

The Greek Sophists

Translated and with an Introduction and Notes by
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Antiphon Selections

**Principal readings are "Antiphon as
Politician" (pp. 145-147) &
Tetralogies #1 & #2 (pp. 172-192).
Interesting (if not quite reliable)
biographical notices are highlighted
in Green**

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5 ANTIPHON¹

An adequate treatment of Antiphon of Rhamnus, the only Athenian among the major sophists (apart from the ambiguous figure of Plato's cousin Critias, who will be dealt with below, ch. 7) is made difficult by uncertainty as to how many Antiphons we are actually faced with. The author of the Tetralogies and of certain forensic speeches, who can probably be identified with the anti-democratic politician who masterminded the establishment of the regime of the Four Hundred in 411 BC, and who was condemned to death and executed by the restored democracy as a result, has been distinguished by some from the author of the treatises On Truth and On Concord (which two treatises have also been thought by some to have different authors). But there are also in the picture the following: a good democrat who was executed by the Thirty in 403, and for whose daughter the orator Lysias wrote a speech;² a tragic poet who fell foul of the tyrant Dionysius the Elder of Syracuse, and was executed by him (some time in the early fourth century); a diviner and dream-interpreter, who wrote a book on the latter subject; and an individual who set up a psychiatric clinic in Corinth (probably in the mid-fifth century). We are persuaded that at least the two 'main' Antiphons can in fact be accommodated within the same skin, despite the palpable differences in style between the forensic speeches and the Tetralogies³ and the On Truth or the On Concord. As we have seen in the case of Gorgias, a master of style can change his style to suit the subject-matter. As for the diviner and the psychiatrist, we have grave doubts that they can be accommodated, but many authorities accept them, so it seems best to include them, with due caution.⁴

Our Antiphon, then, is an Athenian, son of Sophilus, of the deme Rhamnus. He is said by Caecilius of Caleacte (reflected in the reports of Hermogenes of Tarsus, Pseudo-Plutarch, Philostratus, Photius and the anonymous Life prefixed to his speeches in the manuscripts, see §§2-4 below) to have been a little younger than Gorgias, which would seem to imply a birth-date in the early to mid-470s. He would thus be a slightly older contemporary of Socrates, with whom Xenophon represents him in conversation (Memoirs of Socrates I 6 = §9). His father ran a school, and is said to have been his first teacher. Though undoubtedly influenced in later life by Gorgias, Antiphon may be credited with being the pioneer of the art of rhetoric at Athens, both through his teaching and through his writings. He also seems to have pioneered the art of speech-writing, and his three surviving forensic speeches (which will not be included in this volume, as not being properly sophistic productions) have a claim to be among the earliest examples of Attic prose, while his three Tetralogies constitute a most interesting example of the tools of rhetorical instruction.

He was also active in politics, in the conservative interest, and became prominently involved in the anti-democratic coup of 412, which established the regime of the Four Hundred – which in turn led, as mentioned above, to his being executed by the restored democracy in 411.

LIFE AND WORKS

First, a confused and confusing sequence of biographical notices in the Suda, listing three different Antiphons, all of whom are possibly the same man.

1. (a) Antiphon, an Athenian, diviner⁵ (*teratoskopos*) and epic poet and sophist. He was given the nickname of 'speech-cook' (*logomageiros*).

(b) Antiphon, son of Sophilus, an Athenian, of the deme of Rhamnus. No teacher of him is known.⁶ Nevertheless, he embarked on the forensic type of speech after Gorgias. He is

said actually to have been the teacher of Thucydides. He was given the nickname of 'Nestor'.

(c) Antiphon, an Athenian, an interpreter of dreams. He wrote a book on the interpretation of dreams.

(Suda, s.v. Antiphon = 87A1)

This is very minimal, but we have a number of more copious sources, all probably dependent on a life of Antiphon which we know to have been composed in the first century BC by the rhetorician Caecilius of Caleacte. First, that of the second-century AD rhetorician Hermogenes of Tarsus.

2. When one comes to speak of Antiphon, one must first remark that, as Didymus the grammarian⁷ and several others have noted, and in addition to that from what one can discover oneself, there would seem to have existed a number of Antiphons, two of whom practised the art of sophistry, and therefore fall within our purview. One of these is the rhetorician who composed the murder speeches⁸ and public addresses and others of this sort.⁹ The other is the so-called diviner and interpreter of dreams, to whom are said to belong the books *On Truth* and *On Concord* and the *Politikos*.¹⁰

I must confess myself in something of a quandary on this matter. On the one hand, the difference of genres tends to persuade me that there were two Antiphons; for really there is a great discrepancy between *On Truth* and the other books. But on the other hand the testimony of Plato¹¹ and other authors tells in the other direction; for I am told by many that Thucydides was a pupil of Antiphon of Rhamnus, and while I know that it is to the Rhamnusian that the forensic speeches belong, I am also conscious that Thucydides has a very different style from him, and one that has much in common with the treatise *On Truth*. So I am not convinced by Didymus.

Nonetheless, whether there is just one Antiphon, employing two styles differing so radically as they do from one another, or in fact two, each practising a different style, we must deal with each separately; for there is, as I have said, a pronounced distinction between them.¹²

The Antiphon from Rhamnus, then, of whom we have the forensic speeches, while showing political acumen in the clarity and practicality and, in other respects, the expressive quality of his style, all of which contribute to persuasiveness, nevertheless shows these qualities to a lesser degree than the other orators – for he is, of course, the first to have pursued this kind of speaking, and is the absolute inventor and originator of the political genre of oratory, being chronologically the eldest of all the ten orators. He employs grand language to a large extent, but yet in a rather fine way this grand language is worked into the context of the speech, and does not seem out of place, as in the case of Hyperides, nor, as in the case of Aeschines, is his language sophistically elaborated, although his style is often high-flown; yet he takes care not to let it bore the reader. Nevertheless, his style is rather forbidding, albeit clever at the same time.

The other Antiphon, on the other hand, to whom is attributed the book *On Truth*, is not at all political, but comes across as grand and pompous, particularly in his way of dealing with every question by categorical assertions, characteristic of a style which is dignified and aiming at grandeur; but he is lofty in his diction and rough, so as to end up not far from harshness, and he indulges in amplifications without achieving clarity, so as to confuse his argument and to be generally obscure. But he is at the same time painstaking in his composition, and takes delight in the even balancing of clauses (*parisôsis*). It is not, however, the case that the author possesses expressive character (*êthos*) or true quality, and I would not say either that he is endowed with cleverness (*deinotês*), except of a superficial kind which is not really cleverness at all. Critias, too, is similar to him in style; and for this reason we will discuss Critias immediately after him.¹³

(Hermogenes of Tarsus, *Peri Ideôn*, B399, 18 Rabe)

A rather fuller account, also dependent on Caecilius of Caleacte, is to be found in the Lives of the Ten Orators, falsely attributed to Plutarch, but probably of the first or second centuries AD.

3. Antiphon was the son of Sophilus, of the demê of Rhamnus. He studied under his father (for he was a sophist, with whom

Alcibiades also is said as a boy to have studied), and having achieved competence in speaking – as some consider, through his own natural ability – he entered upon a political career. He set up a school (*diatribê*), and engaged in a dispute with Socrates on the subject of words, not in a spirit of contention, but in that of dialectical inquiry, as Xenophon presents it in his *Memoirs of Socrates*.¹⁴ And he composed some speeches for citizens who requested them for their contests in the law-courts, being the first who turned to this profession, according to some authorities. At any rate, no forensic oration is attested for any of those who came before him, nor for his contemporaries either, because it had not yet become the custom to write speeches; there is none by Themistocles, Aristides or Pericles, although their circumstances provided them with many demands and also occasions for such speeches. And it was not by reason of incompetence that they failed to compose such speeches, as is plain from what is said by the historians about each of the above-mentioned statesmen. Yet all those whom we are able to record as having practised this kind of speech, going back to the earliest times, will be found to have had some contact with Antiphon when he was already old; I mean people like Alcibiades, Critias, Lysias and Archinus.¹⁵ He was also the first to publish manuals of rhetoric (*rhêtorikai tekhnai*), being a man of acute intelligence; and for this reason he was given the nickname of ‘Nestor’.

Caecilius, in his treatise about him, deduces, from the terms in which Antiphon is praised in the works of the historian Thucydides, that he was the latter’s teacher.¹⁶ In his speeches, he is accurate and persuasive, clever in invention and ingenious in presenting difficult cases; he tends to take an unexpected line, and he aims his arguments at both the laws and the emotions, aiming above all at what is suitable to each occasion.

He was born at the time of the Persian wars and of the sophist Gorgias, than whom he was somewhat younger;¹⁷ and his life extended until the dissolution of the democracy by the Four Hundred,¹⁸ in causing which he seems himself to have had a part, at one time by being a trierarch of two ships, at another by being general and gaining many victories for the Four Hundred, by arming men of military age and by manning sixty

triremes, and by being on every occasion their envoy to Lacedaemon at the time when Eëtioneia had been fortified.¹⁹ And after the Four Hundred were overthrown he was indicted, along with Archeptolemus, one of the Four Hundred, and was condemned; being subjected to the penalties prescribed for treason, he was thrown out unburied, and posted up as an outlaw, along with his descendants . . .²⁰

There are extant sixty orations ascribed to this orator, twenty-five of which Caecilius declares to be spurious. He is mocked for his love of money by Plato in his *Peisander*²¹ . . .²² He composed a manual for the cure of grief (*tekhnê alypias*), on the analogy of the treatment of the sick by doctors and, getting himself a dwelling (*oikêma*) in Corinth near the market-place, he advertised that he was able to cure those suffering from grief through the power of words (*logoi*); and discovering the causes of their sickness by inquiry he gave consolation to sufferers. But he came to consider the art beneath his dignity, and turned instead to rhetoric.²³ He is commended most for his oration concerning Herodes, that against Erasistratus about the peacocks, that on the indictment (*eisangelia*), which he wrote in his own defence, and that against the general Demosthenes for making an illegal motion in the assembly. He wrote also a speech against the general Hippocrates and caused him to be convicted by default.²⁴

(Pseudo-Plutarch, *Lives of the Ten Orators* 832B–834B)

The account of his life and works here presented, derived from Caecilius of Caleacte, is to be found also in two other sources, the Bibliotheca of Photius, the learned patriarch of Constantinople, composed around AD 858 (codex 259, p. 485b9ff.), and in the life of Antiphon prefixed to his works in the manuscript tradition, but, although neither of these texts is obviously dependent on Pseudo-Plutarch,²⁵ they contain nothing different of any significance, so we merely note them. The evidence of Philostratus, however, in his Lives of the Sophists, though also probably dependent on Caecilius, does seem worth including, if only for the literary reflections with which he adorns his narrative. Philostratus accepts without question the identification of the

orator and politician with the sophist, but he also tries to weave in not only the psychiatrist in Corinth, but even the tragic poet executed by Dionysius of Syracuse – which latter, at least, says little for his judgement.

