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**DEMOSTHENES 59, AGAINST NEAIRA**

**INTRODUCTION AND COMMENTARY**

**BY**

**KONSTANTINOS KAPPARIS**

**Thesis Presented for the Degree of the  
Doctor of Philosophy.**

**GLASGOW 1991**

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## OUTLINE

The present study includes an introduction and a commentary of D.59 (Against Neaira). After a general description of the present text and the discussion about the date of its delivery, the legal and social background of the speech are briefly analysed. The second chapter of the introduction deals with the main persons involved in this trial (Stephanos, Neaira, Apollodoros, Theomnestos), presenting the external evidence about them and analysing the way their portraits are created. It also includes a discussion of the way Ap. makes the portraits of the characters, who appear in his speeches. The third chapter deals with the question of the authenticity of the speech. There I maintain that this text, along with D.46, 47, 49, 50, 52, 53, is written by a person other than Demosthenes, most likely Apollodoros himself. The fourth chapter speaks about the stichometry and the authenticity of the documents quoted in the speech. (However, the authenticity of every document separately is discussed in the commentary at the place they appear) The last chapter of the introduction deals with the manuscripts, which preserve this text and the order in which this speech appears in the manuscripts.

A commentary of the Hypothesis of Libanios follows, in which some textual points are discussed, along with some points referring to the content of the Hypothesis.

The commentary on the speech is quite detailed, concerning matters of textual criticism. Some of the major problems of the speech also are treated at some length like: the decree of Ap. about the theoric fund, the ephetai as judges in the homicide courts, the laws of § 16, 52, 87, the registration to phratry and genos, the private arbitration, the laws of adultery and naturalization, the sources of the orator in the digression about the Plataians, the place of women in classical Athens, the Proklesis etc.

Other points, which have some importance for the interpretation of the present text, cover the largest part of the commentary. Three indexes are added: one English, one Greek, and one of the main passages outside this text, discussed in this study.

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## INTRODUCTION

### 1. Circumstances of the composition of this text

The speech "against Neaira", despite the criticism of scholars concerning its technique (see ch.3), is one of the most well known and frequently quoted fourth century texts. The long narration of this speech with the consequently shortened argumentation, the two long digressions, the unpolished Greek etc., although in terms of literary criticism they are disadvantages, offer valuable information to scholars about the language and the period in which this text was composed. The orator does not limit himself to saying only what was essential for the point; he gives full details of the events he narrates, makes rich portraits of the people involved, moralizes, tries to support his narration with as much information as he can. He also gives several side-stories, concerning either the people or the events he speaks about, the longest of which are the two digressions, one in which he speaks about the ritual of Anthesteria and one in which he speaks about the naturalization

of the Plataians in Athens in 427 B.C. As a result, the narration of the orator is often an important if not unique piece of evidence for our knowledge of Athenian law and society in the middle of the fourth century: we learn about politicians of this time, the family, the introduction to the phratry and the genos, the details of the sacred marriage during the Anthesteria, marriage and dowry etc. Several laws, not strictly related to the case, like the laws of adultery or naturalization, are illustrated. Legal procedures like arbitration, the penalties in case of the murder of a slave and the restrictions of the ritual of Haloa are thoroughly described. The speech is also the most extensive and detailed source of information about prostitution in the classical period and one of the most realistic and reliable sources concerning the place of women in classical Greece; and Athenian life, especially of the lower classes, is depicted in a plain and realistic way. In this sense I find that this speech, despite its stylistic and rhetorical weakness, is a vivid and attractive text.

The date of the speech is set between 343 and 340: Xenokleides left Athens to go to Macedonia after his disfranchisement in 369. In 343, for political reasons he was dismissed from Macedonia and returned to Athens. In §§ 26-8 we understand that he was in Athens. On the other hand in 339 Demosthenes succeeded in giving effect to the decree of Apollodoros about the theoric fund (cf. com. § 4). The orator certainly would have mentioned this if the speech had been composed after 339. From the narration of § 3,

where the only reference to a war against Philip belongs to the years before 348, we can say with high probability that the speech was composed even before 340. Several other events narrated in this speech confirm this date: for example the language used for the events of 348 implies a good distance of time from them (§ 5: ἔτι καὶ νῦν); the same applies to the cancellation of the naturalization of Peitholas and Apollonides, by the law-court (§ 91). The events sound old enough, but not so old that the Athenians would have forgotten them (τοὺς μὲν πολλοὺς καὶ παλαιοὺς ἔργον διηγήσασθαι· ἃ δὲ πάντες μνημονεύετε...). Also the lifetime of persons, who appear in the speech, (at least the ones whom we can identify) supports this date. An example is the case of Xenokleides (§§ 26-8): the orator feels it necessary to explain why he cannot give his testimony, when he does not explain why he does not present any testimony by Lysias the orator (§ 23); Lysias had been dead for many years and his friend Philostratos was young when these events happened (§ 22: ἤθεον ἔτι ὄντα). See also A. Schaefer *Demosthenes* 4, 183, Blass *Beredankeit* 3, 536. and throughout the commentary the attempt to date events or identify persons.

The present speech is a prosecution against Neaira, an ex-hetaira tried for having broken the Attic law which punished the pretence of legitimate marriage between an Athenian citizen and a foreigner. According to Theomnestos, the official prosecutor, the enmity between Stephanos, the official advocate of the accused Neaira, and Apollodoros, the real prosecutor (see below), was old

(about the persons see ch.2). It started in 348 when Ap. proposed a decree in the assembly, to transfer the surplus of the administration from the theoric to the stratiotic fund (cf. § 4). The decree was approved but St. for political reasons (Ap. says, he was a professional sycophant) brought a *graphe paranomon* against the decree of Ap. In the trial Ap. was convicted and St. was cruel even in specifying the *timema* (§§ 4-8). Ap. was just able to pay the heavy fine after his conviction. Then St. tried to attack Ap. in another way: he accused him of homicide of a slave, with false witnesses. The whole plot, however, was revealed and St. lost the case (§ 9-10). Then Theomnestos, the brother-in-law and son-in-law of Ap. (§ 2), pushed by their common friends and relatives, decided to prosecute St. for living with a foreign woman in terms equivalent to a legitimate marriage, according to a law, which strictly prohibited to Athenian citizens to marry or to pretend legitimate marriage with foreigners (further details about the law in com. § 16). After a short speech, however, he handed over to the more experienced Apollodoros. After this Ap. carries on the whole case: he had prepared all the witnesses, he challenged St. and by the end of the speech he forgot (cf. com. § 16) that he was only the advocate of Theomnestos (§ 126: τὴν γραφὴν ἣν Νέαιραν ἐγὼ ἐγραψάμην). In the major part of his speech Ap. speaks of the point: to prove that St. and N. had broken this law, would mean either to present evidence that a formal betrothal (ἐγγύη) had occurred between them, as if N. were an Athenian citizen, or to bring evidence that the four children whom St. had enrolled in

his phratry as offspring of a legitimate marriage were from N. According to Ap.'s information, St. intended to say that the children were not from N., but from another woman, and that she only lived with him as a concubine. But Ap. instead of paying most of his attention to the real point, spends most of his time on proving that N. was a foreigner, in fact a liberated courtesan, with a quite notorious past. Indeed very few people would doubt this: his narration is elaborate and he had secured witnesses even for events which occurred over 40 years ago. But all this part of the speech, could only have a psychological effect on the jury and, in any case, St. would admit this and he would not have done anything against the law. Ap.'s evidence that the children come from N. is indeed weak. He only presents a πρόκλησις, which St. refused to accept (§ 123 ff.) and he discusses the whole thing in the brief argumentation of his speech. He was also able to present witnesses, that the girl, Phano, was betrothed twice to Athenian citizens, although she was not St.'s legitimate child (§§ 49-84), but he fails to produce any firm evidence about the boys. How effective this speech was we do not know, since we do not know what happened to N. after this trial. We cannot even make any suggestions, because we cannot say what effect the colourful narration of Ap. had on the jury. Taking into account that the Athenian judges sometimes voted for the side which made the better performance in the law-court and not for the side which had the most firm evidence, all possibilities are open. The readers of this speech, throughout the centuries, tend to be sympathetic to N. For example: a) Blass

(*Beredsamkeit* 3, 539) says: *Dass der Racheact der beiden (Ap. and Theomn.) gelang, und N. verkauft wurde, möchte ich nicht glauben.*

b) U. E. Paoli in his study *Die Geschichte der Neaira* gives his own interpretation of the story of Neaira, in a vivid way, trying to keep close to the narration of the speech, clearly from a sympathetic point of view. I also hope that the malicious attack of Ap. failed, even if his narration is true.

The reason for which St. and N. would pretend legitimate marriage can be illuminated through the social conditions in Athens in the middle of the fourth century. Parentage and sex were the two main criteria, which defined the rights and the position of every person in this society. We can speak about three clear social divisions: the citizens, the foreigners and the slaves. On the other hand we have to emphasize the distinction between men and women. Male Athenian citizens had all the power in their hands. The administration of the city, the judicial system, the finance of the city, its defence, the legislation etc. were exclusive privileges of the male Athenians. Female citizens could not participate in the administration of the city, but they had control of their household and they enjoyed a certain social respect. (Further details in the com. of § 122). Male foreigners, living in Athens, had to pay taxes usually higher than the Athenian citizens and to contribute to the defence of the city, but they also had the right to trade freely, to own property [not land or houses, unless given  $\xi\gamma\kappa\sigma\eta\sigma\iota\varsigma$ ] and to defend their rights in front of the Athenian law-courts (a right which disfranchised Athenian citizens did not have). [For further details

MacDowell, *Law* 75 ff.]. Female foreigners were nearly in the same status as Athenian female citizens, with the exception of the right to marry an Athenian man [cf. com. § 16], and give birth to citizens [cf. Carey CQ 41 [1991] 85 ff.]. A person was an Athenian citizen at this time if born of two citizens. Naturalization of foreigners as Athenian citizens was an exceptional present granted only if the foreigner was supposed to have accomplished a high service to the state. So, unless born citizens or exceptionally naturalized, the only way for foreigners to participate in the society with full rights, as Athenian citizens, was to pretend that they were offspring of citizens. The way was not always simple and the case was at least risky. But through texts like the present speech, D. 57, Isae. 3 etc. we know that attempts at illegal naturalization existed as a reality and perhaps the increase of this phenomenon and the tricks used forced the Athenians to pass in the fourth century stricter legislation to prevent it (the law of § 16; cf. com.). A particularly interesting case of attempting to pass off somebody as an offspring of a legitimate marriage between two Athenians and thus eligible for Athenian citizenship was the one in which a father would try to register his illegitimate children as legitimate. Besides the social reasons the financial element should be taken into account, in this case. The right of inheritance of the parental property by illegitimate children was limited (cf. com. § 122) and the continuation of the oikos could be secured only through legitimate male descendants or at least adopted sons, born, however, Athenians (cf. com § 57). So, if an

Athenian only had an illegitimate son, the temptation to try to pass him off as legitimate would be strong. Sometimes also, the mother of the child, a concubine, a courtesan etc. could convince the Athenian father to attempt to register him as a legitimate offspring (cf. § 56). If what Apollodoros says here is the truth, St. tried to register N.'s children as legitimate offspring and probably he did not have any other child apart from their son Antidorides (cf. com. § 121). So, the reason for pretending legitimate marriage for St. and N. was their desire to pass off in this way their children as Athenian citizens, who would continue St.'s oikos and inherit his property. But as I mentioned above the evidence presented by Ap. on this point is weak and it is likely that St. could defend the civil status of his children with more effective arguments.

## 2. Persons involved

### 1) External Evidence

Stephanos was probably born around the beginning of the fourth century. The orator says that his political friendship with Kallistratos was an important turn in his career and if the narration in § 43 is precise this did not happen before 370. By this time St. was earning money by acting as a sycophant. If we assume that he was about thirty when he became a friend of Kallistratos, then he must have been about sixty when this trial took place. A few things are known about Stephanos outside the

present text. *SIG<sup>P</sup>* 205,5 (= *IG* 11<sup>2</sup> 213), dated in 347/6, which is a decree for the renovation of the alliance with the Mytileneans, is proposed by a person named Στέφανος Ἀντιδωρίδου Ἐρποιάδης]. The identification with this Stephanos and the restoration of his demotikon in the inscription by A. Schaefer (*Demosthenes* 1, 435; n.3) was made in comparison to §§ 40 where the demotikon of St. is given and 121, where a son of Stephanos named Ἀντιδωρίδης is mentioned. His political friendship with Kallistratos from Aphidna (§ 43 and com.) is perhaps confirmed by the existence of an inscription of 369/8, where a decree to praise the Mytileneans is proposed by Kallistratos (*SIG<sup>3</sup>* 164= *IG* 11<sup>2</sup> 107). Later he supported Eubulos, as his movement against the decree of Apollodoros for the theoric fund indicates (§§ 3 ff. and com.). Some scholars ( e.g Kirchner in *PA* ) also believe that he is the same person as Stephanos mentioned as one of the members of the third legation to Philip in Aesch. 2,140.

Neaira was probably born in the first decade of the fourth century (§ 22 and com.). In *RE* (16,2, 2104 / Anneliese Modrzejewski) eight Neairas are mentioned, seven of whom are mythological figures. For this Neaira the whole lemma is based on the present text. There is, however, some more evidence about courtesans named Neaira: Two comedies one by Timocles (*PCG* fr.25-6) and one by Philemon (*PCG* fr.49) are titled Νέαιρα. One Latin comedy by Licinius Imbrix (fr. 1, Ribbeck, vol.2, p.35) had also the title "Neaera". Breitenbach (*De Genere* 136-8) thought that Timocles' play was the oldest, probably written shortly after this trial

and that it refers to the present Neaira. Then he thought that Philemon's play was later and it could be related to Timocles' play. Licinius Imbrex is more likely to have based his *Neaera* on Philemon's play. It is possible that all these plays were written after the present trial, on the grounds that if a whole play titled Νέαιρα was written and staged before it a reference in the speech should be expected. I am less sure, however, about the relation of these plays to our Neaira or any real person in general: the comedy of this period, as far as we know, rather deals with characters than satirizes real people. Neaira was probably a popular name among courtesans as at least two more pieces of evidence indicate: 1) Sud. τ 624: ἑταίρας δὲ ὄνομά ἐστίν ἡ Νέαιρα. 2) Horace (Epod. 15, 11) speaks with jealousy about the love of a courtesan named Neaera. [Actually, we cannot deny the possibility that at least the reference of Suda originates from the famous speech] In this perspective I would rather think that the comedies mentioned above are character-comedies not directly related to our Neaira.

Another reference in Philetairos' *Κυναγίς* (PCG fr. 9, 5), dated by Breitenbach (p. 122 ff.) between 370 and 365, probably has to do with our Neaira: οὐχὶ Λαῖς μὲν τελευτῶσ' ἀπέθανεν βινουμένη, / Ἴσθμιάς δὲ καὶ Νέαιρα κατασέσηπε καὶ Φίλα; The fact that the three last of the list of Nicarete's girls given by the orator in § 19 appear in Philetairos' fragment in the same verse is enough to convince me that we have to do with the same persons in both cases. This reference, however, creates two small problems: 1) Why does Ap. not mention it? We can easily suggest that

Apollodoros did not know this reference. 2) How, in a play written when the three girls were still flourishing, can Philetairos use κατασσηπέναι, which probably has the same meaning as in Ar. Plu. 1035, said of an old person, meaning that the three girls are old. But Neaira, was about thirty (cf. § 22) and the other two girls probably of the same age (cf. § 19). If we follow the narration of the speech (§§ 37 ff.) these should have been the years in which Neaira was back in Athens with Stephanos and she was working as a prostitute to earn the living for her family. So, most likely Philetairos exaggerates. This assumption is confirmed by the context of the fragment in which it is said about Lais that she died making love or that Kerkope is 3000 years old and Telesis ten thousand more etc.

Not much is known about Theomnestos, the brother in law (and son in law: § 3) of Apollodoros. From D. 45, 55; 50, 24 al. we know that his father was named Δεινίας and his grandfather Θεόμνηστος and they were registered in the deme of Ἰαμοθών. Davies (437) says that their family was a *well-off but rather shadowy family*. The first known member of this family is a Theomnestos of Kekropis, who could be the great great grandfather of the present person. Davies puts the birth of this Theomnestos by or about 380. He had two sisters one of whom Apollodoros married and his daughter was the grandmother of Stephanos against whom Apollodoros raised a trial for false evidence in 349. See also the family tree by Davies, p. 441.

The life of Apollodoros is fairly well known to us mostly from speeches related with trials concerning his property (Isoc. 17; D. 36; 45; 46; 49; 50; 52; 53). Some information is also given by Theomnestos in the first 16 paragraphs of the present text. Son of the wealthy banker Pasion (cf. com § 2), he was born in 394 (D. 36, 22 and 46, 13) while his father was still a metic (D. 45, 78; 53, 18). His mother Archippe was still very young when he was born (Davies *APF* 429). Apollodoros was educated in rhetoric and as he says for himself he had a loud voice and he walked fast (D. 45, 77). At his father's death he was 24 years old. Pasion did not trust him because of his extravagance. That's why in his will he leased part of his huge property to Phormion, the capable manager of his bank, until his other son Pasikles was also an adult (362/1). Some years after Apollodoros tried with no success to extract 20 talents of which he claimed Phormion had deprived him. Often in his speeches he boasts of his extravagant liturgies (Davies 440-2) and we have a good account of his lavish expenditure. As Davies says, he tried like a *homo novus* to integrate in the higher classes of the Athenian society. He married the daughter of Δειν(α)ς from Athmonon (see above) and we know that he had at least two daughters (§ 8). The last we hear about him is in the present speech. He died some time after 340. Further details and bibliography in A. Schaefer *Demosthenes* 3, 2, 130 ff. and Davies 427 ff.

## II) Characters

As I point out several times in the commentary, Apollodoros has

a peculiarity in drawing the characters of the protagonists of his stories: the images are usually vivid and consistent but not necessarily serving his case well. Here I only give a few examples: By saying (§ 35) that Neaira left Phrynon because she was badly abused by him and that he was *σοβαρὸς καὶ ὀλίγωρος* (§ 37), he explains very well why she left him and he makes a vivid portrait of this man but this, I think, makes very little for his case, because it raises sympathy and produces justification for Neaira's actions. In §§ 49 ff. when he narrates the story of Pnano with Phrastor, he does also very little to present in a positive way the actions of this difficult, thrifty man who not only had thrown out his pregnant wife, but also withheld her dowry.

Apollodoros has a technique in making these portraits. 1) Sometimes he uses direct characterizations: § 37: *σοβαρὸν δὲ καὶ ὀλίγωρον*; § 50: *ἄνδρα ἐργάτην καὶ ἀκριβῶς τὸν βίον συνειλεγμένον*; § 51: *οὔτε κοσμίαν οὔσαν οὔτ' ἐθέλουσαν αὐτοῦ ἀπροἰσθαι*; § 72: *ἄνθρωπον εὐγενῆ μὲν, πένητα δὲ καὶ ἄπειρον πραγμάτων* etc. In a similar way: 49,67: *ἄπληστος καὶ αἰσχοκερδῆς ὁ τρόπος αὐτοῦ*; 50,35: *τὴν σὴν μανίαν καὶ πολυτέλειαν ὑπομεῖναι*; 52,3: *ἄνθρωπος δὲ τις σάφρων* etc. Some of them, as § 51; § 72; and 49,67 serve the case the orator wants to make well indeed. Some others are superfluous, but not against the purpose of the orator as in § 50 and 52,3. Some, however, are certainly unfortunate as in § 37 and 50,35. 2) The characters are mostly illuminated by the details he gives about their actions in his narration. And at this point

Apollodoros fails totally to do what an expert in writing speeches would easily have done. He usually tries to give all the events, not necessarily only the ones which would be in favour of his argument. His failure to choose carefully what he should say and what he should leave aside creates sometimes, despite his intentions, positive images for his opponents and negative ones for people who were supposed to support his case: thus he creates, as I have already mentioned, unsatisfactory portraits for Phrynion and Phrastor; the same happens with Epainetos. He is more successful with the portrait of Theogenes, I suppose incidentally, because indeed this was his image of Theogenes as a simple-minded man easily deceived by the tricks of St. After all, without realizing, he spoils his own image in the speech against Polycles (50,53 ff.), by painting himself as an arrogant and extravagant man. In conclusion, I think that the modern reader could trust in general the portraits which Apollodoros makes in the sense that they do not seem to be elaborate products of rhetorical skill but a quite realistic reflection of what he thought of these people.

In the context of this discussion it would be useful to see how he makes the portraits of his main characters in this speech. [About the minor ones more details are given in the commentary at their first appearance in the text].

Stephanos is presented as a man who did not only know what wanted but he also knew how to obtain it. He started his life as a poor

man (§ 39) trying to make his living by attaching himself to the powerful men of his time and acting as a sycophant on their behalf (§ 5. 10. 43). Then he was able to use the skills he obtained to become a politician himself (§ 43) and he did not hesitate to live most of his life with a notorious courtesan, since this could bring him some income and her favours in his service (§ 39). In general he is also presented as versatile, clever, a person who could deal with difficulties and he would try to obtain the best possible from the present situation, and a man who perhaps had not many moral scruples but had a quite practical attitude to things. After they met they lived their lives together and, as far as we can see through the pages of the present text, in conditions that many Athenian couples would be jealous of, devoted to each other and supporting each other by any means. Apollodoros is successful in presenting St. as the man who would do anything for the sake of his beautiful courtesan. Certainly he believed so, and if his point had been to show what an Athenian man could do for a courtesan we would say that he had written a convincing speech (cf. ch. 1). I cannot find in St.' character any other attraction but exactly that of the person who would keep his promise (§ 38), love truly and try to defend his loved one with all his strength.

The portrait of Neaira is a failure, at least in the eyes of the modern reader: instead of raising anger against her he raises sympathy. I think he made some elementary mistakes in choosing how to create the image of her life: 1) He says nothing about the

bad points of her character. By narrating in details her life and her reactions to the situations in which she was involved he rather presents her choices as compulsory than bad. He does not present her as misbehaving anywhere or treating with infidelity or dishonesty any of the persons she came across with. The fact that he presents her as a woman with loose morals is not a negative point on its own, because normally this would be the expected behaviour from a courtesan. He does not even ascribe to her what an Athenian would understand as the typical vices of a courtesan as being thirsty for money and a real trap for her lovers, shameless, unfaithful etc. On the contrary, without realising, in the first third of the speech he presents her as gracious, glamorous, a person who deservedly enjoyed so much love and affection from her lovers, while in the second third he presents her as a caring mother and housekeeper, a woman who would make any sacrifice in order to secure a better living for her family, a quite caring woman who would go to nurse an ill lonely man (§ 55 ff. : even if she had a good reason for doing so) etc. 2) He lost some good opportunities to make a negative image out of her. For example: he could have diminished Phrynion's abuse to her and on the other hand magnified how ungrateful she was to the man who paid for her liberation, that she even stole his goods and then left him. He could have said how bad a mother she was, procuring her daughter for money, or how dangerous woman she was, having convinced an Athenian man to break the law and try to present his illegitimate son as legitimate etc. 3) As I have already mentioned, men who harmed

her are presented in their real dimensions as violent, unjust, narrowminded etc. 4) The proportion of the emphasis falling on different events of her life is badly designed: a skilful orator would rather underestimate the unlucky moments, because they can raise sympathy and emphasize the moments in which fighting for her survival she would have used immoral or unlawful means. As a result we can say that St. taking as granted what Ap. tried so hard to prove, that she was a courtesan would not need to try hard to obtain at least the sympathy of the judges for her.

The portrait of Neaira's daughter is slightly better designed: although somebody could feel sympathy for her adventures, the orator emphasizes some of her bad qualities (§ 50), thus presenting her as responsible for her dismissal from her husband's house. Still, however, some of the points in the narration do not serve his purpose. One would not expect from the prosecutor phrases like, παιδάριον μικρὸν or τὴν ἀτυχίαν τὴν πρότερον γενομένην τῆ ἀνθρώπῳ. Phano is often presented as a mere instrument of the plots of St. and N. (e.g. § 72) and this could hardly create a negative image of her.

The image we can make for Theomnestos, from the short part of the speech he delivers, is quite successful. He is presented as the young, inexperienced man who acted not because of any sort of πολυπραγμοσύνη, but because of his real concern for his relatives and indignation for the traps Sp. had set for them. He also says that he did not act on his own initiative but after a strong urge

from all his friends and relatives (§§ 11-12). For these reasons I think his image is quite convincing, although nobody who would listen to the speech until the end would have any doubt that he only acted as an agent of Apollodoros.

I cannot think of any scholar who was ever fond of Apollodoros in general and his malicious presence in this case contributes to this bad image. It is not only his involvement in a case not at all of his concern or his revenge motives which create this bad image for him but even the way he handles the case. First, he intrudes into private issues not only of St.'s family but of other people, too, and brings into light old stories which they would certainly prefer to have been forgotten and he forces them to testify to these unpleasant events in public (§§ 28.54.84). Second, his tireless diligence to explore and expose unwelcome details of events which do not contribute very much to the case, such as all the details of the two marriages of Phano, give rather an image of a bad character who lacks any discretion than an image of a man interested in the restoration of justice. He fails to create for himself the image of the integral, lawful citizen who is concerned for the protection of the laws of his city and this mostly happens, I think, because he hardly ever uses argumentation. By narrating what happened or what he did and failing to make clear on what grounds these events should offend any Athenian or on which just motives he placed himself in the position of the defender of order in the state, he exposes himself; he lets everybody think that even if what he says is

true, his motives are vile and his only intention to harm his opponent personally.

### 3. Authenticity and Style

It is generally accepted (Schaefer, 3,2,184; Sigg, 400; Lortzing, 1 al.) that the Corpus of 61 speeches ascribed to Demosthenes was compiled by Kallimachos. Dionysios Halicarnasseus (Din. 1; cf. Kallim. frg. 446 Pfeiffer) criticizes the accuracy of the instinct of Kallimachos in distinguishing the genuine from the spurious speeches, concerning Deinarchos and the same can be said for all the orators. A number of speeches which he thought to be written by Dem. were suspected already in antiquity (see. Schaefer 184-6; Sigg 399-402; Blass 542-3; Pearson 350-1 al.). The present speech, was suspected by a significant number of ancient grammarians and lexicographers: DH.Dem.57; Kaekil. Cal. frg. 147 Offenl.; Athen. 573b; 586e; Harp.79,15; 89,19; 96,11; 161,8; 188,18 [The reference is to the first line of every lemma] Phrynichos 102-3, Rutherford, Lib. Hyp. (cf. com. of the Hyp.)

In other cases Demosthenes is given as the author of this speech (e.g. Harp. 24,14; Sud. α 3475; Pol.6,101; Tiberios 8,576 Walz al.) but this cannot be taken as evidence that these authors really believed that Dem. wrote this text: In Harp. 24,14 al. Dem. appears to be the author, but doubt is expressed in 79,15 al.; the same in Athen.592b-c al. compared to 573b al. Some other times the speech is mentioned without the name of an author: e.g. Hermog. 325,18; Anecd.Bek. 123,29 al. Some scholars (e.g. Schaefer

184; Sigg 400) expressed the opinion that even Kallimachos was doubtful about this speech and that was why he put it at the end of the corpus just before the Epitaphios and the Erotikos. This is, however, wrong because in S the speech indeed comes in the place it should be, with the public forensic speeches, and as I explain further on (see. ch. 5) this was probably the original place of the speech. Apart from that, as far as I know, only few older scholars (e.g. Reiske) have positively supported the authenticity of this text. A number of detailed studies were written in the last few centuries on the matter, firmly concluding that this text cannot be genuine Demosthenes. The first thorough study was carried out by Arnold Schaefer in *Demosthenes* 3,2, 130 ff., in 1858, and his conclusions are summarized in pp. 184-93. Lortzing came after him in 1863, with his detailed dissertation *De Orationibus quas Demosthenes pro Apollodoro scripsisse fertur*, in which when making detailed stylistic research, he goes to the trouble of making a thorough comparison with the genuine Demosthenic characteristics of style. Sigg afterwards added some more arguments *NJ*, Suppl. 6 [1872-3] 395 ff. Blass (*Beredsamkeit* 3, 535 ff.) also agreed that this text cannot be genuine. Recently G. Kennedy wrote a brief chapter on the subject in *The Art of Persuasion in Greece* (Princeton 1963, p 246 ff.) .The article of Pearson in 1966 [Published in *The Classical Tradition; Literary and Historical Studies in Honor of Harry Caplan*, ed, by Luitpold Wallach, Ithaca-New York, 1966 and reprinted in the selected Papers of Lionel Pearson, ed, by Donald Lateiner and Susan A. Stephens, Chico, California, 1983 p. 211 ff.], did not really add much to the discussion, nevertheless

he also rejects the authenticity of the present text. All these studies question the paternity of the present text along with the other speeches delivered by Apollodoros. [It is also worth mentioning here the dissertation of Hüttner *Demosthenis oratio in Stephanum prior num vera sit inquiritur* (Ansbach 1895) on the paternity of 45]. Schaefer concludes that the speeches 46, 47 [A speech not related to Apollodoros but still in the same style as the rest of Ap.'s ones] 49, 50, 52, 53, 59 were written by the same hand, in all probability by Apollodoros himself on the grounds that Ap. was a politician and an orator himself. Schaefer considers 51 to be probably a rhetorical exercise and 45 also a speech by Ap., explaining its better technique with the fact that the skill of Ap. as an orator by the time he wrote this speech (349/8) had developed further. How infirm is the suggestion of Schaefer about speech 45 is proven by the fact that 59 was written a few years after, but still it has the same weaknesses of style with the rest with the exception of 45 and 51. Lorzing believes that if we consider 59 to be written by Apollodoros (see below), then we have to attribute to him the rest as well, thinking that 45 was polished in a style similar to that of Demosthenes. Sigg reaches the same conclusions with the exception of 45, which he believes was written by another orator, perhaps Hyperides, and 51, which he believes was written by Kephisodotos, the person who wrote the first speech, too (51 is a δευτερολογ(α)). Blass accepted that 46, 47, 49, 50, 52, 53, 59 must be products of the same orator. He thinks that 45 is genuine Demosthenes (3, 470 ff.) and ever since scholars tend to accept it as a Demosthenic text. He also attributes 51 to Demosthenes (3. 245 ff.). He disagrees, however,

that Ap. could have been the author of the rest of the speeches because of the fact that 47 (cf. 3, 546 ff), a text which has nothing to do with Ap., seems to be the product of the same author and he thinks that this author would be a minor logographer unknown to us. Kennedy and Pearson believe that Ap. was the author of these speeches with the exception of 45 and 51 (Pearson does not deal with 47). My opinion is that 45 is probably genuine Demosthenes, 51 cannot be but is not written by Ap. either. All the rest, for the same reasons as Schaefer, I would think were written by Ap. himself.

As I have already mentioned the long narration (cf. also com. § 17, ἐξ ἀρχῆς) of this speech and the lack of solid argumentation and *refutatio* to clarify the doubts and to demolish the arguments of the opponent (Lortzing, 40) are the most obvious reason for which the present speech was suspected as spurious already in antiquity (cf. ὕπτιον in Lib.Hyp.). The general arrangement of the speech and the difference in the way of making the prologue and the peroration from Demosthenes' way are added as arguments against the authenticity by Schaefer (190-1) and Sigg (415-6).

The language of Ap. also is notoriously different from the language of Demosthenes. From antiquity the scholars had noticed that Ap. tends to use unexpected words: Phrynichos 103, Rutherford, says: σὺ δὲ... γεννικώτατον ἡμῖν ἐκόμισας μάρτυρα τὸν συγγράψαντα τὸν κατὰ Νεαίρας· ὃς διὰ τε τὰ ἄλλα ὑπωπεύθη μὴ εἶναι Δημοσθένους καὶ διὰ τὰ τοιαῦτα τῶν ἀδοκίμων ὀνομάτων. See

also Herm. 325, 18 Rabe and DH. Dem. 57. The form βασίλινα (cf. Phrynichos 102-3, Rutherford. and com. § 74) is not attested anywhere else and even βασίλισσα, frequent in later times, is not attested in the classical period. A list of peculiar words is given by Lortzing (57-9) including § 1 προδιηγῆσασθαι, §§ 38, 97 φουσάν, § 39 ἐξ ἀτελείας (cf. Philonid. 1 D; Poll. 4, 46) . Some more are given by Blass (540-1) including § 22 ἦθεον and § 99 ἐξαπίνης (from Th. 2, 3). G.H. Schaefer (commenting on 49, 45 and the way Ap. uses αὐτός) pointed out: *perdite amat anonymus usum huius pronominis*. A. Schaefer gives a list of instances pointing the strange way Ap. uses αὐτός and οὗτος in all his speeches; cf. § 31: ἀφικομένου...πρὸς αὐτήν and Lortzing, p. 71. τοίνυν, ἐπειδὴ and ἔτι δὲ are repeated carelessly at quite short intervals (e.g. ἐπειδὴ ἐπύθετο...ἐπειδὴ τε ἐπίσθη...καὶ ἐπεὶ εἰσήγεν. Schaefer 188-9; Lortzing 33); the same happens with αὐτός and οὗτος (cf §§ 30, 31, 32, 33, 38 ff., 45 al. and Schaefer 188; Lortzing 34). μάλλον ἢ οὐ is a favourite expression of Ap. (Lortzing 64). μὲν is often separated from τοίνυν with another word, when Dem. usually keeps them together (§ 17: τοῦ μὲν νόμου τοίνυν ἀκηχόατε; 71: τοῦ μὲν ὄρκου τοίνυν ἀκηχόατε and Lortzing 65). Ap. uses τολμᾶν much more often than Dem. (cf. 72 ἐτόλμησε λαβεῖν; Lortzing 59). φιλεῖ instead of εἴωθε (§ 48: οἶον οἶμαι φιλεῖ γίγνεσθαι ἐκάστοτε; Lortz. 61) is never found in the genuine Demosthenic texts. περιφανῶς is almost an exclusivity of Ap.: we find it 12 times in the Corpus, two of them in other spurious speeches (40, 22; 58, 43) and ten in the speeches of Apollodoros (46, 3. 5; 49, 65; 50, 41; 59, 12. 62. 72. 107. 108. 118). Ap. often uses

two synonyms connected with καί the first of which is more general and the second more specific i.e. the word strictly necessary for the sense: § 3 καιροῦ καί πολέμου; 72: ὕβρεως καί ἀναιδείας; 88: καλόν καί σεμνόν; 93: μεγάλη καί περιφανεί; 126: καλῶς καί δικαίως. The small sample of peculiarities mentioned here gives the impression that Ap. was less careful in using colloquial expressions. His language is less polished, than that of Demosthenes and I would think closer to the everyday speech of his time. The purpose was probably to make his speech more impressive but the unwelcome effect is that sometimes the style becomes rough (ἄγροικον: DH. Dem. 57; ἀδόκιμον: Phrynichos 102-3, Rutherford.).

A striking peculiarity in the syntax of Ap. is the excessive use of participles. See § 3 ff. δοκιμασθεῖς δέ... 55 ff. διαφορᾶς δ' οὔσης... al. and Schaefer 189-90; Lortzing 67-8; Sigg 428 (with a list of cases); Blass 541, n. 4. The result is to have endless, clumsy sentences, often with little coherence in them. He often loads his already long sentences with information, parenthetically added in the middle, irrelevant to the case or already known to the audience: cf. § 33: ὃ ἐπράτο... 94: ὅτε Δᾶτις... The repetitions are sometimes annoying indeed. The phrase ὡς ἐστὶ ξένη Νεαίρα αὐτῇ with slight variations is unnecessarily repeated in § 14, 16, 17, 49, 55, 62, 63, 64, 119 al. the same with the phrase τὴν τῆς Νεαίρας θυγατέρα: § 55, 56, 59, 63, 69, 70, 72, 83. See also: τῇ γραφῇ ἣν ἐγὼ ἐγραψάμην § 125, 126. The phrase εἰς κινδύνους τοῦς ἐσχάτους twice in § 1 and εἰς τὴν

ἔσχατην ἀπορίαν §§ 6, 7 caused the protest of Taylor: *tanta inopia sermonis Macedonem illum* (Demosthenes !) *credo concutere non potuit*. Further discussion by Schaefer 186-7; Lortzing 30-1, 35; Sigg 426-7; Blass 541. Naturally Ap. often loses the thread and by the end of the sentence he has forgotten where he started from and turns to another direction: cf. e.g. § 38 (and com.) the remarkable turn to the direct speech; § 55 al. Lortzing 66-7; Sigg 425; Blass 541. Sigg says that whereas Dem. seems to use anacolouthon only deliberately Ap. cannot control it: he has many of them. The long sentences, sometimes out of control, sentences with repetitions and irrelevant comments make the style boring and perhaps the argument ineffective (cf. also the Hypothesis of Libanios with com.), in the sense that the judges would not pay as much attention to the loquacity of Ap. On the other hand, however, sometimes inserted sentences which give details not strictly necessary but illustrating further what the author had in mind add spice to the text and they make the narration more lively. In this sense I find that Ap.'s texts have a degree of attraction for modern readers and can reflect well what he thought of the people or the situations he came across.

Demosthenes tends to use article with infinitive once every 5 paragraphs. In Ap. this construction is more rare: once every 15 paragraphs (Sigg 429-30). The article in front of proper names is used with consistency only by Isocrates. Demosthenes uses it more seldom than Ap. (see com. § 35 τοῦς Ααχ. and Sigg 430-1, with tables). In Dem. asyndeton and polysyndeton are fairly frequent.

Ap. has few asyndeta but the polysyndeta are twice as many as in Dem. (Sigg 418). The frequency of rhetorical questions is three times less in Ap. than in Dem. (Sigg 420-1). Direct speech is frequent in Apollodoros. Lortzing (40-1) says that Dem. would use it only with a good reason and that the direct speech adds a character more suitable to historical texts to Ap.'s speeches. Indeed excessive use of direct speech gives an unbalanced dramatic character to the text. See §§ 70, 82, 110 ff. al. and Sigg 420.

The Greek of Ap. is an interesting topic and an elaborate study of it is beyond the limits of this study. Here it is enough to point out that the spontaneity with which he uses contemporary colloquialisms and his tendency to adopt novelties reflect the evolution of the Greek of his time. The present speech being his last and most extensive one is perhaps the most indicative of all. We can find words which in his time were probably a novelty, but in later times became quite normal (like σοφιστής § 21 and com., βασιλιννα § 74, al.). I also mentioned above the increased tendency to use the definite article in front of proper names. Lortzing (72) points out that Ap. uses more the accusative with the infinitive (e. g. § 85: εἰς ἄ...) and it would be tempting to take it as an early sign of the importance the accusative achieved in later Greek against the dative, which finally disappeared, and the genitive. ἐθέλειν with infinitive in a future sense, "to be determined to do something" is rare in the classical authors, regular later and the only way of making the future in the modern language (cf. com. § 121 ἤθελον ἀφ(στασθαί).

In Ap. the frequency of the appearance of this structure is surprisingly high: see e.g. 46,5; 47,6.47; 50,28; 59, 121 al. Further discussion of the peculiarities of Ap.'s style and language is given in the commentary at the places where they appear.

In conclusion I would agree with the common view that the speech could not have been written by Dem. and I am convinced that it is by the same author as the rest of the speeches written for Apollodoros' cases, in all probability by Ap. himself.

#### 4. Stichometry and Documents

In antiquity the number of lines of the written text was divided into amounts of 100 lines marked by the letters of the alphabet in the margin ( $\alpha$  for 100,  $\beta$  for 200 lines etc.). At the end of every speech the total number of lines was given. This numbering is usually attributed to a very old copy, maybe even the first one produced (see MacDowell *Meidias* 44) and in any later copy the letters were often repeated at the place they originally appeared, independently of the length of the lines in the present copy. In the medieval mss these letters appear only occasionally. The scholars of the previous century have thoroughly investigated the stichometry in Dem. Here I will only mention the study of Christ in *Atticusausgabe*, p. 157 ff. the dissertation of Burger *Stichometrische Untersuchungen zu Demosthenes und Herodot*, München 1892 and *Hermes* 22 [1887] 654 and the study of

Drerup in *Urkunden*. Further bibliography is given by these scholars and by Canfora in his *Inventario* pp. 13-4. For the present speech stichometry was used by scholars as an argument in relation to the question of the authenticity of the documents included (see e.g. Dover *Lysias* 36-7). But before we answer to the question whether the stichometry can be used as an argument we need to examine the data.

In S B is marked in § 18 next to Χαρισίου μὲν. Γ is marked in § 30 next to ἐν Κορίνθῳ. Δ is next to καὶ εἰσάξει, § 39. Then the letters fail to appear until I, ἐξέσω εἰσιέναι (a document), § 87. K is next to Λακεδαιμόνιοι § 96. A is missing. M is next to μετρίαν ἢ φύσιν (§ 113). As we shall see, there is space for one more στίχος (N), which is also missing and then, if the total number of verses is not totally corrupted (see below) only 51 verses followed after N until the end, where the total number of lines given is 1451. [According to Drerup *Demosthenesausgaben* p. 568, FQ mark B, Γ, M. But since all mss derive from the same stichometric edition (see also MacDowell *Meidias* 44 ff.) they add nothing to the data of § I have already mentioned.]

Christ (p. 196) did not take into account the partial stichometry and according to the total number of lines, he argued that the documents were included in the stichometric edition. Burger (12-3 and 18-9), based on the partial stichometry, supported the contrary, and Drerup agreed with him. If we see the data, I think, we can only agree with Burger, that the documents were omitted in the stichometric edition. Let us take as a measure the

unit from I to K: we have a space of 75 lines in the edition of Rennie [ For practical reasons I count the lines as Rennie marks them in the margin, not calculating the total of half lines or empty spaces in his edition]. One and a half lines in this space is in a document. But this is not conclusive in any sense because a difference of one or two lines can easily exist from the one manuscript to the other and most likely (as I will explain later) I happened to be slightly moved in later editions in which the documents were included, so that in S I appears to be next to the document. The rest of this space (73-74 lines) is continuous text with no documents. Now if we count from the beginning of the speech to B we have 153 lines in Rennie, with the documents. This should be the space of two units in the stichometric edition, so if we divide by 2 we have 76.5. Without the documents we have  $146: 2 = 73$ . Then from B to Γ we have 92 lines with the documents but 73 without them. From Γ to Δ we have 86 lines with the documents, but 72 without them. From Δ to I we have 431 lines with the documents, which divided by 5 gives 86,2 lines, but  $360: 5 = 72$ , without the documents. From K to M we have 155: 2 = 77.5 lines with the documents, but  $146: 2 = 73$ , without them. N according to the unit of 72-3 lines which we have set above, should be placed at the end of S 121. Finally, we have about 31 lines left until the end of the speech, without the documents, but 55 with them. It is clear that omitting the documents we have equal spaces of 72-3 lines in every one hundred ancient στίχοι. On the other hand if we include them the spaces are quite unequal. So, we have to accept that as in most speeches

of the corpus the documents were omitted in the stichometric edition.

Another problem we have to deal with is the total number of lines: 1451. This does not fit. The number should be about  $(100 \times 13) + 42.5$  (which is roughly the corresponding number of the 31 left lines in Rennie to the lines of the stichometric edition) = 1342.5. Burger and Drerup thought that either the number of the total lines is corrupted, or that it comes from another edition in which the documents were included. In analogy to most of the speeches of the corpus in which the total number comes from the same edition as the partial stichometry I find the second suggestion less likely. Burger made the conjecture that the total number should be  $XHHH\Delta\Delta\Delta\Pi = 1335$ . But this is totally hypothetical and it is difficult to justify such an extensive corruption of the number. Drerup on the other hand suggested to delete one H = 100 from the figure of the mss ( $XHHHH\Pi\Delta I$ ). Then we have the number  $XHHH\Pi\Delta I = 1351$ , which is very near the figure which we have worked out before. Thus, I find the suggestion of Drerup quite likely.

In conclusion, stichometry cannot be any assistance to the question whether the documents are authentic or not. This is hardly surprising: for example, scholars are convinced that many of the documents of D. 18 and 21 are genuine, although non of them was included in the stichometric edition. Probably the original documents came in a different file along with the speech, until

somebody decided to include them in the text, but for most of the speeches in the Demosthenic Corpus this happened in a later edition than the stichometric one. (cf. MacDowell *Meidias* 46)

In the period we are talking about the practice followed by the Athenian law-courts was that the documents were recited by the clerk of the court. In case of a testimony the witnesses were asked to confirm it or not (see MacDowell *Law* 242 ff.). So, it is reasonable to assume that in this trial Ap. wrote the documents and then he asked the witnesses to confirm them. After this it is difficult to guess what happened, but it would be reasonable to suggest that Ap. had kept the original documents along with his manuscript of the speech (otherwise, unless all documents are forged, which is not the case here, I cannot imagine how the editor of this speech, whoever he was, could obtain the original ones). But then the question would be if all of them were worthy of publication or if the most important of them only should be published. From other cases, which are clearer (e.g. the documents of D. 18 or 21) we know that often the editor would only include part of the documents in the publication copies. The only way to investigate which documents if any were included in the first publication of the present speech either inserted in the text or added in the margin, or after the speech, as an appendix, is to investigate the possibilities each document separately has, to be authentic, with the assistance of the context in which it appears and the language and style of it. In the commentary at the place in which the documents appear I have

tried to test their authenticity. In conclusion I believe that only part of them is authentic. It is more difficult to define the criteria according to which the included ones were chosen. But still I can see a logic in this choice: the laws (§ 16, 52, 87) are authentic; the same with the oath of γέραιραι (§ 78) and the decree for the Plataians (§ 104). From the testimonies the ones given by an authority (§ 40, 61) also seem to be genuine. Finally, the testimony of the arbitrators (§ 47), the ἐγγυηταὶ (§ 71) and the witnesses present in the proklesis (§ 123) seem to be genuine. On the other hand in these three places the second document, the text of the διαλλαγᾶι (§§ 47, 71) and the text of the πρόκλησις (§ 124) are easily derived from the text of the orator and they present further problems, thus it is more likely that they were fabricated. I assume in this case the editor decided to include the first document because in the two first cases the witnesses had acted as authorities with legal power. In a sense the same can be said in the last case also: the only way to activate a proklesis as a legal procedure, was through the presence of witnesses. The second of the documents in every case was omitted as already known to the readers. Most of the testimonies given by private citizens present problems. Only two of them give some additional information (§ 23, 28) but this argument is not conclusive. Fabricated documents could give detailed additional information, as it happens with some documents in D. 18, and a well read forger could know the full names of Philostratos and Hipparchos, both well known personalities, from another source. I believe that all the

testimonies of private citizens were considered by the editor to be of less importance and the readers already knew what they said, thus he omitted them. Then somebody later was tempted to fabricate the missing documents with the assistance of the context. It is difficult to say if all the fabricated documents were forged by one person. We can find, however, some kind of similarities among the fabricated documents here and there: in § 54 we read: καὶ τὴν ἄνθρωπον ἐκβαλεῖν...καὶ οὐκέτι συνοικεῖν αὐτῇ. The same style of pointless repetition in a text which one would expect to be concise appears even more clearly in § 84. The rather rude expression κέχρηται αὐτῇ appears in § 71, derived from the text of the orator in § 70, but it also appears in § 47 rather unexpectedly. The phrase Νέαιραν τὴν νυνὶ ἀγωνιζομένην, probably derived from the genuine document of § 40 is also found in § 25, 28, 32, 34, 47, 48. In addition, it would be more reasonable to suggest that if a person decided to fabricate the missing documents he would fabricate them all. Thus I find more likely that all the forged documents were produced by the same hand.

## 5. Manuscripts

The present text is transmitted along with the works of Demosthenes in the following mss [According to the *Inventario* of Canfora]:

Parisinus 2934 (S)	9th-10th c.
Parisinus 2935 (Y)	10th-11th c.
Marcianus 416 (F)	10th-11th c.
Marcianus 418 (Q)	10th-11th c.

Ambrosianus 112 (D)	10th-11th c.
Parisinus 2936 (r)	14th c.

These six are the ones on which all modern editions are based.

The speech is also included in a number of mss not extensively used by modern editors:

[Alphabetically listed according to the place]

Athos (Lauras) 16	16th c.
Brussels, Bibl. Royale 11294-5	15th c.
Cambridge, Fitzwilliam Museum 229	14th c.
Cesena, Bibl. Malatestiana plut. D. 27, 1	13th c.
Florence, Bibl. Laurenziana plut. 59, 4	15th c.
plut. 59, 8	15th c.
plut. 59, 27	14th c.
conv. sopp. 168	14th-15th c.
Milan, Bibl. Ambrosiana C. 235	13th-14th c.
Munich, Bayerische Staatsbibliothek 85	13th c.
(Known as <i>Bavaricus</i> or <i>Monacensis</i> ; it was the basis of several old editions of the speech)	
Oxford, Barroc. 73	14th c.
Paris, Coisl. 339	15th c.
Rome, Bibl. Vaticana 68	15th c.
69	13th c.
70	14th c.
[until § 123 $\Phi\sigma\mu\lambda\acute{\iota}\sigma\upsilon$ (read: $\Phi\sigma\mu\sigma\upsilon$ )]	
71	15th c.
1407	14th c.
2207	14th-15th c.
Palat. 172	15th c.
Urbn. 115	15th c.
Seville, Bibl. Provincial 330-155-1	16th c.
Venice, Bibl. Marciana Z 417	15th c.
Z 420	14th-15th c.
VIII, 3	1461 A. D.
Vienna, Natinalbibliothek phil. 105	14th c.

Studies on the history of the text were made by Christ *Atticusausgabe*, Drerup *Antike Demosthenesausgaben* and Vorläufiger Bericht, May (N. Ph. Rundschau, 1903, p. 50-3), the modern editors in the preface of their editions etc. A more analytical bibliography in Canfora (op. cit. p. 12-3) and MacDowell

(*Meidias* 38 ff.). For the purposes of this study I will only give a brief outline of the history of the text.

The historians of the Demosthenic text support with firm arguments that all the surviving mss we have today go back to a common archetype and they date it in the Hellenistic period. Two main branches developed out of this archetype already in the later Hellenistic period: the clearest witness of the one branch for us is S, of the other is A (Monacensis 485). FQYD stand between these two families. These four seem to belong to the same family as S, but they are contaminated with the A family. They preserve individually in some cases the correct reading, lost in all the rest of the mss, perhaps derived from another source unknown to us. The contamination of the main mss makes it necessary for the editors of the Demosthenic text to consult every ms individually in every case. So any general remark about the value of the main mss can only have a relative authority.

The present speech is missing in A. So S is in general the best manuscript preserving this text. FQ agree between themselves in most of the cases and they agree more often with S than with YrD. FQ several times disagree with the other four, but in most of these cases they are mistaken. They also preserve in a few cases a good reading individually. In a diametric position to S stands Y, and the majority of its differences with S (and often with FQ) may be attributed to the other branch of the tradition, the A family. Y preserves often the correct reading and for this speech

is a valuable witness of the text. D very often agrees with Y in this text. It gives, however, individual readings some of which are wrong (e.g. § 70: αὐτὴν {δυνάμενος}, § 72 {οὐκ} ἐτόλμησε), some are correct (§ 43: ὑμᾶς for ἡμᾶς of all the rest) and some doubtful (§ 43: ἄξιον λόγου <οὐδέν>). The nature of these readings indicates that in most of the cases they are derived from the activity of a grammarian rather than from a source of respectable authority. Nevertheless it is a useful ms. r is a strange manuscript. It is a copy of A in its major part. In the present speech, however, it is very similar to Y and in some instances it is a unique witness of the right reading, perhaps preserving it from the A family; thus it is still a useful ms. In this commentary I examine the readings of all these mss on equal basis, with the exception of a few of little importance (like the elision or sometimes the word order) in which no decision can be taken; then I would follow the reading of S, on conventional grounds.

The order of the speeches which all modern editions have is the order of F. This is not only because F is the only complete main ms. of the Corpus, but also because all the editions before Bekker were based on F, or its copies. Later editors kept the order of the edition of Reiske, which is based on Monacensis 85, a copy of F. In F the *Hypotheseis* of Libanios are transmitted together in the first 11 folios. There, however, the Hypothesis of the present speech follows the Hyp. of the two speeches "against Aristogeiton" (D. 25, 26). In S and r also it is

transmitted after D.25, 26. In Q it comes after the speech against Theocrines (D.58), but Q omits most of the public speeches. The same happens in D, but D omits speeches 1-18. Christ *Atticusausgabe* and Drerup *Antike Demosthenesausgaben* have given a detailed account of the order in which the speeches appear in the mss. Both agree that the original order of the present speech is after the speech "against Theocrines". They believe that a grammarian who thought that this speech should be with the public ones, transferred it after D.26.

The term "original order", I think is tricky. The whole Corpus was published originally in rolls and by the time it was transferred into one comprehensive codex, it is likely one could obtain rolls including more than one speech, presumably the smaller ones. When the first comprehensive codices were created the speeches were transferred into them according to some principles:

1. Despite any difference among the mss, we can see clearly that they were transferred in groups. (See Christ, 214; Drerup, 534).
2. Christ (216) believes that in general the copyists tried to keep an order. Although they had the freedom to copy, for example, the second speech of a roll first as they opened the roll from the end, they could not mix the groups, nor disturb seriously some standards [for example, in the group of public forensic speeches, we can see clearly a chronological arrangement, with the exception of 18, 19].
3. If the assumption of Drerup (550-1) that the main branches of

the Demosthenic tradition had already developed in the Alexandrian period is correct, then more than one comprehensive codex were produced initially, deriving from these different traditions. These initial comprehensive mss probably had differences in the order of the speeches, reflecting their different origins. After this, contamination between families contributed further to upsetting the order. A good example is Marcianus 420: although a copy of F in general, it transmits the present speech after D.26, because at this point it is contaminated with the Y branch.

4. Practical reasons also upset the order: when for example there was space in a roll for a small speech of a different group, then it would be reasonable to assume that this space was used. This practice could explain perhaps some of the most puzzling cases.

The first comprehensive copy of the S family probably was derived from a single roll, including this speech. Most of the public forensic speeches are too long; thus to include two of them in one roll would mean that the roll had to be very long. The person who did the first comprehensive codex decided to place it last in the group of the public speeches, since it was the latest of them (As I have already said the order of the public speeches in S is chronological). The speech is a  $\gamma\rho\alpha\phi\eta$  and in this sense this arrangement is correct (cf. Blass *Beredsamkeit*, 3, 535).

When the first codex of the tradition from which A derives was produced, the speech was left out along with D. 45, 46, 52.

Christ suggested that they were probably included in one (or two) roles and they were not available to the person who made this codex. Perhaps another codex of the same tradition was produced, the copyist of which found the roles with these speeches and included them in his ms. This could explain the origin of different readings in FQYrD, which scholars think are preserved through contamination with the A tradition.

We do not know how early the first copies of the F branch were produced. Either the copyist had a single role with the speech, from the S tradition and he placed it at the end, or copying from a codex of the S family he transferred it there. Whatever the case, the reason is clear: he thought that it is a non Demosthenic text and for that reason he took it to the end of the Corpus before the Funeral and the Erotic speech.

The ms on which Libanios was based gave the speech after D. 26. The beginning of Libanios' Hypothesis in comparison to the beginning of the common Hyp. of 25-6 speaks for that: Hyp. 25-6: Διονύσιος ... οὐ δέχεται τούτους τοὺς λόγους Δημοσθένους εἶναι... Hyp. 59: Καὶ τοῦτον τὸν λόγον οὐκ οἴονται Δημοσθένους εἶναι... (cf. Foerster, *Lib. Opera*, 8, 575 ff.; Canfora *MH* 26 [1959] 61-2). Drerup (536) questioned the authority of Libanios, because he believed that Libanios had deliberately rearranged the order. This probably happened in a few cases but in the present case, as I said before, it is beyond any doubt that his ms transmitted the present text along with the public ones.

In conclusion, the order of the speech in F is based on the assumption that it is not a genuine Demosthenic text. The order in Sr and Libanios' source is based on the assumption that it is a public speech. The transference of it to the end of the Corpus in the F branch is a later decision. In antiquity it was probably classified among the public speeches. If the assumption of Christ, that in the origin of A it came along with D. 45-6, 52, is correct, then in the roles from which the A family was derived it was classified among the the speeches written for Apollodoros.

The first part of the paper discusses the historical context of the study, tracing the roots of the research back to the early 20th century. It highlights the contributions of several key figures in the field and the evolution of the research agenda over time. The second part of the paper focuses on the methodological aspects of the study, detailing the data collection process and the analytical techniques used to interpret the findings.

**COMMENTARY**

The authors of this paper have provided a comprehensive and insightful analysis of the research topic. Their work is a significant contribution to the field, and it is hoped that it will inspire further research and discussion. The paper is well-structured and easy to read, and it provides a clear and concise summary of the findings. The authors have done a great job of presenting their work in a way that is accessible to a wide range of readers, and their conclusions are well-supported by the data. This is a very good example of how to write a research paper, and it is a pleasure to read.

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## ΥΠΟΘΕΣΙΣ

The work of Libanios 'Υποθέσεις τῶν λόγων Δημοσθένους, written around 352 in Constantinople, includes an incomplete "vita" of Demosthenes and 57 hypotheses of his speeches. [25, 26 have a common hyp., while no hyp. exists for 12, the letter of Philip, and the two panegyrics 60, 61] The hyp. are not transmitted independently in any ms. (see Canfora, **MH** 26 [1969] 61-2). In **F** they are collected in the first eleven folios. In the rest of the mss. the hypothesis is placed before each speech (for further details see Foerster's edition of the hyp. in *Libanius Opera* vol.8 ,575 ff.). The hyp. of this speech appears in the mss. after the common hyp. of the two "against Aristogeiton" speeches, in the group of public ones. (for further discussion about the order of the speech see Intrad. ch.5)

**καὶ τοῦτον]** In addition to speeches 25 and 26

**ὑπτιον]** ὑπτιον when used to characterise the language or the style, usually means "long drawn out, boring" (DH. *Din.* 8: οἱ δ' Ἴσοκράτην (ζηλοῦντες) καὶ τὰ Ἴσοκράτους ἀποτυπώσασθαι θελήσαντες ὑπτιοὶ καὶ ψυχροὶ καὶ ἀσύστροφοὶ καὶ ἀναλήθεις) or "dry, prosaic" (Philostr. *Her.* 2, 19: ὑπτίως καὶ οὐ ποιητικῶς ἦσεν). In the criticism of D. 7, by Kaekilius (Fr. 141 Ofenl.) it characterises the narrative style of Herodotus, in contrast to the dramatic intensity, expected of a genuine Demosthenic text.

Blass translates as *gedehnt* (*Beredsamkeit* 3, 541: *wie auch Libanios das werk als gedehnt und kraftlos bezeichnet*) and A. Schaefer as *breit* (*Demosthenes* 3, 2, 191: *in der Rede wider Neaira... macht sich die Erzählung wider sehr breit*). In this passage the word ὑπιος has the meaning "long drawn out, flat"

It refers to the flatness of style caused by aimless repetitions, the long narration against the argumentation, the two long digressions etc. (cf. *Introd.* ch. 4)

Sauppe (GGA 1863, p. 1661-8) noticed that in a fragmented criticism of the speech by Photios (*Bibl.* p. 492 A 23: *καὶ τὸν κατὰ Νεαίρας λόγον ὑπιότητός τινες αἰτιώμενοι*) the same word appears and the comment is related to Kaikilios (cf also in Ofenloch's edition of Kaikilios fr. 147 and the *introd. De Photio*). The suggestion that Libanios also has read Kaikilios was made by Voemel (*Hegissippi, Or. de Halonesso, prolegom.* 22 ff.), who was followed by Schaefer, Blass, Burchard, Brzoska al. (see also Ofenloch p. xxix, *De Libanio*).

If the remarks above are correct, the word ὑπιον comes from Kaikilios. Libanios taking over his criticism repeats unchanged what was the most striking term of this criticism. It is remarkable that in the few fragments preserved by Kaikilios ὑπιος appears twice.

ἐνδεέστερον] This kind of criticism appears often when the authenticity of a speech from the Corpus is in question: Hyp. of

7: πολὺ τὸν Δημοσθενικὸν πεφευγυῖα τύπον. Caec. fr. 140 Ofenl.  
ἤκιστα Δημοσθενικὸν ὄν. Caec. fr. 141 Ofenl. τὸ εἶδος τοῦ λόγου  
πολὺ τῆς Δημοσθένους παρρησίας ἀποδέον. cf also DH. Dem 44, al.  
For the present text see Intrd. ch. 4

νόμφ συνοικοῦσαν] Taylor notes *incredibile illud dictu et sine  
dubio mendosum... dele ergo postremum inutile istud vocabulum  
νόμφ*. Halbertsma (as Rennie reports) with the same thought  
and in comparison to § 13: συνοικοῦσα παρὰ τὸν νόμον, 16 and 110  
proposed παρανόμως συνοικοῦσα. The reasons for their suspicion  
are the emphatic position of νόμφ and the technical sense of  
συνοικεῖν, when used to indicate a relationship between a man and  
a woman: it means "to be married" (cf. § 14, 17, 51 al. Isae.  
2, 4; 3, 16; 6, 14. 51 etc.). The scholars above have found  
difficult to accept that St. and N. are presented in a legitimate  
wedlock. The reading of the mss, however, is also supported by a  
text derived from Libanios: Georg. Diaretes (6, 534-5 Walz):  
λέγων, νόμφ συνοικεῖν αὐτήν Στεφάνω, καὶ πεπαιδοποιημένην.  
Schaefer in defence of νόμφ interpretes ὡς γυναῖκα συνοικοῦσαν.  
I believe the mss are correct: Libanios wants to emphasize that  
St. and N. were living in terms equivalent to legitimate  
marriage. The connection with πεπαιδοποιημένην following rather  
supports this emphatic position of νόμφ, as well.

ὁμολογεῖ] r gives ὁμολόγει. In the Hyp. of Libanios imperfect  
aorist and pluperfect are used to denote facts which took place  
before the beginning of the trial. Present and perfect are used

in order to bring the whole atmosphere of the trial vividly in front of the eyes of the reader. Thus ὁμολογεῖ is correct.

ποιεῖται] All mss. give πεποιήται. ποιεῖται is a suggestion of Bekker, adopted by all modern editors and Foerster, in order to agree with the previous two presents. Perfect, however, is quite usual in the Hyp. (cf. Hyp. of 1,2,37 al.) and often it is connected with a present, for variation: Hyp. of 28: πρὸς τινὰς ἀντιρρήσεις ὁ λόγος ἐπηγώνισται, ἔχει δὲ καὶ τῶν προειρημένων ἐπανάμνησιν. Hyp. of 49: τὰ ὀφλήματα τέτταρα καταριθμεῖται...καὶ τὰς αἰτίας... ἀκριβῶς εἶρηκε καὶ τὰς ἀποδείξεις...παρέσχηται. cf. also Hyp. of 43. As it seems, in Greek, at the time of Libanios, no strict distinction between present and present perfect occurs (cf. Kühner-Blass 2, 129 § 184, n. 2). Thus, the proposal of Bekker is unnecessary.

1. πολλά] Thmn. starts his speech trying to shake off any suspicion of πολυπραγμοσύνη emphasizing from the very beginning that he had many reasons to bring this prosecution. Then the whole of the part which Thmn. delivers is an explanation of the reasons for which he prosecuted Neaira. Ap. starts in a similar way to the speech against Nicostratos: "Ὅτι μὲν οὐ συκοφαντῶν ἀλλ' ἀδικούμενος καὶ ὕβριζόμενος ὑπὸ τούτων καὶ οἴόμενος δεῖν τιμωρεῖσθαι... (cf. *ωπ* § 11-13)

με] Rufus (3, 452 Walz) quotes the passage as following: πολλά μὲν ἦν τὰ παρακαλοῦντα, ᾧ Ἀθηναῖοι, γράψασθαι Νέαιραν τὴν γραφὴν ταυτηνί. r gives μὲν, too and in S after με one letter is erased. In Attic prose μὲν without following δὲ is very rare (Denniston, p. 359 ff., Kühner-Gerth, 2, p.271) and on the other hand the personal tone of the context supports με. The change between the first person singular and the first person plural in order to emphasize the fact that this case concerns the whole family is also remarkable.

τὰ παρακαλοῦντα] "urging"; cf. e.g. Dem. 17,1. 61,54

ταυτηνί] YrD give ταύτην (Ycorr adds -ι). In comparison to § 16 and also § 52, 85 (with νόμος) and § 1, 112 (with ἄγων) we should write ταυτηνί (cf. § 14 the discussion about οὔτος-οὔτοσ(ι)). The emphatic form οὔτοσι gives the sense "the present trial/law etc".

- (υ) - υ - . - - υ - . - - υ -

ᾧστε οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος] With the elision it is a perfect iambic trimetre. Athenaios (612 f ) says that it is a verse of Aristarchos (TrGF 14 fr.4 = fr. 4 Nauck). Suda, on the other hand, (υ 161) and Photios (s.v. ὑπάρχων) attest that it comes from Menander's Olynthia (fr.298 Körte): ὑπάρχων· προκατάρχων· ᾧς...τιμωρούμενος καὶ τὸ ὑπάρχειν οὐχ ἀπλῶς τὸ εἶναι σημαίνει ἀλλὰ τὸ πάλαι εἶναι, καὶ προεῖναι [προὔτεῖναι EM 777,38], φθάνειν. Μένανδρος οὐχὶ παρακληθέντας ὑμᾶς δεῖ γὰρ ἡμῖν εὐνοεῖν, ἀλλὰ ὑπάρχειν τοῦτο [καὶ ὑπάρχειν Phot.]. Suda ω 237 (cf.Zenob.6,51 [II,49]), attributes it to Chaeremon: ᾧς...τιμωρούμενος: παροιμία. ὁ στίχος δὲ ἐστὶ Χαιρήμονος ἐκ Θεραίου. Our evidence is not necessarily inaccurate: it might have been the case that the line existed in all these places and this strengthens the information of Suda that it was a proverbial expression. If so, Ap. did not need to know either Aristarchos' or Chairemon's plays.

For this meaning of ὑπάρχων "to take the initiative" cf. § 15; Lys.24,18: ἀμύνεσθαι τοὺς ὑπάρξαντας; Pl.Grg 456 e: ἀμυνομένους μὴ ὑπάρχοντας al.

καὶ ᾧς εἰς <τοὺς> ἐσχάτους κινδύνους] Frohberger (Phil. 29 (1870) 635 correctly adds the definite article in order to be a *similium locum consensus* with εἰς κινδύνους τοὺς ἐσχάτους κατέστημεν above. See also § 6, 7 and 53; Lys. 32,2; D.8,44; And. 1,68 al. [for the same reason Shoem adds the definite article at Isae, 3, 47: <αἱ> ἔσχαται τιμωρία]. Similar expressions are often found in the orators. The

most usual nouns with ἔσχατος are κίνδυνος and ζημία (see D. 8, 44; 10, 15. 72; 16, 13; 35. 50; Isae: 1, 39. Isoc. 8, 30. 12, 158 etc)

περὶ τε τῆς πατρίδος καὶ περὶ ἀτιμίας] Theomnestos defines here which were the ἔσχατοι κίνδυνοι about which he spoke. In this phrase he joins the highest possible penalties of the two trials, into which Stephanos brought him: περὶ τῆς πατρίδος refers to the exile, if convicted in the second trial for homicide at Palladion (§ 9-10: cf: ἐκ τῆς πατρίδος αὐτὸν ἐβουλήθη ἐκβαλεῖν and ἐξελάσαι ἢ ἀτιμῶσαι, with the relative comment). Περὶ ἀτιμίας refers as much to the first trial of the γραφῆ παρανόμων (§ 5-8) as to the second one; in both cases Apollodoros could be sentenced to pay a high fine; if he did not pay it, he would suffer ἀτιμία. In the first trial, in which Ap. was convicted, as Thmn. says, he narrowly avoided disfranchisement, by paying with difficulty the heavy fine of one talent (see also § 6-8 and com.).

2. ψηφισαμένου] H. Schaefer (*RE* 18, 2, 2064) places the birth of Pasion by 430 B.C. In 394, the earliest possible date, in which Isoc. 17 was delivered, he was already a freedman. (The latest possible date for this speech is 390/89). Pasion died in 370/69 (D. 46, 13: ἐπὶ Δυσονικήτου ἄρχοντος). Davies (*APF* 427 ff.) argues that his naturalization must be placed a few years before his retirement (371 B.C.), because Pasion was a large landowner by this time, which in all probability passed into his possession after he became a citizen [A non citizen could acquire ownership of land in Attica only if he was granted with ἔγκτησις and there is no evidence that Pasion was given

this right]. So, his naturalization should be placed in the decade 390-80. Pasion's marriage with Archippe must be placed by or in 395, because Ap. was born in 394. In 381/0 Pasicles, his second son, was born. For further information and bibliography see Davies loc.cit.

εὐεργεσίας:] A citizenship award to a foreigner was an exceptional procedure and citizenship was treated as a gift of the Athenian state to benefactors of the Athenian Δῆμος (cf. § 88 ff. and com.). Pasion became a citizen after generous offers to the state: D. 45,85 οὐμὸς ὑμῖν πατήρ χιλίας ἔδωκεν ἀσπίδας, καὶ πολλὰ χρήσιμον αὐτὸν παρέσχε, καὶ πέντε τριήρεις ἐθελοντῆς ἐπιδούς καὶ παρ'αὐτοῦ πληρώσας ἐτριηράρχησε τριηραρχίας. He appears also to have contributed some naval equipment (IG 11<sup>2</sup> 1609). See also Davies loc. cit.

ὁμογνώμων] The word appears only in spurious speeches; in the speech "On the Crown" ὁμογνωμονοῦντας (18, 162) is found. In all cases, known to me (cf. also *LSJ* s.v.) the word indicates an agreement between persons: cf. e.g. 10,75; 33,15; 33,16. In both cases, in which the word appears in this speech, it indicates agreement of a person with an action. (§ 2, 111). It is probably a careless usage by Ap.

τῆ ἀληθείᾳ οἴκελους ὄντας] Although the relationship between Ap. and his father in law Deinias seems to have been good in general (cf. e.g. 50,24-7) in 45, 55-6 Deinias declines to testify

against his nephew Stephanos son of Menecles. Ap. is annoyed by this plot against him by his close relatives, as he says: ὅμοιος γ'ὸ Δεινίας, ὃ ἄνδρες δικασταὶ τούτῳ, ὅς ... οὐδὲ τάληθῆ μαρτυρεῖν ἐθέλει κατὰ τούτου. See also A. Schaefer 3, 2, 171.

καὶ ἡγουμένου ... τῶν ὄντων] The passage is clumsy and disputable in several points:

1. Dobree (*Adversaria* 1, 519) suggested ἡγούμενος. Thus Thmn. is the subject and the meaning is that Thmn. was the one who thought that they had to share everything in response to the good behaviour of Ap. to the whole family. Concerning the difficulty of the sudden change of subject Dobree compares with § 55: διαφορὰς δ' οὕσης αὐτῷ... πρὸς δὲ καὶ ἅπαις ὄν. But the cases are not the same; here the subject is written down at the point it changes: ἔλαβον καὶ ἐγώ. Apart from that, if the nominative was the correct form, καὶ would be not written down in front of the participle. For the meaning, as well, the genitive is better: the act of good will starts from Apollodoros and is accepted and materialized by Theomnestos, by marrying his daughter. The reading of the mss seems to be correct.

2. Reiske would prefer τοὺς ὄντας (read τοὺς οἰκέλους ὄντας) understanding it as a general statement. But here clearly Ap. and Thmn. are meant.

3. SFQ give καὶ κοινωνεῖν. This emphatic καὶ (Denniston 320-1) seems to be unnecessary, added by somebody who took it as if the part form ἡγουμένου to ὄντας was connected in apposition to κοινωνεῖν... ὄντων.

4. Dindorf comments: *χρῆναι addit Wolfius / Poterat probabilius κοινωνεῖν δεῖν*. This suggestion is unnecessary: δεῖν is added in most of the cases ἡγοῦμαι means "think fit, deem necessary" (see. e.g. § 4: κύριον δ' ἡγούμενος δεῖν τὸν δῆμον εἶναι) but the cases in which it is omitted are not unparalleled: see *LSJ* s.v. ἡγέομαι, III, 4.

3. *δοκιμασθεῖς*] All, magistrates in Athens, elected either by lot or by vote, had to undergo a scrutiny before their entry to office known as *δοκιμασία*. In the case of the new *βουλευταὶ* we know that this scrutiny took place in front of the outgoing *boule*: *Arist. Ath.* 45, 3: *δοκιμάζει δὲ (ἡ βουλή) καὶ τοὺς βουλευτάς τοὺς τὸν ὕστερον ἐνιαυτὸν βουλευσόντας καὶ τοὺς ἐννέα ἄρχοντας. καὶ πρότερον μὲν ἦν ἀποδοκιμάσαι κυρία, νῦν δὲ τοῦτοις ἔφεσις ἐστὶν εἰς τὸ δικαστήριον.* Aristotle, (*Ath.* 55, 2-5) describes the procedure of the *δοκιμασία* of the nine archons, but nothing further is said about the councilors. Rhodes (*Boule* 12 ff.) discussing the limitations which disqualified somebody from becoming a councilor, says that the questions asked in the scrutiny would be expected to be relevant to these limitations [All councilors had to be enfranchised Athenian citizens over the age of 30. All men who had stayed in Athens in 411 to perform military service under the Four Hundred were disqualified. Male prostitutes, men who maltreated their parents, cripples and perhaps some other groups were probably excluded. See Rhodes loc.cit. for further discussion]. Modern scholars believe that the archons were scrutinized twice: once in front of the *boule* and once in front of a law court (cf. § 72 and com.). Rhodes, however, (*Boule* 178) finds it rather unlikely

that all councilors had to undergo a second scrutiny. He believes that unless if a candidate was rejected, the decision of the outgoing boule was final. For further details about δοκιμασία and its importance see Lys. 16 passim, 26 passim, 31 passim and Rhodes *Boule* 12-3; 176-8; *Ath. Pol.* 542; Staveley *Greek and Roman Voting and Elections*, London 1972; MacDowell *Law*, 167-169, al.

ὁμόσας τὸν νόμιμον ὄρκον] Two modern scholars have tried independently to restore the content of the ὄρκος βουλευτικὸς: Plescia (*Oath* 25 ff.) and Rhodes (*Boule*, 191-8). [Rhodes, although his book was published two years later, does not mention Plescia]. Here I combine these two versions.

1. καὶ τὸν βουλευτικὸν ὄρκον ὁμόσας, ἐν ᾧ ἦν κατὰ τοὺς νόμους βουλεύσειν

(X. *Mem* 1, 1, 18)

2. ὁμωμοκῶς δέ τὰ βέλτιστα βουλεύσειν τῷ δήμῳ τῷ Ἀθηναίων (D. 59, 4)

3. ἐγὼ δὲ ὁμόσας εἰσήλθον εἰς τὸ βουλευτήριον τὰ βέλτιστα βουλεύσειν τῇ πόλει (Lys. 31, 1-2).

4. ἢ ποίων ἂν ὑμῖν δοκεῖ οὗτος ὄρκων φροντίσαι... ἢ πῶς ἂν χρηστόν τι βουλεύσαι περὶ τῆς πολιτείας, ὃς οὐδὲ ἐλευθερῶσαι τὴν πατρίδα ἐβουλήθη; (Lys. 31, 31)

5. ἢ ποῖα ἂν ἀπόρρητα τηρῆσαι, ὃς οὐδὲ τὰ προειρημένα ποιῆσαι ἤξιωσε; (Lys. 31, 31)

6. οὐδὲ δήσω Ἀθηναίων οὐδένα, ὃς ἂν ἐγγυητὰς τρεῖς καθιστῆ, τὸ αὐτὸ τέλος τελούντας, πλὴν ἐάν τις ἐπὶ προδοσίᾳ τῆς πόλεως ἢ ἐπὶ καταλύσει τοῦ δήμου συνιδῶν ἀλφῶ, ἢ τέλος πριάμενος ἢ ἐγγυησάμενος

ἢ ἐκλέγων μὴ καταβάλλῃ (D. 24, 124; cf. § 147-8)

7. τῷ ὄρκῳ τοῦ δήμου καὶ τῆς βουλῆς ἐνομοθέτησεν· ἐκεῖ μὲν γὰρ ὄμνυτε μηδένα μῆτ' ἐξελάειν, μῆτε δῆσειν, μῆτε ἀποκτενεῖν ἄκριτον (And. 4, 3)

8. ἔνεστί τε ἐν τῷ ὄρκῳ ἀποφανεῖν εἴ τις τινα οἶδε τῶν λαχόντων ἀνεπιτήδειον ὄντα βουλευεῖν (Lys. 31, 1)

9. (In the scrutiny of the archons) δοκιμάσαντες τὸν ἄξιον τῆς ἀρχῆς στεφανώσιν (Lys. 26, 8)

10. (Added in 410/9) καθεδεῖσθαι ἐν τῷ γράμματι φῖ ἂν λάχωσιν (Philochoros, *FGH* 328 F 140)

11. (Added in c. 448) ἐάν τις κόπτη νόμισμα ἀργυρίου ἐν ταῖς πόλξεσι καὶ μὴ χρῆται νομίσμασι τίς Ἀθηναίων ἢ σταθμοῖς ἢ μέτροις, ἀλλὰ ξενικοῖς νομίσμασιν καὶ μέτροις καὶ σταθμοῖς [τιμωρήσομαι καὶ] ζημιώσω κατὰ τὸ πρότερον ψήφισμα ὃ Κλέαρχος εἶπεν (M&L 45 § 12)

12. (Added in 403-2) οὐ δέξομαι ἔνδειξιν οὐδὲ ἀπαγωγὴν ἕνεκα τῶν προτέρων γεγενημένων, πλὴν τῶν φευγόντων (And. 1, 192)

13. (Rhodes suspects that it may have not been included in the text of the oath) γέγονα οὐκ ἔλαττον ἢ τριάκοντα ἔτη (D. 24, 150)

14. (Also suspected by Rhodes) μηδὲν παράνομον ἐπιψηφίζειν (X. *Mem.* 1, 1 18)

15. One badly preserved inscription (*IG* 1<sup>2</sup> 114) probably represents the text of this oath (see discussion in Rhodes: *Boule* 195-198)

The first four points are *patriotic generalities* as, Rhodes (p. 195) says. All the following points refer to duties of the councillors. As far as we could draw any conclusions by a) the

few testimonies of the oath b) the analysis of the point 6 in D.24, 145-48 and c) the comparison with the oath of Heliastai preserved in D.24, 149-151, the following could be said about the oath:

1. The character of the oath was not clearly moral; it was technical enough, in a strict forensic language (see also, Rhodes loc.cit.)
2. The oath was a fundamental law-frame, a kind of constitution for the Council.
3. The fact that new pieces were added (we do not know if cut) indicates that the oath was seen as a functional text.
4. Rhodes (*Boule* 195) discusses the changes of the bouletic oath in details and tries to date these changes. According to Arist. (*Ath.* 22,2) the establishment of the oath goes back to the year 501/0 and according to D.24,148 to the Solonian legislation. Nevertheless, the main part of it belongs to the fifth century coming after the main changes which established the democracy.

καιροῦ ... καὶ πολέμου] The word καιροῦ refers generally to the circumstances to which the city was reduced. The word πόλεμος is more specific. Sansone (*GLOTTA* 62 [1984] 16-25) classifies similar cases as hendiadys. [He mentions 19,77; εἰς χρόνους καὶ πόλεμον καὶ τριβήν; 19,123; χρόνος καὶ πολιτορχία]. He supports that nominal hendiadys arise out of a more sophisticated stylistic impulse when verbal hendiadys are usually colloquialisms. I think this statement does not apply to Apollodoros. The structure of two words giving roughly the same sense connected in parataxis is often found in

the speeches of Ap. See e.g. 47, 55; 49, 4. 13. 65. 67; 50, 2. 4. 7 (twice). 20. 35 (twice); 52, 29; 53, 3. In comparison to passages like § 55-6 full of unnecessary parataxis and additional words, which do not add much to the meaning I would rather think that this structure reflects the tendency of Ap. to use parataxis extensively. [Herwerden's suggestion (Mn. 3 [1875] 357-8) to delete καὶ πολέμου is consequently unjustified]

ὑστερήσασσι] S'Yr give ὑστερήσασσι; the rest give ὑστερήσασσι. Blass and Murray accept ὑστερήσασσι, Rennie (in comparison to D. 24, 95, where ὑστερίζειν is unanimously transmitted) and Gernet ὑστερήσασσι. Both forms are possible (cf. *LSJ* s. v.). ὑστερήσασσι is perhaps slightly *lectio difficilior*, if the copyist thought that it was a verb ending in -ίζω.

προεμένοις] FcorrY give προεμένοις in agreement with ὑστερήσασσι. All the rest give προεμένους in agreement with ἀπίστους. But ἀπίστους is quite far. On the other hand ἀπίστους is in accusative agreeing with its omitted subject (the same as the omitted subject of εἶναι). For that reason the conjecture of Iurinus ἀπίστοις is unsuccessful. (cf. Schaefer ad loc.)

κινδυνεύειν περὶ τῶν ὑπολοίπων ... Ἔλυνθον] The orator refers to *Eventy*, which took place between 351 and 348. In 351 B.C. the fleet of Philip, which had begun to threaten the sovereignty of Athens at sea, attacked suddenly Imbros, Skyros and Lemnos and made prisoners the Athenian citizens there. This invasion was the

first aggressive action of Philip against the Athenian League and threatened the islands of the North Aegean, which remained true to the Athenian League, after the revolution and the war of Athens with their allies in 357-55. (see e.g. *CAH*, vol. VI, p. 228)

Chersonesos had two big cities, Kardia and Sestos. The first action of Philip against the Athenian sovereignty in Chersonesos was his alliance with the Kardians in 352. After that, Chersonesos was for 20 years in the middle of the debate between the Athenians and Philip, because of its importance for the supply of corn to Athens. In 349 Philip plundered Chersonesos. In 346 Chersonesos was one of the most important themes in the negotiations of the Athenian embassies with Philip. With the peace of Philocrates the arrangement was that Athens would keep her sovereignty on Chersonesos, except Kardia, which remained true to Philip. (A brief and exact description of the matters in Chersonesos is found in. *RE*, vol. 3, col. 2045-2051, s. v. Chersonesos; cf. also D, 8 *passim*).

