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LAW IN ACTION IN CLASSICAL ATHENS

THE fine modern scholarship on Athenian law has concentrated on (a) the scope of particular laws, and (b) the technical aspects of the legal process.[1] This paper attempts to examine how the legal system worked in practice.

I. THE VARIETY OF ATHENIAN LEGAL ACTIONS

The Athenians classified legal cases in various ways. On the one hand there was a division by subject matter between private cases (*dikai idiai*) and public cases (*dikai dēmosiai*), and on the other there was a division according to the procedure involved. There were a number of specialised procedures, but the most important procedural division was between those cases which anyone was free to bring (*graphai*) and those which only an interested party could bring (*dikai* in the narrow sense). These divisions on grounds of subject matter and on grounds of procedure overlap, but they are distinct and neither corresponds to the modern European legal division between civil and criminal cases.[2]

The ancient sources discuss the rationale for the procedural distinction between *graphai* and *dikai* largely with reference to the invention of the volunteer prosecutor by Solon. Their discussions have much influenced modern understanding of the division, but scholars have not always paid enough critical attention to the gap between ancient legal theory and ancient legal practice, and for this reason the evidence will be considered in some detail here.

Three separate, although not mutually exclusive, lines of argument may be distinguished, and they are best represented by passages from three separate ancient works, the *Athenaion Politeia*, Plutarch's *Life of Solon*, and Isokrates' *Antidosis*. None of the passages is an analysis of the Athenian legal system, and while [Aristotle] and Plutarch claim to discuss the actual effects of the *dikē*/*graphē* distinction, Isokrates directs his argument towards eliciting the intention of the lawgiver in making the division. I shall argue that it is, paradoxically, Isokrates who offers the most assistance towards an understanding of the practical function of the procedural distinction.

(i) [Arist.] *Ath. Pol.* 9.1: *δοκεῖ δὲ τῆς Σόλωνος πολιτείας τρία ταῦτ' εἶναι τὰ δημοτικώτατα, πρῶτον μὲν καὶ μέγιστον τὸ μὴ δανείζειν ἐπὶ τοῖς σώμασιν, ἔπειτα τὸ ἐξεῖναι τῷ βουλομένῳ τιμωρεῖν ὑπὲρ τῶν ἀδικουμένων, τρίτον δὲ (ᾧ μάλιστά φασιν ἰσχυκέναι τὸ πλῆθος) ἡ εἰς τὸ δικαστήριον ἔφεσις.*

> The following three features of Solon's constitutional arrangements seem to be those which were most weighted towards the common people: first and most important the prohibition on loaning money against personal security; second the possibility for the man who so desired to secure punishment on behalf of the injured party; third (and they say that this was the most important in strengthening the people) appeal to the court.[3]

(ii) Plut. *Sol.* 18: *ἔτι μέντοι καὶ μᾶλλον οἰόμενος δεῖν ἐπαρκεῖν τῇ τῶν πολλῶν ἀσθενείᾳ, παντὶ λαβεῖν δίκην ὑπὲρ τοῦ κακῶς πεπονθότος ἔδωκε. καὶ γὰρ πληγέντος ἑτέρου καὶ*

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[1] J. H. Lipsius, *Das Attische Recht und Rechtsverfahren* (Leipzig 1915); A. R. W. Harrison, *The law of Athens: the family and property* (Oxford 1968); *id., The law of Athens: procedure* (Oxford 1971); D. M. MacDowell, *The law in classical Athens* (London 1978); M. H. Hansen, *The sovereignty of the people's court in Athens* (Odense 1974); *id., Eisangelia* (Odense 1975); *id., Apagoge, endeixis and ephegesis* (Odense 1976); D. J. Cohen, *Theft in Athenian law*, Münchener Beiträge zur Papyrusforschung lxxiv (1983).

[2] The division of European criminal procedures into 'adversary' and 'inquisitorial' is no more relevant to the Athenian situation. For that division see G. Sawer, *Law in society* (Oxford 1975) 72 ff.

[3] On the last clause see P. J. Rhodes, *A commentary on the Aristotelian Athenaion Politeia* (Oxford 1981) 160–2.

βιασθέντος ἢ βλαβέντος ἐξῆν τῷ δυναμένῳ καὶ βουλομένῳ γράφεσθαι τὸν ἀδικοῦντα καὶ διώκειν, ὀρθῶς ἐθίζοντος τοῦ νομοθέτου τοὺς πολίτας ὥσπερ ἑνὸς μέρους συναισθάνεσθαι καὶ συναλγεῖν ἀλλήλοις. τούτῳ δὲ τῷ νόμῳ συμφωνοῦντα λόγον αὐτοῦ διαμνημονεύουσιν. ἐρωτηθεὶς γάρ, ὡς ἔοικεν, ἥτις οἰκεῖται κάλλιστα τῶν πόλεων, ἐκείνη, εἶπεν, ἐν ᾗ τῶν ἀδικουμένων οὐχ ἧττον οἱ μὴ ἀδικούμενοι προβάλλονται καὶ κολάζουσι τοὺς ἀδικοῦντας.

> Believing that it was necessary to give still more assistance to the weakness of the people he gave everyone the opportunity to exact justice on behalf of a man who had been wronged. He made it possible for the man who was able and willing to sue and prosecute the offender when another was assaulted, constrained, or harmed, thus making the citizens accustomed to feel for and sympathise with each other as a single body—which was a good thing. They mention a saying of his which shows the same spirit as this law, for when he was asked, apparently, which city was the best to live in he said that that city was where those who are not wronged prosecute and punish wrongdoers as much as the injured parties do.

(iii) Isok. xv 314: τοῖς μὲν γὰρ μεγίστοις τῶν ἀδικημάτων ἐν ἑνὶ τῶν δικαστηρίων τὴν κρίσιν ἐποίησαν, κατὰ δὲ τούτων (*s.c.* sykophants) γραφὰς μὲν πρὸς τοὺς θεσμοθέτας, εἰσαγγελίας δ' εἰς τὴν βουλήν, προβολὰς δ' ἐν τῷ δήμῳ, νομίζοντες τοὺς ταύτῃ τῇ τέχνῃ χρωμένους ἁπάσας ὑπερβάλλειν τὰς πονηρίας.

> For our ancestors made a single court responsible for the judgment of even the greatest of offences, but against sykophants they provided *graphai* before the *thesmothetai*, *eisangeliai* to the *boule*, and *probolai* to the people, for they considered that those who pursue this craft exceed all wickedness.

(i) *Ath. Pol.* [Aristotle] is primarily interested in constitutional developments and takes a very political view of the courts. Crimes which by their nature prevent the victim from claiming redress clearly demand third party prosecution. This will go some way also towards explaining the classical use of *graphai* in cases of wrongful detention as an adulterer, and the introduction of *graphai* for such crimes is consistent with Solon's action against enslavement of Athenians.[4] In other cases, such as impiety or temple robbery, voluntary prosecution was equally necessary because the injured party was not human.[5] All such prosecutions can be seen as protecting those who could not defend themselves, and to that extent the claim that the effect of *graphai* was democratic seems justified; but it is not simply this sort of defence which the *graphe* procedure makes possible.

Although the third-party prosecutor is often praised in classical literature,[6] he has power for wanton and blackmailing prosecution as well as for altruistic action. More important, equal opportunity to prosecute is only an effective means of furthering democracy if accompanied by equal capacity to prosecute, and it is clear that the way in which all prosecutions are in fact embedded in social relations precludes this.

(ii) Plutarch. Plutarch shows a particular interest in this *Life* in the status of the words of the Lawgiver, and his interpretation of the introduction of the *graphē* is closely tied to a Solonic *logos*. His claim that *graphai* promote social cohesion has been endorsed by Lipsius as the explanation for Solon's invention, but as a description of the practical effect it will not withstand scrutiny.[7] Community distress at the inadequate prosecution of illegal actions may lead to the demand that the right to prosecute be extended to any citizen, but the converse does not follow. The fact that any citizen may prosecute is hardly likely to make all citizens feel that each prosecution is their own, and the unlimited possibility of prosecution may actually prove divisive if it is felt that particular citizens, or a particular group of citizens, are too prominent in litigation.[8]

[4] Harrison 1971 (n. 1) 77.

[5] G. Glotz, *La solidarité de la famille dans le droit criminel en Grèce* (Paris 1904) 369–82.

[6] E.g. Pl. *Leg.* 767b ff., 856bc, and especially 730d: τίμιος μὲν δὴ καὶ ὁ μηδὲν ἀδικῶν, ὁ δὲ μηδ' ἐπιτρέπων τοῖς ἀδικοῦσιν ἀδικεῖν πλέον ἢ διπλασίας τιμῆς ἄξιος ἐκείνου· ὁ μὲν γὰρ ἑνός, ὁ δὲ πολλῶν ἀντάξιος ἑτέρων, μηνύων τὴν τῶν ἄλλων τοῖς ἄρχουσιν ἀδικίαν. ὁ δὲ καὶ συγκολάζων εἰς δύναμιν τοῖς ἄρχουσιν, ὁ μέγας ἀνὴρ ἐν πόλει καὶ τέλειος, οὗτος ἀναγορευέσθω νικηφόρος ἀρετῇ; Lykourg. *in Leoc.* 4.

[7] Lipsius (n. 1) 237–8.

[8] Compare the fact that any citizen *may* speak in the *ekklesia* and the ill-feeling towards the rhetors in the fourth century.

