

COMIC SATIRE AND FREEDOM OF SPEECH IN CLASSICAL ATHENS*

For at least several decades of its official history of performance at state festivals—the period usually and, in part for this very reason, known as that of Old Comedy—Athenian comic drama was marked by an exceptional degree of indulgence in ridicule and vilification of named or recognizable individuals: ὀνομαστὶ κωμωιδεῖν, as it became termed by Hellenistic scholarship. In character and extent this practice belongs to a cluster of generic features (alongside, most notably, obscenity and outspoken comment on topical political issues) which give urgency to the question of the relation between the comic stage and the laws, mores, and values current in Athenian society of the time. The foundation of the present article is a reconsideration of one major dimension of this large question: the standing of comedy *vis-à-vis* explicitly legal and political restrictions on freedom of speech. My hope is to elucidate part of the cultural climate in which plays such as those of Aristophanes were successfully produced, and thereby to supply an important piece of the framework for a historically grounded understanding of these dramatic works. Existing opinions on this subject are divergent. To one recent scholar the view recommends itself that ‘the comic poets . . . enjoyed, in practice at least, a special license to abuse’, while to another ‘the possibility is worth considering that comedy as such *never* enjoyed any special exemption from the law of slander’.¹ What will be offered here is, I believe, a fuller and more thorough examination of the whole issue than has previously been attempted in print.²

Freedom of speech is a defining attribute of democratic states, and one on whose possession classical Athens came consciously to pride herself.³ But the open enjoyment of democratic παρρησία may engender conditions in which the dangerous scope of obloquy, calumny, and invective (κακηγορία, λοιδορία, βλασφημία, διαβολή, etc.) will become especially apparent.⁴ In a society which is pervasively sensitive in matters of honour, shame, and reputation, the harmful potential of frank speech, particularly in public life, may lead to recognition of a need for constraints on freedom of the spoken word. A recognition of this kind demonstrably existed in Athens; it was embodied in legal provisions by at least the early fourth century, and perhaps

* Abbreviations:—CGFP: C. Austin (ed.) *Comicorum Graecorum fragmenta in papyris reperta* (Berlin/New York 1973); Kaibel: G. Kaibel (ed.) *Comicorum Graecorum fragmenta* i (Berlin 1899); K(ock): T. Kock (ed.) *Comicorum Atticorum fragmenta* (Leipzig 1880-88); Koster: W. J. W. Koster (ed.) *Scholía in Aristophanem i 1A: Prolegomena de comoedia* (Groningen 1975); PCG: R. Kassel & C. Austin (edd.) *Poetae comici Graeci* (Berlin/New York 1983-).

¹ Quotations: M. Heath, *Political comedy in Aristophanes* (Göttingen 1987) 27, A. Sommerstein, ‘The decree of Syrakosios’, *CQ* xxxvi (1986) 101-8, at 104 n.16. Cf. the views cited in n.65 below.

² M. Radin, ‘Freedom of speech in ancient Athens’, *AJP* xlvi (1927) 215-30, is vitiated by arbitrariness, not least on the decree of Syrakosios, and by a failure to consider atypical features of comedy’s status. T. Bergk, ‘Über die Beschränkungen der Freiheit der ältern Komödie zu Athen’, *Kleine philologische Schriften* ii (Halle 1886) 444-65 remains interesting, though aberrant on some details. In revising my article I have benefit-

ted from consulting the unpublished discussion in I. C. Storey, *Κωμωιδούμενοι and κωμωιδεῖν in Old Comedy* (Toronto Diss., 1977), ch.2, and the fuller but somewhat wayward treatment in C. A. Behr, *Old Comedy and the free state* (Harvard Diss., 1959) [summary at *HSCP* lxxv (1961) 345-8]. J. Herrmann, ‘Attische Redefreiheit’, in A. Guarino & L. Labruna (edd.) *Syntelesia Vincenzo Arangio-Ruiz* (Naples 1964) ii 1142-8, is the merest sketch.

³ E.g. Eur. *Hipp.* 422, *Supp.* 433-41, *Ion* 670-5, *Pl. Grg.* 461e (where Dodds compares [Xen.] *Ath. Pol.* 1.12, *Dem.* ix 3), *R.* 557b (with Adam), *Thphr. Char.* 28.6, [*Dem.*] lx 26, and the implication of *Isoc.* viii 14 (p.67 below). *Pl. Lg.* 634d-e draws an apposite contrast with Sparta and Crete. *Dem.* xxiii 204 is an instance of παρρησία exercised in criticism of Athens itself.

⁴ *Pl. Men.* 94e-5a offers a dramatically ironic reflection on Athenian freedom of speech, *à propos* Socrates’ prosecution. Cf. the piquant contrast between comic ridicule of Socrates, and the Athenian reaction to Socrates’ own teachings, later drawn at *Dio Chr.* xxxiii 9.

considerably earlier (see below). This legal state of affairs, and the awareness underlying it of the potency of public defamation and ridicule, prompts the particular question which is my concern: was the comic stage subject to legislation prohibiting vituperation and slander, or did it enjoy an exceptional licence which, whether technically or effectively, placed it 'outside the law'? An attempt to frame an answer to this question can be conveniently conducted in two parts: first, an examination of available evidence on whether, and how far, comedy engaged in legally prohibited forms of vilification; second, a re-examination of the claims made in ancient sources that comedy was, for at least certain periods, restricted by specific legal or political curtailments. The conclusions reached in these two sections of enquiry will be supplemented, and I think corroborated, in the final part of the paper, by some positive evidence for Athenian perceptions of the cultural status of satirical ridicule contained within festival performances of comedy.

I

It will be worthwhile to start by summarizing the evidence for Athenian law(s) of slander, paying regard, so far as possible, to the chronological order of the legislation itself.⁵ A number of sources, of which the earliest is Dem. xx 104 (date: 355), attribute to Solon a law prohibiting verbal abuse of the *dead*.⁶ Dem. xl 49 (date: 347) appears to refer to the same law, though without Solon's name, as does Hyp. *fr.* 100 Kenyon. Plut. *Sol.* 21 is the clearest later reference to the matter, in a passage which also makes Solon the author of a prohibition against defamation of the living in certain contexts (at temples, courts, official buildings, and games).⁷ We have reason, then, to suppose that legal curbs on *κακηγορία* of the dead went back far enough for fourth-century Athenians to find a Solonian origin for them plausible; and it is possible that Solon, or another early authority, had imposed some limitation on public vilification of the living too.

Provision against *kakēgoria* of the dead was given special application in the case of Harmodius and Aristogeiton, according to Hyp. *Phil.* col. ii Kenyon (dating perhaps from 336). Hyperides claims that this particular law forbade both *κακῶς λέγειν* and 'derogatory singing' (*ἄισαι ἐπὶ τὰ κακίονα*). The latter phrase is intriguing; its purpose, presumably, was directed against political *skolia* of an undemocratic *Tendenz*. We should additionally register, in anticipation of a matter pertinent to part III, the statement in this fragment that 'the demos thought that *not even when drunk* should a man be permitted to revile [the tyrant-slayers]'.⁸

The earliest surviving reference to an ordinary or general Athenian law of slander can probably be identified at Aristophanes *Wasps* 1206-7, where, for what it is worth, Philocleon is remembering his distant youth:

ὄτε τὸν δρομέα Φάυλλον ὦν βούπαις ἔτι
εἶλον διώκων λοιδορίας ψηφοῖν δυοῖν.

⁵ Older discussions of the material: G. Glotz, 'KAKEGORIAS DIKE', *Dar.-Sag.* iii (Paris 1900) 788-91, J. H. Lipsius, *Das attische Recht* (Leipzig 1915) 646-52.

⁶ Such a law would codify the general ethical inhibition over abusing the dead: see Hom. *Od.* xxii 412 (but *ctr.* xix 331, *S. Aj.* 988-9), Archil. *fr.* 134 West, Diog. L. 1.70 (Chilon), Cratin. *fr.* 102 PCG/95 K, Pl. *Hp. Mj.* 282a7-8 (archaic religious

colouring?), Arist. *fr.* 44 Rose³, Dem. xl 47-9, Thphr. *Char.* 28.6.

⁷ It is likely, as seen by e.g. Thalheim, *RE* x 1525, that Plutarch's law and the law attested at Lys. ix 6-10 (see n.10) are one and the same: note the term *ἀρχεῖον* in both passages, and *cf.* p.4 below. Further refs. to the Solonian law regarding the dead occur at Ael. Aristid. *Or.* iii 502 L.-B., Σ] *Ar. Pax* 648-52.

Notwithstanding the athletic sense of the puns in 1207, it is hard to see what an audience in 422 would have made of this joke if it had not been familiar with δίκαι λοιδωρίας.⁸ But for incontrovertible evidence of the active status of such a law, as well as some of its details, we have to turn to Lysias' tenth speech (*Against Theomnestus*, delivered 384/3). The law invoked here prohibited false allegations of a number of stipulated kinds, of which the following ἀπόρρητα are mentioned: 'murderer', 'father-beater', 'mother-beater', 'shield-discarder' (ρίψασπις).⁹ Other fourth-century sources, ranging in date between the 390s and 330s, attest a law (or laws) of *kakēgoria*, and indicate the existence of individual provisions (regarding persons, places, language, and penalties) as well as some broader restraint on public obloquy.¹⁰

The last two Aristotelian passages cited in n.10 contain general references to legal measures against certain kinds of abuse (λοιδωρεῖν, κακηγορεῖν), without explicit mention of Athens. In the other passages cited, it is not clear whether we are dealing with a single law or more than one; certainly more than one kind of legal procedure is indicated by, for example, Dem. xxi 32, but this and related issues are not of direct concern to me. Nor is it possible to deduce the age of the legislation in question. I should remark, though, that Lysias x gives no suggestion that the issue is a novel one, and the speaker's statement (§ 2) that 'I regard it as illiberal and litigious to bring an action for slander [sc. in normal circumstances]', even if disingenuous, implies that the relevant law had existed long enough to enable stable attitudes towards its workings to be formed, i.e. for at least some years.

We have, then, contemporary evidence for the existence of an Athenian law of slander in active force from at least the second decade of the fourth century, together with less full, but acceptable, evidence for one or more earlier pieces of related legislation, including an interdict on defamation of the dead but almost certainly, given Ar. V. 1206-7, of wider extension.¹¹ It seems plausible, in particular, that the special status of magistrates in this respect (Lys. ix 6-10, Dem. xxi 32-3)¹² had been legally recognized well before the middle of the fourth century, possibly as early as Solon (*cf.*

⁸ Some scholars—see Lipsius (n.5) 649, Radin (n.2) 221-4—have discerned a legally material distinction between κακηγορία and λοιδωρία: this is possible but unnecessary. Pl. *Lg.* 934-5 (see p.00 below), probably echoing Solonian law, makes no distinction between λοιδωρεῖν (935c) and κακηγορεῖν (934e); *cf.* the virtual synonymy at e.g. Dem. liv 18-19 (a legal context). λοιδωρεῖν can imply extra coarseness (e.g. Alex. *fr.* 156 K). *Cf.* Glotz (n.5) 788.

⁹ Dem. xxii 61 hardly shows that the other accusations cited there (servile origins, illegal citizenship for one's sons, male and female prostitution [by one's parents], speculation: all, incidentally, favoured topics of comic satire) fell into the legal category of ἀπόρρητα, though this term is used there. *ib.* § 21 virtually intimates that prostitution was not so covered. Dio Chr. xv 8, referring to illegitimacy, is not evidence for classical Athens.

