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MAGISTRATES WITH HEGEMONY IN THE COURTS OF ATHENS

My topic is ‘*hegemonia dikasteriou*.’ The phrase itself appears infrequently, but based upon context and common sense we can be certain that it means, ‘the authority to preside over a court.’ It is more a matter of speculation to determine how and when a magistracy received *hegemonia*. Upon consideration of the many passages in the *Athenaion Politeia*, in the orators, and in fifth and fourth century inscriptions where magistrates are said to bring (*eisagein*) a certain kind of case or a certain kind of procedure into court,¹ I think it’s safe to say that at some point in its evolution, possibly at origin, perhaps more often in the course of existence, the law granted a magistracy the right (but possibly an obligation in archaic Athens) to bring cases or procedures into court, whether or not that right was formally called *hegemonia dikasteriou*. By the fourth century, however, a more formal apparatus for conferral can be discerned.

In the course of this essay, I take up two controversial matters regarding the conferral of *hegemonia dikasteriou*. The first concerns officials who are sometimes designated ‘extraordinary’ – and by this I mean an individual chosen for a position whether by himself or as a member of a board to carry out a particular set of tasks for a particular occasion; the office of an ‘extraordinary magistrate’ is not permanent

¹ I confine references here to the *AP* for the usage of the phrase εἰσαγεῖν εἰς τὸ δικάστηριον. Usually magistrates are said to introduce *dikai* or *graphai* and usually the type is specified (e.g., δίκαι ἀπὸ τῶν συμβόλων): 52.1; 52.1 (bis); 52.3; 53.3; 56.6-7; 57.4; 58.3; 59.6. Less frequently magistrates are said to introduce other procedures: thus they introduce *endeixeis* at 52.1; *euthynai* at 48.5 and *dokimasiai* at 55.1; *diadikasiai* at 61.1. As in these examples where magistrates are the subject and the verb means ‘introduce’ (rather than ‘prosecute’), it is rare to find persons (rather than cases or procedures) as the object of *eisagein*; thus at *AP* 52.1 the procedure probably should be extrapolated as the object of the verb and at 59.4 the personal object may have formed part of the title of the *dike* or *graphe*. On the activity of *synegoroi* and *logistai* at 54.2, see n. 4 below and cf. n. 20. The series of decrees granting citizenship starting ca. 307/6 B.C. add a clause requiring the *thesmothetai* to introduce a *dokimasia* for the candidate into the *dikasterion*; the phrasing, while showing variants and often restored, is formulaic, and in 42 instances never departs from articulating the procedure as object of *eisagein*; the person who is to be scrutinized appears as a ‘dative of advantage.’ See Osborne 1981-83: vol. 1, D. 61.29ff (=IG II² 496 + 507 + Addendum p. 61) for the first such clause; discussion in vol. 4, pp. 164-7.’ See n. 65 below.

though it might be voted into existence for a set number of successive years. The questions I ask are: did the officials who filled these positions have *hegemoniai dikasterion* – and if so, how? I will argue that they did not have it automatically, by virtue of the creation of their office, whether by law or by decree; the privilege of presiding over a court had to be granted by law, probably on each occasion that the office was constituted and as the right to preside over a court was deemed necessary by the *Nomothetai*.

The second matter is of a smaller scale and concerns the ordinary magistracies (e.g. those belonging to the *thesmothetai*, the *basileus*, etc.) that had at some point in their evolution been granted the right to preside in court. I argue that once a magistracy had been granted that right, there was no need to invoke it again when its jurisdiction was augmented or when extraordinary sessions of its court were called into session.

The reason for controversy is the paucity of testimony. The phrase *hegemonia dikasteriou* (or the plural *hegemoniai dikasterion*) appears but five times, so far as I know, in classical Attic sources, four times in Aeschines' speech against Ktesiphon, and once in IG II² 244, the law on repairing the walls.² In the first part of this essay I take up passages in Aeschines and I focus upon his quotations from and paraphrases of laws that mention different kinds of magistrates and also upon Demosthenes' position as *teichopoios* and the date of his tenure of that office. I then turn to IG II² 244 where it is important to consider the date of the inscription and the office or

² On the basis of this limited evidence, I offer as a mere conjecture that in technical usage, the singular was applied to a single magistracy ('X received *hegemonia dikasteriou*') and the plural was used when speaking of more than one (X, Y, and Z magistracies received *hegemoniai dikasterion*' – i.e., there are different courts involved). Aeschin. 3.14a, 27, and 29 use the phrase in the plural; Aeschin. 3.14b (the second time) and the inscription use the sing., as do Harpokration and Photios. Aeschines at 3.14a and 29 is speaking of a plural number of magistracies; and while at 3.14b he is also speaking of a plural number, it is easy to extrapolate 'individually' from πάντες in the sentence οἱ δὲ τῶν ἔργων ἐπιστάται πάντες ἡγεμονίᾳ χρῶνται δικαστηρίου. When he speaks of Demosthenes as wielding 'hegemonias *dikasterion*' at 3.27, the plural number might be influenced by the preceding words καθάπερ οἱ ἄλλοι ἄρχοντες – but the plural *heg. dik.* might also be due to rhetorical exaggeration (see section vii). In this essay, when using the phrase *heg. dik.*, I have tried to adhere to the usage I have suggested here. Harpokration and Photios have similar entries under *heg. dik.* (sing.); each begins with a general statement and then follows with examples of presiding magistrates; Photios' list is longer than Harpokration's, and ends with this remark: ἀλλὰ γὰρ ὁ βασιλεὺς καὶ τῶν μυστηρίων ἅμα τοῖς ἐπιμεληταῖς προϊσταται. This is our only evidence (for what it's worth) that the *epimeletai* of the Mysteries (see *AP* 57.1) could preside in court; *AP* does not mention their jurisdiction; nor does it appear to be attested in SEG 30.61, dated between 367 and 348 (but the document is fragmentary); SEG 30.61 may be the law that institutes the existence of the *epimeletai* (Clinton 1980: 272 and 289 is both doubtful and equivocal). Possibly the *epimeletai* were granted jurisdiction after the *AP* was written or the *AP* has made an omission – or Photios is wrong. Cf. Dem. 22.27: the Eumolpidae have jurisdiction in suits (*dikai*) for *asebeia*.

offices of the individuals granted *hegemonia dikasteriou*. In the second part of my essay, I briefly consider parts of three inscriptions that shed light on the ways that ordinary magistrates received courts on special occasions or when jurisdictions were expanded: Nikophron's law on silver coinage 375/4 (SEG 26.72.16-29), an excerpt from the naval records of 325/4 (IG II² 1629.165-271), and a law (?) on the dockyards (410-404? I³ 236).

I. *Hegemoniai dikasterion* and 'extraordinary officials'

a. Aeschines' *archai* (3.13-31)

In Aeschines' third oration he quotes from a law that appears to have articulated a threefold grouping of magistrates (3.14). Aeschines doesn't quote the law straight through from beginning to end but instead peppers it with tendentious commentary (or vice versa, peppers his tendentious comments with a law); later in the speech he paraphrases it (3.29), this time with less obvious rigmarole; possibly, the same law was among those read out to the court in c. 15.

In examining the passages that concern *archai*, it is necessary to discern every speaker's motive for referring to them. Mine is to discover which *archai* receive *hegemoniai dikasterion*. Aeschines' is to squash the defense. The larger context of Aeschines' iteration of groups of *archai* in both passages is to prove, ultimately, that Ktesiphon's proposal to crown Demosthenes was unlawful because Demosthenes had not yet submitted to an audit for the magistracies he held (commissioner for the theoric fund and *teichopoios*).

i. Aeschines 3.14 and the three groups of *archai*

The more specific context of the first passage in which Aeschines quotes from and comments upon the law about *archai* is his summary of the defence's alleged argument:

(3.13) they [the defence] will say ... that, 'whatever any man, in his capacity as "chosen" (ἀίρετός ὄν), does by decree, this is not an "arche," but a kind of "overseeing responsibility" (ἐπιμέλεια τις) and "public ministry" (δῖακονία).' And they will say that "archai" are those which the *thesmothetai* assign by lot in the Theseion, and those which the *demos* votes for in its elections – generals and hipparchs, and the offices associated with them, but all the rest are "tasks" (πράγματα) assigned by decree.'

Aeschines' response is to find a legal definition of *archai* which will include the tasks' that Demosthenes claims to have undertaken as a consequence of decrees. Here is his reply:

(3. 14) And I, in response to their arguments, shall furnish your own law which you yourselves passed in the belief that you would be ridding yourselves of just such pretexts, [I mean the law] in which it has been expressly written. 'The elective offices (τὰς χειροτονητάς ἀρχάς)' the Nomothetes says, enfolding all [magistracies] in a single word, and pronouncing

that *all* are magistracies that the *demos* elects. ‘And the *epistatai*’ he says, ‘of public works (καὶ τοὺς ἐπιστάτας τῶν δημοσίων ἔργων).’ And Demosthenes is *teichopoios*, *epistates* of the most important of the works! ‘And all who undertake any *polis* business for more than thirty days, and all who receive *hegemoniai dikasterion* (καὶ πάντας ὅσοι διαχειρίζουσι τι τῶν τῆς πόλεως πλέον ἢ τριάκονθ’ ἡμέρας καὶ ὅσοι λαμβάνουσιν ἡγεμονίας δικαστηρίων).’ And all *epistatai* of public works avail themselves of *hegemonia dikasteriou*! (15) What does [the Nomothetes] bid these men to do? Not ‘to minister,’ but to ‘to serve as magistrate upon passing scrutiny in the *dikasterion* (ἄρχειν δοκιμασθέντας ἐν τῷ δικαστηρίῳ)’ – for even the allotted *archai* are not free from undergoing scrutiny; no, they enter office after successfully passing it. ‘And to register their accounts before the *logistai* (καὶ λόγον [καὶ εὐθύνας] ἐγγράφειν πρὸς τοὺς λογιστάς)’ – just as he also bids the other magistracies. To prove that I am telling the truth, he will read the laws to you.

ii. Aeschines 3.29 and the three groups of *archai*

In the second passage on *archai* (c. 29), the larger argument is the same (Demosthenes was holding office when Ktesiphon made his proposal), but the immediate context is more specific. Now, in c. 27, Aeschines calls for a decree of Demosthenes to be read to the court; according to his anticipatory summary, the decree directs that men be chosen (ἐλέσθαι) from each of the tribes to oversee the works at the walls (τοὺς ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τεῖχη) and to serve as treasurers for them. Aeschines prognosticates the reaction of the defense and invents their argument: they will claim that because Demosthenes was *teichopoios* for his tribe and was neither allotted nor voted into office by the *demos*, he therefore did not hold an *arche* (28). Aeschines’ prediction inspires him to repeat the groups of *archai*:

