

ATHENIAN IMPIETY TRIALS IN THE LATE FOURTH CENTURY B.C.

Dotted throughout the records of the turbulent last decades of fourth-century Athens are reports—often frustratingly vague—of prosecutions, many of intellectuals on the charge of ἀσέβεια. Most belong to the period of Macedonian domination: Theophrastus was one targeted at this time, and we hear also of actions against Demetrius of Phalerum, Theodorus the atheist, and Stilpo of Megara. Even before the Athenian capitulation to Macedon, in the immediate aftermath of the death of Alexander, prosecutions were launched against Demades and Aristotle. These two early (and relatively well documented) prosecutions are generally accepted to have had a political purpose, being attacks aimed at Macedonian sympathizers by the more staunchly pro-democratic Athenian elements; the later trials, however, are poorly attested in the sources and have received less scholarly attention, particularly for their political aspects. The first part of this paper will consist of a survey of the scant available evidence for the subsequent trials, and it will be suggested that those of Demetrius and Theophrastus and, more tentatively, of Theodorus, may also have had political undercurrents. Emerging repeatedly in many of these trials is a shadowy group of prosecutors, among whom may be identified the staunch democrats, Hagnonides and Demochares. It is reasonable to interpret their legal activities as attempts to undermine Demetrius of Phalerum and the pro-Macedonians through attacks upon Demetrius' associates. Moreover, some resemblance to the accusations against Aristotle and Demades may be detected in the charges levelled against Demetrius, and possibly Theophrastus. Indeed, these later trials hint at a consistent policy being employed against the Macedonian sympathizers, a policy which played upon the philosophic affiliations of those who rose to political influence under the aegis of Macedonia.

In the second part of the paper, the origins of some of our information about Athenian prosecutions of pro-Macedonians will be investigated, and Demetrius of Phalerum will be tentatively proposed as a source. By comparing Demetrius' known treatment of Athenian/philosophical relations in his writings, it will be argued that Demetrius perhaps cast the trials of Phocion and Theodorus as contemporary examples in a tradition of Athenian hostility to intellectuals. In this paper, then, we will attempt to form a composite picture of these late fourth-century proceedings, looking first at the formulation of charges by the prosecutors and subsequently at the way in which two of these cases were (possibly) construed by one of the defendants, Demetrius himself.

SOME HISTORICAL CONSIDERATIONS

The trial of Theophrastus

The political profiles of Theophrastus' accusers permit a political interpretation of the trial. Hagnonides is named as Theophrastus' prosecutor,¹ and, on the basis of an anecdote in Aelian (detailed below), both Derenne and Bauman have attributed to

¹ Diog. Laert. 5.37.

Demochares also a role in Theophrastus' trial.² Hagnonides was a key player in the overthrow of Phocion and in the following democratic restoration: it is he who features repeatedly in the assemblies which deposed the oligarchic generals, condemned Phocion, and negotiated with Polyperchon.³ Demochares was instrumental in moves against the ousted Phalerean regime in 307 B.C., and continued to champion the democracy under Poliorcetes.⁴

Hagnonides provides a chronological pointer for the timing of Theophrastus' trial, although not a precise tool. Plutarch claims that Hagnonides was executed for his part in the condemnation of Phocion, and, if Plutarch's understanding of the interval between Phocion's death and the condemnation of Hagnonides is correct (*χρόνου βραχέος διαγενομένου*), Hagnonides' death could most easily be located around the beginning of the Phalerean regime.⁵ (Whether the condemnation of the most prominent anti-Macedonian politicians who had emerged in the shortlived interim democracy was one of the Athenian manoeuvres during overtures to Cassander in mid 317 B.C., or whether these condemnations occurred at some point after the installation of Demetrius, cannot be known.) Theophrastus' uncharacteristic failure of speech in his trial perhaps itself provides a clue to the timing of his trial, suggesting as it does that Theophrastus was too afraid to mount a defence before the Areopagites.⁶ A jury hostile to Theophrastus may have been more likely during the period of the democratic resurgence. Unfortunately, we cannot ascertain whether Hagnonides' failure to convict Theophrastus, and his own ensuing narrow escape from danger, were due entirely to Theophrastus' popularity as Diogenes asserts,⁷ or whether there was some strengthening of the conservatives' position. If a shift in the balance of political power underlies Theophrastus' easy acquittal, the period at the end of the democratic interlude would be consonant with this scenario: Diodorus testifies to a

² E. Derenne, *Les Procès d'Impiété* (Liège, 1930), 200; R. A. Bauman, *Political Trials in Ancient Greece* (London, 1990), 122.

³ Plut. *Phoc.* 33–8. Hagnonides maintained a prominent role in the short-lived democracy. He re-enacted a decree honouring Euphron of Sicyon, a decree which celebrated Athens' part in the Lamian War (*IG ii² 448 ll. 36ff.*).

⁴ Demochares wrote a defence speech for Sophocles, the proponent of the law which forbade the establishment of philosophical schools without the authorization of the assembly and Boule, when the latter was charged with *γραφή παρανόμων*. For Demochares' further pro-democratic activity, including his measures in the 'four years war', see Plut. *Vit. x Orat.* 851f, *Demetr.* 24.4–5.

⁵ Plut. *Phoc.* 38.1. A *terminus post quem* for Hagnonides' death is provided by *IG ii² 448* (above, n. 3), which bears the date of Maimakterion, in the archonship of Archippus (c. December 318).

⁶ Another reconstruction of the import of Theophrastus' silence is perhaps tenable. The notion that philosophers were poor forensic speakers recurs in ancient testimonies: thus, for example, Callicles' warning to Socrates in the *Gorgias* (486b–c) that devotion to philosophy leaves a man *μήτε αὐτὸν αὐτῷ δυνάμενον βοηθεῖν μηδ' ἐκσῶσαι ἐκ τῶν μεγίστων κινδύνων μήτε ἑαυτὸν μηδένα, ὑπὸ δὲ τῶν ἐχθρῶν περισυλᾶσθαι πᾶσαν τὴν οὐσίαν, ἀτεχνῶς δὲ ἄτιμον ζῆν τῇ πόλει* (surely written with the actual fate of Socrates in mind). It is possible that Demochares, who elsewhere highlights the ineptitude of philosophers in other fields (see Athen. 187d, 215c), sought here to associate Theophrastus' political ineptitude with his philosophical expertise. The primary meaning of Demochares' taunt, however, does seem to be that Theophrastus was afraid of his fellow Athenians.

⁷ Diog. Laert. 5.37. This is not the only assertion of Theophrastus' overwhelming popularity: at 5.38, Diogenes attributes the overturning of Sophocles' law of 307 B.C. to the Athenians' desire for Theophrastus' return from exile. It is worth noting, however, that both examples of Theophrastus' popularity come from the same highly sympathetic source, and are not attested elsewhere. Caution ought thus be exercised before accepting Diogenes' version as the whole story. We might notice also that, whatever Theophrastus' following, he could not withstand the pressure of the pro-democrats at the zenith of their powers in the immediate aftermath of Poliorcetes' liberation of Athens: as Diogenes tells us (5.38) he had to leave Athens in spite of his popularity.

turbulent series of assemblies in Athens in which the military supremacy of Cassander over his rival and sponsor of Hagnonides' coterie, Polyperchon, was recognized, and the balance of power swung back to those remaining of Phocion's associates.⁸ Such a time would provide a suitable backdrop for the few known details of Theophrastus' trial. Moreover, this speculative time-frame coincides with the prosecutions of Phocion and his adherents,⁹ and, it will be argued below, the attempted prosecution of Demetrius. In this scheme, Theophrastus' trial forms yet another element in a pattern of prosecutions launched by the pro-democrats against the Macedonian sympathizers in the interval between Phocion and Demetrius.¹⁰

The nature of Theophrastus' ἀσέβεια is not specified by our sources.¹¹ The only hint we may have of the pretext—and it is only a hint—comes from Demochares' jibe against Theophrastus recorded in Aelian, *V.H.* 8.12. Theophrastus apparently fell speechless before the Areopagus, and later attributed this failure to being overwhelmed by the majesty of that body, whereupon Demochares retorted ὦ Θεόφραστε, Ἀθηναῖοι ἦσαν ἅλλ' οὐχ οἱ δώδεκα Θεοὶ οἱ δικάζοντες. Demochares' response plays upon a questioning of these Olympian gods, and this jibe might have had even more sting had Theophrastus indeed been on trial for some alleged disavowal of the traditional deities.¹²

If some alleged undermining of the twelve gods was the basis of the charge against Theophrastus, we may be permitted to draw some parallel with the experience of Demades, who was successfully prosecuted for his promotion of Alexander's deification. At *V.H.* 5.12, Aelian provides a very specific version of the charge against Demades: he wished to make Alexander the thirteenth god.¹³ The notion of some interference with 'the twelve gods', who formed a significant subset of the gods officially recognized at Athens,¹⁴ thus features in the accusations against both

⁸ Diod. 18.74.