Plutarch, the leader of Eretria, afraid of Kleitarchos, who raised claims on leadership, asked the help of the Athenians. Eubulus, afraid of losing Athenian sovereignty on Euboea, intended to send aid to Plutarch. Demosthenes objected, because it would weaken the campaign against Philip. In February of 348, troops were sent to Euboea under Phocion. After the battle near Tamynae the Athenians organized a voluntary trierarchy and a reinforcement was finally sent under Molossus, who succeeded

Phocion some time afterwards. He was totally defeated and Athens was obliged to acknowledge the independence of all the Euboean cities except Karystos. The war with Euboea was ended in July of 348. (see also *CAH* vol. VI, p. 231-2)

When the danger from Philip on Olynthos in 349 was clearly visible Athens, made an alliance with Olynthos. In response to the repeated appeals of the Olynthians decided to send Chares in 349. Shortly after, they recalled him and sent Charidemos with a large force of mercenaries and 18 triremes. After his failure to resist effectively Philip in the summer of 348 when Olynthos was already beseiged by Philip they decided to send a second force to Olynthos consisting of 2.000 citizen foot-soldiers and 300 cavalry (see §4 πανδημεῖ). It was too late and the winds were adverse. This force never arrived. In August of 348 Olynthos was conquered and totally destroyed. See Caw kwell *CQ* 12 [1962] 122-40. About all the events narrated here see Hammond *History* 548 ff; Pickard-Cambridge, *Demosthenes* 171 ff. al.

Thmn. here merges events which took place in a period of more than three years and led to the crisis of 348. According to the dates of these events, the proposal of Apollodoros ought to have been made in the summer of 348 after the battle near Tamynae and before sending the reinforcement to Euboea. They are also placed before the mission of the citizen troops to Olynthos (μελλόντων στρατεύεσθαι ὑμῶν πανδημεῖ... "Ολυνθον). His decree reflects the alarm situation in which the Athenians were at this time

ψηφισμα] A προβούλευμα approved by the Assembly, became a Decree, a text which sometimes had the power of a law. The difference between a decree and a law, at least in the fourth century is not clear. (See MacDowell *Law* 43-46). In the text of the ψηφισμα the name of the person who proposed it was always included and he was liable to a γραφή παρανόμων. If somebody prosecuted him, the decree was suspended until the trial. If the court decided against the defendant he was punished usually with a fine, if the time between the debate in the Ecclesia and the trial was less than a year. If it was more than a year the person was immune but the decree was annuled in both cases. (see: MacDowell, *Law* 50). The fact that Ap. was punished (§ 6 ff.) means that St's indictment came in less than a year, i. e. in 348-7.

4. βουλευών] Herwerden (*Mn.* 3 [1875] 357/8) deletes βουλευών. But Thmn. emphasizes that Ap. acted with the responsibility for his office. cf. τὰ βέλτιστα βουλευσειν and *Lys.* 30, 10.

προβούλευμα] Before every meeting of the Assembly the Council had to make a first consideration of what was going to be discussed in the Assembly, and organize the debate. The policy according to which everything had to be discussed beforehand by the council, was defined by a law attributed to Solon (*Plut. Sol.* 19, 1). Aristotle says (*Ath.* 45, 4 and *Rhodes com.* p. 543-4): οὐκ ἔξεστιν οὐδέν ἀπροβούλευτον οὐδ' ἔτι ἂν μὴ προγράψωσιν οἱ πρυτάνεις ψηφισασθαι τῷ δήμῳ. The principle was quite strict and any

proposal to the Assembly not previously discussed by the Council was liable to γραφή παρανόμων. Rhodes in his detailed discussion (*Boule* 52 ff) recognises only a few cases, in which a proposal, could be ἀπροβούλευτον. The Council could bring an open προβούλευμα, without expressing its preference to one of the alternative opinions or it could express its opinion, in the προβούλευμα, but the final decision belonged to the Assembly (*Boule* 58-60). Rhodes says that the προβούλευμα of Ap. was a clear but false example of an open προβούλευμα: he brought his proposal, without any recommendation between the two alternatives (στρατιωτικὰ εἶτε θεωρικὰ) but because, as Rhodes believes, the surplus could only be θεωρικόν, in fact he asked to return the surplus to the stratiotic fund. But see the discussion in § 4.

λέγων] is given by Yr (and according to Bekker D, too). The rest of the mss give λέγων. The neuter makes clear that the proposal had been approved by the Boule. cf. D. 51, 18.

διαχειροτονῆσαι] " To choose between two proposals, by raising the hands" cf. D. 47, 43: ἐν τῷ διαχειροτονεῖν ἦν ἡ βουλή πότερα δικαστηρίῳ παραδοίη ἢ ζημιώσσει ταῖς πεντακοσίαις. D. 22, 5. 9; 24, 25; X. HG 1, 7, 35; Schol A. Supp. 621 al. About the way of voting in the Athenian assembly see Staveley *Voting*, 83 ff. and Hansen *Assembly*, 41 ff.

στρατιωτικὰ] The number of the works, written about this problem reveals its difficulty. A recent work by Hansen (GRBS 17, [1976]

235-246) I think contributes seriously to the research, on this matter. See also *LUSTRUM* 14 [1969] 99-100. [The discussion by E.I. McQueen *Demosthenes Olynthiacs* Bristol 1986, 53 ff., does not take into account the article of Hansen and the author maintains the older view that the evidence of the present speech should be rejected] The principal sources, which I cite here, rather complicate the matter and their reliability is questionable.

1. Libanios (Hyp. Ol.1, 5) mentions a law prohibiting the transfer of money from the theoric to the stratiotic fund, under the death penalty. Ulpianus (p.3 and 10-11 Dilts) attributes this law to Eubulos.

2. Schol. Dem. (1,1,1f Dilts) says that this law was passed only after the attempt of Ap. to convert the theoric money to stratiotic. The law is attributed to Eubulos by this source, too.

3. Demosthenes, in his Olynthiacs hesitates to propose formally any transfer of money from the theoric to the stratiotic fund, in fear of a law. In the first Olynthiac (1,19 ff.) he tries to find a way of obtaining more money for military purposes without infringing the law. In the third Olynthiac (3, 10 ff. 31 ff.) he clearly proposes to ask νομοθέται to scrap the law.

4. Thmn. mentions here a law which ordered that the surplus of the administration in times of war should be given to the stratiotic fund.

5. Ap., actually in spite of this law, passed a decree that the assembly should decide which board would receive the surplus.

6. Ap.'s decree was passed, but it was cancelled after he was defeated in a graphe paranomon. After his defeat he was punished with a fine of one talent, in the second vote, in which the law-

court had to specify the fine.

7. The text, as we have it modified by Sauppe, says that Ap. was also accused for speaking, when he was not entitled, being a debtor of the state.

The sources raise some questions:

1. Was there any such law prohibiting the transfer of money from the one fund to the other?
2. Was there any such law as the one mentioned by Thmn., directing the surplus to the stratiotic fund in times of war? And if such a law existed, to what did Ap. intend with his proposal?
3. Which law did St. accuse Ap. of infringing?

At the beginning of the fourth century (or after 378) a stratiotic fund existed in Athens (see Hansen 236; Cawkwell *Mn.* 15 [1962] 377-83; Rhodes *Boule* 235-40 al.). From the beginning of the fourth century, probably the time of Agyrrios, a theoric fund existed, too, which became important only after Eubulos emphasized its role. This probably happened after 355. The way each one of them functioned is a rather complicated question, going beyond the purposes of this work (see Hansen and Rhodes loc. cit. for further information). Hansen maintains convincingly that each one of them had a share at the annual *μερισμός*. [Contrary to some scholars who have maintained that the theoric fund was exclusively financed by the surplus of the administration, Hansen says that unless the theoric fund had a standard share, no surplus would mean no money to the theoric fund; the sources do not attest that games and public works had ever stopped, although it is quite possible that some years there

was no or very small surplus]. Once this μερισμός was done, transferring money from the one fund to the other was illegal, as sources 1 and 3 indicate or imply. I think there is no doubt that the money of the theoric fund was protected by law. I do not have also any grounds of doubt that this law was passed under Eubulos, probably when he reorganized the theoric fund and attributed more importance to it (c. 355). What Hansen says about source 2, that it is an effort by the scholiast to make the dates consistent, I think is right. I doubt, however, that the capital penalty was fixed in the law, as I will explain later.

According to Thmn. there was a law which directed the surplus of the administration to the stratiotic fund, if there was a war. In peace time it would be directed to the theoric fund. [ Naber suggested ( Mn, 32 [1904] 37-8) changing στρατιωτικά εἶναι, κόριον to θεωρικά εἶναι κόριον. But there would be no point in saying ὅταν πόλεμος ᾖ] Hansen argues that this law existed. He correctly maintains that apart from the money every fund would take from the appropriation, any surplus was directed at the end of every year to one of the funds according to the law mentioned by Thmn. Ap. spoke only about the surplus, not of the money of the theoric fund, so he had no fear of the law which prohibited the transfer of money from the one fund to the other. Hansen also finds probable that in the years between 355 and 348, under Eubulos' influence all the surplus was directed to the theoric fund. Although the city was at war, this was true in 348, as well, in spite of the law, which seemed to have fallen into disuse in the last seven years. Now why Ap. had

chosen the more risky procedure of proposing a new decree in order to deal with a case already covered by an existing law, is not clear. I find it likely that the pressure on the council to pass this money to the theoric fund was stronger than this semi-forgotten law and the procedure to enforce the law probably slower and less effective than the decree of Ap. The decree was not saying exactly the same thing as the law, and in fact it overruled the law, by leaving the matter open to the vote of the ecclesia. But from what we read in § 3-4 the intention of Ap. was not to ignore the law but to corroborate it. On the other hand his decree was not exactly a full reinforcement of the law; it was a flexible and fast act reflecting the present situation. Hansen points out that the decree of Ap. would not affect seriously the finance of this war at present, because the surplus of this year was not much. At this time it was rather a tactical movement. If the decree had not been finally cancelled it could have been a first and important step in funding the war, since it would have opened the way to the transfer of money from the one fund to the other. And, as Hansen points out, the real target was the sum given every year to the theoric fund from the appropriation (cf. source 3).

The prosecution by Stephanos was of political nature, in defence of the theoric fund. But which law did he claim that Ap. had broken remains a problem. Some scholars have emphasized the information of § 5 that Ap. was an inappropriate person to speak being a debtor of the state. It is unlikely that St. could have

introduced a γραφή παρανόμων on these grounds. The appropriate procedure in this case was ἔνδειξις and the text itself is highly suspicious (cf. § 5 ad loc.). Was Ap. indicted for breaking the law which Thmn. mentions (source 4; see also Hansen, 240, n.18)? The difficulty here is that the law and Ap.'s proposal had the same effect. Even if in strict legal terms Ap. had overruled the law, as a matter of fact he reinforced it. And besides, this law, as I explained before, was probably in disuse. If so, the case seems to be too technical indeed and thus weak to support a successful case for St. We do not really know if the money was finally used for military purposes, since the decree of Ap. was cancelled, but in any case Ap. could have used in his defence the strong argument that the effect of his decree was in complete accordance with the law that this money should be stratotic. Thus I find this possibility less likely.

Another possibility is that Thmn. is right when saying that St. had deceived the law-court. Ap. only spoke about the surplus in his decree but St. prosecuted him for infringing the law which prohibited the transfer of money from the theoretic to the stratotic fund (sources 1,3). The whole prosecution was tricky, but a skillful speech, a well prepared device and accusation out of the case were effective for St. (cf. § 5). The difficulty with this assumption is that although Ap. lost the case evidently he did not face the death penalty (which, according to source 1 [cf. 2, too] was fixed by this law), even as a possibility, otherwise Thmn. would have mentioned it when enumerating the dangers which

Ap. had undergone because of the maliciousness of St. The procedure included a second vote which would define the fine on Ap. (cf § 6 ff.). A solution would be to reject the evidence of Libanios that the death penalty was fixed in the law.

βούληται] SQ' give βούλωνται. But cf. τῶν αὐτοῦ. Interesting is the comparison with D: 3, 30-31: ..τολμῶν αὐτὸς ὁ δῆμος δεσπότης τῶν πολιτευομένων ἦν καὶ κύριος αὐτός...καὶ ἀγαπητὸν ἦν παρὰ τοῦ δήμου μεταλαβεῖν· νῦν δέ τούναντίον...ὕμεις δ'ὁ δῆμος, ἐκνευρισμένοι καὶ περιημένοι χρήματα... γεγένησθε... καὶ... προσοφέλετε. In the second part the intention of the orator is to address the single Athenians, who constitute the δῆμος.

ὥς ὑμεῖς] Reiske added ἐποίησε in front of ὥς with strong punctuation after ὁμομοκῶς. But ὁμομοκῶς is connected with ἡγούμενος and κελευόντων, above and depending on ἐξήνεγκε προβούλευμα.

5. ἀλλὰ καὶ νῦν ἔτι] The emphatic order of YrD is preferable to ἔτι καὶ νῦν of the rest, which seems to be the natural order.

πάθοι] J. M. Stahl (according to Rennie) proposed ἔπαθεν, thinking that the leading verb ὁμολογεῖται is not in past tense. But the structure is not unparalleled. Goodwin (*Syntax* 264, n. 676) says: *We may even have ὅτι or ὥς with the optative when the leading verb is not past, if there is an implied reference to some former expression of the thought quoted* e.g. Pl. R. 490a. The thought

implied here is that up to the present the Athenians would admit that Ap. was unfairly convicted. The action belongs mostly to the past and thus the optative is correct.

τοὺς δικαστὰς δίκαιον ὀργίζεσθαι] The right reading is given only by F and Q (Ymg. probably gives it, too; but the marginal note ad loc. in Y is almost illegible). YrD give τοὺς δημοκρατουμένους δεῖν ὀργίζεσθαι. S omits the phrase τοὺς... ὀργίζεσθαι leaving a blank space of one line (23-25 characters), in which neither of these two readings could be inserted. Nevertheless, the reading of FQ makes perfect sense.

μάρτυρας παρασχόμενος] Yr give μαρτυρίας ὑποσχόμενος. Ygr. gives μάρτυρας παρασχόμενος. D gives μαρτυρίας παρασχόμενος, with ὑπο- superscribed over παρασχόμενος. μάρτυρας παρέχειν (to provide witnesses) is a standard forensic expression: cf. § 34, 61 and Schodorf *Gerichtssprache* 78, 80. μαρτυρίας would be possible, as well, but in this case it sounds more effective to speak about persons who conspired with St. against Ap.

ὡς ὄφλε τῷ δημοσίῳ ἐκ πέντε καὶ εἴκοσιν ἐτῶν] In all manuscripts this phrase appears in § 9 after ψευδῆ. Jurinus suspected it: *Agitur enim hic non de ullo debito sed de homicidio* and he proposed to transfer it to another place. He modifies the text as following; ὥστε καὶ δυνηθῆναι ἂν ἐκτεῖσαι μόλις, ὃ ὄφλε τῷ δημοσίῳ (§ 8). Auger and Reiske agreed with him. G.H. Schaefer agrees that they are *verba in hoc loco alienissima* and proposes

ὅς ὄφλε... , but meanwhile he admits that the created period is very clumsy in this case. Sauppe followed by Dindorf and all modern editors transferred them in § 5 after παρασχόμενος. A. Schaefer *Demosthenes* (3, 2, 180) deleted them.

In the place in which these words appear in the mss they are evidently superfluous: we have two ὅς sentences with no conjunction between them. It is unlikely that the conjunction was omitted accidentally. Being accused of a debt to the state was irrelevant to the homicide case and in the homicide courts it was strictly prohibited to speak outside the subject. (See A. Schaefer ad loc. and MacDowell *Homicide* 43-4 and 93.). Besides, αἰτίαν is singular.

Jurinus' transfer with the text thus emended is arbitrary. Sauppe's transfer is not less violent. I cannot understand how this sentence was transferred so far from its original point in the text. According to Sauppe's solution the debt was created in 373-2 B.C. (since the trial for unconstitutional proposal was tried in 348-7). But Ap. was only 21 years old and Pasion still alive and in full control of his property (cf. com. § 2 and A. Schaefer ad loc.). If we assume that St. intended to lie on this matter then he did not follow the right procedure. If Ap. being a debtor to the state and consequently ἄτιμος, was still involved actively in politics, he should not be prosecuted with a γραφή παρανόμων, but with ἔνδειξις. In Hansen's list of the known trials of γραφή παρανόμων (*Sovereignty* 28-43), there is no

parallel of a person accused with this procedure of being a debtor to the state. There is one case, however, of a γραφή παρανόμων in which the prosecutor alleges that the defendant did not have the right to speak in the Assembly, being a debtor to the state (D.22,33-4). Androtion was prosecuted with other allegations, but the prosecutor in his speech seizes the opportunity to mention his debt in an effort to prejudice the jury against his opponent. He apologizes, however, for using this argument. In this sense, although reluctantly, I accept that St. could have used in the middle of his speech an irrelevant accusation. But without the support of the mss, I think the safest solution is to agree with A. Schaefer that the phrase ὡς . . . ἐτῶν is an interpolation and delete it. In fact the phrase ψευδεῖς μάρτυρας παρασχόμενος has as a supplement the words ἐπὶ διαβολῇ and the transmitted text in § 5 makes perfect sense, without the sentence ὡς . . . ἐτῶν: St summoned false witnesses against Ap., and he said much that was irrelevant to the case.

6-8.] If the verdict was against the defendant and the penalty not fixed by the law the jury had to define the penalty. Both sides proposed a penalty and delivered a speech in support of it. Then the jury voted to choose one of the two proposed penalties. Important evidence for this procedure is given in Pl. Ap. 35e ff., concerning the trial of Socrates. See also MacDowell *Law* 253-4. After this day Ap. became a debtor to the state, until he would pay off his debt (cf. D.58,49: ἀφ' ἧς ἂν ὄφλη). As long as the debt was still standing he was ἄτιμος. This meant that he was

excluded from the public life and he was banned from the temples, the Agora and the law-courts (see MacDowell *Law* 74; Hansen *Apagoge* 61 ff.). If the debt was not paid by the ninth prytany (cf. the expressions in D.24,98: ἄχρι τῆς ἐνάτης πρυτανείας; D.24,169 al.), it would be doubled in the ninth prytany (ἐπὶ τῆς ἐνάτης πρυτανείας; in some cases it would be multiplied by ten: see also Harrison *Law* 2, 173 ff. [The case in which payments to the state were due to be made in a fixed date is different; see Harrison loc. cit. MacDowell *Law* 164 ff., Arist. *Ath.* 47,3-5; 54,2 and Rhodes con. ad loc.; Rhodes *Boule* 88 ff.] Then if the debtor owned some property but he was unwilling to use it to pay the debt, he was liable to a legal procedure called ἀπογραφή. It began with a graphe which included a list of the man's property; it could be initiated by any citizen, not only by a particular magistrate. A trial followed and if finally the verdict was against the defendant, his estate had to be given to the πωληταὶ, who were the officers in charge of selling the estate, and the sum would be used to reduce or pay off the final debt. If any surplus existed it was returned to him. The successful prosecutor would be rewarded with the three quarters of the amount which the state recovered. If the estate of the man was enough to pay off the whole amount of the debt, then he was enfranchised again. [For the use of the passive form of the verb ἀπογράφω cf Schodorf *Gerichtssprache* 73; the correct references are: (25,71); 40,22; 53,2, where ἀπεγράφω is wrongly given by A.J. Since ἀπογραφή could be not initiated, unless somebody was willing to prosecute the debtor, we may easily suggest that debtors sometimes would prefer to keep their property and remain disfranchised, if they were not prosecuted.

If the man died leaving a standing debt his sons were disfranchised, if they did not pay the debt of their father (cf. e. g. D. 58 passim; MacDowell *Law* 74). We do not know, however, with certainty what happened if the man left only daughters. ἀτιμία in the sense it applied to men did not apply to women, since women did not participate to the public life. [Davies (*APF* 437 and 442) says that Ap. had only two daughters. The assumption is based on the present text; if Ap. had any other children, probably they would be mentioned here. (cf. D. 45, 54, 85)]. In general, if a man with no male descendants died leaving some property, then the daughters became ἐπίκληροι and this property would go with them. If he did not leave any property then the archon ~~ruled that~~ the closest relative <sup>should</sup> marry the poor ἐπίκληρος or give her a dowry and betroth her to somebody else (D. 43, 54). And. 1, 117 (cf. MacDowell com. ad loc.) and Isae. 1, 39 speak about the legal and moral obligation of the closest relative (as defined by the law quoted in D. 43, 54) either to marry her or to give her a dowry. But the evidence is not conclusive about what happened if a man died with a debt to the state. Isae. 10, 16 says: οἷς ἐγένετο ἡ ἐμῆ μήτηρ ἐπίδικος, τούτοις ἀναγκαῖον ὑπὲρ αὐτῶν (τῶν χρεῶν) βουλευσασθαι. The same impression is given by D. 28, 1-4, where, it appears that the husbands of Gylon's daughters, should have hidden their property, if Gylon had died leaving a debt to the state. Both sources say that the men who were legally entitled to have the women, would be responsible for the debts, too. But in both cases the women were accompanied by some paternal property and it is not clear whether the responsibility of the husbands extended as far as to

cover the whole of the debt, if this was larger than the inherited property, or only the part of it equal to the value of the inherited property

An important contribution to the whole issue comes from Isae. 10, 17: ὅταν μὲν περὶ χρήματα δυστυχῶσι, τοὺς σφετέρους αὐτῶν παίδας εἰς ἑτέροισι οἴκοις εἰσποιοῦσιν, ἵνα μὴ μετάρχωσι τῆς ἀτιμίας τοῦ πατρὸς. This, I think quite clearly, states that only persons who would continue the οἶκος inherited the ἀτιμία for a standing debt to the state. Thus only the sons, would inherit the ἀτιμία of their father; other relatives did not inherit the ἀτιμία. If any person legally entitled to inheritance was also liable to ἀτιμία for inherited debts I do not see how an Athenian disfranchised for debts could try to secure the civil rights of his sons with an adoption by endangering simultaneously the civil rights of his other close relatives, his brothers or his sons in law, for example. And I do not know any case in which the son in law or another relative of a debtor to the state, apart from the sons, was disfranchised for the standing debt. I imagine that if a debtor with no sons died leaving some property this should be used to pay off, or to reduce the debt and perhaps the remaining part, if any, would be passed to the people who inherited his property, according to the laws. If, however, he did not leave any property, and if the people who would legally inherit his goods belonged to another οἶκος, then they did not have to pay off his debt. Thus in the case a debtor to the state died leaving behind unmarried daughters, they ought to be given to marriage,

according to the laws on ἐπίκληρος. If what he left was enough to pay off his debt, the husband had to pay it and the remaining part of the heritage would pass under his control with the woman. But if the property was not enough to pay off the debt, then it had to be sold to reduce it, but the husband of the woman, being a member of a different οἶκος, would not suffer ἀτιμία, for the remaining debt; the obligation to marry the woman without a dowry would be enough. If the daughters were already married, the husbands again did not become ἄτιμοι if they did not pay the debt. If, however, the man died with a debt and his property was not used to erase this debt, then perhaps the husbands of his daughters, to whom the property would pass, were liable to ἀπογραφή, for depriving the city, for money which belonged to her. Perhaps this was the reason why the husbands of the daughters of Gylon ought to hide their property, if Gylon left a debt: part of their property was probably coming from Gylon's estate.

I find that what Thmn. says here supports this suggestion. In § 6: ἵνα...ἀπάντων the punctuation has to be put after ἐκείνου, because καὶ ἡμᾶς ἅπαντας has to go with εἰς...ἀπάντων and ἀτιμία certainly would not apply to the sister of Thmn. (and wife of Ap.), so καὶ ... ἐμὴν has also to go with what follows (εἰς ... ἀπάντων); cf. § 7. If so, Thmn. clearly states that the danger of disfranchisement hangs over Ap. and his children only. He does not say that himself would face any such danger, if Ap. died with a standing debt, being a son in law of Ap. and with the

assumption that no male children existed Thmn. here generalizes, since ἀτιμία did not apply to the daughters and, as I suggested, was not inherited by the sons in law. He says that if Ap.'s property was sold to pay part of the debt, Ap., his wife and his unmarried daughter, would be left with no property and come into a situation of absolute poverty. Then Thmn., being so friendly with them, would need to support them financially. And no man would be willing to marry the unmarried daughter, without a dowry, especially of a debtor to the state, in case one of his enemies could accuse him later that, in spite of the laws, he owns property which comes from the estate of Ap. But it was possible for a woman to be married without any dowry, although not usual. Lys. 19,14; D.40,20; Isae. 2,5; D. 40,25 and com. § 50). The second point is an exaggeration, in my opinion: if one married the other daughter either without a dowry, or with a dowry given by the friends or relatives of the family not much of a real danger existed if Ap. died disfranchised but leaving no property.

7. οὐδέ τριῶν ταλάντων] Davies (*APF* 440-2) is reluctant to believe that this is true. He says *even making allowance for Apollodoros' extravagance, his claim that his property was worth less than 3 tal. in 349/8 is little short of preposterous.* See also Davies *Wealth*, 73-87.

ῶστε] Blass added μή ἂν after ῶστε, understanding: "so that he (Ap.) would be unable to pay off such a large debt". But the orator says: "to be able to pay off such a large debt".

8. ἀναρπασθέντα] cf. Lyc. Leoc. 31: Λεωκράτης ἀναβοήσεται αὐτίκα ὡς ιδιώτης ὦν καὶ ὑπὸ τῆς τοῦ ῥήτορος καὶ συκοφάντου δεινότητος ἀναρπαζόμενος.

ῶστε] YrD add καὶ after ῶστε. But when καὶ is added after ῶστε it implies something in addition: X. Cyr. 1, 4, 4: αἰδοῦς δ' ἐνεπίμπλατο ῶστε καὶ ἐρυθραίνεσθαι, ὅποτε συντυγχάνοι τοῖς πρεσβυτέροις. In this case ἐρυθραίνεσθαι points out just an external sign, additional to the feeling of αἰδῶς. X. A. 4, 2, 7: ἐλαφροὶ ἦσαν ῶστε καὶ ἐγγύθεν φεύγοντες ἀποφεύγειν; but passing near was not the only way of rescue. Here no such meaning is desired. Ap. just paid the fine.

δυνηθῆναι] All manuscripts add ἂν after δυνηθῆναι. Schaefer correctly deletes it *nam mulctam Apollodorus luit*. Cf. Kühner-Gerth 2, 507-508 and Goodwin: *Syntax* 67-8 and 227-228

δικαίως] Fcorr. Q<sup>1</sup> give δίκαιον. But then it should be (τὸν) δίκαιον ἔρανον ἐνεχειρήσαμεν...

τὸν αὐτὸν ἔρανον] The phrase is metaphorical and ironical. A complete portrait of the word is made by MacDowell (*Meidias* 322-4). He emphasizes that ἔρανος was a loan (cf. com. § 31), made

without charging interest, and thus understood more as a favour. So when Thmn. says ἔρανον ἀποδοῦναι, this sounds "to give back a similar loan, as a favour". But, since between St. and Ap. only bad deeds existed, giving back to St. the loan he deserves, would mean to do to him as much harm as he did to Ap. Similarly in D. 21, 101. 184-5 ἔρανος is used with reference to bad deeds, but there is also used with reference to good deeds alike.

9. Ἀφιδναζεῖ Aphidnai (or Aphidna) was located at the foot of Parnes, near modern Kapandriti. It is known as one of the twelve cities, which Theseus joined, when he established Athens. If this case against Apollodoros was just a plot, Aphidnai was employed by his opponents as the place of the crime because it was an isolated and deserted area, so it could suit the conditions of this mysterious murder.

ἐπί δραπέτην αὐτοῦ ζητῶν] Iurinus says: *omnino legendum videtur vel τὸν δραπέτην αὐτοῦ ζητῶν ... vel ἐπί δραπέτην αὐτοῦ ζητεῖν. Dobree (Adversaria 1, 519) in comparison to passages like D. 32, 20: εἰς τὴν Σικελίαν ἀναπλεῖν ἐπί τὰ δίκαια, proposed to delete ζητῶν hoc enim per se significat ἐπί. Cobet Novae Lectiones 66-7, discussing clauses in which ἐπί is found along with the final participle, considers the phenomenon unacceptable magistro reddendum est, qui quid esset ἐπί δραπέτων ἀφικέσθαι volebat ostendere. Discussing Hdt. 7, 15 he says sed utrumque ἐπί Ἀρτάβανον καλέοντα dici non potest, nisi ab eo, qui quid, sit, ἐπί Ἀρτάβανον non intelligat. But ἐκβάλλω ἐκ, for example, is*

found in this speech three times (§ 9, 83, 86). Repetition may not be a virtue of style but it is not a textual mistake: cf. Th.6, 53 and the list of similar cases by Robert Helbing, *Die Präpositionen bei Herodot und anderen Historiker* Würzburg 1904, 71-2.

παρασκευασάμενος ... προείπεν] The mss present problems at this point. Some of them give the plural for the three verbs: παρασκευασάμενοι Qγρ, παρακελευσάμενος FD, κατασκευάσαντες FγρQγρD, προείπον FcorrQcorrD. Blass accepts the plural in his text: *Quae recepi propter sequentia καὶ ἔλεγε κ. τ. έ. . ex quibus apparet antea de pluribus sermonem fuisse.* [παρασκευάζομαι is used to show all the premeditation of the opponent, (cf, D, 29,28; 38,19; 57,24), κατασκευάζω is used to show the whole organising of the plot on the side of the opponent, A characteristic passage is found in D, 45,5 where κατασκευάζειν is linked with μηχανάσθαι (cf, § 106), προείπεν refers to the procedure of the homicide trials, The family or the master of the victim made a πρόρρησις, prohibiting to the suspected murderer to enter the holy places and the agora, See e.g, Ant,6,34; παρασκευάζοντο αἰτιάσθαι καὶ προαγορεύειν εἶργεσθαι τῶν νομίμων, (cf, D, 47,69; Isoc,4,157; Ant,5,10 al.) If this person afterwards and before the trial entered one of these places, he was liable to ἀταγωγή, ἔνδειξις or ἐφήγησις, cf, Hansen *Apagoge*]. I think, the text speaks rather for the singular. With ἐπενέγκας preceding and ἔλεγε following one should expect the subject to be clearly indicated, if the verbs were in plural. The orator would have explained who were these people who organized the whole plot. On the contrary, Thmn. intends to present St. as the person who organized everything.

ὡς Κυρηναῖοι εἶησαν] FQD give this reading; Y' gives κατασκευάσ and ἦσαν; ας was added in the empty space by the same hand, but different tint. ὡς Κυρηναῖοι εἶ is added in the empty space by a later hand. In Sr the phrase is omitted with enough space for this sentence. Taylor suspected this phrase *neque melius video, quid ad rem nostram conferret, si quam maxime Cyrenaei essent, aut potius esse videantur*. Taylor's thought was shared by Hude (NTF 7 [1885-7] 291) who proposed ὡς κύριοι εἶησαν.

Stephanos prosecuted Apollodoros at Palladion for the murder of a woman. In order to be able to start this prosecution he ought either to claim that she was his own slave or that the woman was a free person, and that he was a relative of her. If we believe Thmn., that the whole thing was a plot (and, as far as we can draw some conclusions from the result of the trial, it was) it would be much easier for St. to claim that he was the master of the woman, than to claim that he was a relative of her. [The word ἄνθρωπος does not help, because it could be used for a free woman (cf. § 46 and D. 19, 197) or a slave (cf. § 21, for Metaneira)]. The disguised slaves would be used as witnesses. The alleged crime was presented as if it took place in a deserted area in which the only witnesses were some foreigners, some merchants probably, who accidentally were present. Perhaps the accent or the looks of the disguised slaves would raise less suspicion if they pretended that they were from Cyrene. If the men were not used as witnesses but they pretended that they were relatives of the woman, themselves, not St., should make the prosecution. And only one disguised slave would

be enough to bring the charges against Ap. Thus ὡς Κυρηναῖοι εἶησαν seems to be correct.

ἐπὶ Παλλαδίῳ φόνου] FQ propose as an alternative φόνον. But προεῖπεν needs the genitive. ἐπὶ Παλλαδίῳ is a standard expression; cf. Arist. Ath. 57,3; Isoc. 18,52; Ar.frg: *PCG 602; Ant. 5,11; IG<sup>1</sup>i 324,78.95; IG<sup>2</sup>ii 1365; 5055* al. MacDowell (*Homicide 58*) says: *Homicide trials will have been held outside the temple, not inside, since all homicide courts sat in the open air; that is doubtless why the court is always said to be 'at' (ἐπὶ) the Palladion, not in it.*

The cases within the competence of this court are mentioned by Arist. Ath. 57.3 : τῶν δ' ἀκουσίων (φόνων δίκας) καὶ βουλευσεως καὶ οἰκέτην ἀποκτείνῃ τις ἢ μέτοιχον ἢ ξένον, οἱ ἐπὶ Παλλαδίῳ (δικάζουσιν). Murders of less importance were tried at the Palladion; murders of Athenians were tried by the Areopagos. The other homicide courts tried special cases. For further details and the relative bibliography see the discussion by MacDowell *Homicide 58-69* and Rhodes *Ath. Pol.* 642 ff.

10. ἔλεγεν] Taylor proposed ἔλαχεν. The expression λέγειν τήν δίκην means "plead one's cause with the court", or "speak as an advocate for someone" (see e.g. Din. 1,111). The meaning here is that St. spoke in the court on behalf of the persons who had bribed him.

διομοσάμενος] It is a technical term, from the procedure in the homicide courts. In Ant.1,28. we read: θαυμάζω δὲ ἔγωγε τῆς τόλμης τοῦ ἀδελφοῦ ... τὸ διομόσασθαι ὑπὲρ τῆς μητρὸς. For further details see MacDowell *Homicide* 97 ff.

Briefly, the content of the oath was: a) Each man swore destruction on himself and his family and his house if he told lies. b) He swore to keep to the point. c) The main sentence of the prosecution was included in the oath. (Further details in MacDowell *Homicide* 90 ff). The main sentence of the prosecution here is represented by the phrase ὡς...αὐτοχειρία and it was surely included in the text of the oath taken by Stephanos.

ἐξώλειαν αὐτῷ] Before ἐξώλειαν the mss add ἀρώμενος. Lambinus, with the approval of Taylor suggested ἐπαιτιασάμενος. Schaefer preferred ἐπαρασάμενος ἐξώλειαν, omitting ἐπαρασάμενος after οἰκία. Reiske's rejection of ἀρώμενος *sequitur enim statim ἐπαρασάμενος*, is unanimously accepted. The phrase comes from the oath: ἐξώλειαν ἐπαρᾶσθαι αὐτῷ καὶ γένει καὶ οἰκίᾳ: cf. Ant.5,11; Aesch.2,87; D.24,151

εἶδεν] SFQ give οἶδεν. The past tenses of the context support another past tense here. Besides, οἶδεν would destroy the pair "see and hear".

οὐδενός πόποτε] According to Taylor, cod. Bodleianus gives οὐδεῖς. But the subject of εἶδεν and ἤκουσεν is Στέφανος.

ὑπὸ Κηφισοφώντος καὶ Ἀπολλοφάνους] Kephisophon was a well known politician in Athens. He made a proposal in 353 B.C (Aesch 2,73). He participated in the negotiations in 346 for the peace of Philocrates and recommended the Praise of the Council. He is probably the same person as Kephisophon who was indicted with Demosthenes and Demades in the trial for bribery by Harpalos in Aeropagus (See. *RE* 11, 1, 240, W. Kroll; A. Schaefer 1, 443; 2,194; Kirchner *PA* 8417). We know less about Apollophanes. In Kirchner Apollophanes no 1463 is identified with the present person. Apollophanes no 1462 gave evidence on behalf of Demosthenes in 346 in relation to the second embassy to Philip (D.19,168). Probably Apollophanes 1462 and Apollophanes 1463 are the same person. Apollophanes and Kephisophon were acting in 346 in relation to the peace of Philocrates. Both of them paid Stephanos to indict Apollodoros. Provided that the real reasons for this trial were political, it is tempting to suggest that the events of this trial are connected with the events of 346 and it must be dated around this time .

μεμισθωμένος-ἀργύριον εἰληφώς] Taylor says: *vel hoc vel illud glossae simile videtur. Alterutrum sane.* But the meaning of the two expressions is not the same: the first one is more general "employed by Kephisophon...", the second more specific "after he had received money" Then if δραχμῶν is correct (see below), we can notice a climax from the most abstract μεμισθωμένος to the exact sum of the bribery πενταχοσίων δραχμῶν.

ἐξελάσαι ἢ ἀτιμῶσαι] Gernet secludes ἀτιμῶσαι, probably in relation to § 9 ἐκ τῆς πατρίδος ἐβουλήθη ἐκβαλεῖν. There is some evidence that Palladion could impose a fine as the lower penalty and exile as a higher (See: MacDowell *Homicide* 126-7; Morrow *The Murder of Slaves in Attic Law*, CP 32 [1937] 210-27). In which case each penalty was imposed and whether it depended on the judgement of the court or it was prescribed by the law (e.g. exile for intentional and fine for unintentional homicide, or exile for the murder of a free person and fine for the murder of a slave) is not known. In the present passage Thmn. refers to the existing possibilities, when before (§ 9) he referred only to the highest penalty.

μεταλαβῶν ἐκ πεντακοσίων (δραχμῶν)] Most of the manuscripts add δραχμῶν after πεντακοσίων. Qyp and D give δικάστῶν. Reiske, followed by all modern editors, deleted δραχμῶν. The whole issue is quite complicated because it is related to the serious problem whether ephetai or heliastai were the judges at the Palladion court in this time. The discussion has been long but the evidence on both sides is inconclusive. Here I will summarize the main points.

According to the Draconian legislation the jurors of the homicide courts, except Areopagos, were called the ἐφέται. They were 51 (IG 1<sup>2</sup> 115, v. 15-8; FGrH 324 F 4a = 328 F 20b; D. 43, 57; Poll. 8, 125; Arist. Ath. 57, 4 [If we accept the suggestion of Stroud, CP 68 [1968] 212; ταῦτα (α να') ἄνδρες.] In some sources the number is

80. (Sud. π3876: ἐφέται: π' ὄντες, Lexicon of Zonaras, 926 Tittmann; in Photios' mss s.v. ἐφέται we read περιόντες, an obvious corruption for π' ὄντες.). Probably the number "fifty" is hidden under the number "eighty". In the acrophonic system "fifty" is written as π. But π' in the alphabetic system is "eighty". "Fifty" is an approximation for "fifty one"; this approximation is found in Timaios' Platonic Lexicon s.v. ἐφέται. The inscription with the law of Dracon (IG 1<sup>2</sup> 115, v.19) says that they were elected ἀριστίνδην (cf. Poll 8,125) and Photios s.v. says that they had to be over fifty years old, with the highest esteem and dignified lifestyle. If the ephetai survived in the classical period, probably they were not appointed in the same anachronistic way. Some scholars have thought that they were members of Areopagus and if so οἱ λαχόντες in Arist. *Ath.* 57,4 might mean that they were chosen by lot among the members of the Areopagos. For further discussion on this point see Harrison, 2,41-2; MacDowell *Homicide* 51-2; Gagarin *Drakon* 134 ff. Wallace *Areopagos* 11 ff. Carawan CP 86 [1991] 1 ff.

According to the Draconian Legislation the ephetai had jurisdiction over all the less important cases of Homicide. And. 1,78; Plu. *Sol.* 19,4, the inscription of the draconian Legislation and perhaps the references of the lexicographers confirm that at least for a part of the fifth century the ephetai kept this jurisdiction. But there is a view that <sup>by the</sup> end of the fifth century the ephetai in the homicide courts were replaced by heliastai (For the uncertainty on the date of this change see

Wallace 105, al.). The scholars are divided in two groups: those who believe that they were replaced (Smith CP 19 [1924] 353-8; Bonner-Smith *Administration* 270-5; Sealey CP 78 [1983] 294-5; Wallace 102 ff.) and those who believe that the ephetai continued to judge homicide cases throughout the classical period (MacDowell *Homicide*, 52-57; Harrison, 2, 40-1; Strout *Drakon* 49; Rhodes *AP* 646-8; Gagarin *Drakon* 133.); Carawan loc.cit. Those who believe that the ephetai were replaced by heliastai are mainly based on Isoc. 18, 54. In this case a number of seven hundred judges is mentioned. MacDowell, offers an alternative explanation to this piece of evidence. He says that two different trials, are telescoped, by the orator, in one. Carawan adopting MacDowell's main point believes that the false evidence was given in a previous hearing in which the whole plot was revealed. After this a δίξη ψευδομαρτυρίων followed and Isocrates refers to this trial. This suggestion, although difficult to be proven, may be correct; I would add that the number 700 seems to me to be suspicious. Such a large body for a routine case is rather unusual. The second passage used as a piece of evidence for this view is the present passage as amended by Reiske (see below for further discussion on this point). Wallace on the other hand, I think overemphasizes the references to the Palladion or the Delphinion (δικασταὶ in Ant. 1, 23; οἱ ἄνδρες or οἱ ἄνδρες δικασταὶ in Ant. 6; οἱ ἄνδρες or οἱ Ἀθηναῖοι in Lys. 1), to support that they were heliastai.

MacDowell mainly based on D.43,57 (cf. D.23,37-8) supported that the ephetai were never replaced. He rejected the point made by Smith that in the fourth century the fifty~~one~~ ephetai had the duty to decide only in cases of amnesty, when the murdered person had no relatives and that the actual trials for homicide were tried by heliastai who were called ephetai. In this case MacDowell's objection to the existence of two courts, working at the same time under the same name (οἱ ἐφέται: with the definite article) was unanimously accepted. Wallace tries to undermine the evidence of the two passages from the Demosthenic Corpus, on the grounds that they are old texts and thus only partly functional in the fourth century. And. 1,78, as well, refers to the first part of the fifth century and the law of Drakon, as written down in the inscription in 409-8, may be partly a stereotype. The argument derived from the age of these references may be interesting but we should not undermine the fact that the evidence we have, as it stands rather supports the view that the ephetai continued to judge at the Palladion, Delphinion and Phreattys. To the argument of the age of these references we could answer that the Athenians were very conservative concerning the Homicide Law, mostly because of its connection to religion. The lexicographers on the other hand speak about the ephetai as if they retained all the time their jurisdiction. In conclusion, no positive answer can be given but, in my opinion the existing evidence rather supports the view that the ephetai were not replaced by heliastai.

Concerning the present passage, Carawan (p.5-6) based on the text as emended by Reiske believes that here, as in Isocrates' passage, the orator refers to a second trial for ψευδομαρτυρία. But this is a mere guess: the orator refers only to one trial (τὴν δίκην) tried at the Palladion. If a second trial had followed, in which St. was convicted, one would expect of Thmn. to state it explicitly. MacDowell, on the other hand, has supported the authority of the mss, which give δραχμῶν after πεντακοσίων and the scholars tend to agree with him (cf. e.g. Harrison loc.cit.; Rhodes, 647 al.) I think Reiske, and the person(s) who changed the reading in FγρD to δικαστῶν, understood ἐκ meaning separation or distinction (LSJ: ἐκ, I,4). But ἐκ in this case indicates the price: cf. LSJ III, 9b. This expression sounds like a colloquialism of Ap. δραχμῶν is probably correct and the present passage cannot be used as an argument for the replacement of the ephetai.

δόξας πονηρός] cf. D.43,4: ἀλλὰ καὶ πονηρότατοι δόξαντες εἶναι ἀπηλλάττοντο τοῦ δικαστηρίου.

11-14. The tone of these paragraphs is exaggerating:

1. Theomnestos emphasizes his own misfortune if Apollodoros *had been* condemned: Τί ἂν ἐχρησάμην ἑμαυτῷ / περιπεπωκῶς ἂν ἦν ἐν αἰσχύνῃ καὶ συμφορᾷ / ἐπάθομεν / ἐμὲ ἀφηρεῖτο τοὺς οἰκέλους.  
But he would not <sup>have</sup> suffer <sup>ed</sup>. He would only have a moral duty to help his sister and her children.

2. He emphasizes his personal participation in this trial:

λήψομαι δίκην / είσαγαγών / έξελέγξας τῷ λόγῳ / κυρίους καταστήσω / ἤκω έπιδείξων.

But he was only the formal prosecutor; Apollodoros in his long συνηγορία was the actual prosecutor.

3. He presents the whole case, as a personal appeal, or even challenge, to himself: παρακαλούντων δῆ με / προσιόντων μοι / όνειδιζόντων μοι / άνανδρότατον.

But it would be rather expected of these persons to appeal to Apollodoros himself.

4. He does not define who were these indignant persons who appealed to him; he only says άπάντων. He also says that they even went personally to him and blamed him.

5. The impersonal description of the prosecution, twice (μηδέ τήν περιφανώς... ύμετέρων / ξένη μέν ... ποιήσασθαι) makes this prosecution sound like a more serious crime.

6. He presents Stephanos as a person that could deprive the state, of her authority and grant citizenship according to his will or perhaps with a small amount of money (for the connotations of this point cf. § 88 ff. and com.)

11. περιπετωκώς (άν) ἦν] SYrFrec add άν before ἦν. But the two άν would be too close to each other.

12. [ιδ(α προσιόντων] SYrD give τ'έμοι, FQ τε μοι. Editors have in different ways suspected this passage. Wolf reversed the order of the words, trying to restore the natural sequence of actions: προσιόντων δῆ μοι άπάντων και παρακαλούντων με έπί τιμωρίαν

τραπέσθαι. Taylor prefers παρακαλούντων δὴ με ἀπάντων ἰδίᾳ  
προσιόντων μοι. Reiske prefers παρακαλούντων δὴ με ἀπάντων, ἰδίᾳ  
προσιόντων ἔμοί, ἐπὶ τιμωρίαν. Schaefer also agrees that  
προσιόντων μοι, is the only necessary change. Hude (NTF 7 [1885-  
7] 289 ff.) is of the same opinion. Blass' conjecture ἀπάντων  
<τῶν> ἀεὶ προσιόντων is a violent solution. If we retained τε, it  
ought to be connected with καὶ ὄνειδιζόντων. But the sense is  
better if ὄνειδιζόντων is connected with παρακαλούντων; both of  
them denote the reasons for which Thmn. was persuaded to indict  
Stephanos. Then προσιόντων (with τε omitted, as Taylor suggested,  
and comma after ἀπάντων, as Schaefer understood it) is  
subordinate to παρακαλούντων, explaining the way all these people  
came in contact with Thmn.

The purpose of the argument is to convince the court that he  
started this trial not only for his own reasons, but with the  
admonition and the support of many others, too. (cf. D.21,2. 151.  
216) At this point, it is important for Theomnestos to declare  
that he had serious reasons to indict a woman, otherwise unknown  
to him.

τρέπεσθαι] YrD give τραπέσθαι. τρέπεσθαι, indicating the action  
in its evolution, is preferable (cf. Kühner-Gerth 1, 185).

ἀνανδρότατον] In the Corpus Demosthenicum we find the word  
ἀνανδρία three times to mean "cowardice" in the war: 21,160  
δειλιάς καὶ ἀνάδ<sup>v</sup>ρίας ἔνεκα ἐπέδωκε τριήρη, 19,218; 4,42. It can

also mean "wanting in manhood": 21,172; 39,6; ep. 2,25, or we find it in opposition with χρηστῶν: 24,53. In 15,28 when the Athenians bring the excuse of justice to avoid a war, this sense of justice is considered to be equal to ἀνάδρ(α). "Ανανδροι καὶ δοῦλοι are the persons who, of their own free will are governed by an oligarchy (24,75). In ep.2,25 ἀνάδρ(α, parallel to μαλακία, is a characteristic of soft and effeminate person. In this passage it means "timidity".

τὰ πρὸς τοῦτους]. Lambinus deletes τὰ. οἰκέως is usually found in oratory with ἔχειν (e.g. D.23,195; Isoc.4,135; 5,106 etc) or διατίθεσθαι (D.53,4; Isoc. 12,48; Lys.1,39) or χρήσθαι (Aesch.2,28; Lys. frg. 78,3 Scheibe). οἰκέως ἔχειν points out the duration and stability of the relation, οἰκέως διατίθεσθαι emphasizes a favourable attitude to someone and οἰκέως χρήσθαι friendly behaviour to someone. οἰκέως χρήσθαι is always constructed with dative. The other two expressions are constructed either with dative (D.10,52; 23,119.120; 52,15.22 al.) or with πρὸς and accusative (D.23,195; 53,4; 61,56 al.). There is no parallel in Greek oratory, in which οἰκέως ἔχειν is constructed with an accusative, as it is in our text, if we keep τὰ. For that reason and in comparison especially to 53,4 (another text by Ap.): οὕτως οἰκέως διεκείμην πρὸς τοῦτον, I would adopt the solution of Lambinus.

κηδεστοῖ] Reiske correctly changed κηδεστῶν of the mss to κηδεστοῦ: *ut ad solum Apollodorum redeat*. The orator lists one by one the relatives concerned; κηδεστοῦ implies Apollodoros only.

εἰσαγωγῶν] Schodorf (*Gerichtssprache* 23-7) has pointed out a peculiarity in the use of the verb εἰσάγειν as a legal term: *Wenn wir das Verbum εἰσάγειν auch von dem Ankläger lesen, so müssen wir beachten dass es von ihm nicht eigentlich gebraucht, sondern nur auf ihn übertragen wird, weil er durch seine Anklage bewirkt, dass der Angeklagte von Gericht gestellt wird*. Then commenting its use in Isae. 5, 12-3, where the prosecutor is acting ὑπὲρ ὑμῶν τε καὶ ὑπὲρ αὐτοῦ he says *gebraucht ist niergents auf den Angeklagten allein*. εἰσάγειν as a legal term is not regularly used for the prosecutor, if he acts only under his right as a citizen, to bring another citizen to court. The suitable verb for this occasion was εἰσιέναι: Dem. 47, 1 ἀλλ' ἐπισκηψάμενος ταῖς μαρτυραῖς ὁ ἀδικηθεὶς καὶ εἰσελθὼν ὡς ὑμᾶς καὶ ἐπιδείξας περὶ τοῦ πράγματος τοὺς μάρτυρας; D. 37, 8; 18, 103. 105; 19, 211; 20, 146; 34, 44; 47, 3; 53, 17; 59, 5. 16; (35, 49 τὴν δίκην; 21, 6 τὴν καταχειροτονίαν). εἰσάγειν, if used for the prosecutor, was used for a certain reason or with a special tone. It is used when a magistrate acts as the prosecutor: D. 18, 117; 21, 39. 43. 47. 74; 24, 83; 35, 47. 48; 46, 22; 47, 24. 27. 28; 48, 31; Din, Dem. 105. Lys. 15, 3; 30, 2). It is also used to denote a procedure according to which a δίκη is introduced to the court (D. 18, 121; 35, 48) or a γραφή (And. 1, 78), a νόμος (D. 20, 124; 24, 10), διαδικασίαι (D. 47, 26), τὸ πρᾶγμα (Aesch. 1, 79). There are also some cases in

which the subject or the object is not defined: D. 39,17; 25,36; Isoc. 15,24.287; Lys. 6,21; 13,36; 6,21. There are some special uses, too: a generalizing quotation in D.21,3, a case in which a slave is brought in front of the law-court (πρὸς τὸ δικ. D. 47,16, or some witnesses in 47,67 (an emendation of Blass)

In And.1,135.136 εἰσάγειν is used for the prosecutor. In this case he acts against the defendants, after he has undertaken the collection of the taxes in an auction, thus with a kind of authority. In Ant. 6,38 we have a case of εἰσαγγελία in which the prosecutor would speak within the public interest. In Isae. 3,3 and 5,12-3, the prosecutors appear to speak on behalf of many people.

Thmn. uses this verb to indicate that he prosecuted N. on behalf of all the relatives and friends who asked him. He presents himself as the agent of the wish of his personal circle and in the following lines he amplifies the case, saying that he acted in the interest of the whole state.

13. ὥσπερ καὶ Στέφανος] Rennie against all mss and the other editors adopts here a suggestion of Hude; Gernet does not agree and follows the manuscripts, which give καὶ ὥσπερ.

Hude (NTF 7 [1885-7] 291) points out an anacolouthon: the sentence beginning with παρακαλούντων does not finish but a new sentence with καὶ ὥσπερ begins. In order to soften this

anacolouthon he proposes two solutions. a) According to D, which omits καὶ, to delete it [Iurinus, not knowing the existence of D, had the same thought: he proposed χρῆσθαι αὐτῇ ὥσπερ Ιτέφανος, Schaefer is in favour of this solution, too, Reiske proposed καὶ δὴ ὥσπερ]. b) *sed melius fortasse verba καὶ ὥσπερ transposueris ut ὥσπερ καὶ et οὕτω καὶ inter se respondeant*. Bekker on the other hand keeps the reading of the mss, with semicolon after αὐτῇ.

The text thus emended by Hude includes a clearer form of the responsive use of καὶ (see Denniston p.294-295, with examples). However, in the structure ὥσπερ καὶ ..... οὕτω καὶ, καὶ can be easily omitted either in the subordinate or in the main clause. The text proposed by Hude, not only softens the anacolouthon, but makes it even more striking: the previous part (παρακαλούντων ... αὐτῇ) still remains without a main verb and the second part of the period becomes totally independent. If we keep the text of the manuscripts, καὶ before ὥσπερ roughly links the futures preceding, with the future expression ἤχω ἐπιδείξω. Thus it keeps a structural correctness in the sentence: there is a main verb for all this period: ἤχω ἐπιδείξω. So, I prefer the reading of the manuscripts but with soft punctuation after αὐτῇ.

ἀφηρεῖτο]. SFQ give ἀφήρητο; YrD give ἀφηρεῖτο. Ἀφηρεῖτο is an *imperfectum de conatu* and the correct form here. cf. Kühner-Gerth 1,140-2; Goodwin *Syntax* 12.

φράτερας ... δημότας] After Kleisthenes the most certain and probably the only proof of citizen status for Athenian men was to be registered in a deme. This happened at their eighteenth year of age, after a scrutiny which checked, their age and the citizenship status of both their parents. (See Hignett *Constitution* 119 ff.; MacDowell *Law* 69; Rhodes *Boule* 171 ff.; *AP* 496 ff.). Membership to a phratry was open for male and female offspring of Athenian citizens. We do not know, however, with certainty whether it was a compulsory requirement, with legal significance (cf. § 55 ff. and com.). The three boys of St. (§ 121, 124) were probably registered with the phratry and they ought to register with the deme of Eroiadai, at their eighteenth year of age (cf. § 38, 121, 122). The daughter was probably registered to the phratry but women were not members of a deme.

ἑταιρῶν] SF<sup>1</sup> give ἑτέρων; all the rest and Anecd. Bekk. 140, 4 give the correct reading ἑταιρῶν. [On the contrary in And 1, 100 Reiske restored ἑτέραν against ἑταιρῶν of the mss]

πραγματείας] "taking trouble"; cf. D. 8, 48: δαπάνης μεγάλης καὶ πόνων πολλῶν καὶ πραγματείας εἶναι; 48, 6; 52, 21 al.

14. πρότερος] Schaefer says: *F* πρότερον, *ut referatur ad participium ἀδικηθεῖς*. πρότερος agrees with the emphatic ἐγώ.

ἔστιν ξένη] Rennie and Gernet keep *v* before ξένη; Blass and Murray omit it, according to the Byzantine rule: the movable *v*

must be omitted when the next word begins with a consonant.

MacCabe (*Prose-Rhythm*, 67-73) says: *In the time of Demosthenes the rule that one should not have movable nu before constants was still centuries in the future. Instead, it was considerably more common, than not to have the nu before consonants* and quotes Mayser's conclusion that *the nu was virtually required in ἐστίν..., whether a vowel or a consonant followed* (p.69). In this passage we should write ἐστίν with all mss

ἀύτηι...τούτωι] All mss give αύτη and τούτω. Blass (*RhM* 44 [1889] 1-6) tries to fix a single criterion, according to which we should decide whether ούτος or ούτοι is preferable in every single case. Before I mention his conclusions it would be better to examine the data of the present speech. 27 times the combination Στέφανος ούτοι is unanimously attested in the mss (5, 10, 11, 13, 14, 28, 37 twice, 45, 49, 52, 53, 62, 64, 65, 66, 68, 72 thrice, 83, 88, 93, 121, 124, 125 twice. Twice is given only by a group of mss (15, FQ; 27, τούτου D). Both editors in this case adopt the emphatic form and once Blass restores it against all mss (43). Νέαира αύτηι is 13 times found in the mss (16, 19, 43, 45, 47, 50, 56, 62, 65, 83, 115, 117) and 14 times restored by Blass, when the mss either disagree or give αύτη (14, 17, 20, 22, 24, 44, 55, 63 twice, 64 twice, 72, 118, 119). [The name of St. is found 29 times and of N, 25 times, without the pronoun.] At this point Blass and Rennie agree that when the pronoun comes with the name the emphatic form ούτοι has to be adopted. The idea behind

it is that St. and N. were obviously present in the law-court and often the prosecutor pointed them with his finger saying the name and the rather derogatory emphatic form οὔτοι / αὐτήι. The fact that the prosecutor intended to the degradation of his opponents with the use of the emphatic form becomes clearer if we notice that it is never used by Ap. or Thmn. for each other; it is never used also for any other person present in the trial. The editors also agree that οὔτοι should be adopted with the words νόμος (52, 85), γραφή (1, 16), ἄγων (1, 112).

Blass and Rennie disagree which form should be adopted if the pronoun appears without the name. Blass adopts the unemphatic form in § 50, 125, against the mss. Rennie probably correctly follows the mss. The orator could use either form.

The name St. is found 18 times in the documents and the name N. 25, in every case without the pronoun. In some documents ἡ νυνὶ ἀγωνιζομένη is attached to the name of N., in its first appearance in the document. Afterwards in the same document only the name appears. (cf. the discussion about νῦν / νυνὶ com. § 28)

νέον...πρεσβύτερος] We find several times in oratory the combination νέος καὶ ἄπειρος as a commonplace when appealing to the leniency of the court (see e.g. D. 27,2; 53,13; 58,2.3.41) or, as in the present passage, used as a good excuse, in order to justify a special situation. The age of the orator in relation to

his capacity on the tribunal and his ability to give the best advice, is a topic frequently mentioned in oratory.

At first, there is the official aspect of this issue. Aeschines in 3,4 summarizes a law, ascribed to Solon [Probably wrongly; cf. G.T.Griffith *Isegoria in Ancient Society and Institutions* (Studies presented to Victor Ehrenberg) Oxford 1966, 119-20], according to which in the Athenian Assembly the herald ought to ask *τίς ἀγορεύειν βούλεται τῶν ὑπὲρ πεντήκοντα ἔτη γεγονότων*. Afterwards the herald asked who of the rest of the Athenians wishes to speak. The same law is quoted in Aesch. 1,23. The philosophy of this law is described by Aeschines: 1,23: *οὐκ ἠγνῶσει οἶμαι ὁ νομοθέτης, ὅτι οἱ πρεσβύτεροι τῷ μὲν εὖ φρονεῖν ἀκμάζουσιν, ἢ δὲ τόλμα ἤδη αὐτοῦς ἄρχεται ἐπιλείπειν διὰ τὴν ἐμπειρίαν τῶν πραγμάτων ... ἅμα δὲ καὶ τοὺς νεωτέρους διδάσκει αἰσχύνεσθαι τοὺς πρεσβυτέρους, καὶ πάνθ' ὑστέρους πράττειν*. And in 3,2: *τοὺς νόμους περὶ τῆς τῶν ῥητόρων εὐκοσμίας ἰσχύειν, ἵνα ἐξῆν πρῶτον μὲν τῷ πρεσβυτάτῳ τῶν πολιτῶν ... σωφρόνως ἐπὶ τὸ βῆμα παρελθόντι (ἄνευ θορύβου καὶ ταραχῆς)* [Richardson *Aeschines against Ctesiphon*, New York 1979, ad loc., is probably right when he does not accept the seclusion by Blass at this point] *ἐξ ἐμπειρίας τὰ βέλτιστα τῇ πόλει συμβουλεύειν, δεύτερον δ' ἤδη καὶ τῶν ἄλλων πολιτῶν τὸν βουλόμενον...* On the other hand what actually happened is different from the intentions of this law. There is evidence that many years before Aeschines' time this procedure was simplified: the question of the herald was only: *τίς ἀγορεύειν βούλεται;* (*Ar. Ach.* 45; *Th.* 379; *Ec.* 130; *D.* 18, 170, 191; *Alcid. Soph.* 11). Aeschines speaks with disappointment, because the law quoted is

out of use: 3,4: σεσίγηται μὲν τὸ κάλλιστον καὶ σωφρονέστατον κήρυγμα ... "τίς ἀγορεύειν ... 3,3: ἐπειδὴ δὲ πάντα τὰ πρότερον ... νυνὶ καταλέλυται. 3,4: τῆς δὲ τῶν ῥητόρων ἀκοσμίας οὐκέτι κρατεῖν δύνανται οὐθ'οἱ νόμοι, οὐθ' οἱ πρυτάνεις.

Weidner (*Aeschines in Ctesiphontem Oratio* Leipzig 1872, ad loc.) first suggested that the law was never abolished, but it went out of use, after the professional orators became dominant in the Assembly. His opinion was followed by the later commentators of this speech, Gwatkin (*Aesch. in Ctesiphonta* London 1890) and Richardson. Hansen (*Assembly* 91) avoids giving an opinion on the question <sup>of</sup> when the law fell into disuse.

Probably the everyday reality was different than the idealistic point of view of Aeschines or the commonplaces of the orators: in some cases the oldest persons spoke first. In Hdt.7,142 the seniors have the right to speak first. In Aesch.2,25 we read: ἐπειδὴ γὰρ οἱ πρεσβύτεροι ταῖς ἡλικίαις ὑπὲρ τῆς πρεσβείας εἶρήκεσαν, καὶ καθῆκεν εἰς ὑμᾶς ὁ λόγος... That happens in 347/6. Demosthenes at the beginning of his first speech against Philip apologises for opening the debate (352/1 B.C) because of his young age (cf. Sch.D.in or.4: 1, b. d. h. i.; 3b. c; 4, Dilts). Also well known is the beginning of Isoc.6, (placed in Sparta): "Ἴσως δὲ τινες ὑμῶν θαυμάζουσιν ὅτι τὸν ἄλλον χρόνον ἐμμεμενηκῶς τοῖς τῆς πόλεως νομίμοις, τσσαύτην πεποίημα μεταβολήν, ὥστε περὶ ᾧν ὀκνοῦσιν οἱ πρεσβύτεροι λέγειν, περὶ τούτων νεώτερος ᾧν παρελήλυθα συμβουλεύσων. These passages point out that at least a

priority of the older persons was, in many cases, respected. But we have, on the other hand Aristophanes' testimony that many times the old persons suffered, especially in the courts, by young skilful orators: In the *Acharnians* a long part of the parabasis is a complaint by the old Athenians, who suffered by young λάλοι orators (v. 676-718); see e.g. 679-80: οἵτινες γέροντας ἄνδρας ἐμβάλλοντες εἰς γραφάς/ ὑπὸ νεανίσκων ἔατε καταγελάσθαι ρητόρων, and *Daet. PCG* fr. 205 (198 Kock). If we make allowance for the comical character of this evidence, we have no reason to doubt its truth. The priority sometimes given to older orators, does not exclude the possibility that sometimes they were ridiculed or defeated by young skilful persons.

In cases like the present trial, in a society which had, at least in theory, a respect for the age of the orator, we must understand that it sounded like a good excuse, for Theomnestos to give his place to the older Apollodoros. The eloquence, however, and the presence of the orator to the court, not his age, would be the decisive element. And Ap. must have been skilful to a certain extent. We know that he had participated in at least eight trials and by this age he certainly had acquired some experience and familiarity with the laws.

**συνήγορον]** A person who, for any reason, had a weakness of speaking, could ask another citizen to be his advocate. In *Hyp.* 1, 11 we read: ἢ ἔστιν τι τῶν ἐν τῇ πόλει τούτου δημοτικώτερον, τοῦ τοὺς δυναμένους εἰπεῖν τοῖς ἀδυνάτοις τῶν πολιτῶν

κινδυνεύουσιν βοηθεῖν; This tactic, as it applied to the Athenian law-courts, is different from our conception, of professional advocates; a συνήγορος should not speak for money (See D. 46, 26 and MacDowell *Law* 251. When an advocate was called on the tribunal, an explanation of his close relationship as a relative or a friend, to the litigant was usually given. The advocate could also stress his personal reasons to hate the opponent. (See Hyp. 1, 11: τοὺς οἰκείους καὶ τοὺς φίλους; D. 36, 1: τοῖς ἐπιτηδεύουσιν ὑμῖν, ἃ σὺνισμεν πολλάκις τούτου διεξιόντος ἀκηκόες and Harrison *Law* 2, 159). In the present passage the reasons for Ap.'s presence are given by Thmn. in the passage δέομαι οὖν . . . ὑπάρξαντα.

The time, which the advocate had at his disposal was a part of the time of the litigant he supported. We know two cases in which the advocate used the whole of the time, on behalf of the litigant. Some friends of Phormio spoke on his behalf with a speech written by Demosthenes (D. 36) and in the trial on the crown (D. 18) Demosthenes spoke on behalf of Ktesiphon. On the other hand, the speech "against Dionysodoros" (D. 56) is only the first speech, the speech of the litigant; from the last words we know that a synegoria followed: ἀξιῶ δὲ καὶ τῶν φίλων μοι τιὰ συνειπεῖν. δεῦρο Δημόσθενες. . . How long was the speech of Demosthenes we do not know, but if we judge from the length of the transmitted speech, it is possible that it was equal or even longer. In the end of D. 58 the speaker asks the assistance of anyone who could say something in support of his case: βοήθησον

ὁμῶν ὁ δεῖνα, εἴ τι ἔχεις καὶ σύνειπε. ἀνάβηθι. Form ἀνάβηθι we can conclude that someone went on the tribunal (Further discussion in Harrison 2, 158 ff.)

Theomnestos makes a short introduction leaving the actual development of the prosecution to Ap., the advocate. Ap. was the person concerned. He had differences with St., he had prepared the whole trial, securing the presence of a good number of witnesses, addressed the πρόκλησις (§ 123-4) to St., wrote the whole speech, including the part of Thmn. (cf. Intr. ch. 3) and by the end of the speech he had forgotten that Thmn. was the official prosecutor (§ 125, 126: τὴν γραφὴν, ἣν Νέαιραν ἐγὼ ἐγραψάμην). But why did he ask Thmn. to bring this prosecution and he did not bring it himself? The rhetoric of Thmn. that he decided to prosecute N. because of compassion ~~for~~ Ap. and after the admonition of their friends and relatives, is not convincing and in fact we do not know the real complications of the case. Ap. and Thmn. might simply intend to a rhetorical effect: the whole prosecution would look like a combined action of revenge by a united family, not like a malicious attack by Ap. Another possibility would be that Ap. did not have the right to bring such a prosecution. Several scholars (See e.g. MacDowell *Andocides* 65-6 and Hansen *Apagoge* 63 ff.) have convincingly argued that in a public action the prosecutor who failed to obtain the one fifth of the votes, apart from the fine of 1000 dr. he had to pay, he lost the right to bring another public action of the same type in the law-court. Thus, if Ap. had lost a

γραφῆ in the past, without securing the one fifth of the votes, this would mean that he was unable to bring another γραφή, but still he could act as a συνήγορος, so he asked Thmn. to make the prosecution on his behalf. There is no evidence in support of this suggestion but the silence of Thmn. in such a case would be hardly surprising.

με κελεύσαι καλέσαι] Reiske says *videtur κελεύσαι delendum ut vitiosa lectio proximi καλέσαι*. But then με also ought to be omitted. με is the object of κελεύσαι: Theomnestos asks the judges to permit him to call Apollodoros as an advocate.

ἐμπειροτέρως] Being experienced and familiar with the laws, in a society in which having a professional advocate was prohibited by law, was important. Every single citizen could find the laws of the city written and kept in the Μητρώον, and bring them into the court. (MacDowell, *Law* 48). But we can easily assume that not many Athenians would make an effort to visit the Μητρώον and try to read all the existing laws. Knowledge of them and skill in handling legal issues was usually obtained through experience and long-term participation in the public life. (cf. com. νέον...)

καὶ μεμέληκεν ... ἀκριβῶς] The mss give these words before ὅστε καί. Bekker first suspected that they are not in the correct place: *His, nisi fallor, aptior post τουτοιῖ locus*. Schaefer then transferred them after νόμων *Qua ratione simul aptius iuguntur*

quae eiusdem sunt generis. Schaefer's proposal makes better sense because if the phrase καὶ ἡδίκηται immediately precedes the ὥστε sentence, what is said in the ὥστε sentence comes as a direct consequence of what is said in the previous one. Schaefer's proposal is likely to be right, but the possibility that the orator mixed up his phrases cannot be excluded. Although with reservation, I would follow Schaefer.

δεῖ ... αὐτῶν] Thmn. steps down from the tribunal with a brief epilogue (δεῖ ... αὐτῶν), quite similar to the epilogue of the speech in § 126. But instead of the negative plea of pity there, here an objective tone is adopted: he only asks the judges to listen to the case and then decide, according to their feeling of respect to the gods and their feeling of justice. The most famous example of this kind of epilogue is the end of Lys.12: Παύσομαι κατηγορῶν. ἀκηκόατε, ἐοράκατε, πεπόνθατε, ἔχετε. δικάζετε. (see also the end of D.33). Theomnestos here adopts this tone presumably because the details of the story are not known yet to the court.

καὶ τῆς ἀπολογίας] These words are omitted in S, obviously by mistake, because τε before κατηγορίας exists in the text of S.

τὴν ψήφον φέρειν] Other expressions used with the word ψήφος are διαφέρειν, δίδοναι, τιθεσθαι τὴν ψήφον, παραδίδοναι τὰς ψήφους; or τὸ πέμπτον μέρος τῶν ψήφων μεταδίδοναι, μεταλαμβάνειν or λαμβάνειν. cf. Schodorf *Gerichtssprache*, 28-29

16. τοῦτο] YrD give τοῦτο. The orator inserts τοῦτο because he has placed the dependent clause before the main cf. e.g. § 17, 20

πρῶτον μὲν οὖν] μὲν does not have corresponding δέ. But the expected antithesis comes at the end of § 17. See Denniston 382.

ἀναγνώσεται] If a litigant wished to bring a copy of a law into the court, he had to do it himself, because no authority existed in Athens for this purpose. At the beginning of the trial the law was handed with the other documents to the clerk of the court who read it, after the request of the litigant. See e.g. MacDowell *Law*, 242.

#### NOMOS] I. Authenticity

With the exception of some older scholars (Van den Es; Lortzing, Westrmann: see Drerup *Urkunden*, p.219 ff., for further information, about the older scholarship) the present document is generally believed to be genuine. See e.g. Christ *Attikusausgabe* 213 ff. Riehemann (Reference in Drerup) *De Litis*, 37-43 Staeker *De Litis* 34-35.

Although I believe that this legal text and the one in paragraph 52 are parts of the same law (see the discussion later below) I will separate them in this part of the discussion.

The law of § 16 I believe is genuine because:

a) The language of this text is what would be expected of a law-text of the first half of the fourth century. In other legal texts of this period we can find parallels of characteristic expressions of this text, which seem to be part of the standard and concise legal language: 24,50: δημοσία ἔστω αὐτοῦ ἢ οὐσία ἅπασα. 24,50 ἄτιμος ἔστω. 24,63: κατηγορεῖν δ' Ἀθηναίων τὸν βουλόμενον οἷς ἔξεστιν. 24,63.103.105: ἐὰν δ' ἄλφ. 35,51; 43,16 κατὰ ταύτά. 43,54.58 ὀφειλέτω χιλίας δραχμάς. For the phrase τέχνη ἢ μηχανή ἢ τινιοῦν see below.

b) It includes information not provided by the context of the speech: In the case of marriage of a male foreigner with a citizen the context gives only the one of the three possible sentences (πεπράσθω, 17), omitting the other two (the confiscation of his property and the offer of the one third of it to the successful prosecutor). In the case of marriage of a citizen with a female foreigner the speech gives only the one of the two sentences (πεπράσθω), omitting the fine of one thousand drachmas, which the citizen had to pay.

c) The legal text does not include information given by the context: The word παιδοποιεῖσθαι is an interpretation by the orator (cf. § 122); it is, however, a striking word and we should expect of a forger to include this word in the law. The expression of the orator is slightly different than the expression of the law: in the law is positive: ἐὰν συνοικῆ ...

πεπράσθω, in the text of the orator is negative: ἐὰν δέ τις ... εἶναι κατ'αὐτῶν. Besides, the phrase κατὰ τοῦ ξένου καὶ τῆς ξένης summarizes the text of the law.

As a result, I would think that this document was not produced from the context. Since no other argument objects its authenticity (see the analysis below) it is probably genuine.

The law of § 52 seems to be genuine, too:

a) The language is, as in the law of § 16, what would be expected of a legal text of the fourth century: ἐκδίδωμι is the standard verb used in the speech, to indicate the betrothal of a woman to marriage (§50, 69, 73, 110, 113, 114, 118, 122). The phrase ἄτιμος ἔστω ... δημοσίᾳ ἔστω is a standard expression in legal texts, when the imposed sentence is ἀτιμία and confiscation of the property. (cf. e. g. 20, 156, 23, 62. al.)

b) There are differences between the paraphrase of the law by the orator and the legal text: In the context we find ἐγγυῶ for ἐκδίδωμι of the legal text. αὐτῷ of the context stands for ἑαυτῷ of the law. ξένην γυναῖκα of the law is interpreted as ξένης θυγατέρα by the orator.

c) The legal text provides further information, missing from the text of the orator: the sentences imposed for breaking the law are replaced in the context, by the vague phrase ταῖς ἐσχάταις ζημιαῖς (§ 53).

## II. Are both legal texts part of the same law ?

When an Athenian quoted a law in his speech he did not have the obligation to quote the whole law; he could choose clauses relevant to his case or serving his argument. (cf. e.g. 23,86 and the extended quotation of the same law in 24,59). In the present case I believe the orator has chosen two different clauses of the law referring to mixed marriages, as suitable to his argument. The most decisive argument for this is drawn from the general character and the philosophy of the two legal texts. Both seem to prohibit strictly mixed marriages, excluding any device used to give legitimacy to an illegitimate relationship. The spirit of the expression τέχνη ἢ μηχανῆ ἤτινιοῦν in § 16 corresponds perfectly with the purpose of the law in § 52, where the legislator tries to prevent the fraud against an Athenian citizen on a severe punishment. Since both pieces refer to two different aspects of the same phenomenon and both function within the same frame, I would rather consider them to be clauses of the same law.

## III. Date of the Law

The marriage of an Athenian with a foreigner was perfectly legal in early times. Kleisthenes, whose mother was from Sikyon, and Cimon, whose mother was from Thrace are two well known examples. In this period offspring of a mixed marriage were citizens, if the father was Athenian. (see MacDowell *Law*, 67, 87).

In the middle of the fifth century (451-0 B.C.) a law of Perikles limited the right to citizenship only to the children of two Athenians. (For further details see Rhodes *AP*, 331-5 and Patterson *Pericles* 140 ff.) We cannot say with certainty whether the children of two Athenians, not legally married (with ἐγγύη or ἐπιδικασία), were citizens [MacDowell believes they were; CQ 26 [1976] 88-9]; a different opinion is held by Hansen *Demography and Democracy* 73-6]. The last years of the Peloponnesian war, however, Athens needed men. The law of Pericles fell in disuse. Even the offspring of mixed marriages were considered citizens: Timotheos<sup>e</sup> son of Konon and a Thracian woman, who was a general in the first half of the fourth century is an example.

When democracy was restored in 403, along with the general reformation in many aspects of the Athenian State, the law of Pericles was reinforced<sup>c</sup> by a decree of Aristophon or Nikomenes. The reasons of this restriction are not exactly known but if we think of it as an action connected with the general reformation in 403, this decree agrees with the wish of the Athenians to give their city a new, clear and more organised character. This decree did not affect the status of those born before 403.

A stricter law, the present one, was passed sometime later. It a) imposed penalties on persons who pretended legitimate marriage, although one of the partners was a foreigner, and b) intended to protect Athenian citizens from being deceived to marry a foreigner. This law was passed between 403 and c.340, when the

present speech was delivered. We cannot exactly specify the date of this legislation but possibly it should be placed in the 380s. These were the years in which the first children of mixed unions were not entitled to citizenship, being born after 403. So, in the uncertainty, whether some people were born before or after 403, one might expect an increased number of cases who would pretend that they were born before 403 and thus they were citizens. The control was easier with men. The ones registered with the demes by 385 were citizens. After this year no offspring of a mixed union could apply for registration with a deme. With women, however, it was impossible to know when exactly they were born. Thus a good number of people could have been deceived, marrying women not citizens with the pretext that they were born before 403. This uncertainty about the citizen status of a number of people was probably one of the main worries of the Athenians when they decided to proceed with stricter legislation on mixed marriages. On the other hand, the evidence we have about the laws of naturalization of foreigners (cf. § 88 ff. and com.; Osborne 4,150 ff.), indicates that they were revised and organized in these years. Thus it would be reasonable to suggest that a wider effort was undertaken by the Athenians in these years to organize and define in clearer lines the legislation on citizenship. If this suggestion is correct then we should understand that the present laws were created in the frame of this activity. [Carey CQ 41 [1991] 85, n.10 is fond of a suggestion by Gernet (*Plaidoyers Civils*, 4, 67, n.3) who places this law c.350, in proximity to the decree of Demophilos (Aesch. 1,82; Harp. s.v. διαφήσεις), according to which a general scrutiny of

all citizens should be held. This is possible but I still prefer the earlier date for the reasons I have explained.]

#### IV. Analysis of the law

The meaning of the terms ἀστικός, ξένος is fairly straight forward: A person born Athenian citizen is an ἀστικός or ἀστική. Disfranchised citizens (ἄτιμοι), were considered ἀστοί in this case. Naturalized citizens were probably excluded from the power of the present law, if they were already married by the time of their naturalization, although it is not clear whether their wives were also given citizen status for life, along with them. A special provision usually included in the decree of their naturalization extended citizenship to their offspring (see § 88 ff. and com.). [Carey CQ 41 [1991] 84 ff, on the contrary believes that they were not excluded, that their marriage was practically invalid after their naturalization and thus if they pretended legitimate marriage, they would come under the jurisdiction of this law. I find, however, the evidence he presents inconclusive. I believe that they did not need to divorce their wives and that their offspring, born before or after their naturalization, would be citizens κατὰ νόμον, with the limitations imposed by the law given in § 92. It is difficult to believe that the present of citizenship would have the unwelcome consequence to dissolve the family of the naturalized citizen. On the contrary, it seems to me that the law was concerned to cover the existing family of the new citizen, along with him. I think it is important that the children of the naturalized citizens born by the time the decree was passed are not mentioned by name in the decree. If the offspring born after the decree were not citizens, one would expect that the naturalization decree would clearly state this or that it would name the existing offspring of the naturalized man (cf. IG ii<sup>2</sup> 109; 207; 237) In the case of Dionysios (IG ii<sup>2</sup> 103) his sons are mentioned by name, because the Athenians

wanted to honour them along with their father, as Osborne suggested] If they were not married they had the right to marry an Athenian woman and in this case their offspring had the full rights of an Athenian citizen by birth (e.g. Ap. married an Athenian woman; cf. § 2). Any non Athenian either by birth or naturalization was a ξένος. The word mostly includes free non Athenian persons; the legislator did not have slaves in mind, as περὶσθω in § 16 implies, I suppose because it was inconceivable for a slave to be considered as partner of a citizen.

The meaning of συνοικεῖν in the context of this law is less straight forward. The question is whether the jurisdiction of this law extends to any kind of union between a foreigner and an Athenian or if it only refers to legitimate marriage. As far as I know, συνοικεῖν can only imply legitimate marriage (§ 14, 17, 51; Isae. 2,4; 3,16 al.) or at least purported marriage. MacDowell *Law*, 87 says: *The word συνοικεῖν implies a purported marriage, not mere concubinage.* Walters (CA, 2 [1983] 320-21) agrees. Two arguments drawn from this speech speak for that: 1) If this law forbade every kind of cohabitation Ap. would not presume that St. would argue in his defence, that Neaira lived with him as a courtesan (cf. § 118) not as a legitimate wife (cf also § 122, τὰς μὲν... with com.) 2). In the law of §52, the word used is ἐκδῶ which applies to a legitimate marriage. Many cases of Athenians who were living with foreign women, without any fear (e.g. Olympiodoros, D.48,53; Euctemon, Isae. 6, 19 ff.) also make clear that συνοικεῖν here means legitimate marriage. It implies

the action of living together, as a couple in a legitimate wedlock. Ap. gives a wide definition of it: § 122: τὸ γὰρ συνοικεῖν ... ἀνδράσι. Enjoying the rights of a couple of Athenian citizens legally married is what the legislator had in mind by συνοικεῖν here.

Now we should pass to the point to see in which context was this law produced and to what it intended. Several scholars (e.g. MacDowell *Law*, 87; Walters, 320 ff.; Osborne loc.cit.) believe that the Periclean law of 451/0 declared a marriage between an Athenian and a foreigner invalid. This is likely, but we have no clear evidence. We do not know whether Pericles' law actively declared illegitimate the union between an Athenian and a foreigner or the Athenians stopped marrying foreign women, in effect of this law, as Harrison (1, 24 ff.) supported.