3. 29: As for magistracies, there are, fellow Athenians, three kinds: one of them (also most self evident) consists of men who hold office by allotment and by vote (οἱ κληρωτοὶ καὶ οἱ χειροτονητοὶ ἄρχοντες); the second consists of all who undertake any *polis* activity for more than thirty days and the *epistatai* of public works (ὅσοι τι διαχειρίζουσι τῶν τῆς πόλεως ὑπὲρ τριάκοντα ἡμέρας καὶ οἱ τῶν δημοσίων ἔργων ἐπιστάται); and as for the third kind, it has been written in the law, ‘and if any others [who have not been named so far], namely, chosen men, receive *hegemoniai dikasterion* (καὶ εἴ τινες ἄλλοι αἰρετοὶ ἡγεμονίας δικαστηρίων λαμβάνουσι, καὶ τούτους ἄρχειν δοκιμασθέντας),’³ and ‘[all, i.e., groups 1-3] these men’ [so the law bids] are ‘to hold office upon passing their scrutiny.’ Cobet: del. αἰρετοί

³ For the well-known idiom with ἄλλοι, see K-G I 275, n.1. I do not think the words can mean, ‘and if any other chosen men (i.e., in addition to the ones mentioned so far) receive *hegemoniai dikasterion*,’ that would imply that the ‘chosen men’ mentioned so far do have *hegemoniai dikasterion*. Since both components of the second group can be called ‘chosen men’ (see section iv), and since not all the officials (in fact, probably very few) belonging to the second group had *hegemoniai dikasterion*, the (interpretive) translation, ‘and if any others (not mentioned so far), i.e., chosen men, receive it,’ creates a distinct group.

iii. The two reports (Aeschines 3.14 and 29) and the law on *archai*

While the second report appears more straightforward with its clear outline of one, two, and three groups of *archai*, it is the first passage that allows for an easy reconstruction of a law once Aeschines' comments are removed. Thus, with no additions but only subtractions, there remains the following:

'the elective offices,' 'and the *epistatai* of public works.' 'and all who undertake any *polis* business for more than thirty days, and all who receive *hegemoniai dikasterion*.' [are] 'to serve as magistrates upon passing scrutiny in the *dikasterion*' 'and [are] to register their accounts before the *logistai*.'

The scissors and paste version of the law presented here cannot of course be treated as a verbatim portion of the law. While Aeschines' point in citing it is to list all the *archontes* who are to undergo scrutiny (*dokimasia*) before entering office and who are to submit accounts (*euthynai*) upon exiting, it is not necessarily the case that the lawgiver's point was precisely the same; *dokimasia* and *euthynai* may have been mentioned in passing, coincidental to a different major directive. Nonetheless, groups of *archai* surely appeared in it; and possibly we can make those groups more precise by exchanging the phrasing of the third one in c. 14 (καὶ ὅσοι λαμβάνουσιν ἡγεμονίας δικαστηρίων) with that used in c. 29 (καὶ εἴ τινες ἄλλοι αἰρετοὶ ἡγεμονίας δικαστηρίων λαμβάνουσι) ὡ provided we do not follow Cobet in deleting αἰρετοί. Aeschines prefaces this clause of the law in the latter chapter with the remark 'and as for the third kind, it has been written in the law...' (τρίτον δ' ἐν τῷ νόμῳ γέγραπται); possibly, then, he really is citing the law here. If so, the gain, though slight, is a greater distinction among the groups. As it stands, group three in c. 14 is uncomfortably vague. It consists of 'all who receive *hegemoniai dikasterion*' (ὅσοι λαμβάνουσιν ἡγεμονίας δικαστηρίων); accordingly, it overlaps not only with the first (while presumably not all elected or allotted officials had *hegemoniai dikasterion*, e.g., the *synegoroi* for the *logistai* in AP 54.2, yet many did)⁴ but also with whomever among the second group were granted presidencies of courts (e.g., *epimeletai* of the dockyards: IG II²1631.353-5). When ἄλλοι αἰρετοί is added to the third group in c. 29, its magistrates are additional to those mentioned already; moreover, αἰρετοί provides a clue for identifying potential members of this group.⁵

⁴ At AP 54.2, where both the ten *logistai* and their ten *synegoroi* appear to be the ones *eisagontes* the *euthynai* into the *dikasterion*, surely the *logistai* preside while the *synegoroi* prosecute. Cf. the activity of the *epimeletai* of the dockyards in n. 20.

⁵ A fourth group of magistrates are mentioned in Aeschines 3.30: 'the men whom the *phylai* and the *trittyes* and the demes choose (αἰροῦνται) from themselves to handle public funds. This happens whenever, as now, some important work is assigned to the *phylai*, whether it's finishing the trenches or building triremes.' These magistrates and the laws alluded to in the passage have nothing to add to our identifications of αἰρετοί with *hegemoniai dikasterion*.

iv. The three groups of magistracies

Athenian bureaucratic terminology is anything but pellucid and even with the greater specificity of ἄλλοι αἰρετοί added to group three, it is still difficult to distinguish among them and it would be a futile task to try to assign each known Athenian magistrate to its ‘proper’ group. Since Aeschines, however, ascribes in c. 14 *hegemoniai dikasterion* to all *epistatai* of public works in the second group (the value of which statement will be assessed later) and since the third group is composed of ἄλλοι αἰρετοί with *hegemoniai dikasterion*, it is essential, for the purposes of this essay, to consider who might belong to each.

The first group is initially easy to define: it would be composed of ordinary magistrates, those who were elected or allotted and whose positions had come to have a ‘permanent existence’ in the *polis* organization; these officials were required to undergo scrutiny before taking up office and to submit to *euthynai* upon leaving. Difficulty arises when we examine particular cases. Many of the magistracies that acquired ‘permanency’ may have originally come into existence by a law or decree which bid that a man or a number of men be chosen to accomplish a specific task in the course of a year; after a year, the Ekklesia may have seen fit to continue the office for another year, and perhaps after another year, it would do so once again; a ‘permanent’ magistracy at a certain point will have come into existence. Some offices which were attached to sanctuaries may have followed this hypothetical route:⁶ created at the outset perhaps to oversee sacrifices at a particular festival or to inventory the sanctuary’s revenues and sacred property or to work with architects and contractors for repairs,⁷ they may have been continued as their ‘permanent’ utility was perceived and as funding was available.⁸ Whether or not they followed

⁶ Garland 1984: 116-18 collects useful material regarding *epimeletai* and *hieropoioi*. Hansen 1980 provides the results of his search for all fourth century magistrates outside AP. He finds a number of boards of *epistatai* and *epimeletai* in fourth century (?) inscriptions, e.g., ἐπιστάται Βραυρωνόθεν, Ἐλευσινόθεν, τοῦ Ἀσκληπιείου, τοῦ ἱεροῦ τῆς Ἀγαθῆς Τύχης (refs. in Hansen 1980: 157-9). For the purposes of this essay, I have made a study of *epistatai* and *hairetoi* (and verbal cognates) in fourth century inscriptions; although I might quibble with some of Hansen’s extrapolations (e.g., boards, the number chosen from each *phyle*), and add further references, my results concur with his in general – except for one major caveat; see n. 9 below.

⁷ For the participation of the *epistatai* of Eleusis in building repairs, see esp. Maier 1959 (I): no. 20 (= IG II² Add. 834b and II 5, 834, repair of the Peribolos) and Maier 1961 (II): 44.

⁸ Some such evolution might be ascribed, e.g., to the *epistatai* at Eleusis (Ἐλευσῖνι and Ἐλευσινόθεν in their title is interchangeable). See Cavanaugh 1996: 1-18 for fifth and fourth century documents relating to *epistatai* at Eleusis. Cavanaugh concludes (15) that the ‘board, composition, and exact title underwent some changes from the date of its creation in the fifth century to the end of the fourth,’ and (17) that: ‘... while the exact number of the board and even its term of office fluctuated, their function as general overseers, caretakers of the wealth of the sanctuary and its physical maintenance, was established early on and did not really change in the period for which we have evidence.’

this hypothetical route, the numerous *epistatai*, *epimeletai*, and *hieropoioi*, individuals and boards, who appear in our sources as attached to sanctuaries would only belong to the first group if they all underwent scrutiny and submitted accounts.⁹ It is possible that some or even many of these officials did not fulfill one or both of those requirements; and, if that is the case, then they are not magistrates with whom the law cited by Aeschines is concerned.

I offer as an hypothesis that all the magistracies of groups two and three came into existence by laws or decrees that bid men be chosen to carry out specific tasks arising out of specific historical circumstances. They were all ‘chosen men.’¹⁰

(Group 2a) Magistrates chosen to undertake *polis* activity for more than thirty days (the ‘31 day workers’) were probably those who handled public funds, e.g., *tamiai* for specific projects and *epistatai* and *epimeletai* associated with them.¹¹

(Group 2b) As for the *epistatai* of public works, the significant part of their title appears to be the words ‘public works.’¹² The *epistatai* at the mint should perhaps belong to this group,¹³

Cf. Clinton’s note (1974: 11, n. 8) on the apparent transfer of the duties of the *hieropoioi* at Eleusis to the *epistatai* by 408.

⁹ Hansen 1980 seems to assume that such magistrates as these (whom he lists on pp.156-163) fulfill his requirements for the designation ‘technical magistrates’ – i.e., those who are over thirty years old, are elected by lot or by show of hands, are liable to *dokimasia*, appointed for more than thirty days, and liable to audit (p. 153). In fact, he cites little evidence to show these are ‘technical magistrates.’

¹⁰ Some public works needed critical attention only under extraordinary circumstances: e.g., the walls of Attica did not require major renovations every year, but only at moments of crisis when defenses needed shoring up – this, at any rate, is what the epigraphical record tells us (see Maier 1961; Foucart [Apr.] 1902; Conwell 1992); the water supply of Athens, however, needed constant attention. Apparently, the *nomothetai* have not wanted to separate the two kinds of superintendants of public works (temporary and permanent); so both have been set together, along with the ‘31-day workers’ to form the second group; they are all to undergo scrutiny when they take up office and to submit accounts when they leave it.

¹¹ Similarly Hansen 1980: 167. Envoys and trierarchs are excluded from this group because, while subject to audit upon leaving office (envoys: Dem. 19.211; trierarchs: Aeschin. 3.19), they are not liable to scrutiny before taking up their duties.

