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INDIVIDUAL AND COLLECTIVE LIABILITIES OF BOARDS OF OFFICIALS IN THE LATE CLASSICAL AND EARLY HELLENISTIC PERIOD

The main topic to be investigated in this paper is the phenomenon of collective penalties prescribed against boards of officials for various types of misconduct. At least on the face of it, these penalties seem to be imposed on the board in its entirety, apparently without regard to the question of the personal culpability of each individual board member. Such collective penalties are attested epigraphically for a large number of Greek states, and the phenomenon is attested in inscriptions dating from the early archaic period to the second century B.C. and beyond.

The geographical spread as well as the marked continuity over time may be taken to suggest that the prescription of collective penalties against boards of officials is a manifestation of general Greek legal practice and principles, which significantly predate the convergence of the different Greek legal systems that is normally associated with the Hellenistic period. The phenomenon may be interpreted as a response to a set of shared problems arising from the need for individual communities to control the behaviour of their officials.

In the vast majority of Greek cities in the archaic, classical and Hellenistic periods there seems to have been a marked preference for assigning administrative and executive duties to boards of officials rather than to single individuals. It is generally agreed by modern scholars that the principle of collegiality was perceived as attractive, because it reduced the scope for corruption, typically in the form of bribery, embezzlement, and various types of unlawful favouritism.

As far as the offence of bribery is concerned, the advantage of a collegiate structure as a preventative measure seems clear. A citizen who wished to subvert a process for which a board, rather than a single official, was responsible would be faced with the prospect of having to bribe several or even all board members. This would obviously have increased the cost of the transaction itself, and it may also have increased the risk of detection for both bribe-giver and bribe-takers. Likewise, a citizen who hoped to be able to gain an unlawful advantage through intimidation or bullying may have found it harder to succeed, if he had to confront a board rather than a single official.

But in other respects, it is not always easy to work out how the principle of collegiality may have worked in practice as a deterrent against official misconduct,

let alone how it may have increased the likelihood that offences would be reported and prosecuted. It will be suggested that the collective penalties may have been intended both as preventative measures and as a means of creating incentives for individual board members to police and report on their colleagues.

In what follows I shall first briefly discuss the extent to which the efficacy of the mandatory procedures devised to hold officials to account depended on the readiness of individuals to act as denunciators, and not least on the readiness of officials to denounce their colleagues. A distinction will be made between offences which were "visible" and "invisible" in the context of the routine accounting procedures, as well as between offences that affected individual victims directly and those which can be characterised as "victimless crimes."

In the subsequent section, attention will be drawn to a number of problems arising in connection with the interpretation of the non-Athenian epigraphical material. Among the most important questions to be addressed is how and to what extent the communities under investigation attempted to strike a balance between two different and potentially conflicting principles, the principle of collegiality and shared responsibility on the one hand and, on the other, the principle that each board member was individually and personally responsible for his conduct in office.[1] While the prescription of collective penalties clearly conforms to the former principle, it may at first glance appear to conflict with the latter, unless it is assumed that each official potentially affected would have been entitled to an individual hearing, in which he would be allowed to produce a personal defence and by this means escape the fine. Very often, however, the phrasing of the penalty clauses themselves makes it impossible to determine whether such a legal hearing was envisaged, while in other instances there are clear indications that the collective penalty prescribed by the enactment in question was to be summarily imposed on the board.

This will be followed by an assessment of how collective penalties may have worked as preventative measures against official misconduct, and, finally, by a discussion of the extent to which collective penalties may have provided an incentive for board-members to report offences committed by their colleagues.

I. Controlling officials: "visible" and "invisible" offences

The methods and procedures by which cities, their civic subdivisions and other types of association attempted to control the behaviour of their officials have recently been discussed in detail in the magisterial study by Fröhlich[2]. Fröhlich focusses in particular on the formal accounting procedures both during and after the officials' period of office. As he points out,[3] the efficacy of these procedures would have depended to a considerable extent on the offences being "visible" in the sense that they would have been detectable in the actual accounts submitted by the officials. While acts of embezzlement may have stood a reasonable chance of being

1 The balance between individual and collective liabilities is the subject of discussion in Johnstone 2011, p. 127-147, esp. 130-133.

2 Fröhlich 2004.

3 Fröhlich 2004, p. 294.

exposed during the process, crimes of bribery or unlawful favouritism would have been unlikely to have left any trace in the accounts themselves. The detection of these types of offence would have depended greatly, if not entirely, on a denunciation made by an individual, be he a private citizen, an official serving on another board, or a member of the affected board itself who had decided to act against one or several of his colleagues.[4] There can be no doubt that in such cases the individual denunciator was likely to have been the weakest link in the process of justice, although the probability that a whistle-blower would be ready to step forward would undoubtedly have varied according to context.

If an act of bribery or unlawful favouritism had had clear adverse consequences for an individual victim, such a person – or another citizen on his behalf – would obviously have had a strong incentive to expose the offence. But the incentive for a whistle-blower to come forward would have been less strong in cases where the victim of the offence was not one or several individuals but instead the community collectively. For example, if a board of officials responsible for administering a land-leasing contract was bribed by the tenant to turn a blind eye to neglect or damage rather than enforcing the penalties prescribed in the contract, it is not always clear who would have had an interest in drawing attention to the breach. The two parties most likely to possess information relating to the offence, the tenant himself and the officials, could hardly be expected to denounce each other.[5]

The risk that official misconduct of this type would go unreported is likely to have been present wherever officials were empowered or even required to initiate prosecutions or impose summary penalties for offences that may be characterised as "victimless crimes," in so far as they affected only the community as a collectivity but not a particular individual. Of course, when such crimes were committed in a context where there were many bystanders who might potentially act as denunciators (for example during a festival or a political gathering, or in a public space such as the agora), it may have been extremely risky for the officials not to proceed against the offender. But in less public contexts, the exposure of officials who failed to take the prescribed action against the offender may have depended far more on the readiness of individual board members to report their colleagues than on the willingness of ordinary members of the public to act as volunteer denunciators.

It is unclear how far a community could have relied on its officials to denounce their colleagues, and the problem of potential collusion on the boards would almost

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[4] In his discussion of this problem, Fröhlich 2004, p. 295-297, concentrates in particular on the denunciations made by volunteers (*boulomenoi*) and by the controlling magistrates *ex officio*, but does not discuss in detail the question whether individual members of a given board may have had incentives to denounce their colleagues.

[5] The possibility that an offender might charge a board of officials with not having applied the appropriate penalty is envisaged in Lys. 10, 16, where it is obviously represented as a joke (see the comment in Todd 2007, p. 681).

certainly have varied in scale, depending on the size of the community as well as on its constitutional framework. In a small *polis* whose administrative system depended on its adult male citizens holding office frequently, the likelihood that board members would have known each other personally from previous service was probably higher than it would have been in large cities such as Athens, Miletos or Syracuse.[6] Pre-existing personal ties between board members would almost certainly have constituted a powerful disincentive for reporting a colleague, since it could be construed as an act of disloyalty or even betrayal with correspondingly high personal and social costs for the denunciator. In aristocratically or oligarchically governed communities, where officials were recruited from a relatively small pool of élite citizens, the risk of collusion was likely to have been even higher because of intra-élite solidarity generally as well as long-established ties of kinship or friendship between individual board-members.

The proposition to be argued in the following sections is that the attested practice of prescribing collective fines to be imposed across boards in their entirety may have been intended as a way of counteracting such collusion. I shall suggest that the collective sanctions created a financial risk for those board members who chose to stay passive, despite possessing information about acts of misconduct committed by their colleagues. However, before this possibility can be explored, it is necessary first to discuss the ways in which the two principles of individual liability and of collective responsibility may have been combined in practice.

II. Individual vs. collective responsibility

The phenomenon of collective sanctions prescribed against boards of officials is well attested epigraphically for classical Athens,[7] and the documentation has been the object of a systematic study by Piérart.[8] On the face of it, the Athenian collective penalty clauses appear to prescribe that the penalties should be applied without regard to the question of the personal culpability of each individual board member. Yet, on the basis of the literary evidence, not least that provided by the Attic Orators, Kahrstedt concluded that, in reality, each and every official serving on a

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[6] Johnstone 2011, p. 112, comments on the fact that many Athenian officials could expect to be serving together with individuals whom they did not already know; however, even in those small *poleis* that attempted as far as possible to adhere to a democratic principle of rotation, it would almost certainly have been much harder to prevent pre-existing personal ties playing a significant role within a given board.

[7] For fourth-century Athens, see e.g. *IG* II^2, 222, lines 48-52: εἰὰν δὲ μ[ὴ ἐπιψηφ]ίσωσιν οἱ [πρ]όεδροι καὶ [ὁ] | [ἐπιστά]της τῶν νομοθετῶν, ὀφειλέ[τω ἕκαστ]ος αὐτῶν 1000 δραχμὰς ἱερὰς | [τῆι Ἀθην]ᾶι; *IG* II^2, 1629, lines 233-242: ἐὰν δέ τις μὴ ποήσει, οἷς | ἕκαστα προστέτακται, ἢ | ἄρχων ἢ ἰδιώτης, κατὰ τόδε | τὸ ψήφισμα, ὀφειλέτω ὁ μὴ | ποήσας μυρίας δραχμὰς | ἱερὰς τῆι Ἀθηνᾶι, καὶ ὁ εὔ|θυνος καὶ οἱ πάρεδροι ἐ|πάναγκες αὐτῶν καταγι|γνωσκόντων ἢ αὐτοὶ ὀφει|λόντων; *IG* II^2, 244, lines 27-28; *IG* II^2, 1631, lines 385-398.