¹⁰ Lys. ix 6-10 (date: ?c.390; provision concerning abuse of magistrates, at least in official buildings), Dem. xxiii 50 (date: 352), Dem. xxi 32-3, 79-81, 83 (date: 348/7; a general law for δίκαι κακηγορίας, and a penalty of ἔτιμία for slander of magistrates), Dem. lvii 30 (date: 346/5; a prohibi-

tion against reproaching a citizen (woman) for working in the agora), Dem. xviii 123 (date: 330; a passing mention of *aporrhēta*), Dem. xxxvii 37 (date: c.345?; allusion), liv 17-19 (date: c.341?; δίκαι κακηγορίας / λοιδωρίας), Isoc. xx 3 (specifying a fine, *cf.* Hyp. *fr.* 100 Kenyon), Arist. *Ath. Pol.* 59.5 (a law covering the abuse of free men by slaves), EN 1128a31-2, 1129b23. The inauthenticity of Aeschin. i 35 shows through in the sweeping prohibition of λοιδωρία posited there.

¹¹ Storey (n.2) 54-5, 68 acutely finds allusions to an Athenian law of κακηγορία at Soph. OC 1001-2 (*cf.* 944) and Eur. HF 174-5 (*cf.* G. W. Bond, *Euripides Heracles* [Oxford 1981] on 174)—the latter, if right, yielding a *terminus ante quem* of c.415. Ar. V. 1206-7 (p.49) pushes this back to 422; is Eur. *Supp.* 435-7, around the same date, pertinent? There is the faintest possibility that Antiphon *fr.* 66-7 Blass belong to a prosecution of Alcibiades on a charge of λοιδωρία. Ar. *Ec.* 567 does not imply the lack of a law of λοιδωρία, only the existence of the latter in public life (*cf.* 142-3, 248ff., 399ff.).

¹² *Cf.* the strikingly similar [Arist.] *Probl.* 952b28-32 (exaggerated by the claim that slander of individuals is free of penalty).

n.7 above); but I am in any case inclined to agree with those scholars who accept that there was an old ('Solonian') general law of slander at Athens.¹³

In view of the uncertainties concerning the dates and exact provisions of slander legislation, we are not ideally placed to test the behaviour of comedy precisely in this area. Some tentative conclusions may, however, be yielded by scrutinizing what we know of the satirical practices of Old Comedy in relation to the salient features of the prohibitions attested in the sources:

- (a) *The dead.* We might not expect to turn up much comic denigration of this kind in any case, but there are sufficiently striking examples of it to suggest that fear of legal prosecution was not operative. Perhaps the severest case is *Ar. Pax.* 47-8, where an Ionian spectator is imagined as thinking the dung-beetle an allegory of Cleon: 'for he is shamelessly eating the ordure [sc. in Hades]'.¹⁴ *Pax* 268-73, 313-15, 754-8, the latter reusing material from the parabasis of *Wasps*, contain further abuse of Cleon, as Eupolis' *Marikas*, a Lenaeon play of the same year, may also have done (*frs.* 192.135 and 211 PCG/196 K). Other selected examples of Old Comedy's vilification of the deceased are: *Ar. Ach.* 530 ff., *Pax* 606-11, *Eup. fr.* 110 PCG/98 K (Pericles); *Ra* 429 (Hipponicus); *Ra.* 1196 (Erasinides).¹⁵ It might be deemed intrinsically strained to imagine a realistic prosecution of a comic poet, or any other retributory action, for the kind of material instanced here. But such a judgement would, of course, implicitly concede comedy's exceptional status. And this point is similarly pertinent to several of the following categories of ridicule.
- (b) *Magistrates.* The fourth-century evidence (n.10) mentions archons and generals. It might appear telling that we cannot, so far as I can see, identify a single piece of comic ridicule certainly targeting a named archon: of possible cases, perhaps the likeliest is *Eup. fr.* 136 PCG/124 K, which mentions a Cleocritus, the name of the archon in the year when *Demoi* was probably produced (413/12).¹⁶ But it must be borne in mind that this evidence, as well as being limited to the plays of Aristophanes and a small amount of other securely dated comic material, relates only to eponymous archons. Comedy's behaviour in this respect is largely untestable where thesmothetae (specified in *Dem.* xxi 32), polemarchs, and archons basileus are concerned, since we rarely know the identity of these

¹³ See E. Ruschenbusch, *ΣΟΛΩΝΟΣ ΝΟΜΟΙ* (Wiesbaden 1966) 79-80, and D. MacDowell, *The law in classical Athens* (London 1978) 127, whose view is endorsed as plausible by Sommerstein (n.1) 103. The term ἀνδροφόνος at *Lys.* x 6ff. creates some presumption of legal antiquity.

¹⁴ 'Ordure' translates the rare word σπασίλη; on this and other aspects of the passage see R. M. Rosen, *GRBS* xxv (1984) 389-96. Commentators such as Platnauer and van Leeuwen (emending ingeniously but unnecessarily) have worried over the meaning of line 48 (*cf.* Σ ad loc. for Eratosthenes' concerns). But one does not explain *x* as allegorical of *γ* by stating the obvious about *x*; so κείνος should mean Cleon (*cf.* 649). The Ionian expresses a quasi-Orphic view of Hades: compare the connection between ἀνίττεσθαι and Underworld βόρβορος (*cf.* *Ra.* 145-6) at *Pl. Phd.* 69c, with F. Graf, *Eleusis und die orphische Dichtung Athens*

(Berlin 1974) 103-7. This ref. to Cleon is overlooked by G. E. M. de Ste. Croix, *The origins of the Peloponnesian war* (London 1972) 371 n.24; Behr (n.2) 149 is equally wrong to take *Nu.* 550—in which κειμένωι means 'down' (in wrestling) not 'dead' (as at *S. Aj.* 989, where commentators confuse distinct expressions)—to refer to the period after Cleon's death.

¹⁵ The death of an individual is sometimes unnecessarily deduced from a comic passage: e.g. *Pax* 700-3 (Cratinus), *Ra.* 48, 422ff. (Cleisthenes).

¹⁶ *Cratin. fr.* 325 PCG/294 K conceivably refers to an archon on stage; commenting on it, A. Meineke, *Fragmenta comicorum Graecorum* (Berlin 1839-57) ii 195, mentions a law 'de archonte in scenam non introducendo': I know no evidence for this, but Meineke may be thinking of Σ *Ar. Nu.* 31 (item 6, p.55). *Cratin. fr.* 17, 20 PCG (15, 18 K) gibe at a recent archon; *cf.* *Archipp. fr.* 27 K.

officers for particular years: I can trace only one notionally possible case of comic reference in this category.¹⁷ Moreover, a legal explanation of comic reticence regarding archons seems implausible when we reckon with the genre's treatment of generals. Aristophanes commonly ridicules strategoi during their tenure of office:¹⁸ e.g. *Eq.* 976, *Nu.* 581-94 (Cleon), *V.* 74-6 (Amyntias)¹⁹, *Av.* 639 (Nicias), *Lys.* 103 (Eucrates), *Th.* 804 (Charminus), *Ra.* 1512 (Adeimantus), *Pl.* 174 (Pamphilus), ? *fr.* 591.70-1 PCG (Aristocrates).

- (c) *Working in the Agora*. This is effectively the gibe against Euripides' mother at *Ar. Th.* 387, and more allusively at e.g. *Ach.* 478. The same point seems to have been central to Hermippus' treatment of Hyperbolus' mother in his Ἄρτοπώλιδες, though we do not have a specific quotation on the theme; cf. *Ar. Eq.* 1315 and *Nu.* 1065, where selling in the agora is clearly implicit, as it probably is too in *Plato Com. fr.* 57 PCG/56 K (Cleophon's mother). It is also conceivable that the agora is envisaged in the image of Hyperbolus' (? and Lamachus') mother's money-lending at *Ar. Th.* 839-42, though the point of the passage is somewhat obscure.²⁰
- (d) 'Murderer'. I am unaware of a comic instance of this allegation against a named Athenian; nor, one may surmise, need Horace (or his source) have known any, despite *sicarius* at *S.* i 4.4.
- (e) 'Mother-/father-beater'. Only fictional characters are alleged to be such malefactors (esp. *Ar. Nu.* 911, 1321 ff., 1399 ff., *Av.* 1337 ff.); cf. the generalized joke at the audience's expense at *Ra.* 274-6. But the motif does not occur, so far as surviving evidence goes, in ὀνομαστὶ κωμωιδεῖν.²¹
- (f) **ρίψασπις**. The clearest comic case is, of course, Cleonymus at *Ar. Nu.* 352-3, with various allusions elsewhere (*Eq.* 1372, *V.* 15-27, 592, 822f., *Pax* 446, 673-8, 1295ff., *Av.* 290, 1470-81). The specific term is also applied collectively to the taxiarchs at *Pax.* 1186. Suggestions of cowardice are made against other figures, though without the direct imputation of shield-discarding: see esp. *Ar. Nu.* 691-2 (Amyntias),²² *Av.* 1556-8, *Eup. fr.* 35 PCG/31 K (Peisander).

¹⁷ Cratin. *fr.* 458 PCG (*Com. Adesp.* 51 K) possibly belongs to a year when Androcles was polemarch; id. *fr.* 138 PCG is obscure.

¹⁸ U. von Wilamowitz-Moellendorff, *Kleine Schriften* i (Berlin 1935) 287 n.3, was therefore empirically wrong to deduce from the satire of Lamachus in *Ach.* that he could not have been general in 426/5. Other possible comic instances are *Eup. fr.* 49 PCG/43 K, *Pl. Com. fr.* 201 PCG/185 K. The comic penchant for satirizing generals was noted in antiquity: e.g. *Platon.* p.3.7 Koster/Kaibel. It remains unclear whether generals were anyway legally protected only in certain circumstances, as the speaker of *Lys.* ix 6 defensively claims; cf. the alleged public denigration of strategoi at *Dem.* xxv 49-50. Generic disparagement of current generals is found at *Eup. frs.* 219,

384 PCG (205, 117 K), as well as *Eur. Andr.* 699-702 (cf. Stevens *ad loc.*)!

¹⁹ See MacDowell's nn. *ad loc.* and on 74-85 (where, however, I would demur at some of the inferences).

²⁰ See D. M. Schaps, *Economic rights of women in ancient Greece* (Edinburgh 1979) 65 for strong scepticism. *Ach.* 837-8, a similarly worded passage, seems to allude to moneylending in the agora.

²¹ *Ar. V.* 1038-9, recalling a play of the preceding year, probably refers to a type (perhaps συκοφάνται) rather than to individuals. Cf. *Philonides fr.* 5 PCG/K.

²² For the form of the name see M. V. Molitor, *Mnem.* xxvi (1973) 55-7.