(iii) Isokrates. Isokrates is contrasting sophists (who include Solon the Lawgiver) with sykophants (against whom all the resources of the law are given) and is arguing from the variety of legal remedies, including *graphai*, available against the sykophant, to the intentions of the Lawgiver.[9] His argument, that to ensure the fullest prosecution of any particular illegal act it is necessary to make a variety of procedures available, recognises that social factors produce unequal access to any particular procedure. If Isokrates' point is pressed further it becomes clear that, however many different avenues of prosecution are opened up against a given illegal activity, there is no way in which *equal* access to the courts will result. Just as the initial creation of an alternative procedure, *graphē*, gives the injured party (who could already act in a *dikē*) a choice of legal actions, so every further extension enlarges his possibilities for prosecution. The different types of action often involved a different type of trial and very different potential penalties (for prosecutor as well as prosecuted), and in this situation the choice of action is likely to be determined by factors more closely linked to the nature and relative status of victim and offender than to the nature of the breach of the law.

This point is made in some detail by Demosthenes xxii 25 ff.:

. . . τοὺς νόμους ὁ τιθεὶς τούτους Σόλων . . . οὐχ ἑνὶ ἔδωκε τρόπῳ περὶ τῶν ἀδικημάτων ἑκάστων λαμβάνειν δίκην τοῖς βουλομένοις παρὰ τῶν ἀδικούντων, ἀλλὰ πολλαχῶς. ᾔδει γάρ, οἶμαι, τοῦθ' ὅτι τοὺς ἐν τῇ πόλει γενέσθαι πάντας ὁμοίως ἢ δεινοὺς ἢ θρασεῖς ἢ μετρίους οὐκ ἂν εἴη. εἰ μὲν οὖν, ὡς τοῖς μετρίοις δίκην ἐξαρκέσει λαβεῖν, οὕτω τοὺς νόμους θήσει, μετ' ἀδείας ἔσεσθαι πολλοὺς πονηροὺς ἡγεῖτο· εἰ δ' ὡς τοῖς θρασέσιν καὶ δυνατοῖς λέγειν, τοὺς ἰδιώτας οὐ δυνήσεσθαι τὸν αὐτὸν τούτοις τρόπον λαμβάνειν δίκην. (26) δεῖν δ' ᾤετο μηδέν' ἀποστερεῖσθαι τοῦ δίκης τυχεῖν, ὡς ἕκαστος δύναται. πῶς οὖν ἔσται τοῦτο; ἐὰν πολλὰς ὁδοὺς δῷ διὰ τῶν νόμων ἐπὶ τοὺς ἠδικηκότας οἷον τῆς κλοπῆς. ἔρρωσαι καὶ σαυτῷ πιστεύεις· ἄπαγε· ἐν χιλίαις δ' ὁ κίνδυνος. ἀσθενέστερος εἶ· τοῖς ἄρχουσιν ἐφηγοῦ· τοῦτο ποιήσουσιν ἐκεῖνοι. φοβεῖ καὶ τοῦτο· γράφου. καταμέμφει σεαυτὸν καὶ πένης ὢν οὐκ ἂν ἔχοις χιλίας ἐκτεῖσαι· δικάζου κλοπῆς πρὸς διαιτητὴν καὶ οὐ κινδυνεύσεις . . . τούτων οὐδὲν ἐστι ταὐτό. τῆς ἀσεβείας κατὰ ταὔτ' ἔστ' ἀπάγειν, γράφεσθαι, δικάζεσθαι πρὸς Εὐμολπίδας, φαίνειν πρὸς τὸν βασιλέα. περὶ τῶν ἄλλων ἁπάντων τὸν αὐτὸν τρόπον σχεδόν.

> Solon, who made these laws, did not give those who wanted to prosecute just one way of exacting justice from the offenders for each offence but many. For he knew, I think, that the inhabitants of the *polis* could not all be equally clever, or bold, or moderate, and that if he made the laws in such a way as to enable the moderate to exact justice then there would be many bad people about, but if he made it suitable for those who are bold and able to speak then private individuals would not be able to exact justice in the same way. (26) He thought that it was proper to deprive no one of obtaining justice, as each was capable. But how could this be managed? By giving many ways of legal action against offenders—for example thieves. You are strong and confident: use *apagōgē*; you risk a thousand drachma fine. You are weaker: use *ephēgēsis* to the magistrates; they will then manage the procedure. You are afraid even of that: use a *graphē*. You have no confidence in yourself and are too poor to risk a 1000 dr. fine: bring a *dikē* before the arbitrator and you will run no risk. Now none of these actions is the same. In the case of impiety, similarly, you can use *apagōgē*, *graphē*, a *dikē* to the Eumolpidai, a *phasis* to the Basileus. It is pretty much like that for all the other offences.

This remarkable passage has been subject to much debate. Any claim that *all* the different procedures were available in any case of theft must be exaggerated (we know that *apagōgē*, for example, could only be used where the thief was apprehended '*ep' autophorō*', 'in the act'), and it has therefore been argued that the passage is totally worthless.[10] Demosthenes is certainly concerned with making a rhetorical point about Androtion as a lawgiver, but his claims are not necessarily unfounded. His argument only depends upon a choice existing for the prosecution in

[9] It is clear that when orators refer to the Lawgiver's intentions they are reading back intentions from practice. Cf. *Ath. Pol.* 9.2.

[10] The case is argued strongly by Cohen (n. 1). Cohen's clarification of the evidence and the issue is masterful, but more room for manoeuvre is left than he is prepared to concede.

some cases of theft, and since it is the variety of procedures that is important for the point about Androtion there is no reason why the gratuitous information about social implications should be forced or false.

Demosthenes' approach can be taken considerably further. Strength, confidence, wealth and the lack of them are relative. A man with sufficient wealth may be confident in some circumstances and fear to bring an action in another. Not every Athenian citizen would be prepared to prosecute Demosthenes, and a change in circumstances altered Krito from being easy bait to being invulnerable to vexatious litigation, although neither his wealth nor his personal qualities changed.[11]

Demosthenes in fact leaves a whole dimension out of the question. The procedure followed determined the consequences for the defendant as well as for the prosecution. The man who arraigned a thief by *apagōgē* risked a 1000 dr. fine if he failed to secure one fifth of the dikasts' votes, while the condemned thief might be executed; the man who brought a *graphē klopēs* risked the 1000 dr. fine, while the fate of the thief is less certain—possibly this was an *agōn timētos* with death a possible but not certain penalty;[12] the victim who brought a *dikē* ran no risk at all, while the guilty party had to restore the stolen property, pay a fine of double its value, and possibly be physically constrained for five days and nights (Dem. xxiv 114). There might therefore be a number of reasons why a man who technically could have used *apagōgē* might choose to settle the matter in a *dikē*.[13]

It is a basic premise of Demosthenes' analysis that judicial activity must allow for and is affected by social factors, and that the courts redress the balance between the victim/prosecutor and the offender. Since prosecutors and victims come in various shapes and sizes a variety of court procedures is required and the balance will be differently resolved in different cases.[14] Since most offences for which the law specified procedure by *graphē* could be redefined to fall within the scope of a law specifying procedure by *dikē*[15] it was frequently possible for an Athenian litigant to choose between processes. The man who acted by *dikē* had to act himself but ran no risk; the man who wanted action by *graphē* could prosecute himself or find another who was willing to do so, and whoever undertook the prosecution faced the possibility of a heavy fine if completely unsuccessful. The variety of actions both constrains a man and frees him to fit his action to his circumstances.

Demosthenes regards the variety of legal actions as a positive feature of Athenian law, but the open texture of the law on which it relies was not seen as unambiguously welcome. The issue is well discussed in the Aristotelian writings. In *Ath. Pol.* 9.2 it is noted that because Solon's laws were not written simply or clearly there were many ambiguities leaving a major rôle for the courts, and that some thought that this was a deliberate move on Solon's part 'in order that the people might control judicial decisions'.[16] This suggestion is criticised here, and in the *Rhetoric* (1354a 31ff.) Aristotle stresses that it is important that the lawgiver define as much as possible himself and leave as small a part as possible to the *dikastai*. Thus Aristotle is concerned both to deny that Solon can in fact have desired a law of open texture and to prescribe that such a feature is undesirable in any circumstances. In doing so he sets himself up against a whole school of thought on what law courts should do.[17] Modern critics (*cf.* n. 14) have often assumed that

[11] Xen. *Mem.* ii 9.

[12] If Dem. xxiv 103 refers to a *graphē*. Cohen (n. 1) holds that death is only available as a penalty in cases of 'flagrancy', i.e. when *apagōgē*/*ephēgēsis* is the procedure used.

[13] Since the law must have been able to cope with crimes where the circumstances of the offence were the same but the circumstances of discovery different, it must have been possible for a prosecutor who had evidence of a type and quality to support a more severe charge to choose to prosecute as if his evidence was less strong.

[14] This has recently worried Hansen who declares himself pessimistic about the administration of justice in Athens in the fourth century because 'It is an accepted modern conception of law and justice that an offender deserves one and the same punishment regardless of the legal procedure employed against him. Not so in Athens': Hansen 1976 (n. 1) 120.

[15] See below, section III.

[16] On the *asapheis nomoi* see E. Ruschenbusch, *Historia* vi (1957) 257–74.

[17] For a more compromised position see Pl. *Leg.* 766d–768e, 956b–957c.

Athenian courts performed badly the formalist exercise which Aristotle prescribed for them, but just as various other legal systems have exploited 'open texture' as a (limited) virtue to be controlled by such means as precedent,[18] so it is at least worth exploring the possibility that Athenian courts were able to use the open texture of the law in a positive way, and to control it by the openness and variety of legal process.