⁹ Plut. *Phoc.* 35.2 lists many of those condemned with Phocion at this time.

¹⁰ This dating of Theophrastus' trial has an important corollary in the judicial competence of the Areopagus. The Areopagus traditionally exercised supervision of some aspects of religious observance, such as tending the sacred olive trees, but the extent of its influence and its competence to pass sentences as well as conduct investigations has been much debated; the evidence for the Areopagus' activities tends to be contradictory and anecdotal. See R. W. Wallace, *The Areopagus Council to 307 B.C.* (Baltimore, 1989), especially 106–12 for religious matters. In all the trials under discussion in this paper, however, the Areopagus is named as the investigating body: Aelian's anecdote based on the case of Theophrastus (*V.H.* 8.12) has Theophrastus failing to mount a defence before that body, and in the instance of Stilpo the Areopagus is explicitly claimed to have passed judgement and determined the sentence (Diog. Laert. 2.116). Wallace may be correct (204–5) that the evidence is insufficient to assert confidently a transfer of all impiety cases to the Areopagus. It is nonetheless attested that, for whatever reason, the trials dealt with in this paper occurred under the aegis of the Areopagus. This has prompted some, among them Derenne (*Les Procès*, 201) and Bauman (*Political Trials*, 125), to attribute to Demetrius of Phalerum any transfer of competence to the Areopagus. On the basis of the dating advanced here, however, any such transfer must pre-date Demetrius, and belongs perhaps to Phocion's government.

¹¹ Peter Green, *Alexander To Actium* (London, 1990), 68, claims that the grounds for prosecution lay in Theophrastus' argument for the sovereignty of Tyche. Although Theophrastus was criticized for this notion (Cic. *Tusc. Disp.* 5.24–5), this is nowhere stated to be the charge.

¹² Bauman (*Political Trials*, 122) comes to a similar conclusion.

¹³ For Demades, see also Plut. *Phoc.* 26, Diod. 18.18, *Suda* s.v. *Demades*, Athen. 251b.

¹⁴ Little is known of the identity of the twelve in this period. For their relationship to the official Athenian gods, and the suggestion that the twelve—at least originally—presided over Athens' external relations, see the bibliography accumulated by K. M. T. Atkinson, 'Demosthenes, Alexander and *Asebeia*', *Athenaeum* 51 (1973), 310–35, nn.14, 42, 71. The altar of the twelve in the Agora was, in a sense, the city centre, as distances from Athens were measured from the altar (Herod. 2.7).

Demades and Theophrastus. We may wonder whether this recurrence of the twelve gods is entirely coincidental, or whether those prosecuting Theophrastus formulated their charge in such a way as to evoke the memory of Demades' outrageous advocacy of Alexander and his resulting condemnation. In this context, it may be recalled that a familial connection associated Demochares with Demades' case. Demochares was Demosthenes' nephew,¹⁵ and although the actual prosecutors of Demades are unnamed, Demosthenes was (at least initially) an outspoken opponent of Demades on this deification issue.¹⁶ Demochares' experience of the 323 B.C. case may have suggested to him a line of prosecution against Theophrastus. As a final consideration, it may be noted that, when Demosthenes was arraigned for his involvement with Harpalus, the problem of Demosthenes' position on Alexander's deification was touched upon in the speech delivered by his accuser; that speech was composed by Dinarchus, the student of Theophrastus and Demetrius of Phalerum.¹⁷

Aelian's anecdote about the exchange between Theophrastus and Demochares, if it does shed a faint light upon the nature of the accusation against Theophrastus, allows a glimpse of the complex web of accusation and counter-accusation exchanged between the pro-Macedonians and democratic supporters. The pattern may be summarized thus. In 324/3 B.C., we find Demades prosecuted and condemned for his proposal to alter 'the twelve gods', and we know that Demosthenes, if not an actual prosecutor, numbered among his opponents; shortly after Demades' fall we find Demosthenes himself before the courts, and although the matter at issue was Demosthenes' connection with Harpalus, Dinarchus saw fit to remind the court of Demosthenes' position on Alexander's deification. During the brief democratic ascendancy in 318/17 B.C., we find those who inherited Demosthenes' mantle, Hagnonides and Demochares, prosecuting Dinarchus' associate, Theophrastus, on a charge which may have borne some similarity to the charge successfully employed against Demades.

The accusation against Demetrius of Phalerum

Although other sources record the political charges brought against Demetrius of Phalerum, only Carystius of Pergamum makes reference to an abortive attempt to prosecute Demetrius on another, not overtly political, pretext.¹⁸ According to Carystius, Demetrius went to live with Nicanor αἰτίαν ἔχων ὡς τὰ ἐπιφάνεια τοῦ ἀδελφοῦ θύων. Demetrius' brother, Himeraeus, had espoused an anti-Macedonian policy and, as a result, he numbered among those orators whose death Antipater demanded in his 322 B.C. settlement of Athens.¹⁹ Demetrius, as one of the Athenian envoys who had acceded to Antipater's call for these death sentences, was involved in the death of his own brother.²⁰ An examination of the accusation against Demetrius

¹⁵ Demochares' mother was Demosthenes' sister: Plut. *Vit. x Orat.* 847c, Cic. *Brutus* 286, *de orat.* 2.95. The complex interrelationship of the families of Demochares and Demosthenes is detailed by J. K. Davies, *Athenian Propertied Families* (Oxford, 1971), no. 3716 A.

¹⁶ On Demosthenes' attacks upon Demades on this point, see Atkinson, 'Demosthenes, Alexander and *Asebeia*', 312; on Demosthenes' comments on the deification in general, see also Hypereides, *Adv. Dem.* col. 31–2.

¹⁷ Din. 1.94. On Dinarchus' relationship with Theophrastus and Demetrius, Dion. Hal. *De Din.* 2.

¹⁸ Athen. 542e.

¹⁹ Plut. *Dem.* 28; Arrian, *Succ.* F 9.13; Lucian, *Dem. Enc.* 31, *Suda* s.v. *Antipater*, cf. Plut. *Phoc.* 27.3. Himeraeus, along with Demosthenes and Hyperides, fell victim to Antipater's henchman Archias.

²⁰ Demetrius' participation in the embassies is attested in citations to his own works in

may help to consolidate trends which have emerged in the trial of Theophrastus.

The accusation against Demetrius surely belongs to the period of the overthrow, in spring 318, of Phocion's regime, and falls therefore a little before the prosecution of Theophrastus. The Nicanor with whom Demetrius sought safety is surely to be identified with the garrison commander in Munychia, and Nicanor's stay in Athens may be clearly delineated. He was appointed to this post by Cassander immediately after Antipater's death in autumn 319,²¹ and left Athens in the campaigning season of 318 B.C. to take command of Cassander's fleet in the Bosporus.²² Demetrius' interlude with Nicanor may be located within this time-frame. In Plutarch's narrative, once the arrival of Alexander's army in Attica foreshadowed the doom of Phocion's regime, the pro-democratic politicians instituted measures against Phocion's government, with Hagnonides denouncing Phocion as a traitor.²³ Plutarch further reveals that these moves by the democrats caused panic among some of Phocion's associates: Callimedon and Charicles, for example, fled Athens. It is plausible that Demetrius' move to join Nicanor occurred at about this time. This is corroborated to some extent by the notice later in Plutarch that, in the assembly which voted the death of Phocion and several others, Demetrius was condemned to death *in absentia*.²⁴ Demetrius was therefore not accessible in May 318 B.C., and it is very likely that he owed his safety to Nicanor and the Munychia garrison.

