

THE RHETORIC AND CONCEPTUALIZATION OF ENMITY IN CLASSICAL ATHENS

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*Uxori dilectae*

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## TABLE OF CONTENTS

	<u>page</u>
ACKNOWLEDGMENTS .....	4
ABSTRACT .....	7
CHAPTER	
1 INTRODUCTION .....	9
Athenian Law .....	12
Sources for Athenian Law .....	15
The Semantics of Enmity .....	18
Enmity in Classical Athens .....	21
The Rhetoric and Conceptualization of Enmity in Classical Athens .....	29
2 ENMITY IN PROSECUTION SPEECHES .....	34
Argument from Probability .....	35
Affirming Enmity but Denying Culpability .....	40
Establishing Motive for Assault .....	53
Matters of State .....	64
Enmity in Private Disputes .....	79
Conclusion .....	86
3 ENMITY IN DEFENSE SPEECHES .....	89
Attacked by Enemies .....	91
Denying Motive for Assault .....	110
Attacked by Sycophants .....	115
Conclusion .....	123
4 MAKING ENEMIES .....	125
The Prevalence of Enmity .....	127
The Causes of Enmity .....	130
Spreading Enmity .....	143
Conclusion .....	151
5 HARMING ENEMIES .....	153
A Formalized Relationship .....	154
Non-violent Vengeance .....	158
The Limits of Harming Enemies .....	169
Conclusion .....	182

6	CONCLUSION.....	185
	LIST OF REFERENCES.....	189
	BIOGRAPHICAL SKETCH.....	199

Abstract of Dissertation Presented to the Graduate School  
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This study examines the rhetorical use of enmity in Athenian legal oratory and the conceptualization of enmity in oratory, history, philosophy, and drama. Chapters 2–3 argue that the Attic orators construct narratives about their past hostile relationships with their opponents to support character and probability arguments. Many different strategies were available to Athenian litigants, depending on the particular features of their cases. A speaker in the court room had the flexibility to adapt his presentation of enmity to his own needs. Thus, the rhetorical use of enmity was elastic in its range of application and firmly tied to the whole of a litigant's argument.

Since litigants frame their accounts of enmity to create probability arguments, they had to be in tune with what the jury would find a probable situation and response. We can therefore use these speeches to learn what types of behavior the jury would believe were characteristic of enemies (Chapters 4–5). Passages from other genres, including history, drama, and philosophy, can also be used as corroborating evidence to support conclusions drawn from the Attic orators. These sources yield a view of society in which Athenian men were frequently engaged in semi-formalized relationships of enmity. They also believed it their duty to harm their enemies; Athenians expected enemies to engage in insults, lawsuits, and political rivalries. However,

aggressive violent behavior was, in the Athenian imagination, limited by democratic ideology and institutions. Previous discussions of enmity have posited competing “codes,” one agonistic and one restrained, but this dichotomy is rejected here. The Athenians consistently maintained that they were non-violent and gentle toward one another. Athens was thus a city with two seemingly contradictory aspects. Athenians conceptualized their society as feuding society, although relatively non-violent.

## CHAPTER 1 INTRODUCTION

The members of a society must find ways to mediate violent disagreements if they intend to avoid anarchy.<sup>1</sup> The Greeks were well aware of the need for peaceful and non-violent methods of arbitration between quarreling people. In *The Works and Days*, the ability of humans to effect dispute resolution (*dikē*, “justice”) separates them from mere animals: “the son of Cronos established the following law for mankind, that fish and beasts and winged birds eat each other since justice is not in them, but he gave to mankind justice, which proves itself by far the best.”<sup>2</sup> Aristotle argues in the *Politics* that man is by nature a “political animal” (πολιτικὸν ζῷον) and therefore naturally forms communities and states (1253a3). Individuals must subordinate their interests to justice,<sup>3</sup> which is vested in the state, “Just as man is the best of animals when perfected, he is the worst of all when divorced from law and justice. [...] The virtue of justice is part of the polis.”<sup>4</sup> Failure to institute effective controls on conflicts between citizens could result in internal turmoil, or worse, civil war (*stasis*). In his narrative of the revolt of Corcyra (3.70–85), Thucydides illustrates the potentially devastating effects of *stasis*.<sup>5</sup> Envy drove men to seek revenge at all costs, ignoring the gods and overturning justice and the laws. Corcyra descended into chaos where the passions of individuals and parties were supreme: “they executed still

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<sup>1</sup> Harris 2001, 157–200; Herman 2006, 72–8.

<sup>2</sup> Hes. *Op.* 276–80: τόνδε γὰρ ἀνθρώποισι νόμον διέταξε Κρονίων, / ἰχθύσι μὲν καὶ θηροῖ καὶ οἰωνοῖς πετεηνοῖς / ἔσθθαι ἀλλήλους, ἐπεὶ οὐ δίκη ἐστὶ μετ’ αὐτοῖς / ἀνθρώποισι δ’ ἔδωκε δίκην, ἢ πολλὸν ἀρίστη / γίνεταί. Cf. Dem. 25.20; Xen. *An.* 5.7.32.

<sup>3</sup> “It is clear that the polis is both natural and prior to the individual” (ὅτι μὲν οὖν ἡ πόλις καὶ φύσει καὶ πρότερον ἢ ἕκαστος, δηλον, *Pol.* 1253a25–6). Cf. Dem. 8.72.

<sup>4</sup> Arist. *Pol.* 1253a31–3, 37: ὥσπερ γὰρ καὶ τελεωθεὶς βέλτιστον τῶν ζῶων ἀνθρωπός ἐστιν, οὕτω καὶ χωρισθεὶς νόμου καὶ δίκης χεῖριστον πάντων. [...] ἢ δὲ δικαιοσύνη πολιτικόν.

<sup>5</sup> On *stasis* and the ancient Greeks’ fear of it, see Ruschenbusch 1978; de Ste. Croix 1981; Cohen 1995, 25–33; Ober 1998, 66–72; Raafab 2009.

greater acts of vengeance, not adhering to justice or the interests of the state, but rather considering any given whim of a group of individuals as the only limit to their action.”<sup>6</sup>

Because all societies experience internal conflict, many states throughout history have established law courts and penal institutions to provide a formally sanctioned apparatus for resolving conflict. However, not all methods of mediating societal tensions need be institutional. In many areas of the world, elaborate codes of honor provide scope for feuding between individuals and groups but at the same time limit such conflicts through the community’s expectations about how feuds are to be carried out.<sup>7</sup> Rather than functioning to effect resolution and reconciliation, the legal system is often incorporated into the overall feuding process. Enemies tend to take an instrumental view of the courts, using them for their own ends and retaliating against their opponents through lawsuits.<sup>8</sup> Although such societies are often characterized by a high level of violence,<sup>9</sup> disputes must still be carried out within certain parameters to be considered honorable and legitimate.<sup>10</sup> A feuding culture will thus have a method of establishing boundaries for conflict which are reinforced by the community whether by informal norms and values, formal institutions, or both in tandem. A human community with no rules, expressed or unexpressed, is no community at all, but rather a group of individuals pursuing personal self-interest at all costs.<sup>11</sup>

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<sup>6</sup> Thuc. 3.82.8: ἐπεξῆσαν τε τὰς τιμωρίας ἔτι μείζους, οὐ μέγρι τοῦ δικαίου καὶ τῆ πόλει ξυμφόρου προτιθέντες, ἐς δὲ τὸ ἑκατέροις που αἰεὶ ἡδονὴν ἔχον ὀρίζοντες.

<sup>7</sup> See, e.g., Peristiany 1965; Wilson 1988.

<sup>8</sup> For this ideology at Athens see Cohen 1995, 87–118; Rhodes 1998.

<sup>9</sup> Feuds based on an “honor game” frequently involve extreme reactions to perceived insults and slights and thus encourage violence.

<sup>10</sup> On how a society can establish and adapt the rules of an honor game, see Cohen 1995, 15–24.

<sup>11</sup> Christ (2006, 15–44) shows that ancient Athenians were very concerned about the potential danger residing in citizens’ pursuit of their own self-interest.

In Athens during the classical period, the problems resulting from conflicts between citizens were acknowledged and discussed. Personal enmity was an issue that authors in many different genres confronted, but none so explicitly and extensively as the Attic orators. Because the speeches composed for the jury courts directly addressed ongoing conflicts and openly discussed the relationships of enmity, they form the focus of this study of enmity in classical Athens.

In the court room speakers portrayed themselves and their enemies in ways that allowed them to support character and probability arguments. Many different strategies were available to Athenian litigants depending on the particular features of their cases. For instance, a prosecutor in a case of physical assault would often assert that the defendant had been his enemy for many years to establish a credible motive for the crime. On the other hand, a prosecutor in a case of special public importance may deny enmity with his opponent to prevent the jury from suspecting that he is attacking a personal enemy on trumped up charges. The flexibility inherent in the rhetoric of enmity allowed a litigant to choose from several different strategies and adapt his presentation of enmity to his own needs.

Recognition of the Attic orators' use of enmity for probability arguments permits an examination of how Athenians conceptualized the practice of enmity in their society. Because litigants had to present their narratives of enmity in ways that harmonized with the jury's beliefs, these speeches may be used to learn what types of behavior many Athenian citizens would believe characteristic of enemies. Employing this method, this study concludes that Athenians believed enmity to be widespread, an integral part of everyday life. They also believed that harming one's enemy was a common practice, if not the duty of every honorable male citizen. However, democratic ideology put limits on how far enemies could go in pursuing each other

and prohibited the use of violence to pursue a feud. The Athenians maintained consistently that they were a non-violent and gentle people. Athens was thus a city with two seemingly contradictory aspects. It was in many ways a feuding society but not a violent one.<sup>12</sup>

Before a more detailed statement of theses and goals, a few remarks on the Athenian legal system (“Athenian Law”) and the nature of the sources (“Sources for Athenian Law”) will be offered, followed by a discussion of the semantics of several key words pertinent to the analysis of enmity in the rest of this work (“The Semantics of Enmity”). After an overview of the topic of enmity at Athens (“Enmity in Classical Athens”), the rest of the chapter will focus on the arguments to be advanced in the following chapters (“The Rhetoric and Conceptualization of Enmity in Classical Athens”).

### **Athenian Law**

In Athens ordinary citizens performed the roles normally reserved for professional judges and lawyers in civil and common law systems so that Athenian law was directly connected to the values of the people and expressed popular beliefs and opinions (Dover 1974, 5–6). Out of a citizen body of approximately 30,000, each year 6000 Athenians were selected by lot to become a pool of available jurors. Citizens from this pool were assigned, also by lot, to serve on the daily juries, which ranged in size from 201 to 2501 and judged all cases, from assault to illegal legislation, without guidance from judges or deliberation among the jurors. The courts convened between 150 and 240 days each year, usually with four or more courts in operation each day (Hansen 1991, 178–224). The Athenians themselves apparently recognized how frequently they participated in the court system. The tension of Aristophanes’ *Wasps* centers around Philocleon’s dangerous addiction—to jury duty. A character in the *Clouds* shows a map to Strepsiades and

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<sup>12</sup> On the definition of a “feuding society,” see pp. 20–21.

points to where Athens is located. “What?” Strepsiades replies, “I don’t believe you! I don’t see the jurors sitting.”<sup>13</sup>

The study of Athenian law has the benefit of confronting us with a legal system very different from civil and common law institutions. Modern western thought is dominated by the influence of Roman law while Greek law did not extensively influence European legal practice (Todd 1993, 3–4). The “otherness” of Greek law throws modern practices into relief, urging more critical consideration of some of the most basic assumptions which are now taken for granted. For instance, Montesquieu’s idea of separation of powers has become a creed in the United States and other countries with constitutions built on the European model. Such a concept was totally foreign to Athens. Rather than divide the government into three separate spheres, executive, legislative, and judicial, the Athenians created political institutions with overlapping powers and responsibilities.<sup>14</sup>

Neither did Athens have a massive body of legal literature preventing the ordinary citizen from understanding and participating in the legal process.<sup>15</sup> Athenians did not develop the doctrine of binding precedent or feel obliged to engage in intricate legal reasoning to work out the appropriate solution for every conceivable situation. Consequently, Athenians never produced a body of juristic literature which could produce authoritative interpretations as the

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<sup>13</sup> Ar. *Nub.* 207–8: τί σὺ λέγεις; οὐ πείθομαι, / ἐπεὶ δικαστὰς οὐχ ὄρω καθήμενους.

<sup>14</sup> This is not to say that the Athenians did not attempt to balance the influence of the various governmental bodies. Rather, they did not conceive of government as divided into these three spheres and separate their institutions accordingly. Hansen (1974, 1981) argues that Athens had a form of “separation of powers” in its division of bodies and of government that made divisions and those that took the initiative, but he affirms that, “The Athenians had of course no developed theory about any ‘separation of powers’ in our sense” (1981, 345 n. 1).

<sup>15</sup> The Athenian legal system was designed to encourage amateurs to participate in the process and discourage professionalism (Sinclair 1988, 211–18; Todd 1993, 77–8). Even the well known public speakers (*rhētores*) did not have official legal status (Ober 1989, 104–18).

Romans did.<sup>16</sup> In contrast to Athenian practice, Roman law developed by gradual accretions which eventually yielded a body of literature on law and legal process so overwhelming that jurists under the Empire found it nearly impossible even to organize it. Even the famous law code of Justinian has many inconsistencies and repetitions. The Athenians, however, did not burden their system with the requirement that jurors vote in accordance with the verdicts of earlier cases or be students of an unwieldy body of legal literature. There was, therefore, little to prevent the average citizens from participating in the process.

The Athenian system also did not make allowance for lawyers.<sup>17</sup> In private procedures, which were called *dikai* (singular: *dikē*), the aggrieved party had to appear in court and deliver a speech on his own behalf<sup>18</sup> although it was possible to hire a professional speechwriter, called a logographer.<sup>19</sup> In public suits, however, anyone who wished (*ho boulomenos*) was permitted to bring an action against another. These public suits were called *graphai* (singular: *graphē*). Many other exceptional procedures, which functioned essentially as *graphai* except for their preliminary phase, were also available.<sup>20</sup> Even in *graphai* and exceptional procedures, the person

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<sup>16</sup> The Athenians may have kept some records of judicial proceedings in the Metroon, but, as Sickinger (1999, 132) notes, “our knowledge of such judicial records is extremely poor, so this point cannot be pushed too far.”

<sup>17</sup> Litigants could persuade someone to speak on their behalf at trial, a practice called *synēgoria*, but these “advocates” (*synēgoroi*) offered a supplementary speech not a substitute. The main prosecutor still delivered an oration, even if it was short. Further, *synēgoroi* were expected to be close friends or family. They often stressed their connections to the persons they were supporting to dispel suspicions that they had been hired. See Dover 1968, 149–50; MacDowell 1978, 251; Todd 1993, 94–5; Christ 1998, 37; Kapparis 1999, 195; Rubinstein 2000. However, Rubinstein (2000, 128–47) points out that while *synēgoroi* in private speeches conform to this expectation, the pattern does not hold true for public prosecutions. Many advocates in *graphai* and exceptional procedures make no attempts to prove a connection with the main prosecutor.

<sup>18</sup> If a non-citizen, such as a woman or slave, was wronged, the male citizen who had authority over the wronged party (*kurios* – a husband, father, owner, etc.) had to bring suit.

<sup>19</sup> Of the ten Attic orators whose speeches are extant, three (Lysias, Isaeus, and Dinarchus) were metics (resident aliens) who had no citizen rights and therefore could not normally speak before a law court. These logographers participated in the system by writing speeches for delivery by Athenian citizens. Other orators also engaged extensively in “logography,” notably Antiphon and Demosthenes. See Kennedy 1963, 57–8; Lavency 1964; Edwards 2000; Gagarin 2002, 2–4; Todd 2007, 3.

<sup>20</sup> Todd (1993, 112–21) has produced a useful, though not exhaustive, study of these procedures.

who brought the suit had to deliver a speech at the trial; he could not simply hire a professional to speak for him. Although technically any citizen could lodge a public suit, in practice probably only a person with a close connection to the offense would be willing to run the risk of a public prosecution (Christ 1998a: 119–33)<sup>21</sup> with the result that litigation at Athens remained an intensely personal and confrontational affair.

### **Sources for Athenian Law**

Like the legal system itself, the sources for Athenian law differ markedly from the sources for other societies. The proceedings of trials were not formally recorded. Because magistrates did not write notes or commentaries as, for instance, Roman jurists did, legal handbooks have not been transmitted.<sup>22</sup> The texts of only a minority of the laws have been preserved in inscriptions and written documents. The legal system was not embodied in a set of codified rules but was constituted and reconstituted by the everyday practices of jurors and litigants.<sup>23</sup> Customs and norms were passed down informally as jurors and litigants both learned about the system from what was happening in the courts and contributed to the process in their own ways. Therefore, the actual trials, rather than mere descriptions of laws and procedures, are of paramount importance for shedding light on the functioning of the Athenian system. Fortunately the bulk of the information on legal practices comes from speeches composed for delivery in the law courts. The forensic speeches in the corpus of the Attic orators, slightly fewer than one hundred orations composed between approximately 420 and 320 B.C., represent our most important source for

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<sup>21</sup> If a prosecutor in a public suit failed to obtain one-fifth of the votes, he would be fined one thousand drachmas and be prohibited from bringing the same type of case in the future.

<sup>22</sup> The only texts from classical Athens even resembling a legal handbook would be critical works on oratory, such as Alcidamas' *On the Sophists*, Anaximenes' *Rhetoric to Alexander*, and Aristotle's *Rhetoric*. Whether or not many other handbooks existed is a matter of debate (see Schiappa 1999, 4–6, 45–7).

<sup>23</sup> After the restoration of democracy in 403, prosecutors were required to bring others to trial under an existing law, but the definitions of offenses were often vague and left open to interpretation. Laws typically focused on procedural guidelines, leaving the offenses themselves undefined (Ruschenbusch 1957; Cohen 1995, 152).

Athenian law.<sup>24</sup> These speeches occupy a special position not only because of the number of them that survive but also because they were intended for an audience of ordinary Athenian citizens. The elite bias of most other ancient sources does not control how the orators present their cases since speakers must appeal to the ideology of the masses in order to win their cases.<sup>25</sup> Thus we can draw conclusions about the working of Athenian law and the ideology of Athenian citizens from a careful analysis of how litigants present their cases and attempt to sway the jury.<sup>26</sup> The study of rhetorical methods is therefore of prime importance for this discipline.<sup>27</sup>

Although a sufficient number of speeches survive to allow a meaningful investigation into the working of the Athenian law courts, certain limitations in the nature of the evidence hinder a diachronic study. First, the extant speeches are not evenly distributed over the period (c. 420 B.C. – 322 B.C.); they occur in clusters. Antiphon, Andocides, Isocrates, and Lysias all composed their speeches before c. 380 B.C. The bulk of the remaining speeches by Demosthenes, Aeschines, Apollodorus, Lycurgus, Hyperides, Dinarchus, and Demades occur in the last two decades of the period.

The possibly exceptional nature of the speeches that are preserved presents a further complication. Many of the transmitted orations may owe their survival through the hazards of textual transmission at least in part to their peculiar and interesting features. If this is the case

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<sup>24</sup> These speeches cover a wide range of procedures (various *dikai* and *graphai* and also many exceptional procedures: *diadikasia*, *enepiskēmma*, *dokimasia*, *euthynai*, *eisangelia*, *apophasis*, *apagōgē*, *endeixis*, *ephēgēsis*, *phasis*, *probolē*, *diamarturia*, *paragraphē*).

<sup>25</sup> See Ober 1989. Todd (1990a) shows how invoking a set of ideas that alienates the jury could be detrimental to a litigant's case.

<sup>26</sup> Studies that have used the rhetoric of court speeches to draw conclusions about Athenian ideology include Dover 1974; Ober 1989; Cohen 1991; 1995; Christ 1998a; Johnstone 1999; Allen 2000a; Herman 2006; McHardy 2008; Worman 2008.

<sup>27</sup> Of course, the use of these speeches is not without its own set of problems. The Attic orators are notorious for distorting the truth when it serves their interests. Todd (1990b) outlines several of these difficulties.

then many speeches do not necessarily provide an accurate representation of typical cases and disputes.

Third, many orators seem to have specialized in certain types of cases. Therefore, what may appear as differences in the presentation of traditionally used motifs over time may be more accurately attributed to differences in procedure. Demosthenes, whose corpus contains speeches of nearly every variety, is the exception, but other orators have identifiable patterns in the types of cases they confront. Antiphon's corpus has only three judicial speeches, all of which concern trials for homicide. The only other speech composed for homicide trials was composed by Lysias (1).<sup>28</sup> Isaeus composed many of his speeches for inheritance cases and consequently the *diadikasia*, which is the procedure used in six of his speeches (1, 4, 7, 8, 9, 10), while only three *diadikasiai* exist outside Isaeus' corpus (Lys. 17; Dem. 42; [Dem.] 45). In many cases only one or two orators provide examples of a certain procedure. All *dikai emporikai* occur in Demosthenes' corpus (32–5, 56).<sup>29</sup> Likewise, Lysias composed all extant *dokimasia* speeches (16, 24, 25, 26, 31) except one (Aeschin. 1).<sup>30</sup>

In view of these limitations a synchronic approach is the most logical way to evaluate the sources. It is possible to treat the period from c. 420 B.C. to 322 B.C. as a unit since the

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<sup>28</sup> Lysias 12 and 13 also bring a charge of homicide, but do not employ the standard procedure for homicide (*dikai phonou*).

<sup>29</sup> All but one of these cases are actually *paragraphai* (barring actions) resulting from a *dikē emporikē* (Dem. 32–5). On these speeches see Lanni 2006, 149–74.

<sup>30</sup> Aeschines 1 is, further, a different type of *dokimasia* (*dokimasia rhētorōn*, for which see Lipsius 1905–15, 278–2; Harrison ii. 1968–71, 204–5; MacDowell 1978, 174; Todd 1993, 116; MacDowell 2005; Gagliardi 2005). The *dokimasia rhētorōn* was designed to provide a vetting process for *rhētores*, men who spoke in the Assembly and attempted to influence the policy of the state. Unlike other *dokimasiai*, this procedure had to be initiated by a volunteer prosecutor, who had to prove the defendant guilty of misconduct severe enough to prohibit him from continuing to give advice in the Assembly. Regular *dokimasiai* were required entry examinations for each incoming magistrate after he was selected for the post. For the *dokimasia* procedure, see Lipsius 1905–15, 270–8; Harrison ii. 1968–71, 200–3; MacDowell 1978, 167–9; Adeleye 1983; Hunter 1994, 106–8; Todd 1993, 115–16.

constitution remained essentially constant except for minor changes.<sup>31</sup> In the analysis that follows, speeches from this time frame will be adduced as evidence for the rhetorical use of enmity in the Athenian court room (Chapters 2–3). However, three speeches by Antiphon (1, 5, 6) that fall outside of this period will also be cited.<sup>32</sup> This analysis will demonstrate that the rhetorical use of enmity in Antiphon follows the patterns established from other speeches.<sup>33</sup>

### The Semantics of Enmity

Before this study proceeds, several key terms merit a brief discussion. The English word “enmity” is a translation of the Greek word *echthra* (ἐχθρα). Importantly, the English word shares *echthra*’s connotation of a dispute between individuals rather than a dispute between states or larger groups. This is not, however, the case with the related Greek noun *echthros* (ἐχθρός) and its typical English counterpart “enemy.” While the English word “enemy” can refer both to opponents of an individual and opponents of a state, Greek has two words that distinguish these concepts. An *echthros* is a “personal” or “private” enemy while a *polemios* (πολέμιος) is an enemy of the state.<sup>34</sup> For example, Demosthenes would have considered Aeschines, a rival Athenian orator, his *echthros*, while Philip, the king of a state at war with Athens, was a *polemios*. A passage from Lysias illustrates the differences in the semantic fields of these two words: “Since I am seeking vengeance on Alcibiades, who is my enemy (*echthros*),

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<sup>31</sup> For justification of viewing this period synchronically, see, e.g., Ober 1989, 36–8; Hunter 1994, 6–7; Christ 1998, 6. Hansen (1989a, 1989b) has argued vigorously against scholars who include the Periclean democracy in such an analysis, but allows that fourth-century Athens may be examined synchronically.

<sup>32</sup> These speeches were composed shortly before the constitutional change of 403.

<sup>33</sup> Although important changes occurred in 403, the rhetorical use of enmity would not have been much affected since, as argued below, it was based on probability arguments, which were well known throughout the Greek world, and enmity, a long-standing way of structuring society. Thus, it is not surprising that Antiphon employs enmity in ways very similar to fourth-century orators.

<sup>34</sup> Latin maintains a similar distinction between *inimicus* and *hostis*. From the former are derived the English words “enemy” and “enmity.”

you should have the same opinion and vote as when you thought that you were about to be in danger because of your enemies (*polemioi*).”<sup>35</sup> The speaker refers to his own personal enemy as an *echthros* while he alludes to the foreign enemies of Athens by using the word *polemios* (cf. Lys. 4.13, 22.14–15). This study will be concerned primarily with words of the root *echthr-* rather than *polem-* since it addresses personal enemies within the Athenian state rather than external threats.<sup>36</sup>

Enmity must be distinguished from anger (*orgē*), hatred (*misos*), and other such terms.<sup>37</sup> These describe emotions *simpliciter* while *echthra* rather signifies a type of relationship. Enmity at Athens could be quite formal, entailing clear expectations for how the *echthrois* involved in the relationship should act toward each other (see Chapter 5). As a practical matter, however, when an ancient source speaks of negative emotions directed at another person, it may be assumed that a relationship of enmity exists. For instance, if an orator claims that he has hated his opponent for many years and now wants to see him punished, he is undoubtedly describing a long-standing relationship of enmity between the two.<sup>38</sup> As a matter of course enemies hated and were angry with each other.<sup>39</sup>

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<sup>35</sup> Lys. 15:12: καὶ Ἀλκιβιάδην ἐχθρὸν ὄντα ἐμαυτοῦ τιμωρούμενος, δέομαι τὰ δίκαια ψηφίσασθαι· ὑμᾶς δὲ χρῆ τὴν αὐτὴν γνώμην ἔχοντας τὴν ψήφον φέρειν, ἥνπερ ὅτε ᾤεσθε πρὸς τοὺς πολεμίους διακινδυνεύσειν.

<sup>36</sup> Although this distinction between *echthros* and *polemios* generally holds true, some semantic overlap occurs. Words of the root *polem-* are occasionally employed to refer to a private dispute, typically emphasizing the intense nature of the conflict (for instance, Dem. 21.29; cf. Arist. *Pol.* 1322a). See Blundell 1989, 39; Phillips 2008, 15.

<sup>37</sup> On the emotions, see Konstan 2006, a systematic treatment of the vocabulary of the emotions in ancient Greek. Konstan uses Aristotle’s divisions of the ten emotions in the second book of the *Rhetoric* as a basic framework, but is careful to include many other sources to provide a corrective to Aristotle’s schematic and philosophical presentation. Other studies of Greek emotions include Walcott 1978, which investigates the Greeks’ ideas about envy, Harris 2001, which focuses specifically on anger in the ancient world, and Allen 2000a, which addresses anger in classical Athens.

<sup>38</sup> Aristotle (*Rh.* 1378a30) connects anger (ὄργη) with the desire for punishment (τιμωρία). Both were natural to enemies.

<sup>39</sup> *Echthra* is similar to its counterpart, *philia* (φιλία; or the articular infinitive form, τὸ φιλεῖν). Debate continues as to whether *philia* was primarily formal or affectational (see, e.g., Konstan 1997; Peachin 2001), but it seems that

Several English words also deserve consideration since they will appear frequently in the following pages. The first is “feud,” along with the related adjective, “feuding.” Cohen (1995) controversially characterized Athens as a society that endorsed “feuding behavior.” A problem that Cohen already recognized is that when the term “feud” is used, many will think immediately of blood feuds, which often entail repeated acts of violence. However, “feud” can denote merely “an enduring long-term relationship of conflict following a retaliatory logic” (Cohen 1995, 20), which is the force that it will have in this study.<sup>40</sup> “Feud” and “feuding” will refer to long-standing enmities without connoting specific acts of violence.<sup>41</sup>

“Violence,” perhaps the most difficult of all of these terms, will also figure prominently in this study, becoming especially important in Chapter 5.<sup>42</sup> No attempt will be made to define the exact boundaries of what constitutes “violence” since the definition will vary from individual to individual and situation to situation. However, when violence is spoken of here, it will be in reference to aggressive attempts by a person or persons to do physical harm to another. This definition does not form a monolithic category since the seriousness of violent behavior can

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*philia*, like *echthra*, could denote both a formal relationship and strong emotional content. Aristotle makes the relational idea clear in his definition of a “friend” (*philos*): “a friend is one who loves and is loved in return” (φίλος δέ ἐστιν ὁ φιλῶν καὶ ἀντιφιλοῦμενος, 1381a). *Philia*, like *echthra*, encompasses both relationship and emotion.

<sup>40</sup> Cohen cites Wilson’s (1988) work on feuding in nineteenth century Corsica to show that feuding need not entail extreme acts of violence. As the court systems became stronger by virtue of the expansion of state bureaucracy, Corsicans channeled their aggressive actions through the legal system, using lawsuits to pursue personal vendettas. Harris (2005, 133–4) objects that Cohen speaks of feuding between “individuals,” whereas “feud” should be used exclusively for long-standing disputes between groups of people. However, any feud between two Athenian men would typically include their *oikoi* and possibly also their friends and relatives (see Chapter 4, “Spreading Enmity”) so that it does not seem an inappropriate term to employ for Athenian male citizens.

<sup>41</sup> “Vendetta” will be used similarly, with no connotation of accompanying physical violence.

<sup>42</sup> The semantic ranges of two words in Greek, *bia* (βία) and *hybris* (ὕβρις), overlap with the English word, “violence.” *Bia* is perhaps the closest parallel, as it typically denotes the use of physical force against another. *Hybris* can include virtually any type of insulting act, which can often be violent behavior. Thus the overlap between the meanings of Greek *hybris* and English “violence” is limited. Much insulting behavior (*hybris*) would not be classified as “violence”; much “violence” may not be deliberately insulting. Fisher (1992) has written an exhaustive study of *hybris* in Athenian literature.

range from a punch to murder. Such distinctions will be made in Chapter 4, the only chapter concerned specifically with this issue.<sup>43</sup>

### **Enmity in Classical Athens**

Just as the institutional arrangement of the Athenian law courts seems strange to the modern observer, in many respects the methods by which litigants present their arguments have struck many students of Athenian law as perplexing.<sup>44</sup> One issue that many scholars have commented on is the extent to which litigants describe their relationships with their opponents. Speakers alternatively flaunt, disguise, or deny histories of hostility with their adversaries. Although the rhetorical strategies vary, many of the extant speeches contain explicit accounts of the presence or absence of long-standing relationships of enmity, usually between the two litigants involved in the dispute. It would seem that the jury expected an explanation of the litigants' history and was receptive to an array of different methods for presenting such relationships.<sup>45</sup>

The adversarial nature of Athenian litigation provided a fertile ground for producing inimical relationships.<sup>46</sup> Athens had no police force or state prosecutors; all trials involved two

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<sup>43</sup> Chapters 2–3 address the rhetorical use of enmity for character and probability arguments and therefore mention violence only as it happens to apply to starting or continuing a relationship of enmity.

<sup>44</sup> The apparent requests of rich litigants for “favor” (*charis*) from the jury in recompense for services rendered to the state and the practice of torturing slaves to obtain information (*basanos*) are among the chief offenders. The debate over both continues. On *charis*, see Davies 1981, 92–105; Ober 1989, 226–30; Johnstone 1999, 93–109; Rubinstein 2000, 212–33. On *basanos*, see Thür 1996; Hunter 1994, 70–95; Gagarin 1996; Mirhady 1996; Thür 1996. Other seemingly irrelevant material contained in the speeches has prompted Lanni (2006, 42–64) to list several rhetorical strategies which would be considered irrelevant in modern courts but were acceptable in the Athenian system.

<sup>45</sup> Speakers commonly cite their feuds with their opponents as their motivation for appearing in court. See Hunter 1994, 127; Cohen 1995, 70–86, 101–15; Christ 1998a: 154–9; Rhodes 1998, 154–60; Kurihara 2003.

<sup>46</sup> For the “extreme adversariality” of Athenian law, see Todd 1993, 67–8. Todd notes that modern legal scholars divide the institutional methods for administering justice into two types, adversarial and inquisitorial. In the former, the judge acts basically as an “umpire” between two litigants who are engaged in a set-piece battle, while in the latter the judge interrogates witnesses himself and generally attempts to find out the truth on his own. On this model classical Athens falls at the extreme end of the adversarial type of system.

individuals pitted directly against each other in a contest which would have one winner and one loser.<sup>47</sup> The jury simply picked whomever they believed had the better case with no investigation before or deliberation after the speeches. Opponents frequently employed *ad hominem* attacks, along with every other argument at their disposal since no formal rules constrained how they presented their cases.

Further, in the absence of a state apparatus for imposing the courts' decisions on unsuccessful litigants, the winner of the lawsuit himself had to ensure that the dictates of the court were carried out although the loser of the case did not always comply willingly.<sup>48</sup> The Athenians therefore created a procedure for coercing non-compliant losers, the suit of ejectment (*dikē exoulēs*), which, if the prosecutor was successful, authorized him to take the awarded amount by force and entailed a fine of equal amount to the original verdict that went to the state treasury. Notably, even a favorable verdict in a suit of ejectment did not call upon state officials to settle the dispute but simply gave legal sanction to the individual to seize property equal to the amount that he was owed.<sup>49</sup>

The lack of public law enforcement encouraged private initiative and even sometimes required “self-help,” legally sanctioned reprisal by a private citizen. A man who caught another man committing adultery with his wife could kill the adulterer with impunity (Lys. 1.30; Dem. 23.53). If a man was robbed under certain conditions, such as during the night, he was allowed to

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<sup>47</sup> Rubinstein (2000) has pointed out that this “simple *agōn* model” is misleading since litigants often brought teams of witnesses and advocates to court, so that litigation often became “team-based.” However, the point still stands that the two “teams” were pitted against each other and that one had to win and one had to lose. Enmity would result no less from litigation by committee than from individual-driven prosecutions.

<sup>48</sup> E.g., Isae. 3.62, 5.22; Dem. 21.81, 30, 31, 34.54, 37.19. See Lipsius 1905–15, 664–74; Harrison i. 1968–71, 217–220; MacDowell 1978, 153–4.

<sup>49</sup> Roman law is actually similar on this point, at least during the Republic. The execution of the judgment was left up to the individual. By the imperial period, however, the praetor carried out duties which had previously been left to individual citizens. The state's direct coercive involvement in the dispute process has been inherited from the Romans.

kill the “wrongdoer” (*kakourgos*) without legal repercussions. The Athenian emphasis on the sanctity of the household (*oikos*) prompted the state to leave much room for immediate self-help against those who violated homes or burst in on another person’s family (Christ 1998b). Thus many individuals were in constant and direct friction.<sup>50</sup>

Enmity was a force in Athenian society that had wide-reaching implications on the everyday practice of government and the structuring of interpersonal relationships. The norms and values underlying the practice of enmity inevitably undergirded the way litigants portrayed their hostile relationships with each other. Over the past two decades, scholars have drawn very different conclusions about both the rhetorical and ideological aspects of enmity. Cohen (1995) argues that Athenian juries showed approval for prosecutors who presented themselves as taking vengeance on their enemies. Athens was, for Cohen, a feuding society in which litigants frequently appealed to a strong societal notion of honor and presented their actions as conforming to the rules of an honor game. Litigation became “a social judgment of the parties” (82). Against Cohen, Herman points to speeches in which prosecutors deny that enmity prompted them to lodge their suit and downplay their personal incentives for revenge.<sup>51</sup> He argues that litigants present themselves as moderate, restrained, and prone to under-react to the wrongs of their arrogant, insulting opponents. The ability to make a convincing display of such behavior tied in directly to the outcome of the cases.

Others have attempted to find a compromise position between the two extremes of the claims of Cohen and Herman. Christ (1998a, 191) takes a “middle ground” between Herman and Cohen: “while there is surely a gap between collective ideals of cooperation articulated in the

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<sup>50</sup> Hunter 1994, 149; Cohen 1995, 87–142; Rhodes 1998, 148–52.

<sup>51</sup> Herman 1993; 1994; 1995; 1998; 2000; 2006; 2007.

courts and individual behavior outside of them, the courts and the peaceful values institutionalized within them in all likelihood had real and salutary effects on disputing behavior.” Similarly, Allen (2000a, 127) asserts that Cohen and Herman respectively emphasize only one of two values at work. Males should pursue their enemies in anger, as Cohen points out, but they should also respect others’ honor, which they receive from the city, as Herman shows.<sup>52</sup> Roisman (2003, 137–8) also maintains that the two codes existed alongside each other. Others have included themselves in the debate, arriving at similar conclusions, though disagreeing on which part of the arguments of Cohen and Herman are sound and which are to be rejected.<sup>53</sup>

Although these scholars take a variety of different views on the relative merits of the models of Cohen and Herman, Cohen’s argument for certain methodological premises has had great influence on how most scholars present their claims. Cohen (1995, 191–2) argues that jurors did not vote on a strictly legal basis but rather considered the “totality of the transaction,” which could include judgments about what was in the state’s interests and whether the litigants had acted in conformity with the normative expectations of the jurors. According to Cohen (1995, 87–8) the idea that Athenian jurors are trying to find out the “truth” is “out of place” in classical Athens. He argues that jurors did not attempt to cast their votes in strict accordance with the facts of the case but rather considered, among other things, the relative social standing of the litigants and their usefulness to the state.<sup>54</sup> Accordingly, Cohen (1995, 77) asserts that litigants

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<sup>52</sup> Allen’s overall thesis, which makes male citizen anger the predominant motive force in the legal process, favors Cohen’s conclusions more than Herman’s while Christ seems to lean toward Herman.

<sup>53</sup> Harris 1997, 366; Schofield 1998, 39; Fisher 1998, 80–6; Harris 2001, 183–4; Harris 2005; Christ 2005, 143; Lanni 2006, 25–31; McHardy 2008, 94–9.

<sup>54</sup> “Litigation itself was seen as an event whose outcome hinged on and expressed a social judgment of the parties [by the demos]” (Cohen 1995, 82).

often believed that they could win their case based on who they were rather than what they had or had not done.

Following such an approach, many scholars have represented the Attic orators as deploying the rhetoric of enmity to win favor with the jury by demonstrating that they have the proper motives for litigating and that they have conducted themselves in accordance with communal norms. Even Herman (2007), diametrically opposed to Cohen in most respects, admits the validity of this type of argument: “had the majority of Athenian law court speakers attempted to swing the dikasts in their favor by swaggering round demanding respect and breathing vengeance, I would have concluded that Athens should indeed be grouped together with feuding, ‘primitive’ or Mediterranean societies.” Herman (2006, 200) is in essential agreement with Cohen that enmity in the Attic orators functions as an appeal to the jury to render a favorable verdict based on the speaker’s conformity to public norms of behavior: “the more non-feuding characteristics a litigant managed to display, the better his chances of winning became.”<sup>55</sup>

Allen (2000a, 151–67) follows a similar method. She argues that prosecutors must prove their enmity with the defendant to show that they are “legitimately angry” so that the jury will think that they are worthy of prosecuting. Here again enmity would serve as an argument that legitimizes the prosecution without reference to the truth or falsehood of the claims. Phillips (2008, 20), discussing Lysias 15, asserts, “the speaker declares Alcibiades *echthros* in order to

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<sup>55</sup> Speaking of Demosthenes 21 (*Against Meidias*), Herman (2006, 170) asserts, “Demosthenes was trying to get the dikasts on his side by writing what they wanted to hear.” Herman (2000, 18) stresses that litigants “hope, quite consistently, to enlist the dikasts’ support by parading themselves . . . as moderate citizens.” Speakers therefore attribute “feuding characteristics to their opponents . . . and gentle characteristics . . . to themselves” (18). Like Cohen, he frequently assumes that an Attic orator crafts his use of enmity to “get the dikasts on his side,” as part of a social judgment on the relative merits of the behavior of the two litigants. Christ (1998a, 163) follows the same logic, “litigants know that to win their suits, they must reconcile their participation in litigation with social ideals of cooperative behavior.” Cf. Harris 2005, 131; Christ 2005, 144.

justify his prosecution, and he invites the jury to view the defendant likewise and, by implication, to convict him.”<sup>56</sup> It is true that Athenians viewed using the courts as a valid method of taking revenge, but, Allen, Phillips, and others would see the motive of revenge as legitimizing the prosecution itself, calling for a conviction by the jury.

By this line of reasoning an affirmation or denial of enmity constitutes an argument on its own merits: if litigants are able to demonstrate that they have conformed to Athenian social norms in their pursuit or non-pursuit of a hostile relationship then the jury should be more inclined to vote for them. Thus many scholars assume that prosecutors and defendants affirm or deny enmity with their opponents in order to gain favor with the jury without reference to claims about the facts of the case.<sup>57</sup> The rhetorical uses of enmity would then serve primarily to legitimize or delegitimize the prosecutor’s appearance in court. In other words, when a prosecutor affirms or denies preexisting hostility with his opponent, he attempts to make the jury believe that he has the right motivation for bringing suit regardless of the facts of the case. A count of the number of litigants who affirm enmity as their motivation for prosecuting and who deny it should therefore provide information on Athenian ideology of the practice of enmity.

This presupposition, however, is quite problematic. Such an approach assumes a monolithic use of enmity. The prosecutor’s motivations would constitute the most important concern for litigants in constructing their narratives of enmity. Were this true, certain commonalities in rhetorical strategies might be expected to occur. For example, if prosecutors

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<sup>56</sup> See pp. 52–3 for the problem with using the words “legitimize” and “justify” without carefully defining them.

<sup>57</sup> This is not to say that scholars always treat enmity as an extra-legal argument. However, they tend to overlook its use to establish probability and emphasize its function as an extra-legal argument. For instance, Harris (2001) cites Demosthenes 54 as an example of a speaker who believes that he should not attempt to seek revenge. He concludes that “restraining one’s claim to avenge oneself on a fellow citizen was [...] much approved” (184). Harris does not take into account the fact that Ariston portrays himself as restrained not necessarily because it was the morally correct posture (“much approved”), but because he desires to support a character portrait of Conon and his sons and to make it seem likely that he did not provoke Conon (see below, pp. 58–63). Cf. Konstan’s (2006, 69) comment, “appealing to courts rather than relying on individual vengeance is a sign one is able to control one’s anger.”

deemed it in their interests to present themselves as feuding with their opponents in order to stave off accusations of sycophancy and to prove that they were legitimately angry with their opponents,<sup>58</sup> then prosecution speeches could be expected to assert long-standing enmity between the litigants consistently while defense speeches would deny enmity to undercut the prosecution's claims. Likewise, if litigants thought it necessary to present as many non-feuding characteristics as possible, prosecutors would deny enmity as a motivation for bringing suit while defendants would accuse their opponents of prosecuting out of hatred and malice. However, the evidence does not fit either formula. A simple recipe of this sort that explains the use of enmity in the Attic orators in terms of legitimizing or delegitimizing the court action does not exist. Some prosecutors affirm enmity, some deny it, and some ignore it all together.<sup>59</sup> Similarly, some defendants affirm enmity, some deny it, and some ignore it.<sup>60</sup>

Biases of the available sources present another difficulty. Two divergent tendencies of the corpus of the Attic orators have lent credence to nearly every position on the spectrum between the views of Athenian society as essentially feuding or non-feuding. On the one hand, the extant speeches concern only cases that actually came to trial and were not able to be resolved in the preliminary arbitration phase of litigation as many cases would have been. The corpus of Attic

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<sup>58</sup> Such as in the arguments of Cohen 1995, Christ 1998a, and Allen 2000a.

<sup>59</sup> Affirm: Lys. 12, 13, 14, 32; Isoc. 17, 21; Isae. 5; Dem. 19, 21, 22, 24, 25, 39, 40, 47, 48, 54; [Dem.] 45, 49, 50, 53, 58, 59; Aeschin. 1, 3. Deny: Lys. 22, 27, Dem. 20, 23, 41; Din. 1; Lycurg. 1. Ignore: Lys. 28, 29, 30; Isae. 3, 6; Dem. 27, 28, 29, 30, 31, 34, 35, 44, 56; [Dem.] 46; Hyp. 1, 4, 5; Din. 2, 3.

<sup>60</sup> Affirm: Andoc. 1; Lys. 3, 9, 16, 19, 21, 23; Isoc. 16; Dem. 18, 55, 57; Aeschin. 2; Hyp. 3. Deny: Antiph. 5, 6; Lys. 1, 4, 7, 24, 25. Ignore: Lys. 18; [Lys] 20; Isae. 2, 11; Dem. 29; [Dem.] 52; Hyp. 2. The issue is still more complex. In many speeches it is unclear whether the speaker ignores enmity or implicitly denies it by refusing to mention it in his narrative. Other speeches are incomplete or are supplementary speeches (*synēgoriai*); references to enmity could have occurred in a missing speeches or portion of a speech. A further complication is the *paragraphē*, by which a defendant could sue his prosecutor for bringing suit illegally. The roles were then reversed, the original defendant becoming the prosecutor and the original prosecutor becoming the defendant. These speeches (Lys. 23; Isoc. 18; Dem. 32–8) have not been categorized because there are not enough references to enmity in them to determine how enmity functions in these cases.

orators represents only the most virulent disagreements and can be expected to record the fiercest hostilities. Cohen can draw upon stories narrated by litigants which follow a pattern of “feuding behavior” precisely because only the worst disputes are extant. On the other hand, all litigants are constrained by the legal setting of their cases. Invocations of an ideal of non-violent restraint and adherence to a civic code of submitting to the will of the state are to be expected in such a body of literature. Herman (1994, 117) relies on litigants’ use of this rhetoric of self-control to come to the conclusion that Athens “must be classed among the less violent societies of pre-industrial Europe.”

Awareness that both of these tendencies are present has no doubt led to the many statements of compromise positions between Cohen and Herman although it is questionable how useful such “middle ground” positions are for investigating the rhetoric and ideological dimensions of enmity in classical Athens. The room between two such divergent positions is too great for simple concessions to both sides to have much to offer. Even if one uses the language of two competing “codes” which Athenians acted upon, manipulated, and refined, this begs the question of how Athenians employed and appealed to different modes of behavior, how frequently they did so, and what underlying principles characterized their decisions. Cohen and Herman have positioned their models concerning the working of enmity and the violence of society at opposites ends, but there lies an entire range between the two. Perhaps because of the unsatisfactory nature of these compromise positions, the debate between the extremes still continues apace, as evidenced by Christ’s critical review of Herman’s book, and Herman’s heated response to Christ.<sup>61</sup>

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<sup>61</sup> Christ 2007; Herman 2007. See also the paper by Harris (2005) and the response by Christ (2005).

## The Rhetoric and Conceptualization of Enmity in Classical Athens

This study will attempt to offer a fresh perspective on the rhetorical use of enmity in the Attic orators, which will influence how an analysis of the broader social dynamics of enmity may proceed (see below). Speakers employ rhetorical strategies involving enmity in ways that are closely related to their overall arguments about the truth or falsehood of their respective versions of events. Enmity is not, as many have treated it, an extra-legal concern but rather functions to create character and probability arguments about the case.

As litigants crafted their speeches, the desire to bring about a favorable verdict determined how they presented their arguments. Speechwriters were compelled to meet the specific expectations of the legal setting and to subordinate all other considerations to their attempts to win their case.<sup>62</sup> A good example of this is Lysias 1 (*On the Murder of Eratosthenes*), in which the speaker, Euphiletus, portrays himself as naïve and even wimpy.<sup>63</sup> Euphiletus has been charged with the murder of Eratosthenes. He admits that he killed Eratosthenes after he caught him having intercourse with his wife in his own home but argues that he did not attack Eratosthenes out of some private animosity (44–6). Rather, he was performing a civic duty in removing a violator of the laws (47; cf. 26). If he had presented himself as a shrewd and cunning pursuer of vendettas, the jury might doubt his claim that he did not premeditate the murder of Eratosthenes. Thus Euphiletus emphasizes his own almost unbelievable credulity and obtuseness. Near the beginning of his speech he outlines ironically how much trust he had in his wife and her positive qualities as a housekeeper (6–7, 10). Euphiletus even relates that he slept through one of

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<sup>62</sup> Johnstone (1999, 1–8) points out that litigation resulted from a decision to transform the dispute into a trial set before a jury sanctioned by the state. This movement from private sphere into the court room has important consequences for how the parties involved deploy their strategies.

<sup>63</sup> Herman 1993, 416–17; Carey 1994a: 40–1; Wolpert 2001, 418–20. Cf. Porter 1997, who argues that Lysias 1 has elements from the “comic adultery scenario” known from Attic playwrights.

the adulterer's visits (11–14), a detail that an Athenian male citizen would no doubt happily omit in a setting other than the court room. This story has another heavily ironic and dreadful detail. As she leaves Euphiletus' bed, intending to commit adultery with Eratosthenes, Euphiletus' wife has the nerve to chastise Euphiletus for trying to get her out of the room so that he can sleep with a slave girl (12). Overall, Euphiletus paints a fairly negative portrait of himself although it supports the key claims of his argument (Usher 1965, 101–5).<sup>64</sup>

The Attic orators desire first and foremost to win the dispute at hand. They make use of the rhetoric of enmity accordingly. Litigants shape the way they present their relationships with their opponents to support their claims about the facts of case and to undermine the claims of their rivals. The extant speeches employ various strategies, but the primary purpose of narratives of enmity is for probability or character arguments. For instance, a prosecutor in a case entailing monetary reward sometimes claims that the defendant has long been his enemy to provide a motive for his prosecution other than desire for pecuniary gain. This preempts the defendant from accusing him of bringing trumped up charges out of mere greed (e.g., [Dem.] 53, 59). Similarly, a defendant often affirms enmity to paint the prosecutor as maliciously bringing a false charge in pursuit of a vendetta (Lys. 9; Andoc. 1; Isoc. 16; Dem. 18; Dem. 57). These are just a few brief examples, but the rhetoric of enmity can function in much more complex ways. Chapters 2–3 investigate the methods by which prosecutors and defendants present hostile relationships with opposing litigants in order to support the claims of their cases. The exigencies of the case determine whether a litigant chooses to affirm, deny, or obfuscate enmity. The rhetoric of enmity is grounded in the confines of the legal sphere.

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<sup>64</sup> Usher analyzes several other speeches from Lysias' corpus to demonstrate that Lysias commonly has his clients admit some venial blemishes so as to add verisimilitude to their narratives. See, e.g., Lysias 7.12, where the speaker admits to a negative description of his character to make a probability argument.

The conclusions of Chapters 2–3 challenge the methodology employed by many scholars who assume that jurors did not limit themselves to the facts of the case but rather considered the “totality of the transaction,” as Cohen (1995, 191–2) has stated it. The Attic orators employ different strategies in their presentation of hatred and enmity not to justify themselves so that the jury will vote for them because of their status in society and regardless of the facts of the case but rather to support their overall argument and the truth of their own version and interpretation of events. The rhetoric of enmity is not governed by a litigant’s need to find extra-legal justification but rather addresses legal concerns directly.

Therefore, appeals to the number of times that litigants admit or deny enmity will not be very informative. Another avenue for analysis of Athenians’ beliefs about enmity must be found. Fortunately, it is not necessary to determine all the reasons that drive each individual speaker to present enmity in a certain light, nor to discover how close a litigant’s narrative comes to the truth of that situation. Even if they did not narrate events as they truly happened, speakers in the court room attempted to make their narrative believable by creating a facsimile of truth that the jurors would be willing to accept. The rhetorical use of enmity for probability arguments would be ineffective if litigants’ stories about their enemies did not resonate with what the jury believed probable. Thus a reconstruction of the way Athenians conceptualized the practice of enmity is possible without consideration of the truth or falsehood of individual stories. We may instead look at what the jury would find believable and compelling.

Consequently, while the orators’ statements about enmity have often been analyzed as if they were prescriptive, this dissertation will treat them simply as descriptive. For instance, many have cited a prosecutor’s assertion that he has long been an enemy of his opponent or a defendant’s story about his restrained conduct in the face of a hybristic elite as evidence for what

the jurors thought was objectively the right way or the best way to act in a given situation. This view is based on the assumption that the orators are attempting to “win points” with the jury by portraying themselves as conforming to societal norms in their use of the law courts. This method, however, yields mutually contradicting results. If these same passages are treated rather as descriptions of events that are intended to support an argument then the focus shifts from what the jurors would have thought morally correct to what they would have thought probable. Analysis can then proceed along these lines, incorporating stories from multiple speeches to discover what Athenians thought was a probable representation of how people acted even if they did not necessarily approve of such behavior.

Chapters 4–5 employ this method to draw conclusions about Athenian beliefs on three key issues, that is, (1) how prevalent relationships of hostility were, (2) how citizens typically reacted to wrongs and pursued their enemies, and (3) how the state and social structures at Athens intervened to limit violence and feuding. Ancient Athenian literature presents a relatively cogent picture in which relationships of enmity were a part of everyday life. Nearly every citizen could expect to have identifiable groups of friends and enemies. This resulted naturally from the vast array of ways to make enemies and to pass the relationship of enmity on to other people, which are catalogued in Chapter 4, “Making Enemies.”

Chapter 5, “Harming Enemies,” addresses the possible responses to one’s enemies. Retaliation and vengeance formed a key part of the ethic of enmity. Athenians expected an individual who was wronged to seek redress whether in the courts or by informal means. Rarely was the right to seek vengeance questioned although democratic ideology did insist that retaliation on other citizens not be sought through violence. Violent acts were limited, in the Athenian mind, by democratic institutions and the social cohesion of the *demos* (“the people”).

The Athenian belief in the sacrosanctity of the citizen body put severe limits on how far enemies could go in physically assaulting each other; violence was not condoned.

Athenians thus envisioned themselves as participating in a society that combined elements both of a feuding mentality and of a non-violent approach to the pursuit of enmity. Enmity and vengeance functioned within much more limited confines than the violent feuding societies of the Mediterranean discussed by Cohen (1995). Yet Athenian males were not willing to give up their claims to honor or to insist on a non-retaliation ethic in regard to one's enemies, as Herman (2006) insists. The ethic of harming enemies was seldom questioned, but neither was the prohibition on the use of physical force against other citizens. The Athenians conceptualized their society as "feuding" society, but relatively non-violent.

