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A COMMENTARY ON AESCHINES *AGAINST TIMARCHUS* 1-115

by

JAMES E. MULKIN

A dissertation submitted to the Graduate Faculty in Classics in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York

1999

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Abstract

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by

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The first oration of Aeschines is one of our richest sources for the social, intellectual and political history of Athens, yet there exists no commentary on it in English and the only complete English translation of it was published in 1919. While the study of the Attic orators in the English-speaking world has in general languished for most of this century, the study of *Against Timarchus* was impeded by two additional factors: its author had fallen into the shadow of his more esteemed rival Demosthenes, and the subject matter of the speech was long considered distasteful, unseemly and undeserving of serious scholarship. This is no longer the case. On the one hand, there is a renewed interest in the orators: on the other, scholars have begun to investigate topics of gender and sexuality in the ancient world. Since the late 1970s *Against Timarchus* has been frequently cited in discussions of the history of sexuality, for it is the primary source for the study of sexual relations between males in classical Athens. The first and most influential treatment of the speech in this light was Dover's *Greek Homosexuality* (1978), but it is not a full commentary. The speech was meant to persuade Athenian dikasts to convict a defendant in a case personally significant to Aeschines and politically important to the preservation of the peace between Athens and Macedon; it is therefore crucial to evaluate his condemnation of certain sexual practices in terms of its context.

The dissertation consists of an introduction, translation, and commentary on chapters 1 through 115. It is based upon the text established by Dilts. The introduction consists of six sections: a biography of Aeschines; the political situation in Athens 346/5 B.C.E.; the date of the trial; the legal procedure under which the trial was conducted; structure and rhetorical strategy; and a survey of the transmission of the text.

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I. WHO WAS AESCHINES?

We are relatively well informed about the life of the Athenian orator Aeschines. Our primary sources are his three orations as well as the eighteenth and nineteenth speeches of Demosthenes; later sources include the *vitae* transmitted in various manuscripts of his speeches and the notices of the Suda, pseudo-Plutarch, Libanius, Philostratus and Photius. These are not all of equal value, nor can we accept without hesitation even the orator's own statements about his life. It is the nature of forensic oratory to subsume historical accuracy to persuasive efficacy, and both he and Demosthenes have many reasons to misrepresent the truth in their speeches. For example, Demosthenes tells us that Aeschines' father was a slave and his mother a prostitute; but these are clearly grotesque distortions designed to abuse and discredit him. The rhetorical nature of other statements made by both Aeschines and Demosthenes is not so readily apparent, and requires a more critical examination of the sources: for example, the charges of bribery and treason against Aeschines, ubiquitous in the speeches of Demosthenes, virtually disappear under scrutiny. We must also use caution in evaluating the later sources. Their redactors derived them almost entirely from the speeches of Demosthenes and Aeschines, and when they discuss incidents not found in those texts, such as the fortunes of Aeschines after his defeat in 343, we often do not know if the authors are reporting a reliable tradition, making an inference from the speeches, or merely guessing.¹

¹ Ancient sources for the life of Aeschines: Aeschin. 1, 2, 3, D. 18, 19, Plut. *Dem.* 15, 16, 24 *et passim*, Aeschin. *vitae* 1 and 3, Apollonius *vit.*, [Plut.] *vit. X or.* 840, Philostr. *VS* 1.18, Suda α 347 and 348. Lib. *Arg. D.* 19, *Progymn.* 10.3, Ph. (*Bibl.*) 61. On their reliability as sources see Harris 1995 17 with n. 1. Kindstrand 1989 67-8 and Harris 1988. There are two systematic modern accounts of Aeschines. Harris 1995 and G. Ramming "Die politischen Ziele und Wege des Aischines" diss. Erlangen 1965. From the nineteenth century see Schaefer (1885-7) and *AB*, in which, like the numerous works on the fourth century given at n. 10 below, his life is related in the larger context of history or oratory. Harris 1995 7-16 provides a methodology for evaluating the historical accuracy of the statements of the orators.

Aeschines was born probably in 391/0 or 390/89 to Atrometus, an Athenian of the deme Cothocidae, and his wife Glaucosia. Atrometus and Glaucosia had two other sons, Aphobetus and Philochares, who like Aeschines would take active roles in the government of Athens. Along with many of his contemporaries, Atrometus had suffered hardships in the Peloponnesian War and the turmoil which followed, including the loss of his property and exile under the Thirty; but after their fall he returned to the city with the exiled democrats and established a school where he taught elementary subjects.

Aeschines himself may have worked there in his youth; *Against Timarchus* at any rate demonstrates his familiarity with school regulations. The family of Aeschines did not, it seems, belong to the liturgical class, but neither was it as humble as Demosthenes claims. Atrometus had at least enough property to allow Aeschines to serve as a hoplite.²

But owing to their father's profession, the brothers could enjoy a privilege of the καλοὶ καγαθοί: a traditional education. In his three orations Aeschines never hesitates to display his learning, either by quoting the epic and tragic poets or by calling attention to his opponents' ill-breeding. These displays consistently inform his *ethos* in the speeches and are in part a means of persuading the judges that he is a man of prestige, worthy of their attention. The actual extent of his education is unknown; ancient biographers suppose him a student of various famous men--Socrates and Plato, Isocrates, Leodamas and Alcidamas--but it is unlikely that he received any formal training in rhetoric since Atrometus probably could not afford it. In fact the stronger tradition considers Aeschines to have been a natural speaker.³

²Date of birth: see Commentary on §49.8. Atrometus (*PA* 2681), Glaucosia (*PA* 2989), Aphobetus (*PA* 225, Develin 1989 297, 350), Philochares (*PA* 14775; see also Commentary on §27.3): 2.78, 147-9, D. 18.129-30, 258-60, 19.237, 249, 281; see also Schaefer 1885-7 1.215-28, Davies 1971 543-7 and Harris 1995 21-9. Cothocidae: [Plut.] *vit. X or.* 840a, *vit.* 1.8, 2.1; cf. D. 18.180. Exile of Atrometus: see Commentary on §39.4. On the status of the family see Bourriot 1995 435-9. Aeschin. as hoplite: .2.167-70.

³Aeschin. educated by father: Quint. *I.O.* 2.17.12. Education as a privilege of the καλὸς καγαθός: Marrou 1967 ch. 4; cf. Harris 1995 28. Socrates and Plato: *vit.* 3.6-7, cf. *vit.* 2.6. Ph. (*Bibl.*) 61 and Σ 1. 4. 16a. Isocrates and Leodamas: [Plut.] *vit. X or.* 840b; cf. Commentary on §69.5. Alcidamas: Suda α 347. Natural speaker: [Plut.] *vit. X or.* 840f, *vit.* 3.7, cf. Suda α 347 and Ph. (*Bibl.*) 61. For an assessment of these attributions see Kindstrand 1989 68-84.

Aeschines did not enter public life in earnest until when he was around forty two years old, but the occupations of his earlier years were probably an invaluable preparation for his political career. After reaching the age of majority, he along with his brother Aphobetus was employed as undersecretary; later he was elected secretary to the Council and Assembly. This experience probably acquainted him with the various laws of Athens deployed so skillfully in this speech. Sometime thereafter he became an actor, the τριταγωνιστής in a troupe which toured the demes. He had an imposing physical presence, no doubt shown to advantage when, for example, he demonstrated to the judges of Timarchus the Solonian stance he felt an orator should assume. He likewise had a strong and mellifluous voice: the fact is known to us from Demosthenes, who never tired of mocking it.⁴

His entry into politics is obscure; he tells us with pride of his military service, a field in which other members of his family had distinguished themselves, and the honors he received for his service in Euboea under Phocion won him . He also married at around this time into a family of the liturgical class. The war with Macedon was the principal issue of the day and so it is not surprising that our first notice of him in the political arena finds him pressing the Assembly for a united front among the Greek cities against Philip. In late 348 he was elected ambassador to the Arcadian Assembly in Megalopolis, where he made a speech on the danger he believed Philip represented. Although it failed, he continued in this vein, warning the Athenians of Philip's attempts to gain influence in the Peloponnese and exhorting them to assemble the Greek cities in Athens, to discuss how best to oppose Philip.⁵

⁴Undersecretary: D. 19.237. Secretary of the Council and Assembly: D. 19.70; see Harris 1995 29-30. On the office of secretary see Commentary on §2.4. Τριταγωνιστής: D. 18.261-2, 19.246, 337. See Dorjahn 1929. Physical presence: [Plut.] *vit. X or.* 840a. Strong voice: D. 19.126, 199, 206, 216, 337-40.

⁵Military service: 2.167-70; see also Commentary on §49.7. His father's military exploits have been noted above. His mother's brother Cleobulus was also honored for service; see Harris 26 with n. 27. Euboea: 2.167-70. Harris 1995 37-9 speculates that Phocion helped Aeschin. at the beginning of his career, but Tritle 1996 believes the evidence is insufficient. Marriage: Davies 1971 543-7. First speeches: D. 19.10-12, 303-6. Ambassador to Megalopolis: D. 19.10.

After Philip made it known to Athens that he was ready to end the war, the Athenians debated what course they should pursue; and in the winter of 346, Philocrates proposed that ten ambassadors be sent to Pella to negotiate. Aeschines and Demosthenes were among those elected. The relation of the two men, initially cordial, would flare into open hostility a few months later. Dissatisfied with the peace and suspicious of Philip's intentions, Demosthenes began to accuse Aeschines of colluding with Philip, of accepting bribes from him, of serving Philip's interest to the detriment of the city. These charges were made so forcefully that Aeschines' reputation has long labored under them. He seems to have circumvented Demosthenes' attack at this point by successfully prosecuting Timarchus, an event which we will discuss more fully in the following section. But in 343, after Philocrates was convicted for treason, Demosthenes resumed, charging Aeschines with misconduct on the embassy. He barely avoided conviction.⁶

The policy of compromise which Aeschines pursued in subsequent years brought him more and more into disfavor, just as Demosthenes rose by advocating opposition. He suffered various ignominies, including censure by the Areopagus before 342/1 after being elected to represent Athens to the Amphictyons in a dispute over the temple on Delos. In 336 Ctesiphon proposed that Demosthenes be awarded a crown for his services to Athens: Aeschines indicted the proposal as illegal, and when the case finally came to court six years later, he not only lost but also failed to receive one-fifth of the vote, losing in consequence some of his rights as a citizen.⁷

We know nothing with certainty about the life of Aeschines after his defeat. According to the *vitae*, he left Athens and traveled through Asia Minor in an attempt to meet with Alexander; but failing in this he settled in Rhodes and there established a school. Some say he taught γράμματα like his father, while others make him a

⁶Philocrates' proposal: 2.18. D. and Aeschin. elected: 2.18, D. 19.13. Charges of bribery: see the list of passages in Harvey 1985 115 and Commentary on §106.5. Barely avoided conviction: Plut. *Dem.* 15. *hyp.* 2.4.

⁷Censure by the Areopagus: D. 18.134-6. Lost suit against Ctesiphon: Plut. *Dem.* 24. Loss of some citizen rights: probably the right to bring public suits again; see Commentary on §1.2.

rhetorician. Quintilian believed that from his school arose the Rhodian style of rhetoric, which however seems to have developed long after the time of Aeschines. The date and circumstances of his death are unknown. He is said variously to have died on Samos, or to have been executed by Antipater after the purge of Athens in 322.⁸

⁸Left Athens: Plut. *Dem.* 24, [Plut.] *vit. X or.* 840c, Suda α1 347, 348, *vit.* 1.14-5, 3.3. Traveled to Ephesus and Rhodes: Plut. *Dem.* 24, [Plut.] *vit. X or.* 840d-e, Suda α1 347, 348, *vit.* 1.15-7, 3.3-5. Taught γράμματα: *vit.* 1.21-2, cf. Suda α1 347. Taught rhetoric: Plut. *Dem.* 24, [Plut.] *vit. X or.* 840d-e (*vit.* 1.18-21 explicitly denies this). Founded Rhodian school of rhetoric: Quint. *Inst.* 12.10.9. On this tradition see Kindstrand 1982 75-84. Dies on Samos: [Plut.] *vit. X or.* 840e. Executed by Antipater: *vit.* 2.12-3.

II. WHY DID AESCHINES PROSECUTE TIMARCHUS?

At the beginning of his speech against Timarchus Aeschines is quick to explain his motives to the court. He alludes to personal reasons: his opponent has made certain slanderous allegations about him, and he wishes to defend his injured reputation. But the emphasis here and throughout the speech is on an entirely different motive: he says he is prosecuting because Timarchus' profligacy is a threat to the public good. At his own trial in 343 he speaks of the conviction of Timarchus in the same terms: he asks the judges to return the favor he had done them in bringing the man to justice and issuing an "unforgettable warning" to their sons and younger brothers to guard their chastity.⁹

However Demosthenes, speaking at the same trial, finds Aeschines' motives somewhat less altruistic. He claims that the prosecution of Timarchus was meant to protect the interests of both Aeschines and Philip. Timarchus stood in their way, and with the conviction Aeschines was able to remove the obstacle and intimidate others who might have done the same. It is highly unlikely that Aeschines was ever the agent of Philip, but it is equally unlikely that Timarchus was prosecuted solely because of his way of life. The motive lies instead in the political situation of the time and particularly in the complex negotiations of Athens with Philip which resulted both in an unhappy peace between them and in the bitter enmity of Demosthenes and Aeschines. Our knowledge of this tumultuous period comes primarily from their speeches, delivered years after the fact in the course of two highly charged political trials. As a result there is considerable disagreement about the motives of the two men in the course of negotiations. In this section I will focus on the second embassy sent by Athens to Philip, since these events led directly to the prosecution of Timarchus.¹⁰

⁹"Unforgettable warning": 2.180.

¹⁰D. on the prosecution of Timarchus: D. 19.2, 284, 286-7. Considerable disagreement: Todd notes that despite the "unparalleled richness" of the evidence on the peace of Philocrates, "there is still no sign of a consensus" on what happened (1990c 173). The bibliography is enormous: recent accounts of the peace of

Athens and Philip had been at war since 349. In 346, the Athenians sent a series of three embassies to Macedon for the purpose of ending this conflict: two of the ten ambassadors on the Aeschines and Demosthenes. The mission of the second embassy was to present the Athenian proposal for peace to Philip, and to receive his own proposals and convey them back to the Assembly. The treaty was later called the Peace of Philocrates, after the ambassador who had originally proposed it. Having completed their task, the ambassadors returned home, the peace was debated and then ratified in the Assembly. On the motion of Demosthenes, the ambassadors were asked to return to Pella with all haste and receive from Philip and his allies the oaths which would ratify the treaty on their side. They set out again at the beginning of April 346.¹¹

On their arrival they learned that Philip was in Thrace campaigning successfully against Cersebleptes. Demosthenes later blamed Aeschines for their slow progress, which he said was deliberately dilatory and allowed Philip to gain control of Thrace, but this charge is probably not true. The territory of Cersebleptes was not covered by the provisions of the Peace, nor is it likely that the ambassadors had any means to stop Philip's advance. Once the ambassadors reached Pella, they found delegations sent by other Greek cities in hopes of having Philip intervene in what is now called the Third Sacred War. This war had begun years earlier when Phocis, charged with sacrilege by the Amphictyonic Council, responded by seizing the sanctuary of Apollo at Delphi. The Amphictyons declared war on Phocis but Phocian mercenaries, funded by the temple's treasures, repeatedly beat them back. The war eventually involved all the major powers of Greece. Athens and Sparta at various times taking the side of Phocis. In 353/2

Philocrates and its consequences in Harris 1995 78-106, Ellis *CAH* 6² 1994 747-59, Roberts 1982 49-53, Hammond and Griffith 1979 2 ch. 9, Cawkwell 1978, Ellis 1976 113-28 and Markle 1974, and from the previous century Schaefer 1885-7 2.334-43.

¹¹Youngest: 2.22, 25. First embassy: 2.15-19, D. 19.13. Promises to benefit Athens: 2.45. 50. [D.] 7.33. D. 19.40, 316. Debate on the Peace: see the analysis of Harris 70-7. D.'s proposal to send the ambassadors out again: D. 19.17, 154. April: I have given the modern equivalents of the Attic months in order to make the arguments more accessible. The Attic calendar is very roughly equivalent to the Julian; the year was eleven days shorter and so the calendar required intercalation. Attic dates will be given in the footnotes. The second embassy departed in Mounichion (2.91).

Thessaly enlisted the help of Philip, but his subsequent victory was not exploited and so the cities were still at war at the time of the second embassy. Now however the situation had changed: Thebes had asked Philip to fight again on behalf of the Amphictyons: the other cities, including Phocis, had sent embassies to Macedon to advance their own interests: and it was clear that Philip was ready to re-enter the conflict, as he was preparing to move on Thermopylae.¹²

Thus the second embassy found themselves but one of many in Pella, all with different agendas. Some of the Athenian ambassadors, including Aeschines, thought to take advantage of the situation in order to further the city's interests. Aeschines, confident that the king would make good his promises, sought what must have seemed best for Athens and acceptable to Philip in the short term: a settlement which would be just yet merciful to Phocis and at the same time prevent Thebes from regaining its former strength. Demosthenes on the other hand, now suspicious of Philip's intentions, warned the ambassadors not to interfere. This was the real beginning of the rift between the two. Demosthenes later said that before the second embassy Aeschines was a fierce opponent of Philip, but afterwards worked to ensure Philip's interests. He accounted for this alleged reversal by claiming that Aeschines was bribed.¹³

Having taken Philip's oath to ratify the Peace, the ambassadors returned to Athens in June. When they came to make their report to the Council, Demosthenes denounced the conduct of Aeschines and Philocrates and accused them of conspiring with Philip to ensure the fall of Phocis. Three days later, the ambassadors addressed the Assembly. Aeschines spoke favorably of the promises made by Philip, and his confidence that the king would deal fairly with Phocis and check Thebes; Philocrates proposed and passed one decree extending the peace to the descendants of Philip and another demanding that

¹²Trip to Macedon: D. 19.155, 181, 323. Charge of delay untrue: Harris 1995 79-80. Delegations from other cities: 2.104, 112, 136, D. 19.139. On the Third Sacred War see J. Buckler *Philip II and the Sacred War* Leiden 1989. Philip ready to move on Thermopylae: 2.103.

¹³See 2.101-7 and Harris 1995 82-4. Rift between D. and Aeschin.: 2.36. 97, 109; D. 19.17. More serious on second embassy: D. 19.212, cf. 19. 333; see Harris 66. Bribery: see n. 6 above. According to the scholiast Aeschines owned land in Pydna (1, 3, 12; cf. D. 18.41 and *vit.* 1.4).

the Phocians surrender the temple at Delphi to the Amphictyons. Demosthenes later claimed that the other ambassadors prevented him from warning the Assembly about Philip, and that Aeschines' speech was a deliberate misrepresentation designed to deliver the Phocians over to Philip and secure his power in central Greece. The people elected the ambassadors to return to Philip to inform him of their decisions; this time however Demosthenes refused the nomination.¹⁴

There next began a series of events which would eventually result in the trial of Timarchus. Timarchus was a *rhetor* of some note: by the time of the trial he had held several offices, served on various embassies and was twice a member of the Council. He had been prosecuted at least once previously, in an attempt to remove him from a guardianship. The accusations at that trial were apparently similar to those leveled by Aeschines. According to the author of the hypothesis to our speech, he had proposed over one hundred decrees. We know of only one, a decree of 347/6 which punished the transport of weapons or ship's tackle to Philip with death. It is very likely that Timarchus opposed the rapprochement with Philip: the support he received at the trial from Hegesander, Hegesippus and Demosthenes seems to confirm this.¹⁵

At some point after the return of the second embassy, and after Demosthenes' dissatisfaction with the peace became known, Timarchus seems to have filed a γραφή παραπροσβείας against Aeschines for misconduct on the embassy. Timarchus may have taken action together with Demosthenes; the two men were known to each other, having both served as βουλευταί the previous year. The most opportune moment for filing the charge would have been at the εὔθυναι, or "rendering of accounts," of the ambassadors following the second embassy. Ambassadors were required to give an

¹⁴Returned in June: 13 Scirophorion 346 (D. 19.58). Report to the Council: D. 19.17-8. Meeting of the Assembly: 16 Scirophorion 346 (D. 19.58). Aeschines' speech to the Assembly: D. 19.82, 112, 220, 308. cf. §106. Decrees of Philocrates: 19.48, 49, 54. Demosthenes prevented from speaking: D. 19.45-6. Election to third embassy, D. refuses: D. 19.121-2.

¹⁵Timarchus: PA 13636. Offices: §§107-13 with Commentary. Embassies: §120; see Develin 1989 351. Council: §80 with Commentary. Previous prosecution: Harp. s.v. Θερασάνδρος. Suda τ 595. One hundred decrees: hyp. 1.1.2. Cf. D. 19.286. Decree: D. 19.286.

account of any public money they had administered. The account was rendered to a decemviral board known as the λογισταί, who after checking it took the man into court to appear before judges. But even if a man successfully passed this stage of the accounting, he could still be accused within thirty days of malfeasance to a second panel, the εὔθυνοι. The εὔθυνοι seem to have had the power to reject a charge or alternatively to send it on to the appropriate ἄρχων to begin formal proceedings.¹⁶

Aeschines clearly wanted to avoid rendering his accounts for the second embassy. When Demosthenes appeared before the λογισταί, probably near the end of June, the proceedings were stopped by Aeschines, who declared that accounts of the embassy had already been given and that Demosthenes could not be called again. This was not true: Aeschines was apparently trying to convince them that their service on the second embassy was covered by the accounting they had given of the first, which they already successfully passed. In *Against Timarchus* he implies that he still had not rendered accounts at the time of the trial. This also cannot be wholly true, as he had left Athens in the meantime, and we know that a man could not leave Attica until he had rendered accounts. Aeschines probably filed his account with the λογισταί, and Timarchus at once made the charge of misconduct with the εὔθυνοι. This time Aeschines had a more secure option: by filing a countering accusation against Timarchus he was able to have his suit heard first. If he succeeded, Timarchus would be deprived of his right to prosecute and unable to proceed; his other opponents might likewise hesitate to press on. In the event, this is exactly what happened. Aeschines' attack was so devastating that according to one tradition Timarchus hanged himself, although this is unlikely. Nor was Demosthenes confident enough to bring Aeschines up on charges until 343.¹⁷

¹⁶Παραπρεσβεία: §20, D. 19.240, 257; cf. Σ 1. 20. 46, 1, 119, 259. *hyp.* 2.3, Greg. Cor. 7.1182 W. Easier target: cf. Ellis 1976 270 n. 138. Took action together: *hyp.* 1.1.2, 2.3, *hyp.* D. 19.2.10. Σ 1. 3. 12 reports two traditions, that Timarchus acted alone and in concert with D., and says the latter is the stronger tradition. However this is not explicit in the speeches of D. or Aeschin. That Demosthenes was involved in the defense is clear from §§94, 119ff., 167-7, 173, 175; some modern scholars assert that he did not appear on behalf of Timarchus (Ellis 1976 128 with n. 16). Rendering of accounts: see Commentary on §1.2.

¹⁷End of June: the others probably submitted their accounts and left for Pella before 21 Scirophorion; see Harris 1995 201 n. 39. Aeschin. attempts to prevent D. from rendering accounts: D. 19.211-3. In §174

Aeschin. foresees the time when he will render accounts (ὅταν τῆς πρεσβείας τὰς εὐθύνας δίδω); this probably refers to the trial arising from the accusation to the εἰγυνοί. Leaves Athens: 2.142-3. Unable to leave Attica: 3.21; see Harris 1995 201 n. 39. On the sequence of events here see Piérart 1971 560-4, *LCA* 171. Countering accusation: see n. 24 below. On loss of citizen rights see Introduction IV. Timarchus' suicide: *hyp.* 1.1.5, [Plut.] *vit. X or.* 841a.

III. WHEN DID THE TRIAL OF TIMARCHUS TAKE PLACE?¹⁸

Timarchus was tried in the archonship of Archias 346/5 B.C.E. The date is readily established. Aeschines tells us that Timarchus was a member of the Council in the archonship before the trial. We know that as a member of the Council he passed a decree which prescribed capital punishment for those who shipped arms or nautical supplies to Philip. The decree was no doubt motivated by the war between Athens and Macedonia, which was concluded in the archonship of Themistocles 347/6. This is then the latest possible date for Timarchus' service on the Council, which in turn makes 346/5 the latest possible date for the trial. It is in fact the only one possible. At §175 Aeschines warns the judges that Demosthenes will introduce irrelevancies like Philip and the Phocians. This must be a reference to the conditions in Phocis following its surrender and punishment. Therefore the speech could not have been delivered before the Athenians learned of the Phocian surrender in June of 346: their punishment was decided soon thereafter in July or August.¹⁹

Schaefer first established this chronology and it has been accepted by most scholars. He in fact fixes the date of the trial more precisely to early 345. It appears that the διαψηφίσεις of 346/5 had been completed by the time of the trial. Schaefer assumes as a result that the trial did not take place before the middle of the year, apparently imagining that the διαψηφίσεις started at the beginning of the year and took several months to complete. He adduces a second piece of evidence: Aeschines' statement that

¹⁸See Schaefer 1885-7 2.336 n. 5, Harris 1985, Wankel 1988 and Harris 1995 202 n. 53.

¹⁹Member of the Council in the year before the trial: §80. Resolution: D. 19.286. Timarchus had served as βουλευτής in 361/0 (§109), but he did not pass the decree in that year; Philip did not assume power until 359 (D.S. 16.2). Schaefer and Wankel mistakenly cite Σ 1, 109, 237, which refers to the year 361/0. as evidence for Timarchus' service as βουλευτής in 347/6 (1885 2.336 n.5, 1988 384 with n. 6); cf. Commentary on §109.3. Conclusion of war: Philoc. *FGH* 328 F 53-6. June of 346: The Assembly received the report of Phocis' surrender on 27 Scirophorion 347/6 (D. 19.60). Punishment of Phocians: the meeting of the Amphictyonic Council took place in Hecatombaion or early Metageitnion; see Harris 1985 377 n. 4. Wankel objects to Harris' equation of the Delphic month Bukatios and the Attic month Metageitnion (1988 384 n. 7).

the Rural Dionysia had recently (πρώην) been celebrated. This festival took place in December: thus if the trial were held in early 345, Aeschines could refer to a festival held at the end of 346 as having recently occurred.²⁰

Harris says that Schaefer's date is possible but believes that placing the trial in the late summer of 346 is preferable. He notes that if we follow Schaefer, and if we assume that Timarchus charged Aeschines soon after the return of the second embassy in June 346, Aeschines waited approximately six months before bringing Timarchus to trial, and Timarchus likewise refrained from pressing his suit during that time. There was no apparent advantage for either side in delaying: why then did Aeschines not retaliate immediately after his return with the third embassy at the end of June? He supports this date in two ways. First of all, he points out that there is no reason to believe that the scrutiny of the deme registers took several months to complete. The demesmen of Halimous voted on sixty members in a single day: this suggests that the scrutiny of all deme-registers could have been completed much more quickly, provided that the scrutinies occurred simultaneously. Therefore we may consider the possibility that the trial took place before early 345. Secondly, Aeschines refers to another recent (πρώην) event, a meeting of the Council at which Demosthenes made disparaging remarks about his behavior while in the court of Philip. This must refer to the report to the Council made after the second embassy, since the two men were apparently still friendly after the first embassy. The ambassadors reported the second embassy to the Council in June 346: if the prosecution of Timarchus took place within the next three months, Aeschines could easily refer to the report as recent. So in Schaefer's formulation the Rural Dionysia had just happened, the meeting of the Council six months earlier; according to Harris, the meeting of the Council took place recently, and the Rural Dionysia six months before.²¹

²⁰ Διαψηφίσεις: §§77-9, 114-5. Scrutiny completed by time of trial: §77 Γεγόνασι διαψηφίσεις ἐν τοῖς δήμοις, καὶ ἕκαστος ὑμῶν ψῆφον δέδωκε περὶ τοῦ σώματος. Wankel accepts Schaefer's argument. Celebration of Dionysus in the Fields: §157. See Mikalson 1975 97, Whitehead 1986 212-22.

²¹ Return of Second Embassy: 13 Scirophorion 347/6 (D. 19.58). Return of Third Embassy: 27 Scirophorion 347/6 (D. 19.60). Demesmen of Halimous: see Commentary on §77.3. There is no need to assume with Schaefer that no appeal could be lodged until the process had been completed in every deme;

Aeschines mentions the Rural Dionysia to relate a joke made about Timarchus in one of the comedies presented there. But this can be interpreted so as to support either date: he was mocked because of his imminent prosecution or because he was a well-known politician whose lifestyle made him an easy target. In conclusion, the trial of Timarchus took place in 346/5 B.C. Although it is not possible to fix the date more precisely, I would agree with Harris that the earlier date is more in keeping with the facts of the case as we know them. Demosthenes and Timarchus were ready to prosecute: why would they wait for six months to bring him to trial?

see Harris 1985 376. Wankel's article in support of Schaefer depends entirely on the notion that the scrutiny of the deme registers took a long time to complete. Report to the Council: 13 Scirophorion 347/6 (§168).

IV. WHAT PROCEDURE DID AESCHINES USE AGAINST TIMARCHUS?

The δοκιμασία, "scrutiny of qualifications," was a fundamental element of the Athenian democracy. It was used to establish a man's qualifications to hold certain rights or enjoy certain privileges bestowed by the city. Candidates for all *archai* underwent a δοκιμασία before taking office, as did members of the light-armed cavalry, their horses, and the infantry who fought with them. The physically disabled had to submit to a δοκιμασία in order to receive public assistance, likewise ephebes before assuming many of their rights as citizens. The procedure varied in its particulars; for example, the lesser *archai* were scrutinized before judges in the court of the thesmothetae, but the sitting Council handled the scrutiny of the others mentioned above. Candidates for the nine archonships had to pass a second scrutiny, which took place in the court. Ephebes also underwent two scrutinies, the first in their deme and the second before the Council. The qualifications varied in the same way; for example, to enter one of the nine archonships a man was required to name his father, his mother, their fathers and his father's deme; he also had to state that he maintained various ancestral and civic cults, that he treated his parents well, paid the city its dues and performed his military duties properly.²²

According to Aeschines, Athenian law also authorized a scrutiny of qualifications for public speakers (ὁ νόμος ὁ περὶ τῆς τῶν ῥητόρων δοκιμασίας §186). He discusses some of the provisions of this law §§28-32; public speakers who had mistreated their parents, failed to carry out their military duties properly, who had been prostitutes or who had squandered their patrimony could be summoned to submit to a δοκιμασία (§32). He identifies the proceedings as a scrutiny (τὴν δοκιμασίαν ταυτηνί §2), and

²²The basic meaning of the word δοκιμασία is "test, trial"; its technical meaning is "scrutiny of qualifications." The former is found often in Attic prose and even in the orators (e.g., [D.] 26.21, Is. 7.34), but never in Aeschines. On the δοκιμασία in general see AR 1.235-57, LA ii.200-7, LCA 167-9, Adeleye 1983, SAL 115-6, 285-9, Roberts 1982 14-5 and Rhodes 1985 171-8. Procedures for *archai*: AP 45.3, 55.2, D. 20.90. For the Council: AP 55.2. For the cavalry, horses and infantry: AP 49.1; see also Rhodes 1985 174-5. For the physically disabled: AP 49.4; see Commentary on §103-4. For ephebes: AP 42.1-2, D. 27.5, 30.6, Is. 9.29, Lys. 26.21; see Commentary on §18.5.

since he accuses Timarchus of having prostituted himself and wasted his inheritance, the procedure he uses against Timarchus can be none other than the δοκιμασία ῥητόρων.²³

Despite these explicit statements of Aeschines there has been, since ancient times, a misconception that Aeschines prosecutes Timarchus for "homosexual prostitution." It is easy to understand how this idea arose and lingered, given the sensational way in which Aeschines treats the subject and the emphasis he places upon it. For example Demosthenes says that Aeschines brought Timarchus to trial on the grounds of prostitution (οὗτος ἄλλον ἔκρινε παρ' ὑμῖν ἐπὶ πορνείᾳ 19.200). However the statement is not evidence for the procedure used against Timarchus: it is purely rhetorical, intended to prove Aeschines' duplicity. Since the notion that Timarchus was tried for prostitution is retailed even today, I will first examine how it arose and why it is false: then we can consider in detail the features of the δοκιμασία ῥητόρων.

First of all "homosexual prostitution" *per se* was not illegal in Athens. On the contrary it was apparently common, and male prostitutes were liable to taxation. But if a citizen male had worked as a prostitute, it was illegal for him to exercise many of his citizen rights. If he did, he was subject to prosecution under the γραφή ἐταιρήσεως (§§19-20). Foreigners and slaves on the other hand were apparently free to practice prostitution. According to Aeschines, the law was aimed not at private citizens but those who took leading roles in public life; on the δοκιμασία ῥητόρων Winkler writes "it begins to look as if the entire procedure had very little to do with sex and everything to do with political ambitions and alliances in the high-stakes game of city leadership according to the rules of honor/shame competition."²⁴

²³Cf. *hyp.* 1.2 τοῦτον τὸν λόγον ὁ Αἰσχίνης γέγραφε δοκιμασίαν κατὰ Τιμάρχου. On the ῥητόρων δοκιμασία see *AR* 1.248-53, *GH* 20-29, *LA* ii.204-5 and *LCA* 174.

²⁴No word in Greek covers the same semantic field as the noun "homosexual" or the abstraction "homosexuality" do in modern English. The problems raised by the use of such English words to denote persons or phenomena in ancient cultures are discussed by Halperin 1990 15-40. Male prostitution: §§74, 119-20, 158, 163; see Halperin 1990 88-112. Foreigners: §195. Winkler: 1989 60. In general see *GH* 19-39.

Some ancient and modern scholars believe Timarchus was prosecuted under the γραφή ἑταιρήσεως. For example, Cantarella writes: "In an *antigraphe*, a preliminary issue raised before a hearing, Aeschines rebutted Timarchus' accusations not by defending himself but by accusing his accuser of having himself broken the law--more precisely, the law on *hetairesis*." While it is true that Aeschines claims Timarchus has violated this law, it was not the procedure used to prosecute him, nor is the law on paid companionship the only law Aeschines accuses Timarchus of breaking. Cantarella has apparently misunderstood the word ἀντιγράφασθαι (§§119, 154) to mean "file a countering γραφή"; but in Attic usage it is synonymous with ἀντικατηγορήσαι. "make a countering accusation." The word is evidence not for the type of procedure used by Aeschines but for the fact that he challenges Timarchus to the scrutiny in response to a suit Timarchus has filed against him.²⁵

There are several references in the sources to laws which prevented the male prostitute from taking part in public life. One of these confirms the existence of a γραφή ἑταιρήσεως, probably the same as the γραφή mentioned by Aeschines. In his speech *Against Androtion* Demosthenes threatens to charge Androtion with ἑταίρησις (22.21-4). The words ἐπαγγελία and ἐπαγγέλλειν describe the initiation of the γραφή: ἐπαγγέλλειν is also the word used by Aeschines to describe the initiation of the δοκιμασία ῥητόρων. But there seems to have been a procedural difference: in the case of the γραφή, the denunciation was given to the thesmothetae, while Aeschines denounced Timarchus in the Assembly. The fact that ἐπαγγέλλειν signifies the beginning of two different procedures seems to have caused considerable confusion for the grammarians, who tend to identify ἐπαγγελία ἑταιρήσεως with δοκιμασία.²⁶

²⁵The speech in ancient times was apparently given the heading περὶ ἑταιρήσεως "because most of the accusation concerns this" (*hyp.* 1.2.3). For ancient misconceptions, see below on ἐπαγγελία; among modern scholars, Arnaoutoglou 1998 66, Lane Fox 1994 149-51, Cantarella 1992 49 (quoted) and Todd 1990a 166. For the meaning of ἀντιγράφασθαι see Σ 1, 119, 259, Hsch. α 5399, *LA* ii.131 n. 3 and cf. Wyse on Is. 6.52.5. Harrison *LA* ii.205 n. 1 thinks that Aeschines uses the word "to describe the initiation of the procedure before the court," i.e., "to submit a countering accusation in writing."

²⁶Laws on male prostitution: And. 1.100-1, D. 22.21-4; cf. Isoc. 12.140. Confusion in grammarians: Σ 1, 32, 70, Σ 1, 64, 146a, *hyp.* 2.2, Poll. 8.43, Bk. 185.32, 241.15, *Lex Pat* ad D. 22.23. The proper distinction

Further confusion may have ensued from the paucity of evidence for the δοκιμασία, which consists almost entirely of the speech *Against Timarchus*. Aeschines tells us that Aristophon threatened with Hegesander with a scrutiny (§64). Otherwise we hear in Lysias' speech against Theomnestus of a previous prosecution in which Λυσίθεος Θεόμνηστον εισηγγελλε τὰ ὄπλα ἀποβεβληκότα, οὐκ ἐξὸν αὐτῷ δημηγορεῖν. Since throwing away one's shield is a liability mentioned in our speech, Gernet proposed ἐπήγγελλε to conform with Aeschines' use of ἐπαγγέλλειν. The boast of the Paphlagonian in Aristophanes' *Knights* has also been interpreted as a reference to the scrutiny:

ΠΑ. . . ἔπαυσα τοὺς κινουμένους. τὸν Γρύττον ἐξαλείψας.

ΑΛ. Οὐκ οὖν σε δῆτα ταῦτα δεινὸν ἐστὶ πρῶκτοτηρεῖν
παῦσαι τε τοὺς κινουμένους; Κούκ ἐσθ' ὅπως ἐκείνους
οὐχὶ φθονῶν ἔπαυσας, ἵνα μὴ ῥήτορες γένοιοντο.

Harpocration notes the existence of a ῥητορικὴ γραφή: ἔοικε ῥητορικὴ γραφή καλεῖσθαι ἢ κατὰ ῥήτορος γράψαντός τι ἢ εἰπόντος ἢ πράξαντος παράνομον. Rhodes tentatively suggests that this procedure can be identified with the δοκιμασία ῥητόρων, while Hansen and Ober take it as a reference to the γραφή παρανόμων. But as Lane Fox notes, even Harpocration is uncertain about what it signifies. However the lexicographer offers more persuasive evidence in citing a lost speech of Lycurgus which states the existence of a scrutiny of public speakers. This same passage mentions the scrutiny of cavalry horses, the existence of which, though once doubted, has recently been proven correct. Finally we may note certain similarities of the δοκιμασία ῥητόρων to the scrutiny of candidates for the nine archonships, in that they could also be disqualified if they had maltreated their parents or had failed to carry out their military duties properly.²⁷

is made by Σ 1, 2, 6. According to Harp. s.v. ἐπαγγελία (= Suda ε 1916) the word could refer to the summoning of a man who was illegally exercising the right to speak or do public business; if correct, this would account for the confusion.

²⁷Lysias: 10.1; *Lysias: Discours I* ed. L. Gernet and M. Bizos (Paris 1955) 144 n.1. Paphlagonian (i.e., Cleon): Ar. Eq. 877-80. Winkler thinks that the reference is "probably" to the scrutiny but notes that it

The fact that the γραφή ἑταιρήσεως and the law on the scrutiny of public speakers lay down similar grounds for prosecution ("if anyone serves as a paid companion. . .") cannot be used as proof that one or the other did not exist. Each of the liabilities listed in the law could have been prosecuted using other procedures: for example maltreatment of parents was also covered by the γραφή γονέων κακώσεως. There was a limited "procedural flexibility" in the Athenian legal system; there might be two or more procedures with which to prosecute a single offense. Thus Aeschines seems to have had the choice of prosecuting Timarchus with the γραφή ἑταιρήσεως or the δοκιμασία ῥητόρων.²⁸

Now we may consider the features of the δοκιμασία ῥητόρων. Aeschines cites the text of the law authorizing it §§28-32 but at the same time offers an extended commentary on the lawmaker's intentions. The text of the law is here restored:

ἐάν τις λέγῃ ἐν τῷ δήμῳ τὸν πατέρα τύπτων ἢ τὴν μητέρα. ἢ μὴ τρέφων. ἢ μὴ παρέχων οἴκησιν ἢ τὰς στρατείας μὴ ἐστρατευμένος, ὅσαι ἂν αὐτῷ προσταχθῶσιν, ἢ τὴν ἀσπίδα ἀποβεβληκῶς ἢ πεπορνευμένος ἢ ἡταιρηκῶς ἢ τὰ πατρῶα κατεδηδοκῶς, ἢ ὧν ἂν κληρονόμος γένηται, δοκιμασίαν ἐπαγγειλάτω Ἀθηναίων ὁ βουλούμενος, οἷς ἔξεστιν.

It seems authentic in terms of its formulation: this structure, described by Carey as "a protasis which lays down the conditions under which a certain legal consequence follows." is shared by many other Attic laws. However in the absence of supporting evidence we cannot be sure that Aeschines is quoting the law verbatim or in its entirety. This is not to say that he freely invents here; but he may be quoting selectively or rephrasing into his own words. In regards to the former, there seems to have been other requirements made of public speakers *qua* politicians: Dinarchus' speech against Demosthenes in 324/3 says that ῥήτορες καὶ στρατηγοί had to have legitimate

could be to the γραφή ἑταιρήσεως (1989 54-5). Dover takes it as a reference to the γραφή (*GH* 34). Rhodes: 1993 660 n. 53. Hansen: 1974 25. Ober: 1989 109 n. 14. Lane Fox: 1994 149. Lycurgus (F18-27 Conomis): Harp. s.v. δοκιμασθεῖς γ' δοκιμασθῆναι κατὰ τὸν νόμον. . . γίνονται, μία μὲν ἦν οἱ θ' ἄρχοντες δοκιμάζονται, ἑτέρα δὲ ἦν οἱ ῥήτορες, τρίτη δὲ ἦν οἱ στρατηγοί. Cf. Σ 1, 195. 387. Scrutiny of horses: J.H. Kroll *Hesperia* 46 (1977) 83-146. Cf. Lane Fox 1994 149-50. Similarity to other scrutinies: cf. *AP* 55.3-4.

²⁸Procedural flexibility: Osborne 1985 and *SAL* 160-3.

children and own land in Attica. We do not know if these were among the provisions of our law.²⁹

In terms of procedure, the law gave any qualified citizen the right to summon a public speaker to submit to the δοκιμασία. The citizen initiated the proceedings by making a formal announcement (ἐπαγγελία) in the Assembly of his intentions. This feature perhaps explains why Aeschines asked Timarchus to submit to the δοκιμασία and did not, for example, prosecute him under the γραφή ἑταιρήσεως: it was the most effective way of publicizing the case. It has been suggested that after making his denunciation in the Assembly the prosecutor took an oath stating his intention to proceed, and that as a result the accused was forbidden to speak publicly until the case was settled; however there is no direct evidence for such an oath. Harrison imagines that next the initiator filed the accusation in writing with the thesmothetae, who would then preside over the case, just as they did in the scrutiny of lesser *archai*. The Council may also have taken some part in the proceedings. While other scrutinies seem to have taken the form of an inspection or interrogation, the scrutiny of public speakers was apparently a regular ἀγών. It took place in a court and opened with a reading of the charge. Aeschines as prosecutor speaks first. Supporters were allowed to plead for the accused. Each litigant had a limited amount of time in which to speak: the time was regulated by the water-clock.³⁰

We are not certain about what penalty was imposed. The accused public speaker was summoned to the scrutiny because, in consequence of the various liabilities listed in

²⁹Carey: 1998 95. Paraphrased: cf. *LA* ii.205 n. 4. Hansen 1987 189 n. 752. See the Commentary on §§28-30. Freely inventing: cf. Carey 1998 94 n. 11: "it is not in a litigant's interest to indulge in gratuitous and blatant misrepresentation." Dinarchus: 4.71. The meaning of the clause is controversial and centers on the meaning of *retor*: see Worthington *ad loc*. Koch *RE* 5.1 1273 thinks the law listed no other liabilities.

³⁰Any qualified citizen: ὁ βουλόμενος οἷς ἔξεστιν §32; cf. Commentary on §23.8. Formal announcement: §§2, 32; Σ 1, 2, 6. Made in the Assembly §64, 81; cf. Koch *RE* 5.1 1273. Oath of intention to proceed: *LA* ii.204. Accusation filed in writing with thesmothetae: *LA* ii.205. Council: *Lex. Seg.* 310.23. Took place in court: §§33, 175, 186. The scrutiny of the lesser public officials was also held in the *dikasterion* (*AP* 55.2). Reading of the charge: see Commentary on §2.2. Supporters: see Commentary on §193.2. Limited time: see Commentary on §109.4-5 and cf. *D.* 19.120.

the law, he was believed to be *atimos*, not entitled to certain citizen rights. Therefore there may have been no penalty in the strictest sense: a vote of conviction served to confirm his *atimia*. Demosthenes later says that Aeschines "did away with" or "destroyed" Timarchus, but as Winkler notes *atimia* can be spoken of as "civic death." A remark of Demosthenes suggests that there was a penalty phase, but it may refer to a section of the speech excised in the written version.³¹

On the one hand the δοκιμασία ῥητόρων differed significantly from other types of scrutinies, perhaps most significantly in the fact that, as Todd notes, it "does not take place automatically: any citizen can speak in public until and unless he is challenged." But it could not be otherwise. This scrutiny was brought to bear on a man who occupied a very peculiar place in the life of the city. The *rhetor* held no office but was largely responsible for guiding policy. Therefore a mechanism to ensure his accountability had to be created. On the other, the scrutinies of public speakers and officials alike demonstrate the Athenians' concern with the integrity of their leaders. This is a controversial subject. Some scholars believe that the δοκιμασία were concerned solely with formal qualifications. For example Hignett writes that their purpose was "not to test the candidate's capacity but to make sure that he possessed the legal qualifications for the office to which he had been appointed." However Adeleye maintains that "the *dokimasia* was a comprehensive enquiry, covering not only the candidate's legal qualification but also the probity of his life." He bases this primarily on a reading of the scrutiny speeches in the Lysianic corpus, which, where this can be determined, were delivered for or against candidates for office (16, 25, 26, 31). In all of them, the speaker advances arguments based not on the legal qualifications of the candidate but on the way in which he has lived his life. Adeleye's view has recently been criticized by Todd, who in support of the view that the scrutiny was a test of formal qualifications alone believes that arguments based

³¹*Atimos*: see Commentary on §1.5. Punishment of Timarchus: ἀνήρηκε D.19.2; ἀπώλεσε D. 19.285. cf. 287; ἀτιμώσατε §134, cf. D. 19.257, 284, *hyp.* 1.1.5, *hyp.* D. 19.1.4. Cf. SAL 116 n. 15, LA ii.171-2. Winkler: 1989 55. Remark of Demosthenes: see below n. 51.

on a man's way of life represent an "illegitimate use of the procedure." Since the various types of annual scrutinies involved large numbers of men, it is highly likely that most were of necessity confined to establishing the formal qualifications of the candidates. But Todd's objections serve to obscure rather than clarify the issue. A candidate for public office was asked if he cared for his parents and served in the military according to his duty: such questions cannot have been asked merely to determine whether or not he was ἄτιμος, as Todd suggests. Aeschines justifies his prosecution not with the claim that Timarchus was ἄτιμος and therefore unqualified to speak in public, but that his way of life is inimical to the proper functioning of the city. Moreover, he says, the ancient lawmakers enacted the δοκιμασία ῥητόρων because they were concerned with the probity of the citizens, especially those who spoke for them in the Assembly. This claim cannot be dismissed as merely rhetorical, for it is advanced over and over again in fourth-century sources. The Athenians understood a link between a man's character and his ability to speak and act in their behalf: the δοκιμασίαι were one arena in which that link could be tested.³²

³²Todd: *SAL* 116. On the meaning of *rhetor* see Commentary on §7.7. Hignett: 1952 232. For a summary of the controversy see Adeleye 1983. Todd's criticisms of Adeleye: *SAL* 287-9. Todd is probably right to argue against the idea that "the procedure was itself designed to test general moral probity of life," although again the questions of treatment of parents and military service suggest a concern with matters beyond citizen rights. Rhodes 1993 542 offers a more balanced appraisal of the scrutiny: "formally the purpose. . . was to check their qualifications for the office, but in practice the officials might find themselves under pressure more generally to justify their career and demonstrate that they were satisfactory citizens." Aeschin. justifies the prosecution: e.g. 3, 30, 33, 179. Fourth-century sources: e.g., D. 25.29-31, Din. 5.14-9, Isoc. 12.139-42.

V. STRUCTURE³³**Prooimion**³⁴

- 1-2 The motives for prosecution
 3 Timarchus' responsibility for the trial

Prothesis

- 4-5 The three forms of government: tyranny, oligarchy and democracy
 6 The importance of laws in a democracy
 7 The laws which prescribe the proper behavior of children, youths and adults
 8 Outline of the speech to §116
 9-12 Laws on the proper behavior of children (a): education and training
 13-17 Laws on the proper behavior of children (b): prostitution, procuring, *hubris*
 18-21 Laws on the proper behavior of youths: prostitution
 22-5 Laws on the proper behavior of adults (a): conduct in the Assembly
 26-7 Comparison of Timarchus' behavior to the ideals of these laws
 28-32 Laws on the proper behavior of adults (b): scrutiny of public speakers
 33-4 Laws on the proper behavior of adults (c): tribal presidency
 35-6 Conclusion

Diegesis

- 37-8 Introduction; the prostitution of Timarchus
 39 Timarchus as a child

³³On the structure of the speech see *AB* 195-201. Kennedy 1963 238. Martin and de Budé xxx-xxx and Dobson 1918 193-4.