After 403 and certainly in the fourth century ἐγγύη was only meant with a legitimate wife, of citizen status (ἀστῆς γυναικὸς καὶ ἐγγυητῆς κατὰ τὸν νόμον, 106). Athenians still could live with foreign women, as concubines (παλλακαὶ; cf. § 122 and com.) and foreigners could live with Athenian women (usually courtesans) or marry other foreign women and all these unions were perfectly legal. In some cases, however, we can understand that an Athenian would attempt to present his concubine as a legitimate wife or his children with her as offspring of a legitimate marriage, or that a metic would pretend that he is an Athenian and try to marry an Athenian woman. If the device was

successful the non Athenian member of this union intruded into the body of citizens and the children of this union would have full rights to inheritance and citizenship. The present law intended to stop the pretence of a legitimate marriage. (See also Walters 321). It intended to stop Athenians from trying to integrate their foreign partners or children in their society through this pretence. It also tried to stop foreigners to enter the Athenian society by marrying Athenian women. The main target of this law is more clear in § 52: the punishment was more severe for a person who tried to deceive deliberately a simple-minded Athenian. The main target of the law was pretence and the phrase τέχνη ἢ μηχανῆ ἤτινιοδόν, tries to eliminate several ways which people would use to put this device into practice. It is a standard phrase appearing in legal texts, oaths or treaties with the intention to exclude any possible violation of the law, the oath or the treaty with a device: D. 21, 113 (τροπή ἢ μηχανῆ, cf. MacDowell's *com ad loc.*), 24, 150; *SIG<sup>3</sup>* 47, 11; 52, 5, 64, 20; 955, 40: μήτε τέχνη μήτε παρευρέσει; *IG ii<sup>2</sup>* 1289: μήτε τέχνη μήτε παρευρέσει μηδεμιᾶ; *IG i<sup>3</sup>* 40, 22-3; 86, 6-7; *CIA ii* 578 al. [In Lysias it is used to give the highest possible emphasis to the main verb: 13,95 μήτε τέχνη μήτε μηχανῆ μηδεμιᾶ θάνατον ἐκείνων ... καταψηφίσθητε, 19, 11; δέομαι δ' ὁμῶν πάση τέχνη καὶ μηχανῆ, 19, 53; πάση τέχνη καὶ μηχανῆ ἐλέησατε]

ἔστω] FQ give ὡσαύτως. But cf. κατὰ ταύτᾳ following and 23, 89. // 17 . ἐξ ἀρχῆς] The phrase appears in all speeches of Ap. (47, 4; 49, 4; 50, 2. 21; 52, 2; 53, 3). [D. 46 is the second speech]. At the

beginning of every speech Ap. promises to give full details on the events he will narrate and he does so.

18-20] This part is carelessly composed:

1) There are annoying repetitions: § 18 ταῦτα - ταύτην - τούτων; § 19 αὐτὰς- αὐταῖς - αὐτῶν.

2) There are several anacoloutha: α) The names of Nikarete's girls, although they come as an explanation to ἀπασῶν are in accusative, as if the orator had said ἀπέδοτο ἀπάσας. β) τοῦτο ... ἐπανελεῖν: we would expect a preposition (ἐπί, εἰς, πρὸς etc) before τοῦτο (cf. τοῦτο ... ἐπιδείξει § 17) γ) ἦν μὲν οὖν ... ἐκτίσατο, καὶ ὡς ἠλευθερώθησαν ... δηλώσω instead of ὡς μὲν οὖν ἕκαστος ἐκτίσατο. Older scholars suspected the text in various ways (cf. Schaefer ad loc.), but I think they have overemphasized the clumsiness of the composition.

18. ἐπὶ γὰρ] γὰρ at the beginning of a new section must be understood in connection to the end of § 17 ὡς οὖν ... ἐπιδείξει, intending to attract attention to the start of the narration. See Denniston, p. 59; Pl. Ptg. 320c. Lys. 3, 5-6; 9, 13; 13, 19 al.

παιδίσκας ἐκ μικρῶν παιδῶν] The passage is not repetitious: παιδίσκας is a term for a young slave (e.g. Lys. 1, 12). The orator makes clear that they were only small children, when Nikarete bought them.

**Νικαρέτη]** We have no further evidence. This Nikarete should be distinguished from **Νικαρέτη ἡ Μεγαρίς**: The second is described as οὐκ ἀγεννῆς ... ἀλλὰ καὶ γονέων ἔνεκα καὶ κατὰ παιδείαν ἐπέραστος .... ἠχροῶτο δὲ Στίλπωνος τοῦ φιλοσόφου. This Nikarete, is a freedwoman. Athenaios speaks of the present Nikarete (593f) as **Νικαρέτη ἡ ἑτάιρα** and of the famous courtesan (596e) as **Νικαρέτη ἡ Μεγαρίς**.

The orator makes a quite realistic portrait of Nikarete (cf. below). She had a keen eye in choosing the girls and she knew how to educate them to become commercially successful courtesans. Then she certainly knew how to run her business, how to extract the most from the infatuated lovers of the girls, and how to keep the girls under strict control. She sounds clever and in a sense ruthless.

**Χαρισίου τοῦ Ἡλείου]** SQY'r wrongly give Ἡλείου. We have no further evidence. Athenaios (593f) gives the form **Κασίου**. It would be useful to examine here the relation of the text Athenaios with this text. There are some striking similarities between the two texts: a) the order of the names of Nicaretas girls (§ 19 = 593f) b) § 45: **συνῆγον αὐτοὺς οἱ ἐπιτήδευοι καὶ ἔπεισαν δίκαιαν ἐπιτρέψαι αὐτοῖς** = 593f: **δαιτητῶν γενομένων φίλων** c) § 46: **συνεῖναι δ' ἑκατέρω ἡμέραν παρ' ἡμέραν** = 593f: **τὴν δὲ Νέαιραν εἶχον ἡμέραν παρ' ἡμέραν** d) § 116 = 594 a-b: **Ἀρχίαν** ..... **ἱερέας** e) The phrase **Λυσίου τοῦ σοφιστοῦ**, § 21= 593f

On the other hand, we find some inconsistencies between the two texts: a) Athen. 593f Νικαρέτη ἡ ἑταίρα; here she appears to be a procuress. b) Athen. 593f says that Nikarete and Metaneira were slaves; here Nikarete appears to be a libertine and the seven girls to be her slaves. c) Although Ath. refers to some of Neaira's lovers he omits many of them (cf. 593f and the narration of the speech, especially § 108). d) some details are different: Στρυβήλην, § 50 = Στρυμβήλην, 594a; οὐ γάρ πω ἦν ῥήτωρ (Στέφανος), ἀλλ' ἔτι συκοφάντης, § 43 = Στεφάνου τοῦ ῥήτορος, 593f; Χαρισίου, § 18 = Κασίου 593f; Δημοχάρους δὲ ἀδελφός, § 30 = Δημοχάρους δὲ ἀδελφιδοῦς, 593f. Ἄντιαν SF and A of Athenaios, Ἄντειαν the rest of both authors.

In conclusion I believe that a) Athenaios has read the whole speech and he had in mind its content, although he remembered some things wrongly. He remembered also some striking details, which he quotes with no consistency and sometimes for no particular reason. b) He had consulted a manuscript for: 1) the catalogue of the courtesans in § 19, 2) Probably § 45-6 and 3) § 116, which is evidently copied. Thus in general I do not think that Athenaios can put in question the authority of the mss of the speech, except for the parts for which he has carefully consulted a ms.: there sometimes he preserves the correct reading as in § 116: ἐκείνου, along with D, against ἐκείνης of the rest of the mss. In some cases like Ἄντεια / Ἄντῖα the transmission is divided and the correct reading uncertain. In § 116 (cf. com.)

ὡς ἀσεβοῦντα καὶ θύοντα, although some scholars have followed Athenaios (e.g. Blass) the mss of the speech seem to be correct.

Ἴππ(ου) We have no further evidence. We know at least two persons from Elis with this name: Ἴππίας ὁ Ἡλείος, the famous sophist, and Ἴππίας, the politician who lived in the first half of the fourth century (see *RE* s. v. Hippias).

{καὶ δυναμένη} Auger suspected the text: *deinde καὶ δυναμένη superflua videntur et de scholio in textum irrepsisse*. Reiske was of the same opinion: *sublatio quidem illis neque sententiae decedit quicquam et elegantiae accedit*. After Dindorf all editors accept this suggestion: δεινὴ is a *vox media*; it does not need any further interpretation. cf. 1, 3; 20, 150; 22, 66; 29, 32; 58, 38.

συνιδεῖν] "to discern with a keen eye"; cf. 41, 24; 45, 68.

19. τῆν ἡλικ(αν) Their flourishing age. See the discussion in § 22.

συλληβδην] We should not understand "at the same time", because they were not all of the same age ( see the relative discussion below), but "of all of them"; cf. ἐκάστης preceding.

20. ἀπὸ τῶν πριαμένων] SYrD give παρὰ; FQ ὑπό. Blass changes to ἀπὸ in comparison to Pl. R. 569a. All modern editors follow Blass, while all the previous accepted ὑπό. SYrD are probably wrong

because παρά is repeated after a few words. ὑπὸ is the usual way of indicating the passive agent (Kühner - Gerth, 1, 127-8); ἀπὸ for the indication of the passive agent is quite rare in other authors, except Thucydides (Kühner - Gerth loc.cit.). I think, Blass understood ἀπὸ meaning separation: "from their masters". Perhaps he had in mind the case of Neaira, who was not liberated by her masters, but she was manumitted after a contribution by her lovers. But ὑπὸ of FQ suits well here: "by their masters" is probably what the orator had in mind. Phila (cf. com.) was liberated by Hyperides who bought her from her master. Courtesans were sometimes bought and liberated by men who fell in love with them. cf. D. 48, 53; Ar. V. 1351-3 al.

ὔδατος] "If I have enough time left at my disposal". In the Athenian law-courts a waterclock with a hole, through which the water was pouring out slowly, was used for the timing of the speakers. One waterclock found in the Agora in Athens, needs six minutes to empty (S. Young *Hesperia* 8 [1939] 274-84); it was refilled several times, and the time each side had, equal for the prosecutor and the defendant, depended on the type of the case: public cases were given more time than private. When documents were read the herald stopped the flow of the water (cf. e.g. D. 45, 8: σὺ δ' ἐπίλαβε τὸ ὔδωρ; 54, 36 al.). For a public case, as the present one, the time available to each side was 132 minutes, except for the time spent for the recitation of documents. Thus ὔδωρ actually means "time" in this context: cf:

D. 19, 57; 45, 47; etc. and Rhodes *AP* 719 ff.; MacDowell *Meidias* 347 al.

ἠργάζετο ... μισθαρνοῦσα] Lambinus proposed εἰργάσατο τρισὶ τρυπάναις μισθαρνοῦσα obviously in comparison to Hermogenes (p. 325, Rabe): see com. § 108.

ἠργάζετο] S only gives ἠργάζετο, all the rest give εἰργάζετο. Threatte (*Grammar* 170) says that, in the 4th century εἰ instead of ἠἰ is very rare. For that reason, it is preferable to follow S and accept ἠργάζετο in all places it appears in the speech (cf. e.g. § 41).

[For the purposes of this work I will only discuss the possibility of identification of the girls of Nicarete with characters known to us from other sources in the following notes. For further information about the comedies mentioned see Madeleine Mary Henry: *Menander's courtesans and the Greek Comic Tradition*, Frankfurt a.M.- Bern-New York- Lang 1985 (especially for Philemon p. 43 ff) with rich bibliography and in Breitenbach *De Genere*, passim.]

\**Ἀντεία*] The testimonies about a courtesan, named \**Ἀντεία* are:

1. Athen. 570e quoting Anaxandrides' Γερωντομανία (= Kock II, p. 138, fr. 9): τὴν ἐκ Κορίνθου Λαῖδ' οἶσθα; ... ἣν ἐκέλευε τις φίλη / \**Ἀντεία*

2. Athen. 586e: Λυσίας δ' ἐν τῷ πρὸς Λαῖδα (fr. 148 Scheibe = 59 Thalheim), εἴ γε γνήσιος ὁ λόγος, τούτων μνημονεύει. "Φιλύρα γε τοι ἐπαύσατο πορνευομένη ἔτι νέα οὔσα καὶ Σκιώνη ... καὶ

"Ανθεια." μήποτε δὲ δεῖ γράφειν ἀντὶ τῆς Ἀνθείας Ἀντειαν (ἀντιαν: A, of Athenaios) οὐ γὰρ εὕρισκομεν παρ' οὐδενὶ Ἀνθειαν ἀναγεγραμμένην ἑταίραν, ἀπὸ δὲ Ἀνθείας (ἀντίασ: A) καὶ ὄλον δράμα ἐπιγραφόμενον, ὡς προεῖπον Εὐνίκου (= PCG Εὐνικός, fr. 1) ἢ Φιλυλλίου Ἀντεία (ἀντία: A) ἐστίν. cf. Athen 567c; 592e and Sud. φ 457.

3. One comedy by Antiphanes (Athen. 127b; Poll. 7, 59 = Kock II, p. 24-5, fr. 34-6) and one by Alexis (Athen. 127b = Kock, II, p. 301) had also this title.

4a. Harp. 37, 5: Ἀνθεια (Ἀνθία, B of Harpocration; for the form of the name cf. Sud. ξ 50): ὅτι μὲν ἑταίρα δηλόν· μήποτε δὲ Ἀνθεια γραπτέον διὰ τοῦ τ, ἐπεὶ οὕτως εὔρομεν παρὰ Λυσίᾳ (fr. 148 Scheibe).

4b. Phot. α 1946: Ἀνθεια· ὄνομα ἑταίρας. τινὲς δὲ ἀντὶ τοῦ θ διὰ τοῦ τ Ἀντειαν γράφουσι. cf. Anecd. Bek. 403, 27.

SF give Ἀντίαν. Our sources are confused whether Ἀνθεια, Ἀντία, Ἀνθεια or Ἀνθία is the right form of the name. From the way they are divided (if the evidence of the mss of various authors is accurately recorded in the editions) I find slightly more likely that the correct form is Ἀνθεια. Nevertheless, all these sources seem to speak about the same person, a famous courtesan who flourished at the beginning of the fourth century. If the speech "πρὸς Λαΐδα" belongs to Lysias, she was sold and gave up prostitution before 380. As she seems to have been a well known courtesan, in all probability she worked several years before she was sold and gave up prostitution. The connexion with Lais also sets the period very early in the 4th century and if

we believe Sud. φ 457, that Φιλύλλιος is a poet of the old comedy, then all the evidence we have suggests that she flourished in the very early years of the fourth century. If this dating is correct, she was considerably older than Neaira, who in 380's was still a young girl (cf. § 22 and com.) See also Breitenbach *De Genere*, 119 ff. and *RE* 1, 2348-2349 Wissowa.

The connection of "Αντεια with 'Αριστόκλεια, another girl of the catalogue of § 19, (Test.2) and the relation with Corinth (Test.1) speak for the identification of the famous courtesan with the girl of § 19.

**Στρατόλαν]** There is no further evidence.

**'Αριστόκλειαν]** Lysias' fragment (see com. "Αντεια, Test.2) confirms the identification of the girl mentioned there with this one and attests that she gave up prostitution while still young. She was probably a contemporary of "Αντεια.

**Μετάνειραν]** The testimonies about her are:

1. Athen. 587 c-d: 'Υπερείδης (fr. 13 , Blass) μέμνηται ἐν τῷ κατὰ 'Αρισταγόρας β' λέγων οὕτως: "ὥστε Λαῖς μὲν ἢ δοκοῦσα πασῶν τῶν πώποτε διενηνοχέσαι τὴν ὄψιν καὶ "Ωκιμον καὶ Μετάνειρα".
2. Athen. 584f, quoting Hegesandros, presents her as an intelligent woman
3. Athen. 592b: καὶ 'Ισοκράτης ὁ νῦν ῥητόρων αἰδημονέστατος Μετάνειραν εἶχεν ἐρωμένην καὶ Λαγίσκαν ὡς Λυσίας ἱστορεῖ ἐν ταῖς ἐπιστολαῖς (fr. 166, Scheibe = 111-2 Thalheim: one letter

attributed to Lysias and addressed to Metaneira). Δημοσθένης δ' ἐν τῷ κατὰ Νεαίρας τὴν Μετάνειραν τοῦ Λυσίου φησὶν ἐρωμένην εἶναι.

4. Plu. Mor. 836b: Δημοσθένης δ' ἐν τῷ κατὰ Νεαίρας λόγῳ ἐραστὴν αὐτόν (τὸν Λυσίαν) φησι γεγονέναι Μετανείρας.

When Neaira was still a young girl, in the 380's, she was already a glamorous courtesan. She should be some years older than Neaira but younger than Ἄντεια (cf. com. Ἄντεια), thus born at the end of the fifth century.

See Dover *Lysias* 34-38; *RE* 15, 2. 1324-1325, Kroll and com. Λυσίας ὁ σοφιστής.

**Φίλαν]** The testimonies about a courtesan with this name are:

1) Athen. 587e: Φιλέταιρος ἐν Κυναγίδι (*PCG* fr. 9). ... οὐχὶ Λαῖς μὲν τελευτῶσ' ἀπέθανεν βινουμένη, / Ἴσθμιάς δὲ καὶ Νεαίρα κατασέσηπε καὶ Φίλα;

2) Athen. 590c-d: Ὑπερείδης δ' ὁ ῥήτωρ ... Φίλαν ... ἐν Ἐλευσίνι (εἶχεν), ἣν πολλῶν ὠνησάμενος χρημάτων εἶχεν ἐλευθερώσας, ὕστερον δὲ καὶ οἰκουρὸν αὐτὴν ἐποίησατο, ὡς Ἰδομενεὺς (*FGH* 338 f. 14) ἱστορεῖ.

3) Plu. *Mor.* 849 d: ἐν Ἐλευσίνι δ' ἐν τοῖς ἰδίοις κτήμασι Φίλαν τὴν Θηβαίαν, εἴκοσι μνῶν λυτρωσάμενος ...

Test. 3 puts a question: is Phila in Test. 1 with Phila in Test. 2 and 3 the same person? Phila in Test. 1 is in all probability the same person with Phila of the present passage: the connexion with Neaira and Isthmias supports this view. But was this Phila a Theban? One might think that she was not; she was only a slave of Nikarete and among courtesans names like this were common. If so,

Phila, the lover of Hyperides, would be a different one than the present Phila. But it is not impossible to bring the evidence together and suggest that all our sources speak about the same person. There are several possibilities: a) that Phila was of Theban origin indeed, before she was sold as a slave; b) that it was a lie to her lovers, with the purpose to raise her price; c) that the information of Plutarchos is inaccurate. Whatever the case, the present Phila seems to have been a contemporary of Neaira: Philetairos' fragment (Test. 1; cf. Intrad. ch. 2) is making a joke about the age of the three girls. This joke works better if the three girls appearing together were roughly of the same age.

Ἰσθμιάδα] Evidently her name is related to the Panhellenic festival of Isthmia and indicative of the fact that her activity was connected with Corinth. Athenaios refers also to an ἀλχητρὶς with the name Νεμεὰς (587c) and to a famous courtesan named Πυθιονίχη (594e ff.). Philetairos' fragment (cf. com. Φίλαν) makes the identification of that courtesan with Nikarete's girl highly likely.

In conclusion we can say that:

1. The place of the story narrated here is Corinth and the connection of these girls to Corinth is clear in various ways: Anteia is reported to have been a friend of the famous Corinthian courtesan Lais. Isthmias sounds like a Corinthian name. Stratola and Phila are also Doric names.

2. All Nicarete's girls had been well known courtesans and Ap. mentions their names because he expects that the judges would recall stories which they had heard about them.

3. What Ap. says about Nicarete's successful selection and her skill to bring them up in a way that they would become gracious and glamorous courtesans seems to reflect the reality.

4. Ap. mentions the girls roughly in order, according to their age. Anteia and Aristokleia probably had flourished at the beginning of the fourth century and had given up a few years before 380. We know nothing about Stratola, but it would be reasonable to suggest that since she is mentioned between Anteia and Aristokleia, she was a contemporary with them. Metaneira was a few years younger than them, since she was flourishing in the second half of the 380's. The younger set Phila, Isthmias and Neaira flourished a few years later, ie. in and after 380.

21. Λυσίας ὁ σοφιστής] The only evidence we have identifying the present Lysias with the orator, the testimony in § 23, is of doubtful authority, because this document is perhaps fabricated (cf. com. ad loc.). In antiquity it was believed that the Lysias mentioned here and the orator are the same person (cf. com. § 19, Μετάγειρον). We even have a letter attributed to Lysias and addressed to Metaneira (fr. 166 Scheibe = 111-2 Thalheim). As far as I know, the only person who was not convinced that this Lysias is the orator was Taylor. The most recent account is by Dover (*Lysias*, 34-38) who believes that Lysias is the orator. He asks

who else with this name could be characterized as σοφιστής at this time.

σοφιστής had an unfavourable implication, when used for an orator in the 4th century (e.g. Aesch. 1,125.173.175; 3,202). Dover, however, is correct in stating that Apollodoros' purpose was not to insult Lysias. σοφιστής could have many different meanings and in this sense it is a flexible word (cf. *LSJ*, s.v.). Ap. might not be aware of the difference between Lysias and the teachers of rhetoric and may not know exactly what Lysias was, so he uses this vague term. But if he uses it deliberately instead of "orator", then this is the first instance in which the word appears with this meaning and no unfavourable implication.

I agree with Dover that no other person known to us fits this description; this Lysias is probably the orator. A slight problem might be that although he was quite old at this time, he still appears to be physically active and his mother is still alive. But Dover says an old man could be with the company of a young and attractive courtesan and Lysias' mother could be *centenaria* η

ἐβουλήθη] S gives ἡβουλήθη. Blass and Murray accept ἡβουλήθη. Rennie and Gernet accept ἐβουλήθη. Threatte ( *Grammar* 159 ff.) says that this type of augment is very unusual in the fourth century and according to *LSJ* the form ἡβουλήθη is found after 300 B.C. in inscriptions. ἐβουλήθη is preferable

ἀναλώμασιν] Apart from the fee paid to Metaneira's owner, more money could be spent by the lover of the girl on other things like jewellery, clothes, maids (§46; Luc. *DMeretr.* 5,4; 6,2; Alciphr. 4,17,5 al.), banquets (§24, 48, Ar. *V.* 1219; Luc. *DMeretr.* 15, 1-2 al.) etc. Expenses also for the travel and the hospitality were included (§21, 22, 108). Nikarete asked the lovers of Neaira to pay all the costs of the house (§ 29; cf. Luc. *DMeretr.* 14, where the lover pays the rent of the house in which the girl lives). In general, having a beautiful courtesan was an expensive thing as the lifestyle of some courtesans was quite extravagant (§ 36, 39, 42; Ar. *Plu.* 149-52; X. *Mem.* 1,6,13; Aesch. 1, 132 ff.; Isoc. 8,103 al.)

ἵνα μνηθῆ] The initiation into the Eleusinian Mysteries included two stages; the first was a preparation for the second. The first stage, the Lesser Mysteries, took place at the end of February (in Anthesterion) in Athens at Agrai, on the banks of Ilissos. In the cold water of the river the believers were purified and prepared for the initiation into the Greater Mysteries. Only persons who had been initiated into the Lesser Mysteries were allowed to participate in the initiation into the Great Mysteries at Eleusis one year after. The rites of the Great Mysteries started on the 15th of Boedromion (September - October) at the Telesterion of Eleusis. Nothing in the text suggests that Metaneira was already initiated into the Lesser Mysteries. Thus in all probability, the Mysteries mentioned here are the Lesser Mysteries. The visit of Metaneira and Nicarete to Athens must be

placed in February. We do not know whether Metaneira went again to Athens the next year for the initiation into the Great Mysteries. For further details and bibliography see Mylonas: *Eleusis*, 224 ff.; Kerényi: *Eleusis* 45 ff.; Richardson *The Homeric Hymn to Demeter* 89 ff.; Parke *Festivals* 55 ff.

ὑπέσχετο μῆσαιν] The initiation into the Mysteries demanded some expence. The initiates had to pay for the services, for offerings, pitchers, wine etc. In the accounts of the year 329/8 (IG 11<sup>2</sup> 1672, 207) we find that for the initiation of two public slaves (δημόσιοι) a sum of 30 drachmas was demanded. It is self-evident that the state would spend the lowest sum necessary for the initiation of the slaves. Lysias' presents for Metaneira's initiation would be more expensive and he had to pay for their travel and maintenance and contribute seriously to the banquets in which they participated. We do not know the cost of the Lesser Mysteries, but the amount due to be spent by Lysias was sufficient to be thought of as a great personal favour to the girl. See Kerényi, 59 ff., Mylonas, 237-8.

22. οὐκ εἰσάγει] For εἰσάγω with the meaning "I accept someone in my house, I offer hospitality to someone" cf. § 39; D. 40, 57; 43, 29. 77; Lys. 1, 40 al.

αἰσχυνόμενος] To keep a courtesan or a concubine under the same roof as the legitimate wife and the other women of the house was not tolerated. In And. 4, 14-5 the wife of Alcibiades asks her

male relatives to protect her against her husband's behaviour in bring<sup>ing</sup> his courtesans into the house. Athen. 556b speaks about the tolerance the Persian Queen had towards the concubines of the King and Hecuba's tolerance towards the concubines of Priamos as a phenomenon strange to the Greek world contrasting them with Klytimestra (556c) who did not tolerate Kassandra. Euctemon (Isae. 6,21) kept his lover in a separate house in Kerameikos.

**Βραχύλλου]** Plu. *Mor.* 835d says: ὤχετο (ὁ Λυσίας) σὺν τῷ πρεσβυτάτῳ ἀδελφῷ Πολεμάρχῳ (ἦσαν γὰρ αὐτῷ καὶ ἄλλοι δύο Εὐθύδημος καὶ Βράχυλλος). Two other sources give different evidence: Pl. R. 328b says: Ἦμεν οὖν οἴκαδε εἰς τοῦ Πολεμάρχου, καὶ Λυσίαν τε αὐτόθι κατελάβομεν καὶ Εὐθύδημον, τοὺς τοῦ Πολεμάρχου ἀδελφοὺς. D.H. *Lys.* 1 says: ὤχετο (ὁ Λυσίας) πλέων σὺν ἀδελφοῖς δυσίν. Blass (*Beredsamkeit* 1, 346, n.1), Plöbst (*RE*, 13.2, 2533-2543) and Dover (*Lysias*, 39-40) agree that the mistake in Ps-Plutarch is due to the misunderstanding of the word ἀδελφιδῆν in the present text, which he used as a source: He understood the word to mean "daughter of the brother" but it can also mean "daughter of the sister". Brachyllos was the husband of Lysias' sister.

**Φιλόστρατον]** He was a well known orator. In 366/5 he prosecuted Chabrias about Oropos. About 359/8 he was the winner choregus in Dionysia and in 342 a trierarch, with his father. It seems that in 330, when the trial against Phainippos was held, Philostratos was dead, because Phainippos is already the owner of his

grandfather's property. For further evidence see Davies *APF*, 552 and *RE* 20.1, 123 Fiehn.

φίλον αὐτῶ] Rennie, following FQ understands that the emphasis falls on ἦθεον ἔτι. φίλον αὐτῶ follows as an unemphatic addition. In the text of the testimony the presence of ὄντια between φίλον and ἑαυτῶ concentrates the emphasis on ἑαυτῶ.

Νέαιρα αὐτῆ] SFQD give αὕτη Ἰρ αὐτῆ. It should be αὐταῖς (Μετάνειραν καὶ Νικαρέτην). Herwerden (*Mn.* 3 [1875] 357) corrected to αὐτῆί (cf. com. § 14).

νεωτέρα δὲ οὔσα διὰ τὸ μῆπω τὴν ἡλικίαν αὐτῆ παρεῖναι] This passage has been the subject of a long discussion among the critics of this text:

The word ἡλικία has a wide range of meanings. It can be used for any age. For women it is often used to indicate that they are at the best age to be married (Isae. 2, 4; 8, 8; D. 19, 194-5). The age to be married was when the woman was 14-15 years old (D. 29, 43 in comparison to 27, 4; X. *Oec.* 7, 5; D. 40, 3, 4. 13. 18. Arist. *AP.* 56, 7, if the restoration of Blass is correct, sets the higher limit in which an epicleros should be married to fourteen; cf. Wyse *Isaeus* 310-11). Pl. *R* 461b sets the best age for the birth of children for women to 20-40 years old. It also means "youth": Isoc. 3, 45; Hdt. 7, 18; al. In extension ἡλικία signs some qualities of youth: it means youth with desire (Hdt. 7, 18), decency (Aesch. 1, 82) and

in Hdt. 3, 36, 1 we read μη πάντα ἡλικίῃ καὶ θυμῷ ἐπέτρεπε. In the present text, in both places it appears (cf. § 19) it means "prime youth, flourishing beauty". If a girl was in the right age for marriage when she was fourteen, a courtesan was in the right age when her beauty was at its best, presumably after the age of 14-5. A passage of Lysias (fr. 1, 4-5 Sheibe, Thalheim) uses the word with this meaning but sarcastically: οὕτως ἐρωτικῶς τὸ κόριον μετεχειρίζετο, τῆς ἡλικίας αὐτῆς ἀπολαύων, ἧς ῥᾶον τοὺς ὀδόντας ἀριθμῆσαι ... ἢ τῆς χειρὸς τοῦ δακτύλου. In § 19 the orator says that Nicarete made her fortune by using the beauty of the girls, at their prime. Here the orator says that Neaira was younger than being in her prime. Nicarete, I suppose took her to Athens because she just had started prostitution (ἐργαζομένη μὲν ἤδη τῷ σώματι). She was still very young, but old enough to be initiated; I assume she was about 13-14 years old. [Anne Carson gives a few more words used in Greek in a similar way as ἡλικία in her article *Putting Her in Her Place: Woman, Dirt and Desire* published in *Before Sexuality: The Construction of the Erotic Experience in the Ancient World*, ed. by David M. Halperin, John J. Winkler and Froma I. Zeitlin, Princeton, New Jersey 1990, p. 145 ff. Words like ὀπώρα, καιρὸς or ἔρα are used in a different sense for women than for men, in order to indicate their bloom]

The main problem of the passage is that διὰ + acc. can only mean "because": "she was younger because she was not at flourishing age", a useless and disturbing tautology. The meaning would be much better if the second part came as an explanation to the first νεωτέρα οὔσα.

Scholars have tried to emend the text in different ways. Some thought that νεωτέρα is corrupt and proposed to replace it: Blass suggested ἀφανεστέρα in comparison to § 18: ἐπιφανῶς ἐργαζομένης. [Rennie's attribution of ἀφανεστέρα to Herwerden is mistaken] Rennie suggested εὐωνοτέρα (cheaper). The weak point of these suggestions is that the premature beauty of Neaira could have a lot of admirers and Nicarete could make a lot of money out of it. Thalheim (*Hermes* 56 [1921] 432) proposed ἀποτέρα in comparison to Ant. 3, a2, b12. But the tautology becomes even harder.

Other scholars thought that διὰ τὸ μήπω is where the mistake is. Jurinus proposes οὔσαν, ὥστε μηδέπω τὴν ἡλικίαν. He believes that ὥστε was initially omitted and then διὰ was added. Dover, (*Lysias* 36, n. 6) finds διὰ odd, too.

Some scholars have adopted more radical solutions. Sauppe deletes διὰ τὸ .... παρῆναι as a gloss. Dindorf agrees with him. Herwerden (*Mn.* 3 [1875] 357), probably independently from Sauppe, prefers the same solution *huc delata sunt e margine, ceterum malim νεωτέρα δ' ἔτ' οὔσα*. If we delete these words we are deprived of important information about the age of Neaira and Metaneira and in this sense, I am not fond of this extreme solution.

νεωτέρα and τὴν ἡλικίαν αὐτῇ παρῆναι fit well in the context: the sense they give is perfectly clear. διὰ τὸ μήπω is what seems to be odd and the corruption is, I think, at this point. Besides,

the suggestion of Herwerden δ' ἔτ' οὔσα is very likely to be correct: cf. Pl. *Euthd.* 306d: ὁ μὲν οὖν νεώτερος ἔτι καὶ μικρὸς ἐστίν, Κριτόβουλος δ' ἤδη ἡλικίαν ἔχει. There are several ways to remove the tautology. 1) Instead of διὰ we could write κατὰ (νεωτέρα δ' ἔτι οὔσα, κατὰ τὸ μήπω τὴν ἡλικίαν αὐτῇ παρεῖναι. cf. *LSJ*, s. v. B, IV, 2), meaning "she was younger, in the sense that she was not yet in her flourishing age". 2) We could adopt a solution similar to that of Iurinus: νεωτέρα δ' ἔτι οὔσα, ἢ ὥστε τὴν ἡλικίαν αὐτῇ παρεῖναι. The grammar is perfect (-τερα + ἢ ὥστε + infinitive) and the sense good. But it is difficult to explain the course of the mistake. 3) A third solution would be νεωτέρα δὲ οὐδ' ἀκμήν, ἢ ὥστε τὴν ἡλικίαν αὐτῇ παρεῖναι: "she was younger still, than being in her flourishing age". ἀκμήν (meaning "yet, still") is a poetic word yet not unknown in Attic prose: cf. Hyp. fr. 116 Blass; X. An. 4, 3, 26; Plb. 1, 13, 12. Theoc. 25, 164: νέος ἀκμήν supports directly this solution. It can explain the mistake well, because the combination of letters is quite similar to what our mss. give and it is easier to understand why an unusual word was misread and thus corrupted. διὰ τὸ μήπω looks like an intervention by a grammarian. Still I do not find any of these solutions convincing enough to replace the text of the mss. Thus I would include διὰ τὸ μήπω in *cruces*.

23. τούτων] YrD give τοῦτον. But cf. § 24, 32, 40 al. the phrase τούτων . . . . μάρτυρα καλῶ

**ΜΑΡΤΥΡΙΑΙ** Westermann (cf. Drerup) denied the authenticity of the present document. Kirchner (*RhM* 40 [1885] 377 ff.) and Drerup (*Urkunden*, 343) defended it. The main arguments in this discussion are:

1. The information given by the orator that N. was already working as a prostitute (ἐμισθάρνει τῷ βουλομένῳ ἀναλίσκειν) is omitted in the text of the testimony. Westermann uses it as an argument against the authenticity of the testimony. Drerup answers that, what was interesting for the case of Apollodoros, is clearly said in the document. The information, omitted could be a disturbing detail: so dürfen wir des Philostratos Haus ... nicht ohne weiteres als Bordell betrachten. But the information missing is vital. Philostratos was called to testify that N. was already working as a prostitute under Nikarete, not that she visited Athens. The moral point Drerup makes was of less importance in front of an Athenian law-court.

2. The testimony adds the name of the father of Philostratos. But this is not a strong argument because Philostartos was a quite well known personality (cf. com. Φιλόστρατος) and besides, fabricated testimonies in other speeches (e.g. D, 18; 21 al.) sometimes are rich in this sort of additional information.

3. The name of the father of Lysias was well known to grammarians

4. No further information is added in the testimony which could not be derived from the text of the speech.

5. There are some characteristic phrasal similarities between the text of the orator and the testimony. a) In § 22 we read ὡς Φιλόστρατον; in the testimony we read ὡς αὐτόν. b) φίλον ὄντα ἑαυτῷ καὶ ἐπιτήδειον seems to echo the phrase of the speech ἦθεον ἔτι ὄντα καὶ φίλον αὐτῷ. ἦθεον is replaced by ἐπιτήδειον. This could be a misunderstanding of the meaning of ἦθεος.

6. The phrase ἐπεδήμησαν ἐν Κορίνθῳ οἰκοῦσαι is clumsy; ἐκ Κορίνθου (cf. e.g. Pl. *Prm* 126b) would be easier.

7. The information that Metaneira was a slave of Nikarete is superfluous

The testimony could be easily derived from the context. It is not exactly what we would expect of Philostratos to say and it presents some further problems. Thus, I believe it is not authentic.

24. Σίμος ὁ Θεσσαλός] The same person as Σίμος ὁ Λαρισαῖος in § 108 and D. 18, 48, a significant personality of the first half of the fourth century in Larissa. He was one of the Aleuades and eventually became the leader of his city. In the fight against the tyrant of Pherai he asked the help of Philip, giving him the opportunity to be involved in the political issues of central

Greece. In 353 Philip became actively involved. In 344 he removed the power from the hands of the tyrants and divided Thessaly into four tetrarchies. Simos was the tetrarchos in one of them. Later his relationship with Philip broke off because Simos was evidently not satisfied by Philip's arrangements. Demosthenes (18,48) regards him as one of the personalities responsible for the submission of Greece to Philip. At the time when he went with Neaira to Athens he was a young and rich aristocrat. See also *RE*, 3A1, 201, Obst; Hammond *History*<sup>3</sup> 542 ff., 559.

**Παναθήναια τὰ μεγάλα** The greatest Festival of the Athenian calendar. The "Great Panathenaia" were celebrated every four years, the third year of each Olympiad, in the 28th of Hecatombaion (July-August). The celebration mainly consisted of a) The Night Ceremony (Παννυχίς) in the *evening* of the Festival. b) The magnificent "Pompe" to the Acropolis and c) The offerings to Athena, in whose honour the festival was organised. An embroidered clothe (Πέπλος) was offered to the Goddess along with a significant number of victims, the meat of which was afterwards shared among the believers. Games were also organised, the prize of which was *amphoreis* with oil from the sacred olives. For further information see Deubner *Feste*, 22-35 and Parke *Festivals* 33-50.

In 374/3 Neaira was already free (cf. § 33) and in 382/1 she was probably too young (cf. § 22). So, the year of her visit in Athens with Simos must be Ol. 100, 3 = 378/7.

αὐτή] S gives αὐτή, FQ αὐτή and YrD the correct form αὐτή.

συνέπινεν καὶ συνεδῆ(πνει) The orator concludes that N. was a courtesan because she was present in the banquet. In order to understand better this statement we have to look at the rather controversial issue of the segregation of sexes in classical Athens.

Classical authors often state that the domain of a man is outdoors and of a woman indoors: (e.g. *A. Th.* 200 ff.; *S. OC.* 337 ff.; *Pl. R.* 579b;). Decent women in Athens should not socialize with other men, except from their close relatives. Poets present them to apologise when for a good reason they have to go out of their house and speak to men, and state that it is a virtue for a woman to stay in (e.g. *E. Tr.* 645 ff.; *Heracl.* 474 ff.; *Andr.* 943 ff. *Or.* 108; *Men. fr.* 592 Körte). *Lyc. Leoc.* 40 speaks of the presence of decent women outside the doors, as a sign of the panic in the city after the battle of Chaeroneia. The speaker in *Lys.* 3,6 praises the virtue of his sister and her daughters, who were ashamed even to be seen by their male relatives and a woman says in *Lys.* 32,11, that although she is not used to speak in front of men she will speak in a family

meeting, in defence of her two under age sons. X. *Oec.* 7,6 considers this seclusion to be a matter of proper education.

This certainly does not mean that women did not go out at all. They attended several festivals (e.g. Panathenaia, Thesmophoria, Dionysia and the dramatic competitions, *Halos* [cf. com. § 116]) and some family celebrations like weddings, funerals etc., although still with some restrictions (e.g. they could not participate in the wedding party or attend a funeral, unless the dead was a close relative or they were over sixty). They would also go out to visit other women, neighbours and friends, presumably when men were out (e.g. E. *Andr.* 943 ff.; Ar. *Lys.* 1 ff. *Ec.* 528 ff.; D. 55, 23-4). This image applies in general to women who did not need to support their family with their labour. Female citizens sometimes had to go out and work, although this was not respectable (cf. com. § 122, for further information). Women in the country and older women, had higher limits of freedom. The general idea is that Athenian women had to respect restrictions imposed by the social morality and a strict control of their movements by their husbands, fathers or brothers (e.g. A. *Th.* 200 ff. Ar. *Th.* 790 ff. *Ec.* 528 ff.; *Lys.* 1, 14). Society considered a visit to a house in the absence of the *xúptos*, to be impolite (D. 47, 60; *Lys.* 12, 30) and the contact of a free woman with strange men, without a very good reason, was not well seen.

In this context it is not surprising that decent women did not participate in symposia. When the husband invited his friends in a symposium, women had to contribute to the preparations (e.g. Ar. *Lys.* 130-4; 1060 ff.) and then to withdraw and stay in their apartments, for the rest of the night (cf. e.g. Pl. *Smp.* 176e). In the front rooms men were drinking and enjoying themselves often, in a way improper for a well-mannered woman. The only females present were courtesans, flute girls and dancers. Several sources imply that prostitutes, were one of the necessary things the host of a banquet had to take care of (Ar. *Ach.* 1091-4; Thphr. *Char.* 15; Athen. 129-30; 579e; 583b; Luc. *DMeretr.* 15, 2, al.). Xenophon (*Smp.* 2ff. esp. 9, 2 ff.) Athenaios in the thirteen book, Lucian (*DMeretr.* 15, 1-2) and Alciphron (4, 14, 3) give vivid descriptions of the atmosphere in a symposium. Courtesans would have discussions with their lovers (Athen. 579e ff.; Alciphr. 4, 11, 7-8) or dance (Alciphr. 4, 13, 12-3), sometimes even naked (Ar. *Ran.* 513 ff.; Athen. 607 ff.). In Alciphr. 1, 14, 3 ff. they have a beauty competition. Men sometimes under the influence of drink would fight for a courtesan (*Lys.* 3, 43; 6, 23; D. 54, 14) and in Ar. *V.* 1335 ff. Philocleon is stealing the flute-girl from his συμπόται to keep her for himself. A large number of vases also depict courtesans in Symposia (e.g. New York 20.246; London E. 68; Louvre E. 629 [Corinthian] al.) Thus, it is hardly surprising that any woman seen among men in a symposium was considered to be a *hetaira*. Isae. 3, 14 states it clearly: οὐδέ αἱ γαμεταὶ γυναῖκες ἔρχονται μετὰ τῶν ἀνδρῶν ἐπὶ τὰ δεῖπνα, οὐδέ συνδειπνεῖν ἀξιούσι μετὰ τῶν ἀλλοτρίων, καὶ ταῦτα μετὰ τῶν

ἐπιτυχόντων. This aspect of the Greek world made a strong impression on the Romans. C. Nepos (Praef. 6-7), comparing the Greek with the Roman Symposia says: *Quem enim Romanorum pudet uxorem ducere in convivium? aut cuius non mater familias primum locum tenet aedium atque in celebritate versatur? quod multo fit aliter in Graecia. nam neque in convivium adhibetur nisi propinquorum, neque sedet nisi in interiore parte aedium, quae gynaeconitis appellatur, quo nemo accedit nisi propinqua cognatione coniunctus.* cf. also Cic. *Verr.* 2, 1, 26. 66. In later times, under the Roman influence, this segregation was occasionally relaxed (cf. Erdmann *Die Ehe* 17 and n. 12). For further discussion see Erdmann *Die Ehe* 13 ff. Lacey *Family* 158 ff. Dover *Morality* 98; Just *Women* 106 ff.; 142-4.

ὡς ἂν ἑταῖρα οὔσα ἂν with participle implies a hypothetical or potential situation; cf. D. 18, 258; 57, 3 and Goodwin *Syntax* p. 70. The tone of this passage, however, is not hypothetical. What the orator wants to say is that her presence in the symposium is clear evidence that she was a courtesan. In the testimony of § 25, which is probably derived from the present passage, we read ὡς ἑταῖραν οὔσαν. In the testimony of § 28 and in § 48 and 49 we find the phrase without ἂν, as well. ἂν should be deleted.

25. Εὐφ(λητον Σ(μωνος Αἰξονέα) A member of a wealthy Athenian family. His son Democrates was a deme-choregos for Aixone in 326-5 and was named on a curse tablet in the late 320's. cf. Kirchner *PA* 6057; Davies *APF* 359 ff., esp. 360.

Αἰξωνή was a big deme of Kekropis, next to Halimous, expanding from the foot of Hymettos to the sea. See *RE* 1,1,1130-1, Milchhoefer.

Ἄριστόμαχον Κριτοδήμου Ἄλωπεκῆθεν] He was a member of a rich Athenian family, trierarch shortly after 377/6 and probably in 378/7. In 353/2 he came to Athens as a representative of Charidemos and Kersobleptes (it is not known why he was in Thrace before). In 343 we find him involved in the bribery of Theocrines. For further details see Davies *APF*, 61-2.

Ἄλωπεκῆ was a big deme of Antiochis, next to Kynosarges, 11-12 stadioi from the city. Probably the modern location Ἄμπελόκηποι is a corrupted form of the name Ἄλωπεκῆ. See *RE* 1,1,1597, Milchhoefer.

**MARTYRES]** Staeker (*De Litis*, 38), Kirchner (*Rh.M.*, 40 [1885], 380) and Drerup (*Urkunden* 343) support the authenticity of this document. Westermann rejects it.

1. The scholars above use the two minor omissions, the demoticon of Ktesippos and the word συνδειπνεῖν, and the change from δεῦρο in § 24 to Ἀθήναζε in the testimony as arguments in the discussion of the authenticity. But, I believe that they are not significant differences.

2. The absolute genitives at the very end of the document seem to be an abrupt way to finish it and one would naturally expect them before συμπίνειν. This irregularity can be explained as a careless reflection of the text of § 24 in which ἐναντίον πολλῶν comes after συνέπινε καὶ συνεδέειπνει (there naturally). The phrase καὶ ἄλλων πολλῶν also, is clumsy and Blass trying to make it softer proposed καὶ <σφῶν αὐτῶν> καὶ ἄλλων πολλῶν. But, as I said, I believe that the difficulty is due to the lack of skill of a forger.

3. No additional information is given and the testimony can be easily derived from the context. Thus I believe the document is fabricated.

26 - 28. According to the narration, the case is as following:

1) In 369 Xenokleides bought the right to collect the two per cent tax on the imported wheat (cf. below).

2) Later this year, the Spartans threatened by Epameinondas asked the Athenians for help. Kallistratos proposed to send troops, his proposal was accepted and an army corps under Iphicrates was finally sent to Sparta. (cf. *RE* 10,2 1730-35, Swoboda). Xenokleides opposed this proposal. The reasons for his opposition are not clear. His private interests, however, were well protected since he did not have the obligation to join the army, being a tax collector for this year (cf. below). So, his motive must have been mainly political.

3) Kallistratos then, in an attempt to remove a political

opponent asked (or paid: cf. § 43) Stephanos to prosecute Xenokleides for ἀστρατεία. It is not very likely that Kallistratos would attack a citizen who was only trying to protect his private interests, especially when the opposition by Xenokleides was eventually ineffective.

4) Although Xenokleides had a good argument to defend himself in the trial he lost and he was disfranchised. Nowadays the argument of Xenokleides could not be ignored, by the law-court. In the Athenian courts, however, political or personal sympathies or accusations irrelevant to the case could decisively affect the verdict (cf. § 5 and Lofberg, *Sycophancy*, 12 ff. 51 ff. )

Ap. narrates these events in detail in the interest of exposing the sycophantic activity of Stephanos. [For the historical events see also Hammond *History* 491 ff.]

26. Ξενοκλειδης] Ξενοκλειδης ὁ Ἀθηναῖος, probably known as ὁ ποιητής, was disfranchised in 369 (cf. below). After this he went to Macedonia (perhaps as a poet patronized by the Macedonian royalty). In 343 Philip ordered him to abandon Pella, because he accepted in his house, Hegesippos and the Athenian envoys. He returned to Athens and evidently when this speech was delivered he was in Athens, otherwise the orator would refer to his absence from Attica as a reason for not giving evidence to the law court. See also *RE* 9A2, 1504-1505, Gartner).

Ἰππαρχος] His name is found in an inscription from the theatre of Dionysus listing the victorious actors of Lenaia (*IG* ii<sup>2</sup>

2325). According to the inscription, he won six times the competition of Lenaia. Scholars believe that he is the same person as the actor in *Hipsipyle* of Kleainetos, who was third in 364-3. His demoticon Ἀθμονεὺς is added by the testimony (§ 28). See I. E. Στεφανής, *Διονυσιακοὶ Τεχνίται*, Ἡράκλειο 1988, no. 1278; p. 231.

Ἀθμονον was a big deme of Kekropis, at the north-east of Attica, where Maroussi is nowadays. cf. *RE* 1,2, 2065, Milchoefer.

μεμισθωμένοι] SFQ give μεμισθωμένοι, YrD μεμισθωμένην. There is no difference between the two readings in the meaning, but μεμισθωμένην seems to have been created under the influence of the preceding αὐτήν.

οὐ γὰρ ἔῶσιν] One of the restrictions included in ἀτιμία was that an ἄτιμος did not have the right to give evidence, but he could be present at the law court, as far as he remained silent. See D. 21,95 and MacDowell, *Meidias* ad loc.

27. Καλλιστράτου] Καλλίστρατος Καλλικράτους Ἀφιδναῖος was an important personality of the first half of the fourth century. Member of a family that has provided Athens with politicians (see Davies *APF*, 277 ff.; Kirchner *PA* 8157), he was an eminent orator. He appeared on the political stage of Athens in 391 when he obtained the conviction of Andokides and his partners for the case of the peace with Sparta. In 378 he was elected general and

he occupied this office in 373/2 and in 372/1, too. As a general he played an important role in the negotiations with Sparta. In 366 he was considered, with Chabrias, as responsible for the loss of Oropos and he was prosecuted for treachery. Eventually he obtained his acquittal with a brilliant speech, which impressed, as it is said, the young Demosthenes. In 365/4 he was a trierarch at Samos. In 362 he was prosecuted again by "eisangelia", but he preferred exile to the risk of the death penalty. In 355 he returned to Athens and took refuge at the altar of the twelve gods. He was, however, arrested and executed. See Hammond *History* 487 ff.,

τῆ βουθεσίᾳ SYrD give τῆ βουθεσίᾳ, FQ τῆδε τῆ βουθεσίᾳ. But τότε is enough to specify which event is the orator speaking about.

τὴν πεντηκοστὴν τοῦ σ(του) When a ship arrived at the harbours of Attica carrying any kind of goods, its content was charged with a tax of two per cent; this tax was called πεντηκοστή. It had to be paid, before the goods were unloaded (πεντηκοστεύεσθαι, cf. D. 35, 29-30).

The supply of cheap wheat was so important for the Athenians that we see it prescribed in the "agenda" of the κυρία ἐκκλησία (cf. Rhodes, *AP*, 578). Thus the two per cent tax imposed on the imported wheat was separately administered. Two reasons existed for this: a) the control of the prices of the wheat and b) the control of the amounts imported, through the catalogues of the

customs. Xenocleides bought the right to collect the two per cent tax imposed on the imported wheat this year. The proportionate charge had to be paid to the council every prytany. If he omitted this obligation he became a debtor to the state. This obligation made his presence in Athens necessary and because of this he had exemption from the military service. (see also Rhodes *Boule* 150 and n. 3).

**καὶ οὐσης]** Taylor wrongly suggested καὶ <οὐκ> οὐσης.

**ἀτελε(ας]** The first meaning of the word (ἀ + τέλος) is "release from the contribution to the state". But quite early we find it meaning "release from any kind of obligation to the state". (cf. Hdt. 3, 67: ἀτέλεια στρατηΐης) In the time of Demosthenes membership in a chorus, responsibility for the collection of a tax, absence from Athens, maybe a sickness and the occupation of a public office were some of the reasons for release from the military service. See MacDowell, *Law*, 160.

**ἀστρατε(ας]** If someone called by the generals to follow an expedition did not join the army he broke the law for cowardice. In this law three offences were included: ἀστρατεία, λιποτάξιον, and ῥίψασπία. In fact, the distinction between these offences was not clear, because the procedure and the penalty was the same. In the present case, the alleged offence is ἀστρατεία, because Xenocleides did not participate at all in this expedition. If someone broke this law he was liable to a γραφή

ἀστρατείας, handed to the generals, who introduced the case to a law-court consisting of soldiers, who had taken part in this expedition. If the defendant was convicted the penalty was disfranchisement. See also MacDowell, *Law*, 160; Hansen *Apagoge* 72.

ἑάλω] SY give ἦλω, adopted by Blass and Murray. But cf. Thom. Mag. p. 146: ἑάλωκεν Ἀττικοί, οὐχ ἦλωκε, καὶ ἑάλω, οὐχ ἦλω, and Meisterhans *Grammatik*<sup>3</sup> 170. [ἦλω, however, is guaranteed by the metre in Antiphanes 204,7 and Xenarchos 7,17]

28. κλητεύσω] The scholiast says: "λέγεται δὲ κλητεύεσθαι καὶ ἐκκλητεύεσθαι ἐπὶ τῶν μαρτύρων, ὅταν μὴ ὑπακούσωσι πρὸς τὴν μαρτυρίαν ἐν τοῖς δικαστηρίοις καὶ ἔστιν ἐπιτίμιον κατ'αὐτῶν δραχμαὶ χίλιαι. (Dilts, *Sch. Dem.* v.2, p.384. cf. Harp. 180,3; Poll. 8,36-7; Sud.κ 1796; Anecd.Bek.272,6). The litigant interested in the testimony of somebody had to notify him that he should be present on the day of the trial (cf.com. οὐ γὰρ ἐῶσιν). But the witness might be unwilling to give evidence for various reasons. The Attic law included some ways to force the person asked, to testify. (see MacDowell *Law* 243-4).

If the person came into the law-court the possibilities were:

- a) μαρτυρεῖν: he could testify what the litigant asked, either voluntarily or under pressure by the litigant or the law-court.
- b) ἐξόμνησθαι: he could deny, on oath, that he knew anything about the case or he could refuse to confirm, what the litigant

asked.

c) If he refused to do either of them the litigant could formally summon him (κλητεύειν), i.e. ask officially and in front of the court from the witness to testify or to deny on oath, that he knew the case being as the litigant describes it. If he still refused to do either of those he was liable to a fine of 1000 drachmas. (cf. Bonner, *Evidence*, 41-43 and Harrison *Law*, 2, 140).

As the present text indicates, although Hipparchos was present, had notified to Apollodoros his intention not to testify. Apollodoros, afraid of this, tries to preclude a possible refusal of Hipparchos (cf. § 84, where Apollodoros tries to preclude a possible refusal of Theogenes).

ΜΑΡΤΥΡΙΑΙ Staeker (*De Litis*, 39), Kirchner (*RhM* 40 [1885] 380) and Drerup (*Urkunden* 343) consider this testimony to be authentic; Westermann disagrees. The arguments of this discussion are the following:

1. The addition of the name of the deme of Hipparchos is used as an argument for the authenticity. But the importance of this argument is very little. Hipparchos was a well known personality (cf. com. Ἱππάρχος, § 26 and com. § 23)

2. συμπίνειν, even as a euphemism for the erotic relationship of Neaira with Hipparchos and Xenokleides, seems odd. One would

expect a long relationship to be described in a different way. [εἶχον ἀπὸ τὴν μεμισθημένοι implies a longer relationship than the occasional company in a party, cf LSJ A, I, 4, for this meaning of ἔχω.] συμπίνειν was probably derived from § 24, where the verb fits well in the context.

3. Νέαιραν comes together all the times it appears in the documents with τὴν νυνὶ ἀγωνιζομένην (§ 25, 32, 34, 40, 47, 48). This time they are separated by ἐν Κορίνθῳ.

4. the nick-name of Xenokleides τοῦ ποιητοῦ is an unnecessary supplement, but the type of comment which would attract the attention of a forger.

4. The totally pleonastic τῶν μισθαρνοσῶν is probably an echo of passages like § 23 ἐμισθάρνει τῷ βουλομένῳ ἀναλίσκειν.

This testimony is very poor and echoes unskillfully the context. Thus I believe <sup>it</sup> is not authentic.

μεθ' αὐτοῦ] Schaefer emended thus μετ' αὐτοῦ of the mss because the person implied here is Hipparchos himself. (cf. *ibid.* Ξενοκλειδὴν καὶ αὐτόν).

29. [Further bibliography about Slavery in antiquity can be found in the catalogue *Bibliographie zur Antiken Sklaverei* ed. by J. Vogt and Heinz Bellen, revised by Elisabeth Herrmann in cooperation with Norbert Brockmeyer. This catalogue seems to be complete for

studies written before 1983. See also Yvon Garlan *Slavery in Ancient Greece*, Ithaca-London 1988; Norbert Brockmeyer *Antike Sklaverei* Darmstadt 1979]

Τιμανορ(ιδας] There is no further evidence. FcorrQ' give Τιμανοριδης. Y gives Τιμανοριδης, with α superscribed over η by a later hand in § 29; the opposite happens in § 31 (Τιμανοριδα, with η superscribed). In § 32 it gives Τιμανοριδη. r and the rest give the correct Doric form Τιμανοριδας in all places the name appears.

τριακοντα μνάς] Boeckh (*Economy* 1,92 ff.) discussing prices of slaves says that they varied according to the age, health, strength, beauty, natural abilities, mechanical ingenuity, and moral qualities of the slave. In D.41,8 and 22 the price of a slave is two minae. In 53,1 Nikostratos has estimated the price of two slaves (cf.19-20) at two and a half minae [Although, as it seems, Nikostratos had reasons to underestimate the price]. One mina is the price in X. *Vectig.* 4,23 and in *Mem.* 2,5,2, Xenophon says: τῶν γὰρ οἰκετῶν, ὁ μὲν που δυοῖν μναῖν ἄξιός ἐστιν, ὁ δ' οὐδ' ἡμιμναίου, ὁ δὲ πέντε μνῶν, ὁ δὲ καὶ δέκα· Νικίας δὲ ὁ Νικηράτου λέγεται ἐπιστάτην εἰς τὰργύρεια πρῖσθαι ταλάντου. (cf. Luc. *Βίων Πράσις*). In Isae. 8,35 some slaves who paid a fee to their master, two θεράπαινοι, one παιδίσκη and some furniture cost all together 13 minae. Each knife-maker in D.27,9 is worthy of 5-6 minae. Courtesans, however, were the most expensive kind of slaves. 20-30 minae is the average price, attested by a fair number of sources: Isoc. 15,288 says, speaking about luxurious

courtesans: τοῖς μὲν λυομένοις εἴκοσι καὶ τριάκοντα μνῶν τὰς μελλούσας καὶ τὸν ἄλλον οἶκον συναναίρησειν... 20 minae is what Hyperides paid for Phila (cf. com. § 19). cf. also Terence *Adelphoe* 191. 720 al. How easily an infatuated lover could be persuaded to spend a large amount of money to buy the slave he loved is vividly described in Hyp. *Athen.* 4 ff. Thus, Neaira was sold in the top average price for a courtesan. cf. Rädle (*Freilassungswesen* 162)

νόμφ πόλεως] The orator points out that it was a legal transaction, according to which Neaira would afterwards belong to Eucrates and Timanoridas καθάπαξ.

ὅσον ἐβούλοντο ... χρόνον] Neaira visited Athens with Simos in 378/7 (see § 24 and com.). In 374/3 she was already free (§ 33 and com.). If we think that after Simos, she had a relationship with Hipparchos, Xenocleides and others (26) and that Eucrates and Timanoridas, before they decided to buy her, were her lovers for some time, we can say that she was sold around 376. But she was too expensive to be released soon after they bought her and she certainly stayed with Eucrates and Timanoridas long enough to let affection develop (§ 30). Most likely she stayed with them for at least a year. So, she was probably manumitted late in 375/4 or early in 374/3.

30. γαμείν] Most likely the one of them decided to marry (possibly Timanoridas, who was a Corinthian). The orator does not bother to enter into details here.

έν Κορίνθῳ ..... οὔσαν] An emotional relationship had developed, between N. and the two men, during the time they were living together (οὐ βούλωνται ... ἀλλ' ἠδέως ἂν αὐτοῖς εἶη) and they wished to give her a good chance in her future life. Selling her to a pimp would be certainly a deterioration to her status. Neaira, actually, never worked in a brothel. Under Nikarete she worked in private.

Organized prostitutes had a permanent residence, (Aesch. 1,124, Her. 2,36 and com. Cunningham, p.88, Headlam - Knox, p.84) named οἶκημα (Aesch.1,74) οἶκία (Her. 2, 36) ἐργαστήριον (§ 67 and com.). The girls were mainly slaves. The contact with the customers was brief and the finance of a brothel was based on the high number of clients, which visited it everyday for a small fee: e.g. Eubulos *PCG* fr.67 (= Athen.568f); 82 (Athen.568e); Philemon *PCG* fr.3 (= Athen.569f). Even slaves were among the customers of a brothel (Ar. V.500-2). The everyday life in a brothel is vividly presented in the second mime of Herodas, the fragments of Philemon and Eubulos I have mentioned, a fragment of Xenarchos (*PCG* fr.4 = Athen. 569a-d) etc.

The pimp was usually a libertine. Being a πορνοβοσκός is regarded by Aristoteles as ἀνελεύθερον (*EN* 1121b 33ff). Many

sources speak about their avarice: Arist. *ibid.*: πάντες γὰρ ἔνεκα κέρδους, καὶ τούτου μικροῦ, ὀνειδίη ὑπονομένουσιν; and Stoic. 3, 36 Fr. 152 cf. Myrtil: *PCG* fr. 5. The work and the personality of a πορνοβοσχὸς inspired hate (Aesch. 1, 188) and fear (Aesch. 3, 246). The character is a topic in comedy: plays by Eubulus, Anaxilas and Posidippus are titled Πορνοβοσχός. (see Cunningham, Herodas, 80 ff. and the *Her.* 2. *passim.*)

Neaira, until now, had rich lovers and she had lived in a comfortable environment, enjoying luxuries, presents, travels and affection. In a brothel her life would be diametrically different. How unwelcome it could be for a woman to be forced to work in a brothel is clear in *Ant.* 1, 14-15: καὶ ἦν αὐτῷ παλλακή, ἦν ὁ Φιλόνεως ἐπὶ πορνείον ἔμελλε καταστήσαι . . . . αἰσθομένη δ' ὅτι ἀδικεῖσθαι ἔμελλεν ὑπὸ τοῦ Φιλόνεω ... Eucrates and Timanoridas did not want her to stay in Corinth, at all, perhaps because they did not wish any contact with her anymore. The solution given was the most convenient for both sides.

ἡδέως] Hude (*NTF*, 7 [1887] 289 ff.) proposes ἡδομένοις. It would be an unnecessary change: cf. *LSJ* εἶμί, C, I.

ἔλαττόν τε τ' ἀργύριον] r omits τε and Schaefer was of the same opinion. The definite article is used before the word ἀργύριον if a fixed sum of money is implied: cf. § 31 δίδωσιν τὸ ἀργύριον, *Lys.* 4, 8.9; 17, 2 al. If the sum is not fixed yet the article is not used: cf. *Lys.* 4, 16; 6, 12; 7, 39; *Isae.* 3, 28 al.

Here the orator reproduces in indirect speech what Eucrates and Timanoridas said to N. Their brief speech is clearly divided into two pieces. 1) There is a general part in which they explain their intention and the reasons which led them to this decision (ὅτι οὐ βούλωνται ... ἔχουσάν). 2) In the second part they specify their demands and the terms of this transaction (ἀφιέναι οὖν ἔφασαν ... ἀποδοῦναι). οὖν is the transitional word from the general part to the specific.

The phrase under discussion belongs to the general part of their speech, where they stated that they ask for less money than what they paid; afterwards they spoke in details about the exact sum. ἔλαττον and ἢ κατέθεσαν support this understanding of the text. Thus I would adopt ἔλαττόν τ' ἀργύριον: "less money than what they paid".

αὐτήν ταύτην] Schaefer deleted ταύτην as a dittography. He is not right; it is the emphatic form: "she herself".

μεταπέμπεται ἄλλους τε] If we compare with ἀφικομένου (§ 31), only Phrynion went to Corinth. N. either did not send for any other ex-lover or she did so, but they did not come. Some of them send her money. For Phrynion money was no object for the sake of a beautiful courtesan (πολυτελῶς, 30); on the contrary he was willing to contribute most of it with pleasure (ἄσμενος, 32).

Φρυνίων] Φρυνίων Δῆμωνος Παιανιεὺς was a member of a rich Athenian family (cf. Davies *APP*, 143 ff.). He was a cousin of Demosthenes. The orator of this speech depicts vividly his character. Phrynion was a rich man, who lived his life in an extravagant way (§ 30). He is represented by Ap. as σοβαρὸς καὶ ὀλίγωρος (37). He paid with pleasure (32) a serious amount of money for a courtesan. Probably he spent a lot of money ~~on~~ her before; when N. asked his help, she knew that he might be willing and able to pay for her liberation. When they went together to Athens, he behaved in a very bad manner: the orator points out his bad behaviour towards her (33 ff.; cf. ὕβριν § 37). Although not sympathetic to N., when Ap. speaks about her reactions, is quite sympathetic to her and seems to justify her emotions to this man. She was really afraid of him (37) and knew him well; she was right. When he learnt that she was in Athens he went with a gang to take her back (40). But he had no legal right on her, so when Stephanos guaranteed for her to the polemarch (40), he involved her and Stephanos in a trial (45 ff.). Finally a compromise was achieved (47-48), but we do not know the end of the story. [Davies is not sure that Phrynion was dead, when this trial took place; but why he was not summoned as a witness, if she was still alive?]

His brother Δημοχάρης (cf. Davies *APP*, 144) was a rich Athenian, trierarch before 357/6 with Theophemos of Euonymon. He was enrolled in a symmory in 357/6, but the summer of this year he died. Kumanoudis identifies him with a person who as ἵππαρχος

swore to a treaty with Ἀμύντιας between 375/4 and 370/69, but Davies is uncertain about this identification.

31. ἔρανον] If someone was in a serious need of a large sum of money, a group of people, usually friends of him, tried to collect this sum by contributions (ἔρανος). The money had to be returned without interest. A whole legislation existed about eranos (ἐρανικοὶ νόμοι) and refusal to return the loan (ἔρανον λείπειν) could cause a trial (ἐρανικὴ δίκη). In the case of slaves when their master asked for a sum of money, to let them free an ἔρανος was the usual way of collecting it. Afterwards the ex-slave had to pay this money back to the ἐρανισταὶ in instalments. In D. 53,8 ff. an ἔρανος is collected for the liberation of a person who was captured and sold as a slave. Apollodoros quotes the Athenian law: τοῦ λυσαμένου ἐκ τῶν πολεμίων εἶναι τὸν λυθέντα ἐὰν μὴ ἀποδῶ τὰ λύτρα. In Delphic inscriptions it was often written that if the ex-slave neglected his obligation he would become a slave again. (cf. e.g. Collitz *Gr. DI*, 2317) [Another way for the obligation to the master to be fulfilled was a paramone-condition (see com. εἰς τὴν ἐλευθερίαν); the ex slave had to work with his previous master until he paid off the sum asked by the master. Sometimes the two previous ways appear in combination; the ex-slave was under a paramone condition until he paid off the ἔρανος.] See also ; Calderini *Manomissione*, 288 ff., Rädle, *Freilassungswesen* 142 ff., *RE* 6, 1, 328-330, Ziebarth., MacDowell *Meidias*, 322 ff.

Neaira evidently never paid this money back. Thus ἔρανος is not the appropriate word here. [ἴσασμός or εἰσφορὰ are the words when the money is not returned]. There are two possibilities: a) N. collected this money as an ἔρανος, but she never returned it, or b) the orator uses the *vox propria* for what was a usual way of collecting money for manumission.

εἰς τὴν ἐλευθερίαν] The reasons for which a master could decide to liberate one of his slaves could be many. We have to say, however, that a slave had no means of forcing his master to free him (see Klees, *Herren* 55). It depended always on the good will of the master. For cases in which a love-affair was involved, like the present one, we have some more evidence: cf. § 20 and com.; D. 48, 53; Ar. V. 1351 ff. al.

There was no standard form of a manumission contract. It could be a testament, in which the master left instructions that one or more of his slaves should be manumitted or it could be just a formal declaration, for example in the theatre, or even an informal private one. It could also be a private transaction, in the presence of some witnesses, who could guarantee that this action had taken place. We can imagine that this way was preferable, when the master demanded a sum of money and someone else paid for the slave. The most formal way was an inscription, devoted to a god. (For sources and further discussion see Rädle *Freiassunswesen*, 7 ff. and Klees *Herren* 54-55). N.'s manumission was done in a form of transaction: her masters

received the money paid by Phrynion on her behalf, in the presence of some witnesses, one of whom was the Athenian Philagros, presumably a friend of Phrynion (§ 32).

Rädle (158 ff.) speaks about fixed taxes which had to be paid to the state, in some Greek cities, besides any financial demand of the master. In this text, however, the only sum mentioned is the twenty minae. As I have already said manumission was often accompanied by some financial demands, which could be accomplished by a friend of the slave. In this case the master actually sold the slave, either at the current price of the slave market (Rädle, 164) or reducing the sum in favour of the slave. This transaction was considered to be beneficial for both, the master who did not lose his money, and the slave who gained his freedom. Whether the friend of the slave had some rights over him after the manumission is doubtful; Klees (54) believes that he had. (For the present case see com. 40 ἤγειν). In other instances, the financial demands of the master could be accomplished by the slave himself either through an eranos or by the offer of his own work to his ex-master, sometimes through a paramone-condition (see below). N. did not have any kind of obligation. It depended on the master to define his own demands for the slave's freedom (Rädle, 161). The normal prices were between 3 and 5 minae, as we find in Delphic Inscriptions (Carderini, *Manomissione* 214 ff.) N.'s price was quite high, because the sum they paid to buy

her from Nikarete was even larger. (cf. com. § 29, τριάκοντα μνᾶς).

Whatever the legal way chosen for the publication of the manumission, the act of the manumission often included some conditions (Rädle, 134 ff.). These conditions usually expressed the wish of the ex-masters to lengthen their power over their ex-slaves. They could be of many different kinds: decisions about the marital status of their ex-slaves, a demand for the ex-slave to take care of their grave, or to work for them after the manumission. Sometimes the master retained the right to sell the ex-slave again. The most usual condition, however, was the demand that the ex-slave should stay with his ex-master, for a period of time, which could be as long as the lifetime of the master or even the lifetime of his children. This term is known as *Paramone-Condition*. If the ex-slave broke one of his obligations he became a slave again.

In N.'s case the condition of her manumission was the opposite of a paramone-condition (ἐφ' ᾧ ἐν Κορίνθῳ μὴ ἐργάζεσθαι).

συλλέγουσα] SFQ give συλλέγουσα; YD συνάγουσα, r εἰσάγουσα, obviously a corruption for συνάγουσα. Blass gives some parallels for ἔρανον συλλέγειν (D. 21, 101. 184; 53, 11 ff.). συνάγειν, with a word meaning 'money' as an object, seems to be normal in later times (oldest evidence, according to LSJ: Arist. Pol. 1314 b15 συνάγειν εἰσφορᾶς. Afterwards it appears

often in papyri of the third century.) I find συλλέγειν more likely to be correct, but taking into account the tendency of Ap. to adopt novelties, συνάγειν is not impossible.

καταθεῖναι αὐτῆς] Wolf suggested ὑπὲρ αὐτῆς. But cf. § 29, 32 twice.

32. ἄσμενος] Rennie, followed by Gernet, prints ἄσμενος; against all previous editors who print ἄσμενος. This disagreement reflects a long discussion about this matter, already from the late antiquity. McKenzie summarizes this discussion in his article "Ἄσμενος or ἄσμενος ?" (CQ 20 [1926] 193-4) and includes the existing evidence. ἄσμενος is found in two mss of Plato (Clarcianus and Parisinus A). However, in passages in which κ, π or τ precedes ασμενος (with no aspiration) the consonant does not change to χ, φ, or θ. cf. Eur. Med. 924; Ph. 1045; S. Ph. 271 al. Some secondary evidence also supports that the right form is ἄσμενος (Tzetzes, Schol. B. Il. 14, 108; Schol. on Dion. Thrax p. 402, 17 Hilg, al.). In Pl. Phd. 68a the Clarcianus has a rough breathing but the preceding κ is not affected: οὐκ ἄσμενος. Scholars who prefer the rough breathing relate the word to the root φαδ- (ἀνδάνειν). Chantraine, however, (*Dictionnaire Etymologique* s. v. ἄσμενος) says that an Ionic or Epic form could be retained in later times or a psilosis could change the aspiration. Thus, I believe that the smooth breathing is preferable.

τῷ Εὐκράτει] r gives τῷ τε Εὐκράτει. In § 31 we read τῷ τε Εὐκράτει καὶ τῷ Τιμανορίδῃ. Both are possible; there is no reason to unify the cases.

τὸν παραγεγόμενον] Reiske proposed τῶν παραγεγομένων, understanding it as a partitive genitive. If the rule was the same at Corinth as at Delphi, the usual number of witnesses present at the transaction was two (e.g. Collitz *GrDI*, 2317).] Reiske may be right that more than one witnesses were present. His suggestion, however, is not necessary. Apollodoros summoned only Philagros because he was the only one available. [Also, an accusative closed to the genitive, like τινά or ἕνα or the name of Philagros should be expected, next to the genitive; cf. § 34; καὶ τῶν διακόνων τινας]

Φίλαγρον Μελιτέα] His full name was Φίλαγρος Ἀλέξιδος Μελιτεῦς. His wife was named Ἡδουλίνη Τεισιμένου ἐξ Οὔου. He had a son named Ἀλεξίς and, if the suggestion of Kirchner is correct, another son called Φιλέας. See Kirchner *PA* 14212

Μελίτη was a deme of Kekropis, at the west side of the city, between Kolyttos and Kerameikos. See *RE* 15, 1, 54, Honigmann

ΜΑΡΤΥΡΙΑ] Westermann and Staeker deny the authenticity of this testimony; Kirchner (*RhM* 40 [1885] 380) and Drerup (*Urkunden*, 343) support it. The arguments of this discussion are:

1. In the testimony there is no clear reference to Neaira's manumission. κατετίθει εἴκοσι μνάς Νεαίρας sounds like an inaccurate reflection of καταθεῖναι αὐτῆς ... ὥστε ἐλευθέραν εἶναι (§ 31) and κατατίθησιν αὐτῆς τὰς εἴκοσι μνάς ... ἐπ'ἐλευθερίᾳ (§ 32). Westermann and Staeker agree that the omission is serious. Drerup believes that no further information is necessary than what the testimony gives. I believe that the missing information is crucial. The phrase ἐπ' ἐλευθερίᾳ ought to be included

2. The condition ἐφ' ᾧ ἐν Κορίνθῳ μὴ ἐργάζεσθαι is missing.

3. Westermann considers the words καὶ καταθείς ... Νεαίραν to be superfluous. Riehemann (cf. Drerup) on the other hand, says that τοίνυν (§ 33) can be explained only if we understand the beginning of § 33 as a continuation of the end of the testimony. But τοίνυν is used after the recitation of a document to resume the thread of the narration (Denniston, 575; And. 1, 15; Lys. 16, 14. 15. 18; D. 50, 14 al.). We do not need the testimony to keep the coherence of the narration: the phrase ἔχων αὐτήν as a definition of ἀφικόμενος covers the gap between the interruption of the narration in Corinth (ἐργάζεσθαι) and the new start in Athens. I would rather think that this phrase was inserted by a forger who missed the subtle coherence of the narration before and after the document.

4. Phrynion is characterised only by his brother's name. But Drerup is right that this informality was not unusual in the Athenian law-courts and that the full name of Phrynion was already known to the judges. To me, however, sounds like one of the things which would attract the attention of a grammarian. [It happened with Athenaios, for example, who kept it in mind wrongly; Δημοχάροος δὲ ἀδελφιδόος, cf. com. § 18]

No additional information is given in the testimony and as a whole seems to me to be a clumsy composition derived from the context.

33. ἀσελγῶς καὶ προπειτῶς] ἀσελγῶς means "with wanton violence": cf. also D. 36, 45; 40, 57. προπειτῶς means "out of control" cf. 44, 2; 54, 52.

πανταχοῦ ... ὅπου] This is a suggestion of Reiske for πανταχοῦ ... ὅποι of the mss; ἐπορεύετο preceding speaks for the suggestion of Reiske.

μετ' αὐτοῦ] Wolf suggested μετ' αὐτῆς. Blass Murray and Gernet agreed with him. If we keep the reading of the mss we have a sudden change of subject (Νέαιρα). Rennie prefers the reading of the mss on the grounds that there are other examples in the speech, in which the subject changes with no further indication (cf. § 20, 52, 55, 66, 76 al.). What makes this case different is that with αὐτοῦ we have a double change really rapidly: from

the beginning of § 33 the subject is Phrynion. Suddenly the subject of ἐκώμαζε is Neaira and again the subject of συνήν is Phrynion. A further argument in support of the suggestion of Wolf is that κωμάζειν (active) mostly applies to men not to women: further down we read ἐπὶ κῶμον ἦλθεν ἔχων αὐτήν. cf. also Is. 3, 14: ἐπὶ γαμετὰς γυναίκας οὐδεὶς ἂν κωμάζειν τολμήσειεν. Athen. 574e; *LSJ* s. v. κωμάζεσθαι (passive) applies to women (*Sammelb.* 421) [The only instance I know, in which κωμάζειν applies to a female (Aphrodite, parallelized with the queen Kleopatra) is in Plu, *Ant.*, 26]. I prefer μετ' αὐτῆς.

ἔχων ἦλθεν αὐτήν] In the other three cases in which ἔχων αὐτήν appears in the speech the two words are together ( 38, twice; 39). Other parallels from the Corpus Demosthenicum confirm that it is not frequent for the object of the participle to be separated from the participle by the main verb (cf. 50, 26. 33. 55. 65; 52, 1. 10 al.). Denniston (*Prose Style* 51-2) trying to explain D. 3, 5 δέκα ναῦς ἀποστείλατ' ἔχοντα κενὰς Χαρίδημον says that it happens for the sake of emphasis. But here αὐτήν and ἔχων are both unemphatic. The explanation probably lies on an extreme use of αὐτήν as a postpositive. The orator in order to emphasize ἐπὶ κῶμον and ἦλθεν separates them without paying attention to the two unemphatic words and thus separates also ἔχων from αὐτήν. (For the use of αὐτὸς as a postpositive cf. Marshall *Verbs, passim*)

Χαβρίαν τὸν Αἰξωνέα] SF' wrongly give εἰξωνέα. cf. Thraette *Grammar* 294-95, 297. Αἰξωνή was a big deme of Kekropis situated on the south coast (see *RE*, 1, 2, 1130-1, Milchhoefer and C.W.J. Eliot: *Coastal Demes of Attica* ch.2)

Χαβρία, Κτησίππου Αἰξωνεύς a was well known personality, on the political stage of Athens, during the second quarter of the fourth century. He was born about 420 B.C. in a rich Athenian family. In 376 he gained an important victory over the Spartan fleet off Naxos, which led to the peace of 374 and the recognition by the Spartans of the Athenian supremacy at sea. (see Pickard-Cambridge *Demosthenes* 52; Hammond, *History* 488 ff.) After this victory he was granted ἀτέλεια; he had thus the opportunity to pile up plenty of wealth, and his ability to spend this wealth is well attested. After the victory off Naxos he stayed away from Athens for some years. The most important events of his life are: 1) The Pythian victory attested by the present passage, in 374. 2) A sole trierarchy in 365 3) A choregia in boys' dithyramb in the Dionysia, during the years 359-6. 4) He was a trierarch at Chios in 356. He died before 340, because he does not appear as a witness in this trial. For further details see Davies, *APP* 560-1 and Kirchner *PA* 404-7.

Πύθια] One of the greatest Panhellenic festivals held every four years, in Delphoi, in honour of Apollo. From very early times a musical competition took place in Delphoi. In the third

year of the 49th Olympiad (528 B.C.) athletic and equestrian competitions were added to the musical competition according to the model of the Olympic games. Later, although the musical competition was still part of the festival, the Pythia became the second most important of the Panhellenic Games after Olympia. After 582, the Pythia came under the aegis of the Amphictyonic Council. The Pythia were celebrated in the August of the third year of every Olympiad. This Pythian victory is dated in 374 B.C. (ἐπὶ Σωκράτιδου ἄρχοντος). So, if the games took place in August, this symposium in Chabrias' mansion must have taken place in the period August-September of 374 B.C. Further information about the Pythia is given in the book of Georges Roux *Delphi Orakel und Kultstätten*, p. 156-9, München 1971.

Μίτυος] SQ wrongly give Μίτιος. The same name appears in Arist. *Po.* 1452a: οἶον ὡς ὁ ἀνδριάς ὁ τοῦ Μίτυος ἐν Ἄργει ἀπέχτεινεν τὸν αἴτιον τοῦ θανάτου τῷ Μίτυι, θεωροῦντι ἐμπροσθέν (The name is spelled with υ in all mss of Aristotle). There is no further evidence, we can conclude, however, that he must have been an important personality in Argos and probably from a wealthy family, since his sons are presented to deal with race-horses. Ap. thus refers to the children of Mitys with the name of their father, presumably because his audience was aware of who Mitys was

εἰσι(α) S' gives ἴσι(α). ἴσι(α), a Doric equivalent of ἐσι(α) is found occasionally in Attic texts (e.g. Hdt. 7,135). The classical form, however, is ἐσι(α). The reading of S' is probably a mistake of iotacism. (Threatte *Grammar* 139)

ἐπὶ Κωλιάδι] The scholiast (v.2, p.384 Dilts) says: Κωλιάς· ἐπιθαλασσία ἄκρα τῆς Ἀττικῆς. Harp. 188,18 says: Κωλιάς· Δημοσθένης ἐν τῷ κατὰ Νεαίρας, εἰ γνήσιος. ἐπιθαλασσία ἄκρα τῆς Ἀττικῆς ἔστιν ἡ Κωλιάς, ἐκ μεταφορᾶς τοῦ κώλου ὀνομασμένη· ἔστι δ' αὐτόθι Ἀφροδίτης ἱερὸν. Hsch. κ 4816 says in addition ... τόπος... ὅμοιος ἀνθρώπου κώλῳ· ἔστι δὲ καὶ Δήμητρος ἱερὸν αὐτόθι πολύστυλον. cf. also Hsch. κ 4815; Anecd. Bek. 275,20. Hdt. 8,96 places it 20 stades from Phaleron (cf. Paus. 1,1,5), where nowadays Hagios Georgios is. (See *RE* 11, 1077, Honigman). Henderson (*Lysistrata*, 67; cf. also Sommerstein *Lysistrata* 155; Dover *Clouds* 100) believes that the party of Chabrias took place at the sanctuary. Davies, on the other hand, (*APF* 560-1) finds possible that the mansion of Chabrias attested by Poll. 9,36 (= Hyp. fr. 44) was situated on the promontory of Colias and the party took place there. The suggestion of Henderson explains why the orator comes into detail about the occasion and the place. It was a banquet at the sanctuary, because the Pythian victory deserved a big celebration in a public place. Besides, ἐπὶ Κωλιάδι sounds to me like a standard expression implying the sanctuary. If the party had taken place in a private house on the promontory of Colias, one would expect a different definition of the place. But I still find more likely that the

party took place in the mansion of Chabrias. The additional details given by the orator is not a decisive argument and ἐπὶ Κωλιάδῃ can simply imply the location. Chabrias, being a wealthy man, most likely had a big and luxurious house. Why not use it for the occasion? Then I can hardly imagine this high-spirited party in the sanctuary. The scenes narrated by the orator rather imply a big private house, in which the guests could stay overnight and with more than one room accessible to the revelers.