## CHAPTER 2 ENMITY IN PROSECUTION SPEECHES

The first of this chapter's two primary goals is to demonstrate how prosecutors mold their rhetorical use of enmity to fit the particular features of their cases, such as the procedure, the type of offense, and the history of the dispute. Although patterns exist, there is no single criterion by which one may predict whether a prosecutor will affirm or deny enmity. The details unique to the case at hand influence how a litigant portrays his relationship with his opponent.

The second goal is to show that litigants do not treat their presentation of enmity as an end in itself, justifying their cases objectively, but rather as a means by which they can construct arguments about the case. In other words, speakers do not believe that the mere assertion or denial of a hostile relationship with their opponent can win favor simply by meeting the jury members' social expectations. On the contrary, the rhetoric of enmity integrates into a speech's main assertions about the facts of the case, serving to support probability and character arguments. For instance, a prosecutor may deny enmity with the defendant so that he does not appear to be maliciously prosecuting a personal enemy on trumped up charges. On the other hand, a prosecutor may admit that his hatred for the defendant prompted him to bring suit in order to preempt the allegation that he has no personal stake in the case and therefore is using the courts for monetary gain. Yet another litigant may include a narrative of enmity so that he can describe specific incidents in an ongoing hostile relationship and thereby construct a character argument, portraying his opponent as a liar, sycophant, or monstrous villain. In all of these situations, enmity functions within the context of the speaker's legal claims.

The following section ("Argument from Probability") frames the discussion of the rhetorical use of enmity by defining the *eikos* ("probability") argument and showing that many different types of rhetorical techniques, including construction of character, can function as

implicit arguments from probability. The next four sections demonstrate how litigants employ affirmations, denials, and narratives of enmity in ways that fit within the broad definition of arguments from probability. They also elucidate possible strategies for presenting those arguments. “Affirming Enmity but Denying Culpability” shows how many prosecutors attempt a balancing act in their presentations of hostile relationships, both affirming enmity and denying responsibility for it. This strategy allows speakers to develop character arguments about both themselves and their opponents. In cases of assault (“Establishing Motive for Assault”) prosecutors usually employ the strategy described in the previous section in order to establish a motive for the alleged crime. The next section (“Matters of State”) argues that litigants who brought a suit with special public interest tended to avoid the issue of enmity, either admitting enmity cursorily or denying it altogether. In private cases (“Enmity in Private Disputes”) prosecutors usually affirm enmity but limit their narratives to the dispute at hand.

In all of these sections one unifying theme will be continually highlighted: the use of enmity for character and probability arguments. While the techniques vary, prosecutors consistently interweave the issue of enmity with their main contentions about the facts of the case. The rhetoric of enmity serves as a vehicle through which a speaker may make character arguments and probability arguments which inform on the truth or falsehood of the respective litigants’ versions of events.

### **Argument from Probability**

The *eikos* argument is a prominent feature of the extant Athenian law court speeches and is of special importance for the present study.<sup>1</sup> In the *Rhetoric* Aristotle describes the “probable” (*eikos*) as “that which happens usually, not absolutely, as some define it, but in regard to things

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<sup>1</sup> Gagarin (2007) shows that rational argument was important even in early Greek rhetoric (see also Carawan 1998, 21–8).

that are able to be otherwise.”<sup>2</sup> Aristotle regards the probability argument as essentially a syllogism where the “probable” functions as the major premise.<sup>3</sup> These arguments can be “objective” (based on the laws of nature) or “subjective” (based on common views): “Arguments gleaned from those things that either occur usually or are thought to occur usually are enthymemes from probability.”<sup>4</sup> An example of the former would be, “Socrates, who is a man, is mortal.” In this sentence the minor (stated) premise is “Socrates is a man”; the major (unstated) premise, based on a law of nature, is “all men are mortal”; the conclusion is “Socrates is mortal.” A subjective argument from probability resembles the following: “Demosthenes, Aeschines’ enemy, does not support Aeschines.” Here the minor (stated) premise is that Demosthenes is Aeschines’ enemy; the conclusion is that he does not support Aeschines. In contradistinction to the previous example the major and unstated premise in this syllogism is a matter of personal opinion (thus “subjective”), that enemies do not support each other.<sup>5</sup>

The *Rhetoric to Alexander*, a work transmitted in Aristotle’s corpus but probably to be attributed to Anaximenes of Lampsacus, ties the argument from probability more closely to audience’s presuppositions.

Probability, therefore, is that of which, when it is spoken, the listeners have examples in their minds. I say, for instance, that if anyone should assert that he wants his country to be great and his friends to do well and his enemies to

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<sup>2</sup> Arist. *Rh.* 1357a34–6: τὸ μὲν γὰρ εἰκὸς ἐστὶ τὸ ὡς ἐπὶ τὸ πολὺ γινόμενον, οὐχ ἀπλῶς δὲ καθάπερ ὀρίζονται τινες, ἀλλὰ τὸ περὶ τὰ ἐνδεχόμενα ἄλλως ἔχειν.

<sup>3</sup> Goebel 1989, 42; Schmitz 2000, 49–50.

<sup>4</sup> Arist. *Rh.* 1402b14–16: ἔστι δὲ τὰ μὲν ἐκ τῶν ὡς ἐπὶ τὸ πολὺ ἢ ὄντων ἢ δοκούντων συνηγμένα ἐνθυμήματα ἐκ τῶν εἰκότων. Aristotle uses “syllogism” to describe an argument whose premises are scientific, while an “enthymeme” has the element of uncertainty and therefore of probability, because it is based on what usually happens or is perceived to happen (Kennedy 1963, 97–8). However, in modern parlance “syllogism” covers both categories, simply describing the process of combining two statements to form a conclusion through deductive reasoning.

<sup>5</sup> For the distinction between “objective” and “subjective” probability arguments, see Schmitz 2000, 47–50. Kennedy (1963, 96–8) provides a helpful explanation of both syllogism and enthymeme and the difference between the two.

encounter misfortune and other similar things, overall these things will seem likely. For each of the listeners understands that he himself has these sorts of desires in regard to these and similar matters. Therefore, in our speeches we must always try to discover whether we will find our audience in sympathy with what we are saying. For it is probable that they will believe these things.<sup>6</sup>

Anaximenes notes that a speaker must be in tune with the expectations and assumptions of his audience in order to make an effective argument from probability.

The Attic orators make extensive use of this type of reasoning, as a simple search for the word *eikos* (“probable”) and its cognates reveals. Yet this concept can be broadened beyond a mere word study to include arguments that do not include mention of the premises. For instance, Carey (1994a: 39–42) has noted how several speeches of Lysias (1, 3, 7, 16) employ a character argument as “an implied argument from probability” (42). The speakers of these orations attempt to portray themselves in such a way that the jury will not believe that they have acted in the manner alleged by their opponents. This illustrates Carey’s point that the formal divisions of speeches (prooemium, narration, proofs, and epilogue) are useful for analysis of a speech but not for description of its purpose since, in this case, the narrative section actually functions in many ways as part of the “proofs.”<sup>7</sup> Therefore, character arguments, although they appear in the narrative portion, frequently take on the function of “proofs” based on implicit sets of premises.

This category of unstated or implied arguments from probability can also include background information on the trial. A speaker may narrate the history of the dispute to make claims about the truth of his own case or the falsehood of his opponent’s. Pearson (1981) has

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<sup>6</sup> [Arist.] *Rh. Al.* 1428a23–34: Εἰκὸς μὲν οὖν ἔστιν, οὐ λεγομένου παραδείγματα ἐν ταῖς διανοίαις ἔχουσιν οἱ ἀκούοντες. λέγω δ’ οἷον εἴ τις φαίη τὴν πατριδα βούλεσθαι μεγάλην εἶναι καὶ τοὺς οἰκείους εὖ πράττειν καὶ τοὺς ἐχθροὺς ἀτυχεῖν καὶ τὰ τούτοις ὅμοια, <τοιαῦτα> συλλήβδην εἰκότα δόξειεν <ἄν>. ἕκαστος γὰρ τῶν ἀκούοντων σύννοιδεν αὐτὸς αὐτῷ περὶ τούτων καὶ τῶν τούτοις ὁμοιοτρόπων ἔχοντι τοιαύτας ἐπιθυμίας, ὥστε τοῦτο δεῖ παρατηρεῖν ἡμᾶς ἐν τοῖς λόγοις ἀεὶ εἰ τοὺς ἀκούοντας συνειδότας ληψόμεθα περὶ τοῦ πράγματος οὐ λέγομεν· τούτοις γὰρ αὐτοὺς εἰκὸς ἔστι μάλιστα πιστεῦειν.

<sup>7</sup> Dionysius of Halicarnassus recognized this as a key attribute of Lysias’ skill: “It seems to me that he made arguments of proof from character in a manner very much worthy of mention” (καὶ τὰς ἐκ τῶν ἡθῶν γε πίστεις ἀξιολόγως πᾶν κατασκευάζειν ἔμοιγε δοκεῖ, *Lys.* 19). See also Scafuro 1997, 56–66.

recorded several examples of this strategy in the work of Demosthenes. In *Against Timocrates* (Dem. 24) the speaker, Diodorus, who evidently commissioned Demosthenes to write this speech for him, includes a lengthy narrative section on the former deeds of Timocrates (14–31) in order to prepare the way for his accusation (Pearson 1981, 66–7). Diodorus is prosecuting Timocrates by *graphē paranomōn* for proposing a law that would allow a state debtor to remain free until the ninth prytany of the year provided that he offered sureties for his obligation.<sup>8</sup> Diodorus claims that Timocrates has disregarded the principles of the Athenian legal system and has attempted to introduce oligarchic features into the city’s law code for his own benefit (76–8). In the narrative portion of the speech Diodorus emphasizes how Timocrates had already become accustomed to ignoring the laws and justice. He allegedly sold his services as a proposer of legislation and then drafted a law that manifestly contradicted another law which he had previously proposed himself (41–64)! This narration of the broader background of the dispute, including Timocrates’ oligarchic and anti-Athenian actions, supports the speaker’s claim that Timocrates is now introducing a law that is contrary to the democracy and the interests of ordinary citizens. Diodorus has conditioned the jury to accept his assertion that Timocrates and Androtion designed the legislation to allow their associates to retain their illegally gotten gains.

While *Against Timocrates* shows how narration of the broader background of a dispute can support a speaker’s claims, *Against Pantaenetus* (Dem. 37) provides an example of how character evidence can inform on an implied argument of probability. The speaker, Nicobulus, has lodged a *paragraphē*, a barring action which would invalidate the original prosecution by

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<sup>8</sup> A *graphē paranomōn* was a procedure for prosecuting an Athenian citizen who had proposed a law or decree that was illegal (*paranomōs*), that is, contrary to the existing laws. Because it was a *graphē*, any citizen could bring this suit. Several extant speeches use this procedure (Dem. 18, 20, 22, 23, 24; Aeschin. 3; Hyp. 1, 2). See Lipsius 1905–15, 383–96; Hansen 1974; MacDowell 1978, 50–2.

Pantaenetus.<sup>9</sup> This speech contains a complex and confusing narrative, but only one aspect of it need be of concern here: Nicobulus' character assassination of Pantaenetus. Nicobulus relates how Pantaenetus gathered a gang of thugs to intimidate people, employing reprehensible methods for obtaining illegal verdicts in various lawsuits. The speaker accuses Pantaenetus of sycophancy multiple times and supports the accusation by listing his dishonest prosecutions.<sup>10</sup> This general portrait of Pantaenetus' character supports Nicobulus' argument that he is lying: "do you think that the man who deceived those jurors would hesitate to deceive you?"<sup>11</sup> Demosthenes engages in character assassination against Pantaenetus not merely to induce the jurors to hate him but to convince them that it is likely that his prosecution of the speaker is the latest in a long series of vexatious lawsuits.<sup>12</sup>

The *Rhetoric to Alexander* makes this connection between character evidence and probability argument explicitly. The author calls it "taking a probability argument from the opponents themselves."<sup>13</sup> Prosecutors may derive such an argument "from their opponents," but defendants, because they are the ones on trial, often must make arguments based on their own character. Anaximenes gives the following advice to defendants: "those who make defense pleas must especially show that neither they nor any of their friends have ever done any of the things

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<sup>9</sup> If a citizen believed that he was indicted illegally, he could bring a *paragraphē* against his prosecutor. The litigants would then switch roles, the defendant now prosecuting the original prosecutor for an unlawful prosecution. If the man who was originally the defendant won the *paragraphē* trial, then the first lawsuit was voided. See Lipsius 1905–15, 846–58; Harrison ii. 1968–71, 106–24; MacDowell 1978, 214–17, 219.

<sup>10</sup> Dem. 37.2, 3, 8, 13, 17, 18, 24, 35, 41, 45, 49, 52, 53.

<sup>11</sup> Dem. 37.48: καίτοι τὸν ἐκείνου ἐξηπατηκότα τοὺς δικαστάς, ἄρα ὀκνήσειν ὑμᾶς ἐξαπατᾶν οἴεσθε.

<sup>12</sup> Another example is Demosthenes 36 (*For Phormio*), where the speaker "is economical of details in the narrative, but insists that his adversary's claims are inconsistent with his attested behaviour in former years" (Pearson 1981, 49).

<sup>13</sup> [Arist.] *Rh. Al.* 1428b13: ἀπὸ τῶν ἀντιδίκων αὐτῶν τὸ εἶκος λαμβάνειν.

of which they are accused or anything like those acts.”<sup>14</sup> Such arguments from probability, whether based on character, the broader background, or an explicitly formulated *eikos* statement, are integral to speeches that contain references to enmity between litigants. The following sections will demonstrate that prosecutors frequently employ enmity to make character and probability arguments about their cases.

### **Affirming Enmity but Denying Culpability**

A common strategy for attacking a defendant’s character was the use of a narrative of enmity. A prosecutor who employs this tactic often asserts that he has known his opponent for a long period of time and has gained firsthand knowledge about his despicable behavior. Such a narrative provides a forum for the speaker to show that the defendant has already committed many offenses and therefore would have been acting in a manner consistent with his character if he had committed the offense of which he is accused. In this way the character assassination, which is grounded in a narrative of enmity, supports an argument from probability about the charges.

Yet a prosecutor had to recognize that his narrative of enmity, the very device that provided an opportunity for character assassination, could also undercut his argument when not handled in the proper fashion. If the speaker focused on his own role in pursuing a feud, he could weaken his claims about his opponent’s wrongful behavior by admitting that he had done his part in provoking him. An effective character argument must portray the opponent as aggressive, attacking when unprovoked, and excessive in his pursuit of innocent people. There must be no mitigating factors to excuse his behavior. Therefore, prosecutors who affirm enmity with their opponents to engage in character assassination must stop short of admitting that they themselves

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<sup>14</sup> [Arist.] *Rh. Al.* 1428b23–6: τοῖς δὲ ἀπολογουμένοις μάλιστα δεικτέον, ὡς οὐδὲ πώποτε τῶν κατηγορουμένων τι πρότερον οὔτε αὐτοὶ οὔτε τῶν φίλων οὐδεὶς οὔτε τῶν ὁμοίων αὐτοῖς ἐπραξέ τις.

have been engaging actively in the feud. A balancing act becomes necessary: the speaker must show that enmity exists, but also that he himself neither started it nor pursued it.

If this balance could be maintained a narrative of enmity provided an effective way to suggest an opponent's guilt by discussing his character and thus deriving an argument "from the opponents themselves" ([Arist.] *Rh. Al.* 1428b). Demosthenes employs this tactic against Aristogiton, freely admitting that he and Aristogiton had a long history of animosity but omitting any reference to his own pursuit of the feud. According to Demosthenes, the members of the Assembly forced him to be one of the prosecutors in this trial although Demosthenes was hesitant to participate (25.13). While enmity was not his reason for prosecuting, Demosthenes does not shrink from using the history of his relationship with Aristogiton to attack his character (36–9).<sup>15</sup> He includes a narrative of enmity to show that Aristogiton has abused the legal system many times, as he allegedly will attempt to do in the present case.

I know well that this man will avoid the true and just method of making a defense and will digress by abusing, slandering, and threatening to prosecute, to make an arrest, to deliver to prison. But all of these things, if you keep your focus correctly, will not help him. For which of these strategies has not been exposed many times before?<sup>16</sup>

Demosthenes expects Aristogiton to employ diversionary tactics to distract the jury from the real issue. Previous examples of such behavior then support this assertion: "but, Aristogiton, you have lodged *graphai* against me seven times since you hired yourself out to those who were

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<sup>15</sup> Typically affirmations of enmity come in the *prooemium* of a speech since assertions about motivation were expected at the outset (see below). In Demosthenes 25, however, the admission of enmity with Aristogiton does not occur until almost halfway through the oration. This is an indication that the narrative of hostility is not intended to explain Demosthenes' motivation, but rather to develop a character argument against the defendant.

<sup>16</sup> Dem. 25.36: Οἶδα τοίνυν ὅτι τὴν μὲν ὀρθὴν καὶ δικαίαν ὁδὸν τῆς ἀπολογίας οὗτος φεύξεται, ἔξωθεν δὲ κύκλω περιείσιν λοιδορούμενος καὶ διαβάλλων καὶ ὑπισχνούμενος κρινεῖν, εἰσάξειν, παραδῶσειν. ἔστιν δὲ πάντ' αὐτῷ ταῦτα, ἂνπερ ὑμεῖς ὀρθῶς σκοπήτε, ἀδόκιμα. τί γὰρ οὐκ ἐξελήλεγκται τούτων ἐπὶ πάντων πολλάκις;

supporting Philip at that time, and you have accused me at my *euthynai* twice.”<sup>17</sup> Supposedly the jury found that Aristogiton was lying on each occasion and convicted him of sycophancy (37). This narrative of enmity supports Demosthenes’ contention that Aristogiton has a history of unscrupulous behavior and provides the foundation for an implicit argument from probability about Aristogiton’s character. The prosecution’s main allegation is that Aristogiton failed to pay a fine and is a state debtor.<sup>18</sup> If Demosthenes can demonstrate that Aristogiton has acted as a dishonest and sycophantic attacker on multiple previous occasions, the jury will be more ready to believe that Aristogiton incurred a fine during one of his vexatious lawsuits, refused to pay it, and now illegally exercises the rights of a citizen (4).<sup>19</sup>

A narrative of enmity could be used to attack an opponent’s character but could also support arguments about the speaker’s motivation and truthfulness. The prosecutor who employs enmity to this end must perform the same balancing act although for slightly different reasons. He affirms enmity to defend himself against the charge of having no personal stake in the legal action since he might therefore appear to be acting out of lust for money or other ignoble reasons. Because Athenians believed that certain citizens brought false charges to blackmail others, prosecutors naturally desire to preempt this allegation, which would constitute a damaging blow to their credibility. At the same time, prosecutors do not overemphasize their personal hatred for their enemies since this could leave them open to the charge of attacking their

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<sup>17</sup> Dem. 25.37: ἀλλ', Ἀριστόγειτον, ἑπτὰ γραφὰς κέκρικάς με, τοῖς ὑπὲρ Φιλίππου τότε πράττουσιν σεαυτὸν μισθώσας, καὶ εὐθύνας δίδοντας δις κατηγορήσας.

<sup>18</sup> The procedure was *endeixis*, which was very similar to *apagogē* since in both types of case the prosecutor could arrest the accused. In *endeixis* the plaintiff would apparently lodge a charge with the magistrate and thereafter have the option of making an arrest himself, whereas in *apagogē* the plaintiff would arrest the accused first. See Lipsius 1905–15, 317–37; Harrison ii. 1968–71, 221–31; MacDowell 1978, 75.

<sup>19</sup> Demosthenes attempts to take away the argument based on “his record of decent life” (τὸν ἑαυτοῦ βίον ἀνθρώπινον, 5). The character assassination preempts any attempt by Aristogiton to establish his own good character and argue that he is not the sort of person that would commit such crimes.

rivals out of malice and envy. Jurors were aware that personal animosities could lead to trumped up charges and excessive litigation.

The strategy of affirming enmity and denying culpability could therefore allow a prosecutor both to portray his opponent in a negative light and to demonstrate his own motivation for bringing the suit. For instance, the main prosecutor of *Against Neaera*, Theomnestus, includes a narrative of enmity that portrays his opponent as malicious attacker and at the same time defends his motives for prosecuting ([Dem.] 59.1–10). Theomnestus shows that his opponent, Stephanus, has a history of harassing him and his brother-in-law, Apollodorus, who speaks as a *synēgoros* (“advocate”) at this trial.<sup>20</sup> This rhetorical strategy fits the needs of this particular type of case, a *graphē* that awarded one-third of the proceeds of the trial to the successful volunteer prosecutor.<sup>21</sup> Because monetary rewards were thought to encourage unscrupulous individuals to engage in frivolous lawsuits in order to profit at the defendant’s expense,<sup>22</sup> the plaintiff in such a suit often finds it expedient to dispel suspicion by denying that such base motivations are at the core of his prosecution. On the other hand, a *graphē* is a public procedure so a simple declaration of private enmity as the primary reason for the suit would not prove salutary either. Because private enemies are likely to trump up charges in order to harm

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<sup>20</sup> Although the main actors in this lawsuit are ostensibly Theomnestus, the prosecutor, and Neaera, the defendant, neither is the most important personality involved. The case is part of a larger feud between Apollodorus and Stephanus, Neaera’s putative husband. The text of this speech begins with a short speech by Theomnestus which primarily serves to introduce his father-in-law Apollodorus, who delivers the bulk of the argument as a *synēgoros*. Theomnestus narrates two previous actions brought by Stephanus against Apollodorus in his short speech (3–10) while Apollodorus states several times that he is the de facto prosecutor (121, 124, 125, 126). See Carey 1992, 4–5; Kapparis 1999, 29–31.

<sup>21</sup> Theomnestus is prosecuting Neaera, a prostitute who has reached mature years. He and Apollodorus aim to prove that Neaera is not a citizen but has been cohabitating with Stephanus and claiming they are lawfully married with legitimate offspring. The plaintiff, Theomnestus, and his Apollodorus, must show both that Neaera and Stephanus have been acting as if they are lawfully married and that the marriage is in fact illegal. If they are successful, Neaera will be sold into slavery, while her husband will be forced to pay a fine of one thousand drachmas (16). As a reward for bringing suit as a volunteer, the prosecutor is entitled to one-third of the proceeds from the sale of Neaera (Carey 1992, 8–12; Kapparis 1999, 31–43).

<sup>22</sup> The Athenians instituted a penalty designed to prevent such abuse of this procedure. See p. 15 n. 21.

their opponents, the jury may be wary of a speaker who presents himself as relentlessly pursuing a vendetta.<sup>23</sup> The prosecutor must achieve a balance between these two dangerous extremes.

Theomnestus' short speech is dominated by the question of the speaker's motives, functioning almost as an apology for the court action. The first section provides a template for how Theomnestus will present the history of animosity between his family and Stephanus'.

There were many things that prompted me to indict Neaera with this *graphē* and to come before you. For we, my father-in-law, my sister, my wife, and myself, have been severely wronged by Stephanus and have come into extreme danger because of him. Therefore, I will carry out this trial not as the one who started it but as one who is taking revenge. He started the relationship of enmity although he never suffered any ill from us either in word or deed. I want to explain to you first what we have suffered from him so that you might more readily pardon me because I am acting in self-defense, and then how we came into extreme danger of exile and disfranchisement.<sup>24</sup>

In this preamble the two themes of affirming enmity but denying responsibility for it are immediately visible. Although Theomnestus admits hostility toward Stephanus, he argues that the blame is not his since Stephanus started it (τῆς γὰρ ἔχθρας πρότερος οὗτος ὑπῆρξεν).<sup>25</sup> Stephanus also has persistently aggravated the feud as Theomnestus will show in the narrative section of his speech (2–10).

Theomnestus asserts that he is prosecuting Stephanus for personal grievances for which he intends to take vengeance. He even uses the word “enmity” (*echthra*) to describe their relationship although he is bringing a public suit in which the jury typically would believe that

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<sup>23</sup> Cf. Dem. 23.1, 190; Lycurg. 1.6, where the legitimacy of private enmity is denied. In public suits, defendants can attack the motivations of the prosecutor by claiming that enmity is the driving force and that their opponents are maliciously attacking them on trumped up charges (see Chapter 3).

<sup>24</sup> [Dem.] 59.1: Πολλά με τὰ παρακαλοῦντα ἦν, ὧ ἄνδρες Ἀθηναῖοι, γράψασθαι Νέαιραν τὴν γραφὴν ταυτηνὴ καὶ εἰσελθεῖν εἰς ὑμᾶς. καὶ γὰρ ἠδικήμεθα ὑπὸ Στεφάνου μεγάλα, καὶ εἰς κινδύνους τοὺς ἐσχάτους κατέστημεν ὑπ' αὐτοῦ, ὃ τε κηδεστής καὶ ἐγὼ καὶ ἡ ἀδελφὴ καὶ ἡ γυνὴ ἡ ἐμὴ, ὥστε οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος ἀγωνιοῦμαι τὸν ἀγῶνα τουτονί· τῆς γὰρ ἔχθρας πρότερος οὗτος ὑπῆρξεν, οὐδὲν ὑφ' ἡμῶν πώποτε οὔτε λόγῳ οὔτε ἔργῳ κακὸν παθῶν. βούλομαι δ' ὑμῖν προδιηγῆσασθαι πρῶτον ἃ πεπόνθαμεν ὑπ' αὐτοῦ, ἵνα μᾶλλον μοι συγγνώμην ἔχητε ἀμυνομένῳ, καὶ ὡς εἰς <τοὺς> ἐσχάτους κινδύνους κατέστημεν περὶ τε τῆς πατρίδος καὶ περὶ ἀτιμίας.

<sup>25</sup> This phrase was probably a proverbial expression in iambic trimeter (Kapparis 1999, 168).

their interests were at stake.<sup>26</sup> Theomnestus demonstrates the length and intensity of the hostility between his own circle of friends and Stephanus' associates by pointing to several issues that have exacerbated the hostile relationship. At the same time, Theomnestus carefully presents Stephanus as the aggressor on each occasion. First, Stephanus brought a malicious *graphē paranomōn* against Apollodorus for proposing a decree concerning the appropriation of public funds although Apollodorus was supposedly acting with the purest of motives: “since he thought that the people ought to be able to do with their own money whatever they wanted.”<sup>27</sup> All the citizens would later recognize that Apollodorus was in the right on this issue: “everybody agrees that he [Apollodorus] suffered injustice although he gave the best advice.”<sup>28</sup> Stephanus succeeded in deceiving the jurors in his indictment of Apollodorus for an illegal decree (*graphē paranomōn*) and gained a conviction by producing witnesses who gave false testimony and speaking about irrelevant matters.<sup>29</sup>

Apollodorus and his associates were willing to overlook this malicious prosecution but were annoyed at Stephanus' unwillingness to make concessions on the assessment of the penalty (6). Stephanus attempted to impose a severe penalty that would effectively disfranchise Apollodorus and his family (7–8). After failing to achieve this goal, Stephanus accused him of homicide and made a proclamation at the Palladion, hoping to have Apollodorus expelled from

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<sup>26</sup> Theomnestus prosecuted Neaera under a law prohibiting foreigners from “living with” (συνουκεῖν) citizens. This regulation was intended to prevent foreigners from simulating a lawful marriage between Athenians and smuggling illegitimate offspring into the ranks of the citizens (Kapparis 1999, 203–6). This *graphē* therefore concerned a public matter, the preservation of a citizen body that was descended from autochthonous ancestors.

<sup>27</sup> [Dem.] 59.4: κύριον δ' ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὐτοῦ ὅ τι ἂν βούληται πράξει.

<sup>28</sup> [Dem.] 59.5: παρὰ πάντων ὁμολογεῖται ὡς τὰ βέλτιστα εἶπας ἄδικα πάθοι.

<sup>29</sup> [Dem.] 59.5: ἐπὶ διαβολῇ ψευδεῖς μάρτυρας παρασχόμενος καὶ ἔξω τῆς γραφῆς πολλὰ κατηγορῶν.

Attica (9).<sup>30</sup> The charge was groundless, Theomnestus asserts, since it later became evident that Stephanus had brought the accusation in the paid service of two of Apollodorus' enemies. He had even dared to perjure himself by calling down an oath which invoked destruction on himself and his family, swearing to something he knew to be false (10).

In contrast to Stephanus' unwarranted attacks on Apollodorus and his family, Theomnestus emphasizes the restraint that he and Apollodorus exhibited (12). He was not the aggressor (οὐχ ὑπάρχων, 1). Stephanus started the whole affair although he had received no injury from Theomnestus or his family (1). Theomnestus appears to have been quite reluctant to involve himself in the quarrel since he required prodding from friends and family before he made the decision to seek revenge:

Everybody came up to me privately and exhorted me to take vengeance for the things I had suffered because of him. They also reproached me for being the most unmanly of men if, although I was very close to these people, I did not exact justice for my sister, father-in-law, nieces, and my own wife.<sup>31</sup>

As he introduces Apollodorus at the end of the speech, Theomnestus emphasizes Stephanus' provocation of the feud again by calling Stephanus "the one who started it" (τὸν ὑπάρξαντα, 15). Neither Theomnestus nor his family bears responsibility for how hostilities have escalated. The blame may be laid squarely on Stephanus and his friends.

The character evidence developed in this narrative informs directly on the prosecutors' credibility as accusers. By presenting his relationship with Stephanus in this way, Theomnestus addresses the jury's questions about possible pecuniary motivation. The trial has arisen not from

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<sup>30</sup> Someone who made an accusation of murder would make a proclamation that banned the suspected murderer from entering the agora and other holy places important to the city. This prevented possible *miasma* (religious pollution) from staining the city (*IG* I<sup>3</sup> 104. 20–3; [Dem.] 43.57). See MacDowell 1963, 17, 23–5; Parker 1983; Carawan 1998, 17–20; Gagarin 2002, 109–12; Phillips 2008, 62.

<sup>31</sup> [Dem.] 59.12: παρακαλούντων δὴ με ἀπάντων, ἰδία προσιόντων <τε> μοι, ἐπὶ τιμωρίαν τρέπεσθαι ὧν ἐπάθομεν ὑπ' αὐτοῦ, καὶ ὄνειδιζόντων μοι ἀνανδρότατον ἀνθρώπων εἶναι, εἰ οὕτως οἰκειῶς ἔχων <τὰ> πρὸς τούτους μὴ λήψομαι δίκην ὑπέρ ἀδελφῆς καὶ κηδεστοῦ καὶ ἀδελφιδῶν καὶ γυναικὸς ἑμαυτοῦ.

lust for the one-third reward but rather from Theomnestus' longstanding desire to punish Stephanus for his bad behavior. However, because he affirms his hatred for the defendants, the speaker must also guard against the suspicion that he is maliciously harassing Stephanus and his family to settle a private score in pursuit of a feud.<sup>32</sup> Theomnestus counters this problem by asserting that his family suffered many other wrongs at Stephanus' hands and has shown restraint in responding to his injuries. His implicit argument from probability then suggests that if he was willing to overlook many offenses in the past, he is unlikely to bring a prosecution on a trumped up charge at the present.

The story of the background of the dispute also serves as a forum for providing evidence about Stephanus' character. At each point Theomnestus' rhetoric is calculated to speak to the credibility of the opposing litigants' versions of events. In his indictment of Apollodorus by *graphē paranomōn*, Stephanus deceived the jury by producing false witnesses (5). Later he brought a false charge against Apollodorus (ἐπενέγκας . . . αἰτίαν ψευδῆ, 9) and was caught doing so. He also lied under oath (ἐξελεγχθεῖς δ' ἐπιορκῶν καὶ ψευδῆ αἰτίαν ἐπιφέρων, 10). Theomnestus, on the other hand, has been reserved throughout the affair and now asks the jury to vote according to the truth of his charge (ἐξ αὐτῆς τῆς ἀληθείας, 15). Theomnestus may be trusted, but Stephanus has proved himself an unscrupulous liar on many occasions.

The rhetorical use of enmity in Theomnestus' speech informs on the character and credibility of the opposing parties and thus creates probability arguments about the facts of the case. Theomnestus, like any other litigant, desires first and foremost to convince the jury that his case represents the correct version and interpretation of events. He crafts a narrative of enmity

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<sup>32</sup> Neaera's advanced age would present a further problem for Apollodorus in this regard (Kapparis 1999, 214–15). That he is attacking a seemingly harmless old woman could lead the jurors to the conclusion that Apollodorus is pursuing a vendetta over a trivial affair. The restraint that Theomnestus attributes to Apollodorus helps to combat this problem.

that will make his charge seem more likely to be true. Theomnestus affirms enmity to deny sycophantic motivations while he also guards against the charge of malicious prosecution based exclusively on personal satisfaction. At the same time, Theomnestus engages in character assassination against Stephanus, painting him as a consummate liar, while he asserts that his own claims are based on the true facts.

*Against Neaera* provides an example of the importance of recognizing the structure of arguments based on narratives of enmity to avoid drawing conclusions that do not take into account the rhetorical purposes of the speech. Herman (2006) cites this oration as an example of Athenian litigants' desire to distance themselves from appearing to be eager to seek revenge: "by the speech's concluding paragraph the idea of private vengeance has vanished altogether" (193). As evidence for this Herman states, "the speakers are at pains to point out that they have brought this case only as a last resort" (193). This observation is correct, but it does not support Herman's larger argument that Athenians believed that restraint was always the correct response to being wronged. Theomnestus does not represent Apollodorus and himself as restrained because that is how all Athenians would expect him to act but rather because this character portrait supports his other arguments (see above). Herman's conclusions about the speakers' attempts to downplay personal vengeance in this speech fail to take into account how they reinforce the character portrayal of Stephanus within the overall argument. This passage cannot be used to prove whether Athenians would have approved of Theomnestus' restrained behavior as the only acceptable way to respond to Stephanus' attacks. It is not calculated to provide a moral commentary on how to respond to one's enemies but rather to support the character portrayal of Stephanus as a hybristic and unprovoked attacker.<sup>33</sup>

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<sup>33</sup> Herman's citation of Demosthenes 24 (*Against Timocrates*) and Lysias 14 (*Against Alcibiades*) in the same passage (2006, 191–3) is similarly problematic. Both speakers portray themselves as exercising restraint and paint

When a prosecutor employs enmity to attack his opponent's character and to defend his motivations for bringing the suit, he makes a legal argument about key issues in the trial. Athenian jurors were not opposed to the use of background information and character evidence because they believed that if a person had acted in a certain way in the past, he was likely to act in the same way in the future. When Apollodorus prosecuted the brothers Nicostratus and Arethusius, he included a lengthy narrative of their dishonest and spiteful behavior in order to attack their credibility as speakers and to support the reliability of his own version of the facts ([Dem.] 53.4–18).<sup>34</sup> Apollodorus asserts that he and Nicostratus are enemies but is also careful to point out that Nicostratus has consistently been the aggressor.

Apollodorus composed *Against Nicostratus*, like *Against Neaera*, for a procedure that entailed a monetary reward to the successful prosecutor.<sup>35</sup> Therefore, he starts his speech by addressing the possible suspicion that he is seeking profit by his court action:

Let the seriousness of the *apographē* and the fact that I myself have brought the prosecution prove to you that I have lodged this *apographē* not because I am acting as a sycophant but because I have been wronged and treated outrageously by these men and think that I should take vengeance.<sup>36</sup>

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their opponents as shameless and malicious people who would likely commit the offenses of which they are accused. The speakers are not asserting categorically that it was illegitimate to retaliate on one's enemies (on the rhetorical strategies of Demosthenes 24 and Lysias 14, see 37–8, 69 n. 88).

<sup>34</sup> Although Apollodorus actually prosecutes Arethusius, the brother of Nicostratus, one can see from the narrative section of the speech that this court case is part of a larger dispute between Apollodorus and Nicostratus, into which other parties and family members have been drawn.

<sup>35</sup> The procedure was an *apographē*, by which a volunteer prosecutor submits an “inventory” (*apographē*) of items that are to be handed over to the state to defray the owner's debt to the treasury. If the plaintiff gains a conviction, he is entitled to one-third of the proceeds from the sale of the property by the *poletai* (the state's official sellers). In the inventory submitted for this trial are two slaves that belong to Arethusius, Nicostratus' brother, and are liable to confiscation because of the latter's debt to the public. Apollodorus' main contention in his speech is that the slaves belong to Arethusius and not, as the defense claims, to Nicostratus, his brother.

<sup>36</sup> [Dem.] 53.1: Ὅτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβριζόμενος ὑπὸ τούτων καὶ οἰόμενος δεῖν τιμωρεῖσθαι τὴν ἀπογραφὴν ἐποιησάμην, μέγιστον ὑμῖν ἔστω τεκμήριον, ὧ ἄνδρες δικασταί, τό τε μέγεθος τῆς ἀπογραφῆς, καὶ ὅτι αὐτὸς ἐγὼ ἀπέγραψα.

In a string of four causal participles, Apollodorus asserts both the grounds for the prosecution and the impetus behind it. His motivation is not maliciousness or greed but rather revenge, based on wrongs and insults that he has suffered at the hands of the defendant. Apollodorus ties his motivation for prosecuting to the reality of the offenses committed.<sup>37</sup> His desire for revenge demonstrates that his charges are true since there must be a real offense that has caused him to seek vengeance.

The jury may know, Apollodorus argues, that he is not falsifying charges because he has brought the suit himself rather than enlisting another person to prosecute for him. He risks a fine of one thousand drachmas in a suit over slaves valued at only two and a half minae, one-fourth as much,<sup>38</sup> and hazards being barred from acting as a volunteer prosecutor in the future (1–2). His appearance in court over such a measly sum at great personal risk proves both that his motivation for revenge is legitimate and that he has been wronged.

I lodged the *apographē* because I considered it the most terrible thing in human affairs to be wronged myself but to put forward the name of another on my own behalf, although I was the one who was wronged and because I think that this would be proof for my opponents that I am lying whenever I talk to you about my enmity (for another would not have lodged the *apographē* if I myself had been wronged).<sup>39</sup>

Apollodorus' presence in court demonstrates that he is telling the truth about his hatred for Nicostratus and his associates and about their criminal behavior. If he had not appeared as the

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<sup>37</sup> The syntax of the sentence reflects this. The first participle (συκοφαντῶν) is without an accompanying explanation of the grounds of a sycophantic prosecution while Apollodorus' desire for revenge is connected with real offenses (ἀδικούμενος καὶ ὑβριζόμενος). Sycophantic charges are naturally baseless while those who have suffered some wrong desire retribution. Cf. the conclusion of the narrative section, where this point is reinforced: "I have shown, men of the jury, the wrongs I have suffered at their hands for which I lodged the *apographē*" (Ἄ μὲν τοίνυν ἀδικούμενος, ὧ ἄνδρες δικασταί, ὑπ' αὐτῶν τὴν ἀπογραφὴν ἐποιησάμην, δεδήλωκα ὑμῖν, 19).

<sup>38</sup> One mina is equivalent to one hundred drachmas. Thus, two and a half minae amounts to two hundred-fifty drachmas.

<sup>39</sup> [Dem.] 53.2: ἀλλὰ τῶν ἐν ἀνθρώποις ἀπάντων ἡγρησάμενος δεινότατον εἶναι ἀδικεῖσθαι μὲν αὐτός, ἕτερον δ' ὑπὲρ ἐμοῦ τοῦ ἀδικουμένου τοῦνομα παρέχειν, καὶ εἶναι ἂν τι τούτοις τοῦτο τεκμήριον, ὅποτε ἐγὼ λέγοιμι τὴν ἐχθρὰν πρὸς ὑμᾶς, ὡς ψεῦδομαι (οὐ γὰρ ἂν ποτε ἕτερον ἀπογράψαι, εἶπερ ἐγὼ αὐτός ἡδικοῦμην), διὰ μὲν ταῦτα ἀπέγραψα.

prosecutor, the jury would know that he has no personal stake in the matter and is quite possibly lying (ὡς ψεύδομαι) since he would be running no risk in the trial. Apollodorus explains his actions here, showing that behind them lies a basis in fact. Motivation is an important concern because it proves that Apollodorus' claims are true. He asserts unreservedly that he is Nicostratus' enemy but constantly emphasizes that the reason for the hostility is Nicostratus' wrongdoing.

While Apollodorus asserts that his enmity with Nicostratus led him to prosecute, he is also aware that excessive emphasis on his hostility towards the defendant could leave him open to the charge of prosecuting him out of sheer spite, fabricating a charge in an attempt to harm his adversary.<sup>40</sup> To preempt such an allegation, he shows that Nicostratus was at fault for starting and continuing the hostility by narrating a litany of Nicostratus' unprovoked and outrageous abuses.<sup>41</sup> Nicostratus assisted Apollodorus' enemies in court, hired a third party to prosecute him, stole his furniture, and vandalized his property (14–16). He attempted to trick Apollodorus into beating an Athenian citizen so that he could be prosecuted for *hybris* and, finally, ambushed

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<sup>40</sup> Lysias 23 (*Against Pancleon*) attempts to avoid a similar charge: “I was very concerned not to appear as though I wanted to commit outrage against someone rather than to be getting justice for the wrongs I suffered” (περὶ πολλοῦ ποιούμενος μηδενὶ δόξαι ὑβρίζειν βούλεσθαι μᾶλλον ἢ δίκην λαβεῖν ὧν ἠδικήθην, 5). The speaker admits enmity with the defendant, but emphasizes that his desire to take vengeance is based on actual wrongs that deserve punishment, not trumped up charges.

<sup>41</sup> Since Apollodorus had been on the friendliest of terms with Nicostratus, his behavior appears that much worse. Apparently Apollodorus was accustomed to trust Nicostratus with his personal affairs (4–5). He includes the apparently irrelevant comment that he had given two slaves to Nicostratus as a gift (6). He provided a loan of three hundred drachmas to free Nicostratus from slavery in Aegina (6–7), which he later forgave in full (8–9), even providing an additional sum to pay for Nicostratus' debts (10–11). Nicostratus considered him a better friend than his relatives (7). Nicostratus' ingratitude was striking: “after he took the money, not at all intending to return some favor to me for what I did for him, he immediately plotted against me, to rob me of the money and to bring me into enmity with him” (λαβὼν δὲ τὸ ἀργύριον οὐχ ὅπως χάριν τινὰ μοι ἀποδίδωσιν ὧν εὖ ἔπαθεν, ἀλλ' εὐθέως ἐπεβούλευέ μοι, ἵνα ἀποστερήσειε τὸ ἀργύριον καὶ εἰς ἔχθραν κατασταίη, 13).

him on the road between Piraeus and Athens (16–17). Apollodorus, on the other hand, retaliated only rarely and, when he did, he sought redress through the courts (15, 18).<sup>42</sup>

This account, if the jury finds it credible, removes suspicions that Apollodorus has attacked the family of Nicostratus with false allegations to settle a score. If he has put up with so many wrongs, it does not seem likely that he would be making up such a minor charge as one concerning slaves worth two and a half minae. Likewise if Nicostratus, Arethusius, and their associates have committed so many crimes with no thought to the interests of other citizens or the state, the jury may find it probable that he would collude in deceiving the state as Apollodorus charges. Apollodorus' focus on his own restraint and Nicostratus' aggravation implicitly supports the veracity of the charges.<sup>43</sup>

Cohen (1995) summarizes Apollodorus' narrative thus, "it is such abuse of legal process that Apollodorus uses to qualify Nicostratus as a sycophant, while portraying himself as legitimately resorting to the courts to obtain protection and revenge for these grievous wrongs" (103). The statement is accurate, except for what Cohen apparently means by "legitimately." For Cohen, a litigant who demonstrates that his motivation for prosecuting is a good one is making an appeal that he is a "legitimate" prosecutor, worthy of votes based on the intrinsic worth of his character. *Against Nicostratus* purportedly supports Cohen's argument that the opposing litigants' entire lives (that is, their character) are on trial rather than their specific offenses. It is maintained here, however, that Apollodorus does not advance character arguments about who

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<sup>42</sup> The story of how Apollodorus and Nicostratus became enemies after previously being friends mirrors a fragmentary passage from Lysias (*P. Oxy.* 1606 Fr. 6 col. iv). This speaker argues that he was previously a friend to the defendant, in order to make it seem more likely that he actually did loan money to him, which is the point at dispute. Like Apollodorus in [Demosthenes] 59, Lysias uses a past friendship with the opponent to establish a claim of probability while admitting that the two litigants have now come to enmity.

<sup>43</sup> Cf. Demosthenes 24 (*Against Timocrates*), in which the speaker, Diodorus, predicts that the jury will want to know why he, if he has led such a quiet life previously, is present in court as prosecutor (6). Diodorus' brief narrative details how Timocrates has repeatedly attacked him with no provocation (6–10).

“deserves” to win but rather to support an argument from probability about who is telling the truth about the offense on trial. It is not character evidence per se that is vital to the case but character evidence as it informs on the litigants’ credibility and their claims. Apollodorus’ narrative does in fact give him legitimacy, but this legitimacy arises from the probability argument about who is more likely to lie, not from his character in itself.<sup>44</sup>

### **Establishing Motive for Assault**

While many prosecutors attempt the balancing act of affirming enmity and denying culpability for starting or continuing it, a litigant who accused his opponent of assault was especially likely to employ this rhetorical strategy. This follows logically from the nature of the charge; an assault on one’s body presupposes anger and hatred. Additionally, in order to make it believable that the defendant assaulted him, the prosecutor must provide a motive for the attack. On the other hand, he must also avoid portraying himself as aggressive and vindictive so that he does not provide the defendant with an opportunity to argue that they were equally at fault and that they traded blow for blow. The prosecutor must affirm enmity to provide a rationale for his opponent’s physical assault and, at the same time, prove that his opponent was the one responsible for escalating hostilities.

All prosecutors who allege physical assault against their own persons affirm enmity with their opponents (Dem. 21, 54).<sup>45</sup> In his famous oration, *Against Meidias*, Demosthenes shapes his

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<sup>44</sup> A similar problem occurs in the use of the word “justify” in reference to prosecutions. Cohen (1995) cites the second section of *Against Nicostratus* to assert that “this presupposes that pursuit of revenge justifies litigating” (102). However, Apollodorus’ character and motivation does not *on its own merits* justify his prosecution so that the jury feels obliged to vote for him because his qualities as a person, but rather provides an implicit argument from probability that he is telling the truth.

<sup>45</sup> Several speeches allege murder, an offense that certainly qualifies as physical assault but also changes the rhetorical situation. Speakers who prosecute for murder do not necessarily address the issue of enmity between themselves and their opponents since this does not inform on motive. Rather, a prosecutor in a homicide trial will show that enmity existed between the defendant and the deceased to provide a motive for the murder. For instance, the speaker of Antiphon 1 claims that his stepmother intentionally murdered his father, claiming that she had been wronged (15). The speaker even refers to her as a “Clytemnestra” (17). He desires to make her appear angry and

narrative of his feud with Meidias to paint a portrait of Meidias' character which will support his claim that Meidias punched him with the intent of inflicting shame and dishonor (*hybris*) in a public venue.<sup>46</sup> At the same time, he desires to appear neither to lack a personal stake in the prosecution nor to be motivated solely by enmity. Therefore, he asserts that he and Meidias had been enemies for a long time but also carefully points out that Meidias, not he, has been the aggressor.<sup>47</sup>

Demosthenes fully admits his longstanding enmity with Meidias and narrates it at length.

The audience learns that two years previously Meidias had hatched a plot to thwart

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vindictive so that the jury will accept that she poisoned her spouse. On the other hand, Lysias prosecutes Eratosthenes for murder (Lys. 12) but includes contains no such affirmation of enmity between the Eratosthenes and the deceased Polemarchus. Lysias prefers to provide a different motive for the crime: Eratosthenes was “gratifying his own lawless passions” (τῆ ἐαυτοῦ παρανομία προθύμως ἐξυτηρητῶν, 23). This trial may be treated as exceptional since it concerns an offense committed by a former member of the Thirty. Lysias wants to go beyond simply showing that Eratosthenes was guilty of murder and prove that he was utterly reckless and out of control. This may also be the case for Lysias 13, which also concerns another murder committed during the rule of the Thirty. However, the speaker may be affirming enmity between the deceased Dionysodorus and the alleged murderer Agoratus with his general statement, “some were carried off to prison on account of private enmities” (τοὺς ἐνθάδε διὰ τὰς ἰδίας ἔχθρας ἀπαγομένους εἰς τὸ δεσμοτήριον, 46). Isocrates 20 (*Against Lochites*) does not include explicit affirmation of enmity with the opponent, but it is fragmentary and so does not necessarily shed light on the pattern.

<sup>46</sup> The explicit language of *hybris* in Demosthenes 21 led some scholars to conclude that it was a *graphē hybreōs*. Currently, there is a growing scholarly consensus that the procedure was actually a two-stage type of litigation called *probolē* although Harris (2008, 79–81) maintains that the preliminary trial at the Assembly was a *probolē*, but that Demosthenes 21 was written for a *graphē hybreōs* lodged two years later. The only evidence for the *probolē* comes from this prosecution of Meidias and the examples of other *probolai* that Demosthenes enumerates in sections 175–80. An Athenian citizen had the right to notify the *prytaneis* (the members of the Council responsible for arranging the meetings) that he intended to accuse someone of committing an injustice concerning a festival (ἀδικεῖν περὶ τὴν ἑορτήν). The *prytaneis* then placed the action on the agenda of the Assembly for the first day after the festival. In the first stage of the procedure the prosecutor and the defendant each gave a speech before the Assembly. The Assembly in turn voted for or against the defendant although this vote was strictly prejudicial. It was up to the prosecutor to bring the suit to trial in the dicastic court. Presumably, the second stage of the *probolē* resembled a *graphē* trial. As Demosthenes reports, he already obtained a favorable verdict from the Assembly; he composed *Against Meidias* for the second phase of the procedure, the jury court trial. The best discussion of the *probolē* available can be found in MacDowell 2002, 13–17. See also Harris 1989, 130–31; 1992, 73–4; Rowe 1994.

<sup>47</sup> It has been debated whether or not this speech was actually delivered. Aeschines says that Demosthenes dropped the suit in return for thirty minae (3.52). On the basis of this statement, many scholars, noting inconsistencies and defects in its style, argued that the speech is incomplete and was never delivered. Others, however, have cast doubt both on Aeschines' reliability and the idea that the speech is incomplete (Erbse 1956; Harris 1989). Harris (1989, 118–21) discusses the history of scholarship on this problem, as does MacDowell (2002, 24–5). MacDowell (2002, 26–8) accepts Erbse's argument that the stylistic difficulties have been exaggerated, but argues that the speech was not delivered in the form that has been transmitted. Thus, the extant oration may represent a draft of the speech, which may or may not have been delivered.

Demosthenes' efforts to lead a chorus for his tribe (14–18).<sup>48</sup> He opposed the release of Demosthenes' chorus members from their military duty and attempted to destroy the sacred clothing intended for use at the festival. He even bribed Demosthenes' chorus leader to throw the competition and then tried to buy off the *archon* (the state official responsible for organizing the Dionysia).<sup>49</sup> He finally abandoned intrigue and adopted more forceful methods, sabotaging the props for the production.

Yet the history of hatred between these two goes farther back than that. The feud originated when Meidias incited Thrasylochus to break into Demosthenes' house during an *antidosis* (77–82).<sup>50</sup> Although Demosthenes won a conviction for slander against him, Meidias never paid the fee imposed and even thwarted Demosthenes' attempts to employ a suit of ejectment (*dikē exoulēs*). Meidias later responded by hiring a known sycophant, Euctemon, to prosecute Demosthenes for desertion from the army (102–3), voicing abroad that he had murdered a certain Aristarchus (104–10), and attacking him viciously at his *dokimasia* (111). Meidias desires to harm Demosthenes at all costs, caring nothing for the validity of his claims:

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<sup>48</sup> The alleged offense occurred at the Dionysia in the spring of 348 B.C., while the trial took place in 347/6.

<sup>49</sup> Athens had nine *archons*. The *archon basileus* ("king archon") had jurisdiction over religious matters, including trials for homicide. The eponymous *archon* was responsible for overseeing various social matters, including the festivals mentioned above. The *polemarch* ("war archon"), although originally a leader in the Athenian army, was in charge of resident aliens (metics) and other foreigners. The remaining six archons were called *thesmothetai* ("law-givers") and had jurisdiction over many areas, especially those concerned directly with matters of law, such as cases of *graphai paranomōn*. See Lipsius 1905–15, 339–451; Harrison ii. 1968–71, 7–17; MacDowell 1978, 24–7.

<sup>50</sup> An *antidosis* was a procedure whereby a wealthy Athenian citizen could avoid performing a liturgy, which was an expensive task. If someone who had been assigned a liturgy believed that there was another Athenian who had more wealth and had not been given a liturgy to perform, he could challenge that person to an *antidosis*. The challenged individual could then choose between taking on the liturgy himself or exchanging property between with his challenger. Demosthenes was involved in an *antidosis* during the prosecution of his guardians for mismanagement of the estate which his father had left to him. On *antidosis*, see Harrison ii. 1968–71, 236–8; MacDowell 1978, 162–4; Gabrielsen 1987; MacDowell 2002, 1–2; Christ 1990; Christ 2006, 159–60, 197–8.

“not distinguishing at all whether it is true or false, against an enemy or a friend, or anything of this sort.”<sup>51</sup> Meidias, Demosthenes asserts, is out of control.

The rhetorical use of enmity in the *Against Meidias* follows the pattern found in other speeches. Demosthenes certainly admits enmity but at the same time emphasizes Meidias’ aggression and his own restraint. A primary function of Demosthenes’ narrative of enmity is thus to develop a character portrait. Meidias has proved on multiple occasions throughout his life that he is the sort of person who would assault an enemy at any opportunity and would attempt to inflict the maximum possible dishonor. Demosthenes’ narration of the dispute, if accepted, leaves the audience sympathetic to the idea that Meidias would have attacked Demosthenes with hubristic intent and in total disregard of the laws and justice even while Demosthenes was acting in his official capacity as chorus-producer. In this way the speech’s character development supports an implicit argument about the probability that Meidias would commit the crime in question.

Because Demosthenes employs a narrative of enmity to make arguments about the facts of the case, there is no need to posit an extra-legal function for his rhetoric. In other words, he does not attempt to convince the jury to vote for him based on the social dynamics of the feud. Rather, Demosthenes narrates his feud with Meidias in a way that works within the overall structure of his argument and supports his claims about Meidias’ actions and his interpretation of the facts. Other scholars, however, have cited *Against Meidias* as evidence for precisely such extra-legal appeals to legitimacy. Cohen and Herman, although their conclusions are diametrically opposed, both begin with the premise that Demosthenes’ rhetoric of enmity is intended to make the jurors sympathetic to him because of who he is without reference to the truth of claims. Cohen (1995,

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<sup>51</sup> Dem. 21.114: εἰ δ' ἀληθὲς ἢ ψεῦδος ἢ πρὸς ἐχθρὸν ἢ φίλον ἢ τὰ τοιαῦτα, ἀλλ' οὐδ' ὅτιοῦν διορίζων.