II. Prosecution for Reward: *Apographē, Phasis,* and Cohabiting with a Foreigner

The existence of procedures where the prosecutor is actually rewarded for his efforts supports the suggestion that the mere existence of *graphai* did not make the Athenians altruistically eager to prosecute in cases in which they had no direct personal interest.[19] It has often been assumed that offering rewards for prosecution encouraged vexatious and sykophantic litigation, but again it is necessary to examine in detail the known cases of the use of these actions if we are to determine how they were in practice employed.

Rewards were offered in the procedures of *apographē* and *phasis*, and in the *graphai* concerned with *xenoi/xenai* who live with Athenian women/men as their husbands/wives, and with *xenai* who are given in marriage by Athenians as of Athenian birth. In each of these *graphai* the prosecutor receives the third part of the confiscated property of the condemned.[20] The first of these laws must post-date Perikles' citizenship law of 451/0 BC, and the latter is closely parallel to it.[21] We do not know how frequently the laws were invoked: the only evidence comes from Apollodoros' and Theomnestos' speeches against Neaira ([Dem.] lix). That case itself concerns a *xenē* cohabiting with an Athenian and it mentions Phrastor's abandoned prosecution of Stephanos for passing off his daughter by Neaira as Athenian. Apollodoros and Stephanos did have an old quarrel and Apollodoros may be unduly litigious, but his conduct on other occasions suggests that he has not brought the prosecution simply for the financial reward.

The evidence for *apographē* is richer. In the legal sense *apographē* is the denunciation of a man's property.[22] Such denunciations occur in various circumstances with different implications for what actually happens.[23]

Apographē 1: denunciation may be simply a way of cataloguing and selling off the property of one who has been executed or deprived of civic rights; such cataloguing is sometimes the duty of the demarch.

Apographē 2: denunciation may be a way of raising the sum of a debt owed to the public treasury by listing property sufficient to meet the debt.

Apographē 3: denunciation may be a way of prosecuting a man for holding what is in fact public property.

Apographē 1 is the procedure that would be involved in realising the property confiscated following conviction in a *graphē xenias* or *xenēs enguēs*. Since there is evidence (Appendix 1) that *apographai* of this type were not necessarily in the hands of demarchs it would be a theoretical possibility that one man secured the prosecution and another denounced the property, in which case two sets of rewards would have to be paid.

This raises a problem. The best evidence for the proportion of confiscated property which *ho apographōn* received is [Dem.] liii 2:

[18] For a very fine modern discussion of the issue of the nature and importance of 'open texture' see H. L. A. Hart, *The concept of law* (Oxford 1961) 124–32.

[19] The last study of these as a class was by E. Ziebarth, *Hermes* xxxii (1897) 609–28.

[20] The full penalty varies with the particular offence. *Xenoi* and *xenai* guilty of cohabiting are sold as slaves; Athenians with whom *xenai* cohabit are fined 1000 dr; Athenians who give away *xenai* as Athenians suffer *atimia*.

[21] Harrison 1968 (n. 1) 27.

[22] *Apographē* and *apographein* have a non-legal and non-technical use which complicates assessment of the use and nature of the action.

[23] For the cases on which this classification is based see Appendix 1. See Harrison 1971 (n. 1) 212 ff. for Lipsius' different classification.

ἀπογράψας δὲ ἐὰν ἀποδείξω τἀνδράποδα Ἀρεθουσίου ὄντα, οὔπερ ἐγέγραπτο εἶναι, τὰ μὲν τρία μέρη, ἃ ἐκ τῶν νόμων τῷ ἰδιώτῃ τῷ ἀπογράψαντι γίγνεται, τῇ πόλει ἀφίημι, αὐτῷ δ' ἐμοὶ τετιμωρῆσθαι ἀρκεῖ μόνον.

If I show that the slaves are indeed Arethousios', as I have written in my denunciation, then I hand over the three quarters, which the law gives to the prosecutor, to the city, and I am satisfied to have had my revenge.

If this statement is correct then in the situation envisaged above the Athenian treasury would be acutely embarrassed, for the prosecutor in the *graphē* will have claimed one third of the confiscated property, and the man denouncing the property three quarters! Lewis has noted that a fragment of a *pōlētai* inscription of the mid-fourth century has the phrase τ]ῆι πόλει τὰ τρίτα μέρη τιμή TH[('the third part to the *polis*'), and suggested that *tria* in Apollodoros' speech might be a corruption of *trita*.[24] Since this would both cope with the problem foreseen above and would make the rewards of the *graphē* and *apographē* exactly parallel it must surely be correct.

In the case of the *graphai* and in *apographē* 1 it is clear that the third which the prosecutor receives is one third of the proceeds of the sale of the confiscated property.[25] In *apographē* 2, however, the precise nature of the reward for the denunciator is rather less clear, but a close examination of two of the cases helps to clarify the priorities in payment.

Apographē provides part of the essential background to the attack on Aristogeiton (Dem. xxv).[26] Aristogeiton has been fined, and his property denounced; it has been bought for the sum of the fine by his brother Eunomos, and he has resumed civic rights. Two features are of interest here: that it is the brother Eunomos who buys the property; and that he pays exactly the sum of the doubled debt for it.[27] Collusion may thus be suspected, and the result of the collusion must surely be that the unknown denunciator received no reward at all, for there is no question of the debt not being met. If this is true than it is clear that in *apographē* 2 the debt for which the property is confiscated is met first, and the denunciator is only rewarded if anything is left over.

The second relevant case comes from a *pōlētai* inscription: Appendix 1, 2b(i). Meixidemos of Myrrhinous has incurred a debt to the public treasury through an all too rash willingness to be surety for other people's public contracts. A *synoikia* belonging to him is denounced by Euthykles of Myrrhinous and bought by Telemakhos of Akharnai for 3,705 dr. 2 ob.[28] This odd amount exactly equals the sum of Meixidemos' doubled debt. Collusion again seems likely, and it would be pointless if it did not release Meixidemos from his liabilities. In that case, however, the denunciator, Euthykles, can have received nothing. Given that Euthykles is both neighbour and fellow-demesman of Meixidemos it is possible that he too is colluding to Meixidemos' advantage.

If the conclusion drawn from these two cases is sound then certain further questions arise. If all the property of the debtor is denounced and it does not realise the sum of the debt then the denunciator clearly gets no reward and has no scope for further activity; if the property denounced realises exactly the sum of the debt then the same is true; if, however, the property denounced realises more than that debt then the denunciator stands to make a financial gain. How, then, is the particular property to be denounced determined?

In both the cases just discussed it is virtually certain that the property which has been denounced is not the whole property of the debtor: Aristogeiton must surely have owned more

[24] D. M. Lewis in E. Badian, ed., *Ancient society and institutions: studies . . . Ehrenberg* (Oxford 1966) 191 n. 67, using *Hesperia* xix (1950) 237 no. 14.42.

[25] Even cases of this sort may be complicated by debts existing which are secured by the property sold: cf. *SEG* xii 100. These must surely have been settled before any claim of the denunciator or city was considered.

[26] Appendix 1, 2A(ii). Hansen 1976 (n. 1) 144 ff. argues that Dem. xxv is genuine.

[27] It is clear that the property *is* confiscated and then bought—it is not simply the case that Eunomos clears the debt.

[28] On Telemakhos see Osborne, *LCM* viii (1983) 111; for further comments on the case see Osborne, *Demos: the discovery of classical Attika* (Cambridge 1985) ch. 1.

than a single plot of land (one would expect a dwelling, at least), and Meixidemos is unlikely to have had all his property in the form of a multiple dwelling not in his own deme.[29] The amount of the property of debtors which was denounced therefore seems discretionary, although presumably they would be liable to further denunciations if the item(s) initially denounced failed to realise a sufficient sum. In this case how much scope was left for greedy denunciators (or greedy dikasts)?

We know of nine cases of *apographē* 2. In four cases there is insufficient detail to make the relationship between property denounced and debt clear: 2A(i), 2A(iv), 2B(iv), 2B(v). Only with Apollodoros' denunciation, 2A(iv), is there any reason to suppose the denunciator to have been rather savage. In two cases, 2A(iii), 2B(ii), we know that the property denounced raised less than the debt; and in two, 2A(ii), 2B(i), it raised the sum of the debt. In the ninth case, 2B(iii), all the property of Sopolis is denounced to meet the debt of his deceased brother Kephisodoros, but the denunciator both gives up his share of the proceeds *eis tēn epitimian*[30] and brings a decree to ensure that the payment of the debt is properly recorded.

Since there is no reason to believe that this collection of extant cases is systematically biased the failure to discover a single case where the denunciator deliberately made a killing for himself is remarkable. It is supported, however, by the statement at [Dem.] xl 22 that, so far from there being anything left to his children when Pamphilos' property was denounced and confiscated, the debt itself was not even cleared. For the implication of this is that had Pamphilos' property been more than sufficient it could be expected that the children would retain some. How the amount to be confiscated was determined we cannot know, but that it was not normal for the value of the confiscated goods greatly to exceed the sum of the public debt seems clear from the examples.[31]

Our evidence for *apographē* 3 comes entirely from the orators, with three cases in Lysias and one in Hypereides. The two Lysias cases where the circumstances are tolerably clear, 3A(ii), 3A(iii), are both examples of *apographē* being used to follow up property confiscation; in each case it is suspected that the first confiscation had been incomplete because another party had taken over a share as his own. In Hypereides iii 34 the circumstances are rather different, and *apographē* is used to prosecute an individual for illegal mining (i.e. making money out of public property). Lys. xix 9 and Hyp. iii 34 imply that the *apographē* was sykophantic, and this charge may have been raised against *apographē* in general,[32] but a consideration of the alternative means of prosecuting undercuts this. A man guilty of any of the charges alleged in these cases would almost certainly have been open to an *eisangelia* for malversation or to *phasis* (see below). The prosecutor in *eisangelia* ran no risk, and the defendant might be executed; the prosecutor in *phasis* took half the proceeds if successful, although risking at least a 1000 dr. fine if he failed to secure a fifth of the votes. *Apographē* had the mildest effects for the defendant, and was not financially the most rewarding for the prosecution.[33]

The conclusion that *apographē* did not generally encourage savage or sykophantic denunciations is further supported by examination of those responsible for denunciations. In some cases the identity of the denunciator was prescribed. Demarchs may well have been involved in the confiscation of the property of those guilty of the Profanation of the Mysteries and/or Mutilation of the Hermai, and they were almost certainly involved in the confiscation of the property of the Thirty, where a heading on Stele III is plausibly restored to read o]ἰκίαι ἃς οἱ δήμ[αρχοι ἀπέγραψαν ('houses which the demarchs denounced').[34] Where demarchs were involved there is no evidence that they were rewarded.