¹² Arist. *Pol.* 1321b 18-27 discusses magistracies who oversee public and private property to preserve *eukosmia* and to rehabilitate buildings that fall down and roads and boundaries between neighbors; usually the office is that of the *astynomoi* – but it has several branches, e.g., *teichopoioi*, *epimeletai* of fountains and guardians of harbors. Aristotle’s designations for magistrates here is not specific to Athens but is meant to depict magistrates in the Greek world. Unlike the rest of the Greek world, Athens in the fourth century had two boards of magistrates whose concern was the walls (see text at n. 33). For ‘guardians of the harbor,’ see n. 14 below.

¹³ Hansen 1980 adds to his list of magistrates [ἐπιστάται] τοῦ ἀργυροκοπίου (who are not literally attested in Meiggs and Lewis no. 45.5 [= IG I³ 1453]) on the basis of Hesp. (32) 1963: 31-32, no. 29; M. Richardson presented a paper in Athens in Nov. 2003 that disputes not the existence of *epistatai* at the mint (who appear in an unpublished Agora

and probably also the officials who were in charge of dockyards and fountains;¹⁴ holders of the last two positions are not called *epistatai* in our sources but rather *epimeletai* or else are designated by circumlocution, often, simply by the preposition ἐπί followed by the accusative.¹⁵ *AP* 43.1 refers to the latter office as ὁ τῶν κρηγῶν ἐπιμελητής and tells us that it was not allotted; *IG* II² 338 is a decree of the *demos* honoring Pytheas son of Sosidemus in 333/2: ‘since Pythias, having been chosen for [overseeing] the fountains (αἰρεθεὶς ἐπὶ τὰς κρήνας), takes charge (ἐπιμελεῖται) [both of them] and of the other tasks that are part of his office with fairness and ambition’ (11-13); additionally, since he has submitted his accounts (18-19), Pytheas is to receive a crown: ‘so that other men, too, who are ever after elected for [overseeing] the fountains (οἱ ἄλλοι οἱ ἀεὶ χειροτονούμενοι ἐπὶ τὰς κρήνας) may act ambitiously, each of them, for the People’ (21-24). Accordingly, the office of ὁ τῶν κρηγῶν ἐπιμελητής is subject to *euthynai*; it is permanent, elective, and its office-holder may be referred to as αἰρεθεὶς.¹⁶ How many of these features the ἐπιμεληταὶ τῶν νεωρίων (overseers of the shipyards) shared can only be guessed; for the period of their existence, they were probably considered ‘permanent’ (i.e., they probably were chosen [elected?] annually and did not have to be reconstituted as an office since the office itself continued in existence).¹⁷ The law on repairing the walls (*IG* II² 244), a portion of which will be examined later, refers intermittently to men who are in charge of the works (or the walls);¹⁸ the men are designated variously, first, in l. 29 as [ἄνδ]ραξ ἐξ Ἀθηναίων ἀπάντων, οἵτινες ἐπιμελήσονται τῶν ἔργων; next, in line 32 as το]/[ι]ς ἡρημένοις ἐπὶ τὰ τεῖχη, and finally, in line 43 as: ? ἐ]-πὶ τὴν ἐπιμέλειαν τῶν τειχῶν ἐπιμελεῖσθαι καὶ τούτων τῶν ἔργων. On the basis of the words actually preserved in the inscription, we cannot determine whether these men were called *epistatai* or *epimeletai* and it probably doesn’t make a difference to the nature of their office; Franz Georg Maier, the editor of the most recent collection of Greek wall inscriptions, has pointed out the general interchangeability of the terms in inscriptions throughout the Greek world referring to men holding that same office.¹⁹ Unlike the *epistatai* or *epimeletai* of public works so far mentioned, the men chosen to oversee the walls did not hold an office that was permanent. Of the various superintendents of public works mentioned

inscription of the fourth century), but rather their appearance in the Hesp. inscription with the title *epistatai tou argurokopiou*.

¹⁴ Possibly also an overseer of the harbor in Peiraeus (ἐπιμελητής ἐπὶ τὸν λιμένα), but this shadowy figure is not attested until the late second century B.C.: see *IG* II² 1012.19-20 (112/1); *IG* II² 1013.1, 40, 47 (end of second century B.C.); *IG* II² 2336g 21-22 (102/1).

¹⁵ For a broad range of *epistatai* and *epimeletai*, see E. Szanto *RE* VI 200ff and J. Oehler *RE* VI 162ff. For the interchangeability of title, see text at n. 19.

¹⁶ Cf. a directive from a decree of the *boule* and *demos* in 357/6 (*IG* II² 123.13-15): ἐλέσθαι στρ[α]τηγ[ὸν ἐ]/κ τῶγ χειροτονημένον, [τ]ὸ[ν δὲ α]/[ι]ρ[ε]θέντα ἐπιμελεῖσθαι [ἄνδρου]. *IG* II² 653.43-45 (a decree of 289/8): χειροτονήσαι πρε/[σβεις τρε]ῖς ἄνδραξ ἐξ Ἀθηναίων ἀπάντων, οἵτι[ν]/[ε]ς αἰρεθέ[ν]τες ... Piérart 1974: 125-46 includes οἱ ἡρημένοι along with the ‘elected’ (see the list of magistrates on pp. 134-36).

¹⁷ See Hansen 1980: 157-8, n. 15.

¹⁸ On the basis of the preserved text, it is not immediately clear that the men [chosen?] from all the Athenians οἵτινες ἐπιμελήσονται τῶν ἔργων (29) are the same as το]/[ι]ς ἡρημένοις ἐπὶ τὰ τεῖχη (32) and it is unfortunate that the participle (?) before ἐ]/πὶ at the end of line 42 is missing. Nevertheless, in view of the interchangeability of verbal cognates of αἰρετοί with a more precise (!) name for the office invoked, it is likely that the two groups are the same.

¹⁹ Maier, 1961: 42 with n. 11.

here, we know as a fact that those for the dockyards had *hegemonia dikasteriou*; those for the walls are granted it in IG II² 244;²⁰ we do not know whether the *epistatai* at the mint had it; probably the *epimeletes* of the fountains did not.²¹

(3) The final group consists of the remaining magistrates who are to undergo scrutiny and submit accounts: εἴ τινες ἄλλοι αἰρετοὶ ἡγεμονίας δικαστηρίων λαμβάνουσι (3.29). When Aeschines presents the argument of the defence in c. 13, he tells us they will say that Demosthenes was neither elected nor allotted but appointed by decree to carry out a specific task. Aeschines' version of the argument may be correct. Αἰρετοί often are men 'appointed' by decree, and 'appointed,' just as in the case of Pytheas, αἰρεθεὶς ἐπὶ τὰς κρήνας in IG II² 338, can mean 'elected.'²² Men might be appointed or chosen for any variety of task, of longer or shorter duration: the *boule* and *demos* might choose men to accomplish simple tasks, such as the making of a crown and the inscribing of a decree;²³ they might choose men to serve as *synegoroi* in important public cases;²⁴ or they might choose men for important posts of longer duration, e.g. to serve as *hieropoioi*, *epimeletai*, and *tamiai*,²⁵ or, more generally, 'to oversee' (*epimeleisthai*) important tasks such as repairing walls, as in IG II² 244.²⁶ It is to any of these

²⁰ The τῶν νεωρίων ἐπιμεληταί of IG II² 1631.353-55 (325/4 B.C.) perhaps divide among themselves the tasks of presiding and prosecuting: ἐπειδὴ Σωπόλιδος τ/οῦ Σμικύθου Κυδαθη; εἰσαγόντω(ν)/ αὐτὸν τῶν νεωρίων ἐπιμελητῶν τῶν ἐπ' Ἀντικλέους ἄρχοντος κατέγνωσαν οἱ/ δικασταί, ... For the men in charge of the walls, see IG II² 244.32.

²¹ The latter, at least, probably could impose penalties; we could probably make that assumption without calling upon Plutarch's delightful story of Themistocles' activity as τῶν Ἀθήνησιν ὑδάτων ἐπιστάτης (*Them.* 31). A magistrate who can impose penalties does not automatically have the right to preside over a court; the law must grant him the right; if that right is granted, then the law instructs either that (1) the magistrate is to bring the case into the court of some other magistrate (as, eg. in IG I³ 82.25-28 where the *hieropoioi* are *kurioi* to penalize *akosmountes* with penalties up to 50 dr., but beyond that, they are to bring the offenders before the court of the archon); or that (2) the magistrate is to bring the case into his own court, in which case it is thought that the assistants to the magistrate will serve as prosecutors (e.g., [Dem.] 43.75). See Kahrstedt 1936: 196-237.

²² See n. 16.

²³ E.g. IG II² 1251.7-10, after mid-fourth century; similarly, IG II² 223.8 (343/2). In IG II² 1186.30 (mid-fifth century?), the demesmen of Eleusis are to choose someone to take charge of (*epimeleisthai*) copying the decree and setting it up.

²⁴ IG II² 1 251.10-12. Demesmen, too, might 'choose' their own members to serve as *synegoroi* or *kategoroi* in prosecutions close to their hearts IG II² 1205.3-5. Cf. IG II² 1258: the Eikadeis 'choose' three men as *synegoroi*. (All these decrees are mid- to late fourth century.)

²⁵ E.g., *hieropoioi* of the *boule*: IG II² 410.3 and 23 (before 330 B.C.); *epimeletai* (e.g.) for the festival of the two goddesses: SEG 30.61. 29-31 (between 367 and 347 B.C.); generals: IG II² 123.13-15 (357/6); *tamiai*: IG II² 1251.10-12 (late fourth century).