If this reconstruction of events is correct, the accusation against Demetrius belongs to the pattern of manoeuvres by the democrats against the partisans of Phocion, and the charge has an unambiguous political motivation. Although the instigator of the accusation cannot be identified, it is plausible that responsibility lies with those who emerged as leaders of the democratic restitution, a circle whose most notorious figure is Hagnonides. (After all, the motion which eventually secured the condemnation of Demetrius and others on the grounds of *καταλύσις τοῦ δήμου* was instigated by Hagnonides.²⁵) The pretext of the accusation is particularly shrewd: not only would it (potentially) undermine an important figure of the Macedonian-backed cabal, but the charge recalled to public memory the least humane precondition of that government, namely the execution of the leading opposition orators—a useful ploy for fuelling anti-Macedonian sentiment.

Another facet of the accusation, evoking not only Demetrius' political acts but also his philosophic associations, may be isolated. The precise formulation of the Philodemus' rhetorical writings: see Sudhaus 1, 350; also *Herculanens. Pap. ined.* 453 fr. 4.9 = Wehrli fr. 159.

²¹ Cassander had established Nicanor in Munychia even before news of Antipater's death had filtered through to Athens, according to Plut. *Phoc.* 31.

²² For the disposition of Nicanor after the fall of Phocion's regime, see Diod. 18.68, 72. Nicanor did return briefly to Athens, but only for long enough to be assassinated by his erstwhile commander (Diod. 18.75).

²³ Plut. *Phoc.* 33.3, Nepos, *Phoc.* 3.4. First among the measures against Phocion's regime was the deposition of generals (Plut. *Phoc.* 33.2). There is a possibility that Demetrius of Phalerum held the generalship under this regime, depending on the dating of the generalships listed in *IG ii*² 2917. If Demetrius had indeed been a general, the deposition of these officials would have exposed him to the danger of prosecution, as the experience of Phocion (who was charged immediately after the depositions) revealed.

²⁴ Plut. *Phoc.* 35.2.

²⁵ Plut. *Phoc.* 34.5 isolates Hagnonides. The charge of overthrowing the democracy, and establishing oligarchy, levelled against Phocion, Demetrius, and their colleagues is given by Diod. 18.66.5, cf. 18.66.6 and Plut. *Phoc.* 34.4; on this evaluation of Phocion's regime, see also Dion. Hal. *De Din.* 9, Plut. *Vit. x Orat.* 851c, Diod. 18.55.2 and, significantly, the label of oligarchy employed in a decree promulgated by Hagnonides himself, *IG ii*² 448 l. 161.

charge—τὰ ἐπιφάνεια τοῦ ἀδελφοῦ θύων—is most unusual, and prompts questions as to the meaning of the allegation. Carystius here furnishes the only attested use of the phrase τὰ ἐπιφάνεια, but instances of ἡ ἐπιφάνεια, a ‘divine manifestation’, are common and we may assume that Carystius intends something similar.²⁶ The scenario is strange: the accuser would have us believe that Demetrius, after his associates secured the death of his brother, honoured that brother with some secret rites. (If the allegation was based on anything, perhaps Demetrius had claimed to have been visited in his sleep by Himeraeus’ ghost and had offered some purificatory rite?) But, if the crux of the charge was that a mortal was receiving honours due only to divinities, an echo of an earlier accusation may provide some insight. Claims of this kind of offence had been employed against two earlier proponents of pro-Macedonian policy, Demades and Aristotle. Demades’ 324/3 B.C. conviction for proposing to enrol Alexander among the gods has already been discussed, and one of the charges levelled against Aristotle the following year was that he was lavishing divine honours upon the deceased tyrant of Atarneus, Hermias.²⁷ Did the instigator of the the accusation against Demetrius seek to align Demetrius in the alleged sacrilege of his political and philosophical associates, with their introduction of new gods in both the public and private sphere?

The possible source tradition for the information in Athenaeus/Carystius may advance attempts at interpretation. To whom did Carystius of Pergamum, writing in the late third century B.C., owe his information? Positive identification is, of course, unattainable, but a tentative identification of Demochares may be made. In his investigation of the anti-philosophical tract of Herodicus the Crateteian, a tract which borrows indirectly from Demochares, Düring isolates Carystius as an intermediary between Herodicus and Demochares. Carystius, it seems, had access to Demochares’ anti-philosophical speech of 306 B.C., the speech in defence of the law of Sophocles.²⁸

It may be objected that Athenaeus cites Demochares directly, and that there is, in consequence, no need to posit an intermediary. Close scrutiny of Athenaeus’ use of Demochares suggests, however, that Athenaeus may not have known the original speech for Sophocles, even though he was familiar with Demochares’ historical work.²⁹ Besides Athenaeus’ reference to Demochares’ history, he makes four further mentions of Demochares’ works. Of these, two—at 187d and 215c—are paraphrases of the same saying attributed to Demochares, for which Athenaeus does not specify a context; given the nature of the saying—ὥσπερ ἐκ θύμβρας οὐδεὶς ἂν δύναιτο

²⁶ See LSJ s.v. ἐπιφάνεια ‘esp. of deities appearing to a worshipper’ with references; the charge then will be that Demetrius treated his brother as a god after his death.

²⁷ Bauman, *Political Trials*, 119–21 convincingly argues that the prosecution of Demades took the form of γραφή παρανόμων not ἀσέβεια, although the case had overtones of impiety (see above n. 13 for ancient testimonia, especially the account of Aelian). For Aristotle, see principally Athen. 696a–b, Diog. Laert. 5.5ff., with other slanders against Aristotle recorded by Aristocles in Eusebius, *Praep. Ev.* 15.2.8ff. Just as Aristotle’s accusers could misrepresent the nature of Aristotle’s composition for Hermias, which was in reality a hymn to ἀρετή, so perhaps did Demetrius’ accuser hope to miscast some propitiatory deed by Demetrius. On the matter of Aristotle’s accuser, Demophilus, see further pp. 125, 132).

²⁸ I. Düring, *Herodicus the Crateteian* (New York, 1987), 151. Düring’s identification of Demochares behind Carystius must remain speculative, but the proposition is attractive. At Athen. 610e, Carystius is cited for information concerning Lysimachus’ expulsion of philosophers from his kingdom; Athenaeus then moves directly to discussion of the expulsion of Athenian philosophers and refers to Demochares’ speech. The proximity in subject matter and chronology of the information directly attributed to Carystius and the following information on Athens and Demochares argues for the attribution of the later material also to Carystius.

²⁹ Demochares’ history (a work known also to Polybius: see 12.13.9) is quoted at Athen. 252–3.

κατασκευάσαι λόγῃην, οὐδ' ἐκ Σωκράτους στρατιώτην ἄμεμπτον—it may be plausibly assigned to Demochares' speech.³⁰ Yet Athenaeus' acquaintance with this *bon mot* need not guarantee his familiarity with the original speech in its entirety: memorable epigrams may survive quite independently of their original contexts. In the remaining two instances alone does Athenaeus refer directly to Demochares' speech. At 610e, Athenaeus notes the occasion for which Demochares composed the speech, although he does not cite any material from the speech, and only at 508f–509b we find Athenaeus both giving material from Demochares' speech and identifying the source work. It may not be purely co-incidental that at both 610e and 508b, immediately before referring to Demochares' speech, Athenaeus cites material from Carystius. Athenaeus may have gained his material from Demochares' speech through quotations from that speech preserved by Carystius.