[29] For the continued prevalence of owning property in one's own deme see Osborne 1985 (n. 28) ch. 3.

[30] For this phrase and the case as a whole see R. Dareste, *Inscr. juridiques* ii 146 ff. no. 26.

[31] That the reward is rarely invoked in *apographē* 2 may suggest that the procedure was invented to deal with *apographē* 1, and only derivatively applied to *apographē* 2.

[32] Lys. *fr.* 26a Thal. But in Lys. xiii 65 (*cf.* xiii 10) *apographai* seems not to have its technical meaning.

[33] Harrison 1971 (n. 1) 215 n. 2.

[34] M. B. Walbank, *Hesperia* li (1982) 74–98. ἀπέγραψεν can be read and restored in Stele 1, col. 1

The literary evidence for cases of *apographē* where demarchs were not involved reveals very strong political overtones to the denunciations. The one literary case of *apographē* 1 where we have sufficient evidence concerns the denunciation by the wealthy statesman Kallistratos of Aphidna of the property of Antimakhos, *tamias* of Timotheos. Of the four literary cases of *apographē* 2, one was designed to silence Aristogeiton politically, one follows the condemnation of the general Pamphilos, and the other two belong to a series of court cases in which Apollodoros was involved. Here there is certainly no financial gain for Stephanos in denouncing Apollodoros, for the fine was larger than Apollodoros could pay. Three literary cases of *apographē* 3 are also political: one concerns the sons of Eukrates, general and killed by the Thirty: one revolves around the property of Aristophanes, trierarch and diplomat; and one around the money of Ergokles, associate of Thrasyboulos, condemned to death by a court. Only Hypereides iii 34 is devoid of obvious political overtones.

The epigraphic evidence contrasts strongly. The Attic Stelai and the condemnation of the Thirty are examples of *apographē* 1, but so is the case of the unknown Theosebes, condemned for *hierosylia*; the cases of *apographē* 2 concern the foolhardy surety Meixidemos, the embezzling tribal official Nikodemos, and the naval debtors Sopolis, Stesileides of Siphnos, and Demonikos. There are no cases of *apographē* 3. These are clearly much smaller fry, and it is not simply the reticence of inscriptions by comparison with the anecdotal richness of law court speeches that makes them so. Epigraphic evidence of law court cases is rarely available, and this small archive is invaluable in confirming the extreme partiality of the literary evidence.

From the combined evidence *apographontes* appear to be of three main types: (i) those whose duty is to denounce; (ii) those who denounce to follow up an existing political or judicial quarrel; (iii) those who bring an isolated denunciation of the property of someone they know or have some connection with, from a neutral or even friendly concern. The non-political cases are largely of *apographē* 2, where we have seen evidence that the denouncer frequently took away no reward at all, and very few of the cases seem to have been brought by sykophants out for financial profit. Thus *apographē* is one of three actions in which the prosecution was rewarded, and yet the presence of rewards seems to make little or no difference.[35]

Phasis, the third procedure where the prosecutor was rewarded, is not infrequently mentioned, both casually in the literature and in preserved laws, but we are very poorly supplied with actual cases. The procedure was established by the middle of the fifth century and the prosecutor was rewarded with one half of the proceeds of the case, whether this took the form of a fine or of the confiscation of goods, but we have little means of telling how frequently the procedure was invoked. *Phasis* could be used over offences concerning public property and commerce,[36] and this makes it an alternative procedure in the cases where *apographē* is known to have been used as a means of prosecution.[37] The man making the *phasis* had to pay *prutaneia* (Dem. xliii 71) and was liable to a fine of 1000 dr. if he failed to secure one fifth of the dikasts' votes ([Dem.] lviii 6).

We have evidence for six possible cases of *phasis*, all known from literary texts. Two cases are commercial: someone prosecuted the speaker of Isokrates xvii for lending money on a ship owned by a Delian (Isok. xvii 42); Theokrines threatened Mikon with *phasis* 'about the ship' but never pursued the action ([Dem.] lvii 5 f.). A case concerning possession of public property was

lines 8, 15, 24; and Stele 3, col. 2 or 3 line 13 where the man denouncing comes from the same deme as the man whose property is denounced, and where there is therefore a good chance that the man denouncing is the demarch. The decree condemning Antiphon and Arkheptolemos certainly makes the demarchs responsible for registering their property, but the term used is ἀποφῆναι ([Plut.] *Mor.* 834ab).

[35] Part of the explanation might be that *apographē* 1 is the original rôle of the procedure, and that *apographē* 2 and 3 were subsequent developments.

[36] Harrison 1971 (n. 1) 218 ff., The use of *phasis* against impiety may be an extension of its use against the illegal holding of public property.

[37] For *phasis* against the wrongful possession/exploitation of public property see the case of Kallimakhos, below, and Harpok. s.v. φάσις, Pollux viii 47, Bekker *Anec. Graec.* 313.20 ff. For *phasis* in mining offences see Hyp. iii 35, Pollux viii 47.

brought by Patroklos againt Kallimakhos (Isok. xviii 6), and one about a mining offence by one Lysandros against Epikrates of Pallene, a wealthy and politically active man (Hyp. iii 35). An unknown Nikides brought a *phasis orphanikou oikou* against Xenopeithes (Dem. xxxviii 23) and Lysias vii on the sacred olive trees may have involved *phasis*.[38] The prosecution of Theokrines is part of a series of legal actions, that of Patroklos is politically motivated. In the other cases we do not know enough about the persons involved, but only in the mining case is sykophancy either alleged or likely. That Theokrines *is* accused of sykophancy reveals that that charge can cover a very complex situation.

It may be that *phasis* was widely used and abused in small cases which have left no record. The way in which Aristophanes uses *phasis* allegations in the *Akharnians* and *Knights* suggests that it was not infrequently invoked in commercial contexts and could be felt to be more troublesome than useful.[39] It is the pettiness of the *phaseis* in Aristophanes that is notable, however, and this is not evidence that *phaseis* were a major source of injustice. The Athenians still thought *phasis* a suitable procedure to invoke in the fourth century.[40] Overall the evidence available to us does not justify the supposition that malicious litigation was either occasioned by, or a particular problem in, actions in which the prosecutor was rewarded.

III. Matching Men and Actions

The first section of this paper argued that we should take note of the awareness of Athenian writers of the positive qualities of the open texture of Athenian law and procedure. The second examined one specific class of actions, actions for reward, and tried to reveal some of the complexity of their legal and social function. The final parts extend the examination to other circumstances where the prosecution was faced with a choice of procedure, and suggest that the capacity to fit actions to men was a primary quality of Athenian legal procedure.

The case of *apographē* has shown how partial a view is afforded by the literary evidence for legal actions. In examining other procedures we have no check on this partiality and we must remember that the use of the courts revealed in the orators may not have been the only use that was made of the courts. Nevertheless it is a use that *was* made.

In cases involving orphans both public and private actions were available: the *eisangelia kakōseōs orphanōn* and *phasis* on the one hand, the *dikai epitropēs* and *sitou* on the other.[41] No examples of *dikē sitou* survive, but the three other actions are attested. Isaios xi is the speech of Theopompos in his own defence against an *eisangelia*, and in the course of his speech Theopompos suggests that he should rather have been tried by a *dikē* (xi 32), which would certainly have been technically possible. The prosecutor is the (unnamed) fellow guardian, who is very probably a member of this incredible and litigious family. Bringing an *eisangelia* meant running no risk at all, but it put the accused in considerable danger, since the penalty was assessed and might be set at complete loss of rights (*cf.* Is. xi 13, 32). The alternative *dikē* in this case would be the *dikē blabēs*, but the agreement which the guardian is seeking to enforce was of dubious legality, and bringing an *eisangelia* both enabled him to concentrate on the injury to the ward and ensured that if he won he would remove Theopompos completely from the scene.

[Dem.] lviii 32 refers to another *eisangelia* of this type, brought by Theokrines of Hybadai against a Polyeuktos who is probably Polyeuktos of Sphettos, the anti-Macedonian politician.[42] The orphan involved has been adopted by one Aiskhylos, a man of property, who has since died. Theokrines is seeking to prevent the orphan being transferred back to his genetic family (into

[38] For the problems with Lys. vii see Gernet's introduction in L. Gernet and M. Bizos, *Lysias: Discours* i. *Cf.* Lys. *frr.* 37, 105 Thal. for two further *phaseis* concerning orphans.

[39] Ar. *Ach.* 819–24; *Equ.* 300; and cf. *Ach.* 542.

