

scenes with Herakles as well as other gods. Eros' presence adds to the idyllic quality of the garden of the Hesperides, suggests the erotic aspects of Herakles' match with Hebe and extends the pleasures of the table to those of the bedroom in scenes of feasting.¹

The earliest extant representation of Herakles and Eros alone is on a bronze hydria in Malibu (PLATE IVe).² It shows Herakles carrying the infant Eros in an affectionate manner. Such service is performed by older gods for younger ones frequently in sculptures of the fourth century BC³ and even earlier in vase painting of the fifth century BC.⁴

Gem cutters often show Eros on the shoulder of a crouching Herakles. In the earliest extant example, from the third century BC,⁵ Herakles brandishes his club in one hand—the object of his attack is not clear—and holds Eros' hand with the other. Herakles' position suggests submission, but he does not evince any hostility towards Eros. In a later variant,⁶ Herakles is shown without his club. Vollenweider⁷ interprets a cameo of this type as showing Herakles forced down on one knee by Eros and making a gesture of submission with his free hand. Furtwängler holds the same opinion and also sees a group of Roman gems which show Herakles with his hands bound behind his back as images of Eros subduing Herakles.⁸

This may be true of some representations for, as we know, just this sort of piquant conceit was found appealing in Hellenistic and Roman times. Nevertheless, the possibility that friendly relations such as are revealed in the Malibu bronze also pertain to at least some of the gems should not be excluded. On one,⁹ for instance, Herakles is holding Eros' two hands, apparently in order to help him balance on the hero's shoulders. Another gem¹⁰ in which Herakles is shown walking with his hands tied behind his back and Eros is

perched on his shoulder is visually very close to the Malibu bronze.

When Herakles is shown with his hands tied and Eros behind him,¹¹ it is usually assumed that Eros is binding the hero's hands and thus exercising his power over Herakles. This may well be correct, but it should be remembered that the image alone, unsupported by any literary evidence is ambiguous, and Eros might just as well be releasing Herakles from his bonds as binding him.

Other types are rare.¹²

In the absence of literary evidence, scenes showing Herakles with Eros are extraordinary difficult to interpret. We can seldom be absolutely sure whether we are looking at allegories of the power of love or subtle illustrations of stories whose content eludes us.¹³

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¹¹ For instance, glass intaglio, Berlin, Staatl. Mus. FG 1325 (Furtwängler *Beschreibung* pl. 15, 1325) and Cornelian intaglio, Vienna, Kunsthst. Mus. IX B 656 (*AGOe* i, pl. 46, 268).

¹² Two glass intaglios appear to show Herakles and Eros standing on opposite sides of an altar (Hanover, Kestner Mus. *AGD* iv, pl. 121, 927 and Vienna, Kunsthst. Mus. XI B 324, *AGOe* i, pl. 15, 656). A sardonyx cameo in Leningrad, Herm. Mus. 294 (O. Neverov *Antique Cameos* [1971] no. 27) shows Eros pouring bath water over a crouching Herakles in the presence of a woman (Omphale?). A jasper intaglio, Munich, Münzslg. A 2002 (*AGD* iii, pl. 254, 2716) shows Herakles seated on a rock holding his club in front of him with three Erotes, one flying towards his shoulder, one mid-air in front of him, one holding his club, possibly trying to pull it away. An intaglio, Berlin, Staatl. Mus. FG 7568, shows Herakles seated with club and lion-skin, with a skyphos in one hand. Eros reaches a wreath to him. A glass intaglio fragment (Munich, Münzslg. *AGD* i, 3 pl. 302, 3109) shows Herakles opposite Eros, who is looking into a krater. A coin of Herakleia (*Rec. Gen.* 78) shows Herakles seated, holding out a hand to Eros, down on one knee, holding Herakles' club while another Eros is shown in a tree (for other coins, see *LIMC* iii 'Eros' 926, nos. 915–19). A bone relief in Alexandria (Greco-Rom. Mus. GR 23891) shows Herakles standing with his club under his arm and Eros on his shoulder. C. Praschniker *Parthenonstudien* (Augsburg 1928) 215 f. suggested that Eros on East Metope 11 of the Parthenon is accompanying Herakles in his fight against the giants and in this opinion he is followed by many (but by no means all) scholars. For a summary of views, see E. Berger *Der Parthenon in Basel: Dokumentation zu den Metopen* (Mainz 1986) 57 and 66–8.

