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Crowning Thersites:

The Relevance of Invective in Athenian Forensic Oratory

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Crowning Thersites:  
The Relevance of Invective in Athenian Forensic Oratory

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Crowning Thersites:  
The Relevance of Invective in Athenian Forensic Oratory

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This dissertation examines the function and relevance of invective in late 4<sup>th</sup>-century oratory. I bring together recent approaches to performance, humor, and legal studies in order to reevaluate the role of character depiction, and especially character assassination, in forensic rhetoric. Both on the comic stage and in the courts, evoking derisive laughter from the audience was an important mechanism for effecting social control. I demonstrate how the orators draw from Old and Middle Comedy to depict opponents as character types, like braggarts (*alazones*), flatterers (*kolakes*), and comic prostitutes (male *hetairai/pornoi*). I argue further that speakers do not use invective to skirt legal issues; rather, they tailor their arguments about character to the legal charge. In the Athenian system, the concept of legal relevance was broad and subject to manipulation. The only mechanism of restraint on a speaker was the threat of being shouted down (*thorubos*) by the jury. Invective, therefore, was not automatically “out of

bounds”. Moreover, issues of character and morality were of increasing public concern in 4th-century Athens (as evidenced by Xenophon, Middle Comedy, and oratory alike). To the minds of Athenian jurors, information about character provided important evidence for reaching a just verdict.

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## *Introduction*

ὁ γὰρ πάντες ἀκούουσιν πᾶσι ἡ ἀσθμαίνει ὡς οὐ μὲν ποιεῖται λβὶ ὡς λβυῖ η ποιεῖται  
ἀλπύφει ἡ ἐξ ἡ. υπίχ ἐ βεφύτξε' βύυπύχ ἄθζφτζβε..  
(Dem. 18.3)

“It is by nature that all people listen with pleasure to slander and invective, but get annoyed at those who praise themselves...”

In this brief but insightful remark near the opening of *On the Crown (OTC)*, Demosthenes asserts two intriguing aspects of invective; it produces pleasure for the listener and it appeals to humankind by nature. His claim thus conveys the importance of invective for orators; if the jury enjoys listening to it, then the orator can benefit from using it. Also important is the implicit counterpoint that the orator can suffer from not using it. Demosthenes’ immediate goal is to argue that he has the harder task—praising himself, while Aeschines has the easier one—attacking his opponent. Incorporating invective into a speech, however, is more problematic than Demosthenes suggests here. Although enjoyable for the listener, invective can also backfire if the speaker does not introduce it carefully.<sup>1</sup> In fact, Demosthenes’ statement is the first step toward preparing his audience for his own use of invective since, in this case, it is an important part of his strategy for defending his career.

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<sup>1</sup> Cf. Cicero *De Oratore* 2.58.



Demosthenes' positive spin on invective provides a striking contrast to the standard condemnation of it by many modern critics;<sup>2</sup> even scholars who do not simply condemn the use of invective in oratory—finding redeeming qualities in its artistry and persuasive effects—tend not to see it as evidence in support of arguments based on laws, but rather as entertaining diversions.<sup>3</sup> The use of invective thus forms part of the continuing debate about whether rhetoric (i.e. composing arguments by whatever means necessary to win a case) or legal argumentation (i.e. adhering closely to the laws and evidence) held greater sway in Athenian litigation. A better understanding of how invective works within the speeches suggests that no such dichotomy exists. Indeed, although invective is thoroughly rhetorical, it is also a form of legal argumentation, and like the law itself, it aims at regulating community behavior and effecting social control.<sup>4</sup> In societies such as Athens where no police force existed, verbal punishments and deterrents such as invective take on a primary role in setting standards and enforcing community norms and regulations.<sup>5</sup>

Interpretations of invective have not yet benefited from recent studies of oratory's role within a performance culture. In particular, although the connection between invective and comedy is strong, few scholars have explored how invective can be

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<sup>2</sup> See Wayte 1882, xxx; Lipsius 1905-15, vol. II, 646-651; Bruns 1961, 487; Kennedy 1963, 229; Koster 1980, 76.

<sup>3</sup> Usher 2000, 227; 272-73; Harding 1994b; Yunis 2005; Voegelin 1943, 168; Rowe 1966; Dyck 1985; Wankel 1976, 150.

<sup>4</sup> Cf. Henderson 1990 who argues that Aristophanic comedy picks up where the law courts leave off, or sometimes fail, by holding politicians accountable for their actions through scathing attacks on the comic stage. He does not acknowledge, however, that this phenomenon occurs in the courts as well. Even if a defendant who is accused of immoral behavior is acquitted, normative community values can be reified informally by the process of laughing at deviant behavior during the course of the trial.

<sup>5</sup> Cf. Hunter 1994, 3-6; 96-119; Ober 1989, 148-51; Cohen 1991, 171-202. Cf. also Corbeill 1996.

elucidated by Aristophanic and Middle Comic characterizations.<sup>6</sup> Since verbal censure was an important mechanism of social control that crossed the boundaries of comedy and oratory, a study of comic invective in forensic rhetoric will allow us to focus on invective's socio-political, but also legal, function. It is my goal in this dissertation to reevaluate invective in forensic rhetoric; I do this by examining oratorical strategies for incorporating invective into speeches while paying attention to its function within Athenian legal and democratic processes.

### ***I. Oratory as performance***

Recent studies of Athens as a performance culture have opened up new avenues for the interpretation of Attic oratory. Whereas scholars used to examine the speeches primarily as texts, in the past fifteen years they have begun to emphasize the dramatic elements of courtroom procedure.<sup>7</sup> Hall's article on "lawcourt dramas" is a brief point-by-point comparison of aspects of the dramatic stages with various aspects of the courtroom scene: characters, plot, tragedy, comedy, and staging.<sup>8</sup> The staging of trials is also illuminated by Blanchard's recent article on the creation of law court setting as a performance space.<sup>9</sup> Duncan and Easterling have investigated the role of acting as taken

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<sup>6</sup> Koster (1980, 76-77), for example sees oratorical invective carrying on the tradition of what Aristotle calls ἱβνψῆλη ἱεῖβ but connects it to Homeric and tragic poetry because of the shared conduit of the speech. But see Rosen 1988 who discusses ἱβνψῆλη ἱεῖβ and demonstrates the continuity of iambographic poetry in Old Comedy with Cratinus as the primary conduit. See also Rowe 1966 and Harding 1994b for brief but useful discussions of comic elements in oratory.

<sup>7</sup> See Ober 1989, 152-55.

<sup>8</sup> Hall 1995, 39-58.

<sup>9</sup> Blanchard 2004, 11-31.

up by Aeschines and Demosthenes: Easterling concentrates on the orator's voice and posturing, and Duncan elucidates the conflict between acting and sincerity.<sup>10</sup> They both shed light on how the orator is by nature an actor, which implies that his performance is contrived—and yet in a courtroom, he must appear to speak naturally. Wider in its scope is Goldhill's introduction to a volume on Athenian performance culture. Goldhill posits that “the notion of performance will not merely appropriate ancient materials to a distorting modern framework, but will bring into significant focus a series of related terms, institutions, attitudes, and practices integral to the society of classical Athens in a way which will be especially illuminating for the culture of democracy.”<sup>11</sup> Performance is a valuable heuristic tool for understanding Athenian democracy and can, Goldhill argues, be located in four key themes: *agôn* (contest), *epideixis* (display), *schêma* (physical appearance, constitution, way of life, etc.), and *theôria* (spectating).<sup>12</sup> All four occupy important places in forensic rhetoric.

Most of these studies have been interested in the ways in which oratory resembles drama. Thus, the connections between oratory and the dramatic genres have been undeniably established, but the differences have received relatively little attention. Although oratory has a ‘staginess’ about it (to borrow Scafuro's term), we cannot assert the similarity of what happens on the *bêma* with what happens on the comic and tragic stages without paying attention to important differences as well.<sup>13</sup> As Jerzy Axer has argued for Roman oratory, the court is not exactly the theater, nor is the tribunal the

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<sup>10</sup> Easterling 1999, 154-66; Duncan 2006, 58-89.

<sup>11</sup> Goldhill 1999, 1.

<sup>12</sup> Goldhill 1999, 1-29.

<sup>13</sup> Scafuro 1997, 8.

stage: “unlike the playwright, the orator does not invent plots to be presented on stage, and unlike the actor, the orator represents no one but himself.”<sup>14</sup> Axer does recognize that there are important connections between oratory and theater, but he cautions scholars to distinguish comic material that is deliberately employed by the orator from the elements of theatricality that simply occur because of the overlapping nature of the two settings. His ultimate point is that although the orator uses the model of theater to shape his case when the comparison is apt, he also draws on other models that include spectators, like the gladiatorial arena. Thus, we should not seize solely on the theater, but rather examine whatever type of scenario the orator uses to “model the communication situation” for persuasive ends.<sup>15</sup>

Giving due consideration to the performance context is an important step toward a re-evaluation of the relationship between a trial and the community. Although scholars, beginning with Aristotle, have been interested in how the orators create bias in favor of one speaker over another, they have focused on the speeches of opposing litigants as texts. Only recently have they emphasized the role of the jurors, particularly as that of an audience at a show. Consideration of the audience’s role in the court case has a significant effect on our interpretation of any speech. In the words of C. J. Classen, a trial is a “three-cornered dialogue” between the two litigants and the jurors.<sup>16</sup> To disregard the jury’s role in that dialogue is to misinterpret the trial event. Similarly, Bers has argued

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<sup>14</sup> Axer 1989, 299-311 (here p. 303). Of course self-characterization is still possible. It is also worth pointing out an important distinction here between the Athenian and Roman orator; often the Athenian acted solely as logographer in a case and thus would still be creating a character for the speaker to assume at the time of delivery (see ch. 3 below). Further, Axer’s point only holds for the orator himself; even if an orator is representing himself, he could characterize his opponent in a variety of ways.

<sup>15</sup> Axer 1989.

<sup>16</sup> Classen 1991, 195-207.

that the interaction between audience and speaker, however informal, affects the shape and scope of an oration.<sup>17</sup>

It has been amply demonstrated that Cicero drew from comedy to shape his orations, and therefore, his audience's expectations. But Attic oratory has yet to benefit from the same depth of analysis. Axer contends that the imagery of the arena and gladiator has been overlooked by Ciceronian scholarship because this analogy is undignified in comparison to that of the theater;<sup>18</sup> a similar prejudice may have colored the study of comic invective in Greek oratory. Tragic elements in speeches have received more attention because tragedy accords with the gravity of the legal process (to which even the orators call attention), whereas comic elements, especially the more graphic elements of Old Comedy, tend to be considered "low" and too undignified for the court setting.<sup>19</sup> To be sure, the Attic orators drew inspiration from other contexts (such as religious festivals, Olympic games, military campaigns), but comedy is the most productive model for understanding oratorical invective, and comic elements in oratory are in need of further study. Part of the problem seems to be that even when comic elements are identified, they are downplayed or dismissed because they are seen as a

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<sup>17</sup> Bers 1985, 1-15; cf. Lanni (1997, 183-89) who extends this analysis to the surrounding bystanders.

<sup>18</sup> Axer 1989, 310-11: "...the theater is the only analog "dignified" enough in contemporary thought to encourage comparison with the Roman court of law. It is for this reason that scholars are satisfied with the term "theater" and with an incomplete understanding of the possibilities of the transformation phenomenon."

<sup>19</sup> Blanchard (2004, 26-7), in fact, concludes his article with a concentration on the elaborate and serious ritual of the juror's experience. His final assessment is that the juror "was steeled for drama, not light entertainment." Although his point is not made specifically to discount comedy, his opinion is representative of the approach to dramatic elements, one that (I think) lies behind the resistance to seeing the importance of comic invective. I do not claim that the courts were not serious business, but the use of comedy does not make a trial "light entertainment." The continuing debate over the "seriousness" of Attic comedy *per se* sheds light on the serious role that comedy might be playing in oratory. On this debate see Henderson 1990 and Hesk 2000, 259.

threat to the “greatness” of a speech, or as indicative that a speech was never delivered. Porter, for instance, has argued that Lysias 1 was likely only a literary exercise, based on his demonstration that Lysias presents the adultery narrative as a typical comic plot.<sup>20</sup> Yet we should not be too quick to dismiss the possibility of comic characterization in delivered speeches. As Gagarin has shown, storytelling, of the sort in which Lysias engages, draws on the cultural background of the community; it was, and still is, a necessary mechanism for presenting evidence in a meaningful way to the jury.<sup>21</sup> Each speaker tells his own story of the events, regularly invoking *topoi* familiar to his audience. Scenes and characters from comedy, tragedy, and mythic traditions become convenient ways of making the people and events in an individual’s situation more readily understandable to a large, anonymous crowd of jurors, such as the ones that Athenian litigants faced. The use of comic characterization and comic invective gives an orator greater assurance that his attacks will resonate with the crowd. Similarly, in speeches like Cicero’s *Pro Caelio*, for example, Cicero relied heavily on Roman comedy by quoting lines from Caecilius and shaping his case in terms of a Plautine plot with Caelius playing the role of the young lover, Clodia the role of the *meretrix* (courtesan/prostitute) and himself, that of the lenient father.<sup>22</sup>

There is no doubt that *Pro Caelio* was delivered. We should, therefore, not assume that, in the case of the Attic orators, extant speeches full of dramatic or literary

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<sup>20</sup> Porter 1997.

<sup>21</sup> Gagarin 2003; cf. Schrager 1999.

<sup>22</sup> See Geffcken 1973 for this analysis of the speech. Salzman 1982 sees Caelius as Attis and Clodia as Cybele, and Goldberg (forthcoming) argues that the speech draws, not from comedy, but from mime. It seems that all three are correct; we should expect that Cicero would draw from as many and varied images as were suitable for his immediate rhetorical purpose (cf. Axer 1989).

elements were not presented in court.<sup>23</sup> Of course, the courtroom setting did not give a speaker the same license to use obscenity and other graphic humor for which Aristophanes was known; too emphatic a use of humor in court would probably be counterproductive. In many respects, the settings were very different: the spectator at a comic play would watch with the expectation of laughing and being entertained; he would know that acting is taking place. The juror, on the other hand, observes a trial with an awareness of its connection to the "real life" outcome of the case.<sup>24</sup> The orator, then, had to begin his performance with an understanding of his own audience's expectations. Certainly he too would want to entertain the jury, but he had to proceed carefully even when his goal was similar to that of a comic poet (e.g. inveighing against a politician's degenerate behavior). Thus, we must be careful not to oversimplify the complexities of courtroom performance by mapping comic approaches directly onto oratorical ones. Even so, subtler forms of humor, language, and character portrayal were useful to the Attic orators (just as they were for Cicero later on) and a study of similarities and differences between the humor of the comic stage and that of the courtroom reveals important aspects of each arena as a social and political institution.

## ***II. Invective and Legal Relevance***

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<sup>23</sup> We know, for example, that *On the Crown* was delivered and it is generally agreed to be a literary masterpiece (see below, chapter one). It should also be noted here that, in regard to private cases in both Greek and Roman oratory, there is no good reason to envision substantive changes between written and oral versions; see Riggsby 1999, 178-84. It is particularly unlikely that comic material would have been added after delivery since it, by design, is meant to appeal to the entire *dêmos* and not just the elite audience of the published texts. Further, the published version is written in view of what would be effective when delivered, so we can assume it is representative of the actual (if not the ideal) oral performance.

<sup>24</sup> See below for a discussion of the different mindsets that jurors would have when observing a court case as opposed to a play.

Invective is a powerful tool that can be used against an enemy to increase one's own social and political prestige. For this reason, scholars readily admit how clever, bold, or compelling the use of invective can be, but they still tend to view it as a rhetorical attempt to strengthen a weak case—a heavy dose of artistry (*pisteis entechnoi*) to combat a lack of hard facts (*pisteis atechnoi*). In short, invective is generally considered to be outside the scope of legal relevance. But, as we shall see, the orators make elaborate arguments for and against the relevance of invective, and their efforts to justify the use of invective should not be dismissed too quickly. Further, we must bring into the discussion recent scholarship that has shown the *dikastêria* to be a site primarily concerned with carrying out justice and not just a site for social competition.

Scholars of Athenian law are becoming increasingly interested in the issue of legal relevance. The usual approach to this issue in the past has been to judge arguments in an Athenian speech based on what speakers themselves claim is not relevant (*exô tou pragmatos*), or in terms of modern notions of judicial relevance.<sup>25</sup> Adriaan Lanni has recently argued for a different approach. By comparing speeches that were delivered in the *dikastêria* with more specialized cases (homicide and *dikê emporikê*), she demonstrates that the Athenian concept of relevance was stricter in specialized cases. In turn, she is able to show that the concept of relevance must have been deliberately broader for cases in the *dikastêria*.<sup>26</sup> In particular, she finds three areas that “stray” from

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<sup>25</sup> See most recently Rhodes 2004, who follows the orators' own citations of irrelevant arguments, and in general, argues that speakers kept these irrelevancies to a minimum.

<sup>26</sup> Lanni 2005, 112-28.



the legal charge to be common components of dikastic speeches: character evidence, appeals for pity from the jurors, and contextual information about the background of the dispute.<sup>27</sup> Because these *topoi* appear with enough frequency, we can be confident that the Athenians did not view them as irrelevant.<sup>28</sup> Lanni's analysis calls for a reevaluation of all material that has been treated as irrelevant in the past. High on that list is invective (which she does not specifically address). Invective, by its very nature, has to do with an attack on someone's character and thus falls under the rubric of arguments from character, the most common type of extra-legal argumentation in the extant speeches.<sup>29</sup>

Demosthenes 36, *For Phormio*, provides a useful example of how character, legal argumentation, and comic material intersect. Probability (*eikos*) arguments are undoubtedly considered legitimate evidence in the courts (although their persuasive value may be disputed). In this speech, Demosthenes illustrates succinctly how character factors into *eikos* arguments, and also how comic characterization factors into character portrayal. Toward the end of the speech, Demosthenes juxtaposes the characters of Phormio and Apollodorus. He argues that if Apollodorus has always shown himself to be a wicked prosecuting nuisance, and Phormio has always shown himself to be voluntarily

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<sup>27</sup> Lanni 2005, 114.

<sup>28</sup> Even so, the ancient/ modern dichotomy has been exaggerated. See Riggsby (2004, 178) who, in comparison with Roman attitudes toward character evidence, argues the following about modern Texan courts: "Character evidence, then, is not to be used to make inferences as to the central question of whether the defendant committed the crime or not, but it may be used to judge subordinate issues. And in fact, it may be used to decide that central question if the defence raises the issue first. Character evidence is not simply considered irrelevant. If this were so, it would not be admitted in so many circumstances." Here too we should keep in mind his explanation of ancient views on the fixity of character as it relates to evidence; it is because the jurors viewed character as fixed that they believed past actions were a good predictor of character/behavior at the time of an incident (179). Throughout this dissertation, I use "characterization" to refer to the act of turning an individual into a stereotype.

<sup>29</sup> Lanni 2003 and 2005. Riggsby (1999 and 2004, 176-80) has demonstrated at length for Ciceronian oratory how Cicero connects supposedly irrelevant arguments to the legal charge.

helpful to others, then it is not likely that in this one instance Phormio is wronging Apollodorus and Apollodorus is lawfully proceeding with a case.

Both the Greeks and Romans believed in the notion of fixed character, a notion that is essential for understanding why arguments from character were persuasive.<sup>30</sup> Character fixity would mean that once an orator successfully established the character of his opponent, this would be reliable information for interpreting past actions, but also for predicting future ones. Important to this argument is the depiction of Apollodorus as a paradigmatic *alazôn* (a self-interested man who pretends to more knowledge or power than he actually has).<sup>31</sup> The figure of *alazôn* is useful since Demosthenes is attempting to expose the gap between Apollodorus' claims of probity and the 'reality' of his deceptive, sycophantic background. It is not always the case, however, that the orators make such direct connections between arguments from character and probability. In this case, a *paragraphê* preempting Apollodorus' claim to inheritance, motive is a central issue and each man's character bears directly on that issue. As we will see, characterization often plays a role that is subordinate to the main issues, but it is still introduced as valid evidence for determining a verdict.

Important mechanisms existed within the legal process itself that directly affected an orator's ability to incorporate invective into a speech. First, no judge or other authority monitored the relevance of the arguments introduced. In fact, the only active control over

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<sup>30</sup> Athenian speakers appeal to the audience regarding arguments from character in the same manner as Riggsby 2004 shows for Cicero. Cf. Dover (1974, 74-160; esp. 74-83 and 144-160) who discusses numerous aspects affecting moral character, but does not address the capacity for character to change (or not) over time.

<sup>31</sup> *alazoneusetai* occurs in 36.41; for a detailed discussion of *alazoneia*, see ch. 1; and for its use in this speech in particular, see ch. 4. On *alazoneia* in general, see Aristotle, *NE* 4.8; Whitman, 1964, 26-27.

a speaker's line of argumentation was the threat of dikastic *thorubos* (uproar) by the jury.<sup>32</sup> With only the jury to answer to, an orator could theoretically say whatever he wanted, no matter how far afield from the issues of the case. The orator, however, would not necessarily find such an approach productive or persuasive, and certainly risked being "shouted down" by an angry crowd.

Secondly, a speaker could widen the scope of the case considerably based on what he included in the charge in a private case (*enklêma*), or in a public one (*graphê*). Each contained a list of the specific accusations of the prosecutor against the defendant. A herald would read out the *enklêma* or *graphê* to the jurors before the trial began. It was in accordance with these charges that the jurors were required by oath to determine a verdict. The oath, then, acted as a control over the jurors in that they swore to vote in accordance with the laws and decrees.<sup>33</sup> There is no reason to believe that the jury was not doing just that when they allowed for character evidence to be introduced in court. From the jury's perspective, these arguments constituted valid evidence when trying to reach a decision. And from the speaker's perspective, it was necessary to make an identifiable connection between character argumentation and the legal charge to minimize any risk of seeming to steer the jury off topic.

As Thür shows, Demosthenes' speech *Against Pantaenetus* (Dem. 37) is useful for understanding the role of the *enklêma* as a mechanism for formally broadening a case.<sup>34</sup> The case deals with the ownership and lease of property regarding a mining

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<sup>32</sup> See Bers 1985.

<sup>33</sup> See Rhodes 2004 for a useful discussion of the oath in connection with legal relevance; cf. Tangri 2004.

<sup>34</sup> See Thür (forthcoming).

business and is the only extant speech that includes direct quotations of the *enklêma*. The speaker Nicobulus chooses as part of his strategy to quote and respond to each of the six charges (21-33) that Pantaenetus has made against him. The first five of the charges deal with the workshop and workmen specifically. The sixth charge, however, shows a conscious maneuver on Pantaenetus' part to include a wide variety of accusations that extend beyond the immediate issue of financial damages. The accusations of, and response to, this last charge are as follows (33):

“Here he accuses me of many seriously dreadful things all at the same time, including battery (*aikêia*) and outrage (*hubris*) and acts of violence (*biaiôn*) and injustices against heiresses (*pros epiklêrous adikêmata*). But there are separate *dikai* for each of these and they are not brought to the same official, nor do they have the same penalties. Rather, battery and acts of violence are brought to the Forty, charges of *hubris* to the Thesmothetai, and anything against heiresses to the Archon. And the laws even allow *paragraphai* to be lodged in response for cases that are inadmissible [i.e. brought to the wrong magistrate].”

According to Nicobulus, Pantaenetus adds in these four types of charges that are irrelevant, and three could be the cause for pursuing a *paragraphê*, since they are formal accusations for cases that should not be brought to the Thesmothetai (where Pantaenetus brought his case). Nicobulus even makes a point of claiming that he mentioned this formally when he lodged his *paragraphê*, but somehow (he implies foul play) it had been lost from the record (34). This interchange concerning procedure is indicative of the ways in which litigants attempted to bring potentially irrelevant information into their case formally so that the jurors would not reject these arguments outright. They swore on oath to judge in accordance with the laws and facts of the case, and the reading of the indictment at the opening of the trial would provide them with a framework to

accomplish this goal. We later learn from Nicobulus that Pantaenetus used this same tactic and the same accusations in his mining case against Euergus (45):

“In addition to everything else, this man accused Euergus of going out to his property and barging in on the heiresses and his own mother, and he brought the laws about heiresses with him into the *dikasterion*.”

Nicobulus attributes the victory specifically to the anger (*orgê*) Pantaenetus aroused from the jurors against Euergus for these offenses and claims that Euergus was taken aback at the introduction of these accusations because he had no idea he would have to confront slander in a mining case (47):

“...in a mining case (*metallikê dikê*), it was difficult to respond to this slander (*diabolê*) on the spot regarding matters that he did not think he’d be accused of.”

It is difficult to determine here if Nicobulus is singling out *metallikê dikê* as types of cases that focus narrowly on the main issue in favor of admitting character evidence, or if he trying to depict legitimate accusations against Euergus’ character as slander. Certainly Nicobulus is biased since he is attempting to defend himself now from the same charge that Euergus faced. Of course, we cannot know the reason why the jurors voted against Euergus. But since Nicobulus does not say that the jurors dismissed these accusations outright as baseless slander, it is possible that the jury found Pantaenetus’ inclusion of them in the *enklêma*, and discussion of them in his speech, to provide relevant information. Again, from Pantaenetus’ perspective, working these “extraneous” accusations into the list of charges itself puts him on firmer ground for convincing the jury of their legal relevance.

The last aspect of Athenian judicial procedure that is important to this discussion is the intricacy of the jury allotment system.<sup>35</sup> The Athenians were clearly concerned with the potential problem of corruption. As a way of ensuring fairness in a trial, the jury was selected by an elaborate process on the day of the trial itself so that it was virtually impossible to corrupt a jury prior to a case. This process also meant that the jury on any given day could be vastly different in composition from a previous jury. Thus, the speaker had to shape his case on the assumption that the jury was anonymous. But the issue of anonymity ran in both directions; in other words, the orator could not expect that the jury would have any knowledge of his client, if he were not already famous within the city.<sup>36</sup> It is for this reason that Lanni connects the “highly contextualized and individualized” presentation of each case with the need to supply background and character information. For a jury unfamiliar with the speaker, this information would not be irrelevant; rather, it could be most important for reaching a verdict that they believed was just.

Scholars of Greek oratory have yet to recognize the utility of comedy for “contextualizing” a case. Comedy provides a convenient language of communication; the orator could count on the jurors to recognize character types and steer the jurors’ response based on this characterization. A speaker may use comic characterization as a way of overcoming the problem of anonymity in a case against someone unknown, but these depictions tend to aim less at humor and more at description. Of course, comic depictions are still effective when the speaker is known to the jurors. In addition to

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<sup>35</sup> See Boegehold 1991; cf. Thür (forthcoming).

<sup>36</sup> Here I follow Ober (1989, 31-35) who argues that Athens was not a face-to-face society.

overcoming anonymity, comic characterization can be a very effective method of reshaping the jurors' previous views of a famous individual, as in the case of Aeschines, Timarchus, and Demosthenes for example.

### **III. *Invective, Humor, Comedy***

To understand the function of invective, we must look at how an orator justifies its relevance and how he creates individualized character attacks. I attempt to do the latter by turning to humor and contemporary comedy, since oratory is largely absorbing invective from the Athenian comic tradition. Viewing oratory through the lens of comic invective introduces three areas, any two of which (and sometimes all three) intersect at different points: humor, comedy, and invective. I argue in part that the joining of these three potentially distinct fields is not random and, therefore, can tell us much about Athenian oratory and society.

This approach raises a number of complex issues, starting with the identification of what is humorous. Naturally one cannot assume that a passage considered humorous by a modern reader was also humorous to an Athenian audience and vice versa, or at least not for the same reason. We can turn to humor theory first to identify principles of humor that are useful for understanding aspects of humor that Athenian orators used in the courts.

To determine and explain how the orators attempt to get the jurors to laugh (or sometimes even *not* to laugh), I draw from several theories that address humor from

different angles. The basic comic premises of ‘incongruity’ and ‘superiority’ go a long way toward explaining most humor in the courtroom.<sup>37</sup> Since I will discuss superiority theory below in specific connection with laughter, let us turn first to incongruity.

Mary Douglas’ work (following Freud) is a good starting point: she describes the joke as “a play upon form” in which a dominant pattern is challenged by a subordinate one.<sup>38</sup> It is the incongruity between the subordinate structure (the joke) and the dominant one (‘reality’) that makes us laugh. Critchley offers a useful explanation of this phenomenon in terms of a ‘social contract’ in which the joke teller and listener participate. He rightly emphasizes that a shared belief system must exist if the joke is to work. In his words, “no social congruity, no comic incongruity.”<sup>39</sup> This understanding of incongruity can be usefully supplemented by the work of Thomas Veatch who has recently put forth a general theory that tries to account for and explain the mechanisms behind all varieties of humor from linguistic jokes such as puns, to obscenity, incongruity and absurdity.<sup>40</sup> His basic premise is that, in order for humor to occur, there must be a confluence between a “normal” situation, defined as “subjective moral principle,” and a violation of it. In his words, “humor occurs when it seems that things are normal (N) while at the same time something seems wrong (V).” He too, then, puts incongruity at the heart of any humorous scenario. One major advantage of his theory is that it accounts for

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<sup>37</sup> Critchley (2002, 2-6) synthesizes most major comic theories into three categories that include these two, incongruity and superiority, with ‘relief’ (best known from Freud’s work on jokes) being the third. Since the comic process of relieving pent up energy through laughter is least useful for our purposes, I will not discuss it directly. Nonetheless, it should be noted that these three concepts do not exist in isolation of each other and we should therefore not be surprised to find overlap among them.

<sup>38</sup> Douglas 1975, 90-114.

<sup>39</sup> Critchley 2002, 4.

<sup>40</sup> Veatch 1998.



the perception of the listener (hence the “subjective” of “subjective moral principle”). He identifies three possible outcomes for the same potentially humorous joke or situation depending on the level of commitment on the part of the listener: if the listener is not at all committed to what is being violated, then s/he does not get the joke, and is therefore neither offended nor finds it humorous. If, however, the listener is somewhat committed to the principle that is violated, then s/he gets the joke but is not offended and therefore finds it humorous. The third possibility is that s/he is very committed and therefore finds the violation offensive and not at all funny.

Although in most cases we cannot know the reaction of the jury to any argument that an orator makes, humorous ones included, we can identify comic potential by looking at the orator’s manipulation of concepts to which we can expect the jury (as the *dêmos*) to have some commitment. In some instances, the orators attempt to frame situations in ways that the jury will find funny by weakening their commitment to some principles, but they also attempt to make potentially humorous situations offensive to the jury by trying to strengthen their commitment. This sliding-scale phenomenon is a useful tool for social-historical analysis insofar as it acts as a litmus test for understanding normative democratic views on (im)moral behavior.

Determining what is potentially ‘funny’ in the speeches is the first step toward understanding the humor of invective and the laughter that results from it. Laughter plays a key role in many speeches, but one that is not always explicit, which can obscure its importance within a speech. To understand how the orators manipulate laughter, I follow Halliwell’s model of ‘playful’ versus ‘consequential’ laughter in Greek culture. ‘Playful’

laughter refers to the laughter of youth and embodies innocence. ‘Consequential’ laughter, on the other hand, is the laughter of one’s enemies; it is meant to hurt and is closely linked with concepts of honor and shame. ‘Playful’ laughter brings us all together, whereas the ‘consequential’ brings us together by excluding an individual or a group. In this sense, ‘playful’ laughter can be viewed as ‘inclusionary’ insofar as it results from the audience laughing *with* the person making a joke, thereby aligning itself with that person. ‘Consequential’ laughter is ‘exclusionary’ in that it seeks out a target to exclude from the group; the group laughs *at* the individual as the butt of the joke, rather than as its creator, thereby reinforcing group values at the expense of an individual.<sup>41</sup>

What Halliwell calls ‘consequential’ laughter ties in with Hobbes’ theory of laughing from the sudden realization of one’s own superiority over another.<sup>42</sup> Laughter directed at someone else’s shortcoming provides a kind of moral training for an individual or group. This type of comparison of self to other can be further explained by the mechanics of the comic process. As Hubbard notes, many theories of humor relate in some way to the issue of self-knowledge.<sup>43</sup> He uses Plato’s discussion of comedy in the *Philebus* to demonstrate the ancient view that the laughable is defined as the opposite of self-knowledge. An opponent or comic character is laughable when there is a gap

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<sup>41</sup> It could be argued that ‘playful’ and ‘consequential’ are not diametrically opposed since, in both instances, a target still exists, only that target is more obvious in the ‘consequential’ mode of laughter. However, there is still a tangible difference in the jovial vs. aggressive nature of the laughter elicited, which is important for how it would be expected to affect a jury’s response.

<sup>42</sup> Hobbes 1839, 46.

<sup>43</sup> Hubbard 1990, 2: “The idea that Comedy and humor are basically functions of self-perception is one that recurs throughout the history of critical theory on the comic.”

between his pretensions and his “actual” self.<sup>44</sup> When an orator, like a comedian, exposes that gap, he produces something laughable. The jury or audience, in their desire not to identify with the person laughed *at*, direct their laughter at the opponent as a way of distancing themselves and asserting their superiority.<sup>45</sup> ‘Consequential’ laughter thus has the ability to ‘control’, as described by Corbeill in his work on Ciceronian invective, because it reifies normative values. Since invective is by nature aggressive, the dynamic of exposing deviant behavior by laughing *at* the deviant is a key component to any discussion of invective, especially high-stakes political invective.<sup>46</sup> But, as I will show, it can be linked to the strategy of prosecution more generally. Moreover, ‘playful’ or ‘inclusionary’ laughter is particularly suited (although not limited) to the strategy of defense.<sup>47</sup>

We have yet to distinguish between what is ‘funny’ and what is ‘comic’—two phenomena that overlap a great deal but are distinct. By looking to parallels with Old, Middle, and New Comedy, we can tell what is ‘comic’ in oratory, in the sense that it is linked to the comic genre. Since the ‘funny’ and the ‘comic’ are not the same, they can be dissociated especially when removed from their comic context. The orators did not always use characters or plots that would be funny on the comic stage to evoke laughter; rather, such material could be used for serious effect. For example, Porter shows how

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<sup>44</sup> I will discuss the clear connection between this understanding of the laughable and the figure of the *alazôn* in the next chapter.

<sup>45</sup> See also Hubbard’s discussion of modern comic theory’s focus on the person laughing, rather than the person laughed at (1990, 8-11).

<sup>46</sup> See also Powell 1977, 53-55.

<sup>47</sup> Of course, the lines between prosecution and defense are sometimes blurred in Greek oratory, such as in Lys. 1 or Dem. 18. Nonetheless, the consequential/prosecution and playful/defense opposition can be seen as clearly informing localized strategies within a given speech.

Lysias uses a comic plot as a structuring device for his narrative, but does not suggest that he is trying to make the audience laugh.<sup>48</sup> In such instances, the orators are drawing on generic comic elements which are presumed to be common knowledge and which facilitate communication with the audience. Similarly, turning an opponent into a comic character type aims at getting a certain response from the jurors that has been shaped by prior conditioning from the comic stage. Conversely, the orators often use wit and humor in a way that has no identifiable connection to comedy as a genre.<sup>49</sup>

Although there is no necessary connection between invective and comedy, invective utilizes characterization that can best be explained by turning to what we know from comedy.<sup>50</sup> The rise of Old Comedy in the 5<sup>th</sup> century (and its continuation as Middle Comedy in the 4<sup>th</sup>) is significant in that its aggressive and obscene attacks against officials became an acceptable form of public speech. This provides a necessary background for understanding juror response to oratorical invective in the 4<sup>th</sup> century. Both genres participate in a similar practice of policing immorality, often by using humor to provoke derisive laughter.

Nonetheless, it is difficult to tell whether oratory is taking directly or explicitly from comedy, a fact that was noticed by Webster: “Some of the violence of Aristophanic comedy seems to have spilled over into political eloquence; but comedy also could still

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<sup>48</sup> Porter 1997.

<sup>49</sup> An example of this phenomenon would be Demosthenes’ use of the satiric mode in the *Philippics* (as discussed by Rowe 1968). Here, Demosthenes is using wit and sarcasm throughout the speeches, but nothing in it points specifically to Old or Middle Comic humor. *On the Crown*, on the other hand, would represent the latter phenomenon since it contains elements that are identifiably Old (and Middle) Comic, such as repeated usage of Aristophanic language, neologisms, oxymorons, comic characterization, etc. See Chapter 1 below.

<sup>50</sup> Importantly, Old Comedy grew out of the invective tradition of archaic lyric poetry as represented by Archilochus and Hipponax; see Rosen 1988.

be political and it is not always easy to decide whether a comic poet is borrowing from an orator or an orator from a comic poet.”<sup>51</sup> Even ancient scholars recognized that the vocabulary of comedy and of oratory overlaps to a great extent because both draw heavily on the common language of the people.<sup>52</sup> For this reason, it has been easier to identify an orator’s appropriation of tragic or epic material, because a clear shift toward lofty language, or often even a quote, is quite hard to miss. And unlike Cicero who cites comedy explicitly and even quotes lines from comic poets, the Attic orators make subtler use of comic language, themes, and characterization. When discussing connections with comedy, I will focus on speeches, or sections of speeches, in which the use of comic characters and scenarios play a key role in the orator’s attempt to negatively characterize an individual. I am particularly interested in depictions (sometimes humorous and sometimes not) of an opponent as an *alazôn* (braggart), *kolax* (flatterer), *dyskolos* (misanthrope), *bômolochos* (buffoon) or male/female *hetaira/pornê* (courtesan/prostitute). Similarly, I will discuss the use of broader comic strategies as framing devices, such as the *mundus perversus*, and comic techniques like nicknaming and comparisons with animals.

Still, it is not always clear in what direction influence is occurring, nor should it matter. In most instances, then, I do not argue that the orators are borrowing directly from comedy; rather, I maintain only that they have a shared interest in themes and stereotypes so that looking to comedy can be useful for explicating an orator’s strategy. It is important to recognize the likelihood of parallel development on both the comic and

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<sup>51</sup> Webster 1956, 47.

<sup>52</sup> See e.g. Horace *Satires* 1.4.45-48.

oratorical stages (particularly when dealing with contemporary Middle Comedy). Often, a kind of back-and-forth appropriation of material is occurring, as we would suspect since oratory and comedy shared in the same performance culture. Direct influence need not be proven in order to discuss how trends in comic development might be affecting trends in oratory. Ultimately, any interaction between oratory and comedy highlights concerns that are more pervasive in the Athenian democratic imaginary than if they existed only within the immediate oratorical context. We can see this interaction best by looking ahead in time to the “stock” character of New Comedy and including a discussion of Theophrastus’ *Characters*. The fact that stock character types surfaced just following the decline of Attic Oratory as we know it implies that their development must have been in place over the course of the 4th century. Oratory, like comedy, was borrowing from and contributing to this development through its increased concern with the “moral values” of the community.

If we are to make use of comedy as representing Athenian social reality in some way, we still need to reconcile the fact that Greek comedy, in particular Old Comedy as represented by Aristophanes first and foremost, is often viewed as the complete inversion of reality. Scholars of Greek comedy have turned to Bakhtin’s discussion of carnivalesque inversion (what I will call the *mundus perversus* throughout) to explain Aristophanic humor.<sup>53</sup> The *mundus perversus* is a comic mode characterized by the overturning of the normal day-to-day world. Indeed, most of Aristophanes’ comic heroes exemplify this phenomenon, whether it is an Athenian wife like Lysistrata or Praxagora

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<sup>53</sup> See, e.g., Edwards 1993 and Platter 1993.

taking over the political sphere, or an everyday farmer like Dikaeopolis contracting peace treaties with Sparta, or an over-masculinized Father-in-Law pretending to be a woman. The reversal of roles for comic effect, such as between master and slave, or man and woman, is a common feature of Old Comedy and thus inversion is applicable in this respect.<sup>54</sup> Still, even in these most exaggerated instances, there is a connection to reality, since some notion of the normal world must exist if it is to be overturned. Henderson's view of Aristophanic humor sums it up nicely:

“The world depicted in political comedy was the world of the spectators in their civic roles. We see the *demos* in its various capacities; we see the competitors for its favor; we listen to formal debate on current issues, including its characteristic invective; we get a decision, complete with a winner and loser; we see the outcome of that decision. But there is something strange about the depiction, like seeing yourself in a fun-house mirror. Everything is grotesquely exaggerated and caricatured, the image is all backwards and seems to reflect things that aren't there and omit things that are. But you must admit that your presence in front of the mirror is the cause of the image in it.”<sup>55</sup>

Henderson thus argues against viewing Athenian comedy as carnivalesque because it does not enjoy the same kind of autonomy as Carnival. Carnival is characterized by *not* having any division between actors and spectators. Thus, it enjoyed a real separation from the official world in a way that Athenian festivals did not. There is no doubt that, at Athens, a play was demarcated as a space for acting to be viewed by spectators. Still, topsy-turviness is a useful concept for explaining humor based on inversion (a form of

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<sup>54</sup> The concept of inversion has been handled at length separately by Bakhtin 1984 and Segal 1987 (in his discussion of Saturnalia).

<sup>55</sup> Henderson 1990, 308.

incongruity) within the world of an Aristophanic play. Accordingly, comic playwrights had greater freedom of expression than orators, even if poets too were subject to penalties for obscenity or slander.<sup>56</sup> I therefore will speak of comedy as enjoying separation from the real world in a way that litigation does not. In other respects, I follow Henderson in viewing Athenian comedy as integrated with Athenian society and therefore parallel, rather than in opposition, to the official world.<sup>57</sup> This view of Old Comedy applies to our discussion of Middle Comedy as well (see below ch. 2).

The difference in context between oratory and comedy demands explanation of how context affects the use and reception of similar types of humor. The fact that a juror would begin his task in all seriousness, whereas a spectator of a comedy would expect to laugh from the start, means that the orator had to approach the use of humor differently than a poet. This difference in the expectations of spectators at each event can be explained by Manell's theory on the serious versus playful 'judgmental sets'. Manell has demonstrated that an audience is more likely to find events, even violent ones, humorous if they approach a subject from their playful 'judgmental set', rather than their serious one.<sup>58</sup> The playful 'judgmental set' refers to "a temporary 'suspension' of the observer's

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<sup>56</sup> See Wallace 1993 and 2005, and Sommerstein 2004.