³⁴This schematic belies the organic nature of the speech. While the speech certainly has a traditional five-part structure, there is not necessarily a specific point at which one section leaves off and the next begins. Dobson (1918) considers the *diegesis* to begin at §37, while Kennedy (1963) has it starting at §40, the introduction of the first fully narrated episode (cf. Σ 1, 40, 86). The same is true of the subdivisions of each part. For example, the scholiasts (1, 2, 4; 1, 3, 8, 9; 1, 3, 13) divide §§1-3 into three *prooemia* and distinguish various episodes with the *diegesis* (1, 40, 86; 1, 43, 94; 1, 53, 120, 122; 1, 55, 125). All such divisions are to an extent subjective, although they also depend on the critic's analytic tools: the scholiasts, for example, analyze the speech according to the theories of Hermogenes. Their dissection of the *prooimion* is examined by Volkmann 1963 142-3.

40-53	Timarchus as a youth: Misgolas and others
54	Timarchus and Pittalacus
56-70	Timarchus and Hegesander
71-93	Anticipation of defense (a): the lack of witnesses not a liability in this case
94	Anticipation of defense (b): prostitution and prodigality not incompatible
95-6	The prodigality of Timarchus
97-101	The estate of Timarchus
102-4	The family of Timarchus
105	Conclusion of the section on prodigality
106-15	The public career of Timarchus

Some ancient critics considered Aeschines the exemplar of natural eloquence, the speaker who lacked the benefit of rhetorical training but relied on and sometimes triumphed through innate ability. This belief may depend more on the ideals of the Second Sophistic than historical fact; yet the exculpatory asides, the violent oaths, the hectoring and cajoling and admonishing of the audience, even the clumsy accretion of phrases into seemingly endless sentences, all give the orations of Aeschines a remarkable illusion of spontaneity. In their force and fluency they seem the creations of the moment and not of the stylus. But as much as *Against Timarchus* appears at times to be the record of extemporaneous performance, it is very much the product of art. An analysis reveals that the speech, its arguments and the *ethos* it projects have been artfully shaped towards the goal of convicting Timarchus, and above all overcoming the biggest obstacle to that goal: Aeschines' inability to provide the judges with witnesses to Timarchus' alleged offences.³⁵

Aristotle distinguishes two types of proof, the technic and the atechnic, which the speaker of a forensic oration may use to weaken his opponent's argument or strengthen

³⁵On Aeschines as a natural speaker, see n. 3 above. On the extemporaneous nature of his speeches see Dorjahn and Fairchild 1970.

his own. The atechnic proofs are documentary: Aristotle lists laws, witnesses, contracts, statements made by slaves under torture, and oaths. The technic proofs on the hand are purely rhetorical; the speaker proves his case to the audience by demonstrating a certain *ethos*, rousing in them certain emotions or presenting certain kinds of argumentation. Aeschines is able to offer very few atechnic proofs, and he is clearly aware that this is the weakest point of his case: for example, at §71 he declares that his opponents "will require me to furnish witnesses to testify clearly about where he did it or who saw it or how they did it." He cannot produce anyone who will testify to hiring Timarchus for sexual services, or contracts made by Timarchus, or witnesses to such contracts or witnesses to the alleged acts. Even the depositions he has secured, like that of Timarchus' purported former patron Misgolas, do not seem to touch on the crucial question of compensation. And so he sets out to strengthen his case in other ways.³⁶

First of these is the *ethos* he adopts as speaker. At the beginning of his second oration, Aeschines asks the judges "to be well-disposed to me as you hear me speak." To the rhetorical theorists of the classical age, obtaining the good will of the audience was the essential first task of any speaker. And so they attempted to rationalize it: they distinguished the opening section of a speech and named it the *prooimion*. They identified three aims for the *prooimion* of a forensic speech--to make the audience εὖνους ("well-disposed"), προσεκτικός ("attentive"), and εὐμαθής ("ready to learn")--and prescribed various methods for achieving these aims. Their methods, increasingly elaborate in the course of time, are for the most part based on common sense: and it suffices to say that "the introductory section of a speech is of crucial importance for the audience's attitude to the speaker, his opponent, and the issue under discussion."³⁷

³⁶Two types of proof: Arist. *Rh.* 1355b35-56a4. Atechnic proofs: Arist. *Rh.* 1375a22-5; see Carey 1994c.

³⁷On the *prooimion* in forensic speeches see Martin 1974 60-75. *Prooimion*: e.g., Pl. *Phdr.* 266d7, Arist. *Rh.* 1414b9; the term was known to Aeschin. (2.34). Aims: Arist. *Rh.* 1415a35-9; cf. *Rhet. Her.* 1.4.6; *Rh. Al.* 1436a; Cic. *Part.* 8.28; *Inv.* 1.15; Quint. 4.1.5. Mattheus analyzed the prologue of Aeschin. 1 in terms of these aims: *Nonne cum se moderatum et ἀπράγμονα et reipublicae amantem ostendit, sibi reddit auditores benevolos? Cum reipublicae periculum a Timarcho imminere docet, attentos? Cum, de quibus sit dicturus, aperit, dociles?* Methods: see Volkmann 1963 127-48, Lausberg 1960 152-60. "Introductory section": Carey 1989 64.

How then does Aeschines attempt to win the judges' favor? He crafts an *ethos* which embodies virtues the Attic judges seem to have held dear. He presents himself as moderate (μέτριος) and restrained (σώφρων), a man who minds his own business (ἀπράγμων) but who is nevertheless concerned for public welfare. These values are frequently invoked by the Attic orators; they are aspects of ἐπιείκεια, "reasonableness," whose power to sway the listener is singled out by Aristotle and which Hermogenes considers one of the basic components of a successfully drawn *ethos*. Aeschines emphasizes his ἀπραγμοσύνη, claiming that he has no experience in the courts, or at least, unlike his opponents no experience in bringing a public suit or filing charges at an accounting. On trial for his life in 343, Aeschines makes a similar claim in the epilogue: "no one of you. . . has been deprived of your homeland with me as your accuser in the revision of the citizen-lists, nor has suffered risk when rendering accounts of your office."³⁸

This assertion of inexperience is ubiquitous in forensic orations and serves three purposes here. First, Aeschines makes inexperience an expression of his *ethos*. This is typical: other speakers offer it as a sign of youthfulness, plain-spokenness or lack of skill. But Aeschines means to show that he is not litigious; he is a quiet and moderate man. Second, the claim of inexperience helps Aeschines mask his personal interest in convicting Timarchus. Planudes notes that "Aeschines immediately reveals his nature in the prooimion: he says 'I have always lived a quiet life but was now driven to file charges by Timarchus' disgusting behavior.'" He claims that his concern for the city was what primarily compelled him to take action. Throughout the speech he will refer to the suit of Demosthenes and Timarchus only in passing, and while he admits from the beginning that he does have his own reasons for prosecuting, he stresses that he acts on behalf of the

³⁸Aeschin. presents essentially the same *ethos* in all three orations: see e.g. 2.4-5, 181-2, 3.215-21. D. attacks the *ethos* as mere show 19.199-200. Μετριότης: e.g. D. 18.4, 24.6, 30.1. Ἀπραγμοσύνη: e.g. Lys. 7.1, Antipho 2.2.1. See *GPM* 187-90 and esp. Carter 1986. Public welfare: e.g. [And.] 4.1. Lyc. 1.3. Ἐπιείκεια: Arist. *Rh.* 1415a39; Hermog. 3, 321, W. Hermog. 3, 330 W. notes how skillfully Aeschin. demonstrates his ἐπιείκεια in the *prooimion* of this speech. Trial in 343: 2.182.

city. Athenian litigants tend to downplay their personal interest in prosecuting, probably again in order to avoid seeming litigious.³⁹

But more importantly, by claiming that he has been compelled to take action against Timarchus, he is able to draw a stark contrast between his own *ethos* and that of his opponent. Aeschines' portrait of Timarchus in the *prooimion* is of a man who does not respect the law (παράνομος), causes trouble by making false allegations (συκοφάντης), lacks self-control and leads a disgraceful life. These antithetical characterizations are of course meant to attach the judges to his own cause and align them against Timarchus, and they are pursued and developed in the course of the speech. Timarchus is shown to be unlike Solon, Pericles, Aristides; unlike the good citizen; unlike the laws; and of course, unlike Aeschines himself. Thus Aeschines moves the contest far beyond any personal grievance; he and Timarchus become paradigms of right and wrong, of the traditional order and the lawless violence which threatens it.⁴⁰

This larger design becomes apparent in the second section of the speech. In the conventional ordering of a forensic oration, the *prooimion* is followed by the *prothesis* or statement of the case. But at this point in *Against Timarchus*, Aeschines instead extols and explains the nature of Athenian democracy and its laws of εὐκοσμία, "proper behavior" (§§4-36). While Aeschines has claimed inexperience of the courts, he is obviously well-informed about the laws themselves; the law under which he prosecutes Timarchus is but one of several he cites and discusses. Praise of the law is not uncommon in the orators, nor is it unusual for an orator to "teach the law" in the early part of a forensic speech, as for example Demosthenes does in his speeches against

³⁹Youthfulness: e.g., Antipho 1.1, D. 27.2. Plain-spokenness or lack of skill: e.g., Antipho 5.1, D. 34.1, Is. 8.5, 10.1, Pl. *Ap.* 17d. Planudes: schol. 5, 462 W. Orators seek to avoid seeming litigious: Harris 1995 102; cf. [D.] 52.1, Lys. 12.2.

⁴⁰Attach judges: This tactic (rousing anger) caught the attention of the author of the first hypothesis to the speech, who noted τὸ δὲ προοίμιόν ἐστι τραγικώτερον. He apparently means that Aeschines attempts to stir emotion in the *prooimion*, a strategy conventionally confined to the *epilogos*. The *topos* of "how unlike": see Commentary on §§8.10, 25.2-3. The *prooimion* of the first oration was apparently held in high esteem in the ancient rhetorical schools. "Dionysius the sophist, upon encountering the speech against Timarchus and reading the beginning of the *prooimion*, said 'Would that you had arraigned many, harassed many, so that you would have left more speeches'" (cited by Ph. *Bibl.* 20b4).

Meidias, Aristocrates and Timocrates. But in these three examples, Demosthenes discusses laws which have a direct bearing on his case; here however only the law on the scrutiny of public speakers is strictly relevant.⁴¹

The *prothesis* of our speech makes a "statement of the case" in that it provides the judges with the basis on which Aeschines hopes they will convict Timarchus. In it Aeschines teaches the judges what he considers to be the underlying premise of their government. Democracy, he says, differs from tyranny and oligarchy because it alone is based on the rule of law. It derives its strength and stability from εὐνομία, the condition of that community which has both good laws and law-abiding citizens. While he considers both essential to the maintenance of εὐνομία, he dwells on the second. A law-abiding citizen is εὐκοσμος, "well-behaved," and so the early lawmakers first turned their attention to regulating the behavior of children and adults. The behavior of children was of special concern because they believed that a badly trained child will become a licentious adult, a citizen of no use to his community. The behavior of adults on the other hand was regulated in the interest of the community at large, for they believed that a man will treat others as he treats himself. If a man breaks these laws he must be punished. since by disobeying the laws he threatens εὐνομία, and without εὐνομία democracy cannot exist.⁴²

This is the basis of Aeschines' argument; now let us consider how he puts it into play. Under the rubric of εὐκοσμία he places the following: laws on the education of boys which, in Aeschines' interpretation, are intended to protect their chastity; a law on the prostitution of boys by their legal guardian; the law on *hubris*; a law on paid companionship; procedural rules of the Assembly; the law on the scrutiny of

⁴¹Def. of *prothesis*: Ar. *Rhet.* 1414a. On the *prothesis* of forensic speeches see Martin 1974 91-5 and Volkmann 1963 167-75. Praise of the law: e.g. D. 18.6-7. Irrelevance of many of the laws cited by Aeschin.: C.f. e.g. GH 27-39, Blass 196.

⁴²The preparatory nature of the *prothesis* is recognized by the scholiast (1, 4, 15) who labels §4 παρασκευή. Ernesti defines this as *praemunitio qua ante utimur ut confirmet id quod subiecturi sumus ut, si testem producturi sumus, ante est, ei fidem habendam esse, doceamus*. Cf. Matthaeus who, in defense of the speech's unity, writes *ita non solum apte cohaeret cum reliqua oratione, sed et hanc opinionem in iudicibus excitat, ut putent, se non de salute unius hominis, sed de libertate suaque ipsorum salute iudicare*.

qualifications for public speakers; and a final law on procedure in the Assembly. These are clearly very diverse laws; how does εὐκοσμία stand behind them all? In his interpretation, the proper functioning of the democracy depends on εὐνομία, and εὐνομία is founded on "orderly behavior," εὐκοσμία. Εὐκοσμία in turn depends on σωφροσύνη, "self-control," but also "chastity" or "moderation" of the sexual appetite and of one's desires in general. And so Aeschines slips easily from laws intended to protect the young citizen's chastity to laws designed to ensure orderly meetings of the Assembly. Timarchus' lack of σωφροσύνη, his ἀκοσμία in private life and public speaking, violates both: his way of life is a threat to εὐνομία and so a threat to democracy. Thus the laws on εὐκοσμία are cited *en masse* to prove that Timarchus is dangerous to the city itself. Two recent commentators on the speech have also noted how Aeschines uses the laws to conjure the image of an ideal Athenian, chaste, well-behaved, obedient to the law. Against this ideal Aeschines takes the measure of Timarchus, who is of course found wanting.⁴³

The good order that Aeschines demands for the Athenian citizen is reflected in the ordered presentation of his arguments. This clarity of presentation is a characteristic of the style of Aeschines; it has been examined by Wooten, who notes that Aeschines tends to "state clearly in advance what arguments he is going to use and in what order he is going to present them." Clarity is further achieved by an actual numeration of important points, as for example in his citation of the law on the scrutiny of public speakers. According to Wooten, another way in which Aeschines seeks clarity is by stating "a series of points in general terms and then return[ing] to them, in the same order, but this time in reference to a specific example." For example, in §8, Aeschines announces the

⁴³The scholiasts (1, 6, 18 and 1, 8, 22ab) also noted that Aeschin.' uses the laws in this section to offset the lack of witnesses. For the relation of *eunomia*, *eukosmia* and *sophrosyne* see the Commentary on §§5.9, 6.6 and 8.4. For the argument that an individual's way of life can threaten the entire society cf. D. 25.24-7 and Arist. *Pol.* 1280b5-8, where Arist. writes that the city which is *eunomos* must concern itself with "the virtue and vice of its citizens." Recent commentators: Thomas 1994 (see Commentary on §6.7) but this paragraph owes much to the insightful analysis of Ford 1998 (the *prothesis* gives "an artificial synthesis of laws and interpretations designed to add up to an ideal ('Solonian') prescription of the citizen's proper education and conduct through life" 12).

course he will follow in the ensuing chapters: to examine first Athenian laws on εὐκοσμία and then the life of Timarchus, contrasting the ideals of the democracy with the crimes of the defendant. While such enumeration is "not uncommon in Attic oratory," notable in Aeschines is the frequency and length of such lists, as well as the fact that he often strictly follows the order he has previously announced. This concern with clear and orderly presentation is on the one hand suitable to the didactic *ethos* Aeschines assumes in the speech. Wooten's point is however that while these devices lend apparent clarity to the argument they in fact often serve to obscure it: he notes that since most of the laws are not relevant to the case, "this whole first section of the speech, therefore, is nothing but an attempt to build up prejudice against Timarchus by implying that he is somehow guilty of transgressing all the laws that Aeschines cites."⁴⁴

So then in the *prothesis* Aeschines in effect calls the laws of Athens to witness against Timarchus. He has also attempted to establish there an atmosphere of suspicion, as for example in his interpretation of the laws on education, to make the judges more receptive to innuendo in the subsequent sections and mitigate the need for substantiation. He now begins the narrative, or *diegesis*, in which he relates selected events in the life of Timarchus. I will focus on two aspects, the ordering of episodes and the handling of witnesses, which pertain to Aeschines' overall strategy in prosecuting the case.

The *diegesis* is divided roughly into three sections; the first two are concerned with the private life of Timarchus (§§40-70, 94-105), the third with his public career (§§106-115). The narratives of the *dokimasia* speeches in the Lysianic corpus are similarly structured as an examination of private and public life. Here, the first two sections are designed to prove that Timarchus has violated provisions of the law on the scrutiny of public speakers; as he says in the introduction to the *diegesis*, his narrative will allow the judges to see how Timarchus has lived a life contrary to the laws. The first

⁴⁴See Wooten 1988. On the final point, that this aggregate of laws is meant to deceive the judges into thinking that Timarchus is guilty of them all, cf. *GH* 28. Didactic *ethos*: cf. Introduction I and e.g. the account of his speech on the second embassy, in which he teaches Philip the history and significance of the Amphictyonic Council (2.114-6).

section deals with allegations of prostitution, the offense named in the third clause of the law, and the second with allegations of profligacy, cited in the law's fourth clause. The discussion of Timarchus' public career considers first the allotted offices he has held, then those to which he was elected. This structure also seems to be derived from the clause of a previously cited law, the law on paid companionship, insofar as it forbids the ἡταιρηκῶς from serving in any allotted or elected office.⁴⁵

The attention to order seen in the *prothesis* can be observed here. Aeschines makes a formal introduction outlining the course he will follow; thereafter he proceeds chronologically through the life of Timarchus. Chronological order is sometimes the simplest means of achieving clarity and may be particularly suited to the investigation of a man's life, but behind this simple arrangement lies considerable art. First, in the placement of episodes: for example, Aeschines enumerates the sexual partners of Timarchus beginning in his youth through his apparently current affair with Hegesander. We do not know the exact nature of Timarchus' relation with Hegesander; and if they were in fact lovers, we do not know if they were still involved at the time of the trial. The incidents reported by Aeschines seem to have taken place long before the trial. But by arranging Timarchus' alleged affairs in chronological order, Aeschines implies that the relation is ongoing and that Timarchus still places allegiance to his lover before duty to his city. We can likewise detect a deliberate order in the list of lovers. The encounter with the so-called public slave Pittalacus is clearly meant to be the most repugnant, and it is placed in a climactic penultimate position, the same position in which he had placed the law on the scrutiny of public speakers within his list of laws on εὐκοσμίᾳ. Second, in the expansion of incidents: Aeschines avoids the inherent tedium of chronological order by relating some episodes in greater detail, for example Timarchus at the Dionysia and the beating of Pittalacus. Similarly the incidents reported in §§106-12 are presented with

⁴⁵Narrative of *dokimasia* speeches: Adeleye 1983 297-300. That the narrative is based on two provisions in the law on public speakers is made explicit §116.

ever greater elaboration: the first charge is a single sentence, the last takes up several chapters.⁴⁶

Finally, the narrative of Timarchus' private life is sharply distinguished from that of his public career by a lengthy section in which Aeschines attacks and anticipates the defense (§§69-93). The scholiast on §69 reports the censure of certain critics: the attack on supporters belongs in the epilogue. But it is in this section that Aeschines directly addresses the weakness of his case. He introduces several paradigms designed to support the proposition that certain kinds of cases do not require witnesses. In the first example he considers a topic which recurs throughout the speech: the reliability of rumor. According to Aeschines, "everyone knows" that Timarchus is a prostitute; why then does he need to call witnesses? He also uses this paradigm to explain why he cannot call witnesses: since the act takes place behind closed doors, the only witnesses are the participants, and shame or fear of prosecution will prevent them from testifying. The other paradigms are drawn from contemporary events: the revision of the citizen-lists, current cases of bribery, and the procedures of the Areopagus are all discussed to demonstrate that the judges do not require witnesses to convict Timarchus.⁴⁷

In the *diegesis* Aeschines displays considerable skill in the handling of witnesses. Attention has been paid to their artful deployment: for example, Aeschines makes many allegations about the wrongs Timarchus has done while in office, but calls witnesses only for the final incident reported. Thus it seems as if the witnesses testify not only to that one event but to all that has gone before. Attention has also been paid to the characterization of the narrative's supporting players, particularly the lovers Misgolas.

⁴⁶On the *diegesis* of forensic speeches see Martin 1974 75-89. Atmosphere of suspicion: cf. Σ 1, 45, 100. Clarity through chronological order: cf. *Rh. Al.* 1438a, *Rhet. Her.* 1.9.15 *rem dilucide narrabimus si ut quicquid primum gestum erit ita primum exponemus, et rerum ac temporum ordinem conservabimus ut gestae res erunt, aut ut potuisse geri videbuntur*. Lists sexual partners: for a similar narrative structure, cf. the narrative of [D.] 59 and especially Lys. 14.25-28: the speaker emphasizes the promiscuity of the son of Alcibiades by describing the chain of lovers who took him up. Chronological order in the narrative of Timarchus' public career: Develin 1989 262 and Cawkwell 1981 52 n.47.

⁴⁷On the use of rumor in the speech see Winkler 1989 58 and esp. V. Hunter "Gossip and the Politics of Reputation in Classical Athens" *Phoenix* 44 (1990) 299-325.

Pittalacus and Hegesander. Part of the power of these characterizations derives from the ferocity of Aeschines' attack. Such devastating assaults on the appearance, habits or heritage of the opponent (διαβολαί) are standard weapons in the Attic orator's arsenal: Aeschines himself would feel their heat in his later battles with Demosthenes. But they are not mere slander. Aeschines sketches these men in such a way as to persuade the judges that his allegations are likely to be true, to believe that Timarchus and his lovers are threats to them and the democracy.⁴⁸

Aeschines' portrait of Misgolas will serve to illustrate his techniques of characterization. The section of the speech which deals with Misgolas is meant to prove that Timarchus has been a prostitute and that he is addicted to luxury and extravagance. Misgolas is a hostile or at best reluctant witness. The deposition written by Aeschines for Misgolas apparently says no more than "Timarchus spent time in my house." Therefore Aeschines has to ensure that the judges accept his interpretation of what "spending time" with Misgolas means. The fact that the incident occurred many years before the present trial is no disadvantage. It gives him the freedom to retail gossip, very little of which is substantiated. The story of Timarchus and the foreigners, attested by Phaedrus, is exceptional in this regard, and it too may have had the effect of seeming to confirm more than it actually did. Secondly, the passage of time gives Aeschines the license to embellish. While even Demosthenes concedes that Timarchus had perhaps lived "a little too recklessly," Aeschines' account of his profligacy--gambling, drinking, feasting and hiring ἑταῖροι--is drawn along highly conventional lines, which suggests that some features of this portrait may have been invented.⁴⁹

In his description of Misgolas Aeschines relies primarily on τὸ εἰκός, that is, he describes the kind of man likely to engage male prostitutes. Misgolas has an unusually intense and uncontrolled desire for young men: he hires male rather than female

⁴⁸Διαβολαί: Harding 1994b, Burke 1972, Gavigan 1944. Demosthenes' attack on Aeschines: e.g., 18.129-31, 19.281. See Dyck 1985.

⁴⁹D. on recklessness of Timarchus: 19.233. §42.5-6; highly conventional see commentary.

musicians; he has enough money to engage musicians and therefore to spend on Timarchus. Having established the character of Misgolas in this way, Aeschines proceeds to argue the likelihood that Misgolas' relationship with Timarchus was commercial and sexual: a handsome young man has only one reason to associate with someone like Misgolas. Misgolas is older than Timarchus and no relative of his, but they live together in luxury all the same; Misgolas becomes extremely upset when he discovers Timarchus in the company of other men. What else could their relationship be?⁵⁰

The power of the first three sections of the speech is somewhat diffused in its concluding chapters. Nevertheless Aeschines' strategy successfully overcame the weakness of his case, so successfully that his skill was conceded even by Demosthenes, who later noted with withering praise: ὅς γὰρ ἀγῶνας καινοῦς ὥσπερ δράματα. καὶ τούτους ἀμαρτύρους πρὸς διαμεμετρημένην τὴν ἡμέραν αἰρεῖς διώκων. δῆλον ὅτι πάνδεινος εἶ τις.⁵¹

⁵⁰Argument from probability that Timarchus and Misgolas were lovers: cf. §153 and Minuc. 345, 10. Misgolas was in fact roughly the same age as Timarchus; see note on §49.8. Male musicians: see note on §41.1.

⁵¹Demosthenes: 19.120.

VI. TEXT

We do not know when Aeschines disseminated the text of the first oration. The *terminus ante quem* is 343 B.C., the year he was finally prosecuted for misconduct on the second embassy to Philip. At that trial Demosthenes discussed Aeschines' speech against Timarchus at such length and in such detail that it seems likely he had a written copy to consult. As for the *terminus post quem*, we can assume an immediate demand for the speech. The crowd which thronged the trial shows that the case had aroused the city's interest, and book-sellers might expect the sensational charges to appeal to the curious. More importantly, Aeschines was no doubt eager to publicize his victory as quickly as possible. By doing so, he could increase his burgeoning prestige, vindicate his position on the question of Philip, and consequently deter Demosthenes from proceeding with the charge of misconduct against him. We can therefore assume that Aeschines put the speech into circulation soon after the completion of the trial.⁵²

We also do not know to what extent the disseminated version of *Against Timarchus* differed from the speech Aeschines delivered in court. The orators sometimes made slight revisions before having their speeches copied for distribution or sale: both the second and third orations of Aeschines show signs of this. External and internal evidence suggest that the first oration was also revised. In 343 B.C. Demosthenes stated that at the trial Aeschines had asked the judges not to pity Timarchus for the sake of his mother or children. No such passage exists in the speech as we have it. Possibly Aeschines made this remark not in the prosecutorial speech but during the penalty phase: it is also possible, but unlikely, that Demosthenes simply invented it to convince the judges of Aeschines' cruelty. As for the internal evidence, some statements appear to have been

⁵²D. refers to *Against Timarchus*: 19.241-6, 251-6, 283-6. Cf. 19.14, where he claims to report the exact words used by Aeschines in a speech to the Assembly following the first embassy to Philip. Crowd at the trial of Timarchus: §117. Immediate demand: cf. Commentary on §41.1 for the notoriety the trial seems to have conferred on Misgolas, and *hyp.* 1.1.6: οὕτω δὲ περιβόητον τὸ πρᾶγμα ἐγένετο ὥστε ἀπὸ τῆς κρίσεως ταύτης τοὺς πόρνους τὸ λοιπὸν ἐκάλουον Τιμάρχους. Deter D.: cf. D. 19.257. On the question of the "publication" of speeches see Dover 1968 151-4, 168-74.

added after the trial took place. For example, Aeschines vividly conjures the courtroom *milieu* by describing the audience, his opponents and their reactions; these details may reflect the circumstances and events of the actual trial. The extended epideictic section on famous and infamous youths seems unsuitable to a forensic speech. But the most persuasive evidence for revision is §69, where he notes that Hegesander refused to swear the oath of disclaimer. Since he may have known beforehand that Hegesander would refuse, but could not have been certain of it, this remark must have been interpolated after the trial. It is telling that he does not mention the response of Misgolas to a similar challenge. Only in the case of Hegesander, his political enemy, did he choose to insert a notice of the embarrassing refusal. So while the evidence is not indisputable, we can consider the possibility that Aeschines made some changes in *Against Timarchus* before putting it into circulation.⁵³

The survival of the text from this point depended on several factors. First the orations of Aeschines continued to be read because of their close connection to the eighteenth and nineteenth speeches of Demosthenes. But they were valued for their own sake; we can see from the works of later commentators, particularly the redactors of the scholia and *vitae*, that his speeches were used not only as sources of history, biography and lexicography but also as models of both Atticism and of the rhetorical art. From Alexandria we have evidence of biographies by Demetrius of Phaleron and Hermippus of Smyrna, and later, of commentaries by Didymus. In Roman times his works were admired by Cicero and studied by Dionysius of Halicarnassus and Caecilius. They are cited frequently by Hermogenes, whose theories in turn inform many of the scholia which treat matters of rhetoric. Also important to their survival was the inclusion of Aeschines

⁵³One ancient reader believed that the received version of the speech was composed after the trial (δοκοῦσι δέ μοι οἱ λόγοι μετὰ τὰς δίκας γεγράφθαι *hyp.* 1.2.3). There also seems to have been a tradition that the speech was never delivered at all (*hyp.* 2.4). Some scholars have argued for significant revisions: Worthington 1991 56-8, Todd 1990, Dover 1968. On the revision of the second and third orations: Harris 1995 10-1. Aeschin. asks the judges not to pity Timarchus: D. 19.283. Composition and reaction of audience: §§69, 73, 117, 159, 173. Cf. 2.85, where the notice of Demosthenes' tears seems to record what happened at the actual trial. On the extemporaneous nature of these remarks see Dorjahn 1970 36. Epideictic section: §§155-9. Cf. Usher 1976.

in the canon of ten Attic orators, established sometime between the third century B.C.E. and the second century C.E. Finally the corpus contained only three speeches: Caecilius is said to have rejected a fourth as spurious.⁵⁴

No complete manuscript has survived from this period. There are however a number of papyri which date from the first to third centuries C.E.; thirteen of these contain parts of the first oration (Π6a, 6b, 11, 15, 17, 19-26). There are two other principal sources for the text of the first oration: quotations of the speech found in various ancient and medieval authors like Hermogenes, Harpocration, Photius and Thomas Magister, and the manuscripts. The latter is by far the most important. The manuscript tradition has been examined notably by Schultz, Heyse and Diller; Dilts, the most recent editor, used their work and his own research to construct a new stemma. The eight primary manuscripts of the first oration comprise a tradition of three branches, derived ultimately from a single lost archetype (α). The oldest extant manuscript, the codex Coislinianus (f), dates to the tenth century. The second branch, named **B** by Diller, is represented by six manuscripts of the thirteenth, fourteenth and fifteenth centuries (**amgVxL**). Finally there is the codex Ambrosianus (**D**), a fifteenth century manuscript. Conjunctive errors prove that it derives from the same exemplar as **B** but nevertheless there are sufficient separative errors to show that it represents an independent branch, a fact which indicates an open tradition. As Dilts notes, the stemma does not account for the fact that there is some contamination in copies of **B** as well as conjunctive errors in **B** and **f**. Therefore no branch has greater authority than the others in determining a primary or correct reading. Neither do the papyri, which agree sometimes with the reading of **f** and sometimes with the reading of **BD**.⁵⁵

⁵⁴On the date of canon see Worthington 1994a. On the scholia see Gudeman *RE* 2A. 1 694-7. Demetrius of Phaleron: *vit.* 3.6 = F171 Wehrli 4. For ancient readers of Aeschines see *AB* 185-92. Kindstrand 1982 23-57. Hermogenes: see e.g. Commentary on §§2.2, 2.6, 105.1.

⁵⁵On the manuscript tradition see Diller 1979. The stemma for the first oration is established by Dilts 1997 ix-xi. On the papyri see Dilts 1997 xiv-xviii. Contamination in copies of **B**: Diller 1979 36-7.

Our final question concerns the authenticity of the documents inserted at several points in the text. In the course of a trial the speaker would ask the secretary to read aloud to the judges a law, deposition, or other document at the appropriate moment. In our text we typically find only a notice of the document's content (μαρτυρία §§101, 105, 116; συνθήκαι §116), but at times a document purporting to be the original has also been transmitted (laws at §§12, 16, 21, 35, μαρτυρία at §§50, 66, 68). Such documents do not appear in the second or third orations, or indeed in the majority of Attic forensic orations. The consensus of scholarly opinion is that they are forgeries, probably produced in Byzantine schools of rhetoric. The question of authenticity was treated systematically by Drerup at the end of the last century, but it is worthwhile to recapitulate his arguments here, taking into account more recent work as well.⁵⁶

We can judge the authenticity of the documents according to external and internal criteria. Epigraphic evidence has confirmed the general reliability of a few documents. the names given in And. 1.13 and the decrees in And. 1.83-4; the others have no such support. Secondly it seems that the documents did not appear in ancient exemplars. There are no scholia on any quoted law or deposition with the exception of a single note on §16, deleted by Dilts in his edition. The deposition of Misgolas is not found in the papyrus which preserves this section of the speech. In the case of Demosthenes' orations, a study of stichometry revealed that its documents were not included in the ancient numbering of lines.⁵⁷

Internal evidence also allows us to reject a document. Since Aeschin. usually states the contents of a law before he has it read, we may suspect a document which does not reflect his statement, which seems merely to paraphrase it, or which seems to have

⁵⁶On the documents in general see Todd 1993 44-5, Harris 1992 75-6, Todd 1990 165, MacDowell 1990 43-7, Ruschenbusch 1966 110-11, 115, Martin Budé xxvi and Drerup 1898.

⁵⁷And. 1.13: MacDowell 1962 *ad loc.* And. 1.83-4: MacDowell 1962 *ad loc.*, Drerup 1898 232. Humphreys writes that some depositions have also been confirmed by epigraphic evidence (1985 317 with n. 10). but see Harris CR 44 (1994) 21-3. Scholion on §16: Martin Budé xxvi. Deposition of Misgolas: P22 contains §§43-52. Stichometric evidence: MacDowell 1990 44-6; see also Harris 1992 75 and Todd 1993 42 n.22.

been assembled from such statements in other speeches. Note, however, that these assemblages may contain clauses whose origins cannot be ascertained and which therefore cannot be rejected outright; such is the case with the laws of conduct at §35. We may also suspect a document for linguistic reasons. For example, the third person plural imperative ending *-ωσαν* never occurs in fifth-century inscriptions; for the period 403-322 C.E., it never occurs in inscriptions of νόμοι and appears only twice in inscriptions of ψηφίσματα; but it is found frequently in the documents. I will treat each document in the corresponding section of the Commentary according to these criteria.⁵⁸

Following is a list of the editions of Aeschines:⁵⁹

1513	Aldine (<i>editio princeps</i>)
1522	Reuchlin
1572	Wolf
1575	Stephanus
1757	Taylor
1771	Reiske
1824	Bekker
1823	Bremi
1824	Dindorf
1828	Dobson
1839-59	Franke
1840	Baiter and Sauppe
1845	Hesse
1855	Benseler
1865	Schultz
1872-8	Weidner
1896	Blass
1908	Blass
1919	Adams
1927-8	Martin and de Budé
1976	Blass/Schindel
1977	Leone

⁵⁸Third person plural imperative ending: L. Thraette *The Grammar of Attic Inscriptions II: Morphology* Berlin (1996): 462-66.

⁵⁹For a review of these editions see Greaney 1992 ix-xv and Richardson 246-8.

1997 Dilts

The present commentary is based on the text established by Dilts, from whom I differ only at §41.1 ἔστι τις, 84.5 ἐξεβάλετε αὐτὸν ὑπολαβόντες and 101.6 ἐπὶ Θρασύμῳ. The commentary on those sections will discuss these readings. As for the translation, the earlier translations of Adams and especially of Martin and de Budé have been useful. Again, the commentary will treat words or phrases which I have translated in a manner which significantly differs from theirs; see for example §§1-3, 5.6, 23.5, 42.5 and 84.1. Finally the commentaries of Reiske, Bremi and Dobson have been frequently consulted for questions of syntax as well as interpretation.

VII. ABBREVIATIONS

The names of classical authors are abbreviated according to the conventions of *LSJ* and *OLD*.

There are two exceptions: the orations of Aeschines are cited by the number of oration and chapter alone, and Aristotle's *Athenaion Politeia* is abbreviated as *AP*.

The orations of the other Attic orators are cited according to their numeration in the second edition of the *Canon of Greek Authors and Works* (1986).

The *vitae* and scholia on Aeschines are cited according to their numeration in the edition of Dilts (1992).

In citing later grammarians and rhetoricians I have followed the abbreviations used by Dilts in his edition of the orations (1997 xxviii-xxxiii).

Other abbreviations are used as follows:

- | | |
|-------|---|
| AB | F. Blass, <i>Die attische Beredsamkeit</i> ³ 3.2 (Hildesheim 1962). |
| AR | M. Meier and G. Schömann, <i>Die attische Process</i> neu bearbeitet v. J. Lipsius 3 vols. (Berlin 1883-7). |
| D.-S. | C. Daremberg and E. Saglio, <i>Dictionnaire des antiquites grecques et romaines</i> (Graz 1969). |
| FGH | F. Jacoby, <i>Die Fragmente der griechischen Historiker</i> (Berlin 1923-30, Leiden 1940-58). |
| GH | K.J. Dover, <i>Greek Homosexuality</i> (London 1978). |
| GP | J.D. Denniston, <i>The Greek Particles</i> ² (Oxford 1987). |
| GMT | W.W. Goodwin, <i>Syntax of the moods and tenses of the Greek verb</i> (Boston 1890). |
| GPM | K.J. Dover, <i>Greek Popular Morality in the time of Plato and Aristotle</i> (Indianapolis 1994). |
| KG | R. Kühner and B. Gerth, <i>Ausführliche Grammatik der griechischen Sprache: Satzlehre</i> ³ (Hanover 1898-1904). |

- LA A.R.W. Harrison, *The Law of Athens* 2 vols. (Oxford 1968 and 1971).
- LCA D.M. MacDowell, *The Law in Classical Athens* (Ithaca 1991).
- LSJ *A Greek-English Lexicon*, compiled by H.G. Liddell and R. Scott, rev. and aug. by H.S. Jones (1940) with a suppl. by E.A. Barber (Oxford 1968).
- PA J. Kirchner, *Prosopographia Attica* (Berlin 1966).
- RE *Paulys Realencyclopädie der classischen Altertumswissenschaft* (Stuttgart 1958-78).
- Richardson R.B. Richardson, *Aeschines Against Ctesiphon* (New York 1979).
- SAL S. Todd, *The Shape of Athenian Law* (Oxford 1995).
- Smyth H. Smyth, *Greek Grammar* (Cambridge Mass. 1920).
- W. C. Walz, *Rhetores Graeci* 9 vols. (repr. Osnabrück 1968).

VIII. TRANSLATION

[1] Before today not one citizen have I arraigned on a public charge, men of Athens; not one have I caused distress in the rendering of their accounts. On the contrary, to my mind at least I have shown myself fair and moderate on every such occasion. But when I kept seeing the great harm which Timarchus, that man there, was doing to our city when he addressed the people in violation of our laws, and when I found myself the target of his malicious accusations--I will show you how he maligned me in the course of the speech--[2] I considered it the greatest disgrace not to come to the aid of the entire community, to its laws and to you and to me as well. Since I knew he was liable to the charges which you heard the secretary read just now, I indicted him to submit to this scrutiny of qualifications. So men of Athens, it seems the adage we usually hear at public trials is not false: personal feuds do indeed rectify many matters of public concern. [3] For every aspect of this case, as you will see, not the city, not the laws, not you nor me is to blame, but only Timarchus himself. The laws warned him not to address the people after having lived a disgraceful life. They issued an order which was not difficult to follow--in fact it was very easy, in my opinion--and as for those accusations against me, if he had any self-control he could have refrained from making them. So then I hope my preface has treated these matters fairly and in moderation.

[4] I realize, men of Athens, that the first topic I am going to discuss is one you will surely have heard before from other speakers; but I think now is the right time for me to deal with it also, here in your court. It is commonly agreed that there are three kinds of government everywhere: tyranny, oligarchy and democracy. Tyrannies and oligarchies are administered according to the character of those in power, while democratic communities are administered according to the established laws. [5] You know very well, men of Athens, that in a democracy it is the law which preserves the citizen's person and the constitution alike, but suspicion and armed guards maintain the power of tyrants

and oligarchs. Oligarchs and those who govern states based on inequality must guard against men who seek to bring down the government by direct action; but you whose government is based on equality and the law must guard against men whose lives or speech violate your laws. For you will be strong when your laws are good and when the lawless do not try to undo you. [6] And I believe that when we legislate, we must take care to frame laws which are both good and beneficial to the city, but after the laws are established we must obey them and punish those who disobey, if we are to keep our public affairs in good order. Just think, men of Athens, how much attention Solon the legislator of old, Draco and the other legislators of those days paid to good conduct. [7] First they made laws to regulate the conduct of our children, and showed in no uncertain terms how the free-born child should behave and how he must be raised. Then they did the same for older boys, and so on for other ages, not just for private citizens but for public speakers as well. After inscribing these laws they entrusted them to you and made you their guardians. [8] At this point I want to treat the laws in the same order as the legislator established them. I will first go through the ones which prescribe proper behavior for our children, secondly those which do the same for older boys, and third in order, those for the other ages, and not just for private citizens but public speakers as well. In this way, I think, the laws might be easy to understand. I want at the same time, men of Athens, to describe the laws of the city carefully, and then examine the character of Timarchus in comparison to the laws; for you will find that he has lived in a manner exactly opposite to them.

[9] First, the case of schoolteachers: despite the necessity of entrusting our own children to them, despite the fact that their livelihood depends on moral behavior--behaving otherwise would result in poverty--it is obvious that the legislator has no confidence in them; he explicitly states the hour a free-born child ought to go to school, then the number of children who should accompany him and the time he should return, [10] and he prohibits schoolteachers and trainers from opening schoolrooms and

palaestrae before sunrise and enjoins them to close before sunset, thus putting dark, deserted places under the gravest suspicion; and so on--the older boys who frequent these places, who and how old they must be; the public official to superintend these matters; subjects like the supervision of slave-attendants, the festivals of the Muses in schoolrooms and of Hermes in palaestrae, and finally, the supervision of boys walking together and of dithyramps. [11] If a man is to spend his own money for your benefit by producing one of these choruses, the legislator requires that he be over forty years of age, so that he will come into contact with your children after he has reached the most prudent time of his life. The secretary will read these laws for you to know the legislator's thoughts, namely, that a boy well brought up will be useful to the city once he becomes a man, but that citizens like Timarchus here will result from boys who are poorly raised, their nature marked by a bad beginning in their education. Read them these laws.

LAWS

[12] The teachers of boys shall not open the schoolrooms before sunrise and shall close them before sunset. When school is in session, no one older than the boys shall be allowed to enter the room except the son, brother or son-in-law of the teacher. If a man does enter in violation of these provisions, he shall be put to death. The gymnasiarchs shall not permit adults to take part in the Hermaia for any reason. If a gymnasiarch does give this permission and does not bar the man from the gymnasium, the gymnasiarch shall be liable under the law on the corruption of free-born youths. The producers of dithyramps appointed by the Assembly shall be over forty years of age.

[13] His next legislation, men of Athens, concerns offenses that although very serious still occur, I think, in our city; for the laws made by our ancestors arose because people did things they ought not to do. So then the law clearly states that if anyone is hired out as a companion by his father, brother, uncle, guardian or by anyone at all who has legal authority over him, no charges may be brought against the boy himself, but they may be brought against the man who hired him out and the man who engaged his

services; against the first because he hired the boy out, against the second because, as the law says, he engaged the boy's services. The legislator has also prescribed equal penalties for each offender, and he has furthermore stipulated that when the boy who was hired out as a companion comes of age, he is not obliged to support his father or provide housing for him; although when his father dies, he shall bury him and perform the other customary duties. [14] Look at how well the penalty suits the crime, men of Athens: while the offender lives, the law deprives him of fatherhood's benefits, just as he deprived his son of the right to speak freely, but when he is dead and no longer aware of the good treatment he receives, when law and religion are being honored instead, the lawmaker commands the boy to bury him and perform the other customary duties.

And what other law has he set up as guardian of your children? The law of procuring, which prescribes the most severe penalties for anyone who procures a free-born boy or woman.

[15] And what other law? The law of *hybris*, which gathers all such matters under one rubric. There it is explicitly written, "if anyone commits *hybris* against a boy" (and surely, I suppose, the man who hires the boy commits *hybris* against him!), "or against a man, a woman, or any free-born person or slave," or if he does anything illegal to any of them, the law has made provisions for prosecutions for *hybris* and prescribed penalties which the offender must suffer or pay. Read the law.

LAW

[16] If any Athenian commits hybris against a free-born boy, the person legally responsible for the boy shall indict the perpetrator before the thesmothetae and shall specify in the indictment the penalty he seeks. If the court condemns the perpetrator to death, he shall be handed over to the Eleven for execution that very day, but if he is condemned to pay a fine and cannot pay at once, he shall pay within eleven days after the trial and shall be kept in custody until payment is made. Those who wrong the persons of slaves shall also be liable for these charges.

[17] Perhaps someone, upon hearing the law of *hybris*, might suddenly wonder why the word "slaves" was attached to it. But if you consider this word, men of Athens, you will find that it contains the best provision of all. The legislator had no special concern for slaves; rather, he added the clause prohibiting the commission of *hybris* even against slaves because he wanted you to keep far from it in the case of free-born persons, and to make this your custom. In a word, he thought that in a democracy, the man who committed *hybris* against anyone at all was not suited to take part in public life. [18] And think back with me, men of Athens, to this too: at first the law does not address the actual person of the child, rather those around him, his father, brother, guardian, teachers--in short, those with authority over him. But after he is enrolled in the deme register, knows the laws of the city, and has the ability to reckon what is good and is not, the law no longer addresses another: now it addresses Timarchus himself.

[19] And what are his words? "If any Athenian," he says, "serves as a hired companion, he shall not be allowed to become one of the nine archons"--I suppose because with this office goes the wearing of a crown--"or to be consecrated as priest"--on the grounds that he is not pure in body--"or to act as public advocate; and." he adds, "he shall not hold any office at any time, at home or abroad, allotted or elected: [20] he shall not serve as herald and he shall not serve as ambassador"--nor shall he bring to trial men who have served as ambassador nor make false accusations against them, he who has been let for hire!--"nor shall he make propositions at any time in the Council or in the Assembly," no matter how eloquent he is. Should any man violate these provisions, the legislator has created the charge of hired companionship and established the most severe penalties for it. Read them this law too, so you all may know how even though such laws, so noble and prudent, are laid down for us, Timarchus has rashly spoken in public--Timarchus, who is the sort of person you know he is.

LAW

[21] If any Athenian serves as a hired companion, he shall not be allowed to become one of the nine archons, or to be consecrated as a priest, or to act as public advocate, nor shall he hold any office at any time, at home or abroad, allotted or elected. nor shall he be sent abroad as a herald, nor shall he make public proposals, nor shall he attend public sacrifices, nor shall he wear a crown when other citizens do. nor shall he go within the lustral boundaries of the marketplace. If anyone condemned on the charge of companionship violates these provisions, he shall be put to death.

[22] This law was made for the young men who rush to do wrong their own bodies; those read to you a little earlier were made for the boys; and the ones which I will now discuss were made for all other citizens of Athens. Once the legislator had done with these laws, he turned his attention to another subject: how we should deliberate on matters of great importance whenever we meet in the Assembly. And where does he begin? "Laws," he says, "about good conduct." He took his start from virtue, in the belief that the best managed city is the one where good conduct is most widely practiced.

[23] And how does he ask the presidents to proceed? After the purification is carried out and the herald offers the ancestral prayers, he asks them to take an initial vote on matters of the ancestral religion, heralds and embassies, and on public affairs. Following this the herald asks, "Who over the age of fifty wants to address the assembly?" It is only after these men have all spoken that he allows to speak any other Athenian who is willing and able. [24] Consider how admirably the legislator framed this law, men of Athens. He knew very well, I think, that good sense is at its height in older men, and self-assurance has already begun to leave them as a result of their experience in public affairs. And so he wanted to accustom the most sensible to speak on the issues, in fact oblige them to do so. But since it was impossible to call each by name, he gathers them together under the name of their age-group and summons them to the platform and enjoins them to address the people. At the same time he teaches the younger men to respect their elders, to be last

to act in all things and to honor the old age to which we will all come, if indeed we live so long. [25] Furthermore, the famous speakers of old, Pericles and Themistocles and Aristides--who is called by a name nothing like the one given to Timarchus--were of such rectitude that our modern custom of speaking with arms held outside the robe seemed something of an affront in their time. In fact they took care to avoid this. I will give you proof--a very powerful proof, I think, based not on argument but fact. I am sure that you have all sailed to Salamis and seen the statue of Solon. You yourselves would testify that Solon stands in the market of Salamis with his arm inside his robe. This, men of Athens, is a reminder, a faithful depiction, of the demeanor with which Solon used to address the people of Athens.

[26] Notice, men of Athens, how very different Solon and those men I just mentioned in my speech are from Timarchus. They considered it unseemly to speak with their hands outside their robes, but Timarchus here--and not a long time ago, just the other day--threw off his cloak and wrestled around the floor, without his clothes, in the Assembly. He put his body into such indecent and shameful positions in his drunkenness and grossness that men--the right-minded, at any rate--covered their faces: they thought of the shame for our city, should we have such men as our advisors. [27] The legislator, showing insight into these matters, made the distinction between who is and who is not to speak in public perfectly clear. He does not drive a man from the platform if his family has produced no generals, or if he works at some profession to provide his necessary sustenance. In fact he prizes these men most of all, and this is the reason why the herald often asks the question "who wishes to speak?"