²⁶ Men are 'chosen' to build by smaller civic associations, e.g., the Akharnians 'choose' men to work with architects to build altars to Ares (SEG 21.519.10-14, after mid-fourth century); the *gennetai* of IG II² 1229 (late fourth century) 'choose' men to build [the sanctuary] of Hestia; *thiasotai* of IG II² 1273 (281/0) 'choose' men to oversee building construction.

latter ἀίρετοὶ (*hieropoioi*, *epimeletai*, etc.) that *hegemonia dikasteriou* might on occasion be granted.²⁷

What sort of office did *teichopoioi* hold and to which group would they belong? While I shall examine the office in more detail later, now I simply observe that it was ‘extraordinary;’ *teichopoioi* were ‘chosen’ by their *phylai* (at least in the 390s) when there was need for wall repairs.²⁸ They are not *epistatai* of public works. As ἀίρετοί, they are not required to undergo scrutiny and *euthynai* – unless they handle public funds or receive *hegemonia dikasteriou*. If these observations are correct, then we must consider Aeschines’ use of the law and ask: seeing that he later ascribes *hegemonia dikasteriou* to Demosthenes when he was serving as *teichopoios* (c. 27), why doesn’t he latch onto the ἀίρετοί as the group that exactly fits the case of Demosthenes as *teichopoios* – or even that of the ‘31-day worker’ who handles public funds? My response, which will be argued in more detail later (section vii), is: because Demosthenes did not have it.

v. Aeschines’ *epistatai* (3.14)

Two of Aeschines’ comments upon his own quotation of the law in c. 14 call for consideration: his designation of Demosthenes as ἐπιστάτης τοῦ μεγίστου τῶν ἔργων and his assertion that all *epistatai* of public works avail themselves individually (χρῶνται) of *hegemonia dikasteriou*. I suspect that Aeschines is distorting facts here.²⁹ First, we can be certain that Demosthenes did not have the title, ἐπιστάτης τοῦ μεγίστου τῶν ἔργων; he was neither *epistates* nor *epimeletes* – he was *teichopoios*. In fact, ἐπιστάτης τοῦ μεγίστου τῶν ἔργων is not a formal title at all but rather Aeschines’ own bloated and non-technical gloss on Demosthenes’ activity as *teichopoios*.³⁰ Secondly, Aeschines’ follow-up assertion that all *epistatai* of public works avail themselves individually (χρῶνται) of *hegemonia dikasteriou* might simply carry on the ‘metaphor’ of Demosthenes service as ‘*epistates*’; what Aeschines wants to do is to conjure up a picture of Demosthenes, ἐπιστάτης τοῦ μεγίστου τῶν ἔργων, presiding over court – what an inequity! – a magistrate who wants to be crowned before submitting his accounts actually presiding over court!

Is Aeschines to be trusted in this tendentious passage? Do all *epistatai* τῶν ἔργων avail themselves individually of *hegemonia dikasteriou*? In the last section, it was pointed out that the titles *epistatai* and *epimeletai* are interchangeable, at least where the magistrates in question are superintendents of ‘public works.’ It was also

²⁷ If, as suggested earlier, *hieropoioi*, *epimeletai*, and *epistatai* were not magistrates who underwent *euthynai*, it was perhaps only the conferral of *hegemonia dikasteriou* that changed that status.

²⁸ See n. 41 below.

²⁹ Harris 1995: 142-48 examines other distortions in Aeschines’ argument against Demosthenes.

³⁰ This was recognized by Foucart (May) 1902: 241.

pointed out that the *epimeletai* for the dockyards had *hegemonia dikasteriou* and that we do not know whether the *epistatai* at the mint had it; I expressed doubt over its possession by the *epimeletes* of the fountains. The most telling piece of evidence is IG II² 244.29, where the men who are chosen to be in charge of the walls are granted *hegemonia dikasteriou*. Accordingly, there may be a tiny, sophistic kernel of truth in Aeschines' statement: he is wrong to suggest that every single *epistates* can automatically avail himself of the privilege; however, since a 'board' (?) of superintends of public works could have it if a law were passed conferring it (as in IG II² 244), one could then say that any and every *epistates* of public works had *hegemonia dikasteriou* 'potentially.'³¹

vi. Demosthenes as *teichopoios*: the date of his office

In a passage that has been mentioned a number of times already, Aeschines adduces Demosthenes' decree for the tribal selection of men to take charge of the works at the walls. He adduces it for a specific purpose:

3.27: To prove the statements that Demosthenes was in fact holding the office of the *teichopoioi* when Ktesiphon proposed the decree [for crowning Demosthenes] and that he was handling public funds and imposing penalties just as other magistrates do, and that he was presiding over courtrooms (καὶ δικαστηρίων ἡγεμονίας ἐλάμβανε), I shall furnish Demosthenes himself as your witness.

He then provides a summary of what is to follow in Demosthenes' decree:

(3.27) For in the archonship of Khairondas [338/7], during a meeting of the Ekklesia on the penultimate day of Thargelion, Demosthenes made a motion that there be an assembly of the tribes on the second and third days of Skirophorion and he directed in the decree that each of the tribes should choose men to oversee the works at the walls and to serve as treasurers for them (τοὺς ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τεῖχη καὶ ταμίας).

The passage is usually cited to provide important dates: since the tribal meetings would take place in the last month of Khairondas' year of office (thus at the end of 338/7), Demosthenes' term as *teichopoios* must have extended from Hekatombaion 337/6 through Skirophorion 337/6 and accordingly Ktesiphon's proposal for a crown must have been made before the end of Skirophorion 337/6. If we look closely, however, at Aeschines' anticipatory summary of Demosthenes' decree, there is no specific mention of a selection process for *teichopoioi*. And yet the reading of the decree has been set up as a proof that Demosthenes was *teichopoios* when Ktesiphon proposed a crown. One of two possible explanations must suffice: either Aeschines

³¹ Cf. Harrison 1971: 36: 'Finally, ad hoc boards set up either by the people or by tribes on the instruction of a decree of the people had jurisdiction over matters coming under their purview, provided they were in charge of any public funds for more than thirty days. This applies for example to the overseers of public works (ἐπιστάται τῶν δημοσίων ἔργων).'

expects the *dikastai* to know that the phrase τὸς ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τείχη means *teichopoioi* (or that the phrase includes them along with some vague others), or else the *dikastai* know that Demosthenes was *teichopoios* when he made the motion because only a *teichopoios* would do so and because Demosthenes was well known at this time for his activities as *teichopoios*.

The first explanation is, I think, hardly credible. We do find a partial approximation of Aeschines' phrase (τὸς ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τείχη) in IG II² 244.29 (οὔτινες ἐπιμελήσονται τῶν ἔργων) and there it would be indefensible to argue that it includes *teichopoioi*. Aeschines for his part, while repeatedly referring to Demosthenes as *teichopoios*, once did tendentiously gloss the term as ἐπιστάτης τοῦ μεγίστου τῶν ἔργων (3.14); even so, it is highly unlikely that in his own paraphrase of a decree where he can choose the words that best suit his case, he would have used a circumlocution (sic!) for *teichopoioi* when his whole point in having the decree read aloud is to prove that Demosthenes was *teichopoios* when Ktesiphon proposed a crown.

The second explanation is to be preferred. Observe that when Aeschines wants to nail the date of Demosthenes' election to the office in charge of the theoric fund, he asks the secretary to read from a decree 'in what archonship and on what day and at which meeting of the Ekklesia Demosthenes was elected...' (3.24). But when he wants to establish the simultaneity of Demosthenes' tenure of office as *teichopoios* and Ktesiphon's proposal of a crown, he can only present a dated assembly decree that calls for the tribal elections to take place on a specified date in the future. He does not produce the tribal decree itself that would have marked both the date of the election and the fact that it had taken place. Unlike a decree of the Ekklesia, the tribal decree, if it existed, was presumably not available to him. Aeschines was at the mercy of his documents and he tries to make the best of a not very good situation. The dates in the decree surely add a seasoning of precision that aid in concealing the absence of their relevance. According to my interpretation, the date in Thargelion indicates vaguely the year in which Demosthenes held the office of *teichopoios*, namely, during the archonship of Khairondas, and the dates in Skirophorion allow an inference for the tenure of office for the tribal ἐπιμελησομένοι τῶν ἔργων ἐπὶ τὰ τείχη. The latter phrase, however, has nothing to do with Demosthenes' tenure of office as *teichopoios*. Who the men were who were to be chosen by tribes in Demosthenes' decree (οἱ ἐπιμελησομένοι τῶν ἔργων ἐπὶ τὰ τείχη), or rather, what their office was, need not be guessed; the words make perfect sense: Demosthenes was proposing that a board be set up (composed of 'epimeletai' or of οἱ ἐπιμελησομένοι τῶν ἔργων ἐπὶ τὰ τείχη or of οἱ ἡρημένοι ἐπὶ τὰ τείχη), presumably to work with the *teichopoioi* and others (certainly *tamiai*) and so to undertake repairs on the walls on a greater scale than heretofore.³² That there should be two boards concerned with wall repairs may be surprising; a similar doubling of boards appears in IG II² 244: the *teichopoioi* and the ἡρημένοι ἐπὶ τὰ τείχη. Maier commented on the uniqueness of that doubling in Athens in comparison to the rest of the Greek world where records for the administration of wall repairs are known and concluded that the *teichopoioi* in Athens had 'einen mehr dekorativen Charakter.'³³ Be that as it may, the *dikastai* who in 330 hear Aeschines report Demosthenes' decree for the tribal

³² I seriously doubt whether any comparable instance could be discovered where οἱ ἐπιμελησομένοι τῶν ἔργων would include an official such as a *teichopoios*; e.g., it is unthinkable that οἱ ἐπιμεληταὶ τῶν νεωρίων would ever include οἱ τριηροποιοί. They are separate boards.

³³ Maier 1961 (II) 42.

election of a board of new magistrates designated οἱ ἐπιμελησομένοι τῶν ἔργων ἐπὶ τὰ τείχη will have recognized that Demosthenes composed the decree when he was already *teichopoios*.

The effects on the conventional chronology might be minimal. Greeks were defeated at Khaironeia on the seventh of Metageitnion in 338/7 (during the first months of Khairondas' archonship).³⁴ Demosthenes proposed his decree at the end of Thargelion 338/7 (Aeschin. 3.27) and I have argued that he proposed the decree as *teichopoios*. In De Corona 248, Demosthenes presents himself as having been active in the immediate wake of Khaironeia, making proposals for the safety of the *polis*: 'all that was done for the sake of defense – the disposition of the guards, the trenches, the funding for the walls – this was done through my decrees.' Here I take Demosthenes at his word: the proposals came immediately after the battle;³⁵ an interest in the walls and fortifications of Athens was not a new item on his agenda.³⁶ If, as I have argued, he was *teichopoios* already in Thargelion 338/7, then it is likely that his term may have begun as early as Metageitnion or Boedromion (338/7) when he made the proposals (De Cor. 248) in the aftermath of defeat. Ktesiphon's proposal for a crown, then, may have been made at any point in 338/7.³⁷

To conclude: Demosthenes may have been *teichopoios* as early as 338/7.

vii. *Teichopoios*: with or without *hegemonia dikasteriou*?

Aeschines reports that while Demosthenes was *teichopoios*, he was handling public funds, imposing penalties just as other magistrates did, and that he was presiding in courts (3.27). Foucart thought the ascription of *hegemoniai dikasterion* to be mere persiflage; Aeschines seems only to analogize the right to preside on the basis of what other magistrates did.³⁸ Aeschines' remark here of course recalls his earlier assertion that every *epistates* of public works has *hegemonia dikasteriou* (3.14); the assertion there seemed a rather good rhetorical stimulus for provoking dikastic ire; perhaps it is the same here.

