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WITHDRAWING GRAPHAI IN ANCIENT ATHENS – A CASE STUDY IN “SYCOPHANCY” AND LEGAL IDIOSYNCRASIES

Most Attic legal historians believe that for public suits (graphai) as well as for *phaseis*, *ephegeseis*, and *apographai*, a prosecutor who failed to receive one-fifth of the dikasts' votes or a plaintiff who did not “follow through” (*epexelthein*) his case to trial were both subject to two punishments: a 1,000 drachma fine, and some permanent restriction of their ability to prosecute future cases – a form of partial atimia.¹ Most scholars also believe that this restriction consisted of losing the capacity to bring the same type of prosecution.² Edward Harris has challenged this belief, arguing that such prosecutors lost the right to bring any type of public case (see, e.g., Dem. 18.266, 26.9, 53.1). Harris's point is well taken, within the terms of the arguments below.³

With one qualification I accept the standard view that in most (although not necessarily all) of the legal proceedings of the types listed, these two punishments were imposed on any prosecutor who did not receive one-fifth of the dikasts' votes. As for not “following through” a case of these types, I shall argue three points.

First, barring one reconstructed fragment of Theophrastos, both the case evidence and contemporary descriptions of Attic law nowhere indicate that those

¹ See e.g., M.H. Hansen, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes* (Odense 1976) 65; D.M. MacDowell, *The Law in Classical Athens* (Ithaca/N.Y. 1978) 64-65; S.C. Todd, *The Shape of Athenian Law* (Oxford 1993) 143. U. Paoli, *Studi di diritto attico* (Florence 1930) 322-23, followed by A.R.W. Harrison, *The Law of Athens II* (Oxford 1971) 83 and 175-76, believed that offenders of both types were liable to 1,000 drachma penalties, but were not forbidden to bring future cases. D.M. MacDowell, *Demosthenes against Meidias* (Oxford 1990) 327, has shown that this view is untenable.

These works, and E.M. Harris, “The penalties for frivolous prosecution in Athenian law,” *DIKE 2* (1999) 123-42, will be cited by author's name and date of publication.

I am grateful to Gerhard Thür for comments on an earlier draft of this essay, first written in 1997.

² See, e.g., Hansen, MacDowell, and Todd, as in n. 1 above.

³ *CP 87* (1992) 79-80. Harris's case may be reinforced by the Theophrastos passage discussed later in this essay. According to my current thesis, however, in most cases only prosecutors who failed to win one-fifth of the dikasts' votes lost the power to prosecute public cases, not prosecutors who failed to follow through.

who did not follow through a public suit were subject to any form of partial atimia, except when the charge was battlefield desertion (*lipotaxion*). The conclusion that such men were not subject to partial atimia eliminates the main category of evidence that the Athenians often turned a blind eye to continued public activity by atimoi.⁴

My second argument addresses the question of what was wrong in not “following through” a public suit. As again Edward Harris (1999) has shown, the evidence makes clear that withdrawing most *graphai* was common. To be sure, the association of this practice with sycophants sometimes made people hesitant to admit that they had done so, or keen to say that their opponent had. Various factors could necessitate withdrawals, in most cases without penalty. What then was not “following through”? Harris argues that a plaintiff was subject to penalties if he brought a public charge but then did not appear at the *anakrisis*, or (after the *anakrisis*) in court (1999: 132 and *passim*). I would like to present an alternative possibility. I shall show that, except perhaps in cases of *hubris*, those who did not follow through a public suit were subject to a fine only if they were convicted of having been paid not to follow through. [Demosthenes] 58.11 calls the regulation against not following through a provision against sycophants. The harder question will be whether the text of the law itself mentioned the factor of payment, or whether this statute could technically have been used against anyone who failed to see an indictment through, but in practice was used only against alleged sycophants. The general point of the law, as [Demosthenes] 58.11 says, was to prevent people from harrasing others by bringing public lawsuits which they then did not prosecute. For the Athenians, as their concept of sycophant shows, the principal reason for doing so was money.