92) states that Demosthenes 21 shows that litigants “manipulate the normative expectations of the community to convince the public (the Athenian court) that they ‘deserve,’ as *persons*, to prevail.” Herman (2006, 169) argues that Demosthenes quotes the violent stories of Euthynus and Evaeon “to demonstrate the objective superiority of his own behaviour according to the values of his society.” These statements assume that the demonstration of one’s conformity to Athenians norms of behavior constitutes a valid reason to ask the jurors for a favorable vote beyond the factual questions of the dispute.

Such an idea is unwarranted, however, because Demosthenes uses the rhetoric of enmity to make probability and character arguments rather than merely to demonstrate his objective moral superiority. Demosthenes consistently underlines that Meidias’ offenses are real and emphasizes that he hopes to win based on Meidias’ act of *hybris* against him. In anticipation of an argument Meidias will allegedly make, Demosthenes attempts to dispel suspicions that he is prosecuting only for personal reasons. Meidias will complain, “Do not hand me over to Demosthenes; do not destroy me for Demosthenes’ sake! Will you destroy me because I am at war with him?”<sup>52</sup> To counter this argument, Demosthenes asserts that the grounds for the charge are not personal enmity, but Meidias’ offense against a public servant (31–35),<sup>53</sup> which deserves “public anger and punishment” (δημοσίας ὀργῆς καὶ τιμωρίας, 34).<sup>54</sup> Demosthenes continually emphasizes that Meidias has committed many wrongs, stressing that these acts (not an evaluation of the two litigants’ character) are the focus of the trial. Demosthenes asserts that the jury should convict

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<sup>52</sup> Dem. 21.29: μή με Δημοσθένη παραδῶτε, μηδὲ διὰ Δημοσθένην με ἀνέλητε. ὅτι ἐκείνω πολεμῶ, διὰ τοῦτό με ἀναιρήσετε;

<sup>53</sup> Cf. Dem. 47.41 for the argument that an act against a public official constitutes a crime against the state.

<sup>54</sup> Demosthenes’ defense against Meidias’ supposed objection that he should have initiated a private case follows a similar vein (25–28). Demosthenes emphasizes throughout the speech that Meidias has committed an offense against someone acting in the capacity of a public servant, not against a private individual. Meidias is the one who ignores the common good and pursues private vendettas (61).

Meidias if he has done the things with which he is charged: “if I show that Meidias here has committed outrage not only against me but also against you and the laws and everybody else, help both me and yourselves.”<sup>55</sup> Likewise, when Demosthenes anticipates that Meidias will ask why all the people he supposedly wronged have not come forward (141), Demosthenes retorts to the imagined objection, “I think that at present he should not say this, but rather show that he has not done any of the things of which I have accused him, if he is able. And if he is not able, he ought all the more to die for this.”<sup>56</sup> The deeds of Meidias are on trial, not the relative social standing of the two disputants.

While in *Against Meidias* Demosthenes emphasized his enmity with Meidias to an extent unique among the Attic orators, in another speech that concerned an offense against the body he took a different strategy, deemphasizing the enmity between prosecutor and defendant. In *Against Conon* the speaker, Ariston, must of course admit enmity with the defendant because of the nature of the accusation, that Conon beat Ariston almost to death. If he had denied that there was any hostility between himself and Conon, Ariston would have seriously undercut the most obvious motive for the crime. Nevertheless, Ariston goes beyond the typical motif of portraying his opponent as the aggressor and paints himself as an entirely passive victim. Ariston does not provide the wealth of background information that Demosthenes does in *Against Meidias*, nor does he assert that he and Conon’s family had a longstanding feud, but he still he succeeds in portraying his opponent as an utterly hubristic and despicable bully who attacked an innocent man who had never done him any wrong. The speech’s narrative, which has struck many critics

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<sup>55</sup> Dem. 21.7: ἐὰν ἐπιδείξω Μειδίαν τούτων μὴ μόνον εἰς ἐμὲ ἀλλὰ καὶ εἰς ὑμᾶς καὶ εἰς τοὺς νόμους καὶ εἰς τοὺς ἄλλους ἅπαντας ὑβρικώτα, βοηθῆσαι καὶ ἐμοὶ καὶ ὑμῖν αὐτοῖς.

<sup>56</sup> Dem. 21.142: προσήκειν μέντοι τούτῳ μὴ ταῦτα λέγειν ἡγοῦμαι νυνί, ἀλλ’ ὡς οὐ πεποιθὲν τι τούτων ὧν αὐτοῦ κατηγορεῖ διδάσκειν, ἐὰν δὲ μὴ δύνηται, διὰ ταῦτ’ ἀπολωλέναι πολὺ μᾶλλον.

as one of Demosthenes' best, tells a story of outrageous conduct that has fascinated many readers throughout the years with its shocking details.<sup>57</sup>

Although Ariston admits that he and Conon were involved in a relationship of “enmity” (*echthra*, Dem. 54.3), he mentions only two specific incidents and very much downplays his own role in pursuing the feud. Their “enmity” was very one-sided. The event that precipitated the offense on trial occurred while Ariston was on military duty at Panactum where he had the misfortune of finding himself stationed in a campsite adjacent to Conon's sons (3). These men were in the habit of drinking each day immediately after breakfast and spending their spare time harassing other citizens. They began pestering Ariston and his comrades, eventually driving them to make a complaint to the generals. Ariston emphasizes that Conon's sons did not single him out for abuse, nor did he alone protest their conduct. He narrates the incident from the perspective of his group of messmates (οἱ σύσσιτοι, 4) and makes frequent use of first personal plural constructions (ἡμεν, 3; ἡμεῖς [...] εἰώθειμεν, 3; διήγομεν, 3; εἰς ἡμᾶς αὐτούς, 4; ἡμεῖς [...] ἀπεπεμψάμεθα, 4; ἡμᾶς, 4). He likewise stresses that they complained to the general en masse: “all of us messmates related the affair to the general together, not I alone apart from the others.”<sup>58</sup> Ariston avoids portraying the incident as the genesis of a private feud between Conon and himself but rather asserts that Conon and his friends committed offenses against the entire army.

This could hardly be called the beginning of a real relationship of enmity since Ariston, who was simply one of many who complained about Conon and his friends, resolved to ignore the whole business once they left the camp (6). Of course “anger and hatred” (ὄργη καὶ ἔχθρα)

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<sup>57</sup> Dionysius of Halicarnassus (*Dem.* 13) cites *Against Conon* as an outstanding example of Demosthenes' ability and compares it to Lysias' stylistic excellence. Today it is one of the most frequently read and discussed orations of Demosthenes.

<sup>58</sup> Dem. 54.4: τῷ στρατηγῷ τὸ πρᾶγμ' εἶπομεν κοινῇ πάντες οἱ σύσσιτοι προσελθόντες, οὐκ ἐγὼ τῶν ἄλλων ἔξω.

followed, but Ariston decided not to take Conon's sons to court and instead made up his mind to forget the whole affair. Rather than treating this incident as the beginning of a bona fide hostile relationship, Ariston simply uses it to set the background for the heinous act of *hybris* that he intends to relate.<sup>59</sup> He portrays Conon's family in which a way as to make his next accusation believable.<sup>60</sup>

The second incident that Ariston recounts includes the specific offense that is on trial. After they get back to Athens from military duty, Conon and his friends assault Ariston while he is out on a stroll, pin down his companion Phanostratus, and beat Ariston mercilessly. They strip him of his cloak, push him down into the mud, and punch him. As a final insult, Conon imitates the sound of a victorious fighting cock and beats his elbows against his sides like wings (7–9). Throughout the narrative Ariston portrays himself as completely passive. He does not even mention that he or Phanostratus offered any resistance.

When we got into a scuffle, one of them, someone I didn't know, fell upon Phanostratus and held him down. Conon here and his son and the son of Andromenes fell upon me and first took off my cloak, and then, after they tripped me and threw me into the mud, they jumped on me and beat me outrageously so that they split my lip and made my eyes swell shut.<sup>61</sup>

All of the verbal forms in this passage are active, with Conon, his son, and the son of Andromenes as subjects and Ariston as the object. In recapping the same events later in the speech, Ariston again makes himself the passive recipient of Conon's abuse: "indeed I suffered

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<sup>59</sup> That Conon would allow his sons to commit such terrible crimes reflects poorly on his character: "the man who should have rebuked his sons for their behavior at the first has himself done much more terrible things" (ὦ προσήκεν τοῖς τὸ πρῶτον ἀμαρτηθεῖσιν ἐπιτιμᾶν, οὗτος αὐτὸς πρότερος πολλῶ δεινότερ' εἴργασται, 6).

<sup>60</sup> Pearson (1981, 60) posits that Ariston may be worried about the argument that the feud between him and Conon's family went back to the incident at the camp and that Conon had exacted legitimate retaliation for a previous wrong. For this reason, Ariston emphasizes that the complaints to the generals were not his doing.

<sup>61</sup> Dem. 54.8: ὡς δ' ἀνεμείχθημεν, εἰς μὲν αὐτῶν, ἀγνώως τις, Φανοστράτῳ προσπίπτει καὶ κατεῖχεν ἐκείνον, Κόνων δ' οὐτοσί καὶ ὁ υἱὸς αὐτοῦ καὶ ὁ Ἀνδρομένους υἱὸς ἐμοὶ προσπεσόντες τὸ μὲν πρῶτον ἐξέδυσαν, εἶθ' ὑποσκελίσαντες καὶ ῥάξαντες εἰς τὸν βόρβορον οὕτω διέθηκαν ἐναλλόμενοι καὶ ὑβρίζοντες, ὥστε τὸ μὲν χεῖλος διακόψαι, τοὺς δ' ὀφθαλμοὺς συγκλείσαι.

at Conon's hand the things for which I am prosecuting, I received blows, I had my lip split so badly that it had to be stitched, and I was outrageously treated."<sup>62</sup> Ariston denies that he provoked Conon in any way and omits reference even to an attempt at self-defense.<sup>63</sup>

Because Ariston accuses Conon of a violent crime against the body of a citizen, he finds it beneficial to concentrate solely on the defendants' aberrant behavior. Ariston's complete lack of aggression makes Conon's act seem all the more unwarranted and heinous.<sup>64</sup> Whereas prosecutors commonly inform their audiences of the ways in which they have retaliated, Ariston strives to omit anything that could implicate him as a participant in a long-standing feud. Rather, the egregious and unprovoked offense to his person allows Ariston to call for the jury's anger against Conon and others like him. It is unusual for a prosecutor in a private case to call explicitly for the jury to be angry at the defendant,<sup>65</sup> but Ariston can make this request for a couple of reasons. First, the extremely abusive behavior of Conon and his friends and their assault on the body of an Athenian citizen make this crime virtually a public concern, as Ariston argues at the close of his speech (42–3). Second, Ariston asserts that the case itself is essentially a public suit since he could have prosecuted Conon by *apagogē* or a *graphē hybreōs* but chose a

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<sup>62</sup> Dem. 54.41: ἡ μὴν παθὼν ὑπὸ Κόνωνος ταῦθ' ὧν δικάζομαι, καὶ λαβὼν πληγὰς, καὶ τὸ χεῖλος διακοπεῖς οὕτως ὥστε καὶ ῥαφήναι, καὶ ὕβρισθεῖς.

<sup>63</sup> Gagarin (2005, 366) posits that Ariston probably did defend himself and so is likely to be distorting the facts to appear restrained.

<sup>64</sup> This close focus on the acts of the opponent is consistent with a technique described in the *Rhetoric to Alexander*: "it is possible in this way also to magnify good and bad actions, if you can show that he acted with forethought, showing that he had thought about his actions long before, that he plotted them often, that he did them for a long period of time, that no one else before him had attempted such deeds" (ἔστι δὲ καὶ ὧδε μεγάλα ποιεῖν τὰ ἀγαθὰ ἢ τὰ κακὰ, ἐὰν ἀποφαίνῃς αὐτὸν πράξαντα ἐκ διανοίας, συμβιβάζων ὡς ἐκ πολλοῦ προενόησεν, ὡς πολλὰ πράττειν ἐπεβάλλετο, ὡς πολὺν χρόνον ἔπραττεν, ὡς οὐδεὶς ἄλλος πρότερον τούτοις ἐνεχείρισεν, 1426a–b).

<sup>65</sup> Rubinstein 2004. Litigants were hesitant to assert that the jury had a moral injunction to be angry at the defendant unless the defendant had directly harmed the city itself. On anger in Athenian society, see also Harris 2001; Konstan 2006.

*dikē* because of his youth (1).<sup>66</sup> The continued abusiveness of Conon and his friends detailed in Ariston’s narrative makes the offense seem grievous enough to be of public concern and therefore deserving of prosecution by *graphē*.

Ariston uses his description of the defendants’ crimes to develop character portraits of them.<sup>67</sup> By showing how agonistic and violent Conon and his friends really are, Ariston conditions the jury to believe that he would commit such an outrageous crime. Ariston even predicts that Conon will argue that such brutality is not an important matter and should be laughed off (13–23), a statement that no doubt is intended to seem despicable.<sup>68</sup> Ariston draws on Conon’s past behavior to argue that he is exactly the sort of person who would lie and present false witnesses.

Do you think that those who break through walls and beat up people that happen to cross their path would hesitate to bear false witness on a tablet for each other, these men who have shared in such extreme maliciousness, wickedness, shamelessness, and outrageous conduct (*hybris*)?<sup>69</sup>

Ariston derives this probability argument directly from his portrayal of Conon’s character. The narrative of enmity has prepared the way for Ariston’s assertion that Conon and his friends are accustomed to beat people up and then lie for each other.

It is quite true, as Herman (2006, 284) points out, that Ariston “thought that the dikasts would be inclined to take his side if he portrayed Conon as having attacked in the aggressive

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<sup>66</sup> Ariston preferred the private procedure for assault, *dikē aikeias*.

<sup>67</sup> Pearson (1981, 103) notes that Ariston presents Conon in such a way that “specific remarks about character are unnecessary.” Morford (1966) shows how important the character-assassination against Conon is to the entire narrative.

<sup>68</sup> Cohen (1995, 119–30) argues that this anticipatory argument shows that Athenians accepted a certain amount of violence in society and thought it improper to go to court on such matters. However, Ariston is more likely to put outrageous claim into Conon’s mouth than a sound argument. This cannot be used as evidence for what Conon would actually argue (see pp. 173–4).

<sup>69</sup> Dem. 54.37: Τοίχους τοίνυν διορύττοντες καὶ παίοντες τοὺς ἀπαντῶντας, ἄρ' ἂν ὑμῖν ὀκνήσαι δοκοῦσιν ἐν γραμματείδι τὰ ψευδῆ μαρτυρεῖν ἀλλήλοις οἱ κεκοινωνηκότες τοσαύτης καὶ τοιαύτης φιλαπεχθημοσύνης καὶ πονηρίας καὶ ἀναιδείας καὶ ὕβρεως;

manner of a fighting cock and himself as a helpless victim.” A key aspect of Ariston’s technique is to emphasize the egregious nature of the crime so that the jury will be angry at Conon. Herman goes too far, however, when he asserts that Ariston “believed that they [the jurors] would approve of a man who presented himself as frail and un-cock-like and disapprove of Conon’s cock-like display of aggressive, upper-class masculinity” (284–5).<sup>70</sup> The speaker does not emphasize his own passivity because he believes it the morally superior way of responding to injustice. Rather, Ariston’s self-restraint supports his character portrayal of Conon, which in turn supports an argument from probability about his main contention, that Conon committed *hybris* against him.<sup>71</sup> As for Conon’s behavior, Ariston intentionally exaggerates it so that the jury will find the whole affair outrageous and will have no sympathy for Conon. One cannot conclude that because Conon is a ghastly character in this narrative, no Athenian would have approved of aggressive and even violent behavior in pursuit of honor. Ariston has calculated his depiction of the whole incident to induce the jury to believe that the crime actually took place and that it was an egregious offense. The speaker does not address how one should react when wronged as a general rule of conduct.<sup>72</sup>

The pattern evident in speeches delivered for charges of assault on the body demonstrates that the content and particular details of a trial can be more important in determining its rhetorical strategies than procedure alone. Although *Against Meidias* is a public suit and *Against*

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<sup>70</sup> Cf. Harris (2005) who cites Demosthenes 54 to show that “Athenian values discouraged men from using the courts to pursue feuds with each other” (130).

<sup>71</sup> The emphasis on Ariston’s restraint also have much to do with his youth (1).

<sup>72</sup> Herman (2006, 157–8) analyzes this speech along much the same lines in another place in his book. He asserts quite reasonably that Ariston draws out a dichotomy between his own actions and those of Conon in order to make “Conon’s actions appear all the more offensive” (157). What makes Herman’s approach problematic is that he regards this speech as indicative of a broad theme in Athenian society whereby citizens were expected to under-react to offenses. Ariston, however, does not speak to general trends; his depiction of himself as passive meets the legal necessity of establishing Conon’s character as despicable.

*Conon* a private one, they both prosecute a similar sort of offense and employ enmity to develop similar character and probability arguments. The speaker's rhetorical needs are determined by the exigencies of the case rather than simply procedure.

### **Matters of State**

In many cases of a special public concern prosecutors avoid the issue of enmity as much as possible so as to avoid the appearance of bringing a public suit for purely personal reasons. Some trials were so directly connected to the interests of the state that a focus on private motivation would probably not reflect favorably on the prosecutor. For instance, any court case that concerned the oligarchic regime of the Thirty inevitably involved the emotions of the entire citizenry since the aristocrats' reign of terror left a deep impression on the Athenian mind.<sup>73</sup> Likewise, Athenians viewed *dokimasiai* for public orators, suits for military dereliction, and *graphai paranomōn* as intimately tied to public policy, the security of the state, and the system of law, respectively. A prosecutor who employed one of these procedures would be unwise to focus on his own relationship to the defendant while he accuses him of a crime against the state.

In these trials prosecutors could choose from two strategies. Some speakers admit previous hostility with their opponents but only cursorily. After asserting enmity with the defendants, they then focus on matters of public concern, leaving private animosities far behind. Discussion of enmity in these cases occurs only briefly, usually in the first part of the speech (prooemium), and then does not greatly factor into the rest of the argument. Other speakers deny enmity altogether to preempt any allegation of personal involvement. They eschew personal motivation for the lawsuit and free themselves to concentrate on the merits of their accusations. Their disinterested

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<sup>73</sup> The importance of how the restored democracy would treat those who participated in the Thirty's government is evident in many of the preserved speeches (Wolpert 2002).

stance supports a probability argument that their claims are credible since they have no reason to lie.

In some situations a denial of enmity would have been impossible. When Lysias accused Eratosthenes of murdering his own brother (Lys. 12), he could not credibly deny private motivation for bringing the suit. Such a heinous act against Lysias' family member could not have failed to elicit hostility from him. Because Eratosthenes was a member of the Thirty at the time of the alleged crime, however, it would have been disingenuous for Lysias to portray his suit as merely a private affair. Athenians viewed the Thirty as public enemies who became the scapegoat for the disastrous few years after Athens' defeat in the Peloponnesian War. The citizen body therefore had an interest in how the Thirty were remembered and depicted (Wolpert 2002, 120–9). Consequently, after affirming his hatred for the defendant, Lysias quickly shifts the focus from his private motivation to public concern, asserting that he is prosecuting “because we all have many reasons to be angry on personal and public grounds.”<sup>74</sup> He maintains this focus on the public dimension of the trial for the rest of the oration.<sup>75</sup>

Lysias 13 (*Against Agoratus*) is similar to Lysias 12 in that both speakers accuse a participant in the Thirty's regime of murdering a relative.<sup>76</sup> This prosecutor accuses a man named Agoratus of informing against Dionysodorus, the speaker's brother-in-law, to his enemies among the Thirty. Allegedly, Dionysodorus identified Agoratus as his murderer before he died

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<sup>74</sup> Lys. 12.2: ἀλλ' ὡς ἀπασι πολλῆς ἀφθονίας οὔσης ὑπὲρ τῶν ἰδίων ἢ ὑπὲρ τῶν δημοσίων ὀργίζεσθαι.

<sup>75</sup> On Lysias' subordination of private interests to public concerns, see also Phillips 2008, 157. However, Phillips' statement that that Lysias complies “with the custom that prosecutors justify their lawsuits by revealing preexisting enmity against their defendants” does not take into account that denying enmity was also a legitimate option (see below).

<sup>76</sup> The speaker of Lysias 13, however, uses a different procedure. He instituted a summary arrest (*apagogē*), by which the plaintiff led the accused before the Eleven, who were in charge of the state prison, and subsequently took him to trial before a jury. *Apagogē* was an exceptional procedure because its initiation different from *graphai* and *dikai*. Except for the initiation period the trial would presumably have proceeded like a *graphē*.

(40–1). Since the speaker accuses Agoratus of being responsible for the murder of his kinsman, he cannot deny that he has been Agoratus’ enemy ever since. Yet, as in Lysias 12, the events took place under the brief rule of the Thirty and therefore have special significance for the interests of the state.<sup>77</sup> The speaker attempts to integrate his own desire for revenge into the public interest as much as possible: “it happens that I have the same enmity towards this Agoratus here as does your democracy.”<sup>78</sup> He asserts that Agoratus caused damage both to himself and to the whole city in this one act (2). For this reason retribution by both groups is justified: “men of the jury, I consider it just and pious both for myself and for all of you to punish him.”<sup>79</sup> After the prooemium the public dimension of the case clearly dominates while private enmity is marginalized.<sup>80</sup>

Prosecutors who adopt this strategy often employ enmity merely to create arguments about their own credibility rather than attack their opponents’ character. The brief affirmation of enmity can function to dispel fears that they have no personal stake and are out for financial gain while the lack of sustained focus on enmity implicitly rejects the suspicion that they are motivated solely by pursuit of an enemy. For instance, Aeschines in *Against Timarchus* must admit that enmity played a role in the trial because of the visibility of Aeschines’ conflict with

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<sup>77</sup> The speaker even asserts that Dionysodorus was put to death was for supporting “your democracy” (τῷ πλήθει τῷ ὑμετέρῳ, 1).

<sup>78</sup> Lys. 13.1: τυγχάνει οὖν ἐμοὶ ἢ αὐτῇ ἔχθρα πρὸς Ἀγόρατον τουτονὶ καὶ τῷ πλήθει τῷ ὑμετέρῳ ὑπάρχουσα.

<sup>79</sup> Lys. 13.3: ἐγὼ οὖν, <ὦ> ἄνδρες δικασταί, δίκαιον καὶ ὅσιον ἡγοῦμαι εἶναι καὶ ἐμοὶ καὶ ὑμῖν ἅπανσι τιμωρεῖσθαι. Cf. 92.

<sup>80</sup> At the end of the oration the speaker fuses his own claims for vengeance for Dionysodorus with the men of the Piraeus generally: “men of the jury, it is right for all of you, as it is for each of us, to take vengeance on behalf of those men since as they died they directed both us and all their friends to take vengeance for them” (προσῆκει δ’ ὑμῖν, ὦ ἄνδρες δικασταί, ἅπανσι τιμωρεῖν ὑπὲρ ἐκείνων τῶν ἀνδρῶν ὁμοίως ὥσπερ ἡμῶν ἐνὶ ἐκάστῳ. ἀποθνήσκοντες γὰρ <ὑμῖν> ἐπέσκηψαν καὶ ἡμῖν καὶ τοῖς φίλοις ἅπανσι τιμωρεῖν ὑπὲρ σφῶν αὐτῶν, 92). The speaker alludes to the story he has already told about Dionysodorus imploring his family members for vengeance (41–2) and applies it to all those who died under the rule of the Thirty.

Timarchus and Demosthenes over the negotiations with Philip (Kurihara 2003, 472),<sup>81</sup> but he conspicuously avoids making his private affairs an important concern in the trial.<sup>82</sup> Aeschines asserts that his opponents are his enemies but also strongly maintains that his prosecution benefits the state.

Men of Athens, I have never indicted any citizen or caused anyone grief at their *euthynai*; rather, I believe that I have shown myself levelheaded in all of these respects. But when I saw that the city was being greatly harmed by Timarchus here as he spoke to the Assembly contrary to the laws, and I was maliciously attacked myself as a private citizen – I will demonstrate how in the rest of my speech – I decided that it would be one of the most shameful things not to help the whole city, the laws, you, and myself. Because I knew that he was guilty of the things which you heard just a little while ago when the scribe was reading the charges, I have brought this *dokimasia* against him. And thus it seems, men of Athens, that the customary sayings about public cases are not false since private enmities often correct public matters.<sup>83</sup>

Aeschines boldly states that he has appeared in court in response to Timarchus' previous prosecution of him.<sup>84</sup> At the same time, he carefully ties his own interests to those of the state. He supposedly saw Timarchus harming the state by speaking contrary to the laws and “knows

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<sup>81</sup> This court action has been calculated to prevent Timarchus from bringing his own prosecution against Aeschines. Following his role in the second embassy to Philip of Macedonia in 346, Aeschines had to undergo a customary exit examination (*euthynai*) to prove that he had discharged his office appropriately. Timarchus, one of Demosthenes' colleagues and an opponent of Aeschines' negotiations, took this opportunity to accuse Aeschines of misconduct. Aeschines countered with a *dokimasia tōn rhētorōn* (the present trial) and was evidently successful since Demosthenes mentions in a later speech that Timarchus was disfranchised (19.283–6).

<sup>82</sup> Aeschines says very little about the history of the political wrangling between himself, Timarchus, and Demosthenes. Fisher (2001, 121) notes that although Aeschines promises to tell the jury about Timarchus' prosecution of him (1), in fact he “says extraordinarily little about the political motives for Timarchos' action, about Philip, Demosthenes and the embassy, or about Timarchos' other political activities of the last year.”

<sup>83</sup> Aeschin. 1.1–2: Οὐδένα πώποτε τῶν πολιτῶν, ὧ ἄνδρες Ἀθηναῖοι, οὔτε γραφὴν γραψάμενος οὔτ' ἐν εὐθύνοις λυπήσας, ἀλλ' ὡς ἔγωγε νομίζω μέτριον ἑμαυτὸν πρὸς ἕκαστα τούτων παρεσχηκῶς, ὁρῶν δὲ τὴν τε πόλιν μεγάλη βλαπτομένην ὑπὸ Τιμαρχοῦ τουτουὶ δημηγοροῦντος παρὰ τοὺς νόμους, καὶ αὐτὸς ἰδίᾳ συκοφαντούμενος (ὄν δὲ τρόπον, προϊόντος ἐπιδείξω τοῦ λόγου) ἐν τι τῶν αἰσχίστων ἡγησάμην εἶναι μὴ βοηθῆσαι τῇ τε πόλει πάσῃ καὶ τοῖς νόμοις καὶ ὑμῖν καὶ ἑμαυτῷ· εἰδῶς δ' αὐτὸν ἔνοχον ὄντα οἷς ὀλίγω πρότερον ἠκούσατε ἀναγιγνώσκοντος τοῦ γραμματέως, ἐπήγγειλα αὐτῷ τὴν δοκιμασίαν ταυτηνί. Καὶ ὡς ἔοικεν, ὧ ἄνδρες Ἀθηναῖοι, οἱ εἰωθότες λόγοι λέγεσθαι ἐπὶ τοῖς δημοσίοις ἀγῶσιν οὐκ εἰσὶ ψευδεῖς. Αἱ γὰρ ἴδια ἔχθραι πολλὰ πάνυ τῶν κοινῶν ἐπανορθοῦσι.

<sup>84</sup> Even this admission (αὐτὸς ἰδίᾳ συκοφαντούμενος) has been carefully tied to public advantage. Aeschines labels Timarchus a sycophant, and therefore a public menace.

that he is guilty.”<sup>85</sup> Thus Aeschines can claim that he is protecting simultaneously “the whole city, the laws, you, and myself.” In the concluding proverbial statement, “private enmities often correct public matters,” Aeschines again attempts to make the connection between his prosecution and the public good. His use of this aphorism implies that Aeschines’ personal motivation is subservient to the interests of the state. Even though he is indicting a private enemy, Aeschines attempts to make his own reasons for prosecuting appear secondary to the cause of justice.

Aeschines emphasizes the public aspect of his trial to create a character argument about his own motivations. Aeschines portrays himself as a civic-minded citizen concerned for the interests of the state, which happen to coincide with his own interests in this case. Although he admits enmity, he does not stress it as the motivation for the lawsuit but rather emphasizes that he is not the type of person to pursue a private vendetta or trump up charges.<sup>86</sup> Aeschines does not attempt simply to “win the judges’ good will” (Harris 2005, 130) with his character portrayal of himself but rather attempts to make an argument of probability about his case. Aeschines asserts emphatically that he has brought suit because his charge is true; he knows that Timarchus is guilty (cf. Lycurg. 1.5).

Although the integration of private and public concerns is naturally more prominent in speeches composed for public procedures, a speaker in at least one private suit ([Demosthenes] 50) makes the same sort of claim. This particular case certainly has a public dimension to it since

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<sup>85</sup> Aeschines accuses Timarchus of prostituting himself while he was a youth and squandering his inheritance, two offenses which would disqualify him from participating in the democracy as an Athenian citizen.

<sup>86</sup> Aeschines’ first words paint him as a moderate individual: “Men of Athens, I have never indicted any citizen or caused anyone grief at their *euthynai*; rather, I believe that I have shown myself levelheaded in all of these respects” (Οὐδένα πώποτε τῶν πολιτῶν, ὧ ἀνδρες Ἀθηναῖοι, οὔτε γραφὴν γραψάμενος οὔτ’ ἐν εὐθύναις λυπήσας, ἀλλ’ ὡς ἔγωγε νομίζω μέτριον ἑμαυτὸν πρὸς ἕκαστα τούτων παρεσχηκώς).

it concerns the office of trierarchy.<sup>87</sup> The speaker claims that the trial is not really between himself and Polycles but rather concerns the whole city (τῆς πόλεως κοινός, 1). The prosecutor integrates his charges with public concerns: “for when the charges are private but the damages are public, how is it not right for you to listen and to pass a just verdict?”<sup>88</sup> In the following narrative the speaker emphasizes the public aspect of the trial and only recounts his hostile relationship with the defendant insofar as he must give details of the history of the dispute.

Other speeches that concern matters of interest to the state include Lysias 14 (a suit for military dereliction)<sup>89</sup> and Demosthenes 22 and 24 (*graphai paranomōn*).<sup>90</sup> All of these speakers adopt the same strategy of attempting to deemphasize enmity as much as possible while still admitting it. This strategy provides two benefits for the prosecutor. First, he can affirm enmity in order to counter the claim that he is pursuing monetary gain or some other end. Second, he can

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<sup>87</sup> The trierarchy was a type of special duty (called a “liturgy”) imposed on the wealthy elite at Athens. Each year certain members of the upper class were selected to command and in part to finance one of the city’s triremes. See pp. 139–40.

<sup>88</sup> [Dem.] 50.1: ὦν γὰρ τὰ μὲν ἐγκλήματα ἰδιά ἐστίν, αἱ δὲ βλάβαι κοιναί, πῶς οὐχ ὑπὲρ τούτων εἰκός ἐστιν ἀκούσαντας ὑμᾶς ὀρθῶς διαγνῶναι.

<sup>89</sup> The speaker of Lysias 14 (*Against Alcibiades*) asserts at the outset of his speech that his private enmity is compatible with the public concern of the charge. The jury needs to hear no excuse for why the speaker lodged the prosecution against Alcibiades since “he has shown himself from the beginning to be the sort of citizen that, even if someone happens not to have been wronged by him, it is no less fitting to consider him an enemy for the other things he practices” (τοιούτου γὰρ πολίτην ἑαυτὸν ἐξ ἀρχῆς παρέσχευεν, ὥστε καὶ εἰ μὴ τις ἰδίᾳ ἀδικούμενος ὑπ’ αὐτοῦ τυγχάνει, οὐδὲν ἦττον προσήκει ἐκ τῶν ἄλλων ἐπιτηδευμάτων ἐχθρὸν αὐτὸν ἡγεῖσθαι, 1). The speaker later claims that the jury would be justified in considering Alcibiades “an enemy of the state” (πατρικὸν ἐχθρὸν, 40).

<sup>90</sup> Diodorus, the speaker of Demosthenes 24 (*Against Timocrates*), describes how Timocrates attacked him on several separate occasions (6–10), but is careful to assimilate his own grievances to those of the state: “I had a quarrel with this wicked, quarrelsome enemy of the gods, with whom the whole city finally had a quarrel” (ἐγὼ γὰρ, ὦ ἄνδρες Ἀθηναῖοι, προσέκρουσ’ ἀνθρώπῳ πονηρῷ καὶ φιλαπεχθήμονι καὶ θεοῖς ἐχθρῷ, ὃ τελευταῖος ὅλη προσέκρουσεν ἡ πόλις, 6). Diodorus contends that he resolved to defend the city after he discovered Androtion’s many offenses against the public (8). The focus then shifts from the brief narrative of enmity (6–10) to concentrate on the legal issues at stake for the rest of the speech. Cf. Demosthenes 22 (*Against Androtion*), another speech for a *graphē paranomōn*, which is similar in strategy to Demosthenes 24 although from the perspective of a *synēgoros*. The speaker, the same Diodorus that delivered the *Against Timocrates*, affirms the relationship of enmity between the prosecutor and defendant, but integrates the private and public elements of his plea: “men of the jury, because Euctemon [the prosecutor] has been wronged by Androtion he thinks it right to help the city and himself at the same time” (Εὐκτήμων, ὦ ἄνδρες δικασταί, παθὼν ὑπ’ Ἀνδροτίωνος κακῶς, ἅμα τῆ τε πόλει βοηθεῖν οἶεται δεῖν, 1). At the beginning of the speech Diodorus includes a list of the prosecutions that Androtion has attempted against him (1–3), but then moves on to concentrate on the public welfare for the remainder of the speech.

also integrate his private interest with concern for the public good so that he avoids the charge of malicious litigation based on a private grievance. This rhetorical use of enmity therefore produces implicit arguments from probability about the prosecutor's character and the likelihood that he is telling the truth.

An alternative way to address the tension between public interest and private motivation was to deny enmity altogether or obscure whether or not enmity existed. Litigants employ such strategies to preempt suspicions of excessive pursuit of personal interest and to provide an opportunity for the high rhetoric of patriotism and pursuit of the city's interests. They frequently highlight their own sense of civic duty, portraying themselves as having the best interests of the state at heart and attempting to purge the city of a malefactor.<sup>91</sup> These speakers' disinterested stance protects them from being accused of pursuing an enemy maliciously.

Lycurgus employs this tactic in his prosecution of Leocrates on a rather nebulous charge of treason.<sup>92</sup> He denies enmity with Leocrates and focuses on the truth of his accusations. He prays to the gods that if Leocrates is guilty, he would be duly convicted and that, if Leocrates is innocent, he would be acquitted (1–2). Lycurgus presents himself as having only the guilt or innocence of the defendant in mind; no ulterior motives are allowed:

Men of Athens, I brought this *eisangelia* because I know that Leocrates has fled from the trials of the fatherland, has forsaken his own citizens, has entirely disregarded your power, and is guilty of the things that have been charged. I did not undertake this trial because of any personal enmity or contentiousness or anything else but because I thought it shameful to watch this man enter the marketplace and

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<sup>91</sup> Probably for these reasons, most prosecutors who deny enmity initiated public suits (Lys. 22, 26, 31; Aeschin. 3; Dem. 19, 20, 21, 23; Lycurg. 1). The inverse conclusion, that public prosecutors tend to deny enmity, is not accurate (see pp. 76–9).

<sup>92</sup> He attacks the defendant for his panicked abandonment of Athens following the city's defeat at the hands of Phillip of Macedonia in the battle of Chaeronea in 338 B.C. Leocrates, an Athenian citizen, allegedly fled the city with his family and as many of his possessions as he could carry with him, sailed to Rhodes, and later went to Megara (17–21). For reasons that are unclear, he returned to Athens and soon found himself under prosecution by Lycurgus in 330 B.C. Lycurgus is apparently unable to point out a specific law that Leocrates has violated and instead attacks him on general grounds of cowardice and disloyalty to Athens.

share in public sacrifices while he has become an affront to both the fatherland and all of you.<sup>93</sup>

He has not prosecuted because of enmity but rather because the offense actually occurred.<sup>94</sup> The legal action is grounded in fact, Lycurgus argues, not in the personal aims of the prosecutor.<sup>95</sup>

Lycurgus expands on this argument to draw general principles:

For it is the duty of a just citizen not to bring to public trials people who have done no wrong against the city because of personal enmities but to deem that those who have transgressed the laws of the fatherland in some way are one's own enemies, and that their public offenses offer public reasons for a quarrel with them.<sup>96</sup>

Once again Lycurgus focuses on truth of the accusation as the most important criteria for bringing trial. The truly civic-minded public servant will not attack personal enemies on frivolous charges but will rather view those who harm the city as harming himself.<sup>97</sup>

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<sup>93</sup> Lycurg. 1.5: ἐγὼ δ' ὦ Ἀθηναῖοι, εἰδὼς Λεωκράτην φυγόντα μὲν τοὺς ὑπὲρ τῆς πατρίδος κινδύνους, ἐγκαταλιπόντα δὲ τοὺς αὐτοῦ πολίτας, προδεδωκότα δὲ πᾶσαν τὴν ὑμετέραν δύναμιν, ἅπασιν δὲ τοῖς γεγραμμένοις ἔνοχον ὄντα, ταύτην τὴν εἰσαγγελίαν ἐποιησάμην, οὔτε δι' ἔχθραν οὐδεμίαν οὔτε διὰ φιλονικίαν οὐδ' ἠντινοῦν τοῦτον τὸν ἀγῶνα προελόμενος, ἀλλ' αἰσχρὸν εἶναι νομίσας τοῦτον περιορᾶν εἰς τὴν ἀγορᾶν ἐμβάλλοντα καὶ τῶν κοινῶν ἱερῶν μετέχοντα, τῆς τε πατρίδος ὄνειδος καὶ πάντων ὑμῶν γεγενημένον. Cf. Lys. 14.22.

<sup>94</sup> This section is composed of only one sentence with a main verb (ἐποιησάμην) and three circumstantial participles (εἰδὼς, προελόμενος, νομίσας), which explain why Lycurgus has brought his suit. He knows (εἰδὼς) that Leocrates has committed the crime in question and he believes (νομίσας) that it would be terrible to allow such a malefactor to walk the streets of Athens. On the other hand, he is not attacking Leocrates out of hatred or ambition (οὔτε . . . προελόμενος).

<sup>95</sup> Compare the denial of enmity in Lysias 31, which also emphasizes the truth of the charges: "I will make this accusation against Philon here, not at all because I am pursuing some private enmity, nor because I rely on my experience and skill at speaking before you, but rather trusting in the multitude of his offenses and thinking it right to abide by the oaths that I swore" (ἐγὼ τὴν κατὰ τουτοῦ Φίλωνος ποιήσομαι κατηγορίαν, οὐ μέντοι γε ἰδίαν ἔχθραν οὐδεμίαν μεταπορευόμενος, οὐδὲ τῷ δύνασθαι καὶ εἰωθέναί λέγειν ἐν ὑμῖν ἐπαρθεῖς, ἀλλὰ τῷ πλήθει τῶν ἀμαρτημάτων αὐτοῦ πιστεύων, καὶ τοῖς ὅρκοις οἷς ὤμοσα ἐμμένειν ἀξιῶν, 2).

<sup>96</sup> Lycurg. 1.6: πολίτου γὰρ ἔστι δικαίου, μὴ διὰ τὰς ἰδίας ἔχθρας εἰς τὰς κοινὰς κρίσεις καθιστάναι τοὺς τὴν πόλιν μηδὲν ἀδικούντας, ἀλλὰ τοὺς εἰς τὴν πατρίδα τι παρανομοῦντας ἰδίους ἔχθρους εἶναι νομίζειν, καὶ τὰ κοινὰ τῶν ἀδικημάτων κοινὰς καὶ τὰς προφάσεις ἔχειν τῆς πρὸς αὐτοὺς διαφορᾶς.

<sup>97</sup> Cf. Lysias 27 (*Against Epicrates*), where the speaker also denies enmity to make it seem probable that he cares only for the truth. Because the prosecutor accuses Epicrates of wartime profiteering at the public's expense, he would have found it contrary to his interests to claim personal enmity as the reason for his prosecution. Therefore, he denies enmity and asserts that those who prosecute their enemies in disregard for the facts subvert the justice system (8). The speaker, on the other hand, is motivated by a desire to see justice done: "the facts accuse these men, and we bear witness against them" (τούτων δὲ τὰ μὲν πράγματα κατηγορεῖ, ἡμεῖς δὲ καταμαρτυροῦμεν, 8). See Rubinstein 2000, 140, on the speaker's emphasis on his own public-spiritedness.

By denying that Leocrates is his enemy, Lycurgus defends himself against the charge of prosecuting maliciously for personal grievances. On the other hand, he leaves himself open to the accusation that he has lodged the suit as a vexatious and litigious busybody. Lycurgus addresses this issue, arguing that there is a place for disinterested public prosecutors in the Athenian legal system (3–4). If the laws are to have coercive force, someone must be willing to bring wrongdoers to account and give the jury the opportunity to punish them. It is not fair to classify as interferers all people who benefit the state as Lycurgus himself does (5–6).

Several factors made denial of enmity the preferable strategy for Lycurgus. First, Lycurgus charges Leocrates with desertion and thus places patriotism at the very center of the case. If Lycurgus had voiced strong personal motivations, he would have been out of tune with his emphasis on civic interests throughout the speech. Second, an assertion of enmity would not leave much room for Lycurgus to emphasize his restraint and moderation since Leocrates had been out of Athens for eight years and only recently returned. If Lycurgus had claimed to be an enemy of Leocrates, he would appear malevolent and quick to prosecute since he waited until the very moment his enemy returned to pounce on him. Third, Lycurgus' special position in Athens as de facto leader of the state may have made his appeals to patriotism and loyalty to the state especially plausible in the eyes of the jury. With his title of "treasurer," he had been responsible for the "Lycurgan building program" of 338–326 B.C. and so had built up a considerable amount of prestige with the people. His high profile resulting from his benefactions to the state lent credibility to his claim of prosecuting out of devotion to the good of the state.

Herman (2006, 276–7) cites the denial of enmity of Lycurgus 1 to cap his argument for Athenian intolerance of the use of the courts for private vengeance. He explains that law court speeches always apologize for suing enemies. However, Herman does not take into account the

rhetorical aspect of Lycurgus' decision-making process in this speech. Lycurgus' rhetoric about patriotism may well have fallen flat had he attempted to make the trial appear to be a private conflict between himself and Leocrates so that denial of enmity may have been the only route possible for him. *Against Leocrates* does not provide evidence for a non-feuding ethic in Athenian society in the way that Herman uses the speech. Lycurgus does not deny enmity because Athenians would have agreed that prosecuting enemies was a bad practice but rather because the particular needs of his case require it. Lycurgus employs this strategy to assert his credibility as a speaker and to create an implicit probability argument about the claims of his case.

While Herman argues that Lycurgus 1 epitomizes the Athenian non-feuding ethic, Allen (2000b) asserts that the speech is an anomaly in the corpus of Attic orators. She rightly stresses this speech's emphasis on dispassionate patriotism and points out several unusual features but goes too far in classifying a denial of enmity as "heterodox."<sup>98</sup> Allen (2000b, 12) asserts, "if we leave aside cases of official scrutiny (*dokimasia*) and cases dealing with public finance or political bribery . . . we find only two extant speeches where a disinterested prosecutor decided on his own lights to prosecute a case in which he was not personally involved: this case of Lycurgus and Lysias' *Against the Grain-Dealers*." However, it is not clear why the *dokimasiai* should be excepted, nor why Allen does not mention Lysias 27 and Demosthenes 23 (see below). Denials of enmity may be less common in the extant speeches, but they should not be dismissed as if they are simply abnormal. These speeches make use of enmity in the same ways as other

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<sup>98</sup> In the extant speeches prosecutors affirm enmity more often than they deny it (25 to 7), but the disparity is not strong enough to marginalize the denials of enmity, especially given the limited number of speeches that remain and their exceptional nature (see p. 17, 171). Allen classifies the speech as "heterodox" in reference to a thesis that she advances in her book (2000a), that prosecutors must prove that they are angry in order to punish their opponents legitimately. According to her book's model, Lycurgus 1 would be an exception to the rule. See also the analysis of Lycurg. 1 and Lys. 22 in Allen 2000a, 156–60.

speeches, that is, for probability and character arguments. The details of the case simply call for different strategies.

In addition to establishing his patriotic credentials, a denial of enmity can also help a speaker address other exigencies of his case. For instance, the speaker of Demosthenes 23 (*Against Aristocrates*) denies enmity because of his heavy emphasis on the deliberative aspect of the trial. Euthycles, the speaker, prosecutes a man named Aristocrates by *graphē paranomōn* for proposing a decree which would have granted inviolability of the body to a celebrated mercenary, Charidemus. Consequently, a large part of Euthycles' speech concerns Athenian foreign policy, namely, the issue of whether or not the state should continue availing itself of Charidemus' services.<sup>99</sup>

Euthycles casts himself in the role of the ideal volunteer prosecutor who eschews private motivation and takes only the civic interest to heart.

Men of Athens, let none of you believe that I have come to accuse Aristocrates here for any personal enmity, nor that I have witnessed some trifling mistake and am eagerly entering into a quarrel. Rather, if my considered opinion is correct, my entire goal in this matter is that you hold the Chersonese securely and not be led astray and robbed of it again.<sup>100</sup>

Euthycles denies enmity because he wants the jury to believe that he has formulated the most advantageous plan for Athenian foreign policy in the Chersonese and is not simply attacking Aristocrates. He therefore shifts the focus from his relationship with the defendant to the law

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<sup>99</sup> Euthycles' argument divides into a tripartite structure with sections on (1) the formal illegality of the decree since it contradicts other Athenian laws, (2) the inexpedient effects of continuing alliance with Charidemus, and (3) Charidemus' unworthiness to receive such benefits. Papillon (1998a, 14–18) notes that Demosthenes 23 contains elements of all three of Aristotle's genres of speaking, forensic, deliberative, and epideictic. These three elements correspond to Euthycles' three points, the illegality of the decree (forensic), its inexpedience to the state (deliberative), and Charidemus' unworthiness (epideictic) although elements of all three can be found throughout. Aristotle's formulation is helpful, but is too schematic to be applied dogmatically.

<sup>100</sup> Dem. 23.1: Μηδεὶς ὑμῶν, ὦ ἄνδρες Ἀθηναῖοι, νομίση μήτε ἰδίας ἔχθρας ἐμὲ μηδεμιᾶς ἔνεχ' ἥκειν Ἀριστοκράτους κατηγορήσοντα τουτουί, μήτε μικρὸν ὀρώντά τι καὶ φαῦλον ἀμάρτημα ἐτοίμως οὕτως ἐπὶ τούτῳ προάγειν ἑμαυτὸν εἰς ἀπέχθειαν, ἀλλ' εἶπερ ἄρ' ὀρθῶς ἐγὼ λογίζομαι καὶ σκοπῶ, ὑπὲρ τοῦ Χερσονήσον ἔχειν ὑμᾶς ἀσφαλῶς καὶ μὴ παρακρουσθέντας ἀποστειρηθῆναι πάλιν αὐτῆς, περὶ τούτου μοί ἐστιν ἅπασ' ἡ σπουδὴ.

under examination. Euthycles' lengthy arguments about the state's interests require that he avoid the appearance of prosecuting an enemy since this would cast doubt on Euthycles' reliability in giving advice on public policy.

Euthycles' denial of enmity meets another rhetorical exigency that he must face. Euthycles predicts that certain persons will argue that he did not object when other orators passed decrees concerning Charidemus but waited to bring suit against Aristocrates (187). Euthycles' opponents will assert that since he had ample opportunity to oppose Athens' policy toward Charidemus, the explanation for the present prosecution must be purely private motivation (187–9). Euthycles responds that he never desired to begrudge others (in this case, Charidemus) awards of honor but only opposed the decrees that were clearly against the state's interests, such as the one proposed by Aristocrates (188–9). He falls back on the theme of patriotism once again.

I believe that to speak against honors which that man could receive without being likely to harm the city severely is the act of one who has a private grievance or who behaves like a sycophant but to oppose the matters in which he prepared a great harm to the city is the act of a good and patriotic man. For these reasons I am speaking now although I said nothing previously.<sup>101</sup>

Euthycles denies enmity to help him preempt possible objections to his motivation for prosecuting.

Speeches that admit enmity cursorily or deny it altogether typically put a twist on the issue of the enmity by asserting that the only enmity is actually between the defendant and the state.<sup>102</sup> An example of this is Lysias 22 (*Against the Retailers of Grain*) in which the speaker accuses several metics of profiteering through the grain trade. He asserts that they have interests that are opposite to those of the city, delighting in Athens' misfortune because it brings opportunity for

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<sup>101</sup> Dem. 23.190: καὶ νομίζω τὸ μὲν, οἷς ἔμελλον ἐκεῖνος λαβῶν μηδὲν ὑπερμέγεθες τὴν πόλιν βλάψειν, ἀντιλέγειν ἢ κακῶς ἰδίᾳ πεπονθότος ἢ συκοφαντοῦντος εἶναι, τὸ δέ, ἐφ' οἷς μέγα πρᾶγμα ἀλυσιτελὲς τῇ πόλει κατεσκευάζετο, ἐναντιοῦσθαι χρηστοῦ καὶ φιλοπόλιδος ἀνδρὸς ἔργον εἶναι. διὰ ταῦτ' ἐπ' ἐκεῖνοις οὐδὲν εἰπὼν νῦν λέγω.

<sup>102</sup> Lys. 12.2, 13.1, 14.40, 31.11; Aeschin. 1.2; Lycurg. 1.6; Dem. 24.1–2, 8.

profit (14). The grain dealers have acted as enemies toward the city: “they have carried their enmity so far that they plot against you at the same opportunities as your enemies.”<sup>103</sup> The speaker highlights his own patriotic motivations, denying that any personal motivation is behind his prosecution.<sup>104</sup> The defendants appear to be at odds with the interests of the city while the speaker has left his own personal concerns far behind.<sup>105</sup>

It is clear by now that prosecutors had multiple options for how to present enmity with their opponents. Although the type of procedure (public or private) chosen by the prosecutor can influence his choices on how to present his relationships with his opponent and how to employ rhetorical devices,<sup>106</sup> it does not necessarily determine how a litigant will employ enmity. Litigants had flexibility to shape their presentation of enmity according to their specific needs.

Nevertheless, some attempts to find a direct connection between procedure and the use of enmity for motivation. For instance, Kurihara (2003, 466) has argued that Athenians had “the normative expectation that public suits should not be motivated by private enmity.”<sup>107</sup> He asserts

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<sup>103</sup> Lys. 22.14–15: εἰς τοῦτ' ἔχθρας ἐληλύθασιν, ὥστ' ἐν τοῖς αὐτοῖς καιροῖς ἐπιβουλεύουσιν ὑμῖν, ἐν οἷσπερ οἱ πολέμιοι.

<sup>104</sup> Apparently, the speaker had already been accused of a conflict of interest when this case had been before the Council, of which the speaker was a member. He spends the first sections of his speech explaining that he prosecuted the grain dealers to counter the accusation that he had tried to protect them when the Council was deliberating over their crimes. Evidently, because he had suggested that the Council hand them over to be tried in court rather than give them to the Eleven for summary execution, several people accused him of complicity in the grain dealers' corrupt conduct (1–4).

<sup>105</sup> [Lysias] 6 is another candidate for such a denial of enmity in a public case. Since the speech was delivered by a *synēgoros*, the explicit denial of enmity would probably have occurred in the original prosecutor's speech. [Lysias] 6 does, however, allude to such a denial: “you are not overturning the agreements, if Andocides pays the penalty for his private wrongdoings, but rather if someone takes private vengeance on another because of public misfortunes” (οὐ γὰρ τοῦτο λύειν ἐστὶ τὰ συγκείμενα, εἰ Ἀνδοκίδης ἔνεκα τῶν ἰδίων ἀμαρτημάτων δίδωσι δίκην, ἀλλ' ἐάν τις ἔνεκα τῶν δημοσίων συμφορῶν ἰδίᾳ τινὰ τιμωρῆται, 41). The speaker asserts that Andocides is under prosecution for committing actual acts of wrongdoing and is not being attacked for private motives on trumped up charges. This is, in fact, one of the very arguments that Andocides would make (1.1, 4).

<sup>106</sup> Rubinstein (2004) notes that scholars have to some extent neglected to investigate “to what extent the choice of a particular procedure imposed limitations on the rhetorical strategy of the litigant” (187). She emphasizes that speakers use different strategies depending on whether the court action is public or private.

<sup>107</sup> Christ (1998a: 157–9) comes to similar conclusions, though he only mentions two speeches (Lycurg. 1, Dem. 23) and does not attempt a thoroughgoing analysis. Cf. Rubinstein 2000, 180.

that public prosecutors normally deny enmity as a motivation although he notes several exceptions throughout the article. Lysias 12 (*Against Eratosthenes*), Lysias 13 (*Against Agoratus*), Lysias 14 (*Against Alcibiades I*), and Lysias 15 (*Against Alcibiades II*) admit private enmity with their defendants and tie this motivation to their desire to benefit the city (468).<sup>108</sup> Kurihara (2003) argues that in the case of Lysias 14 and 15, the speakers took advantage of “their relatively free position as *συνήγοροι*” in admitting their personal hatred for the defendant. Because in Demosthenes 22 (*Against Androtion*), another exception to the rule, the speaker is again a *synēgoros*, Kurihara can put this oration in the same category.<sup>109</sup> This speech is related to a later lawsuit, Demosthenes 24 (*Against Timocrates*),<sup>110</sup> in which Diodotus, the speaker of the *Against Androtion*, prosecutes Timocrates, an associate of the same Androtion who was the defendant in the former case.<sup>111</sup> Kurihara explains that Diodotus, although now the chief prosecutor and not a *synēgoros*, admits enmity in the *Against Timocrates* because as a result of the previous prosecution, it is now too obvious to deny. Similarly, Aeschines in *Against Timarchus* cannot deny the manifest rivalry between himself and Demosthenes with any degree of plausibility (470–2).