[28] Who are the men he thought should not speak? The men who have lived in a disgraceful manner; these men he does not permit to speak publicly. And where does he make this clear? "The scrutiny of qualifications for public speakers--if a man speaks in the assembly who beats his father or mother, or does not support them, or does not provide for their dwelling--," he says, "--does not permit the man to speak." And rightly

so, say I. Why? Because if a man is mean to those whom he ought to honor as he does the gods, how, he asks, will others--indeed, how will the whole city--fare at his hands? [29] And whom, in the second place, did he forbid to speak? "Whoever," he says, "has not served when he was called, or has thrown away his shield," speaking fairly. Why? Man, if you are not able to take up arms for the city or defend it because of your cowardice, do not think yourself worthy to give advice. Whom does he address in the third place? "The man who has prostituted himself or," he says, "served as a hired companion." For he thought that the man who sold his own body for *hybris* would readily betray the city's interests as well. [30] In the fourth place, whom does he address? "The man," he says, "who has consumed his patrimony or whatever he stands to inherit." For he thought that the man who managed his own property poorly would do the same with the city's. To the legislator, it did not seem possible for one and the same man to be worthless in his private life but useful as a politician. nor did the legislator think a public speaker should come to the platform having attended to his words but not to his life. [31] He considered what was said by a good and noble man, even if spoken quite badly and artlessly, was of use to the audience. On the other hand, he thought that the speech of a disgusting creature, one who has used his body in a ridiculous manner and disgracefully consumed his patrimony, would be of no benefit even if brilliantly delivered. [32] These are the men he keeps from the platform, these the men he forbids to address the public. If someone not only speaks in defiance of these conditions, but is also slanderous and contentious, and if the city can no longer tolerate such a man, the legislator says, "any Athenian who is willing and able shall summon the offender to submit to a scrutiny of qualifications," and asks you to judge the matter in the court. And I have come to you now in accordance with this law.

[33] Now it has been a long time since these laws were passed. But following that fine wrestling exhibition Timarchus gave in the Assembly, you recently added a new one, in your utter shame at his act : at each Assembly a tribe is to be elected by lot which

will sit in the front of the auditorium. And what were the legislator's requirements? He asks that these tribesmen sit in support of the laws and the democracy. His reason? If we do not summon assistance from some quarter against men with lives like this one, we will not be able to deliberate about the most pressing matters. [34] There is no use at all, men of Athens, in trying to drive such creatures from the platform with shouting---they have no shame. No, they must learn new habits from penalties; for only in this way would they become tolerable.

So the secretary will read you the laws laid down for the proper conduct of public speakers. For Timarchus here and other speakers like him have rallied to impeach the law about tribal presidencies as being contrary to the interest of the state--so that they may speak and live as they please.

LAWS

[35] If any public speaker speaks in the Council or in the Assembly not about the proposal under consideration, or does not speak about each issue separately, or the same man speaks twice about the same thing during the same session, or if he slanders or speaks badly of anyone or interrupts, or if he stands up in the middle of deliberations and speaks about someone who is not on the platform, if he admonishes or harasses the chairman, the presidents shall have the authority, after the dismissal of the Assembly or Council, to enter the offender's name with the collectors as a public debtor, for no more than fifty drachmae on each offense. If the wrongdoer deserves a stiffer penalty, they shall impose a fine of no more than fifty drachmae and refer the case to the Council or to the first Assembly. When the day of trial, given by summons, arrives, they shall hold a trial using secret ballots, and the presidents shall enter the wrongdoer's name, if condemned, as a public debtor with the collectors.

[36] So then you have heard the laws, men of Athens, and I know very well that you think they are good ones. And in fact you have the power to make these laws useful

or not; for if you punish wrongdoers, your laws will be good and effective, but if you let them go free, your laws will still be good, but no longer effective.

[37] I want to proceed according to the plan I laid out when I began my speech, that is, after discussion of the laws, the examination of the character of Timarchus. This, so that you may realize how much it differs from your laws. I also ask your indulgence, men of Athens. For I am compelled to speak about proclivities which vulgar as they are in their nature, this man has acted upon, and I may have to use some word which reflects the deeds of Timarchus. [38] It would be unfair of you to penalize me, if in my desire to instruct you I should say some such word out loud; it would be far better to penalize him. For the life of Timarchus has been so disgraceful that it is impossible for the man describing his deeds to speak as he wishes, unless he uses such a word. But I will speak as carefully as I can.

[39] Notice, men of Athens, how fairly I am going to address myself to Timarchus. For I am dismissing all the wrongs he committed against his own body as a child: I ask amnesty for them, like deeds done in the time of the Thirty and before Eucleides served in office, or in any other such period. Instead I will make accusations about the deeds he committed when he was sensible, when he was a young man and aware of the city's laws, and I ask you to follow them attentively.

[40] First of all, after he left childhood, he loitered in the Piraeus at the house of the doctor Euthydicus. He was ostensibly a student of this art but in reality he had already decided to sell himself, as the event made clear. I will readily pass over all the merchants and other foreigners and even our own citizens who used his body during this time so that no one may say I dwell on every detail. But I will speak about the men in whose houses he disgraced his body and his city, earning money from the very thing the law forbids a man to do--that is, forbids him to address the people, if he has done it.

[41] There is one Misgolas, men of Athens, the son of Naucrates of the deme Collytus, a noble man in most respects, with whom no one would find any fault.

However he has a remarkable appetite for the act in question, and has always liked to surround himself with citharodes and citharists. I say this not to be vulgar but in order that you may know who he is. When Misgolas began to realize why Timarchus was spending so much time at the doctor's, he laid out a little money, took up with Timarchus and kept him at his house. Timarchus was well-built, young, nasty and well-suited for the deed which Misgolas liked to do and Timarchus liked to be done. [42] He did not hesitate at this but submitted, did this Timarchus, even though he lacked not a single thing a man might reasonably want--indeed, his father left him a very large estate which he has consumed, as I will demonstrate later in my speech. Instead, he committed these acts, enslaved to utterly reprehensible pleasures, the eating of fish, expensive dinners, flute players and female companions, dice and all the other things by which the free and noble man ought not be mastered. And this abomination was not ashamed to leave his father's house and live with Misgolas, a man who was neither his father's friend nor a friend his own age nor a guardian, but a stranger and a man older than himself-- Timarchus in the prime of his youth at the house of a man who lacked all restraint in these matters! [43] Though Timarchus did many ridiculous things at this time, I want to relate one particular incident to you. It was the time of the procession of the City Dionysia, and Misgolas, the man who had taken up Timarchus, was going to march in it along with Phaedrus of Sphettus, son of Callias. Timarchus had agreed to march with them, and they busied themselves with their preparations. Timarchus however did not show up. Misgolas had become anxious and started to search for him with Phaedrus. Someone then brings news of his whereabouts, and they find him in an inn having a meal with some foreigners. Misgolas and Phaedrus threatened the foreigners and ordered them to come along to the prison at once, on the grounds that they had seduced a free born youth. The foreigners fled in terror, leaving all their baggage behind. [44] Everyone who was acquainted with Misgolas and Timarchus in those days knows that I am speaking the truth. You know, I am very thankful that I have taken on a suit against a

creature who is no stranger to you, known for no other reason than the very practice on which you are going to pass judgment. I suppose in the case of unfamiliar matters it is proper for an accuser to make his proofs clear, but I consider making accusations which are well-known to be no difficult task; for then one needs merely to remind the audience. [45] Even though the matter is known to all, since we are in court I have prepared a statement for Misgolas, one that is, as I believe, true but not offensive. For I did not include the exact name of the act he performed on Timarchus nor have I written anything else for which a witness who testifies truthfully can be punished under the laws. I have written things that are common knowledge to you the audience, and without danger or disgrace for him the witness.

[46] So then if Misgolas is willing to come here and testify truthfully, he will do what is right; but if he prefers to be summoned rather than testify the truth, you are aware of the whole matter. For if the active partner is ashamed and prefers paying a thousand drachmae to the public treasury in order to avoid showing his face to you, while the passive partner can speak in public, wise was the lawmaker to prevent such disgusting men from taking the platform. [47] If however Misgolas obeys but takes the path of utter shamelessness, that is, if he denies the truth under oath because he wants to show his gratitude to Timarchus and demonstrate to others his cleverness at covering up these deeds, first of all he will do himself a great wrong and second he will not profit from it: for I have written another deposition for the men who know that Timarchus left his father's house and lived with Misgolas. In doing so I attempt to perform a task I find difficult. I must furnish witnesses who are neither friendly to me nor hostile to them nor unknown to us both, but who are their friends. [48] If my opponents persuade these men to withhold their testimony also--which, by the way, I do not think they will, at least not all of them--*this* they will never be able to do: take away the truth, or take away the reputation of Timarchus in the city, a reputation which I did not give him, but he himself

gave himself. For the life of the virtuous man must be so pure that it does not admit even the suggestion of base conduct.

[49] I also want to add this preface, in the event Misgolas does obey you and your laws. The outward form of men differs greatly, one from another, in respect to age. Some men when they are young look older and dignified, while others who have been around for a long time, youthful in every way; and one of these is Misgolas. He and I happen to be the same age, forty-five years old, and we performed our first military service together; and yet I have all this white hair as you can see, but he has none. Now why do I mention this beforehand? So that when you see him you will not be surprised and suppose something like this: "By Hercules, this man is hardly older than Timarchus." Such is the nature of the man: but he also associated with Timarchus when Timarchus was already a young man.

[50] To avoid wasting time, call for me first those who knew Timarchus when he spent time in the house of Misgolas, then read the testimony of Phaedrus, and finally take from me the testimony of Misgolas himself, supposing that he is willing to testify truthfully out of fear for the gods and respect for those who are aware of his deeds, for you the jurors and for the rest of the citizens.

DEPOSITION

Misgolas, the son of Nicias of Piraeus, testifies. Timarchus who formerly frequented the house of the doctor Euthydicus became my associate, and my esteem for him is as high today as it was when I first came to know him.

[51] Well men of Athens, if Timarchus had remained with Misgolas and had gone to no other man thereafter, he would have acted more reasonably--if there is anything reasonable in such matters--and I would not have presumed to accuse him of anything other than what the lawmaker calls frankly "serving as a hired companion." For if someone does it with one man but does the deed for pay, I think he is liable for this very charge. [52] But if I show you, after jogging your memories, that he has not only made

money on his body with Misgolas but has gone to another and then to a third and from the third to still another, to say nothing of these savages Cedonides and Autocleides and Thersandrus, in whose houses he was taken up, I believe it is clear that he did not serve as a companion alone but in fact--by Dionysus I don't know how I will be able to dance around the issue the whole day long--in fact was a prostitute. For the man who does it rashly with many men and for profit is to my mind liable for this charge.

[53] To resume: Misgolas sent Timarchus away after his extravagance proved too much to bear, and Anticles of Euonymon son of Callias takes him up. This man is in Samos at present with the cleruchs, so I will instead speak about what happened next. When Timarchus was released by Anticles and Misgolas, he did not discipline himself or embrace a better way of life, but spent his days in the gambling house, where the game-table is set up and where they put cocks to fight. I think some of you have already seen the places I mean; if not, you have at least heard of them. [54] One of those involved in this business is Pittalacus, a public slave. He had a lot of money and when he spotted Timarchus amid the gaming, he took him up and kept him in his own house. And Timarchus, this filth here, was not displeased with such arrangements, intending to shame himself with a public slave. He gave thought to this one thing alone, whether he would get the man as sponsor of his loathsomeness. He never gave a single thought to what was right or disgraceful. [55] I have heard the man committed such wrongs and outrages on the body of Timarchus as, by the Olympian Zeus, I could not bring myself to say to you! Indeed I would rather die than say explicitly among you the things Timarchus was not ashamed to perform. During the same time Timarchus was with Pittalacus. Hegesander sailed back here from the Hellespont. Now I know very well that you have been wondering why I have taken so long to come to Hegesander, so well-known are the matters I am going to discuss. [56] Hegesander, a man you know better than I, arrived. It so happened at that time that he, having sailed to the Hellespont as treasurer for the general Timomachus of Acharnia, came back here, and the story is that he had taken

advantage of the general's naiveté, for he carried with him no less than eight hundred minae of silver. And he was in no small way responsible for Timomachus' misfortune. [57] Being flush with money, he frequented the games of Pittalacus, a fellow gambler, and there he first caught sight of Timarchus; he noticed him, wanted him, and plotted how to pick him up, somehow judging him to be close to his own nature. So first he spoke to Pittalacus and asked him to give Timarchus over. When Pittalacus refused, he threw himself at Timarchus. He certainly did not waste words, for he persuaded Timarchus at once. In fact the mean-spirited treachery in this deed was dreadful, and so it is perfectly reasonable that he would be hated on these reasons alone.

[58] But when he had been released from Pittalacus, he was taken up by Hegesander. It hurt Pittalacus, I think, since he believed that he had spent so much money for nothing, and he became jealous of what was going on and started hanging around Hegesander's house. But behold the great power of Hegesander and Timarchus when Pittalacus started to become a nuisance; they got drunk and along with some other men whose names I prefer not to mention, [59] in the dead of night burst into the house where Pittalacus lived. First they smashed up his little games and threw them out into the street (some belled dice, and dice boxes, and other things for gambling), and then they killed the quail and cocks which the wretched creature loved, and finally they tied him to a pillar and whipped him with the most terrible blows for so long that even the neighbors could hear his screaming. [60] The next day, Pittalacus, in a rage at what had been done to him, comes without his clothes to the market-place and sits at the altar of the Mother of the Gods. A crowd gathered, as usually happens in these cases, and Hegesander and Timarchus, afraid that their loathsomeness would be broadcast through all the city--the Assembly was in session--ran to the altar with some of their gambling companions, [61] stood around him and asked him to get up, blaming the whole affair on their drunkenness. And Timarchus, who was at that time still fit for his work and not, by God, such an affliction to the eyes as he is now, touched the man's chin and said that he would do

whatever Pittalacus wanted. At last they convince him to stand up and leave the altar, claiming that he would receive some satisfaction—but after he left the marketplace, they gave him no further thought. [62] He however bore their outrageous treatment of him heavily and filed charges against each of them.

But when he brought his suit, behold the great power of Hegesander. He took Pittalacus away, claiming that Pittalacus belonged to him—Pittalacus, a man who had done him no wrong but who, on the contrary, had been wronged, who did not belong to him but who was property of the city, a public slave! Pittalacus, now in all sorts of trouble, falls in with a man, in fact quite a good man, Glaucon of Cholargeus, and this Glaucon gets him released. [63] Then Hegesander and Glaucon filed charges against each other. Time passed; they turned to Diopeithes of Sunion to arbitrate the matter. He was a demesman of Hegesander and had already had his way with Hegesander, when Hegesander was a youth. Once Diopeithes took up the matter he delayed it time and time again, being partial to Hegesander and Timarchus. [64] But at this time Hegesander was often on your platform. He did not cease his attacks on Aristophon of Azenia until Aristophon threatened him in the Assembly with the same scrutiny as I did Timarchus. Pig-tail, the brother of Hegesander, was also continually addressing the public: in short, at this time Hegesander and Pig-tail presumed to be your advisors on Greek affairs. As a result, Pittalacus lost his confidence. He considered his own position, and the position of the men attacking him, and, in all honesty, made a wise decision. He kept quiet and was happy not to take on any new trouble. At that point, after Hegesander had won so fine a victory without a fight, he kept Timarchus at his side. [65] And you all know that what I say is true. Who has ever gone to the fish-stall and not seen the money they lay out there? Who has not been angry for the sake of the city when you encounter their drunken revels and brawls? But all the same, since we are in court call for me Glaucon of Cholargeus who obtained freedom for Pittalacus and read the witness statements of the others.

DEPOSITIONS

[66] The witness is Glaucon of Cholargeus, son of Timaeus. I obtained the release of Pittalacus who was being taken into slavery by Hegesander. Sometime later Pittalacus came to me and said that he wanted to give notice to Hegesander and have the charges against Hegesander resolved so as to dismiss the suits which he had against Hegesander and Timarchus, and those which Hegesander had against him for slavery. They were resolved.

The witness is Amphisthenes. I obtained the release of Pittalacus who was being taken into slavery by Hegesander.

[67] Now then, I will call Hegesander himself. I have written a witness statement for him, one too restrained for such a man, but a little more explicit than the one I wrote for Misgolas. I am perfectly aware that he will deny it under oath and commit perjury. Why then will I call him? In order to demonstrate to you what sort of men this practice produces, how they scorn the gods, and overlook the laws, and trifle in the face of every disgrace. Call for me Hegesander.

DEPOSITION

[68] The witness is Hegesander of Steiricus, son of Diphilos. After I came back from the Hellespont, I took up with Timarchus the son of Arizelus who was spending time in the house of Pittalacus the gambler, and as a result of that acquaintance I had my way with Timarchus just as I had previously with Leodamas.

[69] I was not unaware that he would disregard his oath, men of Athens: in fact. I told you so beforehand. But one thing is perfectly clear, at any rate: since he refuses to depose at the present time, he will soon come forward for the defense. This is no surprise, by Zeus. For he will come up here, I think, confident in his way of life, a good and noble man, who hates villains, and is unacquainted with Leodamas, the man whose name caused an uproar among you when the deposition was read. [70] What, then! Will I drive myself to speak more explicitly than I normally would? Tell me, men of Athens,

by Zeus and the other gods, doesn't the man who shamed himself with Hegesander seem to have prostituted himself to a prostitute? What loathsome excesses do you not think they indulge when they are drunk and alone? Do you not think that Hegesander, attempting to wipe away his notorious deeds with Leodamas which you all know about, makes even more outrageous demands, so that his own deeds will seem moderate in comparison to the excesses of Timarchus?

[71] But no matter that! You will still see him and Pig-tail, that brother of his, immediately leap up here to claim that what I say is a load of nonsense--and they will do so with great vehemence and flourish. Then they will require me to furnish witnesses to testify clearly about where he did it or who saw it or how they did it, referring, I suppose, to the disgraceful deed. [72] I, however, do not assume that you are so absent-minded as to forget what you heard a little earlier when the laws were read. There it is written that if anyone procures an Athenian for this deed or if anyone hires himself out, he is liable to the most severe penalties, the same for both. Is there any man so miserable that he would be willing to give such testimony openly? Testimony from which it is possible to demonstrate that the witness himself, if he spoke truthfully, is liable to the ultimate penalty? [73] There is only one possibility remaining: let the man who gave in admit it. . . He makes no admission; but his trial is based on the fact that even though he did such things he still speaks in public. Do you want me then to drop the whole matter and not pursue it? Good God! A fine life we will have in our city, if we overlook things which we know perfectly well took place unless someone comes up here and testifies to them in graphic and shameless detail.

[74] But consider the case of Timarchus in light of examples. It will be necessary, I suppose, for the examples to suit his behavior. Take the men who are employed in brothels and who, you will all agree, do the deed. Even these men, forced to practice their trade, nevertheless shield their shame a little by closing the doors. But clearly if someone should ask you, as you go along your way, what the creature was

doing at that moment, you would name the deed at once. Without seeing who entered, you would still be aware of the creature's chosen profession and know exactly what he was doing. [75] So you ought to scrutinize the case of Timarchus in the same manner: do not wonder whether anyone saw him but whether the deed has been done by him. Good God, Timarchus! What would you yourself say if another man were being judged on this charge? Or what *ought* you to say when a youth, a mere boy, leaves his father's house to spend his nights in the homes of others, when a youth of surpassing beauty does not pay for the costly meals on which he dines, when he has flute girls and female companions of astonishing price, when he gambles but pays nothing himself, since someone else will pay for him? [76] Is it still necessary to speak obscurely? Is it not perfectly clear that the man who puts such demands on others is himself absolutely obliged to provide certain pleasures in return to those who foot the bill? I do not have, by the Olympian Zeus, any more polite way to speak of the deeds done so contemptibly by you.

[77] Look at our topic, if you will, in the light of examples from the political sphere, particularly from matters now before you. Voting has taken place in the demes: each of you has submitted himself to a vote on whether or not he is truly an Athenian citizen. And whenever I stand in the courtroom and listen to the defendants, I see that you are always influenced by the same thing. [78] When the accuser says, "Jurors, this man was convicted by his demesmen under oath; no man brought the charge or gave testimony against him: no, they were perfectly familiar with him," you immediately start to shout, I think, believing that the man on trial is no member of the citizen body. It is your belief that no one requires speeches or testimony for the things he himself knows well. [79] Come then, by God! If Timarchus had been required to submit to a vote as he is about his birth, on whether or not he is liable for his way of life, and the matter was tried in the courtroom and he was brought before you as he is now; if neither law nor decree allowed me to prosecute or him to defend; if the herald here made the

announcement demanded by the law, "Cast the ballot with the hollow axle, if in your opinion Timarchus has been a prostitute, the ballot with the solid axle, if in your opinion he has not," how would you have voted? I know perfectly well that you would have condemned him. [80] And if one of you should ask, "How do you know whether we would have condemned him?" I would say, "Because you have discussed him and spoken freely about him to me." I will remind each of you where and when you made your opinion known: every time he comes up on the platform in the Assembly and during his tenure on the Council last year. For if he ever mentioned the repair of walls or tower, or said that someone was taken off somewhere, you at once began to shout and laugh, and you yourselves said the name of the deeds of which you know him to be guilty. [81] I will pass over many events of long ago, but I want you to recall what took place in the Assembly at the time I summoned Timarchus to appear here.

The Council of the Areopagus was making an appearance before the people on account of the motion about the houses on the Pnyx which Timarchus has proposed. On the platform was one of the Areopagites, Autolycus, a man who has lived his life admirably and piously and, by Olympian Zeus and Apollo, in a manner worthy of that body. [82] But when in the course of his speech he said that council deemed the motion of Timarchus unacceptable, and added these words, "Do not wonder, men of Athens. if Timarchus has more experience of this lonely place on the Pnyx than does the Council of the Areopagus," you burst into laughter on the spot and said that Autolycus spoke the truth, for Timarchus *was* familiar with it. [83] Autolycus had no idea why you were laughing; with a heavy frown, he continued. "Well, men of Athens, we Areopagites do not accuse or defend: these are not our traditional functions. We do however have a certain amount of forbearance for Timarchus," he said; "he perhaps thought that the expense for each of you would be small in such a quiet place." At the words "quiet place" and "small expense," he once again encountered your cries and laughter, this time all the louder. [84] When he mentioned the "foundations" and the "cisterns," you could not

even stand up from laughter. At that point, you remember, Pyrrhandrus joined him to rebuke you, asking the Assembly if they were not ashamed of themselves for laughing when the Council of the Areopagus was present. But you made him leave the platform, answering: "We know, Pyrrhandrus, that we should not laugh in their presence; but so powerful is the truth that it masters all human reason." [85] I consider this as testimony given to you by the Athenian Assembly, and it is not right to convict them of false witness. So if when I say nothing, men of Athens, of your own accord you shout out the name of the deeds you know Timarchus has committed, it will be paradoxical if you forget everything when I do speak; paradoxical if he is convicted for the deed without a trial, but will go free following an official scrutiny.

[86] Since I spoke previously of the citizen-review and the policies of Demophilus, I want to take another example from his actions. This same Demophilus earlier pursued a policy like this: he made the accusation that there were certain men attempting to bribe members of the Assembly and the other courts, just as Nicostratus does now. Some of these cases came to trial a while ago, while others are in process at the present. [87] Come then, by Zeus and the gods! Suppose these men had relied upon the same defense which Timarchus and his advocates now employ, demanding that either a witness provide clear testimony on the charge or that the jurors not believe it. Surely according to this argument, the whole case depends on one man testifying that he offered a bribe and another man saying that he took it, even though the law prescribes the death penalty for both of them just as it does in this case, that is, if someone hires an Athenian to commit an outrage upon him, or if some Athenian freely sells himself to disgrace his own body. [88] Is there any witness who would have given such testimony? Is there any prosecutor who would have attempted to make such proof? Certainly not. And so what happened? Were the accused acquitted? No, by Hercules. They were sentenced to death, having erred in a way far less grievous than this creature, by Zeus and Apollo. Those poor wretches were the prey of old age and poverty, the greatest evils of men, and

so suffered their misfortune; Timarchus on the other hand refuses to restrain his own loathsomeness.

[89] If there had been a change of venue for this trial, I would have asked for you to be my witnesses, you being the ones who know best that I speak the truth. But as the trial is in Athens, and as you are at the same time the judges of my words and witnesses to their truth, it is my duty to make you remember, and yours not to mistrust me. It seems to me, men of Athens, that Timarchus is concerned not only for himself but also for others who have done what he did. [90] For if the deed is done as it is usually is, secretly, in lonely places and private homes, and if the one who has the best knowledge of it--namely, the one who disgraced one of our citizens--testifies truthfully, he will be liable to the most severe penalties. But if the defendant, when the truth and his own life have borne witness against him, demands to be tried on the strength of witnesses and not on common knowledge, the law and the truth will be cast aside, and the worst malefactors will be shown a clear path through which they will go free. [91] The robbers, the thieves, the seducers, the murderers, all those who do the greatest wrongs but do them out of the public eye--will any of them be punished? Those whose guilt is obvious are executed on the spot, if they confess; others who have escaped notice and deny their guilt are tried in the courts, and the truth is discovered from probability.

[92] Take for example the Areopagus, the most discerning body in the city. Many are the men I have seen who, although they spoke well before this council and provided them with witnesses, were convicted all the same; I also know some men who won though they spoke badly and offered no witnesses. For the Areopagites cast their vote not on the basis of a speech or testimony alone but on the basis of what they themselves know and have learned through inquiry. And that is the reason why this body continues to enjoy a good reputation in the city. [93] So, men of Athens, judge the case before you in the same manner. First let there be nothing more reliable than what you know and believe for yourselves about Timarchus here, then look at the matter not in the

light of the present but of the past. For what was said in the past about Timarchus and his habits was said truthfully, but what will be said today will be said on account of the trial for the sake of deceiving you. Therefore return your vote in accordance with the greater amount of time, with the truth and with what you know for yourselves.

[94] But someone--a speech writer, yet, who is contriving a defense for Timarchus--claims that I contradict myself. He thinks that it is impossible for one and the same man to have been a prostitute and to have consumed his inheritance, because, he says, making a little mistake with one's body is the act of a child, but consuming one's inheritance is the act of a man. Furthermore, he says, when certain men disgrace themselves, they earn a wage for their deed: so he goes around the marketplace in astonishment, wondering how one man can have both been a prostitute and consumed his inheritance. [95] In case anyone here does not understand how such things work, I will try to explain them more clearly in my speech. Hegesander, the man who kept Timarchus, married an heiress, and as long as her inheritance held out and as long as the money he had when he came back from his journey with Timomachus held out, their life was constant indulgence and prodigality. But after he wasted the money, after he gambled it away and gobbled it up and when Timarchus' bloom faded and when no one would, reasonably enough, give him anything any longer and as his detestable, abominable nature always wanted the same thing and, in its utter lack of restraint, made one demand after another upon him, drawing him back to the way of life he once knew. [96] then at last he began to consume his own inheritance. And not only did he gobble it up, he also, if you will pardon the expression, drank it down. He did not sell any of his possessions at their value nor was he able to wait until he could make a profit or even a better price; instead he sold each for whatever price was offered, so eager was he to indulge his desires. [97] His father left him an estate which would allow another man to perform services for the city, while Timarchus was not able to retain it even for his own use. There was a house behind the Acropolis, land in the hills of Sphettus, and another

spot in Alopece. Besides these he had nine or ten slaves employed as shoemakers; they paid him two obols a day, while the master of the shop paid three obols. He also had a woman who was skilled at producing Amorgine and brought it to sell in the market, and an embroiderer, and some men who owed him money, and furniture.

[98] This is the truth, by Zeus, and I will provide you with witnesses who testify to it clearly and with no reservations. In this case--unlike the previous--no risk or shame attaches to the man who testifies truthfully. Timarchus sold the house in the city to the comic poet Nausicrates, and Cleaenetus the chorus trainer bought it afterwards from Nausicrates for twenty minae. Mnesitheus of Myrrhinous bought the land in Sphettus from him--a valuable place which Timarchus had let go completely to seed: [99] and as for the estate in Alopece, which was eleven or twelve stades from the wall, even though his mother kept begging and pleading him, as I have learned, to let it alone and not sell it if for no other reason than to let her be buried there, he did not keep his hands off even this, but sold it for two thousand drachmae. As for the attendants and slaves, he left not a one: he has sold them all, every one. To prove that I make no misrepresentations, I for my part will provide depositions that his father left him the slaves: for his part, let him produce the persons of the slaves here in court, if he denies selling them. [100] To prove that several men were in debt to his father--money Timarchus squandered after he reclaimed it--I will provide you with a witness, Metagenes of Sphettus, who owed the father more than thirty minae: the debt was outstanding at the father's death, but Metagenes repaid Timarchus seven minae. Call for me Metagenes of Sphettus. But first read the testimony of Nausicrates, the man who bought the house, and get all the statements of those I mentioned in the same place.

DEPOSITIONS

[101] To resume, I will prove to you that his father possessed also a good deal of cash which Timarchus has wiped out: his father, seeking to avoid the services he would otherwise have to render, sold what possessions he had, apart from those I just

mentioned, a farm at Cephisia and another at Amphitrope, and two workshops at the silver mines, one in Aulon, another in the district around the village of Thrasymus.

[102] I will now speak of the source of his prosperity. There were three brothers: Eupolemus the trainer, Arizelus the father of Timarchus, and Arignotus who is still living, an old man who suffered damage to his eyes. Eupolemus died first, before receiving his inheritance. Arizelus was next to die: while he lived, he managed the entire estate owing to the infirmity and misfortune of Arignotus--his eyesight--and the death of Eupolemus: he also agreed to a certain allowance to provide for Arignotus' care. [103] Arizelus died while Timarchus was still a boy, and at first Arignotus continued to receive his money from the administrators of the estate: but after Timarchus was enrolled as a citizen and took charge of the estate, he pushed aside the unfortunate old man, his own uncle, made the property vanish and provided him with no support: instead he was content to watch his uncle, who had once had so much, receive public assistance along with the disabled. [104] Finally, the most shocking development: the old man failed to appear at a scrutiny of qualifications for the disabled, and when he came before the Council making supplication for his pension, Timarchus, who was a member of the Council and in fact a president that day, did not condescend to speak in his support, but was content to see him lose his pension for that prytany. To prove that I speak the truth, call Arignotus of Sphettus, and read his testimony.

DEPOSITION

[105] But perhaps some one will claim that though he sold his father's house he keeps another one somewhere else in the city, and that just as his father before him he built some establishments for the silver mines with the money he received for the house in the country, the farm in Alopece, the craftsmen and the rest. But in fact he has nothing left: no house, no apartment building, no farm, no slaves, no outstanding loans, nothing from which the sort of men who are not common criminals make their living. His father's bequest is gone: in its place remain vileness, malicious lies, effrontery, prodigality,

cowardice, shamelessness, the inability to blush at shameful deeds--qualities from which the most wicked and useless citizen would arise.

[106] Well then, he has consumed not only his father's estate, but public money--your money--as well, as much as has ever been in his control. You see how old he is: there is no office he has not held, though he was not allotted or elected to any but bought them all illegally. Most of these I will pass over and mention only two or three. [107] After he became an accountant, he did extreme harm to the city by taking bribes from corrupt officials and especially by making accusations against men in the process of rendering accounts, even though they had done no wrong. He held office on Andros after purchasing it for thirty minae, borrowing the money at nine obols on the mina, and your allies became an abundant source for his loathsomeness: and he showed such insolence to the wives of free men as no other man had ever done before. I will not summon any of these men here, into the presence of many, to testify to a misfortune he preferred to keep quiet. Instead I will leave it for you to investigate. [108] But what do you expect? A man who here at Athens not only abused others but indeed his own body, though there are laws here, though you have him in sight, though his enemies are powerful--who could hope that such a man has in any way refrained from his most insolent deeds, once he has security and wealth and power? By Zeus and Apollo, I often cherished our city's good fortune, and for many reasons: not least the fact that in those days no one purchased the city of the Andrians from him.

[109] Objection--he was a worthless official on his own, but he was capable when serving with others. Where did you get this idea? Men of Athens, he was a member of the Council in the archonship of Nicophemus. It is not worth attempting to relate all the bad things he did that year, considering the brief time left to me; instead I will speak briefly on what is most pertinent to the charge in this present trial. [110] In the same year when Timarchus served on the Council, Hegesander, brother of Pig-tail, was treasurer of Athena, and together in loving friendship he and Timarchus stole a

thousand drachmae from the city. Pamphilus of Acherdousius, a worthy man, realized what was going on. He had already been offended in some way by Timarchus and was ready for a fight, and so, during a session of the Assembly, stood up and said: "Men of Athens, a man and a woman together are stealing a thousand drachmae from you." [111] You wondered how a man and a woman did this, and what he meant: after a brief pause he said: "You do not know what I mean? Hegesander is the man," he said, "---now: he used to be the woman of Leodamas--and the woman is Timarchus. And the way the money is being stolen I will tell you." Then he described their deed with great insight and clarity. And after he gave you this information. "What, men of Athens," he said. "is my advice? If the Council condemns this man for wrongdoing, takes the leaf-ballot against him and turns him over to the court. give them the customary honor: but if they do not punish him, withhold it, remembering this against them for that day." [112] After this the Council went into their chambers, took the leaf-ballot against him, but accepted him in the second ballot. And because the Council did not hand him over to the court and did not expel him from chambers--it hurts me to say this, but I must---the Council did not receive the customary honor. So, men of Athens, do not show yourselves hard on the Council, depriving fifty citizens of their crowns because they did not punish this man, while pardoning and preserving for the Assembly the kind of speaker who brought the Council no profit.

[113] Objection--this is how he is in allotted offices: he is better in elected offices. Does anyone here not know the scandal which surrounded his trial as a thief? He was sent by you as an inspector of the mercenaries in Eretria, and he was the only one who admitted taking bribes. He made no defense of his action, but instead, admitting his wrong, he entered a plea on the penalty. You sentenced those who denied their guilt to pay one talent each, but of him you asked thirty minae. The laws demand the death sentence for confessed thieves while those who deny their guilt are to be brought to trial.

[114] As a result of this incident, his contempt for you grew so great that he proceeded to take two thousand drachmae from the revision of the citizen-lists. How? He claimed that a citizen, Philotades of Cydathenaea, was his freedman and convinced the demesmen to disenfranchise him. He took charge of the prosecution in the courtroom, held the sacred objects in his hands and swore that he had not and would not take bribes, then swore another by the gods of oaths and cursed himself with utter destruction. [115] But he was found all the same to have taken twenty minae from Leuconides, an in-law of Philotades, through Philemon the actor, money he spent a little later on the courtesan Philoxena, and so he abandoned the trial and perjured his oath. To prove that I speak the truth, call for me Philemon who gave the money to Timarchus, and Leuconides the in-law of Philotades, and read the copy of the contract used for the sale of the case.

DEPOSITIONS. CONTRACT.

IX. COMMENTARY

Prooimion (§§ 1-3). Although this case may well be Aeschin.'s first prosecution (Harris 1995 102), Adams' translation, "I have never brought indictment against any Athenian." is not strictly accurate since he does not claim complete inexperience (cf. *GPM* 192). He says he has never prosecuted anyone with a γραφή or at their εὔθυναί: why does he specify these two procedures? He has probably already begun to compare himself with his opponents, D. and Timarchus who have indicted him at his own accounting with the γραφή παραπροσβείας. See Introduction II.

1.2 γραφήν] The γραφή was an Athenian legal procedure. It covered a variety of offences: for a convenient list of attested γραφαί see *SAL* 105-9. In modern convention the offence is expressed in the genitive: e.g., γραφή ἐταιρήσεως, γραφή παραπροσβείας. It addressed actions felt to injure the community at large rather than a particular individual. Todd notes that "a large group of *graphai* concern offences committed by public figures, either by officials. . . or by orators acting in a public capacity" (*SAL* 110), although, as he says, there were many other types of γραφαί as well. It could be filed by any citizen in full possession of his rights (ὁ βουλόμενος) and the case was heard by a large number of judges, at least five hundred and one, and as two of its most distinctive features were the risks it involved for the prosecutor and the often serious penalties it imposed. For example, if the prosecutor withdrew from a γραφή he was fined one thousand drachmae and lost the right to prosecute any public offense: likewise for the prosecutor who failed to win one-fifth of the votes. The successful prosecutor of a γραφή typically did not profit materially since the fine in most were payable to the Athenian treasury. The γραφή was also distinguished by its preliminary proceedings: litigants first underwent an investigation (ἀνάκρισις) under the supervision

of the archon responsible for cases of the particular offense. See *LA* ii.74-82, *LCA* 57-61, and *SAL* 99-112.

1.2 εὐθύνας] At Athens all who held an ἀρχή were liable to examination upon leaving office (3.14, 17-20). This examination was usually called the εὐθυναί, a plural form of the word which means "straightening" or "correcting." It is one of the numerous institutions ascribed anachronistically to Solon (*Arist. Pol.* 1274a15-8, 1281b32-4: see further Rhodes 1993 155). The fullest explanation of the εὐθυναί is given in the *AP* (48.3-4, 54.2). It describes the accounting of τοὺς τὰς ἀρχὰς ἄρξαντας (54.2), which we may assume refers not only to the nine archons but to lesser magistrates as well. Since the office of judge was "not strictly an ἀρχή at all" (*MacDowell on Ar. V.* 587-8), it was not subject to the examination.

In the fourth century there was an ongoing examination of accounts which took place each prytany. They were under the direction of ten auditors (λογισταί) appointed from the members of the Council, probably one from each tribe (cf. Σ 3, 15, 49a). An additional examination was held at the end of the year when the annual magistracies were vacated. The latter process seems to have occurred in two stages. The first stage was an audit of public moneys received and paid out by the official in question. Ten λογισταί and ten advocates (συνήγοροι) were chosen by lot from all citizens to oversee it: these λογισταί are thus to be distinguished from those who checked accounts each prytany. See note on §107.1. The outgoing official rendered his accounts to the auditors, and those who had not received or spent public moneys had to state as much in writing (3.22). Accounts had to be audited within thirty days of leaving office (*Harp. s.v. λογισταί καὶ λογιστήρια*, *Suda* λ 651).

The officials were then presented to a court of 501 judges presided by the auditors (Σ 1, 107, 230 and 3, 14, 45b, Σ D. 19, 211, 431, *Suda* η 39, *Lex. Cant. s.v. λογισταί*). There any citizen could bring charges; perhaps charges were also brought by the

advocates, if necessary (3.23, D. 18.117, Suda ε 3511; cf. *LCA* 171 and *SAL* 113).

Charges at this stage seem to have been primarily financial. The *AP* mentions three: κλοπή (theft or embezzlement), δωροα (bribery) and ἀδικεῖν, which MacDowell translates as "culpable neglect or inadvertence." The penalty for the first two charges was repayment of ten times the amount in question, the condemned and his descendants being disenfranchised until repayment. The third was apparently felt to be a lesser offense, as the penalty was repayment of the amount within the ninth prytany; thereafter the penalty was doubled (And. 1.73). Other charges may have been lodged as well: see *LCA* 171 and Rhodes 1993 598.

In the thirty days after this examination, a second stage could be initiated (see Rhodes 1993 562 on the emendation of *AP* 48.4 from "three hundred" to "thirty"). During this time, anyone had the right to bring charges simply by presenting a written complaint. The complaint was lodged with a board of ten correctors (εὐθῦνοι) chosen by lot from members of the Council. There was one corrector allotted for each tribe, and the complaint was probably filed with the corrector of the accused's tribe. He apparently had the power to reject the charge. Otherwise he referred it to the appropriate venue: to the Forty if a private offense, to the thesmothetae if public. The man who lodged the charge served as prosecutor.

AP does not explicitly state that the procedure has two distinct stages. Instead, it discusses the rendering of accounts in two different places. As Rhodes notes, the two stages are sometimes referred to by distinct names: "strictly, the financial account submitted to the λογισταί was the λόγος and receipt of general complaints by the εὐθῦνος was the εὐθῦναι" but he notes that "this distinction was not always observed, and εὐθῦναι is often used of taking the λόγος to court." (Rhodes 1993 598). See *AR* 1.257-69, Rhodes on *AP* 48.3-4, 54.2, Hansen 1991 222-4, *LCA* 170-2 and Roberts 1982 17-9. On the εὐθῦναι of Aeschin, following the second embassy see Introduction II and III.

1.3 μέτριον] "Moderate, reasonable, fair:" a cardinal virtue of the ancient Greeks. Note that the word is found at the beginning and the end of the *prooimion* of the first and third orations. In both the word helps him to create the appropriate prosecutorial *ethos*, that is, it helps him to avoid seeming litigious. Elsewhere in this speech it is used to create the *ethos* of Timarchus, referring, often ironically, to Timarchus' lack of moderation or fairness (§§39, 42, 51, 103, 162 and cf. 70). See Introduction V.

1.4 τε | τε . . . καί connect participial phrases here and at §63: Aeschin. uses them most frequently to couple nouns. On the position of τε, Schmidt notes "Collocat Aeschin. particulam semper inter articulam et nomen aut inter praepositionem et articulum" (1891 28 with examples).

1.5 δημηγοροῦντος παρὰ τοῦ νόμος] The actionable offense. Any Athenian male who had been remunerated for sex was ἄτιμος, "deprived of rights" (§§134, 160). The penalty was automatic, i.e., incurred by the act itself without trial. He was at the very least forbidden to speak in the Assembly (λέγειν, δημηγορεῖν: §§3, 20, D. 22.30; cf. Σ 3, 176, 403a and *hyp.* 1.1.4) and to prosecute (D. 22.53; cf. Σ 1, 3, 10). If he did not heed the penalty and exercised these rights, he was liable to prosecution. On automatic ἄτιμία see Hansen 1976 66-7 and in general see the commentary on §§28-32.

1.5 συκοφαντούμενος] Aeschin. alludes to a personal motive for the prosecution: cf. note on §20.2. He refers to the charge of misconducting the embassy brought against him by Timarchus and D. (§§3, 20, 32, 166-9; see Harris 1995 95-6 and Introduction II). It seems that before the trial Timarchus and his supporters have retaliated by censuring Aeschin.'s affairs with younger men, so that Aeschin. may be also be characterizing their censure as slanderous (§§135-6; cf. 3.216).

Συκοφαντέω and its cognates appear often in the orators. No single English word conveys the meaning: the sense is pejorative. The συκοφάντης was a man who exploited, for personal gain, the right of prosecution which belonged to every qualified Athenian. As a term of abuse, the connotations were various, including "false charges, sophistic quibbling, abusive attacks, the raking up of the past, and the frequency with which the sykophant resorts to litigation" (Harvey 1990 114). As Gagarin notes, an accusation of sycophancy "may be more a rhetorical ploy than an objective label" (1997 24). There existed, however, a συκοφαντίας γραφή (*AP* 59.3), although no certain cases are attested. By presenting his opponent as a sykophant, Aeschin. throws his own *ethos*--the man of little experience in the courts, the man of reason--into relief. In addition he presents himself as a victim, and so deserving of the judges' sympathy. See Harvey 1990 (with bibliography 103 n.1); also Lofberg 1979, Bonner and Smith 1938 ii.39-74 and *LCA* 62-9.

2.2 οἷς ὀλίγω πρότερον ἠκούσατε] The scholiast (1, 2, 5) understands νόμοις as the antecedent of οἷς, but *Ar. V.* 894-7 indicates that trials were opened by a reading of the charge: "I, X of the deme Z indict A of the deme B with such-and-such a charge on the grounds that he did the following." Cf. *AR* 1.252.

Aeschin. avoids specifying the alleged misdeeds of Timarchus. One of the most striking features of this speech in comparison to modern legal practice is the paucity of the proofs it offers: the allegations are for the most part unsubstantiated and are not even set out in detail. Greek authors are generally circumspect when they speak of sexual attraction or activity between males: see *GH* 43-5 and *GPM* 205-7, where Dover describes a general reticence, more pronounced in the fourth century, to speak about sexual relations. This reticence is apparent in the orators (§§37-8, 70, 76, 3.162, D. 22.21ff., *Lys.* 3.3 and 14.25). Carey concludes from this that "the rules for propriety in court were those of polite conversation" (1994a 174-5). By observing propriety, Aeschin.

allows the judges to imagine and so perhaps to exaggerate the conduct of Timarchus, while at the same time portraying himself as a decent man (cf. Martin and de Budé 44 n.1).

Hermogenes (3, 410 W.) cites this line along with §52 as examples of the figure περιπλοκή, "circumlocution." It probably derives its name from a metaphoric use of the verb περιπλέκω "to wrap up in words" (*LSJ* II.2) as in §52, and not from the metaphor τοῦ πεπλεγμένου δεσμοῦ ὅς ἐστι δύσλυτος (Greg. Cor. 7, 1182 W.).

2.4 γραμματεὺς] Many Athenian institutions, including the Council, the law courts and the archons, employed secretaries. The secretary to whom Aeschin. refers here was one of several court officers. He read, at the prompting of the litigant (λαβέ, ἀνάγνωθι, λέγε), documentary evidence to the judges: witness depositions, contracts, laws, decrees, letters, oracles, even selections from the poets. From the present chapter we learn that he opened the trial with a reading of the charges (cf. Ar. V. 894-7). His other functions are uncertain. See in general Schulthess *RE* 7.2 1740-1.

2.4 ἐπήγγειλα] To proceed with the δοκιμασία ῥητόρων, the prosecutor first had to make a formal declaration in the Assembly of his intent to prosecute (§§32, 64, 81). See Introduction IV.

2.4 δοκιμασία] For the procedure see Introduction IV.

2.6 αἱ γὰρ ἴδιαι ἔχθραι] For the sentiment cf. §110, Antiphon 6.9, D. 24.8, Lysurg. 1.6, Lys. 6.20 and 14.2. The moral imperative "help friends, harm enemies" informed many aspects of Greek life, and was like all such imperatives subject to rhetorical manipulation. A speaker may frankly admit that he hates his opponent (D. 22.1-3) or carefully deny it (D. 23.1, Lys. 1.4). Judges, however, did not consider personal enmity

to be a sufficient motive for prosecution (Th. 8.51: cf. D. 18.278) and so we find speakers acknowledging personal hatred when they claim to be retaliating (D. 59.11-13) or to be serving the city's interests (Carey 1992 84). Aeschin. claims both. See in general *GPM* 180-4 and Rhodes 1996 for enmity as a factor in Athenian politics.

Aeschin. justifies his prosecution with a maxim (γνώμη). The use of γνώμαι is appropriate in the *prooimion*: the speaker appeals to or creates the illusion of commonly held sentiments to show that his actions do not deviate from the norm (Hermog. 3.435 W.). On the γνώμη see Martin 1974 122-3 and H. Framm *Quomodo oratores Attici sententiis usi sint* Leipzig 1912. Framm identifies other γνώμαι in this speech at §§24. 48. 84. 98. 129. 179. 180 and 189.

3.1 τοῦ μὲν οὖν ὄλου ἀγῶνος] Blass calls this a commonplace and compares D. 24.1 and D.H. *Din.* 13 (*AB* 195 n. 4).

3.2-4 φανήσεται οὐθ' ἢ πόλις] If the elements of a subject phrase are joined by ἢ, ἢ, . ἢ, or οὔτε. . . οὔτε, the verb will agree with the nearest element, when each is to be considered an independent unit (*KG* 1.81; Smyth 970). Cf. §13, 3.137 and 158. The scholiast (1. 2. 3) notes the effectiveness of the partition made here, used by Aeschin. again at 3.4. On the priamel cf. §§42. 47 and see W. Race *The Classical Priamel from Homer to Boethius* Leiden 1982.

3.4-5 ἐπίταγμα. . . ἐπιτάξαντες] The *figura etymologica* is a hallmark of Aeschin.'s style: cf. γραφήν γραψάμενος and λόγοι λέγεσθαι above. See Richardson 35 for a list of examples.

3.6 εἰ ἐσωφρόνει] North identifies this as a "colloquial phrase" (1966 139). Cf. §123. 3.117, 242, D. 6.28, 15.16, 20.153, [D.] 50. 48, 58.56, D. F47, *Din.* 4.88, 98. 108. 5.3.

Isoc. 4.165, 11.40, 12.140, 14.22, 15.304, 20.22, Lys. 12.47, 29.14. It typically means "if only he were sensible." However the phrase here is resonant: Aeschin. centers his portrait of Timarchus on the man's lack of σωφροσύνη, the inability to control his desires, and presents himself in contrast as σώφρων. See note on §6.6.

Prothesis (§§4-36). A review of Attic laws περὶ σωφροσύνης. See Introduction V.

4.4 τρεῖς . . . πολιτεῖαι] Aeschin. uses the theory of three constitutions again in the *prooimion* to his third speech (§6). According to Lane Fox this is "proof that like D., he must have worked with a stock of shorter, fragmentary 'prefaces'" (1994 144, citing *Démosthène, Prologues* ed. R. Clavaud 1974). Aeschin. treats it as a commonplace (Martin and de Budé 21): it is likely that his audience was familiar with the theory, for it had been current since the fifth century (Pi. *P.* 2.86-8, Hdt. 3.80-2, later at Isoc. 12.132, D. 23.66 and cf. 19.184-5). Thrasymachus, asked if he knows of it, answers πῶς γὰρ οὔ; (Pl. *R.* 338d). From it derive the more complex five- and six-fold divisions of Plato and Aristotle. See further Walbank on Plb. 6.3.5.