[8] Piérart 1971.

board – and even on the council of five hundred – was entitled to a personal and individual hearing in connection with his *euthynai*.[9] Kahrstedt's conclusion has been generally accepted in subsequent modern scholarship. Consequently, it may be presumed that an official who was faced with the prospect of a collective penalty affecting himself as well as the rest of his colleagues would have been entitled to contest the fine during his own defence of his personal conduct in office, although this cannot be established with absolute certainty. What is particularly disturbing in the context of the present discussion is that the interpretation of the collective penalty clauses in the Athenian inscriptions depends so heavily on a type of evidence which is not readily available for other Greek communities. For these, the inscriptions offer a mixed picture, and the epigraphical evidence is very often opaque.

A considerable number of inscriptions testify to the principle of individual and personal responsibility being applied to boards of officials: these inscriptions make it clear that the penalty is to be imposed only on members who are found to have been directly responsible for the offence in question. *IG* XII/4/1, 91, from the deme Halasarna in third-century Kos can be cited as an example:

> μὴ ἐξέστω τῶι ἱερεῖ μηδὲ τοῖς τιμάχοις δανείσασθαι ἐπὶ τοῖς ποτηρίοις μηδὲ τοῖς ἄλλοις σκεύεσι τοῖς ὑπαρχοῦσι ἐν τῶι ἱερῶι τοῦ Ἀπόλλωνος, μηδὲ δανείζειν μηθένα ἐπὶ τούτοις παρευρέσει μηδεμιᾶι. εἰ δέ τίς κα δανείσηται ἢ δανείσηι παρὰ τὰ γεγραμμένα, ἀποτεισάτω ἕκαστος τῶν αἰτίων δραχμὰς πεντακισχιλίας ἱερὰς τοῦ Ἀπόλλωνος καὶ ἀ ὑποθήκα ἄκυρος ἔστω καὶ ἐνθύμιον ἔστω τῶι δανείσαντι καὶ τῶι δανεισαμένωι ὡς ἀδικεῦντι τὸν θεόν, εἴ κα μὴ δανείζωνται τοὶ δαμόται οἷς μέτεστι τοῦ ἱεροῦ κατὰ ψάφισμα (lines 2-17).
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> *It shall not be possible for the hiereus or the timachoi to borrow money on the security of the drinking vessels or any other sacred equipment in the sanctuary of Apollo, nor shall anyone lend money on the security of these on any pretext. If anyone borrows or lends in contravention of what stands written, let each of those responsible pay five thousand drachmai to be sacred to Apollo, and let the security be invalid, and let it weigh on the conscience of the lender and borrower as sinners against the god, unless the demesmen who have a share in the sanctuary borrow according to a decree.*

[9] Kahrstedt 1936, p. 160-165. Of particular importance is the evidence of Dem. 22, 38-39 which clearly shows that each individual member of the *boule* would be entitled to a personal defence at his *euthynai* when faced with the accusation that the *boule* as a whole has failed to construct the required number of triremes. Likewise, Ant. 5, 69-70, which refers to the conviction of all members of the board of the *hellenotamiai* for a financial offence, provides clear evidence that the *hellenotamiai* were tried one by one (see also Gagarin 1997, p. 209-210).

Similar penalty clauses which make it plain that punishment is to be inflicted only on board members whose personal culpability has been established are found quite frequently in the epigraphical material. The offences for which they were prescribed include, for example, that of withholding funds earmarked for specific purposes,[10] and offences committed in connection with sacrificial ritual,[11] as well as general non-compliance with instructions imposed on the officials in the enactment.[12] The most frequent context in which such individual penalty clauses are attested are entrenchment clauses, where punishment is prescribed not only for individual proposers of contrary measures, but also for any official who has contributed to facilitating the passage of the proposal through the decision-making process.[13]

However, for the purposes of the present paper, the entrenchment clauses arguably constitute a category apart, since they target individual decree proposers in their capacity of *idiotai* as well as the officials who presided over the decision-

[10] *E.g. Milet* I.3, 145, lines 61-64 (directed against individual members of the board of *tamiai* who fails to pay wages to the *paidotribai* and teachers); *IG* XII/6, 172, lines 71-74 (directed against an individual *meledonos* who fails to lend out money as prescribed and retains it ἐπ' ἀδικίαι) and lines 74-79 (directed against an individual *meledonos* who fails to hand over the interest to those appointed ἐπὶ τοῦ σίτου); *IG* XII/7, 515, lines 117-120 (directed against an *epimeletes* who, having received funds, fails to perform his *leitourgia*).

[11] *SEG* 23, 566 = *LSCG* 145, lines 13-18 (Axos, C4); *IC* II v 9, lines 2-9 (Axos, C5). A further instance may be attested in *CID* 1, 9 = Rhodes-Osborne 2003, 1B, lines 35-45, directed against those *tagoi* who receive *gamela* or *paideia* in contravention of the regulations: αἰ δέ κα δέξωνται τοὶ τιαγοὶ ἢ γάμελα ἢ παιδῆια πὰρ τὰ γράμματα, ἀποτ|ειισάτω πεντήκοντα δρ|αχμὰς ϝέκαστος τῶν δε|ξαμένων. αἰ δέ κα μὴ ἀπο|τείσηι, ἄτιμος ἔστω ἐγ | Λαβυαδᾶν καὶ ἐπὶ τούτωι καὶ ἐπὶ ταῖς ἄλλαις | ζαμίαις Ηέντε κ' ἀποτε|ίσηι· In this instance, it is difficult to decide whether or not the penalty clause prescribed a collective fine. If it is assumed that the entire board of *tagoi* were required to be present when receiving the *gamela* or *paideia*, it probably was. However, the receipt of the sacrifices on unauthorised days and in an unauthorised fashion in itself suggests irregularity, and it is therefore possible that not all board members would have been involved in the illegal act of receiving.

[12] *E.g. IG* IX/1^2.4, 798, lines 100-102 (<ε>ὶ δὲ μὴ ποιήσαιέν τι τῶν γεγραμμένων οἵ τε χειι|ρίζοντες τὸ ἀργύριον ἢ οἱ ἄρχοντες, ἀποτ<ε>ισάτω ὁ αἴτιος ἀρ|γυρίου Κορινθίου μνᾶς τριάκοντα καὶ ὅ <κα> καταβλάψηι διπλῆ); *IG* XII/4.1, 103, lines 110-114 (αἰ δὲ κά τις τῶν ἀρχόντων ἀπειθῇ τοῦδε τοῦ ψηφίσματος, πεντακατίας δραχμὰς ἀποτεισάτω ἱερὰς τοῦ Ἀπόλλωνος); *IG* XII/1, 155d, lines 90-95 (ὅτι δέ κα μὴ ποιήσωντι κατὰ τόδε τὸ ψάφισμα οἷς | ἕκαστα ποτιτέτακται, ὀφειλέτω τῶι κοινῶι ὁ μὴ | πράξας τι τῶν γεγραμμένων δραχμὰς ἑκατόν, | ἔνοχος δ' ἔστω καὶ τῶι νόμωι <ὃ>ς κεῖται, εἴ τίς κα | κοινὸν ἀδικῇ, καὶ ἐξέστω τῶι χρήζ<ο>ντι τῶν [ἐ]|ρανιστᾶν ἀπογράψαι αὐτὸν τὸ ἐπιτίμιον).

[13] *E.g. Syll.*^{3} 672, lines 14-20 (Delphi, C2); *Milet* I.3, 147, lines 24-29 (Miletos, C3); *IK* 51, 34B, lines 32-58 (Pordoselene/Nasos, C4); *IG* XII/6, 172, lines 88-90 (Samos, C3). There are many more (see *e.g.* Rubinstein 2008, p. 117-118 with notes 10-14 for further references).

making meetings.[14] If one leaves aside the entrenchment clauses, the penalty clauses targeted specifically at individual board members are far outnumbered by those which prescribed penalties to be imposed on boards collectively. In the non-Athenian material that I have surveyed so far, no fewer than 96 penalty clauses appear to prescribe collective penalties.[15] When dealing with this evidence, it is important to ask whether these penalties really were intended as collective punishment, perhaps even to be summarily imposed on the boards, or whether, in reality, each member of the affected board would have been entitled to a separate, personal hearing with an opportunity for him to defend himself and thus escape the fine. Unfortunately, on this particular point the epigraphical evidence is anything but transparent.

III. Legal hearings or summary fines?

It has been observed both by Koerner and by Fröhlich[16] that the majority of the penalty clauses in the inscriptions contain no information at all on the type of procedure through which the penalty was to be imposed. If one considers exclusively those penalty clauses that prescribe collective punishment, the pattern of silence identified by the two scholars is replicated also across that material.

Nine of the penalty clauses that I have identified are incompletely preserved: the texts break off just at the point where one might expect to find procedural information or information on the process of *praxis* by which the penalty was to be executed.[17] Of the rest, only twenty-four penalty clauses contain any instructions

[14] A further justification for treating the entrenchment clauses separately is the fact that some states explicitly placed the responsibility for putting a proposal to the vote with one or more named individuals among those presiding over the meeting, *e.g. I.Oropos* 71 (Oropos, C3); *IG* VII, 504 (Tanagra, C3); *SEG* 15, 282 (Boiotian *koinon* C3); *IG* VII, 3172 = Migeotte 1984, no. 13 (Orchomenos, C3); *I.Thesp*. 30 (Thespiai, C3); *IG* XI/4, 621 (Delos, C3); *IG* XII/5, 1004 (Ios, C4/3); *IG* XII/8, 640 (Peparethos, C2); *PEP Kolophon*, 1 (Kolophon, C4). See Rhodes-Lewis 1997, p. 482-484 for further discussion. As pointed out by Rhodes, those states which did not identify the individuals responsible for having put a motion to the vote in the text published on stone may nevertheless have included this information with the text deposited in their archives. In some states, the information on the *epipsephisis* was not included in the preamble but appended at the end of the inscribed document.