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<sup>108</sup> The procedure of Lysias 12 is not known for sure, but was probably a *euthynai*. Lysias 13 was an *apagogē*. The procedures of the related speeches, Lysias 14 and 15, are uncertain, although they were certainly public since they concerned dereliction of military duty.

<sup>109</sup> However, in the first section the speaker affirms that the original prosecutor was also at enmity with the defendant.

<sup>110</sup> The text of the article actually reads: “The same two, Diodotus and Euctemon, impeached Timotheus in a public suit for the proposal of an illegal decree (*graphē paranomōn*). According to Diodotus, Timotheus was bribed to propose an illegal decree for Androtion” (Kurihara 2003, 470). But “Timotheus” seems to be a mistake for the “Timocrates” of Demosthenes 24, who fits this description. The oration, *Against Timotheus* ([Dem.] 49), was probably written by Apollodorus, is a private suit, and has nothing to do with the characters of Demosthenes 22.

<sup>111</sup> Both Demosthenes 22 and 24 are speeches for a *graphē paranomōn*.

Three speeches by Apollodorus ([Dem.] 53, 58, 59)<sup>112</sup> are further exceptions since they all contain very explicit affirmations of enmity with the defendants.<sup>113</sup> Kurihara notes that these orations were delivered by private citizens and posits that the normative rule that discouraged prosecutors from bringing up their personal relations with the enemy applied less decisively to such private citizens. Finally, Kurihara discusses Demosthenes 21 (*Against Meidias*) and two previously mentioned speeches of Lysias (12 and 13). All of these share the characteristic that the injuries to the litigants were injuries that would arouse anger both in the victims and in the public. According to Kurihara, this blending of public and private anger makes the admission of enmity possible (473–6).

The categories proposed in this article are not very clearly defined. By this reasoning public speakers who were very well known to the public could admit enmity because it was obvious (Dem. 24, Aeschin. 1) while private speakers who were unknown were also free to admit enmity ([Dem.] 53, 58, 59). Purportedly, *synēgoroi* could take advantage of their position to admit enmity, but in the only extant set of paired speeches for a public prosecution, it is the prosecutor himself, not the *synēgoros*, who admits enmity with the defendant ([Dem.] 59). Further, Kurihara discusses how the particular situations of different cases affected whether or not a prosecutor could affirm enmity with an opponent, thereby supporting the position that many more factors than procedure went into the decision-making process. In any case, a dominant pattern in the extant orations apparently does not exist. Of the nineteen public prosecution speeches with references to enmity that Kurihara (2003, 466 n.11) cites at the

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<sup>112</sup> [Demosthenes] 53 is an *apographē*, [Demosthenes] 58 an *endeixis*, and [Demosthenes] 59 a *graphē* prohibiting marriage between foreigners and Athenian citizens.

<sup>113</sup> Although most of the text of [Demosthenes] 59 is a *synēgoria* by Apollodorus, the affirmation of enmity actually comes from the main prosecutor, Theomnestus. Contrary to the idea that *synēgoroi* are more free to admit enmity, Apollodorus, the *synēgoros*, does not focus on enmity nearly as explicitly as does Theomnestus.

beginning of the article (Lys. 12, 13, 14, 15, 22, 26, 31; Aeschin. 1, 3; Dem. 19, 20, 21, 22, 23, 24, 53, 58, 59; Lycurg. 1),<sup>114</sup> ten of them have turned out not to follow the pattern (Lys. 12, 13, 14, 15; Aeschin. 1; Dem. 22, 24, 53, 58, 59). In fact litigants make the decision to affirm or deny enmity based on a variety of factors that are particular to their cases, with the result that a division between speeches intended for public and private procedures is too schematic and does not account for the multiplicity of exigencies that influence rhetorical strategies.

### **Enmity in Private Disputes**

Speakers in private disputes are slightly more uniform in their use of enmity than those in cases that address public issues. These prosecutors usually affirm and almost never deny that those whom they are prosecuting are their enemies. This follows naturally from the facts of the case. A private suit presupposes a hostile relationship which has come to court since the two litigants are the antagonists in the dispute. Still, litigants had the flexibility to attempt different strategies and present their relationships in different ways. At least one prosecutor in a private suit denies enmity (Dem. 41, see below) and others vary their techniques according to what they attempt to prove (e.g., Lys. 23; Dem. 39, 47). Many private prosecutors simply omit the issue all together.<sup>115</sup>

Although these speakers typically affirm enmity, in most cases, especially those that concern money, property, or kinsmen, plaintiffs conspicuously confine their narratives to the dispute in question, avoiding details about their relationship before the altercation that precipitated the trial.<sup>116</sup> When money or property is at issue, a prosecutor will of course not want to employ a long narrative of enmity to prove that he is not out for monetary gain (as, for

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<sup>114</sup> Kurihara 2003, 466 n. 11.

<sup>115</sup> Isae. 3, 6; Dem. 27, 28, 30, 31, 44, 56; [Dem.] 46; Hyp. 5.

<sup>116</sup> Lys. 32; Isocr. 17, 21; Isae. 5; Dem. 40, 48; [Dem.] 49, 50.

instance, many public prosecutors do) since this is precisely what he is after. Rather, the litigant will prefer to concentrate on proving that the money or property in question belongs to him. In the case of litigation with kinsmen, a prosecutor would be reticent to admit longstanding hatred for family members because this would reflect badly on his character (Christ 1998a, 167–73). In addition to these factors, litigants in private suits simply had less time to deliver their speeches than public prosecutors. This fact alone may have discouraged lengthy narrative digressions on the history of hostile relationships.

Like the speeches previously discussed, private orations employ enmity to create probability arguments about their cases. Isocrates 17 (*Trapeziticus*), a private case concerning money, provides an example of how a prosecutor can develop probability arguments from a narrative of enmity with a scope limited to the dispute in question. The speaker, a young man from the Bosphorus (modern day Crimea), accuses his banker, Pasion, of defrauding him.<sup>117</sup> Pasion made pretenses to goodwill in offering to help deceive the king of Bosphorus, a local ruler who was after the speaker's money, but was in fact plotting against him (8). The speaker emphasizes that Pasion was deliberately trying to deceive him throughout the whole affair (8–9). After the danger from the king of Bosphorus had passed, Pasion kept the money and hid his slave Cittus, who had witnessed the transaction, in order to prevent the speaker from gaining access to him. Later, Pasion deceived the speaker by telling him that he would return the money after they had sailed to the Black Sea together and appeared before Satyrus, the ruler of Bosphorus, to reach a settlement (18–22). In the meantime, however, Pasion had the contract of agreement altered so that he was released of all obligations. He accordingly reneged on his promise and refused to sail

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<sup>117</sup> Pasion (d. 370/69) was the most famous banker of classical Athens and also the father of Apollodorus, the orator. The title of the speech ("The Banker," *Trapeziticus*) derives from Pasion's profession. On Pasion, see Schäfer 1949; Bogaert 1968; Trevett 1992, 1–11, 155–65.

to the Black Sea (23). This conflict has evidently been going on for some time although the speaker only begins narrating from the point at which the dispute that has come to trial originated.<sup>118</sup>

Lest he appear the aggressor in this quarrel, the speaker carefully presents Pasion as plotting against and maliciously betraying him although he had done nothing to provoke such treatment. Pasion made his schemes from the beginning (8, 9), spirited away the slave Cittus (10–12), deceitfully promised that he would return the money (18), and finally betrayed him on the voyage to the Black Sea (23). The speaker, however, acted with considerable restraint and even naiveté.<sup>119</sup> He believed at first that Pasion intended to help him in his dire circumstances out of goodwill (δι' εὐνοίας, 8). Even after he had been cheated several times, the speaker was willing to believe the best of Pasion when Pasion approached him with a proposal “because I thought that he felt sorry for the things he had done, I conceded.”<sup>120</sup> The speaker even implies that he induced his friend to drop a lawsuit after Pasion begged him to do so (21–22).

The nature of the prosecution provided the reason for the speaker’s emphasis on his personal involvement. Because this trial concerns a sum of money, the jury will naturally be suspicious of the plaintiff’s motives. Desire for pecuniary gain could easily drive malicious prosecutors to attempt to defraud others, especially rich bankers like Pasion. Since the speaker would like to avoid the charge of sycophancy, he finds it salutary to place special emphasis on his personal involvement and to portray his hatred for the defendant as an important part of his

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<sup>118</sup> Their feud had evidently found at least one expression in court before this trial, as the speaker’s friend Menexenus sued Pasion, demanding the surrender of the slave Cittus (21).

<sup>119</sup> This speech could be another example of a litigant who paints an unflattering portrait of himself, subordinating his esteem in the eyes of the jury to his desire to support his claims and to win the trial. See pp. 29–30.

<sup>120</sup> Isoc. 17.18: ἡγούμενος δ' αὐτῷ μεταμέλειν τῶν πεπραγμένων συνεχώρου.

reason for prosecuting. This prepares the way for the argument near the end of the speech against the presumption that the speaker is acting as a sycophant (46, 56).

The narrative of the hostility between Pasion and the speaker also provides a version of events that serves as the basis for another probability argument. The speaker can now conclude that the facts of the case make it unlikely that he would pursue a false charge:

Is it more likely that I while I was in such straits would make an unjust charge, or that Pasion, because of the magnitude of my misfortunes and the amount of money, would be spurred on to rob me? Who ever reached such a degree of sycophancy that while he was in physical danger himself he would plot against the possessions of another?<sup>121</sup>

This explicitly developed probability argument occurs late in the speech and relies on the character portrait of the two parties already developed in the narrative portion. The jury is now conditioned to accept that the speaker typically exercises restraint and at the time of the dispute was already preoccupied with other problems, while Pasion is aggressive and ready to make enemies for his own personal profit. If the speaker had not impressed upon his listeners this portrait of Pasion's character, the reasoning of section 46 would lack force. The account of the enmity is the indispensable foundation for this argument from probability.

Isaeus 5 (*On the Estate of Dicaeogenes*) also contains a narrative of a hostile relationship that is limited to description of the altercation that is on trial. The history of the case is complex and will not be explained here except in its barest details. The entire dispute revolves around the will of Dicaeogenes II, who was survived by four daughters but no sons. After Dicaeogenes II's death his uncle, Proxenus, produced a will that named his own (Proxenus') son, Dicaeogenes III, posthumous heir to one-third of the estate. Dicaeogenes III later produced another will that made

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<sup>121</sup> Isoc. 17.46: Καίτοι πρότερον εἰκὸς ἔμ' ἐν τοσοῦτοις ὄντα κακοῖς ἀδίκως ἐγκαλεῖν, ἢ Πασίωνα καὶ διὰ τὸ μέγεθος τῶν ἡμετέρων συμφορῶν καὶ διὰ τὸ πλῆθος τῶν χρημάτων ἐπαρθῆναι τὴν ἀποστέρησιν ποιήσασθαι; Τίς δὲ πώποτ' εἰς τοσοῦτον συκοφαντίας ἀφίκεθ' ὥστ' αὐτὸς περὶ τοῦ σώματος κινδυνεύων τοῖς ἀλλοτρίοις ἐπιβουλεύειν;

him heir to the entire estate. Ten years later, the sons of the four daughters of Dicaeogenes II had reached a more mature age and decided to dispute the will. Isaeus 5 was composed for those grandsons of Dicaeogenes II, who attempted to reclaim their portion of the estate from Dicaeogenes III.<sup>122</sup>

The speaker begins his narrative with the genealogy of the family (5) and proceeds quickly to Dicaeogenes III's machinations to acquire the entire estate (8). He details how Dicaeogenes III treated his family members with *hybris* (11) but confines his description to the history of the dispute at hand. The narrative of enmity is in fact integrated into the entire narrative of the dispute. As the speaker explains the history of the case, he takes every opportunity to point out how Dicaeogenes III has treated his kinsmen like enemies. This theme works well with the rhetorical purposes of the speech since the speaker wants the jury to believe that Dicaeogenes III is the sort of person who would forge a will in an attempt to defraud his family. The narrative of enmity, which details his evil character, supports this proposition.

Although it is common for a private prosecutor to confine his description of a relationship of hatred with his opponent to the events on trial, such a plaintiff will include the wider context when it suits his purposes. For instance, in Demosthenes 39 (*Against Boeotus*) a long history of hatred with the defendant is instrumental to the speaker's case. The speaker, Mantitheus, is prosecuting another man for using his name and patronymic. In order to make Boeotus (as the speaker claims his opponent is named) appear to be the sort of malicious rogue who would attempt the ancient equivalent of identity theft,<sup>123</sup> Mantitheus expands his narrative of enmity to

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<sup>122</sup> Technically, Isaeus 5 is a prosecution speech not against Dicaeogenes III, but against Leochares, who had agreed to be the surety for Dicaeogenes III's estate. The grandsons of Dicaeogenes II had secured their rights as heirs of the estate, but found that after more than twenty years had elapsed, much of the property had been sold or mortgaged. They sued Leochares to reclaim an equivalent amount.

<sup>123</sup> Mantitheus asserts that Boeotus has already given him reason to be ashamed by his posing (19).

include other examples of Boeotus' attacks on him. Mantitheus claims that Boeotus has sued him more than once for sums of money (25), thus proving himself a sycophant (26). Mantitheus asks Boeotus to stop bringing sycophantic prosecutions against him (παῦσαι δ' ἐμὲ συκοφαντῶν, 34) and treating him as an enemy (μὴ ἔχ' οὕτω πρὸς ἡμᾶς ἐθελέχθῳ, 36). Mantitheus narrates the broader background of their relationship of enmity because he must prove that Boeotus has been acting like his enemy.<sup>124</sup>

A prosecutor in a private suit may also deny enmity if it supports his case. The plaintiff in Demosthenes 41 (*Against Spudias*) carefully avoids portraying himself as a long-standing enemy of the defendant. He begins by protecting himself from the potentially damaging charge of prosecuting a relative maliciously. On the contrary, it is Spudias' intransigence and pettiness that have forced the issue to trial. The speaker asserts that because he and Spudias are related, they have many common friends who would happily arbitrate the dispute so that they all might avoid the embarrassing situation of brother-in-laws appearing as opposing litigants in the court room. Yet Spudias disdained even to discuss the matter and refused to submit to arbitration (1–2).

The speaker anticipates that Spudias will attempt to portray the whole affair as a malicious attack. He sidesteps this problem, focusing on the individual merits of the case at hand: “men of the jury, first of all I do not think that a defense of this sort is just, nor that it is fitting for someone, when he is clearly convicted of a crime, to change the charges and to make accusations

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<sup>124</sup> Another example is Demosthenes 47 (*Against Evergus*), in which the speaker, Stephanus, employs a narrative of enmity which includes incidents not strictly related to altercation immediately preceding the trial. Because he prosecuted Evergus with a *dikē pseudomartyrias* (a prosecution for bearing false witness against him in a previous trial), Stephanus finds it salutary to provide a motivation for Evergus to have desired that Stephanus be convicted fraudulently. Likewise, the speaker of Lysias 23 (*Against Pancleon*) explains that he was at enmity with the defendant for a long time and did detective work to find out about him (2–11). The speaker must show how he found out that Pancleon was in fact a non-citizen and why he would have gone to such lengths to get the whole story.

and slanderous remarks.”<sup>125</sup> The speaker avoids the issue of enmity and focuses on the charges themselves.

The speaker denies enmity probably because he wants to avoid seeming malicious in prosecuting for an apparently minor sum of money.<sup>126</sup> However, this rhetorical strategy also supports a key part of the speaker’s argument. If longstanding enmity had existed between the two litigants, this would undermine the claim that they had many common friends to whom they could appeal without difficulty. While a hostile relationship could divide people into blocs with supporters and antagonists, two relatives who had not formerly quarreled should have been able to find common friends to whom they could submit their dispute.<sup>127</sup> The speaker must deny enmity in order to argue that Spudias has been vexatious in refusing to settle this matter out of court and thus to repudiate the assumption that the prosecution is a product of personal antagonism.<sup>128</sup>

Additionally, the absence of enmity between these two litigants supports a probability argument about the papers left by the wife of Poyeuctus which stated that Spudias owed twenty minae to the estate. The speaker claims that Spudias was present when they recognized the seal on the papers as authentic, opened the seal, and later resealed them. Spudias himself therefore bears witness to the truth of the speaker’s claims (20). If he believed that something was amiss, Spudias should have stated it at that time.

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<sup>125</sup> Dem. 41.13: ἐγὼ δ', ὧ ἄνδρες δικασταί, πρῶτον μὲν οὐχ ἡγοῦμαι δικάϊαν εἶναι τὴν ἀπολογίαν τὴν τοιαύτην, οὐδὲ προσήκειν, ὅταν τις φανερώς ἐξελέγχηται, μεταστρέψαντα τὰς αἰτίας ἐγκαλεῖν καὶ διαβάλλειν.

<sup>126</sup> However, once the plaintiff establishes that enmity is not the motivating factor, the relative unimportance of the money at issue may also provide a built-in defense against the accusation of sycophancy. Those who attempt to make financial gains by their prosecutions would typically bring others to trial for large sums of money, so that it would be in the defendant’s interest to pay off the blackmailer for a smaller sum and avoid the trial.

<sup>127</sup> See Chapter 4 on the tendency of Athenians to share friends and enemies.

<sup>128</sup> The speaker harps on the theme of Spudias refusing reasonable arbitration (1–2, 7, 10, 11, 14–15, 29–30).

All of us are accustomed not to keep silent about charges that are neither true nor just but rather to dispute them immediately. If they do not do this but contest them later, they seem to be wicked men and sycophants.<sup>129</sup>

The speaker asserts that if Spudias had a real grievance, he would have said so right there. That Spudias never disputed the papers accords well with the speaker's denial of enmity since one would expect that hostility would have resulted had Spudias objected to the will long ago. Thus the absence of enmity between the two lends credence to the speaker's claim that Spudias had never disputed the documents in question.

Prosecutors in private suits will use whatever rhetorical strategy is available to them that will help them make arguments about their cases. Most plaintiffs affirm enmity and limit the scope of their narratives to the dispute in question, but a few found it beneficial to approach the issue from a different angle, such as denying enmity or expanding the narrative to demonstrate the wider context. One thing remains constant, however. Enmity functions in a way that integrates with each litigant's claims to form probability arguments, character arguments, and assertions about the truth of the charges.

### **Conclusion**

The reasons that prosecutors portray enmity as they do are discoverable and are tied to the exigencies of the individual cases and the strategies that speakers wish to employ. Prosecutors typically affirm or deny a longstanding hostile relationship with their opponents in order to portray their opponents' character in a certain light, to claim credibility for their prosecution, or to create other arguments from probability. Therefore, the rhetorical use of enmity does not constitute a claim to legitimacy in its own right but is connected to litigants' specific assertions about the truth of their version of the facts.

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<sup>129</sup> Dem. 41.23: πάντες ἄνθρωποι πρὸς τὰ μήτ' ἀληθῆ μήτε δίκαια τῶν ἐγκλημάτων οὐ κατασιωπᾶν, ἀλλὰ παραχρημ' ἀμφισβητεῖν εἰώθαμεν, μὴ ποιήσαντες δὲ ταῦτ', ἂν ὕστερον ἀντιδικῶσι, πονηροὶ καὶ συκοφάνται δοκοῦσιν εἶναι.

Attention has been drawn to certain patterns that emerge in connection with prosecutors' decisions on whether to affirm or deny enmity and, if they affirm it, how to portray it. These patterns are useful for showing how considerations such as procedure, the nature of the offense, and the character of the opponent can influence the presentation of a plaintiff's hatred for the defendant. However, the patterns are not rigid and consistent enough to make it easy to predict exactly which strategy a prosecutor will choose. Yet it is clear that prosecutors use enmity in many different ways and tie it into their arguments about the case. Enmity is not an example of an "extra-legal" argument whereby litigants appeal to social norms to win over the jury without reference to the facts of the case. On the contrary, the function of enmity in these orations is grounded in the legal arguments about the truth of each speaker's version of the facts.

This conclusion creates problems for scholars who use affirmations and denials of enmity in the Attic orators to come to conclusions about the dominant norms of Athenian society. For instance, Herman (2007) states, "had the majority of Athenian law-court speakers attempted to swing the dikasts in their favor by swaggering round demanding respect and breathing vengeance, I would have concluded that Athens should indeed be grouped together with feuding, 'primitive' or Mediterranean societies." But the Attic orators do not attempt to "swing the dikasts in their favor" simply by asserting that they are at enmity with their opponent or that they are not.<sup>130</sup> They affirm or deny enmity based on how they plan to make implicit arguments of probability about the facts of the case. Thus Athenian society cannot be classified as either feuding or non-feuding based on whether prosecutors more often admit or deny hatred for their

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<sup>130</sup> The simple fact that some prosecutors affirm enmity while others deny also calls this interpretative method into question. The motif of restraint in the face of an oppressive enemy does recur in the extant orations, but this is a result of the legal setting. If an offense is on trial, it presupposes that no retribution for the crime has taken place. Litigants desire to portray themselves as exercising restraint in order to paint their opponents' behavior as utterly repugnant and to make it seem less likely that they are bringing a frivolous suit, as this is not a characteristic action of one who exercises restraint in regard to his enemies.

opponents. The reasons for how prosecutors portray enmity are complex and tied to the details of the case; they do not simply reflect a standardized code.<sup>131</sup>

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<sup>131</sup> Cohen also frequently assumes that a litigant's affirmation or denial of enmity demonstrates social approval for such behavior, so that his model suffers from the same problems as Herman's.

### CHAPTER 3 ENMITY IN DEFENSE SPEECHES

In many ways a defendant has more limited options for affirming or denying enmity than a prosecutor since the latter chooses the procedure for the court action and speaks first at the trial. The prosecutor sets the tone for the entire debate and forces the defendant to address the arguments presented in his speech.<sup>1</sup> The defendant is left with the task of attacking the prosecutor's points individually and opposing his argument as a whole. He must either challenge specific points in his opponent's account of events to establish a version of the story that supports his own position or reject entirely the notion that there is a story worth telling.<sup>2</sup> In either case the defendant must respond to the prosecutor.

In accordance with this general principle, defendants employ the rhetoric of enmity in ways that correspond to its use in prosecution speeches. Affirmations and denials of long-standing relationships of hostility typically function, either explicitly or implicitly, as part of a probability argument. This frequently takes the form of character argument both about the defendants themselves and their opponents. While prosecutors often narrate their feuds with defendants in order to condition the jury to believe that such people are likely to commit the crimes of which they are accused, a defendant will use enmity to attack the credibility of his opponent and imply that he is not worthy of trust. By accusing him of pursuing a longstanding hostility the defendant can engender suspicion in the jury that the prosecutor is likely to bring

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<sup>1</sup> Some defendants actually complain that the prosecutor has an advantage in speaking first (e.g., *Andoc.* 1.6; *Lys.* 7.3).

<sup>2</sup> Johnstone (1999, 54–60) calls these “counternarratives” and “antinarratives.” In a “counternarrative” the defendant challenges key elements of his opponent's story to give it a new interpretation. In an “antinarrative” the defendant argues that the story is a complete fabrication or does not contain an offense worthy of appearing before the jury courts.

trumped up charges. Likewise, if the defendant can demonstrate that his opponent has already brought suit on false grounds and been caught doing so, he can cast doubt on his credibility.

As noted in the previous chapter, prosecutors frequently attempt to avoid two extremes, attempting to find a middle ground between appearing totally disinterested and excessively motivated by private hatred. The former will leave them open to suspicions of sycophancy, while the latter might cause them to come under suspicion of prosecuting a trumped up charge out of belligerent antagonism. A defendant will naturally attempt to push his opponent towards one or the other of the extremes. He may deny enmity with the prosecutor and thus portray him as a sycophant, or he may affirm enmity and depict the prosecutor as a malicious attacker driven by envy and spite. No matter which way they choose to present their opponents, defendants consistently use the rhetoric of enmity to undercut the credibility of the opposition and to lend authority to their own claims. These strategies, therefore, are intended to convince the jury of the truth or falsehood of competing versions of events.

In the following section (“Attacked by Enemies”) several speakers in defense trials will be shown to employ affirmations of enmity with their prosecutors so that they may depict them as malicious attackers who have produced trumped up charges in disregard of the truth. The next section (“Denying Motive for Assault”) will offer an analysis of defense speeches in trials concerning an alleged physical attack against another. These litigants deny enmity with their opponent or, if it is a homicide trial, with the deceased man in order to deny that they had any motive to commit the crime. The final section (“Attacked by Sycophants”) illustrates how a defendant could deny that his opponent was an enemy and portray him as a sycophant who prosecutors innocent people maliciously. Throughout this chapter, as in Chapter 2, attention will

be drawn continually to how litigants consistently employ enmity to make arguments from probability about the facts of the case.

### **Attacked by Enemies**

Most of the extant defense speeches that address the issue of enmity affirm it. Speakers in these cases typically narrate their hostile relationships to emphasize the malice and spitefulness of those who have prosecuted them. Chapter 2 demonstrated that prosecutors often affirm enmity to prove that they have a personal stake in the case although they are careful to avoid portraying themselves as excessively eager litigants. Naturally, then, a defendant who affirms enmity will push his opponent toward the extreme claiming that he has been motivated entirely by desire for private revenge. This strategy, if successful, would cause the jury to question the prosecutor's reliability as a speaker since he may well be distorting the facts to obtain his own ends.

In suits that directly concern the interests of the city, defendants frequently assert a longstanding hostile relationship with their opponent. The previous chapter pointed out that plaintiffs tend to downplay personal enmity when prosecuting for offenses with a special public dimension such as any offense that occurred during the oligarchic regime of the Thirty, *dokimasiai* for public speakers, suits for military dereliction, and *graphai paranomōn* (Chapter 2, "Matters of State"). In some public cases prosecutors even deny enmity altogether to avoid the appearance of being motivated primarily by private considerations when the offense on trial is one of special public importance (Lys. 22, 27; Dem. 23; Lycurg. 1). On the other hand, defendants in such cases affirm enmity and focus on it, attempting to show that their prosecutors are attacking them out of dishonest motivations and are bringing false charges. An example of this is Lysias 9 (*For the Soldier*), in which an Athenian hoplite defends himself against a charge

of slandering several generals, an offense punishable at Athens by a fine (*epibolē*).<sup>3</sup> To attack the generals' motives in bringing a public suit, the speaker attempts to portray the generals as attacking him maliciously out of envy and spite despite the public nature of the trial, which concerned the proper conduct for soldiers in the Athenian army, an important concern for the state's interests.

In the prooemium the speaker depicts the generals as prompted to lodge the suit because of their personal desire to slander him: “they tried to slander me”; “they think that because of your ignorance you will be persuaded by their slander to vote against me”; “because my opponents are slandering me.”<sup>4</sup> The speaker asserts that they attack him because they “despise the point at issue.”<sup>5</sup> After a short narrative detailing how the speaker did not commit any crime (4–7), he states that the clerks of the treasury (*tamiai*) declared him innocent (7). These clerks allegedly recognized the true reason behind the generals' accusations: “they said that it was not fitting to indict citizens out of personal enmities.”<sup>6</sup> Thus, the speaker charges the generals with pursuing personal grievances and making accusations which have no basis in fact.

After describing the events that led to trial (4–7) and making an argument about the specifics of the law in question (8–12),<sup>7</sup> the defendant proceeds to explain the generals' pretext for the way they have treated him (13–18). He emphasizes both that they had no good reason for

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<sup>3</sup> The procedure that the generals employed is *apographē* (see p. 49 n. 34), whereby they listed certain of the soldier's possessions which were liable to confiscation to defray his debt to the state. The

<sup>4</sup> Lys. 9.1: μου ἐπεχείρησαν διαβάλλειν ; Lys. 9.2: οἴονται δι' ἄγνοιαν ὑπὸ τῶν διαβολῶν πεισθέντας καταψηφιεῖσθαι μου; Lys. 9.3: διαβαλλόντων δέ με τῶν ἀντιδίκων.

<sup>5</sup> Lys. 9.2: καταφρονήσαντες ἀλλὰ τοῦ πράγματος. The speaker points out that the generals should not slander his character but actually prove that he had done wrong. The trial, he contends, is about a charge for an offense (περὶ τοῦ ἐγκλήματος, 3), not about his manner of living (οὐ περὶ τοῦ τρόπου).

<sup>6</sup> Lys. 9.7: διδάσκοντες ὡς οὐκ ἐπιεικὲς εἶη τῶν πολιτῶν τινὰς διὰ τὰς ἔχθρας ἀναγράφεσθαι.

<sup>7</sup> The defendant argues that the generals had unfairly called him up for military duty and that he had never spoken ill of the generals in a venue prohibited by law.

hating him and that they attacked him repeatedly and without cause. The speaker's friendship with a man named Sostratus started the enmity presumably because Sostratus and the generals were already at odds. However, the defendant had given the generals no reason to hate him since in his special position he "neither took revenge on an enemy nor favored a friend."<sup>8</sup> The odium he incurred from the generals was, he asserts, unjust: "on account of the events I have already related they were strengthened in their anger although they had no reason for enmity."<sup>9</sup> In spite of the oath that the generals had sworn not to enlist men who had already served in the army, they perjured themselves and enlisted the defendant, knowing that he had already performed his duty (15). Indeed, the speaker asserts that integrity and truthfulness were the farthest things from the generals' minds. They were consumed with hatred: "they thought nothing of justice, but exerted themselves to harm me in any way."<sup>10</sup>

Harris (2005: 127) cites Lysias 9 to challenge Cohen's conclusion that "help your friends and harm your enemies" was a dictum to which the ancient Greeks universally ascribed. Harris points to the speaker's statement that he did not take vengeance on his enemies while he served in public office (Lys. 9.14). Yet, the study of the rhetorical purposes of enmity offered above demonstrates the problems with this type of analysis. The speaker does not necessarily deny the legitimacy of the motto of helping friends and harm enemies (cf. 20; see below), but rather presents himself as moderate and restrained in order to make his prosecutors appear malicious. Lysias composed the statement at section 14 as part of an implicit character argument and not as

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<sup>8</sup> Lys. 9.14: οὐτ' ἐχθρὸν ἐτιμωρησάμην οὔτε φίλον εὐηργέτησα.

<sup>9</sup> Lys. 9.15: τὴν μὲν οὖν ὀργὴν διὰ τὰ προειρημένα συνεστήσαντο, προφάσεως οὐδεμιᾶς πρὸς ἐχθραν ὑπαρχούσης.

<sup>10</sup> Lys. 9.16: κατολιγώρησαντες δὲ τοῦ δικαίου, βιαζόμενοι βλάπτειν ἐξ ἅπαντος <τοῦ> λόγου.

a commentary on contemporary morals.<sup>11</sup> This character evidence about the generals supports the proposition that they would bring totally frivolous charges against an enemy. The speaker details how their unjust anger urged them to attack him without cause and thereby attempts to make it seem improbable that their accusation can be trusted. The narrative concludes with an assertion of the speaker's innocence: "after bringing me to court again on the same charges they denounce and slander me although I have done nothing wrong."<sup>12</sup> The generals are pursuing a private vendetta with an unreasonable prosecution of an innocent non-feuding individual.

It is clear from this speech that a simple affirmation of enmity by a prosecutor will not in itself lend credence to a prosecution since defendants can affirm enmity just as prosecutors. The rhetoric of enmity must function within a litigant's overall argument. The speaker of Lysias 9 can admit that his opponents have attacked him because of their desire for vengeance: "the injustice of these men caused me only moderate annoyance since I consider it an established rule that one harms one's enemies and helps one's friends."<sup>13</sup> However, this does not make the prosecution legitimate because, as the speaker has pointed out, the charges are false. The truth of the accusation is the matter of paramount importance. The speaker's closing plea takes up this issue as central to the trial: "do not look on while those who have done nothing wrong fall into the greatest misfortunes because of personal enmities."<sup>14</sup> Whether the generals are legitimately angry or not is important only insofar as it supports an argument about the truth of the charges.

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<sup>11</sup> Harris (2005) asserts, "I think it is safe to assume his [the speaker's] statement was not aimed at alienating the judges hearing his case" (127). Harris implies that the statement was in fact aimed at bringing the jurors over to his side, as an extra-legal appeal for favor.

<sup>12</sup> Lys. 9.18: παραγαγόντες δὲ πάλιν περὶ τῶν αὐτῶν ἡδικηκότα με οὐδὲν ἐπιδεικνύουσι καὶ λοιδοροῦσι.

<sup>13</sup> Lys. 9.20: τούτων μὲν οὖν ἀδικούντων μετρίως <ἀν> ἠγανάκτουν, ἠγούμενος τετάχθαι τοὺς μὲν ἐχθροὺς κακῶς ποιεῖν, τοὺς δὲ φίλους εὖ.

<sup>14</sup> Lys. 9.22: τοὺς μὴδὲν ἀδικήσαντας διὰ τὰς ἐχθρας μὴ περιύδητε ἀδίκως τοῖς μεγίστοις ἀτυχήμασι περιπεσόντας.

If a defendant found himself accused of impiety, he could employ the same tactic of highlighting the private motivations of his opponents since the Athenian state considered religion an important matter of oversight. In *On the Mysteries* Andocides, who was accused of religious impiety, focuses on the private motivations of his enemies in order to contrast them with the public issues at stake and thereby to undercut his opponents' credibility.<sup>15</sup> He asserts that his enemies attack him indiscriminately in any way they can without regard to justice: "of course you all know about my enemies' plotting and eagerness to do me harm in any way possible, justly and unjustly."<sup>16</sup> Andocides' opponents have been planning this for a long time (οί μὲν γὰρ ἐκ πολλοῦ χρόνου ἐπιβουλεύσαντες καὶ συνθέντες, 1.6) and have many ulterior motives. One of his accusers, Callias, attacks Andocides so that he could get an heiress whom Andocides had already claimed (118–23). The rest of the prosecutors, Andocides alleges, became his enemies because he outbid them on a tax collection job auctioned off by the state (133–6).<sup>17</sup> Andocides attempts to establish private motivations for each of the prosecutors involved in the trial. He

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<sup>15</sup> The prosecution charged that Andocides had been one of those wealthy aristocrats who had celebrated the Eleusinian Mysteries in their private homes in 415, thereby mocking one of the most revered religious festivals in Athens. If he were guilty of such an offense, Andocides would have been barred from celebrating these rites ever again. The prosecutors maintain that Andocides, after committing sacrilege in the manner alleged, had then participated in the Eleusinian Mysteries illegally. The trial took place shortly following the restoration of the democracy, in either 399 or 400.

<sup>16</sup> Andoc. 1.1: τὴν μὲν παρασκευὴν, ὧ ἄνδρες, καὶ τὴν προθυμίαν τῶν ἐχθρῶν τῶν ἐμῶν, ὥστ' ἐμὲ κακῶς ποιεῖν ἐκ παντὸς τρόπου καὶ δικαίως καὶ ἀδίκως . . . σχεδόν τι πάντες ἐπίστασθε. The speaker of Lysias 19 (*On the Property of Aristophanes*) makes a similar accusation about his enemies, speaking of their "plotting and eagerness" (τὴν μὲν οὖν παρασκευὴν καὶ προθυμίαν τῶν ἐχθρῶν ὄρατε, 2). This defense fits into the same pattern, since it is a public procedure (*apographē*) with a very public concern: the defendant in this trial is the heir to Aristophanes, whose property had been confiscated following his execution by the Athenian state. The prosecutor evidently charged that several of Aristophanes' relatives smuggled away some of his property and thereby retained what was lawfully the state's. The speaker of Lysias 19 accuses his enemies of attacking him on false grounds (11).

<sup>17</sup> Because the Athens always had a very limited government, private citizens had to perform many of the official duties of state. Thus, the right to collect taxes was regularly auctioned off to the highest bidder. The individual who won the auction would have to pay the state a determined sum and could keep anything above that sum as profit. Andocides explains that several men (including his prosecutors) had formed a cartel to keep bidding artificially low until he outbid them and broke their monopoly on the process.

denies the legitimacy of the charge and accuses the plaintiffs of maliciously attacking him for their own ends.

Rarely among the extant orations, one of the counterparts to Andocides 1 has survived, a prosecution speech in the corpus of Lysias ([Lys.] 6).<sup>18</sup> This affords an opportunity to compare the rhetorical strategies of the two sides of the litigation. While Andocides 1 makes the private motivation of the prosecutors a focus, the speaker of [Lysias] 6 (*Against Andocides*) virtually ignores the question of motivation. Instead, this oration highlights the negative effects that such impiety can have on the city and the necessity of purging the city from such evil. The focus is entirely on public concerns in [Lysias] 6 as it should be in a trial of so much interest to the state. Because the prosecutors would be obliged to maintain such an emphasis on public affairs, Andocides attempts to subvert them with his focus on their private motivations.

Because a volunteer prosecutor in public suits had to present himself as pursuing the state's best interests in his court action, he would always be vulnerable if the defendant could demonstrate that private enmity was his sole motive for prosecuting. In his famous speech *On the Crown*, Demosthenes exploits this problem to attack Aeschines' motivation for prosecuting him. Public interest in the proceedings of the trial would have been assured by the procedure (*graphē paranomōn*) and the well-known competition between Demosthenes and Aeschines for political

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<sup>18</sup> Darkow (1917, 28–34) provides a history of the debate over the authenticity of this speech up to her own time. Rubinstein (2000, 141) and Todd (2007, 403–8) offer more recent discussions. Dover (1968, 82–3) accepts the authenticity of the speech. MacDowell (1962, 14–15) believes that the speech was not written by Lysias, but rather by another of the prosecutors. Furley (1996, 8) states that “there is no way of knowing,” but points out that the speech raises issues that are addressed by Andocides in his speech. Therefore, even if the extant speech was a literary pamphlet, the speech “contained much the same material as one speech for the prosecution contained” (8). The speech, whether or not it was composed by Lysias or actually delivered, is treated here as though it was composed for the law courts of the fourth century, since there does not seem to be any reason to doubt this (Todd 2007, 407–8). Rubinstein (2000, 140–2) also defends the speech's authenticity by showing that the striking passage at section 42 is not as untypical for *synēgoroi* as many scholars had supposed.

leadership, but another aspect of the trial added a further dimension to its public nature.<sup>19</sup> Much of the speech (and the extant prosecution speech, Aeschines 3) centers on a debate over how Demosthenes managed the wars with Philip of Macedon, which had ended with Athens' ultimate defeat at the battle of Chaeronea in 338.<sup>20</sup> Demosthenes and Aeschines dispute whether Demosthenes' policy was a total and misguided failure or was true to the Athenians' historical devotion to freedom for the Greeks. Thus, among the issues at stake was how the Athenians desired to remember their past, whether they would believe that they had suffered the results of a failed and misguided policy, or that they had been defeated gloriously in continuing their centuries-old commitment to freedom (Yunis 2000–2001). In accordance with the trial's special connection to civic issues, Demosthenes emphasizes the public dimension of the suit and at the same time underscores Aeschines' personal hatred, which drives him to attack his enemies. This undercuts Aeschines' legitimacy as a volunteer prosecutor who brings suit on behalf of the public good.

Demosthenes asserts that although Aeschines professes to prosecute injustices to the state, his actual goal is to abuse his enemy (ἐχθροῦ μὲν ἐπήρειαν ἔχει καὶ ὕβριν καὶ λοιδορίαν καὶ προπηλακισμόν ὁμοῦ καὶ πάντα τὰ τοιαῦτα, 12) and disfranchise Ctesiphon out of spite and envy (ἐν ἐπηρείας τάξει καὶ φθόνου, 13). He inappropriately attempts to disfranchise Ctesiphon and

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<sup>19</sup> Although Aeschines actually Ctesiphon for proposing that Demosthenes receive an honorary crown for his service to the state, the real competition was between Demosthenes and Aeschines. Aeschines argues that the decree is illegal for two reasons. First, a law stated that a public official must undergo his *euthynai* before receiving such an honor, but Demosthenes had not yet undergone his *euthynai* for being *teichopoios* ("wall-builder") for that year (Aeschin. 3.9–31). Second, the decree included the provision that the award be announced in the theatre of Dionysius, in contravention of another law which stipulated that such awards only be announced in the Assembly and the Council (Aeschin. 3.32–48). Regarding the first issue, Demosthenes was indeed a public official who had not undergone his *euthynai*, but the crown was proposed for a previous office that he had held several years ago. Harris (1994, 141–8) argues that Demosthenes was technically correct that the law stated that he must undergo his *euthynai* for the office for which the crown was proposed. On the second point Demosthenes defends Ctesiphon's decree by citing a law that authorized announcing such honors in the theatre of Dionysius if the Assembly voted for it (Dem. 18.120–1).

<sup>20</sup> The trial took place in 330 B.C.

makes his feud with Demosthenes his foremost concern: “he puts this man on trial, but he sets at the forefront of the whole trial his enmity with me.”<sup>21</sup> Aeschines initiated the entire process of litigation incorrectly, Demosthenes asserts, because he brought a “suit of envy” without bothering to make a legitimate charge: “are you not ashamed to bring a *dikē* for envy but not for any wrongdoing?”<sup>22</sup> Demosthenes implies that Aeschines is guilty of malicious slander, stating that it is wrong to pursue one’s hatred for another without discovering a real crime to prosecute: “men of Athens, I believe that this is the difference between slander and accusation: an accusation concerns unjust actions for which there are lawful punishments, but slander concerns abuses which enemies frequently assert about each other because of their own nature.”<sup>23</sup> Aeschines, acting like a typical *echthros*, is simply trying to attack Demosthenes and to slander him, not to bring a legitimate charge.<sup>24</sup>

As Demosthenes develops his character assassination, he asserts that in many other instances Aeschines has used his rhetorical skill only for private ends and never to help the state (277). This behavior is wholly unfitting: “for no good citizen should expect dikasts who have presented themselves on behalf of the collective interests to reinforce his own hatred or enmity

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<sup>21</sup> Dem. 18.15: κρίνει δὲ τουτονί, καὶ τοῦ μὲν ἀγῶνος ὅλου τὴν πρὸς ἐμὲ ἔχθραν προΐσταται.

<sup>22</sup> Dem. 18.121: ἀλλ’ οὐδ’ αἰσχύνῃ φθόνου δίκεν εισάγων, οὐκ ἀδικήματος οὐδενός.

<sup>23</sup> Dem. 18.123: καίτοι καὶ τοῦτο, ὦ ἄνδρες Αθηναῖοι, ἐγὼ λοιδορίαν κατηγορίας τούτῳ διαφέρειν ἡγοῦμαι, τῷ τὴν μὲν κατηγορίαν ἀδικήματ’ ἔχειν, ὧν ἐν τοῖς νόμοις εἰσὶν αἱ τιμωρία, τὴν δὲ λοιδορίαν βλασφημίας, ἅς κατὰ τὴν αὐτῶν φύσιν τοῖς ἐχθροῖς περὶ ἀλλήλων συμβαίνει λέγειν.

<sup>24</sup> Demosthenes assumes that attacking a prosecutor’s private motivation was a common strategy for undermining their credibility. He asserts that Aeschines had done the same thing to him when he prosecuted Aeschines for his role in the embassy to Philip: “[you asserted that] I brought this charge against you because of private enmity, while the charge was not true” (ἀλλ’ ἐμὲ τὴν αἰτίαν σοι ταύτην ἐπάγειν τῆς ἰδίας ἐνεκ’ ἐχθρας, οὐκ οὔσαν ἀληθῆ, 283). Harris (2005, 129) states that Demosthenes’ attack on Aeschines’ motivation for prosecution conveys “a deep suspicion of enmity as a motive for litigation.” However, Demosthenes’ statements do not prove that Athenians believed it wrong to prosecute out of enmity. Jurors were suspicious about a prosecutor who was actuated by enmity because of the possibility that he might be lying, not because enmity in itself was illegitimate.

or anything of that sort.”<sup>25</sup> Aeschines has never brought suit against Demosthenes for a real offense (279) but has fabricated an accusation out of his own personal enmity and spitefulness (ιδίας ἔχθρας καὶ φθόνου καὶ μικροψυχίας, 279).<sup>26</sup>

Cohen (1995) cites this passage (Demosthenes 18.278–9) as evidence for an honor game that is being played out between Demosthenes and Aeschines in the courts and asserts that it can be used to gain “insight into the attitudes and expectations associated with enmity in Athens” (78). Cohen states that “one of Demosthenes’ strategies is to deny Aeschines that equal standing as a rival and, hence, man of honor” (78). However, as shown above, Demosthenes employs the rhetoric of enmity to create probability and character arguments about Aeschines’ motivation. It is not necessary to infer that statements such as at Demosthenes 18.278–9 are intended primarily to speak to the relative social standing of the litigants when Demosthenes’ use of enmity clearly functions as a part of the structure of his overall argument for the justice of his opinion. In this speech as in several others, the rhetorical use of enmity is more directly tied to the legal arguments at stake than Cohen allows.

Defendants in private suits can employ the rhetoric of enmity in much the same fashion as defendants in public suits to cast doubt upon the motivation of their accusers and the truth of the charges. Demosthenes 57 (*Against Eubulides*) contains one of the most explicit affirmations of enmity by a defendant. The speaker includes a great amount of detail on his relationship with Eubulides and makes many references to Eubulides’ malicious motivation to harm his enemy.

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<sup>25</sup> Dem. 18.278: οὔτε γὰρ τὴν ὀργὴν οὔτε τὴν ἔχθραν οὔτ’ ἄλλο οὐδὲν τῶν τοιούτων τὸν καλὸν κάγαθὸν πολίτην δεῖ τοὺς ὑπὲρ τῶν κοινῶν εἰσεληλυθότας δικαστὰς ἀξιοῦν αὐτῶ βεβαιοῦν.

<sup>26</sup> Aeschines made a very similar accusation against Demosthenes in a trial thirteen years earlier (343 B.C.), when their roles were reversed, with Aeschines as the defendant and Demosthenes the prosecutor: “you dare to say that I proceeded without being elected, while, although you were an enemy, you have never yet wished to impeach me for misconduct as envoy?” (ἐφ’ ἣν [πρεσβείαν] τολμᾶς με λέγειν ὡς οὐ χειροτονηθεὶς ὠχόμην, ἐχθρὸς δ’ ὦν οὐπω καὶ τήμερον ἠθέληκάς με εἰσαγγεῖλαι παραπρεσβεύσασθαι, 2.139). Aeschines asserts that Demosthenes never prosecuted him when he had a chance to make a real accusation, but waited to attack Aeschines out of enmity and spite.

The strategy of the speaker perhaps results naturally from the procedure, an *epheasis* (“appeal”) against the decision of the speaker’s deme to remove him from the roles of citizens, allegedly engineered by Eubulides.<sup>27</sup> To make his charge seem credible, the speaker needs to provide the jury with a convincing explanation of why a fellow demesman desired to attack him and was able to effect his expulsion from the privileges of citizenship.

The speaker’s description of his relationship of enmity with Eubulides, which pervades the entire speech, is carefully and gradually developed. He begins by claiming that Eubulides brought a false charge against him (1) and that he is a victim of political rivalry (2). The narrative section of the speech is introduced with an explicit affirmation of enmity: “first I must tell you about the outrageous treatment which I received among my fellow demesmen.”<sup>28</sup> The speaker claims that Eubulides is attacking him because he previously gave testimony for a friend named Lacedaemonius in a case in which Eubulides was prosecuting Lacedaemonius’ sister (8). The speaker continues to describe how he was convicted in the deme hearing by Eubulides’ machinations and shows how far Eubulides was willing to go in pursuit of retaliation (9–13). Eubulides arranged the deme meeting specifically to disfranchise the speaker because of his private vendetta against him (τοῦτο δ’ ἦν οὐκ ἀπὸ τοῦ αὐτομάτου, ἀλλ’ ἐπιβουλεύων ἐμοί, 9). He purposefully delayed the vote on citizenship until it was late at night and only the people that he had bribed to vote against the speaker were in attendance (10). Once the hearing was called to order, Eubulides wasted no time; he commenced haranguing the defendant and demanding his expulsion from the roles of citizens (11). He passed out the voting stones (*psēphoi*) immediately and without debate, ignoring the protests of the speaker and not allowing him to defend himself

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<sup>27</sup> In the only other extant *epheasis*, Isaeus 12 (*On Behalf of Euphiletus*), the speaker also accuses his prosecutors of acting out of enmity (8). On *epheasis* see Harrison ii. 1968–71, 190–2; Just 1965.

<sup>28</sup> Dem. 57.5: ἀναγκαῖον ἐμοί περὶ ὧν ἐν τοῖς δημόταις ὑβρίσθην πρῶτον εἰπεῖν.

before the voters. When the votes were counted, they totaled more than sixty although only thirty people were present (13)!

Late in the speech the audience discovers that the animosity had begun long before this particular deme hearing. Eubulides has been an enemy for a long time (49), inheriting the hostile relationship from the previous generation (ὧν ἐχθρὸς τῷ ἐμῷ πατρὶ τότ', 61). The speaker asserts that before this trial Eubulides attacked him in many other ways. He stole from a temple a shield that the speaker had dedicated to Athena and then chiseled away the text of a decree that had been passed in his honor (64). Worse still, Eubulides' gang attempted an assault on his personal property: "some of these men came into my country house by night and tried to steal what was inside."<sup>29</sup> The speaker continually highlights Eubulides' unacceptable behavior.

If the jurors accept this narrative as truthful, they will begin to believe that Eubulides is capable of doing almost anything to pursue his vendetta against the speaker. However, this emphasis is not intended simply to encourage the jury to form a negative social judgment between the two parties and to vote against Eubulides. The speaker does not totally suppress his own quarrelsomeness: "if I should speak about the time when I was demarch and certain men became angry at me, and I was involved in quarrels."<sup>30</sup> He does not make an unambiguous dichotomy between Eubulides' behavior and his own since he admits that they both act in such a way as to become involved in quarrels.<sup>31</sup> Rather, the burden of the narrative of enmity in this speech is to make a compelling case that Eubulides has gone too far and, most importantly, has falsified facts in order to expel his opponent from the ranks of citizens. The speaker presents

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<sup>29</sup> Dem. 57.65: τούτων τινὲς ἐπὶ τὸ οἰκίδιον ἐλθόντες <τὸ> ἐν ἀγορῇ νύκτωρ ἐπεχείρησαν διαφορῆσαι τὰ ἔνδοθεν.

<sup>30</sup> Dem. 57.63: εἰ δὲ δεῖ τὴν δημαρχίαν λέγειν, δι' ἣν ὠργίζοντό μοί τινες, ἐν ἡ διάφορος ἐγενόμην.

<sup>31</sup> Of course, the speaker does not unduly emphasize his own propensity for feuding, since he wants to avoid admitting a reasonable pretext for Eubulides' hatred for him.

Eubulides as malicious in order to undercut his claims. He makes it clear in his introductory sentence that he desires to demonstrate to the jury that Eubulides' accusations are baseless: "because Eubulides has brought many false accusations against me and has slandered me unjustly and improperly, I will speak truly and fairly and attempt to show that I have a right to citizenship and have been improperly treated by this man."<sup>32</sup> The narrative of enmity that follows supports this claim by showing how Eubulides' anger has led him to make such false allegations. He has attacked unjustly and selfishly (5), simply pursuing a political rivalry (7). Such prosecutions motivated by spite are the very reason that this procedure of appeal was instituted: "as it is, because you thought that there would be something like this arising out of ambition and envy and enmity and other pretexts, you made this place in your presence a refuge for those who have been wronged."<sup>33</sup> The speaker asserts that he is making use of the appeal to the jury courts to protect himself from baseless charges brought by an enemy who is out of control.

Eubulides is not only described as an enemy, but also labeled a sycophant (32). The speaker points to Eubulides' sycophantic tendencies by recounting a past case which Eubulides lost receiving not even one-fifth of the votes (8).<sup>34</sup> The key mark of a sycophant for this speaker is that he brings a charge that is false from an ulterior motive: "for this is what a sycophant is: making all sorts of charges but proving nothing."<sup>35</sup> Eubulides has a history of such actions. He and his friends have charged certain men money to be registered as citizens (59) and have

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<sup>32</sup> Dem. 57.1: πολλά καὶ ψευδῆ κατηγορηκός τος ἡμῶν Εὐβουλίδου, καὶ βλασφημίας οὔτε προσηκούσας οὔτε δικαίας πεποιημένου, πειράσομαι τάληθῆ καὶ τὰ δίκαια λέγων, ὧ ἄνδρες δικασταί, δεῖξαι καὶ μετὸν τῆς πόλεως ἡμῖν καὶ πεπονθότ' ἑμαυτὸν οὐχὶ προσήκονθ' ὑπὸ τούτου.

<sup>33</sup> Dem. 57.6: νῦν δὲ καὶ διὰ φιλονικίαν καὶ διὰ φθόνον καὶ δι' ἔχθραν καὶ δι' ἄλλας προφάσεις ἔσεσθαί τι τοιοῦτον ἡγούμενοι, τὴν εἰς ὑμᾶς τοῖς ἀδικηθεῖσιν ἐποιήσατε καταφυγὴν.

<sup>34</sup> Christ (1998a, 64) points out, "arguably, a prosecutor's conspicuous loss of a suit, especially if he won less than one-fifth of the votes cast in a public suit and therefore incurred the normal statutory penalties, might make him more susceptible to the claim in later suits that he was a sycophant."

<sup>35</sup> Dem. 57.34: τοῦτο γάρ ἐστιν ὁ συκοφάντης, αἰτιάσθαι μὲν πάντα, ἐξελέγξαι δὲ μηδέν.

similarly prosecuted or accepted bribes not to prosecute other innocent people (60). The speaker makes a clear distinction between Eubulides' sycophantic actions and concern for the truth: "although that was the time for him to speak the truth if he had knowledge of something, the present circumstance suits one who is an enemy and desires to act as a sycophant."<sup>36</sup> The defining characteristic of a sycophant, that he pursues groundless charges, can also be applied to an enemy who prosecutes maliciously.

The narrative of enmity in this speech also provides an opportunity for an explicit probability argument to be developed. The speaker emphasizes that he has served in his deme for many years during which Eubulides never brought suit against him for not impersonating a citizen. If Eubulides had believed that the speaker was not a citizen, then he would not have allowed him to hold public office.

For surely he would not have allowed a foreigner and metic, as Eubulides now says I am, to hold office or to draw lots with him for the priesthood [...] Nor would he, since he is an old enemy of mine, have waited for this opportunity which no one could have foreseen, if he had had knowledge of something of like this.<sup>37</sup>

Indeed, although Eubulides had been in the business of getting the names of citizens stricken from the deme register for financial gain and had also been an enemy of the speaker's father, he never attacked his status.

