

THEOMNESTUS.

I think that I shall have no lack of witnesses, gentlemen of the jury ; for I see many of you now sitting on the jury who at that time were present, when Lysitheus impeached Theomnestus for speaking in the assembly, after having thrown away his shield, while it was not lawful for him (to speak in the assembly). For during that trial he said that I had killed my father. (2.) If he, now, had accused me of having killed his father, I would have granted him pardon for his words (for I would have considered him a commonplace and insignificant man); nor if he had said anything else, against me, of (the things) forbidden by law (to say), would I have prosecuted him,—for I consider it to be unworthy of a free man and too litigious to go to law with (a man) for slander ; (3,) but, as it is, it seems to me to be shameful, (in a case) concerning my father, whose conduct towards you and the city had been so meritorious, not to punish him who had said that. And I wish to know from you whether he shall pay the penalty, or whether to him alone of the Athenians the special privilege is allowed both to act and to speak contrary to the laws, whatever he may wish (to do or to say).

(4.) I am now thirty-three years old, and twenty years have elapsed since you returned. I, therefore, was evidently thirteen years old, when my father was put

to death by the Thirty. At that time of life I neither understood what oligarchy is, nor was I able to help him, when being wronged. (5.) And indeed, not with good reason would I have plotted against him for money's sake; for my elder brother Pantaleon took everything and serving as our guardian, robbed us of our paternal inheritance, so that for many reasons, gentlemen of the jury, it was to my interest to wish him to live. It is, indeed, necessary for me to make mention of these things, but there is no need of many words; you all know pretty well that I speak the truth. Nevertheless I shall bring forward witnesses of these (facts).

WITNESSES.

(6.) Perhaps, therefore, gentlemen of the jury, he shall make no defense on these points, but he will say before you, what he dared to say also before the arbitrator, that it is not (one) of the forbidden words, if one says that some one has "killed" his father; for that the law does not forbid that, but that (the law) does not allow to use the word "homicide." (7.) But I think, gentlemen of the jury, that you ought not to lay stress on (the letter of) the words, but on their meaning, and that you all (ought to) know that, whoever have killed any persons, are also the homicides of the same persons, and whoever are homicides, have also killed some persons. For it would be (too) much labor for the law-giver to write all (possible) words that have the same meaning; but while using one word, he made plain (his meaning) concerning all. (8.) For, I suppose, Theomnestus, if some one should call you a "patricide" or a "matricide," you would

hold that he owed you punishment, but if some one should say that you "struck" your mother or your father, you would think that he should go scot free, as having said nothing of the forbidden things. (9.) And I should like to hear from you,—for in this respect you are an expert and you have taken great pains, both as far as the doing (of the thing) and the speaking (about it) is concerned,—if some one should say that you had "cast away" your shield, while it is said in the law that he shall be liable to punishment, if he asserts that (some one) has "thrown away" (his shield), in that case you would not go to law with him, but it would be satisfactory to you (to have it said of you) to have "cast away" your shield, saying: "it is nothing to me; for to 'cast away' and to 'throw away' is not the same thing"? (10.) Nor would you admit the charge, when having become (one) of the Eleven, if some one should arrest a man, claiming that he had stolen a cloak or stripped off a shirt, but you would release him on the same principle, because he was not called a "stripper of clothes." And if some one should be arrested because abducting a *child*, you would not consider him to be an "andrapodistes" (*i.e.* one who carries off a *man* into slavery), if, at least, you quibble about words, but do not pay attention to deeds, to express which all give names. (11.) Consider also this, gentlemen of the jury; he seems to me through indifference and unmanliness never to have gone up to the Areopagus; for you all know that in that place, when they are conducting a trial for murder they do not make their sworn dispositions, using this word ("murder"), but using that word, with which I have been slandered. For the prosecutor swears that "he killed," the defen-

dant that "he did not kill." (12.) And so it would be absurd to acquit the one appearing to have killed, (because) pleading to be a "murderer," whereas the prosecutor stated in his sworn disposition that the defendant had "killed." For in what respect does this differ from what he will say? And you yourself went to law with Theon who had said that you had "cast away" your shield. And yet nothing is said in the law about "casting away," but it says that if some one says that a man has "thrown away" his shield, he owes (a fine of) five hundred drachmae. (13.) And would it not be inconsistent, if, when you wish to punish your enemies, having been slandered (by them), you should interpret the laws in this way, as I (am doing now), but when you have slandered some one else contrary to the laws, you should not think it right to pay the penalty? Are you, either, so powerful that you may employ the law, in whatever sense you wish, or so influential, that you think, that those wronged by you will never obtain revenge? (14.) And then are you not ashamed to be so much wanting in sense, that you think you ought to have advantage not in consequence of (or in proportion to) your services to the state, but in consequence of the wrongs you committed without being punished? Please read the law.