What do we know about *teichopoioi* and is it likely they would have the presidency of a court? Maier identified the records of *teichopoioi* in six scrappy inscriptions from the Peiraieus which he dated to the late 390's;³⁹ the officials are

³⁴ The precise date is given at Plut. *Cam.* 19.

³⁵ Frickenhaus 1905: 26-27 and n. 1 regards the ditchdigging around the walls as characteristic of 338 and so dates the activity of Dem. 18.248 to that year; he does not think, however, that Demosthenes carried out this activity as *teichopoios* on the grounds that Aeschines does not say that.

³⁶ For Demosthenes' earlier interest in repairing Athenian defenses, see Conwell 1992:124-26.

³⁷ It is vaguely conceivable that Demosthenes could have been elected *teichopoios* again in the next year; in the aftermath of Khaironeia, it may have been permissible to re-elect magistrates in charge of fortifications. *Teichopoioi* of 394/3 and 393/2 (IG II² 1658-9 and 1660-1, respectively) were appointed in succession but it is not known whether the boards were filled by the same persons. Regarding re-election, see Kahrstedt 1936: 140-1; Rhodes 1981: 693 on *AP* 62.3.

³⁸ Foucart (May) 1902: 241 and n. 3.

³⁹ Maier 1959 (I), nos. 3-8; 1961 (II): 43.

designated by tribe and represented as αἰρεθέντες; they appear to be in charge of finances, and may have been appointed in a succession of years.⁴⁰ They were not a permanent board in Athens and it is conceivable that they were not called into existence again until the defeat at Khaironeia. The *teichopoioi* in the late 390's seem to take responsibility for the defenses that are built (insofar as the inscriptions seem to report the *teichopoioi* as the the subject of the verb used for 'building'); this is probably honorific, in the same way, e.g., as the mayor of any small city in the U.S.A. may (proudly) claim to be the builder of a shopping mall in the city center.⁴¹ The inscriptions do not include a conferral of *hegemonia dikasteriou*, but their fragmentary character renders the absence of information insignificant.

Demosthenes as *teichopoios* had at his disposal almost 10 talents from public funds (Aeschin. 3.31); we can deduce from this and from information in the law on wall repairs⁴² that *teichopoioi* in the early 330's were entrusted with public funds and may have had more to do with financing than with the digging of trenches. The role of *teichopoioi* at this time might be similar to that of *naopoioi* and *trieropoioi*: both assist in financing their respective projects; the former are associated with architects and hired workers, the latter with shipbuilders; neither appear to do the actual work of construction.⁴³ The *trieropoioi* may form the best parallel for *teichopoioi*; ⁴⁴ in the fifth century, it seems they functioned as a conduit for state and imperial funds: the *hellanotamiai* would disburse money to them and they would channel it to shipbuilders;⁴⁵ in the fourth century (possibly earlier), they were a committee of ten men selected by the *Boule* from its own members (AP 46.2); a

⁴⁰ IG II² 1658 [Maier no. 3] and 1659 [Maier no. 4], both for 394/3, and 1660 [Maier no. 5] and 1661 [Maier no. 6], both for 393/2. While each instance is restored, the restorations *in toto* are reasonable (IG II² 1658.1-2; 1659.1-2; 1660.1-2; 1661.1-3).

⁴¹ Thus combine, to fill the formulaic expressions, IG II² 1661 [τειχο]ποι[οι] οἱ ἐπὶ [Δημο]-/[σ]τρ[ά]το ἄρχοντος ἀ[ἱ]ρε[-]/[θ]έ[ν]τε[ς] [Ο]ἰνη[ὶ] [·] ἐτέχ[ι]σαν·/[π]λ[ί]νθων ἀριθμ[ὸ]ς τῶν] /[ἐ]ς τὸ μ[ε]ταπύργιον] with IG II² 1658: Αἰγείδος τεχ[ο]ποι[οῖ] — — — οἱ/ ἐπ' Εὐβολίδο αἱρεθέντες ἐτέχισαν μ[ε]ταπύργιον.

⁴² Finance is the topic of lines 11-28 of IG II² 244; the fund for building walls (τὰ τειχοποιικὰ) is mentioned at least six times (18, [21], 31, [37], 40, 44; the restorations in 21 and 37 are secure).

⁴³ *Naopoioi*: IG II² 1678 (late fourth century) face A, fr. a, 16, 20, and face B, fr. a, 8; *neopoioi*: IG II² 1678 face A, fr. b, [7], [12], 14. *Trieropoioi*: Dem. 22.17; AP 46.1-2; inferred in IG II² 1622.392 (346/5); 1631.506 (323/2); and 1632.18 (323/2). *Neopoioi* in Samos (SEG 27.545) do preside in a *hieron dikasterion*, but their decisions are subject to the control of a *polis dikasterion*; see Thür – Taeuber 1978.

⁴⁴ Observe how Aeschines in 3.30 easily joins together ditch digging and trireme building as tasks assigned to men chosen by their tribes who handle public funds. He obviously is thinking of *teichopoioi* and *trieropoioi* together, using the final products of their work as the clue to identification of the official (rather than as indicator of the actual work they did); the stress is on the handling of public funds. *Trieropoioi* (at least in the fourth century) are in the first instance allotted by tribe as members of the *boule* (AP 43.2) and in the second instance selected by the *boule* as *trieropoioi* (AP 46.2).

⁴⁵ Gabrielsen 1994: 254 n. 23.

tamias is associated with them (designated ὁ τῶν τριηροποιῶν ταμίας in Dem. 22.17 but regularly as ταμίας τῶν τριηροποικῶν in inscriptions; cf. the frequent occurrence of τὰ τευχοποικὰ in IG II² 244).⁴⁶ There is no hint in the sources that *trieropoioi* were ever granted *hegemonia dikasteriou*; on the other hand, the *epimeletai* of the shipyards presided over cases involving trierarchs and it does not seem too farfetched to think that they (and not the *trieropoioi*) would also preside in cases involving wayward contractors for the building of triremes.⁴⁷ Probably no one would consider the *trieropoioi* ‘*epistatai* of public works.’

The tribal *teichopoioi* were not *epistatai* of public works; like other *-poioi* (*naopoioi*, *trieropoioi*) in Athens, they were fundraisers and fund providers. I repeat the argument now that I made earlier (at the end of section iv): Aeschines paraphrased and quoted a law in c. 29 that provided a category of αἰρετοί who, if they received *hegemoniai dikasterion*, would be subject to scrutiny and *euthynai*. Why didn’t Aeschines latch onto these αἰρετοί as the group that exactly fit the case of Demosthenes as *teichopoios* (or the ‘31-day worker’ who handled public funds)? Again, my response is: Demosthenes was αἰρετός, but he did not have *hegemoniai dikasterion* (!).⁴⁸ Aeschines in c. 27 has made an off-hand remark to fuel dikastic indignation; his remark has been incorporated into history books and legal handbooks; sorriest of all, it has been made the basis of a restoration in IG II² 244.

Conclusions

So far in my search for ‘extraordinary’ magistrates with *hegemoniai dikasterion* I have examined the three groups of magistrates who appear in Aeschines 3.14 and 3.29. I hope to have clarified the meaning of αἰρετοί and to have shown its widespread use in epigraphical sources for all sorts of officials, many demonstrably ‘elected.’ I have qualified Aeschines’ attribution of *hegemonia dikasteriou* to each and every *epistates* of public works in his second group (they have it ‘potentially’ – i.e., if it is granted by law) and I have denied any crumb of truth to his statement that Demosthenes had *hegemoniai dikasterion* (sic!) as *teichopoios*.

b. Law on repairing the walls (337/6) IG II² 244.30-36

Only one inscription, IG II² 244, uses the phrase *hegemonia dikasteriou*. While the law cannot be firmly dated (e.g., by archon or secretary), its contents suit the

⁴⁶ IG II² 1617.122 (367/6); 1622.389 (342/1) and 566 (360/59); 1627. 375 and 391 (329/8?); 1628. [92] (332/1), 534, and 538 (326/5?); 1629.1011 and 1026 (326/5); 1631. 238, 249 (325/4?), and 504 (323/2?); 1632.15 (323/2?).

⁴⁷ It is possible that the shipbuilders in line 9 of IG1³ 236 are the subject of suits and the decision in the court referred to in line 8 has to do with them rather than with the *trierarchoi* who have been restored in line 8; if so, then we have an example of the *epimeletai* (and not *trieropoioi*) presiding over shipbuilders.

⁴⁸ See my conjecture regarding the use of the plural in this passage in n. 2 above.

aftermath of Khaironeia (338/7) better than other epochs of wall-repair;⁴⁹ starting from that inference, most scholars have dated it to 337/6, with a double rationale: (1) the urgency of the provisions suggests a date soon after the defeat and (2) the meticulous detail of the provisions (particularly of the appended *syngraphai*) coupled with the reference in line 13 to an earlier law suggests that ‘soon after the defeat’ cannot be equivalent to ‘immediately after the defeat.’

Whether any of Demosthenes’ various decrees are to be associated with the proposal that put the *nomothetai* into session to formulate the law is uncertain.⁵⁰ The tribal elections proposed by Demosthenes were to take place in the last month of Khairondas’ year of office (thus at the end of 338/7); accordingly, the tribal ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τεῖχη of his decree would hold office during 337/6 (from Hekatombaion through Skirophorion, if the office was to last for one year); and the tribal ‘*epimeletai*’, by the interpretation I proposed in the last section, do not include *teichopoioi*. The men in the law on wall repairs οἵτινες ἐπιμελήσονται τῶν ἔργων (IG II² 244.29) are not elected by tribes but ‘from all the Athenians’ (29); on the basis of Foucart’s clever but in no way palmary inference that [ἐκ]ατέρωι in line 31 refers to those men, it has usually been thought that only two men were to hold those positions. Regardless of number, the men referred to in the law cannot be the same men as those (chosen from the tribes) who are to oversee the walls in Demosthenes’ decree; conversely, the law makes no mention of tribal ‘*epimeletai*.’ If the law on repairing the walls came into effect during 337/6, then the *polis*’ ἡρημένοι ἐπὶ τὰ τεῖχη would overlap for some period of time with the tribal ἐπιμελησομένοι τῶν ἔργων ἐπὶ τὰ τεῖχη of Demosthenes’ decree. Explanations can be invented: the period of overlap might be short if the law came into effect in late 337 or early 336; the tribal ‘*epimeletai*’ as experienced forerunners may have formed the pool of candidates for the men chosen ‘from all the Athenians;’ or the term of office for the tribal overseers was less than a year; or Demosthenes’ decree for the elections was short-lived – the elections were cancelled when someone made a proposal on the first of Skirophorion 338/7, that a new and comprehensive law be formulated to oversee the repair of the walls of Athens.

