

ANTIPHON THE SOPHIST, ON TRUTH

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The papyrus fragments of Antiphon's work *περὶ Ἀληθείας*, *On Truth*, are the only extended *ipsissima verba* to survive from the sophistic movement. Preserved by the impartial agency of chance, they are thankfully free of a major difficulty posed in the investigation of the other principal opinions of the sophists, the biases of the sources that recorded them. Antiphon's doctrines have long been considered a reflection of the side of "natural law" in the *nomos-physis* debate of the late fifth-century. This, because of Antiphon's apparently rigid opposition of law to nature, and the so-called social egalitarianism of the shortest papyrus fragment. Indeed, the sophist's frequent appeals to advantage and his abrasive tone have suggested to some the amoral opportunism of an anarchist.¹

¹ See, for example, S. Luria, "Eine politische Schrift des Redners Antiphon aus Rhamnus," *Hermes* 61 (1926) 343: "Es kann keinem ernstlichen Zweifel unterliegen, dass die neuen Fragmente des Sophisten Antiphon ausgesprochen anarchistisch sind . . ."; this view is restated more recently in "Antiphon der Sophist," *Eos* 53 (1963) 63-67. Subscribing to the "radical" view of the sophist's opinions are the following: H. Diels, "Ein antikes System des Naturrechts," *Internationale Monatsschrift* 11 (1917) 81-102 (see especially 97, 100-101, 99); E. Bignone, "Antifonte Oratore ed Antifonte Sofista," *Rendiconti Istituto Lombardo* 52 (1919) 564-78; K. F. W. Schmidt, "Die neuen Funde aus des Sophisten Antiphon Schrift *περὶ Ἀληθείας*," *Humanistisches Gymnasium* 35 (1924) 11-15; A. E. Taylor, *Plato: the Man and his Work* (New York 1929) 101-2, 119 note 1, 271, 336; G. C. Field, *Plato and his Contemporaries* (London 1930) 89-90; E. A. Havelock, *The Liberal Temper in Greek Politics* (New Haven 1957) 255-94; C. P. Segal, "Reason, Emotion and Society in the Sophists and Democritus" (unpub. diss., Harvard 1961) 245-396. Havelock suggests, and Segal emphasizes, a biological context for Antiphon's "natural law." A smaller group of scholars has refused to accept an extreme interpretation of the papyrus fragments: A. Croiset, "Les Nouveaux Fragments d'Antiphon," *REG* 30 (1917) 1-19; F. Pfister, "Zu den neuen Bruchstücken des Sophisten Antiphon," *Philologische Wochenschrift* No. 7 (1925) 201-5; F. Altheim, "Staat und Individuum bei Antiphon dem Sophisten," *Klio* 20 (1926) 257-69; W. Aly, *Formprobleme in der frühen griechischen Prosa*, *Philologus*, Supplementband 21.3 (1929) 105-80 (includes a short commentary on the fragments). The recent commentary of M. Untersteiner, in *Sofisti, Testimonianze e Frammenti* 4 (Florence 1962) is occasionally perceptive; Unter-

The purposes of this paper are two. First, I propose to offer a re-examination of the most continuous fragments of Antiphon, viz., those in the papyri, attempting carefully to examine all that is actually said, with a short commentary on the text. I do not intend to deal here with the other fragments of Antiphon, which are too brief to shed light on the arguments of the *Alêtheia*, or with the longer extracts attributed to the work *On Concord*. Nor does space permit discussion of the identity of the sophist and Antiphon the orator, or of the exact dating of the *Alêtheia*. I assume with most other critics that the sophist wrote in the late fifth-century, and that he was either Athenian or knowledgeable about Athenian affairs.² After the analysis of the

steiner's interpretation of Antiphon is vitiated, however, by his methodologically unsound treatment of the other fragments. See his *I Sofisti*² (Milan 1967), 2.45-107, where he uncritically accepts *P.Oxy.* III.414, several "doxographical" passages of Artemidorus, and *Laws* 888D-890A as genuinely Antiphonic, incorporates them into the *Alêtheia*, and then bases his analysis of that work largely on these texts.

² But see E. R. Dodds, "The Nationality of Antiphon the Sophist," *CR N.S.* 4 (1954) 94-95. Dodds believes Antiphon was not Athenian, and points to Socrates' words at *Xen. Mem.* I.6.13: *παρ' ἡμῖν νομίζεται*. He concludes that Socrates intends to show Antiphon, who is a foreigner, what Athenians think. But this is not conclusive, or even persuasive. J. S. Morrison has plausibly suggested that Socrates intends in the phrase a contrast between the Socratic circle and the outside world; see "*Xen. Mem.* I.6 The Encounter of Socrates and Antiphon," *CR* 3 (1953) 3-6 and "Socrates and Antiphon," *CR* 5 (1955) 8-12. It may be added that although Dodds finds it unnatural, though barely possible, to suppose that by *παρ' ἡμῖν* Socrates is reminding Antiphon of the Athenian practice (Antiphon himself being Athenian), I do not find this at all unlikely, given Socratic irony and relish in stating the obvious for his interlocutors when he believes they have overlooked it.

Of course, if Antiphon the Sophist be identical with the orator of Rhamnus, the problem disappears. Most scholars have assumed two Antiphons, and many have argued thus on the basis of the sophist's radicalism in the papyrus fragments. Space forbids discussion of the issue here; but the moderate interpretation of the papyri to be presented here is a factor in my own judgment of *non liquet* on the problem of one or two Antiphons.

G. B. Kerferd has recently proposed that the papyri do not represent, for the most part, the views of Antiphon the Sophist; rather, he argues, the fragments are in the context of a discussion of the views of others. See "The Moral and Political Doctrines of Antiphon the Sophist: A Reconsideration," *PCPhS N.S.* 4 (1956-57) 26-32. Kerferd's arguments, while useful as demonstrations of some of the potential logical weakness in Antiphon's progression of statements, tend to demand too literal a logic from the text, and to ignore its urgency of tone; in addition, he does not discuss frg. 44B. Another recent treatment, whose tack differs from my own, is that of J. S. Morrison who, proceeding from an ingenious reconstruction of the enigmatic frg. 1, regards the *Alêtheia* in the context of a late fifth-century effort to inquire into reality, *τὰ ὄντα*; see "The Truth of Antiphon," *Phronesis* 8 (1963) 35-49.

papyrus text, I will offer the conclusion that the principal argument to be extracted with certainty from the fragments is a criticism of *nomos* that is essentially ethical, not anarchistic. I shall then try to show that this view is paralleled in Antiphon's contemporaries, Euripides and Thucydides; there is evidence, in short, that the argument of the fragments, far from presenting a radical critique, expressed an increasingly common viewpoint in the late fifth-century. I shall also attempt to show that appeals to *physis* in Aristophanes' *Clouds*, which scholars have confidently related to Antiphon's doctrines, are not a valid analogy to the sophist's position. That position, as I understand it, is very far, too, from the doctrines of men like Thrasymachus and Calicles, as reported by Plato.

I. ANTIPHON'S ARGUMENT

This analysis of the papyrus fragments will follow their text and arrangement in the sixth edition of Diels-Kranz, *Die Fragmente der Vorsokratiker*. I have called the two sections of P. Oxy. 1364 frg. 44A and 44B, as in that text, and designated P. Oxy. 1797 as frg. 44C. References to the text of the fragments are by column and line number.

The first fragment becomes legible with what appears to be a definition of justice as "not transgressing the laws of the city in which one may happen to live" (col. 1.6-11). Antiphon continues as if in accord with this definition: a man may most advantageously (*μάλιστα . . . ξυμφερόντως*) comport with justice if he upholds the laws (*τοὺς νόμους μεγάλους ἄγοι*) when there are witnesses to his actions, but if there are no witnesses, he should act under the rule of nature (*τὰ τῆς φύσεως*: col. 1.12-23). For customs and laws are adventitious and products of agreement, not natural growths; the rule of nature is inevitable (*ἀναγκαῖα*) and natural (col. 1.23-2.3). "If someone breaches lawfulness and passes unnoticed by its contractors, he escapes social degradation and punishment. If he is observed, he does not. But if a man, exceeding limits, harms the organic growths of nature, the evil is neither less, if he passes totally unnoticed, nor greater, if all men see. For he is harmed not through men's belief (*δόξα*), but through truth (*ἀλήθεια*). The whole reason for the examination of

these things is the following:³ the majority of just causes, measured according to law (νόμος), are inimical to nature (φύσις)" (col. 2.3-30).

We may pause here to note some features of Antiphon's style. Hermogenes offered the opinion that there was no *ethos* in the style of the *Alêtheia*: it was lofty in diction and rugged (ὕψηλός δὲ τῇ λέξει καὶ τραχύς), and its author always makes points through general statements (δι' ἀποφάνσεων περαίνειν τὸ πᾶν).⁴ There is certainly nothing incompatible with Hermogenes' description thus far in the papyrus fragment. The sentences are short, and usually follow the pattern of direct statements in the present tense or simple conditions. Statements are made with stark antithesis, often with exact parallelism, sometimes relieved by slight variation. For example, τὰ μὲν γὰρ τῶν νόμων ἐπίθετα, τὰ δὲ τῆς φύσεως ἀναγκαῖα (col. 1.23-27) is almost *parisôsis*. On a smaller scale, καὶ αἰσχύνῃς καὶ ζημίας (col. 2.7-8) is balanced, but in μετὰ μὲν μαρτύρων τοὺς νόμους μεγάλους ἄγοι, μονούμενος δὲ μαρτύρων τὰ τῆς φύσεως (col. 1.17-23) slight variation has occurred in each half of both phrases. It is hard to suppose the alliteration unintentional. That the second phrase is an iambic trimeter has often been noticed, but this may be purely coincidental, and not, as Bignone asserted, an example of deliberate scattering by Antiphon of poetic rhythms in his writings.⁵ The chiasmic word order of καὶ τὰ μὲν τῶν νόμων ὁμολογηθέντα οὐ φύντ' ἐστίν, τὰ δὲ τῆς φύσεως φύντα οὐχ ὁμολογηθέντα (col. 1.27-2.1) is, with the alliteration, an instance of simple, prosaic ornamentation. Antiphon's fondness for neuter substantives (τὰ μὲν γὰρ τῶν νόμων, τὰ τῆς φύσεως, col. 1.23 ff.) is more apparent in the rest of the text, as is his frequent use of the articular infinitive. In spite of the ornamental devices, however, the general stylistic impression is not Gorgianic, with the elaborate effects of rhyme and parallelism that appear, say, in that author's *Epitaphios*.⁶ The dominant feature in Antiphon is antithesis, once the notions

³ Or, with Kerferd's reading: "The examination is being conducted for all these reasons, because . . ." (above, note 2) 28-29.

⁴ See Diels-Kranz, *FVS*⁶, 87A2 (vol. 2.335, lines 9-10).

⁵ See E. Bignone, *Studi sul Pensiero Antico* (Naples 1938) 195-96, note 2; cf. 190 note 2. (This work, an important contribution to Antiphontic studies, presents a far more moderate view of the fragments' ethical implications than does Bignone's earlier article of 1919—above, note 1.)

⁶ See *FVS* 82B6 (esp. vol. 2.286, lines 2-4, 12-15).

δικαιοσύνη and ξυμφέρον are introduced: νόμος and φύσις, ἐπίθετα and ἀναγκαῖα, ὁμολογηθέντα and φύντα, λαθεῖν and ἰδεῖν, δόξα and ἀλήθεια—all the oppositions lead up to the argument's main contention at the end of column 2.