¹³ Many colleagues have kindly given me suggestions and helpful criticism on this note and I would like to thank Donald Bailey, Lucilla Burn, Catherine Hobe-Hamsher, Olga Palagia and Dyfri Williams. Some have disagreed with my conclusions and none are responsible for my mistakes, but all have been extremely generous.

The Duration of an Athenian Political Trial

The procedures involved in, and duration of, Athenian trials have been the subject of much attention,¹ and it is the *communis opinio* that a public trial in Athens lasted for one day only. Yet the evidence for this is mostly circumstantial and difficulties arise when one tries to reconcile a lengthy trial, as evidenced by the existence of very long speeches, with a one-day trial

¹ See especially P. J. Rhodes, *A commentary on the Aristotelian Athenian Politeia* (Oxford 1981) 719–28 for detailed discussion and bibliography, to which add D. M. MacDowell, *CQ* 2 xxxv (1985) 525–6.

¹ For instance: Eros with Herakles in the garden of the Hesperides—Pelike, Yale University (Stoddard coll) 138 (Baur *Cat. Stoddard* 93, pl. IX; Metzger, *Représentations* 203, no. 20); Hydria, British Museum E 227 (*CVA* [Great Britain 8] pl. 93, Metzger *Représentations* 202, no. 19, pl. XXVII/1); Calyx krater, Paris, Petit Palais 327 (*CVA* [France 15] pl. 14, 1–4, 6, Metzger *Représentations* 204, no. 23, pl. XXVII, 3); Eros with Herakles and Hebe—Hydria, British Museum E 244 (*CVA* [Great Britain 8] pl. 98, 5) Metzger *Représentations* 49, no. 26, 216, no. 54); Volute krater, Berlin, Staatl. Mus. (*Antike Kunst* xii [1969] 63 and pl. 34, 1); and Eros with Herakles feasting—Bell krater, Musée d'Angers (Metzger *Représentations* 216, no. 55, pl. XVI, 3); Calyx krater, Athens, Nat. Mus. 14627 (*ARV*² 1451.4) and see *LIMC* iii 'Eros' 926, no. 913.

² Getty Mus. 79 AE 119.

³ For instance, Kephisodotos' Eirene with the infant Ploutos or Praxiteles' Hermes with the infant Dionysus.

⁴ For instance, Iris carrying the infant Hermes on a hydria, Munich 2426 (*ARV*² 189.76) or Hermes carrying the infant Dionysus on a calyx krater, Vatican 16586 (*ARV*² 1017.54).

⁵ Glass intaglio, Oxford, Ashmolean Mus. FR 78 (Boardman/Vollenweider *Oxford gems* i [1978] 112, pl. 64, 382).

⁶ Glass intaglio, Hanover, Kestner Mus. (*AGD* iv, pl. 47, 309).

⁷ M. L. Vollenweider *Die Steinschneidekunst und ihre Künstler in Spätrepublikanischer und Augusteischer Zeit* (Baden Baden 1966) 102.

⁸ A. Furtwängler *ML* (Roscher) 'Herakles' 2249. See glass intaglio, Berlin, Staatl. Mus. FG 4206/7 (Furtwängler *Beschreibung* pl. 31, 4207), glass intaglio, Berlin, Staatl. Mus. FG 1325 (Furtwängler *Beschreibung* pl. 15, 1325), Cornelian intaglio, Vienna, Kunsthst. Mus. IX B 656 (*AGOe* i, pl. 46, 268); Chalcedony intaglio, Florence, Mus. Arch. (Milani *Guida* [1912] pl. 135.8).

⁹ Glass intaglio, Hanover, Kestner Mus. (*AGD* iv, pl. 47, 309).

¹⁰ Chalcedony intaglio, Florence, Mus. Arch. (Milani *Guida* [1912] pl. 135.8).

period. The purpose of this note is to question the standard view and to put forward the suggestion that certain trials could extend up to two or three days in length. By way of introduction we may summarize what evidence we have.

According to *AP* 67.1² only one public (as distinct from private) case per day was tried in a court of law and the modern assumption is that the issue had to be resolved by the end of that day.³ Therefore, the speeches of both prosecution and defence were of a fixed length of time and measured by the κλεψύδρα. This was a large amphora with a plugged hole at the bottom which was filled with water. When the speaker began his speech the plug was removed, and when all of the water had run out he had to stop. Our sources inform us that eleven amphorae were used (*Aes.* ii 126; cf. *AP* 67.4), which Harrison believes were only for the defence in this case,⁴ as opposed to Lipsius' view that they represented the whole day's proceedings.⁵ According to *Aes.* iii 197 the day had a tripartite division: one-third for the prosecution, one-third for the defence and one-third for the speeches which assessed the penalty if the accused had been found guilty.⁶ We shall return to the Aeschines passages later.