<sup>57</sup> Henderson 1990, 273-75.

<sup>58</sup> See Manell 1977, 273-76. Manell's study used two different techniques to demonstrate a significant difference in amusement toward injustice and interpersonal aggression cartoons depending on whether or not the viewers had adopted a playful judgmental set. See also Apter & Smith 1977, who discuss a similar phenomenon in terms of a telic or paratelic mental state; in the telic state, one's actions are chosen for the purpose of achieving a goal (a requirement of the self or society), whereas in the paratelic state, goals are chosen to justify behavior. These two states fall along one axis, while state of arousal falls along another axis. If arousal is low in the telic state, the outcome will be relaxation, but in the paratelic state, it will be boredom. On the other hand, if arousal is high, the telic state produces anxiety whereas the paratelic state produces excitement. We can draw a connection between the serious judgmental set and the telic state, likewise between playful and paratelic as another way of showing the relationship between the jurors' mindset and their response to an orator's presentation of material.



attitudes, concerning depicted behaviours normally defined as socially unacceptable or unjust, as a ‘standard of comparison’.”<sup>59</sup> The fact that jurors would retain their serious ‘judgmental set’ means that the orator’s task of getting the jury to laugh is a more challenging one, but it also means that he can benefit in different ways from using the same comic techniques as a poet. For example, the orator can frame an accusation in terms of Aristophanic (or Saturnalian) inversion and expect that the jurors will not view this behavior as funny, but rather as harmful to society, because they are viewing it from their serious and not their playful ‘judgmental set’. And even if the orator’s goal is to get the jurors to laugh, the jurors are nonetheless reminded by the end of the speech of the seriousness of their task, which demands that they return to their serious ‘judgmental set’ by the end of a speech. Thus, comic strategies (both humorous and not) always demand that the jury see the insidious nature of behavior that would be funny on the comic stage, precisely because a comedy invites a ‘temporary suspension of the observer’s attitude’, but the court does not.

#### ***IV. Strategies of Invective***

The numerous factors affecting our interpretation of invective in oratory can be usefully illustrated by turning briefly to a paradigm in a specifically Greek performance context: the famous Thersites scene in the second book of the *Iliad* (211-77). The scene begins with the comically deformed character Thersites standing up to rail against King

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<sup>59</sup> Manell 1977, 273.

Agamemnon. From start to finish, he verbally assaults Agamemnon's greed and selfishness for risking soldiers' lives and then hoarding the lion's share of booty gained by their labors. Thersites' alleged goal is to persuade the soldiers to give up their mission, flee to the ships, and set sail for home—a goal that Odysseus attributes to Thersites' own cowardly desire to flee. Since Thersites' view shares much in common with Achilles' complaints thus far, Odysseus' reading of Thersites is not the only viable one. But, Homer consciously steers the listener/reader to Odysseus' side by the end of the episode. In particular, we learn detailed information about Thersites' appearance even before Thersites begins his attack; he is bow-legged, club-footed, hunchbacked, and pointy-headed with scraggly patches of hair (217-19). Homer also tells us that he is the *aischistos anêr* (most disgraceful man) of all men who went to Troy and *echthistos* (most hated) by the Achaean troops. The negative superlatives indicate Thersites' strained relationship with his audience; we would expect, then, that the crowd would be opposed to Thersites when he began to speak, rather than in solidarity with him.<sup>60</sup> We also learn that his motive for abusing kings is to provoke laughter (ἀμμ' οὐξ ἰί φτβῆπ ηφιπῖόπο Βσηφιπῆξ ἔννοβξ 2.215-16). Since he proceeds to abuse Agamemnon verbally, a direct connection between invective and laughter is acknowledged explicitly; the intended response to invective is laughter.

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<sup>60</sup> Thersites' social status is also important here. Scholars have debated whether or not he is of the same rank as the other leaders or a commoner like the soldiers. The latter would give us some cause to believe the soldiers might be more sympathetic to Thersites' accusations. However, most recently it has been argued by Marks (2005) that Thersites most likely was from the elite. Marks' position makes sense given the crowd's hostility toward him and rightly shifts us away from viewing the scene as an *agôn* between ranks, and rather as a contest between Odysseus and Thersites for control.

In the end, Thersites does provide the troops with laughter, but as the object of their laughter and not the agent (as he wished). After Odysseus responds with harsh invective of his own, he threatens to strip Thersites naked (exposing even his genitals) and whip him senseless. He then hits him with his scepter, reducing him to tears. In response, the soldiers laugh gladly (ἥε ὁ ἡέμβιττος) and single out this one event as Odysseus' best achievement on behalf of the men (ὕϊε φνέη' ἄστυπο ἔο' Βσῆφιπξξξ). Odysseus, recognizing Thersites' skill as a speaker (the only positive trait Homer attributes to him is "clear-voiced"), one-upped Thersites by escalating the *agôn* to physical abuse and not just verbal.<sup>61</sup> Since Odysseus does not maintain the boundary between verbal and physical assault, the laughter he creates is a response to both actions. Whether or not we wish to see the audience's laughter in response as mostly the result of the beating, the context of the scene makes clear that invective is meant to be funny. It produces pleasure for the listeners, as Demosthenes pointed out much later.<sup>62</sup>

Because this episode is embedded within epic narrative, we are privy to Thersites' relationship with his audience and his opponents, Agamemnon and Odysseus. Using humorous invective backfires on Thersites because he does not get the audience on his side; they are in fact actively against him and in support of his opponents. Perhaps, in part, this is because he includes a slight against the very men he is trying to persuade;

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<sup>61</sup> The Greeks viewed abuse on a continuum that started with verbal assault and ended with homicide. In between these two was physical violence. See Dem. 54 where Demosthenes gives a detailed account of how each step leads to the next in order to show the danger of words and the need to regulate them by law; Cf. Phillips (2000, 1-3; 258), gives an interesting discussion of this passage, which he names "Demosthenes' ladder".

<sup>62</sup> Demosthenes tries to make a universal claim at the opening of *OTC* (quoted at the start of this dissertation), which may or may not be true. More importantly, this scene highlights the continuously prominent role that invective played in the Greek world from Homeric times, through archaic poetry, Attic comedy and then oratory; cf. Dobson 2003.

after calling the troops the sons of Achaeans, he “corrects” himself by calling them the daughters (*Achaiides*). His attempt to persuade his audience by attacking Agamemnon through derisive language only serves to alienate him from them even more. If the soldiers were never brought over to Thersites’ side during his speech, it makes sense that Odysseus is able to stand up and rail against him from the start. The soldiers want to see Thersites put in his place, and when Odysseus does just that, laughter emerges that unites the troops even more firmly with their leaders. Thus, a *sensus communis* (the shared world that humor creates) is achieved, but it is at the expense of Thersites, an obvious victim of ‘consequential’ laughter.<sup>63</sup>

The Thersites scene also reminds us that invective is not *ipso facto* pleasurable (as Demosthenes claims), since it can also be annoying or offensive. Thersites, in some respect, offers us an object lesson in how not to use invective. We see that invective can easily backfire if the speaker has not first established a sufficiently firm alliance with the audience against an opponent. Whereas in most 4<sup>th</sup>-century court cases it is difficult to know the audience’s view of a speaker at the outset of a speech, the speaker’s relationship with the audience during the speech is crucial to the success or failure of invective. An orator must tread carefully and build up to a harsh attack in order to avoid alienating his audience. For this reason, it is common to start out humbly by seeking the goodwill of the jurors and only to attack an opponent in the harshest terms toward the end

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<sup>63</sup> See Critchley (2002, 18-19) for a discussion of *sensus communis*. Although Critchley recognizes the phenomenon of laughing at others, he has a personal aversion to it and thus privileges laughing at oneself. In the Greek world, most laughing that occurs is *at* others; if laughter is directed toward the self, it is generally in a collective sense rather than individually (see Henderson’s quote above), although there are some exceptions.

of a speech, an approach Thersites did not take.<sup>64</sup> This concept of speaker-audience solidarity is an important addition to Veatch's model, which concentrates more on the content of the joke itself. The orator must build up his alliance with the crowd before feeling confident that they will laugh. The speaker will then either succeed at creating a laugh or will offend, based on how he presents that humor. Their response in the form of laughter demonstrates agreement with his argument, whereas their scorn further strengthens their alliance with his opponent instead. Invective (and even humor more generally) is a double-edged sword; in any given situation, the speaker could theoretically succeed or fail. He is constantly at risk of overstepping the boundaries of the 'social contract' between himself and the jury, and thereby increasing the risk that they find the violation in the humor offensive and not funny. The flip side is that if the speaker can wield the unruly sword effectively, the jury's laughter is practically tantamount to victory.

It will help here to introduce the concept of risk and reward as a general reading strategy that goes a long way toward explaining how the orators justify the relevance of specific arguments to the charge, and likewise, try to convince the jurors of the irrelevance of an opponent's claim. Starting a speech cautiously and working up to harsh attacks is one way to minimize risk. Another is addressing the audience directly by seeking their approval vocally. Audience response determines just how far the orator can

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<sup>64</sup> We should not, therefore, discount invective as decorative or additional just because it is placed at the end of a speech. MacDowell (2000, 22-30), e.g. in his commentary on *On the False Embassy*, believes that the speech as we have it is too long to have been delivered in its entirety. He thinks that the second half was expendable since it is full of invective, whereas the first deals more closely with the issues. Once we acknowledge that working up to invective is a necessary part of the strategy, then its later placement is an invalid criterion by which to judge its expendability.

push the limits of harsh language or reproach. It is also the case that the orators are likeliest to use humor when making the harshest attacks. They do so because humor softens the blow; it is difficult for the jurors to get angry with a speaker for using harsh language if they are laughing.<sup>65</sup> Humor thus affects the speaker's self-characterization, since the speaker comes across as jovial even while making a derogatory attack. The orator's decision to make jokes at his own expense plays into this strategy as well; by not sparing himself from time to time, he ingratiates himself further with his audience while reaping the benefits of directing their laughter primarily at his opponent. Further, it acts as a preemptive defense by stealing a potential attack away from an opponent. Even so, these techniques for reducing risk would not work if the judicial process did not allow for it.

## ***V. Exposing Deception: Invective and 'Truth'***

As Henderson's assessment of Aristophanic humor (quoted above) makes clear, there is a connection between comedy, humor, and "reality". It is this connection that helps explain the potency of laughter as an oratorical tool. An audience can recognize humor only in a form (whether it be satire, farce, mime, a comic play or a simple joke) that reflects their social reality in some way. This tie to "reality," in part, provides a basis for the common belief that only the truth is funny. Veatch has sought to qualify the

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<sup>65</sup> Cf. Henderson 1991, 10-11 (with n.23): "...the pleasure derived by the third party from our joke makes him disinclined to examine the grounds of our aggressiveness dispassionately and in general disarms serious or critical thought. The presence of a joke also modifies the *appearance* of aggressiveness and thus makes it easier and less potentially dangerous to laugh at someone else's expense."

concept of “truth” in humor, and has argued that “truth” is best explained as “personal experience.”<sup>66</sup> Thus, what rings true with any given individual is affirmed as the “truth.” Not surprisingly, collective experience creates the notion of “truth” even more strongly. In Critchley’s view, jokes are “acts of ‘everyday anamnesis’, that remind us of what we already know in a new way. Humour lights up what Schutz calls the ‘stock of knowledge’ that we all share.”<sup>67</sup> It is precisely because all comedy is based on this reality of collective experience (*sensus communis*) or ‘stock of knowledge’ that the orators can use comic or humorous material (and subsequent laughter) as supporting evidence for their arguments. When the jurors laugh at the claims of an orator against an opponent, that laughter is a confirmation of the “truth” of those claims. What is more, it is very difficult to counteract the effect of laughter since it is a visceral reaction not necessarily based on logic. Humor can thus be used to make an argument seem “true” to the jury, but it is also useful for counteracting rhetorical trickery. Since the Athenians were suspicious of rhetoric’s ability to deceive, speakers routinely accuse each other of using crafty rhetoric to mask the ‘truth’ of a situation. The orator is able to use the “truth” of humor and comedy as a way of exposing an opponent’s deception.<sup>68</sup> As we shall see, the orators appropriate the

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<sup>66</sup> Veatch 1998, 185.

<sup>67</sup> Critchley 2002, 86.

<sup>68</sup> Cf. Hesk (2000, 202-241; 258-273) and Schrager (1999, 174-209) on truth and deception. Even now, comic news is thought by viewers to offer a version of events closer to the “truth” than the one obscured by the spin of the (supposedly accurate) media. A series of articles in the *New York Times* tracked the likelihood that viewers would believe comic news instead of serious news. Viewers thought that, although distorted, Jon Stewart’s *Daily Show* version better represented reality than the view put forth by the politically constrained media. The media, of course, is supposed to offer outside, objective criticism. However, many think that this is no longer the case. Comedians have always occupied an important outside position, hence the greater freedom to take on political and social issues more directly, and to expose the “reality” of a situation in a graphic, even obscene, manner. This observation applies to Athens. I agree with Henderson 1990 who argues convincingly that comedy was very much a civic and democratic institution

connection between comedy and truth as a type of “rhetoric of anti-rhetoric” intended to make themselves appear trustworthy, and their opponents untrustworthy, to the jury.

Comedy draws on a long history of exposure by insult and the orators recognized this as a useful mechanism for attaining a similar goal. According to Hesk, however, comedy only pretends to show the truth. Since comedy too is putting on an act, it has no greater hold on the truth than any other genre. But the comic form (as his discussion of *Acharnians* makes clear), by the very workings of the play (i.e. parody of rhetorical trickery), claims to expose the deception occurring in the Assembly or courts. It therefore does not matter whether or not a comedy is just as steeped in rhetorical deception as oratory. Because comedy postures as the genre that can reveal truth, any oratorical attempt to take up the comic mode implies that the orator is trying to get from comedy what comedy claims to do (not what it actually does). Comedy and oratory thus share the goal of exposing deception, even if they both use deceptive rhetoric to do so.<sup>69</sup>

### **Overview of Chapters:**

In the first chapter, I reevaluate Demosthenes’ characterization of Aeschines in *On the Crown*. Because this speech in particular is considered perhaps the “greatest” speech in all of Greek oratory and because it makes use of invective arguably more than any other, I attempt to connect these two factors rather than divorce them. Further, by

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not at all outside of the world of politics where it would have had no real influence. But, this does not mean that Aristophanes did not have greater license as a poet to put forth his social commentary.

<sup>69</sup> For a discussion of the Greek connection between tragedy and deception, and comedy’s exposure of truth, see below ch. 1.



integrating Demosthenes' use of invective into his overall strategy and reevaluating its connection to the legal charge, I demonstrate why it is so important to Demosthenes to depict Aeschines consistently as an *alazôn* and why this strategy works. Because scholars have recognized comic elements in *On the Crown* more than in other speeches, I use this speech as a starting point for understanding the role of Old Comic influence in oratory more broadly. This chapter thus highlights the role that comedy can play in the orator's use of invective.

In Chapter Two, I go back to the beginning of the Aeschines/Demosthenes contest in order to show how Aeschines makes use of humor in his speech *Against Timarchus*. As opposed to Demosthenes, Aeschines relies primarily on Middle Comedy, for which our sources are scanty. I demonstrate how extensively Aeschines interacts with contemporary comedy to inform his presentation of events and his characterization of Timarchus as a  *pornos*, but also how he depicts Demosthenes as an *alazôn*. Aeschines relies on humor and laughter as direct confirmation of the truth of his arguments. For Aeschines, humor provides an antidote to rhetorical trickery, bluntly exposing the truth that his opponents are trying to conceal. This chapter highlights the role of humor in the use of invective.

In the third chapter, I shift to a discussion of invective against lesser-known politicians. Here I demonstrate the role of comic invective and characterization as a necessary component of democratic *parrêsia* where the issue of personal animosity between speakers does not cloud the issue (as between Aeschines and Demosthenes). In particular, I re-evaluate the speeches *Against Androtion* and *Against Aristogeiton*, both

delivered by *sunêgoroi* (co-speakers). The former offers evidence of how the characterization of Androtion as  *pornos* is not irrelevant to the *graphê paranomôn* brought against him for proposing a crown for the Council. And the latter offers a most interesting example of a politician depicted systematically as one of the characters from Theophrastus. By focusing on the role of *sunêgoria* in two speeches that are notoriously condemned for irrelevant and scurrilous attacks, this chapter underscores that invective is an impersonal tool of the trade.

The fourth and final chapter investigates how social status and visibility within the community affect the use of comic invective against opponents. By focusing on cases that involve slaves, freedmen, and low-profile members of the community, I show how comic elements are portable as descriptive features for private individuals. Speakers who are not politicians can effectively cast opponents as *alazones*, *kolakes*, *dyskoloi*, or *bomolochoi*, or make use of comic plots and strategies generally. Whereas derisive laughter against an opponent was often the goal of high-profile politicians, low-profile speakers do not aim at open laughter, but still attempt to stir up comic *pthonos* (scorn) on the part of the jurors. A study of invective in speeches involving low-profile individuals reveals that the difference in use of invective between politicians and private citizens is one of degree and not kind.

*Chapter 1*  
**The Crowned Thersites: Comic Invective in *On the Crown***

λβί φ' νέο υἷχ υῶο υσβηζῶο πῆ υῶο υῶο νφῶ υβύυβ  
ἐ φεβηῖουῶο πῆτφρο ἐο υσβηῶεῖβξ υῶο φστῖυι ο ὕ ὀ υῶο  
'Φμμήος ο τυφγβοπύνφπο. πῦε φ'χ ἄο ὕνῶο ὕ πνφῖοφρο. ὀυξ  
γι τίο 'Πνι σπχ ἄοβοε σπο βῦυῶο φῶβξ λβί τωλπγᾶουι ο' βῦυπῖ  
ε' ὀυβο υῶο υπῆπύυπο ἄοζσς ς ο τυφγβοῶυφ πύλ <ἄο> πφτζφ  
ἐο υβίχ υῶο 'Φμμήος ο εῖκβῆχ τωπῖυφτζβξ

And if any of the tragic poets performing afterward should portray Thersites being crowned by the Greeks in a tragedy, none of you would endure it since Homer says that he is a coward and sycophant; so when you crown such a man as this [Demosthenes], do you not think, in the opinion of the Greeks, that you are being heckled? (Aes. 3.231)

Almost every general work on Demosthenic rhetoric culminates in a study of *On the Crown*. As Usher recently put it: “Though it is neither the last nor the longest of his orations, this is the only possible work with which to end an examination of Demosthenes’ oratory, since it encompasses the whole of his art, transcending genre and defining his position in both literature and history.”<sup>1</sup> In fact, ancient and modern critics alike are practically unanimous in their assessment of this speech as the greatest work by any Greek orator, not just Demosthenes.

General studies of invective also end with a discussion of this speech. Bruns, Wankel, and Harding all claim that Demosthenes reached heights of invective never before seen.<sup>2</sup> And Koster, in his book on invective in Greece and Rome, explains the Aeschines/Demosthenes confrontation as the highpoint of invective in Greek oratory,

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<sup>1</sup> Usher 1999, 270.

<sup>2</sup> Bruns 1961, 570-73; Wankel 1976, 59; Harding 1994b, 214.

discussing in detail the attacks they made against each other.<sup>3</sup> Surprisingly, though, few scholars have been willing to connect their assessment of the speech as superior with its unsurpassed incorporation of invective.<sup>4</sup> Even though recent commentators, such as Usher and Yunis, are less subjective and more practical in their assessment, most consider *On The Crown* a great work of oratory, despite the invective, not because of it.<sup>5</sup> But the central role that invective plays within the speech cannot simply be dismissed; we must account for it if we are to understand how it is that the Athenians chose overwhelmingly to crown Demosthenes, despite Aeschines' protest that they would be "crowning Thersites".

In this chapter, I will first show how Demosthenes skillfully integrates invective into the legal argument by justifying its use as a necessary response to Aeschines' accusations. It is Aeschines first, and Demosthenes only subsequently, who makes the issue of character directly relevant to the charge. The link that Demosthenes is able to forge between invective and the indictment thus argues against dismissing the comic passages as irrelevant. Secondly, I will show how Demosthenes creates an alliance with his audience when using invective to entertain them, in part, by drawing on its comic roots; by encouraging the jury to laugh at Aeschines, he seeks to reduce the appearance of speaking inappropriately while belittling his opponent.

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<sup>3</sup> Koster 1980, 78.

<sup>4</sup> Bruns (1961, 570-78), for example, criticizes Demosthenes for his unfair and implausible attacks on Aeschines, as opposed to Aeschines' criticisms in *Against Ctesiphon*, which he sees as grounded in truth. Goodwin (1901, 129) considers Demosthenes' sudden shift from his "impassioned patriotic eloquence" in defense of his own policies (192-208) to base attacks against Aeschines (209) to be "depressing".

<sup>5</sup> Usher 1993; Yunis 2001. Dyck (1985, 43) notes that previous scholars assess the invective as "inconsistent," "wished unwritten," "unmatched in vileness," and consisting of "several digressions." He points out the problem with praising Demosthenes' self-presentation but assailing his depiction of Aeschines.

One of the few interpretations of invective in *On the Crown* that focuses on its function is a brief discussion by Rowe on the characterization of Aeschines as an *alazôn* (braggart).<sup>6</sup> Rowe sees the passages of invective within the broader context of Demosthenes' strategy of pitting tragedy against comedy, with Demosthenes casting himself as the tragic hero and Athens as his supporting chorus, while Aeschines plays the comic *alazôn*, and Philip, the force of fate.<sup>7</sup> I expand on Rowe's line of reasoning by situating Demosthenes' comic depiction of Aeschines within a broader discussion of what it means to be an *alazôn* in the 4<sup>th</sup> century.<sup>8</sup> In particular, I address the utility (and significance) of the deliberate portrayal of Aeschines as *alazôn*, but I also acknowledge that other characterizations come into play.<sup>9</sup> Whereas Rowe sees Demosthenes' characterization as effective but legally irrelevant, I argue that *alazoneia* is an important part of his strategy to make his invective against Aeschines relevant to the charges; by justifying his invective, he successfully puts Aeschines through a paratragic (i.e. comic) transformation and thereby denies him tragic grandeur.<sup>10</sup>

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<sup>6</sup> Rowe 1966, 397-406.

<sup>7</sup> Reactions to Rowe's analysis have been mixed; the main objector is Dyck (1985) who bases his opposition to seeing Aeschines as *alazôn* on four points: the depiction of Aeschines as hireling is not comic; the comparison of Aeschines with a doctor is to condemn disloyalty not to depict a quack; the tritagonist is not an *alazôn* character; and if Aeschines had been caricatured as a harmless impostor, the jurors would not have seen him as a real threat. On the other hand, Harding (1994b, 214-18) claims that it is hard to improve on Rowe's assessment and therefore closely follows suit; he does not take account of Dyck's objections. Duncan (2006, 58-89) also agrees with Rowe's analysis, but since her work is concerned with tragic actors and acting more broadly, she does not discuss comic elements.

<sup>8</sup> As we shall see, it is not just in this speech that the concept of *alazoneia* is useful to the orator.

<sup>9</sup> Multiple depictions can be at work simultaneously; cf. Introduction, p. 8, n.22. Pearson (1976, 80-81), for example, is right to argue that Demosthenes characterizes Aeschines in terms of *apeirokeia* (lack of refinement). This aspect of his character does not discount, but rather contributes to, the (larger) theme of *alazoneia*.

<sup>10</sup> Demosthenes' aim of achieving tragic grandeur is undisputed and therefore need not be proven again here; see most recently Yunis 2004; cf. Kennedy 1963, 234-35; Rowe 1966; Dyck 1985; Wilson 1996; Duncan 2006, 58-89.

From the start and throughout, the success of Demosthenes' invective rests on his presentation of it so as to create a close connection with the jury during his speech. In sections 10-11, where Demosthenes addresses Aeschines' slanderous charges more specifically, he highlights the reciprocal nature of his relationship with the audience:

φοῖ ν ο εἰ ὑὸ ἰεῖς ο ὅτβ μπξ ποπῦνφοπχ ψφμβτγρήνι λφο φοῖ  
 ἐνπύ. ζφὰτβτζ' ὡχ ἄ μὰ λβί εἰλβξβ μέης . φ' ν ο τυφνφ υπξπύπο  
 πύπο πύυπχ υξάυπ (πύ ηὰσ ἄμμπζξ πωψφγίς λ' ἡ βσ' ὕνίο). νι ε  
 γς οήο ἀοάτθι τζφ νι ε' φ' ἄουβ υᾶ λπξᾶ ὕ ἐσφω φ πμῖυφωβξ  
 ἄμμ' ἀοβτυἀουφχ λβυβδι γῖτβτζ' ἥει .

Regarding the abuse he has hurled at my private life when he slandered me, observe how simply and justly I respond. If you all know me to be the kind of man that this man claimed (for nowhere else have I lived than among you), then do not endure the sound of my voice, not even if I have handled public affairs superbly, rather rise up and condemn me straightaway (10).

Pearson comments here that Demosthenes “adopted a personal approach to the jury that only an adept and self-confident politician would dare attempt.”<sup>11</sup> In other words, Demosthenes' current fame within the community allows him to assume a tone of confidence and trust. Demosthenes tells the jury here to oppose him openly (*anastantes*; *katapsêphisasthe*) and prevent him from speaking (*mêde phônên anaschêsthe*) if they believe Aeschines' portrayal of him in *Against Ctesiphon* to be true. Since the jurors did not do so, we imagine that he, like Thersites, began his speech with a connection to his audience, but unlike Thersites, it was a positive one. If the jurors had not already had some respect for Demosthenes, then they might have stopped him right then.<sup>12</sup> Thus, his

<sup>11</sup> Pearson 1976, 180.

<sup>12</sup> Cf. the opening of Dem. 45 where Apollodorus claims that Phormio's speech colored the jurors' impression of him to such an extent that the jurors would not even let him speak a word on his own behalf.

reliance on *eunoia* (good will) from the people is, at least in part, actual and not just a rhetorical maneuver; he can therefore build off pre-existing *eunoia* as he shifts his discussion to an attack on Aeschines.<sup>13</sup> It makes sense that Demosthenes did have the upper hand at the outset and that this was an important factor in his ability to push the limits of invective. Aeschines' handling of Demosthenes in a more serious and truthful tone—the very reason that scholars such as Bruns have praised Aeschines' speech—is, in effect, indicative of his weaker position within the community. In general, solidarity between speaker and audience is key to the success of using invective. In this speech in particular, Demosthenes is able to strengthen an already firm bond with the jury by getting the jurors to exclude his opponent through laughter.

Demosthenes makes clear that invective will play a prominent role in the speech from the opening. His tight construction of the prologue (1-8) has been admired as a brilliant synopsis of the main themes that resonate throughout. As often noted, it begins and ends with a prayer, and peaks in the middle (3-4) with his mention of praise and blame.<sup>14</sup> At this point, Demosthenes makes two statements that are crucial to his use of invective; first, men love to hear slander by nature, but hate to hear self-praise;<sup>15</sup> and

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<sup>13</sup> Both Aeschines and Demosthenes had a long history in public life and therefore both would surely have still had a considerable amount of goodwill to call on. Still, most scholars think that Demosthenes was politically more popular than Aeschines by the time of this trial (see e.g. Harris 1995, 152; Usher 1993, 13-14).

<sup>14</sup> Usher 1993, 169.

<sup>15</sup> This is not the only way that the use of praise and blame can be presented; Cicero, for example, at the opening of his second Phillip, considers it a *beneficium* to be able to speak both on behalf of himself and against Antony: “An decertare mecum voluit contentione dicendi? Hoc quidem est beneficium. Quid enim plenius, quid uberius quam mihi et pro me et contra Antonium dicere?” (“Or did he want to engage me in a contest of speaking? Well this is a blessing indeed! For what topic could be more plentiful or more abundant than for me to speak on my own behalf and against Antony?”) (2); cf. also section 11, where Cicero makes clear the Senate's pleasure of listening to invective. Thus, Cicero and Demosthenes seem to differ here only on the question of self-praise.





them further. His concern for justification can also be seen later when he blames Aeschines for using invective first and thus forcing him to respond to it—a point to which Demosthenes returns both times he embarks on a lengthy attack (126, on slander; 252, on fortune). In the opening sections, then, Demosthenes is preparing the audience for his self-praise and his invective against Aeschines; his goal is to strip Aeschines at the outset of any positive response that he acquired from vilifying Demosthenes.

The central importance of this strategy is reinforced in the next eight sections (9-16) where Demosthenes openly states the real subject of the trial; the case is not about Ctesiphon, it is a battle between Aeschines and Demosthenes.<sup>17</sup> But because Demosthenes is technically speaking in response to the indictment of Ctesiphon, he must make explicit that a discussion focusing primarily on himself and on Aeschines is relevant. He is able to do so by referring specifically to the charges in the indictment. Aeschines gave three reasons why Ctesiphon's decree was illegal (*paranomôs*): first, because Ctesiphon crowned Demosthenes before Demosthenes underwent audit; second, because the ceremony was performed in the theater instead of the Assembly (which was against the law); third, because Ctesiphon made false claims in his proposal by stating that Demosthenes spoke and acted in the best interests of the people. This last charge allows Demosthenes to open up the case far beyond the first two narrowly legal charges, just as Aeschines had.<sup>18</sup> The general nature of the charge grants both sides considerable

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<sup>17</sup> Usher 1993, 172-3; cf. also p. 270 (on the epilogue) where he draws attention to the fact that the laws governing Ctesiphon's indictment are not mentioned in the recapitulation.

<sup>18</sup> See Aes. 3.49-50, where Aeschines argues that Ctesiphon's decree makes false claims; Aeschines discusses this point for approximately half of his speech (49-176), whereas he handled the first two charges in under 40 sections (9-48).

leeway to include material about context and character that might otherwise be irrelevant to the case.

In section 9, Demosthenes makes his first claim that he would have addressed only relevant issues if Aeschines had stuck to the charges ( φσι ο έε ις λφ νι οπο λβυι ηϊ σι τφο) but instead, Aeschines engaged in irrelevant arguments (υπίχ έκς ζφο μϊ ηπξχ) to prejudice the jury against Demosthenes. Here he is speaking about Aeschines' personal attacks against him. Both speakers try to convince the jury that their opponents engage in irrelevant argumentation, but both make the most of the third and broadest charge of Aeschines' *graphê*: Demosthenes' public career. Thus, it is not Demosthenes who chooses to emphasize his own political career, since Aeschines had already focused explicitly on the third part of the indictment as his primary concern (Aes. 3.49):

έτυξε ύ ιμπξ ιο νπξ νέσπχ υήχ λβυι ηπσιβχ έγ' ι νάμξτυβ τ πωεά ς ·  
 υπύυπ εέ έτυξο ή σι γβτξχ εξ ήο βύυόο άκξτί τυφγβοπίτζβε μέηφξ ηάσ  
 πύυς χ έο υ δι γιτνβυξ "λβι υόο λήσωλβ άοβηπσφύφξ έο υ ζφάυσώ  
 σόχ υπύχ "Φμμι οβχ όυξ τυφγβοπί βύυόο ό εήνπχ ό 'βζι οβίς ο άσφωήχ  
 οφλβ λβι άοεσβηβζιβχ." λβι υό νέηξτυπο "όυξεξβυφμφ λβι μέης ο λβι  
 σάυυς ο υά άσξτυβ υ εήνώ."

The remaining part of the accusation is the one that I'm most serious about (*spoudazô*); this is the reason why he [Ctesiphon] thought it worthy for that man [Demosthenes] to be crowned. For he says this in the decree: "let the herald announce in the theater to the Greeks that the people of Athens crown this man for his virtue and uprightness," and the most important part (*to megiston*), "since by speaking and through his actions, he accomplished the best things for the people".

By placing emphasis on the third charge as the most important, Aeschines makes it clear that this is the point on which he wants the case to be determined. Demosthenes, then,

can hardly be said to stray from the point when he devotes only ten sections to the first two charges and spends the rest of his speech addressing whether or not he spoke and acted in the people's best interest.<sup>19</sup> Certainly Demosthenes welcomes the chance to treat this case on a broader scale than the first two charges alone would require. But his discussion of his political career must be seen as relevant to the third charge and therefore part of the legal argument. In section 59, he addresses this issue of relevance and the charge directly:

λβί νφ νι εφίχ ἄ βσυάο ὕ πμὰψι ξυόο μῖηπο υῆχ ησβγῆχ. ἔαο φῆχ  
 'Φμμι οξλᾶχ σὰκφεχ λβί μῖηπωχ ἐν ἐτς· ὁ ηᾶσ εἰώλς ο υπύ  
 δι γῖτνβυπχ υό μέηφε λβί σᾶσυφε υᾶ ᾠσξτυᾶ νφ λβί ηψησβνέοπχ  
 υβύζ' ὥχ πύλ ἄμι ζῆ. πύυτῖχ ἐτυφε ὁ υπύχ φσι ᾠ ἄους ο υώο ἐνπῖ  
 φ πμξφωνέος ο μῖηπωχ πῖλφπωχ λβί ἄοβηλβῖπωχ υῆξησβγῆξ  
 φ πξλώχ. φώβ λβί πμμώο σπβξφετφς ο πύτώο υῆχ πμξφββχ υήο  
 φσι υᾶχ 'Φμμι οξλᾶχ σὰκφεχ φμῖ νι ο ἐηώ. τυφ λβί υᾶχ ἄ πεφκφεχ  
 ἐλ υπύυς ο εἰλβξῖχ φνξ πξρίτζβε

And let no one think that I am distancing my argument from the legal charge (*graphê*) if I bring up the deeds and debates pertaining to Greece; for since he goes after the decree's statement that I said and did the best things, charging that this claim is not true, it is this man who has made the arguments about all of my political involvement appropriate (*oikeious*) and necessary (*anankaious*) to the charge (*graphê*). And then, since there are many opportunities for public involvement and I chose that which concerns Greek affairs, I can rightly (*dikaios*) draw my examples from these.

By focusing on the first two charges, scholars have tended to view Demosthenes' discussion about his political involvement as extra-legal.<sup>20</sup> But, as we see in the two

<sup>19</sup> Cf. Usher (1993, 14-19) who discusses Demosthenes' use of the *Ordo Homericus*, sandwiching his response to the first two charges between his expansive and more persuasive response to the third.

<sup>20</sup> See Gwatkin 1957 and Harris 1994. Gwatkin, like most scholars, believes that Aeschines had the stronger legal case, whereas Harris argues that Demosthenes' was stronger. Both sides, however, focus too intensely

passages quoted above, both Aeschines and Demosthenes view his political career as legally relevant, as would an Athenian jury.

The claims that Demosthenes makes about relevance are common in oratory.<sup>21</sup> They reveal that Athenian speakers recognized a distinction between relevant and irrelevant arguments in relation to the specific charges brought in a case. But the exchange between Aeschines and Demosthenes also shows that the notion of legal relevance could be manipulated, especially when dealing with invective. Invective *per se* might be considered irrelevant in the sense that it does not directly address the charges specified in most indictments (from what we can tell). It is this potential irrelevance that the orators guard against when they engage in character denigration. Since arguments about character were considered valid forms of evidence for numerous types of charges that would be included in indictments (as we saw in the introduction), any speaker could quite easily make invective relevant if he justified it properly.<sup>22</sup> Failure to give justification for using invective, however, could result in it backfiring.<sup>23</sup>

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on the two narrowly legal charges, not recognizing that the “political” charge was also, in fact, a legal dispute as Demosthenes points out here.

<sup>21</sup> Cf. Rhodes 2004.

<sup>22</sup> A comparable use of this technique is when Demosthenes talks about poverty (252); he first points out his understanding that poverty itself is not something shameful before he attacks Aeschines for his impoverished upbringing. Had he not included this preface, he may have been viewed as speaking inappropriately since the Athenians did not view poverty as a mark of disrepute.

<sup>23</sup> A good example can be found in the Embassy debate between Aeschines and Demosthenes. According to Aeschines (2.4, 153), when Demosthenes viciously attacked him for abusing an Olynthian woman in his previous speech against Aeschines (*On the False Embassy*, 19.196-98), the jurors did in fact shout Demosthenes down: “I was shocked and disturbed by the charge when he accused me of drunken *hubris* against a free woman, an Olynthian by birth—but I was pleased when you drove him off the topic (*exeballete*) as he was making this accusation (Aes. 2.4)”; “Examine the indiscretion and crudeness of this man who fabricated so great a lie against me about the Olynthian woman that he was rejected (*exerriphê*) by you in mid-speech! (Aes. 2.153)”.

Demosthenes handles the delicate issue of verbal abuse by a strategic response to the arguments that Aeschines first made in his speech. As speakers commonly do, Demosthenes blames Aeschines for setting the terms of the debate so low. As the second speaker, Demosthenes capitalizes on his position by repeatedly pointing the finger at Aeschines for starting a contest of slander. But he does this cautiously by referring back to specific attacks made by Aeschines and then expanding on the same themes, often much more harshly, in his rebuttal.

It is worth examining how Aeschines, in fact, first made Demosthenes' character a legitimate part of the trial by incorporating it into the third charge (Aes. 3.168):

οβί. ἀμμᾶ εἰ ν πυξίχ ἐτυξ. ἄο ν ο υπίωω σόχ υήο φύγι νίβο βύυπύ  
 υώο μίης ο ἄ πμῆ ι υφ. ἐκβ βυι ζήτφτζφ τ φσ λβί σῖ υφπο.  
 ἐἄο ε' φ'χ υήο γύτφ λβί υήο ἀμήζφβο. πύλ ἐκβ βυι ζήτφτζφ ἐλφῖος χ  
 ε' ἄ πμᾶψφφ βσ' βύυπύ μίηπο. ἐήώ ν ο νφζ' ὕνωο μπηξύνβξ εφί  
 ὕ ἄσκβεό υήξ γύτφξ υ εἰ ν πυξί ἀοεσί λβί τώγσποξ λβί ἀουξήτς  
 πῖο υφβ φ'λίχ ἐτυξ φώβε υόο ὄμξιβσθξόο ἄοζς πο λβί γβύμπο·  
 ὕνφχ ε' ἀουξέουφχ ἔλᾶυφβ υπῦς ο ζφς σήτβυ' βύυῖο. νή ὅ πυέσπω  
 υπύ μίηπω ἀμμ' ὅ πυέσπω υπύ ψίπω ἐτυξ.

So, he's a man of the people (*dēmotikos*) is he?! If in fact you are focusing on the melody of his words, you will be deceived (*exapatêthêsesthe*), just as before. But if you look to his nature (*phusis*) and the truth (*alêtheia*), you won't be deceived (*exapatêthêsesthe*). In that way, hold him accountable. I, on the one hand, along with you, will count up the things that a democratic (*dēmotikos*) and temperate (*sôphron*) man must possess by nature. And I will contrast what sort of person is likely to be an oligarchic (*oligarchikos*) and petty (*phaulos*) man; you, on the other, juxtapose each of these, and observe which group he belongs to, not according to his word, but his life.<sup>24</sup>

According to Aeschines' argument, Demosthenes could not have acted in the people's

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<sup>24</sup> Cf. 3.248-53.

best interest because he is oligarchic (*oligarchikos*) by nature (*phusis*) and not at all democratic (*dêmotikos*). Aeschines thus links his attack on Demosthenes' character directly to the third charge in his indictment of Ctesiphon. Further, the jurors would likely see Aeschines' point as a valid argument since the Athenians believed in the notion of fixed character. If the jurors accept Aeschines' argument that Demosthenes was *oligarchikos* by nature, then they would likewise believe that he could not have acted in their interests. Demosthenes' response, a defense of his own character, is therefore justified because Aeschines connected it to the charge first. Demosthenes, in fact, refers specifically to Aeschines' discussion of the democratic man before embarking on his rebuttal (18.122). Moreover, in both of his lengthy attacks (18.126-59; 252-96), Demosthenes refers back to Aeschines' discussion of his family and fortune (3.171-76; see below) before giving his own version.<sup>25</sup>

Demosthenes' attack on Aeschines in return may not appear to be technically relevant (since Aeschines' conduct is not part of the indictment), but Demosthenes is able to justify it as necessary for defending himself, in large part because Demosthenes' benefits on Athens' behalf stand out by contrast with Aeschines' bad deeds and inactivity. Although the connection with the legal charge is tenuous, Demosthenes is still able to make invective against Aeschines relevant to the case for the jury. By tying his response so carefully to Aeschines' original arguments, Demosthenes significantly

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<sup>25</sup> Of further interest is Aeschines' emphasis on deception (*apatê*) in this passage. Here, and throughout the speech, he attempts to prejudice the jurors against Demosthenes' responses by claiming that he will deceive them with *logos*. Demosthenes responds in kind by trying to uncover Aeschines as the deceptive one. Exposing an opponent's deception is essential for both men in their characterization of each other (see below).

reduces any risk of his invective seeming irrelevant and possibly angering his audience. He goes on to maximize the reward by turning Aeschines into a comic buffoon worthy of the jury's derisive laughter.

We have seen a conscious effort on Demosthenes' part to make his attack on Aeschines' character relevant. Similarly, he is just as deliberate about casting his opponent's invective as negatively as possible by drawing a sharp distinction between Aeschines' invective and his own. The term that he uses to characterize Aeschines' invective is *pompeia*, a term that refers specifically to processional language. This is an unusual choice of words when we compare it to those used more commonly in regard to abusive language in oratory, such as *loidoria*, *diabolê*, and *kakêgoria*. As Yunis and Usher both point out, the purpose of using *pompeia* is to conjure up associations with ritual abuse (*aischrologia*).<sup>26</sup> Demosthenes wants to create a certain image of the kind of language that Aeschines is prone to use—primary obscenities including sexual and scatological terms—language that launches Aeschines onto a higher level of inappropriate speaking. The point is certainly that Aeschines is out of line when he engages in profanity reserved for specific times and places.

