἐτοιμοὶ μὲν...ἐτοιμοὶ δὲ] § 20 ἐβλαψαὶ μὲν...ἐβλαψαι δὲ.

[τοῖς εἰδόσιν, ἵσιοι καὶ κοινοίς] 'impartial, fair and unbiased persons, acquainted with the facts.' § 9 τοῖς εἰδόσι...τοῖς ἵσιοι. τὸν νόμιμον ὥρκον] 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, ἡθελητα ὑμᾶς ταυτί. Aristot. Rhet. i. 15 §§ 27—33.

[τοῖς αὐτοῖς ὑμῖν ὁμομοχθαί] '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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