A κλεψύδρα of the late fifth century was discovered in the Agora excavations and published by S. Young in *Hesperia* viii (1939) 274–84. It was found to hold two χοές of water (=6.4 litres) and took six minutes to drain. Since one χοῦς=one-twelfth of an amphora and would take three minutes to empty, then one amphora would drain in thirty-six minutes. Over the tripartite day eleven amphorae (=132 χοές) would empty in 6 hours 36 minutes, and therefore the one-third unit (=44 χοές) would occupy some 2 hours 12 minutes.

Despite their apparent neatness such calculations are hazardous, for the κλεψύδρα from the Agora is tribal, bearing the inscription Ἀντιοχ[ίδος], and those used in the law courts may have been different in capacity from that of the tribe Antiochis.⁷ However, what is important here is not so much the capacity of the tribal κλεψύδρα but the size of the hole. In the absence of mass-production we can only wonder whether the Athenians had any way of ensuring consistency of flow, which would clearly affect the timing of the trial, if the holes were not of a uniform diameter. Perhaps to ensure fairness they insisted that each side in a particular trial used the same κλεψύδρα. The allotted trial time was not

for the whole proceedings but only for the actual speeches,⁸ and in public trials the quoting of decrees, laws, oracles and other testimony (that of character witnesses, for example) was included in the allotted time for each party; the κλεψύδρα was stopped for these in private suits only.⁹ Furthermore, when several prosecutors were involved the time allowed fell on them all collectively and not individually. In other words, when one finished he would 'hand over the water' to his colleague who then delivered his speech;¹⁰ as happens at the conclusion of Deinarchus' speech *Against Demosthenes* (i 114): παραδίδωμι τὸ ὕδωρ τοῖς ἄλλοις κατηγοροῖς.

Let us now examine the passages of *AP* and of Aeschines on the length of political trials and their possible interpretations. It should be emphasized that *AP* does not state specifically that a one-day trial period was a hard and fast rule, merely that public trials ἐν[α μόνον] ἐκδικάζουσι. It is therefore dangerous to posit a fixed one-day rule from this passage, even though Rhodes has questioned the validity of arguments from silence based on the structure or wording of *AP*.¹¹ *Aes.* iii 197 states that the trial day was divided into three for cases of γραφή παρανόμων (into which category his speech fell). We cannot infer from this that all public trials were to be heard within the one day. Perhaps only γραφαὶ παρανόμων were settled in one day and other procedures (such as the ἀπόφασις against Demosthenes in 323) were tried over a longer duration. However, this is apparently negated by *Aes.* ii 126 (a defence speech under the εὐθυναί procedure): πρὸς ἕνδεκα γὰρ ἀμφορέας ἐν διαμετρημένῃ τῇ ἡμέρᾳ κρίνομαι. The statement seems to encompass the entire length of the trial, especially in the light of κρίνομαι ('I am having my case decided'), unless Aeschines refers only to the time allotted for his defence. The ambiguity cannot be satisfactorily resolved on the basis of the present evidence.

I cited Deinarchus' speech *Against Demosthenes* deliberately, for that particular show-trial in 323 illustrates well the implausibility of a trial lasting for one day (that is, 6 hours 36 minutes). Demosthenes had been charged with taking a bribe from Harpalus and been brought to trial before a jury of 1500 citizens (*Dein.* i 107). Ten prosecutors had been appointed (*Dein.* ii 6), and it seems likely that Stratocles of Diomeia spoke first followed by the client of Deinarchus (*Dein.* i 1, 20 and 21). Since Demosthenes was convicted of the charge (δωροδοκία) the final third of the 'tripartite day' will have been given over to speeches to assess his penalty, and although he could legally have faced a tenfold fine or death (*Dein.* i 60, ii 17, *Hyp.* v 24, *AP* 54.2; cf. *Dem.* xxiv. 112), he was fined apparently only fifty talents (for example, *Plut. Dem.* 26.2). From all of this, we must conclude that either the ten prosecutors delivered their speeches against Demosthenes in the first third of the day (that is, in 2 hours 12 minutes), or that an exception was made and his trial stretched beyond the one-day limit. A speech of some 300 chapters might well be fitted into the time allotted, but divided amongst ten prosecutors this would give them approximately thirty chapters