My third and more general argument is that the evidence for Athenian legal regulations and procedures is complex in part because different laws sometimes contained their own, idiosyncratic provisions. Statute regulations for example about *lipotaxion* or *hubris* did not necessarily apply to other legal offenses. In *Symposion* 1999 I argued that idiosyncrasies also characterized the different procedures collectively called “showing” (*phainein*).⁵ It may be that this identification of a characteristic of Attic laws will prove useful in other contexts.

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⁴ Cf. in particular Hansen 1976: 59-60. A distinct category of persons is that of public debtors, who are sometimes distinguished from atimoi even in Attic laws, and who were often allowed to continue their public activities, presumably in order that the Athenians could come to recoup the money owed to them. For further information and discussion, see R.W. Wallace, “Unconvicted or potential atimoi in ancient Athens,” *DIKE* 1 (1998) 63-78.

⁵ R.W. Wallace, “*phainein* in Athenian laws and legal procedures,” in *Symposion 1999. Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, ed. G. Thür and F. Fernández Nieto (Cologne/Vienna 2003) 167-81.

The sources document a number of cases where Athenians withdrew public suits without penalty. The crime of “not carrying through” a public suit therefore cannot mean simply withdrawing it. The following four cases are typical of many.

(1) According to [Dem.] 59.53, Phrastor indicted (*graphesthai*) Stephanos before the thesmothetai for giving an alien woman in marriage to an Athenian. Fearing conviction, Stephanos “came to terms with Phrastor and relinquished his claim to the dowry and withdrew his dike for alimony, and Phrastor on his part withdrew his graphe from the thesmothetai.” Phrastor apparently attested to all this in court (s. 54). The speaker gives no indication that these arrangements were illegal or problematic, or that anyone was penalized.

(2) According to [Dem.] 59.68-69, after Epainetos brought a graphe against Stephanos for wrongful imprisonment on a charge of *moicheia*, Stephanos, again fearing conviction, submitted his dispute for arbitration on condition that Epainetos withdraw his graphe. Epainetos agreed, withdrew his graphe, and the arbitrators reached a settlement between them.

(3) Dem. 20.145: “And yet I hear that you say that three distinct persons indicted [*graphesthai*] you [Leptines, on a charge *paranomôn*] before Apsephion did, but they did not carry through. Well, if your complaint against them is that they did not endanger you, you must be fonder of danger than other people.” Demosthenes says that one of these three persons may have died [in fact, Apsephion’s father Bathippos had died], or been persuaded to “draw a line through” (*diagrapasthai*: i.e., drop) the charges, or simply been suborned (*paraskeuazesthai*) by Leptines, “but these things are not *kalon* even to mention.” If any of these men had been penalized for not prosecuting, this would have supported Demosthenes’ argument. Demosthenes is however happy to insinuate that Leptines may have bought off one of his prosecutors.

(4) In [Dem.] 25 *Against Aristogeiton*, the anonymous plaintiff seeks to establish that Aristogeiton cannot bring prosecutions or act in other ways as epitimos, principally because he is a public debtor. In s. 47, in a list of Aristogeiton’s scandalous deeds that illustrate “the sort of man” he is, the plaintiff remarks, “you [dikasts] remember” that Aristogeiton “abandoned (*exelipen*) his graphai against Demades.” The speaker mentions no penalty for these alleged actions. They are cited only as examples of Aristogeiton’s bad character.

In these cases, no fine or partial atimia is linked with withdrawing a public suit. Under certain circumstances (Leptines [case 3], Aristogeiton [case 4]) withdrawing a graphe is said to be bad, but other cases (Phrastor [case 1], Epainetos [case 2]) seem neutral in this regard.

Other cases indicate that a 1,000 drachma fine was imposed on Athenians who were paid to neglect or withdraw public prosecutions. None of these testimonia mention the further penalty of partial atimia.