Aeschin. immediately collapses the distinction between tyranny and oligarchy, defining both in opposition to democracy. Such a collapse, while common enough in Athenian political thought (Brock 1989 160-2, Dover 1968 183), expedites Aeschin.'s purpose and makes it easier for him to identify Timarchus with what is simply "anti-democratic."

For Aeschin. the distinguishing mark of democracy is the primacy and stability of the law. Lane Fox argues that modern scholars who cite Aeschin. to argue for the idea of an "Athenian republic," i.e., a community under the rule of law (Sealey), or to claim that the laws, not the courts or the people, were sovereign in Athens (Hansen), do not fully appreciate the rhetorical function of this passage: "he is aiming at Timarchus: the laws

'save you from. . . 'immoral, loose-living rhetors, therefore, like the one whom my speech will attack" (1994 143-145).

5.6 ἐν χειρῶν νόμῳ] Translated variously "par la force des armes" (Martin and de Budé), "lege virium" (Wolf), "by the law of force" (Adams) and "by direct action" (*LSJ* s.v. νόμος 1e). Wilhelm, troubled by the metaphor, surveys usage of the phrase: he compares χειρονομία, "gesticulation," which he derives from νομή, "spreading, distribution." He concludes, "in der Formel ἐν χειρῶν νόμῳ nicht an νόμος im Sinne von Brauch, Satzung, Gesetz gedacht ist, sondern an νομός in Sinne eines νέμειν der χεῖρες," and would emend here to νομῶ (1935 140).

Wilhelm's interpretation is also based on usage. The phrase appears almost exclusively in battle narratives, where the sense is "hand to hand combat" or "in action" (e.g. Hdt. 8.89, D.S. 4.32.4, 19.43.1, D.H. 8.20, 3, Plb. 1.34.5; and cf. Σ 1. 5. 17). The closest parallel to our passage is Arist. *Pol.* 1285a8-10: [the king] κτεῖναι γὰρ οὐ κύριος, εἰ μὴ ἔνεκα δειλίας, καθάπερ ἐπὶ τῶν ἀρχαίων ἐν ταῖς πολεμικαῖς ἐξόδοις, ἐν χειρὸς νόμῳ. Here *LSJ* translates "under martial law:" and Wilhelm cites Passow ("durch Handanlegung, auf dem Wege der Gewalt").

Aeschin. has constructed this antithesis to suit the occasion: democracies are threatened by those who do not observe the law, while polities which are not based on the rule of law (including oligarchies, in Aeschin.'s formulation) can be overthrown only by the forcible removal of their leaders.

5.9 εὐνομηθεῖ] This passage (5.9 ἐντεῦθεν . . . 6.6 ἔχειν) provides the rationale for Aeschin.'s discussion of the laws. Democracy depends on εὐνομία; the behavior of Timarchus threatens εὐνομία; therefore, to preserve the democracy, Timarchus must be punished.

Εὐνομία and its cognates appear in the earliest Greek literature (e.g., Hom. *Od.* 17.487, Hes. *Th.* 901-3). On εὐνομία in Greek literature in this period, see Ostwald 1969 62-95 with bibliography 62 n. 1. However his thesis, that until the later fifth century they convey the sense "law-abiding" rather than the sense "having good laws," cannot be proved because there is simply not enough evidence: certainly part of Solon's attempt to establish εὐνομία lies in writing just laws (e.g., F6 West). In the fourth century the word describes a condition of the community which establishes good laws and whose citizens obey established law (Arist. *Pol.* 1294a3-6: cf. D. 21.43, 25.27, [Pl.] *Def.* 413e1). Andrewes believes that in our passage the word "is still used in the simple sense of keeping the law, and is directly opposed to παρανομούντων" (1938 90 n. 5), but this is not how Aeschin. expounds its meaning in §6. and the proposition that Athens has good laws underlies this entire section (e.g., at §20).

The degree of goodness in a city's laws or of obedience in its citizens depends largely on the speaker's point of view, and so we find εὐνομία used in the fifth and fourth centuries to praise oligarchy (e.g., Lycurg. 1.128) or damn democracy (e.g., [X.] *Ath.* 1.8-9). Our sources in fact tend to associate the word with oligarchy and especially with Sparta (Hdt. 1.65-6, Pl. *Cri.* 52e5-6, Th. 1.18.1, 1.32.4, 8.64.5: see note on §180): but as Andrewes points out, it does not necessarily denote a particular constitution (1938 92-100). D., for example, is able to say that εὐνομία "preserves all cities and lands" (25.11). The "goodness" of laws is often interpreted as their stability over time (e.g., D. 24.139ff.: on this topic see Hansen 1991 175-7), which helps to explain the association of εὐνομία with Sparta.

But the principal meaning of the words lie not in their application to the laws but to the rule of law. From the time of Homer, they describe the proper conduct of individuals, that is, "law-abiding" persons. This is why Aeschin. emphasizes the virtues of σωφροσύνη and εὐκοσμία in his subsequent discussion: for many ancient authors these go hand-in-hand with εὐνομία (see notes on 6.6 and 8.4). Philosophical

discussions relate εὐνομία closely to personal conduct (e.g., Arist. *Pol.* 1280b5-8. Pl. *Lg.* 927b6, 934e1, 960d3), and it is often mentioned alongside σωφροσύνη or εὐκοσμία in poetry (e.g., Ar. *Av.* 1540. B. 13.186; see North 1966 14-5). More relevant to Aeschin.'s audience is Solon's elegy in praise of εὐνομία, which "shows all things well-ordered (εὐκοσμία)" and "makes insolence (ὑβριν) vanish" (F4 West 30-9). for the following section will treat Solon and his alleged ideas on εὐκοσμία at length.

To Aeschin. obedience depends partly on enforcement (τοὺς δὲ μὴ πειθόμενους κολάζειν §6.5; cf. X. *Oec.* 9.14). His emphasis on enforcement is clear when we compare §6.1-5 with D. 21.34.6-8, a passage whose thought and structure are remarkably similar. D. asks for the laws to be put to use (χρησθαι): Aeschin. demands punishment for the disobedient (κολάζειν). Rhetorically, enforcement is the key element in Aeschin.'s argument: failure to punish Timarchus threatens the integrity of the democracy (e.g., §§36, 118, 177, 192). For the idea that disobedience challenges the state, while enforcement preserves it, cf. 3.6, [And.] 4.19, D. 24.210-8, 26.1-6 and 25-7, Eur. *Supp.* 312-3, Isoc. 18.33, Th. 3.37.

6.6 σωφροσύνης] "Good conduct" is perhaps best in this context, but the word has a very wide semantic range. Barrett on *Hipp.* 79-81 succinctly states the problems involved in its translation: "σωφροσύνη (properly the condition of one whose φρένες are σῶ) has become in Attic control over one's natural desires and appetites: to the Greek a virtue, to us rather the absence of a vice, so that renderings like 'self-control' and 'temperance' are hopelessly flat: hence my inexact 'virtue,' which as the advantage of being used (as σωφροσύνη often is. . .) of superiority to sexual desires, of chastity." The sense "chastity" predominates in the speech, e.g., §§11, 139, 140, 141, 151, 156, 158, 159, 182, 189. In general see North 1966.

6.7 ὁ Σόλων] The figure of Solon looms large in the *prothesis*, where he serves as an exemplar of traditional morality. His laws and poetry (F4, 13, 27 West) inform Aeschin.'s argument, his reputation lends it authority, and his statue embodies it. For his career see AP 5-12 with Rhodes' commentary, Plut. *Sol.*, PA 12806 and I.M. Linforth *Solon the Athenian* (1919).

Attic orators frequently appeal to his authority and ascribe numerous laws to him, many of which are of demonstrably later date. Since he is often represented in the fourth century as the founder of the Athenian democracy (e.g., at 3.38), these appeals "emphasize that the institution in question is part of the ancestral constitution and . . . persuade the audience to respect or to revive the procedure in question" (Hansen 1996 81). See Hansen 1996, Thomas 1994 and Ruschenbusch 1966 for such citations of Solon.

Not only does Aeschin. attribute many of the laws which he cites to Solon (mostly by implication: see note on §8.3), he also interprets the lawmaker's intention in passing the law (§§6, 9, 11, 17, 24, 28-32, 33, 138-9, 183). This too is a *topos* in fourth-century oratory, and Aeschin.'s extensive use of it contributes to the didactic tone of the speech. But more significantly, his argument depends as much on the intent of the law as on the law itself, that is, that the lawmaker was concerned with morality and used the law to inculcate virtue in the Athenians. The *topos* is examined by Thomas (1994):

when Aeschin. . . expatiates on the wise intentions of the ancient lawgiver, he is effectively claiming the authority and proper legality of the written laws, but actually inserting the completely extra-legal authority of Solon's personality in his speculation about Solon's intentions (131).

On the one hand, she finds this type of argumentation "not straightforwardly and necessarily democratic" (124), and on the other, she believes that Solon is consistently conceived in a way which is contrary to the democratic ideals expressed in the Funeral Oration, closer in spirit to the Spartan tradition ("the scope of his (supposed) actions" shows "intense interference into citizens' lives" (125). Her argument is unconvincing. Athenians, certainly in the fourth century, were concerned with the morals of their public figures; we see this in the comedians' abuse of politicians as well as in the orators (e.g.,

the case of Theogenes [D] 59.79-84). Their concern was manifested in the form of legislation, not merely in the orators' interpretations of the laws. The Assembly passed laws designed to prevent men who engaged in certain kinds of acts from representing Athens, and some of the acts which could disqualify a candidate for the archonships, or prevent a *rhetor* from addressing the public, involve what we would call "private morality" (see notes on §§28-30 and Introduction IV). I think it would be wrong to characterize this concern, at any rate, as "intense interference into citizens' lives" (cf. Wallace 1994 127-55).

6.7 ὁ Δράκων] Draco was believed to be the first Athenian legislator to have his laws inscribed. His legislation dates to the archonship of Aristaechmos, probably the year 621/0 (*AP* 4.1; see Rhodes *ad loc.*, Stroud 1968 66-70 for the value of Σ 1, 6, 19 on this subject). It was repealed by Solon, all except for the laws on homicide: these, with some amendment, remained in force throughout the classical period (*Arist. Ath.* 7.1, *Plut. Sol.* 17.1). They are discussed by the orators (*D.* 20.158, 23.51, [D.] 47.71-2) and some survive in fragmentary form (*IG II³* 104). See in general Stroud 1968 and Gagarin *Drakon and Early Athenian Homicide Law* 1981.

Little is known about his other laws, including those *περὶ σωφροσύνης*. See Stroud 1968 75-82, who doubts that Draco wrote such legislation (81 n.65). Rarely are Solon and Draco cited together: when they are, it is in a reference to the laws on homicide (*And.* 1. 81-3, *Crat.* F274, *D.* 24.211, *X. Oec.* 14.4).

6.7 οἱ κατὰ τοὺς χρόνους ἐκείνους νομοθέται] "Quite who these 'other lawgivers' could possibly be is perhaps tactfully left undisclosed" (Thomas 1994 123). Yet Aeschin.'s "good old days" extend to the time of Pericles (§25), a period in which there were numerous "other lawgivers" (cf. §13 and Σ 1, 6, 18). The point is not their identity, but their anonymity: see note on 8.3.

7.1 πρώτον] Aeschin. claims that the laws *περὶ σωφροσύνης* were grouped according to three "ages of man." There is no compelling reason to doubt him: we simply do not know enough about the principles, if any, according to which laws were archived in Athens. The laws he cites in §§9-34 were enacted at different times (see following notes), but may very well have been collected later under a single rubric. In the Gortyn code laws are grouped according to types of offense. On the other hand there is an advantage to presenting the laws in this order: it makes his argument more easily understood, as he says (§8.7-8). Note that Aeschin. probably follows the same chronological pattern in the *diegesis*: see Introduction V.

7.3-5 τὸν παῖδα . . . τῶν μεираκιῶν . . . τῶν ἄλλων ἡλικιῶν] We find in Greek literature various divisions of the human life-span (e.g., Poll. 2.4. Sol. F27 West. X. *Smp.* 4.17), but a three-fold division is the most common (e.g., Pi. *N.* 3.73-4, Arist. *Rhet.* 1388b35). See Garland 1990 1-16 and T. Hudson-Williams *Early Greek Elegy* 1926 130-1. Likewise a great many words were used to denote the various ages (Ar. Byz. F79-81 Nauck). See Golden 1990 12-22, Roesch 1982 319-21, and Bryant 1907 74-9. We are concerned here only with παῖς and μεираκιον: for other words denoting age, see notes on νεανίσκος (10.5), συνέφηβος (49.7), ἐν ἡλικίᾳ (63.4), and τέκνων (182).

To what ages did παῖς and μεираκιον refer? In the hebdomadal system of Hippocrates, a παῖς was a boy of seven to fourteen and a μεираκιον was a young man from fourteen to twenty-one. His divisions were based on signs of physical maturity as well as years: παῖς until the development of the genitalia, μεираκιον until the growth of the beard (Ph. 1.105; see Eyben 1972). But Aeschin. uses the words in a legal sense, one not peculiar to him (cf. X. *Lac.* 3.1.1, *AP* 42.1). We may roughly compare the status of the παῖς to that of the minor in contemporary American law: he had to be represented by a κύριος in any transaction (§§13, 18, Is. 10.10; see *LA* i.73-4). His minority apparently

lasted until around the time of his eighteenth birthday, when he was scrutinized by his deme and enrolled in its register (*LA* i.99: see note on §18.5). At this time he came into the possession of certain rights, for example, the rights to inherit and to prosecute (e.g., 2.99). He was then no longer called παῖς; he was now a μειράκιον (cf. §18.39 and Σ 1.7.21).

What were αἱ ἄλλαι ἡλικίαι? The μειράκιον did not possess full citizen rights. For example, he was probably unable to attend the Assembly until the age of twenty (see on 49.7), he could not serve as a judge until he was over thirty (*AP* 63.3), and he had to be over forty to hold certain liturgies (see on 11.3). And so Aeschin. gathers all the various age-requirements under one heading. For a brief survey of these requirements see Hansen 1991 88-90.

7.7 ῥητόρων] There is no simple English translation for the word ῥήτωρ: neither "public speaker" nor "politician" fully conveys its nuances. Unlike the modern politician, the ῥήτωρ was a volunteer, not an elected official. See Hansen 1989 1-23, who distinguishes two essential meanings, one legal, the other political. A ῥήτωρ in the legal sense (e.g., §§28.34, 186) is any citizen who addresses the Assembly, the Council, the law courts, or any other governmental institution. In the political sense, a ῥήτωρ is a citizen who is extremely active in political affairs and frequently addresses the various governing bodies: he is contrasted (as in our passage) with the ιδιώτης, who only occasionally exercises his right to address the people.

8.3 ὁ νομοθέτης] At 6.7 Aeschin. attributed these laws to Solon, Draco and the others: now he speaks of a single "lawmaker." Given the orators' tendency to attribute various Attic laws to Solon (see note on §6.7), Aeschin. clearly intends the audience to identify this νομοθέτης with Solon. But the identity of ὁ νομοθέτης becomes less clear as the speech continues. He is not identified as Solon again until §183, and the verbs in this

section which describe his actions or intentions mostly have no subject (e.g., §§13, 14, 22, 23, 31, 32). Thus it is easier for Aeschin. to interpret the intentions of "the lawmaker" in accordance with his own ends, and to construct the ideal figure against whom he compares Timarchus: see further Introduction V and the notes below.

8.4 εὐκοσμία] The word appears more often in this speech than anywhere else in Greek literature (§§8, 22*bis.* 34, 183, 192). In their earliest uses, εὐκοσμία and related words (εὐκοσμέω, εὐκόσμητος, εὐκόσμως, εὐκόσμος) signify the "good order," the proper or tidy arrangement, of objects (*Od.* 21.123, *Hes. Op.* 628) or persons (*A. Pers.* 481, cf. *E. Ba.* 693, *Th.* 6.42). Aeschin. uses them in a similar sense to denote the proper order of events on a formal occasion, like the opening of the Assembly or the reception of ambassadors (§22, 2.108 κόσμος: cf. 3.1-5, *AP* 44.3). As aesthetic terms, they describe the harmonious embellishment, arrangement or performance of a poem (*Thgn.* 1.242) or artifact (*h. Merc.* 384: see W.J. Verdenius *Mnemosyne* 36 (1983) 16-20).

But in the orators, κοσμ- is used frequently, and εὐκοσμ- almost exclusively, of conduct. Dover defines εὐκοσμία in this sense as "obedience to prescribed order and discipline" (*GPM* 68). The words have three related connotations: obedience to law or custom, decorum, and chastity. A speaker may seek the judges' approval by claiming to have lived his life κοσμίως, "in obedience to the ways of the city," (e.g. *Is.* 4.27, 10.25, *Isoc.* 2.18, *Lys.* 7.41, 12.20, cf. 1.27). But the words most often describe "proper deportment," sometimes of public speakers (§§25-34, 169, *D.* 25.10) but especially of youth: silence in public, a neat appearance, respect for one's elders (e.g. §24, *Ar. Nu.* 961-1023, [*D.*] *Proem.* 4.1, *Isoc.* 18.48-9, *Pl. R.* 425b1-5, *Chrm.* 159b, *Lg.* 700c5-7, *S. El.* 872, *X. Cyr.* 8.1.33; cf. the Spartan legislation reported in *X. Lac.* 3.4.1-2 and the note on §10.10). Kerschensteiner notes that these derivatives of κόσμος signify "Ausfluß einer inneren geistigen Haltung. . . das, was äußerlich 'ziert'" (*Kosmos* 1962 19). Εὐκοσμία is then primarily a physical phenomenon, recognized by how one behaves in

public, and so the detailed picture of Timarchus' performance on the *bema* is offered to prove his lack of it (§§25-7, 33: cf. 59. 189 and Zanker 1995 48-49). According to Kerschensteiner the "inner state" which proper conduct manifests is σωφροσύνη (18-19), a word often linked with κόσμος and its derivatives (Is. F13.4, Isoc. 7.15, Lys. 3.4. 19.16. 21.19, Pl. *Prot.* 325d-326a, Th. 1.84: the officers of the Attic *ephebeia* were called the κοσμητής and the σωφρονιστής). In our passage σωφροσύνη and εὐκοσμία are virtually synonymous (cf. §22, Isoc. 13.31, Lys. 14.41). Finally, both words may connote "chastity" (cf. Lys. 3.6. [D.] 59.51). As is clear from the following chapters, this sense predominates in the speech: Aeschin. is attempting to establish the lawmaker's concern for protecting the chastity of youth (see Introduction V). In general see Cartledge et al. 1998 3-4 with bibliography at n. 2, to which add H. Ryffel *Museum Helveticum* 3.4 (1946) 23-38.

As Rhodes notes, "'orderliness' is a virtue more associated with Sparta" (1981 504), but it was also a concern in Athens (e.g., Sol. F4 West 30-9, Isoc. 21.115). It was the subject of legislation (in the agora Arist. *Pol.* 1299b16, Thphr. F98: the conduct of women Hyp. F14 and see note on §183.2), and Isoc. tells us that the Areopagus was formerly charged with overseeing εὐκοσμία (18.37-46: cf. *AP* 3.6 and note on §81.5). Plato's Protagoras says that εὐκοσμία was the principal aim of early education (*Prot.* 325e1: see Beck 1964 100-4). We have a number of inscriptions which praise individuals for ensuring εὐκοσμία in battle, in processions, or among the ephebes: see Ph. Gauthier *Chiron* 15 (1985) 138 n. 3. Finally, in the orators, the maintenance of order is seen as essential to the stability of the community (§22, D. 25.27, Isoc. 18.70), so that the alleged ἀκοσμία of a defendant can be presented as a threat to the community itself: cf. D. 25.19. 24 (πᾶς ὁ τῆς πόλεως καὶ τῶν νόμων κόσμος. . . συνταράττεται καὶ διαφθείρεται) and the note on §5.9.

8.10 ἀντεξετάσαι] Throughout the speech Aeschin. will measure Timarchus against various exemplars and find him wanting. This is a *topos* ("how unlike") in the orators (e.g., D. 22.25, 24.103, 106, 113 133-7 and note on §25.2-3). It will be important to the structure of this speech: see Introduction V.

9-12 The first set of laws περὶ παιδῶν are concerned with the early education of young men of the Athenian upper classes. Most regulate schools and palaestrae, but Aeschin. also cites laws on dithyrambic choruses and *choregoi*. Therefore we are dealing with a synthesis of various laws subsumed under a single heading (cf. Ford 1998, Taylor *ad loc.*). They are virtually the only evidence we have for such legislation in the classical period: the gymnasiarchical law from Veroia (*SEG* 27.261), dating from the second century B.C.E., contains provisions similar to our passage. See notes on §§10.5, 10.7 and 10.8.

Aeschin. implies that the laws were written by Solon but the attribution is generally rejected (e.g., by Nilsson 1955 9, Ruschenbusch 1966 110, W. Harris 1989 57-8), principally on the grounds that it is not an explicit attribution. Kyle notes also that "wrestling schools run by *paidotribes* are not otherwise reliably attested for Solonian Athens" (1984 101-2, citing Humphreys *JHS* 94 (1974) 90-1 with n. 8, where "Aeschines I.2" is a misprint for "I.12"). Furthermore, the law on *choregoi* is most likely a fourth-century innovation: see the note on §11.3. Nilsson suggests that the laws date from the revision of the law-code in 401, although this cannot be confirmed. By attributing the laws to Solon, "Aeschin. becomes the mouthpiece of tradition, prescribing the proper education for Athenian citizens at a time of curricular debate and uncertainty" (Ford 1998 8).

Aeschin. claims that these laws were intended to protect boys from abuse by older men--teachers, *neaniskoi*, and *choregoi* (§10.4-5; cf. e.g. *LCA* 125 "the organization of boys' schools and boys' choruses at festivals was controlled by legislation to discourage

homosexual affairs"). This may be part of the intention behind the law which forbids relations between slaves and free boys (§139); but it is likely that the laws §§9-12 were concerned with εὐκοσμία in the broader sense, i.e., the discipline and orderliness of children in public, of which chastity and modesty would be a part. See in general Golden 1990 62-7.

9.1 τοῖς διδασκάλοις] In Athens elementary schooling consisted of instruction in three areas, each under the direction of a different master (Pl. *Prot.* 325d7-326c6). The κιθαριστής taught music and lyric poetry (Ar. *Eq.* 987-996. *Tht.* 206a10-b1; see also on §41.4). The παιδοτρίβης was in charge of physical education. The γραμματιστής taught reading, writing and arithmetic, as well as narrative poetry (Pl. *Chrm.* 159c3-8. *Euthd.* 279e2-4. *Prot.* 325e2-326a4, 326d2-5). The word διδάσκαλος may be applied to any of the three ([X.] *Lac.* 2.1.6. X. *Mem.* 1.2.27) but usually refers to the γραμματιστής (e.g., §10.1-2, Ar. *Eq.* 1235-9, Pl. *Prot.* 325e). We do not know whether the authority they held over their pupils was based on custom or law (§§18, 187, Pl. *Prot.* 325d6-7). In general see Beck 1964 80-5, 111-41 and Marrou 1956 36-46.

D. reviles Aeschin. for being the son of a schoolmaster (D. 18.129-30, 265, 19.249, 281; Harris 1995 26). The διδάσκαλος was maligned for his profession throughout antiquity, a prejudice with distinct class overtones. See A. D. Booth *Florilegium* 3 (1981) 1-20, W. Harris 1989 98 and the note on §27.4. However according to Aeschin. the lawmaker suspects teachers not because of their social status but because of their privileged access to young men. We do not know if the lawmaker in fact intended to prevent sexual relations between teacher and pupil with these laws. Aeschin. does not cite a law which specifically prohibits this. Moreover he says the unchaste teacher suffers because he loses pupils, not because he is subject to prosecution (II. 3-4; cf. Isoc. 19.162).

9.2 ἐξ ἀνάγκης] It has been inferred from this passage that "Solon in the early sixth century required everyone by law to teach his sons letters" (e.g., C. Dewald *Civilization of the Ancient Mediterranean* (1988) 1080). But as W. Harris notes, ἐξ ἀνάγκης here means that "we--men of Aeschin.'s kind who want our sons to be educated--*have* to entrust them because there is no alternative" (1989 99 n. 152). Our sources clearly indicate that in the time of Aeschin., elementary schooling was not compulsory at Athens (e.g., Pl. *Lg.* 804c8-d6, Arist. *Pol.* 1337a22-6). Rather it was traditional for upper-class parents to educate their children and the force of this tradition continued to operate in the classical period: see Schmitter 1975. The existence of these laws does demonstrate a public interest in education, albeit limited (Pélékidis 1962 31).

Schools were private enterprises: parents who wished to educate their children contracted with the master on an individual basis and paid him a fee for his services (D. 27.46, Thphr. *Char.* 30.14, X. *Mem.* 2.2.6). The kind of schooling which Aeschin. discusses was therefore the prerogative of those who could afford it, "males of the hoplite class and above" (W. Harris 1989 101-6, Marrou 1956 43-4). Likewise rhetorical training, although it was even more expensive (E. Harris 1995 28 with n. 30).

9.5 ἦν ὥραν] Kyle 1984 101 suggests that the law may have codified a customary practice of operating the school from dawn to dusk: he compares Th. 7.29.

9.7 μετὰ πόσων] For the classical period we hear only twice about the number of children attending a school, both in the early fifth century and neither at Athens. At Astypalaea sixty children were killed when the boxer Cleomedes brought the building down (Paus. 6.9.6), and one hundred nineteen died at Chios when an earthquake caused the roof to collapse (Hdt. 6.27).

10.2 παλαίστρας] The palaestra was a wrestling school, a place where boys developed their bodies (§132. 3.246: cf. note on §138). The gymnasium on the other hand was frequented by older men (§§135, 189. 2.149. 3.216). It was originally an open space in which young men trained as soldiers, although by the fourth century they became educational centers as well. See further *OCD*³ s.v. "gymnasium" and "palaestra".

10.5 νεανίσκους] *Νεανίσκος* is often synonymous with *μειράκιον*, as at §171 (for references see Golden 1990 187 n. 79 and Bryant 1907 75 n.2). But it also describes a far broader range of ages: for example. Aeschin. uses it of Alexander at the age of twenty (3.161). See Golden 1990 15 and Roesch 1982 323-39, who concludes that while it has "un sens très général de 'jeune homme,'" it may be used specifically to designate those who have not yet reached majority, those between the ages of eighteen and twenty (*ἔφεβος*), and young adults (338-9). To what age then does Aeschin. and the law he cites refer? For Roesch (325), *νεανίσκος* and *μειράκιον* are synonymous here. But this provision, like a similar one in the law of Veroia (*SEG* 27.261.13-4), was probably intended to regulate contact between age groups in the *gymnasia*, *palaestrae* and schools, so *νεανίσκος* here is used of those over eighteen (cf. Gauthier and Hatzopoulos 1993 77). But since the dialogues of Plato show men of all ages congregating at the *gymnasia* and *palaestrae* the specifics of this regulation and their enforcement are unclear. For references to *eromenoi* and *erastes* meeting in the *gymnasia* and *palaestrae*, see Golden (1984) 317 n.44 and in schools cf. *Ar. Nub.* 973-4.

10.6 ούστινας δεῖ εἶναι] The law of Veroia (*SEG* 27.261 27-9) lists persons who were not allowed to use the gymnasium (*ἐγδύεσθαι* or *ἀλείφεσθαι*, cf. §138): slaves, freedmen and their sons, *ἀπαλαίστροι* (probably "physically incapacitated:" see Gauthier and Hatzopoulos 1993 81-4), male prostitutes (*ἡταιρευκῶς*), men who practiced a trade in the agora, and men who were drunk or demented. It is unclear

whether the Athenian law applied to the gymnasium and palaestra, to the school, or to all three, nor do we know if its exclusions were similar to those of the Macedonian law, although Aeschin. later cites a (different?) law which forbids the use of palaestrae to slaves (see note on §138.4).

10.7 ἀρχήν] Neither the *AP* nor any other source mentions such an office. Aeschin.'s summary leaves us unsure as to the exact nature of its duties, and we cannot say whether this law added them to an existing ἀρχή or created a new one (cf. Humphreys *JHS* 94 1974 91 n.8). Several possibilities have been suggested, none satisfactory. The scholiast identifies it as the παιδονόμοι (Σ 1. 10. 26a), but this must be an anachronism, since Arist. implies that it did not exist in Athens at the time (*Pol.* 1300a4-8: cf. 1323a3-6 and see Nilsson 1955 57-9). Nor did the στρατηγός oversee education, as Dittenberger noted (*SIG* 956: cf. Marrou 1956 382). The γυμνασιάρχης was not at this time an official: he was a liturgist, elected by his tribe to provide for the torch races at various athletic festivals (*And.* 1.132, *D.* 20.21, *Isoc.* 4.35, *X. Oec.* 2.6: cf. *D.* 35.48). There was probably a gymnasiarch for the Hermaia (§12), as for all festivals celebrated with torch-races, and it is not unreasonable to assume that he was responsible for εὐκοσμία during the celebration (see note on §8.4). The meaning "director of a gymnasium" for γυμνασιάρχης is not to my knowledge attested for the classical period in Athens. This is however its meaning in the gymnasiarchal law of Veroia and is the most common usage in Hellenistic and Roman times (see following note and cf. *OCD*³ s.v. "gymnasiarch").

10.8 παιδαγωγῶν] The παιδαγωγός was the slave who accompanied a child outside the home, most often to and from the school and palaestra (*Pl. Lys.* 208c, 223a), but also to the theater (*Thphr. Char.* 9.5) or law-court (*Plut. Dem.* 5.2). In Athens he attended the child until around the time of his majority (*X. Lac.* 3.1.1). He was

responsible for the child's εὐκοσμία in public (Plut. *Mor.* 439f-440a. [Luc.] *Am.* 44). He had authority over the child, including the right to punish him (Arist. *EN* 1119a). Since the παιδαγωγός was away from the house all day and unavailable for other work, it follows that he was typically an old man (e.g., [Pl.] *Alc.* I 122b and the παιδαγωγοί of tragedy), and that he was a luxury afforded by wealthier households (cf. Lys. 32.28. Pl. *R.* 373c).

We do not know of any laws from this period which concern the παιδαγωγός. Pl. *Lg.* 808e discusses the punishment of a παιδαγωγός or teacher who does not properly supervise his charges, and the law from Veroia allows the gymnasiarch to discipline παιδαγωγοί (21-23; see Gauthier and Hatzopoulos 1993 74-5). The existence of legislation is plausible, however, given his curious position in the household--an intimate outsider, a slave with authority--and his role in guarding the boy's chastity, which according to our sources was a significant part of his function (§187. Pl. *Smp.* 183c; cf. Golden 1984 and note on §10.10). For the παιδαγωγός as "chaperone" see Carey on Lys. 32.16. Cohen 1991a 181-2, Hindley and Cohen 1991 179 and 187-8. On the παιδαγωγός in general see Schuppe *RE* 18 2375-85; Beck 1964 105-9 and Marrou 1956 143-4 tend to idealize.

10.8 Μουσείων. . . Ἐρμαίων] The scholiast believed that this referred to "statues, and likewise shrines, in the inner room of the schoolrooms and palaestrae" where water was kept for the pupils. The shrines were the subject of legislation, he says, because the boys would pretend to be thirsty and go into the inner rooms to have sex with each other (l. 10. 27). His prurient fantasy accords with Aeschin.'s general interpretation of the laws, and has been accepted by e.g. Nilsson 1955 9 and is cited without comment by Percy 1996 179. The schools and palaestrae did house statues of the Muses and of Hermes (e.g., Ath. 8.41.5). However the laws mentioned here regulated the observance of their festivals (Deubner 1966 217).

The Mouseia, a festival of the Muses celebrated in the schools, is also attested at Thphr. *Char.* 22.6: cf. Poll. 1.37. The schoolroom, where μουσική was taught, is naturally the province of the Muses (e.g., Herod. 3). On the association of the Muses and schools, see *RE Müller-Graupa* 16.1 797-9.

The Hermaia was a pan-Hellenic festival of Hermes as god of athletes, gymnasia and palaestrae, celebrated by boys and youths (Pl. *Lys.* 206d with Σ. Σ 1. 10. 28). For laws governing the Hermaia, cf. the provisions in the law of Veroia (*SEG* 27.261.45ff.), and for the Hermaia in general see Gauthier and Hatzopoulos 1993 95-99, H. Siska *De Mercurio ceterisque deis ad artem gymnasticam pertinentibus* 1933 and *D.-S.* 3.1 134-5.

10.10 συμφοιτήσεως] φοιτάω is the *vox propria* for "going to school" (*LSJ* I.5). The prefix indicates accompaniment by other boys: cf. Pl. *Euthd.* 272c2, Ar. *Eq.* 988. This provision probably had to do with their εὐκοσμία in public (cf. Σ 1. 10. 25), which would include not only their orderly passage through the streets but also their encounters with potential ἐρασταί (cf. Ar. *Av.* 137-42 and note above on παιδαγωγοί).

10.11 τῶν χορῶν τῶν κυκλίων] The dithyrambic choruses: for the term cf. 3.232. Ar. *Nub.* 333, *Ran.* 366, *Lys.* 21.2 and X. *Oec.* 8.20. It derives from the circular arrangement of the choristers, who performed the dithyramb, a song for Dionysus, to the accompaniment of a flute. At Athens, competitions of dithyrambic choruses were held during the City Dionysia, the Thargelia, the Lesser Panathenaea, the Hephaestia and the Prometheia. Production expenses were met by a *choregos*, for which see notes on §§11.1, 101.2.

At the City Dionysia, each tribe entered one chorus of fifty men and one of fifty boys. It was formerly believed, on the basis of Σ 1, 10, 29, that five tribes entered choruses of men and five entered choruses of boys (e.g. Wyse on Is. 5.36). This view has been rejected on the basis of epigraphic evidence (e.g., *IG* II² 2318.320-4: see Lewis

ABSA (1955) 23-4). The tribes were in competition, not the poets as in tragic and comic contests. See Pickard-Cambridge 1966 1-59 and B. Zimmerman *Dithyrambos* 1992.

MacDowell 1989 examines the evidence for Athenian laws regulating choruses, most of which pertains to the dithyrambic chorus (e.g., Antiphon 6 and D. 21). This includes rules for the eligibility of *choregoi* and choristers and the selection of choristers, but nothing on εὐκοσμία. In the following sentence (§11.1), γάρ suggests that the law on the minimum age of the *choregos* is in fact the law on εὐκοσμία in the dithyrambic choruses.

11.1 τὸν χορηγὸν] The *choregos* was a wealthy individual who paid the costs of equipping and training a chorus for the festival performance of dithyramb, tragedy and comedy. The dithyrambic *choregos* was nominated by his tribe through a procedure which remains obscure. Tribal officials known as ἐπιμελεταί were apparently involved: a man might also volunteer. Once nominated, he was presented to the archon, under whose supervision he drew lots for a flute-player. The archon also considered pleas for exemption (σκήψεις), for example, if the nominee believed another man wealthier than he was eligible or if he had performed a similar duty in the previous year. The choice of choristers and chorus-trainer (χοροδιδάσκαλος; see §98.6) seems to have rested with the *choregos*, although the chorus-trainer may have had some say in this. The victorious *choregos* dedicated a tripod on behalf of his tribe.

The Athenians imposed such burdens, known as *liturgies*, on their wealthiest citizens: see note on §97.2. Although the costs could be enormous, liturgies were considered a public service (e.g., ll. 2-3), and a *choregos* could acquire great prestige from success (Plut. *Alc.* 16.4). On the dithyrambic *choregos* see Arist. *Pol.* 1284b11, *AP* 56.3 with Rhodes' notes, Antiphon 6.11-13, D. 21.13-19 with MacDowell's notes, Lys. 21.1-4, MacDowell 1989, Pickard-Cambridge 1968 75-8 and 86-93, and the note on §54.6.

11.3 ὑπὲρ τετταράκοντα ἔτη γεγυότα] The law is also attested in *AP* 56.3: cf. *Pl. Lg.* 764e6. It dates from the fourth century, since it is likely that both Alcibiades and the speaker of *Lys.* 21 (delivered 406/5) were younger than forty at the time of their *choregiai* (*Lys.*21.1-5. *Plut. Alc.* 16.5. [And.] 4.20-1); see also Lewis *ABSA* (1955) 24. *Pickard-Cambridge* 1968 75 n. 4. On the age of D. when he served as *choregos* see *MacDowell* on *D.* 21.154 and *Harris* 1989 121.

12.1 Νόμοι] On the nature of the documents see Introduction VI. Several considerations lead to the conclusion that this document is not authentic (cf. *LA* 1.37): the third person plural imperative ending -ωσαν (ἀνοιγέτωσαν (l. 1). κλειέτωσαν (l. 2). ἐάτωσαν (l. 7), and ἔστωσαν (l. 11), and the failure to mention most of the regulations previously cited by Aeschin. (*Drerup* 1897 305, *Martin and de Budé* 24). Furthermore one clause is contradicted by external evidence: we know from *AP* 56.3 that *choregoi* were chosen by their tribe, not by the Assembly (cf. *Drerup* 1897 306), and Plato shows men of various ages associating in the gymnasium during a celebration of the *Hermaia* (*Lys.* 206d).

The document then is a compilation made by a later reader based on information given by Aeschin. in §§9-11. Two clauses (ll. 4-10) do not derive from Aeschin. or any other extant source. We do not know if these clauses are taken from actual laws, but this seems unlikely, as the provisions they make are extremely unusual. One states that the son, brother and son-in-law of the teacher are the only adults allowed to enter the school while the pupils are present: any other adult who enters may be prosecuted and put to death (ll. 5-6). But could the law have prevented a pupil's father from entering, and would it have prescribed such a severe punishment for the offender (*Drerup* 1897 306)?

13 The second set of laws *περὶ παίδων* treat sexual offenses. Note that the law on procurement and the law on *hybris* are laws *περὶ παίδων* only in Aeschin.'s interpretation, as neither is concerned exclusively with boys.

Dover notes that the law on procurement and the law on the prostitution of a minor are irrelevant to the case of Timarchus. He believes that they are cited by Aeschin. in order to mislead the judges: "mention of the fact that procurement could incur the death penalty serves rhetorically to establish an association of prostitution with punishment" (*GH* 28). See also the note on §72.3. However they pertain closely to Aeschin.'s strategy in this opening section, where he attempts to establish the lawmaker's concern for preserving the chastity of youth, which thereby preserves the integrity of the citizen body. It is this general concern which Timarchus is said to have flaunted, not the specific laws given here.

13.4 ὁ νόμος] If an Athenian minor was prostituted by his κύριος, a γραφή might be lodged against the κύριος and the man who hired the minor. The minor was not prosecuted: he was however subject to automatic ἀτιμία (§14.2-4). In addition he was not obliged to support the parent who hired him out. This implies that the parent was not executed for the offense, even though Aeschin. later states that the penalty was death (§87, *contra LCA* 126; cf. *GH* 28-9). Modern commentators take §§13-4 as provisions of the γραφή ἐταιρήσεως (e.g., *GH* 27, *LA* i.37-8, *LCA* 126). For the obligation to maintain one's parents cf. X. *Mem.* 2.2.13, Lys. 13.45, 31.20-23 and see further note on §28.3.

13.11 τὰ νομιζόμενα] The phrase "sometimes refer to the laying-out of the body and the funeral, and at other times to the cult of the tomb" (Garland 1985 104). Here the latter is meant. The relatives of the dead were expected to visit the tomb on the third, ninth and thirtieth days after death, as well as on annual festivals. At those times the

funerary monument might be decorated with ribbons and flowers or anointed with oil. Most important was the tomb feast, at which food and drink were offered to the dead (σπένδειν, ἀπάρχεσθαι Σ 1. 13. 35). See Rubinstein 1993 68-76, Garland 1985 104-120 and S.C. Humphreys *The family, women and death* (1983) 79-130.

14.8 προαγωγείας] Both Aeschin. and Plutarch state that Solon was the author of the προαγωγείας γραφή (§184: *Sol.* 23.1 = Ruschenbusch F30a). It was directed against a man or woman who was remunerated for abetting the seduction of a free-born person, so "procurement" is an inexact translation. In the fourth century it carried the death penalty: according to Plutarch the law of Solon carried a fine of twenty drachmae. Syrianus, a late commentator on Hermogenes, states that the penalty was ἀτιμία (4, 779 W.). "It is not known when or why the Athenians thought it necessary to change the penalty so drastically" (*LCA* 125).

There are no certain prosecutions. Pheidias and Aspasia were said to have procured women for Pericles (Plut. *Per.* 13.15. 32.1): Aspasia apparently was tried but it is not clear if the charge was προαγωγείας (Stadter 1989 297). D. claims that Phrynon could be prosecuted, presumably under this charge, for sending his son to Philip (19.230. 233: cf. *Soptr.* 5. 75 W. and *Suda* φ 769): Syrianus says that D. did in fact indict him (4. 238 W.). A similar accusation seems to have been made against Demades, but there is no mention of prosecution (*Tz.* 3. 677 W. and *Plan. schol.* 5, 377 W.). Finally, a speech against Patrocles for procuring is attributed to Hyperides (F138-45). The procurer is a ubiquitous figure in Attic literature, the best-known example being the Nurse in *Hipp.* See also *Hyp. Ath.* 2, *Lys.* 1, *Ar. Ran.* 1079, *Thesm.* 339f. and *Eccl.* 610. On the προαγωγείας γραφή see *AR* 1.410-1, Glotz *D.-S.* iv 658 and *LA* i 37.

15.1 ὕβρεως] I have merely transliterated the word ὕβρις. "Hybris" has become part of the English lexicon, but I do not intend that it be taken in the English sense "presumption.

especially against the gods" (*OED*), which reflects only one of its Greek denotations. It was a central term in the ancient Greek ethical vocabulary. Its meanings have been extensively discussed in several recent works, the most useful being those of MacDowell (1976, 1990), Fisher (1992) and Cairns (1996). Fisher derives his definition from Arist. (*Rh.* 1374a11-15, 1378b23-55): "the committing of acts of intentional insult, of acts which deliberately inflict shame and dishonour on others" (1992 147). He then surveys Greek literature at length to apply this definition to the myriad occurrences of the word. MacDowell stresses its dispositional aspect: he defines it as "having energy or power and misusing it self-indulgently" (1990 19). He notes that in many cases ὕβρις does not involve a victim, and moreover that "the notion of self-indulgence and indiscipline within the offender himself is frequently as prominent as, or more prominent than, the notion of dishonour suffered by a victim" (1990 21). Cairns helps to bridge the gap between the two: he supports MacDowell's definition, but rightly emphasizes the effect of self-indulgent behavior in a society whose values were based on honor and shame: "Self-aggrandisement constitutes an incursion into the sphere of others' honour, because the concept of honour is necessarily comparative" (1996 32; cf. Harris 1992 74).

Thus orators continually characterize their opponents as ὕβρισταί: their reckless self-indulgence is construed not merely as a personal affront but as a disruption of the community. Perhaps none are more vehement in their attack than Aeschin. in this speech. Timarchus' drinking, gambling, ostentatious behavior, and particularly his sexual excesses demean himself, insult others, and signify the greater danger that he represents to Athens. Aeschin. accomplishes this partly by describing Timarchus and his deeds with ὕβρις and related words (ἀσέλγεια §§95, 107, 195; ἀκόλαστος §§42, 194). Note that he portrays himself in the opposite manner: he is the man of measure (μετρίότης) and self-restraint (σωφροσύνη). See also *GH* 35-6.

Attic law contained provisions to punish ὕβρις. There is a comprehensive review of previous scholarship on the law in Fisher (1992 36ff.). The procedure was a γραφή.

The judges decided upon the penalty, which might include execution (cf. Σ 1, 15, 38). If they imposed a fine, this was payable to the public treasury and not to the prosecutor or victim as in other γραφαί. The fact that it was a γραφή, and thus to some extent considered an offense to the community, supports the description of ὕβρις above (cf. *SAL* 170-1). The clearest descriptions of the law are found here and D. 21.44-50. It seems to cover a very wide range of offenses, like assault, rape, and seduction. Since most of these were punishable under separate procedures, the problem facing modern scholars has been to distinguish ὕβρις from other offenses. This cause is made more difficult by the fact that Athenian laws do not define their offenses. Furthermore we have no speeches which were written specifically for the γραφή ὕβρεως; for a review of alleged cases see Osborne 1985 56 and esp. Fisher 1992 38-53. There is a consensus, however, that ὕβρις was distinguished from other offenses on the basis of intent:

The difference between *hybris* and the other offences lies in the offender's state of mind and intention. Exactly what state of mind is implied by *hybris* is itself disputed. . . but the point here is that, in my view, a prosecutor for *hybris* would need . . . to provide evidence of the offender's state of mind and intention. This explains why the law of *hybris* existed concurrently with the other laws about personal violence, without being redundant (MacDowell 1990 264).

Since Timarchus is not being prosecuted under this law, we must consider why it is introduced. Dover emphasizes its rhetorical function in his analysis of §15: both the citation of the law and the characterization of Timarchus as ὕβριστής are meant to create in the judges "an attitude of mind helpful to the prosecution" (*GH* 36). According to Aeschin., ὕβρις is the most undemocratic of offenses (§17.7-9), and in other authors it is in fact the mark of the tyrant (e.g. *S. OT* 872, the most famous of numerous instances). This explains why Aeschin. draws Timarchus in the colors of the tyrant (cf. note on §§4.4, 42.5, 65.2, 107.4); he attempts to show that Timarchus, in both his person and his actions, is a threat to the democracy. Secondly, ὕβρις is often associated with sexual violence (see Cohen 1995 144-51 and 1991 176-80), and this too is the mark of the tyrant (e.g., *Hdt.* 3.80). Finally Aeschin. claims that Timarchus commits ὕβρις against himself

(§§29, 108, 116, 185, 188: see Fisher 1993 109-10): a man who subjects himself to the worst offense will not hesitate to commit others. The word is thus particularly effective for Aeschin.'s characterization of Timarchus.

16 The law inserted here is a forgery (Drerup 1898 297-300). Aeschin. states in §15 that the law deals with *hybris* against all persons slave or free, but the document purporting to be the law mentions only *hybris* against a free child and against slaves. In addition, Harris notes the form of the third person plural imperative ἔστωσαν in line 7 (1992 77).

Lines 3-5 of §15 correspond closely to the first three lines of another "law of *hybris*" in D. 21.47. Partly for this reason, MacDowell accepts the Demosthenic law as genuine (1990 263-5: so *LA* ii. 13 n.2 and Fisher 1992 36 n. 1), but it too is considered a forgery by Drerup (1898 297-300) and Harris (1992 77-8).

17.1 δούλων] Cf. §62 on the treatment of Pittalacus. Slaves were legally protected against ὕβρις, a provision also attested in D. 21.46, 48-50. Both D. and Aeschin. offer a similar rationale: "the object. . . was not so much to protect the victims as to check and deter the offenders" (MacDowell 1990 262). Perhaps it was meant specifically to deter cruel masters, although neither D. nor Aeschin. raise this possibility. It is also possible that injury to the slave was felt to dishonor his *kurios* (Fisher 1993 59-60. *SAL* 185).

The master held rights of ownership over the slave. Therefore it is surprising that the slave, a thing without honor, would be protected from intentional dishonor. But the very nature of slavery--"human property"--created a tension in their legal identity, and at times we find in the law a recognition of their humanity (*SAL* 185). As a result "brutal and degrading physical maltreatment, or non-judicial torture, could seem to be a denial of the slave's status and honor as human beings" (Fisher 1993 59; cf. G.R. Morrow *Plato's Law of Slavery*: 1939 40-1). The degree of violence necessary to constitute ὕβρις would likely be far greater for a slave than for a free man (Fisher 1993 40), and a third party

might hesitate to intervene for the sake of a slave. So D.'s statement that many were prosecuted for ὕβρις against a slave (21.49) is unlikely to be true. See further Fisher 1993 58-60 and MacDowell 1990 262-3.

18 Aeschin. cites only one law περὶ μειρακίων. But it is addressed to "any Athenian": why does Aeschin. refer it specifically to men in late adolescence? We may likewise wonder why Aeschin. devotes considerable time to this period of Timarchus' life in the *diegesis* (§§40-68). It was precisely this period in which a young Athenian was being assimilated into civic life: in schematic terms he moved from subordinate to dominant status within the social structure. It was likewise a time of change in terms of sexual roles: as he became older he was expected to assume the active role in sexual relations with younger boys. It was therefore a critical period in the man's life:

If a boy had the wrong partner or partners, his social standing might be threatened or at least not advanced: if he continued to play the passive role as he grew older, he called into question both the Athenian conception of conduct appropriate to an adult male citizen (remaining too 'womanish' or too 'slavish') and his own capacity to live up to it (Golden 1990 60).

On this transition of status see Golden 1984. Finally, as Aeschines notes, it was the time after which the youth was expected to "know the law," i.e., be responsible for his own *eukosmia*. Thus Aeschines insists that Timarchus brought these proceedings on himself (§§3. 39. 48).