The stoichedon text of the inscription is fragmentary; letters only appear up to the 54th stoichos; earlier scholars hypothesized a line of 111 letters so that a rather long half of each line is missing; unfortunately, even that length is questioned.⁵¹

⁴⁹ See Maier 1959: 40; Frickenhaus 1905: 28-9. Foucart (April) 1902: 182 presents a succinct account of three different epochs of wall-repairing and concludes that IG II² 244 best suits the repairs for the period following the defeat at Khaironeia. Given the absence of firm data, this type of argument (relating the provisions of the law to the evidence for wall-building in the three periods) is the most attractive.

⁵⁰ Foucart’s suggestion (April) 1902: 183 that the proposals mentioned at Dem. 18.248 may have been the stimulus is a happy thought but there is no way to know for certain.

⁵¹ The length of the line was determined by a combination of the optimistic belief that an epsilon, sole remnant of the heading θεοί and visible to the lucky few, sitting above the first line at the 36th stoichos (so Foucart 1902 followed by Frickenhaus 1905 but with

Given the unsatisfactory state of the inscription, restored texts can be considered only *exempli gratia*, and with that in mind, I consider here lines 29-36 from IG II² 244, except that I have used Thür's excellent restorations for l. 32 and I have added Maier's question mark after τοῖς τεichoποιοῖς in line 31:⁵²

- (29) [ἀνδ]ρας ἐξ Ἀθηναίων ἀπάντων, οἵτινες ἐπιμελήσονται τῶν ἔργων [τῶν εἰς τὰ μακρὰ τεῖχη καὶ εἰς τὰ περὶ τὴν Ἡτιώνειαν καὶ τὸν ἄλλον Πειραιᾶ],
 (30) [ὅπ]ως ἂν ἐξεργάζωνται οἱ μισθωσάμενοι κατὰ τὸν ἐνιαυτὸν ἕκασ[τον..^{48?} .. διδόναι δὲ]
 (31) [ἐκ]ατέρωι αὐτῶν τρεῖς ὀβολοὺς τῆς ἡμέρας ἐκ τῶν τεichoποικῶν, τοῦ[ς δὲ θεσμοθέτας ..^{19?} .. διδόναι τοῖς τεichoποιοῖς? καὶ το]-
 (32) [ῖ]ς ἡρημένους ἐπὶ τὰ τεῖχη ἡγεμονίαν δικαστηρίου ὅταμ παρα[γέλλωσιν ἢ εὐθύνεσθαι χιλιάς {μυριάς ?} δραχμαῖς· ἐὰν δὲ οἱ μισθωσάμενοι τὰ ἔργα μ]-
 (33) ἢ ἐξεργάζωνται, εἶναι κατ' αὐτῶν τὰς αὐτὰς τιμωρίας καθάπερ περ[ὶ ..^{23?} .. ἐπιμελεῖσθαι δὲ τοὺς ἐπὶ τὰ τεῖχη ἡρημένο]-
 (34) υς μετὰ τῶν τεichoποικῶν καὶ τῶν ταμιῶν καὶ τῶμ μακρῶν τεικῶν καὶ [τῶμ περὶ τὴν Ἡτιώνειαν καὶ τὸν ἄλλον Πειραιᾶ, ὅπως οἱ μισθωσάμενοι ἐξερ]-
 (35) [γ]άζωνται τὰ ἔργα καὶ εἴ τινες τῶμ μισθωσαμένων ἢ ἐγγυησαμένων ἀ[πειθοῦσιν ..⁴² .. εἰσάγει]-
 (36) [ν] τούτους εἰς τὸ δικαστήριον.

Translation:

- (29) [m]en from all the Athenians who are to take charge of the works [those at the long walls and at the walls around Eetioneia and the rest, Peiraeus.]
 (30) So that the hired men complete the repairs during each year - - - And they are to give]
 (31) [to ea]ch of them three obols per day from the wall building fund. And th[e [*thesmothetai* are to give to the *teikhopoioi* (?) and to -
 (32) [h]e men chosen to oversee the walls hegemony of the court whenever they re[quest or else be punished with a 10,000(?) drakhmai fine. And if the hired men do n]-
 (33) ot complete the repairs, there are to be imposed upon them the same punishments as there are fo[r - - - - - and it is the responsibility of the men chosen to oversee the wa]-
 (34) lls (?) together with the *teikhopoioi* and *tamiai*⁵³ both of the long walls and [of those at Eetioneia and the rest, Peiraeus, to see to it that the hired men com]-

different consequences) required a line of 111 letters (so Frickenhaus 1905, but see Dragatsis 1900: 96) together with a trusting hope that the stone had been evenly cut in half; two separate columns (the *syngraphai*) appear beneath the law, each of 27 spaces (=54); add two more columns (= 108 spaces) plus 3 extra spaces (=111), one between columns 1 and 2, another between 2 and 3, and the third between 3 and 4. It is possible that there were more than 4 columns – i.e., that the stele was not cut in half. Maier 1959 (I): 40 considers the length uncertain. But trusting hope may win out in the end; see the end of the next note.

⁵² In this portion of the text, Maier 1959 (I) no. 10 has the same readings as IG II² 244; he adds a question mark after the restored word τεichoποιοῖς in line 31. Some of the restorations proposed by Thür 1985 are criticized by Gauthier 1988: 403; but Thür's restoration for line 32 is palmary and could help in establishing the length of the line.

⁵³ I think Thür 1985: 69, n. 8 is right to understand the *tamiai* of this line as the *tamiai* of the genitives that follow (*tamiai* of the long walls, etc.), but I am uncertain whether these *tamiai* would have been chosen from the tribes in the same way as those in Demosthenes'

- (35) [p]lete their work and if any of the hired men or the men who gave security ?[- - - - -
 - - - - -they are to bring]-
 (36) [g] them into court.

If the law was passed in the aftermath of Khaironeia, then Athenian defences needed to be strengthened quickly. Accordingly, the transference of *hegemonia dikasteriou* to ‘the men chosen to oversee the walls’ takes place at a critical moment.⁵⁴ Thür is surely right to restore line 32 with -γέλλωσιν (παραγ[γέλλωσιν] so that, just as in the law of silver coinage (SEG 26.72.28, below), the *thesmothetai* are to give a *dikasterion* upon demand to the men chosen to oversee the walls.

Questions now arise concerning this particular provision. Do the *nomothetai* grant ‘the men chosen to oversee the walls’ *hegemonia dikasteriou* for the first time in this law? Or, did they have it already, and what the *nomothetai* now grant them is the privilege of getting a court whenever they make the request? And was it a privilege, to be granted a court upon request – or was that part of the usual package of perquisites belonging to magistrates with jurisdiction? And finally, do the *teichopoioi*, whose title has been inserted into the law at line 31 by modern editors as recipients of *hegemonia dikasteriou*, belong there alongside the chosen men? I shall answer the questions in reverse order.

i. Do the *teichopoioi* receive *hegemonia dikasteriou* in the law?

We owe to Frickenhaus not only the extension of the line to 111 letter spaces from Foucart’s 83, but also the supplement at the end of line 31 by which the *teichopoioi* are invented as recipients of *hegemonia dikasterion*.⁵⁵ I have already argued that Aeschines is not making a credible statement when he ascribes *hegemoniai* to Demosthenes (Aeschin. 3.27); of course, that Demosthenes did not have such *hegemonia* when he was *teichopoios* does not mean that a new group of *teichopoioi* could not have been granted it by a new law. I have already argued, however, on the analogy of *trieropoioi* (who do not appear to have *hegemonia dikasteriou*) and the *epimeletai* of the dockyards (who do appear as having it), that it was not very likely that *teichopoioi* would be given the presidency of a court. There is no need to belabor those arguments further.

One suggestion, however, can be made. At the beginning of line 36, we may be reasonably certain that the verb controlling the object τούτους is εισάγει[-v]. Some officials are to bring τούτους into the *dikasterion*;⁵⁶ the accusative object is most likely to be the entrepreneurs and the men who gave security in line 35. If we are

decree paraphrased at Aeschin. 3.27 (ἐπέταξεν ἐν τῷ ψηφίσματι ἐκάστης τῶν φυλῶν ἐλέσθαι τοὺς ἐπιμελησομένους τῶν ἔργων ἐπὶ τὰ τεῖχη καὶ ταμίας).

⁵⁴ The word *epistates* does not appear in any part of the preserved text; various pieces of the circumlocution ‘men chosen to oversee the walls’ appear in lines 29, 32, 37, and 43.

⁵⁵ Frickenhaus 1905: 17, n. 4.

⁵⁶ That ‘*eisagein*’ here means ‘prosecute’ rather than ‘preside’ is, in the end, a matter of interpretation; see n. 1.

daring enough to find a subject for the restored verb *eisagein* at the end of line 35, then we have two choices. The first is to go back to the beginning of line 34, where the text first preserves the last two letters of a masculine accusative plural, followed by two officials linked together by *μετά*; thus, ‘Certain officials (whose title no longer appears at the end of line 33 and who are represented in the restored text as being *τοὺς ἐπὶ τὰ τεῖχη ἡρημένο*υς) – these officials, together with the *teichopoioi* and *tamiai* are to bring the offenders into court.’ This is unsatisfactory for numerous reasons, but the one capable of most succinct expression is that *tamiai* are not known as prosecutors; moreover, it is not likely that both the men in charge of the walls (if they do appear here) and the *teichopoioi* would be turned into prosecutors in line 35, especially as the men in charge of the walls have just been granted *hegemonia dikasteriou* in line 32.⁵⁷ A better solution is to suggest that a new subject has intervened for *eisagein* (34); I suggest that the *teichopoioi* prosecute; the men in charge of the walls preside.⁵⁸ *Exempli (et demonstrandi meum argumentum) gratia*, we might restore line 35 thus:

[γ]άζωνται τὰ ἔργα καὶ εἴ τινες τῶμ μισθωσαμένων ἢ ἐγγυησαμένων
ἄ[πειθοῦσιν τοῖς κατὰ τὰς συγγραφὰς τοὺς τειχοποιοὺς αὐτίκα μάλα εἰσάγει].⁵⁹

⁵⁷ There are examples where a law instructs the presiding official to prosecute ([Dem.] 43.75), but for the reasons given above, that seems unlikely here. Cf. SEG 30.61 (law on the Eleusinian Mysteries, 367-48), lines 30-33 where it is clear that the *epimeletai* (and not the *epimeletai* together with the *basileus*) prosecute.