Whilst little survives of Demochares' speech, the material concerning the accusation against Demetrius accords well with what we do know of the tenor of that diatribe. Railing against the philosophers, Demochares claimed that philosophers made their money from impiety (*χρημάτων ἐξ ἀσεβείας καὶ παρὰ φύσιν κυριεύσαντες διὰ γοητείαν*).³¹ One allegation repeatedly made against Demetrius was that he had profited handsomely during his tenure of government by misusing state funds.³² By mentioning the allegation about Demetrius' sacrifices to his brother, a brother whose death eased Demetrius' accession to power and subsequently to riches, Demochares would thereby have assigned Demetrius a place—along with Chaeron of Pellene—in the catalogue of philosopher/statesmen who had gained their wealth illegitimately and corrupted the state. Demochares would have done well for other reasons to revive memories of this accusation against Demetrius in 306 B.C., recalling as it does such unsavoury information from over a decade earlier about Demetrius as his complicity in the death of his own brother and his debt to that symbol of Macedonian oppression, the garrison under Nicanor. Further, details of Demochares' early career are consistent with an interest in the allegation against Demetrius. Demochares had spoken out in 322 against the surrender of the Attic orators, in whose number was not only Himeraeus but also Demochares' uncle, Demosthenes.³³

If Demochares is indeed the informant of Carystius, some continuity may be perceived in the hostility towards Demetrius: an allegation formulated by the extreme pro-democrats aimed at destroying Demetrius' political career in 318 B.C. is recorded by the heir to that democratic movement, Demochares, for use against the Phalerean after the collapse of his own regime in 307 B.C.

The trial of Theodorus

Theodorus, the atheistic philosopher of Cyrene, appears in Athens during the Phalerean regime. It is thought that Theodorus was among those aristocrats exiled from Cyrene in the upheavals of the late fourth century, as one tradition of anecdotes surrounding Theodorus mentions his expulsion from his homeland.³⁴ The silence of

³⁰ Düring, *Herodicus*, 41 assigns the saying to the speech for Sophocles.

³¹ Athen. 509a. This material has been identified as a verbatim quote from Demochares' speech: see Düring, *Herodicus*, 84ff.

³² For example, see Duris and Carystius in Athen. 542c–f.

³³ Plut. *Vit. x Orat.* 847d.

³⁴ In Plut. *de Exilio* 606b, reference is made to Theodorus' departure from Cyrene. Diog. Laert. 2.102 refers to the expulsion from Athens only. Philo, however, whose record of the Theodorus/Lysimachus meeting is the most complete version, shows that Plutarch and Diogenes are not necessarily at odds: he has Lysimachus challenge Theodorus about his exile from Athens and from Cyrene. In this aspect as in others (see below), Plutarch and Diogenes compress the events.

the sources precludes fixing the exact time of his departure from Cyrene: the generally favoured opinion places his exile in the uprising of the late 320s which was settled by Ptolemy's annexation of Cyrene, but the acceptance of this date is mere convention and Winiarczyk's alternative, the short-lived Cyrenian coup of 313 B.C.,³⁵ cannot be ruled out.³⁶ At any rate, Theodorus spent some time in Athens, where at a later date he was prosecuted, a prosecution in which Demetrius of Phalerum allegedly intervened. He emerges next acting as an envoy to Lysimachus from Ptolemy Soter. His encounter with Lysimachus provides the background for most of the anecdotes associated with Theodorus,³⁷ and it is in the context of this famous meeting that two sources—Diogenes Laertius (2.101) and Philo (*Quod Omnis Probus Liber Sit* 127ff.)—record the Athenian prosecution. Any analysis of the accusation against Theodorus must remain of a speculative nature; the little information we have on the fate of Theodorus is contradictory and permits a number of reconstructions, so that it cannot even be established whether Theodorus was actually brought to trial.³⁸ Despite this paucity of information, incidental details associated with Theodorus may allow us to view the accusation against Theodorus as

³⁵ Diod. 19.79.1–3. The coup occurred in the summer. The rebels besieged the citadel and killed Ptolemy's envoys, but were unable to oust the Ptolemaic garrison before being overcome by land and naval forces sent by Ptolemy. Ptolemy imposed his settlement upon the city before turning his attention to Cyprus later in the 313 campaign season. It is thus apparent that the Cyrenian affair was of brief duration.

³⁶ M. Winiarczyk, "Theodorus 'Ο ΑΘΕΟΣ", *Philologus* 125 (1981), 64–94. Winiarczyk (66) prefers 313 to 322 because of Theodorus' youth in 322, based on a conjectured birth date of c. 340 B.C. This may well be so, although if Theodorus was as abruptly outspoken in his early years as he was in adulthood, the Cyrenians might well have expelled him in 322!

³⁷ In one tradition of anecdotes, Lysimachus and his minister taunt Theodorus about his exile(s); thus Philo and Diogenes Laertius. Other sources—Philodemus, *On Death* col. xxxii.23; Stobaeus, vol. iii, p. 316f. (ed. Hense); Cic. *Tusc. Disp.* 1.102, 5.117; Val. Max. 6.2 ext. 3—have Lysimachus, angered by Theodorus, threatening Theodorus with death and showing him the mutilated Telesphorus. Plutarch (*de Exilio* 606b, *an Vitiositas* 499d) combines these.

³⁸ Sources diverge on the exact outcome of the prosecution of Theodorus. According to Athenaeus 611a, Theodorus was put to death (a version which may be dismissed, since Theodorus survived into the third century—see below, n. 39); Philo indicates that Theodorus was found guilty of the charge and exiled from Athens; Diogenes Laertius, by contrast, implies at 2.101 that the intervention of Demetrius of Phalerum prevented Theodorus from being brought before the Areopagus at all (καὶ μέντοι παρ' ὀλίγον ἐκινδύνευσεν εἰς Ἄρειον ἀχθῆναι πάγον, εἰ μὴ Δημήτριος ὁ Φαληρεὺς αὐτὸν ἐρρύσατο), but goes on to cite Amphicrates to the effect that Theodorus was condemned to drink hemlock, and suggests in the following section (2.102) that he was, in fact, exiled. These contradictions between accounts, and, in the case of Diogenes, within an account, have frustrated attempts by students of the Phalerean regime to isolate Theodorus' fate. Two reconstructions, differing on the acceptance of Diogenes' view of Demetrius' role in the affair, have been offered.

Winiarczyk ('Theodorus', 67–8), who provides a convenient summary of prior scholarship on this question, favours the argument that Demetrius' protection prevented Theodorus being brought before the Areopagus at all (thus following Diogenes' initial statement), and that Theodorus 'voluntarily' left Athens to diffuse tensions rather than be officially sentenced to exile. This solution is not without its problems, however, ignoring as it does the explicit claims in Diogenes, Philo, and Athenaeus that some sentence was passed on Theodorus; indeed, Winiarczyk largely confines his discussion to the testimony of Diogenes, omitting reference to Philo. He adopts Wehrli's suggestion that the records of Theodorus' exile are transferred notices properly applying to Stilpo, another philosopher prosecuted under Demetrius, assuming that the fact of one known exile under Demetrius necessarily precludes the possibility that similar sentences were passed on others. Winiarczyk discounts Athen. 611a, and Amphicrates, upon whom Athenaeus is surely based (Athenaeus uses Amphicrates elsewhere), because Amphicrates incorrectly transmits information about the death of another atheist, Diagoras of Melos (M. Winiarczyk, 'Ad Athen. *Deipnosoph.* xiii p.611a–b', *Philologus* 118 (1974), 164–6). Certainly,

in some way related to the cases detailed above, being part of a coherent and essentially political campaign.

To begin, it must be acknowledged that Theodorus' prosecution does not belong to the spate of trials identified during the democratic interlude of 318 B.C.: Demetrius of Phalerum's intervention serves to locate the incident at some point during his regime, but a more precise date for Theodorus' trial is elusive. No trial source fixes a chronological context, and nothing of Theodorus' subsequent activity affords any help.³⁹ One vital clue may be preserved by Eusebius through Jerome, who records *Theodorus atheus agnoscitur philosophus, qui impius vocabatur*. It is plausible that Eusebius' notice is to be associated with the most significant event of Theodorus' Athenian sojourn, his trial.⁴⁰ Yet even this information in Eusebius' chronicle is problematic: the manuscripts are at variance, placing this record in Ol. 117,4 (309/8) or within Ol. 118 (308–5).⁴¹ What is clear, however, is that Theodorus' trial probably

Amphicrates' version cannot stand as it is, but we may wonder if Amphicrates is guilty of as great a misrepresentation as Winiarczyk claims.

Perhaps a more economical reconstruction is that of Derenne (*Les Procès*, 212), who suggests that Theodorus did go to trial, was convicted and sentenced to death, and that Demetrius of Phalerum's intervention consisted of commuting the death sentence to a penalty of exile. In this reading, Amphicrates/Athenaeus errs merely in rendering a sentence of death as an actual execution, and Diogenes misplaces the moment of Demetrius of Phalerum's intervention with the Areopagus.