By exaggerating the tone of Aeschines' language, Demosthenes covertly gives himself the green light; he claims that he will only address Aeschines' ribaldry ( πν φῖβχ) *if the jury is so inclined* (ὅο ψπωμπνέοπεχ ῆξ υπωπιξτῖ). Unless the jury raises open opposition (presumably in the form of dikastic *thorubos*) to his harsh

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<sup>26</sup> Yunis 2001, 114 and 181; Usher 1993, 174 and 212-13.

invective, they are colluding in the attack.<sup>27</sup> This move allows Demosthenes greater leeway to attack Aeschines forcefully when responding, but still appear more moderate because the audience will be measuring Demosthenes' words against Aeschines' supposed "cart language". Although Demosthenes claims it is Aeschines who used such language, *pompeia* actually foreshadows the kinds of attacks Demosthenes will make against Aeschines when discussing his family and upbringing.<sup>28</sup>

Demosthenes links Aeschines' reliance on scurrility specifically to his background as a tragic actor. He hopes to expose Aeschines' oration as a tragic performance (οὐο εὔσβηῶε φ) that avoids just proofs in favor of slander [γῶωο υπύχ βο' βύσᾱ σᾱ σᾱνβυ' ἐμέθηπαχ (13)...β'ιῦῖβχ λβῖ τλῶννβυβ λβῖ μπξ ποῖβχ τωγποστήτβχ ὕ πλοῖοφβξ (15)]. He builds off of these initial associations by repeatedly calling him a *tritagonistês* (third-part actor) later in the speech (129, 209, 262, 265,

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<sup>27</sup> On *thorubos*, see Bers 1985. See also section 52, where Demosthenes encourages vocal support from the jurors by asking them whether they consider Aeschines to be a friend or hireling of Philip. His summation ("you hear what they say") indicates that Demosthenes gets the reaction he is seeking and that he is on solid ground from early on in the speech. Such interaction between speaker and audience is a good litmus test for how far the speaker can push his attacks on an opponent. For further discussion, see Moore (1998, 8-49), who explores the comic actor's use of rhetorical monologues and asides for creating rapport between speaker and audience in Plautine comedy.

<sup>28</sup> Here is one of the many places where we can see how tightly connected the themes of the prologue are to the rest of the speech. *Pompeia* looks forward to sections 122-124, cf. comments by Yunis and Usher *ad loc.* Yunis claims that the mention of the "speakable and unspeakable words, like from a cart" refers to the Anthesteria (festival of Dionysus) where men attacked each other verbally. Usher, on the other hand, thinks the phrase refers to women's behavior during the Eleusinian Mysteries. Because Demosthenes gives no specific reference himself, it is possible (but not likely in my opinion) that the attack is also against Aeschines' masculinity if he is understood to be using "women's words." It is more important to note that *aischrologia* was a prevalent feature of numerous religious festivals, both women's and men's, and therefore Demosthenes is drawing from a specific cultural phenomenon that adds to the plausibility of his later attacks on Aeschines for his involvement in initiation ceremonies (259). Cf. McClure 1999, 47-51 and Halliwell 2004, 115-44.



267).<sup>29</sup> Aeschines' previous career as a tragic actor presumably would make him suspect in the eyes of the jury since tragedy in particular was thought to be steeped in deception.<sup>30</sup>

If Demosthenes can strip Aeschines of his attempt at a tragic performance in *Against Ctesiphon* by exposing it as such, then he renders Aeschines untrustworthy to his audience. The way to do this is with comedy.<sup>31</sup> Scholars are in agreement that the language of Demosthenes' invective against Aeschines is comic.<sup>32</sup> Where they part ways is in the form and function of the comic abuse; specifically, there is no consensus on whether Demosthenes deliberately cast Aeschines as an *alazôn* or simply ridiculed his opponent with a variety of comic motifs. In order to argue convincingly that Demosthenes did depict his opponent as an *alazôn*, it will help to clarify what we mean by *alazoneia* specifically in 4<sup>th</sup>-century comedy and oratory.

Few scholars have seen a connection between *alazoneia* in oratory and comedy, although *alazôn* and related terminology appear with some frequency in oratory.<sup>33</sup>

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<sup>29</sup> Cf. also 19.246 and 19.337, as cited by Todd 1938, 35. Todd argues that Demosthenes did not invent the term *tritagonistês*, and that it implies third-rank, not third-rate. That Antiphanes has a play entitled *Tritagonistês* argues in favor of the term being used by Demosthenes for comic effect.

<sup>30</sup> According to Gorgias (82.23 [D-K]), tragedy operates by means of the following principle: ὁ υἱ ἂν βυρήτβχ εἰβῆι υἱοῦ υἱὸς ἂν βυρήτβουπχ λβῖ ὁ ἂν βυῖ ζφχ τπγώυοπχ υἱὸς ἂν βυῖ ζῆουπχ (The deceiver is more just than the non-deceiver, and the deceived is wiser than the non-deceived). Gorgias, of course, is idiosyncratic, but the understanding of tragic deception that he proposes here is mocked by Aristophanes' reworking of tragic themes in several plays, most notably *Frogs* and *Thesmophoriazusae*. Cf. Hesk 2000, 258-73; although Hesk does not see the deception that takes place in *Acharnians* as tragic, his observations on comic exposure are still applicable for our purposes.

<sup>31</sup> Cf. Gorgias [82.12 D-K]: "One must defeat an opponent's seriousness with laughter and laughter with seriousness."

<sup>32</sup> Wankel 1976, 60; Dyck 1985, 44. See especially Blass (1893, vol. 3: 92-93) and Rowe 1966 for a discussion of Aristophanic language in the speech; see also Harding (1994b, 214-18) for further commentary on the comic elements. Since the language of the attack itself has already been studied at length and convincingly connected to Old Comedy, I will focus more on the issue of the coherency of Demosthenes' depiction and how it fits into his overall strategy.

<sup>33</sup> Part of the problem is that there has been no thorough study of comic elements in oratory. Yunis (2000), for example, is a recent and influential piece explaining Demosthenes' implementation of the "tragic mode of thinking" in this speech. He shows how Demosthenes subtly incorporates elements familiar to all

MacDowell's brief study is the only one that addresses specifically the meaning of the term in 5<sup>th</sup> and 4<sup>th</sup>-century literature. He argues that "an *alazôn* in Old Comedy is a man who holds an unofficial position or professes expertise which, he claims, makes him superior to other men; he exploits it, normally in speech, to obtain profit, power, or reputation; but what he says is actually false or useless."<sup>34</sup> This definition, according to MacDowell, is generally true of the term throughout 5<sup>th</sup>-century literature; in the 4<sup>th</sup> century, however, *alazôn* and all related terminology come to mean nothing more than "liar" by what MacDowell calls "linguistic degeneration".<sup>35</sup> The concept of *alazoneia* and the terminology itself, however, can be shown to retain its more specialized 5<sup>th</sup>-century meaning in oratory. As MacDowell himself makes clear, the term is not consistent even within the plays of Aristophanes. This is perhaps because Aristophanic *alazones* come in many forms; the *alazôn* is sometimes considered a comic hero and sometimes the opponent of the hero.

Whitman's assessment in his work on the Aristophanic hero can help. Whitman takes issue with the Aristotelian distinction between *eirôn* and *alazôn*.<sup>36</sup> While both

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Athenians from the tragic stage as a way of interpreting his policy and their decision to fight at Chaeroneia as the right decision despite the outcome. He thereby propels the reality of a disaster into tragic and noble proportions. Yunis is not interested in explaining the speech, as Rowe attempted to, as an interplay of tragedy and comedy, nor does he once mention comic elements. His approach is illustrative of a continuing tendency in scholarship to focus on the "noble" tragic parts to the exclusion of the presumably "ignoble" comic sections since they are viewed as detracting from the grandeur of the work. Hesk (2000, 163-78; 202-241) too, in his discussion of deception and lying in oratory, keeps his discussion of comedy and oratory separate, although he sees the orators as depicting each other as deceptive character types (the sophist, logographer, magician).

<sup>34</sup> MacDowell 1990, 289.

<sup>35</sup> MacDowell 1990, 291.

<sup>36</sup> Aristotle (*NE* 1108a25) defines the *eirôn* as a man who pretends to less power or knowledge than he has, and the *alazôn* as one who pretends to more. The context in which Aristotle mentions these two types of men is telling; they are illustrations of extremes in relation to the (ideal) man who falls in between the two, and is defined as someone truthful (*tis alêthês*). This is the only category in this part of Aristotle's

concepts are important for understanding the hero's antics, Whitman argues that Aristophanic characters do not fall neatly into one category or the other: "The irony of the comic hero, from one point of view, is merely a means to a greater and more inclusive *alazoneia*, impostorship; so that one might say that there is no real *eirōn*, but only a variety of *alazones*, and the biggest fraud wins, on the theory that if the fraud be carried far enough, into the limitless, it becomes a template of a higher truth."<sup>37</sup> Thus, in the Aristophanic world, a Demos or a Dikaeopolis is a man of the people in whom the *dêmos* can delight as he uses trickery to surpass all in his way (even the gods). The ability to rise to the top through boasting and trickery is what makes such characters *alazones*, according to Whitman.<sup>38</sup> In these instances, the audience is directed by the actions of these characters to laugh *with* them and not *at* them. They stand in contrast, then, to the *alazones* to be deflated, such as the ambassadors in *Acharnians*, or the sophists in *Clouds*. Demosthenes taps into this latter comic phenomenon to expose 'boastful' politicians like Aeschines.<sup>39</sup>

Demosthenes does not call Aeschines an *alazôn* explicitly, nor does he represent him as a one-dimensional *alazôn* from start to finish, but this should not trouble us. Some of Aristophanes' most famous *alazones*, such as the general Lamachus from *Acharnians*,

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discussion that deals with truth as a virtue. Since *alazoneia* is conceived of specifically as a distortion of "truth", we can readily understand why it would be an effective rhetorical strategy to depict an opponent as an *alazôn*. On the opposition to *alazoneia* and *alêtheia*, see Aes. 3.98-99, where Aeschines vigorously accuses Demosthenes of lying, being an *alazôn*, and mimicking those who speak the truth; cf. Hesk 2000, 231-33, for a discussion of this passage (although he does not discuss Aristotle).

<sup>37</sup> Whitman 1964, 27. Cf. Duncan 2006, 91-101.

<sup>38</sup> Whitman 1964, 21-58.

<sup>39</sup> We might also note that Theophrastus' *alazôn* (which also dates to the late 4<sup>th</sup> century) is characterized primarily by boasting of more wealth and connections than he has, rather than simply "lying" (note that MacDowell [1990, 292] himself acknowledges the more complex characterization occurring here). See Diggle 2004, 130-33; 431.

are never explicitly named by the term.<sup>40</sup> Further, we cannot expect Demosthenes to create a fictional character in the way that a playwright would. But as we have seen, he can draw from comic characters to color his depiction of his opponent.<sup>41</sup> It may not be obvious how Aeschines the tragic actor equates to Aeschines the comic *alazôn*, but the fact that Aeschines was a tragic actor does not preclude the possibility of a comic portrayal.<sup>42</sup> In Aristophanes (such as the elaborate parody of Euripidean and Aeschylean language in *Frogs*, or of Euripides' *Helen* in *Thesm.* 849-943) and throughout Middle Comedy, turning the tragic into the comic was a familiar *topos* of the comic stage.<sup>43</sup>

Thus far, we have seen how the prologue sets the stage for the comic abuse to come and the jurors' willing participation in it. Demosthenes does not engage in his first major attack until sections 121-159 (with the harshest insults concentrated in 121-31). Here, he shifts away from a long defense of his own policy-making to Aeschines' background by picking up on the memorable image of ritual abuse he first mentioned in

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<sup>40</sup> Cf. MacDowell (1990, 288): "Modern writers sometimes regard Lamakhos in this play as the prototype of the ἄμψ ὤο in comedy; it is therefore worth emphasizing that Aristophanes never calls him so (except to the extent that he is among the Εἰννεῖς μὲν ἰοφῶν in 605)."

<sup>41</sup> See ch. 2 for a discussion of Aeschines' depiction of Demosthenes as an *alazôn* first; Aeschines does explicitly call Demosthenes by the term, which is in itself strong evidence for interpreting Demosthenes' depiction of Aeschines as such. Scholars have often noted that Demosthenes tends to use Aeschines' own techniques against him; it is quite likely that Demosthenes was "showing up" Aeschines here by characterizing him as an *alazôn* with elaborate imagery rather than simply labeling him an *alazôn* outright.

<sup>42</sup> Dyck (1985, 44) claims outright that Demosthenes "surely pursued no general strategy of presenting Aeschines as a comic *alazôn*". Cf. MacDowell 1990, 291, who argues that, by the 4<sup>th</sup> century, the term had degenerated to the generic sense of "liar" and no longer retained its more precise 5<sup>th</sup> century meaning of "charlatan" (which he defines as a specialist claiming superiority over others). Duncan (2006, 58-89) and Easterling 1999 discuss Demosthenes' use of tragedy to handle Aeschines, but neither addresses the paratragic transformation which is ultimately more comic than tragic in nature.

<sup>43</sup> See Nesselrath 1990, 188-241; Cf. also my discussion of *Orestautocleides* (parodying *Orestes*) in chapter 2. It is important to note that parodying tragedy was also a main function of the satyr play and not just the property of the comic genre; see Sutton 1980. We should not, therefore, interpret Demosthenes' strategy as necessarily drawing directly from comedy, but rather as taking up a parodic mode that was shared by, and best known from, comedy.

the prologue.<sup>44</sup> He recalls Aeschines' supposed proclivity for all out abuse (*pompeuein*) and juxtaposes it with his own respectable character; whereas Aeschines utters offensive lies, Demosthenes will speak the truth.<sup>45</sup> To prove that he is the one telling the truth, he must undermine not just Aeschines' rhetoric, but also his character, and to do this he uses his acting background against him. Demosthenes begins with his (now famous) mockery of the concluding line of Aeschines' speech:

φ' ἡᾶς Βίβλ' οὐχ ἡ 'Σβεῖαν βοῶντα ἡ Νῆος χ' ἡ οὐ λβυι ηπισώ. ἀμμᾶ νή  
 τ φονημῖ ηπχ. φῶισεν' ἀηπισάχ. μφ' σπχ ησβννβυφῶχ. πῦλ ᾧ  
 βῦσοο πῶβξ υβύυ' φ' φῶ πῦε' ᾧ πῦς χ' ἔ βθζ φ' χ μῖ ηπωχ πῶτβτζβξ  
 τ φ' ἔο υσβηῶε ἰβξ ψπῶουβ "ὦ ἡ ἡ λβί ἡμξ λβί ἄσφῶ" λβί ἄμξ  
 "τῶοφτξ λβί βξ φῶο" ἔ ξλβμπῦνφοπο. "ἡ υᾶ λβμᾶ λβί υᾶ βίτθᾶ  
 εἰξ ηξῶωτλφβξ

For if perhaps an Aeacus or a Rhadamanthus or a Minos had been my accuser, and not a scrap-gatherer (*spermologos*), deadbeat of the agora (*peritrimm' agoras*), and a damned secretary (*olethros grammateus*), I don't believe he would have said such things or endured to bring in language in this way, shouting as if in a tragic play: 'Oh Earth and Sun and Virtue' and then invoking 'Intelligence and Education, by which the honorable is distinguished from the shameful (127).<sup>46</sup>

Demosthenes implies that Aeschines laid claim to the authority of notably wise men by deifying concepts such as intelligence and education. He then undercuts this claim by pointing out aspects of Aeschines' 'actual' station: he has been nothing more than a gatherer of scraps, deadbeat of the agora, and a damned secretary. By contrasting three men legendarily known for wisdom with three lowly aspects of Aeschines' (alleged)

<sup>44</sup> See n. 28.

<sup>45</sup> Cf. Duncan (2006, 58-89) and Hesk (2000, 231-241) who discuss how Demosthenes engages Aeschines in a contest of sincerity of speech. Cf. Johnstone 1999, 70-92.

<sup>46</sup> Ribbeck (1882, 54 with n.43), citing Eustathius and Photius, maintains that the term *spermologos* can be connected with *alazoneia*.

This paratragic representation of Aeschines has a clear parallel in *Frogs* where Euripides depicts Aeschylus, the grand tragic poet, as an *alazôn* (908-910):

Eu: First, I'll prove that this man  
was an *alazôn* and a cheat (*phenax*), and how he deceived the spectators,  
taking over the fools trained by Phrynicus.<sup>48</sup>

Φω λα φει' ε φει η υβυυβ μι σήτφει λβι υο εσάνβ  
 ηει νφππι . ρήνβυ' άο ψι φβ εώεφλ' φύ φο.  
 όγσύχ έθπουβ λβι μι γσπωχ. εφίο' άυυβ νπσνπς ά.  
 άηος υβ υπίχ ζφς νέοπεχ.

<sup>48</sup> Phrynichus was an older contemporary of Aeschylus. Cf. also 919 where Euripides mentions Aeschylus' *alazoneia* as the reason why he made the audience sit there and wait for Niobe to speak (ὁ ὄζφβυήχ σππε πλώω λβζ υπ. ὅ ἱζ' ἡ ᾠψι υξγζέηκφβθ).

Eu: And then, after he engaged in such foolishness and the play was half-finished, he would speak twelve oxiac phrases, with eyebrows and crests of a helmet, some dreadful monster-faced things, unrecognizable to the spectators (923-26).

Euripides offers a few more examples such as these in his critique of Aeschylus' lofty-worded poetry, summing up his language as "huge cliffs of words (ὀρῶν βῆζ' ἵ τ' ἰ λσι νοβ) that were not easy to understand" (929-30).<sup>49</sup> Euripides hereby offers proof of his accusation that Aeschylus is an *alazôn* who deceived his audience into thinking that he was providing good advice to the city. Euripides states plainly that poets should be admired for "skillfulness (*dexiotêtos*) and advice (*nouthesias*), and because we make the people in the city better men (*beltious*)" (1009-10).<sup>50</sup> Since Aeschylus' plays are unintelligible, he is incapable of achieving these goals and therefore cannot be the best tragic poet. Aristophanes (from Euripides' perspective) thus exposes Aeschylus' unjustified claim to wisdom, just as Demosthenes has attempted to do with Aeschines—a tragic actor and politician who openly uses pompous tragic language in his pretense of intelligent advice.<sup>51</sup>

Like Aristophanes' audience, the jury is invited to laugh scornfully at Aeschines and his attempt to be serious. Aeschines' *alazoneia* is further exposed when Demosthenes denies Aeschines' access to education: only those who are not educated, but shamelessly pretend (*prospoiumenois*) to be, would even mention how well educated they are (128).

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<sup>49</sup> Cf. also 1056-58: "If then you speak to us with words the size of Lycabettus or Parnassus, you think this is what's useful for teaching? Shouldn't you speak like a human?"

<sup>50</sup> See Dem. 18.277 where Demosthenes asserts that Aeschines never used his cleverness to benefit the city.

<sup>51</sup> Cf. also section 267 where he quotes in mockery two tragic lines that Aeschines apparently delivered poorly. This type of parody is paralleled in *Frogs* (302-304) where Xanthias recites Hegelochus' butchering of a somber line from Orestes (279); "I see the calm (*galêna*) again," was mispronounced by Hegelochus, resulting in "I see a polecat (*galên*) again."

Demosthenes, then, is not implying that Aeschines is simply a liar; he is communicating to the jury that Aeschines had laid claim to expertise that he does not have and a station in life from which he is far removed. He is a charlatan.

Another example where Aeschines is specifically depicted as a charlatan is in 242. Demosthenes here contrasts the soundness of his own policies with Aeschines' to remind the jurors of Aeschines' uselessness by comparison:

ποι σῖο. ἄοεσφχ 'Βζι οβίπε ποι σόο ὅ τωλπαῶου χ ἀφ' λβί  
 βουβθῖζφο ψάτλβοπο λβί γξμβῖυξτο· υπύυπ ε λβί γῦτφε λῖοβε πχ  
 υάοζώ ξιο έτυξ. πύε ο έκ άσθῆχ ὕηξ χ φ πξ λόχ πύε' έμφῶζφοπο.  
 βύυπυσβηθλόχ ἱζι λπχ. άσπωβίπχ Π'οῖνβπχ. βσβτῆνπχ ρήυς σ. υἱ  
 ηᾱσ ή τή εφρῖυι χ φ'χ οι τξρ ήλφευ βυσίεξ ούο ήνίο μέηφεχ φοί  
 υώο βσφι μᾱῖυς ο: τ φο ᾱο φ υξχ ἱβυσόχ άτζφοπύτξν ο υπίχ  
 λάνοπωτξρ φ'τξῶο νή μέηπξνι ε εφελούπξεξ ο ά πγφῶκπουβξυήο  
 οἱτπο. έ φξ ή ε υφωφωήτφε υξχ βύυώο λβί υᾱ σπνξ ἱνφο' βύυ  
 γέσπεπ. άλμππᾱῶο έ ἱ υό νοῆνβ εξρκίπεξ "φ' υό λβί υό έ πῖι τφο  
 ᾱοζςς πχ πύυππῖ. πύλ ᾱο ᾱ έζβοφο." ένψσῖοιυι υφ φώβ ούο μέηφεχ:

Wicked, men of Athens, always and in every way a sycophant is wicked, deceptive, and eager to accuse; and this little man (*anthrôpion*) is by nature like a fox (*kinados*), since he has done nothing sound or noble from the beginning, this self-tragic ape (*autotragikos pithêkos*), this boorish (*arouraios*) Oenomaus, this fake (*parasêmos*) orator! For how has your cleverness brought any benefit to our fatherland? And now you are telling us about what happened? As if you were some doctor (*iatros*) making your rounds to the weak and injured but not saying or showing them any way to escape their illness, and only when one of them dies and the rites are being carried out for him, do you, following him to his tomb, then explain “if this man had only done this or that, he wouldn’t have died.” Dumbstruck fool (*embrontête*), do you speak now?!

Demosthenes' use of oxymoron, neologism and animal imagery is at its peak in this passage, but his quack doctor simile is especially striking since it is more elaborate than the name-calling that leads up to it. This depiction adds to the variety of ways in which



Demosthenes characterizes Aeschines, but is complementary, not contradictory, to his central theme. The quack doctor was a concern of the developing field of medicine in Greece at the time. As Dean-Jones argues, the rise of the charlatan doctor took place in the 4<sup>th</sup>-century because there was a transition from oral to literary culture occurring at that time.<sup>52</sup> Many calling themselves *iatroi* were now book-trained only and therefore not sound practitioners. The fact that we know of four plays that were titled *Iatros* beginning in the Middle Comic period suggests that mockery of these figures regularly appeared on the comic stage around the same time.<sup>53</sup> Demosthenes' mockery of Aeschines in this passage strongly invokes the image of the quack doctor who boasts of professional expertise that he does not have. The variation in descriptive techniques that Demosthenes employs in no way detracts from his broader strategy of depicting Aeschines as *alazôn*; rather, it reinforces this aim in a highly comic and imaginative way, one that would entertain the jurors while directing them to the same conclusion.

The two main passages of invective, however, do not specifically depict Aeschines as an *alazôn*, in part because the first (126-59) deals primarily with his parents and not with him. The second passage (252-96) focuses more on Aeschines, but again does not aim to depict him as an *alazôn* locally. We must recall that the themes of each set-piece respond specifically to the attacks that Aeschines first made against Demosthenes' family and fortune respectively. Demosthenes therefore limits himself in terms of content because he is being particularly cautious to justify his use of invective in

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<sup>52</sup> See Dean-Jones 2003.

<sup>53</sup> Three come from Middle Comedy and one from New Comedy; see Edmonds 2.654, 3.1218 (as cited by Rowe 1966, 400 n.10).

these two elaborate and extreme attacks. When we consider both passages within his broader strategy, however, the connection with *alazoneia* becomes clear.

It is in support of the claim that Aeschines does not have “intelligence and education” that Demosthenes turns to Aeschines’ parentage. We must recall here, however, that Aeschines first brought Demosthenes’ parentage into the discussion (3.171-72).<sup>54</sup> The following attack by Aeschines on Demosthenes’ family (particularly his mother) is what opened the door for Demosthenes to retaliate in kind:<sup>55</sup>

And he [Demosthenes’ maternal grandfather] married a wealthy woman, by Zeus, one who brought him a lot of gold with her dowry, but who was Scythian by birth. And from her he had two daughters whom he sent here with a lot of money; he set one of them up in a marriage with someone-or-other (I don’t want to anger too many men), but the other one, Demosthenes of Paeania married disregarding the laws of the city. From this woman, the meddler (*periergos*) and sycophant (*sukophantês*) came to you. So then, from his grandfather he would be an enemy of the people, since you condemned his ancestors to death. And from his mother’s side, he is a Scythian—a barbarian who sounds Greek; from there also comes his wickedness, which is not native (3.172).

Demosthenes is careful to point to this part of Aeschines’ argument before launching into his version of Aeschines’ family history.<sup>56</sup> What might otherwise appear as an

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<sup>54</sup> Aeschines immediately transitions from his discussion of Demosthenes’ parentage to an attack on Demosthenes’ fortune (3.173): *ποῖ ἐς ὑπολάβη ἡνέσβον ἐῖβξυβον υἱχ ἐτυξεν*: (And what kind of man is he in regard to his daily habits?). He responds to his own question with a review of Demosthenes’ previous career activities, greed, mishandling of his patrimony, and cowardice (3.173-76).

<sup>55</sup> Aeschines connects his attack on Demosthenes’ parents with his argument about Demosthenes’ character, namely that he was not *dêmotikos*. He thereby makes it relevant to the charge since he argues that one can only be *dêmotikos* if both of one’s parents are freeborn (*eleutheros*) (3.169).

<sup>56</sup> “It is necessary for me, so it seems, although I am not a lover of slander (*philoloidoron*), to tell you the most essential facts themselves (*auta anankaïotata*) about this man instead of his numerous lies, because of the insults (*blasphêmias*) voiced by him, and to show you who he is and the type of parents he came from that led him to undertake malicious speech so easily and mock certain words of mine, when he himself has said things that any man of restraint would shrink from uttering (126).”

unnecessary and inappropriate distortion of Aeschines' heritage on Demosthenes' part is perfectly justifiable, since it is delivered in accordance with Aeschines' own line of argument. Demosthenes' lengthy response follows Aeschines' theme, but is clearly more scathing and humorous in language and tone (129-30):

I'm not at a loss for what I should say about you and your family, I'm at a loss for what I should mention first—either that your father, Troles, with his thick shackles and wooden collar, was a servant (*edouleue*) for Elpias when that man taught grammar next to the Theseum? or that your mother, who enjoyed “marriages” in the middle of the day in the tent next to Hero's splint shop, raised you to be a fine little statue (*ton kalon andrianta*) and top actor of third parts (*tritagonistên akron*)? (of course everyone knows these things, even if I don't say them). Or that Phormio, a slave of Dion from Phrearrioi, who played the pipe on a ship, lifted her out of this noble trade (*tês kalês ergasias*)? But by Zeus and the Gods, if I say things about you that are fitting, I'm afraid I'll seem to voice words that are unfit for me. [130] These things, then, I'll pass over and I'll begin instead from the things he has experienced in his own life; for he was not born from nobility, rather he comes from those whom the *dêmos* condemns. Recently then—did I say recently? Yesterday it was, or even the day before, that he became both an Athenian and a politician. And after adding two syllables, he made his father into “Atrometus” instead of “Troles,” and his mother became the all-revered “Glaucothea,” she whom everyone knows is called “Empousa”. It is clear that she obtained this title from doing, enduring, and becoming all things—where else could it have come from?

First, the point of attacking Aeschines' family is to discredit his status, not to slander his parentage *per se*. He wishes to show that Aeschines was neither born of high station nor raised as a proper elite youth. By using his parents as a vehicle for the attack, Demosthenes is on safe ground because he is referring back to the time of Aeschines' birth and childhood, a topic on which no one in the audience is an expert. Secondly, scholars have noted the comic nature of his accusations—that his father was a slave and

his mother a prostitute—but most disregard them as baseless slander.<sup>57</sup> That the accusations are fabricated is hardly of import. What is significant is how Demosthenes is able to make such outrageous claims plausible. His characterizations are effective because he has some factual basis on which he can build and embellish: Aeschines' history of menial jobs.<sup>58</sup>

But beyond plausibility, his attacks are clearly meant to provoke derisive laughter from the audience. This aim is immediately apparent from Demosthenes' choice to belittle both Aeschines' father and mother by referring to them with nicknames: Tromes (“the Trembler”) and Empousa.<sup>59</sup> Aeschines, by contrast, referred to Demosthenes' father in a respectable manner (giving his name and demotic), and never named his mother. Demosthenes' use of nicknames alone is a comic maneuver since they are most prevalent in comedy. Normally the Greeks followed strict rules governing the proper naming of both men and women. The concepts that each name invokes—cowardice and prostitution respectively—are also subjects that regularly appear in Middle Comedy.<sup>60</sup> Whether Atrometus was brave or cowardly is a judgment about action and therefore more easily manipulated than the facts themselves—that Atrometus was a soldier and teacher. His

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<sup>57</sup> Harding 1994b is certain; he sees the comic stage as expanding the scope of *diabolê* for the orators, which is an important insight, but he does not see the potential problems with complete fabrication.

<sup>58</sup> On invective and plausibility, cf. Corbeill 2000.

<sup>59</sup> Usher suggests that he may have acquired the nickname “Tromes” from fellow comrades as a joke because he was actually a courageous fighter. Compare the modern nickname “Tiny” for a very large man. Cf. section 180, where Demosthenes brings up his own nickname “Batallus” and uses it against Aeschines: “And yet how would you like me to characterize you, Aeschines, on that day, and how myself? Shall I call myself Battalus, as you would by way of insult and abuse, and you not indeed a hero of the common kind, but one of those upon the stage, a Cresphontes or a Creon, or that Oenamaus you wretchedly murdered once at Collytus? Well, on that historic day I, the Battalus of Paeania, was seen to be worth more to his country than you, the Oenamaus of Cothocidae. You were of no use at any stage; I did everything that a good citizen should. Read me the decree.”

<sup>60</sup> On names and nicknames for prostitutes (including mythical names), see McClure 2003, 59-78 with Appendix III, 183-97. On cowardice in battle as a *topos* of ridicule, see Süß 1910, 254.

claim that Atrometus engaged in menial tasks sets a precedent for his later accusation that Aeschines did these same tasks for his father (258). He thereby creates continuity from father to son of servile behavior, even if neither of the two were ever slaves. The description, then, is a comic way of highlighting one important aspect of Aeschines' character that marks him as incapable of political leadership. Whether or not Aeschines or his father were actually slaves sinks into the background and the more important point that they did menial work comes to the fore.

Similarly, Demosthenes attempts to demean Aeschines' *phusis* by insinuating that his mother is a prostitute (although he does not explicitly claim that Aeschines was born from one of her "daytime marriages"). Rather than calling her a *hetaira* or *pornê*, he uses comic descriptions to "reveal" her status. He creates a high-low opposition between Glaucothea (an epithet of Athena further heightened by the addition of *panu semnôs*) and Empousa, a mythical female monster that changed form at will.<sup>61</sup> In *Frogs* (285-308), Empousa's protean capabilities frighten Xanthias and Dionysius, where she is called a beast (*thêrion*) and changes forms repeatedly from a cow to a mule, then a beautiful woman, and finally a dog.<sup>62</sup> The act of mentioning his mother by first name and nickname draws her status into question;<sup>63</sup> a freeborn citizen woman would customarily and properly be referred to as the wife of her husband or by patronymic, not by name. Since the jurors would be familiar with first names and nicknames in reference to

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<sup>61</sup> Her ability to "do, suffer, and become" everything is reminiscent of Apollodorus' heated attack against the courtesan Neaira for how and where she plied her trade ([Dem.] 59.108). Apollodorus similarly attempted to cast doubt on Stephanus' children by demonstrating that their mother was a prostitute.

<sup>62</sup> See Brown 1991.

<sup>63</sup> Cf. McClure (2003, 60-74) for a discussion of Athenian naming practices for women, especially *hetairai* (p.69): "such names [i.e. nicknames] converted them into objects of sympotic and comic mockery and fixed their place in the social order."

prostitutes only, Demosthenes is able to demean her, even if he fabricated the name itself. Demosthenes' choice of "Empousa", incongruously juxtaposed with "Glaucotea", suggests that he was drawing from the jurors' knowledge of and response to comic courtesans. Throughout the 4<sup>th</sup> century, the jury was entertained by the antics of these characters; Demosthenes thus creates comic potential by turning Aeschines' "noble" mother into a comic prostitute.

We cannot say for sure that the jury erupted in laughter at Demosthenes' depiction, but we can say confidently that derisive laughter was one of Demosthenes' goals. When we consider this scene within Veatch's model of audience commitment, we can conjecture that the audience was likely to laugh, since the jurors were not from the elite class and therefore were not *too* committed when jokes were made at the expense of the elite (as Old and Middle Comedy makes abundantly clear). Thus, when Demosthenes, like Aristophanes or others, ridicules a politician in comic language, we can reasonably assume that laughter was the intended, and even likely, response.

The humor of the passage reinforces Demosthenes' aim of connecting Glaucotea (like Atrometus) with service work.<sup>64</sup> At Athens, prostitution itself was not considered disgraceful if one was a metic or slave, but it was disgraceful for a citizen, since the profession involved subordination. Demosthenes is therefore again able to show continuity of servility from mother to son when he later depicts Aeschines assisting her in

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<sup>64</sup> On Athenian aristocratic disdain for banausic professions, see Dover 1974, 32-33; also Wolff 1968, who discusses how orators, such as Isocrates and Demosthenes, desired to get away from their role as logographer since it was by nature a subordinate occupation. Cf. *Acharnians* 454 where Aristophanes derides Euripides' mother for being a greengrocer, and Aristophanes' treatment of Cleon in *Knights*, where the humor in large part rests on Cleon being trumped politically by a Sausage-Seller and ending up a sausage-seller himself.

carrying out the rites of Sabazius (259-60). The pointed use of comic ridicule invites the audience to laugh at Aeschines and his family, thus asserting their superiority over him and, inevitably, their support for Demosthenes. That the intended response was laughter is clear from both the comic language and the incongruity that Demosthenes creates for his audience by juxtaposing Aeschines' family against the implied expectation of a true elite family.

The entire attack builds up to Aeschines' lack of appreciation for what the state has done for him; instead of expressing *charis*, he has gone against the state as the hireling of Philip:

[131] Nevertheless, you are so ungrateful and wicked by nature that although you went from slave to free, and from poor to rich thanks to these men here, you not only lack gratitude toward them, but you also hired yourself out (νῆτρζώτβχ τβωόο) when you conducted public affairs against their interest. Regarding situations in which someone might contest whether or not he spoke on the city's behalf, I'll pass these over. But, regarding those affairs in which he has clearly been shown to have acted on behalf of the enemy, I will remind you of these.

It is true that here and throughout the speech there are many attacks on Aeschines as hireling that are more serious in tone (148, 284, 307). But since Demosthenes is specifically using Aeschines' background as another proof that he was in fact a hireling, we should interpret the decidedly comic attack and his more extensive one in section 252ff. as working alongside these serious accusations.<sup>65</sup> In both sections, his comic abuse

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<sup>65</sup> Harding 1994b, e.g., sees the comic and the serious interacting, but this nod does not accord well with his overall argument that comic invective in oratory is entirely for humor (unlike comedy and iambography where it was meant to be hurtful). His assessment oversimplifies the function of invective, since he does

transitions back to serious accusations. Thus, the invective gives the jurors further evidence of how Aeschines ended up where he did and why he turned out this way.

In both passages, Demosthenes exploits the connection of public and private to show that his opponent has engaged in activities in his private life that do not reflect the appropriate behaviors for involvement in politics. By his ancestry, he is predisposed to selling himself to the enemy. By the time he reaches manhood, he continues his servile and grasping trend. Now that Aeschines is a man, Demosthenes can describe his activities as a matter of choice rather than compulsion. Thus, in 261, he sarcastically juxtaposes high and low by claiming that Aeschines “chose the noblest of duties, that of secretary and assistant to our petty officials (ὁ ἀμύκτωρ ἐκφύλακς ὑὸς ἑσῆς ο. ἡσβννβυφῶφι λβί ὕ ι σφυφίο υπίχ ἀσθξ ἱπξχ).” The clear message is that Aeschines’ family always did service work for others, he himself grew up working for others, and therefore it is no surprise that as an adult he continued his servile behavior by choosing not just to assist others, but to serve Philip as a hireling.<sup>66</sup> Demosthenes makes clear in his last extended attack on Aeschines the actor how his acting career directly reflected and reified his servility (262):

You hired yourself out (νξτζώτβχ τβωόο) to those actors nicknamed the Heavy Groaners, Simukkas and Socrates, you played the third-parts (ἐυσξβης οἱτυφχ), collecting figs, grapes, and olives like a fruiterer from other people’s farms, getting more profit from these than from the plays in which you acted at the peril of your lives.<sup>67</sup>

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not take into account the shared didactic purpose, or the fact that it can simultaneously be hurtful and humorous.

<sup>66</sup> The point is recognized by Dyck 1985, 45 and Easterling 1999, 155.

<sup>67</sup> See Usher 1993, *ad loc.* for a discussion of this passage in connection with Doric mime. Note too that here again Demosthenes connects Aeschines with food, an obsession of contemporary comedy not normally found in “high” literature; cf. Wilkins (1997, 251) who subjects his subheading “Food in



Aeschines' hired himself out as an actor, just as he hired himself out as a politician.

By calling attention to Aeschines' acting career, Demosthenes highlights the aspects of performance inherent in oratory.<sup>68</sup> For both acting and public speaking, a performance is supposed to come across as natural even if it is rehearsed. Yet at a play, the audience retains the knowledge that acting is taking place, whereas in the courtroom, this perception is altered; the jury would consider the "real life" situation and therefore not be conscious of oratorical "acting". Aeschines' shortcomings as an actor give Demosthenes a way to neutralize the advantage that Aeschines has from being a naturally gifted public speaker. More importantly, Demosthenes offers Aeschines' acting as an analogy for understanding Aeschines the politician. Demosthenes' exposure of Aeschines as a 'bad actor' on stage is useful for revealing how bad he is at acting as a politician in real life. Here and elsewhere, Demosthenes slips back and forth between Aeschines' acting and his "real life". Thus, the point of Demosthenes' ridicule is not that Aeschines was actually a terrible actor despite boasting of how great he was, rather that he pretends to be a good politician when in fact he has been a repeated failure.<sup>69</sup>

As I have been arguing throughout, Demosthenes' comic invective does not contradict, but rather reinforces, the serious accusations against Aeschines. Scholars have resisted seeing the comic nature of Demosthenes' invective since they believe that the

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Comedy: A 'Low' Form of Culture in a 'Low' Form of Drama" to scrutiny. The depiction of Aeschines as grasping at scraps of food mimics Aeschines' grasping at bribes, but in a particularly comic way.

<sup>68</sup> Cf. Axer 1989, who argues that the overlapping nature of performance on stage and in court is precisely why scholars lean toward theatrical metaphors and explanations for the speaker's courtroom practice.

<sup>69</sup> Pace Dyck (1985, 44) who argues that Aeschines cannot be an *alazôn* because he never claimed to be a good actor.

comic would undermine the serious. In particular, they do not find the portrait of Aeschines to be convincing, since he cannot be both an “ineffectual bluff” and a “sinister threat”.<sup>70</sup> An Athenian jury, however, would see a definite connection between these two traits; a man who is an *alazôn* and in a position of authority can indeed be dangerous.<sup>71</sup> This is, in fact, precisely the point that Xenophon’s Socrates makes in *Mem.* 1.7, where Socrates discusses *alazoneia* as a shameful way of life that should be avoided. He first takes up the example of a *aulos*-player before addressing the role of general or captain in order to emphasize that the unexposed *alazôn* in a powerful position poses a real danger. Socrates describes the exposed *aulos* -player as laughable (*geloios*; *katagelastôs*) since he is shown to be both a bad *aulos* -player and as an imposter (*anthrôpos alazôn*). But the man who pretends to be a general or captain is much worse, since he will not only disgrace himself, he will inevitably destroy others. Just so for the rich man, brave man and strong man. The passage culminates with the statement that the worst *alazôn* is the man who pretends to be able to run the state (1.7.5):

ἀ βυψώοβ ε' ἐλάμφει πύ νηλοόο ν ο πύε' φ υξ ἀσηῦσῃτο ἡ τλφύπχ  
 βσὰ υπω φεπί μβψών ἀ πτυφπῆι , πμύ ε νέηξτυπο ὀτυξ  
 νι εφοόχ ᾠκῃτχ ὦο ἐκι βυήλπξ φῖζς ο ὡχ ἰλβοόχ φι υῆχ ἱμφς χ  
 ἡηφῖτζβξ

<sup>70</sup> The terms are used by Rowe (1966, 403). The objection was first made by Bruns (1961, 572) who considered Demosthenes’ characterization implausible because of his portrayal of Aeschines as both stupid and dangerous. Dyck’s answer to Bruns is unsatisfying: he claims that Demosthenes can get away with this contradiction because he was taking advantage of the immediate effect that oral delivery offered him (1985, 46).

<sup>71</sup> A modern parallel can be found in Michael Moore’s “Fahrenheit 911”, where he uses humor to depict President Bush as a buffoon in a position of authority. Moore attempts to expose President Bush as incapable of leadership by demonstrating comically how his idiocy led to bad decision-making that ultimately resulted in a very dangerous situation in Iraq. The humor does not discount the seriousness of the subject or his allegations.