[40] Tod 123.44 ff., 162.20 ff., *Hesperia* xliii (1974) 157 ff. lines 28 ff.

[41] Harrison 1968 (n. 1) 115–21. The *eisangelia* could also be referred to as a *graphē*; see Rhodes (n. 3) 629.

[42] J. K. Davies, *Athenian propertied families, 600–300* (Oxford 1971) 7.

which Polyeuktos has married) with the property of Aiskhylos, suggesting that the result would be the appropriation of the property by Polyeuktos. Theokrines is a curious figure, painted as a sykophant of the worst sort in this speech, but making no other impression on the record. This *eisangelia* is linked to Theokrines' other activity, for Polyeuktos is related to the family of Mikon and Epikhares involved in [Dem.] lviii, and the attack on Polyeuktos is connected with the *graphē paranomōn* brought by Theokrines against the speaker of that speech ([Dem.] lviii 1, 30–4, 70). The political nature of the action is clear from this, and the fact that *eisangelia*, like *graphē paranomōn*, carried no risk for the prosecutor looks significant. Theokrines, like Theopompos, is perhaps more confident in his oratory than his legal case, and stands to forward his interests more through an *eisangelia* than through a *dikē*. Neither prosecutor seems likely to be putting the ward's interests first.

Five cases are known of the *dikē epitropēs*. In two cases the ward's family brings the action: in Isaios vii Arkhidamos, husband of the ward's mother, and the ward, Apollodoros, prosecute the ward's uncle and guardian, and Apollodoros later repays this assistance by adopting Arkhidamos' son Thrasyllos;[43] in Lysias xxxii the husband of the daughter of Diodotos speaks on behalf of her brothers against Diogeiton, guardian, uncle, and grandfather. This is clearly a wealthy family, although not otherwise known.[44] The relative champions the wards' interests although the wards seem grown-up.

In two further cases the grown-up ward brings the prosecution. The prosecution by Xenopeithes and Nausimakhos of their guardian Aristaikhmos (Dem. xxxviii 1 f.) was one of a series of actions. One Nikides had already used *phasis* (see above) and the two wards later brought what seems to be a *dikē blabēs* against the heirs of Aristaikhmos, a prosecution alleged by the speaker of Dem. xxxviii (3 f.) to be sykophantic. Demosthenes' own battle against his guardian was also prolonged, the *dikē epitropēs* against Aphobos being followed by a *dikē exoulēs* against Onetor. No details survive of the fifth case, known from a papyrus fragment.

Since it is not clear to us how the type of case affected the penalty exacted from the convicted defendant it is difficult to reconstruct the motives of prosecutors with certainty. It is notable, however, that we have only two cases of *eisangelia*, both moved very much in the interests of the prosecutor and not the ward, although *ho eisangellōn* ran no risks while the man who brought a *dikē epitropēs* was subject to *epōbelia* if he failed to secure a fifth of the dikasts' votes. The *eisangelia* thus hardly succeeds in protecting the interests of those unable to act for themselves. However, it is important that the procedure did exist and was used by people to whom a *dikē* was either unavailable or whose interests would not have been well served by the alternative action.

All the *dikai* concern wards come of age, but these wards are not devoid of support from relatives. Despite the impression given by Demosthenes that he is alone in a sea of hostile plots it was not uncommon that a relative was prepared to support a ward's claims. The fate of the guardians arraigned certainly offers little support to the claims of Sally Humphreys that the 'contradiction . . . between the ideology of the *oikos* . . . and the provision by the city of mechanisms for settling their disputes in the public sphere' caused 'the laws offering protection from exploitation within the *oikos*' to be 'completely ineffectual'.[45] It is not so much that the variety of actions protects the helpless, more that it enables the actors to find a procedure that suits their own circumstances.

It is clear that many offences fell within the bounds of a number of laws and could be charged under various heads. An extreme instance of this is the claim of Lykourgos that Leokrates' action has made him guilty of *prodosia, dēmou katalusis, asebeia, tokeōn kakōsis, lipotaxia* and *astrateia* (*in Leoc.* 147). In such instances there would always be a choice of procedure for the injured party.

[43] Davies (n. 42) 43 ff.

[44] Davies (n. 42) 151 ff.

[45] S. C. Humphreys, *The family, women and death* (London 1983) 5. Humphreys is rather cavalier with the evidence, not mentioning the known cases of *eisangelia*, counting the case in Dem. xxxvi as a case brought by a ward over his inheritance (!), ignoring the part played by the ward's brother-in-law in Lys. xxxii, and assuming that the result of the *phasis* in Dem. xxxviii 23 was necessarily unjust or unwise.

Such a choice was clearly open to victims of violence, for there is considerable overlap between *blabē* and *aikeia*, prosecuted by *dikai*, and *hybris*, prosecuted by *graphē* (*cf.* Dem. xxi 35 with Ar. *Rhet.* i 13).

We know of two prosecutions brought as *graphai hybreōs*: Is. viii 41 mentions a prosecution against Diokles which seems to have come to court only after Isaios viii was delivered; and Apollodoros brought such a case against Phormio, only for it to be 'adjourned' ([Dem.] xlv 4). Both these cases belong to continuing struggles over inheritance. Apollodoros claims that he had brought a *graphē* because *dikai* were suspended during the war, but we may doubt whether this is the whole explanation. The law concerning the *graphē hybreōs*, quoted by Dem. xxi 47, lays down that the case be heard within thirty days, public business permitting. The prosecutor is liable to the usual penalties for failure, but clearly when the action is part of an ongoing inheritance battle the successful prosecutor stood to make gains that were much more significant than the penalties, for a quick victory in a suit for *hybris* could not be without effect on the subsequent inheritance case.[46] Both Apollodoros and Diokles are engaged in serious struggles for their livelihood, and one of the main purposes of the court action is to gain publicity. In these cases at least the men who bring the *graphai* are not simply men who *happen* to volunteer, they are men with a very distinct interest in the outcome of the cases.

Ariston, the plaintiff in Demosthenes liv, claims that he could have brought a *graphē hybreōs*; in fact he brings a *dikē aikeias*. This colourful speech, with its background in the tensions of co-existence in the military camp at Panakton, brings out the violence that is a neglected feature of Athenian life. Both Ariston and his opponent Konon are clearly well-connected, although we know nothing else of their families, for they both produce wealthy men, Nikeratos III and Arkhebiades, as witnesses.[47] Ariston explains that he has limited his action to a *dikē* because of advice from his friends (liv 1): *συμβουλευόντων δέ μοι καὶ παραινούντων μὴ μείζω πράγματα ἢ δυνήσομαι φέρειν ἐπάγεσθαι, μηδ' ὑπὲρ τὴν ἡλικίαν ὧν ἐπεπόνθεν ἐγκαλοῦντα φαίνεσθαι* . . . ('My friends gave me advice and warned that I should not undertake a greater business than I could manage, for they were afraid that I would seem to be making more complaint about what I had suffered than one of my age should.') Ariston is making capital out of his decision, but it is nonetheless significant that the argument is conducted in terms of the social consequences of legal action.

Two other prosecutions for *aikeia* have political overtones. [Dem.] xlvii is a prosecution for *pseudomartyria* following a *dikē aikeias* engendered by a dispute over trireme equipment which had already led to a still earlier *eisangelia*. The families involved are wealthy, but more interestingly the plaintiff, Theophemos, brings as witnesses his brother Euergos and his *kēdestēs* Mnesiboulos, the very men who had joined him in the raid to exact the fine arising from the initial case. These are the witnesses accused of *pseudomartyria*. The second case is rather enigmatic, and only mentioned in passing. It is the prosecution brought by the public slave Pittalakos against two political figures, Hegesandros and Timarkhos. There is clearly something behind this case and it is odd that we know nothing of Glaukon of Kholargos who supports Pittalakos.

Isokrates xx mentions one further case of *aikeia*, and one that might touch on a different area of life, for the prosecutor claims to be poor, and we do not know the man he prosecutes, one Lokhites. Little more can be done with this case, but it seems not improbable that Pittalakos' choice of action by *dikē* had to do with the fact that the men he prosecuted were public figures, and that Theophemos, who had already experienced the length to which his opponent would go, similarly chose not to risk the open trial of strength which a public *graphē hybreōs* would inevitably become.

One further case of violence deserves notice here: Demosthenes' prosecution of Meidias.

[46] W. Wyse, *The speeches of Isaeus* (Cambridge 1904) 622 suggests that the prosecutor of the *graphē hybreōs* against Diokles was the speaker of Is. viii, which would reinforce the suggestion made here, although the speaker will in that case have slightly mistimed his attack.

[47] Davies (n. 42) 406 and 68–9. For further remarks on this case see D. M. MacDowell, 'Hybris in Athens', *G & R* xxiii (1976) 14–31, esp. 28–9.