4. [498] As for Antiphon of Rhamnus, I am not sure whether he ought to be called a good or a bad man. On the one hand, he may be called a good man, for the following reasons. He was very often appointed a general, and very often won victories; he increased the Athenian navy by sixty fully equipped triremes;²⁶ he was regarded as the most capable man of his time, both in the art of speaking and in originality of invention. On these grounds, then, he deserves praise from me or any other. On the other hand, he could be regarded as a bad man for the following reasons: he overthrew the democracy; he enslaved the Athenian people; he was a partisan of Sparta, secretly at first, but openly later on; and he let loose on the Athenian political scene the mob of the Four Hundred Tyrants.

Some say that Antiphon invented the art of rhetoric when it did not exist before him, others that it was already invented, but that he developed it; some say that he was self-taught in his art, others that he owed it to his father. For they say his father was Sophilus, who was a teacher of rhetoric, and educated the son of Cleinias,²⁷ as well as other prominent individuals. Antiphon developed great powers of persuasion, acquiring the nickname 'Nestor' because of his capacity to convince his audience, on whatever topic; and he announced a course of 'grief-assuaging' lectures (*nêpentheis akroaseis*), asserting that no one could tell him of a grief so terrible that he could not root it out of the mind.²⁸

[499] Antiphon is lampooned by the comic poets for his cleverness in forensic pleading, and for charging large sums of money, particularly to clients who were under indictment,²⁹ for composing speeches to frustrate the course of justice. I should make clear what is involved here.³⁰ In the case of other sciences and arts, men honour those who have excelled in any of these areas; for instance, they respect doctors who are skilful more than those who are less skilful, while in the arts of divination

and music they admire whoever is more expert, and for carpentering and all the vulgar crafts they cast the same sort of vote; only in the case of rhetoric, even as they praise it, they distrust it as being crooked and mercenary and dedicated to the frustration of justice. And it is not only the general public who have such a view of this art, but also the most distinguished members of society. At any rate, they call 'clever rhetoricians' those who demonstrate a degree of skill in invention and exposition, thus bestowing upon such excellence a thoroughly ill-sounding epithet. This being the case, it was only to be expected, I think, that Antiphon, like the rest, should become a butt of comedy; for it is just things that are notable that comedy holds up to mockery.

[*Philostratus, like all the other sources dependent on Caecilius, now relates the story of the tragic poet who fell foul of Dionysius I, expatiating on the moral of the story at some length. He then concludes:*]

A good many of his legal speeches survive, and in them his rhetorical power (*deinotês*) and all the aspects of the art are manifest.³¹ There are also others of a sophistic type, but more sophistic than any is the speech *On Concord*, in which are brilliant and profound maxims and elevated diction, adorned, moreover, with poetical language; and their diffuse style makes them resemble the smoothness of a plain.

(*Philostratus, Lives of the Sophists* I 15)

ANTIPHON AS TEACHER

Plato allows Socrates, in the Menexenus, to make mention of Antiphon as a teacher of rhetoric (though ranking him, with his usual irony, as inferior to his own teacher, whom he claims to have been Aspasia, the mistress of Pericles). Despite the wild anachronisms contained in Socrates' speech, the dialogue is supposed to take place during the lifetime of Aspasia, so probably in the 420s, and thus attests to Antiphon's activity as a teacher of rhetoric in this period.

6. 'So it is not surprising that a man who is trained like me should be clever at speaking. But even a man less well taught than I, who had learned his music from Lamprus and his rhetoric from Antiphon the Rhamnusian – even such a one, I say, could nonetheless win credit by praising Athenians before an Athenian audience.'

(*Plato, Menexenus* 236A)

Cicero, in the Brutus, attests to the fact that Aristotle included Antiphon in his history of rhetoric³³ (we give here a continuation of the passage quoted above in ch. 2, §25).

7. Antiphon of Rhamnus produced similar writings [i.e. to those of Gorgias], concerning whom we have the trustworthy assurance of Thucydides that no man ever pleaded his case better, when in his hearing Antiphon defended himself on a capital charge.³⁴

(*Cicero, Brutus* 12, 47)

Antiphon is linked significantly with Thrasymachus and Theodorus of Byzantium (both of whom figure in Socrates' ironic survey of the masters of rhetorical theory in Phaedrus 266Cff.) by Dionysius of Halicarnassus, in his Letter to Ammaeus, as part of an historical argument to prove that Demosthenes was not dependent on the precepts of Aristotle's Rhetoric, as some foolish contemporary Peripatetic had apparently claimed.

Read pp. 145-147, "Antiphon as Politician", especially the fragment of Antiphon's Defense Speech

ANTIPHON AS POLITICIAN

Assuming the identity of sophist and politician, we may adduce the testimony of Thucydides and others to his political prowess and tendencies. First, Thucydides.

11. The man who made this proposal [i.e. for the setting up of the Five Thousand], and who in all other respects was most conspicuous and enthusiastic in contriving the dissolution of the democracy, was Peisander. However, the individual who put together the whole project so as to bring it to fruition, and who devoted the most thought to it, was Antiphon. He was a man second to none among the Athenians of his time in ability (*aretê*), being pre-eminent both in intellectual power and in capacity for self-expression. He did not willingly put himself forward either in the public assemblies or in any other forum of debate, but was regarded with suspicion by the mass of the people because of his reputation for cleverness. However, if anyone was involved in a contest either in the law-courts or in the political arena, he was the man who was able to give the best and most helpful advice to those who sought it. And when the democracy was restored and the regime of the Four Hundred⁴¹ was put on trial, and he himself was brought to ruin and given harsh treatment by the people,⁴² of all those who up to my time have been accused on the same grounds, he seems to me to have given the best account of himself when on trial for his life.

(Thucydides, *History of the Peloponnesian War* 8, 68)

Aristotle also speaks with respect of Antiphon, as one would expect, in his account of the establishment of the regime of the Four Hundred.

12. In this way, therefore, the oligarchy was set up, in the archonship of Callias (412/11 BC), about a hundred years after the expulsion of the tyrants, the chief movers being Peisander, Antiphon and Theramenes, men of good birth and of distinguished reputation for wisdom and judgement.

(Aristotle, *Athenian Constitution* 32.2)

Antiphon's speech of self-defense (trans. Gagarin/Woodruff 1995)

1. In his own defense

Antiphon delivered this speech in his own defense when charged with leading the oligarchic coup in 411. Although he was convicted and executed, the speech was highly praised by Thucydides (8.68) and others. Only a few fragments of the speech survive, including some papyrus fragments discovered in 1907. We translate the only fragment with continuous text (fr. 3 in the Teubner text by Thalheim, [Leipzig, 1914]); it shows an uncompromising attitude toward the jurors reminiscent, in some ways, of Socrates' defense (as reported by Plato).

⟨What was supposed to be my motive for conspiring against the democracy? Was it) a public office where I had handled large sums of money and faced an accounting (*euthunai*) that I feared? Or because I had been disenfranchised, or had done you some wrong, or feared an impending trial? Surely I had no such motive, since I faced none of these situations. Well, were you depriving me of property? Or ⟨was I in danger because of⟩ wrongs done to you by my ancestors? . . . ⟨People generally⟩ desire a different form of government from the one they have because they wish either to escape punishment for crimes they have committed or to take revenge for what they have suffered and not suffer in return. But I had no such motive.

My accusers say that I used to compose speeches for others to deliver in court and that I profited from this. Under an oligarchy I would not be able to do this, whereas under a democracy I have long been powerful because of my knowledge of the art of speaking. I would be worthless in an oligarchy, but very valuable in a democracy. Surely then I am not likely (*eikos*) to desire an oligarchy. Do you think I cannot figure this out or cannot understand what is to my own advantage?

Report of Antiphon's remark to Agathon after delivery of his defense speech and condemnation by the jury (trans. Dillon/Gergel 2002):

An anecdote concerning his speech in his own defence is relayed to us by Aristotle in the Eudemian Ethics, in connection with his analysis of 'great-spiritedness' (megalopsychia), betokening considerable sympathy on Aristotle's part for Antiphon.

5. And a great-spirited man would consider more what one virtuous man thinks than what many ordinary men think, as Antiphon after his condemnation said to Agathon³² when he praised his speech for his defence.

(Aristotle, *Eudemian Ethics* III 5, 1232b6–9)

An alternative translation of Antiphon's remark to Agathon (Morrison 1972):

(5) ——— *Eudemian Ethics* III 5, 1232b7 . . . the high-minded man would take more account of the opinion of the one expert than that of the many ordinary men, as Antiphon said to Agathon when after Antiphon's conviction Agathon praised his defense.

Read Tetralogies #1 & #2, pp. 172-192

The Tetralogies

Finally, it seems appropriate to include in this collection the series of model arguments which Antiphon composed, presumably for the instruction of his students in rhetoric. They consist of three sequences of four skeleton speeches, two each for the prosecution and the defence, in a series of imaginary, but representative, forensic situations.¹⁰¹ A certain degree of circumstantial detail is presented, to enhance realism, and some interesting issues of causality, responsibility and probability (*eikos*) are raised. The ingenuity of this tour de force, of which we have no other examples from the classical period, should not be underestimated; it is comparable to playing chess against oneself. The nearest surviving analogy is perhaps the so-called Double Arguments (*Dissoi Logoi*), which will be included later in this volume (ch. 10), but they do not have a specifically forensic subject-matter, being concerned with more philosophical issues. Of course, every teacher of rhetoric taught his pupils to argue both sides of the question (and Protagoras, as we know, composed *Antilogiai* (Contrary Arguments), which were doubtless similar to these), but this collection of examples by Antiphon is all that survives to us.

First Tetralogy

This involves a situation where a man has been murdered, but his slave is found still alive by passers-by, though dying, and, before he dies, identifies as the murderer the defendant, who is known to be an enemy of the deceased, and who was about to be taken to court by him in a potentially very damaging law-case. The prosecution is undertaken by friends of the deceased.