- (g) *Harmodius & Aristogeiton*. It would be especially surprising if comedy had ever seen fit to mock these popular heroes, whose memory was perpetuated through drinking songs (Ar. *Ach.* 980, 1093, *V.* 1225) as well as by other forms of public remembrance. The nearest that Aristophanes appears to have approached to such humour is the wry allusion at *Eq.* 786 to Cleon's putative descent from the 'tyrannicides'; *Lys.* 632-4, whatever else we make of it, is hardly derogatory of Aristogeiton as such, nor *V.* 1225-7 of Harmodius.²³

It might seem prudent to consider these findings as ambiguous. There are, on the one hand, instances of comedy's technical infringement of the law of slander, at any rate in its fourth-century form; but negative evidence, on the other, which is open to interpretation as deliberate avoidance of certain slanderous ἀπόρρητα. In probably every case alternative deductions are defensible. Thus, where particular insults or allegations are concerned, a comic poet might sometimes have had a widely shared belief, even plain truth, on his side;²⁴ conversely, the humour could have rested on his audience's acceptance of the fictitious or scurrilous nature of a gibe (a technique exemplified by Ar. *Eq.* 834). Where we encounter a lack of certain kinds of ridicule, while we cannot in principle rule out comic caution prompted by fear of legal consequences, we must bear in mind that certain ideas, such as those in (d) and (g) above, may simply not have lent themselves to attractive satirical treatment, or may have been used by poets too infrequently to have survived in our limited sample of Old Comedy.²⁵

It might also appear that the upshot of the above survey, with its ostensible mixture of conformity to, and transgression of, the legal limits of κακηγορία, merely replicates the conditions of Athenian social and political life in general, in which the legal status of defamation obviously had some inhibiting force²⁶ but not enough, in the fourth century at least, to prevent a good deal of vicious oratorical invective, still less the routine altercations of street and market place. But this observation will not do, since it wrongly presupposes the comparability of utterances in dramatic comedy with those in the ordinary social milieu. This is both contrary to basic intuition, and also actually refuted by evidence for Athenian attitudes which I shall consider in part III below. We cannot assess the cultural standing of comic satire without allowing for a fundamental and intrinsic fact about its nature. Although not invariably true (exceptions occur, most obviously, in some parabases), most satirical ridicule in comedy is placed in the mouth of fictional characters. This rudimentary fact is of inescapable importance. A charge of slander would need to allege deliberate calumny—an intentional action of verbal harm against a person's honour or reputation. It is not impossible, but it is certainly difficult, to

²³ On *Eq.* 786 see Sommerstein *ad loc.* G. Lamin, *REG* xcii (1979) 542-51, finds an obscenity at *Lys.* 632-4 which he thinks was original to the skolion, yet he also (549 and n.32) links such humour with the statute attested by Hyp. (p.49 above). This position, which is partly echoed by J. Henderson, *Aristophanes Lysistrata* (Oxford 1987) *ad loc.*, puzzles me.

²⁴ This is mooted in the case of Cleonymus by Sommerstein (n.1) 104; for an alternative interpretation, along lines I find preferable, see Heath (n.1) 28.

²⁵ It must always be remembered that in the period of Ar.'s career alone (427-c.388) somewhere between 280 and 400 comedies were produced at the Dionysia and Lenaea; calculation is complicated

by uncertainty over the number of poets competing at various dates: see W. Luppe, *Philol.* cxvi (1972) 53-75, G. Mastromarco, *Belfagor* xxx (1975) 469-73. Note the dubious figure of 365 for 'Old Comedy' in Anon. *de com.* p.7.11 Koster/7.13 Kaibel; for the larger calculations see E. Mensing, *Mus. Helv.* xxi (1964) 15-49.

²⁶ *Lys.* x 2 (p.50 above) perhaps suggests limits to how easily litigation for slander could be embarked upon; but this speech and the background to it (§12-13) show that it was feasible, as does Dem. liv 18 later in the century. The unqualified remarks about παρρησία in both oratory and comedy in M. I. Finley, *Democracy ancient and modern*² (London 1985) 149-50 (cf. 171-2), completely overlook the existence of a law of slander.

imagine how such a charge could ordinarily be sustained against a comic poet, both because of the dramatic context of his characters' utterances, and because of the special festival setting of the performance.

These are not watertight considerations. We shall see later that certain kinds of material might still be thought too sensitive to be permissible or tolerable subject-matter for comic treatment. But the evidence already considered does in fact warrant, I contend, something more positive than a non-committal conclusion. For what we have seen is that comedy unambiguously, colourfully, and not infrequently has recourse to satirical topics of various kinds which fell within the legal definition of slander: denigration of the dead; derision of serving strategoi; mockery of individuals for (allegedly) working in the agora, or for ῥιψασπία. Indeed, in many of these cases, perhaps especially in groups (b) and (c) above, it looks strikingly as though part of the entertaining purpose and effect of the satire derives from comedy's freedom to draw uninhibitedly on types of ridicule which playwrights and audiences knew to be illicit in public life. Rather, then, than resting content with the ambivalent and awkward supposition that, though they often ran the risk of blatantly doing otherwise, comic poets felt a basic need to conform to the city's law(s) of slander, it is much more economical to infer that there simply was no essential expectation that comedy would or could be covered by this area of law. This, I stress, is not to claim that comedy was ever granted a technical exemption,²⁷ only that its culturally determined position placed its festival performances outside the framework in which defamatory or vilificatory utterances could readily be perceived as actionable. In clear contrast, after all, to the conditions of the normal social world, we do not have any evidence (notwithstanding the ostensible reference to legal actions at Platonius p.3.17-18 Koster/4.18-19 Kaibel) that a comic poet was ever prosecuted in Athens either by a private δίκη κακηγορίας, or on a charge of slandering a magistrate.²⁸

II

We must now proceed to assess a body of evidence which has usually been held to show that, whatever its general relation to the law(s) of slander, comic freedom of speech was at various times the object of specific and official interference or curtailment. It will be useful to tabulate the sources which appear to attest direct legal or political moves against comedy's *prima facie* licence for personal ridicule.²⁹

²⁷ It would be fanciful to posit a strict immunity (ἄδεια) to the law of κακηγορία—a view apparently present at Cic. *Rep.* iv 10, '... *lege concessum* ...', but not, *pace* Radin (n.2) 217, at Hor. *Ars* 284 (where see Brink's n. on 'ius nocendi'), nor at Them. viii 110b (see n.77 below). One is dealing, as the passages cited on pp.66-9 indicate, with the practical inapplicability of legal requirements to festival entertainment—an effective ἀσφάλεια (cf. p.69) rather than ἄδεια. Cf. C. G. Cobet, *Observationes criticae in Platonis Comici reliquias* (Amsterdam 1840) 27-31. The statement of comedy's subjection to the law of slander by J. Henderson, 'The Demos and the comic competition', in J. J. Winkler & F. I. Zeitlin (edd.) *Nothing to do with Dionysos?* (Princeton 1990), 271-313, at 288 and 302, is not supported by a consideration

of all the relevant material.

²⁸ On Aristophanes and Cleon in 426/5 see next note.

²⁹ Since my immediate concern is personal ridicule, not defamation of the city or demos, I should stress that Ar. *Ach.* 377-82, 502-8, 659-64, and *V.* 1284-91 (if this refers to the same events), have no bearing on ὄνομαστί κωμωιδεῖν: *Ach.* 515-17 (cf. 631) makes the distinction plainly, though *Σ Ach.* 378 (ridicule of magistrates) and *Σ V.* 1291 (ridicule of 'citizens') obscure the point, as do J. W. Roberts, *City of Sokrates* (London 1984) 169, and E. L. Bowie, *JHS* cviii (1988) 183-4 (speculating gratuitously, in my view, that Cleon may have attacked Eupolis too in 426-5). Cf. [*Xen.*] *Ath. Pol.* 2.18, discussed on p.65 below.

1. A line from the parabasis of Eupolis *Demoi* (fr. 99.29 PCG/92 CGFP), produced in 412, describes the rise of a demagogic figure who, among other things,

ταῖς στρατηγίαις δ' ὑφέρπει καὶ τρυγωιδο[
 -δοῖς μέμφεται van Leeuwen -δούς ζημιοῖ Jensen -δούς λοιδορεῖ Luppe
 -ξίαν δάκνει Körte -δίαις πάλαι Diano τρυγωιδεῖ . . . *alii*
2. Horace *Ars Poetica* 281-4:

successit vetus his comoedia, non sine multa
 laude; sed in vitium libertas excidit et vim
 dignam lege regi: lex est accepta chorusque
 turpiter obticuit sublato iure nocendi.³⁰
3. Evanthius *De Fabula* 16 (Koster p.124/Kaibel 64) tells the same story as item 2; Horace may have been Evanthius' source.
4. Σ Ar. *Ach.* 67 (cf. Suda s.v. Εὐθυμένης) states that it was in Euthymenes' archonship (437/6) that 'the decree prohibiting comic ridicule [περὶ τοῦ μὴ κωμωιδεῖν], passed under Morychides [440/39], was repealed.'
5. Σ Ar. *Ach.* 1150 comments that 'this Antimachus seems to have proposed a decree forbidding named ridicule in comedy [μὴ δεῖν κωμωιδεῖν ἐξ ὀνόματος].' The same material occurs at Suda s.vv. Ἀντίμαχος ὁ Ψεκάδος and Ψεκάς and *Corp. Paroem. Gr.* i 319 (71), ii 731 (51).
6. Σ Ar. *Nu.* 31 suggests that the poet has distorted a personal name in order to circumvent a law against ridicule of magistrates;³¹ a similar premise can be discerned in Σ Ra. 501, where it is attributed to an Apollonius. Σ *Ach.* 378 (see n.29) may also contain a trace of belief in a law banning satire of magistrates. In these cases, we have the application to comedy of a legal restriction whose independent existence was known from texts such as Lys. ix 6-10, Dem. xxi 32-3 (see pp.51-2 above).
7. Σ Ar. *Av.* 1297 (quoted on p.59 below): Syracosius 'seems to have proposed a decree prohibiting named ridicule in comedy [μὴ κωμωιδεῖσθαι ὀνομαστί τινα].'
8. Σ Ael. Aristid. *Or.* iii 8 L.-B. (= Eup. *Baptae* test. iii PCG, Koster pp.78-9) claims that a law against ὀνομαστί κωμωιδεῖν was passed in the wake of Cleon's accusation of Aristophanes (in 426/5?), but adds the alternative that Alcibiades proposed such a law after being ridiculed at the hands of Eupolis.³² The first of

³⁰ Horace also provides comparative evidence for treatment of slander in Greece and Rome: esp. *Ep.* ii 1.152-3, *S.* ii 1.80-3; cf. J. Crook, *Law and life of Rome* (London 1967) 250-55. *Cic. Rep.* iv 10.11-12 (*apud* August. *C. D.* ii 9) attests earlier Roman reflections on this aspect of Old Comedy; cf. n.27 above.

³¹ The scholion appears to take Arynias (see n.22) to be the archon of 423/2, thus compounding an anyway far-fetched interpretation with a chronological solecism.

³² For other claims about Alcibiades' riposte see Koster p.3.18-19 (Kaibel 4, Eup. *Baptae* test. v. PCG), Koster p.27 (Kaibel 27-8, Eup. *Baptae* test. iv

PCG), Koster p.44/Kaibel 20-1. There is plausibility in the customary surmise that the story was embroidered around the actual death of Eupolis at sea, if the name at *IG* i² 950.52 (casualty list of 411) is the poet's. The whole apocryphal saga involving Alcibiades had been publicized by the anecdotalist, Duris of Samos (*FGrH* 76 F 73 = *Cic. Att.* vi 1.18); cf. M. R. Lefkowitz, *The lives of the Greek poets* (London 1981) 115. J. Schwarze, *Die Beurteilung des Perikles durch die attische Komödie* (Munich 1971) 114, 179, remains inclined to accept that Alcibiades did respond in some way to *Baptae*; cf. n.58 below.

these claims was perhaps encouraged by Ar. *Eq.* 230-33. A Cleonian decree forbidding comic theatre *tout court* (!), naively elaborated from Aristophanes' language at *Ach.* 502-5, is claimed in Σ Ar. *V.* 1291.