οἱ διάκονοι οἱ Χαβρίου τράπεζαν παραθέμενοι] "the servants who served the dinner of Chabrias". This makes better sense if the servants, or at least some of them, were not Chabrias' own slaves, but people hired especially to prepare a fancy meal for the occasion. In order to specify their identity the orator defines them as "the men who served the dinner offered by Chabrias".

If we do not accept that they were hired servants, but domestic ones the passage presents difficulties. If we read οἱ Χαβρίου with οἱ διάκονοι preceding then παραθέμενοι is temporal: "after serving the dinner". But this understanding is not supported by the context. We should imagine the whole scene long after the dinner was served, when the party was nearly finished. Apart from that it would imply that N. slept with all the servants of the house. If we read οἱ Χαβρίου with τράπεζαν παραθέμενοι, why should the orator specify again that the dinner was offered by

Chabrias, or that the slaves belonged to Chabrias? Two scholars, have attempted to improve the transmitted text. Wolf suggested οἱ διάκονοι οἱ Καβρίου οἱ τράπεζαν παραθέμενοι: "the servants of Chabrias the ones who served the dinner". But three οἱ in such a short distance from each other make the passage clumsy. Blass, followed by Murray, deleted τράπεζαν παραθέμενοι *quae videtur esse explicatio ad διάκονοι adscripta*. But, as I said before, we do not need to change the transmitted text.

34. τοὺς ὄρῶντας ὑμῖν καὶ παρόντας] Kaekilius (fr. 75, Ofenl. = Alex. Fig. 8, 472 Walz; Tib. Fig. 8, 576 Walz; Zonae. Fig. 8, 686 Walz) quoting this passage omits καὶ παρόντας. Although it does not add much to the meaning, the mss are correct. καὶ παρόντας was not necessary for the remark of Kaekilius and that is why he omitted it. (cf. § 32, 61; D. 47, 44; 52, 31 al.)

Χίων(δην Εὐπειαιόνα] There is no further evidence. About the demotikon the mss disagree: either they give Εὐπειαιόνα or Ἐξυπειαιόνα. Herwerden (Mn. 3 [1875] 357) based on an inscription with ionic letters (according to Herwerden, No. 50 Waddington: *Voyage Archeologique en Grece et en Asie, Livraison 3, p. 9*) has changed it to Εὐπειαιόνα, which has been accepted by all modern editors. The name of the deme is Εὐπέτη (Variant forms are given by Steph. Byz: Εὐπετή; Phot. Lex. Εὐπειαιή or Hesch. Εὐπετέα) It was a deme of Kekropis, situated somewhere between the city and Phaleron. The demotikon is sometimes given as Εὐπέτιος (Plu. *Per.* 13, 4); Εὐπειαιεύς (DH 1, 61); Εὐπετέων

(Philochoros, *FGrH* 328 f.205). [See the discussion in *RE* 9A2, 2178-2182, Ernst Meyer]. Meisterhans (*Grammatik*<sup>3</sup> 35) gives as the right form for the classical period *Ἐπεταίων*, gen. *Ἐπεταίωνος* (p. 131). The additional *ε* before *Ἐπεταίων* is found in inscriptions after the 2nd c. A.D. cf. Thraette, *Grammar* 293).

**Εὐθετώνα Κυδαθηναίων]** There is no further evidence. *Κυδαθηναίεις* or *Κυδαθηναίων* was a big deme of Pandionis, in the area of the city (cf. *RE* 11,2, 2302, Honigmann). The correct form of the demotikon before the 2nd cent. A.D. is *Κυδαθηναίεϋς* and *Κυδαθηναῖα*. See Meisterhans *Grammatik*<sup>3</sup> 30; Thraette *Grammar* 294-5 + 297.

**ΜΑΡΤΥΡΙΑ]** Even the supporters of the authenticity of this document find some difficulties in explaining the discrepancies of this text with the context. Westermann and Staeker (41-2) do not believe that it is genuine. Drerup (344), Kirchner (381) and Riehemann support that it is. The main arguments of this discussion are:

1. It has pointless repetitions: *τὰ ἐπινίκια ... τῆς νίκης, κληθῆναι ὑπὸ Χαβρίου / εἰστία Χαβρίας, εἰστία / ἐστιᾶσθαι, ἐπὶ δεῖπνον / ἐν τῷ δεῖπνῳ τούτῳ. [ἐστιᾶσθαι is a suggestion of Hude (NTF 7 [1885-7] 292) for ἰστιᾶσθαι of S, or εἰστιάσθαι of the rest, The meaning and the three following present infinitives justify this suggestion]*

2. Some scholars (e.g. Westermann, Riehemann) find a difficulty in αἰσθάνεσθαι αὐτοῖ ... καθεύδειν σφᾶς αὐτούς: how while they were sleeping they could understand what was going on? But cf. Lys. 1, 13-4.

3. The details of the story in the document are quite different than what the context permits us to understand. The version of the context is: late at night Phrynon fell asleep, presumably drunk. Neaira was drunk, too, but in rather high spirits. At some time she left Phrynon sleeping and she went out of the main room of the banquet, where she made love with some of the guests and most likely when most of the guests were in bed she accepted the proposals of some servants, too. In the document everybody appears to be sleeping. Some guests and servants got up and slipped into Neaira's bed (ἀνίστασθαι). She appears to be still at the side of Phrynon when this happened. This version does not sound very credible. How did the guests go into N's bed without an invitation, how this invitation was made if she was sleeping, how did she accept these proposals when drunk and asleep, how did the servants approach her, unless we assume that she was still up and in high spirits, and how could all these things happen at the side of Phrynon? Evidently the version of the document reflects the way the person who fabricated the document imagined the details of the story, without paying attention to the discrepancy caused. [Thalheim (HERMES 56 [1921] 433 in an effort to remove the difficulty that the men had previously gone to bed somewhere else proposed παρά

Νεαίρας, instead of πρὸς Νεαίραν. But I do not find any reason to change the text, since this change would not solve the main problems.]

4. εἶδέναι Φρυνίωνα παρόντα is nonsense. The presence of Phrynion to the banquet is not a matter of knowledge. If they were present themselves, they just saw him being there. The phrase was added as in § 23, 25 al. because it was the verb which witnesses often used in their testimonies.

5. If the suggestion I made before, that the servants were hired for the occasion, is correct, the phrase οἱ ἦσαν Χαβροῦ οἰκέται is a clear misunderstanding of οἱ διάκονοι ... παραθέμενοι (cf. com.). In any case οἱ ... οἰκέται is a clumsy and unnecessary addition at the very end of the document.

I find these reasons enough to reject the authenticity of the present document.

35. ἀσελγῶς προὔπηλακ(ζετο) The description of the relationship between Νεαίρα and Phrynion given by the orator, can justify this hard expression: cf. § 33, 35, 36, 37, 42. Their relationship was broken after two years (375/4 - 373/2).

ὡς ᾔετο] If we put it in commas understanding it parenthetically, it means "she was not (as she thought) loved"; otherwise the meaning is "she was not loved as she expected".

Schaefer translates *wie sie sich einbildete*. Without commas it makes better sense.

αὐτοῦ] Sometimes it can move to the peninitial position of the phrase. See Marshall, *Verbs*, 8-9

ἱμάτια ... θεραπα(νας] Jewellery, clothes and servants were usually given to courtesans as presents by well off lovers. cf. D. 48, 55; Luc. *DMeretr.* 5, 4; 6, 2; Alciph. 4, 17, 5.

Θράτταν καὶ Κοκκαλ(νην] cf. S 120, 123 where Ap. addresses a πρόκλησις to St. to permit the torture of these two slaves.

εἰς Μέγαρα] Why the definite article is omitted here, but added some lines below is explained by what Blass says ( *RhM* 44 [1889] 13-4): *Wenn nun aber ein Theil einer Stadt als solcher ins Auge gefasst...dann hat der Artikel zu stehen*. In the first passage the orator simply had in mind that Neaira moved to Megara; in the second he meant "in the city of Megara".

Megara was a well known centre for prostitution. In Plautus *Pers.* 139 there is a reference to a pimp, who has recently moved from Megara. In Luc. *Cat.* 6 Theagenes the philosopher is presented slaughtering seven persons for the sake of a Megarian courtesan. Aristophanes (*Ach.* 524-5) speaks of a famous Megarian courtesan, named Simaitha and Athenaios (596e) of an οὐκ ἀγεννῆς ἑταίρα, named Nicarete the Megarian (cf. com. S 18, Νικαρέτη).

Hsch. μ 486 says that some prostitutes were called Μεγαρικάι Σφίγγες: Καλλίας (fr. 37) πόρναις τινάς οὕτως εἴρηκεν; cf. Sud. μ 486 Μεγαρικάι Σφίγγες: αἱ πόρναι οὕτως εἴρηται ... cf. Phot. s. v.; Diogenian. 6, 35; Apostol. 11, 15. The prosperity of the city during the fourth century attracted prostitutes. Their clientele mainly consisted of foreigners, who went there for professional reasons, as the present text testifies (§ 36),. (About the history of the city see the book of Ronald P. Legan: *Megara*, Ithaca and London 1981). Except Athens, there were two cities in which prostitution blossomed and they were not very far away, Corinth or Megara. Corinth, however, was excluded (§ 32, ἐφ' ᾧ ἐν Κορίνθῳ μὴ ἐργάζεσθαι). Thus Megara was the only solution.

36. χρόνος - καιρὸς] This passage is a good example for the distinction between the two words. Schaefer says: *χρόνος simpliciter tempus: καιρὸς tale tempus, cuius sit momentum in causa de qua agitur*. He quotes also a passage from Ammonius (*Diff. p. 79, Valc.*): ὁ μὲν καιρὸς δηλοῖ ποιότητα χρόνου, οἷον ὅτε πόλεμος ἦν· χρόνος δὲ ποσότητα, οἷον, πρὸ δέκα χρόνων ἢ μετὰ δέκα ἔτη. Χρόνος must be understood here as "year" and καιρὸς as "time".

τὸν ὕστερον] Taylor says that what the author had in mind was *postremum bellum*, since it was the last war between Athens and Sparta. Gernet, with the same thought, suggested ὕστατον. But the author said ὕστερον, in contrast to the war with Sparta a

few years ago, the peak-event of which was the naval battle off Naxos in 376. This war ended in 374. The one which he implies here is the second war which started shortly after (374/3; ended in 371) and which would be the last war in history between Athens and Sparta. (See Hammond *History* 482 - 92).

δύ' ἔτη] Neaira fled to Megara in 373 (ἐπ' Ἀστείου ἄρχοντος). She stayed there the next year as well (Ἀλκισθέου ἐνιαυτὸν = 372/1). In the year of Phrasicleides (371/0) she moved back to Athens, shortly after the peace and the battle of Leuctra (5th of Hekatombaion).

καὶ Ἀλκισθέου] Herwerden's (Mn. 3 [1875] 357) suggestion καὶ <τὸν ἐπ'> Ἀλκισθέου, is not necessary: the structure here is elliptical.

δ' ἦν] Reiske first has noticed that δὲ here stands for γάρ. Denniston (169-70) says that δὲ standing for γάρ is quite usual in poetry but rare in prose, sometimes in an explanatory parenthesis as here: see Lys. 12, 68; Pl. *Chrm.* 153b.

οἱ Μεγαρεῖς δ' ἀνελεύθεροι] This is the text given by the edition of Lambinus. SQ give οἱ μὲν γὰρ ἦσαν ἐλεύθεροι, F οἱ μὲν γὰρ δ' ἀνελεύθεροι, with Μεγαρεῖς added in the margin. YrD give οἱ μὲν γὰρ Μεγαρεῖς ἀνελεύθεροι. (r repeats Μεγαρεῖς in the margin) The text which appears in our editions must be the right one; μὲν γὰρ has no place in the text. Cobet (*Novae Lectiones*,

530) arguing that the ending in -ῆς for the nominative of plural existed in the texts of the orators, refers to the present passage and says that the initial reading here was Μεγαρής. Meisterhans (*Grammatik*<sup>3</sup>, 141) says that the form in -ῆς is more common until 350 B.C. Afterwards it is gradually substituted by the ending in -εις and its last appearance in inscriptions is in 325 B.C. The form Μεγαρής is also found on a fourth century inscription (*CIA* 2,1676). Rennie adopts the form in -ῆς (Πλαταιῆς, 94) in the present speech based on the evidence of S<sup>1</sup>. Thus, I find that the older form in -ῆς is preferable, since some evidence leads us to it. I would restore the form Μεγαρεῖς here, as the initial reading.

ἀνελεύθεροι καὶ μικρολόγοι] The Megarians had a bad reputation in antiquity: *AG* 11,440: Μεγαρεῖς δὲ φεῦγε πάντας· εἰσὶ γὰρ πικροί. Demosthenes twice calls them κατάρατοι (13,32; 23,212). In 23,212 he speaks about their arrogance. *D.L.* 6,41 says: ἐν Μεγάροις ἰδὼν τὰ μὲν πρόβατα τοῖς δέρμασιν ἐσκεπασμένα, τοὺς δὲ παῖδας αὐτῶν γυμνοὺς, ἔφη, “λυσιτελέστερόν ἐστιν Μεγαρέως κριὸν εἶναι ἢ υἷόν”. cf. *Ar. Ach.* 729-835. A Delphic oracle given to the Megarians who asked in which position they are in the Greek world, has become a proverbial expression: *AG* 14,73 (cf. Parke, *The Delphic Oracle*, 424): ὑμεῖς δ’ ὦ Μεγαρεῖς, οὐδὲ τρίτοι, οὐδὲ τέταρτοι / οὐδὲ δυωδέκατοι, οὔτ’ ἐν λόγῳ οὔτ’ ἐν ἀριθμῷ. cf. *AG* 5,6: τῆς δὲ ταλαίνης / νύμφης, ὡς Μεγαρέων, οὐ λόγος οὐδ’ ἀριθμός. *Theocr.* 14,48-9: ἄμες δὲ οὔτε λόγῳ τινὸς ἄξιοι οὔτ’ ἀριθμητοὶ / δύστανοι Μεγαρήες ἀτιμοτάτῃ ἐνὶ μοίρῃ. *Sud.* μ 382:

Μεγαρέων ἄξιοι μερίδος: ἀντί τοῦ ἄτιμοι. τοιοῦτοι γάρ οἱ Μεγαρεῖς Phot. Lex. s. v. Μεγαρεῖς; Apostol. 1, 59; 17, 53. Μεγαρέων δάκρυα implying false tears, garlic was produced in Megara was another proverb: Hsch. μ 483: Μεγαρέων δάκρυα: δοκεῖ πλείστα φύεσθαι ἐν τῇ Μεγαρικῇ σκόροδα, καθάπερ φασίν (e. g. Ar. Ach. 761-3; Sch. Pax 246). καί παροιμία ἐπὶ τῶν προσποιητῶς δακρυόντων. cf. Sud. μ 383; Phot. s. v. Zen. 5, 8; Diogenian. 6, 34; Macar. 5, 87. A verb μεγαρίζειν is also attested: Sud. μ 388: μεγαρίσαι: τὰ Μεγαρέως δοξάσαι. Στίλπων γάρ ὁ φιλόσοφος Μεγαρεὺς ἦν τῆς Ἑλλάδος· ὃς τοσοῦτον εὐρησιολογία καὶ σοφιστεία προῆγε τοῦς ἄλλους, ὡς μικροῦ δεῆσαι πᾶσαν τὴν Ἑλλάδα ἀφορῶσαν εἰς αὐτὸν μεγαρίσαι. Hsch. μ 485: μεγαρίζοντες· λιμώτιοντες [μεγάλα λέγοντες]. cf. Sud. μ 384; Phot. s. v.

Pollux 2, 124 defines μικρολόγον as τὸν εἰς ἀργύριον ἀνελεύθερον. = Hyp. fr. 255. cf. Thphr. Char. 10 Μικρολογίας and Ussher, *The Characters of Theophrastus* 103-111). About the connection of μικρολογία with money see Thphr. 10, 13: τὰ μικρὰ ταῦτα πολλὰ ἐστὶ τοῦ ἐνιαυτοῦ. μικρολόγος means "stingy", in the sense that he is very careful even with the smallest spending.

There are several other passages, connecting μικρολογία with ἀνελευθερία. Pl. R. 486a identifies μικρολογία with ἀνελευθερία; it contradicts the soul of a free person. In Arist. MM 1192 a 8 ff. μικρολογία is one of the kinds of ἀνελευθεριότης. Arist. (EN 1107 b 8 ff.) says about ἀνελευθερία, in connexion with financial matters: περὶ δὲ δόσιν χρημάτων καὶ λήψιν μεσότης μὲν

ἐλευθεριότης, ὑπερβολή δὲ καὶ ἔλλειψις ἀσωτία καὶ ἀνελευθερία ... ὁ δ' ἀνελεύθερος ἐν μὲν λήψει ὑπερβάλλει ἐν δὲ προέσει ἔλλειπει. In *MM* 1192 a 3 ff. says ὁ τ' ἀνελεύθερος ... ὁ μὴ ἀναλίσκων εἰς ἃ δεῖ καὶ ὅσα δεῖ καὶ ὅτε δεῖ. Xenophon gives a rather moral definition (*Cyr.* 8, 4, 32): τὸ γὰρ πολλὰ δοκοῦντα ἔχειν μὴ κατ' ἀξίαν τῆς οὐσίας φαίνεσθαι ὠφελούντα τοὺς φίλους ἀνελευθερίαν ἔμοιγε δοκεῖ περιάπτειν. How a word literally meaning "not free" eventually came to mean "niggardly" becomes clear from passages like *Arist. EN* 1122 a 8-11: κέρδους γὰρ ἀμφοτέροι πραγματεύονται καὶ ὀνειδῆ ὑπομένουσιν, καὶ οἱ μὲν κινδύνους τοὺς μεγίστους ἔνεκα τοῦ λήμματος, οἱ δ' ἀπὸ τῶν φίλων κερδαίνουσιν, οἷς ἔδει διδόναι. cf. also *Arist. EN* 1121 b 12 ff; *Thphr. Char.* 22 and *Ussher*, 184 ff.

37. ἡ εἰρήνη ... Λακεδαιμονίων] The orator refers to the piece which ended the war which started two years before (cf. § 35 and com.) and was signed in Sparta in the summer of 371 according to which a) independence was granted to all Greek cities. b) All garrisons had to be withdrawn. c) A general disarmament was to be carried out. d) If one city broke the terms whoever wished could help the victim of aggression. The Thebans then asked to sign on behalf of all Boeotians. The Athenians and the Spartans denied, afraid of the rising of the Boeotian League. The Thebans did not sign the peace, making themselves liable to a possible attack by everybody. Athenians and Spartans withdrew their garrisons and armed forces, except the force under the king Kleombrotos, who was commanded to

attack Thebes. Thus, the fragile peace lasted only twenty days. The battle in the field of Leuctra was a total destruction of the more numerous Spartan army and the only time in History the king was killed. For further details cf. Hammond *History*<sup>2</sup>, 492-3; Pickard-Cambridge *Demosthenes* 52 ff. Ryder *Koine Eirene* 58 ff. and esp. 127-30.

The present passage and D.S. 15,150 inaccurately place this peace in the archonship of Phrasikleides (371/0) D.H. *Lys.* 12, dates it to the archonship of Alcisthenes (372/1) *Plu. Cam.* 19 says that the battle of Leuctra took place on Hekatombaion 5 and in *Ages.* 28 ff says: δηλοῖ δὲ τὸ σὺν ὀργῇ γενέσθαι τὴν στρατείαν ἐκείνην ὁ καιρὸς· τῇ γὰρ τετράδι ἐπὶ δέκα τοῦ Σχιροφοριῶνος ἐποίησαντο τὰς σπονδὰς ἐν Λακεδαιμόνι, τῇ δὲ πέμπτῃ τοῦ Ἑκατομβαιῶνος ἠττήθησαν ἐν Λεύκτροις, ἡμερῶν εἴκοσι διαγενομένων. Xenophon's narration agrees with Plutarch (*HC.* 6, 3, 18: the terms of the peace ff.). Clinton first (*Fasti Hellenici*, Oxford 1841, 122 and 335-6) pointed out that this peace was signed in the last days of the archonship of Alcisthenes (372/1). Another peace-treaty was signed after the battle of Leuctra in Athens during the archonship of Phrasikleides (371/0). See Ryder 131-3.

καταγόμενον] Hude (*NTF* 7 [1885-7] 292) proposed καταγαγόμενον. But the combination of the present participle with the aorist participles is not impossible. The present participle expresses duration, the aorist participle something instant. e.g. § 51:

ὀργισθεὶς καὶ ἡγούμενος (Phrastor's wrath was temporary, but his opinion permanent); 63: ἀποψηφισαμένων καὶ διδόντων (the gennetai asked Phrst. to take an oath more than once), 64: καταγόμενον, as above; D. 49, 22: ἀφικομένου γὰρ Ἀλκίτου καὶ Ἰάσονος ὡς τοῦτον καὶ καταγομένων εἰς τὴν οἰκίαν τὴν ἐν Πειραιεῖ (Alcetas and and Jason went to Timotheos' house to stay). St. stayed in N's house in Megara for a longer period than a single visit. The orator points out that she was a courtesan, perhaps implying that normally she offered her clients hospitality (ἐταίραν οὔσαν). And the trust on her side and the deep feelings between them needed some time to develop. In this sense the transmitted text must be correct.

ἄβριν] In this paragraph especially from ἐπιθυμοῦσα to ὄντα, where the orator explains what N. said to St., the narration is given from the point of view of Neaira.

ἐπιδοῦσα] Reiske suggested ἐπιδεικνύσα, because N. would not give away her goods, before she had St.'s assertion that they would move together to Athens. But the difficulty is not serious: the orator has reversed the sequence of the events. cf. § 45 ὑπεδέξατο.

αὐτῇ] Hude (p. 292) proposed either αὐτῇ or αὐτόν, for αὐτῆν of the mss. The change of subject (ἐκείνον δὲ) and the fact that with αὐτῇ the sense is better, make αὐτῇ preferable. N. admitted

that she had wronged him and this was one of the reasons to be afraid of him.

38. φουσήσας] Ap. points out the arrogance of St. cf. § 97: φουσηθείς; D. 13, 12 al.

κλαύσοιτο] Metaphorically used implies a kind of threat. Passages mainly from comedy show that in some cases physical violence is implied. In Ar. *Pax* thrice it is addressed to a slave (255-6; 262; 1277); (cf. also *ib.* 532-3). In *Nub.* 933 we find a similar threat as in our text: κλαύσει, τὴν χεῖρ' ἣν ἐπιβάλλης. A good example for the metaphorical sense of it is *Av.* 341-2: Ἔν. ἵνα μὲν οὖν κλαίοιμι μεγάλα / Πει. πῶς κλαύσει γάρ, ἣν ἄπαξ γε τῶφθαλμῷ ἄκοπῆς; (cf. Green, *Birds*, 111; Merry<sup>4</sup> *Birds*, 22-23).

ἄψοιτο] Ἄψοιτο is a correction of Cobet (*Novae Lectiones*, 337), for ἄψαιτο of the mss. cf. κλαύσοιτο preceding; *X. Cyr.* 3, 1, 3; *An.* 7, 1, 16; Goodwin, *Syntax*, 272-3. In direct speech, it would be κλαύσεται εἰ ἄψεται.

εἰσάξων ... ποιήσων] cf. com. § 55, about the procedure of the introduction to the phratry.

ἀδικήσει] Rennie accepts the reading of SF<sup>1</sup>Q<sup>1</sup>; Blass, Murray and Gernet the reading of the other manuscripts ἀδικήσοι. [From the older scholars Reiske prefers ἀδικήσει, Bekker and Schaefer ἀδικήσοι.] Apart from that the participles (ἔξων, εἰσάξων, ποιήσων) are very

difficult. The harmony of the period breaks quite early; after the conditional clause there does not follow a second ὡς sentence but the unusual structure ὡς + participle: Goodwin (*Syntax* 366-7) says that sometimes, after verbs of "saying" ὡς + participle (in nominative or accusative) follows and this structure *in some cases approaches very near indirect discourse* (cf. e.g. A. A. 672: λέγουσιν ἡμᾶς ὡς ὀλωλότας; X. An. 1, 3, 15; ὡς στρατηγήσοντα ἐμὲ μηδεὶς λεγέτω). On the other hand, Kühner - Gerth (2, 544-5) give some cases in which ὡς + indicative is found in passages in which we have transition from the indirect to the direct speech: cf. eg. Isae. 8, 22 εἶπον ὅτι, ἐνταῦθα ποιήσομαι τὴν ταφήν.

In the present passage Rennie's thought probably was that we have a transition from the indirect to the direct speech. The other editors feel that the sentence goes on in indirect speech to the end. I find that several elements in this sentence support Rennie's understanding: a) The conditional clause is indirect; ὡς + participle the intermediate grade and ἀδικήσει direct speech. b) ὡς is quite far away from ἀδικήσει, so ἀδικήσει can gain its independence easily, especially when in the middle a clause with three participles - a totally different structure - intervenes. c) In paleographic terms the indicative was easier to be changed to optative under the influence of the preceding optatives by a grammarian, who did not understand this transition. It would be useful to add a parallel in which a transition of the same kind has taken place: X. An. 4, 8, 10:

ἔλεξεν οὖν Ξενοφῶν, ὅτι δοκοίη ... λόχους ὀρθίλους ποιῆσαι· ἡ μὲν γὰρ φάλαγξ διασπασθήσεται εὐθύς· τῇ μὲν γὰρ ἄνοδον, τῇ δὲ εὐόδον εὐρήσομεν τὸ ὄρος. What I find common between Xenophon's passage and the present one is the strong degree of certainty which is given after the speech becomes direct: Xenophon is absolutely sure that the phalanx will break, because the mountain is certainly impassable and the orator here presents Stephanos' affirmation to Neaira, that nobody will harm her, as definite. In this case we understand the reason of this transition: the indirect speech is not the best way for such an explicit assurance to be expressed. [*Baiter, in order to make the passage easier, transferred ἀδικήσει ... ἀνθρώπων exactly after ἄψοιτο αὐτῆς: verum aptius nuhcs opponuntur ὁ Φρυνίων.* But as I said, we do not need to transfer them.]

39. ὃ ἦν] S gives ὄν. I would accept it if the mss gave οἰκίδιον, without the definite article; with τὸ οἰκίδιον we should have τὸ ὄν.

ψιθυριστῆν Ἑρμῆν] For this strange epithet of Hermes very little is known. There is no reference to it in poetry (cf. Bruchmann *Epitheta Deorum*, Roscher Suppl. p.111) or elsewhere apart from some later sources (two of them certainly based on this passage):

1) Harp. 310, 4: Ψιθυριστῆς Ἑρμῆς: Δημοσθένης ἐν τῷ κατὰ Νεαίρας. ἦν τις Ἀθηνησιν Ἑρμῆς οὕτω καλούμενος. ἐτιμάτο δ' Ἀθηνησι καὶ ψιθυρος Ἀφροδίτη καὶ Ἑρως ψιθυρος (cf. Sud. ψ 100)

2) Anecd. Bek. 317, 11: Ψιθυριστής. Ἑρμῆς: ἀγάλματα εἰσὶν Ἀθήνησιν ψιθυριστοῦ καὶ Ἔρωτος καὶ Ἀφροδίτης καὶ Ἑρμοῦ, ἅπερ πρῶτος ἐποίησε Θησεύς, καὶ Φαίδρα ἐψιθύρισε Θησεΐ κατὰ Ἴππολύτου, διαβάλλουσα αὐτὸν ἢ ὅτι παρὰ τὸ τοῦ Ἑρμοῦ ἄγαλμα πορευομένους τὰ ἀπόρρητα συντίθεσθαι καὶ ψιθυρίζεν ἀλλήλοις περὶ ὧν βούλονται. (cf. Sud. ψ 99).

3) Eust. com. Od. υ 8: χρῆ γὰρ ὡς τὰ πολλὰ, ἡσύχως ἔχειν αὐτάς. διὸ καὶ ψιθύρου Ἀφροδίτης κατὰ Πausanίαν ἱερὸν ἦν Ἀθήνησι καὶ Ἔρωτος δέ· οὗ καὶ Δημοσθένης, φησί, μέμνηται ἐν τῷ κατὰ Νεαίρας. ἐκαλεῖτο δὲ φασὶ ψίθυρος, διὰ τὸ τὰς εὐχομένας αὐτῇ πρὸς τὸ οὖς λέγειν, ὅπερ ἐδήλου μὲν χρῆναι μυστηριάζεσθαι τὰ τοιαῦτα. οὐκ ἦν δὲ ἀπεικὸς, δηλοῦν καὶ τὸ δεῖν εἶναι ἀπέχειν τὸ τρανές τῶν φωνῶν, ὧν μέρος καὶ τὰ θρασέα γελοιαστικά.

Maussacus (in Harpocr. 2, 458-60, Dindorf) bases his explanation on Eustathios' comment and he believes that these deities were named so, because it was probably a custom in the mysteries of these deities to whisper. Immerwahr (*Kulte und Mythen Arkadiens* 1,69) also, relates the three deities and believes that this epithet has to do with an erotic quality of Hermes. Usener (*Götternamen*, 267) also takes the three deities together. Welcker (*Griech. Götterlehre*, 2, 460, 149) connects the epithet ψιθυριστής with δόλιος, a quite well known epithet of Hermes, with a wide mythical background. Radke (*RE* 23, 1414-1417) concludes *Psithyristes ist - aktivish der Gott der dem Fragenden seinen Bescheid ins Ohr flüstert.*

The point is that the evidence is very limited. T.1 is partly based on the present text and partly on the existence of statues of the gods mentioned. T.2 speaks about a statue of the god, along with statues of Aphrodite and Eros, but all the rest of the information is of no value, because it is merely a suggestion of the grammarian. T.3 is obscure. There is a reference to Pausanias: unless Eustathios misquotes a lost work of Pausanias the whole comment is nonsense. Probably he remembered wrongly the sources for the whole point he wanted to make. A latin source, as well, (*Mercurius Sussurio*, *CIL* 13, 12005) does not say much. I can easily accept the existence of a statue of the god at the location mentioned. But we really do not know whether it was a standard epithet of the god, or that all that we read in the lexicographers is an effort to explain the name of this location and the present passage. The name of the location could originate from a strange event already forgotten in the classical period. However, if it expressed a standard quality of the god, I would think that it implies an erotic quality of Hermes: the god who carries the secret messages of lovers.

Δωροθέου τοῦ Ἐλευσιν(ου) Member of a rich Athenian family, trierarch around 366/5 and in 357. He and his brother appear as witnesses in *Isae*. 3, 22. An inscription was found in Eleusis including the name Φιλέας Δωροθέου Ἐλευσίνιος, who was probably his son (cf. Davies, *APF*, p. 174; Kirchner, *PA*, 4610).

Κλεινομάχου] In D. 58, 42 we read that he brought together and eventually reconciled Demosthenes and Theocrines. The fact that Ap. mentions only his name here means that he was a well known personality. (PA, 8515)

ἦν νυνί] ἦν refers to οἰκίδιον (St's house, not Kleinomachos'), otherwise we cannot explain the imperfect above: ὃ ἦν αὐτῷ.

Σπίνθαρος] Probably the same person with Σπίνθαρος Εὐβούλου Προβαλίσσιος mentioned in D. 54, 7. (cf. Kirchner PA 12853 and 12857).

ἐπιτὰ μνῶν] Information about the prices of houses in the fourth century is given in Boeckh *Economy* 1, 90 ff. They varied from 3 to 120 minae. The house of a poor family in D. 41, 5 is valued at 10 minae. In Isae. 11, 44 a house costs 20 minae, in 6, 33 a house is sold for 44 minae and in 5, 29 a house is sold for 50 minae. The house of Demosthenes' family is valued at 30 minae and Pearson (*Demosthenes*, 116) points out *the low value of the house in comparison to its contents* (D. 27, 10). Pasion's luxurious house costed 100 minae (D. 45, 28) and in Plautus *Mostell.* 3, 1, 113 ff. a house of 120 minae is mentioned. The comparison with these prices shows that the price of the small house of Stephanos was very low.

ἔνεκα] All manuscripts give οὐνεκα. οὐνεκα as an alternative of ἔνεκα is quite frequent in poetry. Sophocles' manuscripts, for

example, give only οὐνεα. In prose, however, it is rare. Kühner-Blass (2, 251-2) and Meisterhaus (*Grammatik*<sup>2</sup>, 216-7) are doubtful about its existence outside poetry. Only here and in Th. 6,56 all manuscripts give οὐνεα. In some other passages some of the manuscripts give it: X. Cyr. 4,2,11 (οὐνεα: HAG); ib. 5,5,12 (οὐν - CAEGH); D. 49,36 (οὐν-S); ib. 49,53 (οὐν - SFQ; εἶν- A). It is remarkable that in all the cases of a divided transmission, the older manuscripts give οὐνεα. In the two cases also in which all manuscripts give οὐνεα, some later manuscripts give ἔνεα (Coisl. 339, here) I wonder whether it could be taken as a sign that οὐνεα has been replaced by ἔνεα in other places as well.

Hude proposed to replace οὐνεα with οὐν ἔνεα (NTF, 7 [1885-7] 292). δ'οὐν would mean that the orator having expounded the details of this event, with these particles concentrates our attention on the reasons for which Stephanos took Neaira with him (cf. Denniston 460 ff.). This understanding of the text is quite good. Hude's suggestion thus seems to be quite attractive, and I would be inclined to accept it if I was convinced that οὐνεα is unlikely to be used in prose. But, according to the existing evidence οὐνεα should not be immediately excluded. Thus, although with reservation I am inclined to keep the reading of the mss.

ἐξ ἀτελε(ας) A quite technical and official word, (cf. com. S 27). Ap. is sarcastic.

τὰ ἐπιτήδεια] Naber (Mn. 32 [1904] 39) thinks it is an interpolation: *qui locum interpolavit, verbum ἐργάζεσθαι non rectissime intellexit*. But for ἐργάζομαι as a transitive verb in the sense "I earn" cf. e.g. X. Mem. 2,8,2: τὸ σῶμα ἰκανὸν εἶναι μισθοῦ τὰ ἐπιτήδεια ἐργάζεσθαι.

ὄ τι μὴ ... τι λάβοι] Reiske proposed τινὰ instead of the second τι and Blass, although he is quite fond of Reiske's suggestion, alternatively proposed ὅτε instead of ὄ τι. Rennie on the other hand, followed by Gernet, believes that the transmitted text is correct: *at alterum verbo συκοφαντήσας adhaeret*. I agree the transmitted text is correct; ὄ τι at the beginning is adverbial (cf. LSJ ὄ τι II).

ἦγεν] Anyone who tried to hale a free person into slavery was liable to ἀπαγωγή, or perhaps a γραφή (Harrison Law 1, 178) if the wrong seizure happened in the past and direct evidence no longer existed, as Harrison has suggested, or ἀφαίρεσις εἰς ἐλευθερίαν (MacDowell Law 80): a friend of the wrongly enslaved person "removed him to freedom". The conditional master then could insist on his claim before the polemarch (κατεγγυῶν). The friend of the slave then, had to provide two persons as sureties that the slave would appear in the trial (δίῃ ἀφαιρέσεως or ἐξαιρέσεως: see Harp. s. v.). The law-court decided the status of the conditional slave and if he was convicted the person who removed him to freedom had to pay the value of the slave to the

master (and probably return the slave) and an equal sum to the state as a fine.

Harrison (*Law* 1,166) had the idea that ἀπαγωγή was available in the case of attempted enslavement of an Athenian citizen; for other free persons the procedure was ἀφαίρεσις εἰς ἐλευθερίαν. Harrison (1,178) also thought that ἀπαγωγή was used when a penal charge against the conditional master was desired and ἀφαίρεσις when the important issue was only the freedom of the slave, without any further complication; indeed, ἀπαγωγή was a violent and extreme action. I do not believe that ἀπαγωγή (and possibly γραφή) was limited to the attempt of enslaving a citizen, because this would mean that anybody could try to enslave all free non Athenians, with no fear. Otherwise the distinction between the two procedures is, I believe, as Harrison set it. St. chose ἀφαίρεσις, because the freedom of N. was more important for him, than the punishment of Phrynion. [Further discussion in Harrison, 1, 165-166 and 178-180, and MacDowell 80 and notes]

Phrynion's passion led him to act directly and hale N. into slavery, although he knew that his action was not lawful, since Neaira was free. Stephanos with two friends of his, Glauketes and Aristokrates, as witnesses, summoned Phrynion to appear before the Polemarch. Phrynion either had to set Neaira free without any further claim or to follow him to the Polemarch, which he did, and ask for sureties that she would be present in

a trial which should decide her status. After this action and if sureties were provided he was obliged to let her go away.

40. παραλαβὸν νεανίσκου] YrD give λαβὸν. Parallels support the reading παραλαβόν: In Pl. R. 369b we read: οὕτω δὴ ἄρα παραλαμβάνων ἄλλος ἄλλον, ἐπ' ἄλλου, τὸν δ' ἐπ' ἄλλου χρεῖα, πολλῶν δεόμενοι, πολλοὺς εἰς μίαν οἴκησιν ἀγείραντες κοινωνοὺς τε καὶ βοηθοὺς. cf. also. Hdt. 1, 76; 7, 150; Th. 1, 111, al.

Were these νεανίσκοι citizens ? νεανίσκος can mean "servant" (cf. e. g. Luc. Alex. 53) like παῖς. Phrynion did not need to ask citizens, for an illegal action. On the contrary, citizens would be rather unwilling to participate, and make themselves responsible for attempted enslavement of a free person. He rather needed strong young men to draw N. to his house, perhaps violently. Young mighty slaves were quite suitable for this purpose.

Αἰήτην Κειριάδην] There is no further evidence. This form of the name is a suggestion of Reiske. Instead of Αἰήτην SYrD give διήτην, FQ ἀήτην. Reiske's suggestion is just a combination of the two forms. In PAwe do not find any other Athenian called Αἰήτης, a name which, as Reiske has already noted, comes from poetry (Medea's father, king of Aia: RE 942-4, Escher). There are two persons in PA named Ἀέτης and that is an alternative possibility here.

All manuscripts give Κιριάδην. Reiske corrected it. Κειριάδαι was a deme of Hippothontis and according to the map given in Whitehead's book *The Demes of Attica*, p. xxiii, it was close to the city. cf. also *RE* 11, 114-5, Bölte.

**ΜΑΡΤΥΡΙΑΙ** Only Westermann rejects the authenticity of this document:

1) He objects to the absence of any mention of the case; he finds that κατεγγυηθῆναι is not enough to express the case for which he is called to testify. Staeker (*De Litis*, 42) answers that it was not necessary. I agree that probably no more words would be necessary since κατεγγυᾶν could make the judges understand the case.

2) The strongest argument for the authenticity of this text is the extra information it offers, not derived from the context. In the testimony we read the names of the three sureties. In § 41, the orator presents Stephanos as the only assertor. Westermann takes it as an inconsistency. But Staeker (p. 42) correctly says that the assertors had to be three. The orator gives only Stephanos' name in § 41, because he does not go to the trouble of giving details already known to the judges. Drerup (*Urkunden*, 344-45) is of the same opinion as Staeker. Since this is the only point in the text in which this information appears, I also find that this argument supports the authenticity of this text. This detail is difficult to be a product of fabrication.

Besides, the names do not appear in the context. Stephanos' demotikon is attested only by the testimony (cf. Intrad. ch. 2). [SFQ give Εὐροιάδην. There is not much information about the small deme of Ἐροιάδαι, but the correct form is Ἐροιάδης (cf. *RE* 61, 483, Milchöfer). Thraette (*Grammar*, 495) denies that the form ΗΕΡΟΙΑΔΟ found in an inscription is the demotic Ἐροιάδης. He believes that this form must be a name (Ἐρωιάδης?)] Γλαυκέτης Γλαυκέτου Κιφησιεύς was a member of Hagnotheus' thiasos in the early fourth century. His brother was probably a guarantor of the ships for Chalkis in 341/0 (Κλεοχάρης Γλαυκέτου Κιφησιεύς) and he paid a debt raised from this obligation. The complete name of Glauketes is retained on an inscription: (CIA 2, 804 B a 3; cf. Davies *APF* 89; Kirchner, *PA*, 2954). Davies is mistaken when saying that Glauketes in the present text is called νεανίσκος. If the νεανίσκοι mentioned in § 40 were citizens they were friends of Phrynion; the ἑγγυηταί, however, were friends of Stephanos and Stephanos himself was one of them. [About Κηφισία see *RE* 11, 224-5, Bölte] Ἀριστοκράτης Φυσκίωνος Φαληρεύς, according to Kirchner (*RhM*, 40 [1885] 382) grandson of Ἀριστοκράτης Φαληρεύς who was one of the Ἑλληνοταμίαι in 421/0. Davies (*APF* 60 [*PA* 1926]) suggests that probably the present Aristocrates was his nephew and not his grandson. He was a victorious choregus in tragedy at the Dionysia in 388/7. He was also honoured by the city for the tenure of a priesthood, in the early fourth century. [About Φάληρον see *RE* 19, 1663, Wrede]

This document is poor and quite informal. But the extra information which it offers and the fact that it is a testimony

given by an authority (cf. Intrd. ch.4 and the documents of § 47, 61, 71, 123-4;) rather support its authenticity.

41. Διεγγωθηθεισα] Harp. 96,10: Διεγγύησιν: ἀντὶ τοῦ κατάστασιν ἐγγυητῶν Δημοσθένης κατὰ Τιμοκράτους (D.24,73) ἐν δὲ τῷ κατὰ Νεαίρας, εἰ γνήσιος ὁ λόγος, φησὶ "διεγγωθηθεισα ὑπὸ Στεφάνου". κατεγγυῶν applies to the potential master; διεγγυῶν to the person who acts on behalf of the person haled into slavery. cf. Isoc.17,14: κατεγγυῶντος γὰρ Μενεξένου πρὸς τὸν πολέμαρχον τὸν παῖδα Πασίων αὐτὸν ... διεγγυήσατο. D.H. 7,12 al..

ἢ πρότερον] FQ give τὸ πρότερον. πρότερον vaguely implies a contrast of the past to the present: § 51. 119. 122; τὸ πρότερον is more specific (Isoc. 4,91; Isae. 11,23 al.) In the present passage the orator's only intention is to state that Neaira charged more than before. πρότερον works better in the context of a comparison.

με[ζους] The argument is strange: how did N. charge more because she was living with a man? And how many men wished to run the danger of an attack by Stephanos, when they could have a safer affair with another courtesan? This argument should be connected with what follows and the narration in §§ 64-71. Epainetos' case explains what the orator meant here: N. was a known courtesan in Athens. Sometimes, however, St. pretending to be her husband trapped ignorant persons accusing them for adultery and he extracted from them compensation. But how many times did St. use

this device? Presumably not often; most likely the orator here exaggerates presenting it as an everyday practice.

ἐπὶ προσχήματος] The passages in which ἐπὶ + dative, gives the meaning "with the excuse" are far more <sup>common</sup> than the passages with ἐπὶ + genitive. The standard expression in the Corpus is ἐπὶ (τῆ) προφάσει. (cf. e.g. 7, 15; 16, 25; 20, 149; 22, 48; 24, 26. 143. 160; 33, 2; 47, 32; 59, 105). The structure ἐπὶ + genitive, on the other hand, is found in Hdt. 7, 150: ἐπὶ προφάσιος; Isoc. 20, 13 ἐφ' ἧς προφάσεως, al.). The phrase ἐπὶ προσχήματος in the present passage is superfluous, since ὡς + participle is enough to express that the reason given here is presented as a personal opinion of the subject of the leading verb, but not necessarily of the author (cf. Goodwin, *Syntax* 342-3). It is added for the sake of emphasis.

συνεσυκοφάντει] Murray (in *LOEB*) translates *extorting blackmail*: cf. § 68: συκοφαντῶν τὸν Ἐπαίνετον.

οὐδέ N.] Bekker correctly changed οὔτε of the mss. to οὐδέ, because it comes after another negative particle (οὐχ ὑπῆρχεν).

42. Στεφάνῳ οὐδέ Νεαίρῳ] In any household the man, not the woman, would be the one expected to support the family. In reality, however, according to the orator (here and in § 39, 67, al.) the whole family was living on N.'s immoral earnings.

ἡ διοίκησις συχνή] Wolf defines the word διοίκησις as following:  
ἡ δαπάνη, ἣ οἱ κατὰ τὸν οἶκον τρέφονται. Alias αἱ δημόσιαι  
πρόσοδοι hoc nomine intelliguntur. Unde οἱ ἐπὶ τῆς διοικήσεως.  
Videtur hoc καταχρήσει luxum mulierculae exaggerare. συχνή for  
"large" has to do with the routine-character of everyday  
expenses.

ὅπ' ἔδει] This is a suggestion of Lortzing (p. 67), adopted by  
Rennie and Gernet [Lortzing says: ὅποτε δέοι (scribe ἔδει) τοῦτον, The elision was  
printed by Rennie]. Blass and Murray adopt the reading of the mss  
ὅποτε δέοι. Lortzing changed the transmitted reading because  
ὅποτε + optative implies a repetitious action in the past, and  
he could not understand the action here as repetitious. But as I  
said before, the reference here is to routine, everyday expenses  
(ἡ διοίκησις συχνή) and in this sense the action implied is  
repetitious. N. needed to worry every day about the supply of  
her household. ὅποτε δέοι is correct.

παιδάρια] rD give παιδία. In § 50 YrD give παιδίον against  
παιδάριον of the rest. παιδάρια is *lectio difficilior*.

μεμαθηκυῖα] D gives μεμαθηκυῖαν, adopted by Gernet. But αὐτήν  
τρέφειν, on which the accusative would depend is quite far. The  
nominative depends on ἔλυσεν (cf. com.) which is closer. The  
nominative is preferable.

αὐτῆ] This is the reading of Qcorr.D. All the rest give αὐτήν. Wolf, Iurinus and Reiske (without the evidence of Qcorr.D) suggested <εἰς>αὐτήν. The dative is correct. cf. D. 35, 40.

43. οὔτε γάρ] Hude (NTF 7 [1885-7] 293) finds "οὔτε" here, in the sense "καὶ γὰρ οὐ" impossible and he proposes οὐδέ. Lortzing (p. 63 ff.) supports οὔτε. Blass keeps οὔτε, with hesitation, followed by Rennie and Murray. Gernet adopts οὐδέ. There are some passages in which single οὔτε is attested: Arist. Ph. 208 a 5 ff.: τὸ ἄπειρον εἶναι δοκεῖ οὐ μόνον δυνάμει ... οὔτε γὰρ ... ἀναγκαῖον ἐνεργεῖα ἄπειρον εἶναι σῶμα αἰσθητόν. Hdt. 3, 155, 2 (a group of mss. gives οὔτε); Luc. Par. 27, 53 al. Denniston (511) says that οὔτε only superficially appears single in these cases; in fact it follows a sort of negation which existed in what was said by the author before. In Aristotle's passage it follows οὐ μόνον. In this passage οὔτε is in fact connected in the mind of the orator with οὐσία ... Νεαίρα, as if he said οὔτε γὰρ οὐσία ὑπῆρχε Στεφάνῳ οὐδέ Νεαίρα, οὔτε ἀπὸ τῆς πολιτείας προσῆει τι αὐτῷ. οὔτε is possibly correct.

προσῆει] D adds οὐδὲν after λόγου. Wolf, without knowing D, proposes <οὐδὲν> προσῆει. Hude (p. 293) finds the use of the neut<sub>er</sub> adjective without an indefinite pronoun very difficult and proposes to change τούτῳ (= τουτῷ) to τότε τι.

The difficulty with the transmitted text is that ἄξιον λόγου is a supplement of a noun or pronoun; it cannot be itself the

subject or the object: e. g.: Isoc. 6, 54, μηδὲ μίαν μάχην ἄξιον λόγου φαίνεσθαι μεμαχημένος. ib. 12, 75 ἦτιον δ' ἐπαινουμένῳ τῶν οὐδὲν ἄξιον λόγου διαπεπραγμένων; b. 15, 135 al. In Isoc. 15, 62: τῶν εὐρεῖν μὲν οὐδὲν οὐδ' εἰπεῖν ἄξιον λόγου δυναμένων, we have zeugma. In the present passage it seems difficult, for ἄξιον λόγου to depend directly on προσῆει. The suggestion of Hude is also difficult, because τι would be quite far from προσῆει and besides, the emphatic form of the pronoun fits well with the name. οὐδὲν after λόγου, as D gives it, is a good supplement. I only have some reservations based on paleographic grounds. D seems to have quite a few interventions by an intelligent grammarian and it adds words arbitrarily elsewhere, too, (cf. § 70 αὐτήν (δυναμένος) and Intrd. ch. 5). For that reason I am not entirely convinced that D preserves the original reading here. In paleographic terms, a much easier solution would be to add τι after προσῆει. The similarity with the ending of προσῆει was perhaps the reason for τι to be omitted; the copyist of D realized that something is missing and added οὐδὲν at the end of the sentence.

οὐ γὰρ πῶ ... συκοφάντης] The distinction between an "orator" and a "sycophant" is practically difficult, but in theory the lines are clear. A ῥήτωρ (i. e. a politician), is a person who can play an important role in public life, represent the city as an ambassador, be elected as a general e. t. c. In D. 18, 246, the duties of the orator, as a political personality, are well described. A συκοφάντης is one who hires his citizenship rights

to the service of anyone who can pay, or one who earns his living by blackmailing rich and unprotected persons. Here I will only give briefly some information about this typically Athenian phenomenon. For <sup>r</sup>further details see the book of Lofberg, *Sycophancy in Athens*.

Several references from comedy (e.g. *Ar. Ach.* 904 ff.) present sycophants as a typical Athenian product. The organization of the Athenian public life and law-courts assisted the development of this phenomenon (see Lofberg, 1-2, 10 ff.). The way in which sycophants were working is well described by Lofberg (48 ff). A sycophant was employed: 1) to bring suits against personal or public enemies (e.g., St. prosecuted Ap. for homicide, for political reasons: § 9-10); 2) to <sup>t</sup>introduce laws and decrees; 3) to act as an advocate; 4) to serve as a witness; 5) to bribe juries and ecclesiasts; 6) to influence the authorities; 7) to do work of more or less questionable nature, with which the persons who employed him did not wish to be directly connected, or which they were unable to perform.

Procedures, which secured that the successful prosecutor would have a part of the confiscated property, like *φάσις*, *ἀπογραφή*, indictment for purported marriage (cf. § 16, 52 and com.) etc. were preferred by sycophants. cf. *Ar. Ach.* 818 ff. *D. 53, 1-2; 58, 8* Lofberg, 26 ff. 83-5; MacDowell, *Law*, 62 ff.

Their activity, however, was not limited to these cases. Blackmail, i. e. taking advantage of the fear of some people to appear before the law-court, was a usual tactic: D.39,2: ὁ πατήρ δὲ ... ἅμα μὲν φοβούμενος εἰς δικαστήριον εἰσιέναι, μή τις, οἷ' ὑπὸ πολιτευομένου, ἐτέρωθί που λελυπημένος ἐνταυθοῖ ἀπαντήσειεν αὐτῷ. Some wealthy citizens paid to avoid the trouble: Lys. 24,17: οἱ μὲν γὰρ πλούσιοι τοῖς χρήμασιν ἐξωνοῦνται τοὺς κινδύνους. Rich persons but not good in speeches, were an obvious target of the sycophants: Isoc. 21,5: οἶμαι δὴ πάντας εἰδέναι, ὅτι μάλιστα συκοφαντεῖν ἐπιχειροῦσιν οἱ λέγειν μὲν δεινοί, ἔχοντες δὲ μηδέν, τοὺς ἀδυνάτους μὲν εἰπεῖν, ἱκανοὺς δὲ χρήματα τελεῖν. Another good target were rich citizens, who had committed an offence: Pl. *Cri.* 44e: ΚΡ: ἐὰν σὺ ἐνθένδε ἐξέλθης, οἱ συκοφάνται ἡμῖν πράγματα παρέχωσι, ὡς σὲ ἐνθένδε ἐκκλέψασιν, καὶ ἀναγκασθῶμεν ἢ καὶ πᾶσαν τὴν οὐσίαν ἀποβαλεῖν ἢ συχνὰ χρήματα, ἢ καὶ ἄλλο τι πρὸς τούτοις παθεῖν;

But blackmail was not a safe and easy thing: if the sycophant lost a γραφή without securing the 1/5 of the votes he was fined 1000 drachmas and probably suffered partial disfranchisement. For these reasons it was not always the best for a sycophant to take somebody to court; on the contrary, sycophants were easily bought off: Pl. *Cri.* 45a: ἔπειτα οὐχ ὀργᾶς τούτους τοὺς συκοφάντας ὡς εὐτελείς καὶ οὐδὲν ἂν δέοι ἐπ' αὐτοὺς πολλοῦ ἀργυροῦ; Theocrines sold out a case for two hundred drachmas (D. 58, 32).

There is evidence about persons who gained enough money to live on sycophancy: *And.* 1, 19; *X. H. G.* 2, 3, 12; *Ar. Nu.* 1451 ff.; *Ec.* 562-3 al. On the other hand politicians were not usually paid with the exception of some offices, for which direct payment existed: cf. e.g. *X. Ath.* 1, 3; *Ar. Ach.* 597 (Lamachos is called μισθαρχίδης) al. But politicians could make large profits by indirect means: by being elected as generals they had the opportunity to despoil the allies or the inimical areas: Demosthenes (2, 28-29) blames the leaders of Athens (οἱ ἐφεστικότες) because they prefer to fight in Sigeion or Lampsakos, because they can despoil the ships, but they do not like to fight in Amphipolis, for free. (cf. also *Ar. Ach.* 597 ff.). Aeschines (1, 56) says that Hegesandros returned from the war rich: ἔτυχε δὲ τότε συμπλεύσας εἰς Ἑλλησποντον ταμίας Τιμομάχῳ τῷ Ἀχαρνεῖ τῷ στρατηγήσαντι, καὶ ἦκε δεῦρο ἀπολελαυκῶς, ὡς λέγεται, τῆς ἐκείνου εὐηθείας, ἔχων οὐκ ἐλάττους ἢ ὀγδοήκοντα μνᾶς ἀργυρίου. (cf. *Luc. DMeretr.* 9). Legacies were another means of making profit. Ambassadors were paid by the state. *Ar. Ach.* 65-6, speaks about a legation to Persia in which the ambassadors were paid for two drachmas a day, for 12 years. More realistic are the claims of Demosthenes (19, 231-2, al.) for extensive bribery of the Athenian ambassadors by Philip.

The sycophantic activities of St. are summarized by the orator in παραβοώντων ... γνώμαις. παραβοώντων is a vague expression indicating activity not "on" the tribunal but "by" the tribunal (παρὰ τὸ βῆμα). St. as a secondary figure was paid to make noise

for or against proposals, but he was not a real participant in the debate. A γραφή παρανόμων could effectively cancel a decree and result <sup>in</sup> a heavy fine for the person who proposed the decree. Sycophants were paid by politicians to bring a decree before the court because it was supposed to be unconstitutional (γραφομένων μισθοῦ). φαινόντων refers to the procedure used against trade-offenders, known as φάσις. The successful prosecutor received half of the fine imposed on the offender. (MacDowell, *Law* 158-9). ἐπιγραφομένων refers to cases in which significant politicians not wishing to undertake the risk or the responsibility of a proposal, hired a sycophant to make the proposal under his name.

A sycophant earned money by exposing himself to many dangers. An orator earned money in a more safe and lawful way. Stephanos at least once was bribed (with 500 drachmas, if δραχμῶν is correct) to act as a sycophant (§ 10). After he met Kallistratos and became a politician, it looks as if his financial status improved. In § 39 we read that Stephanos sold his small house, obviously, to buy a larger one. In § 72 (συνευπορήσας ἀναλωμάτων ... καὶ τὴν ἀρχὴν παρ' αὐτοῦ πριάμενος) he appears to be quite well off.

ὑπέπεσε] He became a flaterer (and agent) of Kallistartos; cf. D. 45, 63, 65.

Καλλιστράτῳ τῷ Ἀφιδναίῳ] See § 27.

διέξειμι] Ap. promises for a second time that he will enter into details later, but he never does: cf. § 20 δηλώσω ὑμῖν.

ὑμᾶς] Only D preserves the correct reading ὑμᾶς; all the rest give ἡμᾶς. Ap. nowhere claims that N. personally harmed him and his family. In several passages he claims that she harmed the city: cf. § 12, 14, 44, 74 al.

44. οὐκ ἐλάττω]. Reiske says: *id est οὐ μόνον οὐκ ἐλάττω*. Schaefer answers: *Non male si sensum spectes. Sed cave cogites de ellipsi.*

τουτοῖ] Reiske understood that τουτοῖ refers to Theomnestos. He translates: *effecit, ut hic (Theomn.) et ipsum (Stephanum puta) et hanc (Neaeram) in indicium vocaret*. Schaefer agrees. But the emphatic form τουτοῖ has a derogatory tone and is never used in the text for anybody else, apart from St. (cf. com. § 14) Besides, Ap. does not mention Thmn. after § 16 (cf. com. συνήγορον). He always speaks as if the prosecutor is himself. τουτοῖ should be taken with αὐτὸν following (himself: cf. *LSJ*, αὐτός, I, 7.; Pl. *Ptg.* 310e: ταῦτα ἤκω αὐτὰ ἵνα...). It is a very emphatic way to say that the sycophantic activity of St. finally turned against himself. [SY give αὐτὸν. The copyists of SY, however, did not realize that it is connected with τουτοῖ.]

καταστήσαι] About ποιεῖν with infinitive Kühner-Gerth (2,10) interpret: *setze den fall, nehme an, wie latein. fac cum acc,*

c. *Inf.* (cf. X. *Cyr.* 6,2,29: ἡ κατὰ μικρὸν παράλλαξις πάσαν ποιεῖ φύσιν ὑποφέρειν τὰς μεταβολάς; *LSJ*, 2,1,b: *cause*). FQ give *καταστήσαι* accepted by Blass, Murray and Rennie. SYrD give *καταστήναι* accepted by Gernet. The subject of *καταστήσαι* would be ἐμέ. The subject of *καταστήναι* would be αὐτὸν καὶ ταύτην. *καταστήναι* would create a clumsy phrase in which St. would be the actual subject of both the verb and the infinitive, when N. would be the subject only of the infinitive. *καταστήσαι* is easier and ἐμέ preceding supports this understanding.

αὐτοῦ πονηρ(αν) Baiter and Sauppe adopt αὐτοῦ. Rennie however is right, when saying *sed αὐτοῦ est "ipsius"*.

45-47] In these paragraphs the orator states how Phrynion and Stephanos settled their differences by private arbitration. Both parties had to agree to entrust their differences to someone else, usually three friends or relatives of the litigants, one for each side and one agreed by both. The decision of the arbitrators was binding, and a law of 400/399 regulated the procedure. In fact a case judged by an arbitrator could not be brought before the court (μὴ εἰσαγωγίμος; cf. Harrison, *Law* 2,65). MacDowell (*Law* 203) speaking about the reasons which encouraged the establishment of private arbitration as a legal possibility, says that it was quicker and less troublesome than a normal trial. It resulted also less work for the law-courts. A document quoted in D.21,94, was considered by some scholars to

be the law of private arbitration. It is most likely fabricated (MacDowell *Meidias* 317-8).

Schodorf (*Gerichtssprache* 39 ff.) says that *διαιτᾶν* was used in a public arbitration, for both litigants. *ἐπιτρέπειν τινι τὴν δίκαιαν* was used in a private arbitration, since the litigants (or their friends) had to take the initiative, after an agreement (Schodorf 41): cf. D. 34, 44; 40, 43. Lys. 32, 2; Isoc. 17, 19; 18, 10. 14. Anecd. Bek. 277, 20: *Δίκαιαν ἐπιτρέπειν Ἀττικῶς σημαίνει τὸ μὴ διὰ δίκης ἀλλὰ διὰ φιλίας ἐπὶ τινος μεσεγγύου διαλύεσθαι τὰ ἐγκλήματα*. Sometimes *τὴν δίκαιαν* is omitted: cf. D. 40, 39: *ἐπιτρέπειν καὶ Κόνωνι καὶ ἄλλῃ δαιτητῇ*, D. 40, 40; 33, 14 al.

The character of private arbitration, however, as a legal procedure had some significant differences with a trial before the court:

1. The main purpose of a trial was to attribute justice, of an arbitration to give a decision which would satisfy both parties: even if the right was evidently on the one side the arbitrators usually tried to compromise the opponents, by making concessions which would eventually satisfy both sides. The appointment of three, not one, arbitrators is indicative: they were there rather to discuss the whole issue and to present solutions towards the reconciliation of the litigants, than to decide who of them is right and who is wrong. The compromising and

conciliatory character of private arbitration is clear in the present case. The arbitrators were common friends (οἱ ἐπιτήδευτοι) and their decision was designed to satisfy everybody: Neaira gained her freedom but she had to share part of her life with Phrynion. Stephanos would keep Neaira, but she had to stay with each one of them for equal spaces of time. Phrynion would have back his stolen goods and he could share the company of Neaira. The spirit of the verdict is expressed in the final phrase : ἐκ τοῦ λοιποῦ χρόνου φίλους εἶναι ἀλλήλοις καὶ μὴ μνησικακεῖν.

2. Persons not entitled to give evidence before a law-court, could testify before the arbitrators. Women, for example, could give evidence: in D.40,11 Plangon spoke after taking an oath before the arbitrators and Neaira probably was present and spoke here: (ἀκούσαντες ... πεπραγμένα, 46).

3. The whole atmosphere was different. The two litigants did not need to impress with a powerful speech an unknown audience. I imagine the whole procedure more like a cross-examination. The arbitrators and the opponent could interrupt at any moment and ask questions or make remarks. Thus the scrutiny of the case was more rigorous and essential arguments could be more effective than a well designed speech.

45. το(νυν) It resumes the thread of the narration after the digression of § 41-44.

Σαυρίας Λαμπρεύς] His full name is Σαυρίας Πυθογένους Λαμπρεύς. He was a victorious choregos for Erechtheis before the middle of the fourth century. Davies finds possible the identification of this person with a Saurias, epimeletes in Hephaistia on Lemnos in the middle of the fourth century. (*APF*. 488; *PA*, 12612).

Only S<sup>1</sup> gives the correct form of τῆ demotikon Λαμπρεύς; Scorr. and the rest give Λαμπρεύς. Threatte (*Grammar* 572) says that Λαμπρεύς is occasionally simplified to Λαμπρεύς or sometimes to Λαμπρεύς. Meisterhans (*Grammatik*<sup>2</sup> 79) explains Λαμπρεύς as a result of the affinity to λαμπρός. Λαμπραῖ was a big deme of Erechtheis, consisting of two villages, the Λαμπραῖ καθύπερθεν and the Λαμπραῖ ὑπένερθεν. The upper village is identified with the location nowadays named Λαμπρικᾶ at the east foot of south Hymettos. South of Lamprika on the coast, between Anargyrous and Thorai the lower village was situated. (*RE* 12, 1, 592-3, Kock.; Eliot *Coastal Demes*, ch. 5)

προσαιρεῦνται] "to choose in addition". Besides Satyros and Saurias they chose Diogeiton; for this meaning cf. *X. H. G.* 6, 2, 39; 2, 1, 16 al.

Διογεῖτονα Ἰλαρνέα] Kirchner identifies him with Diogeiton who was ταμίης ἱερῶν χρημάτων in the year 398/7. This is difficult: even if he was in his twenties when he was elected treasurer, now he should be over eighty. More likely is the identification

with a person with that name appearing in a naval inscription of 377/6. (PA, 3794).

46. ἱερῶ] An arbitration was usually held in a public place (MacDowell, *Law*, 208). In D. 33, 18 it is in Ἡφαιστεῖον and in 40, 11 ἐν τῷ Δελφινίῳ. In 47, 12 a public arbitration is held in ἡλιαία: ἡ μὲν γὰρ δίαίτα ἐν τῇ ἡλιαίᾳ ἦν (οἱ γὰρ τὴν Οἶνηδα καὶ τὴν Ἐρεχθίδα διαιτῶντες ἐνταῦθα κάθηνται). In this case it was a temple. Gernet suspected that the name of a god to whom the temple was dedicated has been omitted after ἱερῶ. Reiske believed that it was the Μητροῦον. These conjectures are totally hypothetical.

γνώμην ἀπεφάναντο] "they gave a verdict": Poll. 11, 129: ἀπόφασις δὲ ἐπὶ δίαιτητοῦ, ἦν καὶ γνώσιν καλεῖ Δημοσθένης (e. g. 33, 22. 23). See also Schodorf, *Gerichtssprache*, 40-41.

ἐνέμειναν αὐτῇ] They accepted the verdict: cf. D. 40, 11. 31. 41 al. and Schodorf *Gerichtssprache* 42. Ap. trying to reduce the role of N. points out that the two parties accepted readily the decision, since their disagreement did not have a deep background (περὶ ἐτάίρας οὔσης αὐτοῖς τῆς διαφορᾶς).

ἡμέραν παρ' ἡμέραν] She had to stay with each one of them for equal spaces of time (cf. § 47: τὰς ἴσας ἡμέρας τοῦ μηνὸς παρ' ἑαυτοῖς ἔχοντας). It is very difficult to imagine that Neaira moved every morning to the other house.

It is obvious that this arrangement could not last. The arbitrators tried to soften the wrath of Phrynion and to relax the situation with a temporary solution. Expecting however, that the situation may change soon they authorized provisionally any other arrangement agreed by both sides (ἐὰν δὲ .. εἶναι). How long this arrangement lasted we do not know. But we never hear about Phrynion after § 48 and this could be taken as a sign that either he died soon after or he gave up and let N. stay with St.

κῶπια εἶναι] This provision does not refer to all the terms of the conciliation but only to the arrangement about Neaira's residence. The provision does not come at the end, but in the middle, after the term which it concerns.

47. μὲν οὖν] Fcorr. Q' give μὲν δὴ. The demanded sense is transitional not opposite but both readings can equally give this sense. Any preference is arbitrary: see Denniston p. 258 ff. and 470 ff.

ΜΑΡΤΥΡΙΑ - ΔΙΑΜΑΡΓΑΙΑ] Before coming to discuss the authenticity of these two documents we have to answer whether it was necessary to have two documents. Westermann impugning their authenticity asks why, since the witnesses were also the arbitrators, they did not summarize in their testimony the main points of the verdict (see Staeker, *De Litis* 44). Staeker mentions the opinion of previous scholars that the two texts

could not be merged, *cum pactio, simulac facta esset, ab arbitris litteris mandata esset*, but he does not accept this opinion: he believes that it was not necessary for the two documents to be separated, but the orator preferred to do it, because he thought that it sounds more convincing. The objection of Westermann is overstated. I would expect from a forger to simplify, not to complicate the case. If no sign in the text led a forger to separate them, it seems unlikely that he would do it himself.

Probably the arbitrators could include the terms of the διαλλαγαί in their testimony, if they could not or they did not wish to produce the original document of their decision. But the suggestion of Staeker that Ap. preferred two separate documents for rhetorical effect, sounds shallow. I assume that after the conciliation a document was produced including the verdict of the arbitrators, which the litigants were bound to follow. This original document existed still when the trial was held. Ap. found it and presented it to the court. τὰς δὲ διαλλαγὰς ... Ἀπολλόδωρος makes better sense if we understand that Ap. had the original document. This can explain well why two separate documents were read: one was the original text of the διαλλαγαί, the other the affirmation by the witnesses.

The discussion about the authenticity of these documents, by all scholars is based on the second document, and either they accept or they reject the authenticity of both texts. They do not

examine the possibility only one of them to be genuine and for that reason I examine them separately:

A') ΜΑΡΤΥΡΙΑ: 1) The names of the arbitrators are given by the orator (§45) so nothing new is added, but the informal and rather striking phrase for a forger Λακεδαιμονίου ἀδελφός is omitted. 2) The phrase δίκαια γινόμενα contributes to the preciseness of this document. 3) The weightiest argument for the authenticity is that the two documents are separated. In general, nothing in this document seems to be suspicious: it is precise and appropriate to the case. Thus I would think that it is genuine. [Yr add αὐτοῦς after εἰρήλασαν. In § 70 we find διαλλάττουσι αὐτοῦς. In the documents of § 47 and 71 we find διαλλάττειν with the names of the litigants added, cf. also D. 52, 21; ὁ διαλλάξας αὐτοῦς. On the other hand, there are passages in which the object of διαλλάττεσθαι is omitted: D. 24, 91; καὶ σώσαντές τινες καὶ τιμωρησάμενοι καὶ διαλλάξαντες (it is Zeugma); 48, 3 μάλιστα μὲν διαλλάξαντας ἀποπέμψαι καὶ ἐδεργείας ἡμῶν ἀμφοτέρων ἡμᾶς γενέσθαι. In both cases the object is easily understood, as in this passage, αὐτοῦς is unnecessary]

B) ΔΙΑΛΛΑΓΑΙ: Westermann objected to the omission of four of the five terms included in the Διαλλαγᾶι. Drerup (*Urkunden*, 345-6), trying to support its authenticity suggested that Ap. did not have the document which he read in the trial, when he published the speech, so he composed another one which he included in the publication. Staeker (44) says that Apollodoros omitted the less important terms and mentioned only the most significant one.

We can say with certainty that this is not the original text of the arbitrators. It should include all the terms (cf. § 46), the names of the arbitrators and probably some technical details, the date, etc. For several reasons I would also exclude the possibility to be a partial quotation of it: 1) I think the orator paraphrases the original document in § 46, from τὴν μὲν ἄνθρωπον ... μνησικακεῖν. The arrangement of the text there gives this impression. If this is correct, the document in § 47 certainly cannot be part of the same text (χρησθαι ἑκάτερον, for συνεῖναι ἑκατέρω. τὰς ἴσας ἡμέρας τοῦ μηνός, for ἡμέραν παρ' ἡμέραν. ἂν μὴ ... συγχωρήσωσι, for ἐὰν δὲ ... κύρια εἶναι). 2) χρησθαι, between a man and a woman, has a derogatory shade of meaning: "to use", with clear sexual implications. cf. Isae. 3, 10; Hdt. 2, 181. Between two men it does not necessarily have negative connotations; it can mean "to socialize" e.g. Isae. 3, 19; 4, 26 al. An ambiguous shade of meaning is given in Aesch. 1, 194 ἕτεροι δ' ἐκ τῶν ἀκολάστων καὶ τῶν τοῖς τοιοῦτοις κεχημένων and in 2, 164. In X. Mem. 1, 2, 29: Κριτίαν μὲν τοίνυν αἰσθόμενος ἐρώντα Εὐθυδήμου καὶ πειρῶντα χρησθαι, it sounds like a euphemism describing the sexual intentions of Critias. χρησθαι is also found in the document of § 71, where it obviously comes from the context (§ 70: σύ δὲ καὶ κέχρησαι). It is also found in § 29, 33 and 108, referring to Neaira, and in § 67 referring to her daughter, in all cases used in a derogatory sense and implying a sexual relationship. I doubt if an offensive word like this could be used in a document intended to be read in the law-court and I cannot believe that it would be

used in the original text of the διαλλαγαι. A text which intended to satisfy all sides could not be offensive against N.

I cannot also accept Drerup's suggestion that this text was composed by Ap. at the stage of the publication because one would expect of a text composed by Ap. to have some similarities with the narration. It seems unlikely that Apollodoros himself composed a so elliptical text.

τάς ἴσας ἡμέρας τοῦ μηνὸς sounds like a misunderstanding of ἡμέραν παρ' ἡμέραν. Kirchner (RhM 40 [1885] 382) pushes this argument: Neaira stayed 15 days with each one of them for the months with 30 days and 14 <sup>1</sup>/<sub>2</sub> days for the months with 29 days. I find Drerup's answer reasonable: *Im Hinblick auf die hohlen Monate nicht wörtlich zu nehmen sind: ich glaube nicht dass die Schiedsrichtereine astronomische Genauigkeit beabsichtigte.* The purpose of the arbitrators was to define that she should spend her life with each one of them for roughly equal spaces of time. It seems that the person who composed this document understood ἡμέραν παρ' ἡμέραν in the same way as Kirchner

Most likely only the first document was included in the published text. Since the witnesses acted on behalf of the state, the publisher decided to include their testimony, but he did not think it was necessary, to repeat the text of the Διαλλαγαι, because they were already known to the readers and he had one more reason to omit it if it was paraphrased in § 46. In

later times a grammarian fabricated the missing document, including only the most striking term συνεῖναι δ' ἑκατέρω ...

48. ἀπηλλαγμένοι ἦσαν] Not *cum discessissent*, as Reiske and Hude understood, but "after they became reconciled". cf. Pl. *Lg.*: τοῖς μὴ δυναμένοις μήτε ἐν τοῖς γείτοσι μήτε ἐν τοῖς φυλετικοῖς δικαστηρίοις ἀπαλλάττεσθαι. *ibid.* 915c: εἰδὼν μὴ πρότερον ἀπαλλάττωνται πρὸς ἀλλήλους τῶν ἐγκλημάτων. D. 38. 1: περὶ ᾧ ἂν τις ἀφείς καὶ ἀπαλλάξας πάλιν δικάζεται. D. 38, 9; 48, 7;

οἱ παρόντες] Reiske correctly understood *ii qui utrique ... advocati in arbitraru et in toto illo contentioso negotio fuissent*. οἱ παρόντες means "the supporters" (cf. *LSJ*, πάρειμι, I, 4.)

περὶ ἑταίρας οὔσης αὐτοῖς τῆς διαφορᾶς] As fighting over courtesans, as a sign of virility between younger men especially, was not unusual, it was not considered to be a good reason for bad feelings: *Lys.* 3, 43: ὅσοι ... περὶ ἑταίρας μαχόμενοι ... ἐπειδὴν βέλτιον φρονήσωσι, ἅπασι μετεμέλει. D. 54, 14: οἱ ἄνθρωποι νέοι ... πεποίηται ... καὶ πολλάκις περὶ ἑταίρας καὶ εἰληφέναι καὶ δεδωκέναι πληγὰς, καὶ ταῦτ' εἶναι νέων ἀνθρώπων. cf. *Isae.* 3, 13; *Lys.* 4, 19; *Luc. DMeretr.* 9, 5; 15, 1-2; *Athen.* 555 a; 584 c; 607 d-e al.

ἦσαν] This form is a suggestion of Dindorf, accepted by all scholars, for ἦσαν of the mss. The regular Attic form is ἦσαν.

According to LSJ, the oldest certain evidence for ἦεσαν is Arist. *Ath.* 32, 1. Ap. may have adopted another novelty: ἦεσαν is possibly correct.

ὁπότει] Reiske proposed ὁπότεροι: *uter tandem eorum, sive Stephanus, sive Phrynio, haberet secum Neairam* cf. also ἔχοιεν following. Reiske's suggestion is ingenious, but ὁπότε is supported by the text of the document: καὶ ὁπότε .... Φρυνίωνι.

συνόντας] FγγQγγ give παρόντας: συνόντας would be easier to be corrupted, after the previous παρόντες.

**Εὐβουλον Προβαλίσιον]** One of the most well known politicians in Athens. His full name is Εὐβουλος Σπινθάρου Προβαλίσιος. In the decade after 355, being an officer τῶν ἐπὶ τὸ θεωρικόν, he brought under his control the Athenian economy and he followed a low-spending policy with success. His political ideal was that the power of the city should be concentrated on the essential issues and he dreamt of a Panhellenic Peace. After 346, being a supporter of Philocrates' peace, he came into conflict with Demosthenes but he remained a dominant politician until 343-2. After 342 the anti-Macedonian party won. After Chaeroneia he disappears from the political stage and by 330 he was dead. See also the brief note by Cawkwell in *OCd* and the article of Cawkwell *Eubulus* *JHS* 83 [1963] 47-67; *PA*, 5369, al.

Προβάλινθος was a deme of Pandionis, south of Marathon, close to the location nowadays named Νέα Μάκρη. (cf. *RE* 23, 34 ff. Ernst Meyer). The demotikon (*RE* col.34) is Προβαλίσσιος; in Phot. *Bibl.* 490 b 27 it is Προβαλούσιος and in Plu. *Aeschines* 5 Προβαλλούσιος. Steph. Byz. s. v. in the *Aldina* gives Προβαλίνθιος. Here the correct form Προβαλίσσιον (and -ος later on) is given by YrD; SFQ give Προβαλείσιον.

Διοπε(θην Μελιτέα] He was a member of a naval symmory between 356 and 340 (cf. Davies *APF* 160; *PA*, 4322).

Κτήσωνα ἐκ Κεραμέων] According to Davies (*APF* 338; *PA* 8908 = 8910 his full name is Κτήσων Φρύνου ἐκ Κεραμέων. A Κτησίων Φρύνο(υ) ἐκ Κεραμέων is named c.380 in a diadikasia. Davies identifies him with the present Κτήσων. His son [...7....] ατης Κτήσωνος ἐκ Κεραμέων proposed a decree in 319/8 and his daughter Phanomache married a man with property in Icaria, with a dowry of 3000 dr. (cf. Davies. loc. c.).

The deme of Κεραμεῖς belonged to the Akamantis tribe (cf. *RE*, 5, 67).

ΜΑΡΤΥΡΕΣ] Although there is no strong argument for or against the authenticity of the present document, I think it is fabricated, along with the other private documents (Intrd. ch. 4). καὶ ὅποτε ... Φρυνίῳ seems to be derived from the context and no information is added.

αί περί Ν.] cf. § 47 ἡ διαλλαγή περί Νεαίρας, but Isoc. 4, 94 τὰς διαλλαγὰς τὰς πρὸς τοὺς βαρβάρους.

συμπίνειν] Westermann proposed συμπιεῖν, because of the preceding συνδειπνήσαι. But cf. § 28 μαρτυρεῖ Ξενοκλείδην καὶ αὐτὸν μισθώσασθαι Νεαίραν ἐν Κορίνθῳ ... καὶ συμπίνειν. πολλάκις συνδειπνήσαι implies that she was many times present at banquets; συμπίνειν implies that she was always there drinking with them. (cf. com. § 37 καταγόμενον)

49. δις] Once to Nikarete (§ 18-19) and once to Eukrates and Timanoridas (§ 29). By Phrynion she was liberated (§ 32).

τουτονί] YD omit τουτονί. αὐτὸν is quite emphatic by itself (cf. § 119: οὐτ' αὐτὸν Στέφανον οὐτ' ἄλλον). τουτονί, however, stresses that Stephanos himself will prove that Neaira is a foreigner. (cf. § 44: τουτονί πεποίηκεν αὐτόν)

50. παιδάριον] SFQ give παιδάριον: the rest of the mss παιδίον: cf. com. § 42. How old was Phano, when she was brought to Athens? The orator speaking in § 35 about N.'s escape does not mention any children. But he enters into details and one would expect to mention them, if any. So, according to Ap. (§ 36) N. gave birth to three children in 2 years. Perhaps she had twins. Provided that this is the truth, Phano must have been borne between the years 373-371 (§36) in Megara and when she was

brought to Athens she was one or two years old. (cf. Wallace, *Areopagos*, 254, n. 65)

**μικρὸν]** There is a difficulty in this sentence: ἔχειν with predicate means "to keep in condition" (cf. *LSJ* A.II.3). This meaning is not suitable here. The desired sense is that, when Neaira came to Stephanos, Phano was a small child. This meaning would be better given, if ὄν was added, after μικρὸν.

**Στροβήλην]** Athen. 594α gives Στρομβήλην; but cf. § 18. Reiske prefers Στροβύλην or Στροβήλην from στρέφειν: servorum est et ancillarum, ut sint εὐστρεφεῖς, agiles, versatiles. Wolf proposed Στροβίλην *a nucē pineae*. The name, as it appears in the mss, is of obscure etymology. The relation with στρέφειν is possible. Perhaps it was a servile name. A slave character in Plautus *Aulularia* is named Strobilus. The Greek equivalent must be Στρόβιλος, fem. Στροβίλη and this could be a possibility here.

**Φράστορ: Αἰγιλεῖ]** There is no further evidence. Here every action of Phrastor is portrayed through an analysis of his character. He was a hard worker and had succeeded to amass some property by leading a simple life (50) [We can take an idea of how this allusion sounded to the audience judges by comparing it with the way in which Aristophanes creates the character of Dikaiopolis in the "Acharnians" and the discussion by Ussher (*The Characters of Theophrastus* p.55 ff.) on Theophr. character 4, Ἀγροικίας] Phrastor was a person of strict morals (§ 50-51): he is presented as a

husband of significant severity and integrity; he refuses to take a false oath (§ 60); he demands obedience from his wife; he is shocked by her morals and he cannot bear the idea of being defrauded by Stephanos.

Ph. was an inflexible person who did not hesitate to break the law and withold the dowry since he felt that he has been deceived (§52); who divorced his wife, being pregnant; who chose blackmail as a means to persuade Stephanos and avoid trials (52-53). His relationship with his wife was not inspired by any kind of emotions but by λογισμὸν ἀνθρώπινον καὶ εἰκότα (57). Despite differences in the conception of marital relationships, between modern readers and an Athenian audience, the character of Phrastor is yet unattractive, <sup>raise</sup>sympathy, to a certain extent, for Phano. That is why I believe, Ap. did not <sup>premeditate</sup> how to present this man. He only said what he believed about Phrastor.

Athenaios (594 a) gives Αἴγιαλεύς. The name of the deme was Αἴγιαλιά and it was a middle size deme of Antiochia, on the south coast, by Anaphlystos. The demotikon is Αἴγιαλιεύς (cf. RE 1, 962, Milchhofer). Athenaios' mistake is perhaps owed to confusion with the well known mythical and real name Αἴγιαλεύς (cf. RE 1, 956-7 Hofer-Wilhelm).

προίκα ... μνάς] The technical term is προίκα ἐπιδιδόναι (cf. Isae. 1, 39; 2, 3.5; 3, 8 etc). For this expression Harrison

(Law, 1,49) explains that *in this context the force of the dative is rather 'for the woman' than 'to the woman'* cf. also Isae. 2,5: προίκα ἔλαβεν ἐπὶ τῇ ἀδελφῇ. Dowry was not a legal requirement (e.g. Lys. 19,14; Isae. 3,29; 35-6) but even the poorest citizen would give a dowry to his daughter. It was a financial contribution to the new οἶκος, and a security that the husband cannot divorce his wife easily, since along with her, he had to return her dowry (cf. § 51 ff.). A number of studies investigate in details this institution: Erdmann, *Die Ehe*, 300 ff.; Lacey *Family* 109-10; Harrison, *Law 1*, 45 ff; Wolff *Trditio 2* [1944] 43-95; Wolff, *RE* 23 [1957] 133-70; Croix, *CR* 20 [1970] 273-8 al.