He called that man a deceiver (*apateôna*), and not a small one, whoever should deprive another man by taking away his money or equipment through persuasion (*peithoi*); but by far the greatest cheat would be the man who deceptively convinces (*exêpatêkoi peithôn*) others that he is capable of leading the state, when he is actually worthless (*mêdenos axios*).<sup>72</sup>

This is precisely Demosthenes' point; the actor/politician analogy that he constructs throughout the speech is right in line with Socrates' *aulos* -player/leader analogy. In each instance we are given an example of the *alazôn* in a more trivial occupation as a way of understanding his role in a more serious one. Although the one is laughable (because his actions affect only himself), and the other dangerous (because they affect all of Athens), the difference is one of degree and not kind. Demosthenes thus depicts Aeschines as an *alazôn* but needs the jury to deflate him with their laughter and their vote so that he becomes relegated to the role of comic impostor, rather than remain a serious threat to the city. His account of Aeschines' past behavior is a comic demonstration of how and why he should be seen as dangerous. According to Demosthenes, there is only the façade hiding Aeschines' inferior birth and upbringing, his less-than-stellar professional career, his stupidity and his deceptiveness. If Aeschines continues to hold public office because he, as Xenophon's Socrates warns, can *persuade* people into thinking that he is capable, when in fact he is a fake, then the state will ultimately suffer at his hands (as it has in the past).

It is clear that Demosthenes' main goal in the speech is to present Aeschines as the political hireling of Philip. All of his invective against Aeschines is in the service of

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<sup>72</sup> Cf. 2.2.12 of Xenophon's *Cyropaedia* for a similar discussion of the *alazôn* as dangerous.

proving this point, even if it is varied and seems on the surface contradictory. The comic depictions of Aeschines as bad actor, quack doctor, initiate, slave, and imbecile are used to build up his case for exposing him to the audience as a hireling and not a well-educated, elite, patriotic and useful politician. The comic and the serious work reciprocally: the more Demosthenes can show that Aeschines is ripe for bribery and treachery through humorous depictions of his past experiences, the more weight he gives to the charge that Aeschines was the hired hand of Philip. Likewise, the more credible his serious description of Aeschines as hired hand, the more believable his outrageous attacks become.

Demosthenes chooses to depict Aeschines as *alazôn* because Aeschines stands out as a prominent politician with support from the Athenians for many years now. As a rhetorical strategy, Demosthenes knows that if he can point to real aspects of Aeschines' background—a worker in the school, an initiator, an actor, and an under secretary—he can build a coherent and believable picture of Aeschines 'born to serve others' instead of Aeschines 'born to lead'. This development of characterization is summarized perfectly in his antithetical synopsis at 265-66: "You taught reading; I was a student. You conducted initiations; I was initiated. You were an assembly-clerk; I was a speaker. You acted third parts; I was in the audience. You broke down; I hissed. You have always served our enemies' interests in politics; I those of our country."

Thus, Aeschines becomes a man who has spent his whole life grasping at paltry sums for the shameful tasks that he performs, so it is only natural that he should find it easy to receive pay from Philip for betraying the state. This much is clear. But when

Demosthenes gives a description of the ‘real’ Aeschines as the traitor/hireling/servant, he is contrasting it with Aeschines’ presentation of himself as the all-wise political statesman, who boldly proclaims superiority over Demosthenes in knowing what is best for Athens. Demosthenes thus exposes Aeschines as a comic *alazôn*.

## *Chapter 2* **Comic Strategies in *Against Timarchus***

In recent years, the speech *Against Timarchus* has enjoyed considerable attention from scholars, mostly as a result of increased interest in ancient sexuality. It has become a primary source for, as well as the stimulus of much debate about, the political, economic, and social interpretation of male same-sex practices in ancient Athens. Because of this very specific focus, other aspects of the speech have not received much attention; among these is Aeschines' sustained use of comic strategies to make his case.<sup>1</sup> Harding, for example, in his essay on Comedy and Rhetoric, does not discuss Aeschines at all; and most works dealing with comic invective that do include a discussion of Aeschines go straight to *Against Ctesiphon*—but they likely do so only because it is the counterpart to *On the Crown*.<sup>2</sup> Hall touches briefly on comedy in *Against Timarchus*, in her discussion of the dramatic nature of legal procedure, and suggests that “[Timarchus’] forensic portrayal as a failed prostitute may owe much to comic characterization,” but she goes no further.<sup>3</sup>

As we will see, Hall is right to look to comedy for influence on Aeschines’ depiction of Timarchus. Moreover, Aeschines relies heavily on humor and laughter not

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<sup>1</sup> Certainly there has been some interest in the speech for its literary or performance elements, but it has been focused on Aeschines’ extensive quotations of epic and tragic poetry (see Ford 1999 and Perlman 1964).

<sup>2</sup> See e.g. Koster 1980, 76-90.

<sup>3</sup> Hall, 1995: 57; her section on comedy is the briefest and is meant to do no more than scratch the surface.

only as an overarching strategy for his case against Timarchus, but also for his characterization of Timarchus' defender, Demosthenes. The explication of Aeschines' use of humor is thus essential to our interpretation of this speech, and indeed, more generally to our understanding of mechanisms for policing deviancy and morality in fourth-century Athenian society.

As we might expect, Aeschines characterizes his two opponents differently by attacking Timarchus as a  *pornos*  and Demosthenes as an  *alazôn* . Reputation plays an obvious role in his attack on Timarchus, but it also affects his depiction of Demosthenes. Demosthenes, of course, did not have a reputation for involving himself with numerous men in the community. But since he was a prominent politician well known for his rhetorical skill, the characterization as a swindling  *alazôn*  is apt. In both cases, Aeschines aims at invoking derisive laughter from the audience.

Aeschines' portrayal of Demosthenes'  *alazoneia*  is important to his argument that Demosthenes has a proclivity toward irrelevant argumentation.<sup>4</sup> Although Aeschines drags Demosthenes into his attacks on Timarchus whenever possible, he steers his discussion entirely against Demosthenes at one point late in the speech (170-76). In these sections, he argues vigorously that the jurors must not listen to the irrelevant attacks that Demosthenes will put forth against Aeschines in an effort to divert attention away from Timarchus' prostitution. He homes in specifically on Demosthenes' skills as a teacher of

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<sup>4</sup> I discuss Aeschines' portrayal of Demosthenes first, since it is less elaborate than his portrayal of Timarchus, but also because it is consistent with the argument in Chapter 1 that Demosthenes depicts Aeschines as a comic  *alazôn*  in  *On the Crown* . Scholars often comment on Demosthenes' tendency to beat Aeschines at his own game. Aeschines' treatment of Demosthenes as an  *alazôn*  here and in  *Against Ctesiphon*  would be another example of this tendency. At the very least, we must acknowledge that Aeschines was the first to use this type of argumentation against Demosthenes in  *Against Timarchus* , which means that Demosthenes' response in this particular debate should be viewed as a reaction.

rhetoric, which he describes as deceptive sophistry. The exposure of Demosthenes as an *alazôn* is therefore different in some ways from what we saw with Demosthenes' treatment of Aeschines. Rather than attacking Demosthenes' citizen status to show that he is an impostor politician, Aeschines here draws on notions of the charlatan philosopher, best known to us from Aristophanes' *Clouds*.

A main component to Aeschines' strategy is to stir up anger from the jurors against Demosthenes for abusing the people, democracy, and specifically in this case, the jurors. According to Aeschines, Demosthenes invited students to the court essentially to use this case as an example of how to make the weaker argument the stronger. Aeschines frames his concern in terms of ridicule; he warns the jurors not to become laughable (γέμς υβ) to Demosthenes, the sophist (υ τπγξτ υ), by allowing him to abuse the democratic process and make money at the jurors' expense. Just as Aristophanes puts Socrates on stage to expose his activities as a (supposed) sophist, Aeschines too attempts to get the jury to laugh at Demosthenes, rather than be laughed at by him. To do so, he emphasizes visualization (ῥ πμβνψάοφζ' ὅσαο), preferring direct speech to paint a vivid portrait of Demosthenes' haughty scheme (175):

[illegible]

...but imagine that you see him, once he has returned home from the court, boasting (*semnumenon*) during his lecture to his students as he



The participle *semnunomenon* marks pomposity and is one indication of his aim to depict Demosthenes as a braggart. Near the conclusion of Aeschines' discussion of irrelevance, Aeschines connects Demosthenes' boasting more directly with *apatê* (deceit) and *alazoneumata* (boastful speech) (178):

In the assembly and in the courts, you are often led astray by deceit (*apatê*) and boastful tricks (*alazoneumatôn*), forgetting the arguments on the matter at hand.

<sup>5</sup> “Given that you put to death Socrates, the sophist (*sophistên*), because he was shown to have educated Critias, one of the Thirty who destroyed the democracy, should Demosthenes then select companions from among you, exacting such horrific penalties from private and public men for their freedom of speech?”

Socrates is depicted as a sophist who directs a Thinkery (*phrontisterion*) where he trains students in deceptive rhetoric, just as Aeschines claims that Demosthenes is doing here. Aeschines creates a topsy-turvy scenario in which Demosthenes overturns justice through unjust argumentation, which recalls Socrates' alleged ability to teach others how to make the weaker argument the stronger. That Aristophanes is specifically characterizing Socrates as a braggart is made clear throughout the play by juxtaposing his persona as a brilliant thinker and the thoughts he expounds, which are of the least significance (such as measuring how far fleas jump or explicating how gnats hum). Further, Strepsiades' son, Pheidippides, is able to identify Socrates explicitly as an *alazôn* when Strepsiades first recommends that he study with the men at the Thinkery (101-104):

PH: Who are these men?

ST: I don't know what you call them exactly. Excessively careful thinkers (*merimnophrontistai*), noble men!

PH: Ack! Wicked men (*ponêroi*)! I know them—it's the boasters (*alazonas*), the pale-faced and barefoot men, that you are talking about! Men like that wretched Socrates and Chairephon.

Socrates, then, is marked as a sophist and *alazôn*. By making the comparison between Demosthenes and Socrates, Aeschines invites the audience to laugh at Demosthenes as a comic *alazôn* in the same way that Aristophanes set up Socrates for ridicule in *Clouds*.<sup>6</sup>

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<sup>6</sup> This is a tactic that Aeschines used again in his speech *Against Ctesiphon*, referring to Demosthenes five times (and Ctesiphon twice) as engaging in *alazoneia*; 3.99 (twice), 101, 218, 237, 238, 256. The accusation against Demosthenes in section 98-99 is most telling: "For the man (Demosthenes) does this one thing that is specific to him and not common to others—the rest of the braggarts (*alazones*), whenever they lie, try to say things that are undefined and unclear, fearing that they will be tested; but Demosthenes, whenever he boasts (*alazoneuêtai*), first lies under oath, invoking destruction on himself, and secondly, for things that he knows well will never happen, he dares to give an exact date, and for people he's never seen, he mentions them by name, thus hoodwinking his listeners and mimicking those who speak the truth. And

Like Demosthenes' depiction of Aeschines in *On the Crown*, Aeschines' characterization of Demosthenes as *alazôn* can be linked to comic strategies known to us from Old Comedy. Many of the tactics that Aeschines employs in his treatment of Timarchus as comic prostitute, however, can only be understood by turning to fourth-century Middle Comedy, which is much less familiar to us because so little survives.<sup>7</sup> Unlike Old Comedy where entire plays are extant, for the most part only fragments remain from the Middle Comic poets, and these typically lack context. The exception comes from Aristophanes himself; his later plays *Ecclesiazusae* and *Plutus* date to the beginning of the Middle Comic period (393/1 and 388 respectively). Still, we have enough Middle Comedy to see at least some of the ways in which much of Aeschines' speech draws on the more personal and private elements that distinguish the lesser-known Middle-Comic tradition.<sup>8</sup>

Also problematic is that scholars have posited an exaggerated distinction between Old and Middle Comedy with the former characterized by humor that is primarily political and obscene, and the latter by humor that is subtler and domestic. In accordance with this interpretation, Middle Comedy has tended to get lumped together with New Comedy (if not ignored altogether). Recently, however, scholars have begun to re-evaluate the nature of Middle Comedy. Nesselrath's volume on Middle Comedy and his

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for this, he really deserves to be hated because, although he's wicked (*ponêros*), he abolishes the signs (*sêmeia*) that differentiate honorable men (*chrêstôn*)."

<sup>7</sup> Thus Harding (1994b, 196) on his approach to comedy in oratory claims: "To all intents and purposes, this will mean the influence of so-called Old Comedy, since Middle Comedy is little more than a concept..."

<sup>8</sup> Cf. Bruns 1961, 552 who argues that the orators also shift focus in the mid-fourth century at which point personal elements play a much greater role. The fact that this is occurring on both the comic stage and in the courts highlights the need for an analysis of the speeches that takes account of what is happening on the comic stage.

important essay in Dobrov's volume on the city as comedy have altered the earlier view considerably.<sup>9</sup> He argues that Middle Comedy retains the political nature of Old Comedy to a much greater extent than previously believed, but that there is a shift in focus to the personal habits, i.e. the eating, drinking and sexual practices, of politicians and prostitutes.<sup>10</sup>

An examination of the fragments supports Nesselrath's argument. Famous members of the community, namely politicians and courtesans, appear with astonishing regularity. To be sure, the prevalence of courtesans as main characters on the stage marks a separation between Middle Comedy and Old Comedy, since the Aristophanic world was almost completely disinterested in prostitution. The subject matter can be explained in part by the fact that Athenaeus is responsible for preserving many of the fragments and prostitutes were a topic of interest to him. Yet, we cannot dismiss the fact that he finds so many examples from Middle Comedy and so few references in Old Comedy.<sup>11</sup> In numerous fragments, *hetairai* whom we know existed from other sources (including court cases) not only appear, but are the subjects of entire plays.<sup>12</sup> Similarly, politicians are

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<sup>9</sup> Nesselrath 1990 and 1997. Referring to the continuity of interest in politics, he concludes: "...there is between 380 and 320 no real sign that mentionings [sic] of politics and politicians in the fragments are decreasing. If anything, one might even observe a sort of increase of "political" fragments right up to the end of the life and times of Demosthenes (1997, 275)."

<sup>10</sup> Cf. Hubbard (2003, 86-88) who likewise argues for continuity between Old and Middle Comedy, citing numerous examples from Middle Comic fragments that ridicule politicians for being effeminate or engaging in pederasty; cf. also his earlier work (Hubbard 1991, 3) where he makes the claim that the distinction between Old and Middle Comedy has been exaggerated.

<sup>11</sup> In fact, in all of Aristophanes, there are no clear examples of *hetairai* or *pornai* as main characters. See Nesselrath 1997, 278; cf. Stroup 2004, 42, although she argues that Aristophanes is "hetairizing" the wives in *Lysistrata*.

<sup>12</sup> We have many titles that are simply the names of famous courtesans. For example, both Timocles (25-26 K-A) and Philemon (49 K-A) have plays entitled *Neaira*; Timocles also wrote the *Sappho* (a courtesan from Eresus; 32 K-A see further below); Epicrates wrote a *Lais* (3 K-A); see further McClure 2003, Appendix III: 183-97.

frequent comic objects, sometimes because of their relationships with courtesans; but just as often they are ridiculed on their own for political or oratorical activity.<sup>13</sup> Aeschines, Demosthenes, and Timarchus make their appearances, while other politicians show up frequently, such as Callistratus who is abused in a rather Aristophanic style for his effeminacy.<sup>14</sup> Despite its fragmentary nature then, we can be certain that Middle Comedy in no way abandoned interest in real members of the community.

The fact that politicians and courtesans are prominent subjects of Middle Comedy, which is increasingly interested in exploiting their private lives for comic effect, provides the starting point for my investigation of its relationship to the speech *Against Timarchus*. It makes sense that Aeschines, an actor himself with a great sense of humor, would exploit the comic possibilities when accusing a prominent politician of being an indulgent male whore. Certainly it was popular with the people at the time or the poets would not have repeatedly produced comedies that focused on the decadent habits of politicians and prostitutes. This type of approach helps explain Aeschines' strategy, which most scholars have judged as "bold"; scholars are astonished at his total disregard for types of proof that are common in oratory (such as witnesses and documents, or even circumstantial evidence) and his daring plan to rely on rumor instead.<sup>15</sup> And particularly shocking to scholars is that Aeschines actually won the case. On the traditional

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<sup>13</sup> Cf. Nesselrath (1997, 272) who notes that more than twenty politicians are mentioned in the fragments. See also Hubbard see also McClure (2003, Appendix IV, 199-201) for a list of *hetairai* and their lovers (many of whom are politicians).

<sup>14</sup> See below n. 51 for the citation of Eubulus' *Carion Sphinx* where Callistratus is equated with the ass (*prôktos*). And in Eubulus' *Antiope* (10 K-A), he is said to have a nice, big ass (*pugên megalên kai kalên*). Cf. also Anaxandrides (41 K-A), where he is mocked for having his feet rubbed with expensive Egyptian perfume, and Antiphanes (293 K-A), where he is ridiculed for gluttony.

<sup>15</sup> In regard to Timarchus' sexual history, Carey (2000, 21), e.g. claims that Aeschines is "boldly tackling head-on the fact that he has not a shred of solid evidence against Timarchus."

assumption that Athenian law should (like our law) adhere to a narrow concept of relevance, Aeschines' case seems to make an implicit argument against the entire justice system. At more than one point in the speech, he asks the jury outright to rely on past knowledge of Timarchus as stronger proof than anything they hear in the courtroom that day. His justification is that, what they know already represents the truth, whereas what they will encounter in court will be an attempt by the defendants to deceive them (92-3).<sup>16</sup>

It is true that his strategy in some regards stands apart from the norm, but the particular nature of Aeschines' accusation and the type of case that he is bringing, *dokimasia tôn rhêtôrôn*, allows him to engage in a full scrutiny of Timarchus' life. Perhaps his strategy is not as outrageous as we might think when we consider that, in accordance with Athenian notions of justice, an important element in the juror's assessment of the case is their view of the overall character of the litigant. And this would be particularly true in a case whose specific purpose was to scrutinize a speaker's past to ensure that he is worthy of engaging in political activities on the state's behalf.<sup>17</sup> Within this framework, Aeschines can legitimately call upon past knowledge and reputation as relevant evidence.<sup>18</sup> Aeschines is quite open about the novelty of his strategy. But, as we will see, he does not actually disregard procedural regulations or a concern for justice,

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<sup>16</sup> Cf. Usher (1999, 282) who calls him a "rebel against conventional forensic oratory," and points out that criticizing the "soundness" of his case is less important than looking at the position he takes up.

<sup>17</sup> Cf. Rhodes 2004, 139.

<sup>18</sup> Cf. Intro, p. 12-13 on Dem. 36. In that speech and this one, the speakers make the argument that past character predicts future character. But whereas Demosthenes comes to this conclusion after rebutting the specific charges and therefore uses an *eikos* argument about character supplementarily, Aeschines makes this point the backbone of his case.

nor does he engage in full-scale fabrication; rather, he turns to alternate methods of revealing the “truth” of his accusations to the jury.<sup>19</sup>

First, Aeschines in general relies heavily on narrative, which (among other things) allows him to create an elaborate plot that incorporates humor throughout. Unlike a playwright, however, he must rely on the power of description alone. Aeschines’ basic strategy is to present Timarchus’ life within a *mundus perversus* by examining his reversal of proper roles in society. Aeschines makes the most of topsy-turviness in relation to Timarchus’ status (citizen/slave) and gender (man/woman). These role reversals in which Timarchus engages (according to Aeschines) are also typical elements of Athenian comedy.<sup>20</sup> As part of his broader strategy, Aeschines draws on specific characteristics from contemporary comic depictions of prostitutes. Aeschines certainly goes beyond the typical comments in both Old and Middle Comedy about pathetic politicians, inviting the jury to see Timarchus in the role of female *hetaira* by tracking his “long-term” relationships (see below). But since it is important to Aeschines’ strategy that the audience view Timarchus as a  *pornos* and not male *hetaira* (cf. section 54), Aeschines emphasizes Timarchus’ failure as a *hetaira*, as Hall suggests, and his descent to the even lower level of  *pornos*. This characterization is necessary to create the widest gap between proper behavior in accordance with his actual status as citizen, and his

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<sup>19</sup> Contra the standard view that Aeschines engages in irrelevant argumentation; Harris 1995, 103: “The narrative portion of Aeschines’ speech is a masterpiece of sophistic pleading. Without a shred of relevant evidence, Aeschines ruthlessly attacks Timarchus as a consummate debauchee.”; also Carey 2000, 19: “Despite the factual (though not rhetorical) weakness of the speech, which is ultimately no more than a sustained attempt to throw sand in the eyes of the jurors, Aeschines won the case and Timarchus was disfranchised.”

<sup>20</sup> There are numerous examples for both. Regarding status, an example would be Xanthias and Dionysus trading places in *Frogs*, and regarding gender, *Thesmophoriazusae* and *Ecclesiazusae* derive much of their humor from the crossing of gender boundaries.

chosen degenerate lifestyle.<sup>21</sup> As a debauched  *pornos*, Timarchus is a person who, by Athenian standards, belongs on the bottom rung of the social and political ladder, yet instead, he avails himself of the greatest privileges of citizenship: speaking in the Assembly, making proposals, and going on embassies. Timarchus is alternately a male whore exploiting elite privilege, and an elite citizen plunging to the depths of debauchery. In both cases, the role and reality are out of line. Aeschines highlights this incongruity for comic effect to entertain the audience in court with topsy-turvy intrigues similar to what they would see on the comic stage. But, just as in the comic world, there must be a return to order at the end of the performance. In the law court, it is the job of the jurors to restore order with their vote. In this case in particular, they must condemn Timarchus in order to keep him out of the political sphere and to make a negative example of him to the other citizens.

Aeschines goes through an elaborate build up of the *gravitas* of the laws governing the upbringing of youths as a framework for viewing Timarchus' immoral behavior. In so doing, he not only aligns himself with the laws and morality, but he purposefully widens the gap between the nobility of the Athenian legal system and Timarchus. Aeschines aims for comic effect by juxtaposing behavior that is socially respectable with Timarchus' total violation of it. He states explicitly in section 8 that he is performing a contrast of the laws with Timarchus' character, but he retains a serious tone.

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<sup>21</sup> The tension that this creates is not problematic; Aeschines can alternately make use of the female *hetaira* trope and the typical pathetic male politician trope when it suits his needs. As I have been arguing, we should not expect an orator simply to create "stock" characters out of real life figures; rather, they draw from comedy by shaping the particular nature of an individual in terms of stock characterization to trigger a reaction from the jury similar to that at a comic play.



Only after 25 sections of reciting and interpreting laws, as well as praising the lawgivers, in a serious and reverent tone, Aeschines makes a sudden shift to comic ridicule in section 26 when he returns the discussion to Timarchus:

Examine now, men of Athens, how much Solon and those men I just mentioned differ from Timarchus; whereas they were ashamed to speak even with their hands outside of their cloaks, this man, not long ago—rather, just the other day—ripped off his cloak and jumped around naked, as if he were a pankratiast, in the assembly (ῥωοόχ  
ἐ βηλσβυῖβ φ ἐο υ ἐλλμι τῖβδ)!

The descriptive terms Aeschines chooses for Timarchus in no way accord with the Assembly setting that follows; Athens has traded in wise lawgivers of the past for a naked athlete as their current adviser. This type of high-low opposition is characteristic of Aeschines' strategy throughout the speech. Like Demosthenes in *On the Crown*, Aeschines fluctuates between serious discussion and comic depictions, only not in the highly structured way that Demosthenes preferred. Aeschines goes back and forth frequently throughout the speech, sometimes with long sections of serious and comic material back to back, but he also often prefers to intersperse the two in short space.

It is with this introduction of the *mundus perversus* that Aeschines sets out to describe Timarchus' life. Although he does not begin from Timarchus' birth as Demosthenes did with Aeschines in *On the Crown*, Aeschines too relies heavily on a chronological narrative. He relates two stories charting Timarchus' love affairs, both of which should be interpreted with Middle Comic depictions in mind. The first tale is about Timarchus' affair with Misgolas, and the second describes his involvement with Hegesander after a brief stint with Pittalacus, a public slave. When Aeschines introduces

Misgolas, the very first thing he describes about him is his peculiar interest in lyre-players (41):

There is a certain Misgolas, son of Naukrates, men of Athens, of the deme of Collytus, a noble man in many respects and in no way subject to blame, except in this one matter in which he has been fanatically eager: he habitually has lyre-singers (λαβσώε πύχ) and lyre-players (λαβσστύαχ) around him.

Three Middle Comic fragments mention Misgolas' predilections. Timocles 32 (K-A), a fragment from his play *Sappho*, that is just two lines long, and the least specific: ὁ Ν ξτηϊμβχ πύ σπτξοβξ τπε γβίοφυβξ άοζ πύτξ υπίχ οέ πξτξ ἡσφξ ξτνέοπχ ("Misgolas clearly isn't interested in you, even though he's excited by youth in their prime"). In his play *Agôn* or *The Colt* (3 K-A), Alexis is more precise about the type of youth Misgolas prefers: ὦ νήυφ, ἴλφωφς τφ νή ' ἱτφξ νπξυόο Ν ξτηϊμβο· πύ ηᾱσ λαβσώε ιχ φν' έηώ ("Mother, I beg you, don't set Misgolas upon me, for I am not a lyre-singer!"). The longest reference to Misgolas we have comes from Antiphanes' *Fisherwoman* (27 K-A) and provides greater context since the fragment itself is quite long. It gives a list of courtesans and politicians who are depicted as different types of fish. It is in contrast to other well-known men who like varieties of female fish that Misgolas is mentioned: Ν ξτηϊμβχ ηᾱσ πύ ᾱοωυπῶυς ο έεφτυήχ, ᾱμῶ λίζβοπχ πύυπτι. ὁο ᾱο ε ι ξυᾱχ θφσβχ πύλ άγέκφυβξ λβι νήο άμι ζώχ υπίχ λαβσώε πίχ ώχ τγῖεσβ ᾱ βτξ πύυπχ έ ξ φγωλώχ μβοζάοφξ ("Misgolas won't eat these [i.e. female fish] at all; rather, this lyre-fish here, that's one he won't be able to keep his hands off of when he sees it. In truth, he does not hide how he's completely stuck on all lyre-singers").

All three mentions of Misgolas point out his obsession with youth, and two out of the three mention lyre-singers specifically (using both terms that Aeschines used). None of these fragments can be dated with certainty, and therefore, we cannot say for sure whether Aeschines was drawing on Misgolas' reputation as presented on the comic stage, or the comedians picked up on Aeschines' representation of Misgolas in the courtroom.<sup>22</sup> However, the likelihood of Aeschines seizing on a characterization already spread around by the poets is far greater. To begin with, the fact that Aeschines introduces Misgolas to the jury by pointing to his love of lyre-players suggests that he is using this fact to identify him. If Misgolas was mentioned frequently during comedies and always for the same reason, as seems to be the case, then Aeschines can begin his argument with an expectation of the jurors' knowledge of Misgolas as a connoisseur of male youth, especially lyre-players. It seems that Aeschines is trying to start from common ground with the jurors, and presumably, such a statement would come as no surprise. It is less likely that various comic poets would have seized on this one claim from Aeschines' speech and made it a focal point, when Misgolas is not the main character of the speech, and moreover, this aspect of his character is not even the focus of Aeschines' attack on him; rather, he is far more interested in getting to the details of Misgolas' relationship specifically with Timarchus.<sup>23</sup>

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<sup>22</sup> To use an *eikos* argument, odds alone suggest that at least one of the three came before Aeschines' speech.

<sup>23</sup> The one other alternative is that both Aeschines and the poets are independently picking up on a well-known rumor or reputation of Misgolas in the community. While this possibility exists, it seems to me unlikely. In any case, there is no denying the overlap and shared interest of the two genres.

Regardless of the direction of influence, the appearance of Misgolas demonstrates the shared interest of comedy and oratory in the private life of public figures. This interaction is fundamental to Aeschines' general strategy of drawing on the jury's knowledge of issues regularly on display at comedies as evidence in court. Aeschines, in fact, references contemporary comedy directly to convince the jury of how the community knows something to be true. In section 157, for example, he argues that everyone knows Timarchus is a whore because when the comic actor Parmenon mentioned ἰσοπαῶν φημίπαῶν ἑβσθώε φημί (big Timarchian whores), no one thought of the innocent youth also named Timarchus: only one Timarchus came to mind. Aeschines' preface to this point is telling. He gives the following statement as context: "the other day ( ἄλλοτε ) when the comedies were taking place at the rural Dionysia in Collytus....". Aeschines, then, is not only relying on what the comedians are saying as proof of his argument, but he describes this portrayal as a current one.<sup>24</sup> It is quite likely that he is doing something similar in the case of Misgolas. Aeschines justifies his introduction of Misgolas as a lyre-player enthusiast to the jurors by claiming that his point is to make clear what sort of person Misgolas is. The invocation of his general reputation as an avid pursuer of youth is meant to color the jurors' interpretation of his interactions specifically with Timarchus. The reference, then, supports Aeschines' argument that Misgolas paid good money to be the active older male vis-à-vis Timarchus (41).

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<sup>24</sup> Scholars are unsure of the precise meaning of ἄλλοτε in section 157 and therefore debate over how current the comedies actually were (see Fisher 2001, 7). Whether or not Aeschines is referring to an event that took place a few days ago, or up to a year ago, this depiction is presented as one that the jurors would recognize as current.

Aeschines' mention of Autocleides in 52 functions similarly. In the passage that he uses as a transition to Timarchus' next long-term affair, Aeschines names three notorious pederasts, Autocleides, Thersandrus and Cedonides, in a telling use of *praeteritio*. Aeschines gives us only their names, the adjective *agrioi*, and the reason he supposedly is not discussing them: Timarchus did not have long-term relations with these men. Aeschines cleverly insinuates that he was very briefly involved with them, thus supporting the argument here that Timarchus was a  *pornos* and not just a male *hetaira*.

Just as with his first mention of Misgolas, Aeschines tells the audience one aspect about these men that acts as an identifying feature. They are *agrioi*, the comic term for “wild men” that connotes insatiable sexuality including a pederastic fetish.<sup>25</sup> This *praeteritio* would have little rhetorical force if the audience had no idea who these men were or to what *agrioi* referred. Once again, Aeschines is drawing on knowledge about the community that the audience has learned from the comic stage. Although we do not have references to Cedonides and Thersandrus, Autocleides is the star of at least one comedy by Timocles entitled *Orestautocleides*.

From what remains, the wretched Autocleides is surrounded by a group of eleven old and angry sleeping *hetairai*. The title indicates that the play recasts the role of *Orestes* with Autocleides as the star. Edmonds posits that the *hetairai* have pursued Autocleides furiously, probably because he is their competition for the same resource, namely young

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<sup>25</sup> See Fisher (2001, 183-84) who gives a very thorough discussion of the comic use of the term in a variety of sources. He also points out the criminal element associated with being *agrioi*. The term succinctly draws together both sexual and criminal aspects that Aeschines is trying to impress onto Timarchus' image.

men.<sup>26</sup> Lucian's *Dialogue of the Courtesans* 10 offers a striking parallel; two *hetairai*, Drosis and Chelidonium, are angry with a pederastic philosopher who has successfully lured in Drosis' young man with his sophistic diatribes. The youth has lost interest in Drosis and, as a result, she is suffering considerably. It is possible then, that Autocleides, as a pederast, shares a similar interest in young boys with the *hetairai* and they are haunting him like the Furies since he is their competition.

As the protagonist, Autocleides must certainly have been a figure well-known to the public. Aeschines presumes that the mention of his name would link Timarchus into a world of criminal pederasty. Here, even more so than in the case of Misgolas, there is no good reason to believe that the poets took Aeschines' *praeteritio* as the inspiration for an entire play. Aeschines likely expects to benefit from the characterization of the "wild men" already shaped by Timocles' play (and others like it).<sup>27</sup>

The next sordid affair that Aeschines narrates in detail involves Pittalacus, a public slave, and Hegesander, a prominent man involved in politics who is Timarchus' next serious suitor. After Timarchus abuses Pittalacus' generosity by overindulging in his gambling, drinking and cock-fighting habits, he leaves Pittalacus for Hegesander, whom he supposedly met while gambling with Pittalacus. Aeschines tells us the details of the messy split that occurs after the brief and exciting relationship that included debauched submission to the slave. Pittalacus pesters Timarchus and his new man Hegesander until

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<sup>26</sup> Edmonds vol. II, p. 620 with note b. Fisher (2001, 184) points out that the *hetairai* might simultaneously be functioning as the Eleven in the play since Autocleides was associated with criminal pederasty.

<sup>27</sup> Webster (1970, 59) argues that Timocles' play dates to a time after the speech based on the description of the *hetairai* as "old," but Fisher (2001, 184) rightly rejects this claim, pointing out that this characterization is likely a gross exaggeration of their actual ages.

the two finally get drunk, force their way into Pittalacus' house, break up his gaming equipment, kill his fighting birds, and then tie him to a pillar and whip him senseless.

Here again Aeschines relies heavily on narrative to create a dramatic feel to the story as it unfolds. Part of the drama that Aeschines narrates comes from the pathos created toward Pittalacus for the treatment he suffered. It is an effective strategy to make Timarchus appear worse than the slave. Aeschines taps into the emotions of the crowd by making Pittalacus appear to be wrongfully abandoned, forlorn from losing Timarchus, and then abused by his ex-lover and another citizen. His possessions, including his birds, are destroyed and then he is made to suffer humiliation, which Aeschines describes as undeserved. This aspect of the story is very similar to what we see in Demosthenes' description of Androtion barging in on two female prostitutes and stealing their furniture (Dem. 22.59, see ch. 3 below). In both scenarios, male citizens are made to appear hubristic and abusive of citizen privileges. Since there is no shame in being a slave or a prostitute per se, the Athenian audience would direct its anger at the male citizens, Timarchus and Androtion, for not acting in accordance with their citizen status, while feeling a measure of sympathy for slaves who were mistreated at the hands of violent men. In both scenarios, the jurors are invited to laugh scornfully at the citizen for his low behavior, while the slaves are portrayed as better people simply by acting in accordance with their station and with the laws.

The intrigues into which Timarchus gets himself are certainly of the burlesque variety since eating, drinking and beating up slaves are staples of "low" humor. They are also consistent with what we glean from the Middle Comic tales; they primarily involve

forms of consumption, including over-indulgence in food, wine, and sex. In this way, Aeschines repeatedly draws attention to Timarchus' body to highlight his complete lack of restraint (*akolosia*).

Although we do not have any extant comic fragments involving Hegesander or Pittalacus, we do have fragments that involve other characters Aeschines includes in the story. When mentioning Hegesander, for example, Aeschines frequently also mentions his brother Hegesippus. But he does not call him by his real name, rather by his nickname Crobylus or "Hair Knot," as he is known in comedy as well.<sup>28</sup> Unfortunately, the fragment by Sotades that mentions him is difficult to interpret; it states only "I am a side dish for Crobylus, he gnaws on that man, but only nibbles away at me."<sup>29</sup> This statement, although obscure, likely refers to Crobylus' sexual preference; references to food and eating are frequently allegorical for sexual activity, just as we saw above in Antiphanes' *Fisherwoman* where objects of sexual desire are also referred to as kinds of fish.

Another man involved in the affair between Timarchus, Hegesander and Pittalacus, is Diopeithes of Sunium. Aeschines cites him as the arbitrator from Hegesander's deme, but also as a man with whom Hegesander was involved when he was younger (63). This Diopeithes can plausibly be connected to two fragments. The more interesting one for our purposes comes from Antiphanes' play *Sappho* (194 K-A):<sup>30</sup>

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<sup>28</sup> The nickname refers to his oiled and carefully arranged hairstyle, according to Harpocration and the scholiast to Aeschines.

<sup>29</sup> Sotades 3 (K-A) from *Wrongly Ransomed*.

<sup>30</sup> TB  
 · ἔτυξε γὺτ' ἐχέζην φρεσὶ τῷ πωτ' ὅ λ' ἰμ' πῆχ  
 βύσῃ. οὐβ' εἰ ἄγος οὐβ' ἰμ' οὐβ' τῷ τ' ἐχέζην οὐβ'  
 λβ' εἰ ἄγος οὐβ' ἰμ' οὐβ' τῷ τ' ἐχέζην οὐβ'



**Sappho:** There's a female creature, protecting her babies in her bosom, and even though they are mute, they give a loud shout across the swell of the sea and the entire land, to whichever mortals they wish, who, although not present, are able to hear it. They have a voiceless perception of hearing...

**B:** The creature you are talking about is the polis, the babies nourished in it are the orators—they have shrieked across the seas and drawn plunder from Asia and Thrace, dividing up most of it, and while they continuously slander each other, the demos sits there, neither listening nor seeing.

**Sappho:** Oh father, how could the orator be mute?

**B:** If he's been caught three times acting contrary to the laws! I thought my answer was quite clever. Do tell then.

**Sappho:** Now, the feminine creature is a letter. The children it carries around in it are the words. Although they are voiceless, they chatter to whomever they wish far away, and even if someone else happens to be nearby the one reading, he will not hear it.<sup>31</sup>

Edmonds suggests that, because the riddle mentions plundering in Asia and Thrace and the answer to the riddle is a 'letter,' this scenario is plausibly a contemporary reference to Philip's letter to the Athenians in 341 complaining of Diopeithes' activities in

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πὺχ ἐζέμφεζοι υῶο. υπίχ ε' πύε βοπύτφρ ἀλπῦφρ  
ἐκφτυφρ λς γήο ε' ἀλπήχ β τζι τφρ ἔθπωτφρ  
...

(·) ἡ ν ο γῦτξ ηᾱσ ἦο μὲηφξ ἐτυῖο ἴμξ.  
ψσέγι ε' ἐο βύυ εφξσέγφξ υπύχ ρήυποβχ.  
πῦυπξ λφλοβηῖυφχ ε' υᾱ εφξ ἴουφξ  
υᾱλ υῆχ 'Βτῖβχ λβῖ υᾱ ὁ σ λιχ μήννβυβ  
μλπωτξ εφύσπ. αφνπνέος ο ε μι τίπο  
βύυώο λὰζι υβξμπξ πσπωνέος ο υ' ἀφ  
ὁ ε ἦνπχ πύε ο π υ' ἀλπῦς ο π ζ' ὁσώο.

(TB·) <.....> ὡχ ηᾱσ ηέοπξ' ᾱο. ὡ ἄυφρ.  
ρήυς σ ἄγς οπχ: (·) ἦο ἄμ υσίχ βοβοῖνς ο:  
<.....> λβῖ νήο ἀλσξψώχ ἴνι ο  
ἐηος λέοβξ υὸ ρι ζέο· ἀμμᾱ εἰ μὲηφ  
(TB·) ζήμφξ νέο οὔο ἐτυξ γῦτξ ἐ ξτυπμή.  
ψσέγι ε' ἐο βύυ φσξέσφξ υᾱ ησᾱννβυβ·  
ἄγς οβ ε' ουβ <υβύυβ> υπίχ ἴσςς μβμφ  
πύχ ψπῦμφ· υφσπχ ε' ᾱο υῦθι ξυδχ μι τίπο  
ἐτυώχ ἀοβηξηοώτλπουπχ πύλ ἀλπῦτφβξ

<sup>31</sup> It is interesting that Misgoulas also showed up in a different play called *Sappho*, but it is not clear what the connection could be, if any.

Macedonia.<sup>32</sup> Given these references and the clear intent to satirize politicians, his conjecture seems likely. Diopeithes is mentioned explicitly in a fragment of the play *Huntress* by Philetairus where nine different courtesans are listed and mocked for their ugliness and excessive old age. One courtesan called Telesis is said to be Diopeithes' *hetaira*.<sup>33</sup> Since he is here linked to indulgence by his involvement with *hetairai*, we should not be surprised that he would be mocked elsewhere for immoral behavior.

Both of these fragments, at the very least, indicate the persistence of comic interest in ridiculing politicians and orators. Like many of the Middle Comic fragments, the *Huntress* fragment focuses on the *hetaira* with whom Diopeithes is involved. The other is a more elaborate attack on orators specifically for political corruption and the people's ineffectual response to it. In this respect, the content is reminiscent of Aristophanic humor, but it is couched in the form of a riddle, which is a very popular comic technique of the Middle Comic period.<sup>34</sup> The fact that two men in Aeschines' story show up in fragments is further evidence for the overlap between the comic and oratorical stage. Aeschines is weaving a narrative full of comic texture that steers his audience toward viewing Timarchus' world as one to be laughed at derisively.

I have been arguing thus far that Aeschines draws heavily on material that is also treated by contemporary comic poets, both in terms of content and types of humor. Still, he cannot entertain his audience without paying attention to the procedural constraints of

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<sup>32</sup> See vol. II (p. 263), *ad loc*, note h.

<sup>33</sup> There is no further information given about this Diopeithes. On name alone, the reference could also be to the orator from Sphettus mentioned in other speeches by Demosthenes and Hypereides. However, Diopeithes of Sunium was more famous as the general most known from an attack in a letter by Philip for his plundering of ships, blackmailing, and ransoming an envoy.

<sup>34</sup> Another example which plays more on gender and sexuality is the riddle in Eubulus' *Carion Sphinx*; see n. 51.

a trial. For this reason, Aeschines (surprisingly) calls Misgolas and Hegesander as witnesses to support his arguments. But he prefaces the reading out of their testimonies with the likelihood that they will not tell the truth since they are shameless. Not surprisingly, both refuse to support Aeschines' side. The reason why Aeschines has their hypothetical testimonies read before the court is that they were present at the time of the trial. He acts as if they could change their minds at that point and tell the truth by affirming the affidavits.<sup>35</sup> He is following standard procedure even though he has no real witnesses. It would be glaringly obvious if he offered no testimony at all, and therefore, he does better to offer hypothetical testimony and then argue against the credibility of the witnesses, and thus discount the validity of their affidavits.