The progression of Antiphon's thought in this passage has been adequately described by Havelock.⁷ It is well, however, to discuss a few important points here. First, Antiphon's use of the vague phrase τὰ τῆς φύσεως was noted by F. Heinimann and compared with the periphrasis τὰ τῶν νόμων, used to convey the double meaning of *nomos*: current usage (custom) and positive law (statute).⁸ Some have held that Antiphon is criticizing both aspects of the conception of *nomos*; this is implicit in an analysis by Kerferd of two phases of criticism, the first of statutory law, the second including some moral traditions which go beyond what the law literally requires.⁹ If it is thus accepted that Antiphon speaks of *nomos* in both senses, the phrase τοὺς νόμους μεγάλους ἄγοι (col. 1.18–20) must refer to both (a) statutes (e.g. the laws against murder) and (b) important customs (e.g. treating one's parents well—see col. 5.5–8). But it must be admitted that Antiphon does not make this distinction clear, as does Pericles, for example, when he speaks of unwritten laws, in strangely similar language: τῶν νόμων . . . ὅσοι ἄγραφοι ὄντες αἰσχύνην ὁμολογουμένην φέρουσιν . . . : Thuc. 2.37.3). Though Antiphon's argument is thus phrased in general terms, embracing both meanings of *nomos*, its specifics, as we shall see, point for the most part to criticism of positive law.¹⁰

More difficult than the precise determination of what Antiphon always means by *nomos* is the significance of *physis*. Some interpret it as human nature,¹¹ others as the specifically biological aspect of that nature.¹² It would be much easier to answer the question definitively if we had the seven lines at the end of column 4 (25–31), which con-

⁷ Havelock (above, note 1) 267–75.

⁸ See F. Heinimann, *Nomos und Physis* (Basel 1945) 124; cf. M. Untersteiner, *Sofisti* 4.75–76.

⁹ Havelock 286; Kerferd (above, note 2) 29–30.

¹⁰ This seems now to be appreciated by J. de Romilly, *La Loi dans la Pensée Grecque* (Paris 1971) 80 note 9, where she writes "Antiphon vise avant tout la loi écrite." De Romilly's book appeared after this essay was completed.

¹¹ Kerferd 32.

¹² Segal (above, note 1) 286, 311.

tinued the phrase τὰ τοίνυν τῇ φύσει ξυμφέροντα τούτων But a clue may lie in the first two lines of the papyrus. By the implication of the antitheses which Antiphon establishes in col. 2.3–30 between *nomima* and *physis*, the latter seems to correspond to the word *alétheia* in col. 2.23, with *nomos* parallel to *doxa*.¹³ This would suggest that nature, for Antiphon, has the value of truth; the particular statement at col. 2.21 ff. must, in any case, have been an important one in the whole work, given its title.

Returning to the first two columns, we should observe that despite Antiphon's forceful mode of expression, no absolute opposition between *nomos* and *physis* is proposed. In the key statement at the end of this section, we are told that in many cases, or for the majority (τὰ πολλά col. 2.26), this is so. But the reality of compromise for Antiphon must have existed, or else he would not have stated the suggestion of best advantage at col. 1.12 ff. Yet even this compromise is probably not Antiphon's final recommendation, since one can easily imagine circumstances that render it unsatisfactory. For a person who lived in a *polis* (cf. col. 1.7–10), the compromise would entail disadvantageous transgressions particularly in situations where: (a) *physis* presented clear imperatives, which (probably) would conflict with the imperatives of *nomos*, and (b) witnesses were present.¹⁴ It therefore seems improbable that the compromise proceeds from a simple position in favor of *physis*, held by a philosopher who urged men to break all laws or customs when they could. Presumably there were some areas, too, where the imperatives of *nomos* and *physis* might overlap.

Many have observed that the equation of *δικαιοσύνη* with the observance of τὰ τῆς πόλεως νόμιμα given in col. 1 is similar to the definition of justice given by Socrates to Hippias, as reported by Xenophon: φημὶ γὰρ ἐγὼ τὸ νόμιμον δίκαιον εἶναι (Xen. Mem. 4.4.12).¹⁵ Though the definition (if that is what actually starts the discussion in frg. 44A) seems clearly rejected by Antiphon as irrelevant, the Xenophontic parallel by itself does not sufficiently establish, as some have thought, any close connection of Antiphon's views with those of Hippias. For one, the sophist is shown to agree with Socrates

¹³ So, Untersteiner, *Sofisti* 4.79–80.

¹⁴ This difficulty has also been noticed by Kerferd, 28.

¹⁵ See *FVS* 2.346, note *ad loc.*

at every point, after he registers his lame initial objection at *Mem.* 4.4.14 (i.e. how can laws be taken seriously if they are constantly amended?). Hippias is never allowed by Xenophon to present his view of justice; he can only forecast confidence of Socrates' agreement with it at 4.7. Socrates' justification is more along the lines of the social rewards for being law-abiding than of any essential scrutiny of τὸ δίκαιον (4.16–17), and it does not even consider the case of bad laws. At one point Hippias, if reliably reported, may parallel Antiphon's probable view of punishment. In the discussion of *agraphoi nomoi*, Hippias declares that laws which carry in themselves an inevitable punishment for transgressors are better than the laws of men (4.24). This may be close to the implication of automatic punishment or "conviction through the truth" for violators of *physis* in Antiphon's οὐ διὰ δόξαν βλέπεται, ἀλλὰ δι' ἀλήθειαν (col. 2.21–23). But it is doubtful if either Hippias or Antiphon would have accepted the connection of such laws with the gods, as Hippias is made to do by Xenophon (cf. θεῖοις ταῦτα πάντα ἔοικε, 4.24). Xenophon's avowed purpose of redeeming Socrates from the charge of persuading the young to break the law (cf. 4.1.25, 1.1.2) is so didactic that it clearly restricts this passage's value as evidence on philosophical questions.¹⁶ Plato is generally acknowledged as the more reliable reporter of Socratic views; in Plato, Socrates' opinions on *nomos* and justice are more complex, and probably more historical.¹⁷

We may conclude our examination of this passage of Antiphon with a few specific notes:

col. 1.25–27, τὰ δὲ τῆς φύσεως ἀναγκαῖα: the aspects of permanence and inevitability in *physis* seem as important as that of truth (col. 2.23), and are emphasized also in frg. 44B, col. 2.16–18.

col. 2.14, παρὰ τὸ δυνατόν: this must mean "beyond the limit," or "the permissible." Heinimann cites parallels which are convincing, as opposed to an over-logical interpretation which maintains that

¹⁶ Cf. Heinimann (above, note 8) 142, note 61.

¹⁷ See *Crito* 51D, where Socrates stoutly defends obeying the *nomoi* with more detailed arguments than in Xenophon, and *Apol.* 29C–D, where he warns that he would disobey the court's order if it acquitted him subject to the condition of his giving up philosophy. For views on the possible reconciliation of the passages, see A. D. Woozley, "Socrates on Disobeying the Law," in G. Vlastos ed. *The Philosophy of Socrates* (New York 1971) 299–318. On the Xenophon passage, see W. C. Greene, *Moirai* (Cambridge, Mass. 1944) 229; Greene also doubts that it is a reliable testimony.

Antiphon felt that man could not possibly succeed in violating the imperatives of *physis*, but could only try.¹⁸

col. 2.23–25, ἔστι δὲ πάν<τως> τῶνδε ἔνεκα τούτων: Kerferd is probably right in his demonstration that Schmidt's reading ἔστι δὲ πάντων ἔνεκα τούτων follows the intentions of the papyrus' corrector; τούτων refers back to the previous discussion, rather than forward to the ὅτι clause (2.26–30). The sentence has a recapitulative ring.¹⁹

col. 2.25–26, σκέψις: this may refer to the title of the work, περὶ Ἀληθείας, and would seem to be one of the first attested uses in prose of the word in the sense of "examination." The word is delayed in its clause and placed in an emphatic position; in fact, the clause itself, extremely important for stating Antiphon's general view about the relationship of *nomos* to *physis*, is delayed in the surviving text until many important points have been made. The word occurs in *On Ancient Medicine* 4 (. . . τὸ εὖρημα πολλῆς σκέψιος). It is not used as a noun in Thucydides, but the verb occurs frequently in speeches (1.33.2, 1.143.5, 3.57.1, 3.58.5, etc.), and is extremely important to the argumentation of Cleon and Diodotus in the Mytilenean Debate (3.39.7, 46.2, 47.1).²⁰ For this use, see also Gorgias, *Defence of Palamedes* FVS 82B11a (vol. 2, 297.19; 299.7). That the word may have been a recurrent *leitmotif* of sophistic analysis is suggested by Euripides' line in *Frogs* 973–74: λογισμὸν ἐνθεῖς τῇ τέχνῃ καὶ σκέψιν.

col. 2.26–30, ὅτι τὰ πολλὰ τῶν κατὰ νόμον δικαίων: it is worth pointing out that in this central statement Antiphon seems to specify the concept of positive law; compare the word which immediately follows this clause, *νενομοθέτηται* (col. 2.30–31), appropriate to a lawgiver.²¹

Antiphon proceeds to give a list of the injunctions and restrictions of *nomos* on eyes, ears, tongue, hands, feet, and mind (col. 2.30–3.18). He claims that the law's restrictions are no more compatible with *physis* than its injunctions (col. 3.18–25). The argument becomes even

¹⁸ See Heinimann 135, note 39, and Kerferd 28.

¹⁹ See Kerferd 28–29. I do not agree, however, that this constitutes evidence that the *σκέψις* is only a summary of conflicting theories, rather than an indication of Antiphon's own views (see above, note 2).

²⁰ See L. Bodin, "Diodote contre Cléon: quelques aperçus sur la dialectique de Thucydide," *REA* 42 (1940) 44–52.

²¹ See Havelock 275.

more earnest when Antiphon shifts to a consideration of life and death; these are conditions of *physis*, he says, and life for men is an advantage (*ξυμφέρον*), death a disadvantage. But advantages under *nomos* are chains upon *physis*, while the advantages of *physis* are free (col. 3.25–4.8). Painful things do not profit *physis* more than enjoyable ones; the harmful is not more advantageous than the pleasurable. Real advantages (another general statement, or understatement) are not supposed to harm a person, but to help him (col. 4.8–22).

This is the most plainly naturalistic passage in frg. 44A. It has been suggested that Antiphon, in the list of bodily organs in col. 3, reflects a biological conception of the human being which is paralleled by the Hippocratic corpus.²² This may be true, but an alternative explanation for the list is possible: as a hold-over of the archaic formula of expression of the human personality through the metonymy of parts of the body.²³ The statement at col. 3.18–25 is a generalization which insures that we understand that the law's positive *and* its negative aspects are equally far removed from *physis*. At col. 3.25 ff., however, the concept of *τὸ ξυμφέρον* is reintroduced (one may conjecture that it was discussed before its first appearance in the surviving text at col. 1.15). *Nomos* and *physis*, it seems, both possess *τὰ ξυμφέροντα* and *τὰ μὴ ξυμφέροντα*. For the set belonging to *physis*, we are given the examples of life and death. Perhaps Antiphon intends us to understand these as natural processes, and the *ξυμφέροντα* of *nomos* as hindrances to the pursuit of the natural *ξυμφέροντα*: for example, the rewards offered by *nomos* to a man defending his country on the battlefield, and possibly suffering injury or death, are hindrances to the natural *ξυμφέρον* (continuance of life) available to him by fleeing.²⁴ Thus, it would be Antiphon's view that the advantages of *nomos* are parallel to the disadvantages of *physis*. Legal actions are like chains on *physis* (cf. col. 4.5) and thus tend to its destruction.

In any case, one thing is clear. *Physis* is said to have advantages *and*

²² Heinimann 136 note 40 remarks that the same list, with the exception of *νοῦς*, is found in *On the Sacred Disease* 16.

²³ So, H. Fränkel, *Dichtung und Philosophie des frühen Griechentums* (New York 1951) 109–110, quoted with approval by Untersteiner, *Sofisti* 4.81. Fränkel instances *Iliad* 1.166 (*χείρες*), and also *Iliad* 6.127 (*μένος*, a physical attribute, rather than a part of the body). Compare the use of *κεφαλή* at *Iliad* 8.281 and 23.94.