(5) In [Dem.] 58, through an *endeixis*, Epichares prosecutes Theokrines for bringing indictments even though (Epichares claims) Theokrines is a state debtor

three times over. The first of these alleged debts involves a penalty of 1,000 drachmas which (according to Epichares) Theokrines *should* have paid for “giving up” a *phasis* against the shipowner Mikon. In s. 6, Epichares quotes part of the terms of his *endeixis*: “I declare that according to this *endeixis* Theokrines is liable for having made a *phasis* against Mikon of Cholleidai and having taken money (*argurion labont*)’ to have given up (*apodounai*) the affair.” Up to the time of this trial, we may note, Theokrines had not been fined or punished for allegedly giving up his *phasis* against Mikon. Immediately before this passage (ss. 5-6), Epichares has the clerk read to the court what seems to be a general procedural law “regarding those who make *phaseis* and do not carry them through but are reconciled in defiance of the laws,” and which regulated the introduction of *graphai*, *phaseis* “or the other things written in the law.” Although the text of this law is not quoted, Epichares repeats or paraphrases his understanding of its terms: “if a man carries through and does not receive a fifth part of the votes, he shall pay 1,000 drachmas, and if he does not carry through, Theokrines, he shall also pay a thousand, so that no one *sukophantêi* or having impunity make a profit for himself and compromise the interests of the city.”

Immediately after these comments, Epichares narrates how Theokrines’ *phasis* against Mikon was displayed for a long time at the port, until “taking money [Theokrines] allowed it to be crossed out (*diagraphênai*), just when the magistrates were calling him to the anakrasis.” In s. 12, Epichares states that if Theokrines “has compromised the matter and come to terms” with Mikon, “he wrongs all of you and would justly be fined 1,000 drachmas.” Ss. 13 (*kerdanai*), 24 and cf. 28-29 make explicit Epichares’ charge that Theokrines came to terms for financial gain, that he was “sycophanting,” that he was “compromising in defiance of the laws.” Thus according to Epichares, if a plaintiff withdrew this type of public suit after making a financial arrangement with the defendant, he was to be fined 1,000 drachmas.

Epichares’ principal argument is that Theokrines had no right to prosecute because he was a public debtor (ss. 14-22, 69). He makes no mention that Theokrines was subject to the further most serious penalty of partial *atimia*. Why would he not, if Theokrines were so liable? This would have provided Epichares with a further, most potent argument that Theokrines was not qualified to bring indictments.

In his response that follows this essay, Harris seeks to discount this “argument from silence.” He points out that Epichares also does not mention the fact that prosecutors who received less than one-fifth the votes were also subject to partial *atimia*. I would note, however, that Epichares had no particular reason to detail that additional penalty for not receiving sufficient votes, because the provision on not receiving sufficient votes did not apply to Theokrines. Epichares had every reason to mention it if those who did not follow through, like Theokrines, were *atimoi*. This speech nowhere says that such offenders were subject to partial *atimia* – and its “silence” on this point is by no means unique.

[Dem.] 58.8 is one of two passages that Harris adduces to support the further hypothesis that the regulation against “not following through” specifically penalized not appearing at the *anakrisis* (or later in court). According to [Dem.] 58, Theokrines had his indictment crossed off the whitened board of written charges just at the time of the *anakrisis*. Was that act in itself illegal? I think not. Epichares’ charge was that Theokrines had “settled in defiance of the law” by taking money, not that he did not turn up for the *anakrisis*. Had Theokrines been able to avoid legal trouble simply by going to the *anakrisis* and withdrawing his charge there, it is unclear why he would not have done so. Epichares mentions the *anakrisis* only to show how long Theokrines had toyed with Mikon. As Harrison (1971: 102) and surely everyone will agree, if a litigant did not turn up at the *anakrisis* or in court, the punishment was the immediate loss of his case by default. If avoiding the *anakrisis* was a crime, it was a blatant and obvious crime – and up to the time of [Demosthenes] 58, Theokrines had not been charged with it. More difficult was proving bribery. No one was prepared to take up that charge against Theokrines, until Epichares sought revenge for Theokrines’ alleged wrongs against Epichares’ father.