This nod toward respect for procedure on Aeschines' part is a fascinating example of how legal constraints can shape a case. Because witness testimony is so important to every trial, Aeschines cannot let on that he has no witnesses. He continues this façade in section 53 when he begins to tell the story of a lover named Anticles whom Timarchus met up with after Misgolas, but claims Anticles is absent in Samos and is therefore off limits for discussion. Cleverly, Aeschines adds one more name to the list of men with whom Timarchus has been intimate, while the *paraleipsis* here makes it seem as though Aeschines would not discuss an incident that could not be backed by testimony.<sup>36</sup>

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<sup>35</sup> See Thür 2005, 168-69, who discusses the process of bearing witness from the time of arbitration through the trial. In particular, he uses the Misgolas and Hegesander testimony as an illustration of how the orators create false uncertainties about possible testimony. Since testimonies were prepared before the main hearing, sealed for delivery, and thus could not be changed, any pretense to ignorance of what the witness' statement will say is solely for rhetorical effect.

<sup>36</sup> Rather than seeing his lack of witnesses as a sure indication that his case is fully fabricated, we should see it as a problem with which he is forced to deal when constructing a difficult case. He himself argues

Whereas witness testimony is arguably the best form of proof,<sup>37</sup> Aeschines must seek alternate means since he not only successfully problematizes witness testimony in a case about private sexual acts, but he also argues against his own (unsupportive) witnesses. Aeschines relies on a few different but related concepts that he argues prove truth: rumor, Timarchus' reputation, and laughter. In section 79, Aeschines begins an argument based on how the jurors would vote at that moment without hearing the prosecution or defense speeches. He claims that he already knows the jury would convict Timarchus, explaining this assertion by pointing to humorous public occurrences in the past that reveal Timarchus' guilt. Aeschines' first supporting argument is that the people could not control their laughter (φύζωχ' ἐψπᾶσθ' λβί' ἐηφμάσθ') when Timarchus mentioned "the construction of walls (*teichôn*) or a tower (*purgou*), or said that someone was taken off somewhere (80)."<sup>38</sup> Aeschines then gets more specific by recalling what happened when he declared a scrutiny against Timarchus for this case. According to Aeschines, a member of the Areopagites named Autolycus was speaking in the assembly in regard to a certain proposal by Timarchus about houses on the Pnyx. It is worth quoting the entire anecdote (82-84):

And when in the course of his speech he said that the Areopagus disapproved of Timarchus' proposal, "and on the matter of this deserted locality and the area of the Pnyx, do not be surprised, men of Athens, if Timarchus is more familiar with it than the Council of the Areopagus," at that point you responded in uproar (ἀοφ' πτωπῆτβυφ), and you said that

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that there cannot be witnesses to what happens behind closed doors, so that he is forced to seek alternate forms of proof, rather than admitting nothing happened.

<sup>37</sup> So Thür 2005, who argues that it is the only one of the *pisteis atechnoi* that holds weight on its own (although his view is not universally accepted by scholars).

<sup>38</sup> The references are sexual double-entendres.

what Autolycus said was true (ἀμὶ ζῆ μὲνῃ), that this man was familiar with the place.<sup>39</sup> And Autolycus, not understanding the reason for your uproar (ζῆσις), scowled fiercely and, after a pause, said: “Men of Athens, we members of the Areopagus neither accuse nor defend (it is not our traditional practice), but we have some sympathy for Timarchus for the following reason; he perhaps,” he said, “thought that while things were so peaceful, the outlay for each of you was small.” Once more at the mention of quiet and small outlay he met with still greater commotion and laughter (ἡέμεις υπὲρ ζῆσις) from you. When he mentioned foundations (υῶν πύλων) and cisterns (υῶν μάλλιν), you just couldn’t contain yourselves. At this point Pyrrhander came forward to reproach you and asked the Assembly if they were not ashamed to be laughing (ἡμῶν) when the Council of the Areopagus was present. But you shouted him from the platform and replied: “Pyrrhander, we know that we should not be laughing (ἡμῶν) in their presence. But so strong is the truth (ἡ ἀλήθεια) that it overcomes all human logic (υῶν ἀόριστος ὁ μνηστὴρ).”

Thus concludes Aeschines’ reasoning for how the people have already voted that Timarchus is guilty of prostitution. There are a number of things at work in this passage that need explanation. First, the jokes. The jury laughed (*gelan*) at the mention of desolate places and small outlays because these refer to locations that were notorious spots where whores went to turn a trick. Like the walls and tower he mentioned above, the foundations and cisterns are double-entendres; the terms used here are *oikopedôn* and *lakkôn*. There is a pun on the first term, *oikopedôn* with *orchipedôn* which means “balls”—a term used by Aristophanes, most notably in the *Knights* when the Sausage-seller threatens to drag Cleon off by the balls with a meathook into the Cerameicus (772);

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<sup>39</sup> Cf. Cratinus’ *Panoptai* where Aristodemus, called *prôktos* and *katapugôn*, is also accused of doing unseemly things in the Cimonian ruins (160 K-A); cf. Hubbard 2003, 113.

and the second term, *lakkôn*, was frequently used of the anus, like *euruprôktos*, but with the sense of insatiable receptacle and gaping from too much anal sex.<sup>40</sup>

The humor of the original event takes on new force in Aeschines' framing of the story. During the actual event, it was the comments themselves that were funny. In Aeschines' retelling of the story, the context adds another layer to the humor; this jury is asked to visualize the scene in which Autolycus, whom Aeschines deliberately describes here as "a man who has lived an honorable life," unwittingly utters sexual double-entendres before the people. Similar to Aeschines' elaborate introduction contrasting the laws with Timarchus' character, the contrast here is heightened by Aeschines' emphasis on the serious role of the Areopagites. They are the most venerable body of the Athenian legal system, and yet, a crowd laughing at sexual jokes silences them. The event is described as devolving into an outright farce, with so honorable a man unable to say anything that does not somehow recall Timarchus' gaping ass.

Aeschines here puts particular weight on comic exposure to make his argument. Because it is so blunt, obscenity is a particularly forceful and effective way to reduce an opponent.<sup>41</sup> Aeschines uses humor as a way of telling a crowd what is actually going on, although he is constrained by a setting that demands propriety. By using the anecdote as a

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<sup>40</sup> Despite his many claims to reticence when uttering "inappropriate" language throughout the speech, clearly Aeschines finds value in obscene humor. He knows that his audience will laugh at the words, just as they do when they are at a comedy. In fact Aeschines, more than any other orator, finds ways to incorporate obscenity into his speeches (most often by using *oratio recta* as a distancing device, see further below). Aeschines, for example, appears to go off on a tangent in his speech *On the Embassy* when telling the story of his return with Demosthenes and the other ambassadors. He announces that Demosthenes had taught him the meanings of a few words: *kerkops*, the so-called *paipalema*, and *palimbolon*. Maxwell-Stuart 1975 translates these as "ass-licking shyster" "wanker" and "slandorous jerk" and explains his definitions incorporating both the sexual (coming from Aristophanes) and non-sexual meanings. In both cases, Aeschines is not being gratuitous; rather, he is using the terms to illustrate a larger argument about Demosthenes' character.

<sup>41</sup> See Henderson 1991, 6.

distancing device, he effectively reduces the risk of the humor backfiring on him.

Aeschines himself does not appear to speak inappropriately; rather, he is simply the conveyor of a true story. He thus benefits from the resultant laughter, which is the mechanism of agreement on the part of the audience, solidifying their connection to the speaker who promulgates social norms against the deviant who breaks them.<sup>42</sup>

The story he relates is steeped in the comic principle of incongruity based on the violation of social expectation on the part of both the speaker and the audience.<sup>43</sup> The Areopagite himself says dirty words in a public, formal setting, but likewise the crowd is out of line by not showing proper respect. Aeschines' audience would presumably find the crowd's misbehavior a humorous addition to an already funny situation. Most importantly, the present audience's laughter aligns them with the original audience and demonstrates implicit agreement with Aeschines' argument. The first audience laughed because the comments were true, and when this audience laughs as well, their laughter confirms that the comments were true. In this way, Aeschines uses humor as undeniable evidence of the "truth" of his claims.

Aeschines here makes a crucial connection between comedy and reality: the people laughed because the comments made by the unwitting Autolycus were true. Aeschines is exploiting a slippage between truth and experience;<sup>44</sup> he has all along been asking the jurors to listen to what their own experience tells them about Timarchus' character. He now connects experience specifically with truth to use it as evidence. If, as

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<sup>42</sup> Cf. Powell 1977.

<sup>43</sup> Cf. Cicero *De Oratore* 2.63: "The most common kind of joke is that in which we expect one thing and another is said."

<sup>44</sup> For a discussion of the "truth" of humor, see Intro p. 32-34.

it seems, they did know Timarchus as a megalos pornos by reputation, it would indeed be difficult for the defense to argue logically against these experiences. The humorous narrative as told by Aeschines is an important mechanism for getting the jurors to acknowledge consciously what they know to be “true”.<sup>45</sup> Even more important is the capability of laughter to unify a group and thus convince those who have no previous knowledge that they still “know”.

Aeschines’ love of the humorous anecdote does not confine itself to real events. Later in the speech (162-165), Aeschines develops a hypothetical situation in which a prostitute and then his client alternately come forth in a court of law to have the agreement they recorded on a contract enforced. Once again, he creates a humorous scenario for the jury to visualize. That he finds the element of spectacle significant is clear from how he prefaces the tale in 161: νή ηἶσ' ὤ ένπύ μνηϊ νφοπο. ἀμμὰ ηξιοϊ νφοπο σὸ σάηνβ σπνῖτβζ' ὅσαο (“consider the event, not as one told to you by me, but as one you are watching as it happened”).

In the first situation, Aeschines asks his audience to assume that the client who hired the prostitute is suing to have his contract enforced. Aeschines puts the following words in the client’s mouth: “Fellow citizens, I hired Timarchus to serve me as a prostitute according to the contract that is deposited with Demosthenes”—nothing prevents him from saying just that—“but he fails to carry out his engagement with me (163).” Aeschines indulges his scenario further by having the jury imagine this man then giving the details of his expectations for the encounter. Once again Aeschines makes use

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<sup>45</sup> Critchley’s discussion (2002, 86) of humor as “everyday anamnesis” and the role of *sensus communis* are particularly enlightening here; see Intro, p. 32-33.



of incongruity by juxtaposing the gravity of the law court with base sexual activities. The humor rests on the stark contrast between the official tone in which his hypothetical client speaks in a court of law and the low subject matter he utters that is completely inappropriate to the setting. Although we cannot say for sure that the jury responded in laughter, we can say that Aeschines deliberately creates comic potential. Further, his previous discussion of what made the people in the Assembly laugh uncontrollably is a strong indicator that this crowd too would have found Aeschines' anecdotes funny. Of course he does not stop here. Rather, he offers the opposing scenario in which the prostitute comes forth to prosecute his client. Aeschines again uses direct speech to keep the scene vivid. He has the hired prostitute state that he has done and continues to do everything according to the contract, but his client has not kept his part of the deal (164). The absurdity of this scene is even more extreme than the last; it was bad enough for a man who hired a prostitute to come into the court and explain in detail how he was wronged, but to have the hired prostitute do so is sheer farce. This story is a prime example of humor as a play upon form; the content of the words are in striking contrast to the dignity of the setting and the tone in which they are spoken.<sup>46</sup> Aeschines concludes each situation with the likely response from the jury. He is certain that the client would be stoned and accused of *hubris*, while the prostitute would meet with an uproar because of his brazenness. These conclusions are meant to be advice for the jurors in his case now. Should not the jury also respond in the same way when Timarchus, the prostitute, tries to defend himself, or when Demosthenes tries on his

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<sup>46</sup> Cf. Douglas 1975; Freud 1960, 607-13.

behalf? As we have seen, the story he tells is humorous in its own right, but Aeschines masterfully intertwines this whole non-event with supposed arguments that will come from the defense team. The resulting effect is similar to what we saw Demosthenes discuss at the opening of *On the Crown*; Aeschines makes great strides in winning over the jury's support by entertaining them with attacks against Timarchus and Demosthenes, and Demosthenes is the one to be blamed for Aeschines' invective since Demosthenes started this line of argument.

According to Aeschines, Demosthenes was set to argue for Timarchus' innocence based on the lack of documentary evidence. He will contend that there is no record of Timarchus having paid the tax, a requirement of all registered prostitutes (119). Further, he will point out that there is no evidence of a contract. It is this argument to which Aeschines is responding with the hypothetical situation discussed above. First, when the unknown client is pleading his case, Aeschines chooses Timarchus to be the prostitute that the client has hired. This maneuver not only implicates Timarchus himself in the scenario, but Aeschines supports the plausibility of his implication by pointedly interjecting: πῦε ο ἡᾱσ λς μῦφξ πῶς χ ᾠσῆτζβξ (“nothing prevents him [the client] from saying just that”).

He pushes this rhetorical trick even further in his second scenario by implicating Demosthenes when he has the prostitute (Timarchus) come forward, as we see in the preface:

Let him come forth and speak—or, let clever (ττγῶχ) Batalus speak for him, so that we know whatever it is he plans to say: “Men of the jury, someone at some point (ᾠτῶξεῖ πῶπῶο)” —who it was makes no difference—“hired me to be his male *hetaira* for money....”

In this passage, Aeschines highlights the exaggerated term ὅτι οὐξ ἐστὶ πωπύλο by pausing to comment on it: “who it was makes no difference”. Just as in the first passage, the interjection serves the particular rhetorical purpose of derision. He is disparaging Timarchus, but he is doing so in accordance with the type of argument he has been making throughout the speech; Timarchus is the lowest form of prostitute ( *pornos* ) because he has sold himself shamelessly and without discrimination to anyone interested. The direct quotation makes Timarchus himself admit that he is indiscriminate.

In addition to his witty attack on Timarchus, he also slights Demosthenes. By this point Aeschines has pushed his use of humor to an extreme, but he has done it strategically; he does not bring in his harshest invective until near the end of the speech when he likely had the audience laughing and therefore in a more receptive mood. He invokes Demosthenes by his nickname, Batalus (“anus” or “stutterer”) and sets it up sarcastically against the adjective *sophos*.<sup>47</sup> He thus links anal sex with deceptive speech and cleverness of just the sort that he is accusing Timarchus, and to which the people and the laws are opposed. This jibe against Demosthenes is one of many efforts throughout the speech to discredit him by association with Timarchus. As we have just seen, for example, Aeschines uses Demosthenes as the depository of Timarchus’ hypothetical prostitution contract.

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<sup>47</sup> The nickname “Batalus” has obscene connotations referring to the anus, but also means “stammerer”—a pithy way of connecting speech with sexual habits; cf. Worman 2004, 8-9. Aeschines builds up the image of Demosthenes as a passive and taps into Athenian hostility toward the debauched man speaking in public. See McClure 1994 on the connection between passive sex and deceptive speech. His effort to discredit Demosthenes by association culminates in 181 when he calls him a *kinaidos* (sexual deviant) outright. As is typical of the orators, Aeschines works up to the end of the speech before he hurls a direct insult, confident by now that the audience is on his side; cf. Miner 2003.

By characterizing Timarchus as an indiscriminate  *pornos* , and calling Demosthenes “Batalus”, Aeschines indicates his hope of evoking derisive laughter from the audience. He thereby secures his alliance with them and comes across as offering a reasonable reply to Demosthenes’ supposed line of argument. Aeschines essentially deflates any value of Demosthenes’ demand for documentary evidence by mocking him. He uses this anecdote to reinforce his initial response: if Timarchus is going to quibble over petty details like tax collection or a contract, rather than get up on the platform and deny outright that he has been involved in prostitution at all, then he is convicting himself.

In both anecdotes, Aeschines makes use of sophisticated comic techniques by combining different types of humor: he breaks with social propriety and utters comic sexual vocabulary in court, but he does it through  *oratio recta*  so as to distance himself from any appearance of speaking inappropriately; he aims at absurdity by juxtaposing a context of dignity with the content of base sexual activity; he incorporates characterization of individuals that would be familiar to the jurors from comic plays; he structures much of his case on the principle of topsy-turviness to entertain his audience but also to expose it as a threat to the everyday world.

This last point reveals the serious purpose of Aeschines’ humor; he exposes Timarchus and Demosthenes to the jury as objects to be laughed at because laughter acts as a constraint on Timarchus’ immorality and Demosthenes’ deceptive nature. By laughing derisively, the jury excludes Timarchus and Demosthenes from acceptance and reaffirms Athenian normative values. As Corbeill points out for Ciceronian oratory: “The

orator conspires with the audience to exclude the third person, his political opponent.”<sup>48</sup>

Aeschines’ clear goal is get his audience to laugh at both opponents from a position of superiority. This is made explicit by his interjections, in which he employs a highly sarcastic tone, but also by his use of *katagelan* (to laugh *at*) repeatedly in relation to Timarchus and Demosthenes.<sup>49</sup>

The emphasis on both opponents’ sexual passivity in the last two stories returns us briefly to the *mundus perversus* that Aeschines is creating. Toward the end of the speech, Aeschines highlights Timarchus’ transgression of gender by making him the butt of jokes about being a woman instead of a man. The *hetairai* whom we know from Middle Comedies are almost exclusively female, and thus we cannot say that Timarchus was meant to be viewed just like a character from the comic stage. Nonetheless, Aeschines does draw on the depictions of these women in shaping his depiction of Timarchus. He is portrayed as a failed *hetaira*, in the sense that he was supposed to be the lover of a few prominent individuals in the community, but he was so debauched that he disgraced himself further by ending up a  *pornos* (cf. section 54). That he is male is less troubling; rather, it offers even more comic fodder considering that, ever since Aristophanes, comedy frequently exploits reversals of gender as a comic *topos*. In Aristophanes’ *Ecclesiazusae*, for example, the women usurp male costuming in order to penetrate male space (the Assembly) so that they can vote women into power.<sup>50</sup>

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<sup>48</sup> Here (1996, 4-5) he aptly quotes Freud (1960, 103): “By making our enemy small, inferior, despicable or comic, we achieve in a roundabout way the enjoyment of overcoming him—to which the third person, who has made no efforts, bears witness by his laughter.”

<sup>49</sup> 1.31, 43, 76, 80, 84, 167.

<sup>50</sup> Cf. Plato (Comicus) *Incertae* (201 K-A), where the *dêmos* is dressed as a woman giving birth and chooses Agyrrius to lead the state.

Meanwhile, the men are left at home with only their wives' nighties and frilly slippers to wear outside. And in the *Thesmophoriazusae*, the opposite occurs when Euripides has his father-in-law dress up as a woman to infiltrate the women's space at the festival of the Thesmophoria. Aristophanes also made use of famous figures who crossed gender boundaries as a source of humor. The character Agathon, Euripides' first choice for playing the role of a woman, provides a less-costumed example of a man sliding toward female gender since he, in his real life, wears female garb and accessories. In a world where only two genders are recognized as viable and in which there are identifiable signifiers of what it means to be masculine or feminine, those who do not conform stand out as gender deviants. In the comic world, a gender deviant like Agathon is funny to his audience since the audience is directed toward identifying with the masculine norm and therefore views him as an object to be laughed at.

Aeschines similarly casts Timarchus in the role of gender deviant deserving of derisive laughter. In section 110, Aeschines is rebutting a potential argument by the defense that Timarchus is dangerous when holding office alone, but harmless when associating with others. Aeschines again uses a humorous anecdote to prove the opposite; namely that Timarchus is even more dangerous when in cahoots with others. According to Aeschines (110-11), an upright man named Pamphilus came forth at an assembly meeting to denounce Timarchus, who was on the council, and Hegesander, who was a treasurer, for stealing money from the temple of the goddess. Again Aeschines employs direct speech to make the story more vivid for his audience. Pamphilus supposedly proclaimed: "Men of Athens, a man and a woman are stealing 1,000 drachmae from

you.” The perplexed crowd then asked how this could be so, and he explained: “The man is Hegesander right there,” he said, “who was previously Leodamas’ woman, and the woman is this man Timarchus.” This anecdote is told as a riddle, a type of humor found commonly in Middle Comedy (see above), with the audience perplexed at the notion of how someone holding office could be a woman.<sup>51</sup> The punchline, as we have seen, is that Timarchus is the woman, since he is the passive partner of Hegesander. Much like the story Aeschines told of Autolycus and the double-entendres, this tale would have drawn laughs from the crowd the first time it happened and then again during its retelling to the present crowd. Further, the jurors’ laughter at the joke is another mechanism for confirming the reputation of Timarchus as a “woman” in the community, and therefore his unsuitability for public office.

Aeschines’ use of humor here is further evidence of one of his main points in the case; the close link between Timarchus’ private and public corruption. For Aeschines, this story, which is told as a culmination of how Timarchus has squandered all his patrimony, is proof of Timarchus’ complete intemperance. His inability to manage his own money is simply the precursor to the inevitable next step of plundering state funds. In further support of this connection, Aeschines brings up Timarchus’ confession of guilt and subsequent conviction for stealing—a case Aeschines describes as “much talked

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<sup>51</sup> Cf. Eubulus’ *Carion Sphinx* (106 K-A) pertaining to Callistratus (a politician known for debauchery):

**Carion:** It speaks without a tongue, it’s the same for male and female, keeper of its winds, smooth but hairy in some places, tells the clever dumb things, drags custom from custom, is one and many and although pounded (*trôsé*), remains unwounded (*atrôtos*). What is it? Are you at a loss?

**B:** Callistratus?

**Carion:** No, it’s the ass (*prôktos*)!

**B:** You must be joking.

about” (*periboêtôs*)—when he was an inspector in Eretria (113). To drive home his point, he follows this example with another in which Timarchus lied on oath about accepting a bribe of twenty *minae* to cease prosecution of a man named Philotades that would have led to his disenfranchisement. Timarchus then supposedly spent the money he extorted from Philotades’ brother (the comic actor Parmenon) on a *hetaira* named Philoxene. This detail keeps Timarchus’ abuse of the state and other citizens closely linked with his own licentiousness (*akolasia*).

In sum, Aeschines takes on two opponents in this speech: Timarchus and Demosthenes. He handles them in very different ways, but one element that unifies his approach is his use of comic depictions to make his opponents the objects of the audience’s laughter. He ridicules Timarchus for his sexual passivity and his obsessive habits of consumption, just as the Middle Comic poets do to contemporary politicians like Callistratus and Hypereides.<sup>52</sup> Aeschines casts Demosthenes—his personal enemy and main speaker of the defense team—as an *alazôn* similar to Socrates in *Clouds*; he is a boastful sophist who will undermine the justice system in order to beef up his rhetoric business.

Aeschines also accuses Demosthenes of trying to avoid the rules of relevance by putting Aeschines on trial instead of proving that Timarchus never prostituted himself. He argues that admitting irrelevant arguments has a destructive effect on the city (179): “The laws are dissolved and the democracy is destroyed and the habit progresses even

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<sup>52</sup> See, e.g., Timocles *Dêlos* (4 K-A) and *Icarian Satyrs* (17 K-A) on Hypereides’ excessive fish consumption.



further. Sometimes you accept an argument too readily without proof of an honorable life (*chrêstou biou*).” Aeschines’ point is to convince the jury that Demosthenes cannot be trusted to keep to the point. But one could argue that Aeschines’ attack on Demosthenes’ character is no more relevant to the prosecution of Timarchus than Demosthenes’ presumed attack on Aeschines in the defense (Demosthenes likely made this point).

In Athens, a good character is the prerequisite for anyone wishing to engage in public affairs. Since Aeschines brought Timarchus to court under the *dokimasia tôn rhêtorôn* (scrutiny of speakers), he does not seem to speak off topic when pointing out that Demosthenes, also a public speaker, should be required to have an upstanding character if he wishes the jury to accept his arguments. Aeschines then tries to link Demosthenes together with Timarchus, as he does throughout the speech, to reduce the risk that the jury will consider his own arguments irrelevant. Further, Aeschines is careful not to turn to Demosthenes until he nears the close of his speech. He then makes a direct connection between character and speech when concluding his plea to the jury to hold Demosthenes to the main issue.

And as we saw with Aeschines’ case against Timarchus, he appears to mount an attack on the justice system by asking the jurors not to listen to the evidence presented in court, but to go by what they know already. He has no real witnesses. But the fact that the case is a *dokimasia* is crucial for understanding why the jurors would not just enjoy, but would find relevant, a lengthy comic narrative exposing Timarchus’ history of suspicious activities, even if they were not “provable”. The legal system and the society on the whole were very concerned with safeguarding against those with debauched characters

running the state. Aeschines made use of the laws, and similar tactics that the comic poets used, to show that Timarchus was such a man. Thus, we cannot consider “irrelevant” what many would by modern standards. The Athenian notion of relevance is broader and allows for arguments about character that can and do go beyond what we allow. This is particularly true in a case that, by nature, called for a scrutiny of the person’s life.

Aeschines can therefore be seen as seeking justice within the spirit of the law. He situates his prosecution within an elaborate explanation of the relevant laws at the opening, and then returns to an elaborate praise of them at the end. Throughout the middle, he uses comedy to expose the truth by uncovering “reality”. If the jury believes Aeschines’ account, then Demosthenes—as defender—comes across as supporting such disgraceful behavior. To the jurors, Aeschines is doing his civic duty by bringing Timarchus to justice. Demosthenes, on the other hand, is disrupting justice by attempting to defend him.

### *Chapter 3* **Invective, Relevance, and *Sunêgoroi***

The last two chapters examined the strategies, function, and relevance of comic character assassination that two famous orators and politicians, Demosthenes and Aeschines, used against each other in the context of their longstanding rivalry. This chapter will further address the role of invective in relation to well-known political figures in the community, namely Androtion and Aristogeiton. The speeches against these two men shed light on the use of invective and its relevance in a way that the Aeschines-Demosthenes contest cannot. To begin, both are written for *sunêgoroi* (supporting speakers); Demosthenes wrote *Against Androtion* to be delivered by Diodorus after Euctemon's opening speech, and he wrote and may have even delivered *Against Aristogeiton* himself in support of the main prosecution by Lycurgus.<sup>1</sup> One question that we can ask of these speeches, then, is to what degree personal hostility against an opponent affected a speaker's use of invective. Diodorus openly admits fierce hostility toward Androtion because Androtion supposedly accused him of patricide (22.2). So, in this instance, we have Demosthenes composing the speech in the style of a personal enemy, but that hatred is not his own. And in his speech *Against Aristogeiton*, the speaker acknowledges no personal enmity toward Aristogeiton and shows disinterest toward the task of prosecuting him (25.13). These facts argue in support of seeing invective as a useful but contrived strategy, rather than the result of a speaker's true hatred of an opponent (as scholars have believed in the

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<sup>1</sup> I address the question of authenticity below.

case of Aeschines and Demosthenes).<sup>2</sup> This assessment forces us to take invective more seriously as an important tool of the trade governed by the same rules of composition, rather than disregarding it as an emotional outbreak that can be chalked up to the orality of the situation.

Further, our understanding of the issue of relevance in Athenian courts significantly affects our interpretation of speeches written for *sunêgoroi*. *Sunêgoroi* speeches, if they are not overlooked altogether, receive harsh criticism for allegedly irrelevant and disjointed argumentation. But it is not normally the job of a *sunêgoros* in a trial to focus on the legal points on which the case is brought.<sup>3</sup> Rather, it is by design that *sunêgoroi* rely heavily on character argumentation or other types of supporting evidence. *Sunêgoroi* reiterate some points made by the main prosecutor (*katêgoros*), but generally avoid redundancy by contributing arguments that have not yet been made.<sup>4</sup> In many cases, the speech delivered by the main prosecutor is not extant, which has led to distorted interpretations of supporting speeches. But speeches by *sunêgoroi* must be interpreted with the original trial context in mind. To a jury having just heard the opening

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<sup>2</sup> For scholars who emphasize personal enmity as a motivating factor, see, for example, Bruns 1961, 571-2; Koster 1980, esp. 79; Usher 1999, 234-237 and 287. But see Wolff (1968), following Wieacker (1965) on Cicero, who views invective as impersonal and in the interest of one's clients.

<sup>3</sup> Rubinstein (2000, 13-23; 123-84) discusses the numerous roles that *synêgoroi* can fill in a trial; a single task cannot be assigned to all of them because it is case and context dependent. One of their main functions was to offer supplementary evidence, including providing further evidence about a litigant's character. Still, Rubinstein rebuts suggestions by other scholars that the *synêgoros* was a glorified character witness. Nor was a *synêgoros* involved solely to show solidarity with the main *katêgoros*; Diodorus in *Ag. Androtion*, for example, makes mention of Euctemon only twice and mostly to outdo him. He is clearly acting as a *sunkatêgoros*, with claims separate from Euctemon's (this could be why he does spend 21 sections on the main charge). The point is that there is considerable room for variation, and it is hard to pin down any single expectation because the speaker was a *synêgoros*.

<sup>4</sup> Cf. Rhodes 2004, 156. On Dem. 22, see Rubinstein (2000, 135), who points out that Diodorus states this purpose explicitly in sections 3-4.

speech, subsequent argumentation such as that in *Against Androtion* likely would not have stood out as poorly organized or off topic.

### **I. *Against Androtion* (Dem. 22):**

*Against Androtion* was delivered in 355 in a *graphê paranomôn* (indictment for illegal proposals) brought against Androtion, a prominent politician and tax-collector, for proposing to honor the Council of 500 with a crown. The alleged illegality resulted from the Council's failure to meet their official obligation of providing ten new triremes during their term. The prosecution is arguing that Androtion proposed to crown the Council without the preliminary decree (*probouleuma*) so that the people could vote on it. But they are also attempting to show that Androtion is a prostitute, state-debtor, and tyrant by nature who willfully disregards procedure (and specifically the people's role in the democratic process). This is Demosthenes' earliest forensic speech on a public matter and thus is generally considered to mark a beginning point in his political career.

The authenticity of the speech has never been in doubt, but scholars tend to use Demosthenes' inexperience as justification for what they see as deficiencies.<sup>5</sup>

Demosthenes' use of invective in particular has drawn the harshest criticism. Both Pearson and Harding, for example, see Demosthenes' invective as an aggressive and

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<sup>5</sup> Wayte (1882, xxx), for example, approaches invective in this speech (and in general) as follows: "It has likewise a full share of his [Demosthenes'] faults, which are those of Greek oratory in general, unfairness in argument and virulence in abuse. In scurrility, indeed, this speech and the *Timocratea* are left far behind by the two great speeches against Aeschines. Demosthenes did not, unfortunately, acquire self-respect on this point, or what would now be called the feelings of a gentleman, as he grew older."

diversionary way of compensating for a weak case.<sup>6</sup> Pearson, who is otherwise a sympathetic critic regarding characterization, considers much of what we see in *Against Androtion* to be distasteful and irrelevant.<sup>7</sup>

*Against Androtion* is hardly one of the most admirable of Demosthenes' speeches, and one need feel little regret that the accusation was unsuccessful. But, it is a most interesting example of the way in which the *graphê paranomôn* was exploited against political rivals. It seems to say, with quite shameless frankness, to the jury: 'Here is a legal technicality which can be used to ruin the defendant's career; but if you don't find it a sufficiently good reason, here are some other details (not actionable, of course) which you may find more convincing.'<sup>8</sup>

Harding gives a similar assessment: "Their case was clearly very weak, so Demosthenes devoted the large part of the speech he wrote for Diodorus to extraneous matters, that is,

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<sup>6</sup> Rhodes (2004, 156) assesses the *graphê paranomôn* as a type of case that is deliberately broad in regard to the arguments that can be considered "relevant". Somewhat misleading is his preliminary claim that "speeches by *synegoroi* tend to gravitate toward the irrelevant end of the spectrum (155)." He does then acknowledge greater freedom of argumentation for *sunêgoroi* because they "had to approach the case from another angle". Rhodes is correct to identify a deliberately broad scope for cases such as *Against Androtion*, but he does not investigate how Demosthenes justifies potentially irrelevant arguments.

<sup>7</sup> Pearson 1976, 14. To be sure, Pearson sees a greater effort in Demosthenes' later speeches against Aeschines to intertwine invective with the legal charge, but still believes that the invective only *appears* more relevant, not that it is. Cf. also Yunis (1988, 361-82) who argues convincingly that *graphai paranomôn* were comprised of both "legal" and "political" pleas, and that both are relevant to this type of case, but stops short of accepting character assassination as relevant. The "legal" plea was straightforward and simply involved showing that the defendant's decree was contrary to the laws. The "political pleas" were based on demonstrating that the decree was "inexpedient" (*asumphoron*) and/or the recipient was "unworthy" (*anaxios*). In the case of *Androtion*, Demosthenes covers all three of these pleas in sections 1-20. It seems to me untenable to argue that only these sections were relevant to an Athenian jury and that the next 55 sections of character argumentation was wholly irrelevant. Still, this case was different from *OTC* in that Aeschines did not spend time attacking Ctesiphon's character as the proposer of the decree. The attack on Demosthenes' character fell under the political plea that Demosthenes was *anaxios* and on those grounds could be considered relevant. As Yunis and others point out tentatively, the fact that Diodorus was the *sunêgoros* in this speech certainly allowed him greater freedom of argumentation. But this simply means that it was *easier* for him to focus on making his accusations relevant, not that they would have been irrelevant if the main prosecutor had mounted the same attack.

<sup>8</sup> This view of the speech against *Androtion* is as old as Blass (1893, 258-64) and Wayte 1882 (xxvii, xxx-xxxi) ("The least attractive feature in the present speech is the perpetual straining of unfair points against the accused.") and as recent as Harding (a long time champion of *Androtion* and his policies; see Harding 1976 and 1994a).

to personal abuse (*loidoria*), as frankly admitted in section 21.”<sup>9</sup> *Pace* Harding, Demosthenes (Diodorus) does not admit that his attacks against Androtion’s character are extraneous; rather, in section 21, he begins his argument against Androtion’s claim that the accusations by the prosecution are nothing more than slander:

“Φυξυπίωω ἐ θῶφι μέηφι ποῖ υπύ υῆχ ἔυβερήτης χ οἷ νπω ὡχ  
 ὕψοῖ πνφο ἥνφίχ λβί ψμβτγι νίβχ πύθι σπτι λπῶτβχ λβυ βύυπύ  
 πῆπῶνφβ. λβί γι τί εφίο ἥνφάχ, φ φ ε ξτυφῶπνφο φόβξυβύυ ἀμι ζῆ.  
 σόχ υπύχ ζφτνπζέυβχ ἀ βουάο. οἱ ἐλφί ποῖ θξμξωο ἐλξεωωφῶπνφο.  
 φῖ λβυβδφωε ἱ νφοπξυβύυ ἐγβερῖ νφζβ. οὐο ε γφοβλί φρ βίυίβχ λβί  
 μπξ ποῖβχ λφῶχ πῆπῶνέοπωχ. λβί ἐοθμφίο πύ ελβτυβίχ υπύυς ο  
 πότξρ ὕνιό.

And beyond that, in regard to the law on prostitution, he tries to say that we are guilty of *hubris* and insult him with attacks that are out of line (*ouchi prosêkousas*). He says that we should meet him at the court of the Thesmothetai, if in fact we believe that these accusations are true, since there we would run the risk of the thousand-drachma penalty, if we were shown to be lying; but that now, we are tricking (*phenakizein*) you by making up empty accusations and slander, and also annoying you who are not judges on these matters.

The fact that the relevance of these claims was apparently challenged does indicate that the accusations were not obviously connected to the legal charge. But, as we have seen repeatedly, this contention does not demonstrate irrelevance, it merely shows that some points had to be made relevant to the audience by a speaker. Our interest, then, is to see how Demosthenes justifies the relevance of his arguments against Androtion’s character, not just to assert that they are or are not relevant.<sup>10</sup>

<sup>9</sup> Harding 1994b, 212.

<sup>10</sup> This also holds true for character argumentation in modern courts. One example should suffice (Couric 1998, 1-17): Fred Bartlit, a famous trial lawyer from Chicago, credits the success of one of his most

At first glance, many assume that the accusation of prostitution, which occupies much of the speech, is not relevant since the formal charge is a *graphê paranomôn* and not a *graphê hetairêseôs*. But Demosthenes is careful to draw an explicit connection between the two charges based on the more general concept of legal eligibility; Androtion was not only in the wrong when he made illegal proposals, but when he made *any* proposal at all since, as a prostitute, he is altogether ineligible (24):

φί ν ο ηᾶσ ἄμμπο υξοῖ ἀηώσ' ἀης οξ πνέοπω τπω υβύυβ  
 λβυι ηπισπύνφο. εθιβίς χ ἄο ἥηβοὰλυφχ· φ' ε' ὅ ν ο ούο έοφτυι λώχ  
 ἀηώο έτυς βσβοϊ νς ο. πί οϊ νπξ ε' πύλ έώτξ μέηφρ πύε υᾶ έοοπνβ  
 υπύχ πύς ψφνξ λι υβχ. ήνφίχ ε' έ ξ φίλωωφ πύ νϊ οπο φϊσι λι υ'  
 βύυόο βσάοπνβ. άμμᾶ λβί ψφνξ λι υβ βσβοϊ νς χ. ώχ πύθι  
 σππ ήλφξ μέηφρ φσί υπύυπω υπύ οϊ νπω εξ πύ υβύυ' έμέηθφβξ

If we were making these accusations in some other kind of trial, you could justifiably get upset; but if the current trial now is about illegal proposals, then don't the laws prohibit those who have lived in such a shameful way from making even lawful proposals? And if we demonstrate that this man not only made a proposal against the law, but also lived a life that was against the law, then how is it not appropriate to speak about the law which proves our point?

Demosthenes' point here would not have been lost on an Athenian jury; male citizen prostitutes were in fact barred from all political activity. Insofar as the Athenian people

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important defense cases (*National Business List vs. Dun & Bradstreet*) to depicting his own character witness as a nice person with whom the jury can identify and not a "reprehensible corporate executive", as opposed to the main witness for the prosecution whom he represents as a "self-indulgent high flyer" and not "the poor, suffering small businessman he claimed to be." Bartlit successfully introduced the attack against his opponent's character when the prosecutor introduced his witness' poor childhood. Bartlit objected that his background was "irrelevant", but was overruled. This ruling allowed Bartlit to attack the witness' present economic circumstances on cross-examination on the grounds that if his economic status as a child was relevant, so too was his present status. In this way, Bartlit pointed the finger at his opponent for making character and background information relevant to the case, and thus justified the relevance of his own attacks. Although Athenian trials do not include the cross-examination of witnesses, obvious parallels can be drawn with how Athenian speakers work within their own system to justify the relevance of character evidence to the charge (as we see here in the case *Against Androtion* and certainly in *OTC*).



were concerned with the private and public character of their political leaders, whether or not Androtion was a prostitute or a state debtor would be information they would consider relevant for interpreting his past and future actions. Diodorus' introduction of Androtion's history as a prostitute, and violation of the *graphê hetairêseôs* by then involving himself in politics, would thus be seen as providing further context into which the jury can situate their understanding of the Androtion's illegal proposal. As Johnstone argues, we should not approach the laws as authoritative controls or legal argumentation as "a simple procedure of applying an objective rule"; rather, we should interpret the laws as texts to which speakers attribute meaning.<sup>11</sup> In this case, the *graphê hetairêseôs* acts as supportive evidence for the character argument that Diodorus is mounting against Androtion's *atimia*. Also important to Diodorus' case is Johnstone's further point that litigants (usually defendants) often rely on past actions (such as liturgies) as evidence of the "truth" of their side of the story.<sup>12</sup> These *erga* are presented as extra-rhetorical and therefore more trustworthy than a speaker's *logoi*. In the same way, a person's *phusis* is often presented as extra-rhetorical;<sup>13</sup> arguments are untrustworthy, but character is fixed, so if a person's character can be "proven", the jury should see this as a stronger form of evidence than any rhetorical claim. Particularly in this case, if Androtion were shown to have prostituted himself, then the jury would see him as already having a permanently altered character that was unacceptable for involvement in public affairs. As Hubbard has demonstrated on the basis of 5<sup>th</sup> and 4<sup>th</sup> century comedy (citing *Clouds* in particular), in

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<sup>11</sup> Johnstone 1999, 22-25.

<sup>12</sup> Johnstone 1999, 95-97.

<sup>13</sup> Cf. Aes. 3.168 (*phusis* vs. *logos*); also Hyp. 1.14.

the Athenian mind “having been penetrated as a boy changes one’s anatomy (and character) for life, and that even active pederasts like Better Argument have never really ceased being “wide-assed” passives.”<sup>14</sup> This means that by the time of Androtion’s proposal, it is too late; Androtion has already been perverted and by default, so now is his proposal.<sup>15</sup>

As we saw in chapter one in the trial of *OTC*, both Aeschines and Demosthenes mount elaborate arguments to justify a full review of each other’s character. So too with this case. Although the transitions between arguments are rougher in Dem. 22 than in his masterpiece *OTC* (also a *synêgoros* speech in a *graphê paranomôn* trial concerning an honorary crown), there is nonetheless an identifiable similarity of content and organization. Demosthenes begins the speech with a discussion of the illegal proposal itself (1-21), then addresses Androtion’s character (accusation of prostitution, 22-45), and next connects Androtion’s character back to his heritage (his father was a state debtor, 46ff.) in order to create a broad framework for interpreting his status as *atimos*. In turn, his *atimia* affects how the jury views his allegedly illegal proposal.

A close examination of Demosthenes’ portrayal of Androtion shows his deliberate attempt at connecting Androtion’s character and actions to the fact that his proposal was supposedly *paranomôs*. According to Demosthenes’ depiction, Androtion is a brazen, greedy and tyrannical figure who was corrupted by his early upbringing and therefore has

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<sup>14</sup> Hubbard 2003, 87.

<sup>15</sup> Nor should the issue of “truth” regarding the accusations lead us astray. As we saw above, scholars are adamant that Demosthenes’ allegations—that Androtion’s father was a state debtor and he himself was a prostitute—are completely unfounded. But whether or not the accusations are true is a separate issue from whether or not an Athenian jury would consider them relevant. As argued in previous chapters, it is likely that Demosthenes was working from Androtion’s reputation to some degree, since Demosthenes tailors his characterization of Androtion to facts that are well known about him.

no sense of appropriate elite behavior or respect for the *dêmos*. His portrayal is highly individualized and tailored to Androtion's background, but it also draws heavily on stereotypes. In particular, Demosthenes uses comic mechanisms as structuring devices and draws on content that is familiar from comic characters. He links his characterization of Androtion to *alazoneia*, but more specifically to *phenakismos* (trickery). Once again, the concept of comic "imposter," a man who deceives and cheats the people for his own gain, proves useful to the orator; this particular stereotype is suited to Androtion, who, like Aeschines, was a prominent public figure and politician.