Demosthenes and Meidias were old enemies (Dem. xxi 62 f.) and this had already led to a gentle first-round contest, in the form of a prosecution in a *dikē kakēgorias* which Demosthenes had won. Faced with Meidias' violence towards him when he was *chorēgos* Demosthenes chose the most public form of action of all: he had Meidias condemned before the assembly in the procedure known as *probolē*. His published speech makes it clear, however, that it was open to him to prosecute Meidias for impiety or for *hybris* by *graphē*, as well as in a *dikē aikeias*. His choice of action was calculated to have the greatest effect on Meidias' standing, and seems to have been sufficient to force Meidias to come to a settlement out of court.[48]

Graphē was also the procedure used in cases of *pseudoklēteia, bouleusis*, wrongful detention as an adulterer, and cohabiting with a foreigner (considered above p. 44). In each of these cases there was an injured party, and definition of the offence in terms of a *dikē* for violence or a *dikē blabēs* is clearly conceivable, so that the choice of action by *graphē* must have been deliberate. The one prosecution for *pseudoklēteia* of which we know is that of Apollodoros against a *klēter* of Arethousios' prosecution of him *eis emphanōn katastasin*. By this action Apollodoros seems to have increased the pressure in what had started out as a neighbourly dispute, but had, he claims, now escalated to such an extent that Arethousios and Nikostratos had tried to force him into action which would give them chance to bring a *graphē hybreōs* ([Dem.] liii 16). It is Apollodoros who also tells us of the only case of which we hear for wrongful constraint as an adulterer, that threatened by Epainetos of Andros against Stephanos but never brought to court ([Dem.] lix 66). Both these *graphai* are thus part of a tangle of litigation, and in both the prosecutor is the injured party. The same is also true of the only case of *bouleusis*, failure to delete a discharged debtor from the list (*IG* ii² 1631.394 f.). This case was brought by Aristogeiton against Ariston (Dem. xxv 71).

This notable prevalence of injured parties among the *boulomenoi* who bring *graphai* when alternative *dikai* are available makes it of interest to extend the survey to those *graphai* where there is not, or nor directly, an injured party. This is the case in the various charges of cowardice and desertion (although here *eisangelia* was available as well). All the preserved *graphai* in this area concern politicians on one or the other or both sides. Thus Alkibiades is prosecuted in Lysias xiv/xv, Stephanos prosecutes Xenokleides, poet and small-time politician ([Dem.] lix 27), and Euktemon is hired by Meidias to prosecute Demosthenes (Dem. xxi 103). It is quite likely that political motives lie behind the *eisangelia* brought by Lysitheos against Theomnestos for *dēmēgoria* after throwing away his shield, but we do not know enough about the parties involved to be sure that this is the case.

Political motives are likewise present in the three cases of *graphē* for impiety.[49] Meletos, Anytos and Lykon prosecuted Sokrates for impiety, and it was for impiety that Andokides threatened to prosecute Arkhippos in connection with the Mutilation of the Hermai. The third such prosecution was brought by Euboulides against the sister of Lakedaimonios—apparently the same Lakedaimonios who appears as the brother of Satyros of Alopeke, an arbitrator, in [Dem.] lix 45. Given the highly political man that Euboulides is—demarch and *bouleutēs* of Halimous at the same time—together with the name Lakedaimonios and the nature of [Dem.] lix, it is not improbable that this action too had political overtones.

The one other *graphē* of this type is that for *hierosylia*. Lysias v is the speech of an unknown *synēgoros* on behalf of a metic called Kallias, defending him on such a charge. *SEG* xii 100 records the confiscation of the property of Theosebes son of Theophilos of Xypete, who was charged with *hierosylia* and did not await trial. We know no more of the individual in this case than of Kallias in the first, but the fact that both the temple robber and his father have names with a Theo- prefix is notable. That it might also be significant is suggested by the other man we know to have been arraigned for robbing sacred goods, this time by the procedure of *apagōgē*—Hierokles, son of the priestess of Artemis at Brauron. Thus we might suggest that in the case of

[48] On this case see Rhodes (n. 3) 659–60.

[49] Lys. vii may provide a fourth impiety case; *cf.* n. 38 above.

Theosebes likewise the robbery was thought to be an inside job. The case of Hierokles certainly acquired a political importance (Dem. xxv hyp.), but that is not demonstrable for the other cases.

IV. Re(dis)tribution?

From the very partial data which we can muster it appears that where *graphai* were used in cases where there was an injured party it was almost always the injured party who prosecuted, while where there was no injured party the action tended to be politically motivated. This latter finding is corroborated, not surprisingly, by the cases of *graphē paranomōn*.[50] If *graphai* were invented to give some means of redress in cases where the injured party was not in a good position to protect himself, this was not the only purpose to which they were put in the classical period. In the known *graphai* outsiders show little interest in dealing with breaches in the law, but Athenians do show a lively interest in redressing the balance with those who have breached the law to their own disadvantage.

It has become clear that much of the work of the Athenian law courts was at the level of regulating conflict. Not that the courts impose any final decision: at least eight of the fifteen *graphai* and twenty of the forty-two *dikai* which we know to have been brought or threatened (not including *pseudomartyria* cases)[51] stand in a series of court actions. In some cases the series of actions is an attempt to try the same crime under a number of different heads; in all cases the repeated appearance of the same parties in the courts bears witness to the way in which the Athenian law courts were a public stage upon which private enmities were played out. Such a rôle for the courts is well known from African legal actions. Bohannan, in his work on the Tiv, noted that 'The "correct solution" changes as the situation of both litigants changes. Tiv, therefore, tend to deplore "final decisions" '; and Epstein has noted more generally that 'it is not so much that quarrels are never wholly resolved, but rather that cases have their sources in the ceaseless flow of social life, and, in turn, contribute to that flow'.[52]

There is a broader aspect to this rôle of the courts, for while it may be true that providing for the regulation of conflict is the 'distinguishing and sole necessary feature of law'[53] modern western society does not, on the whole, control social relations within society as a whole through the courts. This general rôle of law courts is again clear in the African situation, so that among the Lozi law is 'a very flexible term linking and controlling the relations between social positions';[54] while Turner invented the notion of 'social drama' to cover this situation where juridical and legal machinery is one form of adjustive and redressive mechanism limiting the spread of breaches of regular social relations.[55] That Athenian law courts were also the stage for such a social drama is closely connected with the very features of 'open texture', choice of procedure, and flexibility of action which have been considered here.

This examination of known legal cases has therefore supported the observation made by Demosthenes in the speech against Androtion about the way in which legal actions are embedded in society, and we are now in a position to look again at the distinction between *dikai* and *graphai* and to see how that distinction worked in practice.[56] For in practice it is of limited

[50] See Hansen 1975 (n. 1).

[51] There is some truth in the slightly cynical view that *pseudomartyria* should be seen as an appeal procedure.

[52] P. Bohannan, *Justice and judgment among the Tiv* (Oxford 1957) 65; A. Epstein 'The case method in the field of law', in A. Epstein, ed., *The craft of social anthropology* (London 1967) 205–30 (quotation from 230).

[53] W. A. J. Watson, *The nature of law* (Edinburgh 1977) Preface.

[54] M. Gluckman, *The judicial process among the Barotse* (Manchester 1955) 297 (*cf.* ch. 1).

[55] V. Turner, *Schism and continuity in an African society* (Manchester 1957) 91–3, 230–2. See generally P. Bourdieu, *Outline of a theory of practice* (Cambridge 1977) 16 f.

[56] A dramatic illustration of the peculiar turn a legal system may take in particular circumstances is provided by B. S. Cohn in P. Bohannan, ed., *Law and warfare* (N.Y. 1967) 139–59. Cohn noted that among the Rajputs of North India the eradication of warfare as a bond of solidarity led to a 'situation in which law is used not for settling disputes but for furthering them, and

importance that only the injured party could bring a *dikē* and that any Athenian could prosecute a *graphē*: which type of procedure is used seems far more to be determined by the relative and absolute social positions of prosecutor and defendant. To bring a *graphē* when one might bring a *dikē* (which might be settled without coming before dikasts) is to bring oneself to public attention: not only is one choosing to risk a 1000 dr. fine, but one is claiming to champion interests wider than one's own, parading one's quality of being a citizen. This is explicit in Apollodoros' remarks on why he is himself denouncing the property of Arethousios ([Dem.] liii 2):

> ἀλλὰ τῶν ἐν ἀνθρώποις ἁπάντων ἡγησάμενος δεινότατον εἶναι ἀδικεῖσθαι μὲν αὐτός, ἕτερον δ' ὑπὲρ ἐμοῦ τοῦ ἀδικουμένου τοὔνομα παρέχειν, καὶ εἶναι ἄν τι τούτοις τοῦτο τεκμήριον, ὁπότε ἐγὼ λέγοιμι τὴν ἔχθραν πρὸς ὑμᾶς, ὡς ψευδόμαι (οὐ γαρ ἄν ποτε ἕτερον ἀπογράψαι, εἴπερ ἐγὼ αὐτὸς ἠδικούμην), διὰ μὲν ταῦτ' ἀπέγραψα.
>
> I think that it is the most terrible of human situations to be wronged myself and yet have another put his name forward on my behalf, and that this would be a sort of proof for my opponents that I lie when I claim before you an old enmity (the argument being that another would not have brought the denunciation if I was really the wronged party), and so I have made this denunciation.

Graphai are open trials of strength, and the offence may be subject to considerable interpretation and redefinition to enable it to be tried by this procedure.

The way in which the courts were felt to regulate conflicts by effecting a redistribution can be seen in two, to modern ways of thinking, extraordinary procedures: *antidosis* and *timēsis*. A man who thought that a liturgy should justly be born by another richer than himself might challenge the other man either to bear the liturgy or to exchange properties with himself. *Timēsis* was a much more regular procedure: many court cases had their penalty fixed by the the dikasts' choosing between the penalty proposed by the prosecution and that proposed by the condemned party. This procedure, which gave the dikasts no chance of compromising between the two estimates (cf. *Ath. Pol.* 69.2) makes good sense where the court is redressing the balance between individuals—it is, indeed, but an institutionalised stage in the process of argument and counter-argument found in communities where disputes are settled by thrashing out mutual agreements.[57] Seen in this light it becomes apparent that when the court is a stage it is absolutely essential that the dikasts be large in number and without legal training; the sophistic and doubtful justifications for lay juries in the modern world are neither required nor invited.