Boeckh *Economy* 2,283 says that even the poorest Athenians would give a sum of 10 minae to their daughters as a dowry (Isae. 8,8). A dowry of twenty minae is mentioned in Isae. 2,5 and a dowry of 25 minae is given to a bridegroom, whose ἀπορία is pointed out some lines afterwards (Isae.8,8). A man in Lys. 16,10 gives a dowry of 30 minae to each one of his two sisters. A dowry of 40 minae is mentioned in D.41,6 and in Lys. 32,6 a person who was to join the army, left in his testament 1 talent for his wife and one for his daughter. 1 talent is also the dowry in D.40,6. Demosthenes' sister was sponsored with a dowry of 2 talents. Boeckh considers the references to dowries of 5 or 10 talents, mentioned in comedy, to be a comical exaggeration. Phano's dowry was rather average one. The 10 minae given by Epainetos in § 70 for the dowry of Phano was not the total sum,

but a contribution (§ 69 συμβαλέσθαι; § 70 χιλίας δρ. εἰσενεχεῖν).

ἀκριβῶς ... συνελειγμένον] Wolf understands *qui rem familiarem accurate instruxisset*; Taylor: *qui multa cum diligentia victum quaeritabat*. Schaefer accepts Reiske's interpretation: *qui substantiolae quicquid esset misera cum diligentia et parsimonia collegisset, quod vix tuendae vitae sufficiat, ut recreationi et elegantiae deliculisque nihil supersit*, which I also prefer. (About ἀκριβῶς cf. § 15).

ἤπιστατο] "to know how to live in a certain way of living" e.g. Isoc. 6,37: τοὺς τὰς εὐτυχίας μὴ μετρίως φέρειν ἐπισταμένους. 15,27: ἤπιστάμην γὰρ αὐτὸς μὲν εἰς τοὺς ἄλλους ἐξαμαρτάνειν μηδέεν.

ἀρέσκειν] Wolf's translation is good: "Phrastoris delectari moribus". Murray translates "to adjust herself to Phrastor's ways". cf. also. D. 61, 19.

ἐζήτει] Wolf comments: *nisi forte placeat ἐζήλου, nam ἐζήτει.... alienum est huic loco*. Hartmann (Mn. 44 [1916] 372) also supported this proposal. Rennie answers *sed est desiderabat*. Reiske translated *quaerebat, desiderabat, sectabatur*. e.g. D. 14, 30: ὁ μὲν γε χρυσίον, ... ἄγει πολύ. τοῦτο δ' ἂν διαδῶ ζητήσει. S. OT 659: ἐμοὶ ζητῶν ὄλεθρον al.

51. κοσμ(αν) Arist. Pol. 1277 b 21ff: δόξαι γάρ ἄν εἶναι . . . γυνή  
λάλος, εἰ οὕτω κοσμ(α) εἶη ὥσπερ ὁ ἀνὴρ ὁ ἀγαθός. In our passage  
since κοσμ(αν) is linked with οὐτ' ἐθέλουσαν αὐτοῦ ἀκροᾶσθαι we  
must understand it as opposed to of λάλος, a woman who  
continuously dares to bring objections, who raises her voice in  
front of her husband, who speaks and acts as she pleases.

τὸ δὲ πρῶτον . . . ὀργισθεῖς δ' ] The number of the proposals for  
the improvement of this passage, reflects its difficulty. The  
text of the mss. τὸ μὲν πρῶτον ἐξηπατήθη . . . ὀργισθεῖς δ' is  
unsatisfactory for two reasons. 1) μὲν being connected with  
πρῶτον, does not have a corresponding δὲ, balancing the  
temporal sense of πρῶτον. 2) the orator starts analysing Ph.'s  
psychology and then suddenly he turns to the events after πρῶτον  
μὲν. The scholars have tried in many ways to improve the text:

Wolf added καὶ before πρῶτον (καὶ τὸ μὲν πρῶτον ἐξ . . . ὅτε . . .  
considering the sentence τὸ μὲν πρ. ἐξ. to be an ὅτι sentence  
and what is included in the passage from τὸ μὲν to συνοικῆσαι be  
the second difficulty of the transmitted text, but the first and  
most important still remains.

Taylor adopted a violent solution. He found in the margin of the  
edition of Lambinus τὸ μὲν πρῶτον ἐξαπατηθεῖς ἦσθετο and the  
alternative reading τὸ μὲν πρῶτον ἐδεινοπάθησεν, ὅτι. Without  
disapproving the first reading, he prefers the second.

Reiske agreed that something is missing here, like τὸ μὲν πρῶτον  
ἑαυτῷ ἐμέμμετο, ὅτι ἐξήπατήθη, but finally following the mss,  
prints τὸ μὲν π. ἐξ, ὅτ' ἡγγυάτο, followed also by Bekker.

Swager (*Diar. Classic.* LXI. p. 66 ff.) considers this part from τὸ  
μὲν ..... συνοικῆσαι, to be parenthetical, he puts it in brackets  
and he adds γὰρ after μὲν. His text is: (τὸ μὲν <γὰρ> ....  
ὅτ' ἡγγυάτο ... συνοικῆσαι).

Schaefer says *parum placet illa parenthesis*. He returns to  
Wolf's understanding that the passage from τὸ μὲν .....  
συνοικῆσαι expresses an idea of Ph. and it does not narrate the  
events. But the way in which he adapts this understanding to the  
text is simpler and safer than Wolf's: he just changes μὲν to  
δέ. Schaefer's version although accepted by all modern editors,  
leaves an anacolouthon in the text: δέ after ὀργισθεῖς can not  
be connected with the previous δέ; I think that δέ after  
ὀργισθεῖς should be deleted, because ὀργισθεῖς is not really  
connected with what precedes, but with ἡγούμενος following. ἐπὶ  
τούτοις ἅπασιν makes clear that all the previous specify  
ὀργισθεῖς and that it is not connected with them in apposition.  
If this δέ was added by mistake, then somebody who thought that  
it goes with what precedes changed δέ before πρῶτον to μὲν to  
make this δέ correspond to it.

ἀσκήσας αὐτήν] Schaefer deleted αὐτήν. Hude (*NTF* 7 (1885-7) 294)  
agrees and Rennie is fond of this proposal, although finally he  
does not adopt it. I do not agree. In the text we have a sudden

change of subjects: subject of λαμβάνων Phrastor, of οὔσαν is αὐτήν (Phano). For the same reason Hude's alternative suggestion to transfer αὐτήν post Στεφάνου θυγατέρα should be rejected.

ἐκβάλλει] More that one verbs mean "to divorce": ἀποπέμπειν seems to be the most mild, the most official one, because it was probably included in the text of the law, paraphrased in § 52 and used by Theogenes before the Areopagos (§ 82) [The noun τὴν ἀπόπεμπιν is used, when the orator explains what did the γεννήσαι know about the case (§ 59)]. cf. also Poll. 3,46. ἐκπέμπειν (to send away) is slightly stronger: cf. § 55, 56, Lys. 14,28; Isae. 3,35. 36). ἐκβάλλειν (to throw off) is the harshest of all: it is found thrice in the text, always with negative connotations: in § 51 the verb is followed by the information that Phrastor did not return the dowry; in § 63 it is stated that he did so after he was told that she was not a citizen; in § 83 it is followed by the information that Theogenes expelled also St. from the council; cf. § 86 and And. 1,125. ἀπολεῖπειν is used when the initiative for the divorce belongs to the woman: cf. D. 30,15; 17,31 al. and Pollux 3,46. [Schodorf's discussion in *Gerichtssprache* 69-70, is not accurate]. See also Harrison *Law*, 1,40.

οὐκ ἀποδίδοσι] MacDowell (*Law*, 88) states that *if a marriage was terminated by divorce, for whatever reason, the dowry had to be returned.* Harrison (*Law* 1,55) discussing the present passage, believes as well, that Ph. did not have the right to keep the dowry, even if St. had acted fraudulently, because Ph. did not

need to indict St. and blackmail him; it would be enough to plead that he was entitled to keep the dowry.

52. σ(του) After the dissolution of a marriage, the whole sum of the dowry, had to go with the woman to the κύριος who would be responsible for her maintenance. If the husband refused to return the dowry, for any reason, he could be prosecuted with a δίκη προικός. If the man was unwilling or unable to return the whole sum of the dowry, at once meanwhile he had to pay interest 18 per cent, on the withheld capital of the dowry, due from the day the marriage was terminated and until the day the entire sum was returned. (cf. com. ἐπ' ἐννέ' ὀβολοῖς), for the maintenance of the woman (cf. MacDowell, *Law* 88-9): Sud. σ 503 (= Phot. s. v.): σ(του) δίκη: ὅταν γυνή ἀποδικεῖν ποιησαμένη πρὸς τὸν ἄνδρα διὰ τοῦ ἄρχοντος ἢ καὶ ὑπὸ τοῦ ἀνδρός ἐκπεμφθεῖσα μὴ ἀπολαμβάνη τὴν προῖκα καὶ διαγένηται χρόνος καὶ δίκην εἰσάγη πρὸς αὐτὸν καὶ ἀπαιτεῖ τὴν προῖκα καὶ τὰς τροφὰς ἀφ' ἧς ἀπηλλάγη ἡμέρας, αὕτη καλεῖται δίκη σ(του) (cf. Poll. 8, 33). Harg. s. v.: Σίτος: σίτος καλεῖται ἡ διδομένη πρόσδοδος εἰς τροφήν ταῖς γυναῖξιν ἢ τοῖς ὀρφανοῖς, ὡς ἐξ ἄλλων μαθεῖν ἔστι καὶ ἐκ τοῦ Σόλωνος α' ἄξονος καὶ ἐκ τῆς Ἀριστοτέλους Ἀθηναίων πολιτείας (56, 7); Isae. 3, 9. 78; D. 27, 15; 28, 11; 40 passim. [The mss add τῆς προικός after ὀδέϊον. Salmassius (according to Rennie), correctly deleted these words, Seager (*Diar. Class.* LXI p. 67) proposed ὀδέϊον (ἢ) τῆς προικός; but this case was a δίκη σ(του) (§ 52)].

ἐπ' ἐννέ' ὀβολοῖς] The phrase belongs to the text of the law paraphrased here; cf. D. 27, 17: ὁ μὲν νόμος κελεύει τὴν

προϊκ' ὀφείλειν ἐπ' ἑννέ' ὀβολοῖς. The interest is 9 obols (1½ dr.) per mina per month (D. 53, 13). This makes 18 per cent per year, a rather high interest, probably intending to avert the ex-husband from keeping the dowry for a long time (Wyse, *Isaeus*, 296-7; Harrison, *Law* 1, 57; MacDowell, *Law* 89)

**᾽Ωιδεῖον**] A small roofed theatre for musical competitions (thus named ᾽Ωιδεῖον), at the south-east foot of Acropolis. The fact that it was the first roofed theatre, was the reason why from the late antiquity (e.g. Pausanias) onwards all roofed theatres were called ᾽Ωιδεῖον. Plutarch (*Per.* 13, 5-6) says that Pericles has built and ornamented it and describes the building: τὸ δ' ᾽Ωιδεῖον τῆ μὲν ἐντὸς διαθέσει πολύεδρον καὶ πολύστυλον, τῆ δ' ἑρέψει περικλινές καὶ κατάντες ἐκ μιᾶς κορυφῆς πεποιημένον (cf. Vitruv. 5, 9).

There is evidence that it was used for other assemblages and especially as a law-court: Ar. V. 1109; Anecd. Bek. 318, 1: ᾽Ωιδεῖον . . . ἐν ᾧ καὶ δικαστήριον ἦν σίτου. Poll. 8, 33 τὰς δ' ἐπὶ τῷ σίτῳ ἐν ᾽Ωιδεῖῳ ἐδικάζον σίτος δὲ ἐστὶν αἱ ὀφειλόμεναι τροφαί. Sud. ω 18: ᾽Ωιδεῖον: ᾽Αθήνησιν ὡσπερ θέατρον, ὃ πεποίηκεν, ὡς φασὶ, Περικλῆς εἰς τὸ ἐπιδείκνυσθαι τοὺς μουσικοὺς . . . ἔστι δὲ ἐν αὐτῷ δικαστήριον τοῦ ᾽Αρχοντος. (See also MacDowell, *Wasps* 274). [*S* wrongly gives εἰσὸδαῖον]

**᾽Αθηναῖφ ὄντι**] The mss give ᾽Αθηναῖον ὄντα. ᾽Αθηναῖφ ὄντι appears in the margin of the edition of Lambinus. The accusative

alludes to Stephanos, the dative to Phrastor. cf. § 50, 62 and ξένης θυγατέρα following. The dative is correct.

**NOMOS]** About the authenticity and the content of this document, see the discussion in § 16.

ἐκδῶ] FQ give ἐκδιδῶ, accepted by Hude (NTF 7 [1885-7] 294). But the reference here is not to something repetitious.

53. ἡγγυηκένοι καὶ] The reading of the mss ἐγγεγυηκένοι is mistaken. (A similar mistake in Isae. 3,40.45 D.41,16).cf. Chantraine, 309 s.v. ἐγγύς. Reiske proposed to delete καὶ or to change the infinitive περιπεσεῖν to περιπεσεῖ (which is not grammatically correct; the correct form περιπεσεῖται would be quite different from the transmitted text). Schaefer agrees with Reiske that καὶ must be deleted. Blass and Murray accept Reiske's suggestion in their text.

On the other hand, Saeger (Diar.Classic. LXI p.67) supports the transmitted text and explains: καὶ . . . ζημίαις est vel ultimis suppliciis. Hude also (p. 294) supports καί: vi enim intendens praedita satis frequenter ante superlativos ponitur (vel ultimis suppliciis). cf. v. Thuc. IV. 17,5. Xen. Anab. II 5,15; III. 2,22. V. 4,29. Rennie and Gernet keep καὶ in their text.

But καὶ preceding a superlative, in order to stress the following phrase (cf. also Denniston, 319) comes always in front

of a predicate (e.g. Th. 4, 17, 5: δίκαιοι εἰσὶ καὶ ἀπιστότατοι εἶναι ταῖς εὐπραγ(αῖς) or a predicative phrase (e.g. X. An. 2, 5, 15: ὥστε καὶ ἡδιστ' ἂν ἀκούσαιμι). If our text was περιπεσεῖν ζημίαις καὶ ταῖς ἐσχάταις I could accept it. Now, I think a careless scholar added καὶ after ἡγγυημένοι to connect the two infinitives ἡγγυημένοι and περιπεσεῖν, without realising that ἡγγυημένοι is connected to ἐξελεγχθεῖς and περιπεσεῖν to κινδυνεύσει. I don't see any reasonable explanation, for the existence of καὶ; thus I would delete it, following Reiske. For the construction of κινδυνεύω with infinitive cf. D. 21, 111. 205; 41, 2.

τούτων] Yr give τοῦτον: cf. § 23 (τοῦτον YrD), 32 (τούτων Fcorr. Qcorr.), [where τοῦτον is mistaken], 43, where τούτων is unanimously transmitted, etc.

**ΜΑΡΤΥΡΙΑ]** Drerup, Kirchner, and Rieheman supported the authenticity of this document, when Westermann and Staeker rejected it:

1. Westermann denies the authenticity of this document because *aus einer seltsamen Grille die einzelnen Punkte nicht in ihrer richtigen Aufeinanderfolge gelassen und dadurch den wahren Zusammenhang der Sache zerstört und zerrüttet habe*. Staeker agrees. Kirchner's defence is weak: he considers the participle λαχόντος to be causal. But it cannot be causal since the subject is St. Drerup in a desperate effort to defend the authenticity

of this document says that Ph. gave evidence not on his own will, but being forced. So, he did not confirm any document written by Apollodoros; he wrote one himself. He gave the events *in einem anderen lichte*, with the intention to clear his name and to revenge St. Thus, Drerup explains all the weaknesses of this document from this point of view.

Still I do not see the point. The events described in the document should be in this order: 1. Phrastor understood that Phano was N.'s daughter. 2. He divorced her 3. St. prosecuted him. 4. Phrastor prosecuted St. 5. They were reconciled. The order in which they are given is 1,4,2,3,5 and no reasonable explanation can be given to that. I suppose a careless forger remembered, more or less, the events he read about in the previous paragraphs but did not compose the testimony with pedantic diligence, so that he mixed up their natural sequence.

2. τὴν ἄνθρωπον is quite derogatory, probably derived from § 51.

3. The person who composed this document did not understand the exact forensic meaning of ἐκβαλεῖν (cf. com. § 51), because he felt that he had to explain it further with two superfluous additions ἐκ τῆς ἑαυτοῦ οἰκίας and καὶ οὐκέτι συνοικεῖν αὐτῇ. (Similar superfluties are found in the also spurious document of § 84).

4. About λαχόντος without δίκην cf. D. 48, 20; Isae. 6, 46.

5. The interpolation τῆς προικῶς after Ὀιδεῖον in § 52, is not repeated in the document probably because the document was composed before the text in § 52 was corrupted.

6. [διαλόσασθαι αὐτόν was suggested by Baiter and Sauppe; Blass suggested αὐτόν (Στέφανον). I prefer the solution of Baiter and Sauppe; cf. § 53 διαλλάττεται πρὸς τὸν Φράκτορα.]

7. The unexpected change to the first person in ἐμοὶ raised a long discussion, related as to the correctness of the mss, as to the authenticity of this document. Westermann considered ἐμοὶ to a mistake and proposed αὐτῷ. Kirchner agreed. Staeker on the other hand, (p.46) believes that ἐμοὶ is correct, but the inconsistency is rather owed to a forger. Drerup agreed that the text is correct, but he believes that the inconsistency is owed to oral style. Riehemann (p. 22) refers to § 76: μαρτυρίαν ποιούμενος ὁ δῆμος .... τοιαύτην ἀξιούμεν εἶναι, and to the document of § 34: καθεύδειν σφᾶς αὐτοῦς ... αἰσθάνεσθαι αὐτοί. I agree that ἐμοὶ can be correct, but I do not think it can contribute to the question of the authenticity of the document.

In general this document seems to have serious problems. I do not believe that it can be authentic.

55. φρατέρων] This is the correct reading given by SF<sup>1</sup>Q.Fcorr. The rest give φρατόρων. See Meisterhans (*Grammatik*<sup>3</sup> 131); *IG* 11<sup>2</sup> 1237).

τῶν φρατέρων αὐτοῦ καὶ γεννητῶν] The details of this story present serious difficulties, since they are part of the complicated modern discussion about phratry and genos. A thorough investigation of these institutions supercedes the purposes of this study, thus I will be limited to what can illustrate the narration of the orator. In this account the article of Andrewes JHS 81 [1961] 1 ff. on the inscription from Decelleia IG ii<sup>2</sup> 1237, was particularly helpful. [Further information and references could be obtained in the book of Denis Roussel *Tribu et Cité*, Paris 1976 and in Rhodes *AP*, 67-71]

Genos and phratry were institutions of considerable antiquity and their importance before the democracy was larger. Democratization reduced their role as political units, but they survived throughout the classical period, keeping their religious and social importance. Whether all Athenians were members of a phratry is disputable and I will not enter into the details of this complicated question. Membership of a phratry was taken in the classical period as a proof of citizenship, as a good number of sources reveal. In case of doubt about the citizenship of somebody, it was a serious argument for the person under scrutiny if he could prove that he was a member of a phratry. The details of this, however, are obscure. We can say with certainty that only citizens were entitled to phratry-membership. We do not know, however, if all citizens were phrateres. After Cleisthenes, the only positive proof of citizenship, was membership of a deme. In this sense membership

of a phratry sounds like a less formal proof of citizenship and that it why I doubt if it was a legal requirement, but I suppose that all Athenian fathers who were members of a phratry would present their legitimate children to the phrateres. It is certain, however, that admission to the phratry itself was not a definite proof of citizenship, if someone had not undergone successfully the scrutiny before the deme.

The relation between genos and phratry has been a matter of dispute, but it is generally agreed that genos was an aristocratic minority in the phratry (e.g. Philochoros *FGH* 328 f 35a; Andrewes 1,14) and that it was common if not universal for a single genos to form the core of the phratry (Rhodes, 67). The part of the phratry which consisted of the non gennetai, is still wrapped in mystery. Attempts to identify *the great mass of commoners* with orgeones (Andrewes 1 + n.1) or thiasoi (Andrewes, 9ff.+ n.33) failed to convince and the whole matter is still disputable. I believe, however, that in every phratry gennetai and non-gennetai were included and that they could work sometimes in sections and sometimes together as a phratry.

Andrewes (p. 6) suggests that the law of the genos and the law of the phratry are the same: the will of a powerful genos was imposed on the whole phratry. Then he assumes that the admission to a genos automatically means admission to the phratry. Thus he has difficulties to explain D. 57,54: the vote of the phratry is emphasized, although in the speech there are clear references

to a genos (§ 23, 24, 67). He tries to prove that Euxitheos did not belong to any genos. I believe that there are normally two votes for admission to the phratry (the number can grow to three, if a rejected candidate decides to appeal, as in the inscription from Deceleia v. 31 ff. [Not all phratries or gene had the same regulations]. One was for admission to the genos and one for admission to the phratry. [Perhaps the same procedure was available for the sections of the phratry outside the genos or gene. If, however the non-gennetai were not organized in smaller sections, they should undergo only one scrutiny before the phrateres]. If a candidate was admitted to the genos he would apply for admission to the phratry. In general, this second vote would be rather a formality, because the influence of the genos could be important and the scrutiny for admission to the genos rigorous. If, however, some of the phrateres had objections the second scrutiny could be more than a formality. If a person was rejected by the genos his father could sue the gennetai. If he won he could apply afterwards on behalf of the child for registration to the phratry. If he lost he could not. Rejection from the genos meant exclusion from the phratry, too. I base this assumption 1) on the fact that the second part of the inscription of Deceleia speaks clearly about two votes. 2) If two votes have existed in Euxitheos' case, there is no further difficulty: in 54 he refers to the second vote for admission by the whole phratry, but Euxitheos also belonged to a genos and presumably he was accepted as a gennetes.

In the present case Ap. refers only twice to the phrateres, in both cases in a quite vague way and only in relation to the gennetai (55,59). I take it as an indication that Ph.'s son was automatically excluded from the phratry, after he was excluded from the genos: his case never came before the phratry. Ap. mentions the phratry, along with the genos because membership to the phratry could have a legal significance for the citizen status of the boy (See above). The introduction to Βρυτίδαι, was anyway, part of the activities organised by the phratry.

εἰσήγεν (59) was taken by Guarducci (p.25, see Andrewes p.6 + n.20) to mean that before the scrutiny in front of genos, there was a successful registration to the phratry. Andrewes is right that εἰσήγεν can mean just an attempted action and not necessarily an event. Besides, it is the leading verb also of the part of the sentence καὶ εἰς τοὺς Βρυτίδας and here we know with certainty that it was only an attempted action.

Andrewes is right when pointing out that the role of genos could be decisive (p. 6). Phrastor had to force the gennetai to accept his son, otherwise he was not entitled to membership to the phratry. The way to force them was to sue them, since, as it seems, Brytidai did not have the practice of an appeal in case of rejection. Phrastor, however, abandoned the fight. It is difficult to explain why Phrastor refused to take an oath before the arbitrator. The reason could have been personal: he changed his mind when he faced the real complications of his actions. Or

they could be more material: in the inscription from Dekeleia fines up to 1000 dr. are mentioned. Perhaps he had to pay a fine in case of an unfavourable decision by the arbitrator and that is why he did not risk it. Ap. statement that he preferred not to take a false oath (εὐορκεῖν προελόμενον, 63) may be true, but equally may be an idealization of the situation.

The date of these events is not specified by the orator. But, if Phano, who was one or two years old in 370 (cf. com § 50), was betrothed<sup>h</sup> when she was about 15 years old (cf. com. § 22), she married Phrastor around 355 and these events took place in the years 355-50. Probably applications for registration with the genos were considered the same day as registration with the phratry, namely the third day of the festival of Ἀπατούρια named Κουρεῶτις.

χρόνῳ γάρ] r gives γάρ χρόνῳ. γάρ indeed comes very late in the sentence (Denniston, 98). But, οὐ πολλῶ χρόνῳ consists a unity and counts in the sentence as one term, after which γάρ comes. (cf. Denniston 95 ff.)

πονήρως] Rennie adopts this form found in SYD. [He also adopts πονήρως in § 57 and 50, 19] πονηρῶς is the reading of the rest of the mss. Rennie assumes adjective πόνηρος (cf. LSJ μοχθηρὸς, II). The evidence is inconclusive.

διαφορᾶς ... ὡς αὐτῶν] The extensive use of particles in this period is remarkable: there are 21 (without δὲ after ἴστε, cf. com.). The narration is vivid and the style oral. A good number of particles keep the coherence and contribute to its oral character. It is a fast, colourful, nearly dramatic piece for delivery, but it can hardly stand as a good sample of written Greek.

56. τῇ θεραπείᾳ <τῇ>] Usually ψυχαγωγείσθαι is constructed either with dative or with the passive agent; being constructed with both makes the verb look overloaded. Blass, in order to remove this inelegance adds the definite article, in comparison to 58, after θεραπείᾳ. r omits τῇ θεραπείᾳ. This is an attractive option: if τῇ θεραπείᾳ is omitted there is no serious consequence to the meaning. ψυχαγωγούμενος ἐν τῇ ἀσθενείᾳ ὑπό τε τῆς Ν. καὶ τῆς θυγατρὸς αὐτῆς makes perfect sense and what is said by τῇ θεραπείᾳ is better described in the parenthesis following. [About the meaning of ψυχαγωγείσθαι "to inveigle" cf. D.44,63: ὁρᾶτε γὰρ ὅτι ταῖς κολακείαις οἱ πλείστοι ψυχαγωγούμενοι καὶ ταῖς πρὸς τοὺς οἰκείους διαφοραῖς πολλὰκις φιλονικούντες ποιητοῦς οἰεῖν ποιοῦσι.] It is tempting to suggest that τῇ θεραπείᾳ here was interpolated by the same hand as καὶ τῆς αὐτῶν θεραπείας in § 58 (cf. com.). Although not without reservation, I would omit τῇ θεραπείᾳ, with r.

θεραπεύσοντος] The mss give θεραπεύοντος. But the action belongs to the future. Thus Dobree's suggestion (*Adversaria* 1,519)

θεραπεύσοντος is correct. Hude (NTF 7 [1885-87] 294) adds some parallels in support of this suggestion: D. 53, 29; 20, 50. 103 al.

ἴστε δήπου] FγρQγρ give ἴστε δὲ δήπου. Hude (p. 294) supports the presence of δέ: *asyndeton vix excusandum. Hausit particulam syllaba δη*. The combination δὲ δήπου, as far as I know, does not exist in the Corpus, but the alternative γὰρ δήπου (Denniston, 268) exists. [In 19, 113 Butcher adopts γὰρ δήπου based on the majority of the mss, S gives δήπου. In 20, 167 δήπου γ' is the reading of all mss, accepted unanimously by the editors]. Without δὲ we should understand that Ap. stops, turns to the judges and ironically says "Of course, you know..." cf. D. 19, 116 ἴστε δήπου πρώην, ὅτ' εἰσήγγελλεν. With δὲ δήπου the transition is softer: "and you know of course...". Both readings are possible.

ἐπε(σθη δη] This is the reading of Yr. FγρQγρD omit δη; SFQ give ἔπειτ' ἤδη. The mistake in SFQ confirms the correct reading of Yr. δη here emphasises the verb preceding, after the long parenthesis and resumes the narration (cf. Denniston 214 ff.).

πάλιν λαβεῖν] Reiske, found difficult the meaning of πάλιν here, because Phrastor never had the child with him at the first place, and suggested that it functions in a similar way as ἀνα- in ἀναλαβεῖν (§ 59). I agree with the explanation of Schaefer *Phrastor antea puerum una cum matre repudiaverat*. Reiske, however is right that the word expected here would be ἀναλαβεῖν (to take up): § 57: ἐποίησατο τὸν παῖδα καὶ ἀνέλαβεν ὡς αὐτὸν,

59: πάλιν ἀναλαβεῖν τὸν παῖδα. Here καὶ ποιήσασθαι υἱὸν following makes the sense clear.

ποιήσασθαι υἱὸν] "to acknowledge (the boy ) as his son". This meaning is also found in And.1,124 (cf. MacDowell, *Andokides* 151), D.39,4. 6 al. cf. Jean Rudhardt, *MH* 19 [1962] 39-64.

57. μὲν ... δέ] The loose connection between the two parts of the sentence, connected with μὲν ... δέ has caused anxiety to some older scholars (Taylor, Reiske, Schaefer). Reiske proposed δῆ instead of δέ. I do not agree. μὲν ... δέ connect the two parts of Phrastor's λογισμός: his psychological and his realistic fears.

ἄπαις] The fear of ἀπαιδία was stronger for the Athenians than what one suspects at first sight, because it was related to cultural and religious institutions and to the organization of the inheritance law. Each family had its θεοὶ πατρῶοι and the continuation of the οἶκος was a guarantee that the cult of these gods would not be neglected. In Isae. 2,1 we read: πειρᾶται ... τὸν ἀδελφὸν τὸν αὐτοῦ τεθνεῶτα ἄπαιδα καταστήσαι οὔτε τοὺς θεοὺς τοὺς πατρῶους οὐθ' ὑμῶν αἰσχυρόμενος οὐδένα. (see also the com. of Wyse, p.239-240). Religion is also the reason which makes ἀπαιδία fearful in Isae.2,46. In Isae. 2,10 the fear expressed is that the grave will be neglected and nobody will offer τὰ νομιζόμενα. One of the reasons for which Menekles adopts a son is εἰς τὸν ἔπειτα χρόνον τὰ νομιζόμενα αὐτῷ ποιήσει. The same

idea occurs in Isae. 2,46. Rüdle (*Freilassungswesen*, 148 ff.) reports cases of people who liberated a slave under the condition to take care of τὰ νομιζόμενα after their death. In Isae. 2,7 ἄπαιδα καταστήναι is an equivalent of ἀτυχῶν, and in 2,23 we find twice the combination ἄπαιδι καὶ ἀτυχούντι. More practical are the reasons which cause fear of ἀπαιδία in 2,10: ἀλλ' ἔσοιτο αὐτῷ εἴ τις ζῶντα τε γηροτροφῆσοι καὶ τελευτήσαντα θάψοι αὐτόν. Dying without legitimate children meant that οἶκος would be deserted: Isae. 7,30: ὅπως μὴ ἐξερημώσουσι τοὺς σφετέρους οἴκους. A legitimate son by birth or by adoption was the guarantee that the οἶκος would be continued and the family cults would not be neglected.

On the other hand, only legitimate sons had the unquestionable right to inherit the property of their father. If no legitimate sons existed the whole of the father's property would go with his legitimate daughters, as ἐπικληροί. If no natural sons existed the man could adopt a son (an Athenian citizen) to whom the property passed after the man's death. If no legitimate or adopted child existed the property would pass to the closest relative. (cf. MacDowell, *Law*, 92 ff.). Thus the idea that a relative, with whom perhaps they did not have good relations (as in Phrastor's case), was entitled to inherit their property made ἀπαιδία even harsher. For further information see Lacey, *Family*, 93, 97-8, 147 ff. (in relation to religious duties); Humphreys, S. C., *The Family, Women and Death*, London 1983, 13 ff. et.

τὸν παῖδα] As it seems Phrastor accepted back only his son, but not the mother of the child. In § 58 we read that Phrastor married another woman shortly after. The impression given in the following paragraphs is that Phano stayed with her mother until she was betrothed again. Phrastor probably kept the child even after the unsuccessful attempt to register him with the genos.

58. ἔσχεν] Hude (NTF 7 [1885-7] 295) prefers εἶχεν "cum condicio corporis curatione melior facta significanda sit". The aorist is preferable because it refers to the time when he recovered, not the later period, when he continued to be well.

Σατύρου] About Satyros and his family there is no further evidence. Remarkable is the double identification of Phrastor's new wife, with the name of her father and her brother. We do not know if it was only a mannerism of the author (cf. § 30 Φρυγ(ωνα.) or if he wants to make the distinction between children of Satyros from different women.

Διφ(λου] Schaefer corrected Διφ(λου of the mss., because the Attic form of the name was always Δίφιλος (cf. Kirchner PA, ad loc.).

καὶ τῆς ... θεραπε(ας] The leading verb βιασθεῖς fits well with the other three negative meanings (νόσου, ἀπαιδε(ας, ἔχθρας) but it is difficult to understand how "treatment" can "force" somebody. In the present passage θεραπε(α comes in the middle of

this list and in this position it is apparently a foreign body. In § 63 in a list, describing the reasons for which Ph. was persuaded to acknowledge the child, only the three negative meanings appear. Some scholars found also strange αὐτῶν before θεραπειάς; as a subjective genitive it should come after θεραπειάς. Blass suggested <ὕπ'> αὐτῶν, in comparison to § 55; Baiter and Sauppe deleted αὐτῶν. For the reasons above I suspect that καὶ ... θεραπειάς is an interpolation derived from θεραπεύσοντος (§ 56). [In § 55 θεραπεία may be also interpolated; cf. com.]

δηλώσει] All mss give δηλώσω. Wolf's emendation δηλώσει, accepted by most of the editors, is evidently better: cf. D. 19, 167: οὐ γὰρ ἐμέ γ'εἰπεῖν ἐμαυτὸν δεῖ, ἀλλὰ τάργα καὶ τὰ πεπραγμέν'αὐτὰ δηλώσει.

59. ἐν τῇ ἀσθενείᾳ] The sequence of events is as follows: 1) Phrastor after the divorce became sick. 2) Neaira and Phano looked after him and persuaded him to acknowledge the child. 3) Phrastor tried, without success, to enroll his son to his genos and phratry. 4) His health improved. 5) He married a citizen.

ᾧ] It is given by YrD; SFQ give ὡς: Reiske adopting the version with ὡς added ἐαυτοῦ afterwards.

οἷμαι] The tone is sarcastic. The orator is sure that these were the reasons for the rejection of Ph.'s son, by gennetai and he does not intend to present this argument as being doubtful. If

the document of § 61 is genuine, these reasons were officially stated by the gennetai.

τὴν τῆς Ν.θυγατέρα] Naber (Mn. 32 [1904] 39) considers these words, here and in § 72 to be superfluous and deletes them: equally superfluous phrases, however, are not rare in the text: § 59 τὸν ἐκ ... Νεαίρας, § 83 τὴν ταυτησί Νεαίρας θυγατέρα, al.

60. ἐνέγραφον αὐτοῦ υἱὸν] FQD give τὸν υἱὸν. With the definite article the reference is to this boy, his son. Without the article it is more vague and exactly this vague tone fits better in the text of the indictment by Phrastor against the gennetai, which the orator paraphrases here. (cf. § 50: ποιήσασθαι υἱὸν αὐτοῦ).

δαιτητῆ] It was a public arbitration, since the arbitrator was not appointed after consent of the two parties, but after a normal legal procedure, which started out, after an indictment by Ph. against the gennetai (λαχόντος δ(ικην). For further details about public arbitration see MacDowell *Law* 207 ff.

ὄμοσαι] The oath which Phrastor was asked to take before the arbitrator must have been similar to the oath of the witnesses in the inscription from Dekeleia (IG 11<sup>2</sup> 1237, v. 110-4): ΜΑΡΤΥΡΩ ΟΝ ΕΙΣΑΓΕΙ ΕΑΥΤΩΙ ΥΟΝ ΕΝΑΙ ΤΟΤΟΝ ΓΝΗΣΙΟΝ ΕΓ ΓΑΜΕΤΗΣ ΑΛΗΘΗ, ΤΑΥΤΑ ΝΗ ΤΟΝ ΔΙΑ ΤΟΝ ΦΡΑΤΡΙΟΝ ΕΥΟΡΚΟ(Ν)ΤΙ ΜΕΝ ΜΟΙ ΠΟΛΛΑ ΚΑΙ ΑΓΑΘΑ ΕΝΑΙ, ΕΙ Δ' ΕΠΙΟΡΚΟΙΗΝ ΤΑΝΑΝΤΙΑ. Phrastor's refusal to

swear would be a good argument against his plea. [About oath as a proof in before the court, see Harrison 2, 150-3] His refusal to swear did not mean that he lost the case automatically, but most likely the arbitrator would decide against him. The orator does not state explicitly, whether Phrastor fought the case to the end or he abandoned the procedure, but we are left with the impression that he did not succeed to register the boy. If the document in § 61 is genuine, there it is clearly stated that the boy was finally rejected.

καθ' ἱερῶν τελεῶν] Plescia (*Oath*, 12) understands "to swear by full-grown victims" τέλειος, concerning the victim means "without any spot or blemish", concerning the ceremony, it means "performed with all rites" (cf. LSJ. s. v. τέλειος). This stereotype phrase is used to distinguish between an oath taken after the sacrifice of a victim and an oath not accompanied by a sacrifice: καθ' ἱερῶν τελεῶν implies an oath taken after a sacrifice with the oath-taker swearing, when touching the victim. (cf. also And. 1,97; Th. 5,47,8).

καὶ οὐκ ἔμοσεν] Herwerden (*Mn.* 3 [1875] 357) considers these words to be interpolated. Indeed, nothing is added to the meaning by these words but I do not find any particular reason to delete them. (cf. com. § 59 τὴν τῆς Ν. θυγατέρα).

61. μάρτυρας ... Βρυτιδῶν] This is the reading of FQ, approved by all modern editors. SYrD give τοὺς μάρτυρας Βρυτιδῶν. The

reading of FQ seems to be more complete but παρόντας creates a problem: παρόντας can mean, in this context:

1) Apol. summons as witnesses those ones of Brytidai, who are present at the law-court. But, I did not find any passage in the Corpus in which παρόντας means "witnesses present in the law-court". [In D.34,12 it means "to support"] On the other hand, a large number of passages imply that παρόντας is used for witnesses, present at events, which have taken place before the delivering of the present speech: Some are very clear: D.19, 162: κάλει τοὺς ἐκεῖ παρόντας μάρτυρας; 29,40; 47,65; 52,16; 57,43; παροῦσι 57,13; παρόντων 19,168; 30,32; 36,24; 45,58; 47,64; 52,7; 54,26; 57,41 παρόντες: 22,10; 40,31; 41,9 al. cf also § 34: τοὺς ὄρωντας ὑμῖν καὶ παρόντας.

2) παρόντας means either present at the voting, during the day in which Ph. tried to enrol his son or present at the arbitration. The number, however, of the παρόντες gennetai is not convincing: six gennetai are rather few to be present at the Apatouria and rather a lot to be present in front of the arbitrator (three would be enough).

This difficulty makes me think that the reading of FQ may be an intervention by a grammarian. The reading of SYrD has also a problem: the genitive comes abruptly, with no connection with τοὺς μάρτυρας preceding. τοὺς μάρτυρας ἐκ Βρυτιδῶν παρέξομαι is what we should expect. This corresponds perfectly to the

expression of the document (which I believe is authentic; cf. com.) είναι και αυτούς και Φράστορα τῶν γεννητῶν οἱ καλοῦνται Βρυτιδαί. ἐκ was accidentally left out a scholar realizing the problem tried to improve the text and modified it adding παρόντιας, a word usually appearing in the texts when witnesses are summoned. I would adopt τοὺς μάρτυρας <ἐκ> Βρυτιδῶν παρεξομαι.

**MARTYPIA]** Westermann does not accept the authenticity of this document, whereas Staeker, Kirchner and Drerup believe that it is authentic.

1. In § 55 we read ἑτέραν μαρτυρίαν παράσχωμαι τοῦ τε Φράστορος και τῶν Φρατέρων αὐτοῦ και γεννητῶν. In § 61 only the gennetai appear to give evidence. Westermann considered this inconsistency to be a proof against the authenticity of the document. Staeker (47) goes even further: he suspects that initially two documents were produced one by Ph. and one by the gennetai. Phrastor's document was omitted and then a copyist omitted the phrase which announced the testimony given by Phrastor. Drerup (348) does not accept this suggestion and Riehemann (as Drerup, 348, reports) relates the absence of any direct evidence by Phrastor with a *milde Behandlung* of Phrastor by the orator

I agree that no direct evidence by Phrastor should be expected at this stage. Phrastor broke the law and tried to deceive his

genos. And practically it would mean to ask Phrastor to testify that his son is illegitimate. Besides, Phrastor would not appear twice to testify, once in § 54 and once here. Thus I agree with Riehemann that Ap. out of courtesy does not ask Phrastor, but he presents an even weightier piece of evidence; the testimony of the gennetai. μαρτυρίαν in § 62 is not used in the technical sense but in a more general sense: cf. § 63: αἱ πράξεις ... μεγάλας μαρτυρίας δεδώκασι κατ'αὐτῶν; § 88: τοῦ δήμου τοῦ Ἀθηναίων μαρτυρίαν παρασχέσθαι, al.

2) There is no mention of the arbitration and the refusal of Phrastor to take an oath, in the document. I think this supports the authenticity of the present text. Comparing with the fabricated documents in which so much of unimportant details already known from the narration of the orator is included (e.g § 34), this document is admirably concise and to the point. Details of the story, like the arbitration or the refusal of Phrastor to swear, which I believe would attract the attention of a forger, are omitted.

3) The language of the testimony is significantly different than the context, yet very accurate. a) The six witnesses identify themselves precisely by stating that they are along with Phrastor members of the genos called Brytidai. b) ἀξιόβριος says all what the orator said in so many details. c) εἰδότες αὐτοὶ implies perfectly that they had personal knowledge of the truth.

d) κωλύειν εἰσάγειν summarizes the whole argument of Phrastor with his *genos*.

4) The most important argument for the authenticity of this document is the addition of the names of the *gennetai*. For two of them we have further evidence. Kirchner (*RhM* 40 [1885] 384) speaks about an Εὔαλκος Φαληρεὺς who was ἐπιστάτης προέδρων in 322/1 identifying him with this person. The Attic form of this name is Εὔαλκος, not Εὐάλκης (cf. *PA* 1,344). If Kirchner's identification is correct, we should adopt the form Εὔαλκος in our text. Νίκιππος Κεφαλήθεν appears as a *syntrierarch* in 322. (cf. Davies *APF*, 408). [Ἐκάλη was a small deme of Leontis on the way to Marathon (*RE* 7, 2665, Kolbe), Λακιάδαι was a deme of Dineis, at the South-west of Kerameikos on the way to Eleusis (*RE*, 12, 524-5, Kock), Κεφαλή was a deme of Akamantis close to Keratea, by Thorikos (*RE*, 11,1,190 Kroll)]

5) The outcome of the whole debate of Phrastor with his *genos*, namely the final rejection of his son, is explicitly given only in the testimony and we have no reason to doubt, that this information is true.

[τὸν υἱὸν <τὸν> ἀτόθ' is an addition of Baier-Sauppe, approved by Kirchner (*RhM* 40 [1885] 383) and adopted also by Rennie, Blass, on the other hand, followed by Murray and Gernet deleted the first τὸν (εἰσάγειν (τὸν) υἱὸν ἀτόθ'), in comparison to § 60. But cf. § 56 τῆς θυγατρὸς ἀτόθ', § 67 τὴν τε μητέρα ἀτόθ'. I prefer τὸν υἱὸν ἀτόθ'.]

In conclusion, I firmly believe that this document is authentic. It was included in the published version because the gennetai gave evidence representing an authority.

62-63: These paragraphs explain the significance of the events narrated after § 49. Here the orator summarizes the presentation of these events from the point of view of Ph. and Stephanos. In general, however, it is not a good sample of argumentation, because the major part of what is given here, is simply repetition of events, well known to the audience. If these paragraphs were omitted nothing serious would be missing. This passage also functions as a transitional part, like the one in §§ 41-44

62. ἐπιδεικνύω] FY give ὑποδεικνύω; but ὑποδεικνύω means "to teach, to indicate what would be best to do"... The correct reading ἐπιδεικνύω is supported by § 13, 16, 17, 43, 49, 82, 119, 122) [ἐπιδείκνυτε in § 111 is different].

καταμεμαρτυρηκότας] The genitive Νεαίρας ταυτησί belongs to both, οἰκειοτάτους and καταμεμαρτυρηκότας.

τὸν ἔχοντα .... αὐτῆ] Both phrases say roughly the same thing, the first however is more general, while the second, as a technical term implying marital status, more specific.

'Αθηναίῳ ὄντι] The mss give 'Αθηναίος ὄν, which Blass corrected.  
cf. § 52 com. 'Αθ. ὄντι.

ἀποστάντα ... ἀπολαβόντα] ἀποστάντα implies that St. abandoned  
any claim on the dowry; οὐκ ἀπολαβόντα makes clearer what  
eventually happened.

63. ἐκβαλόντα τε] τε was transferred to this place by Sauppe.  
In the mss it appears after γήμαντα. The place in which it  
appears in the mss, confuses the sense, because it connects  
γήμαντα with οὐκ ἀποδόντα. The unsatisfactory text of the mss.  
was the reason for several suggestions by scholars: Iurinus  
proposes Φράστορα δὲ γήμαντα τὴν θ. τῆς Ν. ταυτησί, ἐκβαλόντα  
τε, ἐπειδὴ ἐπύθετο οὐ Στ. οὔσαν. But Schaefer is right when  
saying *Phrastoris testimonium nititur, non τῷ γῆμαι καὶ ἐκβαλεῖν*  
*sed τῷ ἐκβαλεῖν γήμαντα.* Reiske suggested changing τε to γε  
(γήμαντά γε). Thus γε would be exegetic (Denniston, 138-9). But  
exegetic γε is extremely rare in prose (Denniston, 138).  
Sauppe's transposition, adopted by all modern editors seems to  
me also to be the easiest solution.

τὴν Ν. ταυτησί] Not τῆς Ν. ταυτησί, according to FGr. The  
possible structures are: τὴν θυγ. τὴν Ν. ταυτησί as here (or τὴν  
ταυτησί Ν., § 50) or τὴν ταυτησί Ν. θυγ. (§ 83) or (without  
ταυτησί) τὴν τῆς Ν. θυγ. (§ 55, 59, 69, 72) or τῇ θυγατρὶ τῇ Ν.  
(τῆς mss: emendation by Bekker, § 70).

ἐπειδὴ εἰσήγεν] Only r gives ἐπειδὴ against all the rest of the mss, which give ἐπεί. Ἐπειδὴ seems to be preferable because it corresponds to ἐπειδὴ τε above. The first ἐπειδὴ in this paragraph is causal, the second and the third are temporal.

ὅτι ..... αὐτῇ] A phrase which adds nothing to the sentence. This period would be complete if this additional explanation, given for reasons of emphasis, was omitted. A similar case occurs in § 119 (ὡς μὲν ... αὐτῇ), where ὡς .... αὐτῇ is so apparently superfluous, that Herwerden proposed to delete it.

64. αἰσχροκερδ(αν] Rennie adopts the reading of SF'D. Blass and Murray prefer the alternative αἰσχροκέρδειαν. [Bernet's αἰσχροκερδείαν is grammatically incorrect]. In Hdn. Gr. 2.453 we read: τὰ παρὰ τὸ ἦθος διαφορεῖται, ἀθήθεια καὶ ἀθηθα, ποιητικώτερον δὲ διὰ τοῦ ι, καὶ παρὰ τὸ κέρδος, φιλοκέρδεια καὶ φιλοκερδία αἰσχροκέρδεια καὶ αἰσχροκερδία. (= EM 462, 15, where ποιητικώτερον is corrupted to πολιτικώτερον). As far as I know the first instance in which the form αἰσχροκερδία is attested is in Diphilos PCG fr.99, where αἰσχροκερδία is demanded by the metre. The forms in -ία are mostly poetical (Kühner-Blass 1,388-9). Here αἰσχροκερδ(αν seems to be a mistake of iotacism; I would adopt αἰσχροκέρδειαν.

ἐκ ταύτης] In singular, because αἰσχροκερδ(αν dominates the whole sentence.

'Ερα(νετον) There is no further evidence. According to the present text, he was a quite well-off man (64: πολλά ἀνηλωκότα, 41 ξένον πλούσιον) from Andros, probably a merchant (ὁπότε ἐπιδημήσειεν, 64). When these events took place (c. 350 B.C.) he was a mature person (ἐραστήν ... παλαιόν, 64). Erainetos was a quite flexible man: he appears to act in the most adequate way for the present situations. He agrees to offer money to St., in order to be released (65), but afterwards he indicts St. (66) and before the arbitrators, although, probably he was not liable to the adultery-laws, he accepts the compromise (70), in order to avoid further complications. But he was clever enough when defending himself, to bring St. to a difficult position. St. could bring no argument in defense of his case (70). In general his portrait is emotionally neutral and realistic.

65. Στέφανος οὔτος(] The mss give ὁ Στέφανος οὔτος. ὁ was obelized by Sauppe; Blass (RhM 44 [1889] 17, n.1) agreed, because the name, being defined by οὔτος, does not need the definite article.

ὡς θύων] Naber (Mn. 32 [1904] 39) suggested θύων. His suggestion is probably right. See Kühner-Gerth 2,92: *Oft bei dem eine Absicht ausdrückenden Partic. Fut., indem die Absicht aus der Seele der handelnden Person ausgesprochen wird.* In fact what is expressed with the participle here is presented as an intention of St. and for this meaning θύων is more adequate:

cf. 65 ἀφίησιν ὡς ἀποδώσοντα; X. An. 2, 6, 2: ἐξέπλει ὡς πολεμήσων; Th. 2, 7 al.

λαμβάνει μοιχὸν] Wolf proposed ὡς μοιχὸν (cf. § 41 ὡς μοιχὸν ... ἀποκλεῖων). But λαμβάνειν μοιχὸν is a standard phrase: cf. 67, 71 and Lys. 1, 49; 13, 66 al.

τῆ Νεαίρας] The mss give τῆς Ν. Schaefer corrected to τῆ Ν.

πράττεται] Adultery was a serious offence according to the Attic law. (cf. MacDowell, *Law*, 124 ff., Harrison *Law* 32 ff.) A person caught in adultery was liable to the following penalties:

1. He could be put to death immediately and then no penalty should be imposed on the murderer. This law is quoted in D. 23, 53: 'Ἐάν τις ἀποκτείνῃ ἢ ἐπὶ δάμαρτι ἢ ἐπὶ μητρὶ ἢ ἐπ' ἀδελφῆ ἢ ἐπὶ θυγατρὶ ἢ ἐπὶ παλλακῆ ἢ ἄν ἐπ' ἐλευθέροις παισὶν ἔχῃ, τούτων ἕνεκα μὴ φεύγειν τὸν κτείναντα. Lys. 1 was delivered in such a trial: Euphiletos having killed Eratosthenes, is prosecuted by Eratosthenes' family and defends himself, by claiming that the murder was lawful, because Eratosthenes was caught in adultery with his wife.

2. If the κύριος of the woman did not wish so radical and violent a solution, he could maltreat the adulterer by inflicting on him various bodily humiliations, without

bloodshed. cf. Ar. *Nub.* 1083 and Sch.; Rogers *Clouds* 138-9; Lys. 1, 49 al.

3. An alternative would be to ask for compensation (cf. Lys. 1, 25, Alciphr. 3, 26, 4, al.) Some scholars believe that the penalties 2 and 3 could be combined. Rogers interprets Ar. *Pl.* 168, as implying a combination. (v. 168 and com.; Starkie *Clouds* 240) but he accepts, referring to the present passage, that Epainetos did not suffer any bodily humiliations.

In order to be able to say to what case each penalty applied, we have to question which was the spirit of this law and what kind of satisfaction was given in each case to the abused man. MacDowell (124) commenting the strictness of the law says: *Seduction was worse than rape, because it implied corruption not only of the woman's body but also of her mind.* Paoli has suggested that adultery was a serious offence, because it was an abuse of οἶκος (SDHI 16 [1953] 123 ff.). In Lys. 1, 33 it is stated that only thus family is protected from the fear of the birth of bastards. In D. 23, 56 we read ὑπὲρ ὧν τοῖς πολεμοῖς μαχόμεθα, ἵνα μὴ πάσχωσι ὕβριστικὸν μηδ' ἀσελγὲς μηδὲν, ὑπὲρ τούτων καὶ τοὺς φίλους ἐάν παρὰ τὸν νόμον εἰς αὐτοὺς ὕβρίζωσι καὶ διαφθείρωσι ἔδωκε ἀποκτείναι. The strictness of the law intends to protect important institutions from abuse. But then how could a compensation erase these crimes?

a) Euphiletos, for example, who is presented as a person of high morality, is proud of saying in front of the law court that he did not accept any compensation from the adulterer ( Lys. 1,25: ἤντεβόλει δὲ καὶ ἰκέτευε μὴ ἀποκτεῖναι, ἀλλ' ἀργύριον πράξασθαι). In Alciphron 3,26,4 a husband is characterised as μαλακός: ἐκεῖνος γὰρ λύτρα παρὰ τῶν μοιχῶν ἐπὶ τῇ γαμετῇ πραττόμενος ἀθῶους τῆς τιμωρίας ἠφίει.

b) The first two kinds of punishment, although in quite different ways, could give moral satisfaction to the insulted κύριος. The third was more practical. The two passages from Aristophanes speak as if the penalties 2 and 3 were the most usual ones; the death penalty is not mentioned there. Perhaps it did not serve the purposes of comedy, but also I would imagine that cases like Euphiletos' one, were rare. By killing the adulterer the κύριος became liable to a trial for a φόνος δίκαιος. Especially if we accept that the penalties 2 and 3 could be combined, the insulted κύριος could obtain simultaneously moral satisfaction by humiliating the adulterer and money would help to forget. [Other possibilities, probably practised when the adulterer was not caught in the act, were a γραφή μοιχείας or a γραφή ὄβριτος (cf. MacDowell, *Law*, 125).]

In the present case, not much of an explanation is needed why St. chose the third way. It was not a real capture in adultery, but just a fraudulent trick of St. in order to extract money from Epainetos

Ἄριστόμαχον] His demotikon is added in § 71: Κεφαλήθεν. We have no further evidence. [The reading of ΥτD which implies that Aristomachos was θεσμοθέτης in the present year is most likely mistaken; Ep. needed just two Athenian citizens as sureties, not an archon, and in any case the reading of SFQ is lectio difficilior, cf. Schaefer Apparatus, ad loc.]

Ναυσίφιλον τὸν Ναυσινίκου] His full name is Ναυσίφιλος Ναυσινίκου Κεφαλήθεν (§ 71). His father Nausinikos was archon in Ol. 100,3 = 378/7. During his archonship the Athenians were organised in symmories (cf. Kirchner *PA* 2, 114). [Κεφαλή was a deme of Acamantis next to Keratea, near Thorikos, cf. *AE* 11, 190, Kroll]

66. ἄδικως εἰρχθῆναι] A free person could not be imprisoned, unless imprisonment was imposed as a penalty for some kind of offences (cf. MacDowell *Law* 126). The only case in which someone could confine a free person, was when he was a seducer caught in the act. But if this person claimed to be innocent, a γραφή could be brought against the the person who confined him. This procedure is described in the present text:

1. The first question which this account arises is whether the two laws paraphrased here (66: εἰάν τις ... μοιχῶ ὄντι, and 67: ὅς οὐκ ἐῖς ... ἀποπεφασμένως) are parts of the same law. One might think that they are, on the grounds that ἄδικως εἰρχθῆναι is vague, thus the legislator added the second piece, in order to make clear, in which cases the confinement was illegal. The law of § 67 is archaic in its language and the comparison with

Lys. 10, 19 and 15 and Plut. Sol. 23, 1 make the attribution of this law to Solon certain. (cf. Ruschenbusch *Σόλωνος Νόμοι*, p. 77, and Hillgruber, *Lysias 10*, p. 77). The law of § 66, however, arises some questions: a) It is doubtful if we can speak about ἐγγύη in the time of Solon, in the terms we know the word from the later centuries. b) The words ἐπὶ τοῦ δικαστηρίου, I suppose could not be written by Solon. c) Unless the orator has changed radically the wording of the Solonian law, the language of this text in general rather implies a developed legal terminology, as it is known to us from the texts of the classical period, impossible for the Solonian legislation. [What prevents assuming that the paraphrase of Ap. is free is that he usually keeps quite close to the original wording, when paraphrasing laws; cf. 67, 52, 86 and 87 al.] I believe that what we have here of the law of § 66, is the product of modernisation in the classical period (cf. the law of § 87, with com), whereas the law of § 67, being clear and precise, did not change, from the time of Solon.

2. ἀνεὺ ἐγγχειριδίου cannot mean, as Paoli (SDHI 16 [1950] 149) has suggested, that the successful defendant could kill by other means the prosecutor, but not by bloodshed. Schaefer correctly points out the correspondence to πλὴν θανάτου in the law of 87. An execution before the law-court is unthinkable. The phrase ὅτι ἂν βουληθῆ implies bodily humiliations, not execution.

2. In this procedure the risk for the prosecutor was serious, but was there any punishment for the convicted defendant? The

imprisonment of a free person was illegal. Thus, it is likely, the successful accuser, could, if he wished to proceed to a second trial against the unlawful confiner, for restriction of his liberty. A δίχη εἰργμοῦ was possibly a suitable procedure in this case (Cf. MacDowell *Law* 126). As it seems, the offence of unlawful imprisonment was not an issue to be covered by the law on adultery. This offence was covered by other laws. τῶ ἐλόντι is a strange term for the successful defendant, since ὁ ἐλὼν mostly implies the successful prosecutor. (e.g. § 16, 52). This has to do with the peculiarity of this case, that the serious danger hanged over the prosecutor.

εἴρη] In legal texts, the object of transitive verbs often is not written down: e.g. § 16: γραφέσθω (τὸν συνοικοῦντα), 52: τοῦ ἐλόντος (αὐτὸν), D.24,54 μὴ εἰσάγειν (οὐδένα).

67. πλησιάζουσιν] Taylor proposed πλησιαζούση. Schaefer supported the accusative, in comparison to 49,58 συνειδώς με ἀληθῆ ἐγκαλοῦντα οὐ τολμᾶ. For πλησιάζειν as a euphemism implying sexual relationship, cf. D.40,27.

τρέφειν] cf. § 29, 36, 42, 49, and Luc. *DMeretr.* in more than one places.

ἐπὶ τοῦτοις] Hude (NTF 7 [1885-7] 295 ) proposed <τὸν> ἐπὶ τοῦτοις. His suggestion is possible (cf. D.54,24; 58,5), but not

absolutely necessary: see D. 46, 22: τὸν νόμον ἐπὶ τούτοις ἀνάγνωθι.

ταύτησι] Sr and Harp. 267, 21 give ταύτης; the rest of the mss give ταύταις. Blass, restored the old Ionic form ταύτησι, on the grounds that it comes from the law of Solon. (cf. D. 43, 51, where a law of the same era is quoted).

λαβεῖν] D gives ἐλεῖν; Dgr., however, gives λαβεῖν, with the rest of the mss. But μοιχὸν λαμβάνειν is a standard expression (cf. com. λαμβάνει μοιχὸν, § 65)

ἐπ' ἐργαστηρίου καθῶνται ἢ πωλῶνται ἀποπεφασμένως] The reading of the mss is καθῶνται ἢ ἐν τῇ ἀγορᾷ πωλῶσι τι ἀποπεφασμένως: Harp. 267, 21 gives πωλῶσι: Δημοσθένης ἐν τῷ κατὰ Νεαίρας ἢ ἐν τῇ ἀγορᾷ πωλῶσι τι ἀποπεφασμένως. Δίδυμος φησὶν ἀντὶ τοῦ πορνεύουσι φανερώς. πωλεῖν γὰρ τὸ παρέχειν ἑαυτὴν τοῖς βουλομένοις, ὅθεν καὶ τὸ πορνεύειν, ὅπερ ἐστὶ περνᾶναι. ἐγὼ δὲ φημὶ ὅτι κυρίως ἔταξεν νῦν ὁ ῥήτωρ τὸ πωλεῖν. φησὶ γὰρ τὸν νόμον οὐκ εἶναι ἐπὶ ταύταις (Dindorf app. crit.: ταύταις N; ταύτης legebatur) μοιχὸν λαβεῖν, ὅπως εἴαν ἐπ' ἐργαστηρίου καθῶνται ἢ ἐν τῇ ἀγορᾷ πωλῶσι τι ἀποπεφασμένως (= Anecd. Bachmann 130, 14). Harp. 49, 11 gives ἀποπεφασμένον: ἢ ἀντὶ τοῦ ἀποδεδειγμένον καὶ πεφανερωμένον. οὕτω Δεῖναρχος (1, 6) καὶ Λυσίας (10, 19: πεφασμένως) καὶ Δημοσθένης ἐν τῷ κατὰ Νεαίρας. "ἀποπεφασμένως πωλοῦνται" ἀντὶ τοῦ φανερώς. (cf. Sud. α 3475: ἀποπεφασμένον] ἀπειρημένον. ... Νεαίρας; Phot. α 2604, EM 333A; Anecd. Bek. 433, 1). The undoubtedly

improved text which appears in the modern editions belongs partly to Heraldus [Reference in Dindorf: *Aniadvrs. in Salm. L. 5. c. 8*], who based on Harp.'s (49, 11) πωλῶνται, emended to πωλῶνται, the πωλοῦσι τι of the mss, and partly to Francke [Reference in Dind.: *Ephem. Jenes. a. 1844, p. 741*], who deleted the words ἐν τῇ ἀγορᾷ. The wording of the Solonian law ἐπ'... ἀποπεφασμένως could be misunderstood even at the beginning of the fourth century: the orator in Lys. 10, 19 feels that he has to explain this obscure phrase: "ὄσαι δὲ πεφασμένως πωλοῦνται" ... πωλεῖσθαι δὲ βαδίζειν. [I agree with Hillgruber *Lysias 10*, 77-8, that the right form must be πωλεῖσθαι, not πωλείσθαι]. After the corruption to πωλοῦσι τι, a scholar who understood the verb with the meaning "to sell" added ἐν τῇ ἀγορᾷ. Wachsmuth (*Die Stadt Athen im Altertum*, 2, 1, 450-1, n. 5) based on Didymos, supported that Lysias (10, 19) and Plutarch (*Sol. 23, 1*) have misinterpreted the verb and understands πωλεῖσθαι meaning "to be sold".

Lysias 10, 19 makes clear that πωλοῦνται means "to wander". Plutarch (*Sol. 23, 1*) confirms this understanding: πλὴν ὄσαι πεφασμένως πωλοῦνται, λέγων δὴ τὰς ἐταίρας. αὗται γὰρ ἐμφανῶς φοιτῶσι πρὸς τοὺς διδόντας. πωλεῖσθαι (to wander) existed already in Homer.

But how a verb meaning "to wander" can imply "to work as a prostitute" ? Dindorf says that the legislator spoke about two classes of prostitutes: *eas quae in domo meretricia prostent et eas quae in viis publicis versentur*. Flacelière (*RPh. 23* [1949])

127) also points out the contrast between καθῶνται and πωλῶνται and translates πωλῶνται *se promener roder*. I agree: they are both euphemisms used in a technical sense to indicate two different kinds of prostitutes: καθῶνται refers to prostitutes established in a brothel: cf. Isae 6, 19: πολλὰ μὲν ἔτη καθῆστο ἐν οἰκῆματι. Aesch. 1, 74: ὄρατε... τοὺς ἐπὶ τῶν οἰκημάτων καθημένους. [To establish somebody in a brothel is ἴστημι: Din. 1, 23; διότι τὴν Ὀλονθίαν παιδίσκην ἔστησεν ἐπ' οἰκήματος, Athen. 569 d-e, or καθίστημι (Ant. 1, 14). For a woman who gave up prostitution the term was ἀνίστασθαι (Isae. 6, 19) and when somebody else took her out of the brothel ἀναίρεισθαι (Alc. 3, 27).]

πωλεῖσθαι, refers to another category of prostitutes: those ones who work in the streets, "the street walkers". Several other terms were used to describe the activity of women who practised prostitution in the streets: δρομάς (Phryn. Com. 33), περίπολις (Phryn. Com. 33), σποδησιλαύρα (Com. Adesp. 1352) [Hsch. τ 4500 states that πῶλος means "hetaira". But a direct relation of πῶλος to πωλεῖσθαι, in this sense, is doubtful according to the existing evidence; Hsch's passage, as Hunter (*Eubulus*, 176) points out, could be derived from Eubulus fr. 82 (in *PCG*), in which we could explain πῶλος implying "prostitute" only in connection to Ἀφροδίτης (cf. *equolam* in Plaut. *Cist.* 308). Indeed Hunter, based on an article by Garvie, understands "worshipper, priestess". Anacreon's fr. 471,] also does not constitute clear evidence, because it is an allegory, P. Oxy. 413, v. 119, in which πῶλος is apparently a κόρη in a later text] A description of the activity of the wandering prostitutes could be found in Licht *Sexual Life*, 338-9.

The term ἑταῖρα does not appear before Hdt.2,134, I suppose, because the practice of keeping expensive courtesans, in the conditions we know from the classical period onward, does not appear in Athens before the middle of the 5th century, the years of the economic development of the city. But possibly in Solon's time, as well, women were practising prostitution in terms which resemble the status of a hetaira in later times. Thus, I suppose Solon's πωλῶνται ἀποπεφασμένως covered also these cases: πωλῶνται as a term covers all the free workers in contrast to the registered ones, established in brothels. The intention of the legislator was to prevent the Athenians applying the laws for adultery to women, who openly and provably practised any sort of prostitution.

As Lysias and Plutarch confirm, the legal text gave πεφασμένως. But the orator does not quote the law word for word, so he could have changed slightly this term.

ἐργαστήριον as a term for brothel is not unusual. Literally it means "workshop" (e.g. D.27,4) A passage from Aeschines explains why this term was used for "brothel": ἐάν δ' εἰς ἕν δῆπου τούτων τῶν ἐπὶ ταῖς ὁδοῖς ἐργαστηρίων ἰατρὸς εἰσοικῆσθαι, ἰατρεῖον καλεῖται· ἐάν δ' ὁ μὲν ἐξοικῆσθαι, εἰς δὲ τὸ αὐτὸ τοῦτο ἐργαστήριον χαλκεὺς εἰσοικῆσθαι, χαλκεῖον ἐκλήθη, ἐάν δὲ κναφεὺς, κναφεῖον, ἐάν δὲ τέκτων, τεκτονεῖον, ἐάν δὲ πορνοβοσκὸς καὶ πόρναι, ἀπὸ τῆς ἐργασίας εὐθὺς ἐκλήθη πορνεῖον. The term is a euphemism and implies a quite professional understanding of

prostitution: see also Alc. 3, 27; fr. 5 al. [The term is οἶκημα in Din 1, 23; Aesch, 1, 74; Isae, 6, 19 al.]

ἐργαστήριον] Schaefer suggested <καὶ> ἐργαστήριον, in order that this καὶ might correspond to the preceding τε. But φάσκων is an explanation of παρεχόμενος. We do not need to add καὶ.

τὴν ἐργασίαν ταύτην] Dobree (*Adversaria* 1, 519 and 475) deleted τὴν in comparison to Hdt. 4, 65; D. 24, 152 al. So, he understood ἐργασίαν to be the predicate of ταύτην, as ἐργαστήριον is the predicate of καὶ τοῦτον. But the structure changes in the second part of the sentence. The orator specifies what he means by καὶ τοῦτο, and one would expect to specify ταύτην, if it was the subject. Besides, he did not need to repeat εἶναι, if he did not change the structure. The transmitted text is correct: ταύτην is the predicate. The orator avoids to specify the kind of work, thus he uses the pronoun: cf. Aesch. 1, 124: ἀπὸ τῆς ἐργασίας αὐτῆς.

68. καὶ τὴν γραφήν] Reiske suggested <τοῦ>καὶ τὴν: *facile potuit tou in collisione cum 'Επαινέτου interire*. Schaefer agrees. But no further definition of who Ep. was, is necessary here.

πορνοβοσκάων] cf. § 30. The term is not literally used.

δ(αίταν] A private arbitration. cf. com. § 45.

τῆς μὲν ... ἀφείσθαι] Reiske correctly changed αὐτόν of the mss. to αὐτούς: *non Ep. absolvendus erat a vadimonio sed praedes, Arist. et. Naus.* ἀφείσθαι here is passive: cf: § 66: τοὺς ἐγγυητὰς ἀπηλλάχθαι τῆς ἐγγύης. Hude (295) suggested ἀφέσθαι, but the mss are correct: St. first should withdraw his claim and then Ep. would withdraw the indictment.

69. εἰς ἔκδοσιν] The same in § 71, but εἰς τὴν ἔκδοσιν in § 70. cf. § 30: εἰς ἐλευθερίαν ἀφιέναι, but § 31 εἰς τὴν ἐλευθερίαν.

70. καὶ κέχρησαι καὶ δίκαιος εἶ] Strictly speaking it should be ἐπεὶ κέχρησαι ... δίκαιος εἶ, but as they come in apposition in the second καὶ links two clauses, the first of which gives the circumstances under which the action of the second took place (Denniston, 293). The first καὶ is omitted by S<sup>1</sup> and Rennie considers this omission probable. But it is a preparatory καὶ (Denniston, 323-4).

ποιῆσαι αὐτήν] D adds δυνάμενος after αὐτήν: but this looks like an addition by a grammarian, who did not understand well the meaning of δίκαιος εἶ. [As far as I know, δύναμαι cannot have the meaning "I can afford it", in the classical period. But it exists as a colloquialism in the modern language. Possibly this usage goes back to the early Byzantine years and if so, the grammarian who inserted δυνάμενος had in mind: "since you can afford it"]

ἐπαγωγὸς λόγους] ἐπαγωγὸς, referring to rhetoric, at least in one case is exclusively positive "attractive": In Poll. 4, 31:

πανηγυρίσας is equivalent to ἐπαγωγός (λόγους εἰπεῖν). Two other cases in Pollux are less clear: In 4,21 we read ῥήτωρ ... ἐπαγωγός and in 4,24 (λέγειν) ἐπαγωγῶς: this can mean "attractive and consequently deluding". This ambiguous meaning is much commoner, as a large number of passages indicates: in Th. 4,88 Brasidas' words are characterised as ἐπαγωγὰ and Gomme, in his commentary, has pointed out the comparison to 4,108 where Brasidas' words are characterised as ἐφορκὰ καὶ οὐ τὰ ὄντα. Th. 5,85: ἐπαγωγὰ καὶ ἀνέλεγκτα εἰσάπαξ ἀκούσαντες ἡμῶν ἀπατηθῶσι. In Th. 6,8 ἐπαγωγὰ is linked to οὐκ ἀληθῆ (cf. Th. 5,111). In D. 19,322 we read ἐπαγωγαῖς ἐλπίσιν. Pl. *Phlb.* 44c: ὥστε καὶ αὐτὸ τοῦτο αὐτῆς τὸ ἐπαγωγὸν γοήτευμα οὐχ ἡδονὴν εἶναι. cf. *Isoc.* 14,63.

Some other instances from Pollux, confirm this understanding: 1,84: οἶνος ἐπαγωγός; 2,63: ὀφθαλμοὶ ἐπαγωγοί; 3,71: for attractive (and probably destructive) lovers. On the other hand, exclusively positive is the meaning in *Poll.* 2,117: φωνὴν ὑψηλὴν ... ἐπαγωγὸν and 4,72: πνεῦμα (μουσικῆς) ... ἐπαγωγὸν. In the present case, it implies well spoken and misleading words.

δεόμενος ... πραγμάτων] Murray translates "in entreaty". I prefer to take δεόμενος as a relative participle which defines τις and relate ἐκ πονηρῶν πραγμάτων only to the main verb: "which a man in need would say". cf. § 69: λέγων τὴν ἀπορίαν τὴν αὐτοῦ καὶ τὴν ἀτυχίαν τὴν πρότερον γεγενημένην τῆ ἀνθρώπῳ πρὸς τὸν

Φράστορα, with ἀπορίαν corresponding to δεόμενος and the rest of the sentence to ἐκ πονηρῶν πραγμάτων.

εἶποι ἄν] The grammatically correct form εἶποι ἄν is found in a later mss (Coisl. 339). rD give εἶποιεν ἄν, which cannot be correct, being in plural (cf. τις δεόμενος) and εἶπεν ἄν of FQ does not fit, either. S gives εἶπειεν ἄν, but the first aorist of the optative, with the exception of Herodotos, does not seem to occur in Attic prose. Kühner-Blass 2,423 report only another case: D.53,24 εἶπαιεν is given by all the mss, besides SA. This evidence is weak and leaves little doubt that εἶποι ἄν is the correct form here.

τοὺς ἐγγυητὰς καὶ διαιτητὰς] Reiske suggested τοὺς ἐγγυητὰς <τοὺς> καὶ διαιτητὰς γενομένους. Schaefer correctly answers: *Hoc si Orator voluisset sic, opinor, scripturus erat τοὺς διαιτητὰς τοὺς καὶ ἐγγυητὰς γενομένους.*

71. ΜΑΡΤΥΡΕΣ-ΔΙΑΛΛΑΓΑΙ] Westermann and Staeker (*De Litis* 48-50) believe that these two documents are spurious. Kirchner (*RhM* 40 [1885] 384-5), Riehemann and Drerup (*Urkunden* 349-50) support their authenticity. As with the documents in § 47, all these scholars either accept or reject both documents, but I think that we should question their authenticity separately:

ΜΑΡΤΥΡΕΣ: 1. Westermann finds that in these two documents the point which mostly should be mentioned, that N. is a foreigner,

is omitted. I agree with Drerup that although the point is not clearly expressed, it is implied. According to the orator, since the fraudulent imprisonment for adultery was not effective, N. and her daughter were not citizens. The purpose of the orator was to use as evidence that Neaira could not be a citizen the description of the conditions in their house, (cf. § 64: Σκέψασθε ... πονηρίαν, ἵνα καὶ ἐκ ταύτης εἰδῆτε ὅτι οὐκ ἔστιν Νέαιρα αὐτῆι ἀσπὴ).

2. The demotikon of the two arbitrators is not given by the context. cf. § 65.

3. ἐγένετο αὐτοῦ: Reiske proposes that αὐτὸν should be added on the ground that the transmitted text could give the impression that the arbitrators indicted St. Schaefer answers: *Huius autem loci sententia tam manifesta est, ut neminem, qui antegressa legerit, latere possit.* Staeker, although he is of the same opinion as Schaefer, he mentions this point as one of the problems of this document. The structure is elliptical.

In general in this document only necessary information is given and in this sense it is concise and on the point. Besides, it gives some additional information. That is why I would consider it to be genuine.

ΔΙΑΛΟΓΑΙ: 1. ἐπὶ τοῖσδε: Schaefer comments: *Notabilis haec constructio, quod formulam conditionalem ἐπὶ τοῖσδε sequuntur*

*soli infinitivi*. I agree; if ὥστε (or ἐφ' ᾧ τε) sentences were following, the text would be more elegant.

2. The word διαλλακταὶ instead of διαιτηταί, puzzled all the scholars, who dealt with the authenticity of this document, after Westermann. Staeker and Kirchner share his opinion that the use of διαλλακταὶ instead of διαιτηταί, is odd. Riehemann suspected that somebody substituted the two names of the arbitrators with this word, in comparison to the text of the testimony (διαλλακταὶ γενόμενοι). Drerup thought that here, as in § 47: Κατὰ τὰδε διήλλαξαν, the subject was omitted and somebody, based on the first document, added διαλλακταὶ here, as well. In the first document διαλλακταὶ seems to be correct: διαλλαγή (§ 47, Lys. 4, 1 al.) and διαλλάττειν (§ 53; Isae. 5, 32 al.) are sometimes used as technical terms in order to denote not the private arbitration in general, but the reconciliation after a private arbitration. In this sense διαλλακταὶ can be used in the first document as a predicate, implying that these two persons eventually became conciliators (διαλλακταὶ γενόμενοι: cf. also D. 14, 40; 48, 2), but, it cannot be used straight forward instead of διαιτηταί in the second document. The person who fabricated the second document was not aware of this subtle difference.

3. τὸν εἰργμόν: according to *LSJ* the meaning "imprisonment", which clearly is implied here, is later. This is not certain, however, because we do not know the exact implication of the

word in the legal procedure known as δίκη εἰργμοῦ, attested in the 4th century (cf. com. § 66).

4. The exact εἰσενεγκεῖν (to contribute) of the context is substituted in the document by the vague δοῦναι.

5. ἐπειδὴ κέχρηται αὐτῇ πολλάκις: Westermann says that nowhere in the text is indicated that Ep. had sexual relationships with Phano, many times in the past. But, the phrase παρὰ τούτοις (64) possibly includes Phano and the words of St. (70) σὺ δὲ καὶ ... ποιῆσαι αὐτῇν, , rather clearly imply that in the past Ep. had frequent contact with Phano, too, otherwise how could St. claim that it is a moral duty of Ep. to do her a favour. Nevertheless the phrase is too offensive for a document of conciliation and the reason for which Ep. ought to contribute to Phano's dowry is expressed in a way which is cynical, indeed. (cf. § 47, χρῆσθαι)

6. Στέφανον δὲ ... αὐτῇ: I find this phrase the clearest argument against the authenticity of this document. As Westermann has already pointed out, it contradicts the text and especially εἰς ἔκδοσιν (69). Ep. was asked to contribute to Phano's dowry, and St. intended to betroth her soon. But then how is it possible for St. to allow Ep. to keep sexual relations with her? Staeker's alternative explanation that it was not known how soon Phano would get married and consequently the condition could apply to the period before her second marriage, is not convincing because it seems awkward in itself

in a conciliation in which somebody contributes to the dowry of a woman, to be granted simultaneously the right keep sexual relationship with her whenever he wishes. Besides, nowhere in the document it is written that this condition was a temporary arrangement: the official text of the reconciliation, as it stands, grants Ep. this right for life. And did Ep. wish to keep this right on her? Naturally, one would think that he would never visit again St.'s house.

As in § 47, I believe that the original text of the διαλλαγαὶ was produced by Ap. in the law-court, and the witnesses testified that this was the original document. Only the text of the witnesses, however, was included in the published version, because they acted under authority. The Διαλλαγαὶ was omitted because its content was already known to the judges. Thus, only the first document is authentic; the second is fabricated.

72. A long period, full of rapid changes: the orator starts with singular (ἔτόλμησεν), continues on with singular (ἦλθεν), although the subject is Στέφανος οὕτοσι καὶ Νέαιρα αὐτῆι, and suddenly changes to plural (ἔτόλμησαν, ἔφασκον, κατιδόντες. Reiske commenting on κατιδόντες believes that St., N., and Phano are implied. But Schaefer is right when maintaining that only St. and N. are included, because: a) the comparison to Στ. οὕτοσι καὶ Νέαιρα αὐτῆι above, confirm this understanding. b) Women in Athens did not usually have an opinion about their husband, and in general Phano is presented by the orator as a

mere actor of the plots of St. and N. Afterwards, the orator passes to singular again, because, as Schaefer points out, what follows could not include also N. (συμπαραγενόμενος ff.). The slight confusion and the rapid change of numbers is created by the fact that the whole plot was, according to the orator, organized in common by St. and N. but some things had to be carried out by St. only.

ἐτόλμησε] D adds οὐκ before ἐτόλμησε. Reiske, independently of D, also added οὐκ *non enim audebat St. coram iudice contendere et iure evincere, Ep. esse moechum*. Reiske also says that the text, as it stands reinforces exactly the opposite than what Ap. tries to prove. Two arguments, he says, are used by Apol. in order to prove that she was a foreigner: 1) Everybody knew it and 2) St. himself proved this, by refusing to support her in front of a law court. Schaefer does not agree. 1) It is not true that St. did not dare to catch Ep. as an adulterer. 2) λαμβάνειν μοιχὸν does not mean *jure agere in aliquem titulo stupri illati*, but that this action proves even more clearly the impudence of St. In comparison to the context: εἰς τοῦτον ὕβρεως καὶ ἀναιδείας ἦλθεν, and κατεφρόνησεν below, I agree with Schaefer: οὐκ should not be added.

ἐτόλμησαν] Reiske deleted it, followed by Blass, Murray and Gernet. Schaefer, on the other hand, followed by Rennie, defended it: *Male delevit vim sententiae infringens: graviter enim verbum iteratur*. But the combination of ἐτόλμησαν with μή

ἀγαπᾶν, is strange. ἐτόλμησαν can be omitted without any serious consequence to the structure. Then we have a ὥστε sentence with infinitive joined with ἀλλὰ with a second one with indicative (Goodwin *Syntax* 230, section 603). Another argument, against ἐτόλμησαν is that two lines above ἐτόλμησε precedes. I am inclined to agree with Reiske, and delete ἐτόλμησαν.

ἀγαπᾶν] After ἀγαπᾶν FγρQγρ add μόνον. In this place μόνον is superfluous. That's why Reiske transferred it after εἰ. I prefer, however, with Bekker and Schaefer, to consider it as an interpolation, to reinforce the meaning of ἀγαπᾶν.

ἔφασκον] It would be pointless for St. and N. simply to say that Phano was a citizen. Although not expressed in the best way, what the orator had in mind here is that they did not only betroth her to an Athenian citizen, but to a person elected basileus, pretending not only that she is a citizen, but that she is also a virgin and that this marriage is her first one (cf. 75).