Demosthenes first uses the word "*phenakizein*" (to fool, cheat, deceive) when putting words in Androtion's mouth (as cited above, 21). He then turns the tables on Androtion and uses the notion of 'trickery' against him. When arguing that Androtion is *atimos* because of his father's debts, Demosthenes uses a form of *phenax* three times (32, 34, 35). In the first instance, Demosthenes advocates—as a central tenet of democracy—the necessity of exposing officials like Androtion, whom he describes as "bold and clever but full of disgrace and wickedness (31)". Invoking Solon's authority, he argues that such men must be denied a share of council in order to prevent the people from being fooled into any erroneous action (οἷ νῆ γ' ὀφθαλμοῖς ὅς ἐστιν ἐκβανῶσιν περὶ ἐξουσίας)(32). After shifting the burden of proof onto Androtion to demonstrate that his father was not a state debtor or prison escapee, he warns against Androtion "fooling" the jurors and leading them astray (ὅς οὐδεὶς ὀφθαλμῶν ἐλάττω λαβὴν βουλεύσας πῶς περὶ τῶν νόμων)(34). Immediately following, he reiterates that

Androtion has devised other arguments for this same purpose, that is, to “fool” the jurors (...μῖηπεξ σὸχ υὸ γφωβλῖ φφ ὕνᾱχ φὸ νφνι θβοι νέοπεξ)(35).

It is no coincidence that he returns to Androtion’s deception when he reaches the focal point of his argument: Androtion’s tax collection. Before he launches into a long narrative account, he warns the jurors to stand guard against Androtion’s deceit (46): “And concerning these affairs—look how he will try to mislead you (*parakrouesthai*) by steering you away (*apagagôn*) from the law...(λβῖ φσῖ υπῶυς ο νέο. • ο υσῖ πο ὕνᾱχ ᾱ βηβηῶο ᾱ ὀ υπύ οῖ νπω βσβλσπῶφτζβξ ι υήτφξ..). Demosthenes then takes issue with Androtion’s manner of tax collecting since he is proudest about his performance in this regard (47):

And I will show that he is shameless (*anaidê*) and bold (*thrasun*) and a thief (*kleptên*) and arrogant (*huperêphanon*) and suited for anything at all other than being politically active in a democracy. And first, let us scrutinize his collection of tax money—which he considers his greatest achievement—not by paying any attention to his boastful speech (*alazoneia*), but rather by examining the deed, as it actually (*tê alêtheia*) happened.<sup>16</sup>

A scene from *Acharnians* offers a parallel situation in which Dicaeopolis attempts to expose an upper-class official’s abuse of privilege to the people (61-90). A dialogue between Dicaeopolis and the Ambassador near the opening of the play sets up and exposes the latter as an *alazôn*. As the ambassador, who has just now returned from his

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<sup>16</sup> Demosthenes aligns his description of Androtion as the braggart/deceiver with that of the tyrant. For example, Androtion drags the eleven into people’s homes and brutalizes lower-class folk. Also, Demosthenes sneeringly characterizes Androtion as a *kalos k’agathos*, most likely to try and get the people hostile toward his aristocratic status. Diodorus, a lesser known political figure, allies himself with the people against Androtion, the aristocrat, particularly for his involvement in male prostitution and/or pederasty. For creating democratic hostility toward elite practices (especially in male same-sex sexual practices), see Hubbard 1998, 48-78.

embassy to the Persian king, is introduced by the herald, Dikaeopolis responds in disgust: “What sort of king?! I, myself, am annoyed with ambassadors, and with their peacocks and braggart ways (*alazôneumasin*). This response cues the audience to expect all sorts of puffery on the part of the ambassador, which is precisely what they get; the ambassador claims that he and his comrades suffered great hardship from sleeping in soft, luxurious carriages, that they were forced (*pros bian*) to drink unmixed wine from golden cups, and when they finally made it to the king (three years later, paid at two drachmae per day), that the king served them oxen baked whole in the oven. Dikaeopolis offers a sarcastic response to each “hardship” in turn, and to the last one in particular, he counters by reiterating his preliminary charge, that the ambassador is full of bluster (*tôn alazôneumatôn*). In their subsequent interaction, the Ambassador’s *alazoneia* is connected more closely with his trickery:

σ. λβί οβί νᾱ Εἴ' σοφ' υσξ μὰτ' ἔπο μ' αὖν πω βσέζι λφ ἡνίο· οπνβ ε' ἦο βύυ γέοβκ.

**Ambassador:** And by God he put before us a bird three-times bigger than Cleonymus! It’s name was “Fooler” (*phenax*).

ΕΞ υβύυ' ἄσ' ἐγφὰλξ φχ τὺ εὔπ εσβθνᾱχ γέσς ο.

**Dikaeopolis:** In this way, then, you were fooling us (*ephenakizes*) and receiving two drachmae per day in pay.

Hesk points out that the pun on the bird’s name is from eagle (*phênê*) and the mythical phoenix.<sup>17</sup> By punning on the name, Dikaeopolis exposes the Ambassador’s deceptive

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<sup>17</sup> Hesk 2000, 261.

speech and actions (*alazôneumata; ephenakizes*). The audience is directed to laugh at the exposure of the braggart and thereby condemn his actions of Eastern indulgence at the expense of the *polis*. Demosthenes' characterization of Androtion works similarly; Androtion is supposedly working for the people by collecting taxes, but instead he is hoodwinking them and getting rich at their expense.

Androtion the "fooler" is just one dynamic of characterization that Demosthenes plays up in this speech. Because of Androtion's particular status and the charges against him, we also see invective that is similar to Aeschines' depiction of Timarchus. In both cases, the prosecution portrays a male public citizen turned prostitute and slave. Both prosecutors make use of topsy-turviness as a framework for narrating how their opponent overturns the normative social order.

Throughout the speech, Demosthenes maintains an opposition between democracy and oligarchy/tyranny and consistently casts Androtion as a tyrant and subverter of democratic principles. As proof of Androtion's tyrannical nature, Demosthenes gives a narrative account of his activities as tax collector and public official. He frames his narrative in terms of the *mundus perversus* that Androtion has created in order to stir up hostility against him.<sup>18</sup> A good example of Demosthenes' deliberate use of comic techniques and scenarios for shaping his characterization can be seen in sections 52-53. By this point in the speech, Demosthenes has already undermined Androtion's status as a citizen. Androtion—now a slave and prostitute—drives other citizens to servile behavior through his tyrannical deeds:

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<sup>18</sup> For the orator's stirring up of dikastic anger, see Rubinstein 2004, 187-204.

But for us, what was the most dreadful time ever in our city? Everyone would say: “under the Thirty”. At that time, then, so it is reported, no one was being deprived of salvation, who could hide himself at home; rather, we were condemning the Thirty because they were arresting men unjustly by dragging them out of the agora. This man, though, committed an act of brutality so much more extreme than theirs that he, a political figure in a democracy, made each man’s private home into a jail by leading the Eleven into their houses. And yet, men of Athens, what do you think is happening when a poor man, or even a rich man, who has squandered a lot of money and in some way perhaps rightly is not rolling in money, either should climb over his roof to the neighbor’s house, or sneak under his couch and hide in order not to be seized bodily and dragged off to jail, or debase himself in some other way—actions fit for slaves, but not free men, and he is seen doing these things in front of his own wife, whom he married as a free man and a citizen of this city?! And if Androtion should be responsible for these things?! A man who is prohibited by his own actions and way of life from bringing a case on his own behalf, let alone do anything on behalf of the city!

Commenting on this passage, Harding points out that it “has the air of a scene from New Comedy.”<sup>19</sup> Indeed, scenes with men sneaking around do occur in New Comic plots, but usually for the sake of a love interest. It should also be noted that some characters from Old Comedy, such as Strepsiades in *Clouds*, pass their time attempting to dupe aggressive bill collectors similar to Androtion. The audience is directed to side with characters like Strepsiades against belligerent figures like Androtion. Although there is no exact parallel from comedy, Harding is right to see a connection with comic motifs. That connection stems primarily from the absurd yet believable story that Demosthenes narrates here and in the following passages where Androtion brazenly terrorizes two

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<sup>19</sup> Harding 1994b, 213.

female prostitutes, Sinope and Phanostrate, for allegedly not paying their tax money (56-58).<sup>20</sup>

Demosthenes gives a vivid description of Androtion seizing these women's property, although they owed no taxes. By using this particular example of Androtion's barbaric deeds, he cleverly links Androtion to the lower world of common prostitutes (*pornai*) but praises the prostitutes for acting in accordance with legal regulation. Androtion, on the other hand, a prostitute himself, is acting far below his proper social station. The contrast between the exemplary *pornai* and the debauched Androtion plays out the reversal of societal roles and expectations, not only of citizen to slave (as we saw in the last passage quoted), but also of male to female. Androtion transgressed boundaries by acting as a tyrant in a democracy, and by turning himself into a "woman". Demosthenes thus creates comic potential by highlighting the incongruity and irony of Androtion, the debauched male whore, viciously collecting taxes from upstanding female prostitutes. His witty but aggressive summation highlights the destructive effects of the *mundus perversus* on Androtion himself, but also on the wider network of individuals with whom he has any contact:

For he endured many outrages and attacks when consorting with men who did not love him, but could pay his price; it would have been fitting for you to take out your anger from this, not on the next citizen you happened

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<sup>20</sup> Harding (1994b, 214) thinks that the "incongruous absurdity" is fabricated by Demosthenes based on his assumption that female prostitutes did not owe taxes since they were female and non-citizens. His assumption cannot be correct. The fact that Demosthenes will supposedly argue for Timarchus' innocence based on the fact that he was not enrolled as a prostitute and owed no prostitution tax (1.119) implies that such a registry and tax in fact existed. We would be left to imagine, by Harding's reasoning, that only male citizen prostitutes would be subject to these requirements, but to the Athenians, the male citizen prostitute was a contradiction in terms and therefore was not sanctioned by the state; cf. DeBrauw and Miner 2004. For an opposing view on male prostitution, see E. Cohen 2000, 155-92.



to run into, and not on the whores who share your trade (*homotechnous pornos*), but on the father who raised you this way (58).

This type of invective is reminiscent of the ridicule that politicians faced on the comic stage for their homosexual engagements, often also in connection with prostitution.<sup>21</sup> By the mid 4<sup>th</sup> century, there was a barrage of insults about pathic sex that were directed at politicians. These attacks, accompanied by the increased interest in the world of the prostitute more broadly, are indicative of the appeal that Androtion's scandalous background would hold for the jurors as an audience. Demosthenes draws on this growing interest in the private affairs of its political figures by exposing Androtion's illegal sexual activities. He then situates Androtion's behavior within a comic framework to steer the jury toward responding with derisive laughter. The trial, like the comic play, thus reifies community notions about proper behavior on the part of the political elite, a function that was considered necessary to the preservation of the democracy. By excluding Androtion (who is depicted as entirely anti-democratic even in his sexual exploits) the jury can feel confident that they are upholding democratic values.

The methodical characterization of Androtion builds up to Demosthenes' concluding attack on him for the way he mistreated crowns that commemorated important events in Athenian history. Again, Demosthenes homes in on Androtion's contamination of the noble with the base by picking up on the notion of Androtion "fooling" the people: "Many of the things he said to fool you (*ephenakize*), I'll pass over; but claiming that the leaves on the crowns were falling off and that they were rotting

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<sup>21</sup> See Henderson (1991, 204-22) and Hubbard (1998 and 2003, 86-117) on the prevalence of male same-sex ridicule in Old and Middle comedy.

from age, as if made of violets or roses, and not gold, he persuaded you to melt them together (70).” Androtion, then, takes symbols of noble public service and irreverently melts down the crowns and makes them into trinkets.

The goal of these descriptions is to broaden the context in which the jury is asked to interpret Androtion’s actions. Demosthenes tells the stories back to back in order to expose Androtion as an *alazôn* and *phenax* by revealing his illegitimate appropriation of power; in other words, he is a slave and whore who deceives (and abuses) the people by tyrannically wielding power that he should not have. Demosthenes’ decision to end his speech with a discussion of the “old” crowns is significant; it offers him another venue to contrast the difference between wealth as a sign of personal greed, versus wealth as a sign of public glory. Like the Aristophanic ambassadors in *Acharnians*, Androtion is motivated by a desire for personal gain. His lack of concern for the state led him to melt down crowns with noble inscriptions of past glory and reinscribe them with his own name (ὁ ἰσοπῆχ πῦσπῆχ. “Βοεσπυῖς οπῆχ ἔ ξυφμπωνέοπαῶ ἔ ξηέησβ υβξ). Although he does not make the connection explicit, Demosthenes’ discussion of Androtion’s abuse of these crowns has clear bearing on the main issue in the trial, namely that he illegally proposed a crown to an undeserving Council. By ending on this note, the jurors can reflect on Androtion’s past disrespect for the honor and glory that crowns are meant to convey. In both instances, Androtion blatantly disrespects that honor and, in turn, the people who bestow it. For this reason, Androtion’s past actions are reflective of his character, which is important for interpreting the significance of his illegal proposal. Demosthenes, writing for Diodorus, thus offers an account of Androtion’s life that would

provide context for the legal issues in the case, and would offer the jurors pertinent information for determining a verdict.

Demosthenes' portrayal thus fits squarely into Lanni's theory of "highly individualized and contextualized" presentation of cases.<sup>22</sup> At the same time, we can see that his characterization is also generalized to appeal to as large a crowd as possible. The orator must walk the line between individualizing his case in order to make it believable, but also making his depiction resonate with a large audience; comic characterization plays an important role in this process. Androtion was a member of an elite family, a politician, and a tax collector; his background lends itself to Demosthenes' characterization of him as a "tyrant". His tenure as tax collector, in particular, made him an easy target since this assignment at Athens practically demanded a bully if he were to be successful.<sup>23</sup> Further, his *atimia* established him as ineligible for political activity, thus making him a target for the characterization of *pornos*, *alazôn* and *phenax*—for the same reasons that Demosthenes was able to draw from Aeschines' "illegitimate" background to depict him as *alazôn* and Aeschines could depict Timarchus as *pornos*.

What stands in contrast to Demosthenes' depiction of Aeschines as *alazôn* (and Aeschines' depiction of Timarchus as *pornos*) is the tone of invective that Demosthenes takes up against Androtion. Despite the comic moments (discussed above), his portrayal cannot as easily be shown to aim at invoking laughter from the audience. Instead, his tone aims primarily at stirring up anger and hostility. The difference in tone can be attributed

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<sup>22</sup> See above, Introduction.

<sup>23</sup> Tax collectors would agree to pay upfront a certain amount of the taxes in arrears and then set out to collect from defaulters; if they were particularly good at their job, they could make a profit.

to Diodorus's status; he is a lesser known individual delivering the speech from the perspective of personal enemy. In light of the rhetorical demand to shape his own character during the speech, we should not expect Demosthenes to write the speech in such a way that Diodorus allies himself with audience through laughter in the overt and self-confident manner which prominent politicians like Aeschines or Demosthenes were able to achieve.<sup>24</sup>

The justification that Demosthenes gives for his character assassination in this speech is also different from his approach in *OTC*. Since this is a prosecution speech, he cannot point the finger at his opponent for starting a contest of slander, as he did when defending himself from Aeschines' attacks. Instead, Demosthenes justifies his harsh assault as necessary to the preservation of the democracy. In 22.31-32, Demosthenes argues that it is an important function of the democratic state to openly publish the shameful acts of its leaders to prevent them from misleading and corrupting the people. By comparison, *parrêsia* does not exist in an oligarchy, which is clearly a detriment to the people. This justification for invective is not only rhetorically effective here—since if Androtion argues against it, he only further implicates himself as the “tyrant” Demosthenes is making him out to be—it explains well the didactic and regulatory nature of political invective against politicians commonly seen on the comic stage. It shows the shared purpose of both genres in policing morality within the community as a principle of democracy. It thus helps explain why the Athenian people were more open to harsh, and even humorous, language in “serious” settings like the law courts, and why they would

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<sup>24</sup> As we will see more clearly next chapter, lesser known individuals often pursue much subtler strategies of using humor.

not see them as “irrelevant”. This is an important point to which I will return in the epilogue of the dissertation.

## **II. *Against Aristogeiton* (Dem. 25):<sup>25</sup>**

Aristogeiton was an orator and politician involved in an *endeixis* (information/denouncement) brought by Lycurgus with Demosthenes and other *sunêgoroi* chosen by the assembly (25.14). Like Androtion, Aristogeiton was allegedly a debtor to the state, thus *atimos*, and yet he continued to act as a *rhêtôr* in the assembly and prosecutor in the courts. For this trial, it was the prosecution’s duty to demonstrate that Aristogeiton was, in fact, still in debt to the state and therefore ineligible to enjoy the rights of a citizen. The prosecution attempts to undermine Aristogeiton’s character, and therefore his credibility, just as we saw with the prosecution of Androtion.

The main speech delivered by Lycurgus against Aristogeiton is not extant, but there are two extant speeches attributed to Demosthenes. *Against Aristogeiton II* (Dem. 26) is a short speech that was almost certainly delivered by someone else, if not written by someone else as well, but the longer speech, *Against Aristogeiton I* (Dem. 25), is probably authentic.<sup>26</sup> Still, Dem. 25 has received very little attention from scholars, presumably because its authorship has been contested since ancient times. Dionysius of Halicarnassus was allegedly the first to say that Demosthenes was not the author of either speech in the midst of his discussion on Demosthenes’ style. While responding to

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<sup>25</sup> For other sources on Aristogeiton, see Hansen 1976, 141-42.

<sup>26</sup> If we accept that it is a 4<sup>th</sup> century oration, the likely date is 324 (according to Hansen 1976, 142, with n. 27). Hansen places the date just before the Harpalus Affair, based on a reference in Din. 2.

criticisms that Aeschines once made of Demosthenes' proclivity for scurrilous language, Dionysius mentions the second speech (and possibly both) against Aristogeiton as a forgery:

υὸ ε γὰτλαφ γπουθαπίχ λβί αί εἐτξ υπίχ ὁοῖ νβτξ βύυόο λφσῆτζβξ  
 ἱζφο ἐ ἡμζφο βύυ μἐηφξ. ὕ σ ἄουβ ἔης ηφσφβὺνβλβ.  
 (*Demosthenes* 57.1)

But to claim that he (Demosthenes) used scurrilous and tasteless terms—from where it came to him (Aeschines) to say this, I am perplexed by this most of all...

φ' νέουπξσξ χ έο υπίχ δφωφ ξησάγπξ φ'τί μῖ ηπξ αί εφίχ λβί  
 γπουθαβί λβί ἄησπξπξ λβυβτλφβί. ὥχ έο υ λβυ' Βσξτυπηφύποπχ ψ'  
 (*Demosthenes* 57.3)<sup>27</sup>

If, however, there are some tasteless, scurrilous, and boorish terms in the imitation speeches, as in the one against Aristogeiton B....

Although Dionysius mentions only the second speech here, it is possible that he considers both speeches to be forgeries (so says Libanius in his hypothesis). Whether or not Dionysius meant that both *Against Aristogeiton I* and *II* are forgeries, scholars have subsequently argued against authenticity in part because the speeches contain coarse language that is uncharacteristic of Demosthenes.<sup>28</sup> Recently, however, Rubinstein has synthesized the debate and, following Hansen and McCabe, offers a compelling argument in favor of authenticity (at least in regard to Dem. 25).<sup>29</sup> It is fitting, then, that this speech be revisited for its use of invective, particularly because scurrility was identified as a

<sup>27</sup> According to Blass (1893, 411-12) who emends the text to include both speeches (έο υπίχ λβυ' Βσξτυπηφύποπχ ψ').

<sup>28</sup> Lipsius 1883; Blass 1893, 411-12; Sealey 1993, 237-39.

<sup>29</sup> These scholars in particular believe that the speech is authentic – at least as a 4<sup>th</sup> century speech and not a later forgery. Rubinstein (2000, 30-32), for example, answers Sealey's objections individually. Hansen (1976, 144-52) argues at length for authenticity. McCabe 1981 argues that the speech cannot be rejected on grounds of style. So it appears that the debate is shifting in the direction of authenticity.

defining characteristic of the speech, one that led to its rejection in the past. For our purposes, it is not of great importance that the speech be attributed to Demosthenes, but I intend to show that many aspects, including the use of invective, are in line with his other works. Thus, a better understanding of invective in this speech provides further support for the view that this speech is authentic.

The unrelenting character assassination in Dem. 25 focuses on a few aspects of Aristogeiton's nature: *ponêria* (wickedness), *aponoia* (insanity), *thêriotês* (inhumanity/beast-like brutality). Demosthenes exploits Aristogeiton's nickname "The Dog" (*kuôn*) to emphasize all three of these characteristics. He draws on a variety of animal imagery to illuminate Aristogeiton's complete lack of civility, and recasts him as the antithesis of an elite politician and orator. Further, the description of his insanity (*aponoia*) portrays something more than simple craziness; it implies specific characteristics associated with this behavior. As we shall see, Aristogeiton's *aponoia* shares numerous similarities with (and thus marks him as) a character type known to us from Theophrastus: *ho aponenoêmenos* (The Man Who Has Lost His Senses). Despite the speaker's need to create a highly individualized account, drawing on stock characters can be very useful to the orator. This speech provides further evidence of how the orator can create a plausible scenario that is tailored to an individual yet still depict his opponent as a stereotype well known to a large audience. As we have seen, these features often comprise the "literary" or "dramatic" elements of a speech, and should not be seen as indications of a forgery or rhetorical exercise that was not delivered in court.

It should be remembered that the type of case (*endeixis*) is important for our understanding of what the *dêmos* would consider relevant argumentation. Much like the *dokimasia* (as we saw in the speech *Against Timarchus*), the *endeixis* in this trial allowed for a full scrutiny of the defendant's past. Unlike the *dokimasia*, an *endeixis* typically concerns a specific crime. But since that crime is Aristogeiton's *atimia* as a result of being in debt to the state, there is greater room for attacking Aristogeiton's character more extensively to show that he is the kind of man whom the jury would expect to be *atimos*. For this reason, and because the speech was delivered by a *synêgoros*, the scope of relevance is predictably broad, since it would have been easier for the jury to recognize a connection between character evidence, and even character assassination, to the legal charge. Still, Demosthenes has to manipulate his audience carefully (often by getting them to collude or approve) when introducing harsh attacks in order to be confident that his arguments will not backfire. In this speech, he moves quickly past the legal charge and warns the jurors outright that he will deal primarily with Aristogeiton's character.

Before stating this purpose, however, Demosthenes is sure to remind the jury that Lysurgus handled the legal aspects of the case already and produced witnesses of Aristogeiton's *ponêria* (13-14). He then expresses serious vexation at being nominated as prosecutor (ἡθζῖνι ο λβῖ νᾱ υόο Εῖβ λβῖ ᾠουβχ ζέπωχ πύλ έψπωμῖνι ο) and justifies his concern by pointing out that those who prosecute too often inevitably fare poorly. Although vague, it appears that Demosthenes is attempting to protect himself from any accusation of sycophancy. He claims that he is prosecuting because he "felt compelled (ἀοβηλβίπο) to obey your wishes ( φῖζφτζβξ υπίχ ύνφυέσπεξ ψπωμῖνβτξ)." He draws



the jurors into the picture not only here, but also by claiming that he will speak “with all familiarity (νφῶ ἄτι χ πῖλφξι υι υπχ),” by which he means, “openly” as if he were close friends with them. His appeal to the *dêmos* functions as the standard rhetorical ploy to gain their trust (*captatio benevolentiae*), but he is also prefacing the tone and language he will use to prosecute Aristogeiton.

This *apologia* is similar to Demosthenes’ justification for using harsh language when handling Aeschines in *OTC*. There, Demosthenes excuses himself by claiming that Aeschines forced him to use invective since he started the contest in a highly abusive tone. Here, Demosthenes is not attacked personally by Aristogeiton, so his justification is different; he points the finger at the people instead of Aristogeiton, but he still justifies his response in terms of compulsion (*anankaion*). In both cases, then, Demosthenes does not take full responsibility for his involvement and the manner in which he approaches it. Rather, he is sure to highlight the jurors’ participation both times (and his opponent’s to the extent possible). At the end of his introduction in section 14, Demosthenes returns to this point, when he asks for pardon from the jurors for his manner of speech in approaching the case:<sup>30</sup>

ἂ ε λβί μπηῖ φτζβε υπύχ ὕ σ ῖ μφς χ λβί οῖ νς ο ψπωμφωνέοπωχ  
 σπηήλφξ λβί τλπ φῖτζβεεφί. υβύυβ σπι σπῶνι ο φ’ φίο. λβί ούο έ ἰ  
 υβύυβ σφῶτπνβε εῖυφε’ ὡ ἄοε σφχ ‘βζι οβίπξεῖυφ λβί  
 τωηθς σήτβυφνπε σόχ Εξῖχ. ὡχ ἐγωλβ λβί σπήσι νβε φσί  
 υπῶς ο εβμφθζήοβε σόχ ὕνἄχ λβί ηἄς πύε’ ἄο ἄμμς χ εωβῖνι ο.

<sup>30</sup> Cf. the opening of Plato’s *Apology*, which might shed some light on this rather vague passage. There, “Socrates” gives a similar prologue in which he claims that he will speak with unaffected language, completely free from rhetorically fancy words and arguments. Perhaps this is a similar claim that he will speak in plain speech, that is, “you can trust me.”

Whatever is fitting and necessary for those who take council about the city and the laws, these are the things I have chosen to tell you, and I will proceed now to these points. Grant, men of Athens, grant and pardon me, by God, for speaking about these things to you as is natural for me and as I prefer to do; for I could not do otherwise.

Although he does not state explicitly the points he will cover, Demosthenes' subsequent discussion of the laws in relation to character makes clear what he considers to be matters of import to the city. He argues that men's lives are governed both by laws and by nature; the former is universal to all men, the latter is peculiar to each one. Though nature (*phusis*) is unpredictable in this way, it is fixed within each person so that an evil man will necessarily do petty things (ἡ ν ο γύτῃ. ὁ οὖν ποι σὰ. πρὸς ἀλλὰ γ βύμβ ψπῦμφβξ). Demosthenes thus invokes a notion of fixed character, which he will rely on as justification for his discussion of Aristogeiton's nature. His point recalls the opening of his speech, where he attempts to make this case one based on the people's attitudes toward wickedness, rather than one about arguments (1-2). From the very start, he homes in on *ponêria* as the main issue: "The strength of our case does not lie in the arguments either Lycurgus made or I will make, but rather on the disposition of the *dêmos* toward wickedness (*ponêria*), namely whether they abhor or condone it (1)." He thus openly declares his intention to devote himself solely to demonstrating that Aristogeiton is *ponêros*.

Demosthenes, as *synêgoros*, is not responsible for arguing the legal case in a strict sense. He reminds the jurors that this was the job of Lycurgus, whereas the job of the supporting speaker is to offer supplementary evidence, which he accomplishes by

deliberately focusing on character.<sup>31</sup> As a *rhetor*, Aristogeiton advises the people, makes proposals in the Assembly, and involves himself in court trials. The Athenians were clearly concerned with the character of public officials and policed it far more closely than that of private citizens. Since this trial, like that against Androtion, is specifically about political eligibility, and since Demosthenes is offering supporting evidence, the character portrayal he provides would undoubtedly be considered relevant information to the Athenian *dêmos*. Demosthenes still makes every effort to show how and why Aristogeiton's character in particular is related to his *atimia*.

Demosthenes creates the image of a man who is so ruthless that he is barely human. Repeatedly he calls him a beast (*thêrion*), specifically one that is polluted or wicked (*miaros*, *ponêros*). In two instances, he describes him as a snake or scorpion (51-52; 96), and twice puns on his nickname, “The Dog” (*kuôn*). It is likely, in fact, that this nickname, by which he was known to the community, opens the door for Demosthenes to pursue a line of animal imagery throughout the speech. Moreover, he is capitalizing on a very long tradition of dog imagery and metaphor that reaches back to Homeric times (see below). In section 40, Demosthenes first draws attention to his status as the “Dog of the people”:

οὐ πόο πῦσιχ ἔτυξ λῦς ο οἱ Εἰβ. γβτῖ υξοφχ. υπύ εήνπω πεβ ἴχ:  
 πῦτχ πῦχ ν ο βίυξυβξμῦλοπωχ φάβξνή εάλοφρ. εέ γι τξγωμάυυφρ  
 σῖψβυ' βῦσόχ λβυφτζίφρ. υῖοβ ηᾶς υῶο ρι υῖς ο πῦπχ φσηβτυβῖ

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<sup>31</sup> Particularly illuminating here is a comparison with Cicero's *Pro Caelio*, since Caelius was indicted on five counts of *vis*, and only the last included Clodia. Crassus is the main prosecutor and deals with the first four “legal” charges, while Cicero deliberately concentrates on Clodia's character and constructs an elaborate comic narrative to frame his case. What Riggsby 2004 demonstrates for character evidence in the Roman courts holds true for Athens too: that the Athenians thought that character could be used secondarily, i.e. directly as supporting evidence (whereas modern systems only recognize it as tertiary).

υξ λβλόο υππτύυπο. ήμίλπο υπύχ ίεξύυβχ. φσί ο δι γίτνβυβ  
 ησάδβχ έάμς : υίοβ ε'. έκ πύ ούο άμξ μέηφε, λέλσξιφο ρήυπσβ:  
 πύε έοβ. άμμ' ίεξύυβχ πμμπύχ. πύχ τωλπγβουώο φξσθφβξ άμμᾶ  
 νήο υπύχ ηφωπνέοπωχ λυοβχ υώο σπψάυς ο λβυβλι' υφφ γβτί εφίο.  
 τυ' πύλ ᾧο γζάοπξ λβυβλπ υϊνφοπχ.

What then is this man? A Dog, by god, as some say, the Dog of the people. But what sort of dog? One that doesn't bite the wolves that he accuses, but rather devours the sheep that he claims to protect. For, which orator has this man wronged to the same extent as the private citizens against whom he drafted illegal proposals, an act for which he was convicted? Which one of the orators whom I just now mentioned has he brought to trial? Not one. And yet there were many private citizens he went around troubling with nuisance suits. And since they say that it is necessary to chop up the dogs that have tasted sheep, he certainly could not be chopped up too soon.

Demosthenes extends the animal comparison to Aristogeiton's behavior toward the citizens in a way that likely subverts the original meaning of the name; instead of the watchdog of the people, he is the vicious dog that attacks them.<sup>32</sup> Clearly Demosthenes wishes to draw out the negative connotations of the term, which hold particular significance to an Athenian audience.<sup>33</sup> In a study of these terms in Homeric Epic, Graver concludes that "metaphors drawn from the λῶς ο group are a rather harsh form of abuse, one which labels its object as greedy and potentially cannibalistic in the domain of material goods, or of fighting, sexuality, or speech."<sup>34</sup> As we shall see, Demosthenes is invoking precisely these attributes to characterize Aristogeiton, and so his nickname becomes a convenient point of departure and reference for his other attacks. The way in which he twists the meaning of a name recalls his conversion of Aeschines' father,

<sup>32</sup> Cf. Eubulus (85 K-A), where *kuôn* is used in a list of insults. From Homer on, "dog" remains a term of abuse and can therefore easily be twisted and used against him.

<sup>33</sup> Cf. the trial scene in *Wasps*, where Cleon is depicted as a greedy *kuôn*.

<sup>34</sup> Graver 1995, 53.

Atrometus (“The Untrembling”), to “Tromes” (“The Trembler”). In both instances, Demosthenes shifts the sense from positive to negative.

Demosthenes expands his linguistic possibilities in court by putting insults in the mouth of his opponent first, in order to make himself look milder by comparison. This strategy was a key part of his success against Aechines in *OTC*. The same tactic can be seen at work in section 45 of this speech where Demosthenes supposedly turns his attack on Philocrates, a follower and teacher of Aristogeiton.<sup>35</sup> Demosthenes compares Philocrates to Aristogeiton for the main purposed of attacking Aristogeiton indirectly; if Aristogeiton were only a *pikros* and *ponêros sukophantês*, then it makes sense for Philocrates to follow him because he is cut from the same cloth; but if Aristogeiton is a *kapêlos ponêrias* (a peddler of wickedness), *palinkapêlos* (a huckster) and *metaboleus* (trader, trafficker), then Philocrates should distance himself. The triad of creative insults recalls the language Demosthenes uses frequently against Aeschines, although these specific terms are not used in *OTC*, rather they are tailored to Aristogeiton. To justify his own language further, Demosthenes tells us of a verbal attack that Aristogeiton made against the people and the generals of the city:

• χ φήχ υπύζ' ἡλφξ ποι σίβχ. τυ' έοεφεφηνέοπχ ἡει ψπώο.  
 τωλπγβουώο. ά φμώο πύλ έ βύφυπ. πύχ ν ο ύνφίχ υά νέηξτυ'  
 έοφφφφφ φφφ τυσβυι ηπίχ. όυξβύυ άσηύσξπο βίύπύουξ πύλ έε πτβο.  
 πύε υώο λπ σώος ο άο έ ξτυάυβχ έμέτζβξγάτλς ο. πύλ έλφίοπωχ  
 ύψσί ς ο. ....άμμā υήο ύνφνέσβο θφξστυποίβο σπ ι μβλί ς ο λβί υήχ  
 βύύτω ποι σίβχ έ ίεφξξφ πξπύνφοπχ.....

And he reached such a point of wickedness (*ponêria*) that, even though the *endeixis* had already been laid against him, he did not cease from shouting, prosecuting maliciously, and threatening those generals whom you

<sup>35</sup> This is the same Philocrates who was convicted of bribery after the Harpalus affair.

entrusted with the most important affairs, [since they wouldn't give him the money he was after] claiming that he wouldn't have even put them in charge of the latrines (*koprônôn*)—not outraging *those* men by saying this, but flinging mud at how *you* voted and making a display of his own malevolence (*ponêria*)....

Here, Demosthenes does not shy away from using the Aristophanic term *koprôn*, since any offense resulting from impropriety would fall on Aristogeiton's head, not his own. The anecdote serves to illustrate Aristogeiton's intemperance of speech, one way in which he is "dog-like".<sup>36</sup> Demosthenes cleverly steals Aristogeiton's sarcastic remark and uses it against him by emphasizing how Aristogeiton actually attacked the people for their role in choosing incompetent men as generals, rather than the incompetent men themselves.<sup>37</sup> Further, he connects his point about intemperance directly with the formal charge of *endeixis*, thus undermining Aristogeiton's public claims against others since he had no right to speak in public to begin with. Moreover, Demosthenes points to Aristogeiton's *ponêria* as the cause of his intemperate speech. Thus, character is used as evidence in specific connection with the legal charge to explain anti-democratic behavior. As we saw in Androtion above, it is a fundamental principle of democracy to criticize public figures openly and harshly. Somewhat ironically, that is just what Aristogeiton was attempting to do when he criticized the generals in the first place—but, in order to

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<sup>36</sup> Interestingly, the inability to restrain oneself verbally and sexually is gendered primarily female in the Homeric context, whereas grasping behavior, or other forms of intemperance related to actions are gendered male. Aristogeiton is described as guilty of both types of transgressions, but he is not accused of being a "woman" like Timarchus, who engages in sexual immoderation. In both cases, however, immoderation excludes them from proper manly behavior and, therefore, from political involvement (*atimia*).

<sup>37</sup> A contextual difference is that Demosthenes is not under direct attack from Aristogeiton as he was from Aeschines in *OTC*. Thus, as he made clear in his *apologia*, he does not deal with Aristogeiton as a personal enemy, but as an opponent of the people; the jurors become a part of the dialogue here rather than spectators of it.

perform the duty of a public citizen, one must be a citizen and not a disenfranchised beast.

Aristogeiton's inability to control his language, as demonstrated by the anecdote above, provides support for Demosthenes' description of his character. He thus reinforces his characterization of Aristogeiton as a greedy and vicious "Dog", which makes his subsequent claims about Aristogeiton's inhumanity more plausible. In two separate passages, Demosthenes compares him with other types of aggressive creatures:

πῦθί υῶο πμῆζῶο ἀηβζῶο ἐ ' πῦεφοί υ δωθ εἰς υσῖψφῶ. ἀμῶ  
πσῶψβξεῖα υῆχ ἀηπσάχ. τ φσ ἔθξχ ῆ τλπσ ῖπχ ῆσλῶχ υό  
λέουσπο. υς ο εῶσπ λάλφτφ τλπ ῶο υῖοξ τωγπσῶο ῆ  
ψμβτγι νῖβο ῆ λβλί ο υξ σπτυσθῶνφπχ λβί λβυβτυήτβχ φῆχ γῖψπο.  
ἀσηῦσῆτο σὰκψβξε (51-52).

He has not engaged in any noble political endeavor in his life.....rather, he moves across the agora like a viper or a scorpion raising up his stinger, darting here and there, keeping an eye out for someone he can inflict with misfortune, slander or some other evil, for any man he can terrify in order to make money.

ῶεῖ ῆᾱσ ὄσαυφ πῦεῖοβ ῶ πυ' τς χ ῦνῶο ἔθξχ ἔεβλ' πῦε  
γβμᾶηηξτο. νι ε εἰλπξ ἀμῶ ὄνς χ ἀουβ υᾱ υπῆβύυβ ἐ ᾱο εἰ υ'.  
φῦζῶχ ᾱ πλυφρίυφ υόο βῦυόο υπῖωω υσῖ πο ῶ ᾱοε σφχ 'βζι οβίπξ  
λβί ὀυβο τωλπγᾶουι ο λβί ζᾱσόο λβί ἔθξ υῆο γῦτξ ᾱόζσς πο εἰ υφ  
νή ῖζ' λβτυπο ῦνῶο εῆκψβξε φσῆεοφφ ἀμῶ ὄ σπτυσῶο ἀφ  
υξς σι τὰτζς (96).

Look at it this way; perhaps none of you has ever been bitten by a snake or a poisonous spider, and I hope it never happens, but nonetheless, whenever you do see anything of this sort, immediately you kill it. In the same way then, men of Athens, whenever you see a sycophant, who is spiteful and like a viper in nature, do not wait around until he bites you, rather always let anyone happening upon him take vengeance.

The comparison of humans to animals goes back to Homer, but emerges as a primarily comic phenomenon in the 5<sup>th</sup> and 4<sup>th</sup> centuries. Aristophanes' *Wasps* is an obvious example, where an entire group of jurors is described as biting or stinging insects (cf. also *Birds* and *Frogs*). The point of these comparisons is to reveal Aristogeiton's beast-like nature, to depict him as inhuman and therefore untrustworthy. The colorful descriptions of Aristogeiton's nature also provide background explanations for his actions; his representation of "The Dog" as "attack dog gone mad" helps explain his vicious deeds in the past. In turn, his stories about Aristogeiton's actions reinforce these descriptions of his character.

In support of his claims about Aristogeiton's character, Demosthenes addresses how Aristogeiton treats his family, his close associates, strangers and, vicariously, the people at large. He left his father in jail and failed to bury him after his death, he prosecuted his "friends" who collected an *eranos* as security for his debts, he sold his own sister into slavery and tried to do the same to a generous metic named Zobia, who hid him from the police and then provided him with clothes and money for his escape to Megara. The culmination of his outrages, and what makes him a particularly potent threat to the community, is how he treated a total stranger in jail (60-62):

Before he got out of prison, he kept approaching and chatting (*lalôn*) with a man from Tanagra (who was incarcerated until he could make bail) in order to snatch away his document (*grammateion*).<sup>38</sup> After the Tanagrian

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<sup>38</sup> That Aristogeiton wanted the man's document (*grammateion*) is puzzling. Demosthenes is possibly implying that Aristogeiton is attempting to add it to a collection of documents that he sneaks into the courts for the purpose of corrupting trials. This assessment makes sense in light of the similar, but more detailed, accusation against one of Theophrastus' characters (see below).



accused him and complained that no one else could have taken it, Aristogeiton got so violent that he tried to strike this man. But since the Tanagrian was a fresh-caught fish (οφβμήχ), he ran circles around Aristogeiton, who by this time was pickled (υφιβοφφωέοπω) from being incarcerated for so long. So when it got to this point, Aristogeiton bit off the man's nose! And then, the man who had been involved in such misfortune gave up his search for the document. Later, though, they found the document in a chest for which this man Aristogeiton had the key. And afterward, the men in the jail took a vote neither to share any of their fire, light, drink, or food with him, nor to receive anything from him, nor to give anything to him. And that I speak the truth, summon for me the man whose nose this defiled wretch bit off and swallowed.

Demosthenes introduces this story as the very last point he will make about Aristogeiton's private affairs, thus giving its placement added importance. The story itself sounds almost absurd; the jurors are invited to visualize a scene in jail of the feisty Tanagrian outmaneuvering the practically embalmed Aristogeiton, who reacts out of frustration by attacking the man like an animal and biting off his nose.<sup>39</sup> Far from being all bark and no bite, Aristogeiton "The Dog" is all bite.

The details of the physical violence are meant to disgust but also to entertain.<sup>40</sup> One point that needs to be mentioned is that the orator is highly conscious of language, both high and low, and it is safe to claim that a "descent" into harsher language and abuse is just as conscious a rhetorical maneuver as the decision to quote from a tragic poet.

What concerns us here is that the story is not told in a manner of solemnity, designed to

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<sup>39</sup> Cf. Mike Tyson, who bit off Evander Holyfield's ear in a professional fight (June 28, 1997). The event itself may not have been funny, but the retelling of the event was universally treated as comic. There are numerous "top ten" lists of jokes, and at least 20 legitimate newspapers made jokes out of their headlines. Even in a fight scenario, there are rules governing behavior; in both the Tyson incident and here, the aggressors shirked normal regulations, but also normal *human* behavior.