The example of the *apographē* procedure shows that the same procedure could be used to very different ends by different people. *Graphai* were similarly flexible, but they could be both reflections of inequality and instruments by which such inequality could be created and promoted. The 'radical' innovation of opening up prosecution to anyone who wished had the effect of creating a conspicuous action which could be socially conservative.

Gulliver has suggested that legal systems range between the judicial, where a man invested with authority and responsibility decides and his decision is enforced, and the political, where 'a decision is reached and a settlement made as a result of the relative strengths of the two parties to the dispute as they are shown and tested in social action'.[58] The Athenian situation clearly does not fall into either of these extreme categories, but the argument of this paper is that we would do well to look more closely at the possibility that it has strong 'political' characteristics, rather than assume that it is a modified judicial system without a judge.

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where the courts are looked upon as a place for harassment or a place in which to gain revenge'.

[57] See P. H. Gulliver, *Social control in an African society* (London 1963) 232, on the Arusha.

[58] Gulliver (n. 57) 298.

Appendix 1: The Cases of *Apographē*

Apographē 1: *apographē* used to determine and sell the property of men judicially deprived of property rights.

A. *Literary cases*

(i) Eraton has a loan from the father of the speaker. He dies and his sons fail to keep up the repayments. The speaker's father obtains an action against one heir, Erasistratos, but before he can regain his money the property of Eraton is confiscated. Lys. xvii 4, *ὅτι μὲν τὰ Ἐράτωνος δικαίως ἂν ἡμέτερα εἴη, ἐκ τούτων ῥᾴδιον εἰδέναι, ὅτι δὲ πάντα δημεύεται, ἐξ αὐτῶν τῶν ἀπογραφῶν. τρεῖς γὰρ καὶ τέτταρες ἕκαστα ἀπογεγράφασι.* Judicial condemnation seems to fit the circumstances best. The case gives evidence that several people might bring *apographai* on the property of the same man. It is explicitly stated that the public treasury receives the excess of the property over the claims on it (xvii 7).

(ii) Kallistratos denounced the property of Antimakhos, *tamias* of Timotheos following his judicial condemnation, [Dem.] xlix 10, 45–7. Apollodoros argues that Pasion's failure to bring a claim (*ἐνεπισκήψασθαι*) on the occasion of the *apographē* disproves Timotheos' claim that the loan for which Apollodoros is suing was in fact made to Antimakhos.

[(iii) *Cf.* the case of Antiphon and Arkheptolemos (above n. 34) where *ἀπογράφειν* is not in fact used.]

(iv) and (v) See below 3A(ii), 3A(iii).

B. *Epigraphic cases*

(i) *SEG* xii 100 (*Hesperia* x [1941] p. 14 no. 1; M. I. Finley in *Studi in onore di V. Arangio Ruiz* iii [Napoli 1952] 473–91). Theomnestos son of Deisitheos of Ionidai denounces a house at Alopeke belonging to Theosebes son of Theophilos of Xypete who has been condemned for *hierosylia*. A number of claims are made on the property.

(ii) and (iii) Two poorly preserved cases, not certainly following judicial condemnation: *Hesperia* xix (1950) 237 no. 14. 36 ff.

[(iv) *Cf.* the Attic Stelai, where the procedure was presumably basically *apographē* although that term does not survive in the inscriptions; *IG* i^3 421–30, *Hesperia* xxii (1953) 225–99, xxv (1956) 178–317.]

(v) The confiscation of the property of the Thirty: see above n. 34.

Apographē 2: *apographē* used to recover a debt.

A. *Literary cases*

(i) The speaker of Lysias ix has been written up as a public debtor and denounced after condemnation for abuse of a magistrate after he had been listed for military service within two months of returning from a previous stint. He claims the denunciation is illegitimate since the *tamiai* had declared the punishment invalid (5–7).

(ii) Aristogeiton has been condemned in a *graphē paranomōn*, fined 5 tal. plus 1000 dr., and had the fine doubled for non-payment. A *khōrion* belonging to him is denounced and bought by his brother Eunomos for exactly the sum of the debt (hypothesis to Dem. xxv, confirmed by Deinarkhos ii 13).

(iii) Pamphilos incurs a debt of 5 tal. to the public treasury. His property is confiscated but does not realise the sum of the debt ([Dem.] xl 22).

(iv) Apollodoros has had Arethousios condemned for *pseudoklēteia* and fined one talent. Apollodoros denounces Arethousios' property, but Nikostratos claims that he owns some of the slaves Apollodoros has included. [Dem.] liii is Apollodoros' attempt to refute this claim. Apollodoros says that he will pay his reward for *apographē* over to the public treasury (liii 2).

[(v) Theomnestos mentions the threat of denunciation that would have hung over Apollodoros had Stephanos succeeded in having him fined 15 tal. [Dem.] lix 7.]

B. *Epigraphic cases*

(i) Euthykles son of Euthymenides of Myrrhinous denounced the *synoikia* of Meixidemos of Myrrhinous in the Peiraieus. Meixidemos has gone surety for various public contracts and neither the contractor nor he has paid up. Telemakhos of Akharnai buys the *synoikia* for exactly the sum of the doubled debt. *Hesperia* v (1936) 397 ff. no. 10. 115 ff.

(ii) Timarkhos of Aphidna, Amphikles, and Ersikles of Aphidna denounced a piece of land at Aphidna which is the property of Nikodemos, son of Aristomenes, of Oinoe, who as tribal official of Aiantis levied money but did not pay it over, and who had been fined 1000 dr. and had his debt doubled for non-payment. The *epimelētai* of the tribe Aiantis put in a claim on the property which is sold to Nikokrates of Rhamnous for the sum of 680 dr., which is less than the tribe's claim. *Hesperia* v (1936) 397 ff. no. 10. 153 ff.

(iii) Sopolis has been condemned for failing to hand over *ξύλινα σκεύη* on behalf of his deceased brother. All his property is denounced by Polyeuktos of Hestiaia who releases his share to Sopolis *εἰς τὴν ἐπιτιμίαν*. *IG* ii^2 1631,351 ff. (Dareste, *Inscr. jur.* ii 146 ff. no. 26).

(iv) Stesileides of Siphnos incurred a debt over a trireme, then doubled, and another over a quadrireme, and then died. His property is denounced by Hermodoros of Akharnai and realises 2 tal. 117 dr. 2 ob. *IG* ii^2 1631.430–1.

(v) Demonikos of Myrrhinous incurred a debt, then doubled, over some naval equipment. His property is denounced by Theodotos of Myrrhinoutta and yields a return in installments of 210 dr. *IG* ii^2 1631.288 ff., *cf.* 1623.218–33, 1628.620–41, 1629.1098–1132.

[(vi) Promethion son of Aiskhraion from Kedoi denounced property at Thria. The circumstances are unknown, and the guess that *apographē* 2 is involved is made on the basis of the other two cases of *apographē* in this inscription. *Hesperia* v (1936) 397 ff. no. 10. 185 ff.

Apographē 3: *apographe* as a means of prosecution.

A. *Literary cases*

(i) Eukrates son of Nikeratos has been executed by the Thirty. Poliokhos seems to use *apographē* to prosecute Eukrates' sons for holding property which the condemnation of their father has made public. The details are obscure: see Gernet's introduction to the speech, Lys. xviii, in Gernet–Bizos (n. 38) ii.

(ii) Aristophanes has been condemned to death and his property confiscated. Lysias seems to have opposed this in a speech *κατ' Αἰσχίνου περὶ τῆς δημεύσεως τῶν Ἀριστοφάνους χρημάτων* (*fr.* 2 Thal., *cf.* xix 8). The confiscation realised less than was expected and action was taken against Aristophanes' father-in-law who had lent him money and was thought to have held back some of Aristophanes' property from the confiscation. Upon his death his son attempts to defend his property in Lys. xix.

(iii) The property of Philokrates is denounced on the grounds that it includes property of Ergokles confiscated on his condemnation. Lys. xxix is the speech in support of the *apographē*.

(iv) Teisis of Agryle brought an *apographē* against Euthykrates for having enriched himself from unregistered mines. The prosecution is considered sykophantic and Teisis is punished with *atimia*. Hyp. iii 34.

[(v) and (vi) Teisis threatens *apographai* against Philippos and Nausikles for mining offences. Hyp. iii 34]

Appendix 2: A Catalogue of *Graphai* and *Dikai* in the Age of the Orators

Special procedures catalogued by Hansen (n. 1) are omitted, as are inheritance cases. Cases only attested by speech titles are omitted because of the unreliability of titular classifications—of the four *κακηγορία* cases listed in the papyrus hypotheses of Lysias (*POxy* 2537) one is not a court case and one is a case of *apographē*. An S indicates that the case is one of a series involving the same parties. AA indicates an unspecified prosecutor, NN an unspecified defendant. *APF*=J. K. Davies, *Athenian propertied families*; *PA*=I. Kirchner, ed., *Prosopographia Attica*.

Graphai

ἀδίκως εἱρχθῆναι ὡς μοιχόν:

S *Cf.* Dem. lix 66. Epainetos of Andros (injured party) p. Stephanos of Eroiadai (*PA* 12887). Case dropped.

ἀσεβείας:

(i)? Lys. vii. Parties unknown. Possibly a *phasis*: see n. 38.

(ii) Pl. *Apol.* etc. Meletos of Pithos (*PA* 9829), Lykon of Thorikos (*PA* 9271), and Anytos of Euonymon (*APF* 1324) p. Sokrates of Alopeke (*PA* 13101). Case won.
(iii) Dem. lvii 8. Euboulides of Halimous (*PA* 5323) p. sister of Lakedaimonios of Alopeke (*PA* 8964). Case lost.
For other claimed 5th c. cases see K. J. Dover, *Talanta* vii (1975) 24–54.