[15] My survey of the epigraphical material is by no means complete. It is based primarily on the inscriptions included in the main corpora and in *SEG*. No doubt, there is much material that I have missed. On the other hand, the sample is sufficiently large and, I believe, sufficiently representative to provide a reasonably secure basis for generalisations.

[16] Koerner 1987, p. 497; Fröhlich 2004, p. 285-289.

[17] *IC* IV, 14 (Gortyn, C6/5, directed against *titai*); *SEG* 51, 642, lines 15-17 (Messene & Naupaktos, directed against *idyoi*); *IG* XII *Suppl.*, 348 (Thasos, C3, directed against *epistatai*); *SEG* 52, 1029 (Amos C3/2, directed against *hieromnamones*); *SEG* 53, 1651, lines 11-14 = *IK* 48, 2 (Arykanda, C2/1, directed against *tamiai*?); *CID* 4, 1 = *CID* 1, 10, lines 35-40 (Delphi C4, directed against *hieromnemones*); *IC* I viii 13 = Chaniotis 1996,

pertaining to the initiation of a legal hearing, be it before a court, the assembly or a council.[18] A further seven make it clear that the offence and penalty is to be dealt with in the course of the routine accounting procedures.[19]

However, fifteen penalty clauses move straight from defining the offence and prescribing the penalty to instructions relating to the process of *praxis*.[20] These texts

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no. 50, lines 16-21 (Hierapytna & Knossos, C2, directed against *kosmoi*); *IPArk*, 17, lines 86-87 (Stymphalos C4, directed against *archontes*); *IPArk*, 17, lines 91-92 (Stymphalos C4, directed against *archontes*).

[18] *SEG* 27, 261 and *SEG* 43, 381A, lines 47-50 (Beroia C2, directed against *exetastai*); *SEG* 27, 261 and *SEG* 43, 381B, lines 32-35 (Beroia C2, directed against *exetastai* and the *politikos praktor*); *IK* 1, 2A, lines 27-32 (Erythrai C5, directed against *prytaneis*); *PEP Teos*, 41 = Laum 1914, no. 90, lines 39-50 (Teos C2, directed against *tamiai* and incorporated into a general entrenchment clause); *PEP Teos*, 41 = Laum 1914, no. 90, lines 66-71 (Teos C2, directed against *tamiai*, appeal only); *IG* IX/1^2.4, 798, lines 66-72 (Korkyra C2, directed against *hoi hairethentes epi tan cheirixin*, hearing before council and assembly); *Milet* I.3, 147, lines 37-43 (Miletos C3, directed against *tamiai*); *SEG* 11, 1259 = Schwyzer 1923, 427 (Achaian *koinon* C3, directed against *polemarchoi*); *IK* 3, 25, lines 131-153 (Ilion C4/3, directed against *archontes*, *bouleutai*, *tamias*); *IC* I ix 1 = Chaniotis 1996, no. 7, lines 96-114 (Knossos & Dreros C3, directed against *kosmoi*); *IC* I xvi 1 = Chaniotis 1996, no. 18, lines 31-36 (Lato and Gortyn C3, directed against *kosmoi*); *I.Oropos* 324, lines 50-52 (Oropos C3, directed against a board, *arche*, elected *ad hoc*, as well as *hierarchai*, *syllogeus*, and *tamias*); *IG* XII *Suppl.*, 362 (Thasos C2, directed against *apologoi*); *IG* XII/8, 267 (Thasos C3, directed against *apologoi*); *IG* XII *Suppl*., 355 (Thasos C3, directed against *apologoi*); *IG* XII *Suppl*., 348 (Thasos C3, directed against *apologoi*); *IG* XII/8, 265 + *Suppl.* p. 152 (Thasos C4, directed against *apologoi*); *IG* XII *Suppl.*, 347 (Thasos C4, directed against *hoi pros ten epeiron epitetrammenoi*); *IK* 35, 914 = *LSAM* 70 = *SEG* 15, 641, lines 8-10 (Chalketor C4/3, apparently directed against temple personnel, but it cannot be determined with certainty if their culpability was to be established through a proper court procedure); *CID* 1, 9 = Rhodes-Osborne 2003, 1A, lines 35-44 (Delphi [Labyadai] C4, directed against *tagoi*, appeal only); *IG* XII/4.1, 72, lines 12-14 (Kos C3, directed against the two elected *epistatai* and perhaps also *tamiai*; an actual prosecution may have been envisaged under the heading of *asebeia*). In *SEG* 52, 1197, lines 17-22 (an enactment passed by a *koinon* in the area of Pergamon, or in the city of Apollonia, C2), the board of *epimenioi* are subjected to a hearing before the *hiereus* and the *grammateus*, if they fail to carry out *praxis* within a specified period. In *IG* XII *Suppl.*, 644, lines 26-33, the *oikonomoi* and anyone acting on their instruction are subject to a penalty decided by the King, if they remove the seals from the store or any of its contents without the *phrourarchoi* being present or cause damage by neglect. The same applies to the *phrourarchoi* who are found to have been neglecting their guard duties (*IG* XII *Suppl.*, 644, lines 33-37).

[19] Minon 2007, no. 20 = *IvO* 2, lines 6-7 (Elis C5, directed against *hellanodikai* and *damiourgoi*); *SEG* 50, 1195, lines 38-39 (Kyme C3, directed against *phylarchoi*); *IG* XII, 645 I, lines 176-179 (Herakleia, S. Italy C4, directed against *polianomoi*); *IG* XII/3, 187, lines 5-8 (Nisyros C3, directed against *prostatai*); *IG* XII/4.1, 315, lines 4-8 (Kos C2, directed against *prostatai*); *IG* XII/4.1, 79, lines 38-41; *SEG* 33, 679, lines 77-80 (Paros C2, no penalty is specified; it is not entirely clear if collective punishment was envisaged).

provide no information whatsoever pertaining to the procedure by which the culpability of the board as a whole, let alone of any of its individual members, could be established prior to the implementation of the sanction. To these fifteen clauses a further 41 can be added, none of which provides any procedural information at all.[21]

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[20] *PEP Chios* 76C, lines 15-20 (Chios C5, directed against *horophylakes*); *IC* I ix 1 = Chaniotis 1996, no. 7, lines 128-136 (Dreros C3, directed against *boule*); *IC* III iv 7, lines 16-23 (Itanos C3, directed against *archontes*); *IC* IV 78, lines 4-7 (Gortyn C5, directed against *xenioi kosmoi*); *IC* IV 79, lines 16-19 (Gortyn C5, directed against *xenioi kosmoi*); *IC* IV 80, lines 11-12 (Gortyn C5, directed against *kosmoi* of Rhitten); *OGIS* 483, lines 7-21 (Pergamon C2, directed against *astynomoi*); *Milet* I.3, 147, lines 37-43 (Miletos C3, directed against *tamiai*); *ID* IV, 502A, lines 17-20 (Delos C3, directed against *hieropoioi* and *epistatai*); *IG* XII/4.1, 132, lines 114-118 (Telos C4/3, directed against *tamiai* and *hierapoloi*; *praxis* is specified only with reference to the individual victim who is entitled to carry it out *kathaper ek dikas*); *IG* XII/7, 69, lines 13-16 = Migeotte 1984, no. 50 (Arkesine C3, directed against *tamiai*; *praxis* is to be carried out by the *polis*' creditor); *IG* XII/7, 67, lines 9-13 = Migeotte 1984, no. 49 (Arkesine C4 or C3, directed against *tamiai*; *praxis* is to be carried out by the *polis*' creditor); Minon 2007, no. 20 = *IvO* 2, lines 4-5 (Elis C5, directed against *basileis* and *ho megiston telos echon*); *OGIS* 483, lines 214-222 (Pergamon C2, directed against *astynomoi*); *CID* 4, 51, lines 6-12 (Delphi C3, the clause applies to all *poleis*, official boards and individuals – there is some ambiguity in the text which makes it impossible to determine whether the process of *praxis* relates to the fine(s) imposed on those who have acted in contravention of the enactment).