If we are to retain both Diogenes' understanding of Demetrius' intervention (and we have no other tradition on Demetrius' involvement with which to balance Diogenes' statement), and the contention of our other sources that sentence was passed by the Areopagus, we may perhaps posit a retrospective sentence passed after Theodorus escaped Athens. This of course leaves unexplained the problem of the the source conflict over the nature of the sentence: was it death, or exile? Given the current state of our evidence, Theodorus' true fate must remain a mystery.

Had we more complete narratives on the Phalerean regime, we might be able to suppose that the silence about Demetrius' role from opponents like Demochares betokened a less intrusive intervention by Demetrius, such as aiding Theodorus' escape, rather than an overturning of the Areopagus' sentence. Demetrius Poliorcetes' intervention in the Athenian judicial process to overturn a penalty caused a storm of protest: Plut. *Demetr.* 24. Our sources for the Phalerean are, however, too fragmentary to permit such an argument *ex silentio*.

³⁹ The embassy to Lysimachus must fall after the end of the Phalerean regime and no indication is given of the time lapse between Theodorus' expulsion from Athens and the embassy. In accounts of the embassy, Lysimachus is referred to as *king*, a title probably not assumed until sometime after 306 B.C.; thus Plut. *de Exilio* 606b, Diog. Laert. 2.102, Cic. *Tusc. Disp.* 1.102, Val. Max. 6.2 *ext.* 3 (it might be noted that these sources represent different traditions [see n. 37 above], so the appellation of king may be correct). On Lysimachus' assumption of the kingship, H. S. Lund, *Lysimachus: a Study in Hellenistic Kingship* (London, 1992), 11–12. A date later than c. 299 B.C. would be consistent with circumstantial details of the embassy, which concern the offence to, and subsequent mutilation by, Lysimachus of one Telesphorus. (Lysimachus' mutilation of Telesphorus is recorded also by Seneca, *De Ira* 3.17.2–4, who labels Telesphorus *Rhodium amicum suum*. Athenaeus describes Telesphorus as being *ἓνα τῶν ὑπάρχων* of Lysimachus. It is thus clear that this Telesphorus is not to be identified with the famous Telesphorus, general of Antigonos [this is also the conclusion of R. A. Billows, *Antigonos the One-Eyed and the Creation of the Hellenistic State* (New York, 1990), 435–6], and is thus of no use for dating purposes.) In Plut. *de Exilio* 606b, Lysimachus threatens Theodorus with the mutilated Telesphorus, so the torture of Telesphorus must fall only shortly before Theodorus' embassy. According to Athenaeus 611a, Telesphorus provoked Lysimachus' ire by making a jest at the expense of Lysimachus' wife, Arsinoe. The marriage of Lysimachus and Arsinoe has been posited at some time after 299 B.C.

⁴⁰ Winiarczyk, 'Theodorus', 69.

⁴¹ Winiarczyk, 'Theodorus', 69 n. 22 admits these manuscript dates only (those coinciding with the Phalerean regime) for consideration, assuming that Eusebius' reference to Theodorus is indeed a reference to his trial. By contrast, *Patrologia Graeca* vol. 19, 494 locates Theodorus in Ol. 119, 2.

belongs to the second half of the Phalerean regime, and therefore falls some years after the other cases treated in this paper.

Having noted this difference, we may turn our attention to the motivation of the accusation. Philo lists the grounds for prosecution as ἀθεότητι καὶ διαφθορᾷ τῶν νέων. Ancient records of Theodorus' views, moral and religious, indicate that these charges may have been entirely credible to an Athenian audience. In the moral sphere, for example, Diogenes Laertius reports Theodorus' justifications of adultery, theft, and sacrilege: Theodorus argued that it might be acceptable κλέψειν τε καὶ μοιχεύσειν καὶ ἱεροσυλήσειν ἐν καιρῷ. μηδὲν γὰρ τούτων φύσει αἰσχρὸν εἶναι, τῆς ἐπ' αὐτοῖς δόξης αἰρομένης, ἣν σύγκειται ἕνεκα τῆς τῶν ἀφρόνων συνοχῆς.⁴² The potential for misrepresentation of Theodorus' application of the νόμος/φύσις argument—that actions were not of themselves (μηδὲν γὰρ τούτων φύσει αἰσχρὸν εἶναι) condemnable, but were to be judged with due consideration of circumstance (ἐν καιρῷ)—is demonstrated by Epiphanius, who represents Theodorus as exhorting men to cheat, plunder, and foreswear themselves while omitting Theodorus' vital qualification on καιρός.⁴³ Theodorus' religious ideas, from which he earned his title ὁ ἄθεος, may have given just grounds for the charge of impiety. He repudiated the gods of traditional Greek religion in a work Περὶ Θεῶν, and summaries of his views by Cicero and Plutarch give the impression that he in fact rejected any divine existence.⁴⁴

As a consequence, Bauman views the prosecution of Theodorus as a rare 'unequivocal case of "pure" asebeia'.⁴⁵ But was the prosecution motivated purely by religious considerations? Demetrius' involvement in his case hints at another dimension, and a tenuous thread of evidence may indeed lead to a political interpretation.⁴⁶ We must turn back to early 318 B.C., to the execution of Demetrius of Phalerum's political associate, Phocion. In *Phocion* 38.1, Plutarch informs us that Phocion's accusers were Hagnonides, Epicurus, and Demophilus. The attack by this 'faction' upon those associated with Demetrius and Phocion extends beyond Phocion's regime: as already witnessed, Demophilus had been involved in 323 with the attempted prosecution of Aristotle,⁴⁷ and Hagnonides in that of Theophrastus.⁴⁸ Plutarch also states that while Hagnonides was eventually convicted by the Athenian people and executed, Phocion's son, Phocus, exacted vengeance upon Demophilus and Epicurus.

Theodorus enters the picture through a remark associating him with Phocus. At the end of Plutarch's *Phocion*, Phocion's son is said to have been persuaded by the arguments of Theodorus to squander his father's fortune ransoming a prostitute: it is said that Phocus παιδίσκης ἐρῶντα παρὰ πορνοβοσκῷ τρεφομένης κατὰ τύχην Θεοδώρῳ τῷ ἀθέῳ παραγενέσθαι λόγον ἐν Λυκεῖῳ διαλεγομένῳ. The context of the report demands closer enquiry. In the section immediately preceding (38.1), Plutarch has presented us with an unquestionably pro-Phocion piece: the Athenian

⁴² Diog. Laert. 2.99.

⁴³ Epiph. *Advers. Haeres.* 3.2.9.24.

⁴⁴ On Theodorus' treatise, Diog. Laert. *Proem.* 16 and 2.97, Sext. Emp. *Adv. Math.* 9.55; on his views about divinity in general, see primarily Cic. *de Nat. Deor.* 1.2 (*Nullo[s] sc. deos] esse omnino Diagoras Melius et Theodorus Cyrenaicus putaverunt*), Plut. *de Com. Not.* 1075 and the discussion, with additional source citation, by Derenne, *Les Procès*, 208–10.

⁴⁵ Bauman, *Political Trials*, 125.

⁴⁶ Demetrius' involvement alone is not sufficient evidence to establish beyond doubt a political dimension. Demetrius showed favour (although not in a legal context) to the Cynic, Crates, with whom Demetrius' relationship was not unambiguously positive: Diog. Laert. 6.90, Athen. 422c, and on their relationship Plut. *de Adulatore et Amico* 69c.

⁴⁷ See above, n. 27.

⁴⁸ Diog. Laert. 5.37.

demos responsible for Phocion's death recognizes Phocion as ἐπιστάτην καὶ φύλακα σωφροσύνης καὶ δικαιοσύνης and honours his memory with statues and a public burial. From both the eulogistic tone of this section, and the treatment of Phocion's accusers—Hagnonides' death, it is stressed, was the work of the people, and Demophilus and Epicurus fled the city rather than face trial—it appears obvious that Plutarch derived this section from a pro-Phocion source. Similarly, the concluding sentence of the *Phocion*, in which Phocion's fate is explicitly compared to that of Socrates, represents a tradition sympathetic to Phocion.