LAW.

(15.) I, now, gentlemen of the jury, think that you all know, that, I am speaking rightly, but (I think) him to be such a blockhead that he cannot understand what is being said. I, therefore, wish to teach him, concerning these points also from other laws, (to see) if perhaps, even now, while on the bema, he may be in-

structed and may not cause you any trouble in the future. Please read these laws, the old ones of Solon.

(16.) Law. *Let him be bound in the stocks by the feet, for five days if the court awarded it in addition (to a fine.)*

The "stocks," Theomnestus, is the same thing, which is now called to be bound in the "pillory." If now, he who had been bound, when released, would accuse the Eleven, when they were undergoing their audit, that he had not been bound in the "stocks" but in the "pillory," would they not think him a fool? Read another law.

(17.) Law. *Let him give security forswearing himself by Apollo. And fearing, on account of the penalty, let him attempt escape.*

This (old-fashioned) "forswearing himself" means "swearing by," and "attempt escape" means, what we now call "to run off."

Whoever bars the way by means of a door, the thief being inside.

This "bars the way" means "to shut the door," and do not make a fuss on account of this (word).

(18.) *Let money be weighable at so much as the lender wishes.*

That (word) "weighable," my good friend, does not mean that one should weigh (the money) in a balance, but that one (may) exact as much "interest," as one should wish. Read in addition the last part of that law.

(19.) *As many women as go about manifestly, and let a man be accountable for damage to an inmate of the house and a female slave.*

Now, listen. The (word) "manifestly" means "openly," "to go about" means "to walk the streets," and "inmate of the house" means "maid-servant."

And there are many other like cases, gentlemen of the jury. (20.) But if anything can penetrate to his understanding (lit: if he is not of iron), I think he has (now) understood, that the things are the same, now and before, but that in some cases we do not now use the same word as before. (Lit: of words we do not use some as the same now as before.) And he will make it plain (to you, that he has understood this); for he will leave the bema and go his way, in silence. (21.) But if not, I ask of you, gentlemen of the jury, to render a just verdict, remembering that it is far greater evil for a man, to have it said of him, that he killed his father than (to have it said of him) that he threw away his shield. I, anyway, would rather choose to have thrown away all shields than to have such a reputation concerning (my conduct towards) my father. (22.) He, when being liable to the charge (of having thrown away his shield), while the misfortune (*i.e.* consequences of his conviction) would be less, was not only pitied by you, but he even secured the disfranchisement of him who had given evidence against him. But I, who have seen him doing that which you too know (him to have done), who, myself have saved my shield,—I, who was charged with so lawless and dreadful a crime, while the misfortune (will) be great to me, if he shall be acquitted, and while it (*i.e.* the consequence of conviction) will be hardly worth while, if he shall be convicted of slander,—shall I not obtain satisfaction from him? There being what charge on your part against me (that would prevent my obtaining satisfaction)? (23.) Is it because I justly have been called (my father's murderer)? But you, yourselves would not say so, But (then), because he is a better man and of better

ancestors than I? But not even he himself would claim this. But (then), because, having thrown away my arms, I am going to law with a man, who saved his? But not *this* story has been spread abroad (circulated) in the city. (24.) Remember that you have given him that great and beautiful gift. In which matter who would not pity Dionysius, who fell in with such a misfortune, having proved himself a man of valor in danger, (25.) and who said, when leaving the court-house, that we had made that expedition (as) a most unfortunate one (*i.e.* that that expedition which we had made had been a most unfortunate one), because in it many of us had been killed, while those who had saved their arms were convicted of giving false testimony against those who had thrown theirs away, and (that) it would have been better for him, at that time to have been killed, than after returning home to meet such a fate. (26.) And therefore, do not, on the one hand, pity Theomnestus, when he is spoken ill of according to his deserts, and (do not) on the other hand grant him pardon when he uses insulting language and says what the law forbids him to say. For what greater misfortune could there be to me (*i.e.* could befall me) than this, to have so infamous charges brought against me concerning (my conduct towards) my father. (27.) (My father), who many a time served as strategus, and who exposed himself to many other dangers in common with you; and his body never fell into the hands of the enemy (*i.e.* he never was taken prisoner), nor was he ever in a suit on his audit before his fellow-citizens, but being sixty years of age, he was put to death during the oligarchy on account of his devotion to the cause of democracy.

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