[21] Crimes of omission: *IG* IV, 554 = Koerner 1987, no. 27 (Argos C5); *IG* XII/7, 62 = Rhodes-Osborne 2003, 59, lines 50-53 (Arkesine C4); *CID* 1, 9 = Rhodes-Osborne 2003, 1C, lines 10-19 (Delphi, Labyadai C5 or C4); *CID* 1, 9 = Rhodes-Osborne 2003, 1B, lines 21-30 (Delphi, Labyadai C5 or C4); *IG* XII/9, 90 (Eretria C4); *IK* 1, 1 (Erythrai C5 or C4); *IC* IV 78, lines 7-8 (Gortyn C5); *IC* III iv 7, lines 21-25 (Itanos C3, directed against *praktores*); *IC* I xix 1 = Chaniotis 1996, no. 11, lines 14-16 (Malla & Lyttos C3); *IC* I xix 1 = Chaniotis 1996, no. 11, lines 23-26 (Malla & Lyttos C3); *Milet* I.6, 187 = Koerner 1987, no. 81, lines 5-7 (Miletos C5, directed against *epimenioi* who fail to pay reward to killers); *Milet* I.6, 187 = Koerner 1987, no. 81, lines 7-9, (Miletos C5, directed against *epimenioi* who fail to kill returning exile); *Milet* I.6, 187 = Koerner 1987, no. 81, line 10, (Miletos C5, directed against *epimenioi* who fail to *protithenai*); *IG* IX/1^2.3, 706, lines 6-8 (Naryka C3); *OGIS* 483, lines 65-71 (Pergamon C2); *OGIS* 483, lines 76-78 (Pergamon C2); *SEG* 42, 785, lines 10-13 (Thasos C5); *SEG* 42, 785 lines 45-49 (Thasos C5); *SEG* 35, 275 = Koerner 1987, no. 31, lines 3-5 (Tiryns C7); *SEG* 35, 275 = Koerner 1987, no. 31, fr. 7 (Tiryns C7); *IG* IX/1^2.4, 798, lines 72-76 (Korkyra C2); *IC* III iii 4 = Chaniotis 1996, no. 28, lines 30-33 (Hierapytna and Priansos C3 or C2); *IC* III iii 4 = Chaniotis 1996, no. 28, lines 71-74 (Hierapytna and Priansos C3 or C2); *IC* III iii 4 = Chaniotis 1996, no. 28, lines 38-47 (Hierapytna and Priansos C3 or C2); *Milet* I.3, 145, lines 13-19 (Miletos C3); *Milet* I.3, 145, lines 19-25 (Miletos C3); *IG* XII/4.1, 298, lines 146-151 (Kos C3); *Syll.*^{3}, 672, lines 81-85 (Delphi C2); *SEG* 11, 1259, lines 10-12 (Achaian *koinon* C3); *SEG* 50, 1101 (Bargylia C2 or C1); *ID* IV, 503, lines 45-46 (Delos C3); *IC* III iii 3B = Chaniotis 1996, no. 26, lines 4-5 (Hierapytna and Lyttos C2); *IG* XII/8, 51 (Imbros C2; the officials are not permitted to undergo their *euthynai* until the fine has been paid); *IScM* II.1, 58 lines 27-32 (Istros C2); *IC* I xvi 5 = Chaniotis

This lack of procedural information means that it is often very difficult to establish whether a given penalty was to be imposed collectively and indiscriminately on all board members, or whether the enforcement of the penalty clause would have required a legal hearing where each member would have been given a chance to assert his innocence, as appears to have been the case in classical Athens.

Koerner assumed that the omission of procedural information was due to a general expectation that all members of the community would be familiar with the procedures to be employed in each case. Consequently, there was no perceived need to include instructions of this kind. According to Koerner, it should be presupposed that a proper judicial process was indeed envisaged in most instances. He further observed that only a few early enactments indicate positively that the fines prescribed were to be imposed summarily by those boards or individual magistrates who were responsible for supervising and controlling the behaviour of other officials.[22]

On the other hand, it would be rash to conclude that the procedures taken for granted by the legislators would necessarily have been of the type that were connected with the mandatory accounting procedures at the end of the board's tenure. This is clear not least from a particularly intriguing enactment from third-century Imbros (*IG* XII/8, 51):

> ἐὰν δέ τι μὴ ποιήσωσιν οἱ πράκτορε̣[ς] τῶ̣ν̣ [ἐν τῶι]ιδε τῶι ψηφίσματι γεγραμμένων ἢ τῶν ἐν τῶι νόμ̣[ωι] ι γ̣εγραμμένων, ὀφειλέτω ἕκαστος αὐτῶν 100 δραχμὰς ι τ̣οῖς Θεοῖς τοῖς Μεγάλοις καὶ μὴ εἶναι αὐτοῖς τὰς εὐθύνα[ς] ι δοῦναι πρὶν ἂν ἐκτείσωσιν·
>
> *If the praktores fail to carry out any of the instructions written in this decree or in the law, let each of them owe one hundred drachmai to the Great Gods, and it shall not be possible for them to undergo their euthynai until they have paid.*

1996, no. 61, lines 25-30 (Lato and Gortyn C2); *SEG* 51, 1499 (Leukoeideis C2 or C1). Crimes of commission: *IG* XII/5, 515, lines 27-29 (Aigiale C2); *IG* XII/7, 3B, lines 40-46 (Arkesine C4; a legal procedure may have been triggered by a *dike* brought by an individual victim); *CID* 1, 9 = Rhodes-Osborne 2003, 1A, lines 28-30 (Delphi, Labyadai, C5 or C4); *IG* XII/4.1, 325, lines 12-16 (Kos C3); *IG* XII/4.1, 318, lines 5-9 (Kos C3).

[22] Koerner 1987, p. 497: *"Auffallend ist dagegen, daß zum Strafverfahren nur selten und dann nur sehr spärliche Angaben gemacht werden. So bleiben wir fast immer im Unklaren darüber, wer die Straffälligkeit feststellte und in welcher Weise dies geschah;* dabei müssen wir von der Voraussetzung ausgehen, daß ein geregeltes Verfahren bestand, dessen Kenntnis zur Zeit der Gesetze vorausgesetzt werden konnte, so daß darüber nichts zu sagen war. *Bei einige älteren Fällen ist anzunehmen, daß ein Beamter die Strafe verhängte; meistens wird das die Aufgabe eines Gerichts gewesen sein, gleichgültig, ob es in einem Gremium oder in einem Einzelrichter bestand."*

Although the text is silent on the procedure to be adopted against the *praktores*, it does make it clear that the penalty was *not* to be imposed in connection with the board's *euthynai*: the officials were required to pay the fine *before* undergoing that process. In this instance, as in several others, one must envisage the possibility that the penalty may have been imposed summarily by a controlling board or perhaps by a council without prior reference to a court, although the matter cannot be determined with certainty either way.

That having been said, Koerner's general warning against arguments from silence on procedural matters is entirely justified. The consequences for the discussion of collective penalties is potentially significant: it cannot be ruled out *a priori* that when it actually came to the enforcement of the collective penalty clauses, only those board members whose personal culpability had been firmly established in a legal hearing would in reality have been affected.

It must be noted, though, that "legal hearing" is a broad term, and it is not necessarily to be taken for granted that such a process would invariably have amounted to a full, individual trial before a regular court. Other formats are possible, including what may be dubbed the "Arginousai model," in which all board members would have been present and allowed to contribute to the board's defence, while the decision on their culpability would have been made in a single voting procedure.[23] Another possibility is a "Plataiai model," where all members, one by one, would have been asked a simple question along the lines of "Have you done anything to prevent this offence?," in much the same way as the Spartan judges asked each of the Plataians, after their surrender, if he had done any favours to the Lakedaimonians and their allies during the war.[24] Both Plato and Xenophon roundly condemn the format of the Arginousai trial as unlawful. Likewise, the conduct of the Spartans is represented in a very unfavourable light by Thucydides. Even so, it should not be dismissed *a priori* that the procedures adopted on both occasions may have been modelled on existing practices that may have been routine in some states in certain contexts. This inevitably compounds the problem of how to interpret collective penalty clauses, even in those cases where the inscriptions offer some procedural information relating to their enforcement.

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[23] On this trial see most recently Johnstone 2011, p. 133-137.

[24] Thuc. 3, 68, 1: οἱ δὲ Λακεδαιμόνιοι δικασταὶ νομίζοντες τὸ ἐπερώτημα σφίσιν ὀρθῶς ἔξειν, εἴ τι ἐν τῷ πολέμῳ ὑπ' αὐτῶν ἀγαθὸν πεπόνθασι, διότι τόν τε ἄλλον χρόνον ἠξίουν δῆθεν αὐτοὺς κατὰ τὰς παλαιὰς Παυσανίου μετὰ τὸν Μῆδον σπονδὰς ἡσυχάζειν καὶ ὅτε ὕστερον ἃ πρὸ τοῦ περιτειχίζεσθαι προείχοντο αὐτοῖς, κοινοὺς εἶναι κατ' ἐκεῖνα, ὡς οὐκ ἐδέξαντο, ἡγούμενοι τῇ ἑαυτῶν δικαίᾳ βουλήσει ἔκσπονδοι ἤδη ὑπ' αὐτῶν κακῶς πεπονθέναι, αὖθις τὸ αὐτὸ ἕνα ἕκαστον παραγαγόντες καὶ ἐρωτῶντες, εἴ τι Λακεδαιμονίους καὶ τοὺς ξυμμάχους ἀγαθὸν ἐν τῷ πολέμῳ δεδρακότες εἰσίν, ὁπότε μὴ φαῖεν, ἀπάγοντες ἀπέκτεινον καὶ ἐξαίρετον ἐποιήσαντο οὐδένα, cf. 3, 52, 4.

As for the possibility that some penalties may have been imposed summarily, Fröhlich, who, like Koerner, notes the "elliptic" nature of many of the relevant inscriptions, observes that some of the late classical and Hellenistic enactments do appear to have envisaged that the penalties would be imposed summarily by the boards responsible for controlling the behaviour of other officials. As examples he cites three inscriptions that appear to have granted the affected officials an opportunity to appeal the fines imposed on them by the controllers.[25] This permits the inference that the penalties could be inflicted summarily, if the officials chose not to make a formal objection. Several more attestations of this from the classical and Hellenistic periods can be added to Fröhlich's material,[26] as well as inscriptions that testify to legal procedures that could be applied in cases where the officials simply refused to pay the fines imposed on them.[27] These documents strongly

[25] Fröhlich 2004, p. 292-294: *IG* XII/6, 172 (Samos, C3); *SEG* 27, 261 & *SEG* 43, 381 (Beroia, C2), and *Syll.*[3], 672 (Delphi, C2). Fröhlich notes that the third of these texts is ambiguous.