<sup>40</sup> The Greeks enjoyed violent one-on-one competition, such as in the *pankration*. Cf. the discussion by Axer (1989).

invoke pity at a man's misfortune as with Oedipus when he loses his eyes (although the audience is meant to side with him and pity him), rather the terminology used to describe the scene invites the listener to enter a comic mindset. It is clear from the way in which Demosthenes frames the story that he is intending primarily to evoke the jurors' scorn, or *pthonos*, against Aristogeiton. He consciously frames his tale in a comic manner by his use of words like *lalôn* and *daknôn*, that is, the Aristophanic terms for "chatting" and "biting".<sup>41</sup> The story directs the *dêmos* to side with the Tanagrian against Aristogeiton, and as spectators of the scene, they are directed to laugh down at Aristogeiton for his behavior. The fact that Demosthenes calls the Tanagrian as a witness would provide direct visual proof of the "truth" of the story, in the event that the jurors, only hearing it secondhand, found it too absurd.

This story entertains, but it also functions as evidence for his claims about the unpredictable and aggressive acts of which Aristogeiton is capable. It supports his previous characterization of Aristogeiton as "the Dog" (i.e. cannibalistic, aggressive, greedy and snatching) or even snake, scorpion, and particularly his claim that Aristogeiton is *aponoia*.

Aristogeiton's behavior, as described throughout the speech, can be linked back to his *aponoia* ("loss of sense").<sup>42</sup> Early on, Demosthenes uses this term (or a related one) four times (32-33) as a key concept for prefacing his extended depiction of Aristogeiton's beastlike character:

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<sup>41</sup> For a discussion of fish as a prominent feature of Middle Comedy, see Nesselrath 1997, 277-283.

<sup>42</sup> See Diggle 2004 ad loc., who points out the distinction between *aponoia* and *anoia*; the former means "loss of sense" and the latter, "lack of sense". Demosthenes is depicting a man who has gone mad, not someone who was always insane; there were specific associations with the former that the latter term did not connote.

Don't you see that neither rationality (*logismos*) nor any sense of shame (*aidôs*) govern his nature (*phuseôs*) or civic life (*politeias*), but rather a loss of sense (*aponoia*)? Or, should I say, this man's entire civic life *is* a loss of sense (*aponoia*), a thing that is the greatest evil to the man possessing it, dreadful and hard to deal with for everyone else, and unbearable for the city. For, the man who has lost his mind (*ho aponenoêmenos*) has entirely abandoned both himself and the salvation that reason would have given him. Instead, if he is by chance saved, it is by something paradoxical or unexpected. What wise man would ever attach his own affairs or those of the country with this trait?...A loss of sense (*aponoias*), Men of Athens, is not the trait that the our nation's councilors should seek to have in common with someone, but rather, sense (*nou*), noble thoughts (*phrenôn*), and great foresight (*pronoias*) (32-33).

His use of the term *aponoia* so frequently and prominently in short space is pointed. In conjunction with the numerous other descriptive characteristics attributed to Aristogeiton, the term *aponoia* makes it clear that Demosthenes is deliberately depicting Aristogeiton as a character type: *ho aponenoêmenos* ("The Man Who Lost His Senses"). This character is known to us as one of Theophrastus' thirty extant character portraits and shares numerous similarities with the description given by Demosthenes. Like Aristogeiton, Theophrastus' character is intemperate of speech (and actions) in public places; abuses his own family, friends, and strangers; spends a lot of time in jail; and involves himself excessively in political and judicial activities. Although Theophrastus' summations do not reflect particular scoundrels from the streets of Athens, they are meant to provide a general portrait that would be recognizable and realistic to his readers. And although they are not in and of themselves comic, there is a clear connection between his sketches and character types of New Comedy.<sup>43</sup> It is likely, then, that a man who is *aponoia* was already a well-known figure to the people at this time. Thus, when

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<sup>43</sup> Cf. Webster 1959, 127-34, esp. 133-34.

the orator gives the *dêmos* a short description of Aristogeiton as *aponoia*, it is presumably with the understanding that they know what he means and will draw further inferences about him. He is someone they are familiar with from their daily lives, but their impressions of him are also shaped and hardened by dramatic representations.

Since the two share many features in common, it is worth examining Demosthenes' Aristogeiton against Theophrastus' character. But first we must acknowledge that the date is uncertain for either work. This does not negate the more important fact that both were likely composed within the same decade, if not within a few years of each other.<sup>44</sup> One could almost as easily claim that Demosthenes was using Theophrastus as inspiration as the opposite. Again, which of the two came first is not that important considering that, by the late 4<sup>th</sup> century, characterization had developed to the point where stock character types were now what an audience expected to see on the comic stage. More important, then, is that we are on firm ground to claim that Demosthenes was basing his portrayal on a character type and one that was specifically linked to the low and vulgar world that comedy shared. Consider the following description from the first few lines (2-6) of Theophrastus' man who has lost his senses:

The man who has lost his mind (*ho aponenoêmenos*) is the sort of man who would swear an oath quickly, who is able to be spoken of badly and also to rail against others, someone vulgar (*agoraios*) in character, and obscene (*anasesurmenos*), and capable of anything and everything (*pantopoios*); certainly he is capable of dancing the cordax in the comic chorus—sober and without a mask.<sup>45</sup>

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<sup>44</sup> Dem. 25 probably dates to 324 and *Characters* to 322, or possibly 330. See the introduction to Diggle 2004.

<sup>45</sup> Diggle (2004, 20) claims the opening and closing lines are later additions, and in general, we have to be careful with what we claim is original to Theophrastus: "Our printed texts are nothing more than the best that editors have been able to make of what is probably the corruptest [sic] manuscript tradition in all of

Theophrastus immediately connects this man with the comic, and specifically the more vulgar and obscene aspects of comedy. It is well attested that “dancing the cordax” was particularly obscene and thus was only excusable when performed while intoxicated.<sup>46</sup> This man is not even ashamed for people to know his identity. Demosthenes, of course, does not claim that Aristogeiton ever “danced the cordax” specifically, but his presentation of Aristogeiton’s shamelessness is comparable.

Specific aspects of Aristogeiton’s character do overlap with Theophrastus’ portrayal as well, such as neglect of parents. Aristogeiton is accused of leaving his father in jail and then not burying him after death, whereas Theophrastus’ character lets his mother starve (10-11). Not only was Aristogeiton’s father in jail, but Aristogeiton himself spent so much time there (as his escapades discussed above indicate) that he is specifically described as “pickled/embalmed” from being there for so long. By comparison, Theophrastus claims that his character “has spent more time in jail than in his own house (11-12)”. More broadly, Aristogeiton is accused throughout the speech of being engaged constantly in court cases (which the historical record supports, see Hansen), and of being a loud and obnoxious public speaker. Theophrastus’ man is similarly called a haranguer of crowds (14-18) and avid litigant, both as prosecutor and

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Greek literature.” If we follow Diggle (who is the most recent and by far most conservative commentator), he claims in his introductory note to this sketch (p. 250) that we can still say the following: “If we ignore the interpolations and an uncured corruption, this (in bald summary) is how the man behaves: he dances an obscene dance while sober (3), demands an entrance fee from ticket-holders (4), engages in opprobrious trades (5), leaves his mother uncared for, is arrested for theft and spends much of his time in gaol (6), is constantly in court as defendant or plaintiff (8), and sets himself up as a patron of low tradesmen, whom he funds at exorbitant interest (9).” For a less conservative approach to the text, see Ussher 1960.

<sup>46</sup> See Diggle (2004 ad loc.) who cites *Clouds* 555; Dem. 2.18; cf Hyp. *Phil.* 7, among others, all of whom mention that the performer was drunk.

defendant (19). In particular, according to Theophrastus, “he shows up in court with a jar (*echinos*) in his cloak and clusters of little documents (*grammatidiôn*) in his hands (20-21),” whereas Aristogeiton was accused specifically of stealing the Tanagrian man’s *grammateion* while in jail [perhaps for his own collection?].

Nor does the overlap end there: *ho aponenoêmenos* does not consider it beneath him to become the general of the agora peddlers (*kapêlôn agoraiôn*) (21-22), and Aristogeiton is called not only a *kapêlos ponêrias* (a peddler of wickedness), but also *palinkapêlos* (a huckster) and *metaboleus* (trader, trafficker) in section 45. Theophrastus’ man is further connected with markets through his association with collecting interest from cooks and fishsellers, both of fresh fish and pickled fish (*ichthuopôlia*, *tarichopôlia*). It is therefore more than a coincidence that Demosthenes describes Aristogeiton as a pickled fish “*tetarichomenos*” in jail as juxtaposed to a fresh catch “*nealês*”.

With this speech in particular, the characterization of Aristogeiton is “highly individualized” since we get such a detailed account of Aristogeiton’s character. We see how Demosthenes draws on the stereotype of *ho aponenoêmenos* to create a striking picture of Aristogeiton as a crazed beast. This stereotype is particularly suited for incorporating details and images based on his nickname “The Dog”. Demosthenes thus mediates between the rhetorical demand for depicting him plausibly as a madman but still making his character accessible to a large and anonymous jury.

Since the sustained focus on attacking his character can be attributed to *sunêgoria*, and since the speech itself is an *endeixis* relating to his *atimia*, a full review of

Aristogeiton's character is perfectly within Athenian expectations of relevant argumentation. Thus, we cannot dismiss this speech as "too scurrilous" or "undemosthenic". As we have seen, the trajectory of the speech, and many of the details and strategies of invective that Demosthenes employs, fall right in line with his other, similar, works (i.e. *Against Androtion* and *OTC*). It is important, then, particularly in the case of speeches delivered by *sunêgoroi*, that we look at the context of each case when assessing relevance. In the case of *Against Aristogeiton*, our understanding of relevance affects our interpretation of invective, which—as the age-old scholarly debate makes clear—affects whether or not we can get beyond the issue of authenticity.

*Chapter 4:*  
*Laughing with Low Profile Litigants*

In the last three chapters, I have addressed forensic court cases that are primarily political in nature and involve high profile members of the Athenian community. In this chapter, I examine some cases dealing with private (i.e. low profile), rather than public (i.e. high profile), citizens. I argue that the status of the individual delivering the speech affects the degree to which comic invective is employed against an opponent. This is not to say that cases involving private citizens avoid the use of comedy or humor altogether. In fact, comic framing was just as effective, and perhaps even more useful, for the little-known litigant in Athens as for the well-known. But when a private man steps up to the bema, the risk he runs by using invective increases. It is standard rhetorical practice for the private citizen to cast himself as humble and goodhearted, since it would be inappropriate for a man of his status to attack an opponent directly.<sup>1</sup> The deliberate avoidance of invective helps create the character of one who keeps to himself and remains deferential towards the *dêmos*, rather than one who asserts his intelligence and authority through aggressive wit. As a result, we can see a tangible difference in both the type and the quantity of attacks from speakers who are not major players on the political scene. The difference, however, is one of degree and not kind. Whereas politicians use comic elements to provoke open laughter from the jury at their opponents, private men tend to use them primarily to shape the character of an opponent. If they do wish to get

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<sup>1</sup> One way around the problem is to have a *synêgoros*, who could use invective more freely without jeopardizing the humble character of the litigant; see Rubinstein 2000, 123-84.



the jury to laugh at an opponent, they must take a less direct path towards that end, as we shall see.

This chapter draws from a selection of private speeches written by Demosthenes (Dem. 36, 37, 45, 54), all of which exhibit some use of comic characterization. I have chosen these speeches in particular as the most illustrative for addressing the role of status in connection with humor, comedy, and invective. Status, for our purposes, will refer to primarily to stature/notoriety, within the community, but it cannot be entirely dissociated from social rank. I will therefore speak of citizens as high or low profile, but at Athens, slaves too could be high profile. The intersection of social rank and stature, as is the case with Apollodorus (see below), provides interesting insight into the ways in which both categories combine to affect a speaker's use of invective. By tracking the variations in use of comic motifs, invective, humor and laughter, we can highlight the complexities that are specific to orations delivered by low profile speakers. Ultimately, the findings in cases involving private citizens have much to say about cases involving public politicians as well.

### **I. *For Phormio* (Dem. 36) and *Against Stephanus* ([Dem.] 45):**

I begin with Dem. 36 and 45, two speeches from related trials about an inheritance dispute between Apollodorus and Phormio, the former being the son of the famous (freedman) banker Pasion, and the latter, Pasion's slave. Apollodorus' original

case was probably a suit for capital (*dikê aphormês*)<sup>2</sup> against Phormio, who was in charge of his father's bank. Apollodorus accused Phormio of forging Pasion's will and appropriating inheritance funds that rightly belonged to Apollodorus and his brother Pasicles. Phormio responded by bringing a *paragraphê* (counter-indictment), a preemptive suit that allowed Phormio to speak first.<sup>3</sup> His goal was to demonstrate that Apollodorus' case was inadmissible (*ouk eisagôgimos*) on the grounds that Apollodorus had previously granted him a release and discharge (*aphesis kai apallagê*). *For Phormio* (Dem. 36) was delivered by an unknown speaker on behalf of Phormio, a naturalized citizen at the time of the trial, against Apollodorus, also a naturalized citizen (the famed eleventh Attic orator). Dem. 45, in turn, is a response to Dem. 36, delivered by Apollodorus against one of Phormio's main witnesses, Stephanus. These speeches are most often cited in debates on authenticity and ethics, since, if Demosthenes were in fact the author of both speeches, he would have worked for opposing sides in the same case.<sup>4</sup> For our purposes, however, they offer a unique glimpse into the role that status plays in the use of comic elements; because Apollodorus was gaining notoriety at the time of the speech (around 351 BC), whereas Phormio himself remained a relatively obscure figure in Athenian public life, these speeches allow us to see the differences in the interaction

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<sup>2</sup> According to the writer of the argument (Libanius) for Dem. 36. The phrase *dikên enkalein* does appear in 36.12, but it is not made clear by the speaker that the case was in fact a *dikê aphormês*.

<sup>3</sup> Scholars disagree about which speaker had the advantage. I follow Johnstone's approach of viewing the speeches as narratives and counternarratives where it is the job of the prosecutor to create the most believable and persuasive account possible and the job of the defendant to appropriate or subvert his opponent's claims in order to make his own account more plausible (1999, 46-69). In the case of Dem. 36 specifically, however, there was a distinct advantage for Phormio to speak first since he was able to bias the jury enough against Stephanus that he was not even allowed to reply. Thus, the *paragraphê* in particular was a suit in which one gained a distinct advantage by speaking first.

<sup>4</sup> On this debate, see Wolff (1968) with citations; also Trevett (1992).

between a high-profile and low-profile speaker. Further, social rank affects each speaker's strategy for vilification of his opponent, as well as his own self-fashioning.

*For Phormio* is considered by scholars to be one of Demosthenes' best speeches. It is a concise speech that avoids getting bogged down in details in favor of creating a clear, simple argument primarily based on juxtaposing the good character of Phormio (*chrêsimos*, *chrêstos*) with the despicable one of Apollodorus (*sukophantês*). Indeed it was so effective that at the opening of *Against Stephanus*, Apollodorus claims that the jurors shouted him down when he tried to give a rebuttal—a result of the jury's overwhelming support for Phormio's side of the story.<sup>5</sup> Although they take up opposing strategies, both Phormio and Apollodorus rely heavily on character argumentation.

Character, in fact, plays a primary role in *For Phormio*.<sup>6</sup> Witnesses attest to the character of each man and then use an *eikos* argument to show that Phormio is virtually incapable of wronging Apollodorus whereas Apollodorus is well schooled in this regard. The emphasis on characterization begins with the first sentence, where we learn that Phormio is not a regular litigant in court. This aspect of his character serves as a sharp contrast to his opponent, who, upon introduction, is twice accused of sycophancy (36.3). Demosthenes' second reference to *sukophantia* is linked directly with the legal claim that Apollodorus' case is not admissible. Apollodorus' allegedly aggressive pursuit of frivolous cases underlies Demosthenes' arguments throughout the speech and lays the foundation for his attack on Apollodorus' character near its end. Throughout the body of

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<sup>5</sup> Apollodorus may be misrepresenting the situation, however, when he claims that he was not allowed to speak at all. It is possible, for instance, that he met with *thorubos*, but delivered his speech, or that he simply lost his case and is now claiming an injustice by depicting it as an unfair hearing.

<sup>6</sup> See my Introduction, where I discuss the explicit connection that Demosthenes makes between character and *eikos* arguments in this speech.

the speech, technical arguments are the focus, but Apollodorus' past actions (such as choosing the factory over the bank, and releasing Phormio from all charges but then bringing a suit against him twenty years later) are meant to demonstrate his self-interested nature.

This depiction sets up the concerted assault on Apollodorus' character beginning at section 41. Here, Demosthenes presumes Apollodorus will justify his pursuit of Phormio's share of the inheritance money by arguing that he spent his own portion on liturgies. Demosthenes preempts this defense by characterizing Apollodorus' claims as *alazoneia*: "...and the amount he spent you have heard—not even a tiny fraction of the income, much less the capital, on liturgies—nonetheless, he'll boast (*alazôneusetai*) and talk about trierarchies and choregiae". Whereas Apollodorus brags at length about all his contributions to the city, he in fact has done almost nothing to benefit the public because he squanders all his wealth on himself.<sup>7</sup> On the contrary, it is Phormio who is quiet, but generous. By calling on the jurors' knowledge of braggarts, Demosthenes is coloring their opinion of Apollodorus as a man who stops at nothing to get what he wants. Further, portraying him as an *alazôn* complements the accusation of *sukophantês*—a term Demosthenes uses six times in sections 52-62—since both "types" deceive the public for their own benefit. A sycophant pretends to police transgressions against the state but in fact abuses the public court system to make personal gains. Similarly, an *alazôn* boasts of his greater good to the community as a cover for his self-obsessed and self-interested pursuits. According to the speaker, Apollodorus will boast and rely on specious

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<sup>7</sup> His specific points are grounded in *logos* vs. *ergon* (cf. Johnstone 1999, 93-108).

arguments in his effort to trick the jurors into siding with him. His trickery is further borne out by his attempts at invoking pathos (tragic acting). At the close (61), Demosthenes urges the jurors not to be deceived (*exapatêsê*) by his bawling (*krauge*; cf. *odureitai* in 36) and his shamelessness.<sup>8</sup> In fact, Apollodorus has abused his parents and the city (47), and he has shown no modesty in his appearance or practices (he wears expensive cloaks, involves himself with *hetairai*, and walks around with three attendants [45]).<sup>9</sup> The accusation of *alazoneia*, as we have seen, is used almost exclusively against wealthy politicians in the court. It is useful because it presents a high-profile opponent as exploiting the system for individual profit, just as we saw in Aristophanes' depiction of the ambassadors in *Acharnians* (see ch. 3). Phormio advises the jurors to avoid being duped by Apollodorus' trickery by deflating him with their vote.

Although Apollodorus' character comes under attack, this speech is relatively restrained on the whole. Demosthenes draws from character types that are familiar to the jurors, but he does not engage in invective per se, nor do his arguments aim at humor. Thus, he uses comic characterization for descriptive ends, rather than to evoke derisive laughter from the audience. This strategy is best suited for maintaining the consistent depiction of Phormio's character as the humble and appreciative slave-turned-citizen.<sup>10</sup>

Apollodorus' response, on the other hand, makes use of comic characterization and invective. As a better-known figure in the community, he enters into this case well

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<sup>8</sup> Cf. Hall 1995 on *kraugê* and braggarts.

<sup>9</sup> As Whitman (1964) demonstrates, an *alazôn*'s success relies primarily on trickery and persuasive speech, aspects of Apollodorus' character that Demosthenes warns the jurors about most.

<sup>10</sup> As we shall see in Dem. 37, also a *paragraphê*, the speaker Nicobulus likewise concentrates on defending his own character rather than attacking his opponent's, but to an even greater degree than Phormio.

aware of the jurors' pre-existing expectations about his persona. This is not to say, however, that his notoriety gave him an advantage over Phormio. It is possible, and even likely, that the Athenian jury viewed him suspiciously from the start, because he was involved in the banking business.<sup>11</sup> His higher profile status, in conjunction with his need to re-define himself in relation to Phormio and within the community, sets the stage for a much more aggressive response.

Apollodorus answered his defeat in the counter-indictment with a *dikê pseudomarturiôn* against one of Phormio's witnesses, Stephanus ([Dem.] 45). *Against Stephanus*, like Dem. 36, focuses on the legal points for most of the speech, but ends with particularly harsh character defamation, first against Stephanus, and finally against Phormio, thus revealing his real target.<sup>12</sup> It is not until sections 63-70 that Apollodorus mounts a concerted attack on Stephanus' character. In these sections, he makes clear that character is just as important to his argument as it was to Phormio's. He argues that, although Stephanus would justly be punished based on all of the preceding arguments, he is even more deserving of the jurors' anger for how he has lived his life.<sup>13</sup> To support this

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<sup>11</sup> Cf. Dem. 37 where Nicobulus mentions his own disadvantage in this regard, namely that Pantaenetus will claim that the Athenians hate moneylenders outright. His response, that he too does not particularly like them, gives credence to the negative stereotype.

<sup>12</sup> In his opening section, in fact, he accuses Phormio of *ponêria* and *aischrokerdeia*; Phormio accused him of these same behaviors first. Unlike Demosthenes' concise speech, however, the majority of Apollodorus' speech is fraught with intricate and sometimes baffling argumentation. Thür 2005, 160-69 cites this as an example of oratorical hairsplitting, cf. Pearson 1969, 18-26.

<sup>13</sup> This (highly rhetorical) assertion provides a good explanation of location of this type of argument, an extended character attack, at the end of the speech. Apollodorus, at least, thought it would have particular persuasive force with the jurors and not that it was expendable if he ran out of time. After all, the strategy of casting an opponent as untrustworthy to his very core is what resulted in his own initial defeat.

claim, he gives a rather detailed depiction of Stephanus as a *kolax* (flatterer), a familiar character in comedy.<sup>14</sup>

According to Apollodorus, Stephanus followed the banker Aristolochus around, walking in stride with him and bowing down (*hypopeptôkôs*) to him, but only so long as Aristolochus was wealthy. Once Aristolochus was financially ruined (because of men like Stephanus), Stephanus had no use for him. Apollodorus' depiction of Stephanus bears resemblance to comic *kolakes* when we compare evidence from Middle Comedy and Theophrastus' second character sketch.<sup>15</sup>

According to Theophrastus' depiction, the *kolax* follows one man exclusively and flatters him excessively through actions and words. Theophrastus lists numerous examples of his behavior, such as praising his patron publicly, laughing at his jokes, removing crumbs from his beard and even taking the pillows away from a slave at the theater to put them under his patron himself. Theophrastus, though, does not tell us any motive for these actions of the *kolax*. Aristotle's discussion of *philia* sheds some light on the issue of motivation.<sup>16</sup> According to Aristotle, both the *kolax* and the *areskos* (obsequious man) represent excessive *philia*. The difference between them is that the *kolax* is motivated by self-interest, whereas the *areskos* has no ulterior motive. Theophrastus also makes a distinction between these two characters; the *kolax* pursues one man in particular, whereas the *areskos* fawns indiscriminately.<sup>17</sup> Although

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<sup>14</sup> The fact that the Old Comic poet Eupolis had a play entitled *Kolakes* indicates that this figure was established as comic well before this speech was written. Menander too wrote a *Kolax*, which shows that he remained a figure of interest throughout the 4th century. Cf. Duncan 2006, 102-19.

<sup>15</sup> See Diggle 2004, 68-71 and 181-82.

<sup>16</sup> Aristotle *NE* 1108, 26-30.

<sup>17</sup> For Theophrastus' *Areskos*, see Diggle 2004, 78-81 and 222-49.

Theophrastus does not explicitly attribute self-interest to the *kolax* as his motivation in the way that Aristotle does, the fact that the *kolax* singles out someone in particular and speaks and acts in a contrived manner implies this sort of motivation. This is especially clear when juxtaposed with the *areskos*, since the *areskos* is characterized as obsequious by nature and not by contrivance.

A closer parallel to Apollodorus' depiction of Stephanus as *kolax* can be found in a fragment attributed to Anaxilas (Incertae 32 K-A):<sup>18</sup>

πί λῖ μβλῆχ φῖτξ υῶο έθῖ ους ο πύτῖβχ  
 τλώμι λφχ. φῖχ πόο άλβλπο άοζσώ πω υσῖ πο  
 φῖτε ύχ λβτυπχ έτζῖφξ λβζήνφοπχ.  
 ς χ άο τ φσ ωπόο ά πεφκι ξλφοῖ ο.  
 έ φξ' ό ν ο μένν' έτυῖο. ό ε' υφσπο εάλοφξ

Flatterers are infesting worms of those with property. Each one eats his way into the goodwill of a man and settles in there, until he shows himself to be like an empty wheat shaft. Then, that man's left behind, and he (the flatterer) bites at another.

In just this way, so Apollodorus states, Stephanus left behind the ruined Aristolochus to become close with Phormio. Apollodorus' first example not only characterizes Stephanus' relationship with Phormio, which he relates at length, but also demonstrates a continuity of shameless behavior on Stephanus' part. He gives the jurors the impression that Stephanus is a parasite and has virtually made a career out of fawning on selected individuals. Another fragment from Middle Comedy where the speaker is a (somewhat proud and happy) Kolax shows that by the time of Antiphanes, whose first play was

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<sup>18</sup> Source is Athenaeus 6.254c.



staged around 385, men with such behavior were characters on the comic stage in their own right. The following fragment comes from his *Women of Lemnos* (142 K-A):

φῶ' ἐτυξῶ ἢ ἡέοπα' ἄο ἡεῖς ο υέθοι  
 ἢ σῖτπε πχ ἄμμι υπύ λπμβλφῶφφ φύγῶχ:  
 ὅ ς ησάγπχ -----  
 ----- ἐο ὀτπεχ ἐτυί λφρε ὑοπεχ ἄμφο  
 σῖτφτυξ ἄτφο ἐ θυέμφφ λβί ῖοπχ.  
 ἡνίο ε νφῶ ἡέμς υπχ ὅ ψῖπχ λβί υσωγῆχ  
 πῦ ἡᾶσ υὸ νέηξτυπο ἔσηπο ἐτυί βξεφα.  
 ἄεσὸο ηφμὰτβξ τλώδβῖ υξφ'. ἐν ξρίο πμῦο.  
 πῦθ ἡεῦ: ἐνπῖ ν ο νφῶ υὸ μπωφίο εφῡφσπο.

**Kolax:** ‘Could there be any trade (*technê*) more pleasing than the way of clever flattery (*kolakeuein euphuôs*)?’<sup>19</sup> A painter [suffers and is hated, a farmer]<sup>20</sup> also has just as many dangers; there’s toiling and distress for all of these men. But for us, life is jovial and luxurious (*gelôtos, truphês*), the hardest task is play (*paidia*): is it not sweet to laugh heartily (*gelasai*), to crack a joke (*skôpsai*), to drink to excess? For me, it’s second only to getting rich (*to ploutein*)!’<sup>21</sup>

Although fragmentary, these passages reveal that comic *kolakes* were greedy, selfish men who used others for their own benefit and pleasure.<sup>22</sup> The last line of Antiphanes is particularly interesting because it points to ‘getting rich’ as the main (if not attainable) goal of a *kolax*. Apollodorus will take his argument in this same direction after discussing Stephanus’ efforts on Phormio’s behalf. This passage is worth quoting at length:

<sup>19</sup> On *kolakeia* as a *technê* that requires no effort to learn, see Ribbeck 1883, 66.

<sup>20</sup> Supplied by Edmonds, vol. II (Antiphanes frag. 144).

<sup>21</sup> Note here the terminology of laughter and jesting (*gelotos, paidia, gelasai, skôpsai*). These are terms that Halliwell (1991, 284-88) discusses in association with ‘playful’ (and therefore innocent) laughter (see below on Dem. 54 for fuller discussion). They add to the light-hearted tone of the passage, implying that the *kolax* (in this particular passage) is not a threat, but a jovial character engaging in innocent fun. Thus, the audience is invited to laugh *with* him, and not *at* him. For a list of all comic plays in which a *kolax* appears, see Ribbeck 1883, 30-31.

<sup>22</sup> See Ribbeck 1883, 9: “In Athen scheint der Name λῖμβκ nicht lange vor der Zeit des Aristophanes eingeführt zu sein, und von Anfang an hatte er eine gemeine Färbung, so dass er vom höheren Stil in Poesie und Prosa so gut wie ausgeschlossen war.”

A man who is a flatterer (*kolax*) of the wealthy, but is then a traitor to them if they suffer misfortune, and who interacts as an equal with not a single one of the many other respectable citizens, but willingly bows down (*hypopiptei*) to them, and who does not care if he wrongs one of his own associates, nor does he care if ruins his reputation by his actions, or about anything else for that matter, except his own greedy gain (*pleon hexei*); isn't it fitting to hate this man as the common enemy of all of mankind? I should say so (65-66).

There is an important difference in perspective between the two fragments quoted above. In comedies, the *kolax* could be portrayed negatively as a threat to an individual or community (as in the Anaxilas fragment), or, he could be a somewhat likeable character (as in Antiphanes' *Lemniai*). As we saw in the *Lemniai*, by hearing the *kolax* describe himself in his own words, the audience is directed to sympathize with his desire for attaining easy wealth and joy in life, and to relish his brazen pursuit of things that most people covet. However, the destructive potential and the pitfalls of dependence particular to the *kolax* are still there, even in comedy.<sup>23</sup> The difference between the *kolax* in a comedy and in the courtroom is that, on the comic stage he *can* be likeable, but in real life he cannot.

Apollodorus thus creates a scenario similar to the passage in Anaxilas where he asks the jurors to sympathize with himself as a character like Aristolochus, the one shamelessly duped by Stephanus' maneuvers. Although the audience is not affected directly by this relationship, Apollodorus goes on to argue that they are indirect victims;

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<sup>23</sup> The complexity and nuance of the *kolax-parasitus* figure is present already in Greek comedy, but can best be seen in the fully developed parasites of Plautine comedy. See Damon 1997, 23-36 and Ribbeck 1883, 76ff.

Stephanus, the *kolax*, keeps everything he wrongfully gets and then evades all duties to the state, never serving as choregus or trierarch, nor performing any other liturgy (66). Whereas a *kolax* who proclaims his life to be more enjoyable than most may be a likeable character on stage, in the real life of the courtroom, he must be hated as the ‘common enemy of all of mankind.’ In this way, the orator benefits from comic characterization by framing his opponent in terms recognizable from the comic stage, while simultaneously demanding the jurors to view him from their ‘serious judgmental set’ and not their ‘playful judgmental set’ as they generally would in the theater (see Introduction).

Just as Demosthenes accused Apollodorus of being shamelessly and deceitfully selfish by associating *alazoneia* with sycophancy, here Apollodorus achieves a similar effect by associating flattery with perjury. Since the jurors would have no prior knowledge of who Stephanus was,<sup>24</sup> Apollodorus characterizes him as a flatterer, best known from the comic stage, as a way of blackening his character. This depiction gives the jurors a plausible reason why he would be willing to commit perjury for Phormio. Someone who would be willing to use his own friends to benefit himself monetarily cannot be trusted. Thus, both Apollodorus and Phormio use comic characterization to underline serious offenses.

Apollodorus’ characterization of Stephanus as a self-serving flatterer thus makes sense in the context of the legal charge; Stephanus is being charged for false witness and a flatterer is just the type to perjure himself, if it is for gain. Apollodorus also makes the direct connection between flattery and false testimony (*pseudomarturion*) (just as

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<sup>24</sup> See Hesk (2000) and Ober (1989) who both argue that the juries would not be familiar with any litigant short of high-profile politicians.

Demosthenes did between sycophancy and admissibility [*eisagôgimos*]) when he claims: ‘it would be better by far to be proven a man seeking honor and acting generously toward the state than a flatterer (*kolakeuonta*) and bearer of false witness (*ta pseudê marturounta*)! But this man would do anything for gain (*kerdainein*) (66).’

In sections 68-70, Apollodorus builds on his previous accusations, but shifts his focus to Stephanus’ appearance and deportment.<sup>25</sup> We now get a second view of Stephanus, not as *kolax*, but as *dyskolos*. Apollodorus claims that Stephanus ‘skulks along the walls’ (*tous toichous houtos eskuthrôpakôs*), not because he is temperate, but because he is misanthropic. He avoids walking naturally and being cheerful because he has determined that those types of people invite requests from others, whereas acting sullenly drives them away (68-69).<sup>26</sup> Stephanus’ mean-spiritedness is not, however, ascribed to his nature, but rather, portrayed as masking his real character (*problêma tou tropou to schema tout’ esti*) (69).<sup>27</sup> Apollodorus accuses him twice of counterfeit behavior (*peplastai, peplasmenois*), which he attributes to a fierce and bitter mind. At first, the description of Stephanus as misanthrope appears to be at odds with the man whom we just saw fawning on others and doing whatever they asked without question, and in fact, Apollodorus does not overtly integrate the two types of behavior. Rather, he

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<sup>25</sup> In section 77, Apollodorus also discusses perceptions of how he carries himself (i.e. he walks quickly and talks loudly), but discusses them as natural and not feigned. The same characteristics are used to describe Nicobulus in Dem. 37.52; see below for a detailed discussion of both passages.

<sup>26</sup> Stephanus’ insincerity stands out all the more if we compare him with comedy’s most famous *dyskolos*, Knemon, from Menander’s *Dyskolos*, who hates and avoids people only because he has been repeatedly disappointed by them in the past. Stephanus is untrustworthy because he only pretends to hate people, not because he is actually *dyskolos* by nature.

<sup>27</sup> Cf. Goldhill 1999.

links both facets of Stephanus' ability to take on different characterizations (i.e. to act) with his overall insincerity and untrustworthiness.<sup>28</sup>

Apollodorus thus attacks Stephanus' performance of character as deliberately fashioned (*peplastai*) in order to expose Stephanus' true character. Hesk provides a useful discussion of this depiction of Stephanus in terms of Athenian 'folk' physiognomy. The general perception of Stephanus' deportment would be one of temperance and moral decency.<sup>29</sup> His interpretation of this strategy is, however, somewhat misleading: "There is, Apollodorus implies, no need for name-calling ('sycophant', 'sophist' and so on) which juries hear every day, and such name-calling would fail to capture the extraordinary truth of Stephanus' life of deception. Apollodorus' physiognomics of deceit attempts to authorise its truth-status by virtue of its distinctive distance from the standard topoi of invective used against 'dishonest' opponents."<sup>30</sup> For Hesk, Apollodorus' attempt to decode Stephanus' appearance is an alternate approach to revealing Stephanus' deceit, rather than the standard use of invective. His assessment, however, does not take account of the fact, recognized by most commentators, that this speech resorts to truly ferocious invective.<sup>31</sup> While Hesk is right to say that Stephanus is not attacked as a 'sycophant' and

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<sup>28</sup> Here it is worth noting that Apollodorus' portrayal of Stephanus, although complicated, does not conflict with the general belief in fixity of character. Apollodorus does not claim that Stephanus has undergone any change of character over time, but rather that he has different ways of concealing his one (devious) character. This is typical of the *kolax*; cf. Ribbeck 1883, 69: "Der λῖμβκ hat die Natur des Polypen, der die Farbe des Felsens annimmt, an dem er gerade haftet, und sie mit dem Ort wechselt; er ist also ein echter Hellene, der nach der alten Regel lebt, die in demselben Sinne gleicht er dem Chamäleon: wie dieses alle Farben annimmt, ausgenommen die weisse, so vermag er sich Allem anzupassen, nur nicht dem Ernsthafte und Guten."

<sup>29</sup> Hesk 2000, 222-24, citing North 1966, 85-149.

<sup>30</sup> Hesk 2000, 227.

<sup>31</sup> See, for example, Paley & Sandys 1979, xxxiv-xxxv.

‘sophist’, the reason for this is simply that those particular roles were not suited to the charge in the case.

As I hope to have shown, Stephanus is attacked as a *kolax* (flatterer) and *dyskolos* (misanthrope) because these depictions better support Apollodorus’ accusations of perjury; Stephanus’ relationship with Phormio paved the way for his giving false testimony on Phormio’s behalf. ‘Sycophant’, although widely used in oratory, is nonetheless employed for the most part where it fits, namely against the opponent who brought the case to trial. Thus, we see this term used against Phormio by Apollodorus, and against Apollodorus by Phormio, but predictably not against a witness like Stephanus. For these reasons, Apollodorus’ physiognomics can more accurately be viewed as a part of his “rhetoric of anti-rhetoric” (to use Hesk’s phrase), and as working in collaboration with his invective to expose the ‘real’ Stephanus, rather than as a replacement for it.

Although the majority of the speech is directed at Stephanus, it is Phormio who is the real object of Apollodorus’ attack. Apollodorus spends less time on character arguments about Phormio and more on specific accusations against him (71-82). Phormio is charged with *ponêria* and *anaideia* repeatedly, but his character is never shaped with the extent of detail that we see in Apollodorus’ treatment of Stephanus. Apollodorus’ account here remains strongly rooted in comic principles nonetheless; in particular, he shapes Phormio according to a kind of status inversion.<sup>32</sup> Phormio, according to

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<sup>32</sup> As we have seen in previous chapters, topsi-turviness is a comic theme—prevalent from the time of Aristophanes on—that the orators exploit for the purpose of creating a bold picture of the extreme damage that their opponent has brought about. Topsis-turviness can be fun in comedy, but destructive in reality;

Apollodorus' account, is not just *ponêros*, but is actively calculating and scheming, as the repeated use of forms of *logizetai* indicate. Further, Apollodorus frames his entire predicament in terms of the *mundus perversus* into which Phormio has thrust him.<sup>33</sup> The force of Apollodorus' argument rests on the comic reversal of roles between slave and master, but as we have seen, each man's status is not that clear cut. Here I wish to emphasize that, by use of the term "comic", I do not mean to imply "humorous"; Apollodorus' account is clearly hostile in tone, which is not *per se* mutually exclusive with humor, but there is no indication in the text that he was attempting to evoke laughter. Still, it is comic in the sense that he deliberately chooses to frame his narrative along a comic plot line by casting Phormio as a slave cleverly outdoing his master.

Phormio was indeed a slave at one point in time. According to Apollodorus, he attained citizenship, but only because Apollodorus' family was kind. He subsequently attained wealth, but only because Apollodorus' father, Pasion, was a banker. Phormio's marriage to Pasion's wife Archippê, a metic, is described as an absurdity (by Phormio's account, Pasion agreed to the marriage in his will; by Apollodorus' account, Phormio forged the will to get her and her property for himself). Even more absurd for Apollodorus is that Phormio's sons could end up marrying Apollodorus' own daughters in the event of his death (75): *hoi tou doulou tôn despotou* (those of the slave [would marry] those of the master)! But most absurd of all (*atopôtaton*) is Phormio's subjection of Apollodorus to legal scrutiny:

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again we are seeing ways in which the "real life" setting of the courtroom affects the jurors' mindset toward the same scenarios they would find amusing on the comic stage.

<sup>33</sup> Koster (1980, 76-77) holds that *ponêros* is too generic and therefore can be overlooked in a discussion on invective. Although it is a generic term, because it is a defining feature of the Aristophanic hero (cf. Whitman 1964), it should not be passed over when looking at comic invective.

And this is the most absurd of all; he has never been willing to provide an account of the money that he has ripped away from us, but instead he lodges a *paragraphê* on the grounds that my case is not admissible. He includes in the calculation (*logizetai*) the things that I was apportioned from my father's estate. Anyone might see other slaves being subject to scrutiny (*exetazomenos*) by their masters, but this man does the exact opposite—he, a slave (*ho doulos*), scrutinizes (*exetazei*) his master (*ton despotên*)! So clearly does he reveal himself to be villainous (*ponêron*) and dissolute (*asôton*) by these actions (76).

Apollodorus therefore creates a hierarchy of offenses, all of which revolve around Phormio's status as 'slave', and the worst of them his bringing a case against his 'master'. Nor does Phormio's perversion of the natural order stop here. According to Apollodorus, Phormio reversed the proper roles in his sexual conduct as well. In a flurry of rhetorical questions, Apollodorus accuses him of hiring a citizen for prostitution, thereby debauching him and depriving him of free speech. Whereas citizens regularly hired slaves or metics as prostitutes, slaves did not do the hiring. Phormio, therefore, overstepped his bounds by making a citizen his sexual object.<sup>34</sup> This line of argumentation culminates in the accusation that Phormio was decent by day, but abominable by night (80):<sup>35</sup>

By day you are moderate (*sôphron*), but by night, you commit acts for which the penalty is death. Wicked (*ponêros*), men of Athens, this man has been wicked (*ponêros*) and unjust (*adikos*) from the time he left the temple of Castor and Pollux!

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<sup>34</sup> His other sexual transgressions, which reveal his destructive appropriation of citizen status, include the corruption of many citizens' wives, first and foremost his master's wife, Archippê. And when he set up a monument at her tomb, he did not succeed in the honorable goal of memorializing the tomb itself, but the exact opposite—he memorialized the disgraceful acts she committed with him against her husband.

<sup>35</sup> The license of darkness is a trope common to both Greek and Roman culture; cf. description of Canon's witnesses in Dem. 54 below.



Here, when we are told that Phormio behaved in two totally separate ways, we are also reminded of Stephanus' two-faced personality. Since Demosthenes' depiction of Phormio as an honest banker in Dem. 36 was overwhelmingly successful, we see Apollodorus try to undermine his reputation by claiming that he acted disgracefully in private.

Apollodorus attributes this double life to his *ponêria*, which gives him the capability of tricking others into thinking he is reputable.<sup>36</sup> Apollodorus thus relies on the Greek belief in the fixity of character; since one cannot be dishonest in one sphere only, the only explanation is that Phormio is disguising his corruption.