18.2 συνδιαμνημονεύσατε] An extremely rare word, found only here and in D. 19.4 before the fourth century C.E., and once thereafter. The compound διαμνημονεύω appears more often in the speeches of Aeschin. than in the works of any author except Plutarch (§192, 2.11. 3.7, 8, 203).

18.5 καὶ ὄλως τοῖς κυρίοις] καί appearing before the final item of a series in asyndeton emphasizes that item(*GP* 290).

18.5 τὸ ληξιαρφικὸν γραμματεῖον] The "deme register" was kept in each deme by the *demarchos*, and in it Athenian men were registered as citizens. On the etymology of ληξιαρφικὸν see Whitehead 1986 35 n. 130, who supports the derivation from λῆξις ("connected with the legal capacity to inherit": cf. §103. Σ 1, 18, 39a-b. Harp. s.v. λ. γ.).

The procedure through which young men were enrolled as citizens is described in *AP*. 42.1-2: see also *D*. 57. Female citizens were not enrolled. An annual ceremony was held probably in the month of Boedromion to examine and register men who had reached the age of eighteen in the previous year. Since there was no birth registry in Athens the examiners must have depended primarily on signs of physical maturity (cf. *Ar. Vesp.* 578). The first part of the process took place in the demes, where the demesmen voted on the qualifications of each candidate: these were primarily proper age and parentage. The names of those who passed were entered into the register. They next underwent scrutiny as a group before the Council, where the question again concerned their age. Certain aspects of this reconstruction are controversial, notably the age of majority, which centers on the meaning of ὀκτώκαιδέκα ἔτη γεγονότες in *AP*: having celebrated the eighteenth birthday or having celebrated the seventeenth ("in the eighteenth year of life")? On the procedure see Whitehead 1986 97-104, Rhodes 1993 493-505, Rhodes 1985 171-4, *LCA* 69, and notes on συνέφεβος §49.7 and διαψηφίσεις §77.3.

"Enrollment in the deme register" marked the Athenian male's majority, although as Hansen notes in the fourth century he probably did not enjoy the right to attend the Assembly and other political privileges until the age of twenty, after he had served two years in the *ephebeia* (1991 96). At this point it is believed that his name was entered on the *pinax ekklesiastikos*, the Assembly register. This second registration may account for Σ 1., 7, 21, which seems to place enrollment in the deme register following the *ephebeia* (cf. *Poll.* 8.105, *Suda* ε 2297). See Hansen 1991 and Rhodes 1993 494-5.

18.8 αὐτῷ τῷ Τιμάρχῳ] The dative, not the vocative, is the correct reading: "es ist eine Pointe statt des zu erwartenden αὐτῷ τῷ ἠταιρηκότι . . . Durch Aeschines' Rede war T. zum Synonym für ἠταιρηκῶς bzw. πόρνος geworden" (Charalambakis et al. 1974 35; cf. Wankel 1975 72 and Σ 1, 18, 41a, b). The article τῷ, which has fallen from all mss., is restored from Π15 and the first scholion on this passage (1. 18, 41a).

Dover, while accepting this reading, notes "We expect 'the boy himself', and it is possible that that is what Aiskhines wrote." by which I assume he suspects that αὐτῷ τῷ Τιμάρχῳ is an intrusive gloss.

19-20 This law did not forbid male prostitution in general, since it was not concerned with metics or slaves (§195. Lys. 3). Instead it decreed that an Athenian man who had prostituted himself was automatically ἄτιμος (cf. §§14, 134, 160. D. 45.79). He could not hold any public office, priesthood, nor serve as *sundikos*, herald or ambassador (cf. §188). Furthermore he could not make proposals in the Assembly or Council (cf. D. 22.24, 30. Isoc. 21.140). It is generally believed that as long as he did not exercise any of these rights, he was not liable to prosecution under the procedure described here, the γραφή ἑταιρήσεως (AR 1.411-2. GH 29, LA i.37, LCA 126; cf. Σ 1, 14, 37; SAL 107 finds the purview of the law unclear). The belief is based on statements to this effect made by Aeschin. in the speech (§§3, 40, 73, 154). The case was tried before the thesmothetae (D. 22.21, 23); the prosecutor who lost was fined 1000 drachmae (D. 22.21). If the defendant was convicted, he could be put to death: this is apparently what Aeschin. means by τὰ μέγιστα or ἐσχάτα ἐπιτίμια (§§20, 72, 73). D. attributes the law to Solon (22.25); at the least it "must antedate 424, since Ar. *Knights* 876-880 is a clear reference to a successful prosecution under it" (GH 34). This passage of Ar. is however capable of other interpretations: see Introduction IV.

19.2 τῶν ἐννέα ἀρχόντων] In Athens the word for "public official" was ἀρχων. It was used generically of any public official, allotted or elected, at home or abroad (e.g. §109.1). The "nine archons" were the chief magistrates of Athens, who after 487/6 were annually chosen by lot (*AP* 3 with Rhodes *ad loc.*). Following their year of office they became members of the Areopagus (see note on §81.5). Their purview in the classical period was chiefly in the religious and judicial spheres. The most senior of the nine was known simply as "the archon" (e.g., §158) but he is called by modern scholars the eponymous archon since the Athenians denoted the year by his name (ἐπὶ ἀρχοντος Νικοφήμεου, §109.3). He oversaw cases involving inheritance, including ἐπικλήροι (see note on §93.5), and administered major religious festivals like the City Dionysia (*AP* 56.2-7 with Rhodes *ad loc.*). The archon basileus was also responsible for various religious matters as well as some cases of homicide (*AP* 57 with Rhodes *ad loc.*). The polemarch had charge of cases involving metics and other foreigners (*AP* 58 with Rhodes *ad loc.*). The remaining six were collectively known as the thesmothetae. The majority of legal cases were handled by them: they also supervised the allotment of judges to the various courts (*AP* 59 with Rhodes *ad loc.*). It may be that the γραφή ἐταιρήσεως was submitted to the thesmothetae (D. 22.23; see Introduction IV). In general see *LA* ii.7-17 and Hansen 1991 225-45.

Even though Athenian ἀρχοντες had legal duties, I have avoided the translation "magistrate" since these duties overlap infrequently with those of the modern judge. Public officials had the ability to impose certain fines on their own authority (e.g. the πρόεδροι §35; see *LCA* 235), but in Athens cases were usually begun by individuals, who filed charges with the appropriate official. The official then allotted a date for the preliminary inquiry (ἀνάκρισις) which formally initiated the case (see notes on §62.2-3 and 62.3). He supervised the court during the actual trial, but was a non-voting participant: as Todd notes, he "had no right of jury direction, no right to rule evidence or

arguments out of order, and no power of summing up" (*SAL* 78-9). For a summary of the duties of officials *vis-à-vis* the courts see *LCA* 237-42, 247-58.

19.2 στεφανηφόρος] The crown was a ubiquitous symbol in Athenian civic iconography. On the one hand it denoted the purity of its wearer: the priest, the dead, the mourner at the funeral banquet, the symposiast, the chorister, the suppliant (see "Crown" in the index of Parker 1983). So too in the case of the archons, who wore a crown in the course of carrying out their duties: the person who abused him verbally or physically at the time he was wearing the crown was subject to ἀτιμία (D. 21.17. 33 with MacDowell *ad loc.*, [D.] 26.5. Lys. 26.8. Σ 1, 19. 42). According to Aeschin. the male prostitute is forbidden to serve in this capacity because of his ritual impurity (see following note). The Athenians enacted other laws designed to preserve the purity of these offices: for example, the physically disabled were not allowed to stand for them (Lys. 24.13). Compare the law cited at [D.] 59.75-6 which declares the wife of the archon basileus must be an Athenian citizen and a virgin. On the other hand crowns were customarily awarded individuals or groups who had performed meritorious service, or were given as a prize in various competitions (cf. note on §111.11). The rhetor also wore a crown "in recognition of his official position" (Hansen 1989 10: Ar. Av. 463-5. Ec. 131. Eq. 1227).

The lexicographers and scholiasts consistently report that the archons' crown was made of myrtle (S 1, 19, 42, S Ar. Eq. 964, Hsch. m 1918. Suda m 1438), but MacDowell in his note on D. 21.17 believes that it was "likely to have been more distinctive and durable." In general see D.-S. 1.2 1520-37 and M. Blech *Studien zum Kranz bei den Griechen* 1982, esp. 316-21 (the use of myrtle in crowns).

19.4 καθαρῶ] The male prostitute is forbidden to participate in the civic religion: he cannot hold a priesthood, wear a crown, or enter a shrine or other sacred space like the agora (§164, 188; D. 22.73, 77 and cf. 2.148, D. 23.80). This is because he is polluted,

i.e., ritually impure (cf. 2.88, D. 22.78 and Plb. 12.13: further references in Halperin 1990 96 n.74). According to Parker, the meaning of pollution in this case is metaphorically extended to include "behavior felt to subvert the moral foundation of society": so too the mechanism for cleansing the community is extended to the metaphoric expulsion of ἀτιμία, so that the male prostitute is forbidden to participate in political life as well (1983 94-7). Cf. the phrase ἡ δὲ βδελυρὰ φύσις καὶ ἀνόσιος (§95) and the notes on §§42.7, 183.3 and 188.4.

19.4 συνδικῆσαι] The scholiast understands "let him not serve as judge in the Eliaia, when the people sit in judgment" (1, 20, 44), but all modern commentators take this clause to prohibit the male prostitute from serving as a *sundikos*, "public advocate." The *sundikoi* were "pleaders appointed by the state, by corporations, or on behalf of individuals" (LA ii.34-5 with n. 2). They were appointed, e.g., by tribesmen to defend a fellow-member (And. 1.150, D. 23.206) or by the Assembly to defend a law (D. 20). When Aeschin. was chosen to serve as *sundikos*, he was rejected by the Areopagus (D. 18.134: see Harris 1995 121-2). See AR 1.123-5.

19.5 μηδὲ . . . μήτ' . . . μήτε . . . μηδὲ] If phrases joined by οὔτε . . . οὔτε appear between phrases joined by οὐδέ . . . οὐδέ, the former are subordinate to the latter (KG 2.294). Cf. §20, D. 5.11, Ep. 2.9 and Isoc. 19.32.

20.1 κηρυκευσάτω] Heralds were already an integral part of the archaic Greek communities depicted by Homer and continued to be so in the time of the πόλεις. In Athens they made public proclamations (3.44, 122, 154), opened and closed meetings and assemblies (2.35, 108), summoned witnesses and called the jurors to vote in the courts (§79, 2.86). During war, the herald played a key role in international relations by carrying messages to other cities, announcing declarations of war or peace, and escorting

embassies. The office of herald had a sacral dimension. It was closely associated with Hermes: the person of the herald was inviolable and an attempt upon him could be considered an offense against the gods (e.g. Hdt. 7.133-7, [D.] 12.2-4: see Parker 1983 188). Likewise some of his duties in the city had an overtly religious character, e.g. the opening of the Assembly, at which he offered prayers for the people (§23). Therefore the banning of male prostitutes from this office again arises from a concern for religious purity. On the herald see F. Adcock and D.J. Mosley, *Diplomacy in Ancient Greece* 1975. Y. Garlan *War in the Ancient World* 1975, D. Lateiner *CW* 71 (1977) 97-106 and L.-M. Wéry *AC* 35 (1966) with bibliography 468 n.1.

20.2 μηδὲ τοὺς πρεσβεύσαντας κρινέτω μηδὲ συκοφαντεῖτω μισθωθείς] The reading of Π15 πρεσβευ]σάτω ἵνα μ(ῆ) has, along with other considerations, led Wankel to suspect corruption (Wankel 1975): "ein die Absicht des Gesetzgebers erklärender Finalsatz nicht vor μηδὲ τοὺς πρεσβεύσαντας [κτλ.] eingeschoben war, sondern statt dieser seltsamen "Verbote" im Text stand." As the clause stands, it is not a quotation from the law (Cobet et al.) but an aside directed at Timarchus (cf. Σ 1, 20, 47). There is nothing unusual in this: Aeschin. frequently interrupts his discussions of the law with asides (§§10.4-5, 11.2-3, 15.3-4, 19.2-3, 3-4, 20.4: cf. the more extensive comments in §§28-32 and *GH* 36-7). Wankel objects to the fact that Aeschin. does not clearly separate commentary from law, as he does by using ὅτι and ὥς in §19.2 and 3, and that the confusion is deepened by the "formal und syntaktisch" nature of the aside (μηδέ with the imperative). But §20.4 μηδ' ἄν δεινότατος ἢ λέγειν, clearly an aside, is also joined to the quotation of the law by μηδέ. We may compare §29.4-6, where however there would be no confusion between commentary and law. Wankel seems to believe that, in the received text, the use of μηδέ and the imperative would indicate an effort by Aeschin. to mislead the judges into believing that his commentary is part of the law (cf. *GH* 25, 37). Yet as Wankel himself notes, the present imperative alone serves to

distinguish commentary from law. His main objection is that throughout the speech Aeschin. is careful to disguise his personal interest in the trial, characterizing the potential suit for παραπροσβείας as sycophancy (§§1. 3: cf. 32 and Martin and de Budé 17). Therefore, he says, here we would have the only direct reference to the suit. (He also cites δικάζεσθαι §163: however this refers not to the παραπροσβείας γραφή but to a hypothetical suit of prostitute against client). It is true that Aeschin. downplays his interest in the present trial, but he has also admitted from the very beginning that it does exist (see on §2.6). Furthermore, it is likely that §168 is another reference, admittedly indirect, to the παραπροσβείας γραφή. I do not understand Wankel's final objection, based on the omission of our passage from the summary of the laws in §20:

Da es kaum denkbar ist, dass er sich auf die Ebene der eindringlichen Texterklärung begeben und die Worte μηδέ τοὺς προσβέυσαντας κρινέτω. . . als ἔξωθεν πρὸς τὸν Τίμαρχον gesprochen gedeutet haben könnte, wird er diese scheinbaren Gesetzesbestimmungen gar nicht gelesen haben, sondern einen anderen Text, der durch die Formulierung deutlich als Kommentar des Redners ausgewiesen war.

Again Wankel has already noted that the author of this summary excised the asides of lines 2-3: why are we to assume that he could not read also our passage as an aside? Given the unanimous reading of the mss., the fragmentary nature of Π15 and the considerations above, the received text should stand.

20.4 δεινότητος] Possibly a reference to D.(GH 25: cf. §§94, 119, 125, 166 and 170), although it may refer to Timarchus: if he proposed more than a hundred *psephismata* (see Introduction II), it is likely that he too was a persuasive speaker.

20.9 οἷον ὑμεῖς ἐπίστασθε] See note on §44.

21 This document is another forgery. It is also a compilation assembled from §§19-20, §164 and D. 24.181 (entering public shrines, receiving a public crown, entering the agora) and from 3.176 (Drerup 1898 306-7, though he does not recognize the meaning of γνώμην λεγέτω: see Wankel 1975 75 n. 20).

Further grounds for rejection are as follows. The technical term for moving proposals, γνώμην εἰπεῖν, is here rendered γνώμην λεγέτω: to my knowledge the present tense is not elsewhere used for this expression. For γνώμην εἰπεῖν, cf. 3.108, And. 1.73, Th. 8.67 and in general Rhodes 1993 371. Martin and de Budé note that it lacks the provision mentioned in D.22.30 (μήτε λέγειν μήτε γράφειν): it lacks in addition the prohibition against serving as ambassador. Finally the phrase ἐπὶ κηρυκείαν ἀποστελλέσθω is a gloss on κηρυκευσάτω and appears as such in the scholia (1. 20. 45b).

22 Aeschin.'s argument thus far leads us to believe that the final group of laws (§§23-34) will concern sexual relations for the third age of citizens. But this is not the case. These laws περὶ σωφροσύνης in fact concern the decorum of public speakers (§34: Adams 30 n. 4 is mistaken, cf. 3.2). Aeschin. affects the transition by using εὐκοσμία as a synonym for σωφροσύνη (l. 8). His association of "good order" and "proper behavior" is not sophistic: cf. Arist. *Pol.* 1299b14-20 and notes on §§6.6 and 8.4. As with the laws on education, he places several different laws under the same heading: laws which determine the order of events in the Assembly (§§23-27), the δοκιμασία ῥητόρων (§§28-32), and a law on the maintenance of order in the Assembly (§§33-4). The first and third have no direct bearing on the case. The first evokes the principles of good order upon which the democracy is based; the third was ostensibly created in response to Timarchus' lack of good order. Thus they support the contention that Timarchus is a threat to the established laws and therefore to the democracy.

Aeschin. attributes them to Solon. here by inference. later explicitly in the case of the law which invites citizens over fifty to speak first (3.2 = Ruschenbusch F101).

Dinarchus also attributes laws *περὶ τῆς εὐκοσμίας τῶν ῥητόρων* to "the first lawgivers" (2.16-17). However most modern scholars believe that they date from the late fifth century. See Hansen 1996 and 1991 165. Lane Fox 1994 149-50 and G.T. Griffith *Ancient Society and Institutions* 1966 119-20.

22.8 οἰκησομένην] Although the accusative absolute typically employs the participle of impersonal verb, the participle of a personal verb may appear if it is preceded by *ὡς* or *ὥσπερ* (Smyth 2078).

23.1 προέδρους] A board of nine who presided over a single meeting of the Council or Assembly. Before the meeting, the ἐπιστάτης of the prytanes selected by lot one πρόεδρος from each tribe except his own, and one of these nine was chosen ἐπιστάτης. For meetings of the Assembly, they conveyed the agenda from the Council, conducted the meeting accordingly, accepted motions, directed the debate, assessed the vote and adjourned the meeting (2.68, D. 24.22). They were also responsible for maintaining order in the Assembly (τῆς τ' εὐκοσμίας ἐπιμελοῦνται *AP* 44.2), where they probably sat on the seats cut into the rock on either side of the *bema*, literally "sitting in front" (Thompson 1982 143, Hansen 1983 30). The πρόεδροι are not a Solonian institution but date probably from the late fifth or early fourth century; on this question and on the πρόεδροι in general see *AP* 44.2-3 with Rhodes *ad loc.*, Sinclair 1991 229, Rhodes 1985 25-7, Hansen 1991 141, 1983 34 and Σ 3. 3. 10. On the procedures in this chapter see Hansen 1987 88-91.

23.2 καθάρσιον] At the commencement of each Assembly, officials called περιστίαρχοι sacrificed a pig and lustrated the boundaries with its blood. The sacrifice

probably took place on the altar behind the *bema* (Thompson 1982 142). Similar purifications were performed in the theater and other sacred buildings (Σ *ad loc.*, Harp. s.v. καθάρσιον, Hsch. π 1883; cf. Ar. *Ach.* 44, *Ec.* 128-30 with Σ, D. 54.39), and perhaps in the *bouleuterion* (Rhodes 1985 36). See further Parker 1983 21-2.

23.3 εὐχὰς] Following the lustration, the herald uttered a prayer (Din. 2.14) and a curse (Din. 2.16) which were dictated to him by a secretary (D. 19. 70). Rhodes 1985 37 reconstructs the prayer and curse, primarily on the basis of Ar. *Th.* 295-311.

23.4 κήρυξι] The law also prescribed the order of business (sacred matters, heralds, embassies, public affairs). The same order is found in *AP* 43.6 (where it is confined to two of the four regular assemblies) and 30.5 (where τῶν ἄλλων substitutes for ὁσίων). One of the mss. of Aeschin. (**m^c**) has the reading κηρύκων καὶ πρεσβέων. But as Rhodes notes, the majority of mss. and the *AP* passages transmit the first and last items in the genitive, the second and third in the dative: this may reflect "the phraseology of the democratic law" (Rhodes 1993 398).

23.5 ὁσίων] The phrase τὰ ἱερὰ καὶ τὰ ὅσια is a common one (e.g., Antiphon 5.62, D. 23.65, 24.9, Lys. 30.25, Th. 2.52), but difficult to translate: since both substantives connote sacredness, what distinction is being made? Most commentators render τὰ ὅσια as "secular matters" (Adams: "choses profanes" Martin and de Budé, τὰ μὴ ἱερὰ Σ 1. 23. 54; cf. Σ Ar. *Lys.* 743, Suda ο 688, *LSJ* s.v. ὅσιος 2). Chantraine explains the difference thus: "ὅσιος signifie ce qui est permis à l'homme (donc, éventuellement profane) et ἱερός ce qui appartient aux dieux" (1984 ii.831). But the translation "secular" or "profane" here is misleading and anachronistic, for it implies the modern separation of church and state. Furthermore, according to Chadwick in the most recent discussion of the word, ὅσιος never means "profane" but instead signifies "sanctioned by divine law.

due": he sees the distinction between *ιερά* and *ὄσια* in e.g. D. 23 as a distinction between "religious possessions" and "religious revenues" (1996 221-6). However Chadwick does not investigate analyze all uses of the phrase, and I believe his definition is too narrow for our passage. The scholiast suggest an alternative: "public affairs" (*τὰ δημόσια* Σ 1. 23. 55). This translation accords with the basic definition of both Chantraine and Chadwick, since political life in the Greek *polis* had a sacred character. Cf. Moulinier 1975 290-3.

23.5 τῶν ὑπὲρ πεντήκοντα ἔτη γεγονότων] We have no evidence that this law was ever observed. The herald's cry *τίς ἀγορεύειν βούλεται* is attested several times (§27. D. 18.170, 191; cf. Ar. *Ach.* 45. *Ec.* 130, *Th.* 379) but not the privilege of speaking first granted to those over fifty to speak first, except in another speech of Aeschin. (3.2-4). There he says that it is no longer observed: this had apparently been the case since at least 351, when D. though still in his thirties rose first to address the Assembly (D. 4.1). All the same there is no compelling reason to doubt its existence. The law is not mentioned in *AP* 43.6, which supports other details in this chapter, but neither is the purification or invocation of the Assembly. The Athenian ambassadors on the first embassy to Philip speak in order of age, beginning with the eldest (2.22, 25) and report to the Council in the same order (2.47); but note that this is a customary, not legislated order (2.108). When D. addresses the Assembly in 351, he takes pains to excuse himself for speaking before *οἱ πλεῖστοι τῶν εἰωθότων* (4.1). Finally, if the law is a fabrication, I find it curious that D. does not take issue in his eighteenth or nineteenth speech. To be sure we do not have D.'s reply on this occasion: but he challenges Aeschin. on other statements made in this speech (see on 25.9) and twice mentions the herald's cry in *de Corona*. See further Lane Fox 1994 148-9 and Hansen 1987 171 n. 581.

Lane Fox notes how this passage contributes to the *ethos* of the speaker ("did it suit his pose. . . to emphasize how the old (like himself) should have precedence?"). It may also have appealed to the judges, if they were mostly over fifty themselves: on the

age of the judges see Hansen 1991 185-6. Note that in §49 Aeschin. tries to give the impression that he is older than Timarchus: beneath both passages lies an argument based on τὸ εἶκος: the young are more likely to be hubristic, while the old are more likely to be prudent. For this sentiment cf. §§11, 24, 94, the famous words of Sophocles reported in Pl. R. 329c (ἀσμενέστατα μέντοι αὐτὸ ἀπέφυγον. ὡσπερ λυττῶντά τινα καὶ ἄγριον δεσπότην ἀποδράς), MacDowell 1976 and Carey 1989 94.

23.7 τότε ἤδη] *tum demum*. "not till then, then only" (KG 2.121). The phrase appears only here in Aeschin., but frequently in the other orators: And. 1.9, D. 16.27, 18.193. 21.55. [D.] 59.82, Is. 11.22, 33, Isoc. 21.25. 23.9, Lys. 1.19, 12.66, 25.22.

23.8 οἷς ἔξεστιν] Probably quoting a legal formula: the same phrase appears §32. D. 21.47, 24.63, 105, [D.] 59.16, 52. "For whom it is possible" means "for those who are not *atimoi*" (cf. Σ 1, 32, 71). See note on §1.5 and Hansen 1976 61 with n. 4.

24.4 τόλμα] Elsewhere in Aeschin. the word is pejorative, used to characterize the speech of his opponents as impudent or rash (2.11, 106, 3.121, 152). This is its usual connotation in the orators (e.g., D. 32.3, Is. 6.46), but rarely, as here and in Isoc. 11.92. it is neutral ("esprit d'initiative" Martin and de Budé: cf. Garvie on A. Ch. 1029). The sense is that older men are less willing to assert themselves and so require a greater incentive to speak.

25.2-3 ὁ Περικλῆς καὶ ὁ Θεμιστοκλῆς καὶ ὁ Ἀριστείδης] The topic shifts from "orderliness in procedure" to "proper deportment on the *bema*." The exemplars are statesmen of the fifth century. Pericles' austere demeanor, both in private life and as a speaker, was noted throughout antiquity (e.g., by Plut. *Per.* 5). Less is said about

Aristeides and Themistocles, although both were considered excellent speakers (e.g., by [Lys.] 2.42, D. 3.21).

Only here in the orators do we find Pericles, Themistocles and Aristeides cited together: Pericles and Aristeides are hardly mentioned at all (D. 3.21, Isoc. 15.234). For similar comparisons ("how unlike") of an opponent to Pericles, Aristeides or Themistocles, see 2.23, 3.181, 257-9, [D.] 26.6, Isoc. 8.75, Lys. 30.28.

25.9 τὴν Σόλωνος εἰκόνα] Neither this bronze (D. Chr. 37.7) nor the one in the Athenian agora survive (Ael. *VH* 8.16, [D.] 26.23, Paus. 1.16.1). In fact we have only two portraits of Solon, both late and so unreliable. For these and other possible likenesses see Richter 1965 i.83-6 with plates 326-32. The scholiast on our passage (l. 25, 62) says that the Salaminian statue does not support Aeschin.'s argument, since it depicted Solon delivering τὰ ἐλεγεία (perhaps the poem he used to convince the Athenians to take Salamis from the Megarians: Plut. *Sol.* 8-10, Paus. 1.40.5, *AP* 14.1). Moreover, D. points out that since it was set up after the Persian Wars its sculptor could know nothing of Solon's demeanor (19.251; cf. D.L. 1.62).

25.11 ἐντὸς τὴν χεῖρα ἔχων] Keeping the hands inside one's cloak was considered a sign of εὐκοσμία even in Roman times (Aristid. 2.538 Dindorf, of Solon: Plut. *Mor.* 800c, of Pericles: *Phoc.* 4.3.3, of Phocion: Sen. *Con.* 5.6, Cic. *Cacl.* 11 and cf. Quint. *Inst.* 12.10.21). It was considered the mark of a well-behaved boy as well (X. *Lac.* 3.4), and we find images of youth taking this pose in Greek art, e.g., on the northern Parthenon frieze: see the discussion in K. Polaschek *Untersuchungen zu griechischen Mantelstatuen* 1969 17ff. and further references in Zanker 1995 49 n.12. It is also found in representations of public speakers in the early fifth century, and in the statues of Sophocles and Aeschines erected in the second half of the fourth century (Zanker 1995 43-8).

Aeschin. makes it clear that the pose is old-fashioned and no longer in use among public speakers (ll. 4-5). Later rhetorical theory would advocate a certain freedom in gesture (*ad Her.* 3.15, Cic. *de Orat.* 2.59.242), even faulting those who assumed the old manner (Suda ε 302). But for Aeschin.. this ἀκοσμία of Timarchus is a visible sign of his immorality, of his unsuitability to represent or even address the people. Likewise by adopting the pose (D. 19.252) Aeschin. demonstrates his own rectitude. See further Zanker 1995 43-50. Disparaging an opponent's delivery may have been a *topos*: cf. the portraits of Cleon (Plut. *Nic.* 8, Σ 1, 25, 62, AP 28.3 with Rhodes *ad loc.* and see Connor 1971 132-4) and D.'s descriptions of Aeschin. (e.g., 18.129, 19.23, 252). His remarks have contributed to the view that Aeschin.'s delivery was pompous and frigid: see Kindstrand 1982 17-22.

D. turns this argument ("how unlike Solon") against Aeschin. in his speech *On the Misconducted Embassy* (19.251-6): Οὐ λέγειν εἴσω τὴν χεῖρ' ἔχοντ', Αἰσχίνη, δεῖ. οὐ. ἀλλὰ πρεσβεύειν εἴσω τὴν χεῖρ' ἔχοντα.

26.4 οὐ πάλαι, ἀλλὰ πρόωην] *KG* gives this as an example of *parallelismus antitheticus* which it defines as the doubling of an important point which is expressed once in positive and once in negative terms (2.586).

26.7 βδελυρίας] The image of Timarchus' wasted form, revealed by the drape of his cloak, is a highly theatrical one: cf. Heracles' revelation of his burned body *S. Tr.* 1076-80. Physical appearance or demeanor can be adduced as a sign of character, typically to the opponent's detriment: D. 19.314, 37.52, 55, 45.77 and note on §25.11.

For the meaning of βδελυρία see note on §31.3.

27.2 οὐς οὐ δεῖ] "In relative clauses joined by καί and standing in an indirect question, μή must be used when the verb is to be supplied with the second clause; but when the

verb is repeated, either μή or οὐ, if the antecedent is definite, may be used" (Smyth 2676d: *KG* 2.192 says nothing about the definite antecedent).

27.3 ἐστρατηγηκότων] Davies notes that in the classical period "the military offices were to a considerable extent filled by what was *de facto* a hereditary caste, and . . . the correlation between the caste and the propertied class always remained high" (1984 124). He compares And. 1.146, X. *HG* 6.3.4 and D. 34.50. Cf. also Eup. F117: ἀλλ' ἦσαν ἡμῖν τῇ πόλει πρῶτον μὲν οἱ στρατηγοὶ/ἐκ τῶν μεγίστων οἰκιῶν. πλοῦτῳ γένει τε πρῶτοι. Aeschines' brother Philochares, who served as general in 345/4, 344/3 and 343/2, is a notable exception, and Demosthenes' dismissive criticism of him is telling: καὶ οὐδεμιᾶς κακίας ταῦτα. ἀλλ' οὐδὲ στρατηγίας γ' ἄξια (19.237). On the status of Aeschin.'s family see Introduction I.

28.1 οὐκ ᾤετο] The verbs φημί, οἶομαι, νομίζω, and ἀξιῶ may attract a negative which logically belongs to the dependent infinitive (*KG* 2.180). Smyth calls this usage the "adherescent οὐ" (2691-2), while *KG* considers it "eine ähnliche Litotes." Cf. §126. 2.123, 128, 3.72, 242.

28.2 δοκιμασία] The procedure under which the case is being tried: see Introduction IV. The law is believed by some to be cited here verbatim (*LA* i.80 n.1, Koch *RE* 5.1 1274, *GH* 20, Lane Fox 1994 149). Aeschin. places the δοκιμασία ῥητόρων in the penultimate, climactic position within his list of laws. He "dramatizes" it through the figure of hypophora, a dialogue with oneself or with an imaginary other (*ad Her.* 4.23-4: cf. e.g. §154).

28.3 τὸν πατέρα τύπτων] The *rhetor* who maltreated his father or mother was liable to be summoned for scrutiny. The provision is found also in the scrutiny of candidates

for the nine archons (*AP* 55.3, *Din.* 2.17, *D.* 57.70, *X. Mem.* 2.2.13). We may compare the γονέων κακώσεως γραφή, to which a man who abused his parents or grandparents was liable (*AP* 56.6, [*D.*] 10.40, *Is.* 8.32, *Lys.* 13.91 and cf. *Pl. Lg.* 930e3-932d8).

Offenses included physical abuse as well as the failure to provide them with food, shelter and proper burial and failure to tend their grave (§13, *D.* 24.103-7, *Lys.* 13.91 and cf. *Ar. Av.* 757). The penalty was ἀτιμία (*And.* 1.74), which in this case prevented a man, at the very least, from entering the agora (*D.* 24.63), but at *D.* 24.105 we find a different procedure: the suspect is held in prison until trial: the judges assess the penalty, which might be a fine. We hear of some exceptions: the son who had been prostituted by his father (§28), the son whose father had not taught him a trade (if this is what *Plut.* means by διδασκόμενον τέχνην: see *Schmitter* 1975) and children born from *hetairai* (*Plut. Sol.* 22). See further *AR* 1.354-5, *LA* i.77-8, *LCA* 92, *Lacey* 1968 116-7, *Rhodes* 1993 629-30 and *Arnaoutoglou* 1998 100-1.

Respect for parents was a fundamental principle of Athenian morality (*GPM* 273-8). This may partly explain why the γονέων κακώσεως γραφή was attributed to Solon (*D.* 24.103, *D.L.* 1.55: cf. *Worthington* on *Din.* 2.8). It may also explain why the prosecutor of this γραφή was exempt from the usual penalties if he lost (*AP* 56.5) and why there was no time limit placed on the litigants (ἄνευ ὕδατος *Harp.* s.v. κακώσεως: see note on §109.4-5). It is a common accusation in the orators (e.g. *D.* 24.103, 25.65, *Din.* 2.8). See *Rubinstein* 1993 64-6.

Does *Aeschin.* quote the law verbatim? We may compare the phrasing of the question in our three sources for the scrutiny of archons: εἰ γονέας εὖ ποιεῖ (*AP* 55.3, *D.* 57.70, *Din.* 2.17). *Aeschin.*, or the law, mentions only mother and father, while γονεῖς would also include grandparents (*Is.* 1.39 with *Wyse ad loc.*). Secondly *Aeschin.* spells out the terms euphemistically summarized in εὖ ποιεῖ, with the most shocking violation, physical abuse of one's parents, cited first. Certainly these differences may

arise from the fact that we are considering different procedures: but the possibility remains that Aeschin. presents the law in a provocative manner.

29.2-6 ἢ τὰς στρατείας] A *rhetor* who failed to serve or who threw down his weapons was liable to be summoned for scrutiny. Any Athenian who did not fulfill his military duty could be punished under the law described in Lys. 14.5-7 (cf. 3.175-6, And. 1.74). The procedure was a γραφή, the penalty ἀτιμία (2.148, 3.175-6, And. 1.74, D. 21.103. [D.] 59.27). It named at least three derelictions: ἀστρατεία (failure to serve when called), λιποταξίον (leaving one's post), δειλία (cowardice). There is considerable overlap among the offenses: as MacDowell notes, "since they all came under a single law and all incurred the same penalty, there was no need to make clear distinctions between them" (1962 111; cf. Carey 1989 143-4). We do not know if λιποναύτιον (desertion of a ship, Poll. 8.42-3) or ἀναυμάχιον (failure to bring a ship into battle, And. 1.74) were also punished under this law. See AR 1.462-8, LA ii.32, SAL 106 and 183.

Is this a verbatim quotation of the law? A candidate for one of the nine archonships was asked τὰς στρατείας εἰ ἐστράτευται (AP 55.3); if AP is quoting verbatim, Dinarchus shows us that an orator need not (εἰ τὰς στρατείας ὑπὲρ τῆς πόλεως ἐστράτευται 5.17). Neither Dinarchus nor AP mentions the provision τὴν ἀσπίδα ἀποβαλεῖν, but this act, if proven, would likely prevent a man from serving as an archon or in our case from speaking as a *rhetor*. Accusing a man of throwing away his shield was a serious charge (Lys. 10.1, And. 1.74); Hansen believes it was the subject of a separate γραφή (JHS 100 (1980) 89 n. 2, but it is more likely one of several provisions in the law cited above, following MacDowell). Since it was also comic shorthand for "coward" (cf. MacDowell 1962 112) perhaps Aeschin. chose to cite this clause as a more memorable way of presenting the law's prohibitions.

29.5 ἄνθρωπε] Aeschin. retorts to his imaginary interlocutor. Dickey shows that ἄνθρωπε is not "inherently derogatory" but "a general term for vague, imaginary, or unspecified addressees," and at times "an expression of amazement and surprise at the conduct of the addressee" (1996 150-4). It is fairly common in comedy but rare in oratory (here in Aeschin., five times in D., once in Lys.). D. uses it as Aeschin. does here in passages of hypophora, to which it may add liveliness (e.g. 19.94).

29.6-7 ἢ πεπορνευμένος. . . ἢ ἡταιρηκώς] The *rhetor* who had been remunerated for sex was liable to be summoned for scrutiny. The distinction, according to Aeschin., between πόρνος and ἡταιρηκώς was that the πόρνος had many partners. the ἡταιρηκώς one or few (§§51-2; cf. Σ 1, 29, 67 and 1, 52, 117). It is therefore analagous to the distinction between the female prostitute (πόρνη) and courtesan (ἑταίρα): see *GH* 20-2.

Why would the law make such a distinction? It punished remuneration, not promiscuity (Halperin 1990 94-5, Winkler 1989). Perhaps the distinction is made by Aeschin. for rhetorical reasons. Since Timarchus' alleged prostitution occurred long ago. and since Aeschin. had no proof that Timarchus was a prostitute, i.e., that he had paid the prostitute-tax or had been contracted for sexual services, it was necessary to construe his relations with other men in the worst possible manner (see on §§117-176). The associations of the word πόρνος allowed him to do this easily. In §§51-2 he states explicitly that the πόρνος was considered more reprehensible than the ἡταιρηκώς. It is also clear from his use of πόρνος that the word had more emotive power (§§52. 70, 123, 130, 137, 159, 189). Therefore he uses πεπορνεῦσθαι, never ἡταιρηκέναί, to summarize this provision of the law (§§79, 94, 119, 154; cf. 2.144, D. 19.200, 233, 287).

30.2 κατεδηδοκώς] The *rhetor* who dissipated his inheritance was liable to be summoned for scrutiny. The disability is given various explanations: a man who cannot

manage his own household cannot manage the city (ll.3-4); a man in need of money is more likely to accept bribes (Isoc. 21.140). In addition Athens depended significantly on the material contributions of its wealthiest citizens, and therefore had an interest in seeing that property was maintained. Aeschin. will emphasize Timarchus' luxury in the *diegesis*; see note on §42.5

Can this metaphor be the actual statement of the law? It seems colloquial: we find it in Homer (*Od.* 3.315), and the phrase τὰ πατρώα κατεδηδοκέναι appears often in comedy (Anaxandr. F45, Anaxipp. F1.31-2, Antiph. F239, Men. F287, 303). In classical prose it is found, to my knowledge, only here and at D. 38.27, although the use of verbs compounded with κατά is common in this context (κατηριστήκηναι Antipho Soph. F73, κατακυβεῦσαι §95, Lys. 14.27, καταπινεῖν §96 καταπεπαιδεραστήκηναι Is. 10.25, καταβεβρωκέναι Hyp. F249). It is clearly a phrase Aeschin. wants the judges to remember (§§31, 42, 94, 96, 106, 154, 195).

30.3 οἰκήσαντα] Aeschin. sometimes uses the verb οἰκεῖν "inhabit" in the sense "manage" (§73: see *LSJ* II and cf. Σ 1, 30, 68), a sense more commonly expressed by the compounded form διοικεῖν (§§4, 153).

31.1 καλοῦ καὶ ἀγαθοῦ] Cf. §§41, 69, 134. "Handsome" and "morally upstanding." but the phrase usually designates a status-group, "gentleman." The *kalos kagathos* was distinguished partly by his descent, partly by his way of life: well-born, wealthy, educated, at leisure to frequent the gymnasium and attend the symposium, and active in political life. On the phrase see Bourriot 1995 and *GPM* 41-5.

31.1-2 κᾶν πάνυ κακῶς καὶ ἀπλῶς] See on §178.

31.3 βδελυροῦ] "Disgusting, loathsome" (*LSJ*); "expresses violent adverse reaction" (Dover on *Ran.* 465). The adjective and its nominal form βδελυρία appear frequently in the orators and in comedy. They are particularly prominent in Aeschin.'s lexicon of abuse (§§26, 31, 41, 46, 54, 60, 70, 88, 95, 105, 107, 189, 192): as evaluative terms, they are useful in shaping the judges' response to the alleged sexual activity of Timarchus. Outside the first oration, βδελυρός and βδελυρία rarely have this connotation, even in *Ar.* (*Ec.* 1043, *D.*19.309 and 287, in a response to our speech); thus we may view sceptically the scholiast on *Ar. Nub.* 446, who thinks the word is a synonym for "male prostitute." The words are often used to characterize the ὑβρισταί, for example, Meidias (*D.*21.2, 98, 107, 124, 143, 151, 197) Androtion (*D.*22.52, 59, 66) and Diocles (*Is.* 8.42). Other acts labeled βδελυρία by the orators include indecorum in the Assembly (§26), assault (*D.*25.60, 54.22), lying ([*D.*] 35.32), sycophancy (*D.*36.58), illegal entry (*D.*22.52, [*D.*] 47.81), and attempts to circumvent justice (*D.*21.124, *And.*1.122). Cf. note on §42.7.

33.4 ἀποκληροῦν φυλὴν ἥτις προεδρεύσει] One tribe, probably not the prytanes (3.4. *D.* 25.90), was allotted to "preside" in the Assembly. Hansen takes προεδρεύσει literally to mean that they sat as a group in the front of the auditorium near the *bema* (1983 28-32, 1989 160-2). Stanton and Bicknell argue for the metaphoric sense of προεδρεύσει: "being in charge of the meeting and keeping order" (1987 64). But as Hansen notes, they reject too easily the well-attested custom of προεδρία, a privilege which granted seats in the front of the theater, stadium or auditorium (1989 57 n.21). Furthermore, their interpretation ("the presiding tribe should be in the centre, along the axis of the auditorium") contradicts Aeschin.'s citation of the law, in which ἐπὶ τὸ βῆμα should mean "at the *bema*." In support of his own hypothesis, Hansen concludes from the archeological evidence (Thompson 1982) that a fence marked off seats in the front of the auditorium for the allotted tribe.

The purpose of this law and its practical application are not entirely clear (cf. Ober 1989 110 n.17). Aeschin. and D. imply that the tribesmen were supposed to control unruly speakers (3.4, D. 25.90). The law may also have been intended to prevent hecklers from gathering at the *bema*, their preferred location (e.g., [D.] 59.43, Isoc. 20.81, Pl. R. 564d10-e1; cf. Hansen 1991 137, 146-7 and Martin and de Budé 31 "forces de police"). The presiding tribe would have been able to accomplish both if they did in fact sit in front. It is hard to imagine how they controlled speakers: if §35 is in fact based on a genuine law, why would the entire tribe be needed to register fines? Yet control was clearly part of their duty, since Aeschin. and D. complain that they failed to enforce it (3.4, D. 25.9, 90).

We need not accept the claim that Timarchus' behavior was responsible for the law (34.7-10), and the scholiast explicitly denies it ("the law was older" 1, 33, 74). The allegations--Timarchus' ἀκοσμία and his attack on this law--were apparently current events, giving Aeschin. concrete examples with which to illustrate the threat Timarchus posed to law and order.

34.9 μὴ ἐπιτήδειον εἶναι] See H.J. Wolff *Sitzungsberichte der Heidelberger Akademie* 1970 (2) 37-44 and Hansen 1974 44-8, from whom I take the translation "contrary to the interests of the state." The γραφή νόμον μὴ ἐπιτήδειον εἶναι (θεῖναι AP 59.2) was directed against the proposer of an illegal or inexpedient law, while the γραφή παρανόμων was directed against the proposer of an illegal or inexpedient decree. Hansen finds only six uses of the former in literary sources (our passage, two examples in D. 19.138, D. 20.24 and Lys. F86-7). If the law on tribal presidency was in fact indicted, the suit was unsuccessful, as the law still stood in 330 (3.4; cf. D. 25.90).

35 Νόμοι] This document does not contain the provisions discussed in §§23-33.

Harrison considers it a forgery but adds "the reconstruction may be based on a genuine

law" (*LA* ii.4 n.2, Rhodes 1985 146, *LCA* 235; cf. Martin and de Budé 31-2); some accept the infractions listed in ll. 1-6 as genuine (e.g., Stockton 1990 76). We know that speakers were often heckled or interrupted (see above), so it is not unreasonable to assume legislation designed to prevent this. The clause prohibiting verbal or physical abuse of the *epistates* also has a ring of truth (cf. D. 21.32 for a similar law concerning the thesmothetae and note on §19.2 στεφανηφόρος).

However there are a number of problems with ll. 9-15. Drerup noted that the inconsistencies there can be resolved only through the deletion of ἐν τῷ βουλευτηρίῳ (since otherwise the phrases εἰς τὴν βουλήν and εἰς τὴν πρώτην ἐκκλησίαν ἐν τῷ βουλευτηρίῳ would be synonymous) and τῶν βουλευτῶν (necessitated by the deletion of ἐν τῷ βουλευτηρίῳ). Drerup also believes that the Assembly would not concern itself with trials for such minor matters nor would the Council vote in secret ballot on them (1898 307-8). We may add to Drerup's objections that here, as in §12 and §16, are found the late imperative forms κυριευέτωσαν (7), εἰσφερέτωσαν (10), κρινάτωσαν (12) and ἐγγραψάτωσαν (13).

35.9 πράκτορσιν] In most public suits, if the defendant was penalized with a fine, all the money went to the public treasury. The "collectors" were a decemviral board responsible collecting these fines (cf. Antipho 6.49). Once a fine had been levied, the presiding magistrate notified the collectors of the fact ([D.] 43.71). They registered debtors who did not pay in a register located on the Acropolis (And. 1.77-9, [D.] 58.19-20). See *SAL* 144-5. The scholiast on Pi. O. 3.7 says the word derives from πράττω in the sense "to demand" (πράσσω γὰρ σημαίνει καὶ τὸ ἀπαιτῶ. ἐξ οὗ καὶ πράκτωρ).

36 The section ends as it began (§6) with the theme of *eunomia*.

Diegesis (§§37-115). See Introduction V.

37.4-7 δέομαι δ' ὑμῶν] The scholiast identifies this as the figure προδιόρθωσις, used "when the speaker is about to say something toward which the audience is ill-disposed" (1, 37, 79). It heightens both the judges' antagonism toward Timarchus and their curiosity about what will be said. Cf. §76, 2.88 and the note on §2.2.

39.4 τὰ ἐπὶ τῶν τριάκοντα καὶ τὰ πρὸ Εὐκλείδου] The rule of the "Thirty Tyrants," as they were later called, was established in Athens following its defeat in the Peloponnesian War 404/3. The time is remembered in the orators and historians as one of the darkest in Athenian history (e.g., 3.235, And. 1.94, D. 22.52, 24.57, Isoc. 18.67). In the following year the forces of the Thirty were defeated at Phyle and Munychia. Their most notorious member, Critias, was killed at Munychia: see note on §173.2. Aeschin. says that his father was among the victorious democrats but this may not be true, since he describes his father's adventures in exile--a sojourn in Corinth, mercenary service in Asia, and subsequent return to Attica in support of the democrats--as taking place within a few months (2.78, 147, and see Harris 1995 22-3; Tritle 1996 is more inclined to accept Aeschines' version.

The intervention of Pausanias paved the way for a reconciliation between the warring factions, and the democracy was restored in 403/2, the archonship of Eucleides (AP 39.1, D.S. 14.12.1; Develin 1989 199). A general amnesty was declared: there could be no prosecution for offenses committed before the archonship of Eucleides, and every citizen swore an oath to bear no grudge. Verdicts rendered by the Thirty were annulled and their laws superseded. The amnesty was extended to all: in the case of the Thirty, the Ten, the Piraeus Ten, and the Eleven, it was granted only if they were willing to render an accounting.

Popular hatred of the Thirty continued to be exploited even in the middle of the fourth century, and in oratory they are often presented as examples of lawlessness (e.g., D. 20.11, 22.52). Aeschin. uses them as an *exemplum* at 2.77 and 3.235. On the Thirty and the events of this period see X. *HG.* 2.3-4, *AP* 34-41.1, Lys. 12 and 13, D.S. 14.3-6. 32-3. Σ 1. 39, 82; also Hignett 1952 285-98, Rhodes 1993 415-82 and Krentz 1982.

The analogy which Aeschin. makes is somewhat obscure. First, does τὰ ἐπὶ τῶν τριάκοντα refer to the laws of the Thirty, which were annulled and thus ἄκυρα, or to the acts of the Thirty, which were forgiven by the amnesty? Second, does the phrase τὰ ἐπὶ τῶν τριάκοντα καὶ τὰ πρὸ Εὐκλείδου refer to one or to two different measures? As for the first question, the scholia give both answers (1, 39, 82). However since Aeschin. sums up the phrase with the word προθεσμία, "statute of limitations," it is more easily understood as referring to the acts of the Thirty: a man could not be prosecuted for crimes committed before 403/2. Thus Aeschin. uses the amnesty as an *exemplum*: his magnanimity in passing over Timarchus' alleged misdeeds is as generous as the amnesty granted by the restored democrats, while Timarchus in turn is as wicked as the Thirty.