[26] In *SEG* 52, 1197 (C2), passed by a *koinon* in the area of Pergamon (possibly the city of Apollonia), a board of *archepimenioi* are required to carry out *praxis* within thirty days of receiving a register (*paragraphe*) of sums to be collected or exacted (for this meaning of *paragraphe* see *e.g. IG* V/1, 1379, lines 8-11 (heavily restored); *SEG* 27, 261 & *SEG* 43, 381 A, lines 46-49, B, lines 32-37; *IG* XII/3, 330, lines 221-224, and, above all, *IG Bulg*. I[2], 314 B, lines 1-14 with Fröhlich 2004, p. 224-225, who argues that this text dates from C3 or earlier). If the *archepimenioi* fail to do so, they must pay the sum themselves. If they object to the fine on the grounds that it has been impossible for them to carry out *praxis*, they are instructed to demonstrate this in the presence of the *hiereus* and the *grammateus*, who are authorised to make a decision on the legitimacy of their claim. A similar process appears to have been envisaged in *IG* IX/1[2].4, 798, lines 65-72. Here it is prescribed that, if the men chosen as administrators of the foundation do not act according to instructions or lend out money as required, they must pay a fine of thirty mnai and hand over the capital that they have received or else pay over twice that amount. However, if they assert that they were legitimately prevented from carrying out their duties, the council and assembly are to decide on the legitimacy of their claim (περὶ δὲ τοῦ ἀδυνάτου βουλὰ καὶ ἀλία ἐπιγινωσκέτω). A much earlier example is found in the enactment of the Labyadai from fourth-century Delphi (*CID* 1, 9 = Rhodes-Osborne 2003, 1A, lines 35-44): a fine of ten drachmai is to be imposed on each of the *tagoi* who receive the *apellaia* on unauthorised days. If they dispute the fine, a hearing is to take place in the *halia*, initiated by a volunteer prosecutor (ὁ δὲ χρήζων καταγορεῖν τῶν δεξαμένων, ἐπὶ τῶν Ηυστέρων ταγῶν καταγορείτω ἐν τᾶι ἀλίαι τᾶι με[τ]ὰ Βουκάτια, αἴ κ' ἀμφιλλέγωντι τοὶ ταγοὶ τοὶ δεξάμενοι.)

[27] In *PEP Teos* 41 = Laum 1914, no. 90 (Teos C2), lines 66-74, the *tamiai* each incur a fine of 2,000 drachmai if they fail to lend out money as prescribed, or if they fail to pay the teaching staff. The following clause provides for prosecutions to be brought against individual members of the board, and if the official in question is convicted, the fine is doubled (ἐὰν δὲ οἱ τα[μίαι μ]ὴ δανείσωνται τὸ ἀργύριον κατὰ τὰ γεγραμμένα ἢ μὴ ἀποδῶσιν τὸ ι [κατὰ τόνδε τὸν] νόμον τοῖς καθισταμένοις ἐπὶ τῶν μαθημάτων ὀφειλέτω ἕκασ[τος τ]ούτων τῆ[ι πόλει δρα]χμὰς δισχιλίας, δικασάσθω δὲ αὐτῶι [ὁ βου]λόμενος [-] ι[- ἁλισκ]όμεν[ος] ἐκτινέτω διπλάσιον, καὶ τὸ μὲν [ἥμισυ -]). The

indicate that the phenomenon of summary fines is not confined just to the earliest archaic period. This means that, even for the later periods, a legal process as envisaged by Koerner should not necessarily be presumed in those cases where the inscriptions offer no information on procedure. If we turn to the actual collective penalty clauses themselves, many of them in fact relate to offences of omission, rather than commission. In connection with crimes of omission, it may in fact not have made much sense to conduct fully-fledged individual trials for each board member at all.

Of the 96 clauses attested in non-Athenian inscriptions that prescribe fines to be imposed on boards in their entirety, no fewer than 80 relate to crimes of omission, while only sixteen of the collective penalty clauses apply to crimes of commission. Piérart noted this characteristic in his discussion of the epigraphical evidence from classical Athens,[28] but he did not develop this point further, and it has not received much attention in subsequent modern scholarship. The distinction between offences of commission and offences of omission deserves to be highlighted, not least in the present context. It has a significant bearing on the question of the perceived tension between the principle of individual and personal liability of each board member on the one hand, and, on the other, the principle that the board as a whole could be held collectively responsible for offences committed by its individual members.

If a duty assigned to a board as a whole is not carried out as prescribed, every single member can, as a matter of principle, be held equally responsible for the unlawful passivity of the board in its entirety. Strictly speaking, all that would have been necessary before the collective penalty could be imposed on the board would have been simply to establish the fact that the task in question had been left undone. This would not have required individual legal hearings to be conducted for each of the officials involved in the offence of non-compliance. It is very likely that in many of these cases, the involvement of a court would not have been regarded as a *sine qua non*, but that the penalties could be imposed summarily and exacted unless one or several board members objected formally to the fine.[29] It is equally conceivable

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change from the plural to the singular (αὐτῶι, ἐκτινέτω) is significant: there can be little doubt that prosecution was to be brought only against those board members who had refused to pay the original fine, which must have been summarily imposed. A similar provision is found in the treaty between Naryka and the Aianteioi, *IG* IX/1^2.3, 706, lines 3-7, where the archon (a single official, rather than a board) incurs a fine of fifteen drachmai for the unlawful expulsion of an envoy, but the fine is doubled if the archon disputes the fine in a court case and is convicted (ξενίων μὴ ἀπελαθῆμεν κατὰ ξενίας ἐλθόντα ἀπὸ δαμοσίο[υ Ναρυκαίων· αἰ δέ κα ἀπελαθῆι, δεκαπέν]τε δραχμὰς τὸν ἄρχοντα ἀποτείσαι· αἰ δὲ δίκαι ἀλοίη ὁ ἄρχων, τριάκοντα δραχμὰ[ς ἀποτεισάτω).

[28] Piérart 1971, p. 549: *"Dans les textes épigraphiques qu'on vient d'étudier,* εὐθύνεσθαι *implique toujours l'idée d'une condamnation, d'un châtiment (en espèces), frappant un magistrat* qui ne remplit pas son devoir*"* (my emphasis).

[29] An individual board member who had been prevented from carrying out a specific task for legitimate reasons, such as illness or absence abroad on official duty, would not

that in some of those cases where legal hearings were prescribed in connection with offences of omission, their format would have been similar to the "Arginousai model" or the "Plataiai model."[30]

Thus, when a collective penalty clause relates to a crime of omission, there is no real conflict between the principle of individual and personal liability of each board member and the principle of collective responsibility that applied to the board as a whole. This strongly suggests that we should take such collective penalty clauses seriously and be ready to envisage the possibility that the penalties were indeed intended to be imposed indiscriminately across the board as a whole, sometimes without any mandatory involvement by a court. This suggestion can be further supported if it appears that collective penalties of this type were likely to have had a significant deterrent effect as well as providing incentives for individual board members to report offences committed by one or more of their colleagues.

IV. Collective penalties as a preventative measure

Johnstone has recently drawn attention to the way in which collective sanctions may have worked as an incentive for board-members to "police" each other,[31] and I shall pursue this theme further here. Especially in the context of crimes of omission, collective penalties make excellent and obvious sense as a preventative measure. Such a collective penalty would have created a tangible financial risk for those board members who might otherwise be tempted to avoid a particularly unpleasant, onerous or dangerous task in the hope that one or several of their colleagues would have taken it upon themselves to carry it out. In circumstances where the board would have been expected to distribute its tasks by informal delegation of responsibility to individual board members, the threat of a collective penalty for inaction would have provided an incentive for all members of the board closely to monitor the behaviour of their colleagues in order to make sure that they did indeed carry out the task as arranged.

Among the most undesirable tasks that could be assigned to a board was that of exacting money from other members of the community, be it from private citizens or officials who had incurred a fine or from individual debtors who owed money because of a contractual obligation. When discussing the official boards whose main remit was defined as that of carrying out *praxeis*, Aristotle characterises them as

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necessarily have had to undergo an individual hearing in order to establish that fact. In classical Athens, the oath of *exomosia* is attested as a way in which officials could be released from a duty, and a comparable use of this oath is attested also in the Hellenistic period (see Rubinstein forth. for further discussion).

30 It may in fact be suggestive that both the charge against the Athenian generals and the charge against the Plataians were framed as crimes of omission rather than commission, with the former offence being defined as that of not picking up the sailors and the latter as that of not assisting the Lakedaimonians and their allies during the war.

31 Johnstone 2011, p. 138.

"the most difficult," not least because the officials occupying them exposed themselves to a great deal of hostility.[32] But Aristotle's characterisation is not confined only to the specialist offices responsible for *praxis*. In the passage that follows, he extends his observations also to other non-specialist boards, advocating a system where the responsibility and authorisation to carry out *praxis* are not concentrated with a single board but instead distributed between numerous different boards in a delicate system of checks and balances.[33] One important reason why such a distribution of responsibility is deemed desirable is clearly that the personal exposure of the officials to a critically high level of personal hostility from individuals subjected to *praxis* would deter them from carrying out their duty as prescribed. This, in turn, could threaten the entire system of law-enforcement.