The element of financial gain is also stressed in the other cases which Epichares alleges against Theokrines: that he dropped an indictment in exchange for 200 drachmas (ss. 30-32), that he would have dropped his indictment of Epichares’ father in exchange for 1,000 drachmas (s. 33), and that he dropped indictments of several others including Demosthenes and Hypereides in exchange for money (ss. 34-35). None of these passages mention the *anakrisis*.

One last point about [Dem.] 58 will recur later in this essay. Ss. 10-11 of this speech mention a special law regulating the laying of baseless charges specifically against merchants and shipowners. Plaintiffs of this kind were subject to *apagoge* and to other punishments here unspecified.

(6) According to Aeschines (2.93, 3.51, 212), Demosthenes withdrew a *graphe* for wounding against his cousin Demomeles at the Areopagos court, and the Areopagos fined him for this. In 3.212, Aeschines alleges that Demosthenes had taken money (*misthous eilêphe*) to withdraw the case. Athenian magistrates, including the Areopagos ([Dem.] 59.80), were competent to levy fines up to a certain amount on their own authority. The Areopagos may have levied such a fine against Demosthenes, possibly on an ad hoc basis. (Its decision to fine Theogenes for having a foreign wife [(Dem.) 59.80] was presumably ad hoc.) To be sure, the facts of Aeschines’ story are most uncertain. In addition to the question of whether a charge of wounding was a *graphe* or a *dike*,⁶ Demosthenes is alleged to have prosecuted his own cousin – and for wounds which Aeschines says he gave to himself! He is alleged to have taken money from a family member not to continue

⁶ M.H. Hansen, “*Grappe* or *dike traumatōs*?,” *GRBS* 24 (1983) 307-20 (our passage on pp. 308-11) argues that *graphai* and *dikai* both could be applied to wounding. He accepts Aeschines’ account.

the prosecution. Aeschines does not mention the size of the fine, and 1,000 drachmas might seem a large sum for an undemocratic body to impose (but cf. M.H. Hansen in n. 6, p. 315). Finally, Demosthenes is alleged to have been fined by the Areopagos, a council with which he had the closest political ties.⁷ Aeschines was Demosthenes' enemy. This would not be the first blatant lie these men directed against each other.

Despite any doubts about the event itself, however, Aeschines implies that a court *could* fine a plaintiff who sold a graphe. As Gerhard Thür has observed to me, the constitutional facts must have made sense to the dikasts.

These two cases – there will be others – indicate that those who were paid not to follow through a public prosecution were liable to a fine. Neither Aeschines nor Epichares says anything about atimia, although that further charge would have strengthened their arguments. As for accusations of sycophancy, in [Lys.] 6.12 we are told that Andokides brought a graphe against Archippos for impiety and Archippos countered with a sworn denial. “But so as not to be troubled by a man of Andokides' sort, he got his release by paying money.” How far this story may be fabricated is again uncertain: Andokides was the speaker's bitter enemy. However, the implication is that Andokides was a sycophant, harassing a wealthy citizen by a frivolous prosecution only to be bought off.

In addition to the case evidence, four texts mention Athens' legal provisions against “not carrying through.” First as we have seen, in [Dem.] 58 against Theokrines, Epichares has the clerk read out a procedural law “regarding those who make *phaseis* and do not carry them through but are reconciled in defiance of the laws.” This law regulated the introduction of *graphai*, *phaseis* “or the other things written in the law.” The published speech does not include the text of this law, but Epichares repeats or paraphrases his understanding of its terms: “if a man prosecutes and does not receive a fifth part of the votes, he shall pay 1,000 drachmas, and if he does not prosecute, Theokrines, he shall also pay a thousand, so that no one *sukophantēi* or having impunity make a profit and compromise the affairs of the city.” It is unclear how far Epichares' final remarks reflect the wording of the law, or only his interpretation of it. Earlier, he indicated that the law forbade some form of compromising. His later comments indicate that was for money.