70. (i) *Opening Speech for the Prosecution*

[1] Such plots as are concocted by ordinary people are not hard to unmask; but in the case of criminals who have natural ability,

who are experienced in affairs, and have reached an age when they are at their peak of mental efficiency, detection and exposure is difficult. [2] Owing to the greatness of the danger involved, they give much thought to the problem of carrying out the crime in safety, and they do not embark on it until they have entirely assured themselves against suspicion. Taking account of all this, you must give the utmost weight to any indication whatever of probability (*eikos*) that is presented to you. We, on the other hand, who are prosecuting in this case of murder, are not prosecuting the innocent, while letting the guilty go free; [3] for we recognize clearly that, as the whole city is polluted by the criminal until he is prosecuted, the impiety becomes ours and the penalty for your error reverts upon us, if our prosecution is wrongly directed. Thus, as the whole pollution (*miasma*) reverts upon us, we shall try to demonstrate to you as clearly as we can that the defendant killed the dead man.

[4] <It is not likely that professional criminals murdered this man,>¹⁰² as nobody who was prepared to undergo the greatest of dangers would give up the benefit accruing from it when it was securely within his grasp; and the victims were found still in possession of their cloaks. Nor again did anyone kill him in a drunken brawl; for such a person would be identified by his drinking companions. Nor again did his death result from a quarrel;¹⁰³ they would not have been quarrelling in the dead of night or in a deserted place. Nor was it a case of someone hitting the dead man when aiming at someone else; for he would not in that case have killed him along with his slave.

[5] Since every basis for suspicion (sc. that the crime was unpremeditated) has been removed,¹⁰⁴ the mode of death itself indicates clearly that the victim was killed deliberately. Now who is more likely to have attacked him than an individual who had already suffered great injuries at his hands and who could expect to suffer greater ones still? That man is the defendant. He was an enemy of the victim from of old, and had brought several serious cases against him of which he had won none, [6] while on the other hand he himself has been indicted [i.e. by the dead man] on even more numerous and more serious charges, and has not once gained acquittal, so that he has lost a considerable

portion of his property.¹⁰⁵ Further, he had recently been indicted by the dead man for embezzling sacred funds, at a penalty of two talents.¹⁰⁶ He knew that he was guilty, had experience of the effectiveness of his opponent and he bore a grudge for past events. It was natural for him, then, to plot against him, and it was natural for him to seek protection from his enmity by killing his opponent. [7] His desire for revenge made him unmindful of the dangers, while fear of the ruin bearing down on him roused him on to attack all the more urgently. By doing this he hoped not only to avoid detection in murder, but to escape the indictment. [8] Nobody, he reckoned, would pursue the suit, and he would get a judgement by default; and even if he did after all lose his case, he deemed it better to have gained revenge than, like a coward, to be ruined by the indictment without striking back. And he clearly was convinced that he would lose it, or he would not have thought the present trial the safer option.¹⁰⁷

[9] These, then, are the considerations which impelled him to this impious act. Had there been many witnesses to the act, we would have produced many witnesses; but as the dead man's servant was the only one present, those who heard his statement will bear witness; for he was still alive when rescued from the scene, and in response to our questioning stated that the only one of his attackers whom he had recognized was this fellow.¹⁰⁸

[10] Since, then, conclusions from probability (*eikota*) and from eye-witnesses have alike proved the defendant's guilt, there is no way that in accordance with either justice or expediency you can acquit him. For those who concoct such plots would be immune from conviction, if they are not to be convicted either by eye-witnesses or by probable inferences: but it is against all your interests that this fellow, in the state of disgusting pollution that he is in, should profane the precincts of the gods by entering them, or communicate his defilement to the innocent by sitting at the same tables with them.¹⁰⁹ It is this sort of thing that causes blights (*aphorai*) and public disasters. (11) You must therefore regard the avenging of the dead as a personal duty, and, by punishing the defendant for the sin which is his alone, and imposing suffering on him alone, render the city as a whole pure from guilt.

(ii) *Opening Speech for the Defence*

[1] I would not be far from the mark, it seems to me, in regarding myself as the most unfortunate of all men. In the case of others who meet with misfortune, if, for instance, they are caught in a storm, when calm weather returns they have relief from their trouble; when they fall ill, they are saved by recovering their health; if some other misfortune overcomes them, they gain relief from the supervening of its opposite. [2] In my case, however, this is not so; not only did this man overthrow the peace of my household during his lifetime, but, even if I escape conviction on this occasion, he has inflicted a host of woes and worries upon me after his death. For I have reached such a pitch of misfortune that even a pious and honest life is not adequate to save me, but unless I can actually find and convict his murderer, whom the dead man's avengers have proved incapable of finding, I shall myself be found guilty of murder and be visited with an unholy death.

[3] Now they declare, on the one hand, that it is very difficult to prove my guilt because of my cleverness, but at the same time, in maintaining that my actions themselves prove me to have done the deed, they assume me to be a fool. For if now, because of the magnitude of my enmity, you find me guilty on the grounds of probability (*eikotôs*), it was still more natural for me to foresee before committing the crime that suspicion would devolve upon me as it has done, and, if I knew of anyone else who was plotting the murder, I was likely to go so far as to stop them, rather than deliberately to fall under obvious suspicion by committing the crime myself. For if I was detected in the act of committing the crime, I was doomed; while if, on the other hand, I was not caught in the act, I knew clearly that I would fall under suspicion, as indeed has been the case.

[4] Truly, my fate is a wretched one: I am forced not only to defend myself, but to expose the true murderers as well. Still, I must set my hand to this; nothing, it seems, is more bitter than necessity. But I have no other means of exposing the criminals than by following the methods employed by my accuser, who first exempts everyone else from guilt, and then declares that the actual manner of the death reveals me as the murderer. For

if, when everyone else appears to be innocent, that serves to fasten suspicion upon me, then, if suspicion falls upon these others, it is only reasonable for me to be freed from guilt.

[5] It is not, as the prosecution alleges, improbable, but probable, that a man wandering about in the middle of the night should be murdered for his clothes. The fact that he was not stripped of them proves nothing. If his assailants did not have time to strip him, but were frightened off by passers-by and abandoned him, they showed good sense, not madness, in preferring their lives to their booty. [6] But on the other hand, how can we know that he was not in fact murdered for his clothes, but may have seen others committing some quite different crime, and been killed by them to prevent him informing on them? Again, what about those who hated him not much less than I did – and there were many – is it not more likely that they murdered him rather than I? It was obvious to them, after all, that I would end up as the prime suspect; while I in turn knew that I would fall under suspicion because of them.

[7] Now to turn to the evidence of his servant – why should that be regarded as worthy of belief?¹¹⁰ Terrified as he was by the danger he was in, it is hardly likely (*ouk eikos*) that he would recognize the murderers; it is likely (*eikos*) rather that, at the instance of those who were his masters,¹¹¹ he would assent to whatever they suggested. When we give little credence to the evidence of slaves in general – otherwise we would not submit them to torture – how is it just for you to convict me on the evidence of this one? [8] Furthermore, if one allows probabilities (*ta eikota*) the status of facts when they tend towards convicting me, one must on the same principle consider the following as bearing witness to my innocence: it was more likely (*eikoteron*) that, with a view to carrying out my plot in safety, I should take particular care not to be present at the scene of the crime than that the slave should recognize me correctly just as he was being slaughtered.

[9] I will now demonstrate that, unless I was out of my mind, I must have thought the danger which I am now in far greater, instead of less, than that arising from the indictment. If I were convicted on this charge, I knew that, though I should be

deprived of my property, yet I would not lose my life or civic rights. I should still have been living, and left to enjoy those rights; even though dependent on contributions of money¹¹² from my friends, I would not have been plunged into the worst possible situation. On the other hand, if I am found guilty now and executed, I shall leave the stain of disgrace and pollution upon my children; if instead I go into exile,¹¹³ I shall become an old man without a country, begging my bread in a strange land.

[10] Of the charges brought against me, then, all are devoid of credence. But even if probability, in conflict with actuality,¹¹⁴ tends towards my having killed the man, I still deserve that much the more to be acquitted by you.¹¹⁵ It is clear, after all, that I would have been taking action only after severe provocation; had that not been so, I would never have been a reasonable suspect in his murder. At any rate, it is those who did kill him, and not those who had every reason to, that you would do right to convict.

[11] So then, cleared as I am of the charge in every particular, it is not I who will pollute the purity of the gods by entering their precincts, nor do I act impiously in urging you to acquit me. It is those who are prosecuting me, an innocent man, while they let the guilty escape, who will be the cause of any blight (*aphoria*) that ensues;¹¹⁶ it is they who deserve to suffer all the penalties which they say I should be liable to, for urging you to commit impiety towards the gods.

[12] Since, then, the prosecution have rendered themselves liable to such accusations, you should put no credence in them. I myself, on the other hand, as you will see by examining my past achievements, do not concoct plots or seek after what does not belong to me.¹¹⁷ On the contrary, I have made several substantial tax contributions (*eisphorai*); I have served many times as trierarch; I have fitted out choruses in splendid style; I have often contributed money to friends;¹¹⁸ and I have frequently paid out large sums as sureties (*engyai*) for many. My wealth derives not from litigation, but from application;¹¹⁹ I observe my religious duties, and I abide by the law. As I am the man I am, then, you should not adjudge me guilty of anything unholy or disgraceful.

[13] If I were being prosecuted by a living opponent, I would not be satisfied with merely defending myself;¹²⁰ I would have demonstrated the villainy both of this man himself and of those who, while professing to be championing his cause, are in fact pursuing advantage for themselves at my expense by prosecuting me.¹²¹ However, more out of a sense of propriety than justice to myself, I shall forego the opportunity. Instead, I entreat you, gentlemen, you who are the judges and arbiters of the most serious of matters: take pity on my misfortune and become its healers; and do not, by associating yourself with my opponents' attack, allow me to be destroyed by them without regard for either justice or the gods.

(iii) *Second Speech for the Prosecution*

[1] He is committing outrage upon the term 'misfortune',¹²² when he uses it to cover up his crime, in the hope of concealing his unholy behaviour. Neither does he deserve your 'pity', since he has involved his victim in a doom he never asked for, whereas it was with full deliberation that he placed himself in danger. That it is he who committed the murder we have proved in our first speech; that his defence is invalid we shall now undertake to demonstrate by refuting it.