Sandwiched in between these two passages is the report about Phocus and Theodorus. A change of source may be discerned, but Plutarch is vague about his informants (φασί). The juxtaposition of Phocus' act of *pietas* towards his father and his dissolute lifestyle in other respects is typical of Plutarch, and provides an ironic balance to Phocion's despair over Chabrias' dissolute son at the opening of the life,⁴⁹ but we may wonder if other factors influenced the selection of this anecdote. After all, Plutarch has already touched upon Phocus' moral inferiority at *Phocion* 20 and 30.1.⁵⁰ Did Plutarch's source for the Phocus/Theodorus episode link the two in any way with the prosecution and murders of Hagnonides, Epicurus, and Demophilus? In other words, was Theodorus in some way associated with Phocus and, by wider implication, with Demetrius of Phalerum, and is his prosecution to be seen as one episode in the power struggle being fought in the Athenian courts between the supporters of the Macedonian-backed cabal and the successors of Demosthenes? Admittedly, the link between Theodorus and Phocus is claimed as an informal one: Phocus heard Theodorus at the Lyceum κατὰ τύχην. But the link is recorded nonetheless, and it is interesting that the corrupting power attributed to Theodorus by his adversaries is recorded as taking its toll on the son of one of the most prominent Macedonian sympathizers.

One further—and once more tentative—consideration may be advanced. Plutarch specifies that Theodorus was speaking in the Lyceum. Throughout the fourth century, the Lyceum had been open to all speakers, but with the acquisition of land and property by Theophrastus (facilitated by Demetrius of Phalerum), the Peripatetic school gained for the first time a more coherent structure closely associated with the Lyceum.⁵¹ The relative sequence of the establishment of the Peripatos and Theodorus' lecture in Plutarch *Phocion* 38 cannot be fixed, but it may be suggested that, if the formalization of Theophrastus' school predates Theodorus' lecture, Theodorus' presence in the Lyceum may hint at some association of Theodorus and the coterie around Theophrastus and Demetrius of Phalerum. Had Theodorus fled Cyrene for Athens only in 313 rather than in 322 B.C., the precedence of Theophrastus' school is even more probable.

If this speculative reconstruction of the underlying forces behind Theodorus' accusation is correct, we may conclude that the campaign against those aligned with Phocion and the Phalerean being waged through the Athenian courts was not confined to the periods of democratic ascendancy in 318 and 307/6 B.C.; it continued even under the Phalerean regime itself, if in a less concerted and less effective form.

⁴⁹ Plut. *Phoc.* 7.2.

⁵⁰ These two contrasts between Phocus and Phocion possibly derive from a source other than that used at 38.2. In *Phocion* 20 and 30.1, the emphasis is on a saying of Phocion, of the sort collected by Plutarch in *Reg. et Imp. Apophth.* 187f–89b. Indeed, 30.1 bears some similarity to *Reg. et Imp. Apophth.* 188f.

⁵¹ I. Düring, *Aristotle in the Ancient Biographical Tradition* (Göteborg, 1957), 461.

The trial of the Megarian, Stilpo

Here at last may be a true 'unequivocal case of "pure" *asebeia*'; at any rate, the information about the prosecution is too scanty to allow any political understanding. Stilpo was brought before the Areopagus for his argument that the Athena of Phidias was not a god, since Zeus made Athena.⁵² He was sentenced to exile, despite his defence that Athena was indeed not a god, but a goddess.

The only chronological pointer for the trial of Stilpo is the presence of Theodorus in Athens at the time, for Diogenes Laertius preserves a witticism from Theodorus in response to Stilpo's defence: *πάθεν δὲ τοῦτ' ἥδει Στίλπων ἢ ἀναύρας αὐτῆς τὸν κῆπον ἐθεάσατο*. Stilpo's trial will thus precede that of Theodorus, but by how much we cannot know.⁵³

The political background: some conclusions

A coherent pattern has been emerging from many of the trials discussed here, particularly from those of Theophrastus and Demetrius, when viewed in the light of the earlier actions against Demades and Aristotle. A coterie of prosecutors, some of whom played pivotal roles in the more overtly political action which condemned Phocion and his adherents, forms a recurrent feature; chief among these prosecutors are Hagnonides, Demochares, and Demophilus. Just as they had done in the aftermath of Alexander's death, these men waged a judicial campaign against their political opponents during the brief period of democratic ascendancy in 318 B.C. Further, if the connection argued for between Demochares, Carystius, and the charge against Demetrius is valid, we may discern a renewal of this policy in the next era of democratic supremacy following the overthrow of the Phalerean.

The coherence extends beyond the prosecutors themselves to the charges they employed. Certainly, impiety was a useful label with which to attack men who had assumed no active part in political life, and who were not therefore prey to charges of a purely political nature; the fourth-century democrats may have learned such a lesson from the experience of Pericles, whose opponents had launched indirect attacks on his associates—often intellectuals, often for impiety.⁵⁴ Indeed, by accusing philosophers of impiety, the democrats were drawing upon well-established Athenian suspicions of such people. One central facet of the argument against Socrates was that he sought to institute new gods and undermine the traditional deities of Athens,⁵⁵ and a similar concern marks the cases against Aristotle, Demades, Demetrius, and perhaps Theophrastus. As has been suggested, allegations about Demetrius' 'divine recognition' of his brother may have been intended to imply that Demetrius, like Aristotle and Demades, wished to create a new god. In the same manner, although the evidence is even more ambiguous, the basis of the case against Theophrastus may have been some alleged questioning of the traditionally accepted gods. The democrats'

⁵² Diog. Laert. 2.116.

⁵³ According to Diog. Laert. 2.115, Stilpo was in Megara when Ptolemy Soter took possession of that city (surely during Ptolemy's 308 incursion into the Peloponnese, in which he wrested control of Sicyon and Corinth: Diod. 20.37.1–2), and again when Demetrius Poliorcetes overran it. (See also Plut. *Demetr.* 9.) It is probable that Stilpo had returned to Megara after his expulsion from Athens, although this sequence of events is not stated explicitly by Diogenes.

⁵⁴ Derenne, *Les Procès*, 201 makes a similar comparison, but in the context of the trial of Theophrastus alone.

⁵⁵ Xen. *Memor.* 1.1.1; Plato *Apol.* 24b, *Euthphr.* 3b.

formulation of these charges thus imputed to their opponents a common agenda which struck at one cornerstone of Athenian religion. The lavishing of cult honours on the Antigonids by the restored democracy barely a decade later provides an ironic contrast, although it ought be noted that the conservative democrat, Demochares, was consistent in his repudiation of the Athenians' behaviour in this matter.⁵⁶

The accusations belonging to the democratic interval of 318 B.C. served to highlight not only the philosophical background of their targets, but also to recall to public memory some of the less estimable actions of the Macedonian sympathizers. Most obvious is the manipulation of Demetrius' complicity in the deaths of the democratic orators, but we may also posit a play upon the successful charge against Demades, with its implications of sycophancy to Alexander and the Macedonians, in the case against Theophrastus.⁵⁷ The cumulative evidence amassed here argues for a well-structured policy instituted by the pro-democrats against the pro-Macedonian associates of the Lyceum.

FRAGMENTS FROM DEMETRIUS: TWO SOURCE SUGGESTIONS

Demetrius of Phalerum was recognized as a prolific writer, even by Peripatetic standards,⁵⁸ but only fragments of his many works are extant. Nonetheless, it is possible to detect recurring motifs in these surviving fragments, and close examination of texts treating events surrounding Demetrius' government reveals parallels with works known to be of Demetrius' authorship. On this basis it may be possible to assign to Demetrius other narratives. The potentially Phalerean origin of two narratives which touch upon Athenian attitudes to philosophers—one concerning the prosecution of Theodorus, the other dealing with the condemnation of Demetrius' predecessor, Phocion—will be discussed here. By cataloguing Athenian crimes against philosophers, Demetrius shifts the emphasis away from the political nature of these prosecutions: we have Athenian mistreatment of intellectuals rather than veiled attacks upon the ruling pro-Macedonian cabal. This shift is most notable in the case of Phocion, whose demise, although undeniably political, is given a philosophical shaping, recalling to the reader's mind the example of Socrates. We thus turn from examining the construction put upon these trials by the prosecuting democrats to look at the reconstruction of these cases by one of those politicians who had been targeted.