(7) The following statement is attributed to Theophrastos (fr. 636C Fortenbaugh et al.), as reconstructed from the *Lexicon Cantabrigense*, Harpokration, and a Demosthenes scholion:⁸

πρόστιμον. ἔκειτο τῷ μὴ μεταλάβοντι τὸ πέμπτον μέρος τῶν ψήφων, ὡς Θεόφραστος ἐν πέμπτῳ Περὶ νόμων. ἐν δὲ τοῖς δημοσίοις ἀγῶσιν ἐζημιούντο χιλίαις καὶ πρόσσεστί τις ἀτιμία, ὥστε μὴ ἐξεῖναι μήτε γράψασθαι παράνομον μήτε φαίνειν

⁷ See R.W. Wallace, *The Areopagos Council, to 307 B.C.* (Baltimore 1989) 177, and O. de Bruyn, “L'Aréopage et la Macedoine à l'époque de Démosthène,” *LEC* 57 (1989) 3-12.

⁸ For the reading *paranomon* (MSS) rather than editors' *paranomôn*, see Harris (n. 3 above).

μήτε ἐφηγεῖσθαι. ἐὰν (δέ τις) γραψάμενος μὴ ἐπεξέλθῃ, ὁμοίως. περὶ δὲ τῆς εἰσαγγελίας, ἐὰν τις μὴ μεταλάβῃ τὸ πέμπτον μέρος τῶν ψήφων, οἱ δικασταὶ τιμῶσιν.

Additional penalty. It was laid down in law for the one who does not get a fifth part of the votes, as Theophrastos says in the fifth book of On Laws. In public trials they were fined 1,000 drachmas, and there was added some loss of civic rights, so that they could not indict a public crime, or bring a phasis or an ephesis. If someone indicts for a public crime and does not follow through, the same. Regarding eisangelia, if someone does not receive a fifth part of the votes, the dikasts assess the penalty.

This fragment includes the single extant, general claim that those who did not follow through a public indictment suffered partial atimia, losing the right to bring such indictments in future. In contrast to [Dem.] 58 and other passages, it does not mention that withdrawals had to be “sold.” This omission leaves open the possibility that the law did not expressly include the latter clause. On the other hand, in brief, compressed, and fragmentary texts, arguments from silence (I agree) are certainly dangerous.

(8) Dem. 21.47 reports the text of a law specifically against *hubris*, including the following clause: “Of those who submit graphai according to the law, if anyone does not carry through, or when carrying through does not get one-fifth of the votes, let him pay 1,000 drachmas to the public treasury.” Although the authenticity of the laws in Demosthenes’ speeches is controversial, Fisher and MacDowell – following Lipsius and Harrison – argue that this law is authentic.⁹ If they are right, two points are important. First, this law itself specifies the penalties for withdrawing indictments for *hubris* or not receiving one-fifth of the dikasts’ votes. It does not refer to or rely on other procedural statutes which might specify such penalties generally. Second, it therefore is a question how far the procedures regarding *hubris* necessarily reproduced legal practice in other types of cases. One difference between this law and other Athenian legal practices is immediately evident. This law does not specify the penalty of partial atimia *either* for not gaining one-fifth of the votes *or* for not following through. As we may also note, it also does not specify that criminalizing the withdrawing of a graphe for *hubris* depended on money changing hands. On this point too, the provisions for *hubris* may have been different from those for other offenses.