[2] Let us postulate that the murderers were disturbed by people approaching and made off in haste, leaving their victims before they had stripped them. Then, even if the persons who came upon them found the master dead, they would have found the slave still conscious, as he was rescued alive and was able to give evidence, and, through questioning him, would have informed us clearly who had done this deed; and thus this fellow would not have been in the dock. Or postulate, on the other hand, that others, who had been seen by the two committing some similar crime, murdered them to avoid being unmasked. Then news of that crime would have been publicized at the same time as the news of the present murder, and suspicion would have been directed towards those concerned. [3] Again, I do not see how persons who were less at risk should have plotted against the dead man sooner than persons who had more to fear. The fears and sense of injustice of the latter were enough

to overcome prudence; whereas with the former the risk and disgrace involved, which would weigh more heavily with them than their grievance, would have been sufficient, even if they had contemplated doing the deed, to control the rage that was dominating their reason.¹²³

[4] Further, they are wrong when they say that the evidence of the slave is unworthy of trust. Where evidence of this sort is concerned, slaves are not tortured: rather, they are given their freedom. It is when they deny a theft or enter into a conspiracy of silence with their masters that we judge that they will only tell the truth under torture.¹²⁴

[5] Nor is it more likely that he was absent from, rather than present at, the scene of the crime. For if he was absent, he was going to be liable to the same risks that he would run if present – for any of his accomplices, if caught, would have pointed the finger at him as the originator of the plot – and he would have carried out the task less effectively; for there would not be one of those taking part who would not have been more hesitant about it than he was himself.

[6] Furthermore, he did not believe the danger arising from the indictment to be less serious, but actually much greater, than that in which he now stands, as I shall now show. Let us grant that he had equal hopes of conviction or acquittal in one case as in the other. But he had no hope of the indictment being abandoned as long as this man was alive; for he would never have persuaded him to that. He did not, on the other hand, expect to be brought to trial on the present charge, as he reckoned that he could get away with the killing.

[7] Again, in claiming that he should not be condemned by you on the ground that he is so obviously the suspect, he is arguing illegitimately. If this fellow, involved as he was in the greatest dangers, could be turned from his purpose by the knowledge that suspicion would fall upon himself, nobody at all would have plotted the crime; for everyone who was involved in less danger than him would also be less likely than him to have undertaken the crime, since they would still have been more frightened by the certainty of being suspected than by that danger.¹²⁵

[8] As for his tax-contributions and his financing of choruses, they may be sufficient indication of his wealth, but they are far from being evidence for his innocence. For it is precisely his fear of losing his wealth that makes him a likely candidate to have committed this murder, unholy as it is. When he claims that murderers are not those who are likely to have killed, but who have actually killed, he is of course quite right about those who have actually killed – if it were the case that those who actually killed him were known to us; but as they are not, proof must be based on what is probable, and that shows that the defendant, and no one else but the defendant, is the murderer. Crimes of this kind, after all, are committed in secret, not in the presence of witnesses.

[9] Since, then, he has been proved guilty of the murder so plainly on the basis of his own defence, he is asking nothing else of you but to transfer his own pollution on to yourselves. We, on the other hand, ask you for no favours; we simply put it to you that if neither arguments from probability nor the evidence of witnesses serve to prove the defendant guilty on this occasion, it will no longer be possible to prove any defendant guilty. [10] When there is no doubt about how the murder took place, when the tracks of suspicion lead plainly in the direction of the defendant, and when the evidence given by the slave is entirely trustworthy, how can you in justice acquit him? And if he is acquitted by you unjustly, then it is not upon us that the dead man's curse will lie: it is upon you that he will bear down. [11] In due consciousness of this, then, come to the dead man's aid, take vengeance on his murderer, and purify the city from pollution. Do this, and three benefits will follow: you will reduce the number of those who plot such crimes; you will increase the number of those who observe piety; and you will rid yourselves of the defilement which rests upon you because of this fellow.

(iv) *Second Speech for the Defence*

[1] See, I am voluntarily putting myself in the hands of that misfortune, which they claim that I am blaming unfairly,¹²⁶ and of the enmity of these people, on the one hand fearing the comprehensiveness of their slander of me, but on the other

trusting in your good judgement and in the truth of my account of my actions. But if I am deprived by them even of the right to lament before you the misfortunes that beset me, I do not know to what other refuge I can turn.

[2] The methods being used to misrepresent me, after all, are most remarkable – not to say most villainous! They present themselves to you as prosecutors and avengers of murder; yet they are in effect putting up a defence of all the real suspects, and then, because they cannot find the real killer, declaring that I am the murderer.¹²⁷ The fact that they are doing the opposite to the task enjoined upon them shows that they are seeking not so much to punish the murderer as to have me wrongfully executed. [3] I conceive it to be my job simply to respond to the evidence of the servant, for I am not here either to identify the murderers or to prove their guilt, but am defending myself against the charge brought against me. Nevertheless, I must go further than this, in order to demonstrate both that these people are plotting to destroy me and that I should be freed from all suspicion. [4] I ask only that my misfortune,¹²⁸ which they are using against me, you may transform into good fortune; and I call upon you, by acquitting me, to make me a happy man, rather than, by condemning me, to render me an object of pity.

They assert that those who came upon them being assaulted were in all cases more likely to inquire as to the identity of their attackers, and then bring the news back to the victim's home, rather than running away and abandoning them.¹²⁹ [5] On the contrary, I do not believe that there exists a man so impulsive or so brave that, on coming in the middle of the night upon corpses breathing their last, would not turn and run away rather than put himself in danger of his life by stopping to inquire who had committed this crime. Now since it is more likely that the passers-by did the natural thing,¹³⁰ those who murdered these people for their clothes can no longer reasonably (*eikotôs*) be let off, and I am free and clear of suspicion.

[6] Whether or not any other crimes were reported at the same time as this murder, who knows?¹³¹ It was nobody's business to look into this; and in the absence of any clear announcement, it

is not incredible that those involved in such a crime should have committed this murder too.

[7] And then again, why should the evidence of the slave be considered more trustworthy than that of free men?¹³² Free men are liable to fines and loss of civic rights, if their evidence is deemed not to be true; whereas this slave, who did not provide us with a chance to cross-examine or torture him – what sanction can there be for him? Or what means of disproving him is left? He was going to be able to give testimony without any sanctions at all, so it is not surprising that he was persuaded to make false accusations against me by his masters, who are my enemies.¹³³ On the other hand, it would be nothing short of impious if I were executed by you on the basis of such unsafe evidence as this.

[8] These people assert that it is less plausible that I was absent from the murder than that I was present at it. But I myself, not relying on probability but on facts, will prove that I was not present. All the slaves in my household, male and female, I am prepared to surrender to you for torture;¹³⁴ and if I am revealed not to have been at home in bed that night, or to have left the house for any reason, I admit that I am the murderer. The night was no ordinary one; for the murder was committed at the Diipoleia.¹³⁵

[9] On the subject of my wealth, the fear of losing which they allege as a plausible motive for killing him, the situation is just the opposite from what is assumed. It is rather the unfortunate who have something to gain from causing mayhem,¹³⁶ as their current unfortunate state may be expected to profit from changes; the fortunate, on the other hand, are well advised to preserve their prosperity by maintaining the status quo, for if there is change their good fortune may turn into bad.¹³⁷

[10] Again, whereas they claim to convict me on the basis of probability (*ta eikota*), they maintain that I am, not the probable, but the actual¹³⁸ murderer. But the other probabilities in the case have been shown to be in my favour – for not only has the witness who denounced me been shown to be unreliable, but there is now no means of cross-examining him. Likewise, I have shown that the evidence¹³⁹ supports me, and not them; and the traces of the murder have been proved to lead not to me,

but those whom the prosecution are absolving. So, then, since all the charges made against me have been shown to be unfounded, it is not the case that there is no way of convicting criminals, if I am acquitted; rather, it would follow that no defence will be effective for persons accused, if I am condemned.

[11] You see how unjustly my accusers are attacking me. Yet despite the fact that it is they who are striving to have me put to death in so impious a way, they maintain that they are free from guilt, and that I, who am urging you to act with piety, am acting impiously. But as I am innocent of all their charges, I solemnly beg you on my own behalf to respect the piety of those who have done no wrong, just as on the dead man's behalf I remind you of his claim to vengeance, and urge you not to punish the guiltless, and thus let the guilty escape; for once I am dead, no one will seek further for the truly guilty. [12] So, having due regard for these considerations, do you, in a spirit of both piety and justice, grant me acquittal, and do not wait until you are forced to repent by recognizing your mistake; for repentance in cases such as this brings with it no remedy.

Second Tetralogy

Antiphon now turns to a case of involuntary manslaughter. One young man, practising the javelin in a gymnasium, has accidentally struck and killed another youth, who ran in front of his throw. The parents of the dead youth wish to claim that, although he is innocent of intentional killing, the killer is nonetheless polluted with blood-guilt, and should be exiled for the prescribed period (at least one year). The defence argues that, since the death took place through carelessness on the part of the victim, all responsibility rests with the victim, and no guilt or pollution accrues to the doer of the deed. Presumably what interested Antiphon about this case was the problem of responsibility – a question which we have seen Protagoras debating for a whole day with Pericles (above, ch. 1, §5).

71. (i) *Opening Speech for the Prosecution*¹⁴⁰

[1] When there is agreement as to the facts, cases may be settled in advance by the relevant law and by those who voted it into law in the Assembly, which together are sovereign over every

aspect of the constitution; but if there is any matter in dispute, this, gentlemen of the jury, devolves on you to decide. However, I do not think that the defendant will in fact enter into any dispute with me. My son was struck in the side, in the gymnasium,¹⁴¹ by a javelin thrown by this young man here, and died on the spot.

[2] I do not accuse him of killing my son deliberately, but of killing him by accident¹⁴² – though the loss to me is not less from an accidental than from a deliberate killing. If he has not caused upset¹⁴³ to the dead boy himself, he has certainly caused it to the living. I ask you accordingly to pity the childlessness of his parents, show sorrow for his own untimely end, prevent his killer from setting foot where he should not set foot, and not permit the whole city to suffer defilement on his account.