² Ταῦτα δὲ ποιήσαντες εἰσκαλοῦσι τοὺς ἀγῶνας, ὅταν μὲν τὰ ἴδια δικάζωσι, τοὺς ἴδιους, τῷ ἀριθμῷ δ' [ἐ]ξ ἐκάστων τῶν δικῶν τῶν ἐκ τοῦ νόμου, καὶ δι[ιο]μν[ύ]ουσι|ν οἱ ἀντίδικοι εἰς αὐτὸ τὸ πρᾶγμα ἐρεῖν.[ὅταν] δὲ τὰ δημόσια, τοὺς δημοσίους, καὶ ἐν[α] μόνον ἐκδικάζουσι.

³ For example, J. H. Lipsius, *Das attische Recht und Rechtsverfahren* (Leipzig 1905) 915 with n. 41, A. R. W. Harrison, *The law of Athens* ii (Oxford 1971) 161 with n. 4, D. M. MacDowell, *The law in classical Athens* (London 1978) 249, Rhodes (n. 1) 719.

⁴ Harrison (n. 3) ii 162 with n. 1.

⁵ Lipsius (n. 3) 915; cf. Rhodes (n. 1) 726.

⁶ *AP* 67.4 with *Aes.* iii 197 and Harpocration, s.v. 'διαμετρημένη ἡμέρα', and see the discussion of Rhodes (n. 1) 722–3 and 726–8. MacDowell (n. 1), 526 argues convincingly for an emendation at *AP* 69.2 in order to make the time allowed for speeches on the assessment of the penalty half that for the speeches in the main trial. This does not affect my argument in this paper since even half of the normal time allowed can still point to extended trials in certain cases.

⁷ Cf. MacDowell (n. 1) 250. For a further argument for the approximate reliability of Young's figures see Rhodes (n. 1) 721 and 726–7 with MacDowell (n. 1) 526.

⁸ See Rhodes (n. 1) 726–7 and MacDowell (n. 1) 525.

⁹ *AP* 67.3 with Rhodes (n. 1) 722.

¹⁰ Cf. Rhodes (n. 1) 721.

¹¹ (n. 1) 49.

each, and Deinarchus' speech is 114 chapters in length and that of Hyperides at least forty with the conclusion lost. In addition, time must be allowed for the quotation of decrees, oracles and other testimony which Deinarchus calls to be read. It is thus difficult to agree with the *communis opinio* on the length of a trial in connection with this case.

There is no need to assume that each of the ten speeches against Demosthenes would have been of equal length. In 330 Aeschines forecast that Ctesiphon would deliver a short speech of introduction followed by a lengthier one by Demosthenes which would properly answer the charges (Aes. iii 201–2; cf. 241–3). Stratocles' opening speech against Demosthenes could have been merely short and introductory (as Dein. i 1 seems to imply) preceding a longer one composed by Deinarchus. Nevertheless, it is still incredible that ten speeches, whatever their length, were delivered in such a short space of time. Indeed, one questions whether Deinarchus' speech could have been spoken in the time allowed for the entire first third of the day, which, of course, leaves no time for the remaining nine.¹² The likelihood does admittedly exist that Deinarchus' speech was much shorter than the one we have today and that expansions and revisions were made after oral delivery prior to publication.¹³ This may also have been the case with Aes. ii and iii and Dem. xix and xviii in view of their published length. However, we may also ask at this point what would be the function of the co-prosecutors in this type of trial. Presumably they did not all deliver full speeches (see above), and may simply have added their names to lend weight to the list of the prosecution. This raises the question why prominent public figures would link their names with the prosecutors and be willing to share the risks faced by them. Probably this occurred only when the verdict was a foregone conclusion (as in the case of Demosthenes in 323).