Is τὰ πρὸ Εὐκλείδου then simply a pleonastic reiteration of τὰ ἐπὶ τῶν τριάκοντα? The scholiast who wrote on these words (1, 39, 83) thinks not. In 451/0 Pericles moved a law which reserved Athenian citizenship for the child of citizen parents. This law apparently fell into disuse in the later fifth century but was revived after the restoration of the democracy. The status of the parents of those born before 403/2 would not be scrutinized, but all born thereafter had to have two citizen parents (D. 57.30, Is. 6.47, 8.43). Therefore according to the scholiast we have a second *exemplum*: "Timarchus is like those Athenians who hold citizenship by special dispensation." Yet if Aeschin. is referring to this measure it seems more likely that he, like the scholiast, would use the phrase τοὺς πρὸ Εὐκλείδου. Secondly, the phrase is used again by Lucian, a reader of Aeschin. (*Apol.* 6-7), as a joke in his dialogue *Cataplus* (5), and the scholiast on

this passage understands it to refer to the amnesty (cf. *Σ Ar. Pl.* 1146, which similarly employs the phrase: ψήφισμα ἔθεντο μὴ ἀλλήλοις μνησικακεῖν καὶ τὰ πρὸ Εὐκλείδου ἄκυρα εἶναι). So perhaps it is best if we take the phrase as another example of pleonasm.

The evidence for the renewal of Pericles' law presents some difficulty. *Ath.* reports a law of Aristophon (perhaps of Azenia: see note on §64.2) passed in the archonship of Eucleides stating that "whoever is not born of a citizen mother is a bastard" (13.38.13=*FGH* 4.358). But the scholiast on our passage says that Nicomenes (*PA* 10968) moved a decree which granted citizenship to the child whose parents were citizens. Are the *nomos* of Aristophon and the *psephima* of Nicomenes to be considered identical (cf. *LCA* 66), distinct (see references in Scafuro 1994 182 n.5), or is the latter an amendment of the former (*LA* i.26 n.1)? Given the current state of the evidence, which consists entirely of these two notices, I follow Wyse: "it is idle to pretend to fix [their] exact relation" (1904 623-4). For Pericles' citizenship law see Stadter 1989 333-5.

40.2 ἐκάθητο. . . ἐπὶ τοῦ Εὐθυδίκου ἰατρείου] *LSJ* κάθημαι 5 cites our passage for the meaning "to be employed in," but the phrase more likely means "he frequented, passed time": cf. §41.7 τὰς διατριβὰς ἐποιεῖτο Τίμαρχος οὕτοσι ἐπὶ τοῦ ἰατρείου and *Ael. VH* 3.7, a description of idlers at another ἰατρεῖον: καθεζομένους ἐν ἰατρείῳ ψογερούς καὶ κακῶς ἀγορεύειν ἐκ παντὸς τρόπου διψῶντας.

The phrase καθῆσθαι or καθεζεσθαι ἐπ' οἰκήματος is a euphemism for "to work in a brothel" (§§74, 120, 123, *Athen.* 13.569d, *Din.* 1.23, *Hdt.* 2.121, 126, *Pl. Charm.* 163b and cf. [*D.*] 59.67, *Is.* 6.19). The force of ἐπὶ with the genitive here is local ("beside, by"; *KG* 1.495-6, *LSJ* A.I.1) and refers to the prostitute's customary position in front of the brothel: cf. *Din.* 1.13 τὴν Ὀλυθίαν παιδίσκην ἔστησεν ἐπ' οἰκήματος. Ruijgh attributes this usage of ἐπί to the partitive force of the genitive (1993 136). For οἴκημα meaning "brothel" see note on §74.3.

40.2 Εὐθυδίκου] The doctor Euthydicus (*PA* 5551) is mentioned by name probably because he was well-known (Humphreys 1985 327). He appears again at [D.] 40.33 where his testimony to the Areopagus is said to have freed the speaker Mantitheus. Aeschin. does not call for his deposition.

40.8 ὡς ἄρα] This combination of particles "commonly introduces a statement made by another person, which the speaker himself does not believe" (MacDowell on Antipho 1.4). Cf. 3.13, 54, 60, 137.

41.1 Μισγόλας] Misgolas (*PA* 10225) is the same age as Aeschin. and therefore roughly the same age as Timarchus, although Aeschin. misrepresents this detail: see note on §49.8. His status is denoted by the patronymic and demotic and the phrase καλὸς κάγαθός, used ironically here as at §69. It is important to Aeschin.'s strategy that he establish Misgolas' character: his wealth, his remarkably intense desire for young men and his luxurious lifestyle all make him a likely patron for Timarchus, who in turn submits to Misgolas because of his own addiction to expensive pleasure. See also Arnott 1996 63 and Bourriot 1995 440-1.

Beyond this speech we know two other details about Misgolas: around the time of the trial he represented his tribe on a board which made a dedication to Artemis (*IG* II² 2825; see M.N. Tod *ABSA* 8 (1901/2) 211-4) and when he was approximately sixty, he and his brother together manumitted some slaves (*IG* II² 1554B; see D. Lewis, *Hesperia* 28 (1959) 233). Humphreys suggests that he was still unmarried at the time, claiming that "it was unusual for brothers to keep property undivided unless one was childless" (1985 337). She gives no evidence to support this statement.

41.1 ἔστι] Aeschin. assumes that the judges do not know Misgolas (§41.6, 49). Yet he is ridiculed ὡς ἔσπουδακότα περὶ κιθαρῳδούς καὶ κιθαριστάς ὠραίους in several comedies (Alex. F3, Timocl. F30, Antiph. F26). Although the date of these comedies is uncertain, the fact that Alex. and Antiph. make fun of his predilection for lyre-players suggests that he became notorious as a result of the trial (cf. *GH* 73-5).

τις (the reading of β D) should be restored: cf. the introductory formula ἔστι τις §62 and 3.162. On this formula see Arnott 1996 100.

41.4 κιθαρῳδούς καὶ κιθαριστάς] I have transliterated these terms as they have no close equivalents in modern Anglo-American culture. The κιθαρῳδός sings while accompanying himself on the κιθάρα, while the κιθαριστής plays but does not sing (Σ 1, 41, 89a-b. Ammon. F271). Another definition, or perhaps a supplementary one, is offered by Aristoxenus: the κιθαριστής plays the κίθαρις (λύρα), the κιθαρῳδός plays the κιθάρα (F102). Aristoxenus may be using κιθαριστής in the sense "teacher of music and lyric poetry" (see note on §9.1), since the κιθάρα was not used for instruction (Arist. *Pol.* 1341a18-21; cf. West 1992 54-5, 57). See further "citharist" and "citharodes" in the index of West 1992.

41.7 ἀργύριόν τι προαναλώσας] According to Aeschin. the defense will argue that *hetairēsis* is defined by its contractual nature and demand that he produce a contract as proof of Timarchus' guilt (§160ff.). Carey assumes Aeschin. refers to a contract here (1989 102-3), but that is not evident from the text. However Aeschin. does state explicitly here that the relationship was mercenary. See further note on §160.

41.9 ἀνέστησεν] This word can denote the relation of patron and prostitute (D. 18. 129: cf. Σ 1, 41, 90); so too ἀναλαμβάνω (§§43, 53, 54, 57, 58: cf. Alexis F98 and Σ 1, 43, 96).

41.10 πάσχειν] For this use of πάσχω cf. §§46 and 73.

42.5 ὀψοφαγία] Davidson 1993 62 n. 74 demonstrates that ὄψον refers not to generic "delicacies" (Adams) but to fish, most kinds of which were luxury items in Athens. In this article Davidson examines the references to ὀψοφαγία in comedy and uses them to "illuminate the plausibility of Aeschin.'s arguments" in §§42, 65 and 95. The consumption of fish is treated by the comedians as conspicuous consumption, a marker of the difference between rich and poor (cf. e.g. D. 19.229). Further, it is described as an uncontrollable lust which may lead to ruin and, consequently, to a life of crime. Timarchus' gourmandise, along with his appetites for sex and gambling, characterize him as a man devoted not to the body of citizens but to his own body: he is a potential tyrant, a threat to the *demos*.

Such slanderous allegations are frequently made in oratory and comedy (cf. Harding 1994b), and are often linked with *hybris* and tyranny; for examples see *GPM* 175-80 and the notes on §§42.6 and 65.2. This passage provides the motive for the second charge (Timarchus' expensive tastes led him to squander his patrimony §§95-6), and is indeed fundamental to the prosecution's case. Winkler well summarizes the argument: "Obsessive indulgence in the wild life will obviously lead one to other fundamental crimes of the gravest sort. . . since addicts and maniacs will violate *any* fundamental rule that we reasonable people observe" (Winkler 1989 57).

42.6 ἀύλητρισι καὶ ἑταίραις] Other accusations based on Timarchus' sexual relations with women are made §§75, 107 and 115. They remind us that Aeschin. condemns his

opponent's lack of self-control, and not strictly speaking the gender of his sexual partners. Cf. Lys. 14.25, where Carey notes "the combination of passive homosexuality. . . and active heterosexuality. . . would not strike a Greek as strange" (1989 163-4).

42.6 κύβοις] Aeschin. discusses Timarchus' gambling at length §57-60, demonstrating his lack of self-restraint (cf. Lys. 16.11). Gamblers are censured for wasting time (§53. Isoc. 18.48, 19.287, X. *Mem.* 1.2.57, *Oec.* 1.20) and money (Lys. 14.27, X. *Hell.* 6.3.16), and their shady reputation made them a popular target of Middle Comedy; see Arnott 1996 347 and Hunter 1983 142. See also notes on §§53.7 and 59.3.

42.7 μιαρός] A common term of abuse in comedy and oratory, e.g. §54, 3.79, 101. D. 21.114, 25.32 and Din. 1.21: see Parker 1983 3-5 and Moulinier 1975 180-1 for discussion and full references. Although μιαρός may have religious connotations ("blood-stained, defiled"), Moulinier notes that "il perd souvent sa valeur étymologique et devient une vigoureuse insulte" (1975 180). The word is nearly synonymous with βδελυρός, i.e. behavior or character which is repellent, bestial or uncontrolled (Parker 1983 4). Cf. note on §31.3.

42.8 ἐκλιπών μὲν τὴν πατρῶαν οἰκίαν] Cf. §75, Lys. 14.25 with Carey *ad loc.* and D. 19.230, where he reproaches Phryno for sending his son to Philip while the boy was still a minor. Apparently Timarchus violated convention by leaving his father's house to associate with a man who had no relation to it: cf. His ἀκοσμία is emphasized rhetorically through the use of the priamel (ll. 10-2).

43.3 Διονυσίων τῶν ἐν ἄστει πομπή] This incident is the expansion of an accusation made in §40, that Timarchus was willing to have sex with foreigners. It is narrated in a prurient yet plausible manner: many foreigners came to Athens for the

Dionysia (3.43, D. 21.74), and in Greek literature, processions are often the settings for seduction (e.g., Men. F588 K, Lys. 1.8). The very act of dining at an inn might be viewed with suspicion (Ath. 13.566F = Hyp. F138); perhaps certain συνοικίαι in Athens were houses of prostitution (see note on §43.9).

The *pompe* of the City Dionysia took place on 10 Elaphebolion and opened the festival proper: offerings were brought to sacrifice in the precinct of Dionysus by men and women, young and old, accompanied by the *phallophoroi*, by the metics dressed in scarlet, and by the *choregoi* in splendid robes and crowns (Pickard-Cambridge 1968 57-66; C. Sourvinou-Inwood in Osborne and Hornblower 1994 269-90). We do not know if Misgolas and Phaedrus participated as *choregoi*. Phaedrus did belong to the liturgical class (see following note), and Aeschin. refers to some sort of preparation, presumably of dress.

43.4 Φαῖδρος Καλλίου Σφήττιος] Phaedrus (PA 13964) was a member of "a wealthy and prominent Athenian family whose members were active in politics and held a number of different public offices throughout much of the fourth and third centuries" (T. L. Shear *Kallias of Sphettos and the Revolt of Athens in 286 B.C.* 1978 9). He had been general in the year before the trial (*IG II²* 213.8). He is a witness for Aeschin., though note that he and Timarchus are fellow demesmen, and that their wealth seems to have come for the most part from mining (Davies 1971 525).

This incident is one of the few for which Aeschin. provides testimony yet it in no way proves that Timarchus has been a prostitute. Why then did Aeschin. choose to present this witness? Clearly the testimony of Misgolas could be conclusive: but it seems that he would not testify that he hired Timarchus, and moreover Aeschin. was uncertain that he would attest even a less explicit deposition. On the other hand the support of Phaedrus must have been certain; and so Aeschin. offers his testimony first, ensuring that at least some of the narrative was substantiated. In addition, he calls as his first witness a

man whose authority perhaps lent greater credence to the whole argument of this section. On the artful placement of artless proofs, see Carey 1994b 103-6: on the use of prestigious witnesses see Humphreys 1985 335-8.

43.9 συνοικία] At §124 Aeschin. defines συνοικία as ὅπου μὲν γὰρ πολλοὶ μισθωσάμενοι μίαν οἴκησιν διελόμενοι ἔχουσι. The "multiple-unit dwelling" could be used as an apartment-house (Hyp. F37) or inn (*LSJ* III.1: [X.] *Ath.* 1.18). At Is. 6.19-21 the prostitute Alke resides in one συνοικία and is agent for another: these may have been houses of prostitution (see Wyse *ad loc.*). The συνοικία was apparently an attractive investment: it appears in several property lists (D. 29.3, 36.6, 34, 38.7, 45.28, Is. 2.27, 5.27, Ath. 12.542ff.: see Davies 1984 51-2). On the definition of συνοικία see Pritchett 1956 268 and cf. note on §74.3.

43.10-11 κελυόντων] Martin and de Budé *ad loc.* suggest, with reservations, that Misgolas and Phaedrus threaten Timarchus' companions with ἀπαγωγή ("leading away," i.e., summary arrest). This procedure was used against three kinds of offenders. κακοῦργοι ("wrong-doers," especially thieves), murderers and ἄτιμοι (*LA* ii.226-9, Hansen 1976): in no ancient source do we find those accused of "corrupting a free youth" (l. 13) subject to it. Therefore the hypothesis of Martin and de Budé cannot be confirmed. Since accused ξένοι would have little incentive to remain in Athens until trial, it seems to have been customary to imprison or to demand sureties from them at the scene (*LCA* 76 with n. 137: cf. *GH* 34). For references to ξένοι in prison see e.g. 3.223, D. 18.137, 22.68 and 25.60-1. Απαγωγή is used against ξένοι in Antipho 5 and perhaps Lys. 13, but both are cases of murder (see *SAL* 330-1). On ἀπαγωγή see note on §§90-1.

44 It becomes clear in the course of the speech that Aeschin. has constructed much of his narrative from anecdotes and rumors about Timarchus. He defends their use in part with the *topos* Ober calls "everyone knows" (1989 150): he claims that the judges, indeed the whole city, are aware of Timarchus' disreputable character and shameful behavior (§20. 52, 65, 73-93, 113, 125-31, 189). Arist. notes the orators' excessive use of this *topos* (*Rh.* 1408a32-6). See further Ober 1989 148-51, *GH* 39-40 and on the use of gossip in the speech see §125.3.

Although the *topos* first appeared at §20, Aeschin. discusses it at length here, again because of the possibility that Misgolas would refuse to affirm his deposition. Thus he prefaces his introduction of Misgolas' testimony by effectively turning the judges themselves into witnesses ("you all know. . ."). As a consequence of his reliance on gossip and the necessity of justifying its use, Aeschin. will continue to interrupt the narrative in order to anticipate the defense: see Introduction V.

45.2 γέγραφα μαρτυρίαν] In the fifth century, it was possible for a witness to make his deposition orally in court (And. 1.69, cf. 112) or to answer questions put by the litigant who had called him (And. 1.14, cf. Ar. V. 962-6). But this procedure was changed by legislation (D. 45.44) in the first quarter of the fourth century: thereafter a "written statement of a witness's evidence, made out in advance, was read out to the court by the clerk" (*LCA* 242-3). In court the witness would then attest the deposition: the scholiast says that the witness, after confirming the document, wrote ναὶ μαρτυρῶ (1. 45, 101). At times the testimony of a witness was recorded in his presence by a third party (e.g., D. 29.11), but for the most part the litigant himself composed the deposition (§§47, 67, D. 29.20, 45.60, 54.26, 57.14). Although the litigant seems to have had complete freedom in composing a deposition, in court the witness might choose not to attest it; this ability to refuse a deposition in theory acted as a check on overly imaginative litigants (see note on §§46-7). Cf. Carey 1994 97-8, Bonner 1905 46 and *LA*

ii.139. On the artful drafting of depositions see Carey 1994b 97-102. On the date of the change from oral to written testimony see E. Ruschenbusch *Symposion* 1982 34-5 and G. M. Calhoun *TAPA* 50 (1919) 177-93.

45.3 ἀπαίδευτον] In its entry for ἀπαίδευτος *LSJ* both improperly cites this passage and mistranslates the word ("clumsy"); "boorish, rude" is closer, and "lacking refinement" closer still. The point is clear: Aeschin., maintaining the circumspection of his *ethos*, will word the deposition so as not to give offense either to Misgolas or the judges. His magnanimity is not simply rhetorical: the concession was perhaps necessary in persuading Misgolas to testify (see note on §§46-7).

Words built on the stem -παίδευ- are very common in this speech (§§132. 137. 140, 142, 166, 173, 185: cf. Harris 1995 28 with n. 29). They help Aeschines define his *ethos*: the moral preceptor concerned with defining the proper education of youth (cf. 3.246), and the *kalos kagathos*, the well-bred man of culture (often as opposed to his ἀπαίδευτοι opponents §§137. 166. 185: cf. 3.130).

45.6 ἐπιζήμιόν] Attic law apparently had no provision against self-incrimination (cf. §§72, 98); in two instances (§115, [D.] 58.35) a witness testifies to committing acts which were punishable under the law (*LA* ii.138, though he wrongly cites D. 59.28: *contra* Bonner 1905 43), and likewise Aeschin. says that witnesses refuse to testify because they are afraid of being prosecuted for their testimony (e.g., §§87-8). Aeschin. claims that the deposition contains nothing which will leave Misgolas open to further prosecution. The claim is clearly prejudicial, as it implies that Misgolas could be prosecuted for his relationship with Timarchus, that is, for hiring Timarchus as a paid companion, possibly under the γραγή ἐταιρήσεως. Yet given the apparent ubiquity of male prostitution in Athens, it seems that the patron of a citizen prostitute could be prosecuted only under certain circumstances; see on §72.3. Although the deposition has

not been preserved (see note on §50.9), it probably stated that Timarchus had lived or spent time with Misgolas: cf. Σ 1, 45, 100.

46-7 Aeschin. anticipates Misgolas' failure to testify. A potential witness could simply refuse to come to trial (Lycurg. 1.20): how did Attic law address this problem? The question is difficult to answer, as the evidence is spotty and highly colored by rhetoric. However it is certain that the law (κατὰ τὸν νόμον [D.] 49.20, 59.29, Lycurg. 1.20) provided the litigant with some means to bring pressure on reluctant witnesses. Two of these means, the oath of disclaimer and *kleteusis*, are discussed below. For a possible third, the δίκη λιπομαρτυρίου, see Todd 1990b 25. On the question in general see Carey 1995, Todd 1990b, Humphreys 1985, *LCA* 243-4, *LA* ii.139-44, and Bonner and Smith 1938 ii.136-44.

(a) The oath of disclaimer (ἐξόμνησθαι §47, *AP* 55.5, D. 19.176, 45.60, [D.] 49.20, 57.59, [D.] 58.7, [D.] 59.28, Is. 9.18-9, Lycurg. 1.20: ἐξομνύειν D. 19.176, 29.20: ἐξομνύναι D. 45.59). If a witness did not wish to attest the deposition offered by the litigant, he might instead swear an oath of disclaimer. The exact words of the oath are unknown. From the scholiast and lexicographers we gather that it allowed the witness to swear either that he was ignorant about the fact in question (οὐκ εἰδέναι τὰ ἀξιούμενα Σ 1, 45, 99; cf. Poll. 8.37, 55, Suda ε 1797, Is. 9.19 and *S. Ant.* 535) or that he was not present when an event took place (Poll. 8.37). Since the litigant was responsible for drafting the deposition, he had the opportunity to misrepresent the truth, or at the very least to present facts or allegations in a prejudicial manner, as our passage shows (cf. §67 and *LA* ii.144). Therefore we would expect that the oath also allowed a witness to assert that "the facts were not as stated" (*LCA* 243). Yet our limited evidence does not allow this conclusion: the sources consistently state that the witness swore μὴ εἰδέναι/ἐπίστασθαι. While this would seem to constrain the witness excessively, Carey argues that

the oath in practice allowed a witness to withhold support from a deposition which he knew (or claimed he knew) to contain misstatements. Hegesander in Aischin. 1 takes the oath (§67-9) to reject an allegation concerning his relationship with Timarchos. Clearly he knows the nature of his relationship with Timarchos, and nobody on the jury panel will have supposed otherwise. . . . Whatever the original scope and precise wording of the oath of disclaimer, in practice in the classical period it could be used not only to indicate that a witness did not know whether a given statement was true or false but also that he did not know it to be true (1995 117).

Furthermore there is no evidence that the man who falsely swore an oath of disclaimer could be prosecuted in consequence (Bonner and Smith 1938 ii.137, Carey 1995 118).

On two occasions when a witness takes the oath of disclaimer, the litigant accuses them of swearing falsely (ἐπιτορκεῖν §67 and D. 45.59, 61) but gives no indication that he will proceed against them on this ground, nor does Aeschin. suggest that he will prosecute if Misgolas chooses to take the oath (§47).

Perhaps the most interesting aspect of the oath is the tactical use to which it is put. The secretary read the deposition to the judges before the litigant challenged the witness to attest or disclaim it (D. 45.60. [D.] 58.7). Thus it was a very effective way of introducing prejudicial testimony (cf. *Rh. Al.* 1432a, cited by Wyse 1904 638 and Humphreys 1985 358 n. 30, and *LA* ii.140 n. 1). Aeschin. goes even further in his second oration: anticipating that a witness will take the oath, he summarizes the deposition for the judges before calling the witness, presumably to ensure that the judges grasp its significance (2.68). Finally, if the oath was worded as Carey believes ("X swears/I swear that he does/I do not know that Y did Z"), it forced the witness himself to repeat the allegation (Carey 1995 117).

(b) *Kleteusis*. The word *kleteusis* is used by modern scholars but is not found in ancient sources: for the procedure see §46, 2.68, D. 32.30, [D.] 59.28, Lycurg. 1.20. Again we are hampered by a paucity of evidence. In §46 Aeschin. implies that if Misgolas defaults, he will suffer a fine of 1000 drachmae, payable to the state treasury (cf. Σ 1, 46, 103 and Harp. s.v. κλητῆρες καὶ κλητεύειν) and the herald will publicize his failure to come forward (ἐκκλητεύειν; cf. 2.68 and Σ 1, 46, 102b τῶν

ἐγκαταλιπόντων τὴν μαρτυρίαν τὰ ὀνόματα ἐν τῷ δήμῳ ἐκηρύσσετο. καὶ τοῦτο ἐκαλεῖτο ἐκκλητευθῆναι). It seems that the litigant initiated the process by formally summoning a witness to appear (κλητεύειν Lycurg. 1.20, [D.] 59.28): if the witness did not come forward at that time, the penalties were imposed automatically (*LA* ii.140, Bonner and Smith 1938 ii.138-9).

To what end was *kleteusis* used? The orators threaten it "to compel a reluctant witness either to depose or to take the oath of disclaimer" (Carey 1992 101; cf. *LA* ii.140). Such is the case in our passage, in Lycurg. 1.20 and [D.] 59.28: Aeschin. threatens to have Amyntor penalized if he does not come forward (ἐκκλήτευε 2.68), and Demosthenes speaks of compelling the ambassadors to testify or swear the oath of disclaimer (ἀναγκάσω 19.176, cf. 198 and [D.] 58.7, 42). The scholiasts and lexicographers also define ἐκκλητεύειν in terms of its power to compel (τὸ εἰς κρίσιν ἄγειν, ἴν' ἐπάναγκές τις μαρτυρῆ Harp. s.v. = Suda ε 473, cf. Σ 1, 46. 102c). But Todd has argued that *kleteusis* "was not used, and perhaps could not be used, to force an absent witness to attend court"; instead he emphasizes its punitive aspect ("the method of imposing the fine on a man who refuses either to witness or to deny knowledge" (1990 24-5); cf. Σ 2, 68, 144a ἐκινδύνευε γὰρ ὁ καλούμενος καὶ μὴ ὑπακούων, ὡς καταφρονῶν τῶν νόμων). He builds his argument on the fact that

in the vast majority of cases [where *kleteusis* is threatened] it appears that the potential witness is already present in court: even when this is not made explicit. . . the speaker clearly expects the situation to be immediately resolved. . . in a way that would be impossible if the witness was not present (1990 24-5).

Todd does not believe that witnesses in the Athenian court had primarily an evidentiary function but were there instead to state their support for the litigant; thus *kleteusis* forced a witness to declare his allegiance. His point that Athenian law had no equivalent to the *subpoena* is a scrupulous attempt to avoid anachronism. But Carey shows that his basic argument cannot be supported by the use of *kleteusis* (1992 25). In D. 32.30, the speaker threatens to summon a man named Protus, who has apparently left

Athens (§29). To be sure, the threat is used rhetorically to imply collusion between the witness and the defendant, much as Aeschines uses the challenge to Hegesander in §67: nevertheless it is clear that the witness is not present in court and that the speaker does not expect the matter to be resolved quickly. In addition, if the procedure was meant to force the witness to declare his allegiance, it is difficult to understand the penalty of the herald's announcement, which seems more compulsory than punitive. Finally, if the litigant had no means of pressuring a witness to testify, why do certain witnesses attest depositions which make them liable to further prosecution (see note on §45.6)?

48.2-3 εἰ δὲ μή] Reiske understands τοῦτο γένηται, ὃ οἶομαι. On this use of εἰ μή ἀλλά ("at least, at any rate") cf. §53 and see *GP* 11-3. In support of Blass's addition of γε here, we may cite Denniston, who notes "the tendency to add γε" to "the emphatic word or phrase in the ἀλλά-clause" in this construction.

48.3 ἐκεῖνό γε] Bremi, Wolf and Martin and de Budé take ἀφελέσθαι as complementary infinitive to δυνήσονται and ἐκεῖνο as expegetical to the accusatives ἀλήθειαν and φήμην ("They will never be able to take away this, namely the truth and the reputation. . ."). Yet the orators use ἐκεῖνο to anticipate clauses (e.g., 3.6), statements (e.g., §193) or infinitive phrases (D. 20.72, 121, 24.67), not nouns. Only here does it stand for a complementary infinitive and its objects, although we may compare Isoc. 21.24: οὐδ' ἐκεῖνο ποιεῖν οὐδεὶς ἂν μοι συμβουλεύσειεν. ἀμελήσαντι τούτων καὶ μεταξὺ καταβαλόντι περαίνειν τὸν λόγον.

Aeschines either did not know if these men would attest their depositions or had already failed to obtain depositions from them; and so either having no evidence or uncertain of it he resorts instead to rumor. See note on §44.

48.6-8 Cited by Stobaeus in his collection of aphorisms on σωφροσύνη (3.5.19).

49.4 προφερέϊς] A rarely used word, meaning "looking older than one is" (*LSJ* II: cf. Pl. *Euthd.* 271b4 with Σ, Hsch. π 4067, Suda π 2920 and Σ 1, 49, 109ab). The scholiast (109b) objects to the pleonasm of νέοι ὄντες and καὶ πρεσβύτεροι, and the possible dittography of φαίνονται in l. 6 may indicate further corruption; thus Cobet deleted καὶ πρεσβύτεροι. But fullness of expression is a characteristic of Aeschin.'s style and here emphasizes his point: appearances can deceive.

49.7 συνέφηβος] Following their enrollment in the deme register at eighteen, Athenian youth might receive military training. They served for two years as border guards along with other citizens of their same age (cf. 2.167). They were called ἔφηβοι, and those who were ἔφηβοι at the same time and therefore born in approximately the same year were known as συνέφηβοι. Aeschines and Misgolas would have been συνέφηβοι from 373/2 until 371/0: see the following note. Their service preceded the formal institution of the Athenian ἐφήβεια, which is believed to have taken place in the 330s and made full-time duty of the ἔφηβοι compulsory. See further Rhodes 1993 494-5, Pélékidis 1962 35-47, 71-9 and O. Reinmuth *TAPA* 83 (1952) 34-50. For the word ἔφηβος as the designation of an age-class see Pélékidis 1962 51-70.

Another man who was an ἔφηβος with Misgolas and Aeschin. was Nausicles, who nominated Aeschin. for the embassy in 346 and served on it with him (2.18, 184). On Nausicles see Harris 1995 37.

49.8 πέμπτου καὶ τετρακοστὸν ἔτος] Aeschin. and Misgolas were both forty-five at the time of the trial and so were born in 391/0 or 390/89. Timarchus was at least thirty in 361/0, the year he served on the Council (see note on §109.3), and so he too would have been born in or before 391/0 (cf. *AB* 170). However this dating creates a problem since Aeschin. has said that Timarchus is younger than Misgolas (§42).

Lewis tried to resolve the problem by an emendation (τέταρτον καὶ πεντηκοστόν) which would place Aeschin.'s birth in 399/8 or 400/399 (1958 108). He based his conjecture on *vit.* 2.12-3, which states that Aeschin. died in 322 at the age of seventy-five. Yet his emendation does not yield the year of birth implied by the *vita* (398/7 or 397/6), nor is the *vita* itself a reliable source upon which to base conjectures: see Introduction I. An earlier date of birth would also raise problems in the account Aeschin. gives of his military career in the second oration, making him at least thirty-two years old before going on his first campaign (Harris 1988 213).

Harris proposed another, more satisfactory solution. It was to Aeschin.'s advantage to obscure the age of Timarchus. We may infer from this passage that Misgolas looked younger than Timarchus: cf. §§26, 95, 106 where Aeschin. makes it clear that Timarchus' beauty had long since faded. But since the judges would expect the patron to be older than the prostitute, Aeschin. offers this elaborate explanation of Misgolas' youthful appearance to make his allegation more plausible (Harris 1988 212: cf. Σ 1, 49, 108). In reality Timarchus was the same age as, or even older, than Misgolas and Aeschin. Once again note how Aeschin. uses artful proofs to compensate for his lack of artless ones.

49.14 ἐπλησίαζεν] See note on §153.8.

50.9 Aeschin. asks for the depositions of Phaedrus, Misgolas and the men who would attest that Timarchus lived with Misgolas: only the deposition of Misgolas is preserved. It is evidently a forgery, as his demotic and patronymic differ from those given in the speech proper (§41). Similarly the document at §68 gives the demotic of Hegesander as Στειριεύς while Aeschin. says that his deme was Sounion (§63, cf. note on §55.7). These are remarkably clumsy mistakes and it is difficult to imagine how they arose:

perhaps the demotic Piraeus was attached to Misgolas' name through the "association of the Piraeus with prostitutes." See Drerup 1898 314 and *GH* 26.

51.5 παρρησιάζεται] Not "to speak freely" (§172 and cf. §14) but "to speak explicitly or frankly" (§§80, 177, 2.70; see Ba. 1, 333, 5, Σ 1, 51, 111 and cf. D. 19.237).

52.2 ἀγρίους] "Living in the fields, wild, savage" (*LSJ*). According to the *Suida*. ἀγρίους. . . ἐκάλουν οἱ παλαιοὶ τοὺς παιδεραστάς (α 360: cf. Σ 1, 52, 115. Bk. 200.21, Greg. Cor. 7, 1186, 5-9). However I doubt that an Athenian man in the classical period would be reproached simply because he had sexual relations with younger men. But censure might fall on those who pursued too vehemently or with too little σωφροσύνη, e.g. the son of Xenophantes mocked by Ar. (*Nub.* 348-50 and Σ *ad loc.*: Σ 1, 52, 113 and *GH* 37-8). The scholiasts and lexicographers tell us that such men were called κένταυροι (Σ 1, 52, 115, Ba. 25.10: cf. Ar. *Nub.* 349, Σ *ad loc.* and Henderson 1991 202-3), κολλοποδιώκται (*Suda* α 360: see Henderson 1991 212-3) and τριβαλλοί (Σ 1, 52, 115; see Henderson 1991 121, 176). That they were mocked because of their lack of σωφροσύνη is suggested not only by the savagery typically associated with "centaurs" (e.g. Eur. *HF* 181 τετρασκελές θ' ὕβρισμα, Κενταύρων γένος) and "Triballoi" (see Carey and Reid on D. 54.39) but also by Harp.'s notice of ἀγρίους, which suggests that the word was applied to a person "wild for" anything:

Αἰσχίνης ἐν τῷ κατὰ Τιμάρχου τοὺς σφόδρα ἐπτοημένους περὶ τὰ παιδικὰ καὶ χαλεποὺς παιδεραστάς φησι. καὶ ἄγριον κυβευτῆν Μένανδρος λέγει τὸν σφόδρα κυβεύειν ἐσπουδακότα.

Cf. D. 54.39, Eust. ii.267.1 and Hsch. s.v. τριβαλλοί.

Note that the Athenians censured not those who pursued boys but those whose pursuit was considered imprudent, improper or overzealous (cf. §135, *Suda* α 4498, θ 261 and κ 1497: we do not know how the subject was treated in the comedies

Παιδερασταί by Diph. and *Παιδεραστής* by Antiph.). While the receptive partner is

frequently criticized in our sources, the insertive partner rarely comes under attack. In Henderson's first edition of *The Maculate Muse*, he identified ten "active pederasts ridiculed by name in comedy" (1975 218-9). He revised this list considerably for the 1991 edition (252), following the work of Dover (*GH* 37-8, 137-8); he in fact eliminated every name.

52.3 Κηδωνίδην] Aeschin. again makes Timarchus guilty by association: Cedonides. Thersandrus (*PA* 7190) and Autocleides (*PA* 2709) were apparently well-known παιδερασταί. In its entry for Cedonides, the *Suida* says οὗτος τεθρυλημένος ἦν ἐπὶ παιδεραστίᾳ ἀνυπερβλήτῳ. ὡς Αὐτοκλείδης καὶ Θέρσανδρος (κ 1497: cf. α 4498, θ 261. π 849, Harp. s.v. Κηδωνίδης and Σ 1, 52, 113). According to Harp. Aristogeiton mentioned them in his speech against Timarchus (s.v. Αὐτοκλείδης). The notoriety of Autocleides may be further attested if he is identified with the eponymous hero of Timocles' comedy Ὀρεσταυτοκλείδης (Harp. s.v. παράβυστον: so Kock *CAF* ii.462, Henderson 1991 218).

52.10 εἰκῆ] "Without plan or purpose" (*LSJ*) but here as often in the orators "recklessly, heedlessly" (Chadwick 1996 96-100). Cf. 2.22, 3.177, 187 and the scholiast's gloss ἀνοία (1, 52, 118).

53.2 Ἀντικλῆς Καλλίου Εὐωνυμεύς] We may infer from the *trinomina* that Anticles (*PA* 1065) like Misgolas and Hegesander was καλὸς κάγαθός. Aeschin. says he will not call him to testify, as he is not in Athens at the time. But it was possible in certain circumstances to introduce the deposition of an absent witness (ἐκμαρτυρία: see note on §107.9).

53.3 ἐν Σάμῳ] After the Peloponnesian War Samos had fallen under Persian influence, but during the first half of the fourth century, when Athens was actively expanding its interests in the North Aegean, it sought to reclaim its old ally. The general Timotheus captured the island in 366/5: the following year the Athenians, in an apparently controversial decision, dispatched settlers to establish a cleruchy there (D. 15.9, D.S. 18.18, Arist. *Rh.* 1384b32-5). Another group was sent in 361/0 (Σ 1, 53, 121) and again in 352/1, at which time they exiled the Samians and took control of the island (*FGH* 3b Suppl. 529). We do not know when or in what capacity Anticles went. Worthington's note on Din. 1.14 gives a useful overview along with earlier bibliography.

The cleruchy on Samos and the alleged abuses of Timarchus while governor of Andros (§107) have long been considered evidence of Athenian imperialism *redux* in the second quarter of the fourth century. Cargill 1981 argues otherwise: for example, the existence of this cleruchy is not relevant since Samos was not a League member (36-37. 148-9). However his interpretation and his thesis in general have been rejected, e.g. by Heskell 1997 136-8. Badian 1995 91 n. 36. Shipley 1987 138-43. See also the review of Cargill 1981 by S. Hornblower *CR* 32 (1982) 235-9 and cf. note on §107.4.

53.7 κυβείῳ] A *hapax*, defined as "the place where gamblers get together" by Hsch. κ 4362: cf. Σ 1, 53, 123, 124b. The scholiast considers it a neologism, since Aeschin.'s contemporaries designate "gambling house" with the word σκιραφεῖον (Isoc. 18.48. 19.287, Din. F48.7 Conomis = Harp. s.v. Theopomp. Hist. *FGH* 115 F228 = Suda σ 620).

53.8 τηλίᾱ] Any sort of table (Pritchett 1956 315); here, the flat surface on which the roosters fought or the dice were thrown (Σ 1, 53, 124a, b).

53.8 τοὺς ὄρτυγας καὶ τοὺς ἀλεκτρυόνας] Cock-fighting and quail-fighting were extremely popular sports among the Greeks. See *D.-S.* 1.1 180-1, Pollard 1977 107-8 and Dunbar on *Av.* 483-4, 1297-9. We also hear about the sport of quail tapping (*Ar. Av.* 1299, *Ath.* 13.2.4):

A quail was put in a ring and tapped on the head to test its courage, or alternatively its crest was pulled. If it stood its ground the tapper won. If it played the coward and ran out of the ring he lost the bet. . . Addiction to the sport was known as 'Quail Madness' and was regarded, like gambling, as a mark of the profligate (Pollard 1977 108).

54.2 δημόσιος οἰκέτης] Slaves owned by the Athenian *polis* were called δημόσιοι (*Harp. s.v.*). They performed a variety of functions from manual labor to administrative work in various governmental offices. The most useful survey is Jacob 1979; see also Y. Garlan *Slavery in Ancient Greece* 1988 68-9, T. E. J. Wiedemann *Slavery* 1987 chap. 5 and *Greek and Roman Slavery* 1981 chap. 8.

If we accept Aeschin.'s words at face value, Pittalacus enjoyed a life which was very different from that of most Athenian slaves. Indeed nothing in the narrative, other than the words δημόσιος οἰκέτης, distinguishes him from the citizens with whom he dealt. We do not know how the *polis* employed him, but he apparently became wealthy (εὐπορῶν ἀργυρίου §54, a striking detail in itself) by running cock-fights (ὄρνιθίας *hyp. D.* 19.1) and games of dice (§57). If we assume that Hegesander destroyed his birds and gambling equipment in order to deprive him of his livelihood, it follows that he owned them (Jacob 1979 148). He may also have owned his house, although this is not explicitly stated (ἔσχε παρ' ἑαυτῷ §54, εἰσφοιτῶν ὡς τὸν Πιττάλακον §57, οἰκίαν οὐ ᾧκει ὁ Πιττάλακος §59). At any rate, as Jacob notes, "nous ne possédons pour toute l'antiquité qu'un seul exemple d'esclave public [*i.e.*, Pittalacus]. . . habitant dans une maison particulière" (1979 147). He was apparently not subject to the law prohibiting sexual relations between slaves and free youths (§139); at least Aeschin. does not mention any such prosecution. Finally he had the right to prosecute (§62).

This portrait does not easily conform to our knowledge of Athenian slavery. Most troublesome is the litigation of Pittalacus and Hegesander (§§62-6); cf. Osborne, who calls it "enigmatic" and believes that "there is clearly something behind this case" (1985 50). If Pittalacus belonged to the *polis*, Hegesander's attempt to claim him as his own seems overly rash; would it not have been easy to establish the fact that he was a public slave? If Pittalacus was a public slave, why did Glaucon, and not a representative of the *polis*, provide sureties for him (see notes on §62.6 and 9)? Or was Glaucon in fact acting for the *polis*, and the detail considered irrelevant by Aeschin.? Finally, how was Pittalacus, a slave, able to bring charges in the first place? The procedural capacity of slaves is a vexed issue on which we have little information (see in general *LA* i.167, *LCA* 81 and *SAL* 187), but slaves probably did not have the right to prosecute (*Pl. Grg.* 483b) and in most cases required their master to act in their behalf ([*D.*] 53.20). However Aeschin. speaks as if Pittalacus himself brought the charge against Hegesander. It is possible that a patron did stand for Pittalacus and that Aeschin. again failed to mention it (cf. *LA* i.177). But most scholars have theorized public slaves as an exceptional group holding, among other privileges, the right to prosecute (*LCA* 83, *LA* i.177, Hansen 1991 124). Unfortunately the theory depends entirely upon Aeschin.'s narrative, which given the numerous questions it raises seems an unsteady foundation.

A more satisfactory solution is that Pittalacus was a freedman at the time (Jacob 1979 149, 158-62; cf. *SAL* 193, Harris 1995 202 n.55). This would explain his wealth as well as his apparent ability to own property and to file charges. Speakers in other orations misrepresent the status of their opponents (*Lys.* 13.18, 30.2, Todd 1993b): certainly Aeschin. had reason to obscure the status of Pittalacus. Timarchus would seem all the more degenerate if his favors had been purchased by a slave (note the emphatic repetition of the phrase δημόσιος οικέτης τῆς πόλεως), and Hegesander all the more likely to embezzle the state's money if he had tried to claim a public slave as his own (§62). Note also that the procedure for claiming a man as one's own slave was often

abused (Isoc. 21.97); cf. the dispute over the status of Pancleon in Lys. 23.9-11, and cf. also §114, where Timarchus is accused of claiming Philotades as his freedman.

On the one hand this episode is designed to show the degradation to which Timarchus will subject himself in order to maintain his luxurious life: cf. note on §43.3. On the other hand it is offered to illustrate the callousness, duplicity and *hybris* of Timarchus and Hegesander. Accordingly Aeschin. must rouse some sympathy for Pittalacus, even though he begins by vilifying the man. The reversal is subtly accomplished: he portrays Pittalacus as a betrayed lover, victimized by his more powerful rival (§§58-9, 62-4): his fondness for the birds (§59) is a particularly effective detail in this regard.

54.6 χορηγόν] Cf. 2.79, 3.240. The word for the "man who pays for a chorus" (see note on §11.1) easily becomes a metaphor for "one who defrays the costs for any purpose" (*LSJ* II.2), especially one who spends extravagantly. D. calls Philip the χορηγός of the men he allegedly bribed (9.60, 19.216).

55.7 Ἠγήσανδρος] Aeschin. devotes much of the *diegesis* to an virulent attack on Hegesander of Sounion (*PA* 6307). He is accused of embezzlement (§56, 109-12), of mismanaging the estate of the heiress to whom he was married (§95), of κιναιδεία (§§63, 69, 70, 111), of hiring Timarchus for sexual favors (§§57-8, 64) and of conspiring with Timarchus in various crimes (§§58-64, 109-12). We have little to balance Aeschin.'s διαβολαί, since our knowledge of the man comes almost exclusively from this speech. We know that his family was of the liturgical class (Davies 1971 209), and that he and his brother Hegesippus took part in public affairs, although Hegesippus had a far more active career (see note on §64.4). Both may have been associated with Leodamas in 365, when Leodamas was prosecuting Chabrias and Callistratus; however Hegesander also served later under Callistratus' relative Timomachus (§111, D.L. 3.24; see Sealey 1965 149 and

notes on §56.2, 69.5). In 356 he proposed a decree concerning the Athenian garrison and governor on Andros (see note on §107.4). When he attacked the policies of Aristophon of Azenia, Aeschin. claims that Aristophon silenced him with the threat of a δοκιμασία ῥητόρων (§64 with Σ *ad loc.*; see note on §64.2).

In part Aeschin. seeks to prejudice the judges against the brothers since they will appear as συνήγοροι for Timarchus (§§69, 71; cf. Σ 1, 110, 240). But their interest in Timarchus goes beyond the personal. Hegesippus was one of the most outspoken opponents of Philip (see note on §64.4), and it is likely that Hegesander shared his views. He was also the φίλος of Timarchus and Diopieithes, both of whom campaigned actively against Philip (Σ 1, 63, 164; see note on 63.2). In supporting Timarchus, Hegesander and Hegesippus were also supporting anti-Macedonian policies--policies with which Aeschin. came into direct conflict (cf. Σ 1, 55, 126). On Hegesander see Kroll *RE* Suppl. 4 712. Davies 1971 209, Schaefer 1885-7 2. 330-3 and Sealey 1993 118.

There is a problem with the chronology of Hegesander's career. According to Aeschin., Hegesander met and hired Timarchus after he returned from the Hellespont where he had been treasurer to Timomachus (§56). The implication is that Timarchus was still a youth at the time (§61). We know of only one campaign in which Timomachus sailed to the north Aegean, in the year 361/0 (see note on §56.2). But later in the narrative, and therefore apparently later in time, Aeschin. says that Hegesander served as treasurer of Athene and Timarchus sat on the Council in the same year. This was the archonship of Nicophemus, the year 361/0 (§§109-10 and Σ 1, 109, 237), and Timarchus would have been at least thirty, too old to have been a plausible ἡτταρηκῶς (see note on §109.3). At any rate, Hegesander could not have held both offices in the same year (D. 24.150). Cf. Sealey 1993 118 n. 297 and Develin 1989 269, although the problem was noted earlier by Schaefer 1885-7 2 331 n. 6. Schaefer suggests that Hegesander served with Timomachus on an earlier mission, now unknown to us, and maliciously associated with the infamous campaign of 361/0 by Aeschin.

55.9 πάλαι] To be construed with θαυμάζετε: cf. the use of *iam dudum* with the present tense in Latin (*GMT* 9).

56.2 Τιμομάχῳ τῷ Ἀχαρνεῖ] Timomachus (*PA* 13797), general and κηδεστής of Callistratus ([*D.*] 50.48), was the descendant of a man who had worked as a carpenter on the Erechtheum (Davies 1971 280). He did not profit from the wealth and prestige which his family seems to have accumulated in so short a time, for his military career ended with prosecution and exile. In 367 Epaminondas defeated Athenian forces under his command at Mt. Oneion; according to X. the defeat was due partly to his negligence (*HG* 7.1.41: cf. §56.5 τῆς ἐκείνου εὐηθείας and Σ 1, 56, 128, 129). General again in 361/0 and leader of the Athenian fleet in the north Aegean, he ordered Apollodorus, one of his trierarchs at the time, to convey Callistratus from Macedonia to Thasos. Since Callistratus was in exile, Apollodorus refused ([*D.*] 50.14-23, 31-3, 48-52). A few months later, his efforts to keep Cotys from taking Athenian strongholds in the Chersonnese failed and Apollodorus proceeded to prosecute him by *eisangelia* to the Assembly. Sentenced to death, he fled Athens (*D.* 36.53, *Hyp.* 4.1-2, Σ 1, 56, 127; Hansen 1975 96-7). He was presumably charged with assisting an exile, but since *D.* includes him in a list of men held responsible for Athenian losses in Thrace, Hansen infers an additional charge of treason (*D.* 19.180, [*D.*] 50.48: cf. Σ 1, 56, 130 ὡς προδοῦς Κότυι τὴν Χερρόνησον). He also suggests that Timomachus was charged with embezzlement, on the basis of §56: the charge does not appear in other sources, and we do not know if Aeschin. substantiated it here (τὰς ἑτέρας μαρτυρίας ἀναγίγνωσκε §65). Roberts 1982 210 n. 97 is rightly sceptical: it may simply be slander, intended to discredit Hegesander by linking him to a notorious case. See also Reincke *RE* 6A.1 1291-2.

57.8 κακία καὶ ἀπιστία] The reading of Dilts, Martin and de Budé and Blass. Adams prints ἀκακία καὶ εὐπιστία, which is found in most mss. ("Timarchus shows an open-mindedness and a spirit of accommodation that are truly wonderful"); it seems to have supplanted the proper reading at an early date, as it appears in the scholiast (1, 57, 132a). The alpha privative was apparently attached to κακία because of its proximity to ἀπιστία, and ἀπιστία was emended to εὐπιστία in order to make the passage conform to the ironic tone of the subsequent chapter. The point however is that Timarchus should be reviled for his unscrupulousness and perfidy towards Pittalacus and, more generally, towards the *demos*; ἀκακία obscures that point.

58.5 μεθυσθέντες] Fondness of drink or inebriation is often offered as proof of an opponent's ἀκολασία: see e.g. the portraits of Philip (D. 2.19), Cotys (D. 23.114), and Neaera ([D.] 59.33). D. accuses Aeschin. of molesting an Olynthian woman while drunk (3.4, D. 19.198). Conon and his sons are described as habitual drinkers and said to be drunk when they attack Ariston (D. 54.4-8). Conversely, Euphiletus denies that he and his companions were drunk when they killed Eratosthenes (Lys. 1.45). See also D. 21.73. 180. Lys. 3.12, and Arist. *Rhet.* 1402b 10f.

The events described in §§58-9 have parallels in Lys. 3.6 (ἐλθῶν ἐπὶ τὴν οἰκίαν τὴν ἐμὴν νύκτωρ μεθύων) and F35 (πρὸς τὸν κίονα αὐτὸν δῆσαντας μαστιγοῦν); both concern disputes arising from homosexual intrigues.