Κοιρων(δην] This reading is an emendation of Voemel, enforced by Kirchner, for Κοθωκ(δην of the mss. [Κοθωκίδαί was a big deme of Oeneis, somewhere in the coastal zone, but the place is uncertain; Whitehead (in his map) places it somewhere north of Eleusis, cf. *RE* 11,2,1516, Honigmann]. The transmitted reading contradicts § 84, where the demotikon given for Theogenes is Ἐρχιεὺς [Ἐρχιδά was a big deme of Aegaeis in the central-east of Attica, close to Spata, cf. *RE* 6,1,398-9, Milchöfer, Blass, Murray and Rennie print it

wrongly with rough breathing. Gernet prints with smooth breathing, Thraette as well, adopts the smooth breathing (*Grammar* 155 and 216). It must be a mistake of Blass carelessly adopted by the other two editors.] So, Voemel thought that Κοθωκ(δην here must be a corruption of the name of the genos of Theogenes, Κοιρων(δην. kirchner (*RhM* 40 [1885] 385-6) adds that, Voemel's thought must be correct, since Th. is called by the orator ἄνθρωπον εὐγενῆ (§ 72). Κοιρωνίδαί was a sacred genos, which seems to have been related to the Dionysiac Rites (further details in Toepffer *Attische Genealogie*, Berlin 1889, 101 ff.). Possibly this is the reason for which St. emphatically adds the genos of Theogenes: It makes the impiety of St. in betrothing Phano to a member of this genos and of her acting in the Dionysiac Rites even less forgivable. An additional argument by Kirchner (*WKPh* 10 [1893] 1110) that the demotikon of Theogenes is Ἐρχιεὺς, may be correct: he reads θελογέν[ης Ἐρχιεὺς] in *IG* ii<sup>2</sup> 1903 (4th c.). See also *PA* 6707; Burkert, *Religion*, 96; D.D. Feaver, *YClS* 15 [1957] 129-58.

λαχόντα βασιλέα] Kingship in Athens was initially hereditary and for life. But very early the power of the king was limited by the addition of a second archon, the polemarch, later a third archon who eventually became the most important of them, the eponymos, was added. Afterwards, these three archons became annual (in 683 B.C.). The six θεσμοθέται were added some time later. (cf. Hignett: *Constitution* 39-40). After 487, the nine

archons were elected by lot and the democratization made them normal magistrates of the Athenian State [About the complicated issue of the election of the nine archons and the changes made upon it throughout the centuries see Hignett, *Constitution*, 321-263]; their office, however, retained even in the classical era, a special character, in some sense related to the long tradition, with which these magistrates were bound. The ἄρχων βασιλεὺς, kept extensive religious competence in the classical period. In the frame of this traditional religious competence of βασιλεὺς his wife also kept a role in the public religion, inherited from the past (cf. § 74). Βασιλεὺς was also in charge of several judicial functions, concerning crimes closely related to religion, like homicide, impiety etc. For further details see Hignett *Constitution* 39-40, 75 ff., 89, 199, 238, 312; Kahrstedt *Studien* vol. 2 (see index, βασιλεὺς); MacDowell *Law* (see index), the comprehensive lemma of Poll. 8,90 etc.

δικιμαζομένῳ] All magistrates of the Athenian State had to be scrutinised before their entry to office. This scrutiny consisted of some questions, by a court under the presidency of thesmothetai, to the recently appointed magistrates of the next year, concerning their citizenship and their eligibility for the office. In the case of the nine archons a double scrutiny was required (Ar. *Ath.* 55,2; D.20,90). One scrutiny was held in front of the Boule and a second one, compulsory in any case, in front of the law court. How the verdict of each one of these scrutinies affected the eligibility of the candidate is a

complicated matter. For the purposes of this study it is enough to quote Rhodes' conclusion (*AP.* 616): *I believe that originally the boule's decision was final in all cases...; later its vote was a pointer (like a προβολή in the assembly...) but, unless a candidate rejected by the boule accepted his defeat and withdrew, the real decision was taken by the court.* The reason for this double scrutiny was probably that archons after their office remained for life members of Areopagus, so a more careful examination of their capacity was required. For further discussion see Rhodes *AP* 542-3, 614 ff. *Boule* 176-8 and Hignett *Constitution* 205-8.

The dokimasia was a good chance for the personal or political enemies of somebody to prosecute him alleging that he was legally disqualified for the office he had been appointed (cf. MacDowell Law 168). In such a case, according to the Athenian practice, the whole life of the scrutinized person and not only the legal eligibility for the certain office, could come under discussion, and an inexperienced person, like Th. (ἄπειρον πραγμάτων) would have difficulties to defend himself, sometimes against an experienced orator. A skillful advocate then could be really helpful. This was the kind of moral support offered by St. to Th. (συμπαραγενόμενος) Although we do not know if Th. had trouble during his scrutiny, the possibility of an accusation would have led him to ask a good orator to be at his side, before he scrutiny.

ἀναλωμάτων] Th. needed some money for clothes or equipment needed to somebody, who would practice the extensively religious duties of basileus. He would also need some money, for his new residence, the Βασίλειος Στοά. All these practical needs would be a quite important sum, for a poor Athenian like Theogenes.

ὑπελθών] It can move between "fawn upon" and "entrap": here I think the orator rather had in mind the first, because the context describes the means which St. used to secure the trust of Theogenes, in order to serve his purpose.

τὴν ἀρχήν] Blass proposed to delete τήν; but the reference is to a particular office, namely the παρεδρία.

πριάμενος] The use is metaphorical: St. offered Th. money for his expenses and in return Th. appointed him as his πάρεδρος.

πάρεδρος] The word is attested early in poetry, but we cannot be sure whether it could be understood in a similar sense. Thus we cannot be sure whether παρεδρία as an office goes back to an early period, or it is a creation of the developed administrative system of the democracy. Some signs, however would rather support that paredria was a very old institution (see below). For the classical period, Harp. (238,3 = Suid. π 521) says that the word often appears in old comedy and oratory (but it is not very common in the texts transmitted to us). We have to make a distinction between the πάρεδροι of the archons

and the πάρεδροι of εὔθυνοι. Here we have to deal with the first.

Each one of the three senior archons, basileus, archon, and polemarch had the right, as Aristotle (*Ath.* 56, 1) reports, to choose two assessors, whoever they wished. That πάρεδροι were two for each archon, the clear evidence of Aristotle does not leave any doubt: The confusion created by Sch. Aesch. 1, 158 and the wrong interpretation of *IG* 11<sup>2</sup> 2811 that there was only one πάρεδρος appointed for each archon, is, successfully refuted by Rhodes (*AP*, 621). The fact that the archons themselves could choose their own associates, is a striking peculiarity in the Athenian constitution. Sterling Dow (In an article in *In Memoriam Otto J. Brendel*, ed. by Larissa Bonfante and Helga von Heinze, Mainz 1976, p. 80 ff.) trying to analyse this peculiarity says the archon and his two associates were to be so much together, and needed to have such confidence in each other, that personal selection was advisable. But I think this is not the point: why then were the πάρεδροι of εὔθυνοι appointed by lot? I would rather accept the interpretation of Moore (293) and Rhodes (622) that this must be a survival of the archaic state. Dow seems also to overstate the fact that the archons often chose for this magistracy persons of their own family and friends. Indeed in D. 21, 178 an Athenian is πάρεδρος to his son. In our case as well (although it is not certain that St. betrothed Phano to Theogenes before he was placed as an assessor, cf. com. γυνα(χα) a personal relationship exists. In

Aesch. 1, 158 a known statesman is πάρεδρος. In both cases the reason of this selection is clear: it does not need any further explanation. πάρεδρία was the only magistracy which did not depend on the verdict of the lot and naturally it could become a target by the political groups, which could thus increase their influence on the administration of the city.

The assessors were not personal advisors, but official magistrates, as Berneker (*RE* 18, 4, 1420 ff.) points out. This can be concluded by:

a) πάρεδρία is called ἀρχή in § 73 (τὴν ἀρχήν).

b) They had to be scrutinised at the beginning of their office and to give an auditing at the end of the year (*Arist. Ath.* 56, 1). Concerning their scrutiny, *Arist.* says that they were scrutinized only in front of the law court (ἐν τῷ δικαστηρῷ), but *Pollux* (8, 92) says that they had to pass a double scrutiny, like the nine archons, before the boule first (ἐν τοῖς πεντακοσίοις) and afterwards before the law-court (εἴτ' ἐν δικαστηρῷ). It would be tempting to suggest that *Pollux* is correct and that *Arist.* has an elliptical formulation, omitting the first advisory scrutiny in front of the boule (see also *MacDowell Law* 167-8; *Rhodes Boule* 176-7): This would mean that for the assessors as well, it was the same kind of scrutiny, as for the archons, since they could replace the archons, in many cases.

c) Their place in the life of the city and the administration: we know that the assessors could deputise for the archon in some of his judicial duties (Aesch. 1, 158; D. 58, 32 al). They could also act instead of the archon in his executive duties: In D. 21, 178, the πάρεδρος is responsible for keeping the order in the theatre, instead of the archon and in *IG* 11<sup>2</sup> 1230 the assessor of basileus is honoured because καλῶς καὶ φιλοτίμως ἐπεμελήθη τῶν περὶ τὰ μυστήρια. (see Rhodes, loc. cit.) But we should not imagine the πάρεδρος acting on behalf of the archon in his performing duties. For example we should not think of an assessor presiding over the Areopagos or acting as a priest instead of the archon! In general we can say that they could aid the archons in their duties concerning the administrative part of their power, which would be too much to be worked out by one person, but some traditional roles in the ritual of the public life were preserved for the archons themselves. With the archons they formed a congress, and their role in carrying out decisions, with the archons, could be important.

γυναῖκα] According to the narration, the order of the events is: 1) Theogenes was elected basileus. 2) St. and N. organized the plot. 3) St. helped Th. during his scrutiny. 4) Theogenes elected St. as his assessor. 5) St. betrothed Phano to Th. But the person to be basileus should be married and his wife ought to have some qualifications (cf. § 75 ff.). This means that the marriage ought to take place before Th.'s scrutiny and I find

very likely that in the scrutiny some questions were addressed to him about his wife as well, namely if she is a citizen and if this marriage is her first one (cf. § 75). The second point is that Theogenes rather ought to have appointed his assessors before the scrutinies of the archons, because it is difficult to imagine a long space of time between the scrutiny of the archons and the one of their assessors (cf. com. πάρεδρος). I think the orator in order to emphasize the plot against Theogenes and the malice of St. presents the events in a way convenient to him. But it is not easy to restore the real sequence of the events, since we do not have many important details. I only give a possible version of the story. For a statesman like St. (cf. 43) being an assessor was a good step in his career as a politician. Theogenes, on the other hand, was an unexperienced person; so he needed an experienced politician to help him. We do not know anything about the political attitude of Th., but I still believe that everything started out of politics: somebody proposed St. to Th. as an assessor. This must have happened shortly after Th. was appointed basileus and these events must have taken place between Theogenes' election and his scrutiny. If St. was already the father in law of Th., it would be not necessary for the orator to explain why he had chosen St. as his assessor, since it was fairly normal for the archons to place as their assessors persons from their family. Th. was single at this time and he had to marry before his scrutiny. St. betrothed Phano to Th., pretending that she was a citizen and that this was her first

marriage. Theogenes being a simple minded person, did not understand anything of the plot.

73. cf. § 75 ff. for the religious terms mentioned here.

ἀλλ' ἢ ἤ] The reading of the mss. ἀλλ' ἢ is difficult: simple ἀλλὰ, meaning "except", is not attested with certainty, in any Attic prose writer, except Aristotle (Denniston, 3-4). The ingenious suggestion of Bekker, ἀλλ' ἢ ἤ is supported by a large number of parallels (Denniston, 24 ff.)

πολλὰ ... ἀπόρρητα] The three adjectives come very late and the end of the sentence is slightly abrupt. The irregularity is owed to the oral style of this passage: the three adjectives come at the end of the sentence for the sake of emphasis. The orator delivered them slowly, clearly and with a louder voice.

πᾶσιν] F omits πᾶσιν. Taylor correctly stated that the argument here is based on the balance between πᾶσιν and τῆ ἐπιτυχούσῃ and ἀκοῦσαι - ποιῆσαι. Reiske suggested ἃ δὲ μηδ' ἐπακοῦσαι πᾶσιν ὑμῖν οἶόν τ' ἐστί. But this is not the demanded sense; the well balanced argument of the orator, is destroyed if we follow this version.

74-78. The rites described here, namely the sacred marriage, the oath of gerarai, the entry of basilinna to a chamber inaccessible for any Athenian etc. are all considered by modern

scholars, who deal with the Anthesteria, to be part of the second day of the festival, the Choes [For the older scholarship and the division of the opinions, see Deubner, *Feste* 101] The main evidence of these rites is this text in which, as Deubner has pointed out all these events are presented as being part of the same ceremony. Burkert (*Homo*, 223, n.10) says that if this festival was not a part of the Anthesteria, the stele with the qualifications which the basilinna should have (§ 75), should not be placed in the Limnaion. This view is also supported by some vase-paintings, which Deubner (*Feste* 100 ff), van Hoorn (*Choes and Anthesteria*, Leiden 1951) and especially E. Simon, *Ein Anthesterien-Skyphos des Polygnotos*, *Antike Kunst* 6 [1963] 6-22 have thoroughly studied. [The article of Simon came into my hands after this part was composed, thus the conclusions of Simon are not taken into account here] The details of the celebration are little known; it would be worthwhile however, to try to reconstruct it.

The sanctuary 'at the Marshes' opened in the evening of the eleventh of Anthesterion (roughly, end of February), when people from all over Attica gathered together there to pour the first libation of the new wine of the year and drink (Plu. *Mor.*, 655e; Ath. 465a; Sch.Hes. *Op.* 368). The event was celebrated with chorus festivals (P.Oxy. 853, col. 10, 10; Call. fr. 305, Pfeiffer).

Far more significant was the ritual of the second day: some time in the afternoon (cf. Parke, *Festivals* 112) a procession to the Limnaion is assumed, by Deubner and other scholars. This

assumption is based on vase paintings (Deubner, 102; Parke, 109) and the evidence about a similar procession in the Anthesteria of Smyrna (Philostr. *V.S.* 1,25,1). Deubner however, points out (p. 102) that the lack of any evidence from the classical period may imply that this procession was not held in the classical period. The symbolism of this ritual is discussed by Deubner (110-11) and Parke (109). If this procession was an event of the Choes, we could explain the sacred marriage as a consequence of Dionysos' arrival in Athens: The recently arrived god establishes his relationship to the land with this marriage with the 'queen' of this land (cf. Farnell, *Cults* 5,217 and 219). Burkert, on the other hand, does not speak about the procession, which does not suit his understanding of these rites (see below).

A second procession from the Limnaion to the Boukoleion is better attested by vase-paintings (see Deubner, 105-106): it was the bridal procession of the god and the basilinna. The Boukoleion was the place in which the sacred marriage took place, According to Aristotle (*Ath.* 3,5). About Boukoleion see also Rhodes *AP.* ,103 and E.Maass *Thesaurus*, *RhM* 74 [1925] 235 ff. Before this second procession left the Limnaion, namely in the evening of Choes [Burkert, *Homos* 233 and n.11, insists, probably being right, that the marriage should take place in the night], some ritual was acted in the Limnaion, preparatory of the sacred marriage: the scattered evidence we obtain from our speech about some rites, must be located at this point of the festival. The

Basilinna entered a place which nobody else was ever allowed to enter. Pickard-Cambridge (*Festivals*, 11) suggested an inner chamber and Burkert (*Homo*, 234) a subterranean house, from which perhaps she took out a herm of the God (see Burkert, *Homo*, 235-7). She also entered with the gerarai in another place to prepare the bridal ceremony (79: ταῖς ὁρώσαις can only be understood in the context of a secret ceremony in which the gerarai and the Basilinna took part, in an inner place). The Basilinna had also to administer an oath to the gerarai, before they touched the sacrifices (cf. com. γεραραῖ) and also a kind of secret sacrifice was offered by her (ἔθουε τὰ ἄρηητα ἱερά, 73). Whether the sacrifice implied is a blood sacrifice on the altar on which the gerarai should take the oath (78), indicated by Burkert (*Homo* 233, n. 10), in which the Hierophantes helped the women, or another one in the inner chamber, is not clear.

After this ritual was completed the bridal procession left the Limnaion: Deubner (105-6) identified a vase painting with the starting moment of this procession. The most important detail is the presence of children in it, naturally, as Deubner says, since the Choes was a day for children (cf. Burkert, *Homo*, 221). Another question is whether Dionysos was represented in the procession by a herm or a real person acted the role of the god. Some scholars (see e.g. van Hoorn *RA* 25 [1927] 104 ff.; Maass *RhM* 74 [1925] 239) maintained that it was a herm. Deubner (106-7) believes that the priest of the God acted the role of Dionysos (see also below). Whether people carried on chariots,

scorning the pedestrians and significant Athenians (DH. 7, 72, 11; Harp. s. v. πομπείας καὶ πομπεύειν, al.), consisted a part of this procession, or not, is really doubtful.

After the procession arrived at the Boukoleion, the doors were shut and the people were scattered to drink and celebrate the sacred marriage. What was acted in there is a secret ceremony and only suggestions can be made. An important question is whether we must speak about an actual union between the basilinna and a person personifying the god (and in this case, who this person was), or about an imitation of a union with a Herm. Several discussions by previous scholars indicate that looking for any answer is a futile effort; the secret was well kept behind the closed doors of the Boukoleion: (see: Farnell *Cults* 5, 217; Maass *Loc. cit.*, 235 ff.; Deubner, 107-9; Burkert, *Homo* 234; *Religion*, 108-9, cf. 164; Parke, 112-3; Rhodes, *AP*. 104-5).

It is worth mentioning that in a similar marriage among the Sumerians, a plea to bless the land was addressed to the goddess, by her partner, the king of the land, and she promises fertility to his land. (see Samuel Noah Kramer, *The Sacred Marriage Rite*, Bloomington-London 1969, 78-82).

The interpretation of this ritual, and especially if the marriage should be connected with the other aspect of the Choes as an ill-omened day (μιαρὰ ἡμέρα, Phot. s. v.), the day on which

the souls came to the upper world, has caused a long discussion. Farnell (5,218 ff.) understood it *in the light of primitive vegetation magic*; he points out, however, that in the brilliant festival service of the city nothing reveals the character of a vegetation deity. He says: *Probably in the later period, the solemn ceremony was merely accompanied by a vague assurance that the blood of the community and the life of the soil were mystically refreshed by this union of the queen with the god of productiveness.* Deubner also recognized this character in the festival (100).

Erwin Rohde (*Psyche* 285 and 305 n.11) tried to connect the character of Choes as the day of the souls with the one of the wine god and joy: *The primitive character of Dionysos, his appearance in the world of men and ascent from the underworld, was solemnised by night. The primitive character of Dionysos, the Lord of Spirits and of the souls of the dead - a very different figure indeed from the tender and delicate wine god of later times - was still obscurely present in many features of the Dionysiac festivals, in those of Delphi especially, but even to some extent at Athens too (cf. also Guthrie *The Greeks and their Gods* London 1950, 177).*

Burkert went even further: tracing the aetiological myth of the sacred marriage, he believes that the connection between the two aspects of the Choes is essential: *The mythical reflection of this is Ariadne whom Theseus...had taken as wife and whom,*

at divine command, he was then obliged to surrender to the god (Dionysos) at night time. Ariadne is surrounded with orgiastic rites and lamentation, just as at the Anthesteria wantonness appears united with dark myths of death. Here, too, the marriage is sacred insofar as it is more than human pleasure (*Religion*, 109). A more elaborated study of this connection is found in *Homo* 216-38. I summarize the main points: 1) He emphasizes the character of the Choes as  $\mu\iota\alpha\rho\acute{\alpha}$   $\eta\mu\acute{\epsilon}\rho\alpha$ . 2) He points out the symbolism of blood as/wine and he sees the sacramental drinking on the day of the Choes as a substitute of blood sacrifice. 3) He explains the joyous face of the Choes, as an effort to overcome the day of pollution. 4) He explains the marriage as a ritual restitution of the God, after having come back to life and needing a wife, as the continuance of life through death.

I also believe that the two aspects of the day must be connected: The reflection of the resurrection of nature after the death of the winter in this ritual cannot be denied: the most serious clue is the time of the festival: end of February, when the first warmer days appear and all trees are fully blossomed [Does it have to do with the name  $\text{Ἀνθεστήρια}$ ? perhaps, but there is no positive evidence on this; see Pickard-Cambridge, p.9]. But on the other hand, the background of this resurrection as given by Burkert, appears to me appealing. Concerning the part of the return of the souls in the Choes day, I would just mention that in modern Greece there are three Saturdays, roughly at

this time of the year (from the eighth to the sixth before Easter), in which it is believed that the souls of the dead return <sup>from</sup> the underworld. This striking analogy, which has very little to do with the official Christian version about life after death, is indicative of a belief which has survived for so many centuries and is related to the idea of the resurrection after the death of the winter: the brief 'resurrection' of the dead is a part of this general resurrection.

74. ἀνωθεν] When about a narration, it has the sense "from the beginning": cf. D. 21, 77. 160; 44, 5. 6.

πρὸς τοὺς θεοὺς] Although his part of the speech (74 ff.) has an organic relation to the tried case, we may say that it is too long and all this emphasis and the reference to Anthesteria not strictly necessary for the promotion of the narration. This digression, however, is less violent and less a foreign body in the speech, than the second one (94 ff), partly because the arguments related to religion are of high significance for the orator. He presents the present case as a matter which is more than a trivial forensic case and concerns the whole city and the gods themselves, in many places: § 12, 13, 107, 109, 116-7, 126. Some of these passages are more vivid than a simple reference: In 109 the orator tries to influence the judges by saying that if N. is not punished, the impiety to the gods (esp. Dionysos) passes to themselves: ὑμέτερον ἤδη τὸ ἀσέβημα γίνεταί τὸ πρὸς τοὺς θεοὺς. In 126, the

peroration, he warns the judges that the gods will be aware of what each one of them voted and they ask for revenge; the orator presents himself as a means of the divine punishment upon St.'s family for their crimes against the gods.

εὐλαβε[ας] In the classical period the meaning "reverence", needed here is not attested for the word εὐλάβεια; the oldest evidence (*LSJ* ad loc.) is D.S.13,12. In the classical period εὐλάβεια rather means "care, caution" [cf. MacDowell, *Meidias*, 230], and appears in secular context, whereas the word for "reverence" is εὐσέβεια, and often appears in religious contexts: see e.g. § 75, 76, 80, 92 and D.18,1.7; 19,343; 23,25 al. For these reasons Taylor suggested changing the reading εὐλαβε[ας] to εὐσεβείας. Scafer says *praeferrem si codex daret*. But in fact it is transmitted by Dcorr. and the mistake is easy: in postclassical and medieval Greek the meaning of the two words could be easily confused. A passage used by Rennie as a witness for εὐλαβε[ας] (Pl. *Lg.* 879e: τὸν ξενικὸν θεὸν εὐλαβούμενοι) cannot be decisive, since there we have the verb, not the noun. εὐλαβε[ας] could be correct, if the reference were not to impieties already conducted, for which the law court, by punishing St.'s family, has to show its reverence to the gods, but the intention of the orator were to advise "caution", in order to avoid impieties in the future. Yet, even then it would be an unparalleled case, for the classical period. For the text, as it stands, though, I have little doubt that we need to adopt the reading of Dcorr. εὐσεβείας.

**αὐτόχθονας]** For the belief of the Athenians that they were native inhabitants of their land from the beginning and the use of this topic as a means of political propaganda or as a point of pride in the epideictic speeches cf. Th. 2, 36, 1 (and Rhodes' com. ad loc.); Pl. *Mx.* 237 b-c; Lys. 2, 17; Isoc. 4, 24. 63; 8, 49; 12, 124 al.

**τὰς σεμνοτάτας]** The meaning of the definite article here is not that the basilinna conducted all the most sacred rites, but that she conducted the ones, which this text mentions: cf. S 73: ἔθυε τὰ ἄρρητα ἱερά, 81: ποιῆσαι τὰ ἱερά τὰ ἄρρητα, 110 al.

**βασ(λιννα]** This is the reading of SF<sup>1</sup>Qcorr., supported by Men. fr. 907. βασίλισσα is given by FcorrQ'D and probably supported by Phryn. 202 and 203, Rutherford (It is not, however, positive that Phryn. read βασίλισσα here; it might have been used as a piece of evidence because of the affinity of the two readings in comparison to βασίλεια or βασιλῖς) and Poll. 8, 90, whose comment could be derived from this passage. Most of the editors accept the *lectio difficilior* βασ(λιννα. But should we understand it as a stereotype title of her? Grace H. Macurdy (*AJP* 49 [1928] 276-82) made a strong case against the existence of both forms before the 4th century. I quote her conclusions: 1) neither βασίλισσα nor βασ(λιννα can have been a title of the wife of the king-archon before the fourth century B.C., 2) in all probability the words never were titles of that priestess, and 3) the fiction that they were her

titles comes from a misconception of the words εἰκότως βασιλιννα οὔσα...As Phrynichus says of βασίλισσα οὔδεις τῶν ἀρχαίων εἶπεν. And the same is true for the fourth century βασιλιννα. Some possible objections to what she says are 1) She takes almost as granted that the right form here should be βασίλισσα; but I think βασιλιννα is preferable being the *lectio difficilior* and supported by Men. fr. Thus all that is said for βασίλισσα might not apply in this case. 2) If we have to do with a stereotype, of obscure origin, with rare appearance in Attic literature, the linguistic search of the name, offered by Macurdy, might also not apply. But still the form βασιλιννα is linguistically odd and the evidence to support that it was a title too weak, so Macurdy's view that it is a creation of the fourth century, accepted as a new word by the orator in order to impress his audience is very probable.

75. δημοκρατ(αν ἐποίησεν) For the tendency of the Athenians to connect even the establishment of the democracy with Theseus cf. E. Supp. 403-8; D. 60, 28; Isoc. 10, 32ff.; 12, 128 ff.

ἤρειτο ἐκ προκρ(των) The narration here is imprecise: the orator has merged the stages of the evolution of kingship in Athens in two stages: a) The period of monarchy, in which the king was appointed by succession and he had all the power in his hands. b) The period of the democracy starting with Theseus, in which the king is elected ἐκ προκρ(των) by the people. A different outline is given in Arist. Ath. [See Rhodes'

con. for the relevant passages] and this version comes in accordance, as Rhodes (*AP.* 65ff, 98-99) points out, with the version found in the later chronographers. The stages of the evolution, according to this version are: 1) Kekrops I establishes the Erechtheid dynasty and fourteen kings of this dynasty follow. This dynasty begins, according to Jacoby's calculation (*Castor*, 250 F4), in 1556/5. 2) A new dynasty started with Melanthos (1127/6 B.C.) 3) Medon, Kodros' son, began a series of archons elected for life from the royal house (1069/8) 4) After thirteen of these archons a series of archons elected for a term of 10 years started in 753/2. 5) The annual archonship started with Creon in 683/2. That all these dates and the details of this development are rather a legend than a precise account transmitted through the centuries, is certain (cf. Rhodes *AP.* 65ff., 98-9). This legend, however, is indicative of the fact that the passing from monarchy to the archonship of the democratic state, was gradual and far slower than what our text attests. The method of the election of basileus (and the rest of the nine archons) is a rather complicated issue, discussed thoroughly by many scholars (see Hignett, *Constitution* 34ff; 321ff and Rhodes *AP.* 146-8, 272-4) Here I will only include what I find most probable: 1) ἀΐρεσις ἐκ προκρίτων, as the present passage records, has never existed as a practice. 2) Instead, possibly after Solon, the way was κλήρωσις ἐκ προκρίτων: each tribe elected a number of candidates (probably 10) and then the final election was made by lot. 3) During the tyranny the way was direct election, but

the reformation of 487/6 reintroduced the κλήρωσις ἐκ προκρίτων. 4) Sometime later and after the real power of the archons had shrunk to a merely bureaucratic office, πρόκρισις was replaced by προκλήρωσις; when this happened is not recorded. The orator gives this version, in two stages, because his intention is to make the distinction between the two stages, through which the priesthood of basilinna has passed: a) As the wife of the monarch, whose qualifications were out of any control. b) As the wife of an elected and temporary archon, whose qualifications needed to be scrutinized, in order the sacred order might not be violated.

γαμεῖν] Gernet changed it to γαμεῖσθαι (accepting as an alternative possibility γήμασθαι) understanding as the subject of the infinitive τὴν γυναῖκα. But the change of subject implied by the transmitted text is not so hard; γαμεῖν with implied subject τὸν βασιλέα could be correct.

76. ἐν Λίμναις] One of the oldest sanctuaries of Dionysos in Athens: the high antiquity of this sanctuary is well attested by a) Th. 2, 15, 4: It is mentioned among other old precincts with the information that the oldest Dionysia (implying Anthesteria; cf. Burkert *Homo* 213 ff., about the antiquity of this festival) were acted there. b) The present passage, in which the superlative is used to denote the high age of this sanctuary (ἀρχαιοτάτη). c) Sch. Th. 2 = P. Oxy. 853, col. 10, 7ff.: ὅ τὰ ἀρχαιοτάτα Διονύσια τῇ ἰβ' ποιεῖται. d)

Philostr. *VA*, 3, 14, who speaks about a statue of Dionysos Limnaios as one of the oldest Greek statues (ἀρχαιότατα τῶν παρ' Ἑλλήσιν). Pausanias (1, 20, 3) does not mention it and considers the shrine at the theatre of Dionysos as the oldest shrine of the God. This probably means that the shrine did not exist at the time of Pausanias (see Rhodes, *Thucydides*, II, 201,) and several scholars (see e.g. Burkert *Homo* 215) have suggested that it must have been replaced by the private cult site of Iobacchoi (cf. com. ΟΡΚΟΣ ΓΕΡΑΡΩΝ)

The place of the sanctuary is not known and several attempts at identification are not undoubtedly convincing (see Pickard-Cambridge, 19-25). The reason for which this sanctuary was named ἐν Αἰμναίς is disputable: one would immediately think of an area full of marshes: Parke (107-8) refers to *Ar. Ra.* 211-9, in order to reinforce this assumption: *it is in them (the marshes) that Aristophanes imagines his chorus of Frogs as singing.* This argument, however, is not strong, because it could be just a joke based on the name and not the site itself. And indeed the difficulty of this explanation lies in the absence of any possible site with plenty of water, in which a sanctuary of Dion. could be located in the area of the city (Isae. 8, 35). Burkert (*Homo* 215-6 and 232) suggested that *it must have come from a more ancient, alien tradition.* The two ancient sources which speak about it, reveal that at least in the later antiquity as well, the name ἐν Αἰμναίς sounded strange, therefore several

explanations have been given 1) In P.Oxy. 853 col.10, 11 ff. (2nd C. A.D.) we read that it is called so διὰ τὸ ἐκλελιμνᾶσθαι τὸν τόπον. The perfect shows that when this explanation had been given (probably much earlier than the time of Thucydides' scholiast, cf. φησίν) this place was not wet. And then the reference to an Ἄρτεμις Λιμναίτις in Sparta indicates the difficulty of Thuc.'s scholiast to understand this name. 2) In Ath. 465a we read: ὅθεν καὶ Λιμναῖον κληθῆναι τὸν Διόνυσον ὅτι μιχθὲν τὸ γλεῦχος τῷ ὕδατι τότε πρῶτον ἐπόθη κεκραμένον. This fictitious explanation also proves that no self-evident interpretation of the name, like the existence of marshes in the sanctuary, could be given when this piece was written. Which is the solution we cannot say, according to the existing evidence, but I would consider more probable a historical explanation of this name than I would expect the sanctuary to be located in an area still wet, in the classical period.

The sanctuary did not consist of a single temple, as the small pieces of evidence we have indicate: at least two sources speak about a τέμενος, a larger area dedicated to the god (Ar. Ra. 219; Ath. 437 b-e = Timaios *FGrH* 566 F. 158). This whole area, the precinct, must be also implied by the word ἱερόν in the other sources (Th. 2, 15, 4; Sch. Ar. Ran. 216; Ath. 465a, and here 76) because 1) the narration of our speech rather implies a larger area than a single temple. 2) Sch. Ar. clearly speaks about a τόπος ἱερός Διονύσου ἐν ᾧ καὶ οἶκος καὶ νεὸς τοῦ θεοῦ,

when one line above, he uses the word ἱερὸν for the precinct. 3) The prepositions used with the word ἱερὸν in comparison to what is acted in it, indicate a larger area: Ath. 437b ἐν τῷ ἱερῷ; Ath. loc. cit. πρὸς τῷ ἱερῷ (cf. Pickard-Cambridge, 9, n. 8); Sch. Ar. ἐν ᾧ; § 76: ἐν τῷ ἀρχαιοτάτῳ ἱερῷ.

How large the precinct was or what existed in there is not certain: Ath. 465a and Ar. Ra. 217-9 indicate that it was large enough to include a lot of people (λαῶν ὄχλος). Sch. Ar. says that there was a shrine and a house in the precinct which Burkert (*Homo*, 234 ff.) understands as a subterranean house. In 76, 78 an altar separate from the temple is attested. Philostr. VA 3, 14 speaks about an ancient statue of Dionysos Limnaios (see van Hoorn RA 25 [1927], 104-20). Some scholars (e.g. Parke, 111) combining the evidence of Anecd. Bek. 231, 32 and *EM* 227, 35 maintain that there were also fourteen altars in the sanctuary, on which the 14 gerarai offered sacrifice, but Burkert (*Homo*, 234 and n. 17) finds it improbable that all these altars existed, gathered in the sanctuary, and indeed our speech speaks twice (76, 78) about one altar. Our speech informs us that in the Limnaion was also standing a stele on which the qualifications of the Basilinna were written down (76).

The whole precinct and not only a part of it was closed, otherwise the stele of Basilinna's qualifications would be not inaccessible for the rest of the year, apart from the day of the Choes, since it was standing outside of any building,

somewhere near the altar of Limnaion (cf. 76 and com. δωδεκάτη)

γράμμασιν Ἀττικοῖς] Harp. 65, 7: Ἀττικοῖς γράμμασιν: Δημοσθένης κατὰ Νεαίρας, ἀντὶ τοῦ παλαιοῖς: τὴν γὰρ τῶν κδ' στοιχείων γραμματικὴν οὐδέποτε παρὰ τῶν Ἰώνων εὔρεθῆναι. Θεόπομπος δ' ἐν τῇ κε' τῶν Φιλιππικῶν ἐσκευωρήσθαι λέγει τὰς πρὸς τὸν βάρβαρον συνθήκας ἃς οὐ τοῖς Ἀττικοῖς γράμμασιν ἐστηλιτεῦσθαι, ἀλλὰ τοῖς τῶν Ἰώνων. (From Ἀττικοῖς to εὔρεθῆναι is also quoted in Sud. α 4360; Phot. α 3136; Anecd. Bek. 461, 13). Hsch. α 8193: Ἀττικὰ γράμματα: τὰ ἀρχαῖα ἐπιχώρια. cf. also Paus. 1, 2, 4. The Athenians at the reformation of 403 B.C. adopted the ionic alphabet, for the old attic alphabet (cf. Suid. σ 77). So, according to this piece of evidence, the stele with the qualifications of the basilinna must have been placed, in the Limnaion before 403. When exactly these qualifications were introduced we cannot say: perhaps after the moment in which the lot would give the final verdict, about who will be the next basileus (cf. com. ἤρειτο ἐκ προκρίτων). But it is not necessary that this stele, about which the orator speaks, was contemporary with the introduction of these qualifications. On the contrary, one of these qualifications (ἀστήν εἶναι) would rather locate us in the years after 451/0, when the Periclean law on citizenship was introduced.

So, it is possible that after the Periclean law, the qualification of citizenship was added to the existing ones and

all were written down on this stele. If this assumption is correct, it is a reasonable period of time (something more than a century) for the stele to be still standing in the Limnaion but long enough for the letters on it to be hardly legible (ἀμυδροίς).

μαρτυρίαν ποιούμενος] The reading of the mss ἦν μαρτυρίαν ποιούμενος is incorrect, because the relative sentence does not depend on any main sentence. Several suggestions have been made. Reiske suggests ταύτην μαρτυρίαν. Schaefer deleted καὶ before διὰ ταῦτα, making thus a very long and inelegant period. Dindorf deleted ἦν. I would adopt τοιαύτην, instead of ἦν, implying "such an important testimony". The sense is better and it is slightly easier than Dindorf's suggestion, since we have only to do with an omission of some letters, not an addition. cf. § 63: μεγάλας μαρτυρίας δεδώκασι.

θεῷ] The reading of the mss. is σοὶ. Taylor in comparison to 73, 110 suggested Διονύσῳ; Reiske agreed; Bekker defended σοὶ and Schaefer suggested θεῷ. All the scholars who prefer an emendation of this text understand the part of the sentence after ὅτι connected with παρακαταθήκην καταλείπων But I think the transmitted reading is perfectly correct and better in the style because: 1) It is more vivid, since the phrase after ὅτι turns to direct speech and is presented as a direct contract of the Athenian demos with the god. 2) That we have to understand a turn to the direct speech the first person of

ἀξιούμεν does not leave any doubt. 3) Naturally this phrase is connected with μαρτυρίαν ποιούμενος, since this is the dominant phrase, when παρακαταθήκην ... ἐπιγιγνομένοις is only a second additional part in the sentence.

δωδεκάτη] Anthesteria were celebrated the 11th, 12th, and 13th of Anthesterion. Thucydides' information that they were celebrated on the 12th of Anthesterion was rejected by some scholars as an interpolation (see Burkert *Homo*, 214, n.6) but the transmitted text was supported by Gomme and Rhodes (at their com. ad loc.), and if the text is correct we must understand that Th. had in mind the central day of the festival, the Choes; this interpretation was already given by the scholiast P. Oxy. 853, col. 10, 15ff. Moreover that the Choes, in which the ritual described here took place, was celebrated on the 12th of Anthesterion is also attested by Sch. Ar. Ach. 960-1 and 1076-7. At the first passage the scholiast gives another version as well, that it was celebrated on the 8th of Pyanopsion, but this is apparently unbased.

The end of the one day and the beginning of the next was distinguished, according to the old religious chronology by the sunset. This has caused confusion even in the antiquity, concerning the exact distinction of the events of each day (see Parke 110-11, Burkert *Homo* 214-5, Pickard-<sup>r</sup> Cambridge, 13). The Limnaion was opened after the sunset of the 11th and closed some time after the sunset of the 12th, after the revellers of

the Choes had dedicated there their choes and had offered a sacrifice in the Limnaion (Athen. 437 b-e).

78. ἱεροκήρυκα] S gives ἱερὸν κήρυκα. Dittenberg (Hermes 20 [1884] 18 ff.) points out that for the classical period the word is simple khruka; ἱεροκήρυξ is later (Hellenistic: cf. *LSJ* s.v.). So, S may be correct, otherwise we have a very early testimony of the compound word, one more novelty adopted by Ap.

γεραπαῖς] About the form of the word the sources are divided: YrD give γεραπαῖς in 73 and 78 but ὄρκος γεραιῶν in 78. γεραπαῖ is also attested by cod. N of Harp. s.v., according to Rennie's evidence, Poll. 8, 108 and Hsch. s.v. This form is adopted by Dindorf in Harp. and in his edition of this speech, in all places it appears. Dindorf was followed by all modern editors. Q gives γεραιῖς (§ 73, 78) and γεραιῶν (§ 78); the same appears in Anecd. Bek. 231, 32; *EM* 227, 35. γεραπαῖ is given by Sud. γ 191 = Phot. γ 81 (cf. Sch. Hom. *Il.* 6, 270). S gives γεραπαῖς and γεραιῶν with no accentuation and F γεραπαῖς and γεραιῶν. The reading of F is supported by inscriptions (*IG* ii<sup>2</sup> 2116; ii/iii<sup>2</sup> 6288; xii 3, 420) and Sch. Hom. *Il.* 6, 270. In *LSJ* (s.v. γεραπός, 3) we read that γέραπα stands as an old feminine of γεραπός when γεραπός is a later form for γεραπός with first appearance in the surviving texts in A. A. 722, and that γεραπαῖ is a *falsa lectio* for γέραπα. Several other scholars supported also the form γέραπαῖ (see Frisk,

*Etymologisches* s. v. γέρας and Burkert, *Homo* 232, n.8). Thus the readings of F γεράρας and γεραιρῶν, seem to be more probable.

Some older scholars disputed the exact origin of the word (see Deubner 100, n.5). The relation, however, to the word γέρας in the sense *venerable, respectful*, is very likely. (see Frisk, *Etymologisches* s. v. γέρας).

Not much is known about their role in the Dionysiac ritual and all of our knowledge comes either from this text or from lexicographers: They were fourteen corresponding to the fourteen altars of Dionysos [see com. ἐν Αἰμναίς] (Anecd. Bekk. 231, 32; Poll. 8, 108). [Several attempts to explain the number 14 fail to convince; see Deubner, 111 and Burkert, *Homo* 232, n.8]. They were appointed by basileus (*EM* 227, 35; Poll. 8, 108), which means that they changed every year, since a different basileus would select different persons. We know that they offered a kind of sacrifice (78: τῶν ἱερῶν ἄπτεσθαι; Anecd. Bekk. 231, 32 τὰ ἱερά ἐπιτελοῦσαι), but nothing further is known. Poll. 8, 108 says ἄρρητα ἱερά Διονύσῳ ἔθουον μετ' ἄλλης θεωρίας. If this note is not derived from our text, it expresses more clearly what is alluded in 79 ταῖς ὀρώσαις: that γεραραὶ took part to a secret ceremony as well, apparently with the Basilinna. If we take as granted what is said in 73 that the Basilinna alone entered an inner place, we have to suggest that afterwards she entered another inner chamber with the gerarai, probably to prepare the sacred marriage (Pickard-Cambridge, 11). Deubner (105) also suggested

that the gerarai had the role of *νυμφεύτριαι* in the marriage-ritual. He also suggested that they conducted some fertility rites, which might also be correct.

Before touching the sacrificial items, they had to take an oath of chastity in front of the basilinna (§ 78); For further discussion on the oath see com. *ΟΡΚΟΣ ΓΕΡΑΡΩΝ*. A hierophantes helped the women, possibly in a blood sacrifice (cf. Burkert *Homo* 233, n.10) and during this ceremony by the altar of Limnaion, the gerarai were holding sacrificial baskets.

The character of their office is described by Parke (112) as following: *Certainly one is not led to picture them as maenads indulging in some licentious ritual. Instead it suggests (their name) solemn and elderly priestesses, and the little we know of their duties accords with this view.*

<τάς> ἐν κανοῖς] The reading of the mss ἐν κανοῖς has caused anxiety to most of the scholars, because they were not sure what exactly this phrase means. Reiske understood *apud vel ante canistra*, which means that some sacred baskets were lying by the altar and the gerarai had to take a place between these baskets or in front of them, when taking the oath. The text was understood in a similar way by Parke (111, *at the baskets*) and Deubner (100, *auf die heiligen Opferkoerbe*). But, it is well attested that women (*κωνηφόροι*) were carrying in their hands sacred baskets, sometimes even golden ones

(Sch. Ar. Ach. 242), *containing* sacrificial utensils or goods for libations, in several festivals at Athens (for the existing evidence see *RE* 10, 2, 1862-6, Mittelhaus). So, Schaefer tried to interpret ἐν κανοῖς as *canistra gestantes*, a sense equivalent to κανηφορούσαις. Hude (*NTF* 7 [1885-7] 297) denied that ἐν κανοῖς can have any of these meanings and he proposed to transfer ἐν κανοῖς before ἱερῶν. But ἐν κανοῖς can have the meaning "equipped with / holding sacred baskets": see *LSJ* s. v. ἐν I, 3; Kühner-Gerth 1, 463; Bond *Eur. Heracles* Oxf. 1981, 239 (com. on ἐν στεφάνοισιν in E. HF 677). Then what does πρὶν ἄπτεσθαι τῶν ἱερῶν mean? It must mean "before enacting the sacrifices" (for ἱερὰ in the sense "sacrifice" or "ritual" in this piece of the speech cf. § 73, 75, 76, 77, 79, 80). So I believe that the gerarai approached the altar and took the oath, keeping the sacred baskets in their hands. In the light of the previous discussion, I would not accept Rennie's suggestion, adopted also by Gernet, <τάς> ἐν κανοῖς.

τῶν λεγομένων] Reiske suggested τῶν γιγνομένων, but Schaefer rejected it: *nihil τῶν γιγνομένων commemoratur*.

ΟΡΚΟΣ ΓΕΡΑΡΩΝ] The authenticity of this document was discussed by Mommsen (*Heortologie*, Leipzig 1864, 358-9), Staeker (*De Litis* 55-6), Drerup (*Urkunden*, 364) and Parke (111-2). Staeker and Drerup believe that the oath quoted is genuine, Parke is dubious and Mommsen denies its authenticity:

1) An important question is whether the oath is quoted as a whole or only a part of it has been transmitted: Staeker and Parke agreed that what we have here is too brief to be the whole of the oath and Mommsen even adds that what we have is not what would be expected from the previous narration. Staeker gave the explanation that what is included is the non-secret part of the oath. I also find the text too short in comparison to what would be expected: for example there is no mention of the Anthesteria in the ritual of which the gerarai had to play a central role. So the explanation of Staeker may be correct and I think the text rather supports this interpretation: in 78 we read καὶ τοῦ ὄρκου καὶ τῶν λεγομένων ἀκούσητε ὅσα οἴον τ' ἐστὶν ἀκούειν. (cf. § 79). Another argument in support of this view could be drawn from the fact that the oath can be clearly divided into two pieces: a) ἀγιστεύω ... συνουσίας: refers to the chastity of the gerarai; b) καὶ τὰ ... χρόνοις: refers to these two obscure Dionysiac rites (see below). This means that the two pieces we have here were not necessarily delivered together: some secret parts could not only precede or follow but even intervene between these pieces. In fact I would find abrupt the direct transition from the first to the second piece, if a secret part did not come in between. If this assumption is correct, this secret part should mention their role in the secret ritual of the Anthesteria. One objection might be that a secret part could not be included, since the oath was taken in an open place, by the altar of the Limnaion. This could happen though if the

secret parts were delivered in low voice while the two parts quoted here were delivered loudly.

2) Staeker brought another argument: the oath must be genuine, since it mentions things absent from the text. Although this argument can have some force in other kinds of documents, inserted in a speech, I doubt if we ought to use it in this case, when we have to deal with obscure religious rites and this oath might have intruded from a later source, unknown to us.

3) Ἄγιστεύω ... ἄγνη; the same idea of purity is given by many terms. But repetition would be not surprising in a ritual text. [For ἄγιστεῖν as a ritual practice related to the Dionysiac rites there is at least one more reference in E, Ba, 74. Cf. Dodds' note (p.76); *refers to outward ritual observance*]. I would rather attribute this pluralism to the repetitive character which often appears in solemn texts, than to the incapability of a forger. Mommsen found that the present is not the needed tense here and he would prefer the perfect [as in an inscription of the Eleusinean Mysteries; see p.359], or even the future if the gerarai needed to guarantee that before they celebrate the Theoinia and Iobaccheia, they would observe chastity. Parke also found some difficulty here, because, as he says, it is not indicated for how long they needed to purify themselves. But I think the present may be right: present indicates the duration and in a sense it is more powerful to say "I am chaste" than "I have been chaste". And if the

present is preferable because of the implication of duration and vividness, we can understand why they did not need to specify for how long they were purifying themselves.

4) ἀπό <τε>: τε was added by Schaefer and adopted by all modern editors; it is not, however, necessary (cf. Denniston, 513)

5) τὰ Θεοίνια: SFQ give Θεόγνια; Yr, Harp. 151, 3, Anecd. Bek. 264, 6 give Θεοίνια. Some older scholars (Gilbert *Festzeit* 161 ff., Mommsen *Heortologie* 327, Hude *NIF* 7 [1885-7] 297, Willi Goerber: *RE* 5A2, 1995-6 al.) assumed that Θεόγνια must be the right reading, implying another festival (different to Θεοίνια) in which the birthday of Dionysos was celebrated. This idea was abandoned though (for the opposition see Toepfer *Genealogie* 105 and n. 3), since the reading of some mss which can be an easy mistake is not enough evidence to conclude that a whole festival existed with this name. The form Θεοίνια is better attested though what exactly this was is not clear: Harp. 151, 3: Θεοίνιον: Λυκοῦργος ἐν τῇ διαδικασίᾳ Κροκωνιδῶν πρὸς Κοιρωνίδας τὰ κατὰ δῆμους Διονύσια Θεοίνια ἐλέγετο, ἐν οἷς οἱ γεννῆται ἐπέθουον. τὸν γὰρ Διόνυσον θέοινον ἔλεγον ὡς δηλοῖ Αἰσχύλος (fr. 382 Nauck: πάτερ θέοινε μαινάδων ζευκτήριε = Sch. Lycoph. 1247) καὶ Ἴστρος ἐν α' συναγωγῶν. Hsch. θ 274: Θεοίνια: θυσία Διονύσου Ἀθήνησι καὶ θεὸς θέοινος Διόνυσος. Phot. s. v. θεοίνιον: ἱερὸν Διονύσου, ἀφ' οὗ καὶ γένος; cf. Anecd. Bek. 264, 6; Sud. θ 191; *EM* 446, 40). Based on this short evidence Parke (174) suggested that the Θεοίνια were a

festival originated at Eleusis and that to some extent it must have passed to the Athenian festival service, with other major cults of Eleusis. Deubner (148-9) emphasized its countryside character and its connection to some gene. Goerber (*RE* 5A2, 1994-6) insisted that we must not understand a general festival of all demes: *Es im 4 Jhdt. noch als Geschlechterfest, nicht als Staatsfest gefeiert ist*. I think that Harp.'s passage leaves little doubt about its connection to several gene (or one?) and at this point I would agree with Deubner who interpreted Photios' evidence as alluding to the importance of a *genos* in this cult. On the other hand, the fact that the *gerarai*, appointed by the *basileus*, had a role in this cult means that, at least to some extent, it was under the care of the State. Parke, based on Aesch. frg. and the presence of *gerarai* pointed out the prominent role of women in this cult. An orgiastic character of it also, cannot be excluded (cf. Deubner, *loc. cit.*).

6) 'Ιοβάχχεια: We know that in the second century A.D. there was in Athens a guild, holding a series of religious rites called 'Ιοβάχχοι. Their cult site was found in the excavations and identified by Doerpfeld as the former temple of Dionysos 'in the Marshes'. Although nothing is known about the *Iobaccheia* in the classical period, we can assume that it must have existed as a lesser cult of Dionysos by a) the reference in our text, b) the existence of a month in *Astypalaia* named 'Ιοβάχχειος, possibly the corresponding one to the Attic

Anthesterion, c) some evidence about an epithet of Dionysos as ἰοβάχχος d) the existence of a Hymn to Dionysos starting ἰὼ Βάχχε (Heph. 15, 9). If we assume that *iobakchoi* existed also in classical times and that the fundamental lines of their organization remained the same throughout the centuries, we could suppose that Iobaccheia was a lesser festival organized by this guild, under the Aegis of the State ( For further information see Parke 174; Deubner 148; *RE* 9, 1828-32).

7) γεραρῶ: This is a suggestion of Dobree (*Adversaria* 1, 519) for γεράρω of the mss, almost unanimously adopted by the scholars. We could be more sure which tense is the right one, if we knew when θεοῖνια and Ἰοβάχχεια were celebrated; but since this oath must have been the initiation of the gerarai of each year to their duties, the future seems to be preferable.

Apollodoros would rather include in the published form this official and important document: the idea of chastity of the 'Venerable' women serves his case, by contrast to the impiety of St.'s family; and if we think that the purpose of this digression is to impress and have an emotional impact on the judges, this solemn oath should be the central point of this digression. Besides it includes additional information and it has the character of a solemn text. For those reasons I am inclined to accept that it is authentic and that it is a partial quotation of the text of the oath. We cannot say, however, whether Ap. included the whole of the non-secret part of the

oath, or only a part of it, with emphasis on the chastity of gerarai, because this was important for his argument.

79. ὀρώσαις] Reiske suggested δρώσαις *peragentibus*. Blass, however, supported ὀρώσαις, in comparison to § 73: εἶδεν ἃ οὐ προσήκεν αὐτὴν ὀρᾶν and § 85 τοῦ ὀρᾶν.

γεγενημένην] γεγενημένων of S' cannot be right if we compare with what follows. For this sense of μαρτυρίαν *de re gesta*, Blass compares with § 49, 55, 88, 93, 122 al.

ἐπιδε(ξων] Reiske suggested ἐπιδείξουσιν. But in this case the author would not add αὐτὴν following. cf § 119.

80. ἀνέβησαν εἰς Ἄρειον Πάγον] Often the meaning of this phrase when referring to the archons is "to become a member of the Areopagos" (cf. D. 24, 22; Isoc. 7, 38; Arist. *Ath.* 60, 3 al. and also MacDowell, *Homicide* 40; Gilbert, *The Constitutional Antiquities of Sparta and Athens* 282; Wallace, *Areopagos* 96). It is more likely that the archons became members of the Areopagos after the end of their office and their εὔθυνα and not at the beginning after their δοκιμασία, as some scholars had suggested. (For further details see: MacDowell, *Homicide*, 40-1; Wallace, *Areopagos*, 94). Here however this meaning is not suitable because the events narrated here evidently had taken place during Th.'s archonship because a) The time as our text defines it ( 80: ὡς ἐγένετο τὰ ἱερὰ

ταῦτα καὶ ἀνέβησαν ...), should be shortly after Anthesteria (early Spring) b) Theogenes was still archon because he expelled his assessor St. Thus, this passage clearly suggests that the 9 archons had some meetings with the council of Areopagos, at certain dates (ἐν ταῖς καθηκούσαις ἡμέραις) and ἀνέβησαν here simply means "they went up to the Areopagos" (cf. also Lys. 10, 11). Wallace (p. 94) thought that *possibly they were fulfilling some sacral obligation*, based on the evidence of Philochoros (FGH 328 F64) that at least the thesmothetai went up to the Areopagos garlanded. If this suggestion is right, we can better understand what ἐν ταῖς καθηκούσαις ἡμέραις means: on some days defined by the religious calendar.

Does ἀνέβησαν (and κατέβη, § 83) mean that this meeting took place exactly on the top of the small hill of Ares, at the west side of Acropolis? The precise knowledge of the topography of Areopagos is a doubtful issue: Wallace (215 ff) gives quite a lot of evidence, from which we can conclude that the verb was a technical term for going, for any reason, to the Areopagos and this particular verb was used because not only the hill but even its foot is considerably higher than the level of the Agora and the surrounding area. But further than this the things become more complicated: Vanderpool *Archeology* 3 [1950] 34-7 and Wallace (215 ff.) agree that the Areopagos, when working as a court could not meet on the flat area on the top of the hill; The court was seated at the north-eastern

foot of the hill, where later on a small church of St. Dionysios Areopagites was built. The strongest argument for this assumption is that there was not enough room at the top of the hill for roughly 200 people and space for speakers, witnesses, audience etc. I agree that this suggestion might be right. However, based on the present passage we have to assume the existence of a closed building, otherwise we cannot explain how a secret discussion could take place in the open air (cf. MacDowell, *Homicide* 39).

Could this building have been founded on the top of the Hill of Ares or should we suggest that this was also somewhere else at the foot of the hill? I think a small bouleuterion exclusively for the members of the council could be situated on the top of the hill; not all Areopagites would attend all the meetings of the council and if an important discussion attracted many councillors, they could also move to Stoa Basileios, to have more space. From that meeting point it would be easy to walk down to the north eastern terrace to try homicide cases in open space, and this assumption would explain better all the references to the Areopagos as being located on the top of the Hill (cf. e.g. E. *IT*. 961-2; *Anecd. Bekk.* 253, 26 al.). If so, then the discussion reported here probably took place in the building on the top of the Hill of Ares.

περὶ εὐσεβείαν] The questions, how broad was the authority of the Areopagos on religious matters and if this authority was traditionally held by this council are difficult to answer, because of lack of evidence. The few, scattered pieces of evidence we have are thoroughly discussed by Wallace (p.106 ff). It is attested that the Areopagos had authority on the sacred olive trees and the ἱερὰ ὄργα, it chose the ἱεροποιοὶ of the Σεμναὶ and it had an authority to protect the sacred secrets (τὰ ἀπόρρητα), from being revealed or violated. Wallace includes in this last activity the case of Th. and he brings as evidence also that the Areopagos had this authority, an anecdote about Aeschylus, who was accused that he revealed the secrets of the Eleusinian Mysteries in one of his plays and for that he was tried before the Areopagos and Dein. 1, 9, according to which the Areopagos guarded the Ἐπόρρητοι θήκαι. Even if this story about Aeschylus is fiction, it is indicative of the reputation of the Areopagos, as the most proper law-court to try a case of religious nature; this closed, ancient council seems indeed to be the most proper body to investigate cases of violated secrets. But we cannot assume a broad power of the Areopagos over all the ἀπόρρητα at least in the fifth century: the Areopagos, for example, did not play any role in the notorious scandal of 415. Wallace believes that this authority was given to Ar. later and gradually. This is possible <sup>but</sup> our the evidence is too weak. Another possibility would be that the Areopagos kept always authority over certain ἀπόρρητα, perhaps some very ancient and traditional

institutions, <sup>not</sup> but over all. Perhaps Ap. overstates here the role of Areopagos in the protection of religion.

A third possibility would be to interpret Th.'s case in front of the Areopagos not in the frame of any specific competence of this council, but in the frame of its general power to start investigations, on its own initiative. Th. was a potentious Areopagite, and thus the council decided to act. (cf. Wallace, 111, 127) I think all possibilities are open, but I would be in favour of the last one, based on the description of Ar.'s religious competence: ὡπερ καὶ τὰλλα πολλοῦ ἀξία εἰσὶν τῇ πόλει περὶ εὐσέβειαν. This phrase does not specify any particular competence. On the other hand, it emphasizes the role which this venerable council could play in religious matters.

ἐζήτει] The text here gives the impression that this discussion must have taken place in only one meeting. Thus we should not imagine that the Areopagos ordered the institution of a board of councilors to investigate the case. Simply, some of the councilors, knowing themselves who Phano was, reported it to the rest of the Areopagites and then a discussion started (cf. ἐξήλεγχεν and γενομένων δὲ λόγων), which was to end with a punishment of Th. (cf. com. ἐζημιου ...), unless he divorced his wife. For a similar proceeding by the Areopagos cf. Aesch. 1, 92: ἐξ ὧν αὐτοὶ συνίσασι καὶ ἐξητάξασι.

ἐζημίου ... κυρία ἐστίν] It is well reported that all the Athenian magistrates had the right to impose fines for lesser offences, usually up to 50 drachmas, unless they thought that the offender deserved a higher punishment, and then they might introduce the offender to a normal trial in a law-court (cf. MacDowell, *Law*, 235-7). The boule could impose fines up to 500 drachmas (see: D. 47, 43; Rhodes *Boule* 147; Hansen *Eisangelia* 21-8 and *JHS* 100 [1980] 93-5). This passage affirms that the Areopagos also had the power to impose fines, but how high we are not told (ὅσα κυρία ἦν). *Arist. Ath.* 8, 4, a parallel of doubtful accuracy, is discussed by Rhodes *AP.* 155-6 and Wallace, 112: καὶ τοὺς ἀμαρτάνοντας ἠῦθυνεν κυρία οὖσα καὶ ζημιούν καὶ κολάζειν, καὶ τὰς ἐκτίσεις ἀνέφερον εἰς τὴν πόλιν, οὐκ ἐπιγράφουσα τὴν πρόφασιν δι' ἧ [τὸ ἐ]κτι[ίν]εσθαι.

The main problem of this passage is the phrase οὐκ ἐπιγράφουσα..., because in the time of Solon the Athenians did not use to write down such detailed judicial decisions. This inaccuracy could be explained though, as follows. Even after the moment the Athenians started writing down the reason for which somebody was fined the Areopagos kept the right not to write down the reason in cases in which it fined somebody in a secret procedure. Aristotle, as Rhodes and Wallace point out, must have been based on documentary sources. He had combined the practice of the Areopagos, in some cases in his days, with the lack of reasoning for the fines in his documentary sources and he thought that in all cases when the Areopagos imposed

a fine in the time of Solon, it kept the right not to write down the reason, when for the rest of the officials his impression was that they had to write it down.

ἐν ἀπορήτῳ] Wallace (111) says: *Secrecy, the silence that surrounded Areopagite proceedings, became a topos in ancient literature. This authority was again appropriate for a traditional, closed, and serious-minded institution.* cf. e.g. Themist. Or. 21,263a; Juven. 9,101; Sud.s.v. al. The council presumably thought that this discussion was not proper to take place in public (cf. διὰ κοσμιότητος). Th. promised that he will divorce his wife and, since the council was satisfied by Th.'s reaction did not let the case go further. As it seems, the Areopagos had the intention to punish Th. with a fine, but probably after the apology and the declaration of Theogenes that he will divorce Phano, he was not fined, (ἐζήμιον should be understood as an *imperfectum de conatu*) and the whole discussion remained secret.

81. κηδεύσειεν] κελεύσειεν of S' does not make sense. For this meaning of the verb "to become relative with somebody" cf. E. Hp. 635 and Barret's com. p.280.

82. ὑμῖν ὄντων] F gives ἡμῖν. But the emphatic statement οἱ παρ' ἐμοῦ λεγόμενοι supports ὑμῖν. The mss. give ἔστωσαν, which is probably the correct form: cf. MacDowell, *Meidias*, 228, com.

παραδιδότωσαν. (Meisterhans does not believe that the forms in -  
τωσαν are classical: *Grammatik*<sup>2</sup> 191).

83. ἄκακ(αν) The orator creates Th.'s character in a way quite convenient for his purposes. It is said several times that Th. was a simple-minded and inexperienced person ( 72, ἄπειρον; 81, διὰ τὴν ἀπειρίαν τῶν πραγμάτων καὶ τὴν ἄκακίαν τὴν ἑαυτοῦ; 83, τὴν ἄκακ(αν) and thus an easy victim in the hands of St. That the simple-minded character was presented in a positive light in the Athenian law-courts, is attested by many parallels; I will give only two instances from D.47, in which giving the image of ἄκακος worked as a way of obtaining a positive verdict from the jury: a) In § 46 it is stated that somebody defrauded the judges by pretending that he was ἄκακος. b) In § 82 the fact that somebody could pass as being ἄκακος καὶ ἀπράγμων, is considered as a serious reason which could lead to his acquittal. In this frame we understand why Th. was able to move the emotions of the Areopagites and why the orator emphasizes this feature of Th.'s character: it can work in a negative way for St. by rising positive feelings for his victim.

τὸν τε Στέφανον] τε, omitted in S' is added by the same hand. Gernet suggested καὶ τὸν Στέφανον. But τε...τε, especially connecting articles, is well attested in the private speeches of the Corpus (see Fuhr, *RhM* 33 [1878] 594-9). Denniston (503 and n.1) reports that there is no example of τε...τε in the public speeches of the Corpus, when there are

36 examples in the private speeches, including the ones certainly written by D. Fuhr points out that the speech 53, one of those supposed to be written by Apollodoros, has the highest frequency. Denniston states as a possible explanation for the difference between the public and the private speeches, that τε...τε sounded slightly colloquial.

τουτονι] Iurinus proposed to transfer it after the name (τὸν τε Στέφανον τουτονι τὸν ἑξαπατήσαντα). The tendency of the orator is to put the pronoun exactly after the name. In fact, this is the only instance in the speech, in which the pronoun is separated from the name, but cf. §85 τὸν νόμον <τὸν> ἐπὶ τούτοις τουτονί.

ἐπαύσαντο] In 5 from βελτίους (§ 89) to ἀρίστους (§ 107) is inserted here, but the copyist realised it and joined ἐπαύσαντο with οἱ Ἄρεοπαγίται ... which comes later with a σ, and the note μετὰ δύο φύλλα ἔνθα τὸ σ.

84. ἀναγκάσω] cf. § 28, com. κλητεύσω.

Ἐρχιέα] cf. § 72: Κοιρωνίδην and com.; ἀρχιερέα of r is wrong.

ΜΑΡΤΥΡΙΑ] The authenticity of this document was supported by Staeker (*De litis*, 50-2), Kirchner (*RhM* 40 [1885] 385-6) and Drerup (*Urkunden* 350-1), but *opposed* by Westermann.

1. Westermann finds this document very short, in the sense that it gives evidence only about the divorce of Theogenes but not about all the events, which the orator has narrated in the previous paragraphs. The other three scholars, however, bring a strong argument: In § 79 the orator warns his audience that the events which he will narrate here have taken place in secret (δι' ἀπορρήτου), thus the only evidence he can bring is the result of the secret discussion in the Areopagos, namely the divorce of Th. from Phano. I agree that we should not expect to find in the testimony anything about the secret discussion in the Areopagos, since the text in § 79 (φέρε δὴ ... ἀληθῆ) makes it fairly clear that no testimony could be brought on these events (cf. also § 80, ἐν ἀπορρήτῳ, with com.)

2) The expressions of the document are exactly the same as the expressions of the previous text: τὴν τε ἄνθρωπον ἐκβαλεῖν and Στέφανον ἀπελάσαι. This perhaps could be a sign that the document is based on the previous text. τὴν ἄνθρωπον is a rather derogatory term. (cf. com. § 9)

3) The strongest argument against the authenticity of this document is, I think, its bad, repetitious style: there are two striking, meaningless, repetitions. I cannot imagine what purpose serves in here the same thing to be said twice, defined in a positive and in a negative way: ἐκβαλεῖν καὶ οὐκέτι συνοικεῖν / ἀπελάσαι ἀπὸ τῆς παρεδρίας καὶ οὐκ εἶν ἔτι παρεδρεύειν αὐτῷ. Kirchner trying to explain these repetitions

says that they are done for the sake of clarity (*klar und deutlich*). But ἐκβαλεῖν as a term, meaning "to divorce" is quite clear in itself (cf. § 51 with com.) and for ἀπελαύνειν "to expell from an office" cf. D.21, 17.

I presume that Ap. needed to treat Th. quite gently, since some of the things narrated here were serious offences according to the Attic law and it would be annoying for this simple-minded man to be asked to testify on things about which it would be not pleasant to speak in public. So, I would expect a short and careful document on which Th. would be summoned to testify, but I find the present form of the document unsatisfactory. It adds nothing, its expressions rather lead us to think that it was derived from the context and its style is unreasonably rhetorical and loquacious. Thus I would find it more likely that this text is a forgery by a rhetorician who, although he understood that he should not include anything from the secret discussion in the Areopagos, tried to give it a reasonable extent, in comparison to the genuine documents of the speech, by using the double definition of things.

ἐπεὶ δὲ] S gives καὶ ἐπεὶ δὲ; rD ἐπειδὴ δὲ. καὶ of S is not suitable here (even if we would omit δὲ). Any choice between ἐπεὶ δὲ and ἐπειδὴ δὲ would be arbitrary.

85-87] The whole of this piece is a deliberate inaccuracy; Apol. speaks as if Phano was a woman indeed caught in adultery,

by reading the law of adultery and claiming that she did not even have the right to enter the temples, being an adulterer. But earlier in the text the orator had claimed that the laws of adultery did not apply to Phano's case since she was prostituting herself openly. For courtesans or prostitutes there was no prohibition of entering the temples: in 116 Sinope the courtesan has entered in the temple at Eleusis, without breaking any law and Metaneira could even be initiated to the Mysteries ( 21ff. ). So, strictly speaking, this part of the speech has not much to do with the case, but it serves the intention of the orator to present St's family as impious in one more aspect. cf. also § 110: τὴν θυγατέρα μεμοιχευμένην ἐξέδωκεν.

85. <τὸν> ἐπὶ τούτοις] Rennie's addition τὸν was not adopted by Gernet. But the fact that τούτων is quite remote from νόμον makes this addition very likely; cf. 83: Στέφανον τὸν ἐξαπατήσαντα αὐτὸν τούτων.

τι τῶν νομιζομένων] FQD give τι after ποιεῖν; S gives it at the same position but also gives another τι after νομιζομένων; Yr omit it. τι, however, is necessary, since ποιεῖν cannot have a genitive as an object. The natural position of τι is after ποιεῖν.

ἂν μοιχὸν] SFQ give ἔαν; but ἂν here is not conditional.

οὐκ ἔξεστιν] is given by SYr when the rest of the mss give οὐκέτι. οὐκ emphasizes the prohibition itself, οὐκέτι enters the temporal dimension "no longer, no further". I would prefer simple οὐκ: the orator had in mind the prohibition itself (cf. the document in § 87).

εἰς αἶ] The emendation of Reiske α̃ instead of ο̃ of the mss is correct: all the temples are implied; ο̃ is a mistake made under the influence of οὐδὲν above.

{ἐλθεῖν} ἐξουσ(αν] Hude's suggestion to delete ἐλθεῖν was adopted by Rennie and Gernet. I would also agree with this suggestion because ἐλθεῖν is superfluous; ἐξουσ(αν) ἔδοσαν is perfectly completed by εἰσιέναι. ἐλθεῖν here seems to be a repetition coming from the previous line (ἔξεστιν αὐτῇ ἐλθεῖν), and its position in the sentence is slightly unnatural. If we keep ἐλθεῖν then καὶ before θεασομένην connects ἐλθεῖν and εἰσιέναι and the one before ἰκτεύσουσαν the two participles. If we remove ἐλθεῖν then the two καὶ stand in the sense "both ... and" (cf. Denniston 323 ff.) and I would prefer this understanding of the two καὶ.

86. ὑπὲρ αὐτῶν] Reiske understood that the offences committed by these women are meant (ἐὰν δ'... παρανομῶσι). Schaefer answers: *malim referre ad τὰ ἱερά*. I would rather agree with Reiske, in comparison to § 74: τιμωρίαν ὑπὲρ τῶν ἡσεβημένων; § 12; D. 24, 8 al.

τάλλα] D omits it. S' omits it as well but it is added in the margin by the same hand. πλὴν θανάτου, which precedes, supports the presence of τάλλα.

διδάσκων] διδάσκαλον of Reiske in accordance to φόβον, is not justified. The participle matches with the ὡς sentence following.

τοιούτων] τοιούτων is given only by Qmg; the rest of the mss give τούτων. Only one offence is implied: adultery. Thus τοιούτων is correct.

87. λαβῆ] FQ add τὸν νόμον. This addition is unnecessary and I would rather consider it to be a gloss .

**NOMOS MOICHEΙΑΣ]** The surviving pieces of law concerning adultery are:

1. D. 23, 53: ἐάν τις ἀποκτείνῃ ἐν ἄθλοισι ἄκων, ἢ ἐν ὁδῷ καθελὼν ἢ ἐν πολέμῳ ἀγνοήσας, ἢ ἐπὶ δάμαρτι ἢ ἐπὶ μητρὶ ἢ ἐπ' ἀδελφῇ ἢ ἐπὶ θυγατρὶ, ἢ ἐπὶ παλλακῇ ἢν ἂν ἐπ' ἐλευθέροις παισὶν ἔχη, τούτων ἕνεκα μὴ φεύγειν τὸν κτείναντα.

2. Lys. 1, 49: ἐάν τις μοιχὸν λάβῃ, ὅ τι ἂν βούληται χρῆσθαι. (bodily humiliations are implied, as Ar. Nu. 1083, Pl. 168 al. indicate)

3a. Lys. 1, 25: ἤντεβόλει δὲ καὶ ἰκέτευε μὴ ἀποκτείνειν ἀλλ' ἀργύριον πράξασθαι.

3b. § 65: εἰς φόβον καταστήσας πράττεται μνάς τριάκοντα, καὶ λαβὼν ἐγγυητὰς τούτων ..., ἀφήσιν ὡς ἀποδώσοντα αὐτῷ τὸ ἀργύριον.

4. § 66: εἰάν τις ἀδίκως εἴρξη ὡς μοιχὸν, γράψασθαι πρὸς τοὺς θεσμοθέτας ἀδίκως εἰρχθῆναι, καὶ εἰάν μὲν ἔλη τὸν εἴρξαντα καὶ δόξη ἀδίκως ἐπιβεβουλευσθαι, ἀθῶν εἶναι αὐτὸν καὶ τοὺς ἐγγυητὰς ἀπηλλάχθαι τῆς ἐγγύης.

5. § 67: τὸν νόμον ... ὃς οὐκ ἐστὶ ἐπὶ ταύτησι μοιχὸν λαβεῖν ὀπόσαι ἂν ἐπ' ἐργαστηρίου καθῶνται ἢ πωλῶνται ἀποπεφασμένως. (By Lys. 10, 19 and Plut. Sol. 23, the law is attributed to Solon).

6a. § 87: (The passage under discussion)

6b. Aesch. 1, 183: τὴν γὰρ γυναῖκα ἐφ' ἣ ἂν ἀλφῷ μοιχὸς οὐκ ἐστὶ κοσμεῖσθαι, οὐδὲ εἰς τὰ δημοτελεῖ ἱερά εἰσιέναι, ... εἰάν δ' εἰσίη ἢ κοσμεῖται, τὸν ἐντυχόντα κελεύει καταρρηγνύναι τὰ ἱμάτια καὶ τὸν κόσμον ἀφαιρεῖσθαι καὶ τύπτειν εἰργόμενον θανάτου καὶ τοῦ ἀνάπυρον ποιῆσαι... (This passage is a paraphrase of the law, quoted in § 87 and it is attributed to Solon by Aeschines).

7. Arist. *Ath.* 59,3: εἰσὶ δὲ καὶ γραφαὶ πρὸς αὐτοὺς (τοὺς θεσμοθέτας) ... καὶ μοιχεύας. (Rhodes, *AP.* 663)

The answer to the question "are all these pieces part of one and the same law?" could easily <sup>be answered in the</sup> negative. T.1 seems to be a part of Drakon's homicide law (maybe with a few changes), still valid in the fourth century. T.3a and 3b probably were not parts of the law itself. As I have suggested in 65 (com. πράττεται), compensation was rather a convenient arrangement between the two parties, than a legal provision.

The second question is whether one law, consisting of different articles, covering different cases, has ever existed, or we have to speak about scattered, separate laws. I think we should speak about a main law concerning adultery, because δὲ at the beginning of 6a shows that it was an article of a more extensive text. The main law consisted of several articles covering most of the cases of adultery, but pieces of other laws as well, like T.1, completed the Attic legislation on this offence.

Could all the other pieces apart from 1, 3a, 3b, and perhaps 7 be dated to the time of Solon? There are some difficulties in accepting this statement: For T.4 the difficulty is that we do not know about sureties as a legal practice in the Solonian era. For T.6a the difficulty is the different sense of ἀτιμία at the Solonian era (cf. MacDowell, *Law* 73-4). ἀτιμία

in the Solonian sense would be too heavy as a penalty for a husband who was not willing to divorce his naughty wife. The language also of 4, 6a, 6b rather implies the developed legal system of the classical period, than a Solonian text. On the other hand T.5 (which is rather certainly dated to the Solonian era; cf. com 67 ad loc.) says that there was a law prohibiting arrest for adultery for some groups of women. And if Aeschines' attribution of 6b (and 6a) to Solon is not completely hypothetical - although if so, we must have a revised form of the law here - this law should include more provisions, on this offence.

In conclusion, I believe that Solon intended to give alternative legislation for adultery, more humane and supplementary to Drakon's provision of killing with no punishment. So he created a law, penalizing adultery, so that the abused *xúπιος* of the woman could obtain some satisfaction, if he did not wish to commit a murder. The law, however, with the development of the Attic legal bureaucracy, needed to be adapted, at least in its technical details. And perhaps some new laws completed the legislation of adultery. I suspect that T.7 may be one of these separate laws: if the assumption that it applied to the cases in which the adulterer was not caught in the act, is correct (see, MacDowell, Law 125), then possibly it is an additional law of the classical period, by being based on a rather developed sense of justice, in which being caught in the act is not necessarily the

only proof of guilt. But any further attempt to classify any other of our fragments (apart from 1, 3a, 3b) either as part of the main law or as a supplementary provision, or to reconstruct the initial Solonian text, would be futile.

Coming to discuss the present document, the first question is whether it is authentic: Francke (reference in Dindorf: *Ephem. Jenes.* a.1884, p.742), Dindorf and Van den Es (p. 37) denied the authenticity of this document. But in later times and nowadays, as far as I know, the scholars unanimously accept its authenticity: see e.g. Schelling, *De Sol. Leg.* 103; Staeker, *De Litis* 36; Lipsius, *Recht* 434, n.51, Drerup, *Urkunden* 363-4; Paoli *SDHI* 16 [1950] 167-8; Harrison, *Law* 1, 35-6 and n.1; MacDowell, *Law* 125. I also believe that it is authentic.

Van den Es denied the authenticity of this text on the basis that its quotation in the context of the speech is unsuitable: but cf. general com. on § 85-7.

Francke and Dindorf denied its authenticity in comparison to the paraphrase of the same law by Aesch. Indeed this text is less elaborated and the prohibition for the woman to wear any kind of ornament, given by Aesch., is omitted here. Several scholars (Lipsius, Harrison, al.) have maintained that the present document consists of only a partial quotation of the part of the law speaking about the woman's penalties. Staeker pointed out that δὲ at the beginning connects this piece with what

preceded. Schelling believes that the orator here omitted only the prohibition of wearing ornaments, since it was not directly related with the case; all the rest of Aeschines' phrases are explanations for the phrase of the law ὅ τι ἄν πάσχη, namely, that if the woman breaks the prohibitions anybody can tear her clothes off, remove her ornaments and beat her up. These rather seem to reflect the practice in such cases, than the words of the law itself. In support of this view I will mention that the law paraphrased in 67, about the penalties upon a man caught in adultery, specified only bodily humiliations. The kind of humiliations usually practised in such cases is known to us from other sources like comedy (cf. com. § 66).

A second argument for the authenticity of this law is that it adds an important point not mentioned in the text, nor anywhere else: the husband of an adulterer was forced by the law, under the threat of disfranchisement, to divorce her. It is remarkable that this point is not related to the story, so a possible forger would not need to compose this sentence.

The third argument is I think the most important. The text of the orator reflects the expressions of the law itself. This comparison supports the view that the text of the law, which the orator had in his disposal, is the same with the one quoted here:

a) Two sudden changes of number (ταῖς γυναίξει ... ἐφ' ἧ ἄνμοιχὸς ἀλφ and εἰσίσωσι ... πάσχη) cannot have any other explanation but that they are literally transferred in the text from the document. This explanation was first given by Reiske. That ἐφ' ἧ ... ἀλφ belongs to the text of the law is also confirmed by Aeschines. [Gernet suggested that ἔλη τὸν μοιχὸν in the classical period would mostly mean "procure the conviction of", when in the Solonian law it would rather mean "take in the act", Harrison (*Law*, I, 36, n.1) agreed. But our knowledge about the Solonian law is quite unsatisfactory, as I have pointed out earlier on, and in the classical period a person was probably considered to be a μοιχὸς either caught in the act (cf. *Lys.* I *passim*) or after his conviction by a law court (cf. § 66-7).]

b) νηποινεῖ πάσχειν must be also literal quotation of the law.

c) πλήν θανάτου: apart from the present document it also appears in the text of the orator and in Aesch. we read εἰργόμενον θανάτου. πλήν θανάτου is probably the phrase of the law; καὶ τοῦ ἀνάπηρον ποιῆσαι rather seems to be an addition by Aeschines, reflecting the practice in these cases: the intention of the law was to humiliate the woman, not to let her suffer permanent bodily disabilities.

d) ὑπὸ τοῦ βουλομένου: once in this text and once in Aesch. the phrase τῷ ἐντυχόντι (and τὸν ἐντυχόντα) appears, reflecting the phrase of the law ὑπὸ τοῦ βουλομένου (cf. 16; D. 21, 47; 24, 28 al.). ὑπὸ τοῦ βουλομένου appears in the paraphrase by the orator ( 86) but is missing from the document. The explanation

for this may be that ὑπὸ τοῦ βουλομένου was not written at the point of the law which the orator cites in § 87, but it was written in an earlier part of the law of adultery, supposed to be understood here also; thus the orator having read the whole of the law included it in his own text.

e) The phrase εἰσιέναι εἰς τὰ ἱερά τὰ δημοτελή appears in the document, in the paraphrasis of the orator (§ 85) and in Aesch. This supports the view that they are the words of the law. One might think that this phrase must be derived from the initial Solonian text, since it appears twice in Aesch. in legal pieces attributed to Solon, one concerning the law of adultery (1,183) and one the laws of refusal of the military service (3,176). But this prohibition is probably connected with the post-Solonian sense of ἀτιμία (see above) and thus I would rather attribute it to the revision of the law in the classical period.

δημοτελής means "funded by public sources" (δημοτελής θυσία: Hdt. 6, 57, 1; Th. 2, 15, 2; Pl. Lg. 935b al. See also δημοτελής ἑορτή, Poll. 9, 10; δημοτελής σοφιστής, Poll. 4, 43 al. ) This meaning is confirmed and well explained by Anecd. Bek. 240, 28 (=Hsch. δ 878): Δημοτελή καὶ δημοτικὰ ἱερεῖα (ἱερά Ruhnck, Meier) διαφέρει; τὰ μὲν δημοτελή θύματα ἢ πόλις δίδωσιν, εἰς δὲ τὰ δημοτικὰ οἱ δημόται, εἰς δὲ τὰ ὄργεωνικὰ οἱ ὄργεῶνες, οἳ ἂν ᾧσιν ἑκάστου τοῦ ἱεροῦ, εἰς δὲ τὰ τῶν γονέων (Perhaps γεννητῶν: cf. 55 and com.) τὰ γένη. Harp. 90, 3 also says: Δημοτελή καὶ

δημοτικὰ ἱερά] Διέφερον ἀλλήλων καὶ τῶν γενικῶν, ὡς Ἀεΐναρχος  
δηλοῖ ἐν τῷ κατὰ Στεφάνου (= Suid. δ 463).

[ἱερεῖα of the mss. in Anecd.Bek, 240,28 could be correct, in comparison to θόματα following.] Based on this evidence, Schaefer understood here ἱερά meaning *non fana sed sacra, quae sola dici possunt δημοτελή*. Boeckh also (Economy 1,284 and n.260) understood ἱερά meaning "sacrifices": but εἰσιέναι εἰς τὰ ἱερά evidently refers in particular to the admission to the sacrifices, although it also includes permission to enter the temples in which the sacrifices were held. Most scholars understand this phrase meaning "to participate in sacrifices at public cost". But, Reiske understood "to enter the public temples" and I would rather agree with him because a) εἰσιέναι does not mean "to participate" but "to enter". b) δημοτελής means "subsidised by the state" and in this context it distinguishes the public temples and cult sites from the private ones. The legislator intended to exclude the adulteress from all the cult sites, for the maintenance of which the state had paid. In the private temples the owners could decide whom they would let in. [In Poll, 4,31; πανηγόρσαι; δημοτελεῖς λόγος παρασχέσθαι, δημοτελής has a wider sense: "public, open to the public"] c) In all cases in which somebody is banned from ἱερά, it does not only mean exclusion from the ceremonies, but in general from the precincts. In Aesch.3,176 we read that somebody who did not fulfil his military service was banned from the δημοτελή ἱερά. But such a person was completely excluded from entering the holy places. In Lys. 6,9-12. 24 we read that an ἄτιμος was also excluded from the ἱερά, meaning in

general the holy places (cf. Hansen, *Apagoge*, 61 ff.). In D. 20, 158 we find that a person accused for homicide had to keep away from the holy places (ἱερῶν) in general, not to pollute them with his presence and in this case the prohibition clearly refers not only to the ceremonies but to the precincts in general. (cf. MacDowell, *Homicide*, 22 ff.)