²⁴ For battle herosim and its traditional advantages, see Tyrtæus 9 (Diehl), 23–42.

disadvantages. Antiphon's standard for behavior thus seems more likely to be *ξυμφέρων τῆς φύσεως* than *physis*, plain and simple.²⁵ The next passage (col. 4.8 ff.), in connecting *τὰ εὐφραίνοντα, τὰ ἡδόντα* and *τὸ ὠφελεῖν* with the *δνίνησις* and *ξυμφέρων* of *physis*, amplifies the general point; by implication the law's injunctions and prohibitions produce the opposites of all these (*ἀλγυνούντα, λυποῦντα, and τὸ βλάπτειν*), and these qualities can hardly be considered as contributing to advantage or profit. It is noteworthy, however, that Antiphon does not devote the passage to an exaltation of hedonism. The passage is probably eudaimonistic in the traditional Greek sense, i.e. it recognizes that pleasures are more commonly advantageous than pains for men; but it does not claim that the unlimited pursuit of pleasures is mankind's natural destiny. If it did, Antiphon could scarcely have gone on to write the words at col. 5.25 ff., which we will discuss below. But first, some specific notes on cols. 3-4:

col. 3.6, *γλώττη*: though Antiphon does not specify what legal rules controlling the bodily organs and the *nous* are in question, the following may be involved: (a) the use of speech in oratory in the law courts, and (b) speech as the testimony of witnesses at trials. The first is alluded to at col. 6.19 ff., the second is the principal subject for frg. 44C. It is thus very likely that P. Oxy. 1797 has an extremely close thematic relation to the text of this fragment.²⁶ One is also reminded here of religious prohibitions on speech, and of the question of language itself, with its arbitrary distinctions.

col. 3.9 ff., *ταῖς χερσίν, ἃ τε δεῖ αὐτὰς δρᾶν . . .*: as Untersteiner well notes, the hand was considered the characteristic organ of aggressive action (he mentions Aesch. *Septem* 554, *Ag.* 1357).²⁷ But Antiphon's later concern with the sufferer, as opposed to the doer or aggressor (col. 6.9 ff.), is another reason why this whole passage should be read in context, rather than interpreted as an unqualified assault on the laws for their restriction of natural, "biological" functions. For Antiphon's complaint against *nomos* could hardly be supported by the idea that is implicit in this second interpretation: that *nomos* is bad because it inhibits aggression. On the contrary, as he later says, *nomos* is not

²⁵ So, Kerferd 31-32.

²⁶ So, Pfister (above, note 1) 203.

²⁷ Untersteiner, *Sofisti* 4.81.

sufficient to prevent aggression (col. 6.14-18). The argument is certainly more consistent, then, if it is read along the lines of the practical inadequacies of *nomos*, rather than in terms of a eulogy of *physis*, or a proposal of hedonism.

col. 4.8, ἐλεύθερα: advantages, as defined by *physis*, are free, though Antiphon has said earlier that τὰ δὲ τῆς φύσεως ἀναγκαῖα (col. 1.25-27). Unless there is a sophisticated notion here of man finding his freedom only when he bows to the inevitable, we have a paradox, though Antiphon's point is clear. The word ἐλεύθερα is parallel in the antithetical statement to δεσμά; Antiphon's idea must be that, relatively speaking, advantages as gauged by *physis* entail a greater measure of freedom than advantages as gauged by *nomos*.

col. 4.18-19, τῷ ἀληθεῖ: parallel, I think, to ὁρθῷ γελόγῳ at 4.10-11, meaning "really," "truly," "as a result of correct analysis." The context makes clear that Antiphon is here talking of *ξυμφέροντα* in general, measured by whatever standard, and τὰ τοίνυν τῇ φύσει . . . (col. 4.22-23) serves thereafter to narrow the focus, bringing the train of thought back again to *ξυμφέροντα* as measured by *physis*. Thus the expression τῷ ἀληθεῖ need not be equated with τῇ φύσει, and used as support for the contention that truth and nature are the same.²⁸ As noted above, this is the probable implication of col. 2.21-23; I do not think the phrase in the present passage, however, bears on the question.

There follows a lacuna, which must be regarded as critical, since in the sentence beginning τὰ τοίνυν τῇ φύσει *ξυμφέροντα* τούτων (col. 4.22 ff.) the text may have described more specifically the advantages proceeding from *physis*. But when we next pick up the argument, it has shifted to a list of actions which can be considered mostly *πολέμια* τῇ φύσει (col. 5.16-17). The three examples given are: (a) defending oneself if one has been harmed, but refusing to initiate aggression, (b) treating one's parents well, even if they have treated one badly, (c) refusing to take the lead in swearing on a legal indictment, but permitting others to do so (col. 4.31-5.13). In all these actions, says Antiphon, there is much that is inimical to *physis*, since a greater quotient of pain is involved in them, when it would be possible, if one did not act in these ways, to have a greater quotient of pleasure; a man

²⁸ As Untersteiner reads it, *ibid.* 85.

exposes himself to suffering (*κακῶς πάσχειν*) when it is possible not to suffer (col. 5.13–24).

Even now, however, Antiphon is able to revert to the possibility of compliance with the laws. Civil obedience, he says, would not be unprofitable (*οὐκ ἀνόνητον*), if the law were able to give aid (*ἐπικουρήσεις*) to those who adapted themselves to its provisions, and corresponding injury (*ἐλάττωσις*) to those who opposed the statutes. But this is not, in fact, the case; the law is not sufficiently strong: *τὸ ἐκ νόμου δίκαιον οὐχ ἱκανὸν ἐπικουρεῖν* (col. 6.6–9). The law may be said to tend toward suffering and aggression, in that it does nothing to prevent harm from being suffered and aggression from being committed (col. 6.9–18): *the law can do nothing to prevent the fact of aggression*. And when Antiphon passes to the phase of trial and punishment, after the commission of a crime, he observes that the law allows the sufferer no special advantage over the aggressor (col. 6.19–25). The sufferer, to have his wrong redressed, must possess the skill at persuasion (*πεῖσαι*, col. 6.25) which will convince the jury (*a*) of the fact of the crime, and (*b*) of his stronger case. But the aggressor can always deny that he committed the act (col. 6.25–33). There is a lacuna at this point, but the text can be sufficiently reconstructed in col. 7 to make one thing clear: Antiphon continues his discussion of *πειθῶ* (cf. col. 7.10) in the legal process.

It is in this passage, I think, that we are given the specifics of Antiphon's complaint against *nomos* and the rationale for his position, as we can best reconstruct it, on the philosophical split between *nomos* and *physis*. We should first note that the three examples of behavior given by Antiphon at the passage's beginning have one thing in common: they all involve a form of restraint. But it is worth noticing that Antiphon does not reject restraint in favor of hedonism, nor does the most social (as opposed to legal) example of behavior, treating parents well, necessarily involve a hallowed *nomos* which Antiphon pushes aside for the sake of more "natural" pleasures. Solon's law enjoining such behavior, for example, specified exceptions.²⁹ The passage has

²⁹ See Plut. *Solon* 22; Aly (above, note 1) 136. If parents produced offspring illegitimately, or if they failed to teach their children a useful trade, children were exempted from any duties toward them. Even in the *Crito*, where Socrates imagines the laws as parents of citizens, obedience to the laws is implicitly contingent on their benevolent nurture and education: *ἡμεῖς γὰρ σε γεννήσαντες, ἐκθρέψαντες, παιδεύσαντες,*

often been related to the poor treatment of fathers by sons as represented in Aristophanes' *Clouds*, and Antiphon has been read as justifying such behavior, by implication, on the grounds that it comports with *physis*. But the parallel is inexact: Strepsiades has not treated Pheidippides badly, thus provoking his son's harsh treatment, but has rather indulged him. And besides, there is no injunction to such behavior in Antiphon's text.

To return to Antiphon's group of examples as a whole. It is true that restraint in these three circumstances involves less enjoyment when more is possible; but it is equally apparent that Antiphon considers that ἐπικούρησις (col. 5.27-28) from the *nomoi* would, if secured, be a compensating advantage (cf. οὐκ ἀνόνητον, col. 6.1), and that the ἐλάττωσις of those who did not practice such restraint would be a deterrent disadvantage. This should again indicate that Antiphon's ideal is probably not *physis*, since it is unlikely that the compensation afforded by the laws would be solely in "biological" or naturalistic terms. In fact, the idea of the subsequent passage, which complains that the sufferer has no advantage over the doer and is therefore in effect at a disadvantage, would suggest that Antiphon conceives of ἐπικούρησις in a legal framework: ἐπικούρησις would put the man of restraint on a *truly* equal footing with the man of aggression, rather than provide him with only the nominal equality of a legal hearing.

But the real villain in Antiphon's critique, the persuasion (πειθῶ) of rhetoric in the law-courts, renders *nomos* inadequate. This idea is introduced with νῦν δὲ φαίνεται . . . at col. 6.3 ff. The sentences at col. 6.9 ff., which phrase Antiphon's first complaint and which have seemed curious to commentators, do not follow in a strictly logical sequence. Antiphon seems, rather, to mean the second sentence as a clarification, or reinforcement, of the first, and signifies the close relation with the word ἐνταῦθα (col. 6.14-15). If we take ἐπιτρέπειν (col. 6.10-11) as "allow" rather than "command," we may understand the meaning thus: "First of all, the law allows the sufferer to be harmed and the aggressor to act. And at the time the crime was committed, it made no effort to prevent the sufferer from suffering, or the aggressor

μεταδόντες ἀπάντων ὧν οἱοί τ' ἡμεν καλῶν σοὶ καὶ τοῖς ἄλλοις πᾶσιν πολίταις . . . (Crito 51C8-D1).

from acting" (col. 6.9-18). Perhaps this seems a naive complaint; law cannot physically imprison a criminal until after the fact of aggression has occurred (and, in many societies, has been proved). But Antiphon is so preoccupied with the actual state of affairs, the *truth* of facts, that we must suppose the objection quite real to him, and connected with the idea that law and its punishments fail even as adequate deterrents to aggression. In persisting with the terminology *πάσχω*ν and *δρῶ*ν, changing the participles' tense to the perfect at col. 6.23-24 and col. 7.11-13, Antiphon continues to emphasize the *truth* of the matter, whatever obscurities persuasion, denial, and rhetoric may produce to cloud it, even in the legal phase of trial and proof: the sufferer *has* been hurt, and the aggressor *has* acted. That the court (*τοὺς τιμωρήσοντας* col. 6.26-27) must needs be *persuaded* (*πείσσει*, col. 6.25) of this actual fact seems to Antiphon a grave disadvantage in the operations of *nomos*. (One may suppose that the modern principle, involving "alleged" criminal acts until a defendant is proved guilty, would have been unsatisfactory for Antiphon.) The *ἐπικούρησις* mentioned earlier does not exist as an inevitable, or even as a probable, compensation for the injured party.

If we now turn back to the beginning of the passage, we may speculate on how Antiphon intended his examples of restrained behavior at col. 4.31-5.13 to fit in with his legal criticism. Though each example might be said to include some types of behavior that exceed what *nomos* technically requires,³⁰ they are all certainly compatible with the spirit, rather than the letter, of the law. There is much in them, on the other hand, which is at odds with *physis* (col. 5.16-17). Does Antiphon, therefore, mean for us to reject such actions? If his reasoning is simply hedonistic, he probably does. But we have seen this to be unlikely. If the lacuna at the end of col. 4 held forth the initiation of aggression, the harsh treatment of parents, and witnessing for the prosecution in trials as *τὰ τῇ φύσει ξυμφέροντα*, we could again conclude that Antiphon meant to reject the corresponding alternatives of these actions as restraints encouraged by *nomos* which minimized the individual's happiness. But even in the light of the passage itself, it does not seem likely that this is the sort of behavior which Antiphon countenanced as *kata physin*.

³⁰ Cf. Kerferd 29-30.

The lacuna may, of course, have contained such radical statements; but frg. 44C, containing criticism of aggression and the implications of injustice involved in testifying at trials, militates against this hypothesis. Even within frg. 44A, Antiphon's complaint about *πειθῶ* is clearly cast in the form of sympathy with the sufferer, rather than approval of the aggressor. As he says, there is nothing in a trial that is *ἰδιώτερον* (col. 6.22) to either party, i.e. there is no procedure available to the sufferer that is not also available to the other side. Now if it had been his intention to encourage aggression as the fulfillment of *physis*, he might have adduced equality before the law as an advantage; *πειθῶ* could insure, at least half the time, that the aggressor would be acquitted of his crime. This is clearly very far from Antiphon's intention, however; he always mentions *ὁ πάσχων* first in the pair of the sufferer and the aggressor, and it is clearly the onus of proof on the sufferer that he resents.