It is quite unlikely that that would leave any [on the deme list] who were not Athenian citizens when they had knowingly expelled even men who were citizens whom the jury court restored. And although he was then an enemy of my father, he

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<sup>36</sup> Dem. 57.49: ἦν δ' ἐκεῖνος μὲν ὁ καιρὸς τοῦ συνειδότητος αὐτῷ ἀληθῆ λέγειν, ὁ δὲ νυνὶ παρῶν ἐχθροῦ καὶ συκοφαντεῖν βουλομένου.

<sup>37</sup> Dem. 57.48: οὐ γὰρ ἂν δήπου τὸν γε ξένον καὶ μέτοικον, ὡς νῦν φησιν Εὐβουλίδης, οὔτ' ἀρχὰς ἀρχεῖν οὔθ' ἱερωσύνην κληροῦσθαι μεθ' ἑαυτοῦ προκριθέντ' εἴασεν [...] οὐδέ γ' ἂν, ὡ ἄνδρες Ἀθηναῖοι, παλαιὸς ὢν ἐχθρὸς ἐμοὶ τοῦτον τὸν καιρὸν περιέμενον, ὃν οὐδεὶς ἤδει γενησόμενον, εἶπερ τι συνήδει τοιοῦτον.

not only failed to make an accusation against him but never even cast a vote that he was not an Athenian citizen.<sup>38</sup>

Eubulides has acknowledged the speaker's citizen status by neglecting to prosecute him on an earlier occasion. If there were even a grain of truth in the accusations against him, the speaker asserts, Eubulides would surely have taken advantage of the situation to harm his enemy long ago.

Interestingly, the speaker of Demosthenes 57 makes an argument that is similar to what Euthycles in Demosthenes 23 anticipates the defendant in his trial will make. Euthycles argues that private enmity did not motivate him to bring the prosecution because he wants to focus on his concern for public policy in bringing the *graphē paranomōn* against Aristocrates. In anticipation that someone might raise the objection that he should have prosecuted Aristocrates long ago when he was passing other decrees that honored Charidemus (23.187), Euthycles responds that he has made it a policy to prosecute people for illegal decrees only if they are serious enough to counter the city's interests (23.187–9). If Euthycles had admitted that he had been Aristocrates' enemy for a long time, this argument would have been quite unconvincing. An Athenian who had knowledge that his enemy was proposing a decree that did not benefit the state would be expected to be eager to attack his adversary and to help the state at the same time. Euthycles' denial of enmity, therefore, is very important for his response to the anticipated argument that he should have prosecuted Euthycles long ago.<sup>39</sup> This type of probability argument based on an enemy's failure to prosecute in the past occurs several times in Attic oratory (cf. Lys. 19.60; Dem. 18.124, 251; 25.38; 55.4–5).

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<sup>38</sup> Dem. 57.61: πολλοῦ γ' ἔδεόν τινας ἐγκαταλιπεῖν τῶν μὴ Ἀθηναίων, ὅπου καὶ τοὺς ὄντας πολίτας συνιστάμενοι ἐξέβαλον, οὐς τὸ δικαστήριον κατεδέξατο. καὶ ὧν ἐχθρὸς τῷ ἐμῷ πατρὶ τότε οὐ μόνον οὐ κατηγορήσεν, ἀλλ' οὐδὲ τὴν ψήφον ἤνεγκεν ὡς οὐκ ἦν Ἀθηναῖος. Cf. 62.

<sup>39</sup> See also the discussion of this speech at pp. 74–5.

As was noted in the previous chapter (“Enmity in Private Disputes”), a private suit often presupposes that the parties are angry with each other. Therefore, defendants often find it beneficial to admit private motivation and to emphasize that their opponents have pursued a feud to the point of ignoring the truth. The speaker of Isocrates 16 (*On the Team of Horses*), Alcibiades the Younger, asserts that his opponents were long-time enemies of his father and his family and have lodged malicious and groundless accusations. Alcibiades complains that sycophants attack him frequently (1) no doubt because of the many enemies that his charismatic but divisive father had made.<sup>40</sup> The enemies of the speaker’s father have a history of pursuing their vendettas with no regard to factual accuracy: “his enemies have so much *hybris* that they accuse my father, although he was exiled unlawfully, as if he had done horrible things.”<sup>41</sup> Alcibiades accuses his opponents of prosecuting maliciously (48) and ignoring the distinction between private and public concerns: “they are bringing lawsuits on private charges, but they make accusations concerning the affairs of the city”; “but I think that public charges have nothing to do with private trials.”<sup>42</sup> More personally, Alcibiades expresses indignation that the prosecutor, Tisias, has become so reckless as to try to bring back up old grudges (ἐτέροις μνησικακεῖν, 43).<sup>43</sup>

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<sup>40</sup> The speaker was the son of the famous Alcibiades whose exploits during the Peloponnesian War became well known. The importance of the elder Alcibiades’ life is obvious throughout, as the defense of Alcibiades’ deceased father dominates his argumentation.

<sup>41</sup> Isoc. 16.10: τοσοῦτο δὲ τοῖς ἐχθροῖς τῆς ὑβρεως περίεστιν, ὥσθ’ οὕτως ἀνόμως τοῦ πατρὸς ἐκπεσόντος ὡς δεινὰ δεδρακότος αὐτοῦ κατηγοροῦσι.

<sup>42</sup> Isoc. 16.2: τὰς μὲν γὰρ δίκας ὑπὲρ τῶν ἰδίων ἐγκλημάτων λαγχάνουσι, τὰς δὲ κατηγορίας ὑπὲρ τῶν τῆς πόλεως πραγμάτων ποιοῦνται; Isoc. 16.3: ἐγὼ δ’ ἡγοῦμαι μὲν οὐδὲν προσήκειν τὰς κοινὰς αἰτίας τοῖς ἰδίῳις ἀγῶσιν.

<sup>43</sup> Tisias, the brother-in-law of Alcibiades the Elder (43), prosecutes the younger Alcibiades because his father had allegedly stolen a team of horses which passed upon his death to the Alcibiades of this speech. Tisias attempts to reclaim these horses under the pretext that they were wrongfully taken from him, while the speaker argues that his father obtained them legally. The preserved speech is a large fragment, which begins about half way through the original oration, presumably after the narrative portion.

The speaker emphasizes that it is unacceptable for personal enemies to bring public charges without regard for truth. He pleads with the jury, “I ask you not to give me over to my enemies nor to cast me into deadly misfortunes.”<sup>44</sup> This statement is an interesting parallel to the passage in Demosthenes 21 (*Against Meidias*) where Demosthenes anticipates that Meidias will make this same argument: “Do not hand me over to Demosthenes; do not destroy me for Demosthenes’ sake!”<sup>45</sup> In the latter speech Demosthenes predicts Meidias’ strategy in order to counter it by denying that personal enmity is at issue (21.31–35; see pp. 53–8). In Isocrates this strategy can be seen from the defendant’s perspective since Alcibiades makes essentially the same claim that Demosthenes believes Meidias will make. Alcibiades attempts to portray his opponents as privately motivated by a feuding ethos with no thought to the truth of their claims.<sup>46</sup>

As Alcibiades castigates his opponents for their strictly personal motivation, he emphasizes that they have neglected to develop arguments about their actual accusations: “indeed they spend more taking slandering my father than giving information about their sworn charges.”<sup>47</sup> These prosecutors have become so focused on attacking the reputation of Alcibiades the Elder that they neglect to address their own grounds for prosecution. They have become so blinded and scurrilous that they even “despise the laws” (καταφρονοῦσι τῶν νόμων, 2). The speaker, on the other hand, speaks only about that which actually happened (τὰ μὲν γεγόμενα

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<sup>44</sup> Isoc. 16.45: ὑμᾶς δ’ ἀξιῶ μὴ προέσθαι με τοῖς ἐχθροῖς μηδ’ ἀνηκέστοις συμφοραῖς περιβαλεῖν.

<sup>45</sup> Dem. 21.29: μή με Δημοσθένει παραδῶτε, μηδὲ διὰ Δημοσθένην με ἀνέλητε. Interestingly, having denied the legitimacy of this plea in Meidias’ case, Demosthenes actually uses it himself: “do not hand me over to any one of these men, men of Athens” (τούτων μηδενί με, ὧ ἄνδρες Ἀθηναῖοι, προήσθε, 213; cf. 220).

<sup>46</sup> Compare the plea of the speaker of Lysias 19 (*On the Property of Aristophanes*): “I beg you not to sit by and watch us be annihilated by our personal enemies” (δέομαι οὖν ὑμῶν [...] μὴ περιδεῖν ὑπὸ τῶν ἐχθρῶν ἀναιρεθέντας, 64). This statement is the climax of the speech. Like the speaker of Isocrates 16, this defendant attempts to portray his enemies as maliciously attacking him on false charges (2).

<sup>47</sup> Isoc. 16.2: καὶ πλείω χρόνον διατρέβουσι τὸν πατέρα μου διαβάλλοντες ἢ περὶ ὧν ἀντώμοσαν διδάσκοντες.

ταῦτ' ἐστίν, 10), believing that the actual facts support his case and should win pity for him because of the groundless attacks of his adversaries (48).<sup>48</sup> Alcibiades uses his enmity with his opponents to point to the falsehood of their charges.

The speaker in another private suit (Demosthenes 55, *Against Callicles*) affirms enmity but employs his narrative somewhat differently from most other defendants. The hostile relationship between prosecutor and defendant serves to illustrate the prosecutor's previous acts of sycophancy rather than to emphasize his aggressive feuding behavior. This emphasis on the prosecutor's monetary motives rather than his emotional involvement probably results from the nature of the procedure, a suit for damages (*dikē blabēs*), since a prosecutor who brings a trial to obtain a sum of money is an easy target for the accusation of sycophancy. Accordingly, the speaker uses his enmity with the prosecutor, Callicles, to provide a background for Callicles' unwarranted use of the courts.<sup>49</sup>

The speaker narrates several incidents outside of the scope of the trial at hand. Because Callicles wanted to acquire the speaker's land, he brought malicious accusations against him, bribing his cousin to initiate proceedings (1). Unsuccessful in this attempt, Callicles later obtained two verdicts against the speaker in cases which were decided by default; that is, the speaker was ruled against in *absentia* (1–2). This short history that the speaker presents in the prooemium is designed to show that he is “manifestly being attacked with sycophantic prosecution” (φανερῶς συκοφαντοῦμαι, 2). The speaker's statements carry with them an implicit argument from probability that the same sort of malicious behavior is behind the current prosecution.

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<sup>48</sup> Isoc. 16:48: δικαίως δ' ἂν ὑφ' ὑμῶν ἐξ αὐτῶν τῶν ἔργων ἐλεηθείην . . . εἴπερ χρη' τούτους ἐλεεῖν τοὺς ἀδίκως μὲν κινδυνεύοντας.

<sup>49</sup> The speaker constantly underscores his belief that he is being attacked by sycophants (1, 2, 7, 9, 21, 22, 23, 26, 28, 29, 33, 35).

The defendant develops an argument from probability based on the prosecutor's previous actions more explicitly later in the speech.

Do not be surprised, men of the jury, at my opponent's eagerness or his having dared to make false accusations. For previously when he persuaded his cousin to lay claim to my land, he produced fraudulent contracts. Also, now he himself has obtained a verdict by default against me in another such case by indicting Callarus, one of my slaves. For they have devised this trick on top of all their other troublemaking.<sup>50</sup>

The speaker asserts that Callicles' malicious behavior in the past should make it easy for the jury to believe that he is currently engaged in a sycophantic legal action. The narrative of the feud therefore supports an argument from probability about the present charges against him.

Although the speeches discussed so far would have been delivered before a jury court, the use of the rhetoric of enmity for probability is not confined to this setting. Lysias 7 (*On the Olive Stump*), which was composed for delivery before the Areopagus Council, employs enmity in a way parallel dicastic court speeches. This defendant has been accused of destroying the stump of an olive tree on his property, a capital offense in fourth-century Athens.<sup>51</sup> An accusation of such a crime came before the Areopagus, which was also commissioned to send out inspectors who checked on the various *moriai* throughout the city.<sup>52</sup> Although the tree in this instance was located within the borders of the defendant's land, it was closed off by a fence and belonged to the state.<sup>53</sup>

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<sup>50</sup> Dem. 55.31: Μὴ θαυμάζετε δ', ὡ ἄνδρες δικασταί, τὴν τούτου προθυμίαν, μὴδ' εἰ τὰ ψευδῆ κατηγορεῖν νῦν τετόλμηκεν. καὶ γὰρ τὸ πρότερον πείσας τὸν ἀνεψιὸν ἀμφισβητεῖν μοι τοῦ χωρίου, συνθήκας οὐ γενομένας ἀπήνεγκεν, καὶ νῦν αὐτὸς ἐρήμην μου καταδειχτήται τοιαύτην ἑτέραν δίκην, Κάλλαρον ἐπιγραφάμενος τῶν ἐμῶν δούλων. πρὸς γὰρ τοῖς ἄλλοις κακοῖς καὶ τοῦθ' ἠύρηνται σόφισμα.

<sup>51</sup> It was illegal to cut down a sacred olive tree (*moria*) or violate its enclosure (*sēkos*) (Arist. *Ath. Pol.* 60.2).

<sup>52</sup> The Areopagus, composed of archons (see above, p. 55, n. 48) who had completed their term and successfully passed their exit exams (*euthynai*), was primarily a homicide court, although it also had jurisdiction over some religious matters, such as the sacred olives. See Smith 1927; MacDowell 1978, 135; Carey 1989, 114–15; Wallace 1989, 106–12; Hansen 1991, 288–95.

<sup>53</sup> For details about the sacred olives and the Areopagus' oversight, see Carey 1989, 114–15.

The speaker begins his attack on his opponent's character immediately: "I have been harassed so unexpectedly by accusations and wicked sycophants."<sup>54</sup> The prosecutor, Nicomachus, is portrayed as a sycophant who attempted to extract a bribe from the speaker in return for dropping the suit (20). The delay of four years between the supposed offense and this prosecution is, the speaker argues, an especially good indicator of the frivolous nature of this litigation. Nicomachus ought to have brought suit immediately after the alleged offense if the charge were based in fact (20, 42). Nicomachus clearly cares nothing for whether or not an offense has been committed and simply makes up charges as he needs them: "I must defend myself against the charges by which this man has come here in his plot against me although I am learning of these charges at the same time as you, who will pass judgment concerning exile and confiscation of property."<sup>55</sup> Nicomachus' accusations are so far from anything based in reality that the defendant is totally unprepared to make a defense until he hears the wild allegations of his opponent.<sup>56</sup>

Surprisingly, however, the speaker at one point actually denies that Nicomachus is an enemy: "you would have left no defense for me, and you yourselves would have taken vengeance on me if you had been my enemy."<sup>57</sup> The speaker asserts that if Nicomachus had been hostile to him for many years, he certainly would have brought suit for this offense long ago (cf. Isae. 8.25–6). This argument supports the speaker's claim that Nicomachus is prosecuting frivolously out of a desire for monetary gain. This defendant, however, puts an interesting twist

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<sup>54</sup> Lys. 7.1: νυνὶ δὲ οὕτως ἀπροσδοκῆτως αἰτίαις καὶ πονηροῖς συκοφάνταις περιπέπτωκα.

<sup>55</sup> Lys. 7.3: καὶ δεῖ με, περὶ ὧν οὗτος ἐπιβεβουλευκῶς ἤκει, ἄμ' ὑμῖν τοῖς διαγνωσομένοις περὶ τοῦ πράγματος ἀκούσαντα καὶ περὶ τῆς πατρίδος καὶ περὶ τῆς οὐσίας ἀγωνίασθαι.

<sup>56</sup> Since public suits did not require arbitration, the defense could plausibly claim ignorance of his opponent's arguments (Carey 1989, 120–1). For a similar complaint by a defendant, see Isoc. 18.7.

<sup>57</sup> Lys. 7.20: καὶ ἐμοὶ μὲν οὐδεμίαν ἂν ἀπολογίαν ὑπέλιπες, αὐτὸς δέ, εἰ μὲν σοι ἐχθρὸς ἦν, ἐν τούτῳ τῷ τρόπῳ ἦσθα ἂν με τετιμωρημένος.

on his rhetorical use of enmity. Although he denies that Nicomachus is a personal enemy, he also asserts that Nicomachus has been sent against him by other enemies: “for I think that you know that Nicomachus brought this trial because he was persuaded by my enemies.”<sup>58</sup> This further supports the speaker’s claim that Nicomachus is not concerned about the reality of the wrongdoing as he states in the second half of the sentence quoted above: “not because he hoped to point out someone who had done wrong, but because he expected to receive money from me.”<sup>59</sup> Thus, the speaker of Lysias 7 in fact both affirms and denies enmity. He denies that Nicomachus is a personal enemy but asserts that he has been sent against him by his enemies, who are working behind the scenes. Both the affirmation and denial of enmity are calculated to speak to the probability of Nicomachus’ charges being true. If Nicomachus is not an enemy, but a prosecutor seeking financial gain, then he should find no credibility among the jury. Likewise, if he has been commissioned by the speaker’s enemies to harm him, the jury may assume that Nicomachus’ charges are baseless. Otherwise, the speaker’s enemies would prosecute themselves (cf. [Dem.] 53.2). Lysias has carefully crafted the narrative of enmity in this speech to attack the opposition’s credibility from both directions.

### **Denying Motive for Assault**

The previous chapter pointed out that prosecutors who alleged physical attacks affirmed enmity with their opponents to establish motive for the crime. As a natural corollary to this phenomenon, defendants in assault cases typically deny enmity. The speaker of Lysias 4, who is

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<sup>58</sup> Lys. 7.39: ἐγὼ μὲν <γὰρ εἰδέναι> ὑμᾶς ἠγοῦμαι ὅτι Νικόμαχος ὑπὸ τῶν <ἐχθρῶν> πεισθεὶς τῶν ἐμῶν τοῦτον τὸν ἀγῶνα ἀγωνίζεται.

<sup>59</sup> Lys. 7.39: οὐχ ὡς ἀδικοῦντα ἐπιζῶν ἀποδείξειν, ἀλλ’ ὡς ἀργύριον παρ’ ἐμοῦ λήψεσθαι προσδοκῶν. Carey (1989) has a insightful comment on this passage: “although it was acceptable to use the courts to hurt one’s enemies, the fact that speakers also allege against their opponents that they are motivated by ἐχθρα indicates that this was only acceptable if it was accompanied by a desire to see justice done; to prosecute an enemy on a trumped-up charge was not acceptable” (139). The factuality of the claims is fundamental to the legitimate prosecution of an “enemy.”

on trial for premeditated wounding (*trauma ek pronoias*), does just that in a speech that would have been delivered before the Areopagus.<sup>60</sup> This oration is fragmentary, but what survives is revealing. The speaker asserts that he had reconciled with his opponent (1–4), offering proofs as confirmation: the prosecutor had restored some goods that were disputed under an *antidosis* (1) and would have voted for the speaker's tribe at the Dionysia if he had been a judge (3–4).

Although the loss of the first part of the speech makes it difficult to assess exactly how enmity functions, this denial of enmity seems to have been intended to support the speaker's claim that he had no motive to attempt murder (19). Lysias 4 would therefore be an appropriate parallel to the two prosecution speeches discussed previously (Demosthenes 21, 54) in which the speakers affirm enmity in suits concerning assault to provide motivation for the heinous acts of which they accuse their opponents.<sup>61</sup> The speaker in this case denies that a relationship of enmity existed between himself and his opponent and rather asserts that they were friends since they had reconciled. He can then argue from probability that he had no reason to attempt the crime of which he is accused.

Defendants in trials for homicide also deny enmity to create probability arguments.<sup>62</sup>

Euphiletus, the speaker of *On the Murder of Eratosthenes*, is careful to avoid admitting that he

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<sup>60</sup> Like Lysias 7, the rhetorical use of enmity is similar to other court speeches although the trial did not take place in a dicastic court.

<sup>61</sup> Lysias 3 (*Against Simon*) is similar in its rhetorical purposes although slightly different in technique. The speaker provides a narrative of the history of enmity between himself and the prosecutor, but limits it to a single chain of events having to do with a male prostitute. Yet, the speaker is careful to present himself as moderate and restrained, while Simon appears as an antagonistic bully. Again, this rhetoric is calculated to speak to a probability argument about the accusation. The speaker wants it to appear more probable that Simon would bring malicious litigation than that he himself would actually attack Simon with intent to kill.

<sup>62</sup> In homicide trials, the jury's concern is primarily with the relationship between the defendant and the deceased man, rather than between prosecutor and defendant. See p. 53–4 n. 44.

and Eratosthenes, the deceased man, knew each other<sup>63</sup> although he admits that he killed him. Euphiletus argues that the homicide was justified by the law that allows a husband to kill an adulterer if he catches him in the act, but, evidently, he does not want the jurors to think that he lured Eratosthenes into a trap to kill him as an enemy.<sup>64</sup> To preempt accusations that he contrived the whole affair to seek private vengeance on an enemy, Euphiletus argues that he had no reason at all to hate Eratosthenes or want to see him dead. He pointedly denies enmity with Eratosthenes near the end of the speech: “Think this over in your minds about this affair and ask whether any enmity had ever existed between me and Eratosthenes until this point. For you will find that there was not.”<sup>65</sup> Euphiletus immediately uses this denial of enmity to make an explicit argument from probability. He assumes that the jury will want to know whether or not Eratosthenes and he had acted with hostility toward each other with since enemies are more likely to entrap and kill each other.

For he did not lodge a *graphē* against me as a sycophant, nor did he try to get me exiled from the city, nor did he lodge any private suits against me, nor did he have knowledge of any wrong that I was afraid would be revealed and so attempt to kill him, nor, if I should accomplish this, did I hope to gain money from it. For on the basis of these sorts of things some people plot death for each other.<sup>66</sup>

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<sup>63</sup> Todd (1998, 165) points out that some incidental remarks point to the conclusion that Euphiletus and Eratosthenes were members of the same deme, although Euphiletus carefully disguises this fact.

<sup>64</sup> The case would have taken place at the Delphinium, which conducted trials in which the defendant on a charge of homicide claimed that the murder was justifiable. This court was staffed by the ephetai, a body of fifty-one jurors chosen by lot. The ephetai oversaw trials at the Delphinium in cases of alleged justifiable homicide and at the Palladion for unintentional homicide. Whether the ephetai were chosen from the members of the Areopagus or the citizen body at large is unclear. See MacDowell 1963, 48–57; Gagarin 1981, 134–6; Carawan 1998, 8–15.

<sup>65</sup> Lys. 1.43–4: σκέψασθε δὲ παρ’ ὑμῖν αὐτοῖς οὕτως περὶ τούτου τοῦ πράγματος, ζητοῦντες εἴ τις ἐμοὶ καὶ Ἐρατοσθένει ἔχθρα πώποτε γεγένηται πλὴν ταύτης, οὐδεμίαν γὰρ εὐρήσετε.

<sup>66</sup> Lys. 1.44: οὐτε γὰρ συκοφαντῶν γραφάς με ἐγράψατο, οὐτε ἐκβάλλειν ἐκ τῆς πόλεως ἐπεχείρησεν, οὐτε ἰδίας δίκας ἐδικάζετο, οὐτε συνήδει κακὸν οὐδὲν ὃ ἐγὼ δεδιὼς μὴ τις πύθηται ἐπεθύμουν αὐτὸν ἀπολέσαι, οὐτε εἰ ταῦτα διαπραξαίμην, ἤλιζόν ποθεν χρήματα λήψεσθαι· ἔνιοι γὰρ τοιούτων πραγμάτων ἔνεκα θάνατον ἀλλήλοις ἐπιβουλεύουσι.

In order to maintain that his act of homicide was justifiable and not based on a premeditated plan to punish an enemy, Euphiletus denies that he was feuding with Eratosthenes. The speaker in fact has no ulterior motive of which the jury may be suspicious.

In the first part of his discussion of enmity, Euphiletus employs a negative probability argument, that is, one that is designed to disprove a proposition rather than to prove it. The premises of Euphiletus' syllogism are: (1) I am not an enemy of Euphiletus, (2) only enemies plot to murder each other. The conclusion is that Euphiletus did not plot to murder Eratosthenes. Euphiletus then uses his stated premise, that he is not an enemy of Euphiletus, to construct a positive probability argument designed to provide a compelling account for how the murder actually happened. If Euphiletus had never met Eratosthenes before, then he must have had another very strong reason for killing him. This reason is, Euphiletus argues, the act of adultery against his household: "I had never seen this man before that night. Therefore, what did I desire to gain by running such a risk unless I had been wronged by him in the worst way possible?"<sup>67</sup> Euphiletus' denial of enmity serves his stated purpose of informing on the factuality of his version of events.

This analysis of the speech presents problems for Herman's (1993; 1994; 1995; 2006) use of Lysias 1 as an important component in his argument for his model of Athenian society. Herman (2006, 175–83) argues that the speaker's emphasis on his dispassionate slaying of Eratosthenes demonstrates the Athenians' commitment to a non-violent, non-retaliatory code of behavior. For Herman, Euphiletus presents himself as a detached executor of civic justice because the jury would sympathize with this kind of behavior and find it acceptable. However, Euphiletus' denial of enmity and consequent deemphasizing of his hatred for Eratosthenes

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<sup>67</sup> Lys. 1.45: οὐδὲ ἐωρακῶς ἦν τὸν ἀνθρώπον πώποτε πλὴν ἐν ἐκείνῃ τῇ νυκτί. τί ἂν οὖν βουλόμενος ἐγὼ τοιοῦτον κίνδυνον ἐκινδύνεον, εἰ μὴ τὸ μέγιστον τῶν ἀδικημάτων ἦν ὑπ' αὐτοῦ ἠδικημένος.

actually arise from the legal consideration of denying an ulterior motive for murder. Euphiletus presents himself as dispassionate not because he believes the jury will find this a satisfactory way for him to behave, but rather because he believes it will help him counter the accusations of the prosecution and show that he did not entrap Eratosthenes in order to kill him. One need not suppose, as Herman does, that the jury members would not endorse a crime of passion in a case in which the key details of *Lysias 1* were different.

On the other hand Allen (2000a, 126–7) argues that the jury would have sympathized with Euphiletus if he had portrayed the whole affair as a crime of passion. According to Allen Euphiletus’ main problem is that he has not obeyed the norm of “hot blood” (i.e., he did not kill Eratosthenes in a moment of anger). Allen’s analysis suffers from the same problem of unstated assumptions as Herman’s (although their conclusions are different). She assumes that Euphiletus portrays his relationship with Eratosthenes in a way that will win him favor with the jury because he has behaved in accordance with social norms. However, Euphiletus emphasizes his own dispassionate attitude because of his legal argument about motive. His denial of enmity is linked to his probability argument about the nature of the homicide, not the expectation of a social judgment about his behavior.<sup>68</sup>

Like *On the Murder of Eratosthenes*, Antiphon 5 (*On the Murder of Herodes*) is a defense speech for a homicide trial although the prosecution has chosen the *apagogē* procedure rather than bringing the defendant before the court of the Areopagus with a *dikē phonou*.<sup>69</sup> Following the same pattern as other litigants in cases of physical assault, the speaker, Euxitheus, makes it

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<sup>68</sup> In fact, Euphiletus does not portray himself in a wholly positive light (see pp. 29–30). If his social standing with the citizen body were directly on trial, he would probably want to avoid the humiliating details of his wife’s affair.

<sup>69</sup> The speaker in fact complains that the prosecutors have used the wrong procedure in preferring *apagogē* to *dikē phonou* (9).

very clear that the victim, Herodes, was not an enemy. He further argues that because no enmity existed between the two, the prosecution cannot conjure up a motive for the crime.

Why indeed did I murder Herodes? There was no enmity between me and him. They dare to claim that I killed the man as a favor. And who ever performed this act to do a favor to another? I am sure that no one has. Rather, the one who intends to do this must be extremely hostile and his premeditation necessarily becomes very obvious. But there was no enmity between me and Herodes.<sup>70</sup>

This explicit argument from probability based on the speaker's denial of enmity hardly needs further comment. Euxitheus asserts that only the bitterest of enemies attempt to murder each other and that he and Herodes had no such hostility between them. If both of these premises are true, then the conclusion, that Euxitheus is not guilty, follows logically. The speaker of Antiphon 5 denies enmity because it undercuts the prosecution's ability to establish a motive for the murder.<sup>71</sup>

### Attacked by Sycophants

In cases other than trials for physical assault, it is much more common for defendants to affirm enmity,<sup>72</sup> but a few defendants deny it.<sup>73</sup> These speeches, however, are quite exceptional in details of their cases. Only in special circumstances did defendants find denial of enmity the preferable strategy. A defendant who rejects enmity as the motivation for the prosecution affords

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<sup>70</sup> Antiph. 5.57: Τίνος γε δὴ ἔνεκα τὸν ἄνδρα ἀπέκτεινα; οὐδὲ γὰρ ἔχθρα οὐδεμία ἦν ἐμοὶ κάκείνω. λέγειν δὲ τοιμῶσιν ὡς ἐγὼ χάριτι τὸν ἄνδρα ἐκτεῖνα. καὶ τίς πώποτε χαριζόμενος ἑτέρω τοῦτο εἰργάσατο; οἶμαι μὲν γὰρ οὐδένα, ἀλλὰ δεῖ μεγάλην τὴν ἔχθραν ὑπάρχειν τῷ τοῦτο μέλλοντι ποιῆσειν, καὶ τὴν πρόνοιαν ἐκ πολλοῦ φανεράν εἶναι ἐπιβουλεομένην. ἐμοὶ δὲ κάκείνω οὐκ ἦν ἔχθρα οὐδεμία.

<sup>71</sup> Cf. Antiphon 6 (*On the Chorus Boy*), in which the speaker, on trial for murdering one of the boys of his chorus, denies that he made any enemies in raising his chorus (11). In this way, the speech follows the established pattern for cases of physical assault, but it actually parallels more closely speeches in the "Attacked by Enemies" section. The speaker concentrates on his relationship with his prosecutors rather than with the deceased. He accuses them of acting him maliciously (7) and asserts that the whole case is a piece of strategic litigation (34–6). Men whom the speaker intended to prosecute for embezzlement persuaded the relatives of the deceased boy to lodge a suit against the speaker and prevent him from bringing his case against them to trial.

<sup>72</sup> Andoc. 1; Lys. 3, 9, 16, 19, 21, 23; Isoc. 16; Dem. 18, 55; 57; Aeschin. 2; Hyp. 3.

<sup>73</sup> Lys. 24, 25. Lysias 7 may be treated both as affirming and denying enmity (discussed above).

himself an opportunity to paint his opponent as motivated by ignoble reasons and thus accuse him of sycophancy. As in the other defense orations, these speakers use the absence of enmity rhetorically to emphasize to the jury that their opponent is a liar and has brought trumped up charges. Once again enmity functions to create probability and character arguments about the case.

Lysias 24 (*For the Invalid*), in which the speaker denies enmity and portrays the prosecutor as a sycophant, has several interesting features, including the procedure, a *dokimasia* for persons who received a government pension.<sup>74</sup> Any disabled citizen who accepted pay from the state had to undergo this scrutiny exam (*dokimasia*) at which any citizen could accuse him of defrauding the city and obtaining his pension illegally. The nature of the procedure indicates that this speech would have been delivered by a relatively poor person and therefore represents the only speech in Lysias' corpus not composed for a member of the wealthy elite.<sup>75</sup> Because many have found it difficult to believe that a person living off payments from the state would be able to afford a logographer of Lysias' caliber, several scholars have suspected that the speech has been falsely attributed to Lysias. The speech's unusual features that have occasioned doubts about the speech's authenticity are also important in the speaker's decision to deny enmity, as will be demonstrated in the following analysis.<sup>76</sup>

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<sup>74</sup> Another unusual feature of this speech is humor. When this allegedly disabled and poor man accuses his opponents of attacking him out of envy for his manner of life and lust for money (see below), a humorous effect may be intended. The author of the speech may be manipulating the rhetorical *topoi* of enemies and sycophants to jeer at his opponents.

<sup>75</sup> This conclusion, however, depends on the assumption that the speaker is telling the truth when he states that he is not too wealthy to be drawing a government pension.

<sup>76</sup> Darkow (1917, 73–7) records the history of the question of Lysias 24's authorship up to the time of her book. In a commentary on the speech, Roussel (1966) argues against its authenticity; Wood (1983) concurs. However, Dover (1968, 189), Winter (1973), Edwards and Usher (1985, 263), Carey (1990, 50–1, n. 19), and Dillon (1995) accept the speech as genuine.

The speaker asserts that he is not confrontational, denying enmity to emphasize the disparity in character between the two litigants. He claims that the prosecutor brings a false accusation out of sheer spite: “I will try to show in my speech that this man is lying and that I myself have lived a life worthy of praise rather than envy up to this day: for I think that this man has brought this trial against me for no other reason than envy.”<sup>77</sup> The speaker accuses his opponent of bringing suit out of envy (*phthonos*) and denies that enmity (*echthra*) plays a role: “If he is playing the sycophant for money... But if he pretends that he is taking vengeance on me as his enemy, he is lying. For because of his wickedness I have never treated him as friend or enemy.”<sup>78</sup> The speaker denies enmity with the prosecutor in order to separate himself as much as possible from his “wickedness.”<sup>79</sup> The defendant in this case even goes so far as to thank the prosecutor for bringing the case since it gives him an opportunity to demonstrate his good habits of life: “I would almost thank my accuser for bringing this trial against me because now I can give an account of my life although previously I never had such an opportunity.”<sup>80</sup> The contrast between prosecutor and defendant is highlighted throughout.

The speaker’s dependence on state funds may have influenced his decision to deny enmity.

It would have been odd for a poor man who was receiving state pay to be engaged in quarrels

<sup>77</sup> Lys. 24.1: καὶ πειράσομαι τῷ λόγῳ τοῦτον μὲν ἐπιδείξει ψευδόμενον, ἑμαυτὸν δὲ βεβιωκότα μέχρι τῆσδε τῆς ἡμέρας ἐπαίνου μᾶλλον ἄξιον ἢ φθόνου: διὰ γὰρ οὐδὲν ἄλλο μοι δοκεῖ παρασκευάσαι τόνδε μοι τὸν κίνδυνον οὗτος ἢ διὰ φθόνου.

<sup>78</sup> Lys. 24.2: εἰ μὲν γὰρ ἔνεκα χρημάτων με συκοφαντεῖ· εἰ δ’ ὡς ἐχθρὸν ἑαυτοῦ με τιμωρεῖται, ψεύδεται: διὰ γὰρ τὴν πονηρίαν αὐτοῦ οὔτε φίλῳ οὔτε ἐχθρῷ πώποτε ἐχρησάμην αὐτῷ. The prosecutor is motivated not by enmity, but envy: “Indeed, Council, this man is clearly acting on envy because, although I have to endure such a misfortune, I am a better citizen” (ἦδη τοίνυν, ὦ βουλή, δηλὸς ἐστι φθονῶν, ὅτι τοιαύτη κεχρημένος συμφορᾶ τούτου βελτίων εἰμι πολίτης, 3).

<sup>79</sup> The speaker portrays the prosecutor as driven by “envy” (φθόνου, φθόνον, 1; φθονεῖ, φθονῶν, 2), “lying” (ψευδόμενον, 1; ψεύδεται, 2), “wickedness” (πονηρίας, πονηρίαν, 2), and “shamelessness” (ἀναισχυντία, 13), to increase the probability that he is lying (ψευδόμενον, ψεύδεται).

<sup>80</sup> Lys. 24.1: <οὐ> πολλοῦ δέω χάριν ἔχειν, ὦ βουλή, τῷ κατηγορῷ, ὅτι μοι παρεσκεύασε τὸν ἀγῶνα τουτονὶ πρότερον <γὰρ> οὐκ ἔχων πρόφασιν ἐφ’ ἧς τοῦ βίου λόγον δοίην, νυνὶ διὰ τοῦτον εἴληφα. The speaker of Lysias 16 (*For Manitheus*) similarly “thanks” his prosecutor for giving him an opportunity at his *dokimasia* to demonstrate how well he has behaved (1–3). Unlike the speaker of Lysias 24, Manitheus affirms enmity with his prosecutor, but, like the speaker of Lysias 24, concurrently accuses the opposition of envy and malice.

with elite citizens. The speaker therefore must provide some motivation for his opponent's legal action. He does this by attempting to paint him as a lying sycophant.<sup>81</sup> The speaker repeatedly attacks his opponent's credibility, emphasizing that he is a known liar and is bringing a false accusation.

Another reason for this defendant's denial of enmity arises from the nature of the trial. Because this is a *dokimasia*, a "scrutiny" for the legitimacy of this man's acceptance of public pay, the defendant's character is in fact on trial in many ways. He must defend against the prosecutor's charges but must also show himself worthy of receiving money from the state. A man who has the leisure and resources to engage in hostile relationships and pursue them in the courts would certainly not appear to be destitute and in need of the financial assistance from the city. If he has the ability to be in a feud with other citizens, surely he would have the ability to support himself. Therefore, the speaker here claims that even his enemies pity him: "do not now treat cruelly those who are pitied even by their enemies."<sup>82</sup> He asserts that he does not use state pay to pursue quarrels.

Why should I receive such treatment from you? Because previously somebody came to trial on my account and lost their possessions? But no one would be able to demonstrate that. Or because I am a busybody, reckless and fond of quarreling? But I do not use my means of living for those sorts of things.<sup>83</sup>

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<sup>81</sup> Lys. 24.1: καὶ πειράσσομαι τῷ λόγῳ τοῦτον μὲν ἐπιδείξει ψευδόμενον; Lys. 24.2: εἰ μὲν γὰρ ἔνεκα χρημάτων με συκοφαντεῖ . . . ψεύδεται; Lys. 24.25: εἰ μὴ βούλοιο καὶ τοῦτο ψεύδεσθαι τοῖς ἄλλοις ὁμοίως.

<sup>82</sup> Lys. 24.7: μηδὲ . . . νυνὶ διὰ τοῦτον τοὺς καὶ τοῖς ἐχθροῖς ἐλεινοὺς ὄντας ἀγρίως ἀποδέξῃσθε.

<sup>83</sup> Lys. 24.24: διὰ τί γὰρ ἂν καὶ τύχοιμι τοιούτων ὑμῶν; πότερον ὅτι δι' ἐμέ τις εἰς ἀγῶνα πώποτε καταστάς ἀπώλεσε τὴν οὐσίαν; ἀλλ' οὐδ' ἂν εἰς ἀποδείξειεν. ἀλλ' ὅτι πολυπράγμων εἰμι καὶ θρασὺς καὶ φιλαπεχθήμων; ἀλλ' οὐ τοιαύταις ἀφορμαῖς τοῦ βίου <πρὸς τὰ τοιαῦτα> τυγχάνω χρώμενος.

Now that he has established that the prosecutor cannot claim to be in a legitimate hostile relationship with him, the speaker is free to portray himself as a poor man who needs his pension, under attack by a malicious prosecutor who does not hesitate to tell lies.<sup>84</sup>

In his discussion of this speech, Cohen (1995, 82–3) elucidates the antithesis between enmity (*echthra*) and envy (*phthonos*).<sup>85</sup> Cohen states that the speaker “presents enmity and revenge here as legitimate motivations for litigation, whereas envy implies that the accuser’s claims cannot be trusted” (83). On the other hand, Cohen immediately denies that this is a firm distinction for the rest of the Attic orators since “in other orations enmity itself will be advanced as a reason to question the credibility of one of the parties” (83). Cohen is right to point out that a litigant can either affirm enmity or deny enmity depending on the case. He even comes close to asserting that the speaker uses enmity for a probability argument about the prosecutor’s claims (“...envy implies that the accuser’s claims cannot be trusted”). However, Cohen does not define clearly how he sees these arguments as functioning. He admits the aspect of probability argument, that envy casts doubt on the prosecutor’s credibility, but also reiterates his thesis that a trial was a social judgment between the two parties: “the arguments from enmity, equality, and revenge reflect the normative expectations which Lysias anticipated the judges to bring to bear in their verdict” (Cohen 1995, 83). However, if enmity functions to support character and probability arguments, there is no reason to posit such an extra-legal use of enmity to speak to the prosecutor’s “legitimacy.” Rather different speakers make use of enmity in very diverse ways specifically because they tie it to the claims of their cases. The speaker of Lysias 24 does not

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<sup>84</sup> The speaker of Lysias 16 (*For Mantitheus*) also denies involvement in court cases and such feuding activities (12). Someone on trial for a *dokimasia* or *euthynai* would naturally not want to appear quarrelsome, since excessive pursuit of private enemies could mar service to the public.

<sup>85</sup> *Phthonos* is the only emotion that Aristotle treats as wholly negative (Konstan 2006, 112–13). It is mere petty dissatisfaction at another’s good fortune, while enmity could be a legitimate relationship of hostility.

deny enmity to win points in pursuit of some sort of honor game but rather to make arguments about the details of the case.

*On a Charge of Overthrowing the Democracy* (Lysias 25), probably composed for a type of *dokimasia*, is another speech where a defendant attacks the prosecutors' motives in order to undercut their credibility. The defendant is evidently wealthy (12–13) and has been charged with staying in Athens during the rule of the Thirty Tyrants and therefore colluding in some way with the regime. The speaker counterattacks by calling the credibility of the prosecution into question with his assertion that his opponents are sycophants who have become rich by maliciously prosecuting innocent people. The emphasis on the prosecution's sycophantic aims plays a key role in the speaker's defense of his innocence.

The exceptional character of Lysias 25 is important in understanding the litigant's denial of enmity. Not only is the topic of the trial directly related to the regime of the Thirty, but the speech was composed shortly after their overthrow of their regime, probably around 400 (Murphy 1992, 546). In view of the political climate, the speaker appeals to larger issues about public welfare. Murphy (1992) even calls Lysias 25 "a deliberation on Athenian public policy" (544). The speaker adopts a "collective persona" rather than portraying the issue as essentially individual (1992, 555–8). He further accuses his opponents of helping create the factionalism that led to civil war, asserting that the city's demagogues created a class warfare of sorts by prosecuting the elites for monetary ends (Wolpert 2002, 123). The public focus in the speech therefore makes it expedient for the speaker to eschew private concerns and, especially, an affirmation of private enmity.

The speaker does not include an explicit denial of enmity, but he conspicuously ignores the issue throughout, at the same time emphasizing that his prosecutors have no personal interest in his affairs but are busybodies.

I wonder at my accusers, who care nothing for their own affairs and interest themselves in the affairs of others. Although they know those who have done nothing wrong and those who have committed many crimes, they are trying to make a profit and persuade you to have this opinion about all of us.<sup>86</sup>

These men do not care at all about the factuality of the offenses of which they accuse people although they know very well who has done wrong and who has not. They are acting only for money. The speaker emphasizes that they have obtained wealth through their unscrupulous methods: “they [sycophants] make money most easily from this”; “for you know that Epigenes, Demophantes, and Cleisthenes profited privately by the misfortunes of the city”; “after they returned from exile they began to play the part of sycophants”; “they have quickly become wealthy out of their poor status and have never undergone the submission of accounts (*euthynai*) although they have held many public offices.”<sup>87</sup> These accusations prepare the way for the speaker’s argument against the prosecutors’ claims. If the jury believes that his opponents have engaged in frivolous prosecutions, they will be more disposed to accept that the charges against the speaker are false.

The speaker emphasizes his own moderation during the time of the Thirty to undercut any claim by the prosecutors that he is their enemy. He claims that he did not take part in the

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<sup>86</sup> Lys. 25.1: τῶν δὲ κατηγορῶν θαυμάζω, οἱ ἀμελοῦντες τῶν οἰκείων τῶν ἀλλοτρίων ἐπιμελοῦνται, καὶ σαφῶς εἰδότες τοὺς μηδὲν ἀδικούντας καὶ τοὺς πολλὰ ἐξημαρτηκότας ζητοῦσι κερδαίνειν ἢ ὑμᾶς πείθειν περὶ ἀπάντων ἡμῶν τὴν γνώμην ταύτην ἔχειν.

<sup>87</sup> Lys. 25.3: ἐκ τούτων γὰρ ἂν μάλιστα χρηματίζονται; Lys. 25.25: ἴστε γὰρ Ἐπιγένην καὶ Δημοφάνην καὶ Κλεισθένην ἰδίᾳ μὲν καρπωσαμένους τὰς τῆς πόλεως συμφορὰς; Lys. 25.29: κατελθόντες δὲ συκοφαντεῖν ἐπιχειροῦσιν; Lys. 25.30: ταχέως μὲν ἐκ πενήτων πλούσιοι γεγέννηται, πολλὰς δὲ ἀρχὰς ἀρχοντες οὐδεμιᾶς εὐθύνην δίδοασιν. The people listed in section 25 are ostensibly the speaker’s opponents. Some scholars (e.g., Schwartz 1889, 121 n. 1) have proposed emending the text to change the names, but this is irrelevant to the present argument. It is clear from the context of the previous sentence that this list (whatever the names included) is intended to name the prosecutors in the case.

oligarchy, nor did he favor his friends or harm his enemies when he had opportunity (15). He did not put any names on the “catalogue of Athenians,”<sup>88</sup> nor did he get an arbitration verdict against another (16). He did not enrich himself at the expense of others (16) nor commit any crimes although the regime of the Thirty provided the perfect opportunity to get away with wrongdoing (17). His conduct was exemplary: “but finally I have adopted the following attitude: not to desire other people’s possessions during an oligarchy and not to spend my own property eagerly on you during a democracy.”<sup>89</sup> These arguments would have been less believable if the speaker had not denied enmity. Had he acknowledged that he made enemies during the regime of the Thirty, he would have put himself under suspicion of misconduct under the oligarchs’ rule.

Throughout the speech the defendant ignores the issue of enmity and concentrates on the prosecutors’ sycophantic actions. This attack on the prosecutors’ character and motivation is not intended simply to make the jury vote against them because of who they are, but rather to make it seem more likely that they are lying in the present case and that the speaker is innocent. The speaker makes this explicit: “I entreat you, men of the jury, not to have the same opinion as the sycophants. For they typically bring to trial those who have done no wrong.”<sup>90</sup> This statement connects their past history to the falsehood of the present charges. These prosecutors are harassing the speaker with no basis in fact.

Therefore, I think that it is a strong argument that if my accusers had been able to convict me of doing some private injustice they would not have accused me of the

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<sup>88</sup> It is unclear exactly what this “catalogue” (τὸν κατάλογον Ἀθηναίων) is. Possibly it was a list of Athenian citizens who were called up for service under the Spartan general Lysander, according to Athens’ terms of peace with Sparta in 404 B.C. (cf. Isoc. 18.16; 21.2). However, Xenophon (*Hell.* 2.3.18, 51–52; 2.4.1) and Aristotle (*Ath. Pol.* 36.2) mention another *katalogos*, the three thousand citizens enfranchised under the Thirty (Edwards and Usher 1985, 273).

<sup>89</sup> Lys. 25.17: ἀλλὰ γὰρ τοιαύτην διὰ τέλους γνώμην ἔχω, ὥστε ἐν ὀλιγαρχίᾳ μὲν μὴ ἐπιθυμεῖν τῶν ἀλλοτρίων, ἐν δημοκρατίᾳ δὲ τὰ ὄντα προθύμως εἰς ὑμᾶς ἀναλίσκειν.

<sup>90</sup> Lys. 25.3: δέομαι δ’ ὑμῶν, ὦ ἄνδρες δικασταί, μὴ τὴν αὐτὴν γνώμην ἔχειν τοῖς συκοφάνταις. τούτων μὲν γὰρ ἔργον ἐστὶ καὶ τοὺς μὴδὲν ἡμαρτηκότας εἰς αἰτίαν καθιστάναι.

crimes of the Thirty. They also would not believe that they have to slander others for things that the Thirty did, but that they had to convict those who had actually done injustice.<sup>91</sup>

The speaker emphasizes this character argument at the end of the speech. If he has convinced the jury that his opponents are unscrupulous prosecutors, he can now make a strong argument that they are likely to be lying on this charge. These sorts of people, the defendant claims, are notorious for frivolous prosecution: “they think that it is their duty to mistreat anyone they want as if everybody else has committed wrongdoing.”<sup>92</sup> In this way they make the city a place where the unjust do not pay the penalty, but rather those who do not pay off the sycophants: “it happens as these men want it to, and it is not those who have wronged your people who pay the penalty, but those who do not give up their own possessions.”<sup>93</sup> The speaker wants the jury to believe that his opponents habitually engaged in false accusations so that the jurors will be skeptical about the charge against him.

### Conclusion

Certain patterns are detectable in the rhetorical use of enmity in defense speeches as in prosecution speeches. Defendants are much more likely to affirm enmity than to deny it.<sup>94</sup> Defendants in trials for homicide invariably deny enmity with the victim since they do not want to provide their opposition with reasonable grounds for a motive for the alleged murder. Other than suits for physical assault, denials of enmity only occur in cases that are exceptional in

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<sup>91</sup> Lys. 25.5: μέγα μὲν οὖν ἠγοῦμαι τεκμήριον εἶναι, ὅτι, εἴπερ ἐδύναντο οἱ κατήγοροι ἰδίᾳ με ἀδικοῦντα ἐξελέγξαι, οὐκ ἂν τὰ τῶν τριάκοντα ἁμαρτήματα ἐμοῦ κατηγοροῦν, οὐδ' ἂν ῥοντο χρῆναι ὑπὲρ τῶν ἐκεῖνοις πεπραγμένων ἐτέρους διαβάλλειν, ἀλλ' αὐτοὺς τοὺς ἀδικοῦντας τιμωρεῖσθαι.

<sup>92</sup> Lys. 25.31: οἶονται χρῆναι οὕτως ῥαδίως ὄν ἂν βούλωνται κακῶς ποιεῖν, ὥσπερ τῶν μὲν ἄλλων ἀδικούντων.

<sup>93</sup> Lys. 25.32: γίγνεται δὲ ὅ τι ἂν οὗτοι βούλωνται, καὶ δίκην διδόασιν οὐχ οἱ τὸ ὑμέτερον πλῆθος ἀδικοῦντες, ἀλλ' οἱ τὰ σφέτερα αὐτῶν μὴ δίδόντες.

<sup>94</sup> However, a significant number of speeches ignores the issue altogether (Lys. 18; [Lys.] 20; Isae. 2, 11; Dem. 29; [Dem.] 52; Hyp. 2).

nature. Because Lysias 25 has a direct connection to the Athenian civil war the speaker denies that he antagonized the prosecutor during that the regime of the Thirty. He desires to avoid the appearance of having been a contributor to the city's troubles during the oligarchy. Lysias 24 is one of the most exceptional speeches of the entire corpus of the Attic orators. The litigant is a poor invalid who must deny that he is wealthy enough to be involved in a feud with prosecutor.<sup>95</sup>

Whether a defendant chooses to affirm or deny enmity, one thing remains constant: the rhetorical use of hostile relationships for probability and character arguments. Defendants who affirm enmity typically do so to paint their opponents as malicious attackers prosecuting their enemies in pursuit of a vendetta and without regard to the facts of the case. Defendants who deny enmity either undercut their opponents' ability to establish motive for the crime or accuse their opponents of acting as sycophants trumping up charges that are untrue. In all of these cases, a defendant employs enmity rhetorically in a way that integrates with his overall arguments and supports his claims about the facts of the case.

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<sup>95</sup> Further, Lysias 24 may not be authentic (see p. 116 n. 76).

## CHAPTER 4 MAKING ENEMIES

The Attic orators are valuable sources not only for how Athenians employed and manipulated the issue of enmity in the court rooms but also for how they conceptualized the working of enmity in society. Chapters 2–3 investigated the rhetorical use of enmity to create probability and character arguments that supported the litigants’ versions of the facts. Chapters 4–5 examine how enmity is depicted in the orators and other Attic sources and what this tells us about Athenian attitudes toward enmity in their society. Whereas the foregoing analysis investigated the methods by which litigants used enmity for their own purposes, these chapters examine what Athenians assumed about enmity in their arguments. Chapter 4 (“Making Enemies”) explores the avenues by which enmities were formed among the citizen body; Chapter 5 (“Harming Enemies”) examines how Athenians expected enemies to act toward one another.

The preceding rhetorical analysis has laid the groundwork for such an investigation. Because Athenian litigants introduced the issue enmity for the rhetorical purposes of constructing arguments from character and probability, their narratives provide a picture of how Athenians thought that enmities were likely to arise and to be carried out. A speaker would construct his accounts of a hostile relationship in such a way as to make his version of events appear to be the most plausible of the ones offered. A litigant must therefore ensure that his narrative will fit the jury’s presuppositions about what is probable even if he embellishes the truth or fabricates a narrative. The Attic orators are famous for distorting the facts, but, fortunately for this study, the orators’ trustworthiness is not a matter of great concern. Even if all extant speeches exaggerate or distort the events they describe, they still provide evidence for what an Athenian jury would have been ready to accept as plausible (Dover 1974, 13–14).

Patterns of behavior depicted repeatedly in speaker's narratives reflect how Athenian citizens presumed that feuds were likely to happen (although not necessarily how they should happen).<sup>1</sup> When several different litigants describe similar sets of circumstances, they are often taking advantage of a common scenario which entailed certain typical responses and consequences. For example, because the sources frequently depict disputes over inheritance and money as causing a rift between different kinship groups within the family, one may conclude that Athenians viewed this as a likely scenario in which enmity could occur. Such repeated patterns will reveal many different aspects of the conceptualization of enmity in classical Athens.

Because the scope of the study has broadened to include questions about Athenian ideology in general, it will now incorporate sources beyond Attic oratory. The following analysis will draw on classical Athenian texts of different genres, including history, drama, and philosophy. A study of how Athenians in general conceptualized the working of enmity must take into account as much of the source material as possible. While the Attic orators, due to their explicit focus on disputes, provide much of the material for this topic, other sources enhance the portrait of society drawn from the law court speeches. This corroboration from ancient authors of diverse genres provides a necessary corrective, mitigating the biases of one particular type of source.

This chapter will show that numerous classical Athenian sources assume enmity to be extremely common. The Athenians believed that it was natural for an individual to divide up his acquaintances into friends and enemies. The first section ("The Prevalence of Enmity") shows that Athenians accepted enemies as a common part of life. The following two sections ("Causes

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<sup>1</sup> Of course, the extant speeches will mirror the values of the society in which they were delivered so that correspondences between the way enmity is depicted and the jury's ideological expectations of proper behavior are inevitable. Yet the primary aim of the orators is not to convince the jurors that they are pursuing a feud within acceptable bounds, but rather to prove that a punishable offense has occurred.

of Enmity” and “Spreading Enmity”) support this argument by illustrating the vast array of ways by which an Athenian could make an enemy. Whether in alcohol-related incidents, sexual rivalry, criticism and gossip, family quarrels, monetary disputes, conflict in the performance of public duties, disagreement over public policy, or a host of other reasons, a citizen could come into a hostile relationship with relative ease. The tendency in Athens to divide up society into networks of family and friends facilitated the spread of enmity from a dispute between two individuals to one including a vast network of people. One lawsuit or act of slander could draw a great many third parties into a single dispute, giving rise to many other related quarrels. The citizens of classical Athens were aware of a multitude of scenarios in which conflict could ignite and therefore saw enemies as simply a fact of life.