I have argued elsewhere that a number Greek communities, both in the classical and early Hellenistic periods, did in fact distribute responsibility for *praxis* among several different boards.[34] This may to some extent have reduced the potential personal and social costs for the officials who were obliged to carry out *praxis* in specific contexts. Nevertheless, the task itself almost certainly remained both dangerous and undesirable, especially if the board of officials was permitted or even obliged actively to distrain upon the debtor's property or person in order to exact the money. If one bears that in mind, it is not at all surprising that the offence of omission most frequently attested among the collective penalty clauses is precisely that of failure to carry out *praxis*. It accounts for no fewer than twenty-nine of the 80 attestations of crimes of omission attracting collective penalties,[35] and of these only

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[32] *Politics* 1321b40-1322a5: μετὰ δὲ ταύτην ἐχομένη μὲν ἀναγκαιοτάτη δὲ σχεδὸν καὶ χαλεπωτάτη τῶν ἀρχῶν ἐστιν ἡ περὶ τὰς πράξεις τῶν καταδικασθέντων καὶ τῶν προτιθεμένων κατὰ τὰς ἐγγραφὰς καὶ περὶ τὰς φυλακὰς τῶν σωμάτων. χαλεπὴ μὲν οὖν ἐστι διὰ τὸ πολλὴν ἔχειν ἀπέχθειαν, ὥστε ὅπου μὴ μεγάλα ἔστι κερδαίνειν, οὔτ' ἄρχειν ὑπομένουσιν αὐτὴν οὔθ' ὑπομείναντες ἐθέλουσι πράττειν κατὰ τοὺς νόμους·

[33] *Politics* 1322a9-18: διὸ βέλτιον μὴ μίαν εἶναι ταύτην τὴν ἀρχήν, ἀλλ' ἄλλους ἐξ ἄλλων δικαστηρίων, καὶ περὶ τὰς προθέσεις τῶν ἀναγεγραμμένων ὡσαύτως πειρᾶσθαι διαιρεῖν, ἔτι δ' ἔνια πράττεσθαι καὶ τὰς ἀρχὰς τάς τε ἄλλας καὶ τὰς τῶν ἔνων μᾶλλον τὰς νέας, καὶ τὰς τῶν ἐνεστώτων ἑτέρας καταδικασάσης ἑτέραν εἶναι τὴν πραττομένην, οἷον ἀστυνόμους τὰς παρὰ τῶν ἀγορανόμων, τὰς δὲ παρὰ τούτων ἑτέρους. ὅσῳ γὰρ ἂν ἐλάττων ἀπέχθεια ἐνῇ τοῖς πραττομένοις, τοσούτῳ μᾶλλον λήψονται τέλος αἱ πράξεις· τὸ μὲν οὖν τοὺς αὐτοὺς εἶναι τοὺς καταδικάσαντας καὶ πραττομένους ἀπέχθειαν ἔχει διπλῆν, τὸ δὲ περὶ πάντων τοὺς αὐτοὺς <ποιεῖ αὐτοὺς> πολεμίους πᾶσιν.

[34] Rubinstein 2010.

[35] *SEG* 52, 1197, lines 17-22 (enactment of a *koinon* in the area of Pergamon, perhaps Apollonia, C2, directed against *archepimenioi*); *SEG* 27, 261 & *SEG* 43, 381A, lines 47-50 (Beroia, C2, directed against *exetastai*); *SEG* 27, 261 & *SEG* 43, 381B, lines 33-35 (Beroia, C2, directed against the *exetastai* and the *politikos praktor*); Minon 2007, no. 20 = *IvO* 2 = Koerner 1987, no. 37, lines 2-6 (Elis, C5, directed against the *basileis* and *ho megiston telos echon*); Minon 2007, no. 20 = *IvO* 2, lines 4-7 (Elis C5, directed against the *hellanodikai* and the *damiourgoi*. The classification here depends to a great extent on

two relate specifically to specialist boards of *praktores*.[36] The threat of a monetary penalty faced by each individual member of the board if a task of *praxis* assigned to it was left undone would have acted as a counter-balance to the social and personal risk arising from the act of *praxis* itself.

But simple passivity by a board was not the only risk that arose in connection with *praxis*. The process itself also offered some scope for both bribery and embezzlement, especially if the duty to undertake it was assigned to an official who acted alone. An official acting on his own might approach the debtor and be offered a bribe of, say, half the amount owed, on condition that he agreed to return empty-handed to his colleagues with a claim that *praxis* had been impossible to carry out. The likelihood of such a scenario would have been significantly reduced, if all members on the board had a clear financial interest in monitoring each other closely

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the meaning of the verbs ἐπένποι and ἐπενπέτο; Minon takes them to mean "pronounce", implying a verdict passed by the *hellanodikai* and the *damiourgoi*, whereas Koerner interprets them as referring to the process of exacting the penalty); *IG* IV, 554 = Koerner 1987, no. 27 (Argos or Halieis C5, directed against the *boule*; for parallels to the verb ποτελάω in the sense of exacting a fine, see *e.g. SEG* 42, 281); *IG* XII/7, 62 = Rhodes-Osborne 2003, 59, lines 44-45 (Arkesine C4, directed against the *neopoiai*); *PEP Chios* 76C, lines 15-18 (Chios C5, directed against *horophylakes*); *CID* 1, 9 = Rhodes-Osborne 2003, 1C, lines 12-16 (Delphi, Labyadai, C5, directed against *tagoi*); *IC* I ix 1 = Chaniotis 1996, no. 7, lines 128-136 (Dreros C3, directed against the *boule*); *IG* XII/9, 90 = *LSCG* 91, lines 6-8 (Eretria C4, directed against *hieropoioi*); *IK* 1, 2A, lines 27-32 (directed against the *prytaneis* who fail to introduce lawsuits as prescribed and who fail to register the penalty imposed by the court, so that it can be exacted. The text is lacunose, and lines 29-31 are conventionally restored as καὶ [γ]ι[ράφε]σθαι τὸν ὀφ[έλο]ι[ντα· ἢ]ν δὲ μή, αὐτ[ὸς ὀφ]ι[έλεν. An alternative restoration is καὶ [π]ι[ρήξα]σθαι τὸν ὀφ[έλο]ι[ντα, which would assign a more direct role to the *prytaneis* in the process of *praxis* itself); *IK* 1, 1, lines 13-15 (Erythrai, C5 or C4, directed against *exetastai*); *IC* IV 78, lines 7-8 (Gortyna C5, directed against *titai*); *IC* IV 79, lines 13-21 (Gortyna C5, directed against *xenioi kosmoi*); *IC* IV 80, lines 10-12 (Gortyna C5, directed against the *kosmoi* of Rhitten); *IC* III iv 7, lines 21-25 (Itanos C3, directed against *praktores*); *SEG* 50, 1195, lines 38-39 (Kyme C3, directed against *phylarchoi*); *IC* I xix 1 = Chaniotis 1996, no. 11, lines 14-16 (Malla and Lyttos C3, directed against *kosmoi*); *SEG* 51, 642, lines 16-17 (Messene C5; directed against *idyoi*); *Milet* I.6, 187 = Koerner 1987, no. 81, lines 11-12 (Miletos C5, directed against the incoming board of *epimenioi* whose duties almost certainly included implementing the penalties imposed on their predecessors for neglect of their duties); *IG* IX/1^2.3, 706, lines 7-11 (Naryka C3, directed against *archontes*); *OGIS* 483, lines 7-22 (Pergamon C2, directed against *astynomoi*); *OGIS* 483, lines 65-72 (directed against *astynomoi*); *OGIS* 483, lines 82-90 (directed against *astynomoi*); *IG* XII/8, 348, lines 5-7 (Thasos C3, directed against *epistatai*); *SEG* 42, 785, lines 10-13 (Thasos C5, directed against *archoi*); *SEG* 42, 785, lines 45-49 (Thasos C5, directed against *epistatai*); *SEG* 30, 380 = *SEG* 35, 275 = Koerner 1987, no. 31, lines 3-4 (Tiryns C7, directed against *platiwoinarchoi*).

[36] *SEG* 27, 261 & *SEG* 43, 381B, lines 33-35 (Beroia, C2, where it is to be noted that the penalty clause is directed equally against the *exetastai* who are responsible for registering the fine to be exacted with the *politikos praktor*) and *IC* III iv 7, lines 21-25 (Itanos, C3).

in order to make sure that their collective duties were carried out according to instructions. The incentives provided for board members to police each other would likewise have reduced the scope for embezzlement, that is, a situation where an official who had successfully exacted a sum from a debtor pocketed the money himself while asserting to his colleagues that his attempt to carry out *praxis* had failed.