(ii) *Opening Speech for the Defence*

[1] It is now clear to me that misfortunes and necessities can of themselves force even those who avoid litigation into court, and those who value their peace to assume a pose of daring and generally to go against their nature in both word and deed.¹⁴⁴ For I myself, who am least of all such a one nor wish to be, if I am not very much mistaken in myself, have now been compelled by the misfortune in which I find myself, quite contrary to my normal tendency, to come forward as a defendant in a case in which I found it difficult enough myself to acquire any actual knowledge, and in which I am in still greater difficulty as to how I shall explain it to you. [2] However, constrained as I am by harsh necessity, I too, gentlemen of the jury, take refuge in your pity, and beg of you, if I seem to you to speak with more subtlety than is usual, do not allow the aforementioned circumstances to prejudice you against my defence to the extent of inducing you to base your judgement on appearance rather than reality.¹⁴⁵ Appearance as regards actions tends to the advantage of those skilled in speaking; the reality, on the other hand, tends to the advantage of those who act with justice and piety.

[3] It was my belief that, in educating my son in those activities from which the state derives most advantage, benefit would accrue to both of us; but the outcome has been very much

counter to what I had expected. For the boy – not as a result of insolent or intemperate behaviour, but while practising the javelin in the gymnasium with his age-mates – struck a blow, certainly, but killed no one, at least if one considers the *truth* of what he did:¹⁴⁶ he became unwittingly involved in blame for a mistake which another person committed against himself.

[4] If it had been the case that the javelin had wounded the boy through being directed towards him outside the bounds of the designated throwing area, then no argument would be left to us that we had not caused his death. But since in fact the lad ran into the path of the javelin, and placed himself in its way, <my son was prevented>¹⁴⁷ from hitting his target, while the other, moving into the path of the javelin, was struck, and thus burdened us with the blame for something we did not do. [5] Since it was because he ran in front of the javelin that the boy was struck, my lad is not justly accused, as he did not strike anyone who was standing out of the way of the target. If, however, it is clear to you that the boy was not struck while standing still, but only after deliberately moving into the path of the javelin, you have a still clearer demonstration that his death was due to his own error;¹⁴⁸ for he would not have been struck if he had stayed where he was and not run across.

[6] Since, you see, it is agreed on both sides that the boy's death was accidental (*akousios*), it is by discovering which of the two was guilty of making a mistake that we should arrive at a yet clearer proof of who was the true killer. For it is those guilty of a mistake in carrying out their intentions who are the cause of accidents; even as it is those who voluntarily do a thing or allow it to be done to them who become responsible for what happens to them.

[7] Now my lad, on his side, did not make any mistake in relation to anyone: in undertaking his practice, he was not doing anything forbidden, but what he had been ordered to do, and he was not involving himself with those who were exercising when he threw his javelin, but was in his proper place among the other javelin throwers; nor was it through throwing wide of the target and sending his javelin into the bystanders that he hit the boy, but through doing everything correctly, as he intended. He was

not therefore the cause of any accident, but rather the victim of one, in that he was prevented from hitting the target.

[8] The boy, on the other hand, in deciding to run forward, missed the critical moment (*kairos*) at which he could have run across without being hit, and became involved in a situation which was far from what he wished. Accidentally committing an error (*akousiôs hamartôn*) which affected himself, he has thus met with a disaster for which he has himself alone to blame. He has brought punishment upon himself for his mistake, and has therefore duly paid the penalty – not that we rejoice at or approve of this outcome; we actually feel both sympathy and sorrow!

The mistake thus reverts upon this dead boy; so the act which caused his death is not to be regarded as ours, but as that of the person who committed the mistake: and thus the result of the action, reverting as it does upon the agent, not only frees us from blame, but has caused the agent quite justly to be punished, at the same time as he committed the mistake.

[9] Furthermore, we are also absolved by the law on which he relies in prosecuting me for killing the boy, forbidding as it does the taking of life whether wrongfully or otherwise.¹⁴⁹ For the mistake perpetrated by the victim himself clears the defendant here of having killed him by accident, while the prosecutor does not even suggest that he is guilty of deliberate homicide. Thus he is freed of both accusations, that is to say, of killing the boy either accidentally (*akôn*) or deliberately (*hekôn*).

[10] Both the truth of the situation and the statute in accordance with which he is prosecuted absolve my son from guilt; but our way of life does not justify our being involved in such a misfortune as this.¹⁵⁰ Not only will my son suffer an appalling injustice if he is made to bear the guilt of such a mistake as this, but I myself, who am to no greater degree, but just equally, free from guilt, will encounter misfortunes many times worse than he. Once my son's life is ruined,¹⁵¹ the remainder of my life will not be worth living, and in my childlessness I will be, as it were, confined still living in a tomb.¹⁵²

Have pity, then, on this child, who is suffering a misfortune none of his fault; and have pity on me, old and wretched as I

am, for my sudden and unexpected sorrow. Do not by your condemnation bring us to a miserable fate, but rather show your piety by acquitting us. The dead boy is not deprived of vengeance for the misfortune he has suffered,¹⁵³ and we in turn cannot in justice be expected to share the blame for errors committed by the other side. So have respect for the truly pious response that is appropriate to these actions, and for justice, and acquit us in due accord with piety and justice; do not impose upon a father and a son, a most wretched pair, miseries inappropriate to the time of life of either of us.¹⁵⁴

(iii) *Second Speech for the Prosecution*

[1] That the grip of necessity can induce all men to speak and to act in a way contrary to their nature is a fact of which the defendant seems to me to be giving you proof in very deed.¹⁵⁵ Whereas hitherto he was a man least likely to exhibit shamelessness or audacity, today he is being compelled by his actual misfortune to say things such as I certainly never thought he would say. [2] I was foolish enough to imagine that he would not make any reply; otherwise I would not have delivered just one speech instead of two, and thus deprived myself of half of my allotted time for prosecution;¹⁵⁶ and he, but for this audacity of his, would not have had a twofold advantage over me by using one speech to answer the one speech for the prosecution, and then being able to make accusations of his own without fear of an answer.¹⁵⁷

[3] Seeing that he has gained such an advantage over us in respect of the speeches, and an even greater one by his methods of procedure, it is outrageous that this fellow should beg you to listen sympathetically¹⁵⁸ to his defence. I, on the other hand, having done no one any harm, but having myself suffered cruel misfortunes, and now suffering even more cruel ones, come with real justification¹⁵⁹ to appeal to your sympathy, and to make my own request of you, gentlemen: you, who are the proper avengers of impious deeds, while determining what is righteous, do not let rascally subtleties of argument divert you from recognizing the truth of the situation, so that you regard it as false; [4] for such subtleties are composed more for plausibility than for

truth, while the truth will be told with less trickery, and will thus be less powerful to convince.¹⁶⁰

Trusting in justice as I do, I hold his defence in contempt; but my distrust of the harshness of fate instils terror into me lest I not only lose the benefit of my child, but may see him convicted by you in addition to being the cause of his own death. [5] For this fellow has reached such a pitch of audacity and shamelessness as to assert that he who threw the javelin and killed neither wounded nor killed, while he who neither touched the javelin nor had any intention of throwing it, missing all the rest of the earth and every other body on it, thrust the javelin through his own ribs. I would actually seem to have a better case in charging the lad with wilful murder than the defendant in claiming that the lad neither struck nor killed anyone.¹⁶¹

[6] My son was ordered at that moment by the trainer, who was collecting the javelins of the throwers, to go and pick them up;¹⁶² but by reason of the lack of discipline of the thrower of the cast, he fell into the path of the offensive weapon of this lad; and so, without having done anything wrong to anyone in any respect, he died a miserable death. The other lad, however, who failed to note the designated time for picking up the javelins, was not prevented from striking his target, but indeed struck a target sad and bitter for me; he did not kill my son deliberately, certainly, but it would be truer to say that he acted deliberately than that he neither struck nor killed him.

[7] They¹⁶³ killed my son, then, no less by acting unwittingly than if they had acted deliberately; but, in seeking to deny that he killed him at all, they wish to maintain that they are not liable to the law which forbids the taking of life whether justly or unjustly. So, then, who struck the blow? To whom is the killing to be referred? To the spectators, or perhaps to the boys' attendants – whom no one has dreamed of accusing of anything? My boy's death is no mystery, but, for me at least, only too plain. I believe that the law is correct in ordering the punishment of those who have killed; not only is it just that he who killed without meaning to kill should be liable to punishments that he did not mean to incur, but it is also the case that the victim, whose injury is not lessened by the fact that it was involuntary

rather than deliberate, would be unjustly treated if he were deprived of retribution.

[8] Nor does the defendant deserve to get off because of the bad luck involved in the commission of his error. For if, on the one hand, the bad luck is not due to any divine involvement, then, as an error, it is only right that it should be a misfortune for the person who committed it; but if, on the other hand, the curse of God has fallen upon the doer of this deed by reason of some previous act of impiety on his part, then it is not right for us to stand in the way of divine visitations.

[9] They declared, too, that it is not fitting for those who have lived as decently as they have to be visited with ill treatment. But what about us, in that case? How would we be receiving right treatment, if we are punished with death when our way of life has been in no way inferior to theirs?¹⁶⁴

When he argues that he is free from wrongdoing, and claims that ill consequences must fall upon those who have done wrong, and not be misdirected towards the innocent, he is actually taking our side. For it would be both an injustice to my son, who was killed by this lad here, though he had done nothing wrong towards anybody, if he were left unavenged; and I myself would suffer outrageous treatment if I, being even more guiltless than he, fail to gain from you the satisfaction granted to me by the law.

[10] Furthermore, on the basis of what the defence themselves admit, the accused cannot be acquitted of wrongdoing or of accidental killing, but, if anything, he and my son are equally liable to both charges, as I shall now demonstrate.¹⁶⁵ Granting that, because my son ran across in front of the javelin and did not remain still, he may justly be taken to be his own killer, then this lad is not free from blame either; he would only be innocent if he had been standing still and not throwing his javelin when my boy was killed. The killing was therefore due to both of them, but my boy, whose fault rebounded on himself, has punished himself even more severely than the fault deserved (for he has died); so how can it be right that his accomplice, who joined him in committing an offence against an innocent party, should get away scot-free?