The second alternative, that of an extended trial, emerges as the more attractive, and both the Embassy/Crown and Harpalus trials might be taken as evidence for a multiple-day trial. The extra time would be necessary since all were show-trials of no small political importance. Yet this is contradicted by *AP* 67.1, on which Rhodes says: 'It appears to be the case, though there is no direct evidence for it, that any lawsuit had to be completed within the one day... even if they wished to do so, the Athenians would have found it hard to ensure that all members of a large jury reassembled on a second day.'¹⁴ There certainly is no

direct evidence for lawsuits having to be completed within a day, but the logistical problems involved in reassembling the 1500 jurors for Demosthenes' trial are admittedly large. Moreover, this would allow scope for bribery, which the elaborate Athenian jury system was designed to prevent. However, we know of other cases in which the hearing did last for more than a day: the Arginousae trial (Xen. *Hell.* i 7) and the deme meeting of Halimous (Dem. lvii 8–16). In both cases it is not an actual dicastic court that is convened but an assembly sitting in a quasi-judicial session, yet no problems (such as bribery or logistics) arising from reconvening the people the next day are anticipated. Furthermore, Antiphon (vi 23) tells us that the same jury sat in the same court on two successive days.¹⁵

The dilemma remains. I suggest, as a possible answer, that in cases involving multiple prosecutors the trial could extend for a longer period than one day. If *AP* 67.1 need not be read as a hard and fast rule, then Demosthenes' trial may have lasted for possibly three days, which allows us the time to accommodate more comfortably the existence of ten prosecutors (even if not all actually delivered full speeches but simply supported the prosecution), the quotation of decrees, oracles and other evidence (included in the time allowed for each side) and for Demosthenes some expected character witnesses (Dein. i 112). Unfortunately, this still raises the problem of a reconvened jury and the existence of bribery, which seems to have plagued the dicastic courts but not necessarily the assemblies (see above).¹⁶

In conclusion, there is clearly a problem when one tries to reconcile lengthy trials (such as those of Demosthenes in 330, behind the façade of an attack on Ctesiphon, and in 323, or even the eight generals after Arginousae) with a fixed one-day trial period, but no satisfactory evidence or arguments may be advanced to challenge the *communis opinio* effectively other than highlighting the contradiction. Nevertheless, it is important to stress the conflict which is so often disregarded in the modern literature on the subject, for it leads to the implication that either our meagre source material is wrong (or needs reinterpretation) or that exceptions were made to a rule of a one-day trial. It is incorrect, I believe, to make the sweeping statement that all trials in Athens lasted for the one day.¹⁷ On grounds of general plausibility these exceptions occurred when more than one prosecutor was involved. The frequency of trials having state-appointed multiple

¹² The speed of delivery of individual prosecutors would have varied of course. Keil (*apud* Rhodes [n. 1] 726) believed that he could deliver a 300 chapter speech in approximately two hours, but this would exclude any additional testimony required to be read out in court by both parties.

¹³ Additions to speeches after oral delivery and prior to circulation were normal. The *logographos* would have taken into account the defendant's speech, and also have included material which had not occurred to him at the time as well as lies and distortions of the facts which the jury might have recognised and even reacted against when the time came to vote. Sir Kenneth Dover's comment is apt here (in connection with Aes. ii and Dem. xix): '... a substantial gulf is opened between what was uttered and what was put into writing': *Lysias and the Corpus Lysiacum* (Berkeley and Los Angeles 1968) 169, and see also 167–9.

¹⁴ Rhodes (n. 1) 719.

¹⁵ However, see Harrison, (n. 3) 240 referring to Lipsius.

¹⁶ Perhaps it is significant, however, that when the second Arginousae assembly was held the entire case was reheard.

¹⁷ In Sparta it seemed that the senators took several days to decide on the penalty in capital cases: D. M. MacDowell, *Spartan Law* (Edinburgh 1986) 142–3. Professor Rhodes, to whom I owe this reference, points out *per epistulam* that if cases lasting more than a day in Sparta deserved comment in some ancient sources, then this may support the orthodox view that in Athens cases did not last for more than one day. I am not persuaded. What meagre evidence is cited by MacDowell (one piece is only a fragment and so the entire context is unknown) refers only to capital cases and does not seem to single out the Spartans for any 'unusual' judicial practices, and MacDowell disbelieves that cases in Sparta lasted for several days (*ibid.* 142–3). In fact, if Spartan senators did take days on end to decide the penalties how did the state prevent bribery?

prosecutors is unknown,¹⁸ but perhaps such cases were not held often, hence the belief in a rule if the vast majority of trials could be settled within the one day. Show-trials, of political importance and involving several prosecutors, may have extended up to two or three days when each day was measured by eleven amphorae, in which case the Athenians must have taken

¹⁸ There is a reference to τοὺς ἡρημένους συνηγόρους in the trial of Antiphon: [Plut.] *X.Or.* 833 f.

steps to preclude bribery when the jury was reassembled.¹⁹

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