The risk of embezzlement was obviously not confined to the context of *praxis*: it existed in all situations where a board of officials was given responsibility for the administration of funds. Here, too, the risk would have been reduced significantly, if the board as a whole had a clear incentive not to assign particular tasks for individual members to carry out on their own but to exercise constant vigilance in all financial transactions for which the board was responsible. It may therefore be no coincidence that seventeen of the 80 penalty clauses relating to offences of omission relate to the financial offences of failing to hand over funds or other assets to the board's successors and that of not spending funds or other assets that had been earmarked for particular purposes. Among the latter, we find collective penalties imposed for the failure by a board of *tamiai* to pay the prescribed wages to educational personnel in second-century Teos,[37] and for the failure to pay contractors in third-century Delos.[38]

The risk of embezzlement and bribery may not always been the sole or even the main concern that may have rendered a collective penalty desirable. In some contexts we find the measure applied to financial tasks that had a clear political and potentially divisive dimension. This applies, for example, to a post-*stasis* enactment passed in Telos in the later fourth or early third century.[39] Here, the boards of *hierapoloi* and *tamiai* are made jointly responsible for restoring property after a period of civil unrest, a process which is well known from comparable evidence to be potentially extremely divisive and dangerous. The successful completion of this process would have been threatened, if the actions of the boards collectively were undermined from within by individual members with personal allegiances to citizens belonging to opposing sides of the factional divide. The encouragement of internal policing within the boards themselves may therefore have been critical if the settlement was to work out as intended. A similar consideration may have applied to the collective fines threatened against the *epimenioi* in fifth-century Miletos in the famous enactment pertaining to the exiled descendants of Nympharetos and

[37] *PEP Teos* 41 = Laum 1914, no. 90, lines 39-50 (Teos C2).

[38] *ID* IV, 502A, lines 17-20 (Delos C3).

[39] *IG* XII/4.1, 132B, lines 112-118: ὅσσα δὲ γέγραπται ἀποδόμεν τὰν πόλ[ιν] | [κ]τήματα ἀποδόντω τοὶ ταμίαι καὶ τοὶ ἱεραπόλοι τοὶ ἐν ἑκάστοις τοῖς χρόνοις γινόμενοι· αἰ δέ κα μὴ ἀποδῶντι, ὀφειλόντω ἕκαστο[ς] | [τ]ῶν ταμιῶν καὶ τὼν ἱεραπόλων πεντακισχιλίας δραχμὰς ἱερὰ[ς] | [τ]οῦ Διὸς τοῦ Πολιέως καὶ τᾶς Ἀθάνας τᾶς Πολιάδος καὶ τῶι ἰδιώτα[ι] | δ̣ιπλοῦν ὅ κα μὴ ἀποδῶι· ἁ δὲ πρᾶξις ἔστω <τῶ>ι ἰδιώται καθάπερ ἐκ δί|κας·

Stratonax, evidently passed in the wake of a period of serious political unrest. Fines are threatened against the *epimenioi* if they fail to pay over the prescribed reward to anyone who had been responsible for killing a returning exile, as well as for failure to execute such a returnee themselves, if he is handed over to them. The enactment as a whole seems to reveal Milesian anxieties that the boards of *epimenioi* responsible for enforcing the terms of the *polis*' decisions might be reluctant to comply because of personal or political ties with the exiled groups.[40] Here, too, the internal vigilance encouraged by the collective penalty clauses may have had a significant deterrent effect.

V. Collective penalties as an incentive for reporting offences

Deterrence, however, is one thing. It is quite another question what would have happened if things went wrong, with the result that the board as a whole fell foul of the law. It needs to be asked if the threat of a penalty collectively imposed might have made individual board members more likely to denounce their colleagues, or whether such collective penalties might in fact have had the exact opposite effect in practice.

Here it is necessary to return to the issue raised at the beginning of this paper, namely that of the risk of collusion by members of the affected boards, who might have strong social and moral incentives for covering up offences committed by their colleagues. Such incentives may have included close personal ties of friendship or kinship, combined with a real fear of social marginalisation and other adverse personal consequences for the person who broke ranks.

The problem presented by colleagues closing ranks, both because of professional loyalty and because of fear of reprisals, is recognised also in modern contexts. In Britain, for example, there is a growing concern about the treatment of medical staff in the National Health Service who have taken it upon themselves to report acts of clinical malpractice or neglect committed by other members of staff. It is becoming increasingly clear that such whistle-blowers are often exposing themselves to reprisals not only from those whom they have denounced but also from their own superiors. Although the kind of professional loyalty that might deter, for example, a modern doctor from denouncing his colleagues would most likely not have played a part in an ancient Greek context, general social and moral expectations as well as fear almost certainly did.

The risk that a board of officials might be tempted to close ranks would have been considerable in those cases where a penalty clause for a crime of commission was targeted specifically and exclusively at those individual board members who could be proved to have been personally responsible. If all officials on the board decided to keep quiet and to refuse to offer any information that might help to place personal responsibility with one or some of their own number, it would have been

[40] *Milet* I.6, 187 = Koerner 1987, no. 81, lines 5-7.

extremely difficult to enforce the penalty clause in question, unless the offence had directly affected an individual victim or else the members of another board of officials.

It is therefore striking that a considerable number of penalty clauses specifically targeted at individual board members in the non-Athenian epigraphical material concern precisely offences that would have affected an outside party, who would have had a clear personal interest in reporting the offence and who would also have been in a position to indicate precisely which board member(s) had been directly responsible for the infraction. Of these individual penalty clauses, five, perhaps six,[41] relate to crimes of omission, while five, in addition to the numerous entrenchment clauses, relate to crimes of commission. Among the latter is the sanction to be imposed on priests who exact an excessive sacrificial share from a worshipper in fifth-century Axos.[42] There would also have been a third party with a clear interest in denouncing the official who admitted and presided over a homicide case in contravention of the post-*stasis* settlement in fourth-century Dikaia, or who had been responsible for processing other lawsuits prohibited by the amnesty.[43]

A similar pattern, suggesting that individual penalty clauses were prescribed against officials especially when the offence would have affected a third-party victim, may be detected also in connection with crimes of omission. If a citizen of Maroneia with a legal case to fight in Priene found himself and his case obstructed by one or several of the *timouchoi* responsible for providing him with a timely hearing, he would obviously also have had a keen interest in reporting the offence or

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[41] At least one of the penalty clauses, *Milet* I.3, 145, lines 58-64 is ambiguous: ὅπως δὲ τὸ γινόμεν<ον> ἑκάστοις εὐτάκτως ὑπηρετῆται, τοὺς ταμίας διδόναι τὸ τεταγμένον τοῖς τε παιδοτρίβαις καὶ γραματοδιδασκάλοις μηνὸς ἑκάστου τῆι νουμηνίαι· ἐὰν δέ τις μὴ δῶι, ὀφειλέτω στατῆρας πεντακοσίους ἱεροὺς Ἑρμοῦ καὶ Μουσῶν, εἶναι δὲ κατ' αὐτῶν καὶ {πρ} πρᾶξιν τοῦ μισθοῦ τοῖς παιδοτρίβαις καὶ γραμματοδιδασκάλοις κατὰ τὸν ἀγορανομικὸν νόμον. "So that each of them should be paid his due in an orderly fashion, the *tamiai* shall give the money prescribed to the *paidotribai* and the teachers each month at the new moon. If someone does not give, he shall owe five hundred stateres, sacred to Hermes and the Muses, and there shall be opportunity for the *paidotribai* and the teachers to carry out *praxis* against them of their salary in accordance with the *agoranomikos nomos*." Although the penalty clause itself is phrased in the singular, with the fine apparently only imposed on a specific *tamias* for dereliction of duty, the educational personnel appear to have been entitled to exact their salaries from the personal properties of each and every board member, regardless of the individual culpability of the latter. There is a certain resemblance here to the liability of multiple guarantors in certain contractual contexts, but the matter is too complex for a discussion to be included here.

[42] *IC* II v 9, lines 2-9: ... τοῖς δ' ἰαροῦσιι, ὅτι κα πέρονται πὰρ τὰ ἠγιραμένα, αἰ μή τις αὐτὸς δοίη μιὴ ὑπ' ἀνάνκας, τιτουϝέσθο σιτατῆρα κατὰν θυσίαν ϝεκάστιαν καὶ τô κρίος τὰν διπλείαιν· πορτιπονêν δ' ἃιπερ τôν ἄλλον.

[43] Voutiras-Sismanides 2007, lines 31-36 and lines 40-45.

alternatively ask his Prienian connections to act as *boulomenoi* on his behalf.[44] A Milesian *tamias* who had failed to pay teachers and *paidotribai* as instructed would, needless to say, run the risk of being confronted by those angry individuals. Additionally, it is more than likely that his colleagues would have had an incentive to report him, since the teachers and *paidotribai* are entitled to distrain upon their properties, too, when exacting the money due to them.[45] Here, the combination of reporting by a victim directly affected and the financial incentive for the *tamiai* to keep an eye on each other may have significantly increased the chances that the crime of omission would have been reported and responsibility placed squarely with one of its members.

Another circumstance where it would have been easier to place responsibility with a particular board member was when each individual board member had been assigned a specific task that related to an area that had been clearly defined as his personal remit. This applies, for instance, to each of the *meledonoi* in the third-century grain-law from Samos. A *meledonos* who failed to carry out his duty to make loans and exact interest payments destined for the grain fund not only incurred a fine of ten thousand drachmai. His *chiliastys*, too, would be penalised, since its members would not be entitled to grain rations until the money had been paid. The opportunity granted to the *chiliasteres* to foot the bill themselves on behalf of their *meledonos* is hardly likely to have made them more complacent or tolerant of his offence.[46] Here, the *meledonos* is acting as a member of a board only in a very restricted sense: his remit is clearly defined, and he, as an individual, is highly visible when he goes about his duty. The connection between him and his *chiliastys* is also unusually close. His personal culpability would therefore be less difficult to establish.

The same applies to a number of other penalty clauses that are directed against officials as individuals. In fifth-century Lindos, for example, the *strategoi* are under an obligation of exacting a levy of 1/60 from their troops.[47] It is clear from the enactment itself that each *strategos* is personally responsible for collecting the money from the troops under his command and to hand it over to the priest.[48] If he

[44] *I.Priene* 10, lines 20-36.