9. Various scholiastic sources explain the transition from Old to Middle Comedy, and from Middle to New, in terms of the kind of personal satire allowed or proscribed (named ridicule in Old, veiled/allegorical in Middle, none at all in New): see Koster pp. 11-12, 26-7, 71 (13b, 27-8, 14-15 Kaibel); Koster p. 40; *Vita Ar.* 3.47 PCG (p. 135 Koster); cf. Hyp. II to Ar. *Av.* (p. 18. 10-12 Coulon).
10. A final scholiastic source (p. 11.4-5 Koster/12b Kaibel) posits a legal suppression of named ridicule in the *early* days of Attic comedy.³³

Two fundamental observations can be made at once on this catalogue. First, with the exception of 1, whose interpretation is vexed (see below), all these sources reflect the findings and views of Hellenistic or subsequent scholarship. This is only to be expected: various Hellenistic writers had worked on the history of Attic comedy, and the subject of $\delta\nu\omicron\mu\alpha\sigma\tau\acute{\iota}$ $\kappa\omega\mu\omega\iota\delta\epsilon\acute{\iota}\nu$ had been of particular interest.³⁴ Secondly, it is plain that once the idea of official interference with the freedom of comedy had been established in the tradition of exegesis, it was available as a hypothesis which could be invoked for various purposes both in explanation of individual passages of comic text, and as a putative key to large-scale trends in the character of Attic comedy. Thus the passage from Horace's *Ars Poetica* (item 2) allows us to discern that belief in legal restraints on comic satire had become a well-established feature of Hellenistic literary-historical reconstructions of the genre's development in Athens, a point on which I shall later elaborate.

The frequency with which such a belief turns up in the scholia and related grammatical writings is not, of course, evidence of its accuracy.³⁵ Too many of the passages listed above are intrinsically dubious. Item 10 is self-evidently groundless. The first attribution of a law to Cleon in item 8 is hopelessly fanciful, as the surviving plays of Aristophanes show; and the alternative attribution to Alcibiades is equally fictive (see n. 32). Item 5 is a transparent misinterpretation of an Aristophanic joke.³⁶ Item 6, as explained above, refers to a separate law of slander (and wildly applies it to the passages in question). And the material in item 9 represents, at the very least, a drastic simplification of a complex historical process, to which I shall return.³⁷ We have, then, many cases in which the notion of a law affecting comic ridicule is either a sheer invention, or at any rate a gratuitous extrapolation from a more limited basis of information.

³³ Did Arist. *Po.* 1448a38, referring to the confinement of early comic performances to the countryside, provide a cue for such ideas?

³⁴ See my comments at CQ xxxiv (1984) 83, with the works cited there. Cic. *Att.* vi 1.18 (cf. n. 32) indicates that such matters had already been raised, and confused, earlier than the massive work on comedy by Eratosthenes (c. 275-194).

³⁵ The scholia (or their sources) create a number of supposititious decrees on other subjects too: e.g. Σ Ar. *Eq.* 574 (dining in the prytaneum), *ib.* 580 (long hair), Σ Ec. 22 (seating in ?assembly), Σ ^{Tzet} Nu. 518/Ar. test. 23d PCG (law of minimum age for ? producing a comedy). So it will not do to assume, with C. O. Brink, *Horace on poetry* (Cambridge

1971) 317, that the scholia in my items 4, 5, 7, 'must go back to a time when the facts were readily available': early Hellenistic scholarship was well capable of inventing its 'facts' (cf. n. 34).

³⁶ See A. Körte, *RE* xi 1234-5 (rebutting earlier German attempts to make something of the scholion), and my discussion at CQ xxxiv (1984) 87, where different versions of the decree in the scholia are noted. R. G. Ussher, *Aristophanes (Greece and Rome New Surveys in the Classics* xiii, Oxford 1979) 24 n. 5, apparently still accepts the historicity of this decree.

³⁷ Cf. K. J. Maidment, CQ xxix (1935) 6-7, Körte (n. 36) 1235-6, Bergk (n. 2) 461-2.

But of just what, if anything, would this basis have consisted? If traces of it survive in the above list, items 1, 4, and 7 would seem the main places to look for them. The passage from Eupolis *Demoi*, referring to a demagogue who has been variously and inconclusively identified as Hyperbolus, Cleophon, or Syracosius, contains a tantalizing lacuna which makes interpretation hazardous.³⁸ For my purposes it is unnecessary to become entangled with the larger problems to which this fascinating section of the papyrus gives rise. One pertinent point can be made. Even if we accept, as seems far from conclusive, that the second half of the line portrays some kind of political attack on comic poets, we can see that the reference was not elaborated in the succeeding lines, which proceed immediately to the demagogue's threats against the generals at the time of Mantinea (418). It is true that a supplement such as Jensen's would imply a legal measure of some sort, but there is no particular reason to prefer such a conjecture to others which would yield an image of less specific hostility to comedy: a demagogic speech of criticism, for example, without any legal proposals, or perhaps a move to reduce the payment made to comic poets (*cf.* *Ar. Ra.* 367, *Pl. Com. fr.* 141 PCG/133 K). Even this much would, of course, be of historical interest, and I shall return briefly to the point later. Hellenistic scholarship could conceivably, therefore, have derived from this passage some testimony to a curtailment on comic freedom, but the question must remain open.

Σ *Ar. Ach.* 67 (item 4) has commonly been regarded by modern scholars as a reliable piece of information, on account of the archon dates incorporated in the note. The only strong dissenter in print of whom I am aware is H. B. Mattingly, who has suggested that the putative decree may have been aberrantly inferred from a contrast between two Cratinean works hypothetically dated to the years in question (439 and 437): first, Διονυσιάλεξανδρος, misread, on this theory, as covert satire of Pericles in connection with the Samian war; second, Πλοῦτοι, which contained explicit personal satire of Hagnon and others. This bold thesis inverts a common pattern of argument which takes the claimed lack of ὀνομαστί κωμωιδεῖν in Cratinus' Ὀδυσσοῆς, also thought to have dated from this period, as *supporting* the historicity of the decree. But Mattingly's position remains excessively speculative, since it has to assume highly contestable dates for both Διονυσιάλεξανδρος and Πλοῦτοι.³⁹

We should, therefore, probably be content to accept that the archon dates in this scholion lend the decree sufficient credibility. But what is the scope of the decree likely to have been? The scholion is usually interpreted to mean that the decree forbade satire of individuals *tout court*.⁴⁰ It is appropriate to feel some unease, to say the least, at the idea

³⁸ Syracosius (*cf.* pp. 58–63 below), accepted e.g. by Schwarze (n.32) 129, 179 n.24, does not seem to me a strong candidate: *cf.* V. Tammaro, *Gnomon* li (1979) 421–2. D. L. Page, *Select Papyri III: Literary Papyri* (Loeb, London 1941) 208 n.27, notes the puzzling relation of this half-line to its context. See now I. C. Storey, *Phoenix* xlv (1990) 27, who argues for a redating to c.416.

³⁹ H. B. Mattingly, 'Poets and politicians in fifth-century Greece', in K. H. Kinzl (ed.) *Greece and the eastern Mediterranean in ancient history and prehistory: studies presented to Fritz Schachermeyr* (Berlin 1977) 243–4. For Cratinus' Ὀδυσσοῆς see Platon. p.4.29–30 Koster/5.56–7 Kaibel.

⁴⁰ E.g. Körte (n.36) 1233–4, P. Geissler, *Die Chronologie der altattischen Komödie*² (Dublin/Zurich 1969) 17, Sommerstein (n.1) 108, and Kaibel 80 (who inserts <ὀνομαστί> before

κωμωιδεῖν in his text of the scholion). Storey (n.2) 60–3, taking the same view, thinks the decree may have been meant to prevent jokes about Pericles and Aspasia—but how would such an intention have been offered to the assembly? Cobet (n.27) 12–13, 39, unjustifiably takes (ὀνομαστί) κωμωιδεῖν, in this and other contexts, to mean *impersonation* on stage. W. J. M. Starkie, *The Acharnians of Aristophanes* (London 1909) 243–5, records various older views. *Cf.* the verdict of A. W. Gomme, *A historical commentary on Thucydides* i (Oxford 1945) 387: 'we know nothing about the law, not even its literal meaning.' The thinness of the scholion inclines one against the suggestion of Radin (n.2) 220 that it derives from Didymus' use of Craterus' ψηφισμάτων συναγωγή (for which, independently, *cf.* Σ *Ar. Lys.* 313 = Craterus *FGrH* 342 F 17).

of such a blanket measure being passed by an Athenian assembly in 440/39 and repealed three years later. What would have motivated it? The successful proposal of such a decree would have required the widespread endorsement of a sense that comic poets should be compelled to avoid all forms of humour directed at identifiable individuals (we should not believe that the Athenians engaged in the casuistry of banning names but not personalities).⁴¹ This seems to me a bizarre hypothesis, and its only foundation is the bald wording of the scholion in question. But we have already seen that scholiastic notes on such a subject are often untrustworthy. Even on the premise that some concrete information was available to the ultimate source of this note (a source at many removes and a considerable distance of time in the transmission of ancient scholarship), why should we rely on the literal scholiastic statement (περὶ τοῦ μὴ κωμωιδεῖν) if it generates something grossly implausible?

The argument so far advanced can be strengthened by a glance at Σ Ar. *Av.* 1297 (item 7 above), for here the scholion unarguably posits a complete ban on ὄνομαστὶ κωμωιδεῖν in the psephisma allegedly proposed by Syracosius in 415/14 (and discussed in detail below). In this instance it is redundant to try to imagine an Athenian assembly's motivation, since Aristophanes' *Birds* alone is sufficient to prove that no such measure was passed at the date suggested.⁴² Here then is a case, at the minimum, of scholiastic over-simplification, which gives us further warrant for rejecting the idea that comic satire of individuals was proscribed during the years 440-437. If a decree directed at comedy did exist at that time, its force must have been more specific. The traditional conjecture is that the decree in some way concerned the Samian war (440/39), and that it is likely to have had Pericles' support, if not actually to have been promoted by him.⁴³

This supposition has never been set in a cogent scenario, but it can be refined by the suggestion that the decree probably concerned comedies produced at the Great Dionysia, at the time of year when the allies were present. (Dramatic productions at the Lenaea were still a novelty, having been introduced there shortly before 440.) This suggestion is of course derived from the circumstances of Aristophanes' clash with Cleon in 426/5, after the performance of *Babylonians*;⁴⁴ and the attraction of such a hypothesis is that it gives us a context in which to imagine a proposal limiting the freedom of comedy in relation to a matter of contemporary and urgent political prominence. We can, even so, only guess at the nature of the decree. It could have debarred actual reference to the Samian war, or to general matters of Athens' imperial affairs, or, conceivably, to Athenian officers and magistrates. As with other putative decrees concerning comedy, we should keep in mind the alternative possibilities that the measure either determined penalties for poets who infringed it, or legislated

⁴¹ Although the grammatical tradition, e.g. Ar. test. 83-4 PCG, regarded allegory (denoted by ψόγος κεκρυμμένος, συμβολικά, αἰνιγματωδῶς, ἔσχηματισμένως etc.) as a way of avoiding objections to explicit satire, I query whether this was its function for poets, since it was used in the same period as the growth of ὄνομαστὶ κωμωιδεῖν (and sometimes in combination with it, e.g. Cratin. *frr.* 73, 259 PCG [71, 241 K], cf. Ar. *Pax.* 47-8). Nor do I believe that allegory was as pervasive as M. Vickers, *Historia* xxxviii (1989) 41ff., contends.

⁴² Cf. Sommerstein (n.1) 101-2. A. Couat, *Aristophane et l'ancienne comédie attique*³ (Paris 1902) 62, appears to think in terms of a restriction on mentioning current political affairs.

⁴³ Cobet (n.27) 9-10, and Schwarze (n.32) 178-9,

see the Samian war only as occasion, not cause, of Periclean action against comedy; doubt about Pericles' involvement is voiced by K. J. Dover, *CR* xxv (1975) 91. In view of his profile (see n.71 below), it is hard to read much into Crates' title, Σάμιοι.