⁵⁸ Thür 1985 has created a different scenario in lines 33-36; he restores the text to conform to his interpretation of a dispute-settlement scenario in wall-repair inscriptions from Tegea, Delos, and Labadeia (refs. p. 69, n. 14), namely, that courts are set up to settle private disputes arising among the entrepreneurs during the wall-building activity. Gauthier 1988: 403 has given his blessing to the interpretation but not to some of the verbal formulations. But in ID 502A 22/3 (Delos), the disputes arise out of the *dokimasia* of the works when completed (apparently over who was to carry out what); moreover, these disputes are not brought before the court; the *epistatai* settle them in a temple. In IG 7.3073.41-44 (Labadeia), disputes are *περὶ τινος τῶν γεγραμμένων*; and in IG 5.2.6A (Tegea), the *adikemata* in lines 1-6 do not go to court – but conspiring against the hiring out (?) or the destruction of any of the works does (lines 15-20). So in fact, all these inscriptions provide legal procedures in the event of offences against the contract. The historical situation in Athens at this moment, however, is perhaps unique among these inscriptions; now more than ever is it important to ensure that the walls are repaired expeditiously according to contract. The grant of *hegemonia dikasteriou* is very special here.

⁵⁹ I have used 45 letters for 42 spaces, conjecturing that -ιο- of *τειχοποιοὶ* use one space (just as the same letters do at the opening of line 48); and also that *ει* use one space twice in *εἰσάγει*; elsewhere in the inscription: 18, 31, and 40 have -ιι- in one space (*τειχοποικῶν*); -οι- in [*ἐκ*]ατέρωι use one space in line 31; the -ηι- of *τῆι* in line 39 use one space; and the restored ηι- in *ἡρημένο*] at the end of line 33 also use one space. In line 31, a space is used for two letters twice; of course, one could conjecture that line 36 started off with two letters in one space (-ιυ), so that line 35 would have suffered

ii. A court upon request: a privilege?

It must have been a privilege to go to the *thesmothetai* and to get a court upon request. Even more than a privilege, it was probably an emergency solution. Presumably, under normal circumstances, the *thesmothetai* would have allotted *dikasteria* to magistrates at regular intervals; accordingly, in order to accommodate a sudden request from the chosen men, they would have to ‘bump’ an assigned panel or else they must have kept in reserve empty slots for emergencies.

Few laws transmitted in the orators carry a provision requiring that the case be brought to court within a set number of days: in the law of *hubris* (Dem. 21.47) ‘the *thesmothetai* are to bring the case to court within 30 days of the day of indictment or whenever business allows’;⁶⁰ in another law ([Dem.] 43.75), the archon is to summon to court within five days an offender who deserves a greater penalty than the archon is permitted to impose. In IG I³ 1453.2, an Attic decree of controversial date in the fifth century regarding coins and measures, the *thesmothetai* are to bring into court within five days the cases of those who have made denunciations.⁶¹ In a repetitive series of honorary decrees granting citizenship after 307/6 B.C., a requirement of scrutiny by a *dikasterion* frequently appears;⁶² the *thesmothetai* are to empanel a court on each occasion with formulaic but varying phrases for ‘as soon as possible.’ A relatively full and unrestored version of the type, dated to the end of the third century, reads: ‘they are also to give him citizenship once he has undergone *dokimasia* in the *dikasterion* in accordance with the laws. And the *thesmothetai* are to introduce the *dokimasia* whenever and as soon as they fill a *dikasterion* with 501 *dikastai*.’⁶³ The thirty day limit for bringing a case to court in Dem.21.47 might represent moderate concern and be rather easily accommodated; the 5 day plans suggest haste – but the archon’s law cited at [Dem.] 43.75 might very well be obsolete⁶⁴ and certainly the fifth century coinage decree had been replaced; the number of honorary decrees suggest that the dikastic calendar is not terribly full during this period – which is still in the future at the time of our law;⁶⁵ the court on demand in the law on repairing the walls suggests crisis – and interruption of the court system.⁶⁶

doubling only twice. συγγραφή appears in the plural in the inscription at lines 7 (partially restored), 41, and 42. For similar phrasing, see IG 7.3073.15-19.

⁶⁰ See MacDowell 1990 ad loc.

⁶¹ Time limits for bringing cases to court are found elsewhere: e.g., IG II² 1128.16-18 (the *astynomoi*, presumably of Koresia in Keos, are to give the vote to the *dikasterion* on the *endeixeis* within [?30] days); cf. IG II² 111.47-48 (the Ioulietans, again in Keos, thirty days) and IG II² 404; see Dreher 1989: 280.

⁶² The requirement for scrutiny first appears in 303/2. Osborne 1982, vol. 2: 101-02 argues that an early decree of this type, D 36 (= IG II² 398b), which he dates to 318, belongs to ‘the short-lived democratic regime of 318.’

⁶³ See Osborne 1981 DD 61 and 62 (with comments in vol. 2, p. 136), 63, 68, 74 (copy B), 76, 78 (copy B), 83, 91-93, 96-98, 100-01, 103-14, 117-18. All these refer to the *thesmothetai* bringing the *dokimasia* ‘when first they fill the *dikasterion*’ or some such phrase. For a concordance of these decrees with those in IG, see Osborne’s check list in vol. 1: 17-24.

⁶⁴ Cf. Lysias 15.2-3.

⁶⁵ Osborne 1983, vol. 4: 166 closely associates judicial scrutiny in the decrees with democracy (‘... the history of the judicial scrutiny as an element in the naturalization procedure in later times links it closely to the democratic regimes. When oligarchy

We may conclude, then, that the men selected to oversee the walls received a privilege when they were granted *hegemonia dikasteriou* upon demand, and that privilege was due to the extraordinary circumstances occasioned by the defeat at Khaironeia and the need to reconstruct defenses as speedily as possible.

iii. What is new in the provision? Conclusions.

Now we turn to the questions that ask what is new in the provision: is it only the privilege of getting a court upon demand, so that the men selected for overseeing the walls already had *hegemonia dikasteriou* by virtue of some earlier law? Or did the *nomothetai* grant them both the privilege of a ‘court on call’ and *hegemonia* in this law?

Clearly the law inaugurates the office of the men ἐπὶ τὰ τείχη who are to be chosen ‘from all the Athenians.’ There may have been overseers of the works at the walls of one sort or another before this (e.g., the tribal ‘*epimeletai*’ in Demosthenes’ decree), but there was never any such permanent office of *polis* magistrates. In line 32 of the law, these men are granted, upon the inauguration of their office, both the privilege of getting a court upon request and the right to preside. The privilege and the right are the consequence of the extraordinary circumstances that led to the creation of their office. They do not obtain the right to preside simply because they are *epistatai* of public works (as if there was some standing law granting that right to all such *epistatai*); and they certainly do not have that right ‘automatically.’

Unlike permanent magistrates such as the archon or polemarch for whose allotment and definition of responsibilities no annual law or decree was required, ἀίρετοί such as these only came into existence when a decree or law called for their existence; hence their authority must be defined by law or decree. It is conceivable that if the same positions were repeatedly called into existence, their powers would not have to be redefined ab ovo on each occasion. This hypothesis will be supported by a brief examination of several other inscriptions in which courts are given to magistrates without specific conferrals of *hegemoniai dikasterion*.

supervened, the scrutiny was abolished’). Osborne proposes the interesting thesis that the introduction of the scrutiny into the decrees ‘was probably intended to replace the *graphe paranomon*.’

⁶⁶ IG II² 466.34 (307/6) ‘so that the *symbola* be *kuria* between Teneans and Athenians, the *thesmothetai* are to confirm the *symbola* ὅταν πρῶτον δικασ[τήρι]α πλ[η]ρῶσιν. Cf. *AP* 59.6. There is no reason that such urgency would not have been shown on similar occasions earlier in the century. The point is that, except for the late citizenship decrees, getting a court as soon as possible or on demand, seems only to have happened on significant occasions and in times of crisis.

II. *Hegemoniai dikasterion* and ordinary magistrates

Hegemonia dikasteriou was attached to the office and not to the official. On the other hand, it did happen on occasion that a particular magistracy was deprived of the right to preside over cases of one sort or another; thus, e.g., jurisdiction over *dikai* underwent changes during the fourth century; certain *dikai* which are ‘confirmed’ as belonging to the Forty in the middle of that century were later transferred to the jurisdiction of the *eisagogeis* and now became *emmenoi* (*AP* 52.2).⁶⁷ In this case, the Forty did not lose *hegemonia* since they still introduced many private *dikai*; they simply lost the right to preside over certain cases. The *eisagogeis*, on the other hand, seem to have come into existence in order to handle these particular cases (as well as some others) at some point in the mid-fourth century; presumably, they would have been granted *hegemonia dikasteriou* in the law that instituted the magistracy. What seems to make this a likely presumption is (1) the appearance of *hegemonia dikasteriou* in the law on walls for the new board of temporary extraordinary officials; and (2) the absence of *hegemonia dikasteriou* in the inscriptions appended below.

a. Nikophon’s law on silver coinage 375/4: SEG 26.72.16-29

Nikophon’s law was passed in 375/4.⁶⁸ It makes it an offence to reject silver coins that have been approved by the *dokimastes* (16-17); the *sitophylakes* in Athens and in Peiraeus, the *syllogeis tou demou*, and the *epimeletai* of the market are now authorized to determine cases brought by *phasis* for offences involving up to ten drachmas (18-25); beyond that, the *thesmothetai* are obligated to provide the same magistrates a *dikasterion* upon demand (τὰ δὲ ὑπὲρ [δ]έ[κ]α [δραχμάς]|| ἐσαγόντων ἐς τὸ δικαστήριον. οἱ δὲ θε[σ]μ[ο]θ[έ]ται π||λαρχόντων αὐτοῖς ἐπικληροντες δικαστήριον ὅ||ταμ παραγγέλλωσιν ἢ εὐθυνέσθω[v.] δραχ[μαίς, 25-28). The sense of urgency in the law is palpable – almost as if a magistrate is waiting at every major corner to receive an Athenian’s complaint. In his editio princeps, Stroud wrote of this aspect: ‘The strong opening clause of the law, the elaborate legal provisions in lines 16-36, which include slaves and transactions under ten drachmai, and the fact that the state is prepared to fund two official Dokimastai who will be on duty in the marketplaces all indicate that the *nomothetai* were called into special session to deal with an emergency situation in which shopkeepers were refusing to accept silver coins with Athenian types.’⁶⁹ Regardless of

⁶⁷ E.g., *dikai proikos* and *aikeias*, and possibly *aphormes* and *trapezetikai*; see Rhodes 1981: ad loc. The date of the change of jurisdiction cannot be determined, but most scholars have accepted Gernet’s (1939) arguments that *dikai emmenoi* did not exist during the first half of the fourth century. *Dikai emporikai* (a subset of *dikai emmenoi*) came into existence sometime between 355 and 342 (see MacDowell 1990 apud Dem. 21. 176); dates for other *dikai emmenoi* cannot be specified beyond saying that they were introduced at some point between the early 340’s and the composition of the *AP* (see Cohen 1973: 186-91; Harrison 1971: 21).