(9) Another case may support the hypothesis that the law regulating indictments for *hubris* did not stipulate (and was understood not to stipulate) that the criminalization of withdrawing prosecutions depended on bribery. According to Dem. 45.3-5, on his return from service as trierarch Apollodoros was unhappy to

⁹ N.R.E. Fisher, *Hybris. A Study in the Values of Honour and Shame in Ancient Greece* (Warminster 1992) 36-37 (“The text of the law”); MacDowell 1990: 263-64. But cf. Harris (n. 3 above) 77-78.

find that by the terms of his father Pasion's will (which Apollodoros thought forged), the ex-slave Phormio had married his mother and occupied a large property which Apollodoros thought belonged to him.

Although I was greatly incensed and took it much to heart, I was unable to bring a private action (for there were no dikai at that critical time, but you had put them off because of the war [371-362 B.C.]). So I brought a graphe of hubris against [Phormio] before the thesmothetai. However, with time passing, and the graphe being put off (ekkrouomenês), and private actions not being held, children were born by my mother to Phormio. And after this (for the whole truth will be told to you, dikasts), many kindly overtures were made by my mother, and pleas on behalf of this man Phormio, and many both moderate and humble overtures came from Phormio himself. And in order to abbreviate these matters, men of Athens, he would not do one of the things which he had agreed to ...

Here Apollodoros reveals that he had indicted Phormio for *hubris* but that the case was “put off” or delayed. After many years, many intercessions, and the birth of children to his mother, Apollodoros came to a settlement with Phormio (which according to Apollodoros Phormio then reneged on). Apollodoros seems deliberately vague about the status of his earlier indictment of Phormio for *hubris*. He uses the passive voice *ekkrouomenê*, and links this however improperly with the suspension of private suits. It appears he merely let the case drop. If the law on *hubris* indicated that any formal withdrawal of an indictment for *hubris* was a criminal act regardless of payment, it may not be coincidental that Apollodoros – a wealthy man who could not readily be accused of sycophancy or such illegalities for gain – did not withdraw his indictment but neglected it.

(10) Our penultimate text is fragment a of Lysias *Against Antigenes, Concerning Abortion*, from the *Lexicon Cantabrigiense*, which I cite in Stephen Todd's translation: “*There was a sort of assessed penalty against those who neglected [oligôrein] a graphe. <Thus> Lysias in the <prosecution speech> Against Antigenes Concerning Abortion: ‘You see how my opponent Antigenes has behaved. After initiating a public prosecution [grapsamenos] against our mother, he thinks it right to receive the sister, and on the one hand to be involved in litigation, in order that he may not have to pay the 1,000 drachmai which any person has to pay if he initiates a public prosecution and does not carry it through ...’ Demosthenes as well says the same thing in the <speech> Against Theokrines.*”

This passage, and the speech it is assigned to, raise many questions as Todd says. In particular, what type of graphe is involved? Homicide was a dike, and a graphe for abortion is unattested. Todd therefore suggests that this suit might represent an “extended use of the catch-all *graphê hubreôs*.” If he is right, this passage is consistent with our previous passage on the *graphe hubreôs*. It was illegal to withdraw such a graphe, even if no money changes hands.

Yet again, no mention is made that not following through a public prosecution was punished by *atimia*.

What may we conclude from these data? In [Dem.] 58, the wording of Epichares' *endeixis*, his allegations of Theokrines' sordid legal manoeuvrings for money, and his paraphrase of what appears to be a general provision regarding the withdrawal of public prosecutions, all indicate that not carrying through a public prosecution in exchange for money was subject to a fine. Aeschines indicates that the Areopagos could levy fines for withdrawing a prosecution for money. These data support the argument that withdrawing a prosecution in exchange for money was illegal and subject to a fine. In [Lys.] 6.12 the speaker's allegation that his opponent Andokides was paid to come to terms with Archippos criminalizes what was otherwise an acceptable act. Because the evidence of [Dem.] 58 and Aeschines about the Areopagos could be more explicit, it must remain possible that the statute did not itself specify that a payoff was required to criminalize withdrawing a graphe. On the other hand, it clearly was legal to withdraw most types of graphe. Epichares construes this law within the context of sycophany. That would certainly make clear the type of withdrawal that the Athenians prohibited.