⁴⁴ *Ach.* 502-8. I find far-fetched the argument of R. M. Rosen, *Old Comedy and the iambographic tradition* (Atlanta 1988) 63-4, that the clash with Cleon was self-propagated fiction on Ar.'s part, though I sympathize with the depersonalized reading of *Knights* to which it belongs. J. B. Bury and R. Meiggs, *A history of Greece*⁴ (London 1975) 241, give a brief interpretation of the 440-37 decree which stresses the importance of foreigners in the audience.

conditions of censorship which should be enforced by the archon responsible for the festival arrangements and the choice of plays.⁴⁵ Whichever configuration of details we prefer, the likelihood remains that the decree, if authentic, was prompted by the immediate political sensitivities aroused by the Samian war. Why else, for this particular period of three years, should the Athenians have been prepared to pass and tolerate such a state of affairs? We could readily imagine the decree remaining in force for a year or two after the conflict (the settlement with Samos, *IG* i² 50, belongs to 439/8), before a repeal went through.

I shall return to the decree of 440-37 after giving closer attention to Σ Ar. *Av.* 1297 (item 7). Once we dismiss, as we have seen that we must (pp. 57-8), the idea of a decree prohibiting all personal satire of individuals, two chief possibilities remain: either we are dealing with yet another misinterpretation of a comic text (in this case of Phrynichus *fr.* 27 PCG/26K, ostensibly quoted by the scholiast), or else the decree was more explicit than the scholion states. It is right that we should start by exploring the second of these options, and here we are helped by the fresh and well-argued case for it which has recently been put by Alan Sommerstein, reviving Droysen's thesis that Syracosius persuaded the assembly to restrict comic poets from mentioning by name anyone condemned for impiety in connection with the two great scandals (the mutilation of the herms and the parody of the mysteries) in 415.⁴⁶ This is an interesting and important thesis. We must be prepared to ask of it, however, four questions: does it make strong sense of the primary evidence of the Phrynichus fragment? is it corroborated by the other evidence cited on its behalf? what might have motivated Syracosius to advance such a proposal? and what could have persuaded an Athenian assembly to accept it?

'As regards Syracosius' measure, everything hangs on the correct interpretation of Phrynichus' verses; I do not know what the poet said.'⁴⁷ Georg Kaibel's verdict was circumspect. The fragment as a whole is manifestly corrupt or garbled:

δοκεῖ δὲ καὶ ψήφισμα τεθεικέναι μὴ κωμωιδεῖσθαι ὄνομαστί τινα, ὡς Φρύνιχος ἐν Μονοτρόπῳ φησί· ψῶρ' ἔχε Συρακόσιον, ἐπιφανὲς γὰρ αὐτῷ καὶ μέγα τύχοι. ἀφείλετο γὰρ κωμωιδεῖν οὓς ἐπεθύμουν. διὸ πικρότερον αὐτῷ προσφέρονται . . .

It is uncertain where the quotation from Phrynichus ends; this point critically affects the words, ἀφείλετο γὰρ κωμωιδεῖν οὓς ἐπεθύμουν. Two salient possibilities present themselves: either these words are a scholiastic statement ('he deprived *them* [the comic poets] of those whom they wanted to ridicule')⁴⁸, or they represent an intact, presumably anapaestic, portion of Phrynichus' verse, most probably from the parabasis

⁴⁵ I am inclined in general to agree with Behr (n.2) 182-209 that the archon's selection of plays did not involve an element of censorship. But the possibility remains that in special circumstances the archon could enforce conditions on the chosen playwrights, though it would be rash to infer normal Athenian practice from the suggestion at Pl. *Lg.* 817d. Cratin. *fr.* 17 PCG/15 K shows that archons were held personally responsible for their choices.

⁴⁶ Sommerstein (n.1) 101-8, following J. G. Droysen, *Rh. Mus.* iii (1835) 161-208, iv (1836) 27-62. On Syracosius himself, note that his career may go back to 429, if this dating of Eup. *Prospaltians* is correct: see *fr.* 259.72 PCG (though Schwarze [n.32] 129 n.69 errs in finding a ref. in Ar. *fr.* 225 PCG/216 K). It is imprudent to call him 'ignotum

et ineptum hominem' (Cobet [n.27] 41).

⁴⁷ Kaibel 80. Cf. Körte (n.36) 1235-6, M. Croiset, *Aristophanes and the political parties at Athens*, Eng. tr. (London 1909) 118-9, T. Gelzer, *RE Supp.* xii 1463, H.-J. Newiger, *Aristophanes und die alte Komödie* (Darmstadt 1975) 277, for agnosticism on the content and effect of Syracosius' decree.

⁴⁸ See Kock *ad loc.* ('verba ἀφείλετο - ἐπεθύμουν . . . sine dubio scholiastae sunt'), who rightly points out that this reading is supported by the plural (προσφέρονται) in the following sentence. Droysen (n.46) 59 circumvents this point by a conjecture: ἀφείλετο γὰρ <ποιηταῖς> κωμωιδεῖν κτλ. It is question-begging to say 'the fragment is a fact' (Sommerstein [n.1] 102), since the constitution of the fragment is precisely what is at issue.

(with the chorus speaking *in persona poetae*: 'he deprived me [Phrynichus] of those whom I wanted to ridicule').⁴⁹ Either way, it is clear from the characteristic formulation earlier in the note, 'Syracosius *seems* to have proposed a decree . . .', that we are being offered an inference (hence the misinterpretation already mentioned, p.58) not an explicit attestation.

Although some doubt must remain about the Phrynichian authenticity of ἀφείλετο γὰρ κωμωιδεῖν οὐς ἐπεθύμουν, I do not wish to rest my case on such uncertainty. The thesis of Droysen and Sommerstein, according to which Phrynichus alludes to a decree prohibiting comic mention of a certain class of persons, cannot be ruled out by the nature of the scholion itself. But there are a number of other factors which may make us hesitate to accept this view of the matter; and since these have never been properly considered, it is necessary to set them out here. There is, in the first place, the possibility that the words of Phrynichus (if such they are) refer to something other than a decree.⁵⁰ One alternative, acknowledged by Sommerstein himself (106-7), is that the comic poet is referring to Syracosius' role in bringing about the judicial execution of the mutilators of the herms: on this reading, the comic poet would be wryly complaining that Syracosius has 'removed' some attractive targets for his ridicule. Objections can naturally be put to this alternative itself, not least the lack of any evidence for Syracosius' part in the prosecution of the Hermocopidae. But we must in any case remember that a link with the scandals of the previous year is only a hypothesis. The passage might, for all we know, concern some altogether separate matter. The fact that we cannot conjecture what this was does not, in the circumstances of interpreting such slender evidence, increase the plausibility of the inference recorded in Σ *Av.* 1297. Comic allusions now lost on us are not a rarity.

There is, however, on the Droysen-Sommerstein theory, arguably independent support for the existence of a decree restraining comic freedom. This consists of: (a) the apparent lack of comic references, in the surviving plays and fragments for the years 415-11, to any individual condemned and/or denounced for impiety in 415; (b) comic poets' particular silence about the controversial figure of Alcibiades during this same period. (a) involves an interesting but not completely watertight observation; there are some possible exceptions.⁵¹ Besides, Sommerstein himself (106) concedes that most of the relevant individuals were 'all either dead or in seemingly permanent exile'. So a lack of comic references to them need not be that surprising, particularly when it is

⁴⁹ This leaves the problem of the rest of the fragment, which is seemingly *not* anapaestic (the bold restoration of Cobet [n.27] 39 carries no weight). Could there be quotations from *two* parts, one melic and one anapaestic, of a parabasis? Droysen (n.46) 59 reconstructs the whole fragment as melic; cf. PCG *ad loc.*

⁵⁰ G. Norwood, *Greek comedy* (London 1931) 27 and n.4, moots 'non-legal, perhaps even accidental means'; various other possibilities could be imagined.

⁵¹ Sommerstein (n.1) 105-6 shows that the ref. to Poulytion in *Pherecr. fr.* 64 PCG/58 K need not allude to events of 415 (for a dating no later than early 415 cf. the second thoughts of Geissler [n.40] XVI). But it is not proven that the fr. *cannot* date from 415 (or slightly later): the mortgaged house might be a comic distortion of the legal facts of confiscation (ἀποσημαίνεσθαι: cf. *Ar. fr.* 447 PCG/432 K). The title, Παννυχίς, remains suggestive too, *pace* Sommerstein 106: even a female chorus

does not rule out a connection with the parody of the mysteries (the Eleusinia involved multiple παννυχίδες: cf. *Ar. Ra.* 371).

There are three other possible comic refs. to consider, none of them mentioned by Sommerstein: (a) *Ar. Lys.* 1105, which D. MacDowell, *Andokides on the mysteries* (Oxford 1962) 99-100, and the same author on *Ar. V.* 787, treats as a ref. to the Lysistratus of *And.* i 52; (b) *Eup. Demoi fr.* 99.114 PCG, which might refer to the same Diognetus as *And.* i 15 (and/or 14? see MacDowell on both); (c) *Ar. Lys.* 103, which MacDowell takes to be the same Eucrates as at *And.* i 47. (This latter Eucrates was denounced but acquitted: it is not clear whether he would be covered by the law posited by Sommerstein, who talks on 104 of those 'denounced', on 105-6 of those 'condemned'.) Various other pertinent comic allusions are claimed, but without sufficient grounds, by P. G. Maxwell-Stuart, *Historia* xxii (1973) 400-1.

remembered that we have a total of three plays and some 250 lines out of a total of at least *thirty* comedies produced at the Dionysia and Lenaea during the five years in question.⁵² These figures must also be reckoned with when assessing the absence of named references to Alcibiades.

But just what does this absence amount to? All three complete Aristophanic plays from this period contain, on Sommerstein's own view, *allusions* to Alcibiades.⁵³ Syracosius' decree, we would have to presume, prohibited only named references (but see below). What is more, two of these plays, *Thesmophoriazusae* and *Lysistrata*, belong in a special category: they were produced (almost certainly) in the fraught political context of 411, when there were immediate factors in the dangerous circumstances of the time to inhibit a comic poet's choice of subjects for satire. This latter fact is reflected more generally in the reduced level of *ὄνομαστὶ κωμωιδεῖν* in the two plays; Aristophanes actually draws attention to this feature of both works.⁵⁴ Moreover, Alcibiades, however surprisingly, does not appear to have been a particularly appealing butt for comic poets at any point in his career. He is named in only three of Aristophanes' surviving plays, and in a total of eight fragments of Old Comedy: by the standards of the genre, this is a moderate tally.⁵⁵ It must, of course, remain conceivable that we are dealing with a real and enforced silence about Alcibiades (and others) in 415 and subsequent years, but the evidence is not compelling.