As stated above, only two sources, Diogenes Laertius (2.101ff.) and Philo (*Quod Omnis Probus Liber Sit* 127ff.), make mention of Theodorus' experience in Athens. In comparison with Diogenes Laertius, Philo seems better informed about the Athenian details of the episode, giving a summary of the charges against Theodorus. This might betray an Athenian source for the material. Philo himself is vague about his source,

⁵⁶ Athen. 252ff., cf. Plut. *Demetr.* 24.4–5.

⁵⁷ The conclusion here reached is, in a sense, the converse of the argument forwarded by Atkinson ('Demosthenes, Alexander and *Asebeia*', 331ff.) that Alexander and his Athenian sympathizers intended to use Alexander's deification to fell opponents on charges of impiety towards the god Alexander. The material examined in this paper suggests rather that the Macedonian sympathizers themselves were more easily victim to accusations of impiety. This does not exclude the possibility that Demetrius of Phalerum, with his first-hand experience of the political potential of the impiety charge, might not have realized the possibilities of political control in a ruler cult. Bauman (*Political Trials*, 10–11) posits a role for Demetrius in the development of Ptolemaic *asebeia* regulations, but the nature and extent of his possible influence, along with the actual use of *asebeia* prosecutions in Egypt, are beyond the scope of this article.

⁵⁸ Diog. Laert. 5.80.

introducing the Theodorus passage with λόγος ἔχει, but it might indeed be possible to posit Demetrius himself as Philo's ultimate source. Whatever the reality of Theodorus' fate—whether he escaped before facing the Areopagus and had a retrospective sentence passed upon him, or whether he was in fact condemned to death and Demetrius had that sentence reduced to exile⁵⁹—the emphasis in Philo's account on the Athenians' conviction of Theodorus, and the omission of the Phalerean's personal intervention in the affair would be consistent with a source of Demetrius' authorship: had the attack on Theodorus been a veiled threat to Demetrius, we might expect him to highlight the Athenians' conviction of the philosopher, with its base motivation (see below), while passing over his own role.

Moreover, the entire shaping of the account is highly reminiscent of the remaining fragments of Demetrius' works, particularly his apology of Socrates, in which the Athenians' antipathy to philosophers is a motif.⁶⁰ Further examples of Demetrius' presentation of Athenian antipathy towards philosophers fall in Diogenes Laertius 9.37, where (following Demetrius' *Apology*) it is asserted that Democritus did not even go to Athens, and in Diogenes 9.15 (citing Demetrius' *On Men of the Same Name*), where we find that Heracleitus despised the Athenians.⁶¹ Dover suggests that Laertius' notice about Zeno,⁶² who shunned the μεγαλαυχία of the Athenians, may be drawn ultimately from Demetrius of Phalerum. Dover also argues that the tradition that the Athenians burned Protagoras' books,⁶³ and the decree of Diopithes providing for prosecution of philosophers as recounted by Plutarch⁶⁴ come from Demetrius of Phalerum. Whether these items are accurate or, as Dover argues, are misrepresentations, is largely unimportant here; what is at issue is the tendency in Demetrius' writings to highlight Athens' poor relationship with philosophers. This same Athenian/philosophic relationship marks the account of Philo, featuring particularly in Theodorus' highly rhetorical denunciation of the Athenians in section 128.

Echoes of a verbal motif from Demetrius' works may be traced in the justification Philo ascribes to Theodorus for his departure from Athens: ὕψει καὶ μεγέθει τῆς ἐμῆς διανοίας τῶν πολιτευομένων Ἀθήνησιν οὐ δυνηθέντων συνδραμεῖν, ἅμα καὶ φθονηθεῖς. Admittedly, references to φθόνος are not uncommon, particularly in the Athenian context; φθόνος is well enough attested to merit a monograph.⁶⁵ Nonetheless, it is clear that Demetrius favoured φθόνος as a paradigm for the Athenians' dealings with philosophers, and, whilst this consideration alone may not carry great weight, the cumulative effect may be to strengthen the case in favour of Demetrius' authorship. A parallel scenario and phrasing appears, for example, in Demetrius' description of the philosopher (Diogenes?⁶⁶)—Τοῦτόν . . . διὰ μέγαν φθόνον μικροῦ κινδυνεύσαι Ἀθήνησιν.⁶⁷ Similarities may also be discerned in the many records of Demetrius' own expulsion from Athens, suggesting perhaps that these derive from a common source, possibly Demetrius himself: so the *Suda* s.v. Demetrius

⁵⁹ See above, n. 38.

⁶⁰ K. J. Dover, 'The Freedom of the Intellectual in Greek Society', *Talanta* 7 (1976), 38–9.

⁶¹ Diogenes specifies that Heracleitus featured in Demetrius' *Apology* too.

⁶² Diog. Laert. 9.28.

⁶³ Diog. Laert. 9.52.

⁶⁴ Plut. *Pericles* 32.2. (Certainly, Plutarch as well as Diogenes Laertius was acquainted with Demetrius' *Apology*: see below, n. 75.)

⁶⁵ P. Walcott, *Envy and the Greeks* (Warminster, 1978).

⁶⁶ The awkward construction of this notice makes it difficult to determine whether Demetrius was writing about Diogenes of Apollonia, or Anaxagoras. For a discussion of the problem, see J. Mansfield, 'The Chronology of Anaxagoras' Athenian Period and the Date of his Trial: Pt. II', *Mnemosyne* 33 (1979), 17–95, 22, n. 98. The identity of the subject is irrelevant here.

⁶⁷ Diog. Laert. 9.57 quoting Demetrius' apology for Socrates.

ὑπὸ τοῦ φθόνου κατεστρατηγήθη καὶ ἐξελαθεῖς ὑπὸ Ἀθηναίων; Diogenes Laertius 5.76 ἐπεσκοτήθη . . . ὑπὸ τοῦ τὰ πάντα διεσθίοντος φθόνου; Aelian ὁ συνήθης Ἀθηναίους φθόνος ἐξέωσε.⁶⁸ Of particular note is the record of Strabo, who speaks of ὁ φθόνος . . . καὶ ἡ ἀπέχθεια felt by the Athenians towards Demetrius' government.⁶⁹ In the previous sentence, Strabo reveals that he is deriving his account from Demetrius' own testimony (τὰ ὑπομνήματα ἃ συνέγραψε περὶ τῆς πολιτείας ταύτης ἐκείνος); it is thus plausible that Strabo owes his terminology to Demetrius of Phalerum. Such an attitude to the Athenians would not be incongruous in a politician whose written works, according to Diogenes Laertius' list, included an Ἀθηναίων καταδρομή.⁷⁰

A survey of the precedents for this kind of depiction of Athenian hostility, specifically envy, towards philosophers, reinforces the possibility that Philo owes his account to Demetrius. The notion of envy of intellectuals is not confined, of course, to Peripatetic writing; it may be traced as far back as Alcidas and Euripides. But one important thread of this concept belongs to Socratic apologia. Plato attributes Socrates' condemnation to the envy of the Athenian jurors, as does Xenophon.⁷¹ Demetrius, with his affiliations with philosophical institutions and thus to the literary tradition surrounding Socrates, was certainly exposed to this formulation of Athenian attitudes to philosophers such as Socrates and seems to have adopted and expanded it in his own works.

In Philo's account, many details of the Athenian interlude are embedded in the exchange between Theodorus and Lysimachus: an official of Lysimachus' court reproaches Theodorus with his Athenian conviction and Theodorus defends himself. This may indicate that the anecdote originated at some time after Theodorus' embassy to Lysimachus, and, in consequence, after his sojourn in Phalerean Athens. This need not, however, argue against Demetrius' authorship of the original anecdote. Both Demetrius and Theodorus turned to Ptolemy's court upon their respective exiles from Athens, both apparently enjoying Ptolemy's favour.⁷² Given that Demetrius survived at Ptolemy Soter's court until shortly after that king's death,⁷³ it is almost certain that Demetrius and Theodorus were reunited, and that Demetrius could have heard of Theodorus' experiences at Lysimachus' court.