We may tentatively conclude that Antiphon, though he saw *πολλὰ πολέμια τῇ φύσει* in actions like those enumerated at col. 4.31 ff., could hardly have embraced their extreme alternatives, and that this is the reason that his argument turns to the idea of compensation for the man who is restrained, compensation which will shore up a position that is vulnerable to aggression. The legal process is criticized, in the subsequent passage, as insufficient for such *ἐπικούρησις*, as much on practical grounds as on any theoretical ones, e.g. of all laws being "unnatural" and therefore useless. It is hard to see, from the surviving text, what Antiphon may have specified as a consistent, efficient aid for the injured, or for those practicing restraint.

Let us turn now to the brief frg. 44B, which apparently contains part of a discussion from the *Alêtheia* of the relation of Greeks and barbarians. The fragment lacks any definite context, and consists really of one column of text, which has been mutilated at the beginning. As printed by Diels, the text reads thus:

-ρων ἐπ<αἰδού-
 μεθά τε . . κ<αὶ σεβόμεθα,
 τοὺς δὲ<ἐκ μὴ κα-
 λοῦ οἴκ<ου ὄντας
 οὔτε ἐπ<αἰδούμε-
 θα οὔτε σεβόμε<εθα.

It will be apparent how much supplementation has been necessary. Antiphon's characteristic antithetical style makes it clear that two sets of actions, or classes of things or persons, are being contrasted. Presumably with this in mind, Wilamowitz proposed a supplement for the beginning of the text (corresponding to col. 1.35, the last line of that column), reading: <τοὺς ἐκ καλῶν πατέ- >, though no letters in this line survive intact. Bignone modified the emendation to . . . γενναίων πατέρων . . . and K. Schmidt to τοὺς μὲν ἐξ εὐπόρων.³¹ These modifications do not, however, affect the theory behind the conjecture: that in this passage Antiphon presumably condemned class distinctions, as well as ethnic ones, as arbitrary products of *nomos*, and as inconsistent with the laws of *physis*.

This interpretation is certainly possible, if one accepts Wilamowitz' conjecture. Whatever distinction Antiphon has reported up to col. 2.7, he proceeds to say that "we have made ourselves into barbarians (βεβαρβαρώμεθα) in this respect." By *physis* all Greeks and barbarians are the same in every way (note the emphasis in πάντα πάντες at col. 2.11). All men can grasp the necessities of *physis*, and by these standards, Greeks and barbarians are not separable, since we all use our mouths and nostrils to breathe air (col. 2.15-33).

Those who posit that two arguments are joined in this passage, the argument against class distinctions and that against ethnic ones,³² must admit that the connection of the arguments by ἐπεὶ (col. 2.10) is not strictly logical, if ἐπεὶ is given its usual meaning of "because." If this is the meaning intended, it is likely, given the contrast between the second clause ("we are all born equal by nature, both barbarians and Greeks") and the perfect of the verb in the first clause ("we have made ourselves into barbarians"), that a Greek vs. barbarians situation, rather than class distinctions, was being discussed in what preceded. It is possible, of course, that the emotion of the writer should be allowed to outweigh considerations of logic. Inconsistencies, however, may serve to remind us that we have very little context for which we may posit the emotion. The passage *may* be a broad-ranging protest against *nomoi* in the sense of custom (habitual Greek prejudice against non-Greeks, habitual social prejudice against those from lowly families).

³¹ See *FVS* 2.352, *ap. crit.*

³² See, for example, Havelock 257.

But the contention that Antiphon attacks class distinctions rests very heavily, as we have seen, on the acceptance of textual conjectures; the surviving text deals solely with the Greek-barbarian question. That Antiphon proposed an egalitarian social ethic, therefore, is not anything like certain, as many have assumed. He may, in the mutilated first six lines of col. 2, have been referring to people of Greek, vs. non-Greek, origin, and to the tendency to label the first as *καλοί*, the second as not (one should observe, however, that even the presence of the word *καλός* is conjectural). Again, it is not impossible that the passage occurred in the framework of a discussion of actual statute. We know that in 451 Pericles proposed and carried a citizenship law, restricting the Athenian franchise to those whose parents had both been citizens.³³ If the passage were mostly a discussion of discrimination against barbarians, the Periclean law may have provided stimulus for Antiphon's reaction.³⁴ Whatever its context, the fragment clearly suggests that Antiphon held cosmopolitan ideas. Any judgment on egalitarian views, which may have applied to the relation of slaves to masters, for example, must for the reasons given above be a great deal more cautious.

The third papyrus fragment, 44c (P. Oxy. 1797), is in a different hand from the first two, but its attribution to the *Alêtheia* on grounds of style and subject matter³⁵ has never been seriously doubted, though

³³ Aristotle, *Ath. Pol.* 28.4. For speculation on the motives for this law, see C. Hignett, *A History of the Athenian Constitution* (Oxford 1952) 345-47, and D. Kagan, *The Outbreak of the Peloponnesian War* (Ithaca 1969) 103-4.

³⁴ It is noteworthy that the unusual verb *βεβαρβαρώμεθα*, in its use by Euripides at *Orestes* 485, occurs in a legal context in the conversation between Tyndareus and Menelaus. There, Tyndareus claims that Menelaus has barbarized himself in setting his own opinion up as greater than the *nomoi* (487). Hardly a sympathetic character, Tyndareus is answered by Menelaus: *πάν τοῦξ ἀνάγκης δοῦλόν ἐστ' ἐν τοῖς σοφοῖς* (488), perhaps an evocation of certain *ἀναγκαῖα τῇ φύσει* which all men, Greek and barbarian, must obey. These would include the natural tendency to favor relatives over strangers in one's treatment of people (cf. *Or.* 482-84). Another possibility for Antiphon's argument here has been drawn to my attention by Professor A. T. Cole. It is usually assumed that Antiphon shows the difference in treating people proceeding from *nomos*; but what if he had been ascribing it to *physis*? In other words, he may have been ironically demonstrating the inadequacy of *nomos*, which proposed that all be treated equally, by pointing out that Greeks, like barbarians, tended in actual practice to favor those related to them, and that this was natural behavior.

³⁵ See Grenfell and Hunt, *The Oxyrhynchus Papyri* 15 (London 1922) 119-20.

critics disagree on its position in the treatise.³⁶ The fragment appears to begin with a genitive absolute construction (τοῦ δικαίου σπουδαίου δοκοῦντος . . .). If so, it is another of Antiphon's attempts to draw conclusions about the framework of existing law. Here the phrase at the beginning combines the just and the profitable (δίκαιον and χρήσιμον) in a definition which Antiphon clearly rejects at the end of the passage: "It is thought to be just and, no less, profitable for the affairs of men for them to bear truthful witness amongst each other." The object of all that follows is the demolition of this premise when tied to the assumption that it is just to do no harm until one has been harmed. It is inevitable (ἀνάγκη, cf. col. 1.15–16) that the witness will, even if he speaks the truth, harm someone; the latter may lose his life or his property, and thus be done an injustice by someone he has not harmed. Similarly, the first man will be hated by the person against whom he has borne witness, and will always have to be on guard against him. No small wrongs, says Antiphon, on either side. It is not possible for this situation to be δίκαιον if justice means mutual non-aggression. Finally, Antiphon says that arbitration and decision in court (τὸ δικάζειν καὶ τὸ κρίνειν, col. 2.26–27) are not just; for the process inevitably produces a loser ("what helps some hurts others," col. 2.30–32). With a utilitarian flourish, he states: ἐν δὲ τούτῳ οἱ μὲν ὠφελοῦμενοι οὐκ ἀδικοῦνται, οἱ δὲ βλαπτόμενοι ἀδικοῦνται (col. 2.33–36).

The style of this section, when compared to the only other portion of the *Alêtheia* of comparable length, frg. 44A, is less markedly antithetical and parallel. The articular infinitive is still favored (e.g. col. 1.3? 1.12, col. 2.19, 26, 27, 28, 30), and parallelism and antithesis are not entirely absent (e.g. col. 2.15–17, 32–36). The sentences are longer than in the first fragment, but this may be explained by the respective subject matter: generalities in much of the first fragment, analysis of a complex legal situation in much of the third. Without a detailed examination, it is thus possible to see some variation in the

³⁶ See *FVS* 2.353, where it is said to be "aus einem anderen Buche." See also K. Freeman, *The Pre-Socratic Philosophers, a Companion to Diels, Fragmente der Vorsokratiker* (Cambridge, Mass. 1946) 399, note a 1; M. Untersteiner, *The Sophists*, tr. K. Freeman (Blackwell 1954, originally publ. 1948), 267, note 127, where he claims that 44C followed 44A, and that 44B formed the end of the first book of the *Alêtheia*. Untersteiner supports the idea that 44C continues the attack against *πειθώ* launched in 44A; in frg. 44C, Antiphon attacks persuasion even when it is based on the truth, because damaging consequences will always result (cf. *Sofisti* 4.95–6).

style of the papyrus fragments themselves. Finally, it is relevant to note that in this particular passage, at least, there is no mention of *nomos* and *physis*. However, the last antithesis made, that between *τὸ ὠφελοῦν* and *τὸ βλάπτειν*, seems, aside from general subject matter of the legal process, to connect the passage with the first fragment (compare the antithesis at frg. 44A, col. 4.18–22).

Here follow some specific notes on the passage:

col. 1.5–6, *δίκαιον νομίζεται εἶναι καὶ χρήσιμον*: noteworthy here is the collocation of justice *and* advantage, in a legal context. Antiphon concludes the section by proving to his satisfaction that participation in the system through bearing witness, even if true testimony is given, is neither just (col. 2.18–19), nor useful (since the testifier provokes a backlash of injustice involving hatred, and possibly physical harm). As we shall see below, Diodotus undertakes to prove the same incompatibility of the conventionally "just" and the profitable (*τὸ ξυμφέρον*) in his speech in Thucydides' Mytilenean Debate (Thuc. 3.42–48). He there argues against the traditional definition of justice and its implications as stated in col. 1.12–15: *τὸ μὴ ἀδικεῖν μηδένα μὴ ἀδικούμενον αὐτόν* (not to commit wrong unless one has oneself suffered wrong), which may involve, as a corollary, retaliatory action, once one has been wronged. It is just such action which Diodotus sees as unprofitable.

col. 1.7, *οὐδὲν ἥττον*: the phrase may be construed to mean that this is at least the second in a series of examples in the argument.³⁷ Or it may set off *χρήσιμον* from *δίκαιον*, i.e. "it is thought just and nevertheless useful," or "it is thought no less useful than just . . ." (as I have translated above). The latter seems preferable, since Antiphon argues forcefully against both contentions.

col. 1.12, *ἐπείπερ*: this supplementation, suggested by Wilamowitz, and printed by Kranz and Untersteiner,³⁸ is causal, while its alternative, *εἴπερ*, preferred by Diels and adopted by Bignone,³⁹ may denote a condition, and probably an argument *a fortiori* (i.e. "even if . . ."). There seem to be persuasive reasons to prefer the second reading. Bignone pointed out the future tense of the verb *ἔσται* in col. 1.11 and

³⁷ See Aly 138; Untersteiner, *Sofisti* 4.96.

³⁸ See *FVS* 2.354, *ap. crit.*, and *Sofisti* 4.96. Hunt read *καὶ γὰρ*, which would not change the meaning.