The intention of this law was to punish the adulteress and to warn other women. Ap. emphasizes the protection of the holy places from the pollution by these women. Aesch. emphasizes the protection of the chaste women. Paoli (loc. cit., 167-8) gave a good interpretation by explaining these penalties in the frame of a kind of ἀτιμία. As he explains, ἀτιμία for a man would be the loss of a serious part of his rights to act as a citizen. Women, however, did not have these rights at all. But they had a social personality and a role in the life of the community, of which, if they were caught in adultery, they were deprived; for a woman the prohibition to wear ornaments and to enter the public temples practically meant that she was deprived of the right of having a social life. He says: *Tuttavia la donna ha una personalita familiare e sacrale: e 'consors sacrorum' del marito nella osservanza dei riti propri dell' οἶκος, rappresenta la familia nelle celebrazioni che le donne del δῆμος fanno in comune in certe ricorrenze solenni, partecipa con dignita matronale a cerimonie pubbliche della citta, ha accesso ai templi. Se sopresa con l' adultero, perde*

*la capacita di esercitare i diritti che le derivano dalla dignita di mater familias.*

I find this interpretation attractive because: 1) the provision of ἀτιμία for a man who did not divorce his wife, caught in adultery belongs to the same piece of the law. The idea of ἀτιμία is what joins these two cases in the same part of the law, in a different sense for each sex. 2) Aeschines expresses it clearly (ἀτιμῶν αὐτήν) that the intention of this kind of punishment is to deprive the woman of her honourable position in the society, to humiliate her and make her life unbearable. I would add one more thing. Seclusion from the public temples practically annuled<sup>l</sup> for the adulteress the chances of going out. This seclusion meant that she could not attend the festivals of the city, she could not go to the Thesmophoria or the Haloa, etc. This, apart from punishment was also a security measure in the sense that it reduced her chances of meeting men.

εἰς τὰ ἱερὰ] ταῦτα added by Anecd. Bekk. 140,3 after ἱερὰ is unnecessary.

88. κυριώτατος] Schaefer notes *praestat superlativus ut gravior*. Hansen (*Assembly*, ch. 4; *Ecclesia*, ch. 9 (= GRBS 19 [1978] 127-46) has maintained that the law-courts and not the ecclesia was the ultimate sovereign body at Athens. But, he correctly points out that there was no sort of antagonism between the law-courts and the ecclesia. I agree that the law-courts, which were anyway

consisting of ordinary Athenians, members of the ecclesia, as well, could have the last saying in some cases, but this was never understood by the Athenians as a limitation of the sovereignty<sup>e</sup> of the demos.

βούλωνται.] Reiske pointed out that it is plural because ὁ δῆμος is a collective noun. ὦν, βούληται, ἠγήσατο, ἔθετο are singular.

89. ὅμως ... ἔσεσθε.] The transition with ὅμως is abrupt. Some scholars tried to emend the text. Wolf suggested ὑμεῖς δ' and Reiske was quite fond of it. Gernet adopts it in his edition, without, however, mentioning Wolf. Herwerden thought that something is missing (Mn. 3 [1875] 357-8) *sic fere supplenda* (ὕμᾱς μὲν οὖν οὐκ ἀγνοεῖν ταῦτα νομίζω) ὅμως δ' ἀκούσαντες αὐτῶν βελτίους ἔσεσθε *ut librarii oculos ab ὑμᾱς ad simile ὅμως aberasse existimemus*. Although I do not agree that something is missing, I understand in the same way the contrast made by ὅμως. What<sup>I</sup> find very difficult is βελτίους ἔσεσθε. In which sense the Athenians will become better by listening to the laws of naturalization? I think that such a moralizing sentence does not have any place in this context in which the orator essentially flatters<sup>†</sup> the Athenians. In many similar cases, when the orator reads or paraphrases a document, namely a law a testament, a testimony etc. he does it with the intention to let his audience know better or to reveal the truth to them. I suggest that the text is corrupted here: βέλτιον εἴσεσθε would give much better sense. This suggestion is supported by a large

number of parallels: see § 87: τοῦ νόμου αὐτοῦ ἀκούσαντες ἀναγνωσθέντος εἴσεσθε, § 78: ἵνα εἰδῆτε ὡς σεμνὰ ... τὰ νόμιμά ἐστιν It is a topic in the speeches of Ap. that the judges will know better after they listen to him: 47,3; ἵνα ἐκ τούτων εἰδῆτε; 49,18: μάρτυρα παρέξομαι, ἐπειδὴν ... διηγήσομαι ὑμῖν, ἵνα τῇ αὐτῇ μαρτυρίᾳ ... ἀκούσαντες εἰδῆτε ὅτι ἀληθῆ λέγω. 61; 50,10. 21. 41. 45. 57: βούλομαι δ' ὑμῖν καὶ τὸν νόμον ἀναγνωσθῆναι ... , ἵν' εἰδῆτε; 52,17. cf. also D.43,62: ἔτι δὲ σαφέστερον γνῶσεσθε ... καὶ ἐκ τούδε τοῦ νόμου; D 41,18.66.71; 44,30; 45,7.19; 46,10 al. The intention of the litigant was the knowledge and not the moral improvement of the judges. In this context I would also prefer ἀκούσαντες of Fcorr, which Blass and Murray also preferred. Rennie and Gernet accept the reading of the rest of the mss. ἀκούοντες. But the laws will be recited only once. The aorist participle is also supported by § 87 ἀκούσαντες ἀναγνωσθέντος εἴσεσθε; D. 49,18; 43,71: γνῶσησθε δ' ἐπειδὴν τοῦ νόμου ἀκούσητε, al. The text, I propose is ὅμως δ' ἀκούσαντες αὐτῶν βέλτιον εἴσεσθε: "nevertheless, after you listen to the laws, you will acquire a better knowledge of them"

**λελυμασμένοι εἰσὶν]** The subject is St. and οἱ οὕτω γεγαμηκότες; τὰ δῶρα is the object.

**μὴ δι' ἀνδραγαθ(αν)]** The procedure of naturalization was not enacted by any kind of application by an individual interested in the Athenian citizenship, nor were the adopted

citizens always asked whether they had an interest in accepting this grant. Citizenship was always given as an honour. An Athenian should propose a decree to the assembly in favour of the potential citizen; no further action by the candidate was necessary, nor had he to be present in the voting. In many cases also the adopted citizens never bothered to go to Athens to exercise their citizenship rights. Independent of any change in the procedure, ἀνδραγαθία was throughout the classical period the only reason for which somebody could become an Athenian citizen. But what did the Athenians mean by ἀνδραγαθία? As it is defined in the decrees, it meant ποιεῖν ὅ τι δύναται ἀγαθὸν περὶ τὸν δῆμον τὸν Ἀθηναίων. (For evidence see Osborne, Part I, where he quotes the existing sources). But, in practical terms the definition was very broad.

As Osborne points out (*Naturalization*, 4, 145-50 and especially p. 146, n. 25-6) naturalization as a honorific action was rare in the fifth century; foreigners were usually rewarded with ἀτέλεια, ἰσοτέλεια, προξενία etc. (cf. also D, 20 passim; 23, 123 ff.; § 13 al.). From the years of the Peloponnesian war, however, naturalization started being used as a honour, by the Athenian diplomacy (cf. Th. 2, 29. 67 and Ar. Ach. 145-7). In the fourth century citizenship grants were so lavishly given to foreigners that they raised the protest of the orators (see: D. 20 passim; 23, 126. 200; Aesch. 3, 85; Din. 1, 43 ff. al.), who complain that such lavishness makes the highest honour of δῆμος to foreigners meaningless. The existing evidence

of numbers of naturalized citizens in the fourth century rather confirms these complaints (cf. Osborne 4,204 ff). One example for the use of citizenship-grants in the frame of the Diplomacy is enough: The Assembly granted with citizenship two men who murdered Kotys, himself an adopted citizen of Athens (cf. D.23,118-9; Diller *Race Mixture*, 103-4). A number of political personalities were eventually granted with citizenship, people who did not always act in favour of Athens. This grant was an effort to support political alliances.

Further evidence that the provision of ἀνδραγαθία was interpreted as was convenient by the Athenian assembly is the number of wealthy citizens who were granted citizenship in the fourth century simply because of the money they contributed to the public treasure of Athens, usually in the form of trierarchies or extravagant choregies. Pasion (cf. § 2 and com.) and Phormion, rich bankers of barbaric origin (cf. D,36,1), ex-slaves, were given citizenship, because of their money. This phenomenon, an actual purchase of citizenship, did not cause any anxiety to the Athenians themselves; on the contrary, these people boasted for this grant they had earned, by spending lavishly for the δῆμος (cf. § 2 and Osborne 4,194 ff).

The result of this policy had created a weird situation, in the time of this trial. People who lived in Athens, for whom

citizenship rights would have a practical value could not obtain them unless they spent large sums of money, and make a hard effort, (cf. 13 μετὰ πολλῶν ἀναλωμάτων καὶ πραγματείας). On the other hand significant politicians who would never come to Athens in the most cases to implement this grant, or who, in some cases, would greet it with mockery, were awarded it easily. Briefly speaking the cases in which ἀνδραγαθία was taken in its real sense as a criterion for a citizenship award are a tiny minority in comparison to cases in which it was interpreted in political or financial terms.

εἰς τὴν ἐπιούσαν ἐκκλησίαν] The earliest evidence about the second voting for the confirmation of the preceding decision of the ecclesia for a citizenship grant is *IG ii<sup>2</sup> 103*, a decree granting citizenship to Dionysios of Syracuse and his sons. On the other hand, *IG ii<sup>2</sup> 25* is the latest text in which the second voting is not mentioned. So, the second voting was probably introduced as a part of the procedure between the years ca. 388 and 369/8. Osborne (*Naturalization* 4, 161) thinks that ca. 380 is the most likely date, because these were the years in which the last μητρόξενοι were enrolled in the demes. So, he suggests that these years were the right time for some changes to the laws of citizenship, with the intention that the grants should become more stringent.

The conditions of the introduction of this second voting must be seen together with the introduction of the other

regulations of naturalization. Was this new restriction added to an existing law which clearly defined the procedure of naturalization, and if so when was this law introduced in the first place, or was it a part of a new law, as MacDowell (*Law*, 72-3) has suggested?

Osborne (4, 141 ff.) suggested that a part of the Periclean law of citizenship concerned naturalization. Our text informs us about the existence of a law which established ἀνδραγαθία as the only condition for a citizenship grant. ἀνδραγαθία, however, as a reason for granting citizenship is always emphatically placed first among the reasons for making somebody citizen in the fifth century decrees: see e.g. *IG* 1<sup>3</sup> 102: ΟΣ ΟΝΤΑ ΑΝΔΡΑ ΑΓΑΘΟΝ ΠΕΡΙ ΤΟΝ ΔΕΜΟΝ ΤΟΝ ΑΘΕΝΑΙΟΝ; *IG* 1<sup>3</sup> 113; *IG* 11<sup>2</sup>, 1 al. So, the law mentioned in our text can be dated back to the fifth century and it would be tempting to agree with Osborne and date the law to the years of the Periclean legislation of citizenship, although there is no positive evidence that the law can go so far back.

According to the existing evidence however, such decrees were rare in the 5th century and naturalization, as an honour, something exceptional. In the 4th century, and especially in the years we are talking about, it must have become frequent and as the evidence shows it started to be given in the context of diplomatic and financial arrangements (cf. com. ἀνδραγαθ(α)ν). So, I think that a complete law establishing a standard

procedure on naturalization became necessary only in the first quarter of the fourth century. This law confirmed the customary way of passing a decree of naturalization (which was by now the same as the way of passing any other decree) as the first necessary step of the procedure. It also confirmed the condition of ἀνδραγαθία and introduced the second voting as one step further. I find it possible that this law is related to the laws appearing in 16, 52 (cf. com ad loc.) regulating the mixed marriages, and if so we could assume that some time before 370 the Athenians passed a whole body of legislation on how citizenship could be obtained with the intention to make the Athenian citizenship a present obtained with difficulty.

It is agreed among the scholars that the reason why they voted in secret was to be able to count exactly if the necessary number of ballots, i. e. 6,000, was collected (see e. g. Osborne 4, 161 ff; Hansen *Assembly* 15-6 al.). Voting before the beginning of the Assembly was also suitable for a matter already discussed in the previous assembly and simply needing a confirmation (cf. e. g. Hansen, *Assembly* 16). What Ap. says here, that the intention of this provision was to give the chance to any Athenian individually unaffected by the orators, to decide whether or not the new citizen was worthy of this present, in theory may be right. The effectiveness, however, of this measure in making grants more stringent, is doubtful: the closeness of time between the two votings would favour a similar outcome (cf. Osborne 4, 163) and indeed there is no case

attested in which somebody accepted as citizen in the first voting failed to pass the second one. So, I would consider the second voting rather a show of the stringent attitude by the Athenians towards citizenship grants than an effective scrutiny of the value of the proposed new citizen.

ὑπερεξασιχ(λίοι] It is agreed among the scholars that the quorum of 6,000 citizens for this voting, must be related to the fact that it was ἐπ' ἀνδρῖ legislation (see Hansen, *Ecclesia* 10 ff; *Assembly* 16-7; Sinclair, R.K.: *Democracy and Participation in Athens*, Cambridge Univ. Press 1988, 114 ff.; Osborne, 4,161 ff.; al.). The law quoted in And 1,87 (and D.24,59) is: μηδὲ ἐπ' ἀνδρῖ νόμον ἐξεῖναι θείναι εἰάν μὴ ἐξασιχιλίοις δόξη κρύβδην ψηφιομένοις. Sinclair (loc.cit.) identifies also this number with the traditional figure for a quorum and in fact, in all cases we know, in which a quorum was demanded, the required number of votes is 6,000. When the second secret voting was introduced, it was intended to be one more procedural restriction, but since naturalization was an ἐπ' ἀνδρῖ procedure, it was expected that the process due to be followed was the one provided by the law for these cases. The number of the quorum was the number usually required.

Where the number 6,000 comes from must be related to the number of citizens which the Pnyx during the fifth century could include. As it seems, when the Pnyx was completed in the fifth

century, everybody could roughly estimate that the required quorum was obtained. The changes in the Pnyx ca. 400 did not affect seriously this number: the new Pnyx could include perhaps a slightly larger number of persons and we should not expect that the radical expansion of the Pnyx ca. 330 affected the quorum: the number 6,000 was established as a good level of attendance, for the ratification of some proposals (see Sinclair loc. cit.; Hansen *Ecclesia*, 16ff). The complicated issue of the numbers of the attendance in the assembly is outside the purposes of this commentary.

90. πρὶν ... ἀναίρειν] The difficulty of this passage has caused controversy from antiquity. What causes the difficulty is a) the wide range of meanings of ἀναίρειν, b) The obscurity of the term γέρρα and c) The vagueness of the phrase πρὶν ... εἰσιέναι. Harpocration already did not know with certainty which is the meaning of this passage and most of what we obtain from the lexicographers and scholiasts rather reflects their own effort to understand the passage than gives us real information. Consequently, the confusion of the lexicographers is carried on, to modern scholarship and some irrational interpretations, given by the lexicographers are still believed by the modern scholars. Thus it would be useful to give a short report of the main points of this discussion. Already from antiquity the interpretation of this passage was sought in comparison to D. 18, 169: τοὺς τε ἐκ τῶν σκηνῶν τῶν κατὰ τὴν ἀγορὰν ἐξείργον καὶ τὰ γέρρα ἐνεπίμπρασαν. Harp. 79, 8

recognizes as one possibility that γέppα in these two passages are the same thing and as another possibility that they are two different things: in D.18,169 the covers of the booths in the Agora were burned but here portable barriers which closed the Pnyx are meant. Wolf interpreted *praemia*, based on the mistaken reading of some mss (γέρα, SFDr), but this interpretation was abandoned after the elaborate response of Taylor, who was the first who collected the major part of the testimonia on γέppα.

Most of the ancient sources and the modern scholars agree that by γέppα we should roughly understand a sort of covering, either from leather or wicker-work. [I omit here meanings not appropriate for the interpretation of this passage]. Probably the word originally indicated a Persian (Scythian: Sch.Luc. 170,11 Rabe) shield covered by leather (Hdt. 7,61; Harp. 79,8; Phot. γ 91; Eust.Sch.Od. 1924 1 ff.; Sch. Pl. La. 191c; Anecd. Bek. 227,1; D.H. 6,92,2). Afterwards the meaning expanded and any kind of covering, was indicated (Harp.79,8; Hsch. γ 440; Sud.γ 205; Phot. γ 91; Sch.Pl.La.191c). By indicating the coverings of the booths (Harp.; Phot.) eventually ended up meaning the booths themselves. (Anecd.Bek., Sch. Pl. La., Sch.Luc., Hsch. γ 441; Eust.). Finally the word was used for any sort of barred or fenced area (Sud., Sch.Luc., Eust.).

Wankel (*Kranzrede* 2, 849-53) was the first, as far as I know, who seriously questioned some irrational explanations dated

already to the antiquity. He doubts the identification of γέppα with the booths in the passage of Demosthenes and criticizes thoroughly the suggestion of some scholars that what is meant there is that the πρυτάνεις burned the coverings of the booths as an alarm signal. Adams also (CPh. 16 [1921] 1-11) does not accept this suggestion and I would agree with them. The first question is why does the orator use two different words, if both words (σχηναί and γέppα) actually mean the same thing. The way I understand this passage is that D. here uses the word γέppα to indicate the σχηναί in order to make the sense clearer by contrasting the material of the booths which was burned, to what σχηναί included, which was removed. The σχηναί had already been emptied of the goods they included (ἐξείργον), when the booths were burnt. But still we have to answer the question why the πρυτάνεις burned the booths. Adams accepts and elaborates the explanation originally stated by Reiske that the πρυτάνεις burned the booths in a situation of panic believing that Philip was expected to invade to Attica as soon as possible; the Agora was the place in which the army would concentrate, thus they tried to clear it by using any means.

Wankel's main objection is that what is described in 18,169 is just the expected reaction of the πρυτάνεις in an emergency case. Thus he is not fond of the explanation speaking about an extraordinary situation. I am inclined to believe that Adams is right. The πρυτάνεις after the bad news were in a panic because

they did not know what would follow. Philip was too near now and nobody knew whether some forward parts of his army would attack the north of Attica even in the same night. The place of the concentration of the army should be clean in any case and the quickest way to do it was to set fire to what was standing in the middle. Fortunately nothing happened during this night and the *πρυτάνεις* had the time to call the assembly the next morning to decide which was the best way to act. My argument is that burning the booths of the Agora in these moments is not something incomprehensible, since the *πρυτάνεις* did not know what would follow and how soon. Apart from that they did not destroy any property of high value: the material of the booths was easily replaced and the situation really serious.

A number of scholars relate the two passages and emend 18,169 in comparison to our passage and Sch. Ar. *Ach.* 22 (ἐνεπίμρασσαν mss: ἐνεπετάννυσσαν, Karsten; περιεπετάνυσσαν, Cobet; ἀνεπετάννυσσαν, Girard). [The suggestion of Girard was favourably seen by some modern scholars; see e.g. Butcher, who although prints ἐνεπίμρασσαν, he notes in his apparatus criticus: ἀνεπετάννυσσαν; Girard recte ut opinor, Rhodes (*Boule*, 20) quoting this text prints ἀνεπετάννυσσαν] They believe that γέφυρα were a sort of fences put in the streets of the Agora which did not lead to the Pnyx, before the meetings of the ecclesia. So, according to this explanation, what is meant here is that the *πρυτάνεις* put up the fences before the beginning of the trading in the market and before the foreigners entered the Agora. [For further

details on this theory see Vankel and Adams, loc.cit.] In my opinion, however, Sch. Ar. is nonsense: I cannot imagine that all this mixed crowd including foreigners, women, slaves etc. which was in the Agora in morning times could be trapped and forced to walk towards Pnyx, and this would happen if the Agora was enclosed by these weird means described by the scholiast of Aristophanes. On the other hand if fences were placed from the morning around the Agora before the foreigners entered, this measure becomes senseless: the Athenians who did not wish to go to the Pnyx would not enter the Agora either, warned by the fences. Apart from that, reading carefully Aristophanes' text at this point we realize that it says exactly the opposite: that people spend long time before they were jostling for a place a few minutes before the beginning of the Assembly. So, I do not believe that γέρα can have this sense because the story that they were used to fence the market place seems to be completely imaginary. [The σχοινίον μεμιλωμένον seems to stand in Aristophanes' text as a metonymia for Pnyx; Dicaeopolis by saying τὸ σχοινίον τὸ μεμιλωμένον ψεῦδοςιν means that they avoid going to the Pnyx. Thus I would think of something which could be directly related to the Pnyx, maybe a painted rope to keep at a distance the latecomers or any non member of the assembly as long as the meeting was going on. See also below.]

Adams relates the two passages in the other way: he thinks that here also the booths of the Agora are implied. He assumes that the voting for a citizenship grant took place in the Agora, like the voting for the ostracism, in the fifth century.

So, he suggests that before the voting the booths had to be flattened in order to create enough space for the voting. I find this explanation difficult: 1) Nothing in the text leads us to suspect that the voting place was the Agora. But if the voting place was an extraordinary venue like the Agora I would expect the orator, being so detailed in his description, to indicate it clearly. 2) προσιόντι τῷ δήμῳ would automatically imply the Pnyx and not the Agora since the Pnyx was the place to which the δῆμος would normally proceed for the assembly meeting. 3) Why should the voting take place at the next meeting of the assembly (εἰς τὴν ἐπιούσαν ἐκκλησίαν) and not on a fixed day, as happened with the ostracism, if the voting did not take place in the context of the Assembly meeting, in the Pnyx? 4) Should we accept that all the Athenians were supposed to pass through the Agora to vote before they would end up on the Pnyx? It would be the least practical procedure for a voting in which a fairly wide number of participants was required and it does not sound very likely that the Athenians would do all the preparation required for a voting in the Agora (cf. Philochoros fr. 79b; Plu. Arist. 7) every time a foreigner was to be naturalized; from the 4th century and onwards they would need to do it very often.

A considerable number of scholars read the text without comma after εἰσιέναι and understand εἰσιέναι and ἀναίρειν to be linked with καί. They think that γέφυρα were a kind of movable fences which surrounded Pnyx and isolated it. See: Cobet *Collectanea*

*Critica*, 175-6; Madvig *Adversaria Critica* 3, 49-50; Schaefer ad loc.; Wycherley, *JHS* 75 [1955] 117 and n. 7 and *G&R* 3 [1956] 16 and n. 1; Hansen *Assembly*, 88-9 al. Special attention however is demanded when we try to imagine how they were and what sort of function did they have. One possibility is, as Hansen (loc. cit.) suggested, that γέρρα were some barriers placed in front of the entrances of Pnyx, so that the entering people could be inspected, maybe by the συλλογεῖς τοῦ δήμου (cf. Rhodes, *Boule*, 54-5), so that only enfranchised citizens would be provided with the token which ensured admission and could be exchanged at the end of the day for the ἐκκλησιαστικὸς μισθός. If this is correct then we should imagine the procedure described in our passage as follows: early in the morning the πρυτάνεις went to Pnyx and they fenced the surrounding area with a kind of movable barriers called γέρρα, leaving only a few entrances, maybe ten, one for each tribe, at which some especially authorized persons (perhaps the συλλογεῖς τοῦ δήμου), controlled the entering people. If they were entitled to enter, they provided them with the token of admission. If a vote of confirmation of a naturalization was on schedule, the πρυτάνεις, placed the boxes for this special voting, before the people started arriving. Everybody, when entering went to the boxes and voted (προσιόντι τῷ δήμῳ). Shortly before the beginning of the Assembly, after the citizens had entered and the ballot boxes were removed, foreigners provided with a special permission, entered the area of the Assembly either to inform the δῆμος on something or

to negotiate. The entrance of foreigners, if some of them were to enter, signed that all the citizens, who were willing to enter or succeeded in ensuring their admission by coming early (cf. Ar. Ec. 283-4; 300 ff) in cases of high attendance, were present, and that nobody else would be admitted. Γέρρα, the control booths at the entrance, were removed, since the control was finished and the syllogeis themselves entered the Pnyx, to attend the meeting. Nobody else would be admitted and perhaps the μίλιος kept in distance anyone who tried to approach the Pnyx after the control. Thus, the voting had to be completed before the πρυτάνεις would allow the foreigners to enter, i. e. before the assembly was about to start.

Another possibility is that the γέρρα were high fences surrounding the Pnyx, raised immediately after the entrance of the foreigners and just before the beginning of the assembly to protect the ecclesia and the discussions from outsiders. But there is a slight difficulty with this version. If the Athenians wanted to keep the discussions in the Pnyx secret, why did they have to take down the fences and put them up again? I would expect a more permanent arrangement, if for every assembly fences had to surround the Pnyx.

In conclusion, the evidence is <sup>too</sup> weak and vague <sup>to</sup> let us understand what kind of fences were the γέρρα, but still I find more likely that they are a different thing than the γέρρα mentioned in D. 18, 169.

πολ(την) D omits it; But without this word the meaning becomes too vague.

ὁ μέλλον λήψεσθαι] Hude (NTF 7 [1885-7] 298) deleted these words as *plane abundantia*. But in comparison to what follows, I think, the orator added these words for the sake of clarity.

κατ'αὐτοῦ] The decree was indicted, not the new citizen (cf. S 5: γραψάμενος ... παρανόμων τὸ ψήφισμα). Here, however, Ap. had in mind that the new citizen is indicted (cf. ὁ μέλλον λήψεσθαι and οὐκ ἄξιός ἐστι), presumably because, along with the decree the new citizen was on trial.

εἰς τὸ δικαστήριον] We have no reason to believe that a special provision was necessary in the classical period for the decree to be re-examined in front of a law-court. What the orator means is that, as it could happen with any decree, anyone who wished could indict the decree of naturalization with a γραφή παρανόμων. The prosecutor could claim that since the new citizen did not deserve it, the law which established ἀνδραγαθία as the only qualification for citizenship, was broken. In this case the normal procedure for a γραφή παρανόμων was followed and if the defendant, namely the Athenian who had proposed the decree, failed to support it efficiently, in front of the law-court, he was punished, usually with a fine, and the decree lapsed. In later times we know that a personal scrutiny in a trial introduced by the thesmothetai, became the last

necessary stage of the procedure of naturalization. However, Peitholas and Apollonides (cf. below) did not fail any personal scrutiny; the decree of their naturalization was convicted as unconstitutional in a trial for a γραφή παρανόμων and therefore cancelled.

ἐξελέγξαι] It is omitted by Y<sup>1</sup>r; Ymg gives ἐξελεγχθῆναι. ἐξελεγχθῆναι is impossible because of the case of εἰσελθόντα. The person who added it in the margin of Y wrote ἐξελεγχθῆναι in comparison to § 91 ἐξελεγχθῆναι συνέβη.

91. τῶν αἰτούντων] Namely, the Athenians who asked for this grant; not the foreigners. The procedure should be initiated by an Athenian citizen (cf. com. ἀνδραγαθ(αν)).

ἄξιον εἶναι] As Blass notices, the participle (ῶντα, here) is more usual after ἐξελέγγειν (cf. e.g. 10, 68; D.47,40; 48,45; 49,12; 54,17 al.). Rennie gives some parallels with the infinitive: § 53, 116. cf also § 12: ὡς ἀδικεῖ.

πολλοῦς καὶ] Reiske deleted it: *e varia lectione, sed ea vitiosa irrepsisse*. Schaefer does not agree: *multa et antiqua huius rei exempla commemorare Orator operosum dicit*.

Πειθόλαν] Son of the tyrant of Pherai Iason. With his brother Lycophron he joined in the defence of Thermopylai in 352 and they fought in Peloponnese alongside the Spartans (cf. D.S.

16,37,3 ff). Some time after they appeared in Athens, Peitholas and presumably Lycophron (cf. Arist. *Rh.* 1410a17 ff) were granted Athenian citizenship. Osborne (3,62-4) assumed that they obtained this grant by being presented by the anti-Macedonian faction as victims of Philip's imperialistic policy. As Arist.'s passage reports, if the accuser is not lying, bribery helped their naturalization. Some time after (ca. 348), however, the decree of their naturalization was attacked with a γραφή παρανόμων. From this trial Arist. (loc.cit.) preserves a phrase: καὶ ὁ εἰς Πειθόλαόν τις εἶπεν καὶ Λυκόφρονα ἐν τῷ δικαστηρίῳ, οὗτοι δ' ὑμᾶς οἴκοι μὲν ὄντες ἐπώλουν, ἐλθόντες δ' ὡς ὑμᾶς ἐώνηνται. As our text reports, the prosecution was successful and their naturalization cancelled.

Ἀπολλωνίδην] He was a leading member of the anti-Macedonian faction in Olynthos and he was expelled ca. 351. He sought refuge in Athens, where he was granted citizenship, cancelled however, after a trial for γραφή παρανόμων shortly after (cf. also D.9,56. 66). Osborne (3, 64) thinks *that the reasons for the (almost immediate) cancellation of the award to Apollonides are puzzling, on the ground that it is a surprising fate for a staunch anti-Macedonian so late in the 350's.* The decision of the law court may be surprising or even unfair, but how easily the Athenian law-courts could be led by the orators is well known and we know nothing about the exact political context in which this trial was held, nor what was said in it.

ἄ ... δικαστήριον] The sense is clear; the perturbed structure is owed to the oral character of this passage.

ἀφείλετο τὸ δικαστήριον] SFQ give εἰς τὸ δικαστήριον. Hude (298) suggested αὐτὸ τὸ δικαστήριον But cf. καὶ ἀφείλετο τὸ δικαστήριον above.

92. πολιτείας] Here "citizenship"

ἕτερος] F adds τις after ἐστίν . But it should be ἕτερός τις ἐστίν.

μη̄ ἐξεῖναι ... μετασχεῖν] This passage is the only source which speaks about the existence of a law which banned from priesthood and archonship the naturalized citizens, but permitted their sons born from a legitimate marriage with an Athenian woman to hold them. But there is no sign of this law anywhere else and reasonably one would ask why, if such a law existed Ap. did not produce the law itself, but he produced the decree of the naturalization of the Plataians instead. Does Ap. inaccurately record as a law a special provision concerning the naturalized Plataians only? I believe that the law existed. The narration of § 92 does not leave any doubt that it was a law for all naturalized foreigners. And we do not know any naturalized citizen who held one of these offices after 473/2. (cf. below). Ap. did not produce this law, as he did not produce any of the <sup>other</sup> laws of naturalization, I suppose because he intended to

explain the whole thing from the beginning. His purpose here was rather to try to impress the judges, with a notorious example, than to give an accurate account of these laws, and for this purpose the decree of the naturalization of the Plataians was more suitable. (cf. Osborne 4, 173 ff and general com. § 94-103).

In 473/2 Menon held the office of the ἐπώνυμος, shortly after his naturalization. This means that the law must have been made after this date. Osborne (4, 173-6) suggested that it was a part of the Periclean law of citizenship on the ground that the Plataians' case should have been modelled on the existing legislation. But Ap. in § 93 (βούλομαι ... τὸν νόμον πόρρωθεν προδιηγήσασθαι ὡς ἐτέθη καὶ πρὸς οὓς διωρίσθη ...) clearly dates this law to 427 and makes this long digression, just to clarify the conditions of the establishment of this law. If what Ap. says is correct, we need to explain how a new law with general validity was established in a decree concerning an individual group, the Plataians.

Citizenship-grants were rare by this time. This was the first mass-grant, thus the first time in which the Athenians had to think how extensive the rights of the new citizens should be. I assume, at this point they decided to keep closed from the new citizens some very traditional and respected offices. Thus they closed archonships and priesthoods to the new citizens. In the years following and until the 380's when a full legislation concerning the procedure of naturalization was made and

written down (cf. above) it was customary, after the Plataians' case, for new citizens not to undertake these offices. This customary prohibition which originated from 427 was written down in the corpus of the new laws in 380's and after this it was a valid law of the Athenian state, as Ap. says here.

Osborne (4, 175) based on Arist. *Ath.* 55,3: τίς σοὶ πατήρ καὶ πόθεν τῶν δῆμων, καὶ τίς πατρός πατήρ, καὶ τίς ἢ μήτηρ, καὶ τὸς μητρός πατήρ καὶ πόθεν τῶν δῆμων (a question asked at the dokimasia of archons) says that it was necessary for the candidate archon to be able to display three generations of Athenian citizenship. And since he finds unlikely that the naturalized citizens had an advantage in the law, he speaks about a legislation, dated to the Lycurgean period, which established more stringent provisions, in order to hold an archonship, which *had the effect of modifying the law about the eligibility of naturalized citizens for the archonships*. Poll. 8,85: εἰ Ἀθηναῖοι εἰσὶν ἐκ τριγονίας supports this view. Rhodes, however, suggests that the form of these questions, goes back much earlier (Rhodes, *Boule*, 178; cf. Osborne 4, 175, n.24), he finds that Poll.'s passage is an inaccurate summary of Arist.'s passage and he thinks that these questions are requirement of citizenship in the sense given by our text: to be sons of a citizen man and a citizen woman in legitimate marriage (*AP.* 617). As he says, proof of citizenship for a man was to be registered in a deme and for a woman to have her father registered in a deme, since

women were not listed as citizens. I think Rhodes is right: the form of Arist.'s passage does not support the explanation ἐκ τριγονίας. It is not a complete account of a three generation requirement since the name of both grandfathers is not asked. The question requires the full name of the father (name, father's name, demotikon) and the citizenship proof for the mother. Thus, I do not believe that any law was passed in the Lycurgean period, which could affect the provisions, displayed by Apollodoros here.

Why archonships and priesthoods were closed to naturalized citizens can only be explained in the frame of religion and tradition. Especially the archonship was not open to every enfranchised Athenian. Cripples were also excluded (Lys. 24,13) and probably the archons were required to be members of a phratry (Arist. *Ath.* 55,3; cf. also § 72, where the orator emphasizes the noble origin of Theogenes, when he was elected basileus). For basileus there was one more requirement: his wife should not have been married before to anyone else. (cf. § 75 and com.). See also Rhodes *AP.* 510 ff; Hignett *Constitution* 224-5. The character of these stricter requirements reveals that some of them were old and traditional and that some more were added later, to protect the authority of this tradition. The nine archons kept in the classical period religious authority and something of the glamorous past of their office.

For the term ἄν ὄσιν ἐκ γυναικὸς ... cf. com. § 104: ΨΗΦΙΣΜΑ.

93. ὡς ... ὄντας ... γεγονότας] Hude (loc. cit.) correctly considers the participles to be causal. ὡς presents the reason from the point of view of the Athenians.

94-103 ] This part of the speech consists of a long drawn digression. The orator mentions here in detail the case of the mass grant of citizenship to the Plataians running through the history of the city from 490 to 427 B.C, with the intention to contrast the Plataians' case with the unlawful naturalization of St's children. This example , however does not seem to be the one most comparable to his case, and thus it is of disputable effectiveness: The Plataians obtained a mass grant but St. and N. are individuals; thus the question is why the orator does not compare St.'s case with the case of an individual deservedly awarded citizenship. Indeed the comparison between an important historical event and the attempt of an individual to escape the attention of the Attic Law does not seem to work very well, nor it is very reasonable to compare a decree of political nature to the violation of a single Attic law.

Although the comparison in strict terms does not seem to be successful, in a speech delivered for an Athenian law court it could possibly work, for the Plataians were one of the most well known examples of a naturalization decree which was given deservedly. And this grandiose example could have a stronger impact upon the audience, because it could impress the judges.

As the orator explains in § 92, the law banning from archonships and priesthoods all the naturalized foreigners applied first to the Plataians' case; thus he intended to analyse further the conditions in which this provision was originally set. If we think that this provision is important for his case, especially concerning the offences of St. and his family narrated in § 72, then we understand why did orator find the example of the Plataians attractive for his purposes.

[further discussion about the function of the historical example in oratory can be found in the book of Michael Nouhaud *L'Utilisation de l'Histoire par les Orateurs Attiques* Paris 1982. For these paragraphs see pp. 262 and 69, 107, 153 ff, 162, 185, 263.] A complete historical commentary on the events narrated here is out of the purposes of this study. For this purpose more specialized books are available: I will mention the books of D. Kagan *The Outbreak of the Peloponnesian War* 1969 and *The Archidamian War* 1974, the books of Grundy, *The Great Persian War*, London 1901 and *Thucydides and the History of his Age* London 1911., the commentaries of Gomme and Rhodes on Thucydides, Hignett: *Xerxes' Invasion of Greece* Oxford 1963, A. R. Burn: *Persia and the Greeks* London 1962; Henderson, *The Great War between Athens and Sparta* etc. Here I will only deal with the question whether the orator used previous historians as an assistance for the events he gives in his narration or he says things which any Athenian of his time would had heard about. I will take the events in the order they appear in the text.

The contribution of the Plataians with all of their force (πανδημε( ) to the battle at Marathon is well attested and must have been well known in antiquity (cf. e.g. Hdt. 6, 108, 1; Isoc. 12, 93-4; 14, 62 Paus. 9, 4, 2, Nepos *Milt.* 5). Pausanias reports that the Athenians killed at Marathon had a separate grave (1, 32, 3). For the expedition of Datis and his way to Marathon cf. Hdt. 6, 94 ff.

The inclusion of the Plataians on a painting in the Poikile Stoa representing the battle at Marathon, reported by the orator here, is denied by Harp. 220, 3 (cf. Suid. ο 104): ὅτι διαμαρτάνει Δημοσθένης ἐν τῷ κατὰ Ν. λέγων Πλαταιέας γεγράφθαι ἐν τῇ ποικίλῃ στοᾷ· οὐδεὶς γὰρ τοῦτο εἶρηκεν, ὥσπερ οὐδὲ Κρατερός ἐν τῇ τῶν ψηφισμάτων Συναγωγῇ (FGH 342 f 10; cf. Jacoby's com. vol. 3B, p. 102-3 & n. p. 71. The truthfulness of this information, however, is confirmed by Paus. 1, 15, 3 who not only describes the painting but even his description agrees mostly with the description of the battle by Hdt. (6, 113): τελευταῖον δὲ τῆς γραφῆς εἰσὶν οἱ μαχεσάμενοι Μαραθῶνι· Βοιωτῶν δὲ οἱ Πλάταιαν ἔχοντες καὶ ὅσον ἦν Ἀττικόν ἴασιν εἰς χεῖρας τοῖς βαρβάροις· καὶ ταύτη μὲν ἐστὶν ἴσα τὰ παρ' ἀμφοτέρων εἰς τὸ ἔργον· τὸ δὲ ἔσω τῆς μάχης φεύγοντες εἰσὶν οἱ βάρβαροι καὶ εἰς τὸ ἔλος ὠθοῦντες ἀλλήλους, ἔσχαται δὲ τῆς γραφῆς νῆές τε αἱ Φοίνισσαι καὶ τῶν βαρβάρων τοὺς ἐσπίπτοντας ἐς ταύτας φονεύοντες οἱ Ἕλληνες. The orator probably had himself seen this painting and the fact that he summons as witness only his own experience could mean that he did not consult any historical sources at this part of the narration.

For the decision of Thebes and the rest of Boeotia, apart from Plataia (and Thespias), to follow the Persians at the invasion of Xerxes to Greece see also Hdt. 7, 132; Th. 3, 54 ff; DS, 11, 3, 2 (cf. Plut. 864d ff.). It is not true that half of the Plataians fought in Thermopylai and were killed (§ 95). In Thermopylai finally stayed 300 Spartans and 700 Thespians willingly and 400 Thebans forced by Leonidas (Hdt. 7, 202. 222; slightly different DS 11, 4, 7 and 11, 9, 2). The orator with the intention to emphasize the role of the Plataians in the Persian wars presents them as participating in every battle. The participation of the Plataians in the naval battle at Artemision was mentioned with admiration for their courage in entering the ships, although they had no naval experience (Hdt. 8, 1, 1; Th. 3, 54; Paus. 9, 1, 3). They also did not participate in Salamis for the reason explained by Hdt. 8, 44. Finally at the battle of Plataiai 600 Plataians had been placed at the side of the Athenian army (Hdt. 9, 28).

The unusual story of Pausanias and his *hybris* attracted the attention of several historians and biographers in antiquity, so that the story with a variety of versions in its details appears to a considerable number of Greek and Roman authors: see e.g. Hdt. 8, 3; Th. 1, 128 ff; *FGH* 104 f 4; Nepos *Paus.* *passim*, al. Pausanias is wrongly reported to be the king of Sparta; he was just the regent of Pleistarchos the son of Leonidas, who was under age before the battle at Plataia and consequently Pausanias became general of the Spartan army on his behalf (cf. Hdt. 9, 10 and Gomme, v. 1 p. 270). The part of the story

concerning the offering to Delphi after the battle of Plataia is narrated by several authors: Hdt, 9,81; Th. 1,132; Plut. *Mor.* 873c-d; Paus. 10,13,9; Aristodemos *FGH* 104 f 4.9; DS (reporting Ephoros) 11,33; Anth. Gr. 6,197 = [Simon.] fr.105 D<sup>2</sup>; Sud. π 820. The sources mostly agree about the form of the epigram, that it is as it appears in the present text. Anth. Gr. gives the Doric version and first person: Ἑλλάνων ἀρχαγὸς ἐπεὶ στρατὸν ὤλεσα Μήδων/ Πausανίας Φοῖβῳ μνάμ' ἀνέθηκα τόδε. (According to Paus. 3,8,2, it is attributed to Simonides). Meiggs and Lewis think that the first person is certainly wrong but the Doric dialect is probably correct (*GHI* 1, p.60). DS (loc.cit.) gives another form of the epigram: Ἑλλάδος εὐρυχόρου σωτήρες τόνδ' ἀνέθηκαν/ δουλοσύνας στυγεράς ῥυσάμενοι πόλιας. Several scholars were tempted to assume that this one is the replacement after the boasting epigram of Pausanias was deleted from the tripod ( see: Gomme on Th.1,132, v.1. p.434, Meiggs-Lewis, loc.cit and *SIG<sup>3</sup>* n.31; p.32). This suggestion, however, lacks support by the rest of the sources and it could be a mistake or confusion by Diodoros (or Ephoros).

Before we try to answer some questions related to this story it would be useful to see what is preserved from the whole monument. The base of it still exists in Delphi to the east of the temple of Apollon. A bronze pillar 6 m. high, formed by the bodies of three snakes entwined round each other, described by Hdt (loc. cit.), is still preserved in Constantinople, although mutilated at the upper part, transferred there by Constantine to decorate the hippodrome of the new city. On the coils of the

pillar the inscription with the names of 31 cities, participants to the Persian wars, is still legible: το[ῖ]δε τὸν / πόλεμον [ἔ] / πολ[έ]μεον / Λακεδ[ε]μόνιοι / Ἄθαναῖοι / Κορίνθιοι / Τεγεᾶ[ται] / Σικυόν[ιοι] / Αἰγινᾶται / Μεγαρῆς / Ἐπιδαύριοι / Ἐρχομένιοι / Φλειάσιοι / Τροζάνιοι / Ἐρμιονῆς / Τιρύνθιοι / Πλαταιῆς / Θεσπιῆς / Μυκανῆς / Κεῖοι / Μάλιοι / Τένιοι / Νάξιοι / Ἐρετριῆς / Χαλκιδῆς / Στυρῆς / Φαλείοι / Ποτεδαιᾶται / Λευκάδιοι / Φανακτοριῆς / Κύθνιοι / Σίφνιοι / Ἄμπρακιῶται / Λεπρεᾶται. Hdt. 9,28-30 mentions 27 participants in the battle of Plataia. The number 31, indicates that the cities which took part in the Persian war in general and not only in the battle at Plataia were included (but not the ones which participated in Mycale) cf. the present text: οἱ συμμαχεσάμενοι τὴν Πλαταιᾶσι μάχην καὶ τὴν ἐν Σαλαμῖνι ναυμαχίαν ναυμαχῆσαντες and Th. 1, 132: τὰς πόλεις ὅσαι ξυγκαθελοῦσαι τὸν βάρβαρον; see also Plut. *Them.* 20: ὡς τριάκοντα καὶ μία μόναι πόλεις εἰσὶν αἱ μετασχοῦσαι τοῦ πολέμου). The problems rising out of this list, concerning the participants to the Persian wars are examined by Meiggs and Lewis, and Dittenberg (loc.cit.). The upper part of the monument, a golden tripod, was melted down in the fourth century B.C., during the sacred war, by the Phocians (Paus. 10,13,9). The exact reconstruction of the whole monument is doubtful (see Poulsen: *Delphi* [Engl. Tr.] 202-3). Extensive bibliography on the actual monument is provided by Meiggs-Lewis (loc. cit.).

The first question is where was the epigram of Pausanias written: I think that the text (in agreement with the rest of the sources) rather means that it was written on the tripod

itself: ἐπὶ τὸν τρίποδα, and not carved on a stone or marble basis, as some scholars have suggested (cf. Gomme v.1, p. 434; Poulsen, p.201), but still the word τρίποδα could be used instead of the whole of the monument or any part of it.

The second question has to do with the preciseness of this narration. Th. 1, 132 does not mention that the Spartans were indicted by the Plataians to the Amphictyonic Council. In Th.'s version the Spartans, on their own, being irritated by the arrogance of Pausanias decided to erase his boasting epigram. But when did it happen? Aristodemos and Suda agree that it happened after the death of Pausanias. The present text implies that the epigram was erased shortly after it was written, having irritated all Greeks; Plut. *Mor.* 873 c is even more explicit to this direction: τῶν δ' Ἑλλήνων οὐκ ἀνασχομένων ἀλλ' ἐγκαλούντων, πέμψαντες εἰς Δελφοὺς Λακεδαιμόνιοι τοῦτο μὲν ἐξεκόλασαν, τὰ δ' ὀνόματα τῶν πόλεων ὥσπερ ἦν δίκαιον ἐνεχάραξαν. Charles Fornara (*Philologus* 111 [1967] 291-4), based on Thucydides' passage dates this event after the second time Pausanias returned to Sparta. Thucydides, to start with, in my opinion, clearly dates these events much before any serious suspicion against Pausanias arose and shortly after the offering was set up: εὐθὺς τότε can only mean "immediately after" and Gomme interprets: as soon as it was published (com. ad loc.); ἀνεσχόπουν also can only have a sense if it refers to events earlier than the time of this investigation by the Spartans [I prefer, as well, the suggestion of Struve τότε, instead of τοῦτ' of the mss.]. Apart from that, I do not find

it very likely that the epigram was changed many years after. For these reasons the text here seems to be precise enough, placing these events shortly after the Persian wars. But still it is impossible to give a convincing answer to the most important part of the question, which was the role of the Plataians in this story: First of all, we do not know whether the orator reflects at this point, a vernacular fourth - century tradition, as Fornara suggested, or he is based on a ~~written~~ source unknown to us. Thucydides does not seem to be his source at this point: the whole version is different and there are no striking phrasal similarities, as there are later on (see below). On the other hand, we cannot deny with certainty that the orator himself created this version, mixing events quite well known, but also involving the Plataians, with the intention to give an explanation of the enmity of the Spartans towards the Plataians. One argument, however, against this explanation could be that the orator gives quite precise and not absolutely necessary details of this event: he even gives the τίμημα of this indictment. Based on the limited force of this argument, I find more likely that the orator used some further sources for this event, unknown to us, either written or oral, and of unknown authority. The fact that Th. and the rest of the sources do not mention that the Plataians were the reason for the epigram to be erased does not automatically prove this narration false or impossible. If this story is true, it is possible that it was not very widespread because this trial against the Spartans never took place; they immediately erased the epigram after they were threatened by the Plataians with a trial (and we

can understand why the Plataians would be the ones who would protest on behalf of the rest of the Greeks; the battle had taken place in their own land); this also could explain why Th. did not know it.

The part of the narration concerning the events during the Peloponnesian war, is almost totally based on Thucydides. Apart from the similarity of the versions of the events adopted by the two authors, striking phrasal similarities are the most convincing argument for this statement; here I will give two comparative tables, one with the common points and one with the differences of the two texts and I will try to investigate further their relation:

#### A' SIMILARITIES

1. - § 98: Ἄρχιδαμος ὁ Ζευξιδάμου Λακεδαιμονίων βασιλεὺς

- Th. 2, 71: Ἄρχιδαμος ὁ Ζευξιδάμου, Λακεδαιμονίων βασιλεὺς

2. - : εἰρήνης οὔσης

- 2, 2, 3: ἔτι ἐν εἰρήνῃ τε καὶ τοῦ πολέμου μήπω φανεροῦ καθεστηκότος

The orator reflects Thucydides' emphasis on the fact that the attack was unprovoked.

3. - § 99 : ἔπραξε δὲ ταῦτ' ἐκ Θηβῶν δι' Εὐρυμάχου τοῦ Λεοντιάδου.

- 2, 2, 2: ἔπραξαν δὲ ταῦτα δι' Εὐρυμάχου τοῦ Λεοντιάδου

4. - : άνοιξάντων τās πύλας τής νυκτός Ναυκλείδου και άλλων τινών μετ'αύτου

- 2, 2, 2: άνέωξαν τās πύλας Πλαταιών άνδρες, Ναυκλείδης τε και οί μετ' αύτου.

5. - : αίσθόμενοι δ' οί Πλαταιείς ένδον όντας τούς Θηβαίους τής νυκτός και έξαπίνης [αύτων] τήν πόλιν έν είρήνη κατειλημμένην

- : 2, 3, 1: οί δε Πλαταιείς ώς ήσθοντο ένδον τε όντας τούς Θηβαίους και έξαπιναίως κατειλημμένην τήν πόλιν

6. : ό γάρ 'Ασωπός ποταμός μέγας έρρύη και διαβήναι ού ράδιον ήν.

- 2, 5, 2: ό γάρ 'Ασωπός ποταμός έρρύη μέγας και ού ραδίως διαβατός ήν.

7. - : ύδωρ γάρ γενόμενον τής νυκτός πολύ

- 2, 5, 2: τó ύδωρ τó γενόμενον τής νυκτός

8. - § 100: Έγνωσαν ότι ού πάντες πάρεισιν

- 2, 3, 2: κατενόησαν ού πολλούς τούς Θηβαίους όντας

9. - είς μάχην έλθόντες κρατούσι

- 2, 3, 2: έπιθέμενοι ραδίως κρατήσιν

10. - άκούσαντες δε οί 'Αθηναίοι τά γεγονότα δια τάχους έβοήθουν είς τās Πλαταιάς

- 2, 6, 4: και μετα ταύτα οί 'Αθηναίοι στρατεύσαντες είς Πλάταιαν σίτον τε έσήγαγον και φρουρούς έγκατέλειπον

11.-§ 101: τοὺς ἄνδρας οὓς ἔλαβον ζῶντας ἀπέκτειναν.

-2, 5, 5: τοὺς ἄνδρας ἀποκτενεῖν οὓς ἔχουσι ζῶντας

12.-ἀπροφασίστως: This also reflects Thucydides' point of view, that the invasion of the Spartans to Plataia with no excuse, was the starting event of the war.

13.-§ 102: περικαθεζόμενοι αὐτῶν τὸ τεῖχος

-2, 71, 1: καὶ καθίσας τὸν στρατὸν

14.-ἐπηγγέλοντο...πράξειαν: cf. Th. 2, 72 ff.

15.-διπλῶ τείχει περιτειχίσαντες

-Th. 3, 21, 1: εἶχε μὲν δύο περιβόλους (τὸ τεῖχος); (full description in Th. loc. cit)

16.- πολλὰς καὶ παντοδαπὰς πεῖρας προσάγοντες: cf. Th. 2, 75 ff.

17.-§ 103: ἐπεὶ δ' ἀπειρήκεσαν οἱ Πλαταιεῖς καὶ ἐνδεεῖς ἦσαν ἀπάντων καὶ ἠποροῦντο τῆς σωτηρίας.

-3, 20, 1: ἐπειδὴ τῷ τε σίτῳ ἐπιλείποντι ἐπιέζοντο καὶ ἀπὸ τῶν Ἀθηνῶν οὐδεμία ἐλπίς ἦν τιμωρίας οὐδὲ ἄλλη σωτηρία ἐφαίνετο

18.-οἱ δὲ τηρήσαντες νύκτα καὶ ὕδωρ καὶ ἄνεμον πολὺν, ἐξεληθόντες

-3, 22, 1: οἱ δ'...τηρήσαντες νύκτα χειμέριον ὕδατι καὶ ἀνεμῷ καὶ ἄμ' ἀσέληνον ἐξῆσαν

19.-ὕπερβάντες τὸ περιτειχισμα τῶν πολεμίων

-3, 20, 1: ὑπερβῆναι τὰ τεῖχη τῶν πολεμίων

20.-λαθόντες...ἀπροσδοκῆτως: cf. Th. 3, 20 ff.

The two texts, however, have remarkable differences, in the details of the story:

1.-§ 99: Εὐρύμαχου τοῦ Λεοντιάδου βοιωταρχοῦντος

-Th. 2, 2: Eurymachos was just the agent; the names of the two βοιωταρχοῦντες are clearly mentioned: Πυθάγγελος ὁ Φυλείδου and Διέμπορος ὁ Ὀνητορίδου. The rather vague wording of Hdt. 7, 233, mentioning this event: ἀρξάμενοι ἀπὸ τοῦ στρατηγοῦ Λεοντιάδεω, τοῦ τὸν παῖδα Εὐρύμαχον χρόνῳ μετέπειτα ἐφόνευσαν Πλαταιέες **στρατηγήσαντα** ἀνδρῶν Θηβαίων τετρακοσίων καὶ σχόντα τὸ ἄστυ τὸ Πλαταιέων, does not give any further assistance [The orator does not mention the exact number of the Thebans who entered the Plataia; but as it seems, the sources disagree; Hdt. speaks about 400 men; Th. speaks about 300 men. It is not easy to decide, since we do not know precisely the structure of the Theban λόχος at this period, 400 were the Thebans at Thermopylae; see further; Robert J. Buck *A History of Boeotia*, *passim*].

I think that the orator was not diligent enough to check which was exactly the name of the βοιωταρχῶν. He remembered the name of Eurymachos, his important role and the fact that the βοιωταρχῶν (-οῦντες), are mentioned in Th.; so he was confused with the particular roles of everyone in the story. [Another possibility would be βοιωταρχοῦντος to be interpolated by a grammarian who remembered the

passage of Th, but not accurately, because it is the last word of the sentence and it does not really work in this position for the sense]

2. -§ 99: πεισθέντων χρήμασιν

-2, 2, 2: βουλόμενοι ἰδίᾳς ἕνεκα δυνάμεως ἄνδρας τε τῶν πολιτῶν τοὺς σφίσι ὑπεναντίους διαφθεῖραι καὶ τὴν πόλιν θηβαίοις προσποιῆσαι

Th.'s explanation is beyond any doubt.

3. προσεβοήθουν καὶ αὐτοὶ καὶ συνετάττοντο: cf Th. 2, 3 ff.

The events here are shortened drastically by the orator, so that several inaccuracies are found in his text, concerning the attack on the Thebans by the Plataians.

4. ἐπειδὴ ἡμέρα ἐγένετο: cf. 2, 3, 1: οὐ γὰρ ἑώρων ἐν τῇ νυκτὶ and 2, 3, 2: πρᾶσσοντες δὲ πως ταῦτα κατενόησαν...

5. - § 100: φθάνουσιν ἀπολέσαντες αὐτοὺς πρὶν τοὺς ἄλλους προσβοηθῆσαι

- 2, 5, 3: ὕστερον παρεγένοντο, ἤδη τῶν ἀνδρῶν τῶν μὲν διεφθαρμένων, τῶν δὲ ζώντων ἐχομένων

The orator again seems to shorten drastically the events.

6. -§ 100: ὡς ὑμᾶς πέμπουσιν εὐθύς ἄγγελον τὴν τε πράξιν φράσσοντα καὶ τὴν μάχην δηλώσοντα ὅτι νικῶσι, καὶ βοηθεῖν ἀξιοῦντες

-Th. 2, 6 speaks about three messengers: The first left Plataia after the Theban invasion; the second left after the men were

arrested but still alive. The third left to announce to Athens that the Theban captives were already dead.

7.- Οἱ Θηβαῖοι ὡς ἑώρων τοὺς Ἀθηναίους βεβοηθηκότας τοῖς Πλαταιεῦσιν, ἀνεχώρησαν ἐπ' οἴκου.

- 2,5,5-7: In fact the Plataians and the Thebans came into agreement that leaving immediately Plataia was the only way for the captive Thebans to return alive.

8. § 101: Πελοποννησίοις...στρατεύειν: The allied armies who participated in the siege of Plataia are not named by Th., as they are by the orator. As far as I know there is no place which we could identify as the origin of the list of allies here. This can mean that either the orator knew or made out by himself that these were the allies of Sparta at this expedition, or that he must have found this list somewhere: I imagine so detailed descriptions of the Peloponnesian war would be not circulating in Athens almost a century later. So, I would not find very likely that the orator had obtained this list from the oral tradition of his time. It is difficult, however, to decide whether he made up this list or he used a source unknown to us. All the cities mentioned there are located to the north and west of Boeotia, so the orator may have thought that they took part in the siege of Plataia and he made up the list on his own. On the other hand, however, why should we need to suppose that the whole thing is made up and that the orator did not obtain this information from another source unknown to us? And then the whole narration is somehow too exact to be just made up! The

only thing which tells against the possibility of another source is that the orator does not seem to use any other source in this whole passage, apart from Th. Why then he was not content with the otherwise detailed narration of Th. at this point as well but wanted to run to other sources for a part of the story evidently unnecessary? The reasons mentioned make me doubt then about the reliability of this source for the structure of the Peloponnesian army in 429 B.C. (cf. also the list of the allies of Sparta in Th. 2, 9)

9. - § 103; διακληρωσάμενοι πρὸς σφᾶς αὐτοῦς

- Th. 3, 20, 2: ἔπειτα οἱ μὲν ἡμίσεις ἀπώκνησάν πως τὸν κίνδυνον μέγαν ἡγησάμενοι, ἐς δὲ ἄνδρας διακοσίους καὶ εἴκοσι μάλιστα ἐνέμειναν τῇ ἐξόδῳ ἐθελονταὶ τρόπῳ τοιῷδε:

10. - λαθόντες τὴν στρατιάν, ἀποσφάξαντες τοὺς φύλακας

- Th. 3, 22-3, gives a slightly different and more accurate record.

11. - ἀλούσης τῆς πόλεως κατὰ κράτος

- 3, 52, 2: βίᾳ μὲν [the Spartan authority] οὐκ ἐβούλετο εἰλεῖν and 3, 52, 3: οἱ δὲ [The Plataians] (ἦσαν γὰρ ἤδη ἐν τῷ ἀσθνεσιτάτῳ) παρέδοσαν τὴν πόλιν

12. - ἀπεσφάγησαν... Ἀθήναζε

-2, 78, 3-4: Πλαταιεῖς δὲ παῖδας μὲν καὶ γυναῖκας καὶ τοὺς πρεσβυτάτους τε καὶ τὸ πλῆθος τὸ ἀχρεῖον τῶν ἀνθρώπων πρότερον ἐκκεκομισμένοι ἦσαν εἰς τὰς Ἀθήνας, αὐτοὶ δὲ ἐπολιορκοῦντο

ἐγκαταλελειμένοι τετρακόσιοι, Ἀθηναίων δὲ ὀγδοήκοντα, γυναῖκες δὲ δέκα καὶ ἑκατὸν σιτοποιοί. τοσοῦτοι ἦσαν οἱ ξύμπαντες ὅτε εἰς τὴν πολιορκίαν καθίσταντο, καὶ ἄλλος οὐδεὶς ἦν ἐν τῷ τείχει οὔτε δούλος οὔτ' ἐλεύθερος and 3,52 ff, where Th. gives in details the trial of the Plataians and in which conditions finally over 200 Plataians were slaughtered, 25 Athenians, who were in the city as well and all women (the σιτοποιοί) were drawn to slavery. [Maybe the most of these women were slaves at the first place].

### CONCLUSIONS

1. We can say that the only proven source of the orator, for the history of Plataia in the years of the Peloponnesian War, was Thucydides. The loose relation of the narration about the epigram of Pausanias in Delphi, with Th, 1,132 as to the phrasal similarities (when the phrasal similarities between the speech and the events of the second and the third book are striking) and as to the content, may be a sign that the orator consulted only the second and the third book, for the events of the Peloponnesian war, but not the first. No other source, known to us, was provably used.

For the history of the city before the Peloponnesian war it is not easy to say which were the sources of the orator. The remarkable difference from Hdt. does not make very likely the assumption that the orator used his history as the main source for his narration. Whether he used a combination of different sources and his own experience it is impossible to decide; I would be, however, tempted to suggest that he used only his own

knowledge of these events, based on the fact that he attests the presence of the Plataians in Marathon only through a painting which he himself had seen, and that the whole part before the Peloponnesian war (with the exception of the story of the epigram of Pausanias in Delphi, for which he probably used a book) is a rather rough draft of the history of the city, not really needing a book of history as its source.

2. If the assumption that the only source of the orator for the events of the Peloponnesian war was Th. is correct, then how could we explain the differences between the two authors? Considering the nature of these differences (with the exception of the list of the Spartan allies at the besiege of Plataia, which is analyzed above) they are a) a shortened version of Th.'s narration, b) inaccuracies of lesser importance, which we could attribute to the decreased interest of the orator to check pedantically, c) a combination of the previous two, and d) things which he adapted to his own purposes. So, I could say that the orator read the text of Th. and then he gave a fairly accurate reproduction of his narration, sometimes keeping in his mind and reproducing even the wording of Th., but some other times not keeping in the narration strictly in the way Th. gave it.

3. How trustworthy the information given in this part of the speech is, I think must be examined in every case individually concerning the part before the Peloponnesian war, since for this part we do not know the origin of the information, so that we

cannot accept or reject automatically the value of it. For the part concerning the Peloponnesian war, since I support a direct dependence on Th., I would not use it as a source.

4. Although hypothetically, I would suggest that Th.'s manuscript was used only at the stage of the publication of the speech. It seems to be a too long drawn part to be delivered at the law-court. So what he could have done is to give an outline for the Peloponnesian war as rough as he gave for the rest of this digression, and much shorter than the one which appears here, in his actual speech, and then when he came to the stage of the publication he took a ms of Th. and he revised the part concerning the events after 431 B.C.

§ 94. Πλαταιῆς] The rest of the mss, except S<sup>1</sup>, give Πλαταιεῖς, adopted by Gernet; the other editors adopt the reading of S<sup>1</sup>, which seems to me as well to be preferable, being *lectio difficilior* (For the form and the epigraphic support cf. § 36, com. Μεγαρεῖς) ; I think, we can explain its existence if we assume that the orator repeated here a form which he found in Th. (or perhaps another fifth century source he used here ?) It is possible that the orator had used this form only in some places and not in others, without having any specific reason. I would restore the form Πλαταιῆς only here encouraged by the evidence of the oldest ms, acknowledging the possibility that this form was written down by the the orator in other places as well, but later it was replaced by the grammarians.

μόνοι] Two letters are erased in S before μόνοι. Blass suggested that οἰ was written. This is possible, but not very likely, οἰ μόνοι would demand a structure like this: Πλαταιεῖς ἦσαν οἰ μόνοι, οἵτινες...

ὕφ' ἑαυτῶ] F gives ἐφ'. But see *LSJ* ποιέω A, IV, 1

ἀπέβη] Jurinus suggested either ἀνέβη or ἐπέβη. ἀπέβη, meaning "disembarked" is correct. Datis arrived in Attica from the sea (Hdt. 6, 102).

καὶ νῦν] καὶ is omitted by FD. But it is necessary, in the sense "in addition" cf. also Denniston, 293

<ἦ> ἐν τῇ ποικίλῃ] ἦ was added by Jurinus. If ἦ did not exist, we would expect a τις after γραφή. The *Painted Stoa* was built shortly before 460, at the north side of the Agora. The present painting, like all the pictures in this stoa, was not painted on the wall, but on a board fixed on the wall. Pausanias (1, 15) describes the paintings of the Stoa in sequence. They stood in an open colonnade facing the Agora, so that they could be seen from all over. Like most public buildings it functioned as a religious centre, as a meeting point, for philosophic discussions, or even as a law-court. The present painting is attributed to Panainos, or Micon, or Polygnotos. For further details see the discussion in p. 352-3, of this study; Wycherley, *The Stones of Athens*, 38-41; *Agora*, 3, 31. 45; *AJA* 76 [1972] 353-78.

ὡς ἕκαστος...ἔχοντες] The wording of this passage is obscure and somehow unnatural: The previous editors of the text kept the reading of the mss taking the phrase οἱ...ἔχοντες as in apposition to ἕκαστος. But ἕκαστος, taking into account that the apposition comes even after the main sentence, is too far away. Then how can we understand the whole of the sentence?

It would be useful to clarify the meaning of τὰς κυνάς τὰς Βοιωτίας. [For the word κυνή, in comparison with other words meaning "helmet" see *RE* 11,2,2482 ff. and esp. 2516 ff.] Taylor first collected the most important of the passages, about the Boeotian type helmet: *X. Eq.* 12, 3: κράνος γε μὴν κράτιστον εἶναι νομίζομεν τὸ βοιωτουργές· τοῦτο γὰρ αὐτὸ στεγάζει μάλιστα πάντα τὰ ὑπερέχοντα τοῦ θώρακος, ὄραν δὲ οὐ κωλύει. *Ael. VH.* 3, 24: Ξενοφῶντι ἔμελε...καὶ ὄπλα καλὰ εχειν...λέγεται οὖν ὁ τοῦ Γρύλλου τὴν μὲν ἀσπίδα Ἀργολικὴν ἔχειν, τὸν δὲ θώρακα Ἀττικόν, τὸ δὲ κράνος βοιωτουργές, τὸν δὲ ἵππον Ἐπιδαύριον. *Poll.* 1, 149: εὐδόκιμα δὲ...κράνος βοιωτουργές... *Thphr. HP* 3, 9, 6 describing a plant he says: ὥστε τὴν ὅλην μορφήν εἶναι θολοειδῆ καὶ παρόμοιον μάλιστα ταῖς Βοιωταῖς κυνάς. *Phot. Lex.* s. v. κυνάς: τὰς περικεφαλαίας ἧτοι τὰς ἀπὸ κυνείων δερμάτων γιγνομένης ἢ ἀπὸ Κυνός τινος κατασκευάσαντος πρώτου· μέμνηται *Δημ.* ἐν τῷ κατὰ Νεαίρας οὕτως· οἱ τὰς...ἔχοντες. = *Sud.* κ 2697; *so also* <sup>δοῦν τὸ</sup> <sub>^</sub> πρώτου *Anecd. Bek.* 274, 9. *Cobet (Mn.* 8 [1859] 26-7), supports that this information is merely created by the lexicographer. *Hsch.* κ 4582: κυνή Βοιωτία: ἐγένοντο γὰρ διάφοροι. ἀλλ' αἱ ἐν Βοιωτία καλαὶ κυναί, ἃς οἱ

κατ' ἀγρὸν ἐφόρου; shorter Phot. s.v. κυνή Βοιωτ(α). [Read κυναί,  
for κύνες in Naber's edition]

What we can infer from the lexicographers is that this type of helmet was probably quite widespread, having the reputation of a good quality helmet. Boeotian type helmets were found even in the river Tigris. The two helmets a picture of which Snodgrass gives are from this area (*Arms and Armour of the Greeks*, 1967 pl. 58; see also pl. 59-60 and pp. 94-5). The success of this type of helmet, as Snodgrass (p. 125) points out, was that it was light and more suitable to the type of armour adopted in the postclassical period. Xenophon (loc. cit.) recommends it for the cavalry, because of the good visibility it permits, leaving the face uncovered. An early type of this helmet was identified by the orator in the painting of the Stoa Poikile (Snodgrass, p. 94-5). [See also Kromayer-Veith, *Heerwesen und Kriegführung der Griechen und Römer*, p. 66]

The orator seems to explain in this clause what he had seen on the painting. If we compare with the description we have by Pausanias 1, 15, 3 (see above gen. com. on these par. s) the orator, with the phrase ὡς...εἶχεν, probably implies the different positions the Greek troops had in the battle, the swifter individuals being closer to the action. In the painting he could see Athenians and Plataians at the two edges rather static, fighting against the Persians who retreat and they finally run in the middle, and Greeks chasing the Persians at the end and even jumping on the Persian ships to capture them. προσβοηθῶν would not imply the Persians and makes me think that he only

meant the Greek troops by ἕκαστος. This placement of the troops in the painting was supposed to reflect the actual evolution of the battle. So, by εὐθὺς... γέγραπται, he probably means that in the painting the way the different groups of the Greek troops are depicted and fighting reflects the place they had in the actual battle and their contribution to the victory.

But still the phrase οἱ... ἔχοντες, has a very loose relation to the context. In my opinion, something is probably missing before οἱ: I imagine, the main verb on which εχοντες depended. A hypothetical restoration would be: <τούτων δὲ Πλαταιῆς εἰσιν> οἱ τὰς κυνᾶς ... [A similar suggestion was made by Wolf. He misread, however, κυνᾶς as κόνας "canes", and he did not indicate where is the *lacuna*.]

95. ἡμετέρας] This is an emendation of Reiske for ἡμετέρας of the mss: *non enim decet novitium civem Atheniensem tam arroganter ad iudices loqui*. cf. also: § 93: ὑμᾶς ἀγαθῶν κωλύουσι, 95: συνεναυμάχουν ὑμῖν, 96: μεθ' ὑμῶν, ὑβρίζειν ἐνεχειρεῖ ὑμᾶς, al. In § 95 ἐμβάντες εἰς τὰς ἡμετέρας τριήρεις, ἡμετέρας, this time given by S, is again preferable for the same reason.

ἐν Σαλαμῖνι] ἐν is omitted by r. But ἐν Σαλαμῖνι comes in contrast with ἐπ' Ἀρτεμισίῳ. The orator had in mind: "In the strait next to Salamis" but "off the cape of Artemision".

96. μόνοι] F<sup>1</sup>Q<sup>1</sup> give μόνον. Blass deleted it in comparison to § 72, where μόνον is unsuitably added by a graphema of the same

mss, after ἀγαπᾶν. But the cases are not similar: From the paleographic point of view, here μόνοι appears even on FQ, after the correction, being also given by the rest of the mss, when there μόνον, omitted by the rest of the mss and the original text of FQ, appeared only in FγρQγρ. Apart from that, there μόνον was evidently out of place (cf. com. ad loc.), when here it is important for the sense: The orator wants to emphasize that the Spartans took the leadership of the Greek army exclusively at the Persian wars, by land and sea, when the Athenians withdrew any claim of leadership, for the sake of unity of the Greek forces: see Hdt.8,2-3.

καὶ ἡ πόλις] Reiske deleted καὶ, with the intention of removing the anacolouthon and balancing the sentence by making two causal and two main sentences and putting a full-stop after συμμάχων. This modification, however, does not seem to me to be convincing: the existence of an anacolouthon here, I think, is proven by the tautology φουσηθείς...βασιλεύς after the summarizing ἐφ' οἷς, with which the orator returns to what he initially intended to say. Thus I would keep the transmitted text: καὶ here has the sense "and yet" (Denniston 292-3).

97. αὐτοῦ τοῦ ἔργου] FcorrQ' give αὐτῶν. τοῦ Πανσανίου must be understood.

98. ἐκκόλλαντες τὰ ἐλεγεία] This is the reading of FγρQγρ. The rest of the mss give ἐκκόψαντες. ἐκκόπτειν "to cut off" appears in CIG 3028 (ἡ γράμμα ἐκκόψαι); SIG 38; Arist. Rh. 1400a33 al.

ἐκκολάπτειν "to erase" appears in D.57,64: τὸ ψήφισμ' ἐκκολάψαντες...; *CIG* 4424 d (Add.).al. It also appears in all the other authors who speak about this event: Th.1,132: οἱ Λακεδαιμόνιοι ἐξεκόλασαν εὐθύς; Plu. *Mor.* 873c: τοῦτο μὲν ἐξεκόλασαν; Sud. π820: τὸ ἐπίγραμμα ἐξεκόλασαν. These parallels make ἐκκολάψαντες more likely here.

ἐπιγράψαι] *FgrOgr* give ἐγγράψαι; but cf. § 97 ἐπέγραψεν.

<ῆ> παρὰ Λακεδαιμονίων] ῆ was added by Blass. cf. § 63 & com. τὴν Νεαίρας ταυτησί

καὶ ἐκ τοῦ γένους] Reiske suggested <τῶν> ἐκ τοῦ γένους. Nobody after Bekker agreed with him: καὶ here connects the two prepositional clauses and has the sense "and especially".

χρήσονται] *rD* give χρήσονται. Herwerden (358), based on this reading and in comparison to § 109 οὐκ εἶχον ὃ τι χρήσαιντο αὐτῆ, suggested χρήσαιντο here, too. But the deliberative construction is more appropriate.

99. [αὐτῶν] τὴν πόλιν] Rennie deleted it in comparison to Th.2,3,1: ἑξαπιναιῶς κατειλημμένην τὴν πόλιν. Dyroff proposed τὴν αὐτῶν π. Indeed, the word order of the transmitted text is difficult: it should be either τὴν αὐτῶν πόλιν or τὴν πόλιν αὐτῶν (cf. Kühner-Gerth 1,568 ff. for examples). I think, however, that αὐτῶν is necessary in the text, in the sense "their own city", so I would prefer the solution of Dyroff.

καὶ αὐτοῖ] Reiske thought that καὶ αἱ γυναῖκες is missing here (in comp. to Th. 2, 4, 2). Schaefer does not agree and interprets: *ipsi quoque armati accurrerunt*. αὐτοὶ et Θηβαῖοι inter se opponuntur.

ἐγένετο] ἐγίνετο of FQ, as Rennie suggested, could be right, because in comparison to Th. 2, 3, 4 the attack against the invaders took place in τὸ περίορθρον, when there was some light but not enough to make the Thebans feel safer. It is not necessary though to accept this reading because I think what the orator had in mind was that the Plataians realized that the Thebans were not many, in the daylight, and if so, the orator did not remember well the exact version of Th., so he gives inaccurate information: in this sense ἐγένετο is probably correct.

100. ἀπολέσαντες] Hude (298), suggested ἀπελάσαντες in comparison to Th.'s version (2, 5-6) that the Thebans were captured alive at the first place and they were executed later on. ἀπελάσαντες "expelled" is not suitable; ἀπωθήσαντες "turned off", would be more suitable. But still I believe that the transmitted text is correct: the orator does not go into the details of the story. He only summarizes the result: the Thebans were finally executed.

101. τὰ δύο μέρη] Reiske, commenting this clause, pointed out the habit of the Greeks to omit denominator of a fraction when it was only one more than the numerator. For example τὰ τρία

μέρη = 3/4, τὰ ἑπτὰ μέρη = 7/8 etc. Thus here: two thirds. (cf. Kühner-Blass 1, 631)

[The information provided for the Spartan allies, comes from *RE* and *OCD* s.v.]

**Λοκροῖς]** Locris in the classical period appeared divided by Doris and Phocis into two pieces East (Opuntian) and West (Ozolian) Lokris. Opuntian Lokris extended from Thermopylai to Larymna, across Euboeia on the main land. Ozolian Lokris occupied the valley of Amphissa from Naupactos to near Crisa.

**Φωκεῖσι]** Phocis included the valley of Crisa and the middle Cephissus valey, at the South spurs of Parnassos.

**Μαλιεῖσι]** Their country occupied the area north of Thermopylai, at the side of Spercheios to the sea.

**Οἰταίοις]** At the spurs of Oite south of Spercheios towards Atalante.

**Αἰνιδῶσι]** Along Orthrys at the upper side of Spercheios.

102. ἀφ(στασθαι [δὲ] τῆς] Rennie deleted δὲ, mentioning a parallel structure in Hdt. 4, 200. The meaning of the passage, if we delete δὲ, is: "if the Plataians wished to hand over their city to the Spartans, but keep their own land, they should revolt from their alliance with the Athenians." But this is not what the author says: The Plataians did not wish to hand over their city! The transmitted text is correct, giving the four infinitives connected in apposition as the four terms the Spartans set to the Plataians, in order a war to be avoided: 1. to hand over their own town; 2. but, to keep their land; 3. to keep their goods; 4. and to revolt from the Athenian alliance.

As Schaefer pointed out the four infinitives depend on ἐπηγγέλονται not on βούλονται [The information given by the orator is imprecise; see above]

δύο] This is a suggestion of Palmer, in comparison to Th., namely from 429 to 427 B.C. Although I would prefer it, I cannot exclude the possibility that δέχα of the mss is correct, in the sense that the mistake is not of the copyists but of the orator himself (Lortzing, *De Oratationibus quas Dem. pro Apol. scripsisse fertur* p. 49, defended δέχα)

103. αἰσθόμενοι] This is a suggestion of Blass for αἰσθανόμενοι of SYrD or προαισθόμενοι of FQ, which has the advantage of compromising between the two readings. But still προαισθόμενοι makes very good sense, and since it is given by two mss., I think it should be kept.

104. προεμένοις] Cobet (*Novae Lectiones* 642) suggested προειμένοις, in comparison to ἐνδεδειγμένοις following and Hude (NTF 7 [1885-7] 299) was of the same opinion. ἐνδεδειγμένοις is correctly perfect tense: the Plataians have always been in favour of Athens. προεμένοις also is correctly aorist: on this occasion the Plataians abandoned everything.

ἐκ γὰρ... νόμος] How the law can be clarified through this decree cf. § 92 and com.

ἔσται] Hude's (p. 299) suggestion ἔστω for ἔστω of the mss is probably correct. The future is preferable in comparison to

γνώσεσθ' following and by the fact that before the recitation of a document, a future, indicating that this document will clear up the case, is quite common: cf: § 89 com. βελτίους ἔσεσθε.

**ΨΗΦΙΣΜΑ]** The present text is the only extensive source, for this decree: Thucydides' narration stops when the 212 (Th. 3, 24, 2) men from Plataia escaped with safety to Athens (3, 24, 3). The truthfulness of the information of the Plataians' naturalization, however, is certain: it is confirmed by Lys. 23 passim; Isoc. 12, 94; 14, 51; DS 15, 46, 6; Th. 4, 67, 1; Ar. *Ran.* 963-4; Hellanicos (*FGH* 4 f. 171) al. (The last two sources can only be explained on the basis that the Plataians were granted Athenian citizenship) The main terms of this grant are extensively discussed by previous scholars or elsewhere in this commentary. So here I will only summarize the main points of this discussion:

1. Is the text of the decree quoted by Apollodoros here authentic, or is it a reconstruction by a grammarian based on the context? It is generally agreed that it is genuine: see: Staeker *De Litis* 53-55; Drerup *Urkunden* 364; Diller *Race Mixture* 108 ff.; Osborne *Naturalization* 2, 11 ff. al. The main argument in support of the authenticity of this document is that there are some points included in the decree which Apollodoros omits in his narration. He does not mention that a) The Plataians have full political rights, b) they would be distributed in demes and tribes by the state; they would not choose a deme, as usually happened, c) they could not practise any traditional worship connected with a particular genos, d) this decree was valid from

the day it was introduced. e) The name of the person who proposed this decree is not mentioned in the text of the orator as well.

A number of statements also, not included in the document but given by the orator in his text, support the authenticity of the text in the sense that if the document was forged it would be more likely that the forger would not omit these points: a) The orator says that the Plataians had to undergo a personal scrutiny (κατ' ἄνδρα) in front of a law-court in which it would be questioned if they were Plataians and if they were of the pro-Athenian party of Plataia. b) The names of the naturalized Plataians would be inscribed on a stone stele and put on Acropolis. c) The vague ὅστερον in the text reflects the precise wording of the document ἐπειδὴν δὲ νεμηθῶσι. d) No person could become Athenian, claiming that he was a Plataian, after this scrutiny had been finished.

Another point already discussed by previous scholars is the form of this decree: Osborne (2, 13) points out that what we have here can only be a partial quotation of the whole decree: *the prescript and the inscription formula are lacking and a number of clauses have fallen out from the middle of the decree.* The condition of ἀνδραγαθία also, is absent, although we should expect to see it in the original (cf. e.g. IG I<sup>3</sup> 102, 6 ff.; 113, 5 ff.) [As far as I know the first who clearly stated that we have a partial quotation of the whole document here was Reiske commenting § 105; δοκιμασθῆναι.] This becomes clear not only from the fact that several provisions of the

decree are only given by Apollodoros' text, but from several phrasal irregularities, as well:

1) ἐντίμους of the mss is wrong: the emendation of Cobet (*Novae Lectiones* 751) is unanimously accepted by scholars.

2) καὶ before μετεῖναι is omitted by S'. Nothing seems to have fallen out before μετεῖναι, thus καὶ is necessary, connecting εἶναι and μετεῖναι.