[11] Since, then, the accused have themselves testified in their

defence to the fact that the lad had some involvement in the killing, you can hardly, in accordance with justice and piety, acquit him. If we, whose lives have been destroyed through the defendant's mistake, were found guilty of having brought death upon ourselves, we would suffer not piety but impiety at your hands; and if those who have brought death upon us are not banned from the customary rites and places of worship,¹⁶⁶ you will be showing disrespect to the gods no less than you would by acquitting those who are unholy.¹⁶⁷

Since the pollution as a whole, from whatever source it derives; ultimately devolves upon you, you must exercise the greatest caution with respect to this issue. If you find him guilty and ban him from setting foot where the law forbids him to set foot, you will be free from liability to any charges;¹⁶⁸ but if you acquit him, you will become liable to them. [12] So for the sake of both your righteousness and the laws, take this fellow away and punish him; and do not on your own account take a share in his pollution, but let us, the parents whom he has condemned to a living death,¹⁶⁹ at least appear to have our misery alleviated.

(iv) *Second Speech for the Defence*

[1] It seems to me that, as is only to be expected, my opponent was so caught up with his own speech of prosecution that he did not understand my defence; you, on the other hand, should bear in mind that, while we, as the contestants, take a partial view of the case, each of us naturally considering that his own version of it is the just one, your duty is to consider the facts conscientiously,¹⁷⁰ since it is from what is said that the truth of the matter must be deduced. [2] As far as I am concerned, if I have said anything which is false, I am content that you should bring under equal suspicion whatever truth I have spoken. On the other hand, if I have spoken the truth, but have also used precise and subtle arguments,¹⁷¹ it is not I who uttered them, but he whose action made them necessary, to whom any annoyance they may cause should justly be directed.

[3] I want you first of all to grasp that a man is not a murderer just because somebody says he is, but only if someone can prove it. Now the prosecution accepts that the event happened as we

describe it, but he disputes as to who properly is to be regarded as the killer, despite the fact that there is no other means of demonstrating this than by examining what happened. [4] He indignantly complains that his son has been slandered, if he should be proved a killer when he neither threw the javelin nor had any intention of doing so; but that is not a response to my argument. I am not claiming that his son threw the javelin or struck himself; but simply that, since he moved within range of the javelin, his death was caused, not by my lad, but by himself – for he was not killed when standing still. Since this running across was the cause of his destruction, it follows that, if it was at the command of his trainer that he ran across, his trainer would be the person who killed him; but if he moved into the path of the missile on his own impulse, then his destruction was caused by himself.

[5] I do not wish to embark on any other argument until I demonstrate still more clearly which of the two¹⁷² was responsible for this event. My lad did not miss his target any more than those who were practising with him, nor did he, through his own mistake, commit any of the acts of which he is accused. The other boy, on the other hand, did not do the same as his fellow onlookers, but moved into the path of the javelin, and thus clearly demonstrates that it was through his own mistake that he suffered worse misfortunes than those who stayed where they were. The former, in throwing, would not have been guilty of an error of any sort, if no one had moved into the path of his missile; while the latter would not have been hit, if he had remained where he was among the spectators.

[6] I will now proceed to show that my son was not more involved in the boy's death than any one of his fellow javelin-throwers. For if it was because of the fact that my son was throwing a javelin that the boy was killed, then all those practising with him would participate in the blame, for it was not because of their failure to throw that they did not strike him, but simply because he did not come within range of the javelin of any one of them. Similarly, my lad, who made no greater mistake than they, would not have hit the boy any more than they did, if he stayed where he was among the spectators.

[7] Again, not only is the original error to be imputed to the boy alone, but also a degree of negligence.¹⁷³ Since my son saw no one running across, how could he have taken care not to hit anyone? Your boy, on the other hand, when he saw the javelin-throwing going on, might easily have taken the precaution of not running across; for he was perfectly free to stand still where he was.

[8] As for the law which they appeal to, it is a perfectly commendable one; it is indeed right and just that it should impose upon those who have killed unintentionally unintended punishments. But my lad is not guilty of error, and so cannot be justly punished for the error of another; it is enough that the latter should bear the consequences of his own errors. On the other hand, the boy, who was destroyed through his own error, simultaneously committed his error and punished himself for it. And as the killer has been punished, his killing has not gone unavenged.

[9] Since, then, the killer has paid the penalty, it is not by acquitting us, but rather by condemning us, that you will impose a burden on your consciences (*enthymion*). The boy, who is bearing the brunt of his own error, will leave behind him nothing that calls for atonement (*prostropaion*) from anyone; but if my son, who is innocent of the charge, meets with destruction, there will be that much the greater burden on the consciences of those who have condemned him.

If the dead boy is proved to have been his own killer by the arguments that have been presented to you, it is not we who have stated them who are responsible for that, but the nature of his own actions. [10] Since investigation proves conclusively that the boy was his own killer, the law, in acquitting us of blame, lays the condemnation on the true killer. Do not, then, plunge us into miseries which we do not deserve, nor do you yourselves go against the will of God in coming to the aid of our opponents in their misfortunes. Remember, as it is right and just that you should, that the accident was caused by the one who moved into the path of the javelin, and acquit us; for we are not to blame for his death.

Third Tetralogy

We now have a situation where a killing takes place in consequence of a drunken brawl. This case has a certain amount in common with the second, in that the plea of the defence is justification, and in the fact that the dead man caused his own death. The difference here is that the defendant did intend to aim a blow at the victim, if only to defend himself; the issue is whether his use of force was justified, or excessive.¹⁷⁴ As in the previous case, a complication as regards laying the blame is introduced, in the person of a doctor, to whom the badly injured victim was entrusted by his relatives, and under whose care he died (although a passing attempt is made to blame the trainer in the Second Tetralogy).

Another difference worth noting between this and the previous cases is that the evidence of witnesses is important, as it would be in most real-life cases, and is referred to by both prosecution and defence,¹⁷⁵ though it is of course not included in the text.

Finally, this sequence exhibits an oddity (which may, indeed, be reflective of real-life cases): the defendant decamps before the end of the trial, leaving the second speech for the defence to be delivered on his behalf by his friends.

72. (i) Opening Speech for the Prosecution¹⁷⁶

[1] It is the custom – and a good one too – in cases of murder that judges must take particular care that litigants observe justice both in conducting their case and in presenting their evidence, neither letting the guilty go free or bringing the innocent to trial. [2] For when I had wished to create the same race and might the first of us into existence,¹⁷⁷ he endowed us with the earth and sea as our nurturers and preservers, that we might not perish for lack of the necessities of life before our natural end in old age. Whenever, then, when our lives have been found worthy of such consideration by God, unlawfully kills another human being both sinning against the gods and casts condemnation upon the laws of men. [3] For the victim, deprived of the gift which God has given him, naturally leaves behind him the will of his spirits of vengeance (*alitêrioi*), the agents of God's

**Notes 1-34, 42, & 101-175
are for Antiphon selections
above**

5 ANTIPHON

1. For Antiphon, we have a particularly good treatment by J. S. Morrison, in *The Older Sophists* (ed. Rosamund Kent Sprague).

- He, however, includes the forensic speeches and the *Tetralogies*, while we include only the latter.
2. It is very possibly this man, and not our Antiphon, who is to be credited with 'being a successful general, being victorious in many engagements, and adding sixty triremes to the navy', as is attributed to the composite Antiphon in the biographical tradition, but we cannot be sure.
 3. Even as between the *Tetralogies* and the other speeches doubts have been raised, some quite substantial (linguistic differences, apparent instances of ignorance of Athenian law in the *Tetralogies*), but it still seems that we may accept the identity, albeit with reservations.
 4. There is the particular problem with the psychiatrist that he set up his consulting rooms in Corinth, which would be a very odd thing for an Athenian gentleman to do, and unthinkable after the beginning of the Peloponnesian War in 432 – so this would have to be a relatively early enterprise of Antiphon's; but it is in fact presented as such in the *Life* (below, §3 and n. 25)
 5. A *teratoskopos* is someone who examines ominous signs and pronounces on the significance of remarkable events.
 6. In fact, we are told in the *Life* of him by Pseudo-Plutarch (§3 below) that he was taught by his father, who was a schoolmaster.
 7. This is Didymus of Alexandria (c.80–10 BC), nicknamed 'Brassguts', a contemporary of Caecilius (who could therefore have been reacting to him), a man of prodigious industry, who is said to have written 3,500 or even 4,000 books.
 8. That is to say, *Against the Stepmother*, *On the Murder of Herodes* and *On the Chorus-Boy*, which will not be included in this edition, as being practical forensic productions.
 9. We have reports of speeches to the Assembly *On the Tribute of the Lindians* and *On the Tribute of the Samothracians*, as well as of a speech *On the Revolution*, which he made in his own defence at his trial for treason in 411. = **fragment on p. 146 above**
 10. This may have included some remarks on the ideal form of state, or it may simply have been an attack on the Athenian democracy, but we can tell little of significance from the surviving fragments of it, cf. below §§57–61.
 11. *Menexenus* 236A (= §6 below), where 'Antiphon of Rhamnus' is mentioned as a teacher of rhetoric.
 12. That is to say, either between the two styles or the two authors.
 13. Cf. ch. 7, §18 below.
 14. *Memoirs of Socrates* 16 (= §9 below). This seems a rather benign

- interpretation of the encounter, as presented by Xenophon; it comes across as distinctly eristical.
15. Archinus was a prominent democratic politician of the last decades of the fifth century. He assisted Thrasybulus in the restoration of the democracy in 403, and was instrumental in introducing the Ionic alphabet to Athens in 403/2. The other three are well enough known.
 16. The manuscripts here have *mathêtên*, 'pupil', but Wyttenbach reasonably substitutes *kathêgêtên*, 'teacher', in accord with the evidence of Hermogenes above (and all probability). It is possible, however, that this is an error on Caecilius' part, based on Thucydides, *History of the Peloponnesian War* VIII 68 (= §11 below), since it is repeated in Photius' *Bibliotheca* (see below), which seems to be derived from Caecilius directly.
 17. This is unsatisfactorily vague, but seems to place Antiphon's birth, as we have said above, somewhere in the mid-470s.
 18. In 411, when for about four months (May to September) an oligarchic clique took over Athens. They were overthrown in the autumn by democrats in the fleet at Samos, and Antiphon and his associates were put on trial and condemned to death.
 19. This was the mole which formed the northern side of the Great Harbour of the Piraeus, which was fortified by the Four Hundred in order to control the entrance and defend against an attack by the fleet at Samos. The account of Antiphon's military exploits, however, may be an error, applied to him through confusion with Antiphon, son of Lysonides, whose achievements would have been praised by Lysias in his speech in defence of his daughter. There is not much evidence of military successes scored by the Four Hundred in their few months of power.
 20. At this point Pseudo-Plutarch descends into complete inconsequentiality, bringing in Lysias' Antiphon (see previous note), and even the tragic poet who was executed by Dionysius of Syracuse – probably in the 390s or 380s, since Dionysius' rule is stated to have been then 'at its height'.
 21. That is, Plato the comic poet. The Peisander of the title will be Antiphon's fellow oligarch and prominent member of the Four Hundred, who managed to escape to the Spartans in Decelea after the overthrow of the regime.
 22. At this point, Pseudo-Plutarch wanders off again, back to the tragic poet, whom this time he credits with setting up the psychiatric clinic in Corinth. This is almost certainly wrong. We need not suppose that 'our' Antiphon composed tragedies.