I turn now to some considerations which positively militate against the historical credibility of Syracosius' decree. Prime among these is the difficulty of making sense of Syracosius' political motives in proposing, still more the assembly's in accepting, the posited curb on comic freedom. Sommerstein paraphrases and endorses Droysen's argument that Syracosius' 'real though unstated object' would have been 'to make Alcibiades in particular, so far as possible, into what might now be called an "unperson"', and later restates the point: Syracosius moved his decree 'probably with the object of preventing the comic dramatists from keeping the name and memory of Alcibiades fresh in the public mind'.⁵⁶ I find this an awkward hypothesis. We are left,

⁵² The calculation involves uncertainties noted at n.25 above. There could of course have been refs. to Alcibiades (and others) in works which did not survive long enough for later scholars (esp. compilers of *Κωμωιδούμενοι*) to extract passages from them: it is therefore not enough to cite the *interest* of later scholars in such material, as Sommerstein (n.1) 105 does. One thinks here of that (in the circumstances of the time) intriguing title, Ameipsias' *Κωμωιστῆς* (cf. n.57 below), the victorious play at Dionysia 414, from which not a single later fragment or citation survives. (I see no compelling reason to follow Bergk's popular surmise that this work was the same play as Phrynichus' *Κωμωιστῆς*: we know several cases of *fabulae cognomines* by contemporaries, e.g. *Daedalus* plays by Ar. and Pl. Com.) Could later writers really find nothing of interest in it—or is it more likely that no copy survived into the Hellenistic age? For the loss of plays cf. the case of Cratinus' *Χειμαζόμενοι* (Hyp. I to Ar. *Ach.* p.9.39-40 Coulon), from which, confirmatively, we have no fr.; Hyp. II to Ar. *Pax* (expressly referring to Eratosthenes); *IG* xiv 1097.9 (Lysippus' plays); Anon. p.8.18-19 Koster/7.21 Kaibel (Magnes' works; but ctr. Hsch. s.v. *λυδιζων*); Didymus *apud* *Σ Ra.* 13.

⁵³ Sommerstein (n.1) 107 n.45, with *JHS* xcvi (1977) 122-3. Eup. fr. 103 PCG/96 K may have come from a context which, like Ar. *Lys.* 391-7, harked back to 415.

⁵⁴ *Th.* 962-4, *Lys.* 1043-5.

⁵⁵ See: Ar. *Ach.* 716, *V.* 44ff., *Ra.* 1422ff., *fr.* 205, 244, 358 PCG (198, 554, 907 K), *Pherecr.* fr. 164 PCG/155 K, Eup. fr. 171, 385 PCG (158, 351 K), Archipp. fr. 45 K, *Com. Adesp.* 3-5 K.

⁵⁶ (n.1) 105, 107. Droysen himself (n.46) 60 talks of the 'oligarchic' character of Syracosius' measure, and its intention of banning the name of the democracy's 'darling' (*Liebling*). Sommerstein's further argument, 107 n.46, that the presence of comic poets among the parodists of the mysteries 'could help to explain why Syrakosios and others might be afraid that other comic dramatists might seek to propagandize in Alcibiades' favour', requires the assumption that comic playwrights could be regarded as sharing and promoting the same political *Tendenz*: Phryn. fr. 61 PCG/58 K, attacking Diocleides and Teucrus as false informers, will hardly clinch such a case, which is anyway implausible (what, for instance, of Eup. *Baptae* [c.416/15]?).

for one thing, to conjecture what ostensible justification was given for the measure, since Syracosius' 'real' object was allegedly left 'unstated'. This oddity has far-reaching implications, since one must assume that it is the *ostensible* justification which would have played the largest part in persuading an Athenian assembly to accept the proposal. A majority of the assembly would have had to believe that some valuable effect might be served by banning the mention of the Hermocopidae and others. I find it difficult to imagine what this hoped-for effect would have been, unless we take many Athenians to have shared the aim of making 'Alcibiades in particular . . . an "unperson"'—but in that case, Syracosius' motive would not need to have been left 'unstated'.

Can a large number of Athenians in 415/4 really have believed that excluding named references to Alcibiades and others from comedy would make much difference to their political standing or future? The suggestion will only be cogent if we supplement it with the premise that comedy was regarded as having some exceptional weight in the matter (for references to Alcibiades were surely not prohibited in other political and social contexts). Such weight or influence can obviously not have been based on the frequency of comic performances, even if we imagine the decree as covering local deme performances as well as the two central state festivals. The hypothesis will be sustainable, furthermore, only if we include in it the idea that comic poets were at this time thought to be especially sympathetic to Alcibiades, *and* that a sufficient number of Athenians disapproved of this state of affairs to the point of seeing a concrete purpose in Syracosius' decree. Finally, we must add the rider that the supporters of the resolution thought the suppression of *names* as such would serve this purpose, despite the continuing possibility of unmistakable allusions to, or reminiscences of, the persons and events in question, as well as broader references to the scandals.⁵⁷

There would be little point in pursuing this critique of the Droysen-Sommerstein interpretation into an increasingly abstract and artificial series of conditionals. But a fundamental objection must now be declared. We have been examining an attempt to explicate Syracosius' putative decree as a measure designed to inhibit comic poets from giving Alcibiades (and others) favourable publicity. Yet this thesis rests on a piece of evidence, Phrynichus *fr.* 27 PCG/26K, which appears to attack Syracosius for limiting comic freedom of *ridicule* or satire. The discrepancy is surely decisive, and could only be resolved, it at all, by the hypothesis that Syracosius presented a public justification for his decree which was virtually the opposite of his real intentions. Such a hypothesis is too tenuous to be entertained; it can merit no more credence than the contrary theory—found in both ancient and modern times—that Alcibiades was himself the *architect* of a move against comedy sometime around 415.⁵⁸

It has become sufficiently clear, then, just how hard it is to reconstruct, in the terms advanced, a plausible scenario for the supposed decree of Syracosius. It remains of course conceivable that Syracosius did indeed successfully promote a decree concerning comedy, but for entirely different reasons from those proffered by Droysen and Sommerstein. I am unable, however, to suggest such reasons myself, and I therefore conclude that on the slight evidence available—a single, uncertain phrase, arguably from Phrynichus' *Monotropos*; the inference drawn from it in the ancient exegetical

⁵⁷ There are two clear comic refs. to the scandals of 415: Ar. *Lys.* 1093-4, Phryn. *fr.* 61 PCG/58 K. Ar. *Av.* 766-7 is a brief allusion. One must suspect that Eup. *fr.* 99.81-2 PCG (whose edd. are silent on the point) alludes to the profanation of the mysteries, and Ar. *Av.* 1479 (*cf.* Andoc. i 27) should be added to the list. Pl. Com. *fr.* 204 PCG/188K is sometimes thought a further case, but very spe-

culatively. MacDowell (n.51) 88 moots the possibility that Ar. *Av.* 496 parodies the story of Diocleides attested at Andoc. i 38. Droysen (n.46) 60f. is happy to believe that Ameipsias' Κωμῶσται could portray the scandals of 415, provided it named no names; *cf.* n.52 above.

⁵⁸ Bergk (n.2) 460, Cobet (n.27) 36-42; for ancient views *cf.* n.32 above.

tradition; and a partial argument *ex silentio* regarding the comic material surviving from 415-11—we have inadequate reasons for accepting the historicity of a decree curtailing comic freedom at this date.⁵⁹ I complete this portion of my argument by remarking that if such a decree had existed, we would surely have expected an Aristophanic riposte to it somewhere in *Birds*, and all the more given the fact that Syracosius himself is a butt in this play.⁶⁰

Even if the arguments for Syracosius' decree are found more impressive than I have contended, it is apparent that a very limited amount of reliable evidence for legal curbs on comedy can survive close scrutiny. In particular, it has been shown conclusively enough, I hope, that we have no reason to believe the Athenians ever passed a decree prohibiting named ridicule (ὄνομαστὶ κωμωιδεῖν) *tout court*. Such a prohibition was, however, an idea which established itself emphatically in the Hellenistic and later understanding of Greek comedy's history. Without claiming to reconstruct the exact genesis of this idea, we can say a little about its origins and about its appeal to ancient interpreters. These interpreters had some knowledge of what was probably a genuine legal measure against comedy, the decree of 440-37 (item 4, p. 55 above); they had evidence within Aristophanes' *Acharnians* and *Wasps* for a clash of some kind between one of the greatest Athenian comic poets and the leading political figure of the 420s, Cleon; and they had Eup. *fr.* 99.29 PCG (pp. 55, 57 above), which may have suggested a piece of political hostility towards comedy near the end of the following decade. These data were sufficient, I submit, to engender in exegetes of comedy a conviction that the genre may have been regularly subject to legal interference or restriction. We have seen that the scholia on Aristophanes, at any rate, provide impeccable evidence that such interference was sometimes posited where there was no satisfactory reason, only a predisposition, to believe in it.

There was another important factor at work too. Hellenistic scholarship devised a scheme of the history of Greek comedy, dividing its development into the stages of Old, Middle, and New, and marking these stages by reference to the variably satirical content and style of the genre.⁶¹ Of crucial relevance for historians of comedy was the distinctive degree and quality of ὄνομαστὶ κωμωιδεῖν in poets such as Cratinus, Eupolis, and Aristophanes. This was a feature of comedy unparalleled at any later stage in antiquity. It was, for that reason alone, something to be explained, particularly since it involved a radical breach of prevailing literary (as well as, to a large extent, social) canons of decorum and decency. ὄνομαστὶ κωμωιδεῖν was disturbing, as well as intriguing, for post-classical students and readers of the genre. It required special theories to account for it, theories which almost inevitably sought in it a moral and political justification. Comic satire, it came to be supposed, had originally served a social and ethical purpose as a public chastisement of reprobates and miscreants.⁶²

At the same time, there was the conspicuous fact that the licence of personal, named ridicule, so prominent in that great trio of fifth-century poets (*Eupolis atque Cratinus Aristophanesque poetae*) as in many of their contemporaries, had become obsolescent in comedy in the course of the following century. How had this happened? A suitable answer was available in the legal measures which Athens had been induced to take, so it

⁵⁹ The alternative theory (Radin [n.2] 223-9), that Syracosius' decree was simply a new law of slander, is adequately rebutted by Sommerstein (n.1) 102-3.

⁶⁰ *Av.* 1297. Sommerstein (n.1) n.4 does not meet the point: 'the structure and theme of *Birds* 1290-9' cannot explain why Ar. did not *make* an

opportunity, somewhere in his play, to refer to Syracosius' decree.

⁶¹ R. Janko, *Aristotle on comedy* (London 1984) 244-50, offers an unorthodox view of the development of the Old/Middle/New schema.

⁶² See e.g. the material cited in Halliwell (n.36) 84.

could be hypothesized, against comic poets who became increasingly irresponsible in their scurrilous gibes at individual citizens. Hence the view that the transition from Old to Middle Comedy, and even from Middle to New, reflected changes in the legal regulation of the comic stage (item 9, p.56 above). The Hellenistic status of this view is shown by Horace's well-known lines in the *Ars Poetica* (item 2, p.55). But it was a view nonetheless without foundation, as the fluctuating details of its formulation indicate. Personal satire did not disappear at a stroke from Greek Comedy. If Hellenistic scholars were able to observe, as they conceivably were,⁶³ that the rule of the oligarchs in 404/3 blunted the appetite of comic poets for ridicule of prominent political figures, they should also have noticed that elements of ὀνομαστικῶν κωμωιδεῖν were traceable well into the fourth century, and that the diminution in the use of this comic resource was part of a gradual change in style and tone, not a sudden and enforced exclusion.⁶⁴ But the belief in a definitive legal prohibition of personal ridicule was not to be suppressed by careful attention to the evidence. It became part of an account which was too neat and satisfyingly precise to be abandoned. Moreover, once orthodox, this explanation for the demise of Old Comedy may have encouraged the search for earlier decrees against the genre's freedom of speech, thus reinforcing the attitude from which it had itself partly evolved.