### **The Prevalence of Enmity**

Enemies are a ubiquitous concern in all genres of Athenian literature, including oratory, history, drama, and philosophy. Demosthenes in *Against Meidias* assumes that the members of his audience all have enemies, arguing from analogy that none of the jurors would want to allow one of his enemies to do to him what Meidias has done to Demosthenes: “Perhaps Meidias hates me, but someone else hates each one of you. Would you agree, then, that everyone who hates someone else should have authority to do the things that Meidias has done to me? I don’t think so.”<sup>2</sup> Demosthenes bases his appeal to the jury on the belief that Athenian citizens would commonly have enemies who wanted to do them harm. This assumption is also evident in Plato’s *Charmides*. Plato implies that by the time they were learning to read and write, Athenian boys

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<sup>2</sup> Dem. 21.220: μισεῖ Μειδίας ἴσως ἐμέ, ὑμῶν δέ γε ἕκαστον ἄλλος τις. ἀρ’ οὖν συγχωρήσαιτ’ ἂν τοῦτον, ὅστις ἐστὶν ἕκαστος ὁ μισῶν, κύριον γιγνέσθαι τοῦ ταῦθ’ ἅπερ οὗτος ἐμὲ ὑμῶν ἕκαστον ποιῆσαι; ἐγὼ μὲν οὐκ οἶμαι. Elsewhere in the speech Demosthenes emphasizes the disgusting nature of Meidias’ act by comparing him unfavorably with other Athenians who quarreled with each other (62–5). Demosthenes asserts that “many others” have engaged in feuds (πολλῶν τοίνυν . . . γεγενημένων ἐχθρῶν ἀλλήλοις, 62), but not pursued them to the point that Meidias has. Although he argues that Meidias has carried his hatred too far, Demosthenes still assumes that enmity is quite common.

would be able to identify certain persons as their enemies, probably as a result of enmity passed down from their fathers or other members of their households. In the context of his dispute with the interlocutors of the dialogue over the definition of “prudence” (σωφροσύνην) as “minding one’s own business” (τὸ τὰ αὐτοῦ πράττειν), Socrates asks the youth Charmides, “Do you think that the scribe [who educated you] read and wrote only his own name and taught you boys to do so, or did you practice writing the names of your enemies no less than your own names and your friends’ names?”<sup>3</sup> Socrates takes for granted that Charmides knew people whom he could identify as enemies even when he was just learning the alphabet.<sup>4</sup>

Socrates in Xenophon’s *Memorabilia* expects all Athenian men to experience a relationship of enmity at some point in their lives. He asserts that any leader, “whether of a chorus, a household, a city, or an army,”<sup>5</sup> needs the same skills that a general of the army develops, namely, to be able to overcome their enemies. When Socrates’ interlocutor, Nicomachus, objects to the comparison of heads of a household (οἰκονόμοι) and generals, asserting that “all of these things [ability to make their subordinates respect them, to punish the bad and reward the good, etc.] are common to both [heads of households and generals], but fighting is not,” Socrates responds with the question, “but don’t they both acquire enemies?”<sup>6</sup> Nicomachus agrees emphatically (καὶ μάλα, ἔφη, τοῦτό γε).

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<sup>3</sup> Pl. *Chrm.* 161d: δοκεῖ οὖν σοι τὸ αὐτοῦ ὄνομα μόνον γράφειν ὁ γραμματιστής καὶ ἀναγιγνώσκειν ἢ ὑμᾶς τοὺς παῖδας διδάσκειν, ἢ οὐδὲν ἤττον τὰ τῶν ἐχθρῶν ἐγράφετε ἢ τὰ ὑμέτερα καὶ τὰ τῶν φίλων ὀνόματα;

<sup>4</sup> Athenians were not unaccustomed to think of youths as obtaining or inheriting enemies at an early age. The speaker of Isaeus 5 (*On the Estate of Dicaeogenes*) accuses Dicaeogenes of betraying young orphans while he was their guardian and handing over their wealth “to their enemies” (τούτων ἐχθροὺς παρέδωκεν, 10). The speaker of Lysias 32 (*Against Dicaeogenes*) posits that the orphans for whom he is speaking as an advocate may have an “ancestral enemy” (τις αὐτοῖς πατρικὸς ἐχθρὸς ἦν, 22).

<sup>5</sup> Xen. *Mem.* 3.4.6: εἴτε χοροῦ εἴτε οἴκου εἴτε πόλεως εἴτε στρατεύματος.

<sup>6</sup> Xen. *Mem.* 3.4.10: πάντα ὁμοίως ἀμφοτέρων ἐστίν· ἀλλὰ τὸ μάχεσθαι οὐκέτι ἀμφοτέρων. ἀλλ’ ἐχθροὶ γέ τοι ἀμφοτέροις γίγνονται;

Ancient Greeks do not seem to have found it difficult to divide up their acquaintances into friends and enemies.<sup>7</sup> A Greek was expected to help those he considered friends and to harm those he considered enemies. This dichotomy was a key part of the structuring of social relationships and often had widespread implications since in the absence of a clear distinction between different spheres of activity, a private dispute between two individuals would generally expand to include all spheres of life in which they interacted. Public speakers who differed on policy insulted their opponents' private lives even in orations composed for the Assembly or the law courts (Mitchell and Rhodes 1996, 21–9). The speaker of Lysias 14 (*Against Alcibiades*) provides an example: “Why would anyone pardon men of this sort? Is it because they have been unfortunate in their public life but have otherwise lived orderly and moderate lives? Have not most of them prostituted themselves, and others had children by their sisters?”<sup>8</sup> The prosecutor attacks his opponents not only for their public policies but for their character since he believes that the two are linked. Litigants considered it natural to attack an opponent's character along with his policy and did not always make fine distinctions between the public and private spheres of citizens' lives (cf. Lys. 16.13, 25.10).

The following two sections will enumerate some of the many ways by which Athenians could make enemies, exploring how Athenians conceived of the causes of enmity and the reasons for its spread among networked groups of friends and enemies. The evidence supports the proposition already stated, that enmity was a fact of everyday life and was a prominent part of an ancient Athenian's concerns. The great diversity of methods by which enmity could begin and spread assured that very few citizens would be left unaffected.

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<sup>7</sup> Dover 1974, 181; Blundell 1989, 39–49; Phillips 2008, 15–21.

<sup>8</sup> Lys. 14.41: διὰ τί ἂν τις τοιούτων ἀνδρῶν φείσαιο; πότερον ὡς πρὸς μὲν τὴν πόλιν δεδυστυχήκασιν, ἄλλως δὲ κοσμοῖο εἰσι καὶ σωφρόνως βεβιώκασιν; οὐχ οἱ μὲν πολλοὶ αὐτῶν ἠταιρήκασιν, οἱ δ' ἀδελφαῖς συγγεγόνασι, τοῖς δ' ἐκ θυγατέρων παῖδες γεγόνασι;

## The Causes of Enmity

Enmity often ensued from conflicts in both the private and public arenas. Drinking parties, court cases, struggles for political advancement, and many other activities could pit two citizens against each other, with the result that each stood to benefit from the other's loss. This section elucidates the most prevalent patterns in the Attic sources' descriptions of the origins of relationships of enmity in order to illustrate how many different avenues for making an enemy existed. The Athenians assumed that enmity could result from activities in nearly every aspect of life and was correspondingly a widespread phenomenon.

Drinking parties, sexual rivalry, and games were especially marked out as activities that often brought people into conflict since they could influence a person's behavior and provoke irrational acts. Demosthenes uses the example of a public official who started a scuffle with another citizen as a typical case of such behavior: "for the man who struck the thesmothete has three excuses: drunkenness, love, and ignorance on account of the fact that the deed was done in darkness at night."<sup>9</sup> Demosthenes implies that such acts committed under the influence of drink or love were relatively common. Lysias 3 (*Against Simon*) centers on the conflict over the affections of a Plataean boy. The narrative chronicles several altercations between himself and Simon, including a melee in which everyone involved "got their heads cracked."<sup>10</sup> The speaker asserts that scuffles over these issues were widespread and unworthy of the severe penalty for which he has been put on trial. He believes it incredible (δεινόν) that the courts would exile everyone "who receives a wound when fighting because of drunkenness and competitiveness or

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<sup>9</sup> Dem. 21.38: πρῶτον μὲν γὰρ ὁ τὸν θεσμοθέτην πατάξας τρεῖς εἶχεν προφάσεις, μέθην, ἔρωτα, ἀγνοίαν διὰ τὸ σκότους καὶ νυκτὸς τὸ πρᾶγμα γενέσθαι.

<sup>10</sup> Lys. 3.18: συντριβόμεθα τὰς κεφαλὰς ἅπαντες.

over boys or slander or a *hetaera*.”<sup>11</sup> If this were the case, then the lawmakers “would have exiled quite a few people.”<sup>12</sup> Lovers’ quarrels resulting in enmity had a famous precedent in the story of Harmodius and Aristogiton, who overthrew the Pisistratid tyranny at Athens in 508/7 B.C. According to Thucydides (6.54–9), Aristogiton formed his plot against the tyrant Hippias after the tyrant’s brother, Hipparchus, solicited Harmodius.<sup>13</sup>

In the case of adultery, Athenians appeared especially willing to go to extreme lengths to protect their love interests. Athenian law provided that if a man caught an adulterer “on top of his wife” (ἐπι δάμαρτι), he could kill him with impunity (Dem. 23.53).<sup>14</sup> In Lysias 1 (*On the Murder of Eratosthenes*) Euphiletus claims that he executed Eratosthenes in accordance with the laws because he had caught him in bed with his wife. Although the enmity between Euphiletus and Eratosthenes had been short-lived,<sup>15</sup> one of Eratosthenes’ relatives had to bring the prosecution,<sup>16</sup> thus cementing a new relationship of enmity between Euphiletus and Eratosthenes’ kinsmen. The chorus of Euripides’ *Andromache* illustrates the belief that someone who took more than one lover would create “strife and terrible pains in the house.”<sup>17</sup> Hostilities would frequently result from such rivalry.

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<sup>11</sup> Lys. 3.43: ὅσοι ἐκ μέθης καὶ φιλονικίας ἢ ἐκ παιδιῶν ἢ ἐκ λοιδορίας ἢ περὶ ἐταίρας μαχόμενοι ἔλκος ἔλαβον.

<sup>12</sup> Lys. 3.42: ἢ πολλοὺς γ’ ἂν ἐξήλασαν. Other disputes over prostitutes which resulted in violence or enmity are recounted in Apollodorus’ *Against Neaera* ([Dem.] 59.30–47) and Isaeus’ *On the Estate of Pyrrhus* (3.13).

<sup>13</sup> Love affairs could also lead to family squabbles. In Demosthenes 39 (*Against Boeotus I*) the speaker asserts that his father’s mistress tricked him into claiming his illegitimate sons as legitimate, thus causing a tangle of legal problems for his legitimate son, the speaker himself (see esp. 40).

<sup>14</sup> On this law of justifiable homicide, see MacDowell 1963, 72; Gagarin 1981, 114; Carawan 1998, 92–4.

<sup>15</sup> Only relatives could bring suit in a prosecution for homicide by the *dikē phonou*. See MacDowell 1963, 17; Gagarin 1981, 55–7; Carawan 1998, 1.

<sup>16</sup> Euphiletus’ claim that he had never met Eratosthenes before he caught him with his wife may be suspect (see p. 176). If they had been enemies previously, Eratosthenes may have intended to do Euphiletus dishonor by cuckolding him.

<sup>17</sup> Eur. *Andr.* 467: ἔριδας οἴκων δυσμενεῖς τε λύπας.

This is further illustrated by litigants who deny that they were involved in drinking parties or love affairs with their opponents to preempt suspicions of enmity. Euphiletus must deny that he was involved in a drunken brawl (παροινία, *Lys.* 1.45) with Eratosthenes in order to deny that enmity existed between them (Cohen 1995, 71–2).<sup>18</sup> The speaker of Demosthenes 47 (*Against Evergus*) proves that he has no ulterior motives by rejecting the common causes of enmity: “never before in my life [...] did any revelry or love affair or drinking party lead me into his [Theophemus’] house because I was quarreling with him over some advantage he had gained over me or because I was spurred on by some romantic fervor.”<sup>19</sup> Another litigant draws a contrast between himself and his opponents, asserting that he has never given anyone a reason to become his enemy while his opponents engage in “dice, drinking parties, and such debaucheries.”<sup>20</sup> The speaker implies that those types of people are more likely to quarrel with others than restrained and moderate men like himself.

Aristotle asserts that men who are drunk are more likely than those who are sober to commit *hubris* (*Pol.* 1274b). A similar assumption that drunkenness often leads to quarrels may be found in a passage from Aristophanes’ *Ecclesiazusae*. Blepyrus objects to Praxagora’s plan of instituting a form of government similar to communism in Athens on the grounds that common offenses resulting from dinner parties will not entail a penalty: “how will those who beat and commit outrage against someone after carrying on at a drinking party pay the fine for battery?”<sup>21</sup>

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<sup>18</sup> Euphiletus, unlike the other litigants cited, mentions only drinking parties and omits reference to sexual rivalry, probably because this was impossible to deny, given Euphiletus’ admission that Eratosthenes was engaged in an affair with his wife.

<sup>19</sup> *Dem.* 47.19: ἐμοὶ γὰρ πρὸς Θεόφημον συμβόλαιον μὲν οὐδὲν πώποτε πρότερον ἐν τῷ βίῳ ἐγένετο, οὐδ’ αὖ κῶμος ἢ ἔρωσ ἢ πότος, ὥστε διαφερόμενον περὶ τίνος πλεονεκτήματος ἢ παροξυνόμενον ὑπὸ ἡδονῆς τινὸς ἐλθεῖν ἐπὶ τὴν οἰκίαν τὴν τούτου.

<sup>20</sup> *Lys.* 16.11: περὶ κύβους ἢ πότους ἢ περὶ τὰς τοιαύτας ἀκολασίας.

<sup>21</sup> *Ar. Eccl.* 663–4: τῆς αἰκειίας οἱ τύπτοντες πόθεν ἐκτείσουσιν, ἐπειδὴν / εὐωχηθέντες ὑβρίζωσιν; τοῦτο γὰρ οἰμαί σ’ ἀπορήσειν.

Athenians were quick to link activities involving irrational impulses, such as drinking and love, to quarrelsome behavior.

Citizens who came into conflict often reinforced their hostile relationships through mutual criticism and gossip. In one of his philosophical works Isocrates asserts that while praise for another can begin a friendship, censure can just as easily cause enmity (1.33). Even the failure to return a friendly greeting could be interpreted as an insult, causing ill-will and turning a friend into an enemy (Xen. *Mem.* 3.13.1; cf. Arist. *Rh.* 1379a). Aristotle asserts that friends will likely be those who are not critical (τοὺς μὴ ὀνειδιστὰς, *Rh.* 1381b) or apt to slander others (τοὺς μὴ κακολόγους). Such behavior could easily terminate a friendship. For instance, the speaker of Lysias 8 (*Against the Members of a Sunousia*) alleges that his opponents had acted as if they were his friends but were in fact slandering him behind his back (1–2). The friendship has now turned into enmity (14, 18).<sup>22</sup> Isaeus 1 (*On the Estate of Cleonymus*) includes a similar story about two individuals who became enemies after having an intense argument: “although they were formerly friends and had no pretext for such behavior, they came into enmity with each other after an exchange of words for no apparent reason.”<sup>23</sup> Such insults figure prominently in the plots of tragic plays. The title character of Sophocles’ *Ajax* unwisely refuses the goddess Athena’s help, insulting her and incurring her enmity and wrath (770–7). Athena then gets revenge for this slight by humiliating Ajax and eventually driving him to suicide.<sup>24</sup>

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<sup>22</sup> Lysias 8 was clearly not intended for a dikastic court, and may not have been composed for a trial before any official body in Athens. It is more likely an address to the private club (*sunousia*) of which the speaker was a member.

<sup>23</sup> Isae. 1.9: καὶ φίλοι τέως ὄντες καὶ προφάσεως οὐδεμιᾶς γενομένης ἐκ λόγων τινῶν οὕτως εἰκὴ πρὸς ἀλλήλους ἔχθραν ἀνείλοντο.

<sup>24</sup> On the enmity between Athena and Ajax in Sophocles’ play, see Blundell 1989, 66–7.

Many contentious issues could arise from within the household, especially over inheritance and the practice of guardianship.<sup>25</sup> The extant orations on matters of inheritance, which are notoriously complex,<sup>26</sup> demonstrate that intricate and often convoluted interpretations of the relevant laws, along with elaborate claims about the circumstances surrounding a will, could cause considerable strife among family members (Isae. 1.22, 3.73). For instance, the speaker of Demosthenes 44 (*Against Leochares*) disputes his opponent's claim to the estate of Archiades on the grounds that he is the adopted son of the adopted son of Archiades. An adopted member of the family should not be allowed, he argues, to adopt another person into the family (63). In Isaeus 1 (*On the Estate of Cleonymus*) the speaker argues that the will made by the now deceased Cleonymus disinherited him and his siblings because of the enmity between Cleonymus and their guardian, Deinias. After hostilities between the two had cooled, Cleonymus intended to make a new will but was prevented from doing so by family members with a vested interest in the old will. The speaker asserts that the old will, which disinherited him and his siblings, should be ignored. He reasons that he and his siblings are nearer in relationship and that Cleonymus was never in a quarrel with them. Cleonymus, therefore, had no reason to wish them to be dispossessed (17). Thus he attempts to undermine the actual document, even boldly asserting, "gentlemen, you must, in accordance with kinship and the truth of the matter, vote (as you typically do) for those who dispute based on their family relationship rather than those who

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<sup>25</sup> The most fertile source for the first of these is the corpus of Isaeus, who seems to have specialized in inheritance law.

<sup>26</sup> Harrison (1968–71) states succinctly, "the rules were in the fourth century both complicated and fluid, and this gave play to litigation and the skill of the logographer" (i. 122–3). Cf. Lipsius' (1905–15) comment, "Kein Teil des attischen Privatrechts bereitet unserer Darstellung größere Schwierigkeiten als das Erbrecht" (537). Thompson (1981, 13) also comments on Athenians' suspicions about whether or not a will actually represented the wishes of the testator.

dispute based on a will.”<sup>27</sup> A law that invalidated a will made under the influence of insanity, old age, drugs, or a woman provided further complications to testamentary issues (Isae. 2.1, 19; Dem. 48.56; [Dem.] 46.14). A claimant could easily dispute the status of an inheritance by alleging that the testator had been manipulated.

Even when claimants did not dispute the status of the will, questions could arise over who actually possessed the money and whether they had it rightfully. As two daughters of a deceased man contest his will in Demosthenes 41 (*Against Spudias*), one of their husbands maintains that another son-in-law already owed twenty minae to the estate of the deceased that he should repay. The speaker of Lysias 19 (*On the Property of Aristophanes*) has been brought to trial for possessing wealth inherited from Aristophanes that belongs to the state. He argues that Aristophanes was not as wealthy as supposed and that the amount of money requested by the prosecutors simply does not exist (24–7). Such disputes could fuel relationships of enmity that continued well beyond the original issue. In *On the Mysteries* Andocides accuses his prosecutor, Callias, of attacking him because of a previous quarrel over the marriage of an heiress (1.117–23). This story indicates that disputes over inheritance issues provided opportunities for lasting hostile relationships to develop.<sup>28</sup>

The practice of guardianship could also be a source of strife between family members and close friends. In addition to the famous case of Demosthenes (Dem. 27–31), seven lawsuits involving disputes over guardians survive (Dem. 36; 38; [Dem.] 45; Isaeus 1; 5; 7; 11). Thus twelve out of the approximately one hundred extant forensic orations concern this issue directly (see also the reference to another guardianship case at Lys. 10.5). The speaker in a Lysianic

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<sup>27</sup> Isae. 1.41: *χρη δέ, ὦ ἄνδρες, καὶ διὰ τὴν συγγένειαν καὶ διὰ τὴν τοῦ πράγματος ἀλήθειαν, ὅπερ ποιεῖτε, τοῖς κατὰ γένος ψηφίζεσθαι μᾶλλον ἢ τοῖς κατὰ διαθήκην ἀμφισβητοῦσι.*

<sup>28</sup> Thompson (1981) argues that Athenians frequently made wills. Therefore, these disputes could have been quite widespread and not limited simply to exceptional cases.

fragment complains that heirs too often accuse their guardians of mismanagement: “it is not enough, men of the jury, that guardians receive so many troubles because of their guardianship; many, after they have preserved the possession of their friends, are also maliciously prosecuted by their wards.”<sup>29</sup> As in testamentary law, the potential for abuse was high. The absence of strict records and the latitude given to guardians to manage the money as they saw fit made it difficult to prove or disprove misconduct in the administration of the property.

Disputes over money and property were not limited to relatives and friends. Court cases between even relative strangers could make business associates into enemies. Pasion, the most famous banker in Athens, was involved in several such court cases.<sup>30</sup> A fragmentary speech in the Lysianic corpus shows that even a casual loan could turn two friends against each other: “formerly he was my friend and companion; but now he has been persuaded by my enemies.”<sup>31</sup> A story from Isaeus 5 (*On the Estate of Dicaeogenes*) confirms that lending and borrowing could turn an amiable relationship sour: “among his friends was Melas the Egyptian, who was his friend from boyhood and from whom he stole money that he had borrowed; he is now his bitterest enemy.”<sup>32</sup> Whether or not the speaker’s narrative is true, he expected the jury to find his explanation for the end of a friendship plausible. The many other extant private suits concerning money or property would also presumably have ended in enmity between the opposing litigants.

Litigation for profit was not confined to banking and contract disputes. Athenian literature frequently expresses concerns over unscrupulous citizens who extorted money from others by

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<sup>29</sup> Lys. Fr. 43 Thalheim: Οὐχ ἰκανόν, ὧ ἄνδρες δικασταί, τοῖς ἐπιτρόποις ὅσα πράγματα διὰ τὴν ἐπιτροπείαν ἔχουσιν, ἀλλὰ καὶ διασφύζοντες τὰς τῶν φίλων οὐσίας συκοφαντοῦνται ὑπὸ τῶν ὀρφανῶν πολλοί.

<sup>30</sup> Isoc. 17; Dem. 36; [Dem.] 49.6–32; 52.12–15. On Pasion, see p. 80 n. 116.

<sup>31</sup> P. Oxy. 1606 Fr. 6 col. iv: πρὸ τοῦ μὲν ἦν μοι φίλος καὶ ἐταῖρος· νυνὶ δὲ πεισθεὶς ὑπὸ τῶν ἐμῶν ἐχθρῶν.

<sup>32</sup> Isae. 5.40: τῶν δ' ἐπιτηδείων Μέλανα μὲν τὸν Αἰγύπτιον, ᾧ ἐκ μειρακίου φίλος ἦν, ὅπερ ἔλαβε παρ' αὐτοῦ ἀργύριον ἀποστερήσας, ἔχθιστός ἐστι.

threatening them with lawsuits. Demosthenes' allegations against Apollodorus are typical of accusations of such sycophancy:

Who does not know how many troubles you have not ceased to cause not only by bringing sycophantic private suits, no less weighty than the present trial, but also by bringing sycophantic public suits and never following through with the trial? Did you not accuse Timarchus? Or Callipus, who is now in Sicily? Or again Menon? Or Autocles? Or Timotheus? Or many others?<sup>33</sup>

Demosthenes may well be exaggerating, but he is employing a character type that was well known to Athenians. Whether or not these blackmailers were a legitimate public menace, Athenian literature certainly envisions them as such.<sup>34</sup>

Because Athenians did not separate their lives into public and private spheres, quarrels over public matters could lead to enmity. Deliberation over foreign policy in the Assembly tended to create factions among the “orators” (i.e., the elite politicians) that frequently took on a personal dimension.<sup>35</sup> These power blocs may have focused on a specific issue of policy as did the groups led by Demosthenes and Aeschines in the middle of the fourth century, but they inevitably entailed private vendettas that were played out in the courts and elsewhere. Any Athenian could make an enemy by speaking in the Assembly since he was bound to disagree with other policy makers who often viewed their honor and status as linked to their influence on

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<sup>33</sup> Dem. 36.53: καὶ τίς οὐκ οἶδεν ὅσα πράγματα πράττων οὐ πέπαυσαι, οὐ μόνον ἰδίας δίκας διώκων οὐκ ἐλάττους ταυτησί, ἀλλὰ δημοσίᾳ συκοφαντῶν καὶ κρίνων τίνας <οὔ>. οὐχὶ Τιμομάχου κατηγορεῖς; οὐχὶ Καλλίππου τοῦ νῦν ὄντος ἐν Σικελίᾳ; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ Τιμοθέου; οὐκ ἄλλων πολλῶν.

<sup>34</sup> E.g., Lys. 19.51, 25.3, 27.2; Isoc. 21.15; Dem. 25.46–7; Aeschin. 3.212. Although many scholars have argued that pecuniary motives defined a sycophant, others have posited that a sycophant was primarily a vexatious litigant rather than necessarily one seeking dishonest gain (see MacDowell 1978, 62–66; Osborne 1990; Harvey 1990; Todd 1993, 92–4; Christ 1998a: 48–71; Allen 2000a, 156–67; Rubinstein 2000, 199–213). However, the argument presented here rests only on the supposition that Athenians were concerned about people who used the courts for profit and not whether they would have believed that all “sycophants” did so.

<sup>35</sup> Although the *communis opinio* for many years has held that these political battles in the Assembly and courts were the preserve of the super-rich, Rubinstein (2000, 91, 111) has effectively challenged this view. She argues that *synēgoria* allowed citizens of moderate means to attach themselves to important public figures and work their way to prominence.

the city's policies.<sup>36</sup> The prooemium to Andocides 4 (*Against Alcibiades*) connects political activity with the acquisition of personal enemies:

I am not experiencing for the first time how dangerous it is to get involved with the affairs of the city. Rather I regarded it as an arduous task even in the past, before I concerned myself with public business. But I think it the duty of the good citizen to be willing to face danger on behalf of the masses and not to keep silent about public problems for fear of coming upon private enmities.<sup>37</sup>

Demosthenes' deliberative speeches (Dem. 1–17), addressed to the Assembly, illustrate how such enmity could arise. He does not draw a line between his opponents' political stances and private lives but rather attacks them indiscriminately with *ad hominem* arguments. He asserts that the state ought to execute publicly his political opponents who wanted to make peace with Philip (φανερῶς ἀποτυμπανίσαι, 10.63).<sup>38</sup> He implies that invectives between political adversaries were common; Athenians have become accustomed to hear “speakers abusing and accusing each other.”<sup>39</sup> Even in private life insults and slander could inflict dishonor; in front of the Assembly, such criticism will have created deep divisions between citizens.<sup>40</sup>

These political leaders could take an attack on their public record or policies as the beginning of enmity. The orators often pursued their political opponents in the courts (e.g., Dem. 19; Aeschin. 1, 3), exacerbating hostilities. Such prosecutions resulting from public matters could make enemies. In *On the Dishonest Embassy*, Demosthenes asserts that the Phocians, who were wronged by Aeschines, have refused to bring suit against Aeschines because “none of them

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<sup>36</sup> On the perceived difference between the ordinary citizen and the political expert, see Ober 1989, 104–27.

<sup>37</sup> Andoc. 4.1: οὐκ ἐν τῷ παρόντι μόνον γινώσκω τῶν πολιτικῶν πραγμάτων ὡς σφαιερὸν ἐστὶν ἄπτεισθαι, ἀλλὰ καὶ πρότερον χαλεπὸν ἠγούμην, πρὶν τῶν κοινῶν ἐπιμελεῖσθαί τινος. πολίτου δὲ ἀγαθοῦ νομίζω προκινδυνεύειν ἐθέλειν τοῦ πλῆθους, καὶ μὴ καταδείσαντα τὰς ἔχθρας τὰς ἰδίας ὑπὲρ τῶν δημοσίων ἔχειν ἥσυχίαν.

<sup>38</sup> On *apotympanismos*, see Allen 2000a, 232–3.

<sup>39</sup> Dem. 4.44, λοιδορουμένων ἀκούοντες καὶ αἰτιωμένων ἀλλήλους τῶν λεγόντων.

<sup>40</sup> Deliberative debates that resulted in personal attacks were not limited to the Assembly. The speaker of Lysias 22 (*Against the Retailers of Grain*), a member of the Council, asserts that when he spoke against summary execution for traders of grain who had engaged in illegal business practices, he was immediately accused of favoritism (2–3).

would want to obtain a private enmity because of their public misfortunes.”<sup>41</sup> A fragment from Dinarchus sums up this situation well: “for enmities and disputes that come from public matters become the causes of private disputes.”<sup>42</sup> Those who came into conflict in the public arena often cemented a private relationship of enmity through the courts.

According to Xenophon’s *Memorabilia* a successful politician could expect to make many enemies among his fellow citizens and therefore had to develop the skills necessary to master his rivals. Socrates asks Aristippus about the education of two hypothetical youths, one who will be educated to be a strong leader and another who will be taught not to attempt leadership. As Socrates and Aristippus discuss the various skills in which each boy should be trained, Socrates asks, “to which of the two does it seem right to impart the necessary knowledge for overcoming one’s enemies?” to which Aristippus replies, “he who is being educated to lead.”<sup>43</sup> The answer to Socrates’ question was evidently quite obvious since this issue is not debated in the rest of the dialogue. Xenophon assumes that his audience will find it plausible that those who exercise leadership will make enemies as a matter of course.

Liturgies provided additional avenues for making enemies by virtue of their intensely competitive nature.<sup>44</sup> The richest men in Athens were selected to perform certain duties such as producing a dramatic play at a festival, supporting an athletic team, or equipping and

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<sup>41</sup> Dem. 19.80: οὐδείς ἂν αὐτῶν ἐθελήσειεν ὑπὲρ τῶν κοινῶν συμφορῶν ἰδίαν ἔχθραν ἀνελέσθαι.

<sup>42</sup> Din. Fr. 87.126 Sauppe: αἱ γὰρ ἀπὸ τῶν κοινῶν ἔχθραι καὶ πραγματεῖαι αἰτίαι τῶν ἰδίων διαφορῶν καθεστήκασιν.

<sup>43</sup> Xen. *Mem.* 2.1.3: τί δέ; τὸ μαθεῖν, εἴ τι ἐπιτηδεῖόν ἐστι μάθημα πρὸς τὸ κρατεῖν τῶν ἀντιπάλων, ποτέρῳ ἂν προσθεῖναι μᾶλλον πρέποι; . . . τῷ ἄρχειν παιδευμένῳ.

<sup>44</sup> Whitehead 1983; Veyne 1990, 77–8. Davies (1981, 91–7) and Ober (1989, 231–3) assert that the wealthy performed liturgies so that they could ask for gratitude (*charis*) from the jury if they were to become entangled in a court case. Johnstone (1999, 93–108) takes a slightly different approach, pointing out that elite litigants cited the liturgies they had performed to establish their character before the jury. Regardless of the exact motives behind elites’ performance of liturgies or citation of them in court, wealthy citizens certainly seem to have used liturgies to establish their standing and to gain honor among the citizen body. On liturgies, see also Christ 1990; Hansen 1991, 110–12.

commanding a warship for the fleet. This institution allowed wealthy citizens to gain status and reputation in the city by performing their duties well. While most rival wealthy citizens were already engaged in a continuous battle for status in the community, liturgy-performers were often pitted against each other in more direct ways (for instance, competing against each other with rival choruses at the same festival). In a society with agonistic values, the competitive atmosphere surrounding performance of liturgies made for a natural arena of conflict. An anticipatory argument in Antiphon 6 (*On the Chorus Boy*) implies that the jury might assume that a chorus-producer would make enemies during his recruitment of chorus boys and preparations for the event: “then I selected the chorus as best as I was able, not causing anyone any loss, nor forcibly exacting fines, nor making an enemy out of anyone.”<sup>45</sup> The speaker must deny that he made enemies while discharging his duties in order to assert that he had no motive for the murder of which he is accused. Xenophon’s Socrates likewise asserts that chorus-producers must develop the skills to overcome their enemies, thus assuming that enmity results naturally from the competitive arena of liturgy-performance (*Mem.* 3.4). Socrates argues that chorus-producers are comparable to generals since both will inevitably acquire enemies and must be able to defeat them (3.4.10). This dialogue between Socrates and Nicomachus operates under the premise that elite liturgy-performers have *echthrois* just as generals have *polemioi*.<sup>46</sup>

Trierarchies occasioned no less strife than chorus productions. Because they could be quite lucrative, citizens sometimes competed for them. The powerful and wealthy might promise trierarchies to their associates or dependants as a reward or token of friendship (*Lys.* 28.4, 29.3). Conversely, influential citizens might force unprofitable trierarchies on their enemies to punish

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<sup>45</sup> Antiph. 6.11: ἔπειτα τὸν χορὸν συνέλεξα ὡς ἔδυναμην ἄριστα, οὔτε ζημιώσας οὐδένα οὔτε ἐνέχυρα βία φέρων οὔτ’ ἀπεχθανόμενος οὐδενί.

<sup>46</sup> Public service in general could function as a competition for honor among elite citizens. See Davies 1981, 26; Whitehead 1983; 1993; Sinclair 1988, 188–90; Gabrielsen 1994, 48–9; Wilson 2000, 144–97; Christ 2006, 171–2.

them. Cleon threatens the Sausage Seller in Aristophanes' *Knights*: "I will see to it that you become a trierarch and spend all your money on an old ship."<sup>47</sup> Several speeches of the Demosthenic corpus (44, 50, 51; cf. Lys. 21.8) have a direct connection to trierarchic service and disputes arising from it. Demosthenes 44 and 50 in particular illustrate how the exchange of these warships from one captain to another could end in hostilities, especially if a dispute arose over the ship's equipment. In Lysias 21 (*On a Charge of Accepting Bribes*) the speaker mentions another type of dispute over warships. Several generals verbally abused each other in a battle over who would get to go aboard the best-equipped of the triremes (8).<sup>48</sup>

Public magistrates could make enemies simply in the performance of their duties. The speaker of Demosthenes 57 (*Against Eubulides*) admits that he quarreled with several people while he served as the leader of his deme, apparently considering such behavior normal. In *Against Meidias* Demosthenes reports how an archon and the members of Demosthenes' tribe had a verbal battle over the allotment of flute players. Both the archon and the members of the tribe gave speeches in which they abused each other and engaged in mutual accusations.<sup>49</sup> Aristotle similarly assumes that magistrates became involved in enmity in the natural course of their duties. He suggests that the officials who impose penalties be different from those who

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<sup>47</sup> Ar. *Eq.* 912–14: ἐγὼ σε ποιήσω τριηραρχεῖν / ἀναλίσκοντα τῶν / σαυτοῦ, παλαιὰν ναῦν ἔχοντ'. Some trierarchs even hired substitutes (Gabrielsen 1994, 95–102).

<sup>48</sup> The *antidosis* procedure may also have increased the potential for strife in the performance of liturgies. A wealthy Athenian who was assigned a liturgy could challenge someone else either to do the liturgy himself or to submit to an exchange of property (see p. 55 n. 49). Demosthenes claims that Meidias' hybriistic conduct during an *antidosis* between Demosthenes and Thrasylochus, Meidias' brother, began their enmity (Dem. 21.77–82). The trials of Lysias 4 (*On a Premeditated Wounding*) and Demosthenes 42 (*Against Phaenippus*) likewise resulted from an *antidosis* (1). Although enmity may have arisen from such procedures, it seems probable that the person who proposed the *antidosis* would challenge one of his enemies rather than a friend or someone he did not know. *Antidosis* may have presupposed rather than created enmity.

<sup>49</sup> Dem. 21.13: λόγων καὶ λοιδορίας γιγνομένης, καὶ κατηγοροῦντος τοῦ μὲν ἄρχοντος τῶν ἐπιμελητῶν τῆς φυλῆς, τῶν δ' ἐπιμελητῶν τοῦ ἄρχοντος.

exact the penalties because if the same people were responsible for both they would become “everybody’s enemies” (πολεμίους πᾶσιν, *Pol.* 1322a; cf. *Plat. Resp.* 343e).<sup>50</sup>

One former official reportedly avoided the courts because of the enemies he had made while in office: “my father was afraid to come into court lest someone, under the pretext of having suffered a wrong from him in some other public capacity, would appear against him.”<sup>51</sup>

An influential aristocrat named Polystratus feared reprisal from those who were dissatisfied with the administration of his office. When asked to come up with a list of the 5000 men to control the new government, he actually wrote down 9000 names because he believed that he could make enemies by excluding citizens who desired to be on the roll ([*Lys.*] 20.13).<sup>52</sup>

Arbitrators could acquire new enemies by stepping into the middle of a dispute.<sup>53</sup> Demosthenes asserts that Meidias became angry with Straton, who, as a public arbitrator, had ruled in favor of Demosthenes. In revenge Meidias engineered Straton’s disfranchisement (21.87). Private arbitrators also risked angering one of the two parties if they attempted to participate in the resolution process. The speaker of Isaeus 2 (*On the Estate of Menecles*) relates that mutual friends refused to arbitrate between his opponent and himself because they did not wish to take the chance of making an enemy of either party (30). Arbitrators risked expanding a dispute rather than resolving it.

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<sup>50</sup> The danger that Aristotle feared seems to have been present in the Athenian process of tax collection. Because the tax collectors paid the state a fixed sum and kept the overages for themselves, they profited directly from their activities. It is no surprise that the Attic orators make several references to tax collectors making enemies (*Andoc.* 1.133–6; *Lys.* 22.8; *Dem.* 22.63).

<sup>51</sup> *Dem.* 39.3: ὁ πατήρ δέ . . . ἅμα μὲν φοβούμενος εἰς δικαστήριον εἰσιέναι, μή τις, οἷα ὑπὸ πολιτευομένου, ἐτέρωθί που λελυπημένος ἐνταυθοὶ ἀπαντήσειεν αὐτῷ.

<sup>52</sup> This occurred in 411 B.C., when the first oligarchic rebellion during the Peloponnesian War took place. This short-lived regime was called the “Five Thousand” (*Thuc.* 8.65–70, 97).

<sup>53</sup> On the practice of private arbitration at Athens, see Lipsius 1905–15, 222–6; Harrison ii. 1968–71, 64–6; MacDowell 1978, 203–6; Hunter 1994, 55–67.

The Athenian sources provide a portrait of society in which enmity could result from nearly every activity of a citizen's life. Hostile relationships could form in both the public and private spheres and within the household and outside of it. Athenians conceived of enmity as a pervading force in society, able to arise in a multitude of situations. The casual admissions of enmity by Athenian citizens are not at all unusual in view of their acceptance of the prevalence of enmity in the city.

### **Spreading Enmity**

Once started, a relationship of enmity naturally expanded to include many more individuals than the two originally involved in the conflict. Hostilities were usually passed on through affinity groups, including members of the household and friends. Because Athenians tended to group themselves into identifiable social networks, a newly formed relationship of enmity could cause a chain reaction among such groups with far ranging consequences.<sup>54</sup>

The first level to which enmity expanded was the household (*oikos*). When the heads of their respective *oikoi* became enemies, all members of their households were drawn into the relationship of hostility.<sup>55</sup> For instance, Athenians believed that enmity was passed down from father to son. Defendants sometimes complain that they are on trial because their opponents wish to continue a feud inherited from the previous generation (Dem. 57.61; Isoc. 16.2–3). Likewise, a prosecutor may assert that the origin of his hatred for his opponent came from their fathers' relationship. The speaker of Lysias 14 (*Against Alcibiades*) cavalierly admits that he is prosecuting Alcibiades partly because of their fathers' hatred for each other: "since in the past

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<sup>54</sup> Blundell (1989, 47) summarizes the situation, "if you become my *philos*, we are expected ipso facto to share in each other's friendships and enmities." Of course, reality would be much more complex, with many more grey areas and transitional categories, but the model generally holds true.

<sup>55</sup> Athenians construed an attack on an individual's honor as an attack on the family's honor (see Fisher 1990, 130). Litigants could also present their family to the jury to gain sympathy, appealing to the effects of collective punishment (Hall 1995; Rubinstein 2000, 154–6).

there was a conflict between our fathers . . . and because now I have suffered wrongs at his hands, I will attempt to gain vengeance on him with your help.”<sup>56</sup> Apollodorus ties his reasons for prosecuting to his desire for vengeance for his father even more explicitly in *Against Theocrines*: “my father, men of the jury, whom I am obeying in doing all that I have done, expressed to all his relatives extreme displeasure at the idea that I might omit an opportunity in which it would still be possible, because my father is living, to take vengeance on this man.”<sup>57</sup> Enmity could also be passed down simply through unsettled accounts or other lawsuits that the son was obliged to carry through after his father had died or for which he was compelled to stand trial.<sup>58</sup>

If homicide took place, the murdered man’s offspring saw it as their duty to exact vengeance from their father’s killer (Antiph. 1.1, 30).<sup>59</sup> According to the speaker of Lysias 13 (*Against Agoratus*), on his death bed Dionysodorus requested vengeance from all of his family members, including his unborn son (42–3). This child would presumably be taught that his eventually duty was to avenge his father (cf. Isae. 9.17–20).<sup>60</sup>

The principle that sons should pay back their fathers’ enemies is evident in Athenian tragedy. In Sophocles’ *Antigone* a father rebukes his son for failing to support him against his rivals. The father, Creon, appeals to what he considers the natural way for family relationships to work: “for this reason men pray that they may have obedient children and have them in their

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<sup>56</sup> Lys. 14.2: πρότερον πρὸς τοὺς πατέρας ἡμῖν διαφορᾶς ὑπαρχούσης . . . καὶ νῦν ὑπ’ αὐτοῦ πεπονηθῶς κακῶς, πειράσομαι . . . μεθ’ ὑμῶν αὐτὸν τιμωρήσασθαι. Cf. Dem. 20.144.

<sup>57</sup> [Dem.] 58.2: ὁ πατήρ, ὧ ἄνδρες δικασταί, ὧπερ πάντα πειθόμενος πεποίηκα, πρὸς ἅπαντας ὠδύρετο τοὺς γνωρίμους, εἰ παραλιπῶν ἐγὼ τὸν καιρὸν ἐν ᾧ διὰ τὸ τὸν πατέρα ζῆν ἔξεστί μοι τοῦτον ἀμύνασθαι.

<sup>58</sup> Lys. 17.1–3; 19.1; Fr. 20.16 Thalheim; Dem. 36.20; 38.6; 47.32; 49.1; [Dem.] 52.

<sup>59</sup> This ethic was represented in and reinforced by Athenian law, which prohibited anyone but a relative of the deceased to bring suit for murder.

<sup>60</sup> Enemies acquired at a young age may not have been uncommon, see pp. 127–8.

house, so that they might repay their father's enemy with evils."<sup>61</sup> Jason addresses his children similarly in Euripides' *Medea*: "how I wish I could see you being raised well and come into manhood, victorious over my enemies!"<sup>62</sup> Household solidarity prescribed that family members share the hatreds of the head of the house and, if necessary, take vengeance on his behalf. Aristotle considers this principle so obvious that it was banal and exceedingly commonplace. As an example of something on which "all men agree" (ὁμολογούντων πάντων) he cites the common Greek proverb, "foolish is the man who kills the father and spares the son."<sup>63</sup> The son, if left alive, would be expected to seek vengeance for his father.

The connection between father and son seems to have been a particularly important one, but a relationship of enmity had the potential to draw in any number of relatives. In Lysias 13 (*Against Agoratus*) Dionysodorus asks for vengeance not only from his unborn son but also from his brother, brother-in-law, and all his friends (42–3). His brother-in-law or cousin is in fact the one who lodged the suit (1), apparently supported by Dionysodorus' brother, Dionysius (42).<sup>64</sup> It was not uncommon for citizens to enter into a dispute by speaking on behalf of their relatives in court (e.g., Lys. 32; Dem. 30; cf. [Lys] 20.11).<sup>65</sup> Kinsmen were expected to be willing to support each other, as evidenced by Demosthenes 19 (*On the Dishonest Embassy*), in which

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<sup>61</sup> Soph. *Ant.* 641–3: τούτου γὰρ οὐνεκ' ἄνδρες εὐχονται γονὰς / κατηκόους φύσαντες ἐν δόμοις ἔχειν, / ὡς καὶ τὸν ἐχθρὸν ἀνταμύνωνται κακοῖς.

<sup>62</sup> Eur. *Med.* 920–1: ἴδοιμι δ' ὑμᾶς εὐτραφεῖς ἤβης τέλος / μολόντας, ἐχθρῶν τῶν ἐμῶν ὑπερτέρους. Cf. *Supp.* 544–6; *Herac.* 1000–3.

<sup>63</sup> Arist. *Rh.* 1395a: νήπιος ὃς πατέρα κτείνας παιδας καταλείπει. Cf. Lys. 12.36; 14.30.

<sup>64</sup> The speaker refers to Dionysius as if he is present, using an epideictic pronoun, "this Dionysius here" (Διονυσίῳ τούτῳ, 41).

<sup>65</sup> [Lysias] 20 is a *synēgoria* speech on behalf of the speaker's father, at least for the portion following section 11. (It is possible that the transmitted text is actually two speeches. See Rubinstein 2000, 153–4.)

Demosthenes finds it incredible that Eubulus would not help his relative when he was on trial (290).

Enemies often attacked each other's relatives, cementing a hostile relationship with their adversaries' kinship groups. In *On the Dishonest Embassy*, Demosthenes anticipates that Aeschines' brothers will speak on his behalf and so does not spare them from his abuse, insulting their occupations as clerks (ὑπογραμματέας, 19.237) and calling them "loud-mouthed and shameless" (μεγαλόφωνοι καὶ ἀναιδέεις, 238). Aeschines employed similar tactics on Demosthenes several years later, denigrating Demosthenes' mother, father, and other relatives in his speech against Ctesiphon (3.171–2). Aeschines reveals that he is creating enemies by expanding his attacks to include Demosthenes' relatives. Demosthenes' mother, who was, Aeschines asserts, of Scythian descent, was married off to Demosthenes' father while her sister was married to another person whom Aeschines refuses to name since he wants "to avoid making many enemies" (ἵνα μὴ πολλοῖς ἀπεχθάνωμαι, 172).<sup>66</sup> By insulting his opponent's relatives Aeschines expands the feud.

When one citizen took another to court, the opportunity for enmity to expand increased dramatically since friends and family would often play supporting roles as co-speakers (*synēgoroi*) or witnesses.<sup>67</sup> Rubinstein (2000, 24–75) has shown that trials at Athens were much more than *agōnes* between two individuals, but were team-based affairs.<sup>68</sup> The speaker of Isaeus 6 (*On the Estate of Philoctemon*) believes that appearing as an advocate is a relatively minor

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<sup>66</sup> Attacks on an opponent's mother or wife such as this one in Aeschines 3 were quite common. Hunter (1994, 111–16) has illustrated how female relatives were especially susceptible to such abuse, since such "gossip" about them was nearly impossible to refute. See also Henderson 1987.

<sup>67</sup> On the practice of *synēgoria*, see p. 14, n. 17.

<sup>68</sup> Rubinstein (2000, 158) notes that even hostile sources do not condemn relatives who support each other as *synēgoroi*.

service to pay a friend: “it would be strange if I endured those things when the risks were clear because I considered these men friends and helped them out, but now I did not attempt to speak for them so that you might vote in accordance with your oaths and they might receive justice.”<sup>69</sup> Likewise, the speaker of Isocrates 21 (*Against Euthynus*) sees his friendship with the prosecutor as a sufficient excuse for appearing before the jury on his behalf (1).<sup>70</sup> The practice of *synēgoria*, which was quite common, thus enlarged the conflict from two individuals to two opposing teams of friends and family members (Rubinstein 2000, 13–23).<sup>71</sup>

When they did not speak in support of friends and family, citizens could serve as witnesses. Several law court speeches demonstrate that a litigant’s witnesses often came from his known and trusted associates.<sup>72</sup> The loss of a friend could be equated with the loss of potential advocates or witnesses in future court cases.<sup>73</sup> Some speakers even assume that friends and family members often bear false witness on each other’s behalf.<sup>74</sup> Apollodorus accuses his

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<sup>69</sup> Isae. 6.2: ἄτοπον δὴ εἰ ἐκεῖνα μὲν προδήλων ὄντων τῶν κινδύνων ὅμως διὰ τὸ χρησθαι τούτοις καὶ φίλους νομίζειν ὑπέμενον, νῦν δὲ οὐ πειρώμην συνειπεῖν ἐξ ὧν ὑμεῖς τε τὰ εὖορκα ψηφιεῖσθε καὶ τούτοις τὰ δίκαια γενήσεται.

<sup>70</sup> Cf. Lys. 5.1, 21.17, 27.12; Isae. 1.7, 4.1, 7.10; Dem. 20.1, 36.1; Lycurg. 1.138. In Isocrates 21 the speaker can envision people abusing the alliance of friendship in order to attack others, using friends to bring spurious lawsuits in collaboration (8). Fisher (1999, 56–9) has adduced the evidence for such gangs, or “workshops” (*ergastēria*), of villains.

<sup>71</sup> Approximately one-third of the extant speeches belong to a *synēgoros* (Rubinstein 2000, 58–9): Lys. 5, 13, 14, 15, 27, 32; [Lys.] 6, 20; Isoc. 21; Isae. 2, 4, 6, 12; Dem. 18, 20, 22, 25, 26, 29, 34, 36, 43, 44; [Dem.] 59; Hyp. 1, 3, 4; Din. 1, 2, 3.

<sup>72</sup> Lys. 15.5; Isae. 3.19–22; 5.8; 9.25; 12.1, 4; Dem. 29.23–4; 37.48; [Dem.] 52.17; Aeschin. 1.57. A litigant could make a damaging blow to his opponent’s credibility if he could prove that his opponent’s friends and family do not support him (Isae. 1.2). On the function of witnesses in Athenian law, see Humphreys 1985; Todd 1990c; Carey 1994c; 1995; Hall 1995; Rubinstein 2000, 13–4.

<sup>73</sup> Lys. 8.18, 18.24. “I willingly relinquish my friendship with you, since by the God I do not know what loss I will suffer by not associating with you; I gained nothing when I did. When I have some trouble, will I need someone who will speak for me and people who will bear testimony?” (ἐγὼ τοίνυν ἐκὼν ὑμῖν ἐξίσταμαι τῆς φιλίας, ἐπεὶ τοι μὰ τοὺς θεοὺς οὐκ οἶδ’ ὅ τι ζημιωθήσομαι μὴ ξυνῶν ὑμῖν· οὐδὲ γὰρ ἀφελούμην ξυνῶν. πότερον γὰρ, ὅταν ἢ τί μοι πράγμα, τότε ποθέσομαι τὸν ἐροῦντα καὶ τοὺς μαρτυρήσοντας; Lys. 8.18). The speaker assumes that friendship naturally entails the benefit of having people ready to assist as advocates and witnesses should a trial arise.

<sup>74</sup> Likewise, a litigant would find it difficult to convince someone from his opponent’s set of friends to bear witness for him (Isae. 2.33).

opponent of convincing his associates to bring spurious testimony: “he has no difficulty in bringing his friends and family forward to bear false witness against me.”<sup>75</sup> Many Athenians considered it the duty of close associates to support each other in such circumstances.<sup>76</sup>

Advocates and witnesses widened the scope for new relationships of enmity since a litigant believed that everyone on his opponent’s side was performing a hostile act against him. Litigants often had no reservations about verbally abusing their opponents’ co-speakers during the trial (Rubinstein 2000, 160–1). Lycurgus unabashedly attacks the opposing advocates: “the fact that they make defense speeches for wrongdoers is proof that such men also share in such actions.”<sup>77</sup> These advocates are worthy of the jury’s “extreme anger” (τῆς ἐσχάτης ὀργῆς).<sup>78</sup> Those who were attacked in this fashion could be expected to carry a grudge. If an Athenian asked someone to appear as an advocate on his behalf, he was asking that person to risk enmity with the opposing litigant. Thus Apollodorus complains in *Against Theocrines* that no one will speak for him out of fear of making an enemy of Theocrines ([Dem.] 58.59).

Witnesses also risked new hostile relationships. An unsuccessful litigant could use his opponent’s witness as a scapegoat by suing him for false witness (*dikē pseudomartyriōn*) to have the original verdict nullified.<sup>79</sup> This often constituted a prosecution of the opposing litigant’s

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<sup>75</sup> [Dem.] 52.17: κατ’ ἐμοῦ ῥαδίως τὰ ψευδῆ μαρτυροῦντας τοὺς οἰκείους τοὺς ἑαυτοῦ παρέχεται. Cf. Isae. 12.4.

<sup>76</sup> Much debate has centered on the legal purposes of witnesses since Humphreys (1985) argued that witnesses were not expected to be impartial, but rather to support one of the two litigants. See also Todd 1990c; Carey 1994b; Mirhady 2002; Rubinstein 2005; Thür 2005; Gagarin 2007.

<sup>77</sup> Lycurg. 1.138: τὸ γὰρ ὑπὲρ τῶν ἀδικησάντων ἀπολογεῖσθαι τεκμήριον ἔστιν ὅτι καὶ τῶν πεπραγμένων οἱ τοιοῦτοι ἂν μετάσχοιεν. Cf. Lys. 14.22.

<sup>78</sup> Athenians often verbally abused their enemies’ friends to attack their enemies’ character. The speaker of Lysias 12 (*Against Eratosthenes*) preempts his opponent’s anticipated appeal to his friendship with the famous general Theramenes by attacking Theramenes in a long digression (50–79; cf. Lys. 26.21; Dem. 21.205–8). The speaker of Lysias 14 (*Against Alcibiades*) categorizes his opponent and all his associates as collaborating wrongdoers (45).

<sup>79</sup> On the *dikē pseudomartyriōn*, see Harrison ii. 1968–71, 156–7; MacDowell 1978, 244–5. The *diamartyria* could also cause problems for witnesses. This procedure consisted of a formal declaration of a fact by a witness who was

friends or family since these were the people who typically served as witnesses.<sup>80</sup> However, a litigant might anger his opponent’s witnesses simply by insulting them in his speech. In *Against Demosthenes* Dinarchus attacks the opposing witnesses, warning the jury that anyone who would dare to speak on Demosthenes’ behalf must be “hostile to the constitution” and “common enemies of the laws and the whole city.”<sup>81</sup> Such insulting language would have led to the expansion of the feud to include the opponents’ friends and family.<sup>82</sup>

Extant curse tablets confirm that Athenian litigants took it personally when people appeared against them in court. The authors of eight tablets include their opponent’s fellow litigants (*syndikoi*) in their imprecations.<sup>83</sup> Wunsch *Def. tab.* 39 is representative of the pattern.