23. There is a section of Aristophanes' *The Clouds* (produced in 423 BC), II 694–793, which bears an uncanny resemblance to this procedure. It seems very much as if Aristophanes was aware that this was a procedure that sophists might employ.
24. This is probably Hippocrates, son of Ariphton, and nephew of Pericles, general in 426/5 and 424/3, when he died in the battle of Delium. It is likely, in that case, that it was during his earlier period of office that Antiphon prosecuted him, possibly as part of a conservative political strategy. Some manuscripts, however, read 'doctor' for 'general', making the reference to the famous doctor and medical writer Hippocrates of Cos. This is possible, but much less likely – though it is strange that the general allowed a case to go against him by default.

Our author ends his account with the decree recording the trial and condemnation of Antiphon (borrowed from Caecilius). This is historically interesting, but not strictly relevant to our purpose; we therefore omit it.

25. Indeed, Photius purports to be reading Caecilius directly, and even quotes him verbatim. The only item of interest contributed by the Life prefixed to his works is the information that he set up his psychiatric clinic in Corinth *as a young man*, which, if it is not just a deduction by the author, is valuable, as contributing to the credibility of the story.
26. As remarked above (nn. 2 and 19), this may really refer to the career of the democrat Antiphon, son of Lysonides.
27. That is to say, Alcibiades.
28. This is an elaboration and rationalization of the story about the psychiatric clinic in Corinth, as can be seen from a comparison with the accounts of Pseudo-Plutarch (§3 above), Photius and the Life – all dependent on Caecilius. On the likelihood of this being an enterprise of 'our' Antiphon, see above, n. 4. The epithet *nêpenthês* may actually be a reference to the drug employed by Helen for this purpose in Book 4, 221 of the *Odyssey*.
29. This seems to us to be the probable meaning of *autois malista tois kinduneuousin*, but we are by no means certain. Most of the surviving titles of speeches seem in fact to be prosecutions, but that does not exclude the possibility of Antiphon's coming to the aid of people who were under attack e.g. from *sykophantai*.
30. Philostratus, himself a rhetorician, feels sensitive on this point. In fact, since Antiphon seems to have been the first man to compose speeches for a fee, this new-fangled practice, with its connotations

of dishonesty, naturally attracted the suspicion of the public and the attention of the comic poets.

31. It is interesting that Philostratus, rhetorician though he is, is not disturbed, as was Hermogenes, by the palpable differences in style between the forensic and the sophistic works.
32. Presumably the tragic poet. He is portrayed by Plato in the *Symposium* as being a great admirer of Gorgias, and presumably he admired Antiphon also.
33. This will be his lost dialogue *Gryllus*, or *On Rhetoric*, not his surviving *Rhetoric*.
34. That is to say, his speech in his own defence in 411.
35. This would seem to attest to the fact that Antiphon ran a school of some sort.
36. One may presumably deduce from this that Antiphon, according to Xenophon, would define the purpose of the study of 'philosophy' (which is a description that he would accept for what he was teaching himself) as happiness (*eudaimonia*), and that he conceived this to reside (in part, at least) in the acquisition of material goods.
37. We omit a number of further sections, which develop the same theme.
38. This expression, *par' hêmin*, is somewhat troublesome. This is the most natural meaning, it seems, but that would appear to imply that Antiphon is a *foreigner*, and that would rather undermine his identification with the orator and politician. One might render it, alternatively, 'my theory is this', but that would more naturally translate *kata tên emên (gnômên)*, or something such. It is possible, however, to see Socrates as here simply 'putting down' Antiphon by reminding him of normal Athenian moral attitudes.
39. This question at least comes more appropriately from Antiphon the Athenian politician than from a foreign sophist.
40. Diogenes describes this as the treatise *On Poetry (peri poiêtikês)*, but he is probably referring to this work, which is attested as having been in three books.
41. The executive council of the 'Five Thousand' (this latter being never more than notional).
42. The text here is somewhat confused, but this is substantially the sense.
43. The text is unfortunately rather corrupt; we follow the restoration of Diels, which gives a reasonable sense.
44. Cf. below, ch. 7, §58.

71. Presumably in the course of a discussion of the formation of the human species. It was probably the verbal form that Antiphon used, rather than the noun.
72. Presumably also in the context of the formation of humans, or at least of animals.
73. It seems more properly to be neuter (*epiploon*), as in the Hippocratic corpus and Aristotle.
74. Composed by Xenophon perhaps fifty years later than Antiphon, but given a dramatic date approximately contemporary with him. Xenophon would, of course, be of conservative sympathies.
75. Xenophon, significantly, here uses (in the plural) the term for the Spartan senate, *gerousia*.
76. By John Morrison, *ap.* Sprague, 1972, p. 226.
77. We may note that the Neoplatonic philosopher Iamblichus (c. AD 245–325) devotes one of his letters to the subject of *On Concord*.
78. 1995, 248–52.
79. There is a contrast set up here by the particle *men*, which demands an answering *de*, ‘on the other hand’; the ‘other hand’ would presumably have been some falling short of the ideal of divinity by the human race.
80. *O makarie*, a form of address much favoured by Plato’s Socrates. This would seem to indicate that *On Concord* was either a dialogue or at least contained addresses to an interlocutor.
81. It looks here as if Antiphon is engaged on a survey of man’s life as a whole, from cradle to grave, presumably to point out the advantages of *homonoia* at each stage.
82. The text is slightly suspect here, but the balance of clausulae is distinctly Gorgianic: *isa phronountes isa pneontes, axiôsanta kai axiôthenta*. And this is true of many sections of the passage.
83. All this covered by the word *sophiai*.
84. A notable turn of phrase here: *to neotêsion skirtêma*.
85. That is, than one who is not so deterred.
86. Reading *emphrassôn* for *emphrassei*.
87. With *politikos* we are presumably to understand *logos*, which would imply that it was in the form of a speech, viz. ‘A Discourse on Politics’, or ‘on the State’. It could have been delivered to members of a political club, and then published as a pamphlet.
88. This word has other meanings, ‘easy to deal with’, ‘easy to understand’, but only Antiphon is attested as using it in this sense.
89. A remarkable noun, formed from *hêmiolios*, ‘one and a half times’.
90. That is to say, possibly, leaving recklessly large tips.

91. The genitive is in fact far more usual, though another example of the accusative is attested for Xenophon (*History of Greece* 6.2.39).
92. Antiphon as a dream-interpreter was famous enough to be included by Lucian, as the archetypal dream-interpreter, in his fantasy *The True History* (II 33), when he comes to the Island of Dreams: ‘There they have a sanctuary and prophetic seat where Antiphon the interpreter of dreams stands forth to give prophecy, receiving his commission from Sleep.’ (= A7).
93. And presumably consulted Antiphon – though normally in such circumstances one consulted the *exêgêtai*. It is possible, of course, that Antiphon was an official *exêgêtês*.
94. This may, indeed, serve to answer the objection of E. R. Dodds, in *The Greeks and the Irrational* (Berkeley and Los Angeles, 1951), pp. 132–3, against the identification with the sophist, since the sophist is alleged by Origen (cf. §13 above) to have argued against the existence of divine providence. This dictum would be in accord with such a position.
95. Antipater of Tarsus, a successor of Chrysippus as head of the Stoic school; fl. c. 140 BC.
96. Presumably Chrysippus, rather than Antiphon.
97. Diels-Kranz, it must be noted, only give the first few lines (down to ‘commentators’) as pertaining to Antiphon, but the whole passage seems to go together. We would claim it for Antiphon, though recognizing the probability of Ciceronian embellishments.
98. Presumably one of the regular *exêgêtai*.
99. One might conjecture that in his own work Antiphon told this and the following story in his own favour.
100. This was the name of the first Pythian priestess, and also of the Sibyl of Samos, but any treatise attributed to either of them on the subject of eyelid-twitches would doubtless be spurious.
101. It is possible, indeed, that what Antiphon has done here is to select real cases in which he was involved, and abstract from their particularity sufficiently to make them into *exempla*. This would explain the peculiarity of some of the details remaining.
102. Added in by the editor of the Aldine edition, to fill a probable lacuna.
103. That is to say, a quarrel not brought on by drink.
104. All the previous motives, apart from the first (robbery), would be free from premeditation, and thus attract a lesser penalty (though still involving pollution).
105. Pursuing one another through the law-courts was a favourite

- occupation of enemies in Classical Athens, as the surviving corpus of forensic speeches bears witness.
106. A *graphê hierôn klopês*. This would have concerned embezzlement of public funds deposited in one temple or another while one was filling some public office; it attracted a ten-fold penalty of repayment.
107. Antiphon has here cleverly piled up a whole sequence of probabilities, or *eikota*, such as we can observe being done in many real trials, including his own *Prosecution for Poisoning: Against the Stepmother* and *On the Murder of Herodes*.
108. In a real trial there would here be inserted *martyriai*, affidavits from witnesses.
109. The argument from the fear of pollution, like the argument from the necessity of being true to one's juror's oath, is a common feature of perorations.
110. This is the nub of the argument, being the only part of the case that approaches direct evidence. Presumably Antiphon introduces this feature in order to address the problem of the evidence of deceased persons, and in particular slaves (who could normally not give evidence except under torture). The evidence of a now deceased slave is troublesome, but challengeable.
111. It is not asserted elsewhere that the victim was discovered by members of his household, but even if they were only his friends, they would fill the role of 'masters' (*kyrioi*) for the slave. At any rate, it appears from the beginning of the second speech for the prosecution that they were not the same as the prosecutors.
112. The technical term for this sort of interest-free loan was *eranos*. Bailing out friends down on their luck for one reason or another was quite a feature of Athenian civic life.
113. This was nearly always a *de facto* option in capital cases.
114. The word-play here, *eikotôs men, ontôs de mê*, is not easy to render.
115. This sentiment is convoluted almost to the point of incoherence. His point is, however, that he deserves sympathy for the wrongs he has received at the deceased's hands.
116. A reference back to the allusion to pollution at the end of the prosecution speech.
117. The defendant now embarks on a standard feature of perorations, a catalogue of his (and, if relevant, his ancestors') previous benefactions to the city. Here, it must be said, the logic by which they are introduced leaves something to be desired: the performance of *leitourgiai* does not, after all, preclude the possibility that one