The influential presuppositions of this tradition of interpretation lingered well into the nineteenth century, manifesting themselves in a continuing inclination to believe in as many of the decrees claimed by the scholia on Aristophanes as possible. But a clean break with this earlier point of view is now possible,⁶⁵ and having made the break we can try to see in a truer perspective the very limited amount of acceptable evidence for legal curbs on comic παρρησία. This evidence is reducible to the following specific items: a probable *pséphisma* of 440-37, circumstantially to be connected with the Samian war; and a possible but, I have contended, highly doubtful decree of 415 (and uncertain validity thereafter, but perhaps as late as 411), arguably designed to restrict comedy's freedom to mention the perpetrators of the scandalous impieties of that year. What these two items appear to have in common is a connection with special and limited circumstances; if they were both real measures, we can be confident that the motivation and support for them must have been engendered by the strong feelings attached to specific events and contexts, rather than by more diffuse attitudes to the freedom of the comic stage. I have tried above to narrow down the likely scope of the earlier decree, by suggesting that it may have applied only to the Dionysia. In the case of Syracosius' decree of 415, I have questioned whether we can afford to believe in it at all; but I now stress that, if a case for its reality can be made, it leaves us with a measure whose application was decidedly out of the ordinary.

Once the interpretation of these two putative decrees is linked to highly particular circumstances, we can appreciate how they point beyond matters of strictly personal satire to a much broader question of political sensitivities. In this respect I have already

⁶³ Oligarchic interference with comedy is suggested in Platon. p.3 Koster/Kaibel. This is not intrinsically good evidence, for reasons obvious from my whole approach; but we can assume that comic poets avoided conspicuous criticism of the régime in 404/3: compare the position in 411 (p.61 and n.54 above). On the difficulty of criticizing an oligarchic régime cf. Dem. xxii 32.

⁶⁴ For the continuing presence of personal satire in 4th cent. comedy see esp. the *fr.* of Timocles (Kock ii, pp.451 ff.), and e.g. Aeschin. i 157 (345 B.C.), Philippides *fr.* 25 PCG/K, Archedicus *fr.* 4

K. Cf. W. Schmid, *Geschichte der griechischen Literatur* i 4 (Munich 1946) 441-4, Cobet (n.27) 120-25, and n.37 above. Arist. *Rh.* 1384b9-11 (perhaps late 360s?) regards comic poets as comparable to gossips who publicize their neighbours' faults. But one should not, with Radin (n.2) 219, exaggerate the persistence of ὀνομαστικῶν κωμωιδεῖν.

⁶⁵ See n.36 above for Körte's rebuttal of earlier German credulity. Some properly sceptical modern refs. to the subject: Heath (n.1), Bury & Meiggs (n.44) 241, Roberts (n.29) 178-9, Lefkowitz (n.32) 106 (but misdating Euthymenes).

surmised that the decree of 440–37 may have been something of a precedent for Cleon's attack on Aristophanes in 426/5, after *Babylonians*. In so far as we can recover the nature of Cleon's action from the references in *Acharnians*, and perhaps *Wasps*, it was not one which depended on a specific law of slander, nor indeed one which concerned the comic treatment of *individuals* at all. Its target was a comic poet who could be accused of 'slandering the city' in front of foreigners (the allied ambassadors at the Dionysia)—an accusation for which the Athenians would hardly require the citation of a particular law.⁶⁶ Whatever personal animus we may wish to imagine, Cleon's charge surely rested on considerations of a general political kind, and above all on nervousness over the presence of allies in Athens during war-time. Where the Athenians were sufficiently persuaded that the general good of the city was at issue, especially in relation to imperial affairs, even the festival world of comedy could be held subject to the consequences of stirring up delicate political matters between Athens and her allies. But in both 440–37 and 426/5, as well as in 415 (if we were to accept Syracosius' decree), we are confronted with exceptional and localized situations. There is no sign, here or elsewhere, of any direct attempt to change the status of comic freedom of speech *fundamentally or permanently*, despite the genre's extensive reliance on important and often topical material from the political sphere.

The argument at this point, if it were to be properly pursued, would need to enlarge its terms of reference beyond the centre of my enquiry—comic satire of individuals—to accommodate the entire realm of 'political comedy'. Obviously the issue of ὄνομαστί κωμωιδεῖν falls, at many points, within this larger question, but a basic discrimination between satire of individuals and of the state remains indispensable. A much discussed passage in [Xen.] *Ath. Pol.* shows (even after allowance is made for the drastic simplifications characteristic of this pamphlet) that this distinction could be readily conceived and applied in classical Athens. 'They [the Athenians] do not allow the demos to be ridiculed and abused', writes the author of the tract, '... but they encourage any ridicule of individuals, as they know well that comic targets are mostly not taken from the demos or the masses, but are wealthy, well-born, or powerful ...'⁶⁷ Though there are some doubts one might harbour about the emphasis of this remark, it does suggest a direct, if prejudiced, observation on a cultural milieu in which satire of individuals in the theatre was obviously enough exempt from any existing law of slander or from effective restraint of any other kind. It might well be thought, in fact, that the passage shows the influence, perhaps even the recollection, of just the sort of events represented by the decree of the early 430s or Cleon's action against Aristophanes. But to diagnose such an allusion would be to become enmeshed in the vexed question of the work's date, which is not my purpose.⁶⁸ Arguments over dating cannot interfere with the simple but important proposition that the author was evidently convinced, from his experience of the reception of comic satire by Athenian audiences, that the genre was free to ridicule or abuse any individual, however powerful or prominent, but could not always expect to exercise παρρησία with impunity to the point at which the political feelings of the

⁶⁶ We do not know the result of Cleon's action; to say he 'failed' (Finley [n.26] 120, Heath [n.1] 17) is too bold. If Ar. *V.* 1284 refers to this episode (as I believe), it is at any rate consistent with an undertaking given by Ar. in 426/5.

⁶⁷ 2.18. Dio Chrys. xxxiii 9 (contradicting xxxii 6) repeats the distinction between satire of individuals and of the demos.

⁶⁸ The debate over the relevance of this passage to the date of the work is long-standing. See E.

Kalinka, *Die pseudoxenophontische ΑΘΗΝΑΙΩΝ ΠΟΛΙΤΕΙΑ* (Leipzig 1913) 7–16, H. Frisch, *The constitution of the Athenians* (Copenhagen 1942) 277–81, and G. W. Bowersock, *Xenophon: scripta minora* (Loeb, London 1968) 496 n.2 (with *HSCP* lxxi (1966) 35). There is a consensus that 2.18 refers to a cultural, not a legal, state of affairs; but A. W. Gomme, *More essays in Greek history and literature* (Oxford 1962) 43–5, dismisses the value of the passage.

democracy as a whole might be aroused. In the case of Aristophanes and Cleon, after all, we can see that the comic poet, however bruising his self-proclaimed (and comically coloured) 'ordeal' before the boule may have been (*cf. Ach.* 379–82), had no difficulty in taking the revenge of elaborately *personal* satire against Cleon. For that kind of comedy, as I have already insisted, was not at issue.

III

Having examined the limited evidence for legal and political restrictions on comedy, I turn in this final section to some positive demonstration of the special status of comic freedom of speech in classical Athens. One direct attestation of this status was quoted just above from [Xen.] *Ath. Pol.* 2.18, where the assumption is conspicuously made that contemporary comedy in the second half of the fifth century (to be no more precise about the work's date) depends on, and gives expression to, the *democratic* climate of Athenian culture.⁶⁹ That is something we can broadly accept, though without translating it into the terms of *parti pris* used by the 'Old Oligarch'. Unlike tragedy, which must in origin have been patronized by the tyrants,⁷⁰ comic drama was officially accepted into the Dionysia only in 486 (and into the Lenaea not long before 440). If this fact does not in itself show that Old Comedy was a product of democratic patronage, we must add that the type of uninhibited personal satire which became so characteristic of the genre flourished in the second half of the fifth century. The salience of *ὄνομαστί κωμωδεῖν* is first discernible in the work of Cratinus from just after 450, and then becomes a major feature of the work of all the leading comic poets for the remainder of the century, with the apparent exceptions of Crates and Pherecrates.⁷¹

This brand of personal ridicule and satire was at its height, therefore, during the period of Athens' buoyant prosperity in the 440s and 430s, as well as during the Peloponnesian war. It is tempting to suppose that it was only in the confident climate of Periclean Athens that such an unbridled source of contemporary satire and humour could have been allowed to establish itself in works performed with official sanction and support at major state festivals. Correlatively, it is not surprising if in circumstances such as those of 411 a comic poet may have felt his normal satirical freedom perforce circumscribed by acute political tensions (see n.63 above). Yet neither oligarchy nor Athens' ultimate defeat in the war, nor again (as we have seen) any particular legal enactment, brought an end to *ὄνομαστί κωμωδεῖν* on the comic stage. The practice continued into the fourth century, though diminishing as time went by. In the light of this diminution, it is all the more striking that a number of fourth-century authors

⁶⁹ A link between comedy and democracy is also implied, though pervertedly, at *Isoc.* viii 14 (p.67 below). *Cf.* the implications, though not the historicity, of the claim indicated at *Arist. Po.* 1448a31–2. Some later recognition of the point occurs at *Platon.* p.3 Koster/Kaibel (a crude view, corresponding to [Xen.]'s), *Dio Chr.* xxxii 6 (where a paradox is extracted from the point), and the admirably *ben trovato* anecdote concerning Plato and a copy of *Clouds* at *Vita Ar.* p.135 Koster, p.3 PCG (*cf.* A. Riginos, *Platonica* [Leiden 1976] 176–8).

⁷⁰ *Cf.* J. Herington, *Poetry into drama* (Berkeley 1985) 82–94.

⁷¹ It is impossible to test the view of some grammarians that personal ridicule had always been prominent in the genre: see e.g. item 10, p.56 above; *Σ Dion. Thrac.* p.71.37–8 Koster/15.67–8

Kaibel; anon. *Anecd. Estense* II 5 (quoted by Janko [n.61] 246). It is also true that the evidence for Cratinus' earlier plays is too thin to allow demonstration of much *ὄνομαστί κωμωδεῖν* (*cf.* the caution of Mattingly [n.39] 239–45); but there are traces in *Ἀρχιλοχοί*, which *may* date from the early 440s, and the critical tradition in antiquity uniformly ascribed satirical vehemence to Cratinus' *oeuvre* in general. Cratinus certainly established a practice which then became standard for playwrights such as Telecleides, Hermippus, Eupolis, Phrynichus, Aristophanes, and Plato Comicus. As for the exceptions, the evidence of Crates' fragments seems to bear out the implication of *Arist. Po.* 1449b8: on Crates and Pherecrates *cf.* Meineke (n.16) i 59–60, 66–7.

writing at Athens attest the recognition of a privileged status for comic παρρησία. In gathering together the most relevant of these to my present argument, I wish to argue that if such a recognition can be shown still to have existed in the fourth century, even when comedy was become *less* scurrilous and vituperative, we can legitimately infer that it was the continuation of a cultural attitude which had been widely held in the fifth century too. And if such an attitude was a reality, it will give us the positive underpinning for that comic licence whose existence during the heyday of Old Comedy has emerged from the arguments put forward in the preceding sections of this article.

Near the start of the fourth century we find Lysias (*fr.* 53 Thalheim) asking rhetorically, *à propos* Cinesias: 'is this not the man who commits such offences against the gods that it is shameful (αἰσχρόν) for the rest of us even to mention them, though you hear of them from the comic poets every year?' This gives us (the speaker's personal animus aside) an almost perfect definition of the comic privilege of αἰσχρολογία, combined here with the distinctive tradition of ὀνομαστὶ κωμωιδεῖν. The comic poet can employ language which would be indecent in ordinary public discourse (compare e.g. Isoc. i 15, Dem. ii 19, xxiii 202, liv 17), and he can use it in deriding named individuals. Observe additionally the completeness of Lysias' contrast: *only* comedy can name such things. This is an exaggeration, of course (see below), but the speaker's willingness to proffer it is significant. He can count on his audience's knowledge that comedy did indeed stand to a remarkable degree outside the inhibitions of decency and shame which bear on customary social relations within the polis.