Ariphrades, Cleophon, Archedamus, Polyxenus, Anticrates, Antiphanes, Zacorus, Antichares, Satura, Mika, Simon, the mother of Satira, Theodora . . . Antamis, Eucoline, Ameinias, and all of their fellow litigants (*syndikoi*) and friends.<sup>84</sup>

Five more tablets curse *synēgoroi* and three curse their opponents’ witnesses.<sup>85</sup> Wunsch *Def. tab.* 38 provides an illustrative example.

Philippides, Euthycritus, Cleagorus, Mentimus, and everybody else, whoever spoke as advocates (*synēgoroi*) for them.<sup>86</sup>

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presumed to have intimate knowledge of the point at issue. If a litigant objected, he would have to bring a *dikē pseudomartyriōn* against this key witness (Lipsius 1905–15, 854–6; MacDowell 1978, 212–14).

<sup>80</sup> Lys. 10.12, 22, 24–25; Isae. 3.3–4; 5.12–13; Dem. 29; 47; [Dem.] 45; 53.15.

<sup>81</sup> Din. 1.112: κακόνους ἐστὶ τῇ πολιτείᾳ; Din. 1.113: κοινούς ἐχθροὺς εἶναι τῶν νόμων καὶ τῆς πόλεως ἀπάσης.

<sup>82</sup> The speaker of *Against Eubulides* shows that a litigant could consider any witness who appeared against him an enemy. He complains that Eubulides attacked him in a deme meeting and caused his disfranchisement because of the role he had played as witness in a previous trial against Eubulides (Dem. 57.8).

<sup>83</sup> Wunsch *Def. tab.* 39, 66, 81, 88, 103, 106, 129; Audollent *Def. tab.* 62, 63. The word *syndikos* was often used interchangeably with *synēgoros* (Rubinstein 2000, 42–5).

<sup>84</sup> Wunsch *Def. tab.* 39: Ἀριφράδης / [Κ]λεοφῶν / Ἀρχέδαμος / Πολύξενος / Ἀντικράτης / Ἀντιφάνης / Ζάκορος / Ἀντιχάρης / Σάτυρα / Μίκα / Σίμων / ἡ Σατίρας / μήτηρ / Θεοδώρα / θο. . . . / . . . λο[φ]μένη / Ἀνταμῖς / Εὐκολίνη / Ἀμεινίας / καὶ τοὺς τούτων / συνδικο(υ)ς πάντας / καὶ φίλους.

<sup>85</sup> *Synēgoroi*: Wunsch *Def. tab.* 38, 63, 65, 95; Audollent *Def. tab.* 60. Witnesses: Wunsch *Def. tab.* 65, 68; Audollent *Def. tab.* 63.

The common formulae on these tablets which curse an opponent's associates in a trial confirm that Athenian litigants saw the opposition's entire supporting cast as hostile to them.<sup>87</sup>

The expectation that friends would share the same friends and enemies meant that Athenians tended to be drawn into the conflicts of their close associates. Aristotle states that people who become friends will likely be those who have the same friends and who are hated by the same people.<sup>88</sup> Isocrates advises Demonicus against making friends that are not true friends, that is, friends who will not be willing to take the risk of sharing enemies (1.30). A true friend might be expected to help out his associates by attacking their enemies. Thus the speaker of Lysias 26 (*Against Evander*) must deny that he is prosecuting Evander to oblige his friend, Leodamas (15; cf. Xen. *Mem.* 2.9). Because friends were expected to share enemies, Athenians had to be careful about whom they included in their group of companions. In Xenophon's *Memorabilia* Socrates warns against finding a "quarrelsome" (στασιώδης) person who will "provide his friends with many enemies."<sup>89</sup> These sources suggest that Athenians tended to acquire their friends' enemies as their own, so that social groups were apt to organize along the lines of friendship and enmity.<sup>90</sup>

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<sup>86</sup> Wünsch *Def. tab.* 38: Φιλιππίδης / Εὐθύκριτος / Κλεάγορος / Μενέτιμος / καὶ το(ὺ)ς ἄλλο(υ)ς πάντας / ἢ ὅσοι συν[ήγο]ροι αὐτο[ις].

<sup>87</sup> These curse tablets can all be dated to the fourth-century Attica (Faraone 1991).

<sup>88</sup> Arist. *Rh.* 1381a: καὶ οἱ τοῖς αὐτοῖς φίλοι καὶ οἱ τοῖς αὐτοῖς ἐχθροί [...] καὶ τοὺς τοῖς αὐτοῖς ἐχθροὺς καὶ μισοῦντας οὐς αὐτοὶ μισοῦσιν, καὶ τοὺς μισουμένους ὑπὸ τῶν αὐτοῖς μισουμένων. Aristotle asserts that, generally speaking, friends "desire the same things" and share in similar activities (*Rh.* 1381a). Compare Lysias 16.11, where the speaker argues that the types of people who enjoy drinking and gambling do not associate with him. A litigant can draw a contrast between his own behavior and those of other people to show that they could not be friends.

<sup>89</sup> Xen. *Mem.* 2.6.4: πολλοὺς τοῖς φίλοις ἐχθροὺς παρέχειν.

<sup>90</sup> Some might even ask that their friends take vengeance on their behalf. The dying injunction of Dionysodorus was for his friends to take vengeance for his family (οἷς ἐπέσκηπτον ἐκείνοι ὡς φίλοις οὐσι τιμωρεῖν ὑπὲρ αὐτῶν, Lys. 13.94; cf. Lys. 18.10). The speaker of Lysias 15 (*Against Alcibiades II*) argues that the generals were not supporters of Alcibiades, asserting that if they had been his friends, they would have fined the commander (*phylarchos*) who expelled him from the cavalry (5).

## Conclusion

The Attic sources picture a society whose members were constantly engaging in activities that promoted conflict and enmity. In the private sphere relationships of enmity often resulted from drinking parties, games, sexual rivalry, gossip and criticism, and slander. Within the household the practice of guardianship and disputes over adoption and inheritance could cause strife between family members. Disagreement over money and property could potentially turn acquaintances, friends, or even kinsmen against each other, especially when such disputes resulted in litigation.

Citizens who participated in the public matters of the city encountered many more situations in which hostile relationships were created. Policy makers and politicians were in constant friction with each other, as were liturgy-performers. Magistrates had to make decisions that could upset other citizens. Those who took offense at a state official's decisions did not typically confine their disagreement to a certain sphere of their lives, but rather sought to retaliate for perceived wrongs. Personal feuds could result from nearly any disagreement or conflict between citizens.

Once begun, a relationship of enmity tended to include the rivals' friendship and kinship groups. The family was viewed as a unit so that, when two persons from different households became enemies, their entire families were at odds. Hostilities spread naturally to other family members and even friends, especially if either of the parties resorted to litigation since the courts offered many new opportunities to bring in third parties as advocates or witnesses and to insult one's opponent's friends and family.

Therefore, it is not surprising that Athenian sources accepted enmity as a common practice which touched the lives of nearly all citizens. However, the Athenians also recognized that the prevalence of enmity encouraged fragmentation among the citizen body and therefore created

dangerous problems for society at large. The question of how such groups of friends and enemies should treat each other and how democratic institutions should regulate their actions is the subject of the next chapter.

## CHAPTER 5 HARMING ENEMIES

Because Athenians believed that enmity was a widespread phenomenon among the citizens of their city, they had to confront the issue of how enemies would act toward each other. What did they believe was typical behavior for those who became involved in relationships of enmity? The sources provide evidence for a widespread expectation that those who participated in hostile relationships would attempt to harm their enemies whenever possible. The classic Greek motto of helping one's friends and harming one's enemies drove individuals to be vigilant for opportunities to do injury to their rivals. Athenians accomplished this in a number of ways, including most conspicuously slander, lawsuits, abuse of influence in government, and vandalism.<sup>1</sup>

The Athenian ideology of harming enemies was grounded in their conception of enmity as a formalized practice. Whereas many people in modern cultures would consider the criteria for being a personal enemy merely emotional, enmity in Athens entailed expectations of the participants (see below, "A Formalized Relationship"). If alleged members of a relationship of enmity did not act in a way consistent with Athenian conceptualization of the practice, then the legitimacy of the relationship was called into question. However, while the injunction to harm one's enemy was gripping, it was not absolute. Definite limits were placed on the pursuit of a rival, especially when that pursuit became violent. Although it was considered natural for enemies to pursue each other by various non-violent methods, Athenians viewed violent responses as contrary to democratic egalitarian ideology, which prohibited such assaults on a citizen's body. Democratic institutions and conventions, such as the court rooms and the ideal of

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<sup>1</sup> Many of the ways by which Athenians made enemies (see Chapter 4) were always the ways by which they pursued them. This follows logically, since enmity would be started by one person harming another and would be continued in just the same way. The chief difference between making enemies and pursuing enemies was that the former activity was usually unintentional.

the harmony of the citizenry, were believed to prevent the escalation of a feud to the point of bloodshed.

The sources yield a view of society with seemingly contradictory aspects. Athenian males were frequently engaged in formalized relationships of enmity and believed it their duty to harm their enemies. Athenians expected enemies to engage in insults, lawsuits, and political rivalries, but aggressive, violent behavior was limited by democratic ideology and institutions. In the Athenian mind enmity was both widespread and relatively non-violent.

### **A Formalized Relationship**

Enmity meant more than dislike and avoidance of a certain person; it was a formalized relationship that required participants to act in certain ways toward each other.<sup>2</sup> Enmity, like friendship, was supposed to be mutual and to be accompanied by the exchange of actions.<sup>3</sup> A relationship of enmity was therefore the inverse of a relationship of *charis*, by which Athenians exchanged favors in an endless series of debts and repayments (cf. Plat. *Resp.* 331e).<sup>4</sup> Like friends, enemies owed each other certain things. As Aristotle asserts, Athenian men are to do whatever helps their friends and whatever harms their enemies.<sup>5</sup> Aristotle defines friendship as a desire for the benefit of the friend (*Rh.* 1380b–1381a) while also asserting that whatever does not benefit one’s enemies is likewise “good” (ἀγαθόν, 1362b). To adhere to this ideology an Athenian had to know who his enemies were and to act in accordance with the expectations.

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<sup>2</sup> Cohen 1995, 70–2; Phillips 2008, 15–21.

<sup>3</sup> On this dynamic of friendship, see Konstan 2006, 169–84, esp. 173–7.

<sup>4</sup> See Ober 1989, 226–30; Harrison 2003; Konstan 2006, 156–68.

<sup>5</sup> Arist. *Rh.* 1363a: προαιροῦνται δὲ πράττειν [...] τὰ τοῖς ἐχθροῖς κακὰ καὶ τὰ τοῖς φίλοις ἀγαθὰ.

The formalized process of “reconciliation” is striking evidence of the quasi-official status granted to relationships of enmity.<sup>6</sup> Enemies could reconcile by a ceremony attended by friends and witnesses, often as part of private arbitration. The speaker of Antiphon 6 (*On the Chorus Boy*) describes the end of his enmity with Philocrates as occurring at an identifiable time and place.

I listened to my friends’ advice and was reconciled to these men during the Dipoleia festival before witnesses who reconciled us near the temple of Athena. And after this they spent time with me and conversed with me at festivals, in the marketplace, in my house and theirs, and everywhere else. Finally, by Zeus and the gods, this Philocrates himself was talking with me in the Council chamber before the Council while he was standing with me on the platform, addressing me by name, as I did him.<sup>7</sup>

Antiphon assumes that such an agreement could put an abrupt end to one type of relationship and just as suddenly start another. The speaker and his enemy immediately stopped harming each other and began spending time together, even supporting each other in public events. A ceremony and exchanging of oaths has decisively changed their relationship.

This process of reconciliation was recognized as legally enforceable (Dem. 37.16–20; 38.1, 5–6; 48.2; cf. Isae. 2.38–9). Several court speeches use reconciliation agreements to make legal arguments. The speaker of Lysias 4 (*On a Premeditated Wounding*) assumes that he will defeat the defendant’s claim that they are enemies if he can prove that a reconciliation took place (1–5). He laments that his opponent was not on the board of judges for the Dionysia to vote for his tribe since it would prove that they had been reconciled (3–4). Athenians expected that after such

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<sup>6</sup> On arbitration and reconciliation, see Scafuro 1997, 117–41.

<sup>7</sup> Antiph. 6.39: και ἐγὼ πεισθεὶς ὑπὸ τῶν φίλων διηλλάγην τούτοις ἐν Διπολείῳ ἐναντίον μαρτύρων, οἵπερ διήλλαττον ἡμᾶς πρὸς τῷ νεῷ τῆς Ἀθηνᾶς· και μετὰ τοῦτο συνῆσάν μοι και διελέγοντο ἐν τοῖς ἱεροῖς, ἐν τῇ ἀγορᾷ, ἐν τῇ ἐμῇ οἰκίᾳ, ἐν τῇ σφετέρᾳ αὐτῶν και ἐτέρωθι πανταχοῦ. ὁ τελευταῖον, ὦ Ζεῦ και θεοὶ πάντες, Φιλοκράτης αὐτὸς οὔτοσι ἐν τῷ βουλευτηρίῳ ἐναντίον τῆς βουλῆς, ἐστὼς μετ’ ἐμοῦ ἐπὶ τοῦ βήματος, ἀπτόμενος ἐμοῦ διελέγετο, ὀνόματι οὗτος ἐμὲ προσαγορεύων, και ἐγὼ τοῦτον.

ceremonies the parties would abide by their agreement,<sup>8</sup> which often included the specific requirement that the two former enemies now treat each other as friends. A reconciliation in Apollodorus' *Against Neaera* stipulates that the two parties involved "bear no grudge about the things that have happened."<sup>9</sup> Likewise, the speaker of Hyperides 3 (*Against Athenogenes*) states that the person who reconciled him with Athenogenes bade them "to treat each other well in the future."<sup>10</sup> In these cases, when an enmity was ended, a new relationship of friendship was assumed. Little middle ground between friendship and enmity existed. Both were formalized categories of relationships into one of which Athenians attempted to fit all of their acquaintances.<sup>11</sup>

A relationship of enmity entailed certain expectations that went beyond mere emotional content and required that enemies actively pursue each other. The evidence for this ethic of "helping friends and harming enemies" has been well documented by Dover and Blundell.<sup>12</sup> Dover (1974, 181) points out, "Few of us expect to be involved for long in a relationship deserving the name of enmity, and a man who spoke of 'my enemies' could fairly be suspected of paranoia. Athenians took enmity much more for granted." The chorus in Euripides' *Bacchae* sums up the mentality well: "what better gift do mortals receive from the gods than to hold one's hand over the head of one's enemies?"<sup>13</sup> The motto of helping friends and harming enemies

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<sup>8</sup> Of course the parties often did not abide by their agreement, as the speeches delivered in court demonstrate.

<sup>9</sup> [Dem.] 59.71: τῶν μὲν γεγενημένων . . . μηδεμίαν μνεΐαν ἔχειν.

<sup>10</sup> Hyp. 3.5: τοῦ λοιποῦ εὖ ποιεῖν ἀλλήλους. Cf. Isae. 2.32.

<sup>11</sup> See also the other references to reconciliation in Attic oratory: Isoc. 17.19–20; 18.7, 14; Isae. 5.32, 7.44; Lys. 7.40; 27.15; Dem. 21.119, 121; 40.46; [Dem.] 52.21; 59.47, 48, 53, 70.

<sup>12</sup> See especially Dover 1974, 181–4; Blundell 1989, 26–59.

<sup>13</sup> Eur. *Bacch.* 877–80: ἦ τί τὸ κάλλιον / παρὰ θεῶν γέρας ἐν βροτοῖς / ἢ χεῖρ' ὑπὲρ κορυφᾶς / τῶν ἐχθρῶν κρείσσω κατέχειν; Athenians considered an allegation that someone had inverted the code of "help friends/harm enemies" as a

could be considered equally binding: “if they appeared to be respectable because they saved your friends, it is clear that you also will appear honorable by taking vengeance on your enemies.”<sup>14</sup>

In Plato’s *Gorgias* even when Socrates proposes that one should not retaliate against enemies, he never questions the legitimacy of desiring to see one’s enemy harmed. His rationale is that if one’s enemies commit acts of wrongdoing without punishment or penalty, then they suffer a much worse fate because their souls rather than their bodies is harmed (480E–481B).<sup>15</sup> In the passage from Xenophon’s *Memorabilia* quoted in Chapter 4 (p. 128) Socrates convinced Nicomachus that Athenians who act as leaders in almost any capacity are similar to generals in that they acquire enemies. Socrates then draws the logical conclusion, “therefore is it not beneficial for both of them to defeat these enemies?”<sup>16</sup> Enemies, once acquired, must be overcome.<sup>17</sup>

The point of comparison between generals and private citizens in this *Memorabilia* passage also shows how personal enemies (*echthroi*) could even be compared to enemies of the state (*polemioi*). The speaker of Lysias 4 (*On a Premeditated Wounding*) asserts that *echthroi* could even be more dangerous. While *polemioi* are willing to receive a ransom and return captured enemies, “this is not possible when you are in your personal enemies’ power since they

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serious insult. Several litigants accuse their opponents of helping their enemies and harming their friends (Lys. 15.10; [Lys.] 6.7; cf. Lys. 8.1–6, 12.66–7).

<sup>14</sup> Lys. 14.19: εἰ δ’ ἐκεῖνοι δοκοῦσι βελτίους εἶναι σφίζοντες τοὺς φίλους, δῆλον ὅτι καὶ ὑμεῖς ἀμείνους δόξετε εἶναι τιμωρούμενοι τοὺς ἐχθρούς. On the nuance of *belitious* in this passage, see Rubinstein 2000, 159.

<sup>15</sup> Cf. Plato’s *Meno*, in which helping friends and harming enemies is said to be a virtue (71E). Plato has an extended discussion of this common motto in Book I of the *Republic*, starting with a citation of Simonides, who claimed that justice consisted of giving everyone what he was owed. Polemarchus points out that what is owed to enemies is “some evil” (κακόν τι, 332b).

<sup>16</sup> Xen. *Mem.* 3.4.10: οὐκοῦν τὸ περιγενέσθαι τούτων ἀμφοτέρους συμφέρει.

<sup>17</sup> Blundell asserts that the “Help Friends” mandate tends more toward being prescriptive, while “Harm Enemies” tends toward being descriptive. However, Blundell’s observation is not in conflict with point made in this study, which concerns what Athenians believed and expected enemies to do, rather than what they thought was the right thing to do.

do not want to take money, but rather they make their business to have you exiled.”<sup>18</sup> The idea of being at the mercy of one’s *echthrois* was terrifying: “truly, if one divides up his life between his enemies and sycophants, this is the same as living no life at all.”<sup>19</sup> The many references to a delay of several years between an alleged offense and its trial indicate that enemies were willing to hold a grudge for a very long time, watching for an opportunity to attack their opponent.<sup>20</sup>

Pleasure often accompanied vengeance on an enemy.<sup>21</sup> A Homeric proverb expresses this concept forcefully, “anger makes even a wise man enraged and rises up in a man’s chest like smoke, sweeter by far than dripping honey.”<sup>22</sup> A character in Euripides’ *Heraclidae* states that an enemy who has fallen out of prosperity into hard times is “the most pleasant sight.”<sup>23</sup> The title character of Xenophon’s *Hiero* likewise asserts, “I think that the most pleasant thing of all is to take things from enemies against their will.”<sup>24</sup> Enemies were thought not only to desire to punish their opponents but also to experience great satisfaction in the act of vengeance.

### Non-violent Vengeance

While many avenues were open to someone who wished to do harm to another, Athenians strongly associated slander and insult with the characteristic behavior of enemies. The speaker of

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<sup>18</sup> Lys. 4.13: ἐπὶ δὲ τοῖς ἐχθροῖς γενόμενον οὐ δυνατόν· οὐ γὰρ ἀργύριον λαβεῖν προθυμοῦνται, ἀλλ’ ἐκ τῆς πατριδος ἐκβαλεῖν ἔργον ποιοῦνται.

<sup>19</sup> [Lys.] 6.31: καίτοι ὅταν τις τὸν αὐτοῦ βίον τοῖς ἐχθροῖς καὶ τοῖς συκοφάνταις διανέμη, τοῦτ’ ἔστι τὸ ζῆν βίον ἀβίωτον.

<sup>20</sup> Lys. 3.39, 7.42, 13.83–4, 18.19; Dem. 18.13, 32.23, 36.2, 37.2, 38.6, 41.23; [Dem.] 52.2.

<sup>21</sup> Blundell 1989, 27–8; Konstan 2006, 109.

<sup>22</sup> *Il.* 18.108–10: καὶ χόλος, ὅς τ’ ἐφέηκε πολύφρονά περ χαλεπήναι, / ὅς τε πολὺ γλυκίων μέλιτος καταλειβομένοιο / ἀνδρῶν ἐν στήθεσσιν ἀέξεται ἢ ὕτε καπνός. Quoted at Arist. *Rh.* 1378b; cf. Thuc. 7.68.1.

<sup>23</sup> Eur. *Heracl.* 939–40: ἐκ γὰρ εὐτυχοῦς / ἥδιστον ἐχθρὸν ἄνδρα δυστυχοῦνθ’ ὄραν. Cf. Athena’s rhetorical question in Sophocles’ *Ajax*, “isn’t the most pleasant mockery mocking at one’s enemies?” (οὐκ οὐκ γέλως ἥδιστος εἰς ἐχθροὺς γελᾶν; 79). In the *Antigone* Creon asserts that the man who has children that will not be a help to him in his old age has actually begotten “much laughter for his enemies” (πολὺν δὲ τοῖσιν ἐχθροῖσιν γέλων, 647).

<sup>24</sup> Xen. *Hier.* 1.34: παρὰ μὲν γὰρ πολεμίων ἀκόντων λαμβάνειν πάντων ἥδιστον ἔγωγε νομίζω εἶναι. Cf. *Mem.* 2.1.19.

Lysias 19 (*On the Property of Aristophanes*) considers it an outstanding testimony to his father's character that even his enemies could not slander him about his use of money: "not even any of his enemies ever dared to reproach him on account of his fiscal qualities."<sup>25</sup> This implies that enemies would insult each other given the slightest pretext. Enemies would, as Apollodorus asserts, "abuse and slander each other with unspeakable language."<sup>26</sup> Demosthenes concurs, asserting that enemies naturally engage in abusive speech against each other.<sup>27</sup> For instance, Meidias allegedly engaged in a campaign of defamation against Demosthenes by wandering around the agora and asserting to whomever he came across that Demosthenes was a murderer (Dem. 21.104). Demosthenes later accused Aeschines of similar behavior (19.209–10).<sup>28</sup>

Isocrates reproaches poets and mythographers for saying things about the gods that are "the sorts of things that no one would dare to say even about his enemies."<sup>29</sup> Isocrates uses this as an extreme example, implying that enemies will say almost anything to insult each other. Two passages from Greek tragedy similarly suggest that enemies will take the opportunity to slander each other if they are given any pretext. In Euripides' *Suppliant Women* Theseus deliberates on whether he should give aid to the widows from Argos, worrying about what his enemies will say if he fails to help (343). Megara in the *Heracles* considers mockery by her enemies "a worse evil than death" (τοῦ θανεῖν μείζον κακόν, 286).

According to Aristotle, insults feed and sustain hostile relationships. He includes "belittlement" (ὀλιγωρία) in his definition of anger: "let anger be the desire for revenge

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<sup>25</sup> Lys. 19.60: εἰς χρήματα δὲ οὐδεὶς οὐδὲ τῶν ἐχθρῶν ἐτόλμησε πῶποτε.

<sup>26</sup> [Dem.] 58.40: λοιδορουμένους καὶ πλύνοντας αὐτοὺς τὰ πόρρητα.

<sup>27</sup> Dem. 18.123: τὴν δὲ λοιδορίαν βλασφημίας, ἃς κατὰ τὴν αὐτῶν φύσιν τοῖς ἐχθροῖς περὶ ἀλλήλων συμβαίνει λέγειν.

<sup>28</sup> Attic orators make many references to enemies insulting each other (Andoc. 1.4, 54; 4.2; Lys. 9.1–3; 14.25–8, 41–2; 16.11; 19.2–6; 21.17; [Lys.] 20.11, 30; Isae. 5.39; 8.40–2; 12.12, Aeschin. 2.182).

<sup>29</sup> Isoc. 11.38: οἴους οὐδεὶς ἂν περὶ τῶν ἐχθρῶν εἴπειν τολμήσειεν.

accompanied by pain on account of a perceived belittlement against either the man himself or one of his dependants whom it is not fitting to belittle.”<sup>30</sup> He further divides “belittlement” (ὀλιγωρία) into three subcategories: “contempt” (καταφρόνησις), “spiteful treatment” (ἐπιηρεασμός), and “outrage” (ὕβρις). The list demonstrates that what Aristotle means by “belittlement” includes all types of insulting or demeaning behavior directed against another. Aristotle asserts, “people get angry at those who mock, scoff, and jeer at them because this is *hybris*.”<sup>31</sup> Like other Athenian sources he assumes insult as the prime motivator behind anger and enmity.<sup>32</sup>

An Athenian citizen could lodge a court case against his enemy to gain a public venue for disparaging him. The speaker of *On the Chorus Boy* complains that his accusers make pretenses to having a legitimate accusation but have in fact “contrived their charge entirely for the sake of slander and deception.”<sup>33</sup> Demosthenes claims that Meidias hired someone to prosecute him for desertion from the army (*graphē lipotaxiou*) “for no other reason than to have it posted before the eponymous heroes so that everybody could see, ‘Euctemon of the deme of Lusia prosecutes Demosthenes of Paiania for desertion.’”<sup>34</sup> In *Lysias 10 (Against Theomnestus)*, the speaker prosecutes Theomnestus for accusing him of killing his own father, a form of verbal abuse

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<sup>30</sup> Arist. *Rh.* 1378a30–2: ἔστω δὴ ὀργή ὄρεξις μετὰ λύπης τιμωρίας [φαινομένης] διὰ φαινομένην ὀλιγωρίαν εἰς αὐτὸν ἢ <τι> τῶν αὐτοῦ, τοῦ ὀλιγωρεῖν μὴ προσήκοντος.

<sup>31</sup> Arist. *Rh.* 1379a30–2: ὀργίζονται δὲ τοῖς τε καταγελῶσι καὶ χλευάζουσιν καὶ σκώπτουσιν (ὕβριζουσι γάρ).

<sup>32</sup> The insult did not have to be verbal. Aristotle cites Achilles’ anger at being “dishonored” (ἠτίμησεν, 1378b32) by Agamemnon, who took Achilles’ war prize. Aristotle assumes that there were many types of insulting behavior.

<sup>33</sup> Antiph. 6.7: τὴν δὲ κατηγορίαν ἅπασαν πεποιήνται διαβολῆς ἔνεκα καὶ ἀπάτης.

<sup>34</sup> Dem. 21.103: οὐδενὸς εἶνεκ’ [...] πλὴν ἴν’ ἐκκέοιτο πρὸ τῶν ἐπωνύμων καὶ πάντες ὄρωεν “Εὐκτῆμων Λουσιεὺς ἐγράψατο Δημοσθένην Παιανιέα λιποταξίου.”

prohibited by law.<sup>35</sup> Yet the speaker alludes repeatedly to a charge against Theomnestus for leaving his shield behind in battle, another illegal insult (3, 5, 9, 12, 21, 22, 25). Although he put Theomnestus on trial for slander, he does not refrain from slander himself.<sup>36</sup>

Enemies could gain new opportunities to insult each other by appearing in court in supporting roles as advocates (*synēgoroi*) or witnesses whether or not they had any direct connection with the events or parties of the trial (Xen. *Mem.* 2.9.5). The sources evoke a widespread assumption that a litigant could easily convince his opponent's enemies to speak on his behalf.<sup>37</sup> The *Rhetoric to Alexander* asserts that men who bear witness against one of their enemies will come under suspicion for false witness since they may well be acting from motivations of revenge (1431b). Some Athenians may have avoided the courts because they knew that their enemies would appear against them, as did the father of the speaker of *Against Boeotus I* (Dem. 39.3).<sup>38</sup> If a litigant could not produce his opponent's enemies to testify or speak for him, he could come under suspicion of having an exceedingly weak case. The speaker of *Lysias 7 (On the Olive Stump)* argues that Nicomachus' failure to convince his enemies (διάφοροι, 19) to appear as witnesses proves that his accusation is false.<sup>39</sup> Personal enemies could stand in as advocates as well (Lys. 13.3, 29.1), but even if they did not take a visible role in the

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<sup>35</sup> *Lysias 10* is a *dikē kakēgorias*. Anyone who believed that he had been insulted in a way prohibited by law could bring legal action for slander (Lipsius 1905–15, 646–51; MacDowell 1978, 126–9; Todd 1993, 268–9). A separate law also governed insulting magistrates (Lys. 9.6–10; Dem. 21.32–3). It may have been possible to prosecute someone for slander under the law for *hybris* (MacDowell 1978, 129–32).

<sup>36</sup> Theomnestus had been accused of throwing away his shield in a previous suit, to which the speaker continually alludes. While the speaker of *Lysias 10* served as a witness in that suit against him, Theomnestus allegedly slandered him with the insult for which he is now on trial.

<sup>37</sup> Rubinstein (2000, 91–111) also notes that *synēgoroi* stood to benefit by a successful court action in terms of prestige. This provided another incentive for enemies to appear against each other in court.

<sup>38</sup> The speaker of *Lysias 23 (Against Pancleon)* produces as witnesses men who claim to have gained a conviction against Pancleon in court before the Polemarch (4) and another man who claims that Pancleon is his slave (7–8). Pancleon's enemies seem to have been more than willing to cooperate with his legal opponent.

<sup>39</sup> Lys. 7.19: οὐς ἐχρῆν τοῦτον παρασχέσθαι μάρτυρας. Cf. Andoc. 1.8; Dem. 40.58; [Dem.] 58.4; Lycurg. 1.19.

trial, they could undercut their rivals in more inconspicuous ways. Nicostratus allegedly sabotaged Apollodorus by telling the men whom Apollodorus was prosecuting how he would argue his case ([Dem.] 53.14). Others used similar tactics, providing damning information to their enemies' opponents.<sup>40</sup>

Slander may have been a common way to attack enemies, but prosecuting them directly seems to have been more satisfying. Athenians favored legal action because they viewed victory in the courts as a legitimate form of revenge.<sup>41</sup> Demosthenes' attitude toward seeking vengeance with court cases is typical of Athenian litigants: "the law allows us to punish as enemies those who act as enemies."<sup>42</sup> Apollodorus begins *Against Nicostratus* by stating his desire for revenge (*timōria*) although the case only indirectly related to the original grievance between them ([Dem.] 53.1). Theomnestus introduces his prosecution of Neaera in a similar fashion: "I will conduct this present trial not as the one who started things but as one who is taking vengeance."<sup>43</sup> The speaker of Lysias 13 (*Against Agoratus*), having allegedly received from his dying brother-in-law instructions to take vengeance on Agoratus for murder, believes his prosecution fulfills that command: "men of the jury, I think it just and right that I and all of you take vengeance on this man as much as each of us can."<sup>44</sup> The speaker of Lysias 10 (*Against Theomnestus*) criticizes his opponent for avenging himself (τιμωρεῖσθαι) by means of the law but then denying the

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<sup>40</sup> Lys. 8.18, 9.6; Isae. 12.10; [Dem.] 53.14. Enemies could also use each other's slaves as informants against their masters (Lys. 5.5, 7.16)

<sup>41</sup> This is not to say that juries believed a prosecutor's desire for vengeance made his prosecution legitimate. The jury's favor was always contingent on whether or not the litigant could show that an offense worthy of punishment had occurred (Chapter 2).

<sup>42</sup> Dem. 23.56: τοὺς ἐχθρὰ ποιούντας ἐν ἐχθροῦ μέρει κολάζειν ἀπέδωκεν ὁ νόμος.

<sup>43</sup> [Dem.] 59.1: οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος ἀγωνιοῦμαι τὸν ἀγῶνα τουτονί.

<sup>44</sup> Lys. 13.3: ἐγὼ οὖν, <ὦ> ἄνδρες δικασταί, δίκαιον καὶ ὅσιον ἡγοῦμαι εἶναι καὶ ἐμοὶ καὶ ὑμῖν ἅπασι τιμωρεῖσθαι καθ' ὅσον ἕκαστος δύναται.

speaker that privilege. He asks, “are you so powerful that you think that those who have been wronged by you will never get revenge?”<sup>45</sup> These speeches evidence general agreement that retribution by lawsuit was a normal way of continuing enmity (see also Lys. 7.20; Isae. 1.7; [Dem.] 58.2).

The shame attendant on a loss in court made the legal option all the more attractive to feuding individuals. The speaker of Lysias 27 (*Against Epicrates*) warns the jury against letting wrongdoers off with a light punishment because “you will receive enmity rather than justice from those who do wrong, as though they were concerned about the disgrace rather than the punishment.”<sup>46</sup> This passage implies that an unfavorable verdict imparted both loss (*zēmia*) and shame (*oneidos*) to the losing party. The next sentence asserts, “by your vote you are doing nothing other than reproaching those who have done wrong.”<sup>47</sup> Defeat before a large jury of fellow citizens dealt a blow to the status and honor of the loser. The legal system offered enemies the opportunity to score a public victory over their opponents.<sup>48</sup>

Evidence from both the orators and other sources confirms that enemies often engaged in mutual prosecutions.<sup>49</sup> So strong was the correlation between enmity and court cases that if someone failed to prosecute when his enemy had done something controversial, the legitimacy of the claim to enmity could be called into question.<sup>50</sup> In *Against Theocrines* Apollodorus asserts that his opponent’s fellow speakers pretend to be enemies of Demosthenes but in reality are not.

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<sup>45</sup> Lys. 10.13: τοσοῦτον δύνασαι ὥστε οὐδέποτε οἶει τοὺς ἀδικουμένους ὑπὸ σοῦ τιμωρίας τεύξεσθαι. Cf. 3.

<sup>46</sup> Lys. 27.16: ἔχθραν, οὐ δίκην παρὰ τῶν ἀδικούντων λαμβάνοντες, ὥσπερ τοῦ ὀνειδίου ἀλλ’ οὐ τῆς ζημίας αὐτοῖς μέλον.

<sup>47</sup> Lys. 27.16: ἐν μὲν τῇ ψήφῳ οὐδὲν ἄλλο ποιεῖτε ἢ ὀνειδίετε τοῖς ἀδικοῦσιν.

<sup>48</sup> Cohen 1995, 89–90; Johnstone 1999, 6–7.

<sup>49</sup> Christ (1998a: 154–6) illustrates this point well. See also Dover 1974, 182; Cohen 1995, 101–15; Rhodes 1998.

<sup>50</sup> See for example Isaeus 5.33, where enemies and legal opponents are put in close juxtaposition: ἐμὸς δ’ ἐχθρὸς καὶ ἀντίδικος.

He argues that because none of them have ever brought suit against Demosthenes, they are lying when they claim to be political opponents ([Dem.] 58.39–44; cf. Antiph. 6.9; Isae. 7.11; Dem. 25.38; Aeschin. 2.139).

Enemies could attack each other both by bringing legal actions and by speaking against each other at entry- or exit-examinations for office (*dokimasia* and *euthynai*). The speaker of Demosthenes 25 (*Against Aristogiton*) accuses his opponent of indicting him seven times and accusing him at his *euthynai* twice (37).<sup>51</sup> The same speaker asserts that whenever the issue of debt to the state treasury of the city arises, everybody cites the name of his own personal enemy and accuses him of being a debtor (91). Such behavior was characteristic of enemies (Lys. 27.8; Isae. 4.30).

Other sources often assume that the law courts were a prime locus for carrying on a feud. The Athenian fondness for litigation was legendary, finding frequent reference in comedy. In Aristophanes' *Knights* Cleon and the Sausage Seller get into a tiff, threatening each other with lawsuits.

**Cleon:** You will stand trial for four lawsuits, each for one hundred talents.<sup>52</sup>

**Sausage-Seller:** You will stand trial for twenty lawsuits for military dereliction and more than one thousand for theft.

**Cleon:** I maintain that you were born from parents who committed sacrilege against Athena.

**Sausage-Seller:** I maintain that your father was a mere satellite.<sup>53</sup>

In the *Wasps* Philocleon suggests that Athenians love the legal system so much that one day they will find a way judge cases in their own houses (799–804). Euelpides in the *Birds* states that “the

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<sup>51</sup> Cf. Lys. 16.1, 24.1; Dem. 18.249, 21.84, 47.6–10.

<sup>52</sup> One hundred talents was an exorbitant amount of money.

<sup>53</sup> *Ar. Eq.* 442–7: Κλέων: φεύξει γραφάς / ἑκατονταλάντους τέτταρας. / Ἀλλαντοπώλης: σὺ δ' ἀστρατείας γ' εἴκοσιν, / κλοπῆς δὲ πλεῖν ἢ χιλίας. / Κλέων: ἐκ τῶν ἀλιτηρίων σέ φη- / μι γεγονέναι τῶν τῆς θεοῦ. / Ἀλλαντοπώλης: τὸν πάππον εἶναί φημί σου / τῶν δορυφόρων.

Athenians constantly spend their entire lives at the courts.”<sup>54</sup> The anonymous author of the *Athenian Constitution* complains that his fellow citizens engaged in more lawsuits than any other Greeks (Xen. [*Ath. pol.*] 3.2). According to Thucydides even Pericles commented on the Athenians’ reputation for being *philodikos*, “fond of lawsuits” (Thuc. 1.77.2).<sup>55</sup>

Cohen (1995, 87–118) illustrates well the capacity for a single lawsuit to function as part of a much longer and wider feud.<sup>56</sup> Classical Greek even had word for “prosecute in return” (ἀντικατηγορέω).<sup>57</sup> Sometimes a powerful person or group of people would hire a third party to attack an enemy. The speaker of Lysias 7 (*On the Olive Stump*) asserts that his enemies hired Nicomachus to prosecute him (39–40). A more famous instance is the case of Timarchus, who prosecuted Aeschines on Demosthenes’ behalf but was preempted by Aeschines’ successful *dokimasia rhētorōn* prosecution (Aeschin. 1). Demosthenes in turn accused Aeschines of sending hired attackers against him while failing ever to prosecute Demosthenes himself (Dem. 18.249–51). Demosthenes had previously accused Meidias of similar tactics. Meidias supposedly hired Euctemon to prosecute Demosthenes, then paid the relatives of a deceased man to put Demosthenes on trial for murder (Dem. 21.103–4). Apollodorus evidently assumes that hiring another to prosecute on his behalf would be not be outside of the norm for a well-off Athenian: “I was not so lacking in resources or friends that I could not find someone who would prosecute

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<sup>54</sup> Ar. Av. 40–1: Ἀθηναῖοι δ’ αἰεὶ / ἐπὶ τῶν δικῶν ἄδουσι πάντα τὸν βίον.

<sup>55</sup> For the term *philodikos* in classical Athenian literature, see Lys. 10.2; Dem. 40.32; 56.14; Arist. *Rh.* 1373a, 1400a. The same sentiment is expressed about Athenians at Isaeus 4.30.

<sup>56</sup> Rhodes (1998) points this out as well, but without reference to the comparative anthropology method that Cohen uses.

<sup>57</sup> Gorg. Pal.27; [Lys.] 6.42; Isoc. 12.22; Aeschin.1.178; Arist. *Top.* 102a, 103b, 132a, 133a, 135a, 140b, 155a. If one did not respond to an enemy’s attacks, he could encourage future crime against him and seriously endanger his own welfare. According to the *Rhetoric*, those most likely to be wronged are people who “have been wronged by many but have never prosecuted” (τοὺς ὑπὸ πολλῶν ἀδικηθέντας καὶ μὴ ἐπεξεληθόντας, 1372b), since they are easy targets, “Mysian booty” (Μυσῶν λείαν).

for me.”<sup>58</sup> The many other references to third-party prosecutors show that the practice was not uncommon.<sup>59</sup>

Citizens could also use their influence in politics to attack their enemies. Anyone who rose to even a modicum of political influence was expected to use his position to harm those who opposed him. Therefore, litigants who desire to portray themselves as moderate and restrained must specifically deny that they used their public office as a means for helping friends and harming enemies. The speaker of *Lysias 9 (For the Soldier)* does just that: “when I became well known because of his [the speaker’s friend’s] influence, I did not take vengeance on an enemy or confer favors on a friend.”<sup>60</sup> The speaker of *Lysias 25 (On a Charge of Overthrowing the Democracy)* must make a similar plea: “for it will be clear that under the oligarchy I harmed no one, nor did I take vengeance on an enemy, nor did I confer favors on a friend.”<sup>61</sup> These passages imply that it was more common for those in authority to play favorites, punishing their enemies and rewarding their friends.<sup>62</sup> The speaker of *Lysias 18 (On the Property of Nicias’ Brother)*

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<sup>58</sup> [Dem.] 53.2: οὐδ’ αὐ οὕτως ἀπορος ἦν οὐδ’ ἄφιλος ὥστε οὐκ ἂν ἐξευρεῖν τὸν ἀπογράψοντα. Cf. *Lysias 13 (Against Agoratus)*, where the speaker asserts that Theremanes and his company were “not so friendless” (οὐ [...] ἐκείνοι οὕτως [...] ἄφιλοι, 18) that they had to associate with Agoratus.

<sup>59</sup> Antiph. 5.33, 6.34–6; Andoc. 2.4; Isae. 8.3, 9.24; Isoc. 16.7; Dem. 24.14, 39.2; [Dem.] 53.14, 59.10; Aeschin. 2.154; Xen. *Mem.* 2.9.5.

<sup>60</sup> Lys. 9:14: γνώριμος δὲ γενόμενος διὰ τῆς ἐκείνου δυναστείας οὐτ’ ἐχθρὸν ἐτιμωρησάμην οὔτε φίλον εὐηργέτησα. The speaker portrays his own behavior as exceptional. Later in the oration he admits that “it has been ordained that we harm our enemies and help our friends” (τετάχθαι τοὺς μὲν ἐχθροὺς κακῶς ποιεῖν, τοὺς δὲ φίλους εὖ, 20).

<sup>61</sup> Lys. 25.15: ὑπ’ ἐμοῦ γὰρ ἐν τῇ ὀλιγαρχίᾳ οὔτε ἀπαχθεῖς οὐδεὶς φανήσεται, οὔτε τῶν ἐχθρῶν οὐδεὶς τετιμωρημένος, οὔτε τῶν φίλων εὖ πεπονθώς.

<sup>62</sup> See also Lys. 9; 15.5. The speaker of *Lysias 15 (Against Alcibiades II)* argues that the generals clearly were not friends of Alcibiades, or they would have fined the commander (*phylarchos*) who expelled him from the cavalry (5). This line of reasoning operates under the assumption that friends in such a position would often punish their friends’ enemies.

denies that his father failed to join an oligarchic regime because of private enmity as if that would be a normal reason to be excluded from certain privileges (5; cf. *Lys.* 25.12).<sup>63</sup>

Extra-legal options for harming enemies, including destruction of property and vandalism, were also available.<sup>64</sup> Demosthenes accuses Meidias of obstructing his performance of a liturgy by sabotaging his equipment and attempting to destroy the chorus members' costumes (21.16; cf. *Dem.* 57.64). Another litigant asserts that his opponent came onto his property, dug up and uprooted (ἐξώρυστον καὶ ἐξεπρέμνιζον) more than a thousand olive trees, and sold them (*Dem.* 43.69). In *Against Nicostratus* Apollodorus accused his opponent, Nicostratus, of breaking into his house, stealing his furniture, and destroying many of his vines and fruit-grafts ([*Dem.*] 53.15). Such vandalism appears not to have been uncommon since Apollodorus shows concern for the same issue in another speech. He asserts that those who have enemies who desire to harm them can take several precautions, including staying in their houses to keep watch over their possessions ([*Dem.*] 58.65).

Many tactics that Athenians employed to harm their enemies may have left no trace in extant literature, but some incidental references provide an idea of the multitude of possibilities. The sources record that enemies attacked each other's citizenship status (*Dem.* 57), corrupted judges (*Dem.* 21.5–6), stole important documents (*Dem.* 33.18), rescinded marriage alliances (*Dem.* 41.4), and cut quarreling family members out of wills (*Isae.* 1.3). An anecdote from *Demosthenes 47 (Against Evergus)* illustrates the point that enemies had many options for pursuing each other. The speaker accuses his opponent of murdering one of his elderly household slaves, who had no relatives and therefore could not be avenged by a homicide trial.

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<sup>63</sup> Additionally, the many ways to make enemies in public office (pp. 141–2) could function as avenues for harming enemies.

<sup>64</sup> Christ (2005) states, “I find it very credible that some Athenians . . . sought to avenge themselves on each other in a variety of creative ways within and outside of the legal process” (143).

When consulted, the Interpreters (ἐξηγηταί) advised the speaker not to attempt a court case on her behalf but rather to “seek revenge by another means” (ἄλλη δὲ εἴπη βούλει, τιμωροῦ, 70). This advice presupposes that there were many different ways to get back at a foe (cf. Andoc. 1.1).

The many possibilities for harming enemies call into question the tacit assumption of some scholars that feuding manifests itself either in violence or in court actions. For instance, Phillips (2008) asserts that “the concept of private revenge was not abolished, but merely redirected, with the Athenian courts serving as its primary locus.”<sup>65</sup> Certainly the Athenians made use of the courts to pursue private vendettas, but many other avenues for private revenge also lay open. The argument that the law courts were the “primary locus” for enmity reflects a bias of the sources: many legal orations that result from preexisting feuds survive while hostile relationships that continued outside of the court system would never have produced such extensive documentation. Statements such as Phillip’s reflect an overly schematic view of feuding according to which blood feuding is transferred directly to the courts. The Athenians, however, were able to envisage a much wider spectrum of possibilities for pursuing enmity.<sup>66</sup>

Herman’s conclusions concerning the redirection of private revenge to the courts are also problematic. He argues that litigants who portray themselves as non-violent appeal to a dominant code of behavior dictating restrained and unemotional responses to wrongdoing.<sup>67</sup> However, these speeches do not prove that Athenians believed it necessary for citizens to give up their

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<sup>65</sup> Phillips 2008, 14. Cf. Gagarin’s (2005) comment: “on doit éviter les querelles ou ne se défendre que par l’usage des recours à la loi, sans violence” (375).

<sup>66</sup> McHardy (2008) shows that ancient Athenians were often confronted with multiple options for taking revenge on their foes. They did not always respond according to a well-defined code of conduct, but rather made rational decisions about how far they would be able to pursue vengeance.

<sup>67</sup> On Lysias 1 and Demosthenes 54, see Herman 2006, 156–9, 174–83.

claims to honor or to cease attempting to harm their enemies all together. As Fisher (1998) states, “to claim as Herman does that self-restraint and recourse to appropriate legal procedures constitute a surrender of one’s claim to honour and revenge is a fundamental error” (81). When a speaker emphasizes his own restraint he usually intends to highlight the defendant’s hubristic behavior and to make it seem more likely that he has done nothing to provoke him. Restraint serves a rhetorical purpose; the speaker does not mean to argue that one should never retaliate. Athenians may have placed value on an individual’s ability to restrain himself in the heat of the moment, but it does not follow that vengeance would not be sought through other means.

### **The Limits of Harming Enemies**

Athenians may have expected enemies to attempt to harm each other in a great variety of ways, but they also expected them to observe certain limitations. Standards for acceptable behavior had to be established because feuding, if left unchecked, could threaten the cohesiveness of the state. A society with enemies pursuing each other at all costs could easily devolve into *stasis* (civil war), which was something Greeks always feared (see pp. 9–10). Athenians were not willing to allow citizens to pursue their enemies at the expense of the city’s welfare.

Every time a lawsuit came to the courts, it potentially threatened the state’s integrity. The tension between Athenians’ admission that personal enmity was widespread and their concern that such hostile relationships not introduce widespread civil conflict is evident in the sources.<sup>68</sup> Litigants consistently avoid portraying their dispute as merely a private affair, attempting rather to represent their opponents as so corrupt in character that they deserve the enmity of the city. If

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<sup>68</sup> Dover (1974, 82) captures this tension: “We are *both* competing individuals *and* members of social groups; we are impelled *both* to assert ourselves against others *and* to integrate ourselves with others into society”

a prosecutor can convince the jury that his opponent is unworthy of citizenship and has actually taken himself outside of the social compact by his own defiantly anti-democratic behavior, then punishment becomes unproblematic. The defendant no longer must be treated as a full-fledged citizen. The tension is resolved because the dispute has changed into a public issue between the state and an unruly citizen rather than a private one between two enemies.

Chapter 2 (“Matters of State”) drew attention to several lawsuits with a special public interest in which the prosecutors attempt to subsume their affirmation of enmity into a larger claim about the defendant’s wrongful behavior toward the community.<sup>69</sup> Many other cases also contain such a focus. Ariston in Demosthenes 54 (*Against Conon*) portrays Conon as so despicable as to merit expulsion from the citizen body. He calls for the jury members’ anger against Conon, asserting that it is not in their best interests to permit such behavior (42–3). In *Against Neaera* Apollodorus details many of Stephanus’ egregious offenses so that Stephanus will appear to be deserving of public hatred. Such an emphasis on an opponent’s repeated wrongful behavior prevented the jury from viewing the lawsuit as a simple feud between two citizens and allowed them to maintain their belief that true Athenians citizens could still live together. Speakers often asserted in court that their opponents were not true citizens to mitigate the tension between the citizen body’s desire for civic concord and their own private ends.<sup>70</sup>

Enmity also threatened some basic ideological tenets of the democracy, namely equality (*isonomia*) and freedom (*eleuthēria*). Because all Athenians were afforded protection under the laws of Athens, the use of violence against fellow citizens was prohibited. The decree of

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<sup>69</sup> Lys. 12, 13, 14; Aeschin. 1; Dem. 22, 24, 50. Cf. the prosecution speeches that deny enmity altogether in similar situations (Lys. 22, 27; Dem. 23; Lysur. 1) and the defense speeches that attempt to portray their opponents as violating the norm and prosecuting public charges out of merely private motivations (Andoc. 1; Lys. 9, 19; Dem. 18).

<sup>70</sup> For this reason many speakers emphasize that the real relationship of enmity is between their opponent and the state (see pp. 75–6).

Scamandrius secured for all Athenian citizens the sacrosanctity of their person (Andoc. 1.43).<sup>71</sup> It was the hallmark of slavery to be liable for punishment on the body while free citizens were exempted from being physically harmed (Dem. 22.54–55, 24.166–7). The Athenian belief that the citizen body was sacrosanct meant that acceptable behavior for enemies would be limited to acts that did not entail physical violence.<sup>72</sup>

Caution is needed on the topic of violence since often only the extreme examples of violent behavior have been recorded. Only the most virulent disputes would have made it to court. Drama likewise must be used with discretion since it is often characterized by embellishment and exaggeration intended to produce shock in the audience.<sup>73</sup> The dramatic form further allows its author to present a variety of moral viewpoints without committing to one (Blundell 1989, 10). However, the evidence suggests a rather cogent picture: Athenians recognized violence as a problem and took steps to curb its effect on society. Violent acts, especially in extreme forms, such as those characteristic of blood feuding societies, were not sanctioned by the Athenian people.

The closest the Athenians came to allowing violent behavior among the citizen body was in granting a certain degree of indulgence to minor aggressive acts inspired by irrational impulses. These were connected with specific activities such as drinking, love rivalries, and competitions for honor (*philotimia*), which could cause a person to act foolishly for a short

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<sup>71</sup> See MacDowell 1962, 92–3. See also Fisher's (1990, 131) discussion of the public's interest in limiting *hybris* by law.

<sup>72</sup> Of the threats to state interest posed by personal enemies, the first listed was pragmatic (avoiding *stasis*) while the second is ideological (preserving equality, freedom, and the sacrosanctity of the citizen body). However, the two may be very closely linked. Equality and freedom could also be thought to prevent *stasis*, just as violence would threaten it.

<sup>73</sup> Thus, Odysseus in Euripides' satyr play *Cyclops* exclaims, "O Zeus, what will I say, now that I have seen things inside the cave that are not believable, like events in myths and not real life?" (ὦ Ζεῦ, τί λέξω, δεινὸν ἰδὼν ἀνθρώπων ἔσω / κοῦ πιστά, μύθοις εἰκότ' οὐδ', ἔργοις βροτῶν, 375–6). This character shows that there was a gap between the stories of myth, with which tragedy was concerned, and the reality at Athens. See also Dover 1974, 17–18.

period of time. In a love competition over a Plataean boy, the speaker of Lysias 3 (*Against Simon*), his opponent, and their respective friends got involved in a “battle” (μάχης, 18). Scuffles such as this do not appear entirely unusual. In the *Politics* Aristotle lists Pittacus’ law code as a novelty since it punished drunken offenders more harshly than sober ones in order to curb such violence (1274b), thereby implying that the opposite type of law (that is, treating drunken offenders more leniently) was the standard in Greek cities.

In *Against Meidias* Demosthenes describes how a certain person punched a thesmothete in a drunken quarrel over a prostitute and how another man, named Polyzelus, struck a judge in a similar dispute over a flute-girl (21.36).<sup>74</sup> He asserts that both men deserve some measure of pardon since the former had the excuses of drunkenness and love (μέθην, ἔρωτα, 38) and the latter also was acting irrationally (φθάσας τὸν λογισμὸν), intending no insult (οὐδ’ ἐφ’ ὕβρει) since he was not an enemy (οὐ γὰρ ἐχθρός). Later in the speech Demosthenes mentions another case of limited violence. In a competition over choruses Alcibiades struck a man named Taureas on the face (147).<sup>75</sup> The agonistic nature of liturgy-production offered some excuse for Alcibiades’ action in the heat of the moment. In these three episodes Demosthenes does not condone violent behavior, but he does cite drunkenness, love, and competitiveness as mitigating factors in assessing the severity of a hostile act. In contrast to these relatively minor offenses, Demosthenes argues that Meidias’ crime was egregious since it was a deliberate and premeditated attempt to dishonor Demosthenes. *Against Meidias* indicates that crimes of passion, which had an irrational element, were allowed more leniency than deliberate *hybris*.