⁶⁸ The archon Hippodamas supplies the date.

⁶⁹ Stroud 1974: 179. There might be other explanations for the urgency (e.g., foreign traders might need to have their cases solved quickly so as return home in sailing season).

the cause, the urgency is there and the immediate access to the courts for *sitophylakes*, *syllogeis*, and *epimeletai* of the market is part of the solution.

The law does not explicitly confer ‘*hegemonia dikasteriou*’ upon the magistrates; but since they are to bring cases over ten drachmai – not persons – into court (τὰ δὲ ὑπὲρ [δ]έ[κ]τα [δραχμᾶς] ἐσαγόντων ἐς τὸ δικαστήριον), since the court is to be given them upon request, and since the denouncer is to receive a half of the fine (18 and 29), it is clear that the denouncer is the prosecutor and that the *sitophylakes* in Athens and Peiraeus, the *syllogeis*, and the *epimeletai* of the market have a competency to preside over court. Did they have it before this?

MacDowell has suggested that the procedure for *phasis* may already have been in use for other offences in the market (offering smuggled or contraband goods for sale);⁷⁰ if, as he has also suggested, the same magistrates were already in charge of those offences (and there is no reason to think not), then there is no need for the *nomothetai* to confer *hegemonia dikasteriou* upon them; they will have had it already. There might be need, however, to confer the privilege of a court upon demand: courts will not have been scheduled to hear cases for offences that were not as yet defined, nor was it usual (according to the data I presented in section I, b ii, ‘a court upon request’) for officials with *hegemoniai* to ask for courts on short notice. Accordingly, the law on silver coinage does not confer *hegemonia dikasteriou* on these officials (they have it already), but it does grant them the privilege (as in the law on wall repairs), as an emergency solution at a critical time, of being allotted a court upon request.

b. Naval Records of 325/4: (IG II² 1629.165-271, Tod no. 200); and a law (?) on the dockyards 410-404? (IG I³ 236)

A decree of 325/4, recorded in the naval report (*paradosis*) of the *epimeletai* of the shipyards for that year, gives instructions for sending out a colony to the Adriatic (IG II² 1629.165-271). In lines 173-90, it directs that ‘in order that the People’s resolution concerning a colony in the Adriatic be carried out as speedily as possible, it was decreed by the People that the *epimeletai* of the dockyards are to transfer to the trierarchs the ships and their tackle ... and the appointed trierarchs are to bring the ships alongside the [jetty] before the tenth of Mounichion.’ In lines 204-14, the decree further directs that ‘in order that the courts the *skapseis* [= *diadikasiai*, adjudications]⁷¹ be introduced, the *thesmothetai* are to empanel courts of 201 *dikastai* for the *strategos* chosen to oversee the symmories ([τὸν]ς θεσμοθέτας παρα-[[πλ]ηρῶσαι δικαστήριον εἰς [ἐν]α καὶ διακοσίους τῶν[στ]ρατηγῶν τῶν ἐπὶ τὰς συμ-[[μ]ορίας ἡρημένων). The empanelling of courts has thus been decreed for two specific days; the urgency is due to the departure date for the expedition, just five days following the final court appointment. The granting of court days by decree is unusual and again bespeaks a critical moment. There is no need to confer *hegemonia dikasteriou* on the general in charge of the symmories since he, along with the other generals, already has jurisdiction (AP 61.1)

⁷⁰ MacDowell 1991: 194: ‘... the involvement of the various market officials in *phasis* proceedings is not necessarily an innovation in this law; what is, presumably, new in this law is that it now becomes an offence to reject silver coins approved by the public tester. It has been decided to make the offence subject to the same procedure as has long been used for the offence of offering smuggled or contraband goods for sale. The law therefore states what that procedure is, but it may well be that the whole of that statement simply gives the legal procedure already existing for *phasis* for other offences in the market, and that the transfer of this function from the *prytaneis* and the *Boule* to the market officials had taken place some years earlier.’

⁷¹ Gabrielsen 1994: 92 reports that ‘*skapseis* and *diadikasiai* are used synonymously for suits arising in connexion with claims to exemption: AP 56.3; 61.1; Dem. 28.17.’

IG 1³ 236, written in the Attic script, is a fragmentary and much restored law (?); it seems to contain regulations for legal procedures in disputes about the maintenance and return of naval equipment.⁷² The office of the *epimeletai* of this inscription may be the same as that which appears in various texts of the fourth century (e.g., Dem. 47.24-27, dated to 355/4 or 354/3;⁷³ IG II²1631.353-55, 323/2 B.C.); if so, then the office in charge of the dockyards was in continuous existence from the late fifth century to at least the last quarter of the fourth century – with a long history of *hegemonia dikasteriou*. The inscription (IG 1³ 236) in itself is too fragmentary to support the claim that this is the law that inaugurated the office and conferred *hegemonia dikasteriou* upon it; nonetheless, such a claim seems unlikely given such a late date for introducing such officials and given the intricacy of the mentioned procedures. The law appears to provide protocols for bringing delinquent trierarchs (?) to court under rather specific circumstances. In the part of the inscription that concerns us (lines 3-6), the ἐπιμεληταὶ (τῶν νεωρίων?) are to bring the case into the *dikasterion* the day after the witnesses appear (ἐσαγγόντων ἡοὶ ἐπιμελεταὶ τει ἡσπεραΐαι ἐς τὸ δικαστήριον, 6). That a case could be put on the court calendar in 24 hours suggests that special circumstances are involved and that a court, in principle, had already been put at the disposal of the *epimeletai*. Perhaps, in an earlier part of the decree, a day had been established for the new trierarchs to bring complaints to the *epimeletai*, and, as the preserved part of the decree shows, the *dikasterion* was to be used the following day.

Conclusions

The grant of *hegemonia dikasteriou* to the men in charge of the walls in IG II² 244 stands out as the one certain such grant that has been preserved for us. What makes the grant all the more special is that the men were ‘chosen’ and not ‘allotted;’ aside from the generals, they may be the only magistrates in Athens with hegemony who were elected.⁷⁴ That datum in itself is not only another indication of the crisis in Athens (it was not just any ‘man in the street’ who was to have authority in ensuring that the contractual arrangements for the repair of the walls were carried out), it also attests the self-awareness, sophistication, and flexibility of the *nomothetai* who composed the law: the men elected to the position would presumably be authoritative, whether by virtue of experience in the particular realm of building contracts or by reputation in the larger more variegated world of political action.

Regular magistrates who had their jurisdictions expanded, as happened with the *sitophylakes* in Athens and in Peiraeus, the *syllogeis tou demou*, and the *epimeletai* of the market in Nikophon’s law on silver coinage, do not need a special conferral of *hegemonia dikasteriou*. That was reserved for magistrates who were granted a jurisdiction for the first time, as in the case of the overseers of the walls in the law on wall repairs. When courts are assigned by law or decree for special purposes,

⁷² On the other face of the same stone is part of a Sacred Calendar written in Ionic; it is therefore thought that the law formed part of the codification of laws that took place in Athens from 410-404 B.C. For the *editio princeps*, see Oliver 1935.

⁷³ See Gernet 1957: 200-01.

⁷⁴ The *epimeletai* of the dockyards may also have been elected and in their case, as in that of the wall overseers, expertise was required; but we do not know the manner of their selection for certain.

whether court days are assigned (as in the decree reported at IG II² 1629.205-14 and possibly in IG I³ 236) or whether days are left open as a ‘court upon request’ (as in Nikophon’s law and in the law on wall repairs), critical circumstances inside Athens will have motivated the action.

The tasks of the *thesmothetai* were under no circumstances easy; during times when special courts had to be allotted upon request, *thesmothetai* may have had to perform some rather spectacular feats with their calendar. Hence I salute Teleskopos son of Aristokritos of Rhamnous, the *thesmothetes* honored for his allotting of offices and manning of courts in the inscription which ends this essay.⁷⁵

θεοί./Δημοκράτης Δημοκλέ-/ους Ἀφιδναῖος εἶπε-/ ἐπειδὴ ὁ θεσμοθέτη-/ς ὁ τῆς Αἰαντίδος ἐπ-/ιμεμέληται τῆς τε κ-/ληρώσεως τῶν ἀρχῶν/ καὶ τῶν δικαστηρίω-/ν τῆς πληρώσεως καὶ/ τῶν ἄλλων ἀπάντων τ-/ῶν περὶ τὴν Αἰαντίδ-/α φυλὴν, ἐπαινέσαι Τ-/ηλέσκοπον Ἀριστοκ-/ρίτου Ῥαμνοῦσιον κ-/αὶ στεφανῶσαι αὐτ[ὸ]-/ν χρυσ[ῶ]ι στεφάνωι ἄ-/πὸ · Χ · δραχμῶν δικα-/ιοσύνης ἕνεκα καὶ φ-/ιλοτιμίας τῆς περι/τὴν Αἰαντίδα φυλὴν /ὅπως ἂν καὶ οἱ ἄλλοι/θεσμοθέται οἱ θεσμ-/οθετοῦντες [φι]λοτι-/μῶνται περὶ [τ]ὴν φυλ-/ῆν εἰδότες ὅτ[ι] χάρι-/τας ἀπολήψονται πα-/ρὰ τῆς φυλῆς· τὸ δὲ ψή-/φισμα τὸδε ἀναγράψ-/αι τοὺς ἐπιμελητὰς/ τοὺς ἐφ’ Ἡγήμονος ἄρ-/χοντος ἐν στήλῃ λι-/θίνῃ καὶ στήσαι ἐν /τῶι Εὐρυσακείωι.vv wreath

SEG (1985) 35.104 (IG II² 4214, 327/6)

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⁷⁵ I am grateful to Molly Richardson who discussed with me many matters concerning magistrates and the law on wall repairs (IG II² 244) in Athens in August 2003. I am also grateful to the Ephoreia of prehistorical and classical antiquities in Athens for granting me permission to examine IG II² 244 in the Peiraeus Museum during my sojourn. Lynn Foxhall offered constructive comments at the Symposium meeting in September 2003 and Josiah Ober and John Bodet at a meeting of the New England Ancient Historians’ Colloquium in November 2003.

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