A similar note is struck later in the century by Isocrates viii 14 (*On the Peace*: 355 B.C.), where we encounter the following complaint: 'although this is a democracy, there is no real freedom of speech (παρρησία), except, in the assembly, for those who are reckless and do not care about your feelings, and also, in the theatre, for the comic poets.' Once more, the rhetorical purpose of the passage need not divert us, though it is obvious that we are dealing with a calculated disingenuousness of the same type as occurs at Dem. ix 3-4. All that matters here is the unqualified reference, as in Lysias, to comic poets' liberty to transgress the bounds of common inhibitions in speech, in a context, moreover, whose concern is with large political issues, not simply with personalities. In one respect Isocrates is more realistic than Lysias, since he acknowledges, albeit with contemptuous colouring, the undoubted fact that public oratory possessed its own repertoire of vehemence and personal abuse. But this detracts nothing from the recognition of a distinctive ethos of free speech in the comic theatre.

Within a few years of *On the Peace* Plato composed a fascinating passage in the *Laws* (xi 934d-6b) which discusses, from the philosopher's peculiar vantage point, the whole question of the kind and degree of insulting or ridiculing behaviour which can be tolerated in a city. The entire passage would repay detailed consideration, but I shall limit myself here to observations directly related to my argument. Plato's Athenian spokesman proposes a suitable law for the well-governed polis: μηδένα κακηγορεῖτω μηδεῖς (934e3-4). The elaboration of this comprehensive social prohibition on what Plato's text regards interchangeably as κακηγορία, βλασφημία, αἰσχρολογία, and λοιδορία, may actually echo at various points the Solonian law of abuse considered earlier.⁷² But it is patent that the Athenian's provision goes beyond the contemporary legislation of his own city, and this is one reason why Plato allows him to reflect at length on the need for such a strong social norm, as well as on possible qualifications to it. Most interestingly, the Athenian confronts an imagined objection—'Are we to accept the readiness of the comedians to ridicule individuals, provided they mock the citizens in

⁷² Compare the specifications at 935b4-8 with (p.49 above); cf. also n.7 above. the report of Solon's law of λοιδορία at Plu. *Sol.* 21

this way without any animus? Or are we to distinguish between playful humour and its contrary . . . ? . . . Well, no comic or iambic poet⁷³ . . . can be allowed, whether with or without animus, to ridicule any citizen whatsoever (μηδαμῶς μηδένα τῶν πολιτῶν κωμωιδεῖν)' (935d3-e6).

The pertinence of this passage to my case lies in the fact that even Plato, in the context of exploring the kind of law which might be based on a severely puritanical psychology (it is the dangers of θυμός with which the argument is concerned),⁷⁴ feels some pressure to recognize the prevailing Athenian sense of the exceptional cultural freedom of comedy. I would submit, indeed, that Plato allows at least a limited *legitimacy* to this sense: although he qualifies it in legal terms, he does not dismiss it out of hand, and he appears to make provision, just after the passage quoted above, for comic satire of non-citizens at any rate (936a). Coming from a philosopher of such emphatic convictions, it is remarkable to meet the suggestion of even a circumscribed concession to an existing view of the privileged status of ridicule occurring within comic drama. The concession needs to be seen against the background of precisely those traditional Athenian attitudes which have effectively been my subject throughout. Plato is not at all tied to the cultural practices of his own city, but in this instance he appears to have been curiously influenced by them. He assumes, unsurprisingly, that comic performances will occur in the context of religious festivals (936a2). He is therefore recognizing, at the same time as his spokesman hypothetically curtails, a distinctively festive licence for παρρησία, a licence which, as the entire section makes plain, is defined by its exemption from the requirements of customary social relations.

Views not too dissimilar to Plato's, though noticeably more tolerant than his, are to be found in a section of Aristotle's *Politics* (1336b3-23) where questions of state censorship are raised in relation to educational matters. Aristotle starts by asserting the need for a lawgiver to proscribe all forms of αἰσχρολογία, especially for the sake of the impressionable young. He goes on to include visual obscenity within this requirement, before specifying as an exception those religious settings in which 'the law allows ritual raillery (τῶθασμός) too'. By this stage it is clear that Aristotle is thinking of both obscenity and coarse ridicule within the same category of αἰσχρολογία, and this fact gives the cue for his next remark: 'the young should not be allowed to be spectators at either iambus or comedy, until . . . their education makes them all immune to the harm derivable from such things.'⁷⁵

Several points of significance can be extracted from this passage. First, there is the twin focus on obscenity and ridicule: both, as forms of αἰσχρολογία (or its visual equivalent), share the breaching of decency and inhibitions which would normally be expected to apply in social life. It is pertinent that in comedy these two modes so readily coalesce, yielding a type of obscene scurrility unparalleled in other public contexts, even rhetorical διαβολή. Secondly, Aristotle alludes to the existence of legislation which forbids certain forms of personal abuse when he mentions the established cultural identification of circumstances effectively *exempted* from the force of such law.⁷⁶

⁷³ For the implication that ἴαμβοι were still being written in the mid-4th cent., cf. Arist. *Pol.* 1336b20 (quoted above) and n.75 below.

⁷⁴ The passage should thus be related to other Platonic treatments of comedy, in particular at *R.* 395e-6a and 606c.

⁷⁵ Performance of iambus in classical Athens: cf. *Pl. Lg.* 935e4 (above), and note the presumed identity of Hermippus κωμικός and H. ἴαμβογράφος (see PCG v, p.562 test. 8).

⁷⁶ The kind of exemption which Aristotle cites

at 1336b16-17 is presumably conventional rather than legally specified (cf. nn.27, 77). He alludes to legislation against κατηγορία of the kind mentioned explicitly at *EN* 1128a31-2 (cf. 1129b23): 'the lawgivers forbid certain forms of abuse (λοιδορεῖν), and perhaps they should have forbidden some mockery (σκώπτειν) too.' This presumably refers to the lawcode of more than one city: note, for what it is worth, the late evidence for a Zaleucan law of slander in 7th cent. Locri (*Stob.* 44.19: iv 126.16-19, W.-H.). Aristotle's remark also

Thirdly, in mentioning comedy at the end of this passage Aristotle probably has especially in mind a style of satirical (as well as obscene) humour most characteristic of an earlier stage of the genre, at least in Attica: this is suggested by his own well-known contrast at *EN* 1128a22–5 between the ‘old comedies’ which relied on αἰσχρολογία, and the ethos of cultivated wit, εὐτραπέλεια, in ‘new comedies’. Finally, and perhaps most importantly, Aristotle himself appreciates—like Plato, but more generously—the validity of festive contexts in which the norms of decent restraint in speech do not apply; and his train of thought indicates that in this respect he regards comedy (and iambus) as comparable to the conventions of ritual mockery within certain religious cults, a point to which I shall shortly return. The philosopher’s qualms about the young are not erased (he is doubtful whether they should participate in either kind of event), but in both cases he is nonetheless prepared to endorse the existence of traditional claims to a licensed freedom of speech, and a cultural dispensation from legal as well as general social constraints on indecency.

We have seen, then, that a number of sources from the fourth century give us clear intimations of the exceptional standing of Attic comic drama in relation to the norms of free speech, and the existing restraints upon it, in Athenian society. This evidence complements, I submit, the results of the enquiry conducted in the earlier sections of this article. We can thus confirm and reinforce our earlier conclusion that there existed in classical Athens a climate of attitudes which accepted, permitted, and even encouraged the liberty of comedy to indulge in forms of personal ridicule, denigration, and αἰσχρολογία, which flagrantly flouted otherwise common standards of public propriety.

This liberty was evidently inseparable from the context of festive (in this case, Dionysiac) celebrations, and it was only within the ‘protection’ of this setting that such consistently outrageous humour as we find in Aristophanes’ fifth-century works could have been not only tolerated but actually sponsored by the state for communal enjoyment. While we must keep in mind the notably democratic association of comedy’s freedom of speech (p.66 above), it is probably to the idea and experience of festivals as occasions which stand outside, and in various ways act as a release from, ordinary existence, that we must look for the ultimate grounding of this freedom.⁷⁷ In this connection, the comparison cited from Aristotle (p.68 above) between comic performances and ritual raillery (τῶθασμός) is especially telling. Without discussing this comparison in detail (something I hope to undertake elsewhere),⁷⁸ we can see at least the ‘structural’ parallel between the two phenomena: in both cases, there is a deliberate and frank transgression of social norms and standards, in a context carefully marked off and controlled by acknowledged conventions. The parallelism is exploited, in a way which perfectly suits my argument, by Aristophanes himself in the parodos of *Frogs*, where the emphatically unrestrained atmosphere of the festival (n.b. ἀκόλαστον [333], ἀσφαλῶς

bears on the distinction between comedy and real abuse, though σκώπτειν can cover both.

⁷⁷ Later acknowledgement of the significance of the festive setting occurs at Dio Chr. xxxii 6 (ἐορτάζοντες), Luc. *Pisc.* 25 (ἐν Διονύσου ἐφειμένον); cf. the refs. to legal ἄδεια at Them. viii 110b, Platon. p.3.6 Koster/Kaibel, and in Hyp. II to Ar. *Av.* (p.18.8 Coulon). The importance of festivity is overlooked by V. Ehrenberg, *The people of Aristophanes*² (Oxford 1951) 26, who explains comic liberty by the proposition that ‘comedy was an internal affair of the sovereign people as a whole’. One feature of festivity which consorts

with licensed abuse and ridicule is inebriation: cf. the implication of Hyp. *Phil.* col.2 Kenyon (cited above, pp.2–3), with Pl. *Phdr.* 240c, *Lg.* 637a–b, 649a–b.

⁷⁸ The parallel, perhaps even historical kinship, between Old Comedy and ritual forms of raillery, is a major issue. J. Henderson, *The maculate muse* (New Haven 1975) 13–17, and K. Reckford, *Aristophanes’ old-and-new comedy* (North Carolina 1987) 461–7, offer recent views. Storey (n.2) 16–23 raises the possibility that comedy may itself have influenced ritual αἰσχρολογία.

[387], ἀζημίους [407])—an atmosphere which comes to an evidently exhilarating climax in the scurrilous αἰσχρολογία of a vulgar iambic song (416–30)—applies equally to the comic drama which embodies it, and to the preliminary celebrations of the Eleusinian festival which it portrays. Here we have, in essence, the comic poet's dramatization of his own satirical freedom.

As I earlier argued, the freedom of comedy entailed a virtual, though not a legally defined, immunity to the law of slander which was probably in existence throughout the classical period. Such a state of affairs required a socially strong and politically buoyant Athenian polis to sustain it, and we may be inclined to speculate on changes in the city's *Zeitgeist* which could have contributed to the decline in comic παρρησία during the fourth century. Moreover, since ridicule always retains the capacity to disturb and unsettle, it is intelligible that at certain junctures comic liberty, exercised in performances watched by a third or more of the adult citizen population, was felt by at least some Athenians to be potentially dangerous. At such moments, the consensus supporting an established perception of comedy as outside the bounds of normal social regulation was threatened, and doubts over the demarcation of the festive privilege acquired sufficient urgency to make official action worth contemplating. I have contended that these occasions were very rare, and can be seen to have been connected with especially severe political stresses and with nervous sensitivity to the presence of allies at the Great Dionysia. For the most part, however, comedy's use of its freedom was determined by other factors than law or political pressures. Its styles of humour evolved through a perpetual interplay between the inventiveness of playwrights and the changing taste of mass audiences on communal holidays.⁷⁹

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