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<sup>74</sup> This passage is discussed in Chapter 4 (pp. 130) to show how these activities (drinking, sexual rivalry, and competitions) could begin a relationship of enmity.

<sup>75</sup> The same story is told by Andocides (4.20), who uses it as an example of the sort of behavior that Athenians condemned. The spectators are said to have hated Alcibiades and refused to listen to his chorus.

Yet Athenian indulgence for violence committed under the influence of alcohol, love, or competitiveness was not unequivocal. Several litigants condemn such behavior.<sup>76</sup> Although lovers' quarrels and drinking parties could in some contexts be considered mitigating factors, the Athenians did not endorse violent behavior as a general rule. Gagarin (2005, 375) has demonstrated that while acts of violence are described in the extant orations many times, they are never regarded as legitimate.<sup>77</sup> If a speaker narrates a violent encounter, he always tries to reduce his own participation to a minimum (Gagarin 2005, 371). The only claims that such behavior is common and acceptable come from arguments that litigants attribute to their opponents.

The speaker of Demosthenes 54 (*Against Conon*) predicts that Conon will attempt to make light of his hybriistic violence by pointing out that members of aristocratic clubs commonly engaged in fighting. He will allegedly assert that the whole affair should be disregarded as an unremarkable example of young men getting into scuffles (13–14). Although Cohen and others have pointed to this passage as evidence that such violence was accepted in Athenian society,<sup>78</sup> the opposite conclusion is more warranted. It is unlikely that Ariston desired to put a strong argument into the mouth of his opponent.<sup>79</sup> He introduces his anticipatory argument by speculating that the jurors, after hearing Ariston's narrative of the brutality of Conon and his sons, may be wondering "what in the world Conon will dare to say in response to this."<sup>80</sup> Ariston responds to his own question by positing that Conon will make the audacious and outrageous claim that the jury should simply ignore the act of violence. He does not believe that the jurors

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<sup>76</sup> Lys. 3.6; Dem. 54.4–5, 7–9; Aeschin. 1.58–9.

<sup>77</sup> Gagarin contrasts the non-violent public discourse with the Homeric ethic that dominated Athenian society before the late fifth century.

<sup>78</sup> Cohen 1995, 119–30; Roisman 2005, 73; McHardy 2008, 99; Phillips 2008, 19.

<sup>79</sup> Gagarin (2005) comments, "je doute qu'il ait utilisé les mots que lui prête son accusateur Ariston" (367).

<sup>80</sup> Dem. 54.13: τί ποτ' ἐστὶν ἂν πρὸς ταῦτα τολμήσει Κόνων λέγειν.

will agree with Conon: “If Conon says, ‘We are members of the club of the *Ithyphalloi*, and when we fall in love we beat up and strangle whomever we want to,’ then will you all laugh and let him off? I don’t think so.”<sup>81</sup> Ariston intends Conon’s supposed argument not to be persuasive but incendiary.

Therefore, we need not assume that the argument that Ariston attributes to Conon was what Conon actually intended to say. There are alternative ways to make sense of the evidence. Conon may have intended to make a much more reasonable claim similar to the defense that the speakers of Lysias 3 and 4 present (see below). Some incidental references in Ariston’s speech indicate that he could be exaggerating an argument that Conon actually put forth. Conon will allegedly assert that the speaker and his brothers were drunkards and *hybristai* (14). Ariston therefore specifically addresses this criticism: “for we were not seen by any of these men acting drunk or committing *hybris*.”<sup>82</sup> Ariston’s defensive comments about his own behavior may reflect a fear that Conon will claim that everybody involved was drunk and acting irrationally so that the penalty is too heavy to fit the crime. Conon would then be claiming drunkenness merely as a mitigating rather than a legitimizing factor in the dispute. He would not need to assert that he and his aristocratic friends should be able to perpetrate acts of *hybris* with impunity.

Such an argument would be similar to the defenses made in Lysias 3 (*Against Simon*) and 4 (*On a Premeditated Wounding*). Neither litigant attempts to justify an act of violence but rather argues that the excessive penalty proposed by his prosecutor is out of all proportion with seriousness of the crime. Cohen’s (1995) argument that these speeches show that violence was an expected characteristic of hostile relationships in Athens does not take into account this aspect

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<sup>81</sup> Dem. 54.20: ἂν δ’ εἴπη Κόνων “ἰθύφαλλοὶ τινές ἐσμεν ἡμεῖς συνειλεγμένοι, καὶ ἐρῶντες οὐς ἂν ἡμῖν δόξῃ παίομεν καὶ ἄγχομεν”, εἶτα γελάσαντες ὑμεῖς ἀφήσετε; οὐκ οἴομαί γε.

<sup>82</sup> Dem. 54.16: ἡμεῖς γὰρ οὔτε παροινούντες οὔθ’ ὑβρίζοντες ὑπ’ οὐδενὸς ἀνθρώπων ἐωράμεθα.

of the litigants' claims.<sup>83</sup> The speaker of Lysias 3 asserts, "it is clear that those who instituted the laws did not consider that exile from their homeland was a worthy penalty for those who happened to get into a scuffle and crack each other's heads."<sup>84</sup> When the speaker of Lysias 4 expresses irritation at being on trial simply because of a girl who is a prostitute and a slave (19), he is not excusing violent behavior but attempting to downplay the severity of the offense. He asserts that his opponent exaggerated the whole affair, labeling a black eye a premeditated attempt at murder (9). The penalty of exile is excessive, the speaker argues, even if he were guilty of being involved in a drunken brawl.<sup>85</sup>

Lysias 1 (*On the Murder of Eratosthenes*) is the only extant oration in which the speaker admits committing an act of violence without equivocation. Nevertheless, this speech confirms that violence was normally viewed as illegitimate. If Athenians had accepted homicide as an authorized response to a variety of situations, Euphiletus could have asserted that he was at enmity with Eratosthenes and that when he caught him on top of his wife, he killed him in hot blood. Such a defense would have gone well with Athenians' tendency to show more lenience toward acts committed in the heat of the moment than cold and calculated ones (Allen 2000a, 153–6). Further, if Todd (1998, 165) is correct, Euphiletus' claim that he did not know Eratosthenes is highly suspect. They were probably members of the same tribe and possibly of the same deme.<sup>86</sup> If Athens was dominated by an ethic of violent feuding as Cohen's model

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<sup>83</sup> Cohen 1995, 131–7; Phillips 2008, 23.

<sup>84</sup> Lys. 3.42: ἀλλὰ δῆλον ὅτι καὶ οἱ τοὺς νόμους ἐνθάδε θέντες, οὐκ εἴ τινες μαχεσάμενοι ἔτυχον ἀλλήλων κατάξαντες τὰς κεφαλὰς, ἐπὶ τούτοις ἠξίωσαν τῆς πατριδος φυγὴν ποιήσασθαι· ἢ πολλούς. In any case, the speaker asserts that he is innocent: "I do not think, Council, that I should receive pardon if I have committed an offense" (ἀξιῶ δέ, ὦ βουλή, εἰ μὲν ἀδικῶ, μηδεμιᾶς συγγνώμης τυγχάνειν, 4).

<sup>85</sup> This passage supports the idea that violence could result from rivalry and intoxication, contests, insults, and fight over courtesans, but not that they were perpetrated with impunity.

<sup>86</sup> Euphiletus reveals in passing that his wife had gone with Eratosthenes' mother to the Thesmophoria (1.20).

suggests, we might expect Euphiletus to have chosen a defense that corresponded with such values. As it is, Euphiletus must represent himself as a cuckold and a bit of a buffoon to maintain that he was not driven by wrath and personal vengeance when he executed Eratosthenes in accordance with the laws (see pp. 29–30). He maintains that he acted as a dispassionate executor of public punishment to prevent the jury from viewing his act as a violent display of private vengeance.<sup>87</sup>

Another passage often cited as an example of Athenian approval of violent responses to enemies is the story of Evaeon narrated in Demosthenes 21 (*Against Meidias*). However, as in the cases of the speeches examined above, close attention to the rhetorical purpose of this passage casts doubt upon such a conclusion. Evaeon supposedly killed someone for punching him at a drinking party. Demosthenes implies that he himself has acted more acceptably by resorting to the courts but does not condemn Evaeon's action: "I have much sympathy for Evaeon and everyone else who has helped himself when dishonored."<sup>88</sup> With this statement Demosthenes does not intend to defend Evaeon's act of homicide but rather to illustrate how serious a punch with the intent of dishonoring can be (72). He makes a concession to Evaeon's behavior because it supports his argument that *hybris*, even when manifested in an act that causes only minor physical harm, is an incredibly serious offense. The Evaeon episode is not an

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<sup>87</sup> Herman (2006, 175–83) shows that Euphiletus suppresses the issue of honor throughout the speech in order to be seen as a citizen who performed what justice required without personal prejudice. However, he goes too far in this direction. Harris (1997) rightfully critiques Herman's interpretation of Lysias 1 and argues that Euphiletus was not categorically denying the right to revenge, but in his own situation felt that it was advantageous to make himself the agent of public justice (cf. Fisher 1998, 80–2).

<sup>88</sup> Dem. 21.74: τῶ δ' Εὐαίῳνι καὶ πᾶσιν, εἴ τις αὐτῶ βεβοήθηκεν ἀτιμαζόμενος, πολλὴν συγγνώμην ἔχω. Herman (2006, 169–70) argues that Demosthenes is providing an example of what not to do in response to an injury. However, this would only prove that murder was an unacceptable response (see Dem. 21.75), not that someone in such a situation was always expected to resort to the courts.

example of normal and acceptable behavior but an exaggerated story that supports Demosthenes' *a fortiori* argument.

Consider among yourselves how much more reason I had to be angry when I suffered at Meidias' hands than Evaeon when he killed Boeotus. For he was struck by an acquaintance who was drunk before six or seven other persons [...] But I was outraged (*hubrizomēn*) in front of many people, both foreigners and citizens, by an enemy who did this early in the morning while he was sober, not prompted by the influence of alcohol but by *hybris*.<sup>89</sup>

Demosthenes asserts that Meidias' offense against him was far worse than the act of Evaeon's acquaintance. If almost half of the jury at Evaeon's trial thought that it was acceptable to punish someone who committed such an act of *hybris* by killing him immediately, surely the present jurors should be willing merely to vote down such an offender.<sup>90</sup>

A further point merits consideration. The man who punched Evaeon had committed an offense that constituted a breach of Athenian law. Demosthenes makes it clear that he has introduced this story as an example of an act of *hybris* (72), which was prosecutable by a *graphē hybreōs*. Evaeon's response could therefore be classified as self-help.<sup>91</sup> According to Demosthenes, Evaeon did not commit an act of random violence but responded to a criminal offense on his own initiative. Evaeon lost the trial because in his reprisal he had gone further than the law allowed (75). He would have been much better off had he taken the route that Demosthenes took: "one should not punish all those who commit *hybris* and act without restraint in the moment of anger but rather should bring them before you since you confirm and guard the

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<sup>89</sup> Dem. 21.73–4: λογίσασθε παρ' ὑμῖν αὐτοῖς, ὅσω πλείον' ὀργήν ἐμοὶ προσήκε παραστῆναι πάσχοντι τοιαῦθ' ὑπὸ Μειδίου ἢ τότε' ἐκείνῳ τῷ Εὐαίωνι τῷ τὸν Βοιωτὸν ἀποκτείναντι. ὁ μὲν γ' ὑπὸ γνῶριμου, καὶ τούτου μεθύοντος, ἐναντίον ἕξ ἢ ἑπτ' ἀνθρώπων ἐπλήγη [...] ἐγὼ δ' ὑπ' ἐχθροῦ, νήφοντος, ἔωθεν, ὕβρει καὶ οὐκ οἶνω τοῦτο ποιῶντος, ἐναντίον πολλῶν καὶ ξένων καὶ πολιτῶν ὑβριζόμενῳ.

<sup>90</sup> Compare the implicit *a fortiori* argument in Lysias 12 (*Against Eratosthenes*). He asserts that Eratosthenes put Polemarchus to death "not having suffered any private wrong from him" (οὔτε αὐτὸς ἰδίᾳ ἀδικούμενος, 23). Lysias does not imply that Eratosthenes would have been justified in murdering Lysias' brother if he *had* had a private pretext. Rather, he denies that Eratosthenes had this motivation to make his action appear all the more heinous.

<sup>91</sup> Demosthenes asserts that he will pardon "anyone who has helped himself when dishonored" (74).

safeguards granted by the laws to those who suffer.”<sup>92</sup> Although Demosthenes has sympathy for those who help themselves when they are harmed by wrongdoing (74), recourse to the courts is the best way to stay within the bounds of the law.

One could object that court cases such as Demosthenes 21, Demosthenes 54, Lysias 3, and Lysias 4 concern violent acts and therefore prove that violence must have happened in Athens. In reference to Demosthenes 21 and 54 Phillips (2008, 23) states, “for every Ariston or Demosthenes who resorted to litigation, there was a Conon or Meidias who preferred to settle affairs with his fists.” However, the mere existence of cases concerning physical abuse does not shed very much light on how typical such abuse was since the sources probably record only the worst feuds. Nevertheless, Cohen (1995, 137–8) and Phillips (2008, 18) cite Lysias’ fragmentary speech *Against Tisias* (fr. 75, 76 Thalheim) as evidence that violence was commonplace at Athens. Phillips asserts that the narrative, which details how verbal abuse ended in physical assault, is an example of “the common phenomenon of the escalation of *echthra* from verbal abuse [...] to physical violence” (18). However, the speaker describes the action as an offense against justice, or he would not have put the defendant on trial for it. The survival of this speech may in fact suggest the reverse of what Cohen and Phillips argue, that such acts were so exceptional that they were marked out as interesting stories to be preserved for posterity.

Athenians expected that aggressive violent behavior would be checked by democratic institutions and practices. According to Demosthenes 54 (*Against Conon*) the legal system prevented enemies from resorting to violence to solve disputes.

It is said that these [lawsuits of defamation] exist so that those who are engaged in abuse may not be led on to beat each other. Again, there are suits for battery; and I hear that these exist so that no one, when he finds himself at a disadvantage, may

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<sup>92</sup> Dem. 21.76: τοὺς ὑβρίζοντας ἅπαντας καὶ τοὺς ἀσελεγεῖς οὐκ αὐτὸν ἀμύνεσθαι μετὰ τῆς ὀργῆς, ἀλλ’ ἐφ’ ὑμᾶς ἀγειν δεῖ, ὡς βεβαιούντων ὑμῶν καὶ φυλαττόντων τὰς ἐν τοῖς νόμοις τοῖς παθοῦσι βοήθειαν.

defend himself with a stone or something else of this sort but will wait for justice from the law. Again there are lawsuits for wounding so that murders do not result when men are wounded. The most insignificant of these, defamation, has, I believe, been dealt with because of the final and most terrible of these, so that murder may not ensue, and that men not be led on little by little from defamation to blows, and from blows to wounding, and from wounding to death, but so that rather justice for each of the things be obtained through the laws.<sup>93</sup>

Ariston suggests that the legal code's gradated options for prosecution of different types of offenses are able to stop escalation that could end in violence. The passage is representative of the Athenian belief that violence could be and should be prevented by recourse to the courts.

Phillips (2008) comes to an entirely different conclusion regarding this passage. He argues that Ariston's statement reveals an assumption that "people will insult, beat and wound each other: this is stated as a given" (25). Yet, as the rest of the speech makes clear, Ariston expects the jury to find violent acts such as Conon's despicable. He does not imply that it was normal for Athenians to beat and wound each other.<sup>94</sup> Ariston's discourse is in sympathy with Isocrates 20 (*Against Lochites*), which similarly depicts the body of laws as designed to prevent violence. The speaker asserts that the lawgivers created a procedure for slander in order to prevent people from eventually coming to blows, because they were especially concerned about the bodies of citizens (ὕπερ τῶν σωμάτων μάλιστα σπουδάσαντας, 2). Both of these passages provide evidence for Athenian distaste for violence and belief that the laws could limit it.

The Athenians celebrated their conviction that the legal system tended to provide a check on violence in tragedy. The chorus of Euripides' *Suppliant Women* strikes at the core of a theme

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<sup>93</sup> Dem. 54.17–19: φασὶ τοίνυν ταύτας διὰ τοῦτο γίγνεσθαι, ἵνα μὴ λοιδορούμενοι τύπτειν ἀλλήλους προάγωνται. πάλιν αἰκείας εἰσὶ· καὶ ταύτας ἀκούω διὰ τοῦτ' εἶναι τὰς δίκας, ἵνα μηδεὶς, ὅταν ἤττων ἢ, λίθῳ μηδὲ τῶν τοιούτων ἀμύνηται μηδενί, ἀλλὰ τὴν ἐκ τοῦ νόμου δίκην ἀναμένη. τραύματος πάλιν εἰσὶν γραφαὶ τοῦ μὴ τιτρωσκομένων τινῶν φόνους γίγνεσθαι. τὸ φαυλότατον, οἶμαι, τὸ τῆς λοιδορίας, πρὸ τοῦ τελευταίου καὶ δεινοτάτου προσεώραται, τοῦ μὴ φόνον γίγνεσθαι, μηδὲ κατὰ μικρὸν ὑπάγεσθαι ἐκ μὲν λοιδορίας εἰς πληγὰς, ἐκ δὲ πληγῶν εἰς τραύματα, ἐκ δὲ τραυμάτων εἰς θάνατον, ἀλλ' ἐν τοῖς νόμοις εἶναι τούτων ἐκάστου τὴν δίκην.

<sup>94</sup> The most that could be argued from this passage is that violence acts must not have been totally unheard of in Athens for Ariston even to mention escalation as a plausible scenario. This is undoubtedly true, but Ariston does not imply that violence was overlooked or a part of normal life.

prevalent throughout Greek theater: “justice encourages justice and murder encourages murder.”<sup>95</sup> The *Oresteia* dramatizes this conflict between blood feud and justice in the person of Orestes. In the *Eumenides* the Athenian court of the Areopagus breaks the cycle of feuding and bloodshed brought on by the curse of Atreus and restores harmony. Isocrates expresses a similar sentiment in the *Panathenaicus*, asserting that those who wanted to solve their disputes “by reason and not violence” (μετὰ λόγου καὶ μὴ μετὰ βίας, 4.40) came to the homicide courts at Athens. Athenians believed that their laws, homicide laws in particular, put limitations on violence (Phillips 2008, 56–7).

Even if the courts did not always put an end to a conflict, they could at least provide a new outlet for continuing enmity.<sup>96</sup> Demosthenes asserts that the legal system, with its multiple procedures for similar offences, is designed to provide avenues for all citizens to obtain redress (22.26–7). This procedural flexibility allowed Athenian citizens to pursue their enemies in front of a jury rather than by physical confrontation. The use of the courts to continue relationships of enmity could diffuse violence by channeling it through a state-run, non-violent apparatus. The agonistic Athenian may well have preferred a public and humiliating victory over an opponent in the courts to a private triumph which involved the risks of fighting. Consequently, the courts would remain a very attractive option to honor-seeking citizens (McHardy 2008, 99).

The active participation of bystanders in stopping fights also provided an important check on violent behavior (Hunter 1994, 138–9). In *Lysias 3 (Against Simon)* a crowd (συνδραμόντων δὲ ἀνθρώπων πολλῶν, 16) gathers to help a Plataean boy who is being assaulted by Simon.

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<sup>95</sup> Eur. *Supp.* 614: δίκαι δίκαιαν δ' ἐκάλεσε καὶ φόνος φόνον.

<sup>96</sup> Cohen 1995, 87–118; cf. Rhodes 1998. Cohen points out that trials often exacerbate hostile relationships and could thereby increase the probability for violence to occur. The first point is well made, but it does not necessarily follow that violence increased in direct proportion to how much people hated each other. The courts would remain a viable option for pursuing an enemy even among those who were in extremely acrimonious conflict, such as Demosthenes and Aeschines.

Apollodorus states that a group of passersby (τινες προσιόντες) helped him by preventing Nicostratus and his friends from pushing him into a quarry ([Dem.] 53.17). Another crowd of citizens stops a violent attack in Isocrates 18 (*Against Callimachus*, 6). The speaker of Demosthenes 47 (*Against Evergus and Mnesibulus*) tells how his neighbors saw that his house was being invaded and so rushed to the rescue (60–1). To Athenians this normalizing force was important for social stability. Ariston makes Conon’s behavior seem particularly egregious by setting up a contrast between his actions as he looks on and encourages his sons to continue beating Ariston, and the appropriate response of bystanders, who were expected to help the afflicted (Dem. 54.25). In another speech Demosthenes asserts that if imprisoned criminals got loose all of the jury members would run to help (Dem. 24.208). Bystander help seems to have been a part of civic ideology (cf. Lys. 7.18).

The absence in Athens of the blood feuding ethic found in other societies is confirmed by the fact that Athenians did not carry weapons, as Herman (1994, 99–105) has pointed out. Thucydides asserts that the Athenians were the first among the Greeks to give up the practice of carrying arms (1.6.3; cf. 6.56.2). Aristotle confirms Thucydides’ observation, calling the practice “uncivilized” (βαρβαρικῆς, *Pol.* 1268b). In Plato’s *Gorgias* Socrates mentions carrying a dagger into the marketplace as if the concept were a novelty (469D). Socrates asserts that he would have the power of a tyrant to kill whomever he wanted, thus assuming that no one else would have a weapon. This scenario proposed by Socrates resembles the story about Pisistratus’ first attempt at seizing power (Hdt. 1.59.3–5). Pisistratus secured a group of bodyguards armed with clubs and took control of the acropolis. The Athenians were apparently unable to resist this small force and therefore must not have been armed themselves. Andocides 1 (*On the Mysteries*) provides an exception that proves the rule. According to Andocides the citizen body was so fearful after the

mutilation of the Herms that many took to carrying arms for a period of time (45; cf. 66). In his list of the measures that people can take to avoid being wronged by their enemies, Apollodorus mentions guarding household effects, staying at home at night, and taking preparations against plots ([Dem.] 58.65); he does not include carrying a weapon for self-defense.<sup>97</sup>

Athenians did not carry weapons because they did not view their society as violent. They encouraged citizens to intervene when a quarrel began to escalate and expected the legal system to help limit bloodshed. Overall, the respect for the sacrosanctity of the body of the citizen prevented the Athenians from condoning violent behavior as normal and acceptable.<sup>98</sup>

### **Conclusion**

Chapter 4 concluded that in the Athenian conceptualization of their society, enmity was quite prevalent, touching nearly every Athenian's life. Chapter 5 has further shown that the Athenians believed that citizens would invariably attempt to harm their enemies. Enmity was more than an emotional response to people whom one disliked; it was a formalized relationship that entailed certain expectations. Just as friends were supposed to demonstrate their friendship by acts of kindness in an endless series of gift-exchanges, enemies were expected to trade acts of hostility. The practice of reconciliation by which enmity was formally ended and a friendship formally begun shows that the Athenians allowed for little middle ground between these two relationships. Of course the average Athenian would have many people whom he knew only incidentally and did not consider a friend or an enemy. But, presumably, as an Athenian became better acquainted with another person, he would eventually find a way to place him in one of one

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<sup>97</sup> Fisher (1998) asserts that the lack of *siderophoria* ("carrying of weapons") was due to Athenians' "confidence in courts" (86–7).

<sup>98</sup> Ober (2005, 92–127) argues that some rights of citizens were gradually extended to other members of society, including women and slaves, as "quasi-rights". In the case of violence, however, this conclusion is questionable, since the same stigma does not seem to have applied to violence against slaves and prostitutes (see, e.g., [Dem.] 53.16).

of the known categories whether as a friend or as an enemy. Enmity was a socially constructed relationship that involved the expectation that those involved in such a relationship would attempt to harm each other.

Enemies attempted to harm each other in a number of ways. One of the most important of these was a constant verbal battle of insults and slander. In nearly every genre of ancient literature enemies are depicted as engaging in a constant verbal battle as they compete for status and honor. Feuding individuals would also take advantage of the court system to attack each other whether by prosecuting directly or supporting their enemies' opponents as advocates or witnesses. Many other options for enemies to pursue each other, both legal and illegal, were also available. Athenians did not lack for ways to carry on a relationship of enmity.

The ethic of making and harming enemies was not without problems for democratic ideology. Athenians were reticent to sanction the use of the courts for the aggravation of purely private quarrels since this threatened democratic values and could even lead to *stasis*. Therefore litigants often argued that their opponents had committed such terrible acts that they could no longer be considered citizens. These speakers attempt to mesh their private motivation with the claim that the jury will be acting in the city's best interests by passing a verdict against their opponents. The Athenians thus avoided the necessity of admitting that two good citizens could be enemies.<sup>99</sup>

Athens also did not provide scope for enmity to escalate into acts of violence. Although some violence undoubtedly occurred, Athenians viewed it as abnormal and illegitimate. Attacks on the body of the citizen were considered egregious and were therefore limited. Enemies may

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<sup>99</sup> Socrates attempts to solve this problem by asserting that just citizens should only be at enmity with unjust citizens (*Resp.* 334d–335a). As a theoretical ideal this may have worked, but in practice probably every individual would consider himself just and his rivals unjust.

have been expected to attempt to harm their enemies in a variety of ways, but they were also required to stay within the parameters set by society, which included a prohibition on violence, especially in extreme forms. Athens did not endorse blood feuding behavior. But neither did it infringe heavily on the rights of the individual male citizen to harm his enemies so long as he did not cross the boundaries established by the state.

## CHAPTER 6 CONCLUSION

This study has investigated how Athenians discussed and conceived of enmity among the citizen body. The first part (Chapters 2–3) examined how the Attic orators employ enmity in their speeches. Litigants had different strategies available to them and could shape their presentation of their relationships with their opponents to their own needs. Enmity is most often used as a vehicle for creating character and probability arguments that support a speaker's version of events although the exact details of how a litigant employs enmity will vary from case to case.

In light of these insights into the rhetorical use of enmity, a new way of evaluating the sources is possible. The second part of this study (Chapters 4–5) employed a methodology that took into account the rhetorical aspect of enmity illustrated in the first part (Chapters 2–3) and also brought in evidence from genres other than the Attic orators. The ensuing examination concluded that for the Athenians relationships of enmity were a part of everyday life. Nearly every citizen could expect to have identifiable groups of friends and enemies bound by formalized relationships.

Enemies were expected to harm each other and had at their disposal a variety of options for doing so. However, they were required to stop short of physical violence. Because the body of the Athenian citizen was inviolable, clear limitations were established for enemies who might be tempted to attack each other by violent means. In the Athenian mind democratic institutions such as the courts functioned to limit violence. Although Athenians did not reject the legitimacy of taking revenge on one's enemies, they stipulated that it had to be carried out in ways that did not threaten the social compact of the state.

This study illustrates how a close analysis of rhetorical *topoi* and legal arguments is instrumental to understanding the nature of Athenian society. Chapters 2–3 demonstrated that enmity is grounded in the legal sphere and is linked to rational arguments about the facts of the case. Scholars had often assumed that when litigants invoked enmity they portrayed themselves as outstanding models of how Athenians believed citizens should act and their opponents as the antithesis, but the reality is much more complex. The rhetorical strategies for presenting hostile relationships to the jury are more flexible than previously supposed. Litigants employ a variety of different methods for introducing their relationships with their opponents and shape their rhetoric according to their needs.

This observation causes problems for one of the common methods of evaluating the sources. Many scholars have tactically accepted the premise that litigants invoke their relationships with their opponents to win over the jurors, who intended to make a social judgment between the two parties. This assumption is questionable in light of this study's findings. Disputants in court employ enmity to create probability arguments about the facts of the case, not necessarily to present themselves as exemplars of the correct responses to enemies. One cannot cite speakers who portray themselves as retaliating on enemies as examples of a feuding ethic just as one cannot cite speakers who portray themselves as passively suffering wrongs as examples of a non-feuding ethic. These presentations of enmity are designed not to provide moral commentary but to develop arguments about the case based on the character of the disputants.

The observation that speakers employ enmity primarily for probability allows for a more reliable method of evaluating the sources. An approach that focuses on narratives of enmity can discover what the jury believed was likely to happen in the course of a relationship of enmity. To create arguments from probability, litigants had to be sensitive to what the jurors would be ready

to believe. Narratives of enmity would therefore reflect the types of behavior that Athenians believed were characteristic of enemies.

This method has been employed in Chapters 4–5 to arrive at a fresh perspective on enmity in ancient Athens. This study rejects the dichotomy between two competing codes of behavior. Athens cannot be plotted at some point on a spectrum between “feuding” and “non-feuding” as if there were a linear and teleological development from one to the other. Again, the reality is much more complex. The issues of the prevalence of enmity, the causes and spread of enmity, the characteristic behavior of enemies, and the social and legal limits on vengeance merit separate consideration to make possible a fuller and more nuanced picture of the Athenian worldview. Athenians could simultaneously believe that enmity was a prevalent phenomenon in the city, that enemies would constantly attempt to harm each other, and that enemies would be prevented from using violence by democratic institutions and practices. Perhaps one of these tenets shares more in common with “feuding” societies while another resembles the ideology of a “non-feuding” society, but Athenians held to all of them whether or not we would see them as incongruous.

This examination of the Athenian sources calls for a reorientation of the debate about enmity. Closer attention to the nuances of the rhetoric of enmity yields a more reliable methodology by which to evaluate the source material. Further, the idea of two competing codes of behavior should be abandoned as it is too schematic to account for the multifaceted nature of the Athenian conceptualization of enmity. This study has offered alternatives to this problem by providing a rhetorical analysis of the extant orators’ speeches that concern enmity and an examination of the patterns that reveal how Athenians envisaged the practice of enmity in their society.

The way that Athenians approached the topic of enmity illustrates that Athens was a complex society with its own distinctive features. Enemies were allowed to pursue each other and to fight for honor, but state regulations and the social expectations of the citizen body put strong restraints on acceptable behavior. Thus classical Athens does not fit into the models of feuding or non-feuding societies since it lacked the characteristic violence of the former and the prohibition on feuding of the latter. Athens possessed an individuality of its own.

## LIST OF REFERENCES

- Adeleye, Gabriel. 1983. "The Purpose of the 'Dokimasia'." *GRBS* 24:295–306.
- Allen, Danielle S. 2000a. *The World of Prometheus: The Politics of Punishing in Democratic Athens*. Princeton: Princeton University Press.
- . 2000b. "Changing the Authoritative Voice: Lycurgus' 'Against Leocrates.'" *CA* 19:5–33.
- Arnautoglou, Ilias. 1994. "Associations and Patronage in Ancient Athens." *AncSoc* 25:5–17.
- Audollent, Auguste. 1904. *Defixionum Tabellae*. Paris: Alberti Fontemoing.
- Balot, Ryan K. 2001. *Greed and Injustice in Classical Athens*. Princeton: Princeton University Press.
- Biscardi, Arnaldo. 1970. "La *Gnome Dikaiotate* et l'Interprétation des Lois dans la Grèce Ancienne." *RIDA* 17:219–32.
- Bleicken, Jochen. 1988. *Die Athenische Demokratie*. Paderborn: Wolfgang Schuller.
- Blomquist, Jerker. 1982. "Human and Divine Action in Euripides' *Hippolytus*." *Hermes* 110:398–414.
- Blundell, Mary W. 1989. *Helping Friends and Harming Enemies: a Study in Sophocles and Greek Ethics*. Cambridge: Cambridge University Press.
- Bogaert, Raymond. 1968. *Banques et Banquiers dans les Cités Grecques*. Leiden: A.W. Sijthoff.
- Carawan, Edwin. 1998. *Rhetoric and the Law of Draco*. Oxford: Clarendon Press.
- Carey, Christopher. 1989. *Lysias: Selected Speeches*. Cambridge: Cambridge University Press.
- . 1990. "Structure and Strategy in Lysias 24." *G&R* 37:44–51.
- . 1992. *Apollodoros against Neaira: (Demosthenes) 59*. Warminster: Aris & Phillips.
- . 1994a. "Rhetorical Means of Persuasion." In *Persuasion: Greek Rhetoric in Action*, ed. Ian Worthington, 26–45. London: Routledge.
- . 1994b. "Legal Space in Classical Athens." *G&R* 41:172–86.
- . 1994c. "'Artless' Proofs in Aristotle and the Orators." *BICS* 39:95–106.
- . 1995. "The Witness's *Exosmosia* in the Athenian Courts." *CQ* 45:114–19.
- Christ, Matthew R. 1990. "Liturgy Avoidance and Antidosis in Classical Athens." *TAPA* 120:147–69.

- . 1998a. *The Litigious Athenian*. Baltimore: Johns Hopkins University Press.
- . 1998b. “Legal Self-Help on Private Property in Classical Athens.” *AJP* 119:521–45.
- . 2006. *The Bad Citizen in Classical Athens*. Cambridge: Cambridge University Press.
- . 2007. Review of Herman 2006. *Bryn Mawr Classical Review* 2007.07.37: <http://ccat.sas.upenn.edu/bmcr/2007/2007-07-37.html>.
- Cohen, David. 1989. “Seclusion, Separation, and the Status of Women in Classical Athens.” *G&R* 36:3–15.
- . 1991. *Law, Sexuality, and Society: Enforcement of Morals in Classical Athens*. Cambridge: Cambridge University Press.
- . 1995. *Law, Violence, and Community in Classical Athens*. Cambridge: Cambridge University Press.
- Darkow, Angela C. 1917. *The Spurious Speeches in the Lysianic Corpus*. Bryn Mawr: Lord Baltimore Press.
- Davies, John K. 1981. *Wealth and the Power of Wealth in Classical Athens*. New York: Arno Press.
- Dillon, Matthew. P. J. 1995. “Payments for the Disabled at Athens: Social Justice or Fear of Aristocratic Patronage?” *AncSoc* 26:27–57.
- Dover, Kenneth J. 1968. *Lysias and the Corpus Lysiacum*. Berkeley: University of California Press.
- . 1974. *Greek Popular Morality in the Time of Plato and Aristotle*. Berkeley: University of California Press.
- Edwards, Michael J. 2000. “Antiphon and the Beginnings of Athenian Literary Oratory.” *Rhetorica* 18:227–243.
- Edwards, Michael J. and Stephen Usher. 1985. *Antiophon and Lysias*. Warminster: Aris & Phillips.
- Epstein, David F. 1987. *Personal Enmity in Roman Politics 218–43 B.C.* London: Croom Helm.
- Erbse, Hatmut. 1956. “Über die Midiana des Demosthenes.” *Hermes* 84:135–51.
- Fairchild, William D. 1979. “The Argument from Probability in Lysias.” *CB* 55:49–54.
- Faraone, Christopher A. 1991. “The Agonistic Context of Early Greek Binding Spells.” In *Magika Hiera: Ancient Greek Magic and Religion*, ed. Christopher A. Faraone and Dirk Obbink, 3–32. Oxford: Oxford University Press.

- Finley, Moses I. 1983. *Politics in the Ancient World*. Cambridge: Cambridge University Press.
- Fisher, Nicolas R. 1990. "The Law of *Hubris* in Athens." In *Nomos*, ed. Paul A. Cartledge, Paul Millett, and Stephen Todd, 123–38. Cambridge: Cambridge University Press.
- . 1992. *Hybris: A Study in the Values of Honour and Shame in Ancient Greece*. Waxminster: Aris and Phillips.
- . 1998. "Masculinity, Violence and the Law in Classical Athens." In *When Men were Men*, ed. Lin Foxhall and John Salmon, 68–97. London: Routledge.
- . 1999. "Workshops of Villains." In *Organized Crime in Antiquity*, ed. Keith Hopwood, 53–96. London: Duckworth.
- . 2001. *Aeschines: Against Timarchos*. Oxford: Clarendon Press.
- Fränkel, Max. 1878. "Der Attische Heliasteneid." *Hermes* 13:452–66.
- Furley, William D. 1996. *Andokides and the Herms: A Study of Crisis in Fifth-century Athenian Religion*. London: Institute of Classical Studies, School of Advanced Study, University of London.
- Gabrielsen, Vincent. 1987. "The *Antidosis* Procedure in Classical Athens." *C&M* 38:7–38.
- . 1994. *Financing the Athenian Fleet: Public Taxation and Social Relations*. Baltimore: The Johns Hopkins University Press.
- Gagarin, Michael. 1981. *Drakon and Early Athenian Homicide Law*. New Haven: Yale University Press.
- . 1996. "The Torture of Slaves in Athenian Law." *CP* 91:1–18.
- . 2002. *Antiphon the Athenian: Oratory, Law, and Justice in the Age of the Sophists*. Austin: University of Texas Press.
- . 2005. "La Violence dans les Plaidoyers Attiques." In *La Violence dans les Mondes Grec et Romain*, ed. Jean-Marie Bertrand, 365–76. Paris: Publications de la Sorbonne.
- . 2007. "Rational Argument in Early Athenian Oratory." In *Logos: Rational Argument in Classical Rhetoric*, ed. Jonathan Powell, 9–18. London: Institute of Classical Studies, School of Advanced Study, University of London.
- Gagliardi, Lorenzo. 2005. "The Athenian Procedure of *Dokimasia* of Orators. A Response to Douglas M. MacDowell." In *Symposion 2001: Vorträge zur Griechischen und Hellenistischen Rechtsgeschichte*, ed. Robert W. Wallace and Michael Gagarin, 89–98. Vienna: Austrian Academy of Sciences.
- Gallant, Thomas W. 1991. *Risk and Survival in Ancient Greece: Reconstructing the Rural Domestic Economy*. Stanford: Stanford University Press.

- Goebel, George H. 1989. "Probability in the Earliest Rhetorical Theory." *Mnemosyne* 42:41–53.
- Hall, Edith. 1995. "Lawcourt Dramas: The Power of Performance in Greek Forensic Oratory." *BICS* 40:39–58.
- Hansen, Mogens H. 1974. *The Sovereignty of the People's Court in Athens in the Fourth Century BC and the Public Action against Unconstitutional Proposals*. Odense: Odense Universitetsforlag.
- . 1981. "Initiative and Decision: The Separation of Powers in Fourth-Century Athens." *GRBS* 22:345–70.
- . 1989a. Review of Bleicken 1985. *CP* 84:137–48.
- . 1989b. Review of Sinclair 1988. *CR* 1989:69–76.
- . 1991. *The Athenian Democracy in the Age of Demosthenes: Structure, Principles, and Ideology*. Oxford: Blackwell.
- Harris, Edward M. 1989. "Demosthenes' Speech against Meidias." *HSCP* 92:117–36.
- . 1992. "MacDowell, ed.: *Demosthenes: Against Meidias (Oration 21)*." *CP* 87:71–80.
- . 1994. "Law and Oratory." In *Persuasion: Greek Rhetoric in Action*, ed. Ian Worthington, 130–52. London: Routledge.
- . 2005. "Feuding or the Rule of Law? The Nature of Litigation in Classical Athens: An Essay in Legal Sociology." In *Symposion 2001: Vorträge zur Griechischen und Hellenistischen Rechtsgeschichte*, ed. Robert W. Wallace and Michael Gagarin, 125–41. Vienna: Austrian Academy of Sciences.
- . 2008. *Demosthenes: Speeches 20–22*. Austin: University of Texas Press.
- Harris, William V. 1997. "Lysias III and Athenian Beliefs about Revenge." *CQ* 47:363–6.
- . 2001. *Restraining Rage: The Ideology of Anger Control in Classical Antiquity*. Cambridge, Mass: Harvard University Press.
- Harrison, A. R. W. 1968–71. *The Law of Athens*. 2 vols. Oxford: Clarendon Press.
- Harrison, James R. 2003. *Paul's Language of Grace in Its Graeco-Roman Context*. Tübingen: Mohr Siebeck.
- Harvey, David. 1990 "The Sykophant and Sykophancy: Vexatious Redefinition?" In *Nomos*, ed. Paul A. Cartledge, Paul Millett, and Stephen Todd, 103–22. Cambridge: Cambridge University Press.
- Henderson, Jeffrey. 1987. "Older Women in Attic Comedy." *TAPA* 117:105–29.

- Herman, Gabriel. 1993. "Tribal and Civic Codes of Behaviour in Lysias 1." *CQ* 43:406–19.
- . 1994. "How Violent was Athenian Society?" In *Ritual, Finance, Politics: Athenian Democratic Accounts presented to David Lewis*, ed. Robin Osborne and Simon Hornblower, 99–117. Oxford.
- . 1995. "Honour, Revenge and the State in Fourth-Century Athens." In *Die Athenische Demokratie im 4. Jahrhundert v. Chr.: Vollendung oder Verfall einer Verfassungsform?*, ed. Walter Eder, 43–66. Stuttgart: Steiner.
- . 1998. "Reciprocity, Altruism, and the Prisoner's Dilemma: The Special Case of Classical Athens." In *Reciprocity in Ancient Greece*, ed. Christopher Gill, Norman Postlethwaite, and Richard Seaford, 199–225. Oxford: Oxford University Press.
- . 2000. "Athenian Beliefs about Revenge: Problems and Methods." *PCPhS* 46:7–27.
- . 2006. *Morality and Behaviour in Democratic Athens: A Social History*. Cambridge: Cambridge University Press.
- . 2007. Review of Christ 2007. *Bryn Mawr Classical Review* 2007.09.21: <http://ccat.sas.upenn.edu/bmcr/2007/2007-09-21.html>.
- Humphreys, Sally C. 1978. "Public and Private Interests in Classical Athens." *CJ* 73:97–104.
- . 1985. "Social Relations on Stage: Witnesses in Classical Athens." *History and Anthropology* 1:313–69.
- Hunter, Virginia J. 1994. *Policing Athens: Social Control in the Attic Lawsuits, 420–320 B.C.* Princeton: Princeton University Press.
- Isager, Signe and Mogens H. Hansen. 1975. *Aspects of Athenian Society in the Fourth Century B.C.* Odense: Odense University Press.
- Johnstone, Steven. 1999. *Disputes and Democracy: The Consequences of Litigation in Ancient Athens*. Austin: University of Texas Press.
- Just, Manfred. 1965. *Die Ephesis in der Geschichte des Attischen Prozesses. Ein Versuch zur Deutung der Rechtsnatur der Ephesis*. Würzburg.
- Kapparis, Konstantinos A. 1999. *Apollodoros: Against Neaira*. Berlin: Walter de Gruyter.
- Kennedy, George A. 1963. *The Art of Persuasion in Greece*. Princeton: Princeton University Press.
- Konstan, David. 1997. *Friendship in the Classical World*. Cambridge: Cambridge University Press.
- . 2006. *The Emotions of the Ancient Greeks: Studies in Aristotle and Classical Literature*. Toronto: University of Toronto Press.

- Kurihara, Asako. 2003. "Personal Enmity as a Motivation in Forensic Speeches." *CQ* 53:464–77.
- Lanni, Adriaan. 2006. *Law and Justice in the Courts of Classical Athens*. Cambridge: Cambridge University Press.
- Lavency, Marius. 1964. *Aspects de la logographie judiciaire attique*. Louvain: Bureaux de Recueil, Bibliothèque de l'Université.
- Lipsius, Justus H. 1905–15. *Das Attische Recht und Rechtsverfahren*. 3 vols. Leipzig: O. R. Reisland.
- MacDowell, Douglas M. 1962. *Andokides: On the Mysteries*. Oxford: Clarendon Press.
- . 1963. *Athenian Homicide Law in the Age of the Orators*. Manchester: University Press.
- . 1968. "Unintentional Homicide in the Hippolytos." *RhM* 111:156–8.
- . 1978. *The Law in Classical Athens*. Ithaca: Cornell University Press.
- . 2002. *Demosthenes: Against Meidias*. Bristol: Bristol Classical Press.
- . 2005. "The Athenian Procedure of Dokimasia of Orators." In *Symposion 2001: Vorträge zur Griechischen und Hellenistischen Rechtsgeschichte*, ed. Robert W. Wallace and Michael Gagarin, 79–88. Vienna: Austrian Academy of Sciences.
- McHardy, Fiona. 2008. *Revenge in Athenian Culture*. London: Duckworth.
- Millett, Paul. 1989. "Patronage and Its Avoidance in Classical Athens." In *Patronage in Ancient Society*, ed. Andrew Wallace-Hadrill, 15–47. London: Routledge.
- Mirhady, David C. 1996. "Torture and Rhetoric in Athens." *JHS* 116:119–31.
- . 2002. "Athens' Democratic Witnesses." *Phoenix* 56:255–74.
- Mitchell, Lynette G. and P. J. Rhodes. 1996. "Friends and Enemies in Athenian Politics." *G&R* 43:11–30.
- Morford, Mark P. O. 1966. "Ethopoiia and Character-assassination in the Conon of Demosthenes." *Mnemosyne* 19:241–48.
- Murphy, T. M. 1992. "Lysias 25 and the Intractable Democratic Athens." *AJP* 113:543–558.
- Ober, Josiah. 1989. *Mass and Elite in Democratic Athens: Rhetoric, Ideology, and the Power of the People*. Princeton: Princeton University Press.
- . 1998. *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule*. Princeton: Princeton University Press.

- . 2005. *Athenian Legacies: Essays on the Politics of Going on Together*. Princeton: Princeton University Press.
- Osborne, Robin. 1990. "Vexatious Litigation in Classical Athens: Sycophancy and the Sycophant." In *Nomos*, ed. Paul A. Cartledge, Paul Millett, and Stephen Todd, 83–102. Cambridge: Cambridge University Press.
- Papillon, Terry L. 1998a. *Rhetorical Studies in the Aristocratea of Demosthenes*. New York: P. Lang.
- . 1998b. "Recent Writings in Greek Rhetoric and Oratory." *CJ* 93:331–44.
- Parker, Robert. 1983. *Miasma: Pollution and Purification in Early Greek Religion*. Oxford: Clarendon Press.
- Peachin, Michael, ed. 2001. *Aspects of Friendship in the Graeco-Roman World: Proceedings of a Conference Held at the Seminar für Alte Geschichte, Heidelberg, on 10–11 June, 2000*. Portsmouth, RI: Journal of Roman Archeology.
- Pearson, Lionel. 1981. *The Art of Demosthenes*. Chico, CA: Scholars Press.
- Peristiany, John G. 1966. *Honour and Shame, the Values of Mediterranean Society*. Chicago: University of Chicago Press.
- Phillips, David D. 2008. *Avengers of Blood: Homicide in Athenian Law and Custom from Draco to Demosthenes*. Stuttgart: Steiner.
- Porter, John R. 1997. "Adultery by the book: Lysias I (On the murder of Eratosthenes) and Comic Diegesis." *EMC* 16:421–53.
- . 2003. "Chariton and Lysias 1: Further Considerations." *Hermes* 131:433–40.
- Raaflab, Kurt A. 2009. "Conceptualizing and Theorizing Peace in Ancient Greece." *TAPA* 139:225–50.
- Rhodes, P. J. 1986. "Political Activity in Classical Athens." *JHS* 106:132–44.
- . 1998. "Enmity in Fourth-century Athens." In *Kosmos: Essays in Order, Conflict and Community in Classical Athens*, ed. Paul Cartledge, Paul Millett, and Sitta von Reden, 144–61. Cambridge: Cambridge University Press.
- . 2004. "Keeping to the Point." In *The Law and the Courts in Ancient Greece*, ed. Edward M. Harris and Lene Rubinstein, 137–58. London: Duckworth.
- Roisman, Joseph. 2003. "The Rhetoric of Courage in the Attic Orators." In *Andreia: Studies in Manliness and Courage in Classical Antiquity*, ed. Ralph M. Rosen and Ineke Sluiter, 127–43. Leiden: Brill.
- . 2005. *The Rhetoric of Manhood*. Berkeley: University of California Press.

- de Romilly, Jacqueline. 2000. *La Grèce Antique Contre la Violence*. Paris: Editions de Fallois.
- Rosen, Ralph M. and Ineke Sluiter, ed. 2003. *Andreia: Studies in Manliness and Courage in Classical Antiquity*. Leiden: Brill.
- Roussel, Louis. 1966. (*Pseudo-*) *Lysias: L'invalides*. Paris: Presses Universitaire de France.
- Rowe, Galen O. 1994. "The Charge against Meidias." *Hermes* 122:55–63.
- Rubinstein, Lene. 2000. *Litigation and Cooperation: Supporting Speakers in the Courts of Classical Athens*. Stuttgart: F. Steiner Verlag.
- . 2004. "Stirring up Dicastic Anger." In *Law, Rhetoric, and Comedy in Classical Athens: Essays in Honour of Douglas M. MacDowell*, ed. Douglas L. Cairns, Ronald A. Knox, et al., 187–203. Swansea.
- . 2005. "Main Litigants and Witnesses in the Athenian Courts: Procedural Variations." In *Symposium 2001*, ed. Robert W. Wallace and Michael Gagarin, 99–120. Vienna: Austrian Academy of Sciences.
- Ruschenbusch, Eberhard. 1957. "Δικαστήριον Πάντων Κύριον." *Historia* 6:257–74.
- . 1978. *Untersuchungen zu Staat und Politik in Griechenland vom 7.–4. Jh. v. Chr.* Bamberg: Aku.
- de Ste. Croix, G. E. M. 1981. *The Class Struggle in the Ancient Greek World: From the Archaic Age to the Arab Conquests*. Ithaca: Cornell University Press.
- Scafuro, Adele C. 1997. *The Forensic Stage: Settling Disputes in Greco-Roman New Comedy*. Cambridge: Cambridge University Press.
- Schäfer, H. 1949. "Pasion." *RE* 18:2064–8.
- Schiappa, Edward. 1999. *The Beginnings of Rhetorical Theory in Classical Greece*. New Haven: Yale University Press.
- Schmitz, Thomas A. 2000. "Plausibility in the Greek Orators." *AJP* 121:47–77.
- Schofield, Malcolm. 1998. "Political Friendship and the Ideology of Reciprocity." In *Kosmos: Essays in Order, Conflict and Community in Classical Athens*, ed. Paul Cartledge, Paul Millett, and Sitta von Reden, 37–51. Cambridge: Cambridge University Press.
- Sealey, Raphael. 1983. "The Athenian Courts for Homicide." *CP* 78:275–296.
- . 1994. *The Justice of the Greeks*. Ann Arbor: University of Michigan Press.
- Sickinger, James P. 1999. *Public Records and Archives in Classical Athens*. Chapel Hill: The University of North Carolina Press.

- Sinclair, Robert K. 1988. *Democracy and Participation in Athens*. Cambridge: Cambridge University Press.
- Smith, Gertrude. 1927. "The Jurisdiction of the Areopagus." *CP* 22:61–79.
- Sundahl, Mark J. 2003. "The Rule of Law and the Nature of the Fourth-Century Athenian Democracy." *C&M* 54:127–156.
- Thomas, Rosalind. 1989. *Oral Tradition and Written Record in Classical Athens*. Cambridge: Cambridge University Press.
- Thompson, Wesley E. 1981. "Athenian Attitudes toward Wills." *Prudentia* 13:13–23.
- Thür, Gerhard. 1977. *Beweisführung vor den Schwurgerichtshöfen Athens. Die Proklesis zur Basanos*. Wien: Verlag der Österreichischen Akademie der Wissenschaften.
- . 1996. "Reply to D. C. Mirhady: Torture and Rhetoric in Athens." *JHS* 116:132–4.
- . 2005. "The Role of Witnesses in Athenian Law." In *The Cambridge Companion to Ancient Greek Law*, ed. Michael Gagarin and David Cohen, 146–69. New York: Cambridge University Press.
- Todd, Stephen C. 1990a. "Lady Chatterley's Lover and the Attic Orators: The Social Composition of the Athenian Jury." *JHS* 110:146–73.
- . 1990b. "The Use and Abuse of the Attic Orators." *G&R* 37:159–78.
- . 1990c. "The Purpose of Evidence in Athenian Courts." In *Nomos*, ed. Paul A. Cartledge, Paul Millett, and Stephen Todd, 19–38. Cambridge: Cambridge University Press.
- . 1993. *The Shape of Athenian Law*. Oxford: Oxford University Press.
- . 1998. "The Rhetoric of Enmity in the Attic Orators." In *Kosmos: Essays in Order, Conflict and Community in Classical Athens*, ed. Paul Cartledge, Paul Millett, and Sitta von Reden, 162–9. Cambridge: Cambridge University Press.
- . 2007. *A Commentary on Lysias, Speeches 1–11*. Oxford: Oxford University Press.
- Trevett, Jeremy. 1992. *Apollodorus, Son of Pasion*. Oxford: Clarendon Press.
- Usher, S. 1965. "Individual Characterization in Lysias." *Eranos* 63:99–119.
- Veyne, Paul. 1990. *Bread and Circuses: Historical Sociology and Political Pluralism*. London: Penguin Books.
- Walcot, Peter. 1978. *Envy and the Greeks*. Warminster: Aris & Phillips.
- Wallace, Robert W. 1989. *The Areopagus Council, to 307 B.C.* Baltimore: The Johns Hopkins University Press.

- Whitehead, David. 1983. "Competitive Outlay and Community Profit: Φιλοτιμία in Democratic Athens." *C&M* 34:55–74.
- . 1993. "Cardinal virtues: The Language of Public Approbation in Democratic Athens." *C&M* 44: 37–75.
- Wilson, Stephen. 1988. *Feuding, Conflict and Banditry in Nineteenth-Century Corsica*. Cambridge: Cambridge University Press.
- Wilson, Peter. 2000. *The Athenian Institution of the Khoregia: The Chorus, the City and the Stage*. Cambridge: Cambridge University Press.
- Winter, Thomas N. 1973. "On the Corpus of Lysias." *CJ* 69:34–40.
- Wisse, Jakob. 1989. *Ethos and Pathos from Aristotle to Cicero*. Amsterdam: Hakkert.
- Wolpert, Andrew. 2001. "Lysias 1 and the Politics of the Oikos." *CJ* 96:415–424.
- . 2002. *Remembering Defeat: Civil War and Civic Memory in Ancient Athens*. Baltimore: Johns Hopkins University Press.
- Wood, Ellen M. 1983. "Agricultural Slavery in Classical Athens." *AJAH* 8:1–47.
- Worman, Nancy B. 2008. *Abusive Mouths in Classical Athens*. Cambridge: Cambridge University Press.
- Wünsch, Richard. 1897. *Defixionum Tabellae*. Berlin: Reimer. (= *IG III*, Appendix.)
- Wyse, William. 1967. *The Speeches of Isaeus*. Hildesheim: Olms.
- Yunis, Harvey. 2000–2001. "Politics as Literature: Demosthenes and the Burden of the Past." *Arion* 8:97–118.
- Zelnick-Abramovitz, Rachel. 2000. "Did Patronage Exist in Classical Athens?" *AC* 69:65–80.

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