3) Riehemann thought that ἀλλὰ μὴ τῶν ἱερῶσυνῶν, τοῖς δ' ἐκ τούτων, must be added before πλήν. This suggestion, however, would seriously change the meaning: it would mean that the sons of naturalized Plataians, even if they were not born of an Athenian woman, had the right to become priests, with the exception of those priesthoods and rituals, which traditionally were inherited within some *gene*; but these priesthoods were not accessible to any other Athenian citizen also. [ For further information on this kind of priesthoods the book of Toepffer *Attische Genealogie* Berlin 1889, is still important. See also Burkert *Religion* 96 and D.D. Feaver; *Historical Development in the Priesthoods of Athens* YCS 15 [1957] 121-58 ]

4) μηδὲ τῶν ἐννέα: Osborne thought that something has fallen out before, because of the existence of a single μηδὲ (cf. § 43, com. οὔτε) and he completed the passage: < ἀλλὰ μὴ τῶν ἱερῶσυνῶν >, μηδὲ... His suggestion however, creates an unacceptable repetition. I also think that the transmitted reading is difficult but perhaps we can keep it, without suggesting that something is missing in between, if we assume

that τούτων μὴ μετεῖναι αὐτοῖς (as Reiske suggested) is to be understood before μηδὲ, although it was not written down in the original document, and that λαχεῖν was omitted after ἀρχόντων, by the orator, although it existed in the original document: in this sense then, μηδὲ corresponds to πλὴν εἴ τις. (cf. § 106)

[Reiske thought that λαχεῖν or γενέσθαι was omitted by the copyists, but Schaefer had objections, he said that it was not necessary for the infinitive to have been written down, since the language of the decrees is sometimes unpolished, I think, however, in this structure the infinitive was needed to be written in the original document]

5) τοῖς δ' ἐκ τούτων finishes the sentence abruptly and this wording could not be the original one as it stands in the text: Reiske indicated a *lacuna* after τούτων [commenting on § 105 δοκιμασθῆναι: *post verba τοῖς δ' ἐκ τούτων aliqua desiderari*, Blass did not notice that the *lacuna* was indicated first by Reiske], and Osborne (1,28) printed the text completed in comparison to § 106: ...τούτων <ἂν ᾧσιν ἐξ ἀστῆς γυναικὸς καὶ ἐγγυητῆς κατὰ τὸν νόμον>. κατανεῖμαι... Gernet suggested τοῖς τ' ἐκ τούτων or τοῖς ἐκ τούτων, but he printed Rennie's version. Rennie just follows the mss. On the basis that something was omitted here not by a copyist but by the orator himself at the stage of the publication of the speech, I would also repeat the version of the mss without further additions.

In general I find it highly probable that the document given here is a partial quotation of the whole document which was available to Apollodoros, and for that reason, when editing the text, I think we should change the text of the mss only at the points where the irregularity seems to originate from a mistake of the copyists, and we should not make any change at the points

where the orator deliberately omitted a part of the original document, at the stage of the publication of the speech, because it was already known to his readers from the context, or because it was not strictly related to the point he was trying to make (like the provision of the enrollment of the Plataians into demes). Thus, I would agree that this text is probably authentic. For further details see the elaborate discussion by Osborne, 2,11 ff

The decree for the Plataians was a measure taken under necessity, as previous studies have emphasized: see: Osborne 2,15 ff; Diller 109 ff. The majority of the Plataians did not intend to be absorbed in another city; simply, under the circumstances of the war they had nowhere else to go. Athens offered them the chance, if they wished, to find in her land a new country and this is the way I would explain the limitation of the right to priesthoods and archonships only to their offspring from citizens. Those of them who wished to establish themselves permanently in the new country, had the chance to marry an Athenian and be completely integrated. Those who wished to stay in their own community could enjoy full rights in Athens, until a solution to their problem was found. This solution was found in 421, when the Athenians conquered Skione and offered the land to the Plataians. Eventually the Plataians returned to Plataia in 386 by the peace of Antalcidas but Thebes destroyed the city again in 373. Plataia was restored again by Philip in 338.

The limitation of priesthoods and archonships imposed by this decree was overstated by some scholars, who spoke about the "Plataian Citizenship Rights", thinking that the Plataians did not obtain full rights in the Athenian society. This provision, however, only intended to ban from these offices any person who was not a citizen by birth. It banned the Plataians themselves and their sons from a non Athenian wife, because these sons would be citizens κατά ψήφισμα, as well (cf. Carey, CQ 41 [1991] 84 ff.). Their sons from an Athenian wife could hold these offices because they would be citizens by birth.

Two more arguments were put forward in support of the view that the Plataians obtained a special kind of citizenship rights: a) the fact that the Plataians continued to act as a separate group during the years they lived in Athens. b) The foreigners and slaves who were granted with citizenship after the battle at Arginousai, are assimilated by some sources with the Plataians. It is not necessary to repeat here the whole debate, thoroughly given by Osborne 3, 33 ff. I would only agree with Osborne that this suggestion is unbased. The present text, being the capital source for the whole issue, clearly states that the Plataians were granted full rights by any point of view with a limitation of some very traditional institutions, reserved only for citizens by birth.

The date of this decree is set by Th. 3, 24, 3 in 427: this year the 212 men from Plataia escaped to Athens. It cannot be placed, however, much later, because the decree itself reveals that it passed after the massacre of the rest of the Plataians who

remained in the city, which took place sometime later this year. The provision that nobody else in the future could become Athenian by the force of this decree, can only mean that no more Plataians were left behind. The Plataians who survived the disaster were all in Athens and they would be distributed in tribes by the *archon*. Single citizens who obtained naturalization could choose their own deme. In the mass grants, however, it became a practice for the *archon* to distribute them because it was practically more convenient and in this way the concentration of a foreign minority in a certain area would be avoided. See: Osborne 2, 15 and *IG ii<sup>2</sup>* 1, 33-4; 10, 5-6.

The person who proposed this decree (*PA*, 7628) is probably the same person as the well known politician Ἴπποκράτης Ἀρίφρονος Χολαργεύς (*PA*, 7640). Davies (*APF*, 456), places his birth before 456. He was a general in 426/5 and in 424/3. This year he invaded with the Athenian army in Boeotia, but he was killed in the battle of Delion. See. Th. 4, 66-7; 77; 89 ff.; Kirchner loc. cit.; Davies, loc. cit.

105. ὀράτε] δὴ is added after ὀράτε by FQY. In comparison to §§ 55, 85 δὴ here could be correct.

λαμβάνοντας] Reiske suggested <τοῦς> λαμβάνοντας. Schaefer does not agree; he translates *cum donum acciperent*.

εἰ τῶν] FQ give εἰς τῶν φίλων τῶν. Blass compares with 24, 202: τῶν γὰρ ὑμετέρων ἔχθρῶν ἐνὶ. I would prefer εἰ because two

separate short questions I think are more suitable for a scrutiny procedure than a long complicated one.

**ἀναγραφῆναι**] D gives ἀναγράφειν, which seems to be an effort to modify the infinitive with στήσαι following.

**στήσαι**] Richards (CR 19 [1905] 201) suggested στήναι. The orator here seems to change the wording of the original with a wording less formal and more suitable to his time. The original words were probably: ἀναγράψαι δὲ τὸν γραμματέα τῆς βουλῆς τοὺς δοκιμασθέντας... καὶ καταθεῖναι εἰς πόλιν. In this sense the active is probably correct, reflecting καταθεῖναι of the original (cf. IG ii<sup>2</sup> 1,39; 19,10 al.). The modification in D also indicates that even the copyist of D had στήσαι in front of him.

106. [**καὶ**] **μὴ ἐξεῖναι**] καὶ was deleted by Sauppe. Indeed ἐξεῖναι depends on διωρίσατο, so καὶ is interpolated.

107. **ὁμολογουμένως**] FQ give ὁμολογουμένους. The editors unanimately adopt ὁμολογουμένως. ὁμολογουμένως is attested by all mss, if the information obtained from the apparatus criticus of the printed editions is accurate, in And. 1,140; Th. 6,90; Pl.La. 186b; Mx. 243c; Hyp.Lyc. 6 al. In three cases, at least, the mss. unanimately give the structure with the participle: And. 4,17: ἦτιον ἐδέδεκει τῶν ὁμολογουμένων δούλων (ὁμολογουμένως, Reiske); Isoc. 4,33: τοὺς ὑπὸ πάντων ὁμολογουμένους καὶ πρώτους γενομένους... Isae. 6,49: οὕτως ὁμολογουμένη οὖσα δούλη (ὁμολογουμένως, Dobree). In many cases, however, the mss are

divided: D. 14, 11 τοὺς ὁμολογουμένως ἐχθροὺς (ὁμολογουμένως, Butcher; -μένους, SY; ὁμολογοῦντας, the rest of the mss); 20, 39: τοὺς ὁμολογουμένως ἀξιους χάριτος (-μένους Fcorr.); 26, 22 τοῖς ὁμολογουμένως ἐξεληλεγμένοις οὔσι (ὁμολογουμένοις καὶ F); 29, 14: τὸν ὁμολογουμένως δοῦλον (-μενον ὡς FD); 29, 39: τοὺς ὁμολογουμένως δούλους (-μένους FD); Isae. 4, 14: τοὺς ὁμολογουμένως παραγενομένους (-μένους Acorr. A<sup>1</sup>); Pl. Symp. 186b: ὁμολογουμένως ἀγαθοὶ γεγόνασι (Dover *Symposium*, ad loc. mentions the alternative ὁμολογοῦμεν ὡς). The editors often mention, as well, Lys. 4, 7: νῦν δὲ ὁμολογοῦμεθα πρὸς παῖδας καὶ αὐλητρίδας... ἔλθόντες, which seems to throw some light on the origin of the structure with participle.

Wyse (*Isaeus* 537), takes the structure with the participle to be rare and of doubtful authenticity. He adopts the suggestion of Dobree in Isae. 6, 49 and he is fond of Reiske's suggestion in And. 4, 17. The evidence presented, however, indicates that probably both ways were possible and the decision in every single occasion perhaps not self-evident. In the present case I would adopt ὁμολογουμένως, because the participle seems particularly clumsy when combined with another participle (γεγενημένους).

τῶν Ἑλλήνων] S omits τῶν. But see §§ 94, 96, 98 al.

διωρ(σασθε] Reiske suggested διωρ(σασθε for διωρ(σασθαι of S or διωρ(σασθαι of the rest of the mss., saying that two indicatives (or two infinitives) should be expected in this period. This suggestion was accepted by most of the later editors. Schaefer

tried to explain the transmitted reading: the orator started this period with an infinitive; then *fervore dicendi abreptus* he passed into indicative. He also thinks that this conversion makes the speech more alive and in support of his argument he compares a similar structure in § 117. the main difference, however, between the two passages is in the sense. The question οὔχουν δεινὸν is rhetorical; so the infinitive depending on it must indicate an action which the orator thinks was awful indeed! For example: δοῦναι δίκην in § 117 can be naturally the subject of δεινὸν: the orator indeed thinks that the punishment of the ἱεροφάντης, was a terrible thing to happen. Here, however, we cannot understand the text like this: διω(ο)ρ(σασθαί of the mss. cannot be the subject of δεινὸν (έστιν); the orator praises the arrangement about the Plataians, he just finds terrible the possibility Neaira not to be punished. So, we need to put strong punctuation after δεινὸν and to adopt Reiske's suggestion.

περιφανῶς] FQ add καὶ ἀκριβῶς, after περιφανῶς. This reading is unanimously considered by the scholars to be an interpolation (cf. e.g. the comments of Taylor, Reiske and Schaefer).

πολίτιν ἐποίησατο] We do not know any case of naturalization of a woman. A woman could be ἀστὴ or πολίτις only by birth, or she could obtain a status equivalent to that of an Athenian, in the sense that she could give birth to citizens, if her husband was naturalized (cf. Carey, CQ 41 [1991] 84-9). I believe what Ap. says here is rather a rhetorical statement.

Εὐρυδάμαντος τοῦ Μηδείου] The scholiast of Homer attributes to Callimachos (588, Pfeiffer), a story about a Thessalian custom, if somebody killed a beloved person the murderer should be pulled dead round the grave of his victim. Thus, it is said, Achilles just practised this custom, when he pulled the corpse of Hector round the grave of Patroclos. It is also said that this custom was initiated by Simos from Thessaly, who pulled round the grave of his brother Thrassylos his murderer Eurydamas, son of Medeios. The scholiast seems to have mixed up an event of the fourth century B.C. with the myth, perhaps on the ground that it was a well known story after the 4th cent. that Simos has pulled Eurydamas round the grave of his brother like Achilles. Simos was the most powerful man in Thessaly for part of the 4th century (cf. com. § 24). Eurydamas as the present text confirms was one of his friends and probably an offspring of the Thessalian nobility, as well, who later on perhaps fell into disgrace; the conditions of his death are unknown, we can conclude, however, that a conflict with Simos' family (the Aleuads) cost him his life. See also *RE* 6, 1, 1322, Tümpel, and 15, 1, 340, Scherling; Sch. Hom. Ω, 15, Erbse al.

The mss. disagree about the spelling: ScorrQYr give Μηδείου; S' gives Μηδίου; FDYmg give Μειδίου. All modern editors adopt the form Μηδείου [Pfeiffer, however, and *RE*, loc.cit. keep the form Μειδίου]. I prefer the form Μηδείου, as well: the name Μήδειος, is well attested by inscriptions in Athens (see Kirchner *PA* 10094 to 10100), and probably it was an existing name outside Athens, as

well. [ The form Μειδίας is known to us only from Athenian sources also]. Μήδειος is a *lectio difficilior*, if we think that the form Μειδίας was very well known to the grammarians and the rhetoricians from the famous speech (D. 21). [ A similar case in D, 43, 7 is indicative of how the mistake was made: D gives for Μηδεία Ἄγνουσι of the rest of the mss. Μειδία. Dobree, without knowing it, suggested Μειδία, as well. The copyist of D and Dobree had the same thought; to replace the unfamiliar Μηδεία with the familiar Μειδία].

FQD unnecessarily add υἱοῖ after Μηδείου.

Σωτάδου τοῦ Κρητός] He was a runner/well known, throughout Greece. Pausanias (6, 18, 6) says about him: Σωτάδης δὲ ἐπὶ δολίχου νίκαις Ὀλυμπιάδι μὲν ἐνάτη καὶ ἐνενηχοστῇ (384 B.C.) Κρής, καθάπερ γε καὶ ἦν, ἀνερρήθη. τῇ ἐπὶ ταύτῃ δὲ λαβὼν χρήματα παρὰ τοῦ Ἐφεσίων κοινοῦ Ἐφεσίοις ἐσεποίησεν αὐτὸν· καὶ αὐτὸν ἐπὶ τῷ ἔργῳ φυγῇ ζημιουῖσιν οἱ Κρήτες. The years he seems to have enjoyed the company of Neaira travelling with her and spending, as it seems, high sums of money for her sake, were probably the years between 384 and 380, after the bribery by the Ephesians: she was at this time young and flourishing and still under Nicarete.

ἀκολουθοῦσαν] Practically ἀκολουθοῦσαν is superfluous, after the construction with μετὰ. The structure, however, μετὰ τινος ἀκολουθεῖν seems to be fairly common: cf. Lys. 2, 27; Pl. La. 187e.

τὴν δὴ ὑφ' ἑτέροις] Fcorr. Qcorr. give δέ, which Schaefer prefers. I think δὴ is more suitable making the text more vivid, in this context, where the style is rather colloquial.

εἰς ἀπάσας ἡδονὰς] Far more common is the structure with the definite article, before the noun (cf. e.g. §74; D. 19, 266; 42, 9; 43, 18; 56, 25 al.). The omission of the article, however, when the sense is "any sort of ..." is not unparalleled: cf. e.g. D. 9, 22: ἀλλ' ὁρῶ συγκεχωρηκότας ἅπαντας ἀνθρώπους αὐτῷ, al.

ὑπὸ πάντων... εἰργασμένην] The whole passage seems to be messy; the two main problems are: 1) The phrase γῆς περίοδον εἰργασμένην sounds odd because a) single accusative after ἐργάζεσθαι indicating the place is unusual, and b) γῆς περίοδον usually means "a map of the earth" but here the demanded sense is "all over the world". 2) A famous passage, which was supposed to be originally a phrase of this speech, omitted in our mss, but found in Hermogenes, is inserted by all modern editors in the text after πάντων.

1) According to Kühner-Gerth 1, 312-3, simple accusative indicating the place is only constructed with verbs of motion; ἐργάζεσθαι, as far as I know, cannot be considered as one of them, even if it is a kind of work demanding frequent trips. Iurinus, first, pointed out the difficulty, which he explained: *Poni autem videtur absolute γῆς περίοδον, quasi dicat κατὰ πᾶσαν τῆς γῆς περίοδον.* This explanation does not sound very convincing. Taylor understood *orbem terrarum... pervagari.* But ἐργάζεσθαι does not mean *pervagari.* On the other hand, as

Iurinus said, ὑπὸ πάντων is an unnecessary supplement of περιφανῶς ἐγνωσμένην: περιφανῶς can indicate very clearly that everybody knew about N. For that reason I suspect that ὑπὸ πάντων γῆς is a corruption for ὑπὸ πάσης γῆς (for this sense of ὑπό: "inscribed", cf. *LSJ* ὑπό, C, I, 2, esp. b). For parallels see: Ar. Nu. 206: αὕτη δέ σοι γῆς περίοδος πάσης. Hdt. 5, 49: ἐν τῷ γῆς ἀπάσης περίοδος ἐνετέμνητο, al. If this assumption is correct, this phrase should be understood as a sarcastic and metaphorical statement: N. has worked in any place indicated in the map of the whole earth.

2) Hermogenes (p. 325, Rabe [Id. 2, 3]) says: τοιοῦτόν ἐστι καὶ τὸ ἐν τῷ κατὰ Ν. ὀβελισμένον ὑπὸ τινῶν τὸ "ἀπὸ τριῶν τρυπημάτων τὴν ἐργασίαν πεποιῆσθαι" λέγειν· λίαν γὰρ εὐτελὲς ἐστὶ, καὶ εἰ σφοδρὸν εἶναι δοκεῖ. Similar information is also given by GregCor. 7, 2; p. 1160 Walz.

A passage of Tzetzes (H. 6, 35 ff=DH Fr. 23 Usener-Radermacher) also, mentions this phrase:

πάλιν σεμνοστομώτερον φησὶν κατὰ Νεαίρας  
ἀπὸ τριῶν ἐργάζεσθαι ὁπῶν τὴν ἐργασίαν  
καὶ ἄλλων αἰσχροτήτων δὲ βορβόρους ἀποπτύει  
οὕσπερ ὁ Διονύσιος ἀρώματα νομίζει.  
τὴν δ' ἐργασίαν ἣν φησὶ τριῶν ἐκ τρυπημάτων,  
ἐκ τοῦ Λυσίου ῥήτορος σεμνῶς γλαφυροτάτως  
ῥηθεῖσαν ἔκλεψεν, αἰσchrῶς ἐπαναπτύξας ταύτην  
ἢ Ἀντιόπη μόνον γάρ, εἶπε Λυσίας, πόρνη  
ἦτοι ἢ ἄμφω ταῖς ὁπαῖς τῇ μίξει κεχρημένη.  
παναίσχρως δ' οὗτος ἠὔξησεν ἀναφανδὰ ληρήσας,  
τὸ ἔργον Νεαίραν τελεῖν τριῶν ἐκ τρυπημάτων

Tzetzes' passage is questionable in some senses: Dionysios (Dem. 57) says: εἰ μέντοι τινές ἐν τοῖς ψευδεπιγράφοις εἰσὶ λόγοις ἀηδεῖς καὶ φορτικαὶ καὶ ἄγροικοὶ κατασκευαί, ὡς...καὶ ἐν τῷ κατὰ Νεαίρας...ἐν ἑτέρῳ δηλοῦται μοι πραγματεία τὰ περὶ Δημοσθένη. Unfortunately there is no sign of such a work and the problem in this case is which work of Dionysios is Tzetzes mocking? And did Dionysios speak about Neaira and Antiope indeed? Sauppe (Lysias frg. 284) says that there is no other sign of a speech speaking about a prostitute named Antiope. [If Tzetzes' information about Antiope is right then the passage could come from the speech of Lysias πρὸς Λαΐδα (frg. 155 Sauppe), because of the subject of this speech]. Wilamowitz (*Kleine Schriften* 4, 98-9), examines the question of Tzetzes' sources and he suggests that Tzetzes consulted a Rhetoric-book quite hostile to Dionysios. A detailed account of these questions is out of the intentions of this study; still I think, however, that Tzetzes can be used as a source to confirm the truth of Hermogenes' information.

Further support for it comes from a passage of Procopios (Hist. arc. 9, 18) in which is said about Theodora the empress : καὶ τῶν τριῶν τρυπημάτων ἐργαζομένη. Kassel (RhM 116 [1973] 104-5) characterizes this passage *Ein wichtiges Zeugnis zur Textgeschichte des Demosthenes* and he believes that it has a Demosthenic origin.

Another reason to support that the phrase is authentic is the parallel expression in § 114: τῇ μετὰ πολλῶν καὶ ἀσελγῶν τρόπων πολλάκις πολλοῖς ἐκάστης ἡμέρας συγγεγεννημένη. This statement is essentially as offensive as the omitted passage and the meaning not very different, the wording, however, is more neutral.

I find this evidence enough to support with high probability that the phrase ἐκ τῶν τριῶν τρυπημάτων originally existed in the text; from antiquity, however, several grammarians found the phrase offensive and they obelized it with the result that in the later centuries the phrase was omitted in several mss.

The sexual meaning here, is I think clear enough. The word τρύπημα in this sense appears also in Ar.Ec.624: ὅπως ἄν/μηδεμιάς ᾗ τρύπημα κενόν, 906 (τρῆμα); *PCG* Eup.fr.192 al. for the verb τρυπᾶν cf. Theocr.5,42 & Gow *Com.*2,102; Pfeiffer *Cal.* fr.689. Herwerden (*Mnemosyne* 14 [1886] 165) and Kassel (*RhM* 116 [1973] 104-5), have also explained this meaning of the word τρύπημα.

If the assumption that the phrase belonged originally to the text is correct another problem is where we should insert it. There are several points in the text in which the phrase would suit well: §§ 20, 22, 26, 41, 41, al. Taylor places the phrase εἰργάσατο τρισὶ τρυπάναις μισθαρμοῦσα, in § 20 or § 26. Reiske had objections: *Sed nescio, quae illi mens esset spurcam et flagitiosam sententiam in locum sanum ingerenti.* We have no further indication about the exact position which the phrase held in the original text. I also find more probable that it belonged to § 108. The vivid tone of it fits rather in the argumentation of the speech than the narration; the parallel phrase (§ 114) comes also from the argumentation. The acuteness of the attack against Neaira in the context would come in harmony with the meaning of this sentence. But since no further indication exists about its real position, I would also keep it in the *Apparatus Criticus*.

109. ἡσεβήκεν] Hude (298) suggested ἡσεβήκει, in comparison to the preceding ἦν and the following τὰ μὲν ἀδικήματα ταύτης ἦν. But the perfect alludes that the crimes of Neaira, although committed in the past still stand without punishment.

ταύτης ἦν] Only *r* gives the right reading. The potential indicative of the rest of the mss. ἦν ἄν, cannot be right: what is said here is believed by the orator to be the reality.

110. εἰσιῶν] FQ give ἀπιῶν. εἰσιῶν is preferable: it creates a more dramatic effect to say that the men would be questioned immediately after their entrance at home (εἰσιῶν) than to say that they would be questioned after leaving the court (ἀπιῶν).

εἶρησεται] Gernet, for no stated reason, suggested εἶρησεται; but cf. *LSJ* s. v. ἔρομαι.

ὑπὲρ τῆς πόλεως] SYrD give περὶ. But cf. SS 73: ἔθυε τὰ ἄρρητα ἱερὰ ὑπὲρ τῆς πόλεως (twice); 92: τὰ ἱερὰ θύεσθαι ὑπὲρ τῆς πόλεως; 106 al.

ὡς μνημονικῶς] FQ add εἶ before μνημονικῶς, which is preferred by Schaefer and adopted by Blass and Murray. I would follow the rest of the mss here: this reading seems to be an interpolation in the sense that it does not add anything important to the meaning; on the contrary, it stands in a weak position being connected with two precise and essential words. See also Aesch.

2, 48: ὅτι καὶ μνημονικῶς καὶ δυνατῶς ὁ Φίλιππος εἶποι. X. Cyr. 5, 3, 46; Pl. Plt. 257b; al.

A similar image where the judges speak about what happened in the law-court to their wives and children appears in Lyc. Leoc. 141: ἐχρῆν... εἰ καὶ περὶ οὐδενὸς ἄλλου νόμιμόν ἐστι παίδας καὶ γυναίκας παρακαθισαμένους ἑαυτοῖς τοὺς δικαστὰς δικάζειν... τιμωρησάμενοι γοῦν Λεωκράτη καὶ ἀποκτείναντες αὐτὸν, ἀπαγγεῖλατε τοῖς ὑμετέροις αὐτῶν παισὶν καὶ γυναιξίν, ὅτι ὑποχείριον λαβόντες τὸν προδότην αὐτῶν ἐτιμωρήσασθε. In both cases, however, the orator presents the women and children having a specific interest in the case tried there and so the fact that they question the public issues is given a good excuse. On the contrary, in Ar. Lys. 510 ff. the man becomes rather angry with the curiosity of his wife, to find out what happened in the Agora: he says: τί δὲ σοὶ ταῦτ'; ... οὐ σιγήσει; In this case the woman had intervened in an area which was exclusively a man's duty: politics and the agenda of the ecclesia were not to be discussed with anyone else. Ischomachos' wife also was educated ὑπὸ πολλῆς ἐπιμελείας, ὅπως... ἐλάχιστα ἔροιτο (X. Oec. 7, 5). The public issues were certainly not one of the women's interests, but, I suppose, men sometimes in the frame of a discussion with the members of their family could mention some of them, especially some of the cases heard in a law-court, as an example of behaviour to be followed or avoided.

111. σωφρονέσται] Reiske suggested σωφρονέστεραι. Blass in defence of the mss compares with D. 19, 80.

άνόητοι] Dyr gives άναίσχυντοι. This sounds more like an interpretation of άνόητοι by some scholar rather than an alternative reading, in the right direction, however: άνόητοι here stands as a euphemism for these women who are of doubtful moral stability and in contrast to σωφρονέσται.

έπιδε(κνυτε] Goodwin (*Syntax*, p. 11) says: *in animated language the present often refers to the future, to express likelihood, intention or danger.* cf. Th. 6, 91; Lys. 12, 14 al.

112. γενομένου] This is an emendation of Wolf for γενόμενον of the mss. Funkhaenel [according to Blass] and Schaefer supported γενόμενον in comparison to Aesch. 3, 230: πρὸς τί ἄν ἀποβλέψαντες ἀποψηφίσαισθε τὴν γραφήν; But, as Blass points out, *aliud est γραφήν ἀποψηφίσασθαι atque ἀγῶνα.* We need to adopt the emendation of Wolf.

παντελῶς] Schaefer deleted παντελῶς in comparison to Hsch. s. v. κομιδῆ: παντελῶς and Ammon. p. 83 κομιδῆ: σημαίνει τὸ παντελῶς, taking it to be an *interpretamentum*. Blass agreed and pointed out § 113: παντελῶς ἤδη. The position of παντελῶς as well makes it seem difficult. I would agree with Schaefer.

γενέσθαι] Blass based on the reading of FQ γίνεσθαι adopted γίγνεσθαι, in the sense that the daughters of the poor Athenians will not be given to a marriage for a long period of time. Both readings are possible.

113. ἀποδῶ] Reiske suggested ἐπιδῶ: "*addat dotis loco*". *Pater enim filiam ἐκδούς, elocans in matrimonium, ἐπιδίδωσιν, "addit ei dotem"* (cf. Harrison *Law* 1,49). Schaefer and the modern editors are fond of ἐπιδῶ. But ἀποδῶ, here means "to give the form", in the sense a creator gives a form to his creation. Nature appears to be the creator of the girls, and gives them their form: see Arist. *Po.* 1454<sup>b</sup>10: καὶ γὰρ ἐκεῖνοι (οἱ ἀγαθοὶ εἰκονογράφοι), ἀποδιδόντες τὴν ἰδίαν μορφήν ὁμοίους ποιοῦντες καλλίους γράφουσι. cf Arist. 759<sup>b</sup>3 al.

πολιτῶν] Reiske's suggestion for πολιτίδων of the mss is unanimously accepted. cf. § 112.

τοῦ ἐξεῖναι] Reiske found these words superfluous (he meant that ἐξεῖναι αὐταῖς is the unnecessary supplement). Schaefer quotes Pseudo-Phalaris Ep. 87: οὐ γὰρ οἶα τέ ἐστι δύνασθαι. ἐξεῖναι is supported here, by ὡς ἂν βούλωνται.

ὡς ἂν βούλωνται] D gives οἷς. Either of them is possible: οἷς is supported by § 112 ἐξουσία ἔσται ταῖς πόρναϊς συνοικεῖν οἷς ἂν βούλωνται. ὡς is supported by § 114 συγγεγεννημένη, ὡς ἕκαστος

έβούλετο, but it is also based on the authority of the most of the mss.

114. The argumentation of the following paragraphs (until § 117) is based on a number of contrasts. The main pairs of opposites are: Decent Women - Courtesans; ὁ λέγων - οἱ συνεροῦντες; οἱ νόμοι - Νέαιρα; ἡ κατηγορία - ἡ ἀπολογία; τί κελεύουσι - τί παραβεβήκασι; ἡ τῶν νόμων κατηγορία - ὁ ἔλεγχος τῶν εἰρημένων. The purposes of the orator when using this number of contrasts are a) to make the present case to look more serious; b) to exclude any sense of pity for N., by trying to make the judges see the case in an aspect of inflexible objectivity.

ἐν τῷ ἴσῳ] Schaefer suggested τῶν ἴσων, in relation to μετεχούσας. But cf. *LSJ* s. v. ἴσος IV, 2. See also above ἐξ ἴσου.

μετεχούσας] Hude (298) suggested that τῶν ἐν τῇ πόλει should be added after φαίνεσθαι. Gernet adds it after μετεχούσας. This phrase was said a few times above (§§ 111, 113) and no ambiguity could be created: the omission is of the orator himself.

τῇ μετὰ...τρόπων] Reiske interprets: *non mores hic loci, sed σχήματα πορνικά, posituras et gesticulationes, turpes atque infames meretricum significet.*

115. τὸν λέγοντα εἶναι Ἐπολλόδωρον] Herwerden (*Mn.* 3 [1875] 358) deleted εἶναι Ἐπολλόδωρον. The phrase seems to me as well

to be very difficult. I think, we need to adopt the solution of Herwerden because: 1) εἶναι Ἀπολλόδορον could be easily an interpretation, by a grammarian, on ἐμὲ τὸν λέγοντα. 2) τὸν λέγοντα is contrasted to τοὺς ἀπολογησομένους καὶ συνεροῦντας (cf. com. above) and the contrast works only if the name is omitted.

**παραβεβήκασιν]** Jurinus added οὗτοι after παραβεβήκασιν: *Excidit puto τὸ οὗτοι propter similitudinem sequentis ὅταν*. Gernet adopted his proposal in the text. Jurinus thought that the sudden change of subject is unacceptable and he tried to improve the text. Schaefer in defence of the mss brings the parallel of § 118 οὐ γυναῖκα εἶναι αὐτοῦ, ἀλλὰ παλλακὴν ἔχειν ἔνδον. See also § 33. Jurinus' suggestion is unnecessary.

**Νέαιρα οὖσα ταῦτα διαπέπραται]** Dover (*Lysias*, 35) tries to explain this passage by suggesting that Ap. here means either that N. looks like an old harmless woman and thus she could be seen with sympathy by the judges or that she is still an attractive courtesan, so that she could seduce them and obtain a favourable decision. I would not entirely agree with either of these interpretations. Reiske commented: *Neerae ἢ ὄψις videtur fuisse πορνικῆ*. I also think that N. appeared in the law-court dressed like a courtesan and that she must have been still quite glamorous. I do not believe, however, that the orator emphasizes the enormity of the contradiction between Neaira's character and her pretension, as Dover explains. The orator asks

the jury to take into account two things: 1) Is she Neaira herself? (meaning: is she the same person ~~as~~ the one about whom a so detailed prosecution was presented? ). 2) Did she commit the alleged crimes? In both cases Ap. thinks that the response can only be positive. And in both cases the only argument they should accept in defence of Neaira is that either she is not the same person as the one about whom Ap. spoke or that she provably did not commit these crimes. But as far as she is the same person and she has committed these crimes, then the judges should only keep in mind what the laws say. The orator tries to exclude any emotional plea, presented by the defendant, by trying to set the whole trial in the level of the contrast of the laws with Neaira (cf. τοὺς νόμους καὶ Νέαιραν). And in the frame of this contrast, I find this interpretation more suitable.

116. Ἄρχ(αν τὸν ἱεροφάντην] In 379 Archias tried to give information to the oligarchs of Thebes about the danger of being overthrown by Pelopidas, through a person also called Archias. So, Parke (*Festivals*, 99) suggested that the real motive for his conviction was political. The procedure was probably a γραφή ἀσεβείας (cf. ἐξελεγχθέντα ἐν τῷ δικαστηρίῳ ἀσεβεῖν); which penalty was imposed is not known (cf. MacDowell *Law* 197). I find probable, however, that γενόμενον indicates that Archias had to quit the office after his conviction. (See: Kirchner *PA* 1, 165 and *RE* 2, 462, Judeich.)

The Hierophantes was the chief priest of the Eleusinean Mysteries, appointed by the sacred genos of Eumolpidai, who claimed to be descended from the kings of Eleusis. He had to be present at the proclamation for those who wanted to be initiated in the Poikile Stoa. Then he played the leading role at the initiation in Eleusis and he alone had the right to enter the inner sanctuary (ἀνάκτορον) and reveal the "holy things" to the believers. Apparently, in the present case he exceeded the limits of his duties, by making this sacrifice for Sinope, when the priestess of Demeter was the one who should have done it. Why Archias broke the sacred rules and did not let the priestess do it, can only be explained with the second *irregularity* of this sacrifice: the Haloa was not a day for a bloody sacrifice. Parke (p.100) says that Sinope wanted to do this sacrifice *with a view to notoriety*, and this may be right if we think that the Haloa, with many courtesans being there (and possibly their lovers), was a good opportunity for advertising themselves. The priestess would not accept to make this outlaw sacrifice and then Sinope persuaded Archias to do it. For the hierophant see also Parke, 57.60.68.71; Mylonas, *Eleusis*, p.229 ff; Deubner *Feste* 71 ff; Toepffer *Genealogie* 26 ff and especially 44 ff.

ἀσεβείν θύονται] Athen. 13,594a gives ὡς ἀσεβοῦντα καὶ θύοντα. Based on this Blass suggested ἀσεβοῦντα καὶ θύοντα, *ne cum infinitivo constructum esset ἐξελέγγειν*. The structure with the participle is indeed far more common: cf. e.g. §§ 10. 68; D.18,251; 24,74; 58,54 al. The structure with the infinitive,

however, is not unparalleled: cf § 53: ἐξελεγχθεῖς ξένης  
θυγατέρα ἡγγυηκέναι (cf. com. ad loc.) and D. 29,2: οὐχὶ τῷ τὰ  
ψευδῆ τιν' αὐτοῦ καταμεμαρτυρηκέναι ἐξελέγξειν πιστεύων.

καὶ ἄλλα] Reiske suggested καὶ γὰρ ἄλλα. γὰρ is unnecessary.

Σινώπη τῇ ἐταίρῳ] She was a notorious courtesan, who flourished  
in Athens in the second quarter of the fourth century. As  
Theopompus (*FGH* 115 f.253 = Athen. 595a) reports, she was  
originally from Thrace; then she worked for some time in Aegina  
and she moved to Athens where she worked, as it seems, for a  
long time. She is mentioned by Demosthenes in 22,56-8, when  
Androtion tried to extract from her a tax which she did not owe.  
Demosthenes mentions her as πόρνη; she was, however, an  
expensive and wealthy courtesan, as a fragment of Amphis (f. 23,  
Kock) attests:

τυφλὸς ὁ πλοῦτος εἶναι μοι δοκεῖ  
ὅστις γε παρὰ ταύτην μὲν οὐκ εἰσέρχεται,  
παρὰ δὲ Σινώπη καὶ Λύκx καὶ Ναννίφ  
ἐτέραις τε τοιαύταισι παγίσι τοῦ βίου  
ἔνδον κάθητ' ἀπόπληκτος οὐδ' ἐξέρχεται.

She was well known in Athens so that she was mentioned in a  
number of comedies: Athenaios gives us a list of them:  
μνημονεύει αὐτῆς δ' Ἀντιφάνης ἐν Ἀρκάδι (f.41, Kock) καὶ ἐν  
Κηπουρῷ (f.116) ἐν Ἀχεστρίῳ (f.22) ἐν Ἀλιευομένῃ (f.26) ἐν  
Νεοττίδι (f.170) καὶ Ἄλεξις ἐν Κλεοβουλίνῃ (f.104, Kock) καὶ  
Καλλικράτης ἐν Μοσχίωνι. Her reputation, however, was rather

bad: As we have seen, Amphis calls her "a trap". Several passages attest that she was still working at an older age, when all her grace was gone:

1. Anaxilas f. 22 Kock: οἱ Σινώπη δ' αὖ συνόντες οὐχ ὕδρα σύνεισι νῦν; / γραῦς μὲν αὖτη

2. Athen. 13,586a: καὶ περὶ μὲν τῆς Σινώπης Ἡρόδικος ὁ Κρατήτειος (cf. Steinhausen *Κωμφοῦμενοι* Diss. Bonn 1910, p.46) ἐν ζ' Κωμφοῦμένων φησὶν ὅτι "Αβυδος ἐλέγετο διὰ τὸ γραῦς εἶναι (cf. Suid. σ 465) [The joke may be based on the fact that Sinope was a flourishing city, when Abydos a city at a state of decay, cf. LOEB ed. p.159, n.7]. Even a proverbial expression, derived from her name is attested: Apostol. Paroemiogr. 15,50 (p.641 Leutsch): Σινωπίζεις: ἀντὶ τοῦ ἀκολασταίνεις· τοῦτο γὰρ πεποιήται παρὰ τὴν ἑταίραν Σινώπην· ἐκωμφοῦντο γὰρ ἐπὶ τὸ κατασχημονῆσαι, καθάπερ Ἄλεξις (f.104 Kock). We cannot be sure, whether the verb originated in a joke of Alexis, or Alexis simply used an already existing expression. Suid. σ 465, however, speaks about a proverbial expression; the same source gives another word: Σινωπίτης, without any further information about it.

**Ἄλφοις]** A festival taking place in the second half of Poseideon (December) [more specific: Phot. α 1080 Ποσειδέωνος πέμτη φθίνοντος, ἑορτὴ ἐστὶν Ἄττικῇ]. Our sources speak about a ceremony at Eleusis, in the temple of Demeter; it was a festival in honour of Demeter (it was also connected to Dionysos, perhaps later). The origin of the name of the festival has puzzled the ancient scholars (cf. e.g. Philochoros *FGH* 328 f.83; Sch. Luc. 279,24, Rabe; Harp. s. v.;

Anecd. Bek. 208, 22; Hsch. α 3351; Sud. α 1372; EM 73, 56; Phot. α 1081; Eust. *Sch. Il.* 9, 530) and no convincing interpretation has yet been given: the obvious connection with the word ἄλως creates problems when we try to explain the relation of a festival celebrated at this time of the year with the threshing-floor. Several sources connect also the festival with the ἀπαρχαί. This connection also seems to be difficult, since I cannot imagine the ἀπαρχαί of what crops were offered as late as the end of December.. The capital source about the festival is Sch. Luc. 279, 24 Rabe:... ἐν ταύτῃ καὶ τελετὴ τις εἰσάγεται γυναικῶν ἐν Ἐλευσίνι καὶ παιδιαὶ λέγονται πολλαὶ καὶ σκώμματα. μόναι δὲ γυναῖκες εἰσπορευόμεναι ἐπ' ἀδείας ἔχουσιν ἃ βούλωνται λέγειν· καὶ δὴ τὰ αἴσχιστα ἀλλήλαις λέγουσι τότε, αἱ δὲ ἰέρειαι λάθρα προσιοῦσαι ταῖς γυναῖξι κλεψιγαμίας πρὸς τὸ οὖς ὡς ἀπόρρητόν τι συμβουλεύουσιν. ἀναφωνοῦσι δὲ πρὸς ἀλλήλας πᾶσαι αἱ γυναῖκες αἰσχρὰ καὶ ἄσεμνα, βαστάζουσαι εἶδη σωμάτων ἀπρεπῆ ἀνδρεία τε καὶ γυναικεία. ἐνταῦθα οἶνός τε πολὺς πρόκειται καὶ τράπεζαι πάντων τῶν τῆς γῆς καὶ θαλάσσης γέμουσαι βρωμάτων πλὴν τῶν ἀπειρημένων ἐν τῷ μυστικῷ... παρατιθέασι δὲ τὰς τραπέζας οἱ ἄρχοντες καὶ ἔνδον καταλιπόντες ταῖς γυναῖξιν αὐτοῖ χωρίζονται ἔξω διαμένοντες ἐπιδεικνύμενοι τοῖς ἐπιδημοῦσι πᾶσι τὰς ἡμέρους τροφὰς παρὰ αὐτοῖς εὔρεθῆναι καὶ πᾶσι κοινωνηθῆναι τοῖς ἀνθρώποις παρ' αὐτῶν. πρόσκειται δὲ ταῖς τραπέζαις καὶ ἐκ πλακοῦντος κατεσκευασμένα ἀμφοτέρων γενῶν αἰδοῖα. The phrase of the scholiast ἐπιδεικνύμενοι ... παρ' αὐτῶν makes possible that the Haloa was a festival to celebrate the delivery of the crops

to the Athenians, by Demeter (about this common belief in Athens cf. e.g. Isoc. 4, 28 ff.).

The Haloa was a women's festival. In contrast to the Thesmophoria which seemed to be a festival in which only decent women were encouraged to participate (see Deubner *Feste* 53), and men were totally excluded, in Haloa the ritual was not so strict. There is some evidence speaking about the presence of men: at least the magistrates were staying at a close distance, probably just outside the yard, and perhaps men participated in another banquet, somewhere close, as well. If we take seriously the evidence of Alc. 4, 6 in which the courtesans have a banquet at the παννυχίς of the Haloa in common with their lovers and Luc. *DMeretr.* 1, 1, in which a courtesan says: καὶ συνέπινεν (ὁ στρατιώτης) μεθ' ἡμῶν πέρυσιν ἐν τοῖς Ἀλφείοις, then the segregation of sexes at the banquet of the Haloa was not strict (cf. Deubner, 63 & n. 7). Our text also attests that the ἱεροφάντης was allowed to enter the αὐλή during the festival. The presence of men and the somehow licentious ritual were perhaps the main reasons for which the presence of courtesans in the festival was prominent: See also: Alc 4, 18, 4 and 17; Luc. *DMeretr.* 7, 4 al. The present text gives evidence that the special bond between the courtesans and the Haloa existed also in the classical period. It is difficult, however, to imagine the character of this festival in the classical period. None of the sources speaks about the Haloa as if it was mainly a courtesans' festival from which decent women kept a distance. On

the contrary, Lucian's scholiast implies that married women did participate in the celebration and the present text speaks with respect about this ritual. How did decent women fit in this atmosphere, socializing with men and courtesans, and how much the ritual was the same in the time of the Scholiast of Lucian as in the classical period we do not know. We can only say that the connection of the courtesans to the Haloo seems to have been old and strong. For further details see Deubner, p. 60 ff. and, Parke *Festivals* p. 98 ff.

117. Εὐμολιδῶν] See Toepffer, p. 26 ff.

νομίμων] F gives νόμων, which Gernet thought might be correct in comparison to And. 1, 113 ff. But cf. § 116: οὐ νομίμου ὄντος... θύειν and θύοντα παρὰ τὰ πάτρια. The argument works only if Archias is represented as having committed only a minor violation of the traditional ritual, not of the sacred laws.

τὸν αὐτὸν θεὸν τοῦτον] i. e. Διόνυσον: cf. com. Ἄλφοις and §§ 72 ff.

τὴν θυγατέρα αὐτῆς] If N. was convicted, this meant that the jury accepted that Phano, although presented as the daughter of another woman of citizen status, was in fact Neaira's daughter and thus a foreigner.

118. This passage does not come in complete accordance with what is said in § 119: Here Ap. seems to doubt what is St. going to say in defence of N., but there he says that he has information about what they are going to say. One option would be that the second clause (§ 119) was added at the stage of the publication, but I would not think so, because the passage is vital for the narration so it is unlikely to have been omitted at the spoken version of the speech. His doubt at this point is probably rhetorical: he wants to exclude any argument in defence of N.

ἔχοντα] Hude transferred here τὸ...ἔχειν from § 122. Apart from the fact that this suggestion is quite violent, I think this passage suits better in the context of § 122.

119. ὡς ... αὐτῆι] This phrase was deleted by Herwerden (258), but cf. § 59, com. τὴν τῆς Νεαίρας θυγατέρα.

ἐξ ἑτέρας] r omits ἐξ: but cf. §§ 121, 122

120. πρόκλησιν] cf. com. § 123-4

θρᾶτταν] cf. § 35.

121. Ἀντιδωρίδην τὸν σταδιοδρομοῦντα] S (and Y According to Blass) give σταδιαδρομοῦντα, adopted by Blass (The same division in § 124: σταδιοδρομῶν). The expected word would be σταδιοδρόμον (cf. e.g. Pl.Leg. 833a; Poll.3, 146; SIG<sup>3</sup> 1076). But in

comparison to Aesch. 3, 91 where we find δολιχοδρομήσαντα, σταδιοδρομοῦντα seems to be correct.

In comparison to § 38 and if what the orator says is true, Antidorides was born in Athens after 371, and he was the only child of Neaira with Stephanos. The present participle here probably implies that Antidorides was still active as a runner; cf. Intrad. ch. 2, I. About the rest of the children there is no evidence. See Kirchner *PA* 1, 1021.

τὴν Στρυβήλην καλουμένην] In § 50 the orator says: ἦν τότε μὲν Στρυβήλην ἐκάλουν νυνὶ δὲ Φανῶ. In § 38 also he says: ἦν νυνὶ Φανῶ καλοῦσι. St. and N. had changed the name of the girl to Φανῶ, after they moved to Athens, perhaps because it was a slave's name (cf. com. § 38). But then, the present participle indicating that now she is called Στρυβήλη, cannot be correct. (cf. also D. 18, 130). Blass had spotted the difficulty, and he proposed either Φανῶ τὴν Στρυβήλην πρότερον καλουμένην or Στρυβήλην τὴν Φανῶ καλουμένην. Another possibility would be κεκλημένην instead of καλουμένην. Since, however, this comment here is rather superfluous and the orator, gives another comment immediately after this, with which he specifies the identity of Phano (ἦ...συνώκησεν), I would rather consider this clumsy comment τὴν Στρυβήλην καλουμένην, to be an interpolation.

Θεογένει] cf. § 72 ff.

ἤθελον ἀφίστασθαι] ἐθέλειν plus infinitive in the sense of a future tense was not very frequent in the classical period and it meant "to be determined to do something" ( Thus MacDowell in *Wasps* com. of verses 536-7; cf. Pl. R. 375a). Later, it lost this emphatic sense and became simply equivalent to a periphrastic future like "I shall" or "I will", with the strong tendency to replace the monolectic future. Finally the medieval θέλω (ἵνα) merged in one word, the modern Greek prefix for the future θά.

122. τὸ γὰρ...ἔχειν] It was deleted by Naber: but see Athen. 573b. For the substance of this statement cf. com. § 16.

τάς μὲν γὰρ ἑταίρας...πιστὴν ἔχειν] This passage was often used by scholars as a piece of evidence for the place of women in ancient society. Sometimes, however, the validity of this statement was overemphasised.

Murray in his LOEB translation, understands that here the roles of the courtesan and the concubine are contrasted to the role of the legitimate wife, by translating *but wives...* The same view is expressed by Vernant (*Myth*, p. 47). [ Interesting in this sense is the misquotation of the passage by Stobaios (*Flor*, chapter 22,19, Hense); the mss of Stob. are divided between τὰς παλλακὰς and τὰς παλλακὰς ἄν] I think, however, that we should understand τὰς μὲν...τὰς δὲ...τὰς δὲ...as connecting and not contrasting: Ap. here rather wants to clarify the role of every group in the society than to contrast these roles. Thus I would translate *and wives...* Vernant is right, however, to point

out the fact that here the distinction of roles is rather rhetorical than real. He says that although what Demosthenes (read: Apollodoros) meant by saying that courtesans are for pleasure and wives for the procreation of children, is clear enough, the role of the concubines is summarized in the obscure phrase τῆς καθ' ἡμέραν θεραπείας τοῦ σώματος [Athenaios (573b) misquotes τῆς παλλακείας omitting τοῦ σώματος]. He thinks then that this formula was chosen here exactly because of its imprecise meaning, because Apollodoros, intending to summarize the roles in a few words, could not find any convenient short definition of the reasons for which the Athenians kept concubines. I agree that it was more difficult for Ap. to define the role of concubines in one statement and in this sense his words here are somehow vague. But still I believe that the phrase τὰς δὲ παλλακὰς ... σώματος is more than *rhetorical flourish*.

Concubines can be divided in three groups: citizens, free women of non citizen status (metics, freedwomen etc.), and slaves; and the status and the conditions of each one of them was quite different:

Any Athenian could marry in a legitimate marriage only one woman (Harrison, *Law* 1, 15 ff; Vernant, 48-9; Lacey, *Family* 41 ff.; Just *Women*, 40 ff. al.). The procedure of making a legitimate marriage was either ἐγγύη or ἐπιδικασία (Hyp. *Athen.* 16; Harrison, 1,6 ff; MacDowell *Law* 86, 103). A legitimate marriage, although, as we shall see, it was not something universal among

Athenian men, was highly encouraged not only by the religion, the morality and the needs of the society (see e.g. Erdmann, *Die Ehe* 117, 135) but even by the Attic Law: The limitations of the right of Athenian citizenship to the offspring of two citizens, of the rights of inheritance only to the legitimate sons, the exclusion of νόθοι from the oikos, etc. were intended to support the institution of the legitimate marriage. Any other relationship, with the exclusion of short or long term relationships with courtesans or prostitutes clearly based on financial elements, is what we would call "concubinage": So, a wide range of cases come under this term:

a) Could an Athenian be married to a legitimate wife and keep a concubine? The law did not prevent it but it was not socially acceptable and we do not know any case in which this happened without problems (And. 1, 124-5; 4, 14; Isae. 6,21; D. 39,26; 59,22 and com.; Lacey, 172 ff; Buermann *NJ Suppl.* 9 [1877-8] 570). Diogenes Laertios (2,26) says that in the late years of the Peloponnesian war, because of the lack of men (διὰ τὸ λιπανδρεῖν), Athenians were allowed, by a special decree, to keep two women: γαμεῖν μὲν ἀσπὴν μίαν, παιδοποιεῖσθαι δὲ καὶ ἐξ ἑτέρας. If we are to believe this story this means that the Athenians felt that a special decree was needed to encourage the citizens to keep a concubine, in parallel with their legal wife, I suppose as long as the situation created by the war would justify such an extraordinary measure. In D. 39,26 the orator suggests that if a man wished to keep two women, a legitimate

wife and a concubine, he could do so but he had to maintain two houses then and this would be expensive, apart from the moral scandal it would produce. Something similar actually happened in Isae. 6.21 where Euctemon left his own house to go and live with a concubine, a situation which his own family could not tolerate.

b) Could an Athenian girl be given as a concubine? The law did not prohibit it, although it prohibited procuring an Athenian woman (cf. MacDowell, 125). On the other hand a passage of Isaeos (3,39) may imply that Athenian girls were sometimes given in concubinage. MacDowell (p.90) suggested that the Athenians perhaps would give their legitimate daughters to marriage and their bastard ones to concubinage. The whole issue, however, is not clear, because of the lack of evidence and because it is narrowly connected with two questions difficult to answer: 1) Were the  $\nu\acute{o}\theta\omicron\iota$  citizens, if both parents were citizens? and 2) Did the  $\nu\acute{o}\theta\omicron\iota$  have any claim at all on the paternal property? In the few cases we know the evidence is not conclusive and we see that sometimes Athenians used devices in order to present their bastard sons as legitimate (see e.g. the case of Phrastor in SS 55 ff; Isae.6,21, al. and Just, 55 ff. Rhodes, *AP* 496-7; MacDowell *CQ* 26 [1976] 88-91; Vernant p.48; Harrison 61 ff; Erdmann 363 al.).

c) Most of the concubines, however, were liberated slaves, ex-courtesans, who were manumitted usually by their partners and

lived with them in long term relationships: D.48,53 is quite explicit: Olympiodoros never married. He spent his life with a liberated courtesan. Philocleon in Ar. V. 1351-3 says to a courtesan: ἐὰν γένη δὲ μὴ κακῆ νυνὶ γυνή/ ἐγὼ σ'.../λυσάμενος ἔξω παλλακῆν. Ap. (§ 118 ff. and com.) alleges that St. intends to tell in his defence of Neaira that he keeps her with him as a concubine. This would be perfectly lawful: they could live together, in a loving relationship, have free children and, as long as they did not pretend legitimate marriage, they were immune.

d) Although in most of the cases in which the παλλακῆ was a slave, she was liberated by her partner, we cannot exclude cases in which a man was living with one of his slaves in terms of concubinage. The case of the παλλακῆ of Philoneos in Ant. 1, 14 ff. is probably one of them and Neaira (§ 29 ff.) in some sense was a concubine of the two men who bought her from Nicarete. In these instances, however, the terms of the relationship are more clear: the slave had to serve the desires of her master, as long as he felt attracted to her. The term παλλακῆ in these cases, should rather be understood as a euphemism. In terms of law this kind of concubine was a slave and certainly since she could not bear free children, she did not enjoy the protection of the law, which a free concubine enjoyed (cf. the discussion following and D. 23, 53).

e) Another category of concubines were foreign women, living with Athenian men. The most well known of them is Aspasia.

As we can see from the cases mentioned above, concubinage is a quite complex phenomenon. Vernant (p.47) trying to make the distinction between a courtesan and a concubine says: *the difference being that the concubine cohabits with her man.* This can only be partly true: Most of the clients of the courtesans would only visit them occasionally, but there were cases in which the courtesans were living in long lasting relationships with their partners. The term *ἑταῖρα* means "companion", in contrast to *πόρνη*, which implied only a quick physical contact. For example, Neaira in Corinth (§§ 29 ff.) was living with Eucrates and Timanoridas, in a long term relationship, but still she was their *ἑταῖρα* (§ 30), not their *παλλακῆ*. The clear distinction between these two groups is drawn by the financial element. A lover of a courtesan had to pay for her favours and often she was extravagant. The partner of a concubine had certainly the duty to pay for her maintenance, but this was enough. I mean that a courtesan usually cost a lot; a concubine would not cost more than what a legitimate wife would cost, the difference again being that most of the legitimate Athenian wives would have the financial advantage of a dowry, when it does not seem likely that most of the concubines received a dowry [the liberated courtesans for example but cf. also Isae. 3,28-9,39 al.]

Now comparing a concubine and a legitimate wife, the modern reader would not agree wholeheartedly with the statement of Lys. 1,31 ταῖς παλλακαῖς ταῖς ἐλάττονος ἀξίαις. In some senses the concubines enjoyed privileges not available to the majority of Athenian women, when on the other hand the wives were certainly of a higher social status than the concubines. The continuation of an oikos was guaranteed through a legitimate marriage or an adoption of an offspring of a legitimate marriage. This made the citizen women an inseparable piece of the oikos and the polis and gave them a social personality and dignity, but a lot of restrictions also. The strict moral rules which applied to the majority of legitimate wives, one might often expect to be looser for concubines: indeed Neaira continued to prostitute herself, even after she moved to stay with St. (§§ 41 ff.). In Isae. (3,10 ff.) the fact that a woman was present at banquets is used as evidence that she was not a legitimate wife: In 3,14 he says: οὐ δὴ πού γε ἐπὶ γαμεῖας γυναικας οὐδεὶς ἄν κωμάζειν τολμήσειεν... (the same about N. § 24 and com). Especially ex-courtesans who ended as concubines of somebody had the tolerance of their partners and society to act more freely than decent Athenian women. So in practice this kind of concubines had wider limits of freedom to go out and to participate in a more open lifestyle.

Another remarkable point is that a marriage because of love or affection, was rather the exception than the rule in Athens. A good dowry and the desire to have legitimate sons, who would

continue his oikos, were the two main reasons for an Athenian to marry. A concubine, however, unless it was an arrangement for children, needed to attract by other means, such as her graces or her personality. Indeed most of the cases of concubinage we know were based on deep love between the two partners. I mention a few of them starting with Neaira: For about 30 years she was living with St. and he risked a lot by trying to introduce Neaira to his society. The concubine of Olympiodoros in D.48,55 lived in wealth and glamour and obviously the reason for which Olympiodoros never married was his love for this ex-courtesan. A powerful passion brought together Kallias and his concubine in And. 1,124-5 etc. In Isae.3,17 it is clearly stated that often concubinage is the result of a strong passion: ἤδη γὰρ τινες νέοι ἄνθρωποι ἐπιθυμήσαντες τοιούτων γυναικῶν, καὶ ἀκρατῶς ἔχοντες αὐτῶν, ἐπέισθησαν ὑπ'ἀνοίας εἰς αὐτοὺς τοιοῦτόν τι ἐξαμαρτεῖν.

The relationship with a concubine was understood as something more physical and less dignified than the one with the γαμετή. On the other hand it was something less casual and deeper than a relationship with a courtesan. So τῆς καθ'ἡμέραν θεραπείας τοῦ σώματος, I think implies a physical relationship, but something less hedonistic than an affair with a courtesan. Ap. meant that Athenian men take pleasure in their concubines, predominantly physical, but he had a difficulty to describe the emotional implications of such relationships. This phrase is vague, but the sense of treatment and pleasure of men by their concubines,

is clearly implied. (See also Buermann NJ Suppl. 9 [1877-8] 569 ff. where he tries to define the relation between a παλλακὴ and a γαμετή.)

The legitimate wife was the necessary vessel for the continuation of the oikos, since her male children would become citizens (cf. § 16 and com.) inherit the property of the family and continue the oikos (see above) and her female ones would continue her role. It would be a mistake to question whether the woman was a citizen or not on the basis of participation in the public life at Athens. This was clearly a job for men. But in all other senses she was higher than other free women living in Attica. She was presented to the phratry, she had a place in the society well protected by several laws (cf. also § 87 and com.), and at her death she was certainly a citizen. [If she was deliberately killed her murderer would be tried in front of Areopagos; non citizens were tried in Palladion cf. § 9-10 and com. See also MacDowell *Homicide* 39]

The contribution of wives in running the house, appears to me to be more serious than what is generally accepted: The segregation of sexes in Athens is a reality, although sometimes it was overemphasized. Women spent most of their time at home, although this does not mean that they could not go out if they had a good reason to do so. (Further details on the segregation of sexes in com. § 24: συνέπινε καὶ συνεδείπνει.) But in the house they had a lot of work to do. Poorer women would even go to the market to sell things (e.g. the mother of Euripides, *Ar. Th.* 387)

or they would do nursing, work in the fields etc. (D.57,45), thus contributing directly to the finance of the house. A more decent job for women was to work the wool (X. Mem. 2,7,2-14). (Further sources about women's labour in P. Herfst, *Le Travail de la femme dans la Grèce ancienne* Utrecht 1922; Lacey, 171 ff.; Ehrenberg *Aristophanes* 203 ff. al.). But even women who did not need to work on a professional basis, had to do work in their house: The *Oeconomicus* of Xenophon (esp. ch.7 ff) is a good reference piece about, the duties of a wife, at home: they had to give the right orders to their slaves and then to do things themselves (cf. e.g. 7, 35-6). Euphiletos in *Lys.* 1,6-7, transferred all the responsibility about their household to his wife after the birth of their child, and he was pleased with her (καὶ γὰρ οἰκονόμος δεινὴ καὶ φειδωλὸς ἀγαθὴ) καὶ ἀκριβῶς πάντα διοικοῦσα.). One of the reasons stated in *Ar. Ecc.* 211-2, for which they appear to be suitable for the administration of the city is their capacity to run their household perfectly well: καὶ γὰρ ἐν ταῖς οἰκίαις/ ταύταις ἐπιτρόποις καὶ ταμίαισι χρώμεθα. *Eur. fr.* 13, Page, 5-6 says: νέμουσι δ' οἴκους καὶ τὰ ναυστολούμενα/ ἔσω δόμων σώζουσι. And they can handle small sums of money better than men (*Ar. Ecc.* 236: χρήματα πορίζειν εὐπορώτατον γυνή). Many women, however, could not afford as many slaves as were necessary to do all the work in the house, so they had to contribute even personally to this labour: The list of the duties of women at home in *Ar. Ecc.* 215 ff. includes a good sample of things an average Athenian woman had to do: τᾶρια βάπτουσι θερμῶ... καθήμεναι φρύγουσι... ἐπὶ τῆς κεφαλῆς

φέρουσι...πέττουσι τοὺς πλακοῦντας etc. One of the most frequently mentioned duties of women was to work the wool and make clothes out of it: X. *LP.* 1, 3: οὕτω καὶ τὰς κόρας οἱ ἄλλοι Ἕλληνες ἠρεμιζούσας ἐριουργεῖν ἀξιοῦσι. Ischomachos' wife (X. *Oec.* 7, 6) knew how to make the wool and how to distribute part of the work to her slaves. Ischomachos thinks that it is a great thing for his wife to know (μέγιστον παίδευμα) how to cook. So, in average terms we can say that an Athenian woman would have a lot of things to fill her day with. Naturally her importance in the house is often mentioned: In Eur. *IA.* 1158-61, we read: ὡς ἄμεμπτος ἦ γυνῆ/ ἐς τ' Ἀφροδίτην σωφρονοῦσα καὶ τὸ σὸν/ μέλαθρον αὔξουσ', ὥστε σ' εἰσιόντα τε/ χαίρειν θύραζε τ' ἐξιόντ' εὐδαιμονεῖν. And her role does not stop at the management of the household: Eur. fr. 822 Nauck: γυνῆ γὰρ ἐν κακοῖσι καὶ νόσοις πόσει/ ἥδιστον ἐστι, δώματ' ἦν οἰκῆ καλῶς/ ὀργὴν τε πράννουσα καὶ δυσθυμίας/ ψυχὴν μεθιστάσα. (See also Erdmann, 276 ff.) The citizens of Athens had divided the roles between themselves in such a way that the πόλις was the sphere of duty of the male citizens and the οἶκος was the sphere of duty of the female citizens. Although the Athenian man was in charge of administering the city, he could have never done it if the Athenian woman had not been in charge of the administration of the house and given him the necessary freedom to spend his time outdoors.

Now I return to the question how seriously we can take this passage as a piece of evidence for the way women were seen in

the fourth century. Dover (*Morality*, 14) says: *Orators' generalizations on matters of fact must be treated with great caution.* Then speaking about this clause he says: *This gives us...one view which was possible, was judged by the speaker unlikely to offend, and was absolutely necessary for the argument.* (cf. Vernant, 47-8) I would be cautious, as well, to attribute to this passage a universal validity because: a) This distinction is rather rhetorical, serving the effort of Ap. to distinguish between a concubine who simply lives with a man and a concubine who against the law, lives with a man pretending legitimate marriage. b) It does not make all the necessary distinctions of female roles in Athens. c) Concerning the concubinage it is vague.

On the other hand the passage is important in the sense that the three roles appear together. This statement should not be underestimated, as simply a possible point of view. Giving such a statement in a modern law court, would be unthinkable. Ap. joins the three roles, considering thus that these three groups of women could have a place together in an average Athenian man's life. But does this mean that an Athenian man usually had some courtesans, some concubines and a wife? Certainly not: under some conditions they could, e.g., if they had enough money, if they were not contented with their wives, if they met the woman who would make them to go beyond the limits of a decent family life etc. This statement clarifies what an Athenian man would expect to be offered or why he would do it,

when he chose to be with a courtesan or a concubine, or to marry a legitimate wife. One thing which has to be emphasized here is that the male Athenians had all the power in their hands. So only themselves would decide about the limitation of this power; they fixed the roles of everyone in their society, and, as long as important institutions like the continuation of their generation or the elementary kind of security which a home provides were well protected, they gave themselves the permission to arrange the rest as they pleased. In this context I think this passage does indicate the expected roles of the courtesan and the legitimate wife, at least: the overwhelming majority of the Athenians would agree with Apollodoros about the courtesan's role as a source of pleasure and the wife's role as κοινωνὸν βέλτιστον οἴκου τε καὶ τέχνων (X. Dec. 7, 6.).

123. ΜΑΡΤΥΡΙΑ/ΠΡΟΚΛΗΣΙΣ] Πρόκλησις is the word used to describe both, a legal procedure of the Athenian legal system and the document which was produced in front of the law-court in relation to this procedure. The whole issue has been thoroughly studied by Gerhard Thür in his elaborate study *Beweisführung vor den Schwurgerichtshöfen Athens: DIE PROKLESIS ZUR BASANOS*, Sitzungsber. der Öster. Akad. Wiss. Phil-Hist. Kl. 1977, vol.317. So, here, after a brief introduction, I will only deal with the two documents transmitted in the present text.

A large number of sources (see Thür, notes in p.59 ff.) confirm that physical torture (βάσανος) could be used with the

intention of extracting evidence from somebody, for the purposes of a trial. As Thür makes the distinction (15 ff.) Athenian citizens were protected against torture for the purpose of extracting evidence, with an old decree, dated to the year of the archonship of Scamandrios (ἐπὶ Σκαμανδρίου: And. 1,43). For other free persons, there is evidence for being tortured only in political trials. For slaves, evidence after torture seems to have been the only way of testifying for a case and βάσανος could be inflicted for public and private trials. But since slaves were valuable property, asking for the slave of somebody to be tortured for the purpose of giving important evidence for the case, was done through a formal challenge addressed to his κύριος, who was in the most of the cases one of the litigants, [More precisely, if the litigant was not entitled to speak before the law-court, the proklesis would be addressed to the person who would speak for him in the trial; here for example Neaira seemed to be the owner of the slaves, but the challenge is addressed to St. (cf. Thür 68 ff.), If the owner was different from the litigant the challenge had to be addressed to the litigant (cf. Thür 71 ff.) ], called πρόκλησις. [The term has a wider meaning than this; see Thür 27 ff. Here I only refer to what is related to the present case.] The owner of the slave had the right to refuse to hand him over and so far as we know there is no such testimony known, which was taken after torture and used as evidence for a case (Thür 287). On the other hand the overwhelming majority of instances we know are protests by the challenger that his opponent did not accept the proklesis and thus he deprived him of valuable evidence. Thür examines in details the use of proklesis as a judicial weapon against the opponent in the sixth

chapter of his study and concludes that it was used as a piece of evidence before and during the trial, against the opponent and that in <sup>h</sup>te most of the cases the utmost intention of the challenge was not the examination of the truth but the refusal of the opponent, which would be used then as an argument against him and the credibility of what he said. He also points out that some logographers used proklesis more than others as a means of persuasion. Apollodoros here possibly had the same intention: he intended to use the refusal of St. as a proof that he was lying and afraid of a thorough examination of the truth. That he presented two separate documents in the law court, one with the evidence of the witnesses present at the moment when he addressed his challenge to St. formally in the Agora and one with the text of the proklesis which the slaves had to confirm or deny under torture is also confirmed by the narration of the orator in § 123 and 124: Are however the two texts transmitted here authentic or not?

At the beginning we need to clarify why Ap. needed to use two different documents in this case and did not merge them in one, as, for example, happens in D.45,61. First of all he needed to be able to prove that the challenge was formally done: so, he challenged St. in front of a good number of people, who were called at the trial to testify that it was done, that it was relevant to the forthcoming trial of N. and that St. refused this challenge. Then he presented the precise text of the proklesis in which he had to include the names of the slaves he

wanted to examine, what he wanted to ask them about and perhaps the suggested consequences of their affirmation or negation of his questions. Thür (84 ff.) says that normally a document with the proklesis would be presented in the law-court but he also points out five pieces of evidence in which a written statement was presented simultaneously with the first declaration of the challenge (one of which is the present text). In this statement the challenger would clearly put forward, from the very beginning the questions he intended to ask the slaves, under torture. During the torture this statement would be read and the slaves had to confirm or deny it. I suppose the litigant would prefer not to present a fixed text at the beginning, but only after the basanos or the refusal, or only before the trial, when he wished to investigate many details of the issue through the basanos, and he would appear with a fixed text at the initial declaration of the challenge, when he had only a few certain questions to ask. Ap. here appears to have had only one question to ask: "are the children by Neaira or by a legitimate wife?" In this sense I would agree with Thür that it is more likely that Ap. had prepared a fixed text of proklesis which he read at the Agora in front of the witnesses, when he first challenged St.

The authenticity of these texts was supported by Staeker (*De Litis*, 52-3), Kirchner (RhM 40 [1885] 386), Drerup (*Urkunden*, 351-2) and Thür (91 ff.). On the other hand Westermann and Guggenheim (reference according to Thür: *Bedeutung* 49) have rejected the authenticity of both documents. A detailed

examination of the two documents, however, convinces me that only the ΜΑΡΤΥΡΙΑ is authentic; the ΠΡΟΚΛΗΣΙΣ is forged [In a similar way, I have argued that from the two documents of § 71, only the one of the ΜΑΡΤΥΡΕΣ is authentic]:

1. I) The first of the documents includes, in addition to what is known from the text of the orator, the names of the witnesses. We have further evidence for the three of them: Δημοσθένης Δημ. Παιανιεύς is the well known orator. About Δεινομένης Ἀρχελάου Κυδαθηναίου is known that he was a member of a naval symmory between 356 and 340 ( *IG ii<sup>2</sup> 1618*, 1.80; Davies *APP* 97; Kirchner 3189). The correct form of his name, given by *YD*, is confirmed by the above mentioned inscription. Davies, because of the rarity of the name Δεινομένης, suggested that he may be a relative of Δεινομένης Στεριεύς (Kirchner 3189). Kirchner (*WKPh* 10 [1893] col.1110) was able to give the family tree of Δεινίας, after correcting his father's name to Φόρμου, instead of Φορμίδου of the mss., from *IG ii<sup>2</sup> 6609*: his mother was named Θεοδοσία Εὐφήμου Κητίου θυγάτηρ and his, probably older, brother had the name of their grandfather Προκλείδης.

II) Another piece of additional information is that the πρόκλησις took place in the Agora.

III) περὶ ὄν...Νεαίρας: The exact reason of the proklesis is not given and Thür (138), perhaps correctly, thinks that this is for

reasons of economy. I would rather think that this speaks for the authenticity of the document, in the sense that a forger might speak about the content of the proklesis; for Ap. however, at this stage, it is enough that the witnesses confirm that the document he presents is the one including the challenge he made to St.

In contrast to the second document, we can see that this one adds information to the text of the orator, and it is a quite concise and tidy text. Therefore, I find no reason to doubt its authenticity.

The document of the πρόκλησις is in general a clumsy composition with serious textual problems:

I)πρόκαλείτο] This is the reading of FQ: SYrD give προκαλείται. Schaefer prefers the imperfect in comparison to the imperfect and the optatives which follow, although he says that the present could stand. All modern editors also, apart from Gernet, adopt the imperfect. Thür (92 ff.), however makes a strong case for the present tense. Based on the assumption that the present document is the same as the one which was presented by Apollodoros, when he challenged St. he says that the tense here must be present (cf. D. 37, 42: προκαλούμαι σε...). Thus he thinks that the imperfect reflects the effort of a copyist to bring it in harmony with ἤθελον, below and he explains the change of tenses as an *objektive Stilisierung*, and compares the document

of § 54 (which I also think is forged, perhaps by the same author). [Nevertheless I suggested in con. § 54 that this kind of change is possible] Then about ἤθελον, he says: *es dort nicht die Vergangenheit, sondern - als modaler Indicativ* (Shwytzer, 2,352) *- die Gegenwart ausdrückt*. If we keep the present, then μή ὁμολογοῖεν (and βλαφθείησαν and βλαβεῖησαν below) must be explained in relation to ἤθελον. But what about ὁμολογοῖεν above? Obviously we cannot put it together with ἤθελον. I would hesitate to suggest that the mood of ὁμολογοῖεν is affected by μή ὁμολογοῖεν (cf. Kühner-Gerth, 2,546), because ὁμολογοῖεν precedes μή ὁμολογοῖεν. In this sense I find it difficult to keep the present. With the imperfect, however, the optative can be easily explained as affected by the tense of προὔκαλεῖτο. The fact that if the document was genuine, the present would be more likely (cf. e.g. the presents in D. 45,55.60.61 al.) and yet the imperfect seems to be easier, I think, speak against the authenticity of this document.

II) τῶν ὄντων Νεαίρα, ὅτι <οὐκ> ἐκ Στεφάνου εἰσίν] Instead of the reading of FQ τῶν ὄντων Νεαίρα, unanimously adopted by the editors, SYRd give τῶν Νεαίρας. Then unanimously, the mss give ὅτι ἐκ Στεφάνου εἰσίν. About the first point, both readings are possible. τῶν ὄντων Νεαίρα seems to be slightly *lectio difficilior* and I assume this is the reason for which the editors prefer it. τῶν Νεαίρας, however, is supported by a large number of parallels in the text: §§ 56, 59, 61, 63, 65 al. If instead of Νεαίρα it were Στεφάνω (as in fact Baiter suggested,

and Thür agreed) I would be inclined to accept the structure with the dative: cf. §§ 120: ἀλλ' ἐξ ἑτέρας γυναικὸς αὐτῷ ἀστῆς; 121 καὶ ὄντες αὐτῷ οἱ παῖδες οὗτοι ἐξ ἑτέρας γυναικὸς ἀστῆς al. This problem, however, is connected with a further difficulty of the transmitted text: if we accept the text of the mss (with either version: τῶν Νεαίρας or τῶν ὄντων Νεαίρα), it is difficult to understand the point: the orator needs to prove that the children are from Neaira; after this it does not really matter if they are from St. or any other man. Apart from that Ap. himself argued that the three of them are from another man and he let it be understood that Antidorides is from St. (cf. §§ 36 and 121). And then, Ap. emphasizes elsewhere that the children are not Stephanos' but Neaira's: § 51: ὡς Στεφάνου θυγατέρα λαμβάνων καὶ οὐ Νεαίρας; 82: ἐπειδὴ οὐκ ἔστιν Στεφάνου θυγάτηρ ἀλλὰ Νεαίρας; 119, 121 al. So most of the scholars thought that the transmitted text is mistaken. Thalheim (*Hermes* 56 [1921] 433-4), supported the reading of the mss, based on arguments from the area of law: He says that the proklesis would not make any sense unless he had her in a status of a legitimate wife. Thus, Ap. changes here the point of view, trying to present them both collaborating in this device. On the other hand several suggestions were made with the intention to improve this text: Baiter suggested changing the order in which the two names appear: τῶν Στεφάνου ὅτι ἐκ Νεαίρας εἰσὶν. His suggestion was adopted by Thür. Voemel added οὐκ in front of Στεφάνου, which was adopted by most editors. An easier version of this solution is οὐ Στεφάνου εἰσὶν, which, according to Taylor, is

given by Barroccianus 73. A very similar kind of information is also given a few lines below: ἐκ Στεφάνου εἶναι καὶ Νεαίρας. So Blass thought that we need to harmonize the information we get from these two sources and deleted ἐκ Στεφάνου and καὶ. His suggestion was adopted by all modern editors. I think, however, that both passages: τῶν ὄντων Νεαίρα, ὅτι ἐκ Στεφάνου εἰσὶν and ἐκ Στεφάνου εἶναι καὶ Νεαίρας, support each other. I would be not very keen to accept that the text is so extensively corrupted, in the same direction, in both cases. I would rather think that the difficulty is caused because a forger first did not realize that the three of the four mentioned children are not from St., then he just reflected in the document with a degree of inaccuracy statements of the text like the one in §§ 121: καὶ ὄντες αὐτῷ οἱ παῖδες οὗτοι ἐξ ἑτέρας γυναικὸς ἀστῆς καὶ μὴ Νεαίρας, 122 al. So I would rather keep the transmitted text (adopting the reading of SYrD: τῶν Νεαίρας, ὅτι ἐκ Στεφάνου εἰσὶν), attributing any inaccuracy or difficulty to the lack of skill of a forger than to extensive paleographic alterations.

Wolf suggested also τοῦ ἀγῶνος ἤθελον τοῦ <κατὰ> Νεαίρας. Taylor and Reiske adopted it. Here again, there does not seem to be anything omitted but this clumsy structure can be attributed to an unskilful forger.

III) There are some similarities in the expressions between the document and the context which can lead to the conclusion that the document is derived from the context:

a. § 121: Πρόξενόν τε τὸν τελευτήσαντα καὶ Ἄριστωνα τὸν νῦν ὄντα καὶ Ἀντιδωρίδην τὸν σταδιοδρομοῦντα καὶ Φανῶ

§ 124: Πρόξενός τε ὁ τελευτήσας καὶ Ἄριστων ὁ νῦν ὢν καὶ Ἀντιδωρίδης ὁ σταδιοδρομῶν καὶ Φανῶ

All these details about N.'s children suit very well in the narration but somebody would not expect to see them in a concise legal document.

b. § 121 and 124: ἤθελον ἀφίστασθαι: it would be an unexpected coincidence this unusual expression to appear twice (cf. com. § 121).

IV) The only piece of information, added by this document is the promise of Ap. to pay St. for any damage caused to the slaves, during the basanos. I do not think, however, that this point has any gravity in support of the authenticity of this document, because the compensation condition was necessary in a proklesis and if the forger had ever seen a real proklesis-document (as I argue further down that he had) he should know about it. cf. Thür 199 ff.

The sudden change of person (ἀφίστασθαι ... ἤθελον), appears also in § 54, a document which I have argued that it is fabricated, possibly by the same hand. Here the first person is probably derived from the context (§ 121).

In conclusion, I find this criticism serious enough, to reject the authenticity of this document. I think, however, that the

person who forged it had an idea, of how such a proklesis-document should be: Thür summarizes the structure of such a document as following:

1. The declaration of the challenge
2. The name(s) of the required slave(s)
3. The subject of the challenge
4. (Preferably) The options, in case of acceptance or refusal of the challenge.

The present text, although not genuine, I think can be used as a piece of evidence for this structure, in the sense that it imitated a certain form of the proklesis-texts. At the stage of the publication, I assume that the editor of this speech thought that the evidence of the witnesses was enough, to prove the truth and then he omitted the proklesis-text, because its content was already known from the preceding text of the orator.

125. καὶ τὰς μαρτυρίας] Only Fcorr gives this καὶ, and all editors adopt it. If we omit it, we need to put full stop after ἐγραψάμην. By adding καὶ, the whole of § 125 depends on δοκεῖ and it is all a question. The structure in this case is fluent and the sense better.

ψεύσεται] This is the reading of F'Q'. The rest of the mss give ψεύδεται. Ap. tries to refute what St. is going to say. Thus the future here as well as in ἐξελέγξει is more effective.

ἀς ἐγώ] The correct reading is given by FQ. The rest of the mss give ἐγὼ δέ.

126. λήσειν] This is the reading of FγρQγρ. The rest give λαθεῖν. But the voting is still in the future, thus λήσειν is preferable.

Sigg (416) considers the peroration in the speeches of Ap. *ganz ungenügend, alle volständig, kalt und schwach*. This peroration is full of repetitions of things which he mentioned more than once before and it closes with a form of ring-composition. The speech began in a similar way, but there Thmn. was speaking. Ap. speaks here as if he were the official prosecutor.

Similar topics can be found in other perorations by the same orator: D. 46, 28: τιμωρήσασθαι δέ ... ὑπέρ τε ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων; D. 47, 82: ὅσιν καὶ δικαίαν ὑπὲρ ὑμῶν αὐτῶν τιθήσθε τὴν ψῆφον; D. 52, 33: καὶ ταῦτα ποιούντες πρῶτον μὲν τὰ δίκαια καὶ κατὰ τοῦ νόμου, ἔσεσθε ἐψηφισμένοι, ἔπειτα ἄξια μὲν αὐτῶν ὑμῶν...

The plea to the religious feeling of the judges is a usual way to close a speech: cf. e.g. the peroration of D. 21; 22; 26 al. Ap. prefers to end his speech, mentioning the gods in order to remind to the judges that St. and N. deserve to be punished not only because they broke the law, but also because they insulted the gods (see § 72 ff.).

A negative plea of pity, in which the accuser recommends to the court to vote against the defendant, regardless of any feelings, is the usual way of closing a speech of prosecution. (see e.g. the end of Dem. 21, 24, 25, 26, 53 or the strong plea at the end of Lys. 4 and Lyc. in Leoc.).

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EDITIONS

*Demosthenis Orationes suae et sexaginta ..*

ed. Aldus Manutius

Venice 1504

*Habes, lector, Dem. Orationes duas et sexaginta...*

ed. Iohannes Hervagius

Basle 1532

*Demosthenis Orationum ..*

ed. Iohannes Paulus Felicianus

Basle 1543

*Demosthenis Orationum .., in vol. 3*

ed. Paulus Manutius

Venice 1554

*Δημοσθένους Λόγοι καὶ Προοίμια ..*

διὰ φιλοπονίας καὶ ἐπιμελείας τοῦ Γουλιέλμου Μορελίου...

ed. Dionysius Lambinus

Paris 1570

*Demosthenes*

ed. Hieronymus Wolf

Frankfurt 1604

*Demosthenis et Aeschinis... , in vol.2*

ed. Ioannes Taylor

Cambridge 1748

*Oratores Graeci, in vol.2*

ed. Ioannes Iacobus Reiske

Leipzig 1770

*Demosthenes*, in vol. 4, 4

ed. Immanuel Bekker

Oxford 1823

[An improved version of it known as "editio stereotypa":

*Demosthenis Orationes*, in vol. 3,

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[It remains the best edition of the present text,]

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[It depends on Blass' edition with very few not important alterations]

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#### MODERN WORKS

This list is not complete. A number of books or articles occasionally mentioned in relation to a passage of the speech under discussion are mentioned only there. Some studies not available at the time, when this commentary was composed are mentioned in the bibliography with an asterisc (\*) in front of them. The commentary of § 94-103, although often in agreement with the recently published article of J. Trevett, was completed before this article was published. The conclusions of Riehemann were available mainly through other studies which mention them.

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#### ABBREVIATIONS

Most books are abbreviated with a characteristic word from their title. Some very well known studies, like the book of Denniston or the grammar of Kühner, are only mentioned with the name of the author and the page. Periodicals are abbreviated as in L' *Annee Philologique*. Classical works are abbreviated as in *Liddel-Scott*, 9th rev. edition (*LSJ*), with the following exceptions:

And. = Andokides

Ant. = Antiphon

Isae. = Isaeos

Plu. *Mor.* = Plutarchos, *Ethica* (*Moralia*)

Some other frequent abbreviations are:

*RE* = *Pauly's Real-Encyclopädie der Classischen Altertumswissenschaft*

*PA* = *Prosopographia Attica*

*AP* = *A Commentary on the Aristotelian Athenaion Politeia*