³⁹ See *FVS* 2.354, *ap. crit.*, and Bignone, *Studi* (above, note 5) 101.

stated that the clause in which it occurs was meant by Antiphon to express the consequence of a hypothetical premise, the truth of which he did not believe. Bignone also suggested that the shorter word *εἴπερ* was a preferable supplement in terms of the presumed length of the line in the papyrus column.⁴⁰ Aside from these arguments, there seems to me a good rationale for the presence of a condition here, given the phrase in col. 1.12–15, and the very similar phrase at the end of frg. 44C, *τὸ μὴδὲν ἀδικεῖν μὴδὲ αὐτὸν ἀδικεῖσθαι* (col. 2.19–21). The latter has caused most commentators a great deal of difficulty. Kranz queried the text at 2.21, and noted: “Man erwartet *μὴδὲν αὐτὸν ἀδικούμενον* entsprechend col. 1.12 ff.”⁴¹ It is possible that the two phrases did *not* correspond, however. The first definition of justice forbids aggression unless one has been harmed but, in the case of harm, might allow for retaliatory action which went beyond the restoration of the *status quo* before harm was done. The second definition constitutes a total prohibition against the doing of injustice.⁴² The second definition, as Bignone saw, seems far more likely to represent Antiphon’s ideal concept of justice: mutual non-aggression.⁴³ The context of the second definition, after all, follows a discussion of a cycle of mutual aggression (cf. col. 2.12–17: . . . οὐ σμικρὰ ὄντα τὰδικήματα, οὔτε ἂ αὐτὸς ἀδικεῖται οὔτε ἂ ἀδικεῖ).

The context of the *first* definition, however, is different. Here Antiphon is commencing to prove that even the truth, if spoken within the court system, leads to injustice. His example is rather specialized: A is done no wrong by B, but none the less testifies for the prosecution of B for some aggressive act against a third party (C). If B is convicted, or suffers material loss or death, he may be said (in Antiphon’s individualistic logic, at least), to have been wronged by A, even though B did A no wrong. If this is to be Antiphon’s illustration, the first definition of justice, not to commit a wrong unless one has been wronged, is far more suitable to his purposes than the second; the ideal of mutual non-aggression theoretically, or ideally, rules out B’s wrong against C. Thus a conditional connective (*εἴπερ*) seems the

⁴⁰ Bignone, *Studi* 101–2, note 3.

⁴¹ *FVS* 2.355, *ap. crit.*

⁴² Cf. Kerferd 31.

⁴³ Bignone, *Studi* 108–109.

logical introduction to the first definition of justice, which may be one of a series of such definitions which Antiphon examined, and which suits his purposes exactly at this point in the argument. The second definition, occurring at what looks like a culminative point in Antiphon's argument against the legal process, needs no such conditional, since it probably constitutes Antiphon's own ideal.⁴⁴

col. 1.37 ff., *ὅτι μισεῖται*: that the man should be hated as a result of witnessing to the truth must seem particularly grievous to Antiphon, in the light of his stress on truth in frg. 44A, col. 2.23. What is troubling is the trapped situation of a man trying to obey the law and speak truthfully. A is the victim of B's *ἀδικία*: (1) through hatred (this seems to be singled out as an actual injury, as distinct from physical harm—cf. col. 2.2–3, *οὐ μόνον τῷ μίσει*), and (2) through apprehension that may last for the rest of his life of some sort of retaliatory evil, either verbal or physical (*καὶ λέγειν καὶ δρᾶν*, col. 2.10–11).

col. 2.17 ff., *οὐ γὰρ οἶόν τε ταῦτα . . .*: the geometric aspect of this summarizing phrase of the proof is well noted by Havelock.⁴⁵ Compare *ἀνάγκη* at col. 2.22 with col. 1.15–16.

col. 2.30 ff., *τὸ γὰρ ἄλλους ὠφελοῦν ἄλλους βλάπτει*: this and the succeeding sentence, with which frg. 44C breaks off, return us to the concept of the *χρήσιμον* (cf. col. 1.6). If we read the statement in the context of col. 2.25 ff., where the acts of judging are declared to be unjust, it seems probable that Antiphon would have rejected any conventional theory of punishment, since it produced harm (compare the implication of frg. 44A, col. 2.10–23, where it may be conjectured that Antiphon envisioned some automatic punishment, coming not from the laws, but from nature, for those who violated *physis*). The idea of arbitration may also be involved in this passage; settlements in

⁴⁴ Untersteiner, among others, instances *Republic* 359A; cf. *Sofisti* 4.100. The legal overtones of the phrase *μήτ' ἀδικεῖν μήτ' ἀδικεῖσθαι* are significant. T. A. Sinclair has pointed out that the phrase was a formula "used in arranging a truce or other inter-state agreement," and instances Xen. *Anab.* 6.1.2; see *A History of Greek Political Thought* (Cleveland and New York 1968) 79, note 1. Sinclair, however, does not accept the formula as expressing Antiphon's ideal of justice (cf. 72 and note 2). His objection is answered by Havelock 417.

If col. 1.12–15 means "to do no wrong while (all the time) suffering none oneself," then the two formulae are synonymous, and the first can be considered a variant of the second which, if it had been mentioned before the beginning of frg. 44C, would have been easily understood by a reader.

⁴⁵ Havelock 263.

civil suits would inevitably produce winners and losers, and so "what profits some" could be said to "harm others." It is probable that this idea was elaborated in the next few lines, or more, which we have lost. What further ideas Antiphon had on punishment, aside from the observation that the laws are inadequate as deterrents (frg. 44A, col. 6.14-18), or whether he actually formulated a theory of punishment, must remain open questions.

II. ANTIPHON AND EURIPIDES

The relation of the sophists to late fifth-century tragedy and comedy has been a much-explored topic. Much of the scholarship on Antiphon, in so far as it has broached this subject, has sought to bring evidence to bear on problems of dating.⁴⁶ I shall argue in this and the next section that: (a) indications provided by tragedy amount to no more than suggestive hints for the dating of the *Alêtheia*, (b) a more positive, though less chronologically oriented, approach to this material is possible through comparing the substance of the legal criticism in the *Alêtheia* with certain episodes in Euripides' tragedies, and (c) the use of Aristophanes' *Clouds*, particularly the two passages at 1075 ff. and 1420 ff., as a *terminus ante* for the fragmentary doctrines of Antiphon, and as an index to the nature of these doctrines, is invalid.

Previous scholarship has explored the question of links between the fragments of Antiphon's *Concord* and early Euripidean plays. In my view, the relationship of these fragments to passages from *Medea* is comparatively close;⁴⁷ but there remains the more important question of considering what tie, if any, exists between the more continuous

⁴⁶ See Bignone *Studi* 140-52; Segal (above, note 1) 249, 257-58, 336, 387-88, 392-94, and 743 note 138; B. Tsirimbis, *Die Stellung der Sophistik zur Poesie im V. und IV. Jahrhundert bis zu Isokrates* (Munich 1936) 32, 46 (and note 392), 48-49, 58 (and note 470); K. J. Reckford, "Medea's First Exit," *TAPA* 99 (1968) 336-37 (and note 15), 345-46. Most of the preceding deals with tragedy and Antiphon's *Concord*, in which the notice of occasional poetic locutions has become a commonplace of Antiphonic scholarship. On the papyrus fragments and Euripides, see: Grenfell and Hunt, *The Oxyrhynchus Papyri* 11 (London 1915) 94-95, and J. H. Finley, *Three Essays on Thucydides* (Cambridge, Mass. 1967) 99-103 (includes notes on Sophocles).

⁴⁷ See Antiphon, *FVS* 87B49 (2. 357, lines 15-16) and *Medea* 235 ff.; B49 (2.359, line 13-360, line 3) and *Medea* 1090-1115. Both passages in Euripides present *aporia* for an individual if he tries to combine the doctrines of *nomos* with what *physis* would logically require. See Finley (above, note 46) 91-97.

document, the *Alêtheia*, and Euripidean tragedy. If such a tie does exist, we are more secure in positing a body of contemporary intellectual agreement with Antiphon the sophist. Grenfell and Hunt, the first editors of the papyri, noted similarities between the brief frg. 44B and Euripides:

(a) frag. 168 (Nauck):

ὀνόματι μεμπτόν τὸ νόθον, ἡ φύσις δ' ἴση.

(b) frg. 336:

εἰς εὐγένειαν ὀλίγ' ἔχω φράσαι καλά·
ὁ μὲν γὰρ ἐσθλὸς εὐγενὴς ἔμοιγ' ἀνὴρ,
ὁ δ' οὐ δίκαιος κἂν ἀμείνωνος πατρὸς
Ζηγὸς πεφύκη, δυσγενὴς εἶναι δοκεῖ.

(c) *Ion* 854–856:

ἐν γάρ τι τοῖς δούλοισιν αἰσχύνην φέρει
τοῦνομα· τὰ δ' ἄλλα πάντα τῶν ἐλευθέρων
οὐδὲν κακίων δούλος, ὅστις ἐσθλὸς ᾔη.⁴⁸

One might add, as allied sentiments, the stoic reflections of the sympathetic farmer in the *Electra*, who implies that the accident of wealth is the only reason for the recognition of εὐγένεια as it is conventionally defined:

ἡμῶν δὲ δὴ δίδωσιν Ἡλέκτραν ἔχειν
δάμαρτα, πατέρων μὲν Μυκηναίων ἄπο
γεγῶσιν—οὐ δὴ τοῦτο γ' ἐξελέγχομαι·
λαμπροὶ γὰρ ἐς γένος γε, χρημάτων δὲ δὴ
πένητες, ἔνθεν ἡνύγενε' ἀπόλλυται. (*Electra* 34–38)

Or the telling, ironic exchange between Orestes and Helen's Phrygian slave, at the point of the latter's last plea for life:

Op.—δοῦλος ὦν φοβῇ τὸν Ἀιδην, ὅς σ' ἀπαλλάξει κακῶν;

Φρ.—πᾶς ἀνὴρ, κἂν δούλος ᾔη τις, ἥδεται τὸ φῶς ὀρώων.

Op.—εὖ λέγεις· σῶζει δὲ σύνεσις. ἀλλὰ βαῖν' ἔσω δόμων.⁴⁹

(*Orestes* 1522–24)

⁴⁸ See *Oxyrhynchus Papyri* 11.94.

⁴⁹ See also the similarities noted by S. Luria to the fragments of the *Alexandros*, produced in 415, particularly frg. 52 and 56 (Nauck); cf. "Ἀγλωττία," *Aegyptus* 5 (1924) 326–30 and "Noch Einmal Antiphon in Euripides *Alexandros*," *Hermes* 64 (1929) 491–97.

The links here between frg. 44B and Euripides may be important, if one accepts the fragment as a statement against class distinctions, as well as ethnic ones. But, as we have seen, much supplementation is necessary, and the absence of evidence to establish how Antiphon integrated the statements in frg. 44B with the much longer frg. 44A is troubling. In addition, the statements from Euripides are likely to be common *topoi* which may tell us little about the playwright's opinions or about contemporary bodies of doctrine. Even Grenfell and Hunt pointed out that, whichever of the fragments came first in the *Alétheia*, there must have been a gap between 44A and 44B. Thus, they concluded that the position of the two fragments, relative to each other, remains unknown.⁵⁰ On the other hand, the subject matter of frg. 44C, the futility of co-operation with *nomos*, is certainly related to the legal criticism of frg. 44A. J. H. Finley has rightly noted the situation of Phaedra and the comments by the nurse in *Hippolytus* as containing ideas parallel to Antiphon's recommendation of public adherence to *nomos* and private adherence to *physis*.⁵¹ I would add here the proposal that the broader concern of the Antiphontic material is mirrored

Luria compares the occurrence of ἀγλωσσία in frg. 56 of the *Alexandros* (line 2) to Antiphon B97 (ἀγλωπτία, glossed by Pollux). Nestle follows Luria in stressing the importance of this play in connection with Antiphon; see *Vom Mythos zum Logos*² (Stuttgart 1942) 378. The comments of Luria and Nestle are occasionally suggestive (LSJ, after all, can give no other instance of ἀγλωπτία as an abstract noun meaning "lack of eloquence"). Frg. 52, the longest citation from the *Alexandros* which we have, is a choral generalization which may derive from sophistic influence. See especially the description of man's original state beginning at line 3: τὸ γὰρ πάλαι καὶ πρῶτον ὅτ' ἐγενόμεθα, and compare the beginning of the Sisyphus fragment of Critias (*FVS* 88B25, line 1) and the beginning of Protagoras' myth in Plato, *Protag.* 320C6. The problem of context is crucial, however, since all the evidence is so brief. We may say, if we like, that on the whole it seems that the positions of Antiphon and Euripides on the whole question of εὐγένεια were similar. But see Wilamowitz, "Lese Früchte," *Hermes* 62 (1927) 288–89 for critical reaction to Luria's arguments, and Aly (above, note 1) 141 note 145a.