59.3 ἀστραγάλους τέ τινας διασείστους] διάσειστος is apparently an adjective used to describe a kind of dice (Σ 1, 59, 135a), but its meaning is uncertain. The scholiast says διασείστους refers to dice with bronze or silver bells inside "to produce a pleasant sound when they were thrown" (Σ 1, 59, 135b). This is accepted by Martin and de Budé, who translate "osselets à sonnettes." Adams renders it "sundry dice," and in his note suggests that they were loaded. Harp. thinks they were shaken (σεῖω), i.e. in a cup.

before thrown (*s.v.* διασειστούς; cf. Suda δ 748 and *LSJ* "shaken about"). Harp.'s definition is the most plausible etymologically and is accepted by Lamer *RE* 13.2 1966, although it is difficult to understand how such dice would differ from any other.

59.7 ἐξ ἀνθρώπων] The phrase functions adjectivally as a superlative: Bremi translates *quod fere excedit hominum naturam. immensum. grave*. There is no need to follow Wolf's emendation ἐξανθρώπους, "inhuman," as the phrase was used by classical authors (*Lys.* 13.73, *Pl. Tht.* 170e). Later it appears, in a very similar context, at *Ael. NA* 10.21 (μαστιγοῦσί τε πολλὰς καὶ τὰς ἐξ ἀνθρώπων ξαίνουσι), and *Dam. Isid.* (ὑβρίζει ὑβρεις τὰς ἐξ ἀνθρώπων 83, 7 Zintzen; ἐτύπτετο τὰς ἐξ ἀνθρώπων πληγὰς 278, 15 Zintzen). See *LSJ* ἄνθρωπος 3c.

59.7 πληγὰς] ἐμασίγουν takes a double accusative: the external, which denotes a person (τὸν Πιττάλακον) and the internal, or cognate, which denotes a thing (τὰς πληγὰς). See *KG* 1.320, Smyth 1620, and cf. §139.3.

60.2 τὸν βωμὸν τὸν τῆς μητρὸς τῆν θεῶν] The "Mother of the Gods" was the Phrygian deity Cybele, whom the Athenians identified with Rhea (*Σ* 3, 187, 426b, *Ph.* *s.v.* μητραγύρτης, *Poll.* 3.11 and *Σ Ar. Pl.* 431). The *temenos* of the goddess lay in the southwestern part of the Agora, along the route to the Pnyx, and the altar itself stood opposite the statues of the eponymous heroes, where notices of the day's business were posted: so by taking refuge at her altar on a day when the Assembly was in session. Pittalacus ensured that his complaint was heard. The Bouleuterion was also located within the precinct, and it seems that when the shrine, known as the Metroon, was destroyed in the Persian sack of 480/79, the apparatus of the cult was transferred there. When the new Bouleuterion was built at the end of the fifth century, the old Bouleuterion became a repository of public records, and was known simply as the Metroon (e.g.,

3.187, D. 19.129, [D.] 25.98). See Camp 1992 91-4, Thompson and Wycherley 1972 29-38 and Travlos 1971 352.

In l. 2, γυμνός does not necessarily mean "naked"; cf. §26 and *LSJ* γυμνός 5. The point is that Pittalacus reveals his wounds *ut plagarum aspectu misericordiam moveret* (Bremi). Cf. Lys. F35, where the friends of a man severely beaten by a rival display his wounded body in the Agora. On supplication cf. §61.4 ὑπογενειάζων τὸν ἄνθρωπον, 104.3 and see J. Gould *JHS* 93 (1973) 74-103.

60.6 εἰς πᾶσαν τὴν πόλιν] εἰς with the accusative may express extent or coverage. "among, throughout" (*KG* 1.470: Smyth 1686a). Contrast the use of ἐν ("the place where") with ἀνακηρύττεσθαι at 3.32, 34. 43.

61.3 ἀργαλέος] Often found in epic, lyric and dramatic poetry, the word appears to my knowledge only three times in classical prose: here, Hp. *Ep.* 17.204 and X. *Hier.* 6.5.1.

62.2-3 δίκην. . . λαγχάνει] The phrase is explained by Carey and Reid 1985 74:

The next procedural step after the summons to the defendant was the acceptance of the case by the appropriate magistrate, when a plaintiff presented a statement of his charge or claim. On acceptance of the complaint the magistrate set a date for the preliminary hearing (ἀνάκρισις). Since the dates were assigned by lot, the magistrate was said κληροῦν τὰς δίκας and the plaintiff λαγχάνειν δίκην. Although in origin the phrase denotes passivity, it is frequently used with an active meaning, and is best translated 'bring an action,' 'prosecute.'

Cf. *LA* ii.88-9 and *LCA* 239-40. The person against whom the suit is brought appears in the dative (2.99, D. 30.15, 36.20-1, 23, 37.18, 22, 38.16, 39.1, 21. 41.4, Is. 2.29, 11.13).

Aeschin. dates the suit to the time when the brothers became prominent in foreign affairs (§64), probably the mid- to late 350s (see notes on §55.7 and 64.4). He does not state what charge Pittalacus brought; Osborne suggests that it was either a δίκη αἰκείας or βιαίων (1985 56; cf. Fisher 1992 39 n. 18).

62.3 ἐδικάζετο] δικάζομαι, "go to law," is used of δίκαι (*LSJ* II: D. 21.26, Lys. 1.44. 13.65). It does not mean that the case was being presented to the judges at this point. but that, with the allotment of a date for the ἀνάκρισις, the suit had formally begun (cf. D. 36.14, 37.18, [D.] 52.50).

62.6 ἤγεν εἰς δουλείαν] Aeschin. alleges that Hegesander delayed the trial, and ultimately forced Pittalacus to abandon the suit, through intimidation and deceit. The phrase ἀγεῖν εἰς δουλείαν is the equivalent of "to enslave" (3.157, [D.] 17.8, Is. F8.2: cf. Harp. s.v. ἄγοι, Hsch. α 2194). A person going free might be claimed, presumably in the presence of witnesses, as the slave of another; cf. Lys. 23.9. A person so claimed did not have the capability of asserting his freedom. He required a third party to provide sureties with the polemarch in order to guarantee his appearance in court (ἀφαιρεῖσθαι εἰς ἐλευθερίαν: cf. [D.] 59.40, Isoc. 5.14). The issue could be settled by arbitration (see note on §63.2), but if the claimant wished to proceed in court, he prosecuted the guarantor (Harp. s.v. ἐξαιρέσεως δίκη). The judges' verdict decided the claim. If they voted in favor of the claimant, the guarantor had to pay a fine to the treasury ([D.] 58.19. 21) and probably also handed over the alleged slave. See *LA* i.221, *LCA* 80, Gernet 1955 164-7 and *SAL* 186-7, 192.

62.9 Γλαύκων Χολαργεύς] Nothing more is known of him (*PA* 3035). Humphreys notes that

In most cases we do not know enough about the details of Athenian political life to understand the precise implications of support by well-known public figures; we can catch only a faint whiff of the aura of importance, respectability or glamour imparted by the appearance of. . . [e.g.] Glaucon of Cholargos. . . (1985 336).

The same might be said of Anticles (§53), Pamphilus (§110), and indeed most of the men mentioned in the speech.

63.1 δικῶν λήξεις] A periphrasis for δίκην λαγχάνειν (Σ 1, 63, 142ab; cf. Is. 4.2). Hegesander maintains his claim and files suit against Glaucon as the guarantor of Pittalacus (cf. Adams *ad loc.*). The scholiast believed that Glaucon and Pittalacus responded by filing their own suit (ἔλαχον δίκην ἀλλήλοις), and the plural δικῶν supports his interpretation. Cf. Poutsma 1888 112-3.

According to the document preserved at §66, the charge filed by Hegesander was a δίκη δουλείας. Gernet rejects the existence of such a suit (1955 164-7; cf. *LA* i.179 n.3, 221 n.1); we do not know what charge was laid by Glaucon and Pittalacus.

63.2 διαγνῶναι] The parties in a dispute could settle out of court if they referred the case to arbitrators. Cf. [D.] 59.40, 45, where a similar incident was resolved through arbitration. There the disputants each chose an arbitrator and added a third in the event of a tied vote. In our case, Aeschin. claims that the single arbitrator, a demesman and former ἔραστής of Hegesander, was inclined to delay the proceedings (see following note). By the fourth century the process of arbitration was regulated by law and the decision of the arbitrator was legally binding. See *LA* ii.64-6, *LCA* 203-6 and *SAL* 123-5.

63.2 Διοπεΐθει τῷ Σουνιῆϊ] Diopeithes (*PA* 4327) like Hegesander belonged to the deme Sounion, and his family like Hegesander's was of the genos Salaminioi (Davies 1971 167-9). As general in 343/2, he headed a cleruchy in the Chersonnese where he raised a mercenary force with his own money. When the cleruchy began to encroach upon Cardian territory, the Cardians appealed to Philip: the situation worsened when Diopeithes attacked Macedonian possessions on the Thracian coast. Philip wrote to the Athenians to complain that Diopeithes was violating the peace, which was being renegotiated at the time. In the Assembly several speakers demanded the recall of Diopeithes, but D. defended his actions in the speech *On the Chersonnesus* (D. 8.6, 9.15,

12.16, *hyp.* D. 8). See Swoboda *RE* 5.2 1047-8, Schaefer 1885-7 2 451-80, Davies 1971 167-9 and Harris 1995 119.

He allegedly conspired with Timarchus and Hegesander to delay the suit of Pittalacus because he was once Hegesander's ἐραστής. Aeschin. consistently ties his opponents' wrongdoing to their sexual practices; cf. §§11, 60-4, 70, 95-6, 107-8, 110-1, 120-2, 154, 170-2, 181, and 192-5.

63.4 ἐν ἡλικίᾳ] The equivalent of νεότης, "youth" (Σ 1, 63, 144 and 1, 182, 366ab: cf. §155. 3.255, [D.] 59.19, 22, Lys. 14.25). Carey on [D.] 59.19 writes "probably not youth in the broadest sense. . . but the years during and immediately after puberty, say 12-20." Cf. ὠραῖος §§42, 126. For ἡλικία as "virginity" see note on §162.4.

64.2 Ἀριστοφῶντι τῷ Ἀζηνιεῖ] Aeschin. reports the claim that Aristophon (*PA* 2108) was acquitted in seventy-five cases of the *graphe paranomon* (3.194). Although certainly exaggerated, the figure indicates the length and importance of Aristophon's political career. He is said to have lived almost one hundred years, from the 430s to the 330s B.C. (3.139, D. 18.162, Σ Aeschin. 1, 64, 145; Davies 1971 65). He had already distinguished himself by the time of the restoration of the democracy (D. 20.148) and perhaps took part in the revision of the laws (see note on 39.4 and D. 57.31-32). We are best informed of his activities after 360, which include, at the end of the Social War, the prosecution of the generals Timotheus and Iphicrates (for whom see §157), and, in 346, opposition to the Peace of Philocrates (*FGH* 115 F16). Though his influence failed in the latter instance, its force is attested by Hyperides, who in the 330s calls him ἰσχυρότατος ἐν τῇ πολιτείᾳ (3.28). The statement of D. that Aeschin. was a follower of Aristophon (18.162, 19.291) is unlikely to be true; at the very least, neither this passage nor §158 can be used in support of such a relation (Harris 1995 155). See further

S. I. Oost *CP* 72 (1977) 238-242, D. Whitehead *CP* 91(1986) 313-319 and Sinclair 1991 162.

64.3 There are only three examples in prose of *πρίν* with the indicative after strictly affirmative sentences (Th. 7.39, 71 and this passage). "In these cases the force of *until* in *πρίν* is made especially emphatic by the continuation of the state of things described by the leading imperfects. There seems to be a feeling implied like that in οὐ πρότερον ἐπαύσαντο πρίν" (*MT* 635).

64.4 Κρωβύλος] was the nickname of Hegesippus (*PA* 6351), brother of Hegesander (cf. Plut. *Dem.* 17 and Sotad. Com. F3). The κρωβύλος was a hairstyle worn by men and women in which the hair was bound into a kind of chignon lying along the neck: see Gomme 1956 i.101-103. It seems to have been a common nickname (Ael. *VH* 4.16. *Anth. Pal.* 6.155, Ar. *V.* 1267, Ath. 1.9.13 *et passim*, and Plu. *Alex.* 22.3). Since most Athenian men wore their hair short, the κρωβύλος, like long hair, could be mocked as an arrogant and ostentatious affectation and was particularly associated with aristocratic status (Ar. *Eq.* 580, *Nu.* 14, Ar. 1281, Eust. 3.217, Lys. 16.18, Th. 1.6). It may also have been considered effeminate (Henderson 1991 213), but this connection is made explicit only in a much later ecclesiastical source (Asterius *Hom.* 4.7.3): see *GH* 78-9 on the associations of long hair and cf. the definition of κρωβύλος given by Hsch. κ 4266 and Suda κ 2488. "boys' pubic hair." For illustrations of the κρωβύλος see Bieber 1967 25, 88 with Taf. LXI.5 and Evans and Abrahams 1964 108-11. In general see Geddes 1987 307-31. MacDowell on Ar. *V.* 466, 1267 and Ober 1989 285.

Our earliest notice of Hegesippus' political activity dates to 365: D.L. reports that he attempted to dissuade Plato from defending the general Chabrias (3.24; see note on §55.7). In the 350s he emerged as Athens' most prominent opponent of Philip (ὁ μισοφιλιππος Σ 1.55.126). In 356/5 he proposed Athens' ill-fated alliance with Phocis,

for which, along with his physical appearance, he was satirized on the comic stage (Aeschin. 3.118 with Σ ad loc., D. 19.72-74, Σ Aeschin. 1, 71, 161). Thereafter his foreign policy coincided with that of D.: he opposed the Peace of Philocrates (Σ D. 19.72, cf. Aeschin. 2.137), appeared as *sunegoros* for Timarchus (§71; cf. Σ D. 17.2 Τιμάρχου δὲ ἀγαθὸν φίλον), secured the support of several Peloponnesian cities against Macedon (D. 9.72; Harris 1995 119-20) and continually pressed for a resumption of war (D. 18.75, [D.] 7.8, Plu. *Mor.* 187d10-e4). He is considered the author of the seventh speech of the Demosthenic corpus *De Halonneso*, which argues against Philip's attempt to amend the Peace in 343/2; on the speech, his embassy to Philip and the chronology of these events see Harris 1995 111-4, 170-1. The seventeenth speech Περὶ τῶν πρὸς Ἀλεξάνδρον συνθήκων was also attributed to him in antiquity (*hyp.* D. 17). See also Kroll *RE* Suppl. 4 713-4. Davies 1971 209 and Schaefer 1885-7 2.330-3.

65.2 εἰς τοῦψον] "at the fish-stall" ("au marché aux poissons," Martin and de Budé). Athenians often referred to a place of business by the name of what was sold there (Poll.9.47, but cf. Lys. 24.20). We read of going "to the garlic" (Eup. fr.324.2), meeting "at the fresh cheese" (Lys. 23.6), "at the wine" (Ar. F299 Kock), "at the olive" (Men. *Inc.* 339 Dind.) "at the pots" (Ar. *Lys.* 557), "at the iron" (Xen. *HG* 3.3.7). On the meaning "fish" for ὄψον, and therefore "fish-stall" here, see note on §42.5.

65.3 κώμοις] "When suitably lubricated at a symposion, participants would wander off to join other symposia uninvited or to find their beloved of either sex. This was an activity for the night" (Carey on Lys. 14.25). In the orators, κώμος and κωμάζειν invariably have negative connotations; they present the "revel" as an occasion for drunkenness, violence and sexual excess which disrupts public εὐκοσμία (D.S. 16.87 = Dem. F48, D. 18.287, 19.287, 47.19, [D.] 59.33, Is. 3.13-4, Lys. 3.23 and F35). Cf. note on §58.5.

65.3 μάχαις] Hamaker emended μοιχείαις, the reading of all mss., after μάχας καὶ κώμους at Is. 3.13. This must be correct: one doubts that Hegesander and Timarchus would be frequently discovered in illicit sexual relations, or that the person who found them would merely be "aggrieved." More importantly, μοιχεία is used exclusively of offenses against women. For sexual activity in public see Lys. 14.25, [D.] 59.33, Dover 1974 206 and Halperin 1990 91 with n. 28.

66 Drerup (1898 314) rightly rejects these documents because he believes the introductory formula of depositions placed the nominative before μαρτυρεῖ, because the charge of δουλεία probably did not exist (see note on §63.1) and because the words καὶ τὰ ἐξῆς are implausible in an actual deposition.

67.1 οὐκοῦν] οὐκοῦν "then." "well," often appears after the reading of documents. "summing up what precedes" (*GP* 439). Cf. 2.66, 3.24, 102.

67.2 ἢ κατ' ἐκεῖνον] ἢ κατὰ with the accusative, standing after a comparative, expresses disproportion ("too. . . for"), as *quam pro* with the ablative in Latin (*KG* 2.315: Smyth 1079). Cf. §70 ἢ κατὰ τὴν ἐμαυτοῦ φύσιν.

67.4 διὰ τί οὖν αὐτὸν καλῶ] For the oath of disclaimer see note on §§46-7.

69 Aeschin. interrupts the narrative to attack Hegesander. His attack quickly turns into an attempt to offset the prosecution's major weakness, its lack of witnesses (§§71-94). Attacks on *sunegoroi* and anticipation of defense arguments are conventionally placed after the narrative; see Introduction V.

69.1 Οὐκ ἠγνόουν] At §51 the text does not tell us whether Misgolas chose to testify: here it is clear that Hegesander took the oath of disclaimer. Therefore ll. 1-2 of this chapter were added after the speech was delivered. Since Hegesander was a political opponent of Aeschin. he had good reason to publicize Hegesander's failure to testify. On the revision of the speech see Introduction VI.

69.5 Λεωδάμαντα] Leodamas (*PA* 9077) was a prominent politician of the previous generation. He studied with Isocrates ([*Plu.*] *Mor.* 837d) and his eloquence is praised by both D. (20.146) and Aeschin. ("no less capable than Demosthenes" 3.138). This last remark may have led Caecilius to suppose him a teacher of Aeschin. ([*Plu.*] *Mor.* 840b: see Richardson on 3.138 and Kindstrand 1982 74). He prosecuted Callistratus and Chabrias for the loss of Oropus in 365 (*Arist. Rh.* 1364a19), and, ten years later, stood against the son of Chabrias to defend the law of Leptines (D. 20.146). He and Aristophon are mentioned in a list of pro-Theban politicians (3.138-9), and they were also associated as *sundikoi* at the trial of Leptines. These facts, however, do not prove a long-standing alliance between the two men; in fact Hegesander, a φίλος of Leodamas, made an attack on Aristophon. Why is he mentioned here? The scholiast thinks he might have been called to depose, but nothing in the text indicates that he did (1, 69, 154). According to D., Aeschin. denounced the Thebans in his speech to the Assembly following the second embassy (19.20); perhaps Aeschin. here attempts to discredit him as a supporter of Thebes. He is dead by 330: see 3.139 and Σ *ad loc.* See Wickert *RE* 12.2 1998 and Davies 1971 523..

Aeschin. says that the relation of Hegesander and Leodamas was sexual (Λεωδάμαντος γυνή §111; cf. §70, Σ 1, 69, 152, and *Suda* τ 595) and mercenary (§64).

69.6 ἐθορυβήσατε] Athenian judges did not sit in silence; we often hear of the commotion (θόρυβος) they caused when they shouted their approval or disapproval. §§82-85 give a vivid description of θόρυβος during an assembly; cf. §§34, 78 and D. 19.24. On θόρυβος see Bers 1985.

70.1 ἄρά γε] This collocation gives "liveliness and emphasis to the question" (*GP* 50). It can emphasize the first (as here and *Lys.* 8.12) or last (2.165, *D.* 39.18, *Is.* 3.22) question in a series. It contributes, along with the use of oaths (§§70, 73, 75, 76, 79) and irony (§§69, 73), to the heightened tone of this section.

71.1 ἐπιστρεφῶς] The word is rare: it appears in classical literature here, at *Hdt.* 1.30 and *Eub.* F150. The scholiast on our passage gives the gloss ἀντὶ τοῦ σπουδαίως (1. 71. 160b), to which we may compare Hunter's definition, "with great vigour" (1983 231). However it seems to have even stronger force. Reiske in his note on *Hdt.* 1.30 defines it *acriter cum contentione vultu et voce minaci et incitata, velut objurgans*; he follows *Suda* ε 4884, which gives ἐπιστρεφῶς as a synonym for ἐπικότως "wrathfully."

Another scholion says that the word describes a quality of the voice ("with the voice restrained, so that they may not be proved *kinaidoi* by their voice" 1. 71. 160a). Certain kinds of voices were associated with *κιναιδεία*; the pseudo-Aristotelian *Physiognomica* notes ὅσοι δὲ ταῖς φωναῖς ὀξεῖαις μαλακαῖς κεκλασμέναις διαλέγονται, κιναιδοὶ (813a 34). Later rhetorical theory has much to say on this subject (Gleason 1995 82-130), but I believe the scholiast's definition anachronistic, as I have found only one connection of ἐπιστρεφ- and the voice in the literature of the classical period: the adjective ἐπιστρεφής ("modulated" *LSJ* II) which describes the voice of the nightingale at *Arist. HA* 632b 24.

72.3 Cf. §§87, 90. As Dover points out, the laws read earlier (at least in the text as we have it) say nothing of the death penalty (τοῖς μεγίστοις . . . ἐπιτιμίαις) for the male prostitute and his client; this statement is probably a deliberate attempt to mislead the judges and convince them to convict Timarchus (*GH* 28-31). It seems to be a distortion of the law directed at the man who hired out his son and the man to whom he hired the boy (§13). According to Aeschin.'s summary, a male prostitute could be executed only if he was convicted of having exercised certain civic rights (§20).

72.6 ταλαίπωρός] *Vocabula, quae infortunii notionem habent. interdum ad mentem referuntur. quoniam mentis imbecillitas, stupiditas. gravissimum profecto est infortunium* (Bremi). To his parallels (D.3.21, Isoc.18.46) add Ar. *Av.* 1604, *Ec.* 763-4. *Nub.* 1201. *Pax* 1271-2, D. 5.25, 8.16, 18.121, 19.115, 173. 260, 265, Lys. F260 and X. *Mem.* 2.3.19.

72.9 ἐπιδεικνύναι] β D have the variant ἐπιδεικνύειν, which would avoid hiatus. Thematic forms of -νυ- verbs appear early in Greek literature (Hes. *Op.* 502): see Palmer 1996 185 and Schwyzer ii.698. An author may use both thematic and athematic forms in a single work, e.g. D.18.76 and 206, where the athematic form allows D. to avoid hiatus. In Aeschin. we find the athematic forms ἀποδείκνυσι §9. 129, ἀπόμνυσι §145 and ἐπιδείκνυμι 2.178, and thematic forms δεικνύουσι 2.71 and ἐδείκνυον 3.118. But since he uses the athematic form of the infinitive elsewhere (ἐπιδεικνύναι 3.50, where there is again hiatus. and ὀμνύναι 3.74), the reading of f is preferred.

73.3 καλῶς] This reading, a correction in x, is surely right, as it is consistent with the ironic and indignant tone of the section. Most of the mss. give κακῶς; the error perhaps arose from a confusion of κ and λ, or from a scribe's failure to recognize Aeschin.'s sarcasm.

74.1 In the following chapters (§§74-93) Aeschin. attempts to offset his lack of witnesses by introducing a series of paradigms to "prove" that in certain cases witnesses are not necessary, and that the judges may therefore convict Timarchus on the basis of his reputation. In using the paradigm as a means of proof Aeschin. follows contemporary practice; Arist. notes that the paradigm may serve the same purpose as the testimony of witnesses (*Rh.* 1393a 23-1394a 19; cf. *Pr.* 916b 31-4 ἔτι οἷς ἂν μαρτυρῶσι πλείους, μᾶλλον πιστεύομεν, τὰ δὲ παραδείγματα καὶ οἱ λόγοι μαρτυρίαις εἰκόασιν· αἱ δὲ διὰ τῶν μαρτύρων ῥᾶδιοι πίστεις; cf. *ad Her.* 4.3 with Caplan *ad loc.*). Arist. identifies two types of paradigms, τὸ λέγειν πράγματα προγενομένα and τὸ αὐτὸν ποιεῖν ("historical" and "fictional," Kennedy). The four examples here are historical, in that they refer to contemporary events or institutions. Given his examples, Arist. seems to equate τὸ αὐτὸν ποιεῖν and λόγος, in the sense "parable": but note the elaborate fiction Aeschin. creates around the revisions of the deme registers (§§78-9). For other paradigms in Aeschin., see e.g. §177. 3.245. On paradigms as technic proofs in forensic speeches see Martin 1974 119-21

74.3 τοὺς ἐπὶ τῶν οἰκημάτων καθήμενους] The word οἶκημα "building" can have the connotation "brothel." Cf. D.L. 4.46, Xen. *Mem.* 2.2.4, Harp. s.v., Hsch. s.v., Poll. 9.45, Suda οἰ 51.

75.3 Ἐπεὶ πρὸς θεῶν, Τίμαρχε] Richardson considers apostrophe a characteristic of the style of Aeschin. (30). It occurs often in the third speech but is used sparingly here (§§18, 29, 76, 121, 122, 159). All are apostrophes to Timarchus, with the possible exception of §29.

75.8 ἀσύμβολον] "not paying one's share" (*LSJ* II; cf. Σ 1, 75, 167ab). The word is not otherwise found in the orators, historians or Plato. In Middle and New Comedy it

describes the parasite, e.g., Alex. F257 and Timocl. F8. It also appears in a striking parallel to our passage (Ath. 13.572c = Ephipp. F20):

ὅταν γὰρ ὦν νέος
 ἀλλότριον ἐλθὼν ὄψον ἐσθίειν μάθη,
 ἀσύμβολόν τε χεῖρα προσβάλη βορᾶ,
 διδόναι νόμιζ' αὐτὸν σὺ τῆς νυκτὸς λόγον.

(Whenever a youth
 learns how to come and eat another man's fish
 and puts to the feast a hand which does not pay its share,
 know that he pays his account during the night.)

The youth who does not pay his own way is open to ridicule; and while Aeschin. is not necessarily appealing to comic stereotypes here, many of the following chapters are devoted to making Timarchus seem καταγέλαστος. Both Aeschin. and the speaker of these lines assume that the youth must pay with his body and Aeschin. exploits that suspicion here to justify his lack of witnesses. Note also that Aeschin. needs to state that others paid for Timarchus' luxuries in order to counter the defense argument that one needs contracts or witnesses to establish ἐταίρησις. The money a man spent on a youth may be considered payment for his sexual services (διδόναι λόγον: cf. Ar. *Pl.* 153ff.).

77.3 μετὰ χειρᾶς ἔχετε] If taken literally, the idiom μετὰ χειρᾶς ἔχειν, "to have in hand," would suggest that the appeals arising from the scrutiny of the deme registers was still ongoing: see following note. For the idiom cf. Hdt. 7.16, Thuc. 1.138, D.S. 18.27.

77.3 διαψηφίσεις] The word διαψηφίσεις generally means any vote taken by ballot (*LSJ s.v.*), but Aeschin. is referring to a particular procedure which took place in all Attic demes during the year 346/5 (Harp. *s.v.* διαψηφίσεις = *FGH* 324 F52). On the proposal of one Demophilus, the Athenians decided to hold a universal scrutiny of their deme registers (§86 and Σ 1, 77, 169b). It was believed that they contained the names of many who had been wrongfully enrolled and who therefore possessed citizen rights to which they were not entitled (D. 57.49). Aeschin.'s paradigm was certain to provoke the judges,

for the scrutiny was an volatile issue at the time (2.182, D. 57.1-7) and produced a great deal of litigation, e.g., the cases in §§114-5 (see note *ad loc.*) and D. 57. Other cases sometimes associated with the scrutiny of 346/5 are Is. F12 and Πρὸς Βοιωτῶν ἐκ δημοτῶν ἔφεσις (Harp. s.v. Κειριάδης), and two lost speeches by Dinarchus (D.H. *Din.* 11). For a discussion of these see the works listed at the end of this note.

The procedure used by the deme Halimous to effect the revision of their register is described at D. 57.9-14 and in the hypothesis to that speech. Deme members met in Athens. The name of each man in the register was called out, and the members voted whether to retain or expunge it. The voting was probably overseen by the deme's representatives to the Council; see R. Develin *C&M* 1991 75-9. A man whose name was removed had the right of appeal to the *dikasterion* (ll. 5-7, §78); if he was acquitted at the appeal his name was reinstated, but if convicted, he was sold as a slave.

One important procedural point is clouded by Aeschin.'s rhetoric: it was possible to introduce witnesses at the initial stage, contrary to the implication of §78 (οὐδὲν γὰρ δοκεῖ προσδεῖσθαι ὑμῖν λόγου οὐδὲ μαρτυρίας; cf. Σ 1. 77, 169b), and thus contrary to the point of the paradigm. We may infer this from the speech of Euxitheus, who complains that his accuser did not provide witnesses at the deme meeting, and that he himself did not have the chance to do so (D. 57.11-3). On the other hand, witnesses were probably unnecessary in most cases. During the διαψήφισις of Halimous, the voting took place quickly; sixty men were vetted in several hours, which suggests that few witnesses were called (D. 57.9-11).

Though we have a relative abundance of material on the διαψήφισις of 346/5, much remains obscure. Scholars have focused on two problems: its precedents and its relation to the annual scrutiny of eighteen-year-olds (see note on §18.5). Neither is satisfactorily resolved. The exchange of Diller (1932 and 1935) and Gomme (1937 67-86) has informed all subsequent discussions, which include Harding 1994a 174-8, Whitehead 1986 88-9, 93-5 and 104-9, Rhodes on *AP* 13.5, 26.4 and 42.1, M.J. Osborne

ABSA 66 (1971) 329 n. 32 and *FGH* IIIb (Suppl.) 157-62. See also note on §§114-5. and for the relevance of the διαψήφισις to the date of the trial of Timarchus see Introduction III.

79.1 Φέρε δὴ πρὸς τοῦ Διός] The scholiast apparently felt Aeschin. had dwelt too long on this paradigm: he notes here ἐπιμονή τὸ σχήμα (Σ 1, 79, 173). Ernesti defines ἐπιμονή as *figura orationis, qua res plus iusto exaggeratur. . . ut si verba grandiora. atrociora sunt, quam res ipsa fert. aut postulat* (126). This is the most detailed of the four paradigms, but it is based on an event with which the judges were familiar and likely had strong feelings about. Aeschin. may also elaborate the paradigm in order to ridicule Timarchus: the scholiast believes that "the hollow axle for Timarchus" had an obscene connotation (1, 79, 174a). Τετρυπημένος "pierced, drilled" does not to my knowledge elsewhere have such a connotation, although in comedy τρύπημα "hole" may refer to the vagina: see Henderson 1991 142.

79.7 τῶν ψήφων] Verdicts were reached in the Athenian court by majority vote. Throughout the classical period judges cast their vote using ballots (ψηφοί). In the fourth century, the ballots were bronze disks with axles in their center. Each judge received two of them at the conclusion of arguments: one had a perforated axle (ἡ τετρυπημένη) and was a vote for the prosecutor or plaintiff (in Aeschin.'s fiction, for conviction) while the other, a vote for the defendant, had a solid axle (ἡ πλήρης). The judge placed one finger and his thumb at each end of the axles, so that no one could distinguish between the ballots at sight. He then placed the valid ballot into a bronze urn and discarded the other into an urn of wood. The bronze urn was emptied, the ballots were counted, and the herald announced the verdict. A number of ballots have been recovered from the Agora. See further Σ 1, 79, 174a-c, *AP* 68-9 with Rhodes on 68.3-4. M. Lang "Ballots" 82-90 in Boegehold 1995, Staveley 1972 95-100 and Boegehold 1963.

79.8 τὸ ἐκ τοῦ νόμου κήρυγμα] Aeschin. maintains the verisimilitude of his fiction: according to *AP*, the herald cried ἡ τετραπημένη τοῦ πρότερον λέγοντος, ἡ δὲ πλήρης τοῦ ὕστερον λέγοντος (68.4, restored). For the formula ὅτω δοκεῖ. . . ὅτω δὲ μή, cf. Th. 1.87.2, D. 24.20 and Xen. *Hell.* 1.7.9.

79.10 κατέγνωτ' ἄν] "An indicative or optative with ἄν retains its mood and tense (with ἄν) unchanged in indirect discourse with ὅτι or ὡς and in indirect questions, after both primary and secondary tenses" (*MT* 681; cf. *KG* 2.536; Smyth 2623a, 2625, 2677). Cf. §§25 and 79.

80.5 ὅτε ἐβούλευσε πέρυσιν] On the relevance of this remark to the date of the trial, see Introduction III. Timarchus was βουλευτής again in 361/0 (see note on §109.3): unlike most other offices, a man could serve on the Council twice (*AP* 62.2). He is one of seventeen known to have done so (Rhodes 1985 242-3).

80.5 τειχῶν ἐπισκευῆς ἢ πύργου. ἢ ὡς ἀπήγετό ποί τις] Aeschin. ridicules Timarchus with a series of puns (§§80-5). I have not attempted to find English equivalents, partly because some remain obscure. Aeschin. first quotes a speech of Timarchus, in which he says several words had obscene connotations. The verb ἀπάγω had a wide semantic range: in this case it "may have suggested seduction" (Adams). *LSJ* s.v. ἀπάγω I.3 cites our passage for the meaning "abduct" (cf. Σ 1. 80. 177 ἥρπασται and Luc. *Tim.* 16, *Anach.* 13). The *double entendres* behind τειχῶν ἐπισκευή and πύργος cannot now be recovered; Adams notes "Fortunately the modern reader is spared a knowledge. . ." At [D.] 47.56 πύργος refers to the women's quarters in a private home (cf. *LSJ* s.v. 3); Adams sees the same meaning here, apparently construing it as a reference to effeminacy.

Several passages of the speech seem intended to make the audience laugh (111. 126, 131, 157, 164). Humor is an important weapon in Aeschin.'s arsenal. First he attacks Timarchus and D. by making them appear ridiculous; cf. §135, where he fears his opponents will do the same to him. Second he uses humor to leaven the dour, schoolmarmish *ethos* he has created. On humor in the orators see Harding 1994b.

81.5 Τῆς γὰρ Βουλῆς τῆς ἐν Ἀρείῳ πάγῳ] It is a commonplace of Attic literature to praise the Council of the Areopagus (§92, 3.20, A. *Eu.* D. 23.65, Isoc. 18, Lysurg. 1.12, 52, ([Lys.] 6.14, X. *Mem.* 3.5.20). It is consistently presented as the court which holds the greatest *auctoritas* and deserves the highest respect (§84, D. 25.23: cf. Lys. 3.2-4). Its esteem resulted partly from the fact that it was an archaic institution and partly from the high standards to which its members were held. But more importantly, the Areopagus held a unique position in the Athenian *polis*, outside the cycle of annual and allotted magistracies. In the time of Aeschin., it was composed of ex-archons, who therefore had some legal experience: they became members for life, and so were the only Athenian judges capable of developing expertise in their jurisdictions.

The history and authority of the Areopagus are controversial. Its powers and purview were certainly increased during the fourth century, but throughout the classical period it was primarily a court of law. Like other courts, it had specific jurisdictions (e.g. φόνος ἐκ προνοίας and τραῦμα); unlike them, it was able to conduct its own investigations (ἄποφάσεις), either on its own initiative or at the request of the Assembly (cf. §92). It may also have taken a general interest in εὐκοσμία (e.g., Isoc. 18.37-46: see Wallace 62-4, 208 and 211, and G.L. Cawkwell *JHS* 108 (1988) 1-12). On the Areopagus see Rhodes 1995 311-4, Hansen 1991 288-95, Wallace 1989 and Rhodes on *AP* 3.6, 8.4, 25, 27.1, 35.2 and 57.

81.7 περὶ τῶν οἰκήσεων τῶν ἐν τῇ Πυκνί] The subject of Timarchus' proposal is clear but not its substance, nor do we know why the Areopagus took an interest in it. It is unlikely that the council had special competence in matters of building (Wallace 1989 120 with n. 95). The only other certain example of the Areopagus taking action in the Assembly, apparently on its own initiative, is its support of Phocion in 338 (Plut. *Phoc.* 16: see Wallace 1989 122).

The Pnyx is a hill close to the Athenian agora where the Assembly usually met during the classical period. It seems that the Pnyx was underdeveloped (ἐρημίας §82. ἡσυχία §83; cf. Ar. *Ec.* 243 with Σ), and several scholars have supposed that it was an area where prostitution flourished, but this is only an inference from §§81-5. The scholiast on our passage says that the houses there were deserted and in disrepair, and that Timarchus moved to restore them (1, 81, 179). Thompson, who would date Period III of the Pnyx (a major renovation) to c. 350-324 B.C., suggests that Timarchus proposed "expropriation by the state of private property to make possible the enlargement of the assembly place" (1982 145 n. 40). His suggestion is attractive: certainly it helps to explain the involvement of the Areopagus, insofar as the place of assembly was sacred (cf. note on §23.2). However it seems now that this renovation of the Pnyx was part of the programs of Lycurgus; see M. H. Hansen "Reflections on the Number of Citizens Accommodated in the Assembly Place on the Pnyx." *The Pnyx in the History of Athens* Helsinki 1996 24 with n. 7. For an archeological report on the Pnyx see H. Thompson and R. Scranton *Hesperia* 12 (1943) 269-383, esp. 361.

81.8 Αὐτόλυκος] Aeschin.'s paragon (*PA* 2746) seems to have met an ignominious end. In 338, following the battle of Chaeronea, Lycurg. prosecuted "Autolyclus the Areopagite" for removing his family from Athens during the battle, and had him condemned to death (Lycurg. 1.53 and F3, Harp. s.v. Αὐτόλυκος, [Plu.] *Mor.* 843d). See Judeich *RE* 2.2 2602.

82.2 εἰσήγημα] "Motion, proposal" (*LSJ*); cf. Σ 1, 82, 180 τὸ ψήφισμα and Ba. 210.20. The word appears elsewhere only at Isoc. 22.2, D.H. 10.30.3 and Suda λ 797. It is interesting that Aeschin. puts an uncommon word in the mouth of the representative of the Areopagus.

83.6 μικρὸν ὑμῶν ἐκάστῳ ἀνάλωμα] "Apparently the speaker meant that Timarchus thought that in this time of peace, with its small demands on the treasury, only a light burden would fall on each citizen" (Adams *ad loc.*). For ἐν ἡσυχίᾳ = "time of peace" cf. Th. 3.12. The *double entendre* seems to depend on another meaning for ἡσυχία, "solitude, a sequestered place" (*LSJ* II: cf. Σ 1, 83, 182 and 183, §90), but the point of the joke is no longer clear: "Timarchus thinks that you will not have to pay so much for his services in a deserted place"?

84.1 τῶν οἰκοπέδων καὶ τῶν λάκκων] "(House) foundations and cisterns": more *double entendres*. I reject Adams' suggestion "that the vulgar crowd made merry over the word οἰκοπέδων as sounding like ὀρχιπέδων (testicles), and λάκκων like λακκόπεδων (scrota)." As Henderson points out, "references to testicles in Aristophanes almost always occur in threats. . . or violent erotic advances (seizing the testicles in preparation for sexual contact)" (1991 124; see also 125-6). So a joke about testicles might be used against a man who took the insertive role in intercourse with another man, but Timarchus is maligned for taking the receptive role (e.g., §§40, 41, 46.

110-1). Earlier commentators (Bremi, Reiske, Salmas) understood a reference to λακκόπρωκτος or λακκοσκαπέρδας ("cistern asshole"), which better suits the context. Aristophanes frequently mocks men for being εὐρύπρωκτοι ("those whose πρωκτοί have been widened by constant buggery and who are on that account depraved or evil" Henderson 1991 210). Οικόπεδον, the hole dug as the foundation of a house, could be similarly construed: furthermore digging is a very common metaphor for sexual intercourse (Henderson 1991 168-9).

84.3 Πύρρανδρος] Aeschin. gives no demotic or patronymic for Pyrrhandrus (*PA* 12496), probably assuming that the judges were familiar with him. In the speech against Ctesiphon he mentions a Pyrrhandrus of Anaphylstus, one of the prominent pro-Theban politicians of the previous generation (3.139, cf. Σ *ad loc.*). He apparently lived a long life: he was politically active as early as 378 (*IG* II² 41 and 44) and was still living in 330 (3.139). Richardson *ad loc.* assumes that he was a member of the Areopagus. See Gärtner *RE* 24 81-2.

84.5 ἐξεβάλλετε αὐτὸν ὑπολαμβάνοντες] Since, as Bremi notes, "res est momenti. non durans." the aorist forms ἐξεβάλλετε (**a m^c g V x^c L D** Stob.) and ὑπολαμβάνοντες (**β D** schol.) are preferable.

85.3 ψευδομαρτυρίων] See note on §130.6.

85.4 ἄτοπον] The scholiast gives the meaning "marvelous, remarkable" (1, 85, 186: cf. Σ 3, 179, 410), but the context suggests "paradoxical" (see *LSJ* 2 and cf. *Suda* α 4374. *Hsch.* α 8133, Σ Pl. *Phd.* 60b).

On the dependent clauses εἰ. . . βοᾶτε and εἰ. . . ἐάλω ἄν, Goodwin notes "after many expressions of wonder, delight. . . and similar emotions, a protasis with εἰ may be

used to express the object of the emotion" (*MT* 494). The protasis (or indirect question introduced by εἰ) is considered a substantive clause, comparable to substantive clauses introduced by ὅτι and ὡς (*KG* 2.370; cf. Smyth 2247). Aeschin. is fond of this usage: cf. §§26, 64, 82, 94, 119, 134, 174, 188; 2.73; 3.175, 207, 242.

86.1 Δημοφίλου] Nothing else is known about him (*PA* 3664) or Nicostratus (*PA* 11008). For the revision of the deme registers see note on §77.3.

86.4 συνδεκάζειν] On the uncompounded form δεκάζειν Rhodes writes "the word is not common, but it is found with the meaning 'bribe', in particular with jurors as object, often enough in the orators. . . possibly a particular form of bribery is denoted" (1981 343). Cf. §87, *AP* 27.5, Isoc. 2.11, 17.50, Lys. 29.12 and Thphr. *Char.* 26.5. In folk etymology it was linked to the expression δεκάς Λύκου, "the ten men of Lycus": Λύκος ἐστὶν ἥρως πρὸς τοῖς ἐν Ἀθήναις δικαστηρίοις. . . πρὸς ὃν οἱ δωροδοκοῦντες κατὰ ἰ' γιγνόμενοι ἀνεστρέφοντο (Harp. s.v. δεκάζων, a citation of Eratosthenes: cf. Hsch. λ 1396. Suda δ 174, and see Oldfather *RE* 13 2398-9). Harp.'s explanation was accepted by Frisk (1972-3 1.359-60) and Harvey (1985 88), who notes that "the word is used most frequently of bribing juries, which were originally organized in ten panels." On the other hand Chantraine considers δεκάζειν "un factitif. . . de δέχομαι. . . 'faire accepter un cadeau'" (1984 i.259). Harvey rejects Chantraine's etymology on the basis of the even less common compound word συνδεκάζειν, "to bribe all together" (cf. the law cited at [D.] 46.26, Harp. s.v. Ἀγασικλῆς and X. *Ath.* 3.7), thinking that the prefix συν- makes no sense if δέχομαι is a factitive. I do not understand his objection. The question has been often discussed: see G.M. Calhoun *Athenian Clubs in Politics and Litigation* Austin, Tex. 1913 69-70. For accusations of bribery in the orators see note on §106.5.

89.1 πόλει ἐκκλήτω] "Selected to judge or arbitrate. . . : an umpire city" (*LSJ*). Two cities might, in their treaties with each other, choose a third to arbitrate disputes between them or their citizens. For the expression see e.g. *IG I² 22, II² 179, 404 and 778*. The treaty might specify the competence of the πόλις ἐκκλητος, the composition of its court, the penalties and other details. See P. Gauthier *Symbola: Annales de l'Est: Mémoire 42* (Nancy 1972) 308-46 and S. Cataldi *ASNP* 9 (1979).

90.6 ἐξ ὧν γινώσκεται] I.e., ἐξ τούτων οἷς γινώσκεται: the attraction of a relative pronoun in the dative case is rare (*KG* 2.409, Smyth 2523).

90-1 Often taken as a reference to the procedure ἀπαγωγὴ κακούργων (*LA* ii.18 n. 2, *LCA* 149 n. 315, Cohen 1991a 111, Hansen 1976 40 and 1981 23ff. and, tentatively, *SAL* 278 with n. 23). 'Απαγωγὴ ("leading away") was a procedure of summary arrest which could be used against various kinds of offenders, including κακοῦργοι ("evil-doers") who were apprehended ἐπ' αὐτοφώρῳ ("whose guilt was manifest": see following note). Κακοῦργοι were taken directly to the Eleven where they were executed at once if they confessed: but if they denied their guilt, the case was referred to the courts. We are not certain, however, what kinds of criminal could be considered κακοῦργοι. It is clear that there was a νόμος τῶν κακούργων (*Antipho* 5.9, cf. §113) which listed those subject to its provisions: κλέπται ("thieves"), λωποδύται ("stealers of clothes"), and ἀνδραποδισταί ("enslavers") (Hansen 1976 46-7). But scholars have argued that the procedure could have been used against a variety of offenders, not only those specified in the law but also those who committed similar kinds of offense (e.g., βαλλαντιστομοί, "cut-purses"; see *LA* ii.223, *LCA* 148, Rhodes 1993 581). The question posed by Hansen (1976 36-48, 1981 22-6) and Cohen (1991a 110-22) is of particular interest, since it is based on §§90-1: was it possible to use ἀπαγωγὴ κακούργων against μοιχοί ("seducers")?

Although Harrison, in response to Paoli, had earlier denied the possibility (*LA* i.35 n. 1), Hansen in his 1976 study of ἀπαγωγή believed that seducers could be subject to ἀπαγωγή κακούργων and he was followed by Cohen (see above). Hansen argues that in §§90-1 Aeschin. was paraphrasing the νόμος τῶν κακούργων because in vocabulary and phrasing the passage resembles *AP* 52.1, an indisputable reference to ἀπαγωγή κακούργων (1976 40 n. 20, 1981 23-4). Although he supposes that the law explicitly named only κλέπται, λωποδύται and ἀνδραποδισταί, and although he acknowledges that Aeschin. is not citing but interpreting the law, he asserts nevertheless that the mention of μοιχοί here implies that ἀπαγωγή κακούργων could be used against them:

since, in Athens, there was no authorized interpretation of the law. . . an interpretation was correct if the jurors were persuaded and voted accordingly. . . on the other hand, there must have been a more or less accepted opinion about which criminals to include among the *kakourgoi* in the legal sense (1981 25).

But as Hansen notes, nowhere do the sources state that μοιχοί were κακούργοι subject to ἀπαγωγή (although they are mentioned together with κλέπται or ἀνδραποδισταί also at Arist. *NE* 1138a25, Suda β 68 and Poll. iv.148-51). The only supporting evidence Hansen offers is an analogy: an Athenian was allowed to use self-help against μοιχοί, nocturnal thieves, highwaymen, and exiled homicides: the three latter were subject to ἀπαγωγή as well; therefore "it is highly probable, in itself, that *moichoi* too were subject to *apagoge*" (1981 25).

It is of course dangerous to base the argument solely on the statement of Aeschines, particularly one whose obvious purpose is to convince the judges to convict Timarchus. Hansen's argument was rejected by Gagarin (1979 322 n.60) and more fully by Harris (1991 376-7, 1994 179-80), who notes that Aeschin.'s statement is not a definition of ἀπαγωγή in a legal sense, but rather part of the rhetorical strategy of this section, i.e., to persuade the judges that in some cases witnesses are not needed ("if only those whose crimes can be proven by the testimony of witnesses are punished, those who

commit misdeeds without being detected will never be brought to justice" Harris 1994a 180). The phrase τῶν τὰ μέγιστα μὲν ἀδικούντων (91.2-3) alone is sufficient to demonstrate that Aeschin. is not offering a legal definition of κακοῦργοι; his list is a series of increasingly heinous offenders. And while it is likely that Aeschin. has ἀπαγωγὴ in mind when he states that "some whose guilt is manifest are executed on the spot if they confess" (§91.4), the offenders he names cannot be considered a legal definition of κακοῦργοι. See also note on §43.10-11.

91.4 ἐπ' αὐτοφώρῳ] A κακοῦργος was subject to summary arrest provided that he was taken ἐπ' αὐτοφώρῳ (e.g. Lys. 13.85-7). The phrase, often misinterpreted, usually means "obviously," "clearly," or "manifestly"; only rarely can it be translated "in the act" (e.g., Men. *Mis.* 216-21). See Harris 1994a, who notes that in our passage

the *ep'autophoro* criminal is . . . contrasted with the one who escapes detection and is convicted. . . by what is generally known about his character and conduct. Since the *ep'autophoro* is set opposite this kind of criminal, he must be one whose guilt is clearly established by eye-witness testimony (180).