None of the case evidence so far considered – [Demosthenes] 58, Aeschines on the Areopagos, Apollodoros, Demosthenes 21, Lysias *Against Antigenes* – mentions that in the types of cases at issue, those who did not follow through were subject to partial atimia. I therefore question a single, fragmentary statement in late reports of Theophrastos, that the Athenians had a general provision of that kind.

Finally, one passage indicates that a person who did not follow through an indictment specifically for *lipotaxion* did face some form of partial atimia. Why might the Athenians have increased the penalty in this case?

(11) According to Dem. 21.103, Meidias's lackey Euktemon did not follow up a graphe *lipotaxiou* against Demosthenes and *etimêken heauton*, "made himself atimos."¹⁰ Demosthenes later mentions this man as a habitual sycophant, part of a gang of paid witnesses in court, "who do not openly force themselves on you, but readily give a silent nod of assent to [Meidias's] lies" (21.139). If Euktemon was in court, a place forbidden full atimoi, then at most he was subject to partial atimia.

Was the situation reflected in Dem. 21.103 atypical and idiosyncratic, deriving from the specific law regulating *lipotaxion*? As we have seen, the idiosyncratic law about *hubris* seems to have indicated that anyone who withdrew a charge of *hubris* was liable to a 1,000 drachma fine whether or not he had received money. In other examples of idiosyncratic offenses subject to special punishments, the Athenians forbade anyone to address the Assembly who had beaten his parents, not maintained his ancestral estate, prostituted himself, *not performed the requisite military service*,

¹⁰ Demosthenes' expression, "he has dishonored himself," when we might expect "you dikasts dishonored him," could suggest that no formal pronouncement of atimia was made against Euktemon. As MacDowell says (1990: ad loc.), he may have been subject to "automatic" atimia, which followed directly on the commission of an offense, without the need for a court conviction (see, e.g., Harrison 1971: 171-72 and Wallace n. 4 above passim).

or thrown away his shield. Why the Athenians thought these particular offenses particularly bad we cannot here decide. We must note, however, that offenders against this Assembly provision were punished with partial *atimia*. Meidias had brought against Demosthenes the most serious charge of not properly performing his military service, a charge which could lead to his disfranchisement. He then refused to pursue it, potentially damaging the orator's civic standing. Such charges could not be made casually. In this case, the Athenians made not following up such a charge punishable by partial *atimia*.

Demosthenes reveals that Euktemon did not attend the *anakrisis* for the charge which he had brought. This is the second passage which Harris adduces for his hypothesis that not appearing at the *anakrisis* (or later in court) marked the crime of "not following through." However, we must again ask whether not appearing at the *anakrisis* was itself the critical element. Identifying Euktemon as a sycophant implies that he was paid not to follow up his charge against Demosthenes. The fact that Euktemon did not turn up at the *anakrisis* was bad and an indication that his charge was bogus. It was probably not in itself the decisive element.

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Why were those who withdrew public prosecutions for money treated differently from prosecutors who did not receive one-fifth the vote? Surely the punishments fit the crime. Those who sold a public prosecution had to pay 1,000 drachmas, while those who wasted the *dikasts'* time had to pay and were forbidden to prosecute other public cases.

The larger topic broached by this paper is the inconsistencies and idiosyncrasies of individual Attic laws. Despite the existence of certain generalizing procedural measures, each law might specify its own procedures or provisions for specific offenses. As I have mentioned, the different types of *phainein* are best explained as reflecting the absence of a single procedural statute. Just so, [Dem.] 58. 10-11, we have noted, mentions a special law regulating the laying of baseless charges specifically against merchants and shipowners. Plaintiffs of this kind were subject to *apagoge* and to other punishments not applied to other frivolous prosecutors. A grasp of this phenomenon may aid in understanding other anomalies in Athenian laws and legal practices.