Apollodorus' summation integrates his denunciation of slaves who outdo their masters in a *mundus perversus* with his specific arguments about the forgery of his father's will and the false testimony given against him. He tries to bring the jurors over to his side by claiming that they are masters just like him. They need only imagine that they were wronged by their own slaves, just as he was by Phormio, in order to pass correct judgment. Here again it becomes clear that, on the comic stage (and even during the speech), this kind of topsy-turviness can be fun, but in the real life of the court, it is destructive if the situation is not returned to its normative state by the jurors' vote.<sup>37</sup>

Apollodorus returns to the theme of *kolakeia* in his epilogue (85): "I ask and beg and entreat you not to overlook my daughters and me in a time of need, so that I become an object of malignant joy to my slaves (*doulois*) and his flatterers (*kolaxin*).” The excessively deferential language that he chooses to employ here is telling, since it is in

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<sup>36</sup> See, for example, Whitman 1964 on the comic hero.

<sup>37</sup> See Segal (1987, 7-14) who argues that the comic world too must return to normal.

contrast to his typically aggressive diction. By beseeching the people in this way, he is attempting to demonstrate gratitude toward them for the station that he and his family has achieved. His deference makes sense, particularly in light of the fact that he accuses Phormio of not showing adequate appreciation, either to Apollodorus and his family or to the city. His final appeal for the jurors to restrain his opponents from their excessive fawning (*tês agan kolakeias*), is a further nod toward the jurors' position of authority, and toward ending his own case on topic. It was Stephanus whom he characterized primarily as a flatterer, and it is against Stephanus that his case is technically proceeding. His mention of *kolakeia* here highlights the important role it played in his argument and returns the jurors to the points he previously made about the connection between flattery and perjury. Further, it is key toward his conscious effort to situate himself firmly below the jurors and above Phormio in terms of his social status.

This interpretation of status as it relates Apollodorus' strategy in the speech calls for a reevaluation of his use of invective. Phormio was a slave later freed by Pasion, and although Apollodorus was a citizen, he could not escape his background (Pasion himself was once a slave). As Trevett has argued convincingly, the extant speeches delivered by Apollodorus reveal an obsession with his own status.<sup>38</sup> The ferocity of Apollodorus' invective against Phormio and Stephanus is therefore as much about Apollodorus attempting to define himself and assert his own status within the Athenian community as it is an attempt to debase his opponents. Yet scholars have misinterpreted Apollodorus'

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<sup>38</sup> See Trevett 1992, 170-75. In particular, Trevett points out how Apollodorus puts greater emphasis on the selflessness and generosity of his gifts to the city and his friends, and calls for the torturing of slaves under oath with unparalleled frequency. The former attempts to associate him more closely with elite citizens and the latter serves to distance himself from slaves.

invective against Phormio as unconvincing and even mean-spirited, opining that it does not do much more than draw attention to Apollodorus' insecurity about his own status.<sup>39</sup> Apollodorus, to a degree, was both high and low status, and was therefore concerned with distancing himself from his family's past. We must keep in mind that Apollodorus was attempting to define himself as an educated man worthy of political involvement when evaluating the role of invective in his speeches. First, it is hard to imagine that Demosthenes would have chosen this plan of attack for Apollodorus if it were likely to annoy, rather than persuade, an Athenian jury. Further, in the hands of well-known politicians like Aeschines and Demosthenes, we have seen that invective has the ability to arouse enjoyment and laughter from the jury. It is likely, then, that the jury would not be outraged by Apollodorus' claims, if he could in fact distance himself successfully from Phormio in order to show that Phormio was out of line with his own status, whereas Apollodorus was perfectly in line with his.<sup>40</sup> One reason why Apollodorus' speech comes across to modern scholars as tactless is the imbalance of status between the litigants in these speeches that we do not see elsewhere. Phormio's speech was very successful, and he achieved this goal by portraying himself as humble and honest. Although scholars might wish that Apollodorus had responded in kind, such a response would not have been sufficient. Apollodorus trusts instead that the jurors will see his forceful response as necessary for maintaining control over his own familial affairs, a perceived prerequisite

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<sup>39</sup> See, for example, Trevett 1992, 174 and Pearson 1969.

<sup>40</sup> And in fact, the speech is quite similar to the case Aeschines brings against Timarchus in this way. There, Aeschines attempts to distance himself from Timarchus by appealing to his own chaste love of boys in contrast to Timarchus, whom he is at pains to depict as a  *pornos* . It was essential to his speech to get the jury to see as great a gap as possible between the two men, which is also Apollodorus' goal. Similarly, both emphasize that their opponents are acting out of line with their proper station (for which purpose, the *mundus perversus* model is very effective).

for a successful politician. In this way, Apollodorus does not come across as gratuitously nasty, but rather as putting a grasping and unappreciative freedman in his place. Thus, each speaker made use of comic characterization or comic strategies, but in a way that best suited his particular status.

## **II. *Against Pantaenetus* (Dem. 37):**

The case *Against Pantaenetus* provides a useful comparison to *For Phormio* since it is also a counter-indictment (*paragraphê*), in which the cause of the dispute is financial. In this case, however, both litigants are low profile. Nicobulus brought the *paragraphê* in response to Pantaenetus' suit against him for damages in a mining case (*dikê metallikê*). It is a complicated disagreement over a transaction that involved Pantaenetus' rental of a silver ore workshop from Nicobulus and his business partner Euergus.<sup>41</sup> For our purposes, it is enough to know that Pantaenetus had already won a similar case against Euergus and now Nicobulus is arguing for exemption from prosecution because Pantaenetus has granted him a release and discharge (*aphesis kai apallagê*), essentially freeing him from all responsibility to Pantaenetus as his lessor after he and Euergus sold the workshop. Nicobulus' tone, Like Phormio's, is rather hostile throughout but his speech by and large avoids invective.<sup>42</sup> Nor does it contain any extended narrative on Pantaenetus' character (aside from his deceptive behavior in the

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<sup>41</sup> The speech is firmly dated to 346 based on evidence in the text. For a more detailed introduction and analysis of the case, see MacDowell 2004, 173-77.

<sup>42</sup> Except for one occasion (30) where he calls him the "pettiest of men" (*phaulotatos anthrôpôn*).

case against Euergus). It does, however, give us a glimpse of Pantaenetus' alleged attacks on Nicobulus' character.<sup>43</sup>

As I discussed in the Introduction, it is a feature of these more specific types of cases (*dikê metallikê*) to limit discussion of character and past actions, and to focus instead on the specifics of the dispute. Nicobulus, therefore, is relatively quiet about Pantaenetus the man. It is significant, however, that Nicobulus does defend his own character. This is predictable for two reasons; although the *paragraphê* allows him to speak first, he is still a defendant in the case, and (more importantly) he is a moneylender. In section 52, he sarcastically claims that Pantaenetus will have nothing more than the following to use as evidence against him: "The Athenians hate moneylenders; Nicobulus is detestable (*epiphthonos*), and he's a fast walker, and he's a loud talker, and he carries a walking-stick." Carey and Reid argue that Nicobulus' mention of these traits is less motivated by knowledge of what Pantaenetus will argue, than from Nicobulus' own awareness of general disdain for moneylenders. Nicobulus, then, would be exposing a stereotype he could disarm.<sup>44</sup> Just as we saw with Stephanus, Nicobulus confronts 'folk' physiognomic assumptions about his deportment. Apollodorus also brings up the same concerns about perceptions of himself, that he walks quickly and talks loudly (ἐγὼ εἰ ὥ ἄοε σφχ 'Βζι οβίπξ υῆχ ν ο δφχ χ υῆξ γῦτφξ λβί υ υβθές χ ψβεῖ φξ λβί μβμφο

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<sup>43</sup> Further, it gives us detailed information about how a formal aspect of legal procedure, the *enklêma*, was used for including potentially irrelevant material. The *enklêma* was the indictment in private suits (*dikai*) that was comprised of a list of the charges against the defendant and read out at the beginning of the trial; see above Introduction.

<sup>44</sup> I agree, but in this case, it is also possible that Pantaenetus did intend to use this argument against Nicobulus. Nicobulus would have better knowledge of Pantaenetus' arguments because of the parallel case he brought against Euergus. Although he does not mention explicitly that Pantaenetus accused Euergus of these traits, Nicobulus does refer to the case against Euergus repeatedly throughout the speech for the types of arguments he expects to face if the case goes to trial.

νῆβ. πῦ υῶο φῦσιν ὡς οἱ ἐν βωβόοις ), although Phormio never made this kind of argument against him in the *paragraphê*. Both Nicobulus and Apollodorus acknowledge that these are negative traits but attribute them to nature (*phusis*). There is no consensus on what, in fact, walking fast and talking loudly connoted to the average Athenian, but it seems that deception and intemperance are most likely at work, since there is a clear connection with acting.<sup>45</sup>

Nicobulus reverts to the same topic as he begins the close of his speech (55). Here, he directly opposes himself with Pantaenetus for the first and only time: “I’m the kind of guy who walks fast (*ho tachy badizôn*), Pantaenetus, but you’re the kind who stands still (*ho atremas*)!” Presumably this is a slight against Pantaenetus implying that he is useless—a rather harsh criticism since proving one’s “usefulness” to the city is essential for each litigant, if he hopes to gain or retain the goodwill of the jury. This type of mocking opposition recalls Demosthenes’ treatment of Aeschines in *OTC*, particularly where he appropriates Aeschines’ mockery of him as “Batalus” (anus, lisper), by claiming that a Batalus who served his city in a time of need is better than a useless bad actor (180). In both cases, Demosthenes, as the speechwriter, recognized it to be a better strategy to accept the criticism (even if untrue) and then outdo an opponent with this

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<sup>45</sup> Contra Carey & Reid (1985, 155-56), who believe it may refer to “rude, unpolished” behavior (on evidence for walking out of rhythm in Alexis and Aristophanes). Since, as they point out, the main objection to moneylenders in Greek culture is that they benefit off of someone else’s misfortune (see Millett, P. 1983, 43) it seems that “rude” behavior is not as likely to come into play as the ability to deceive and swindle by quick, loud movements (cf. used car salesmen today). Further, Antiphanes 33 associates philosophers with *baktêriai*, and in Aristophanes, it is a sign of Spartanizing if the man is not old or crippled. The stick, then, could signify sophistry and thus deception; in Dem. 54.34, Conon’s witnesses are accused of Spartanizing by day, as a deceptive cover for their real characters which are revealed in private (see below for discussion of this passage). Note especially a passage in Theophrastus’ character, the *mikrophilotimos*, connecting the use of the *baktêria* with being clever at acquisition (*deinos ktêsesthai*).

information, rather than try to refute the criticism itself.<sup>46</sup> It is noticeable that this tactic was used by Demosthenes in the middle of his lengthy speech, but was by no means the culmination. In Dem. 37, on the other hand, it is the finale. Thus, we see a clear instance of Nicobulus working up to a witty attack based on character, but nothing comparable to what we have seen from politicians.

Dem. 37 illustrates well the use of a formal legal procedure for broadening the scope of a *dikê*.<sup>47</sup> What it tells us explicitly is useful for interpreting other cases in which the charges are not confronted directly. Perhaps it helps explain the late introduction of an attack against Olympiodorus (Dem. 48) for wasting family money on a *hetaira*. Although scholars generally have considered this last-minute attack irrelevant, it is not inconceivable that the speaker formally included it (especially considering Ariston's claims that Euergus' alleged injustices against heiresses particularly stirred the jury's anger). And in Dem. 54, as we shall see presently, the speaker Ariston begins by arguing that he could have brought a *graphê hubreôs* or *apagogê*, instead of a *dikê aikeias*. It is likely that he included these charges in the *enklêma*, just as Pantaenetus included *dikê aikeias*, *graphê hubreôs*, *biaiôn*, and *pros epiklêrous* in his.

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<sup>46</sup> This rule of invective—to take away an opponent's attack by using it first—still exists today.

<sup>47</sup> The discussion of *enklêma* in Dem. 37 also sheds light on the role of the *graphê* in public suits. Recall that the last charge in Aeschines' *graphê paranomôn* against Ctesiphon performed the same function; Aeschines accused Ctesiphon of illegally proposing that "Demosthenes always spoke and acted in Athens' best interest." He thereby legitimately opened up the case to a full scrutiny of Demosthenes' life (and character), which resulted in a full scrutiny of his own life, by the rules of the game. This charge, then, acted as an umbrella for all of their harshest attacks against each other, much to the jury's delight rather than disgust. It is useful to compare this strategy with Cicero's *Pro Caelio*, where Caelius was charged with five counts of *vis* (political violence). It was the fifth and final charge that included the attempt to poison Clodia, and thus formed the basis of Cicero's speech (as *synêgoros*) against her character and in defense of Caelius' (cf. 56-8).

### III. *Against Conon* (Dem. 54):

The speeches discussed thus far make strategic use of physiognomy, comic characterization, status inappropriate behavior, and topsi-turviness for framing arguments against opponents. As we shall see, Demosthenes' speech *Against Conon* (Dem. 54) also includes these elements, but goes further by incorporating most of the features that were useful among high profile litigants: nicknames, comparisons with animals, age-inappropriate behavior, and laughter. Since both speakers in this case are low profile, this speech is particularly useful for exploring the difference in roles that elements of invective play in private versus public disputes.

Dem. 54 is a case for battery (*dikê aikeias*) that is famed for its vivid descriptions of drunken, abusive assault.<sup>48</sup> It is a speech that stands out among Demosthenes' works because it relies so heavily on narrative for creating a persuasive argument.<sup>49</sup> From the beginning, there is an emphasis on the beating that the speaker received and the generally obnoxious behavior of Conon and his gang. Commentators have not failed to notice the pointed use of *hubristheis* as the opening word in order to set the tone for the description

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<sup>48</sup> The exact date of the speech is unknown, but most scholars agree that the trial occurred in the mid-fourth century; see Carey and Reid (1985, 69), who discuss the evidence for dating the speech to 353 or 341.

<sup>49</sup> In discussing models available to Demosthenes for this type of speech, Usher (1999) mentions Lysias 3 (*Against Simon*) and quotes Dionysius of Halicarnassus (Dem. 11-12), who claimed that it would be easy to confuse which of the two orators authored which speech if we did not already know. Usher's point was to argue that there is not much new or distinctive stylistically in Dem. 54, but by his comparison of Demosthenes with Lysias, Dionysius' remark also highlights the deployment of narrative in *Against Conon* to a degree that is greater than generally considered standard for Demosthenes. As I have argued in the introduction, narrative is the primary vehicle for an orator to create dramatic scenes and dialogue, since the context permits only one speaker and not three or four actors, as in a play. This speech is exemplary for its use of narrative for such dramatic effect.



of Conon's actions throughout.<sup>50</sup> Further, this choice of words lends weight to the speaker's claim in the proem that he could have brought a *graphê hubreôs* instead of a *dikê aikeias*. It is the first indication of Demosthenes' attempt to broaden the case beyond the narrow legal issue of which man struck the first blow in the fight.<sup>51</sup>

Strictly speaking, a *dikê aikeias* is narrower in scope than a *graphê hubreôs* would have been. The decision to emphasize hubris allows Demosthenes to focus on anti-democratic social violations, a much more interesting route than discussing the mechanics of a fight, and also one that will resonate with the jury.<sup>52</sup> To support his accusations, Ariston focuses on the nature and extremity of the attack, along with the social standing of the defendants. But the relevance of his arguments about hubris is questionable. Wolff sees Demosthenes' approach as one that compensates cleverly for a lack of strict evidence, just as we would expect from any lawyer today.<sup>53</sup> And Cohen uses this case to support his theory that Athenian law was about people, not acts, with the law courts being arenas for social competition between individuals, rather than places to judge different versions of past events.<sup>54</sup> It seems unlikely that Demosthenes could get away with constructing an entire case around the character and behavior of the individuals involved if it were considered irrelevant information to the jury. Nonetheless,

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<sup>50</sup> Carey and Reid 1985, 74-6; Usher 1999, 246. Cf. also Cohen (1995, 120) who makes this point and discusses the similarity of strategy to Dem. 21. Halliwell (1991) does even better to identify the crucial combination of hubris with *aselgeia*—"a term that has unmistakable links with mockery and insult (287)".

<sup>51</sup> Ariston mentions that Conon struck first, but does not try to prove it. Cf. Wolff (1968, 23), who points out that Ariston never addresses this legal question, and in fact, actively avoids it. See also Phillips 2000, 193ff. for other *aikēia* cases that do address "unjust hands" as legal issue.

<sup>52</sup> For a fuller discussion of the connections between *aikēia* and hubris in this and other court cases, see Phillips 2000, 178-249.

<sup>53</sup> Wolff 1968, 17-18.

<sup>54</sup> Cohen 1995, 122.

Cohen's theory does not seem adequate when we consider the lengths to which litigants go to make their procedural choices relevant to the jury. This is one reason why Ariston spends so much time on the laws and the types of charges available to him. His conscious effort to demonstrate that the case could also have been brought as a *graphê hubreôs* reveals that the jury would have had some expectations of judging the violation against the case actually brought.<sup>55</sup> Certainly the hubristic behavior of Conon and his gang would provide primary evidence in a *graphê hubreôs*. By arguing that a *graphê hubreôs* was just as possible as a *dikê aikeias*, the arguments about hubris are made relevant, and this in turn prepares the jurors to accept as relevant any discussion about character and behavior. Ariston also makes a specific argument about the relevance of character and background information, when he defends himself preemptively from similar accusations by Conon that he himself is prone to getting drunk and starting fights (14-16). He argues that he has never been seen in public doing such things, whereas Conon and his sons have, as Ariston's first story and witness testimony demonstrate.

Ariston uses his decision to bring a *dikê aikeias* as evidence of his self-knowledge and restraint. His choice of suit is key to his own self-presentation, but by bringing *graphê hubreôs* into the picture, he gives himself greater leeway to shape Conon's character. Within ten sections, Ariston describes two scenes of assault carried out by Conon and his sons; the first was directed against Ariston and his slaves at an army camp two years prior, and the second occurred in Athens and allegedly almost killed him. He gives far more detail of the first account: Conon and his drunken gang beat up Ariston's

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<sup>55</sup> Cf. the same phenomenon (discussed above in ch. 3) in *Against Androtion* where the trial is a *graphê paranomôn*, but Diodorus claims he could have brought a *graphê hetairêseôs*.

slaves, dump chamber pots on them, urinate on them directly, and engage in every kind of hubristic behavior (4).<sup>56</sup> His inclusion of the first account serves primarily as background information for the second, marking the beginning of Conon's antagonism toward him and establishing continuity of hostility and aggressive drunken behavior on the part of the defendants. The details of the first fight invite the jurors to infer what Conon might have done against Ariston in the second fight when Ariston resists giving specifics. Part of his strategy is to keep his language vague at key points so that the details he does choose to tell must be used to fill in the gaps. This approach is possible because the charge of *hubris* is itself vague.

It is in connection with his emphasis on *hubris* (and *aselgeia*) that aspects of humor become important in the speech. Laughter plays a key role throughout, but it is much more complicated in this speech than most, since Ariston is not positioning himself as the confident prosecutor who tries to elicit laughter and direct it against his opponents. Rather, he argues that it is Conon who will attempt to evoke the audience's laughter about the whole affair in order to calm the jury's anger by giving the impression that these were harmless pranks. Thus, although he is the prosecutor, Ariston becomes the defendant against the laughter that Conon will allegedly arouse: "I want to tell you in advance that I have learned he is prepared to turn the issue away from the assault and the deeds that were done and try to reduce it to laughter and ridicule (*gelôta kai skômmata*)."

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<sup>56</sup> Cohen (1995) and Bers (2003, 66) believe that Ariston is here implying anal rape, and therefore possibly against Ariston too in the second fight. Although it is never explicitly mentioned in the speech, Ariston does create the impression that either his slaves, or himself, or both were victims of sexual assault. He does so through ambiguous descriptions in conjunction with the claim he later makes that the *Ithyphalloi* initiate each other with penetration (see below).

According to Ariston, then, whose presentation of his opponent's strategy is admittedly slanted, Conon will play down the importance of the case in the hopes that the jury will laugh at the whole affair (including Ariston) and then acquit Conon.

This scenario provides a striking parallel with what Philocleon in *Wasps* argues is a regular practice among defendants, namely to tell jokes and funny stories in order to quell the jurors' wrath:

τί' ε' μέηπωτ' νύζπωχ ἥνίο. τί' ε' Β'ίτ'ώ πωυξηέμπ'το· τί' ε'  
τλώ υπωτ'. ἴο' ἐηώ ηφμάτς λβί υόο ζωνόο λβυβζώνβξ (*Wasps*, 566-67)

Some [defendants] tell us stories; others something funny (*geloion*) of Aesop's; others again make jokes (*skôptousi*) so that I'll laugh (*gelasô*) and subdue my anger.

Philocleon's claim presents this use of laughter as something typical of defendants in the law courts, and Ariston's fear of just this lends further support to the claim that this tactic was not a rare occurrence. However, we cannot be certain that Philocleon is describing the same phenomenon as Ariston; Ariston speaks specifically of turning one's own case into a laughing matter, whereas Philocleon might mean nothing more than cracking jokes here and there that are not directly related to the case. Not that this is very likely. The fact that Ariston and Philocleon use the same terminology (*gelota*, *geloion*, *gelasô*; *skômmata*, *skôptousi*) to describe the jesting in which defendants tend to engage gives us some indication that they are discussing the same practice. Halliwell discusses these same words in connection with "playful" laughter, as opposed to "consequential" laughter. Playful laughter is associated with youths and thus has a certain innocence about it. It is

not surprising, then, that defendants would use this approach. In Veatchian terms, the defendants are attempting to weaken the commitment on the part of the jury toward misbehavior. In this way, the jury will view the defendants' behavioral violation as youthful fun, rather than find it offensive and therefore not at all amusing. For this reason, the stress must fall on Conon rather than his sons, a point to which I will return shortly.

Demosthenes recognizes that the laughter could be directed at Ariston, insofar as the assault could be painted as harmless drunken burlesque.<sup>57</sup> But it is striking that Demosthenes does not see it as a successful maneuver to arouse derisive laughter directly against Conon for his behavior in the same way that Aeschines did against Timarchus, or Demosthenes did against Androtion, where they too were constructing a case around elite excess and outrage. In those instances, the speakers were high profile politicians. Here, however, Ariston is virtually anonymous to the jurors and hopes to maintain the persona of a mild-mannered youth. For this reason, he cannot simply turn the tables on Conon and aggressively attack his character with humorous invective. Ariston, in essence, is not asking the jurors to join him in asserting superiority over Conon. Rather, he is attempting to prevent Conon from doing so. Just as Conon will allegedly attempt to weaken the audience's commitment, Ariston takes up the opposite strategy of getting the audience

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<sup>57</sup> As mentioned above, Halliwell (1991) interprets ancient Greek laughter in terms of an opposition between 'playful' and 'consequential'. Playful laughter is innocent through its association with youth. Consequential laughter, on the other hand, is intimately connected with the shame culture of the adult Greek world in which laughter is used as a force to debase the status of enemies. He applies his model specifically to Dem. 54 as a test case by looking briefly at the scene of Conon's victorious cock impersonation and concludes that the case ultimately revolves around whether the jurors interpret the attack and aftermath as playful or consequential laughter on Conon's part (287). It is tempting to see consequential laughter as a strategy of prosecution and playful laughter as one of defense.

committed enough that they find Conon's behavior offensive and unfunny. Ariston can and does try to get the audience to laugh *at* Conon (as we shall see), but he must keep in mind his deferential posture vis-à-vis the jury, which necessitates the use of tactics that are subtler than open ridicule. Because the act of beating can evoke laughter at the recipient if he appears deserving (as we know from Thersites; cf. also the opening of *Wealth* where a beating is threatened, and *Thesmophoriazusae*), and because youthful brawling is not necessarily unacceptable in Athenian culture,<sup>58</sup> Demosthenes focuses the prosecution on Conon, an older man engaging in age-inappropriate behavior.

Although many men are involved in the beating, he singles out Conon as a ringleader because the jurors would have less tolerance for this behavior coming from an older man.<sup>59</sup> He makes this explicit in section 22 where he brings up Conon's age directly: "Whoever is over fifty years old and hangs around with younger men, including his own sons, not so that he can prevent them or steer them away from such behavior, but so that he can be the leader and catalyst and most disgusting of all, what penalty could he ever endure that is worthy of his actions?"<sup>60</sup> Demosthenes knows that Conon's sons could expect leniency from the jurors because they are boys.<sup>61</sup> But Conon is far too old to be

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<sup>58</sup> The speaker in Lysias 3 and Ariston in this case both indicate that they tried to keep their quarrels over love affairs out of the court. They create the impression that these were common occurrences and therefore only actionable if taken too far. See Krauss (2004, 88-182, esp. 133-152 and 175-179) on age-inappropriate behavior in Plautine comedy.

<sup>59</sup> Cf. Lysias 3, where the case is based on the same premises: speaker is worried about his age because of love affairs and beatings that result from them.

<sup>60</sup> Here also, cf. Hypereides' comment that a man does not become an adulterer after 50; he either is or is not at that point; the belief in continuity of character would imply that Conon has a long history of this type of behavior, or at least that he is by nature prone to this in past and present, likely then in the future if he is not stopped.

<sup>61</sup> Ariston does claim that Conon will use the "boys will be boys" defense (υβύυ' φάβξ οἰς ο ἄοζσω ς ο) (14). Cf. *Pro Caelio* here, where Cicero successfully plays up Caelius' young age to explain away mistakes he has made.

running around with youths and getting into drunken brawls. This element would spark the desire to reproach him for social transgression even if Ariston, a youth, did strike first.

As I mentioned above, this speech does not include invective per se and, in fact, makes a point of evading abusive language altogether, even if spoken by his opponent: “They said foul things that I shrink from repeating in front of you (8-9).” It is obvious that this claim is a rhetorical tactic intending to reinforce his self-characterization as a respectful and temperate youth. But, it is striking that he does not go on to repeat that very foul language he is supposedly avoiding (in true *paraleipsis* fashion). Aeschines, e.g., uses a similar tactic in 1.54, but precisely for the purpose of verbally attacking Timarchus as an indiscriminate  *pornos*, rather than avoiding harsh language. Instead, Ariston plays up humorous aspects of the story, perhaps to steal Conon’s thunder and evoke the laughter himself. A primary example is the famous scenario of Conon’s triumphal cock impersonation after finishing his assault on Ariston:

Lying there, I heard them saying many horrible things. Most of it was blasphemous and I shrink from giving specifics among you, but the I’ll tell you an example that will suffice as a sign (*sêmeion*) of this man’s outrage (*hubreôs*) and evidence (*tekμήrion*) of how the whole affair came to pass at his hands: Conon mimicked victorious roosters after a cock-fight, while his friends encouraged him to strike his elbows against his sides, as if flapping his wings.

First, it is important to note that Ariston’s verbal restraint is borne out by his decision to give only one example, and that he connects this directly with the charge of hubris. Ariston’s restraint, however, also acts as a clever build-up to this one act, putting

greater emphasis on it for the listener (and reader) than if he simply mentioned it among a string of Conon's other alleged obscenities and violations. But why home in on this one act in particular? MacDowell points out that it is Conon's delight in his victory that makes the attack an act of hubris and not just battery.<sup>62</sup> He is correct to see a connection between this anecdote and the legal charge, but additionally, I would argue that Ariston is trying to expose Conon's act of impersonation as ludicrous and thus gain control of the laughter. This raises the question: would Ariston have expected an Athenian jury to laugh? Modern readers have found this scene entertaining, but it is even more likely that an Athenian audience would have responded with laughter.<sup>63</sup> To be sure, Ariston invites us to imagine Conon engaging in the behavior of an animal that is particularly known for its brazen arrogance and aggressiveness. At the same time, the very act of a human impersonating an animal was funny to Athenians, as McDermott has shown in great detail.<sup>64</sup> In particular, we know that bird behavior was considered humorous, since Aristophanes won second place for his play *Birds* in 414, which included an extremely wide array of types of birds and their antics.<sup>65</sup> Furthermore, as we have seen in previous chapters, comparisons with animals are prevalent as a way of debasing an opponent.<sup>66</sup> Ariston's hope is that the jurors will find the scene itself funny, but that they will laugh *at*

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<sup>62</sup> MacDowell 1978, 132.

<sup>63</sup> This is not to say that Ariston would have wanted the jury to laugh at himself, but at this visual image of Conon.

<sup>64</sup> For a good discussion of the humor involved in blurring the lines between human and animal (particularly, apes), see McDermott (1935), 165-176.

<sup>65</sup> Ortwin Knorr has well illustrated the visual nature of bird humor in his talk "Silly Birds: Ornithological Humor in Aristophanes' *Birds*," at the 2004 APA in San Francisco. See also Anaxandrides *Tereus* (46 K-A).

<sup>66</sup> This is a part of the Greek invective tradition going back to Homer and Semonides, whose vitriolic poem (7) compares women to eight different types of animals, only one of which is positive.



Conon—a fifty-year old man—for engaging in this behavior and not *with* him for his antics. He tells the story precisely so that he can expose and disarm the kind of laughter that Conon is allegedly hoping to elicit. If Conon were able to show that he and his sons were just fooling around *and* did not even strike the first blow, Ariston would likely come across as a weakling and whiner, who dragged his private business into the public realm unnecessarily.

In addition to emphasizing age-inappropriate behavior, Ariston attempts to stir up hostilities based on class. While discussing what Conon will allegedly claim in his own defense, Ariston first mentions the defendants as *kaloi k'agathoi*. It is in association with this status that the defendants will supposedly acknowledge their nicknames for the groups to which they belong, the *ithuphalloi* (The Erections) and the *autolêkuthoi* (The Jug-Holders).<sup>67</sup> It is certainly striking that a form of *ithuphallos* appears four times from section 14 to 20. It is hard to tell whether or not Conon would have mentioned these groups, as Ariston implies, in order to get a laugh, or, if Ariston is fabricating this possibility so that he can discuss it without hesitation. Perhaps both. We can be certain, though, that the mention of these groups was supposed to make the audience laugh, since Ariston says so explicitly in his final mention of *ithuphalloi* (20): “If Conon should say,

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<sup>67</sup> The “Ithyphalloi” club has clearer meaning; “The word thus has connotations of sexual potency, of unrestrained language and behaviour, and perhaps verbal abuse such as we often find in fertility ritual (Carey and Reid 1985, 86).” I follow Henderson (1991, 120 n. 70) who argues that “Autolekythoi” is not phallic in connotation, but refers instead to men carrying their own oil jars, which a slave would normally do (cf. Henderson 1972 and Paley & Sandys (1979, 239-41) who come to the same conclusion; see also Carey and Reid 1985, 87 who point out that all 4<sup>th</sup> century uses refer to poverty). This would imply lower class behavior, perhaps Saturnalian style behavior, and makes the most sense of why Ariston does not repeat it as much in connection with his claims about love affairs. The mention of it would thus support another aspect of his characterization of Conon that is consistent with his description of him; he is not just overly aggressive, drunk, abusive and excessively masculine (hence Ithyphalloi), he also engages in behavior that does not suit his upper-class station (hence Autolekythoi). It makes particular sense when we recall that he names this group right after mentioning their status as *kaloi k'agathoi*.

‘Some of us are involved in the *Ithuphalloi* club, and we hit and choke whomever we want because of our love affairs,’ are you going to laugh and then let him go? I, for sure, don’t think so.’<sup>68</sup> Ariston feigns concern here that the jury will find it funny, and must press them instead to find it offensive.<sup>69</sup> He seeks to make their commitment to the phenomenon of drunken abuse stronger by bringing them into the picture, instead of letting them think about it in the abstract (“None of you would have laughed if you were there when I was beaten, abused, and had my cloak stolen”).<sup>70</sup> Nor should it be surprising that the mention of the “Erect Penis” club would make the jurors laugh. The erect penis was a staple prop for Aristophanic comedy that emerged from ritual festivities and was used by Aristophanes to expose something private for the sake of producing laughter (cf. *aischrologia*). Ariston’s goal is, once again, to turn potential inclusionary laughter (laughter that brings us together) into exclusionary laughter by inviting the jurors, if they are to laugh, to laugh derisively by acknowledging what the *Ithuphalloi* actually represent. When Ariston states, “These men initiate each other with the erect penis and they do things of a sort that are disgraceful to even mention—certainly no restrained men

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<sup>68</sup> The theme of lovers getting out of hand is a comic motif, lending support to Ariston’s concern that the jury will find this behavior humorous; cf. *Dyskolos* 58-61, where Chaireas, the parasite, proclaims that he gets drunk and burns down doors to snatch away a *hetaira* if his friend is in love with her.

<sup>69</sup> Ariston, no doubt, is misrepresenting Conon’s words and arguments, but there is good reason to believe that he is not making up Conon’s strategy altogether. It is customary for prosecutors to preempt the defendants’ arguments, but it is anomalous that Ariston returns to this theme of laughter repeatedly. In no other speech, as far as I know, does a litigant mention this potential response repeatedly and design his own case around it. This, to me, is a strong indication that Ariston/Demosthenes did expect that Conon would pursue this line of argument, even if Ariston is clearly distorting the actual phrasing or specific arguments that Conon will use. After all, if Ariston’s speech pre-empts this strategy, then it deters Conon from using it (or at least makes it harder for him to use it successfully), quite possibly the most effective defense.

<sup>70</sup> Similarly, we often laugh at situations today that we would find upsetting if we, or someone we knew, were directly involved.

would actually do them,” he endeavors to stir up *pthonos* on the part of the jury, thus bringing himself and the jurors together at the expense of Conon.

The aggressive, over-masculinized Conon, as indicated by the name of his gang, *Ithuphalloi*, his cock impersonation, and the hints at his anal aggression,<sup>71</sup> recalls the Aristophanic character of Euripides’ Father-in-law in *Thesmophoriazusae*. In an early scene where the Father-in-law and the effeminate tragedian Agathon interact, he picks up on Agathon’s incongruities of gender, his effeminacy, and his wide-assedness (*euruprôktia*), and offers to penetrate him (line 157). Henderson describes the Father-in-law as a *bômolochos*, a boorish sort who wore an erect phallus, spoke with crude language, and was responsible for jesting in an attempt to gain audience goodwill.<sup>72</sup> This type of behavior is similar to what Ariston imputes to Conon, only it takes on an even greater sense of impropriety insofar as Conon is supposedly upper-class. Just as we saw with Timarchus, an elite citizen turned shameless  *pornos*, Conon here drops from elite male to aggressive, rustic buffoon. And like the stock character, Conon will also supposedly try to make the audience laugh. *Bômolochia*, furthermore, is considered a form of age-inappropriate buffoonery.<sup>73</sup> Here again we are reminded by Ariston’s representation that a character like Conon might be funny on the comic stage, but must be viewed as insidious in the real life of the courtroom.

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<sup>71</sup> See Cohen (1991) and Bers (2003); there is a cumulative effect from the language Ariston employs and the details he chooses to give. Whether or not Conon actually committed anal rape, Ariston’s story (in my opinion) consciously implies that he did. See also D. Phillip’s (2002) discussion of sexual aggression in the speech.

<sup>72</sup> Henderson 1991, 89.

<sup>73</sup> Cf. Halliwell 1991, 284.

Halliwell's model of playful versus consequential laughter can be connected more closely with the issues of age (and status) that permeate the speech. Ariston tries to exclude the possibility that what occurred was only playful laughter by emphasizing Conon's age. At fifty years old, Conon should long ago have ceased behavior that is characteristic of youth. That he and his older friends do not respect the social values and expectations placed on men their age is further ridiculed by Ariston near the end of the speech where he accuses Conon's witnesses of perjury:

But many of you, I suspect, know Diotimus, and Archebiades, and this grey-haired man here Chairetius (*ton epipolion toutoni*), men who skulk around during the day (*eskuthrôpakasin*) and claim that they are like the Spartans and wear short tunics and thin-soled sandals.<sup>74</sup> But whenever they gather and are with each other, they do not refrain from any act of wickedness or disgrace. And this is their brilliant and youthful talk (*ta lampra kai neanika*), "We're not going to testify against each other, are we? That's not the way of *hetairoi* or friends, is it? What is this dreadful charge that's being brought against you? Some are saying that they saw him getting beaten up? We'll testify that he was not even touched! That he was stripped of his cloak? We'll testify that those other men did this much earlier! That his lip was stitched up? We'll say that your head or some other part was busted open!

Demosthenes makes a point of calling attention to Chairetius' graying hair (*epipolion*) as a deliberate contrast to the men's youthful talk (*neanika*). Halliwell points out that *neanikos* and its cognates refer to unconstrained laughter, particularly associated with irreverence towards authorities including parents. Thus, we see a multiplicity of subversive behaviors from Conon's witnesses encapsulated in the contrast between old and young. They too engage in age-inappropriate behavior, acting the part of youth by

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<sup>74</sup> See above for a discussion of similar behavior in Dem. 45.

flouting authority (here, the laws and courts). Appropriate to their age, they appear to be the most self-restrained and minimalist of men in Spartan fashion by day, but by night they engage in filthy and indulgent acts entirely incongruous with their daytime image and their actual age.<sup>75</sup> In *Wasps*, as an old man, Philocleon carries out a similar comic age-reversal when he acts like an uproarious youth (*neanikôs*) at a dinner party (1305-7).<sup>76</sup> That the same term is used to describe Philocleon's son's behavior later on reminds us of the filial connection and implications; what may be considered youthful fun sets a bad example to the young when carried out by old men because age itself should act as a control to keep this type of behavior in check.

This scenario, in conjunction with the two previous scenes of drunken violence, is designed to instruct the jurors on the far-reaching effects that Conon's behavior has on the city. It is not just a matter of him and his friends flouting authority, but of raising his own sons in the same culture of disrespect toward the city and other citizens. Since, at Conon's age, there is no longer such a thing as youthful pranks, whether or not he views himself as engaging in some harmless fun (and presents it that way to the court), the jury should nonetheless interpret it as harmful. In this way, Demosthenes uses the comic principle of incongruity to perform a highly persuasive function. Moreover, this approach would not be considered irrelevant to the legal case, since the laughter Ariston seeks to take away from Conon and then uses against him serves the important function of social

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<sup>75</sup> Cf. Apollodorus' attack on Stephanus and Phormio (cited above); there too we see an attempt to undermine public reputation with the day vs. night contrast. The emphasis on age that we see here does not come into play in Apollodorus' account, however. Thus, Ariston's attempt here to play up this theme of age-inappropriate behavior is highlighted as a conscious maneuver.

<sup>76</sup> As cited by Halliwell 1991, 285,

control in a way that is coherent with normative Athenian values. That these issues were of increasing interest and importance to Athenian juries reflects the growing concern in 4<sup>th</sup> century Athens with policing morality.<sup>77</sup> Nonetheless, Demosthenes' concerted effort at making the *graphê hubreôs* relevant to Ariston's case reminds us that, strictly speaking, a *dikê aikeias* would not cover issues of immorality on its own. As we have seen, it was normal forensic practice to expand the case to include character and context, and it was likewise relevant to discuss what other legal options were available (cf. Dem. 37 above). The only restraints, as far as courtroom procedure was concerned, were the threat of *thorubos* and a possible rebuttal by his opponent that he should have brought a *graphê hubreôs*. In terms of risk and reward, Demosthenes no doubt knew that the jury would find Conon's complaint about the wrong case being brought as a niggling argument if he could not refute Ariston's accusations of *hubris*.

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<sup>77</sup> As the case *Against Timarchus* also indicates; a thorough diachronic analysis is still needed, but the cases occurring mid to late 4<sup>th</sup> century appear to show greater concern with immorality than those from the 5<sup>th</sup> and first half of the 4<sup>th</sup>. This is one significant area in which the goal of comedy and oratory at the time overlap.

## *Epilogue*

In the Athenian popular courts, invective was not irrelevant. It was a form of character argumentation that offered the jury valid evidence for assessing the guilt of a litigant. Numerous complexities affected a speaker's use of invective: the type of case, the social status of the speaker, *sunêgoria*, and the speaker's fame within the community. By looking at these factors, this dissertation has attempted to reveal those complexities, not simplify them. Skilled politicians like Demosthenes and Aeschines were able to push the limits of humorous attacks. Lesser-known individuals steered clear of invective in order to create a more humble persona. This reveals that the use of invective reflects on both the person speaking and the person attacked. But beyond the circumstances of individual use, the prevalence of invective against immoral behavior at the end of the 4<sup>th</sup>-century, both in comedy and oratory, can be linked to broader democratic concerns.

Freedom of speech was a founding principle of the Athenian democratic process.<sup>1</sup> Connecting invective (in the form of *parrêsia*) with democracy (Dem. 22.31-32) was therefore not a mere rhetorical trick; speakers expected the jury to find these types of argument persuasive. Nor was it only in the courts where the *dêmos* was exposed to democratic invective. Throughout the fourth century Athenian comedy continued to stage and scrutinize the behaviors of its own leaders. The license that comic poets had for lampooning officials—and the audience's laughter at them—was a key part of the democratic process. Invective used against offenders in court can be interpreted similarly.

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<sup>1</sup> See Raaflaub 2004.

Even if one man used the courts to attack another as a part of a zero-sum game, democratic values and normative behavior were reified in the process. The Athenian jury saw their role as a way to serve democracy; they were concerned with upholding the laws and decrees of the people. From their perspective, invective was more than entertainment, it was an obvious reminder of the system they were trying to sustain.

Perhaps, then, it is not a coincidence that both comedy and oratory drastically changed nature with the rise of Macedon and the end of democracy in 322. Comedy lost its overt interest in personal and political invective. What happens to oratory is more complicated. Although we know that the law courts continued to exist under Demetrius of Phalerum, the political context in which they existed had changed.<sup>2</sup> Invective may have continued to play a role in the courts, but we have no evidence for what it looked like or how it functioned. What happened after 322 requires a study of its own, but it does not discount the parallel development of invective in comedy and oratory in the fourth century. It will be sufficient to have shown the importance of comedy for a study of invective in 4<sup>th</sup>-century oratory, since invective reifies and reflects democratic *parrêsia* in its appeal to members of the *dêmos*, both as audience and as jury.

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<sup>2</sup> Cf. Gagarin 1999 and Boegehold 1995, 41-42.



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