⁵⁰ *Oxyrhynchus Papyri* 11.93.

⁵¹ Finley (above, note 46) 99–100. He justly compares Antiphon in frg. 44A, col. 1.12–2.20 with *Hipp.* 403–4, 465–66, and 438–58. The resemblances he notes to the *Medea*, in which he compares Creon's approval of the anticipation of one's enemies' actions (*Med.* 289–91, 349) with Antiphon's example of the unnecessary suffering incurred by the man who chooses defense against aggression over its commission (44A, col. 4.32–5.3), are attenuated by our incomplete knowledge of the example's context. The lacuna just before the Antiphontic passage, and the strong probability that Antiphon's ideal was μήτ' ἀδικεῖν μήτ' ἀδικεῖσθαι (44C) make the parallel uncertain.

in the progress and outcome of the debates on the punishment of Helen in the *Troades* and the fate of the matricides in the *Orestes*.

The first debate (*Troades* 914–1059) is dramatized on stage, with Helen providing her own defense and with Hecuba acting the role of prosecutor. The debate, in which each participant is afforded a nearly equal number of lines (to assume with Murray a lacuna at 961) constitutes a formalistic break in the action. Each participant explicitly refers to his own λόγος (see ἀμείψασθαι λόγῳ, 903; τοὺς ἐναντίους λόγους, 907; ὁ πᾶς λόγος, 909; διὰ λόγων . . . κατηγορήσειν, 916–17; τελευτήσω λόγον, 1029); a prelude (903–13) draws further attention to the pair of elaborate speeches. The implication is clear: the scene is in trial form, and is played out in front of Menelaus, who acts as judge. At the beginning his expressed intention is vengeance (874–79): Helen will be the object of retributive punishment for the Greeks slain at Troy (δοῦναι . . . ποινάς, 878–79). In the course of the debate, however, other reasons are suggested: personal vengeance for Helen's adultery (1041), and a rationale of deterrence, described as a νόμος ταῖς ἄλλαισι γυναιξί by Hecuba at 1031–32. The debate seems at first to end in a victory for Hecuba, since Menelaus announces his decision that Helen will die at 1036–41. It is significant that the last words he utters in this speech concern the personal motive of vengeance, rather than any of the social theories mentioned above. Yet Hecuba must remind him that ἔρως is inescapable, and there is a strong hint at Menelaus' weakness in the insistence that Helen not return to Greece with him in the same ship (1049–51).

The *actual* result of the trial is made deliberately ambiguous by Euripides, since everyone in the audience knew that Helen did not, in fact, die.⁵² In the play, the ironic implication is that Menelaus will not kill his wife after all, and that the debate, eagerly accepted by

⁵² The choral ode which immediately follows the debate broadens the suspicion that the actual result of the trial is Helen's escape. After the reproach of Zeus for forsaking his city and the threnody for Troy's destruction, the chorus turns to cursing, not Helen, but Menelaus, and prays that a thunderbolt may strike his ship on the return voyage (1100–1104). It is perhaps implied that Helen will be on the same ship after all (1107–9), i.e. that Menelaus will in fact have capitulated to ἔρως (as the audience would certainly have been aware that he did in the subsequent stages of the story, either in Stesichorus' account or in *Odyssey* 4). But even if she is not on the same ship, the chorus' bitterness toward Menelaus, the judge in the debate, is unalloyed: may he never return to Greece they say, δύσγαμον αἰσχὸς ἐλών (1114).

Hecuba (906–10), has not led to justice for the plaintiff, but has rather been a mechanism of escape for the guilty. It is undeniable that Euripides' purpose in writing this scene was dramatic, rather than philosophical. On the other hand, the prevalence of legal language,⁵³ the elaborate prelude, the break with the succession of incidents in the play (in which Hecuba is passive rather than active), the number of sophistic arguments on both sides,⁵⁴ and the unsatisfactory conclusion are all suggestive of an ironic, ethical comment. The scene shows an attempted resolution of the staggering aggression and suffering of the Trojan War through a totally inadequate (and typically Athenian) legal mechanism.

We have seen that Hecuba invoked *nomos* at 1031; it falls to the chorus, in the three lines centrally placed between the main speeches, to speak of *πειθώ*:

βασίλει', ἄμυνον σοῖς τεκνοῖσι καὶ πάτρα
πειθῶ διαφθείρουσα τῇσδ', ἐπεὶ λέγει
καλῶς κακοῦργος οὔσα· δεινὸν οὖν τόδε. (Tr. 966–8)

Hecuba takes up the challenge with a will, but the point of the chorus' lines survives her speech. The result of the debate grimly illustrates Antiphon's contentions that legal process affords the sufferer no advantage over the aggressor (cf. frg. 44A, col. 6.19–25), that *πειθώ*, allowing the aggressor to deny his acts (col. 6.30–33), is open to both parties (col. 7.7–13), and that *nomos* is woefully inadequate to provide assistance or benefit (col. 5.25–col. 6.9). Moreover, the insignificance of the trial, and *a fortiori* of its ambiguous result, in comparison with the play's main theme, the suffering caused by war, is a fitting example of Antiphon's complaint that *nomos* does not prevent "the sufferer from suffering, nor the doer from acting" (col. 6.9–12).

We may now deal with the account, reported in a messenger's speech, of the debate in the Argive assembly in *Orestes* (871–956).⁵⁵

⁵³ See the examples in the text above and note especially Helen's invocation of witnesses at 955.

⁵⁴ As examples, note Helen's blame of Aphrodite as responsible (948–50); compare Gorgias' *Encomium of Helen*, FVS 82B11, sections 6 and 19. Also note the rejection of the argument by Hecuba at Tr. 981 ff., which includes the etymological sophistry of 989–90.

⁵⁵ I accept Murray's bracketing of 907–13 as probable. Despite the remarks on loyalty at 866–70, the generalities on demagoguery in the middle of the messenger's fast-paced narration seem inappropriate.

Here, too, I think we may see what amounts to a dramatization of the Antiphontic critique, though it is idle to speculate on whether or not Euripides had the *Alêtheia* specifically in mind. One recalls that Euripides deliberately introduced an anachronism: in contrast to Aeschylus' *Eumenides*, Orestes' trial for matricide is set here in the context of a pre-existing court system of justice. This assumption allows for the scene in question, in which not only Athena, but also any seriously expressed interest in justice, are significantly absent.⁵⁶ In the debate, it is the opinion of the ἀνὴρ ἀθυρόγλωσσος, ἐν πλήθει λέγων (cf. *Orestes* 903, 944) which triumphs. Objectively considered, none of the speakers is made to hold attractive motives for what he says (even the somewhat sympathetic countryman who defends Orestes at 917–30 presents what is basically a case of revenge that is solidly repudiated in the main action of the play). The result obviously depends on the strongest *πειθώ*, given the mechanism at work, and it is no accident that the holder of the winning argument is singled out as *πιθανός*; cf. *Orestes* 906 and *νικᾷ δ' ἐκείνος* at 944, and compare the restoration printed in *FVS* of the conclusion of Antiphon, frg. 44A: γίγνεται γὰρ νίκη καὶ ῥήμασι καὶ . . .—col. 7.13–15). A final irony: Tyndareus, who had presented himself earlier in the play as the strenuous supporter of *nomos* (cf. 487, 495, 503, and 523, where he claims to defend himself—*ἀμύνω*—through law), is specifically connected with the violent and persuasive man who carried the assembly:

ὃς εἰπ' Ὀρέστην καὶ σὲ ἀποκτεῖναι πέτροις
βάλλοντας· ὑπὸ δ' ἔτεινε Τυνδάρεως λόγους
τῷ σφῶν κατακτείνοντι τοιούτους λέγειν. (914–16)

The critique of C. Wolff, discussing Euripides' anachronistic device and the outcome of the trial, is apt:

"One might think Euripides means again to discredit the myth, revealing the barbarity of the old story when it is set in a civilized context. But the myth is not so much discredited as simply given. In fact, it recoils on that civilized context. . . . There is no rational functioning of justice in the public sphere. The myth of revenge might have seemed barbarous in the civilized world, but in fact it reveals the barbarity of civil justice debased."⁵⁷

⁵⁶ So, C. Wolff, "Orestes," in E. Segal ed. *Euripides* (Englewood Cliffs 1968) 144: "The words 'just' or 'justice' occur nowhere in the account."

⁵⁷ *Ibid.* 143–4.

The parallel to Antiphon's view is unmistakable.

It may be added that Euripides dramatized the inadequacy of appeal to *nomos* and the destructive (and, at best, ambiguously "just") results of *πειθῶ* in a much earlier play that was also a masterpiece of recoil, the *Hecuba*.⁵⁸ In her plea to Agamemnon for the punishment of Polymestor, Hecuba progresses from invocation of established law or custom to a persuasion based on Agamemnon's love for her daughter:

ἀλλ' οἱ θεοὶ σθένουσι χῶ κείνων κρατῶν
Νόμος· νόμῳ γὰρ τοὺς θεοὺς ἡγοῦμεθα
καὶ ζῶμεν ἄδिका καὶ δίκαι' ὠρισμένοι (Hec. 799–801)

οἷμοι τάλαινα, ποῖ μ' ὑπεξάγεις πόδα;
ἔοικα πράξειν οὐδέν· ὦ τάλαιν' ἐγώ.
τί δῆτα θνητοὶ τᾶλλα μὲν μαθήματα
μοχθοῦμεν ὡς χρή πάντα καὶ ματεύομεν,
Πειθῶ δὲ τὴν τύραννον ἀνθρώποις μόνην
οὐδέν τι μᾶλλον ἐς τέλος σπουδάζομεν
μισθοὺς διδόντες μανθάνειν, ἢν' ἦν ποτε
πεῖθειν ἄ τις βούλοιο τυγχάνειν θ' ἅμα; (812–19)

The swift change in values signified here, as G. M. Kirkwood has pointed out, is the "moral *peripeteia*" of the play as a whole, since the remainder of the drama reveals not only the terrible vengeance on Polymestor but the awesome degeneration of Hecuba herself, who is equated with the brutal Polymestor in their violent, mutual abuse at the conclusion. But the important similarity of the perversion of *nomos* in Euripides' play with Antiphon's attack on *nomos* is neatly summed up by Kirkwood: "Where *Nomos* failed outright, *Peithō* carries the day."⁵⁹

The *Suppliants*, probably to be dated in the same period as the *Hecuba*,⁶⁰ shows that Euripides was capable of presenting a different case: in that play, Aethra's persuasion (297–331) is shown to bolster a conception of *nomos* in Theseus which exudes optimism. Aethra

⁵⁸ For dating between 427 and 424, see G. Zuntz, *The Political Plays of Euripides* (reprinted Manchester 1963) 57.

⁵⁹ See his article, "Hecuba and Nomos," *TAPA* 78 (1947) 66. With his entire interpretation (61–68), I am substantially in agreement. Kirkwood restricts his analysis to Euripides; but the connection I propose with Antiphon seems justified, especially in light of Euripides' moral point: the violence of retributive punishment is alien to *everyone's* interest, and the mechanisms of *nomos* are woefully insecure. Note particularly in Hecuba's speech the words *πειθῶ τύραννον ἀνθρώποις* (816).