ἀστρατείας/λιποταξίου/δειλίας:
(i) Lys. xiv/xv. AA p. son of Alkibiades (*PA* 598).
(ii) Dem. lix 27. Stephanos of Eroiadai (*PA* 12887) p. Xenokleides (*PA* 11197).
S (iii) *Cf.* Dem. xxi 103. Euktemon of Lousia (*PA* 5800) commissioned to p. Demosthenes of Paiania (*APF* 3597).
S (iv) Cf. Lys. x 1 ff. *εἰσαγγελία ὅπλα ἀποβεβληκέναι*: Lysitheos (*PA* 9399) p. Theomnestos (*PA* 6962).

ἱεροσυλίας:
(i) Lys. v. AA p. Kallias (metic).
(ii) *SEG* xii 100. AA p. Theosebes Theophilou of Xypete. Case won.
(iii) *Cf.* Dem. xxv hyp. Pythangelos (*PA* 12355) and Skaphon (*PA* 12724) p. 1 Hierokles (*PA* 7481) by *apagogē*.

ξενίας:
S (i) Dem. lix. Theomnestos of Athmonon (*APF* 6965) p. Neaira (Stephanos).
S (ii) *Cf.* Dem. lix 52. (*ξένης ἐγγύης*) Phrastor of Aigilia (*PA* 14990) p. Stephanos of Eroiadai (*PA* 12887). Case dropped.

ὕβρεως:
S (i) Is. viii 41 and *fr.*5. AA p. Diokles of Phyla (*APF* 4061).
S (ii) *Cf.* Dem. xlv 4. Apollodoros of Akharnai (*APF* 1411) p. Phormio (*APF* 14951). Case dropped.

ψευδοκλητείας:
S Dem. liii 17. Apollodoros of Akharnai (*APF* 1411) p. Klētēr of Arethousios (*PA* 1587).

βουλεύσεως:
Dem. xxv 71. Aristogeiton (*PA* 1775) p. Ariston of Alopeke (*PA* 2149).

DIKAI

αἰκείας:
(i) Dem. liv. Ariston (*PA* 2139) p. Konon of Paionidai (*PA* 8715).
S (ii) Dem. xlvii 36 ff. Theophemos of Euonymon (*APF* 7094) p. NN (AA of Dem. xlvii).
(iii) Isok. xx. AA p. Lokhites.
(iv) Aiskh. i 62. Pittalakos (public slave) p. Hegesandros of Sounion (*APF* 6307) and Timarkhos of Sphettos (*PA* 13636). This might be a *δίκη βιαίων*.

βλάβης:
S (i) Dem. xli 12. Spoudias (*PA* 12862) p. NN (AA of Dem. xli).
(ii) Dem. xxxiii. AA p. Apatourios of Byzantion.
S (iii) Dem. xxxvi. Apollodoros of Akharnai (*APF* 1411) p. Phormion (*APF* 14951).
(iv) Dem. xxxvii. Pantainetos (*PA* 11579) p. Nikoboulos (*PA* 10839).
(v) Dem. xxxvii 8. Pantainetos (*PA* 11579) p. Euergos (sub. *PA* 5458).
S (vi) Dem. xxxviii. Nausimakhos and Xenopeithes of Paiania (*APF* 11263) p. sons of Aristaikhmos of Kholleidai (*APF* 1639/40).
(vii) Dem. lv. Kallikles (*PA* 7920) p. son of Teisias (*PA* 13473).
(viii) Dem. lvi. Dareios and Pamphilos p. Dionysodoros.
S (ix) Isok. xvi. Teisias of Kephale (*APF* 13479) p. Alkibiades of Skambonidai (*PA* 598). For this case see also D.S. xiii 74.3-4, And. iv 26 f., Plut. *Alk.* 12.3.
(x) Isok. xviii. Kallimakhos (*PA* 7996) p. NN.

S (xi) Dem. lii 13 ff. Kallipos of Lamptrai (*PA* 8074) p. (1) Pasion of Akharnai (*APF* 11672) and (2) Apollodoros of Akharnai (*APF* 1411).
(xii) Dem. xlviii. Kallistratos of Pallene (*PA* 8179) p. Olympiodoros (*PA* 11386).
(xiii) Hyp. iii(v). Epikrates (*PA* 4862) p. Athenogenes (Egyptian).
S (xiv)? Dem. xli. AA p. Spoudias (*PA* 12862). See Harrison 1968 (n. 1) 52 n. 1.

ἐξούλης:
S (i) Dem. xxx/xxxi. Demosthenes of Paiania (*APF* 3597) p. Onetor of Melite (*APF* 11473).
(ii) Dem. xxxii. Zenothemis p. Demon of Paiania (*APF* 3736).
S (iii) Dem. xl 32 f. Boiotos of Thorikos (*APF* 9675) p. Mantitheos of Thorikos (*APF* 9676).

ἐπιτροπῆς:
S (i) Is. vii 6 f., 10, 13. Arkhedamos of Oion (*APF* 2312) and Apollodoros of Leukonoion (*APF* 1395) p. Eupolis of Leukonoion (*APF* 5935).
(ii) Lys. xxxii. AA p. Diogeiton (*APF* 3788).
S (iii) Dem. xxvii/xxviii. Demosthenes of Paiania (*APF* 3597) p. Aphobos of Sphettos (*APF* 2776).
S (iv) Dem. xxxviii 1 ff. Xenopeithes and Nausimakhos of Paiania (*APF* 11263) p. Aristaikhmos of Kholleidai (*APF* 1639/40). Case won.
(v) *POxy* xxvii 2464. AA p. Demeas.
S (vi) *Cf.* *εἰσαγγελία κακώσεως ὀρφάνων*: Is. xi. AA p. Theopompos of Oion (*APF* 7036).
(vii) Dem. lviii 32. Theokrines of Hybadai (*PA* 6946) p. Polyeuktos (? of Sphettos *PA* 11950).

εἰς ἐμφανῶν κατάστασιν:
S (i) Dem. xliii 14. Arethousios (*PA* 1587) p. Apollodoros of Akharnai (*APF* 1411).
S (ii) Is. vi 31. Euktemon of Kephisia (*APF* 5798) p. Pythodoros of Kephisia (*APF* 12425).
(iii) Dion. Hal. *de Is.* 15. AA p. NN (claimant of inheritance p. holder of part of estate).

κακηγορίας:
S (i) Lys. x. AA p. Theomnestos (*PA* 6962).
S (ii) Lys. x 12. Theomnestos (*PA* 6962) p. Lysitheos (*PA* 9399) (reading Lysitheos with Frohberger rather than 'Theon').
S (iii) Dem. xxi 81. Demosthenes of Paiania (*APF* 3597) p. Meidias of Anagyrous (*PA* 9719).

παρακαταθήκης (but both cases might be *βλάβης*):
(i) Isok. xvii. AA (Bosporan) p. Pasion of Akharnai.
(ii) Isok. xxi. AA p. Euthunos (*PA* 5659).

προικός:
S ?Dem. xl. Mantitheos of Thorikos (*APF* 9679) p. Boiotos of Thorikos (*APF* 9675).

σίτου:
S Dem. xlix. 52. Stephanos of Eroiadai (*PA* 12887) p. Phrastor of Aigilia (*PA* 14990). Case dropped.

φόνου:
(i) Lys. i. AA p. Euphiletos (*PA* 6049).
S (ii) Isok. xviii 51. AA p. Kratinos (*PA* 8751).
S (iii) Dem. lix 10. Stephanos of Eroiadai (*PA* 12887) p. Apollodoros of Akharnai (*APF* 1411).
(iv) Dem. xxi 104. AA p. Aristarkhos (*PA* 1656).
(v) Pl. *Euthyphr.* 3e ff. Euthyphro of Prospalta (*PA* 5664) p. his own father.
(vi) *Cf.* Antiphon i. Son p. stepmother (*βουλεύσις*).
(vii) Antiphon vi. Philokrates (*PA* 14570) p. NN (*βουλεύσις*: see vi 16).

τραύματος ἐκ προνοίας:
(i) Lys. iii. Simon (*PA* 12690) p. NN (*APF* D12).
(ii) Lys. iv. AA (*APF* D13) p. NN (*APF* D14).
(iii) Dem. liv 25. AA p. the father of the priestess from Brauron (for this case see D. M. MacDowell, *Athenian homicide law in the age of the orators* [Manchester 1963] 67–8).

ψευδομαρτυρίας:
(i) Is. ii. AA p. Philonides (*PA* 14883).

(ii) Is. iii. AA p. Nikodemos (*PA* 10584).
(iii) Is. v 9. Polyaratos of Kholargos (*APF* 11907) p. Dikaiogenes of Kydathenaion (*APF* 3774). (Never brought to court.)
(iv) Is. v. 12. Menexenos (III) of Kholargos (*APF* 9978) p. Lykon (*PA* 9268).
(v) Is. vi. Khairestratos of Kephisia (*APF* 15164) p. Androkles (*PA* 851).
(vi) Dem. xlv/xlvi. Apollodoros of Akharnai (*APF* 1411) p. Stephanos of Eroiadai (*PA* 12887).
(vii) Dem. xlvii. AA p. Euergos of Euonymon (*APF* 5458) and Mnesiboulos (*APF* 10265).
(viii) Is. xi 45. ?Sositheos (*PA* 13224) p. NN.
(ix) Lys. x 25. Theomnestos (*PA* 6962) p. Dionysius (*PA* 4093).