94.1 λογογράφος] Originally "writer of prose" (e.g. Th. 1.21) but here and often, "speechwriter," hired by a litigant to compose a speech for delivery in court. The practice is often reviled, and the word λογογράφος typically has pejorative connotations (e.g., D. 19.250, 23.146. Pl. *Phaed.* 257c-d, Σ 1, 94, 201; note here the sarcastic γέ). Here Aeschin. seeks to discredit D. for writing Timarchus' speech, and Timarchus for hiring him to write it (cf. Martin and de Budé *ad loc.*). Elsewhere Aeschin. rebukes D. for working as a logographer (117, 119, 125, 170, 2.165, 180, 3.173, 200; cf. Din. 1.111, Hyp. 3.3). Nevertheless the practice was widespread, and in fact the majority of private orations which survive were written in this manner. Furthermore, as Dover notes, "the conventional attitude of mistrust towards composers of speeches was counteracted by the intense interest of Athenians in oratory and their admiration of good speeches as works of

art" (1968 158). See further Dover 1968 148-74, Lavency 1964 and Kennedy 1963 126-45.

94.7 τερατευόμενος] A denominative verb from τέρας, "wonder, marvel." It is rare in classical prose and poetry but used four times by Aeschin. (2.49, 98, 3.160), always to describe D.'s manner of speaking.

95.3 ἐπικλήρου] "Heiress" is a convenient but imprecise translation: an ἐπικλήρος did not own property, since she did not have the power to dispose of it. If a man died and left no male heir, the estate (κληρος) devolved onto his daughter. To ensure the continuance of his *oikos*, the daughter might have to marry her nearest agnatic relative: thus she was taken "in addition to" (ἐπί) the estate. Their son was then able to inherit his grandfather's property when he came of age. The husband of the ἐπικλήρος was responsible for managing it until that time.

Considerable difficulty might ensue from such arrangements, but there existed various laws designed to regulate them. Among these was a procedure to redress maltreatment (κάκωσις ἐπικλήρου). It is sometimes called an εἰσαγγελία (Is. 3.46, D. 37.46) but *AP* describes it as a γραφή (56.6: cf. *Men.* F328). Apparently both refer to the same procedure (*LA* i.117-8, *LCA* 94). At any rate, they must be distinguished from the εἰσαγγελία πρὸς τὸν δῆμον, for in this procedure the denunciation of the person abusing the heiress was made to the eponymous archon, who later oversaw the case (*AP* 56.6, D. 37.46). Although the law's provisions are unknown, presumably it could have been used against Hegesander for dissipating the estate. For other offences against ἐπικλήροι see Rhodes 1993 630. In general see *LA* i.9-12, 108-19, 132-8, *LCA* 95-8, *SAL* 228-31 and Amaoutoglou 1998 10-1.

95.6 κατεκεκύβευτο] See note on §30.2.

95.7 ἔξωρος] "Beyond the prime of life (ὥρα)," i.e., ἀνὴρ ἤδη ἐγεγόνει (Σ 1. 95. 206). Once again the argument hinges on the definition of prostitution. The defense apparently claims that the relation of Timarchus and Hegesander was not mercenary, since it occurred after Timarchus came of age, and that at any rate Timarchus would not have worked for a wage since he had already inherited a large estate. Aeschin. does not really address either point.

96.5 εὐρίσκοντος] The middle form εὐρίσκομενος is found in a f and the scholiast, but the active is attested in the sense "(price) offered" by X. *Mem.* 2.5; see further *LSJ* V.2 and Wyse on Is. 8.35. Millett cites this passage as evidence for the existence of "bad markets" in Attica (1991 274-5 n. 41). Alternatively, the statement has a rhetorical point: Aeschin. tries to create the impression of a rich estate by claiming that Timarchus did not receive the proper value for each item sold.

97.1 οὐσίαν] We cannot now determine the total worth of the estate Timarchus inherited since we know the value of only three items (see chart below). Furthermore we do not know if his father Arizelus purchased other properties with the money he received from the sale of the ore workshops. Certainly Aeschin. had no need to report the value of every holding; rather he seeks to create the impression of a large estate potentially capable of providing great benefits to the *demos* which has instead been wasted. It is not clear whether he has evidence regarding the income or sale of the shoemakers (§99.6-10). Nor is it clear whether he provides proof of the sale of the farm in Alopece or the land in Sphettus (§100.9).

Arizelus drew his wealth not from land alone but from diverse sources: houses, apartment building, farms, slaves, outstanding loans (cf. §105). This "mixed holding" is typical of affluent Athenians in the classical period (Davies 1984 72). Since the family

belonged to the deme Sphettus, it is not surprising to find most of the holdings in southeast Attica. The exception is the farm in Cephisia, a deme located northeast of Athens toward Mt. Pentelicon. Note that the holdings are separate parcels and do not constitute a *latifundium*: again, it is typical for "a man of property to own many small estates or properties scattered throughout Attika" (Davies 1984 52). See in general Davies 1984 38-72, *LA* i.228-30 and Millett 1991 167-9.

THE INHERITANCE OF TIMARCHUS (§§97-101)

House in the ἄστυ	2000 dr.
Land in Sphettus	
Farm in Alopece	2000 dr.
10 or 11 slave shoemakers (value of slaves themselves not given)	1400 dr. <i>per annum</i>
Slave flax worker	
Slave embroiderer	
Household slaves	
Furniture and other moveables	
Cash (derived from sale of farms and workshops?)	
Various debts, including one of more than	3000 dr.

97.2 ἐλητούργει] The wealthiest Athenians were obliged to "work for the people" (λητουργεῖν), i.e., to finance and administer certain activities which benefited the entire *polis*. These works (λητουργίαι) were of two kinds: the festival and the trierarchic. In the former the liturgist was responsible for some aspect of a civic festival, e.g., the *choregia*, for which see note on §11.1. There were approximately one hundred festival liturgies in a year, and several more in the year of the Great Panathenaea (Davies 1967, Moore 1971). They might cost as little as one hundred drachmae or as much as half a talent, depending on the nature of the liturgy and the ambitions and resources of the liturgist. The second kind of liturgy was the *trierarchia*, in which the liturgist paid some

of the costs of outfitting a trireme. This liturgy was far more costly, perhaps a talent or more; fourth-century reforms spread the expense among groups of liturgists. While the burden may have been great for some, there is no question that the liturgist personally profited. He might acquire considerable τιμή and χάρις from the people if he performed his duty in a generous spirit and with magnificent results; see Sinclair 1991 64-5, 189-90. Ober 1989 226-30 and the note on §101.2.

The antithesis (ἕτερος μὲν. . . οὗτος δέ) neatly expresses Aeschin.'s argument: Timarchus had the potential to benefit the *polis* but wasted it in satisfying selfish pleasures. Cf. §§11, 101, 105.

97.3 ὄπισθεν τῆς πόλεως] The Acropolis was sometimes simply called the πόλις (καλεῖται. . . καὶ ἡ ἀκρόπολις μέχρι τοῦδε ἔτι ὑπ' Ἀθηναίων πόλις Th. 2.15.6: see *LSJ* πόλις I.1). Reiske, Bremi and the scholiast understand ὄπισθεν to indicate the north, while Adams translates "south of the Acropolis." Since it is more likely that the Athenians would consider their city to face the Piraeus and the sea, the former seem to have the better understanding.

97.4 ἐσχατιάν] The meaning of ἐσχατιά in descriptions of property is discussed by D. M. Lewis "The Athenian Rationes Centesimarum," *Problèmes de la terre en Grèce ancienne* 1973 ed. M. I. Finley 210-2. The lexicographers give three possible meanings: "lands on or towards the frontier," "lands near the sea" and "lands on the hills" (e. g. Σ I. 97, 211a-c). Lewis notes that while the first two cannot apply to property in Sphettus, the third would fit very well, and concludes "Attic ἐσχατιαί are to be looked for in the neighborhood of hills." See further note on 98.8.

97.4 χωρὶς δὲ οἰκέτας] These shoemakers were slaves who worked and lived outside the household of Timarchus. Modern scholars use the phrase χωρὶς οἰκοῦντες to

denote this kind of slave, who was "permitted by the master to work independently, paying for this privilege a fixed rent (*apophora*), and retaining the surplus" (*SAL* 187-8). The phrase is a modern convention: it appears only once in a text from the classical period (D. 4.36). Harp.'s gloss there refers it to freedmen (Harp. *s.v.* = *Suda* τ 839), and a similar phrase (χωρίς ᾄκει) is used of a freedwoman at [D.] 47.72, but as Harrison notes, neither is sufficient to demonstrate that χωρίς οἰκοῦντες denoted freedmen only (*LA* i.167 n. 5); another lexicographer refers it to both freedmen and slaves (Bk. 1.316). Aeschin. uses the word οἰκέτης exclusively in the sense "slave" (17, 54 *bis.* 62. 99 *bis.* 105; 2.126, 127; 3.41, 44 *bis.*), so there is no reason to suppose that the shoemakers were freedmen. I do not understand why Harrison cites this passage as evidence for the statement, "A master could also hire out his slaves" (*LA* i.176). This was certainly possible (e.g. D. 27.20), but nothing here indicates that Timarchus had hired out any of the slaves mentioned here. On χωρίς οἰκοῦντες see *LA* i.167-8 and Perotti 1974.

97.6 ἀποφορὰν] A sum paid in exchange for the granting of a privilege (use of land. *Hdt.* 2.109; cf. *Arist. Pol.* 1264a33). Here, the sum paid by the slaves of Timarchus for the privilege of working outside the household; cf. *Men. Epit.* 163. Since it was a fixed sum it did not necessarily represent the slave's total earnings, and so is evidence that in some circumstances the slave had his own property; cf. [D.] 59.31. Slaves who were hired out to work for others, e.g. to carry water or to work in the silver mines, also paid an ἀποφορὰ to their master (*And.* 1.38. X. *Por.* 4.49, [X.] *Ath.* 1.11, *Suda* α 1785 = *Men.* F431, cf. *Suda* α 3639).

97.7 ἀμόργινα] The word signifies both a type of fabric and the women's clothing made from it, both known for their fineness and expense (*Ar. Lys.* 150 with Σ, *Antiph.* F153, [Pl.] *Ep.* 363a with Σ, Harp. *s.v.* Ἄμοργός, *Hsch.* α 3747, Σ 1, 97, 214a, b); hence the intrusive gloss ἔργα λεπτά at l. 9 (*Cobet* 1873 625-6). The scholiasts note

also its rich color (Σ 1, 97, 214a, Σ Ar. *Lys.* 150), but they may have been misled by the word ἀμοργή, a scarlet dye (Mau *RE* 1 1874). The relationship between ἀμοργίς . ἀμόργινα and the island Amorgos is uncertain; it may be that this grade of fabric was first produced there (Poll. 7.74; cf. Mau *RE* 1 1875 and *D.-S.* I.i 233). It was made from the fibers of the plant ἀμοργίς (Ar. *Lys.* 737), identified by J. Yates *Textrinum antiquorum* 1834 as mallow (cf. *LSJ*). But ἀμοργίς is more likely flax, and ἀμόργινα a kind of fine linen. See P. Mayerson, "The Word λινοκαλάμη (Flax) Vis à Vis ἀμοργίς," *ZPE* 121 (1998) 223-5.

98.5 Ναυσικράτει τῶ κωμικῶ ποιητῆ] The name has been restored in an inscription recording victors at the Lenaea (*IG* II² 2325), once among the comic poets (l. 148: between c. 378/7 and c. 351/0) and once among the comic actors (l. 196: c. 350). Similarly Nausicrates is identified in the mss. as both ποιητῆς (f) and ὑποκριτῆς (BD). The *Suida* knows him only as a poet (v 71: cf. C. Austin, "Catalogus Comicorum Graecorum." *ZPE* 14 (1974) 168). Earlier scholars declared that the two were not the same (O'Connor 1966 355, Benaria *RE* Suppl. 10 412, following A. Wilhelm. *Urkunden dramatischer Aufführungen in Athen* Vienna 1906 150). However Stephanis, while rightly cautious, has recently suggested otherwise ("from actor he developed into poet, as so many others" 1988 317). It seems from §100.7-8 that Nausicrates was not present in court: cf. note on §107.9.

98.6 Κλεαίνετος ὁ χοροδιδάσκαλος] This Cleaenetus may be the tragic poet mentioned by Alexis (F266): Snell assumes as much (*Tragicorum Graecorum Fragmenta* Gottingen 1986 1.250-1), but Arnott is less certain (1996 753). At any rate, like Nausicrates and Philemon (§115) he was a man of the theater, and so perhaps a φίλος of Aeschin. Why does Aeschin. mention the resale of the house? Humphreys believes that

Aeschin. called Cleaenetus as a witness (1985 328), but it is difficult to see what his testimony would prove.

98.7 Μνησι(θεος) Mnesitheus (*PA* 10297) belonged to the liturgical class; a few years after the trial he served as syntrierarch. See Davies 1971 393.

99.3 ἰκετευούσης καὶ ἀντιβολούσης] A common collocation in the orators. Cf. And.1.51, 149, D. 27.68, 28.20, 30.32, 57.1. 70, [D.] 43.84, 45.1, 85, 48.57, 59.81. Is. 2.2. 44. 9.37, Lys. 4.20, [Lys.] 6.55, 15.2, 18.27, 21.21, 22.21. This detail recalls the clause in the law on the scrutiny of *rhetors* regarding the maltreatment of parents, and prepares the judges for the story of Timarchus and his uncle (§§102-4).

99.6 δισχιλίων δραχμῶν] According to Pritchett, the average price of a house in the orators, as opposed to the epigraphic record where the average price is seven hundred drachmae: as he notes. "the values of real estate mentioned in the Attic Orators must not be taken as indicating the average wealth of Athenians" (1956 269-75).

99.8-10 Although Aeschin. claims that Timarchus sold both the farm at Alopece and the slaves attached to it, he offers to prove only that Timarchus inherited the slaves. His challenge ("let him produce the slaves") is therefore misleading, but rhetorically effective, since it places the burden of proof on Timarchus.

100.2 Μεταγένη] Metagenes (*PA* 10090) testifies against Timarchus, his fellow demesman. Perhaps he is a φίλος of Aeschin.; Kirchner supposes that he is the same Metagenes whom Aeschin. calls to witness in 343 B.C. (2.134).

100.7 It seems that Aeschin. called various witnesses to prove that Timarchus inherited slaves (§99.6-8) and Metagenes to prove that he paid Timarchus seven minae on his debt (§100.1-5); Aeschin. also called for the testimony of Nausicrates, which stated that he bought a house from Timarchus (§98.4-5). The "others" he calls for were perhaps Mnesitheus (§98.8) and Cleaenetus (§98.7). As Humphreys notes this is far from proving that Timarchus squandered his inheritance (1985 328).

101.2 τὰς λητουργίας] Citizens whose property was valued at three or more talents were obliged to perform liturgies; see Davies 1971 xxiii-xxiv. Aeschin. claims that the father of Timarchus sold assets to lessen his net worth and thus escape this obligation. The allegation serves at least two purposes. On the one hand, since liturgies were considered a public service, a speaker may seek to prejudice the judges by claiming that his opponent has avoided them, performed them reluctantly, or did not perform them at all ([D.] 10.28, D. 18.102-104, 20.1, 21.153-9, 28.3, 36.39-42, 45.66-7, [D.] 50.9, 58.51.7, 17, Is. 4.29, 5.36 and Wyse *ad loc.*, 39, 46, Isoc. 2.60, [Lys.] 20.23, Lys. 31.12: on the *topos* of liturgy avoidance see Ober 1989 215-7). On the other hand, the allegation is another example of the argument from φύσις, used to support Aeschin.'s characterization of Timarchus: the father defrauded the people, and so did the son.

101.3 ἄνευ] Usually "without," although in prose the preposition may also mean, as here, "besides" (*LSJ* III).

101.4 ἐργαστήρια δύο] The signification of ἐργαστήρια has in the past been misunderstood: it refers not to mines but to "establishments for the preparation of the ore by pounding and washing" (Hopper 1953 204). Our passage is adduced by Hopper as proof that ἐργαστήρια cannot refer to mines: Aeschin. says that they were sold to avoid the liability for performing liturgies, "but mines were not included in the assessment to

determine liability to such burdens" (Hopper 1953 205, citing D. 42.17-9). Unlike mines, workshops were privately owned, for they could be sold, inherited and mortgaged (cf. Wyse on Is. 3.22, and see following note). Aeschin. does not tell us their value: elsewhere we read of a workshop and its thirty slaves serving as security for a loan of one hundred and five minae (D. 37.4). On the preparation and refinement of ore see Healy 1978 139-98: for a survey of recent archeological work, with site photographs and ground plans, see Jones 1982.

101.5 ἐν τοῖς ἀργυρείοις] Southeast Attica contained rich deposits of argentiferous lead which were mined as early as the third millennium B.C. Classical authors refer to the mines as τὰ ἀργύρεια μέταλλα (e.g. Th. 2.55), τὰ ἀργύρεια ἔργα (e.g. [D.] 42.18) or simply τὰ ἀργύρεια. In the classical period mining activity was under the control of the *polis*, which leased concessions to exploit individual mines (Hopper 1953 205-9). Leases were granted by the *poletai*; a number of these have been preserved and were published by Crosby (1950). The work of E. Ardaillon *Les Mines de Laurion dans l'antiquité* Paris 1897 has been superseded by that of C. Conophagus *Le Laurium antique* 1980. See also Hopper 1953 on the mines in the fourth century.

101.5-6 ἐν Αὐλῶνι] The location of Aulon is unknown. Crosby suggests that it was a "village center," since the *poletai* lists name roads leading to and from it (1950 194 n. 17: cf. Eliot 1962 92 n. 60 supposes it a "small community"). The *poletai* lists tend to give the location of a mine in relation to the nearest town or village (Crosby 1950 193-4).

101.6 ἐπὶ Θρασύλλῳ] Harp. glosses ἐπὶ Θρασύλλῳ "near the monument of Thrasyllus" (*s.v.* = Suda e 2338; cf. Σ 1, 101, 220), but he probably is thinking mistakenly of the choregic monument of Thrasyllus which was conspicuously located on the Acropolis above the temple of Dionysus (Eliot 1962 91 n. 56). Hopper emends to ἐπὶ

Θρασύμω which appears several times in the *poletai* lists, while ἐπὶ Θρασύλλω never does (1953 209 n. 66, 217 n. 124; cf. Eliot 1962 110 n. 110). In light of the conventions described in the preceding note, Thrasymus was most likely a village in the deme of Sounion (Eliot 1962 91). Elsewhere ἐπὶ Θρασύλλω appears only in the document inserted at D. 37.25: Carey and Reid *ad loc.* note that "the corruption, evidently an old one, is due to uncial confusion of Μ and ΛΛ."

102.1 τρεῖς ἀδελφοί] We know nothing of Arizelus (*PA* 1617), Eupolemus (*PA* 5932) and Arignotus (*PA* 1614) beyond what Aeschin. tells us.

102.5 ἀνεμήτου τῆς οὐσίας οὐσης] See *LA* i.239-43. Attic law declared equal inheritance for all surviving sons (in the absence of a will; *Is.* 6.25), but the estate did not necessarily have to be divided among them. Sometimes it passed in its entirety, with the heirs having joint ownership. This estate may have been left undivided in order to ensure the welfare of Arignotus; for other motives, see [D.] 44.10 and Harp. s.v. κοινωρικῶν. Misgolas owned slaves jointly with his brother, although we do not know if this means they also held an inheritance in common: see note on §41.1. For other undivided estates see D. 36.8-9 and *Lys.* 32.4-5 with Carey *ad loc.* and the discussion of Lane Fox. "Inheritance in the Greek World," 214-8 in Cartledge and Harvey 1985. In the *Lysias* passage, as here, the estate seems to continue undivided "even after the death of one of the original heirs" (Davies 1984 77). The father and brothers of Arignotus apparently felt that his disability would prevent him from successfully managing his share: Arizelus manages the estate while he lives, then entrusts it at his death not to Arignotus but to guardians. One wonders at the terms of the agreement reached by Arizelus and Arignotus (συνταξάμενος, cf. D. 27.7, 28.8). The *AP* mentions a suit to force the dissolution of κοινά (56.6); this probably refers to both undivided estates and joint business ventures (see Rhodes *ad loc.*).

103.7 ἠφάνισε] The point here is not that Timarchus dissipated the estate, but that he continued like his father to convert the estate into cash, either to avoid liturgies or to purchase other properties. See Todd 1990c 170-1 and cf. note on §105.

103.8 ἀδυνάτοις] In the classical period, physically disabled citizens might receive public assistance in the form of a dole (cf. Lys. 24, *AP* 49.4). On the amount of the dole see note on §104.6. This assistance was institutionalized by law (ψήφισμα Lys. 24.22, νόμος *AP* 49.4, Σ 1, 103, 223; see Hansen 1983 165). Applicants were vetted by the Council through δοκιμασία; the implication of Lys. 24.26 is that the scrutiny was held annually. The *AP* lists two factors which determined eligibility: the applicant was unable to earn a living because of his physical condition, and his property was valued at less than three minae (*AP* 49.4, cf. Σ 1, 103, 222a, Lys. 24.4-6). As in other scrutinies, ὁ βουλόμενος could challenge an applicant's eligibility (Lys. 24; see Introduction IV). The institution is attributed to Solon and Pisistratus (Plut. *Sol.* 31, Σ 1, 103, 223), but Rhodes believes it "a creation of the Periclean or post-Periclean democracy" (1981 570). See further Lys. 24, *AP* 49.4 with Rhodes *ad loc.*, Rhodes 1985 175-6 and Garland 1995 35-8. Dillon has recently provided a valuable discussion of this institution (1995), although his thesis, that the motive for its establishment was not humanitarian but "the desire to counteract the possibility of aristocratic patronage over those able to exercise political rights but who found it difficult to support themselves financially" (34) remains speculative.

104] This charge is the most damning of all those raised against Timarchus, bolstered as it is by the deposition of Arignotus. Although the alleged maltreatment of Arignotus is not strictly relevant to the case since the law on the scrutiny of public speakers mentions only the abuse of mother and father (§28, cf. §99), the testimony of Timarchus' aged and

infirm uncle no doubt aroused the judges' wrath, given the power of moral sentiment about the family (cf. D. 21.130, [D.] 45.70 and see *GPM* 275). Furthermore, like the charge in §99 it demonstrates Timarchus' willingness to mistreat his family, the implication being that he will not hesitate to abuse his *polis*. For the theatrical aspects of this testimony cf. the appeal *ad misericordiam* in which a defendant seeks the judges' pity by surrounding himself with old or helpless dependents (e.g. Lys. 20.34, D. 21.99 and cf. Pl. *Ap.* 34c): as defendant, Aeschin. turns this device to his advantage (2.179) while here as prosecutor, he uses it to attack Timarchus.

Aeschin. says Arignotus was "left off" (a roll of those eligible to receive the dole that year?), perhaps because he did not attend the δοκιμασία (Σ 1. 104. 224). When he appealed to the Council in an attempt to be reinstated, Timarchus, presiding that day, refused to speak for him. Since the charge is substantiated we must accept that it has a basis in truth. Yet one wonders how Arignotus was able to receive the dole in the first place, since according to the *AP* invalids with property worth more than three minae were ineligible, and as far as we can tell from the narrative, Arignotus should have shared the estate of Arizelus equally with Timarchus. Aeschin. implies that he began to receive the dole after Timarchus dissipated the estate (§103.7-9). However it is also possible that the estate was not in fact dissipated (see note on §103.7); and so did Timarchus refuse to speak for Arignotus because he knew his uncle was not qualified? Cf. Dillon 1995 40.

104.3 ἰκετηρίαν θέντος] Arignotus supplicates the Council since the scrutiny of invalids was under their jurisdiction. This does not seem to be the kind of formal appeal which was available in other scrutinies, like the scrutinies of citizen qualifications. Perhaps, as Dillon believes, "there was the opportunity to call witnesses and supporters to the defense of one's status as an *adynatos* if it was challenged" (1995 53). For the privilege of addressing the Council granted to non-members see Rhodes 1985 42-3, 55-7.

The *ἰκετηρία* was a branch of olive wreathed in wool placed upon an altar by a suppliant "as a sign that he is not claiming a right but asking a favour" (Rhodes on *AP* 43.6: cf. *A. Supp.* 21-2 and Σ 1, 104, 225). On supplication of the Council see *AP* 43.6 with Rhodes *ad loc.*

104.5 *προεδρεύων*] Timarchus served on the council in 361/0 (see note on §109.3). fifteen years before this trial. On the presidency of the Council see note on §23.1.

104.6 *τῆς πρυτανείας*] Each of the ten tribes chose fifty delegates to sit each year on the Athenian Council, for a total of five hundred men. During the year each delegation in turn served as a presiding committee (the *πρυτάνεις*, "prytanes:" as in the notes on 23.1. 33.4). The administrative year was thus divided into ten parts of roughly thirty-six or thirty-five days, each of which was called a "prytany" (*πρυτανεία*: as in the note on 1.2 and in the following). See *AP* 43.2 with Rhodes *ad loc.*

104.6 *μισθόν*] See Dillon 1995 45-7. The "dole" is variously referred to as *μισθός*, *τροφή* (*AP* 49.4) and *ἀργύριον* (*Lys.* 24.4, 8). It was distributed by a *ταμίαις* who was elected by lot (*AP* 49.4). In the early fourth century, the dole was one obol *per diem* (*Lys.* 24.13, 26), and it had increased to two obols at the time of the *AP* (49.4: cf. *Hsch.* α 1217). The phrase *τὸν τῆς πρυτανείας μισθόν* suggests that in 361/0 the payment was made each prytany (cf. Σ 1, 104, 226 and *FGH* IIIb Suppl. 1 563). Rhodes on the other hand thinks that the point of the phrase "may be that *ἰκετηρία* to the boule as to the assembly were allowed once a prytany" (1981 570), but since *τῆς πρυτανείας* is in the attributive position, it is difficult to see how it could refer to anything other than *τὸν μισθόν*. Furthermore if supplications to the Council for this purpose could be held each prytany, it follows that the scrutiny was held each prytany, which does not seem to have been the case (Dillon 1995 41-2; see note on §103.8). At any rate, as Rhodes notes, "the

grant was at all times less than the wage which an unskilled but able-bodied citizen could earn" (1981 570; see Dillon 1995 50-1).

It seems that at the end of the fourth century the dole was paid monthly at the rate of five obols *per diem* (Philoch. *FGH* 328 F197b with Jacoby *ad loc.*; cf. Σ 1, 103, 222a). The scholiast (1, 103, 222b) gives a figure of three obols *per diem*: this is either an inference based on judge pay, or perhaps represents the amount of the dole at some time between the date of *AP* and of Philoch. Dillon rejects both explanations, attributing the scholiast's figure simply to "gross error" (1995 45 n.93).

105.1 Ἄλλ' ἴσως ἄν τις εἴποι] Further anticipation of the defense, answered by Aeschin. not with facts but memorable phrases: note the use of anaphora and catalogue. and cf. the similar turn of phrase at D. 19.146. The scholiast (1, 105, 227) identifies in the defense argument the use of *metathesis*, which in the system of Hermog. means "transposition of motive" (3.23 W.). For example, the fact that a man was caught burying a body is used as evidence that he committed murder; but the man claims in his defense that because of religious scruples he could not allow the body to remain unburied. Here the defense will argue that Timarchus sold property not to finance his luxuries but in order to buy other houses and to purchase or construct other workshops at the silver mines.

106.5 πριάμενος] Aeschin. repeatedly accuses Timarchus of accepting δῶρα, "bribes" (§§86-8, 106-8, 114-5, 154, 188). In doing so he draws a parallel between the prostitute who sells himself and the man who after accepting bribes "sells" the interests of Athens. Accusations of bribery are extremely common in the orators: see Harvey 1985, who finds that the Athenians "regarded taking bribes against the interests of the state as particularly heinous (it was indeed only this type of *doron* that was actually illegal)" (112). For laws

on bribery see D. MacDowell *RIDA* 30 (1983) 57-78 and the summary in Hansen 1991 193. See also on §§30.2, 42.6 and 86.4.

Aeschin. has constructed the *ethos* of Timarchus to make the charges of bribery plausible: if the judges believe he is addicted to expensive pleasures they will more readily think him willing to accept bribes in order to support his addiction (§95; cf. note on §107.4-5). See *GPM* 111 on αἰσχροκέρδεια, "seeking profit or gain in ways, or from sources, which for one reason or another were open to disapproval and reproach."

107.1 Λογιστῆς] One of the ten auditors who supervised εὔθυναί at the end of the year: see note on 1.2. Aeschin. alleges that Timarchus profited from his position through bribery and extortion. Since he was about to undergo his own εὔθυναί, Aeschin. may have selected this incident to demonstrate Timarchus' willingness to subvert the process: cf. the diction in this sentence to that of §1 (τὴν πόλιν ἔβλαψε and ἐσυκοφάντησε). If Timarchus held the office in 364/3, as Develin believes (1989 262), he would have been in his late twenties or early thirties.

107.4 Ἄνδρω] Andros is the second largest island of the Cyclades, lying southeast of Euboea. Aeschin. claims that Timarchus secured the magistracy through bribery and declares that he seduced Andrian women. With the latter charge Aeschin. again paints Timarchus in the colors of the tyrant, the seduction of free-born women and children being one of the tyrant's conventional characteristics. For this motif see note on §15.1. and cf. e.g. D. 23.141 and Cicero's treatment of Verres.

Andros had joined the Second Athenian League by 373 B.C. (Cargill 1981 41-2). The treaty between Athens and its allies specifically forbade the imposition of governors and garrisons (*IG II²* 43= Tod 123). But a decree of 357/6, proposed by Hegesander, assumes the presence of an Athenian garrison on Andros (*IG II²* 123.7-21= Tod 156), and some believe that the governorship of Timarchus may even predate Hegesander's

decree (Cawkwell 1981 52 n. 47 (360s), Develin 1989 264 (363/2). This belief is again based on the assumption that Aeschin.'s narrative is in chronological order. If this belief is correct, then the governorship falls before his service on the Council in 361/0 (see note on §109.3) and after 364/3 (see previous note). Therefore our passage has been adduced as evidence for renewed Athenian imperialism in the years before the Social War (e.g., by Cawkwell 1981 51-2). Although Cawkwell rightly notes that the decree of Hegesander indicates "some cordiality" between Athens and Andros (cf. Cargill 1981 156-8), and that we cannot securely date Timarchus' governorship to the 360s, nevertheless it is likely that the relations between Athens and her allies in this period were generally worsening (see Badian 1995 79-106, Heskell 1997 155-7). At any rate Aeschin. clearly expects the judges to find Timarchus' alleged treatment of their allies reprehensible. Finally, Hornblower makes an interesting comment on the passage (*CR* 32 (1982) 238):

the Athenians did not develop a *repetundae* system, either in the fifth century or the fourth. . . It was not enough for the imperial people to say, as Thucydides' Athenians do at 1.77, that they provided equal laws for all: empire should have produced new *kinds of* jurisdiction to deal with specifically imperial offences like extortion. Timarchos. . . could not be dealt with quite like Verres as a result.

107.4-5 ἐπ' ἑννέα ὀβολοῖς τὴν μνᾶν] One method used by the Athenians to express interest rates was "in terms of the number of obols or drachmas charged for each mina. . . borrowed over the period of a month" (Millett 1991 103). Six obols were the equivalent of one drachma, and one hundred drachmae were the equivalent of one mina: thus Timarchus borrowed at a rate of 1 1/2 percent monthly, or 18 percent yearly. Millett believes that the normal rate was 1 percent monthly and that therefore Timarchus borrowed at a "usurious" rate; he compares D. 27.17 and [D.] 59.52, where it is stated that non-returned dowries accrued interest at 1 1/2 percent, the additional 1/2 percent being "the presumed penal element" (1991 106). The detail is probably included to reinforce the characterization of Timarchus as a reckless spendthrift. It might also imply

his eagerness to enrich himself at the expense of the Andrians; thus Ste. Croix writes, "it suggests that the Athenian archon of a large island. . . might expect to make a substantial profit, and that a jury would not think it unreasonable if this were estimated at well over half a talent" (1981 604 n. 27; cf. Σ 1, 108, 235b). Although Millett is correct in noting that Aeschin. stresses the alleged sexual improprieties of Timarchus and not his financial misconduct (1991 278 n. 52: "the possibility should not be neglected that Timarchus (if guilty of the bribery charge) wanted prestige rather than financial profit"), there is certainly an implication in §108 that Timarchus could have profited financially from his governorship.

107.9 ἐκμαρτυρήσοντα] Harrison defines the noun ἐκμαρτυρία as a deposition "taken from a qualified witness who for reasons of health or absence abroad could not appear in court to confirm" it, e.g., at 2.19 (*LA* ii.146-7: see also Wyse on *Is.* 3.18). The verb ἐκμαρτυρέω may mean "to make depositions out of court" (*LSJ* II), e.g. at [D.] 46.7, but here it must mean "to testify openly" (Wyse on *Is.* 3.77: cf. Σ 1, 107, 234, Fraenkel on *A. Ag.* 1196). The latter meaning is rare in the classical period but found in both prose (*Is.* 3.77, *AP* 7.4) and poetry (*A. Eu.* 461). For the sentiment, cf. Eur. F553 Nauck:

ἐκμαρτυρεῖν γὰρ ἄνδρα τὰς αὐτοῦ τύχας
εἰς πάντας ἀμαθές, τὸ δ' ἐπικρύπτεσθαι σοφόν

109.1 Ἄλλ' καθ' αὐτὸν] Denniston *GP* 8-9 discusses this use of ἀλλά ("But, you will say"). Aeschin.'s remarks here and in §113 prepare the transition to the following section (§§117-76), devoted to defense arguments. But they seem to be designed to clarify the structure (allotted and elected offices) and enliven the argument rather than to voice actual objections. Aeschin. may be concerned to distinguish allotted and elected offices because the law forbids a man who has served as a hired companion to hold any office, μήτε κληρωτὴν μήτε χειροτονητὴν (§19).

109.3 ἐπὶ ἄρχοντος Νικοφήμου] The archonship of Nicophemus (*PA* 11067) was the year 361/0 (D.S. 15.95). Timarchus was at least thirty at the time since this was the minimum age for the office of βουλευτής (*X. Mem.* 1.2.35). See Rhodes 1985 1 and 194-5. He also served in 347/6: see note on §80.5 and Introduction III.

This is the final charge in the section on Timarchus' allotted offices and it is treated at the greatest length. Aeschin. claims that Timarchus and Hegesander stole one thousand drachmae of public funds. No details of the crime are given and the charge is unsubstantiated. The incident "pertains more closely to the present trial" (II.5-6) insofar as it attempts to forge a link between sexuality, politics and crime. Hansen suggests that Pamphilus accuses Timarchus of prostitution and embezzlement by εἰσαγγελία to the Council, although the charge of prostitution is not apparent in the text (Hansen 1975 119: see further note on §111.10).

109.4-5 πρὸς μικρὸν μέρος] Owing in part to the mutilated condition of *AP* 67.3ff., there is some uncertainty as to the timing of speeches in Athenian courts. It is likely that public suits, e.g. the trial of Timarchus, were to be completed within a single day, although Worthington 1989 argues that certain trials like those against Aeschines in 343 and against Ctesiphon in 330 must have taken longer; cf. his note on *Din.* 1.114. For public suits in the time of Aeschin., the day was probably divided into three parts (διαμεμετρημένη ἡμέρα 2.126, [D.] 53.17: cf. 3.197-8 and see Introduction IV). The first two parts were given to the speeches of prosecutor and defendant, and in ἀγῶνες τιμητοί a third part was allotted for speeches on the assessment of the penalty. See *AP* 67.1-68.1 with Rhodes *ad loc.* and *LA* ii.161-2.

The time granted each litigant was measured by a κλεψύδρα, "water-clock" (cf. Σ 1. 109, 238). In public suits the clock was not stopped for the reading of depositions and other types of evidence, and if συνήγοροι spoke for a litigant, their speeches had to

be delivered within his allotted time. It would appear that Timarchus had several *συνήγοροι* to speak on his behalf, which would mean that his own speech was proportionally briefer. One of the judges was chosen by lot to manage the clock (*AP* 66.2). For the archeological evidence see M. Lang "Klepsydra" 77-8 in Boegehold 1995.

110.2 ταμίας ἦν τῶν τῆς θεοῦ] The treasurers of Athena were an annual decemviral board, one member allotted from each tribe (*AP* 47.1). The property qualification for this office, instituted by Solon, was apparently still in effect at the time of the *AP* (8.1, 47.1 with Rhodes *ad loc.*; candidates were drawn from the πεντακοσιομέδιμνοι). They were stewards of the various objects used in the worship of Athena on the Acropolis as well as the money dedicated to her, and so responsible for her treasury (the *opisthodomos*). undoubtedly the richest in Athens even in the fourth century; see Rhodes 1993 550. They also supervised the collection and distribution of sacred olive oil (*AP* 60.3). See further W.S. Ferguson *The Treasurers of Athena* 1932 and J. Davies in Osborne and Hornblower 1994 207-8.

110.3 ἔκλεπτον] For other passages in which a public official is accused of peculation. cf. e.g. And. 1.74, 3.21-3, D. 24.112, 127. In the American legal system, there is a substantive difference between embezzlement and larceny. An embezzler fraudulently appropriates for his own use property lawfully in his possession; a person who commits larceny takes, without consent, property which he is not entitled to possess (S. Gifis *Dictionary of Legal Terms* 1993 s.v. embezzlement, larceny). The Athenians did not distinguish the offenses in these terms; the words κλοπή and κλέπτειν could designate larceny or embezzlement. The Athenians do seem to have made a distinction in kinds of embezzlement: Cohen 1983 shows that the verb ἀποστερεῖν is used of "embezzlement by guardians, bailees, or bankers," while κλοπή and κλέπτειν describe "misappropriation of public funds" (30). At least four different procedures were available

to prosecute a man accused of κλοπή (D. 22.26-7: ἀπαγωγή, ἐφήγησις, γραφή, δίκη). Cohen 1983 posits that the γραφή was used only to prosecute theft of public property. In the same way, Aeschines did not have to introduce witnesses or contracts to convince the judges that Timarchus had been a prostitute.

The incident is mentioned by Roberts in a list of possible cases of ειαγγελία to the Βουλή, but, as she notes, the case was dismissed (1982 22).

110.5 Πάμφιλος ὁ Ἀχερδούσιος] Nothing else is known of him (PA 11540). Note that Aeschin. presents Pamphilus as he presented himself in the *prooimion*: a reasonable man driven to correct wrongdoing against the city (cf. §2).

111.10 ἐκφυλλοφορήσασα] A procedure used by the Council in the discipline of its members. If a βουλευτής was suspected of wrongdoing, two separate votes were taken on the question of his expulsion, the first using leaves (φύλλα), the second ballots. If the second went against him he was expelled and his case referred to the δικαστήριον. It is not known why two votes were necessary, nor why leaves were used in the preliminary vote. See Rhodes 1985 144-7.

Pollux says that demesmen used leaves to vote at the διαψηφίσεις (8.18), but modern scholars believe that he confused the two procedures (Whitehead 1986 94).

111.11 μὴ δῶτε] The incoming Council customarily rewarded its predecessors with a gold crown upon successful completion of their εὔθυνα. The crown was given to the Council as a whole; cf. D. 22.35-6 and Σ 1, 111, 243a-b. Rhodes rightly points out that "it is possible that the Boule of 361/0 lost its crown from some totally different reason" (1985 15).

113.4 ἐξεταστής] Faced with revolution, Plutarch the tyrant of Eretria appealed to the Athenians for assistance, and in early 348 they dispatched troops under the general Phocion. Aeschin. took part and distinguished himself at the battle of Tamynai; the Athenians however were ultimately forced to withdraw. It later proved a costly defeat for it allowed the supporters of Philip in Euboea to become dominant. See 3.86-8. Plu. *Phoc.* 12-4 and Harris 1995 37-8.

Timarchus also took part in the campaign as an inspector of the mercenary troops in the Athenian contingent (ἐξεταστής). The title ἐξεταστής "in Athens. . . does not denote a particular official but *ad hoc* appointed officials to investigate" (Arnaoutoglou 1998 150). Arist. lists them along with εὐθυνοὶ, λογισταί and συνήγοροι as the various auditors of officials who handled public funds (*Pol.* 1321a37-b4). A specific duty of the military ἐξετασταί was to determine the number of mercenary soldiers (cf. 2.177 with Σ *ad loc.*, Σ 1, 113, 247, Bk. 1.52 and *E.M.* s.v. ἐτάζω). In general see Pritchett 1974 ii.39 and Szanto *RE* 6.2 1679-80, where Aeschin."1.131" is a misprint for "1.113" and Aeschin."II.339" for "II.177." Roberts lists this incident among cases which possibly arose from εὐθυναί, and Hansen infers that the fine was imposed at the εὐθυναί following Timarchus' term of office (1975 47), which is a logical inference. Note that Aeschin. offers no proof of this allegation.

113.8 οἱ δὲ νόμοι] See note on §§90-1.

114.5 The final incident in this section is also the most recent (see note on §77.3). It does not concern any public office held by Timarchus, nor is it strictly relevant to the law of the scrutiny of public speakers as quoted by Aeschin. It reiterates several aspects of Timarchus' *ethos*, his susceptibility to bribes, his sycophancy and his profligacy, and so demonstrates that he is not qualified to speak for the *polis*. It is also the only charge in this section for which Aeschin. offers supporting testimony. Therefore we must accept, if

not the veracity of the account, then at least its plausibility to the judges (cf. Whitehead 1986 295-6).

Timarchus claimed that Philotades of Cydathenaea was his freedman and as a result Philotades was disenfranchised during the διαψήφισις of his deme. The case went to trial, where Timarchus repeated the charge; but it was dropped when the judges learned that he had taken a bribe from Philemon, acting on behalf of Leuconides, an in-law of Philotades. The case has several puzzling aspects. First, we do not know exactly what Timarchus was bribed to do, but it was more likely to claim Philotades as his freedman (Σ 1, 114, 250a, Whitehead 1986 296, Haussoullier 1884 46) than to abandon the case (Harvey 1985 92). Second, the existence of a contract which recorded an agreement between Leuconides and Timarchus is remarkable. So too the amount of the bribe (cf. Whitehead 1986 295): in a fragment of Is., we find that only thirty drachmae were paid to effect the release Hermocrates, also claimed as the freedman of another. However the circumstances of this case are unknown (F9). Third, Leuconides and Philemon give self-incriminating testimony (see notes on §§45.6). Harvey compares D. 58.35, where several men testify that they have given bribes. We do not know whether Leuconides, Philemon or Timarchus were prosecuted in consequence: it is not clear to me why Humphreys cites the former as examples of "witnesses who had been concerned in lawsuits. . . against the speaker's opponents" (1985 338-9). Finally, we do not know whether the nature of the trial following the rejection of Philotades or the role of Timarchus in the trial: Whitehead asks "How. . . could the prosecutor on behalf of Kydathenaion against Philotades properly have been Timarchos of Sphettos?" (1986 107 n. 108). Cf. Haussoullier 1884 46 and 48, who believes that the right to challenge at the διαψήφισις or to prosecute at the appeal belonged to ὁ βουλόμενος.

114.1 Τοιγαροῦν] Denniston considers the particles τοιγαροῦν and τοιγάρτοι synonymous and notes that "certain writers show an individual preference for the one or

the other" (*GP* 567, citing Schmidt 1891 44). Since Aeschin. elsewhere uses τοιγάρτοι (§§92, 140, 2.140, 3.132), Denniston thinks τοιγαροῦν "doubtful" here: τοιγάρτοι is the reading of **BD**.

114.3 Φιλωτάδην τὸν Κυδαθηναϊᾶ] Nothing more is known of him (*PA* 14924) or Leuconides (*PA* 9070).

114.8 τοὺς ὀρκίους θεοὺς] At Athens official oaths were typically sworn in the name of Apollo, Demeter and Zeus (Σ 1, 114, 252 = Din. F29; cf. [D.] 52.9 and Ar. *Eq.* 941-2). Oaths of a particularly serious nature were sworn over the bodies of sacrificed animals (e.g., D. 57.26, [D.] 59.60, Is. 7.16, 28): these are discussed by C. Faraone *JHS* 113 1993 65-72. For the self-curse (ἐξώλειαν ἐπαρσάμενος ἑαυτῷ) cf. 3.99, Antipho 5.11. D. 24.151, [D.] 49.66, 59.10 and Lys. 12.10. On oaths see J. Plescia *The Oath and Perjury in Ancient Greece* Tallahassee 1970 and R. Hirzel, *Der Eid* Leipzig 1902.

115.2 Φιλήμονος τοῦ ὑποκριτοῦ] Philemon was an actor of some note: we know of two victories at the Lenaea c. 370 BC (*IG* II² 2325.191). He is probably the Philemon mentioned in Arist. *Rh.* 1413b25. See Stephanis 1988 438.

115.2 εἴκοσι μνᾶς] Two thousand drachmae; see note on §107.4-5.

115.5 κάλει μοι] Again it is striking that Leuconides and Philemon are called to testify instead of Philotades, the injured party. Aeschin. has chosen his witnesses carefully: surely the association of Timarchus with two admitted criminals made a powerful effect on the judges.

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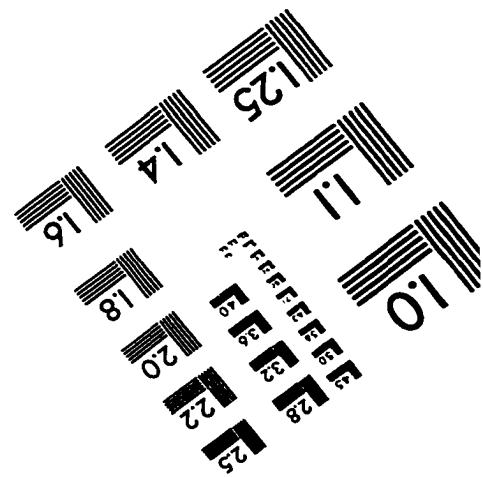
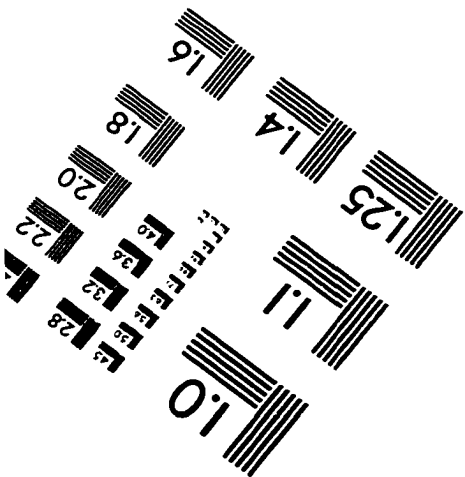
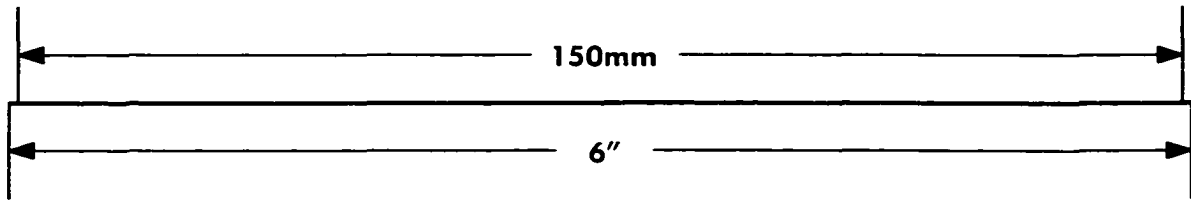
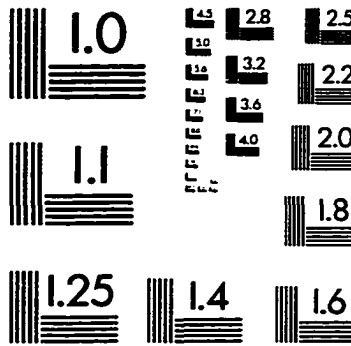
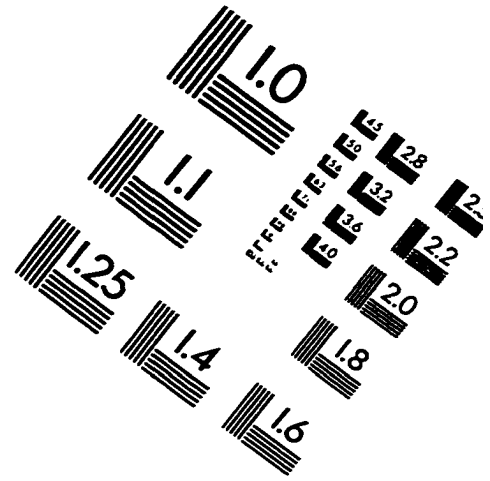
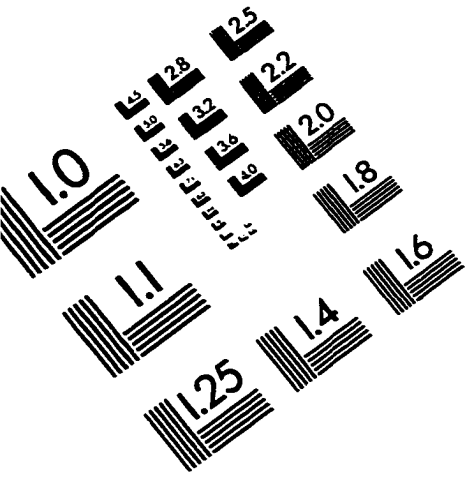
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