⁶⁰ Zuntz (above, note 58) 89–91, after careful argument, opts for 424.

confidently praises pan-Hellenic *nomima* as socially coherent forces (306-13), and Theseus lauds a democratic system of equality before the law and citizen participation in policy-making (429-39). It is not the point of this section to show that Euripides held wholly consistent political views, or that the views of any one of his characters were necessarily his own. It is, rather, the point that *some* Euripidean plays, actually involving trial scenes, are evidence for a specific body of ideas very probably current at the time. These ideas show, together with Antiphon, an ethical and political concern of the closing decades of the fifth century: the urgent questioning of the legal process.

III. ANTIPHON AND ARISTOPHANES

The span of almost two decades between *Hecuba* and *Orestes* leads me to emphasize the chronological disclaimer I have made above. Since our main purpose is not to trace lines of influence, but to show that Antiphon was joined in his distrust of *nomos* by various contemporaries, *Quellenforschung* is neither necessary nor desirable. Nor can it be, with Antiphon, more than a series of educated guesses, based on evidence that does not seem to yield an authoritative answer. An instance is occasioned by Aristophanes' *Clouds*. The two passages in question are: (a) when the *adikos logos* points out the pleasures (1072) of which Pheidippides will be deprived if he follows the moderation (1071) of *dikaïos logos*, he says *πάρειμ' ἐντεῦθεν ἐς τὰς τῆς φύσεως ἀνάγκας* (1075); (b) when Pheidippides justifies the beating of his father to Strepsiades, who tells him *ἀλλ' οὐδαμοῦ νομίζεται τὸν πατέρα τοῦτο πάσχειν*, Pheidippides replies:

οὐκ οὖν ἀνὴρ ὁ τὸν νόμον θεῖς τοῦτον ἦν τὸ πρῶτον
ὥσπερ σὺ καὶ γὰρ, καὶ λέγων ἔπειθε τοὺς παλαιούς; (1420-22)

σκέψαι δὲ τοὺς ἀλεκτρύονας καὶ τᾶλλα τὰ βοτὰ ταυτί,
ὥς τοὺς πατέρας ἀμύνεται· καίτοι τί διαφέρουσιν
ἡμῶν ἐκεῖνοι, πλὴν γ' ὅτι ψηφίσματ' οὐ γράφουσιν; (1427-29)

S. Luria categorically assumed that these lines constituted an Aristophanic reflection of Antiphon's doctrines in the *Alétheia*,⁶¹ and

⁶¹ See S. Luria, "Väter und Sohne in den neuen literarischen Papyri," *Aegyptus* 7 (1926) 262-68; "Wann hat Demokrit gelebt?," *Archiv für Geschichte der Philosophie* 38 (1928) 220-24.

Luria was followed by Nestle.⁶² Heinimann, however, registered a sensible objection, with which I agree; Luria's opinion could hardly admit of certainty with regard to a *terminus ante* for the *Alêtheia* of 423, since the version of the *Clouds* which we possess is not the original of that year, but a play in which sections such as the agon (cf. passage (a) above) have probably been rewritten,⁶³ as late as 420–18.⁶⁴ Since it is impossible, on the other hand, to pin down the extent of the changes with certainty, let us pass from the dating question to the more general issue of whether or not the *Clouds* is to be specifically connected with the *Alêtheia*. Here, the following three points are in order:

1. The *πατρολοίας* employing the arguments in the second passage is not unique to the *Clouds*. He appears in *Birds* 1337 ff., and beating one's father is mentioned in the parabasis of that play as the first illustration of the pleasurable life (cf. ζῶν ἡδέως, *Birds* 754) possible in Cloudcuckooland, where the conventional order (*nomos*) of καλά and αἰσχρά is reversed (cf. 755–59). By 414, of course, the *πατρολοίας* may have become a stock figure in comedy due to sophistic, and possibly Antiphontic, influence; this seems unlikely, however, to such scholars as Dodds, who have suggested a far wider context for such psychological family tensions.⁶⁵ However that be, the *Birds* detracts from the force which a unique appearance of the theme in the *Clouds* would have, if one aimed to connect the latter specifically with Antiphon.⁶⁶

⁶² See Nestle (above, note 49) 381, where he accepts 423 as the definite *terminus ante* for the *Alêtheia*, based on the *Clouds*' treatment of fathers and sons in the second passage I have quoted, and on the use of the *Alêtheia* in Euripides. V. Ehrenberg agrees in singling out Antiphon as the object of Aristophanes' allusion; see *The People of Aristophanes* (New York 1962) 358. Nestle (374) points to the Antiphontic fragment mentioning δῖνος (*FVS* 87B25), but cautiously stresses our complete ignorance of its context in the *Alêtheia*.

⁶³ See Hypothesis VII, as in the Budé edition, ed. V. Coulon (reprinted Paris, 1964) 162.

⁶⁴ See Heinimann 141.

⁶⁵ See E. R. Dodds, *The Greeks and the Irrational* (Berkeley 1951) 46–47 and notes 101–6 on 60–62. In note 106, Dodds remarks that the importance of intellectual influences here, and in particular that of the sophist Antiphon, has been exaggerated. I agree.

⁶⁶ It is interesting, too, that in the *Birds* squaring the circle (cf. Antiphon B13) is one of Meton's tricks (*Av.* 1005), and that Socrates, in the psychagogic ode late in the play, is located in the country of the "shadow-feet" (*Av.* 1553 ff.): compare Harpocration's citation of the name σκιάποδες from Antiphon's *Concord* (B45). Such hints should not serve as bases for dating arguments, of course. The first one, at least, may be regarded

2. It is obvious that the unrestrained hedonism advocated by the *adikos logos* at *Clouds* 1071 ff. differs markedly from Antiphon's "hedonism", as probably reconstructed. Only if we hold with Luria that Antiphon was an anarchist,⁶⁷ or the advocate of unlimited physical gratification (which I have tried to show very unlikely), can we proceed to compare the purposes of the *adikos logos* with those of the *Alêtheia*.⁶⁸

3. It is possible, however, that this analogy could be maintained if one introduced the correction factor necessary for the exaggeration typical of comedy. The *Clouds* passages, on this argument, could constitute parody of the *Alêtheia*, in the same way as the whole play parodies Socrates. After all, with respect to Aristophanes' aim of ridiculing the sophists, laughter was more important than intellectual accuracy. But complicating this point is its corollary: that the *Clouds*, in all likelihood, is a parody of jumbled doctrines where, as W. Arrowsmith has said, "distinctions of doctrine and belief are totally disregarded."⁶⁹ Whitman detects echoes of Protagoras, Diogenes of Apollonia, Prodicus, Gorgias, and Antiphon in the *Clouds*.⁷⁰ If this be so, it would be difficult, for example, to tell if the ridicule of antinomianism refers to the ideas of Antiphon, or to the probable views of Hippias on the *nomos-physis* split, or to a jumble of both. If Antiphon's seriousness in the *Alêtheia* and Hippias' facile tone in Plato's *Protagoras*

in the same way as the *πατρολογία*, as I see him: a comic reference, not to the work of a specific author, but to a subject which probably engaged the speculation of many at the time (cf. Aly 143-44).

In connection with *Av.* 754 ff., Professor Cole has drawn my attention to an interesting passage of Soph. *Electra* (1058 ff.), where the birds are visualized in exactly the opposite way, as caring for the parents who nourished them.

⁶⁷ See S. Luria (above, note 1).

⁶⁸ W. K. C. Guthrie feels that the essence of the arguments of *ἄδικος λόγος* and Pheidippides in the passages quoted is more justly similar to the philosophy of Callicles; see *A History of Greek Philosophy* 3 (Cambridge 1969) 114. He connects the play generally with Antiphon in this way: "... the argument of Antiphon is recalled that the law favours the guilty as much as the innocent. The whole plot of the *Clouds* turns on the claim of 'Socrates' to teach his pupils how to escape the legal penalties of wrongdoing." With this general point, I am in agreement, though it establishes nothing for certain about the date of the *Alêtheia*.

⁶⁹ See his Introduction to the *Clouds* (Complete Greek Comedy, Ann Arbor 1962) 3.

⁷⁰ See C. H. Whitman, *Aristophanes and the Comic Hero* (Cambridge, Mass. 1964) 142; K. J. Dover, Introduction to the *Clouds* (Oxford 1968) xxxvi-xxxvii. Z. Philip Ambrose, in "Socrates and Prodicus in the *Clouds*," an unpublished paper presented at the meetings of the American Philological Association (New York, 1970), has argued for Prodicus as the target of much of the parody in the play.

are any justification for Heinimann's view that Hippias was a popularizer of Antiphon's teachings,⁷¹ the possibility remains open that the satire in the *Clouds* is directed at Hippias, the thinker who was probably more readily accessible to the public. This rationale would tend to establish the *Alêtheia* as prior to the *Clouds*, but not as the primary object of its satire. If Hippias, on the other hand, was the more important figure on the *nomos-physis* question,⁷² the sequence could have been: Hippias' work—*Clouds*—*Alêtheia*. Since this would involve the somewhat unlikely assumption that Antiphon took over and treated with seriousness a distorted parody of Hippias by Aristophanes, I incline to believe that this was *not* the sequence. It may well be, then, that Antiphon's book preceded Aristophanes' play in time. There can be no certainty on the question, though, just as on two other issues: the works' precise tonal relationship, and the span of years between them.

IV. ANTIPHON AND THUCYDIDES

Interpreters of Antiphon as a radical proponent of naturalism in the sense of hedonistic *physis* have naturally bracketed him, together with Thrasymachus and Callicles, as representative of that outlook on power and ethics shown in the Athenians' statements at Melos (Thuc. 5.89–116). There, the denial that *δίκαια κρίνεται* between states of unequal power (5.89), the assertion that *φύσις ἀναγκαῖα* compels the extension of their rule by the strong (5.105.2), and the claim that *ἀνθρωπεῖος λόγος* dictates submission by the weak might seem especially significant. However, I am not persuaded, from the analysis given of the *Alêtheia* in the first part of this essay, that the Athenian arguments reported by Thucydides have any close relation to the probable doctrine of Antiphon.⁷³ The extant fragments, as previously noted, place Anti-

⁷¹ Cf. Heinimann 143.

⁷² So, Nestle 375 ff., 380, 400.

⁷³ *Contra*, F. Wasserman, "Post-Periclean Democracy in Action: The Mytilene Debate," *TAPA* 87 (1956) 39, 45. For the similarities and differences in a strict comparison between the Athenian position in the Melian dialogue and that of Callicles in Plato's *Gorgias* (and of Thrasymachus in the *Republic*), see the remarks of Gomme, expanded and modified by A. Andrewes, in *A Historical Commentary on Thucydides* 4 (Oxford 1970) 162–64. On (*nomos*) and *physis* at Thuc. 5.105.2, see note *ad loc.* (173–74), where Andrewes judiciously assesses the relationship of Thucydides' Athenians with Callicles and advisedly points out that in the *nomos-physis* debate there "was not one 'sophistic' doctrine . . . but many" (174).

phon's sympathy with the less powerful, rather than the stronger. Though pessimistic about the determination of the truth in the process of adjudication, he does not recommend total abandonment of society for the purpose of unlimited individual gratification; though he favors τὰ τῇ φύσει ξυμφέροντα, and speaks at one point of τὰ τῆς φύσεως as ἀναγκαῖα (cf. frg. 44A, col. 1.25-27), he nowhere uses such concepts to support violence or the subjection of the weak by the powerful. Such, of course, were the grim results of the Melian affair.