The second passage of interest is the section concluding Plutarch's *Phocion*, particularly the chapters (36ff.) dealing with the condemnation of that statesman. Tritle, noting parallels in the shaping of Phocion's death and the tradition surrounding the death of Socrates, has postulated Demetrius of Phalerum as Plutarch's source.⁷⁴ According to Tritle, Demetrius would have been in a prime position as a participant in

⁶⁸ Aelian *V.H.* 3.17.

⁶⁹ Strabo 9.1.20.

⁷⁰ Diog. Laert. 5.81. This work was surely written after Demetrius' expulsion.

⁷¹ Alcids. *Soph.* 12, 34; Eur. *Medea* 297; Plato *Apol.* 18d, 28a; Xen. *Apol.* 32. Xenophon may be regarded today as more historian than philosopher, but for some ancients at least, his relationship with the Socratic entourage cast him as essentially a philosopher: thus Dio 18.13, Quint. 10.1.73–5.

⁷² Ptolemy used Theodorus as an envoy; for Demetrius' position at court, note Aelian *V.H.* 3.17 νομοθεσίας ἤρξε and Diog. Laert. 5.78, in which Demetrius is reputed to have tried to influence Ptolemy Soter in his choice of successor. Plut. *Reg. et Imp. Apophth.* 189d also casts Demetrius of Phalerum in the role of advisor to Ptolemy.

⁷³ Demetrius' attempt to influence the Egyptian succession backfired, and he died (of snakebite?) early in the reign of Philadelphus. Diog. Laert. 5.78, *Suda* s.v. *Demetrius*.

⁷⁴ L. A. Tritle, *Phocion The Good* (London, 1988), 30–2. As noted above (p. 126), Plutarch's concluding sections draw upon an unquestionably pro-Phocion source, a description appropriate to Demetrius.

Phocion's government to record the fall of Phocion's regime; further, with his philosophical training, Demetrius would have been familiar with the details of the 'Socratic legend';⁷⁵ certainly, the account of Phocion's demise in Plutarch is consistent with the emphasis we have already detected in Demetrius' *Apology* on Athenian mistreatment of philosophers. Tritle points to details such as Phocion's procession to gaol, and Phocion's farewell to his son and friends. But an even more striking resonance between the account of Phocion's death and treatments of the death of Socrates is overlooked by Tritle. At 2.43, Diogenes Laertius describes the Athenians' remorse upon Socrates' death and the measures they took to honour his memory thereafter: *Ἀθηναῖοι δ' εὐθὺς μετέγνωσαν. . . . καὶ τοὺς μὲν ἄλλους ἐφυγάδευσαν, Μελίτῳ δὲ θάνατον κατέγνωσαν. Σωκράτην δὲ χαλκῇ εἰκόνι ἐτίμησαν, ἣν ἔθεσαν ἐν τῷ πομπείῳ, Λυσίππου ταύτην ἐργασαμένον.* In Plutarch *Phoc.* 38.1, Phocion's death elicited a similar response: *Καὶ μέντοι χρόνου βραχέος διαγενομένου, καὶ τῶν πραγμάτων διδασκόντων οἶον ἐπιστάτην καὶ φύλακα σωφροσύνης καὶ δικαιοσύνης ὁ δῆμος ἀπώλεσεν, ἀνδριάντα μὲν αὐτοῦ χαλκοῦν ἀνέστησαν . . . τῶν δὲ κατηγορῶν Ἀγνωνίδην μὲν αὐτοῖ θάνατον καταχειροτονήσαντες ἀπέκτειναν.* Diogenes does not name his source for this particular information about Socrates, but cites several authors throughout 2.42–4, among them Demetrius of Phalerum and his contemporary (and sympathizer), Philochorus.⁷⁶ One may wonder, then, if the resemblances between these passages of Plutarch and Diogenes are due purely to chance.

One additional point may be advanced in favour of Tritle's hypothesis. The point of comparison between the deaths of Phocion and Socrates is formulated thus: *ὁμοιοτάτης ἐκείνῃ τῆς ἁμαρτίας ταύτης καὶ δυστυχίας τῇ πόλει γενομένης.* This recalls Aristotle's justification of his flight from Athens when faced with prosecution for impiety in 323 B.C.: Aristotle did not wish to allow the Athenians to sin twice against philosophy by convicting him. Thus is the record of Aelian *V.H.* 3.36 *οὐ βούλεται Ἀθηναίους δις ἁμαρτεῖν ἐς φιλοσοφίαν*; also Origen *Contra Celsum* 1.65, and Elias *In Cat.* *Οὐ μὴ ἐάσω Ἀθηναίους δις ἁμαρτεῖν εἰς φιλοσοφίαν.*⁷⁷ Plutarch's source perhaps hoped to conjure up the spectre of Aristotle as well as Socrates in his reader's mind, suggesting that, whilst a repetition of Athens' sin against Socrates was avoided in the case of Aristotle, it was indeed perpetrated against Phocion. Düring urges acceptance of the historicity of this key anecdote of Aristotle's departure from Athens. If the justification attributed to Aristotle is historically accurate, and if the apparent echo of that justification at the end of Plutarch's source is a deliberate one, we may deduce that Plutarch's ultimate source had early access to the Aristotle anecdote, such access being consistent with that source being affiliated to the Peripatos. The resemblance between this moulding of Phocion's death and the epigram of Aristotle goes beyond a verbal reminiscence when it is recalled that the would-be prosecutor of Aristotle was the very man—namely Demophilus—who was implicated in Phocion's condemnation. The cumulative weight of Demetrius'

⁷⁵ The Socrates/Phocion comparison may have been formulated either in the introduction of Demetrius' account of his own government, or in his apology of Socrates, both of which works were known to Plutarch. Wehrli assigns references in Plut. *Demos.* 14 and 28 (fr. 133, 134) to Demetrius' account of his regime. Demetrius did touch upon events prior to 317 B.C. in other works, too: see n. 20. For Demetrius' *Apology*, see Plut. *Arist.* 1, 5, and 27.

⁷⁶ Following the passage of Diogenes quoted above is a claim that Euripides commented on Socrates' death, an anachronism which surely indicates that the source of the whole passage was not a contemporary of Socrates.

⁷⁷ I. Düring, *Aristotle*, T44a–e.

proximity—temporal and political—to the demise of Phocion, the fact that his education would have steeped him in the tradition of Socrates' death, and the possible Aristotelian flavour of the comparison of Phocion and Socrates make Demetrius of Phalerum an attractive candidate for the source of the end of Plutarch's *Phocion*.

If these excerpts about Philo, Phocion, and Demetrius' exile do indeed derive from Demetrius, the tendency of Demetrius' writings about Athenian/philosophical relations is even more clearly discerned. Demetrius was concerned to show Athens as a city hostile to philosophers, a city whose actions were a function of *φθόνος*. Demetrius' treatment of this topic is significant when considered against the backdrop of the historical circumstances of the Phalerean regime, born as it was from a brief but turbulent democratic interlude in which Demetrius and his associates were the focus of a legal battle.

The historical survey of the trials undertaken here and the examination of the origin of the two accounts in Plutarch and Philo reveal, as it were, two sides of one coin. The late fourth century was an age in which the uncomfortable nexus of philosophy and politics really came to the fore, when the association of Alexander and Antipater with the Lyceum saw men who were closely aligned with the philosophic schools imposed on Athens as instruments of the Macedonian hegemony. As a result, the closing decades of that century witnessed both political factions manipulate the image of philosophers for their own political ends. The staunch democrats sought to mobilize the Athenians' general distrust and suspicion of intellectuals in order to remove political rivals, by seizing upon charges which had traditionally been employed against those of philosophic leaning. From the resonances between the charges formulated against Aristotle, Demades, Demetrius and Theophrastus emerges a coherent plan of attack, in which the credibility of each individual charge was enhanced by resemblances to charges levelled against other political associates. Conversely, we find Demetrius of Phalerum giving a philosophic colouring to what were in essence politically driven events, most clearly in the narrative on Phocion; emphasizing the current of anti-intellectual sentiment in Athens, Demetrius could down-play the serious political issues surrounding both Phocion's downfall and that of his own regime. Whatever the true extent of the impact of Demetrius' philosophical education on the constitution he enacted, it is clear that his philosophic background provided a powerful weapon of propaganda for his associates and for his political allies.⁷⁸

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