- would plot against one's personal or political enemies; but this would hardly be noticed by the jury.
118. This would be the same sort of *eranos* which he earlier envisages having to receive himself.
119. A nice piece of word-play: *ou dikazomenon, all' ergazomenon*.
120. We have here another standard feature of a peroration: abuse of one's opponent, and blackening of his character. Since the defendant's opponent is dead, however, he feels it indecent to attack his character directly, and contents himself with what in Roman rhetoric was known as a *praeteritio*, a 'passing allusion' to what he might have said – which can be almost as effective.
121. In Athenian law, a prosecutor received a percentage of the property confiscated from the person convicted by his efforts.
122. The prosecution here picks up directly on the defendant's closing remarks.
123. The phrase *to thymoumenon tês gnômês* is an interesting one. This seems to be what is meant by it. These two paragraphs answer the arguments made by the defence in ii [5–6] above.
124. This is the other side of the well-worn argument on the value of slave-evidence aired in ii [7] above. The argument made here is somewhat specious: since the slave was supporting his master, he would have been freed as a reward, and then would be exempt from torture. But this, of course, anticipates a certain outcome; meanwhile, he is still a slave, and his evidence would only be admissible under torture.
125. This reasoning is somewhat convoluted, but probably valid: the lesser enemies would still, on this reckoning, have more to fear from suspicion of murder than from their various law-cases.
126. A reference back to his closing remark at the end of his first speech, and his opponents' criticism of that.
127. The defendant really appears by this stage to be running out of steam. The arguments that follow are remarkably tortuous and implausible. The only substantial thing he does is to offer his slaves for torture to provide an alibi for him ([8] below); but one wonders why he did not do this at the outset!
128. He refers to his pending charge of embezzlement. Cf. iii [6].
129. This is assuming, convolutedly, that the true murderers were a gang of robbers who were disturbed at their work, as he has suggested in his first speech (ii [5–6]), to which suggestion the prosecution have effectively replied (iii [2]).
130. This argument from *to eikôs* is quite absurd, because in fact the passers-by *did* interrogate the slave, and report the murder.

131. Again, a reference to a point made by the prosecution in iii [2]: if, as he suggested, the murder was committed to cover up another crime, then that crime should have been reported.
132. But no free men have given evidence (other than himself). The defendant is rambling.
133. This too is quite illogical, if it was random passers-by, and not the victim's friends, who interviewed the slave, as appears to have been the case.
134. This is perfectly normal procedure – an offer repeatedly made and frequently refused – in actual law-cases; but the offer should have been made long before this.
135. A festival in honour of Zeus, which took place at the beginning of June.
136. The word used is *neôterizein*, which usually connotes stirring up revolution, but here has no such portentous meaning.
137. This conventionally conservative sentiment takes on a certain irony in Antiphon's case, since the two revolutions that took place in Athens in his time were engineered from the right, in the former of which he had a considerable part to play; but then, under Athenian democracy, it was the well-to-do who may have felt that they were 'doing badly'.
138. For the rhetorical contrast *ouk eikotôs all' ontôs*, cf. n. 114 above.
139. He uses *tekmiêria* here, which normally means 'evidence'; but there is really no evidence, other than the testimony of the dying slave.
140. This opening speech is extremely brief – apparently as a rhetorical ploy, to indicate that there is really nothing to be said, the case being an open-and-shut one (cf. the beginning of the second speech for the prosecution).
141. The gymnasium could, of course, be an open-air arena; the word simply means 'exercise area'.
142. The word used here is *âkôn*, the negative of *hekôn*, 'willingly'; it can denote both unwilling and involuntary action.
143. This attempts to translate *enthymios*, a curious term which means 'burdensome to the conscience' or 'preying on the mind'.
144. This is a variation of the conventional disclaimer made by many litigants in real cases, that they are quite unaccustomed to going to law, and have no desire to do so.
145. An interesting contrast is set up here between *doxa*, 'opinion' or 'appearance', and *alêtheia*, 'truth', 'reality' – one that in the hands of Plato would take on a metaphysical significance that it does not have here (though Antiphon, of course, wearing another hat, has written a treatise on Truth).

146. This is an odd way of putting the situation, perhaps, but an interesting one – especially if one bears in mind the sense that 'truth' (*alêtheia*) has in Antiphon's treatise of that name.
147. Added, necessarily, by Reiske.
148. The notion of *hamartia* becomes crucial for the rest of the argument. Since the word can mean either 'error' or 'fault' (cf. the ambiguity surrounding Aristotle's concept of tragic *hamartia*), the speaker can propound the notion that, since the death is the victim's own *fault*, he is essentially guilty of his own death. Thus the defendant can be cleared of being an agent even of involuntary manslaughter.
149. Athenian law did certainly distinguish between voluntary and involuntary manslaughter, but even the latter was deemed to incur pollution, which normally necessitated withdrawal from the state for at least a year and a process of ritual cleansing.
150. The defendant now turns to his peroration, appealing to the jury's recognition of his uprightness of life and to their pity for his grey hairs.
151. He is making rather too much of this, for rhetorical purposes. The lad would only be liable to exile for a year, so far as we can see.
152. A striking image, picked up by the prosecution in iii [12].
153. This can only refer, rather convolutedly, to the contention that he was in fact his own killer, so that demands for vengeance must be directed against himself and have been satisfied with his own death.
154. An interesting use of the poetical adjective *aôros*, 'untimely'.
155. Rendering the Greek expression *ergôi kai ou logôi*, 'in deed and not in word', which he employs again just below, [3].
156. He chooses to regard his opening speech as merely a bald statement of the case, and so not properly a speech (see n. 140).
157. This reasoning is so convoluted as to be virtually incoherent, and that is reflected in the Greek text. What accusations is the prosecution referring to? Presumably the suggestion that the dead boy, through his own carelessness, is in fact his own killer. But there is an opportunity to answer that point now, and it is taken up.
158. Accepting Reiske's emendation *eumenôs* for *sykhnôs* of the manuscripts. That would have to mean 'frequently' or 'urgently', which makes little sense, even if it is taken with 'beg'.
159. *Ergôi kai ou logôi* again.
160. This whole paragraph is highly wrought rhetorically, employing

- antitheses and balanced clausulae, hard to render comfortably in English.
161. This, of course, is a distortion of what the defendant is claiming, but it would not suit the prosecution to recognize the subtleties of the defence's argument about causation.
162. This is a new fact, not adduced in the opening speech, which actually tends to cast the blame for the accident on the trainer, rather than the defendant.
163. He now appears to associate the father with the act of his son, since he is defending it – that is, if we accept Blass's reasonable emendation of an ungrammatical genitive absolute into a nominative plural.
164. Some very convoluted reasoning! The 'death penalty' referred to here is simply getting in the way of the javelin.
165. A crafty move here! By conceding some measure of wrongdoing on the part of his son, he feels that he can involve the defendant in wrongdoing too.
166. That is from the market-place and from all temple precincts of Attica; this was, in fact, a way of forcing people into exile.
167. This passage is corrupt, but its broad sense seems to be this.
168. That is to say, to pollution from the curse of the dead lad. This may seem far-fetched, but it was in fact not an uncommon motif in perorations in real cases to suggest that a wrongful verdict would incur divine displeasure, or a curse from beyond the grave.
169. Recalling the striking image used at the end of the previous speech (ii [10]).
170. That is, by implication, give a fair hearing to me as well as to my opponent.
171. A reference to his rather exotic theory of responsibility, to which he now gives a further twist.
172. That is, which of the two lads; the trainer, having been introduced, is now – rather unexpectedly – set aside.
173. This, it must be said, seems a distinction without a difference.
174. There is an interesting parallel to this situation from real life, mentioned by Demosthenes in his speech *Against Meidias* (XXI 71–5). In that case, the defendant was condemned, but only by a single vote.
175. Cf. i [7], iv [3] and [8].
176. Like the opening speech of the *Second Tetralogy* this is remarkably short – presumably as a rhetorical ploy.
177. This is a most interesting line of argument. The creation of man by God, or the gods, actually forms no part of the canon of Greek

- myth, as propounded by Homer and Hesiod, but it must have been part of popular belief. In the myth told by 'Protagoras' in Plato's *Protagoras* (cf. above, ch. 1, § 18a), the creation of man is the work of Prometheus and Epimetheus, under orders from Zeus. It is always problematical what a Greek means by 'God' (*ho theos*), but in this context it seems virtually interchangeable with Zeus.
178. Once again the motif of pollution and the vengeance of the dead, which pervades these speeches. The *alitêrioi* are more or less the Furies of Greek tragedy.
179. Of course, the witnesses themselves will not be produced. However, in the second speech for the defence, it is stated that they (or at least some witnesses) testified that the old man had in fact started the brawl (iv [3]).
180. Here a complication in the chain of causation is introduced, as with the trainer in the previous case.
181. This is somewhat tendentious: Athenian law does make premeditation a condition of a murder charge in a case of assault (cf. Lysias, *Against Simon*), but all that is at issue here is who started the brawl, not what the brawler's intention might have been.
182. A necessary supplement by Reiske.
183. Accepting Thalheim's conjecture of *anatropês* for the corrupt *phonês* of the manuscripts.
184. Antiphon now introduces a form of argument from probability first recommended, we learn, in Plato's *Phaedrus* (273BC), by Teisias, the father of scientific rhetoric. It is very probable that Antiphon was familiar with this.
185. This answers (rather tendentially) the defence made in ii [2] that the defendant used only the same weapons with which he was attacked.
186. The prosecution here uses an adverb of considerable ambiguity, *thanasimôs*, which can mean 'with deadly intent', or just 'with deadly result', in order to generate a thoroughly tendentious argument.
187. A reference to ii [6] above, though the defendant there imputed *atykhia* to the dead man.
188. So it is admitted, after all, that the defendant is not guilty of *wilful* murder.
189. As was done in ii [4].
190. It is not clear whether this refers to a definite clause in the law on premeditated killing absolving doctors from the consequences of unsuccessful treatments, or is just a general claim.