A more suggestive passage of Thucydides, in connection with what we know of Antiphon's *Alêtheia*, is the speech of Diodotus in answer to Cleon in the so-called Mytilenean Debate, which took place eleven years earlier (427).⁷⁴ It has frequently been pointed out that Diodotus' words (Thuc. 3.42-48) represent no moralistic answer to Cleon's violent demands for revenge on the Mytilenean rebels. Diodotus urges clemency, but his expressed reasons all have to do with advantage (ξυμφέρον), and are often explained by commentators as indicative of a quiet, unemotional *Realpolitik*.⁷⁵ It is also generally sensed that the debate must for the historian have assumed ramifications broader than the particular question of what was to happen to Mytilene. Specifically, the large amount of space in Diodotus' speech concerning all debates on public policy (3.42) and the ineffectiveness, given human nature (cf. ἀνθρωπεῖα φύσις at 45.7), of deterrent laws and punishments (45) is an indication of a more general concern, perhaps related to the examination of such subjects by the sophists.⁷⁶ Wasserman, in this connection, doubts that the speech of

⁷⁴ I have benefited from general conversations on this subject with Professor J. H. Finley and the late Professor Adam Parry. Also of help, with regard to specific points on Thucydides, have been: A. Andrewes, "The Mytilene Debate: Thucydides 3.36-49," *Phoenix* 16 (1962) 64-85; F. M. Wasserman (note 73, above) 27-41; L. Bodin, "Diodote contre Cléon: quelques aperçus sur la dialectique de Thucydide," *REA* 42 (1940) 36-52; J. H. Finley, *Thucydides* (Cambridge, Mass. 1942) 29-33; J. de Romilly ed. *Thucydide, Livre III* (Budé, Paris 1967) xxii-xxv, xxix-xxx.

⁷⁵ See Finley (above, note 74) 177; Wasserman 35, 37; de Romilly xxiii; Gomme, *A Historical Commentary on Thucydides* 2 (Oxford, 1956) 317-18 (note to Thuc 3.44.4). Andrewes (72) gives a sensible view, arguing that "Diodotus' speech is conditioned by Cleon."

⁷⁶ See Andrewes (above, note 74) 75, who regards the argument about oratory as a vehicle for a further Thucydidean irony on Cleon: though the latter rails about sophistic tricks (cf. ἀγώνων, τὸ εὐπρεπὲς τοῦ λόγου, 38.2-3, and the mention of sophists, unique in Thucydides, at 38.7), he "rejects reasonable argument . . . and his phrases about sophistry

Diodotus can have been presented at all to the Athenian assembly in the abstract form in which it is reported by Thucydides.⁷⁷

Even if Diodotus' remarks may have been substantially altered,⁷⁸ the comparison of his *ξύμπασα γνώμη* on law and punishment with Antiphon's legal critique in the *Alêtheia* is significant. We have nothing beyond the testimony of Thucydides concerning the person Diodotus; that the view he put forward was controversial and yet had many adherents at the time are two important conclusions we can draw from Thucydides' record of the debate's result (49.1). This view is philosophically comparable to Antiphon's in three significant respects:

(a) the criticism of a system for the determination of public policy where the truth is subverted by the demagogic abuse of rhetoric (cf. Antiphon on justice and *πειθώ*)—3.42-3;

(b) the strict division between a traditional notion of justice (in this case revenge) and *τὰ χρήσιμα* or *τὰ συμφέροντα* but with the paradoxical (to moralists) result of a goal of humane non-aggression, the byproduct of which is advantage—3.44, 47;

(c) the recognition that both the deterrent force of law and the "example" of punishment are incapable of preventing the occurrence

are merely a way to put unreason over, using the plain man's prejudice against fancy thinking to prevent any thinking at all."

Finley (176) and de Romilly (xxix, and note 8) adduce the discussion on punishment in Plato, *Protag.* 324A-C; the latter adds that it was held, in all likelihood, during the 420's (if we doubt the implied dramatic date of the work, viz. before the start of the war).

See also Wasserman 34 and Gomme, *Comm.* 2.315 (note to 42.6) and 324.

⁷⁷ See Wasserman 34, 39 (where he speaks of 3.45 as an "undiluted abstract concentrate" and invokes the criticism by Dionysius of Halicarnassus of Thucydides' style). But compare Gomme, *Comm.* 2.324 for the view that the speech is quite suitable, in the main, for use in the assembly.

⁷⁸ I do not think this likely, for the following reasons: (a) Thucydides says that a first assembly was held, prior to this one (3.36.2), in which other, more concrete speeches must have been made (cf. the implication of other opinions at 49.1); he informs us that even at the second assembly *ἅλλαι τε γινώμαι ἀφ' ἐκάστων ἐλέγοντο* before Cleon spoke (36.6); (b) the Athenians' standards and taste in listening to public oratory must not be judged by our own (see Andrewes, 74); more to the point in trying to decide whether Diodotus spoke as he is reported is Cleon's bitter remark about the assemblymen as *θεαταὶ τῶν λόγων* at 38.4; (c) many of Diodotus' more "abstract" remarks are occasioned by Cleon's stricture, and necessitated by Diodotus' having to defend his right to speak at all; (d) Thucydides may be presumed to have been present, and thus the temptation to schematize the speeches from second-hand reports and notes, and to present them in a more conceptual form than that of the original, probably did not affect him in this case.

of aggression, and that their employment leads to inequity, and ultimately to futility—3.47.3; 45.7.

With regard to the first point, the subversion of accuracy through rhetoric, it should be noted that Diodotus and Antiphon are *parallel*, rather than *identical*. Their differentiation is immediately demanded by Diodotus' explicit distinction between the *συμφέρον* of the state (decided in the assembly) and the moral demands of τὰ δίκαια (decided in the courts): ἡμεῖς δὲ οὐ δικάζομεθα πρὸς αὐτούς, ὥστε τῶν δικαίων δεῖν, ἀλλὰ βουλευόμεθα περὶ αὐτῶν, ὅπως χρησίμους ἔξουσιν. (Thuc. 3.44.4.) Antiphon was concerned with the defects of adjudication for the individual (see frg. 44A, col. 6.3–7.13 and 44C, in particular), and perhaps more occupied with the future cycle of injustice than Diodotus. Yet it looks as if Antiphon's hypothetical citizen trying to follow the traditional definitions of justice according to *nomos*, and Diodotus' ideal counselor are trapped in a world of aggression, and for very much the same reasons. The connection between the truth (just judgment or meritorious advice) and its determination in the traditional frameworks of court and assembly has broken down, rendering the frameworks powerless to transmit advantage. And the connection breaks down for similar reasons:

(i) Antiphon clearly states that *πειθῶ* in the courts has wrongly produced the same situation for the sufferer before the law as for the doer (frg. 44A, col. 6.9–33); what profit can there be in a system of redress in which rhetoric may just as probably produce a false judgment as a true one?

(i') Diodotus states that the good advisor is no more likely to be believed in the Athenian assembly than the bad one, since, because of people like Cleon, people are now paying more attention to the rhetorical slander of advisors than to the quality of the advice. Again, *πειθῶ*, its distortions, and suspicion of its motives have wrongly produced the same situation for those offering better courses as for those offering worse: καθέστηκε δὲ τὰ γαθὰ ἀπὸ τοῦ εὐθέος λεγόμενα μηδὲν ἀνυποπτότερα εἶναι τῶν κακῶν, ὥστε δεῖν ὁμοίως τὸν τε τὰ δεινότατα βουλόμενον πείσαι ἀπάτη προσάγεσθαι τὸ πλῆθος καὶ τὸν τὰ ἀμείνω λέγοντα ψευσάμενον πιστὸν γενέσθαι. (43.2.) Conforming to his pragmatic standard, Diodotus makes clear that the ultimate *desideratum* of practical advantage is what suffers: ἡ τε πόλις οὐκ

ὠφελείται ἐν τῷ τοιῷδε· φόβῳ γὰρ ἀποστερεῖται τῶν ξυμβούλων. (42.4.)

(ii) Witnessing to the truth in Antiphon is exposed as injurious to the individual's advantage, among other reasons because he is exposed to a continuing cycle of ἀδικήματα, involving hatred and potential harm (frg. 44C, col. 1.35–2.15).

(ii') Similarly, co-operation with the noxious framework of the assembly opposed by Diodotus exposes the individual to suspicion at best (if he is successful in πειθώ) and to charges of stupidity and injustice (if he is unsuccessful); cf. 42.3. In any case, fear must be the result for all (42.4).

The powerlessness of the system to provide τὸ ξυμφέρον, or ὠφελία, observed by both Antiphon and Diodotus, is related to the second point (b) above. For Antiphon, courses that are truly advantageous must be profitable, rather than harmful (frg. 44A, col. 4.18–22). Since advantage defined by *nomos* lies as a chain on *physis* and no certain advantage results from co-operation with *nomos*, it is only rational for a man to consider *physis* more important. Thus, the compromise of col. 1.6–23: considering one's ξυμφέρον with what *nomos* defines as δικαιοσύνη may be most practicable if one divides one's loyalties, depending on the presence or absence of witnesses. Implied, of course, is a recognition of potential conflict between ξυμφέρον and what the law defines as justice. Diodotus analyzes the Mytilenean affair as an actual case of such a conflict.

It seems also to have been part of Antiphon's thought that any punishment resulting from *nomos* and the conventional process of adjudication was fundamentally opposed to ξυμφέρον, since in any judgment there must be winners and losers (frg. 44C, col. 2.25–32). Even a person truly sworn against may, if convicted, lose either his property or his life, and such a result obviously violates his advantage. At the same time, it makes logical shambles, from the point of view of the man who truly swears, of the ideal description of justice with which Antiphon commences this fragment of the *Alêtheia*: an ideal combining the truth with usefulness and the concept of mutual non-aggression (or only retaliatory aggression, col. 1.10–15). To this complicated, and probably incomplete, set of objections, Diodotus, we may speculate, would probably have reacted with sympathy, since his com-

promise in the case of conflict between non-aggression and advantage on the one hand and strict enforcement of the law on the other hand is essentially the same as what we know of Antiphon's solution: the choice of the former at the expense of the latter.

This brings us to our last point (c) above, by which it appears that Diodotus and Antiphon are remarkably alike in their distrust of *nomos*: given man's nature (expounded at length by Diodotus in Thuc. 3.45), the law is incapable of preventing the act of aggression in the first place (compare 45.7 with Antiphon, frg. 44A, col. 6.14-18). The law's strict enforcement leads to further aggression; the adjudication of penalties, useless as deterrents, happens in both discussions to be placed in the anomalous context of the guilty and the innocent being in the same position. This anomaly results in Antiphon's discussion from the vagaries of *πειθῶ* (col. 6.19-30), and in Diodotus' from the harshness of the original Athenian decision to punish *all* the Mytileneans (47.3).

It remains to point out that Diodotus' statement at 44.2, that he would recommend punishment for the Mytileneans if he thought it consistent with Athenian *ξυμφέρον*, hints at a major divergence from the probable Antiphontic view of punishment. It is possible, however, to regard the divergence as only suggested, since Diodotus' much fuller remarks on the uselessness of deterrents indicate that he could have hardly decided for an "advantageous punishment" and maintained much consistency at all in his speech. The insertion of the possibility of such a decision, like the reminder that he, no more than Cleon, wished the Athenians to yield too much to *οἶκτος* and *ἐπιείκεια* (48.1), would seem rhetorically motivated: Diodotus was surely aware that any failure to seem as tough as Cleon could lose him the debate.

Comparison of Diodotus' speech in Thucydides with the legal critique of Antiphon in the *Alêtheia* establishes as more secure, I believe, some important contentions regarding Antiphon's argument: (a) such doctrines about justice and the law, juxtaposing them with advantage, were not necessarily restricted in late fifth-century Athens to the more "radical" sophistic circles. They could, and did, admit of use in the public sphere of the assembly's formulation of policy; (b) dissatisfaction with *nomos*, and rejection of some of its traditional claims, could be held with no suggestion of anarchy as the alternative. After all, if one

does not happen to be a "strict constructionist," it does not inevitably follow that one advocates violence or chaos. Diodotus argues for a policy of humane non-aggression, for example, the byproduct of which is advantage; this seems also to have been Antiphon's ideal; (c) if it is correct to conclude that Antiphon's opinions strikingly cohere at points with those of Diodotus, I think we must acknowledge a more practical and moderate body of thought for the text of the papyri than has generally been allowed. For, as Thucydides tells us, though the argument Diodotus used was no doubt controversial, he nevertheless won the debate.⁷⁹

⁷⁹ My thanks to G. B. Kerferd, and particularly to A. T. Cole, who made many helpful comments and suggestions. The last section of this paper was read, in a slightly different form, at the meetings of the American Philological Association (Cincinnati, Ohio) in December, 1971.