[45] *Milet* I.3, 145, lines 58-64, see n. 41 above.

[46] *IG* XII/6, 172, lines 71-85.

[47] *IK* 38, 251, lines 40-45: [τ]οὶ δὲ στραταγοὶ αἵ κ|[α] τὸ ἀργύριον μὴ ἐσπρά|[ξ]οντι πὰρ τῶν σ[τρ]ατιωτᾶ|[ν ἀ]νόσιον ἔστω ποτὶ τô | [θε]ô καὶ ὑπεύθυνος ἔστ|[ω·

[48] *IK* 38, 251, lines 9-12: ἐσ̣[π]ρά̣τ̣εν δὲ [τ]ι|[ὸ]ν στραταγὸν τ̣ὸ̣ ἀ̣ρ̣[γύ]|[ρ]ιον καὶ παρ̣δι̣δ̣[όμεν] | [τ]ῶι ἰαρῆ̣ι̣· For another example of an official with a similarly clearly defined personal remit, see also *Syll.*[3] 671, lines 11-13: torch racers must be provided by each *phyle*, and it is the *hegemones* of the *phylai* who are responsible for providing them. It is most probable that each of the *hegemones* would have been responsible for his own *phyle*, which explains why the penalty clause prescribes an individual penalty: εἰ δέ τις τῶν ἁ|γεμόνων μὴ παράσχοι εὐτάκτους τοὺς λαμπαδίξοντας, πράκτιμος ἔστω τᾶι πόλει ἀργυρίου δέκα | στατήρων ποθιέρων·

fails to exact the money as prescribed, the person best placed to denounce him would be not his colleagues, nor, obviously, the soldiers who had escaped having to pay the money, but the priest to whom the money is due.[49]

The Lindian enactment, moreover, provides an example of a case where control is exercised not only by the board of controllers at the end of the year, but also by another board or person occupying an official position, in this instance the priest who would be directly affected by any negligence on the part of each *strategos*. The safety measure provided by playing several boards against each other is found in other penalty clauses, too, especially those relating to crimes of omission.[50] In so far as the tasks assigned to different boards were interdependent, there would have been an obvious motive for members of one board that had faced obstructions because of non-compliance by members of another board to report any irregularities – not least in order to establish their own innocence.

Thus, it is possible to explain the apparent tendency suggested by the epigraphical material to employ penalty clauses that were directed specifically at individual, culpable board members especially when the offence itself was easily attributed to a particular board member and clearly affected an outside interested party. However, we are still left with the question how the collective penalty clauses might have contributed to increasing the chance that offences might be reported. For on the face of it, at least, the threat of a collective penalty would seem positively to constitute an encouragement for all officials on the board *not* to draw attention to offences committed by any of its individual members.

As far as collective penalties for offences of commission are concerned, the disincentive for officials to report each other may not have been too much of a problem, since at least ten of the sixteen offences would directly have affected a third party, who might be expected to ensure that the offence was reported.[51] In a

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[49] For another example where a sanctuary and/or its personnel constituted an interested third party with an obvious motive for reporting an offence, see *IG* XII/4.1, 103, lines 110-114 which prescribes a penalty of 500 drachmai, payable to the sanctuary of Apollon, if an incoming official (or board of officials) fails to perform the required sacrifice upon entering into office.

[50] *E.g. IG* IX/1^2.4, 798, lines 100-102 (Korkyra, C2); *IG* XII/4.1, 103, lines 110-114 (Kos C2, relating to *archontes* generally as well as to *napoiai* and *epimenioi*); *IG* XII/1, 155d, lines 90-95.

[51] *IG* XII/7, 3B, lines 40-46 (Arkesine C4, affecting the litigant who was taken to court in contravention of the amnesty); *IK* 35, 914, lines 8-10 (Chalketor C4 or C3, affecting an individual worshipper); *CID* 4, 51, lines 6-12 (Delphi C3, affecting an individual subjected to unlawful seizure); *CID* 1, 9 = Rhodes-Osborne 2003, 1 A, lines 35-44 (Delphi, Labyadai C4, affecting an individual who has been given illegal instructions by the *tagoi*); *IC* IV 78, lines 4-7 (Gortyn C5, affecting an individual who has been unlawfully subjected to *syle*); *IG* XII/4.1, 315, lines 4-8 (Kos C2, affecting the priest who was entitled to a sacrifice prior to the enrolment of individuals into civic subdivisions); *IG* XII/4.1, 325, lines 12-16 (Kos C3, affecting the priest who was entitled to a sacrifice prior to the handing over of *deltoi* to contractors); *IG* XII/4.1, 318, lines 5-9 (Kos C3,

further two cases, the offence as defined could potentially have involved more than just one board, which, as suggested above, may have increased the likelihood of detection.[52] In these instances, the readiness of the affected board members to turn against each other would not have been as decisive for the process of enforcement as when the crime was "victimless" or otherwise "invisible." The main reason for the prescription of collective fines in such cases was very likely the desire to create a deterrent by motivating the officials to monitor each other in order to prevent the offence in the first place.

The matter is far more complicated when it comes to crimes of omission. As noted earlier, many of the offences of omission were "victimless crimes," and many of them may have been difficult to detect by the controlling boards on the basis of the official accounts alone. Of the 80 collective penalty clauses for crimes of omission, only fifteen concern crimes that would have affected an interested third party,[53] while a further nine play two or more boards against each other. But in the remaining 56 examples, it is likely that detection would have depended heavily on the inspections carried out by boards of controllers and, above all, on board members being prepared to inform against each other, all the more so for crimes that were "victimless" as well as "invisible."

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affecting priests entitled to a sacrifice before the registration of manumissions); *IPArk* 17, lines 91-92 (Stymphalos C4, affecting an individual subjected to unlawful *syle*). In *IG* XII/4.1, 79, lines 38-41 (Kos, C2), the interested party is arguably the donor Phanomachos Thessalou, who would have had an interest in reporting any breach of the entrenchment clause.

52 *SEG* 33, 679, lines 75-80 (Paros C2, involving both *archontes* and *apodektes*) and *IG* XII *Suppl*., 644, lines 26-33, a royal *diagramma* which plays the *phrourarchoi* against the *phylarchoi*.

53 *IG* XII/3, 67, lines 9-13 = Migeotte 1984, no. 49 (Arkesine C4/3, failure by *tamiai* to pay the *polis*' creditor); *IG* XII/3, 69 lines 13-16 = Migeotte 1984, no. 50 (Arkesine C3, failure by *tamiai* to pay the *polis*' creditor); *SEG* 53, 1651, lines 11-14 (Arykanda C2/1, failure to publish names of contractors); *ID* IV, 503, lines 46-48 (Delos C3, failure by *boule* to register debt owed by a contractor to his guarantor); *ID* IV, 502A, lines 17-20 (Delos C3, failure by *hieropoioi* and *epistatai* to pay contractor his due); *CID* 1, 9 = Rhodes-Osborne 2003, 1C, lines 12-16 (Delphi, Labyadai, C5/4, failure by *tagoi* to execute verdict on behalf of volunteer prosecutor); *IC* III iii 4 = Chaniotis 1996, no. 28, lines 30-33 (Hierapytna and Priansos, C3, failure by *kosmoi* to pay envoys); *IK* 3, 25, lines 131-153 (Ilion C4/3, failure by *archontes*, *bouleutai* and *tamias* to announce honours for tyrannicides or to register them); *IScM* II.1, 58 (Istros C2, failure by *episkopoi* to crown benefactor annually); *SEG* 51, 1499, lines 30-33 (Leukoeideis C2/1, failure by *komarchoi* to crown honorand); *Milet* I.3, 147A, lines 35-37 (Miletos C3, failure by *anataktai* to allocate funds to contributors); *Milet* I.3, 147A, lines 37-40 (Miletos C3, failure by *tamiai* to pay stipend to contributors); *Milet* I.6, 187, lines 5-7 (Miletos C5, failure by *epimenioi* to pay reward to those responsible for killing returning exiles); *IG* XII/4.1, 132, lines 110-114 (Telos C4/3, failure by *tamiai* and *hieropoloi* to restore property to individuals as prescribed); *PEP Teos* 41 = Laum 1914, no. 90, lines 66-69 (Teos C2; failure by *tamiai* to pay educational personnel as prescribed).

How likely would such reporting have been in practice, and how might the use of collective penalties have provided an incentive for a board member to blow the whistle? Let us, for a moment, consider a hypothetical example as seen from the point of view of an individual official. He knows not only that a sum of money is to be exacted by his board, but also that one or several of his colleagues have used this as an opportunity for bribery by striking a deal with the person from whom the money was to be exacted. They pocket the bribe and subsequently claim that *praxis* is impossible to carry out. Our official knows that there is likely to be a gap in the board's account and that, consequently, there is a risk of detection, however small. The board's failure to carry out *praxis* as prescribed will affect him personally as well as the rest of his colleagues. The most obvious way in which he might hope to escape the fine is to report the offence. However, in order to escape the penalty, he will have to report the offence *not* as a crime of omission but instead as a crime of commission committed by specific, named colleagues – that is, as an act of bribery.

The strategy of converting an offence from a collective one of omission into one of commission that could then be pinned on one or several individuals is not as far-fetched as it might perhaps first seem. At least one example is provided by the Attic orators. The speaker of Dem. 22, Diodotos, anticipates precisely this tactic from Androtion and other *bouleutai* in their defence of the *boule*'s failure to have the required number of triremes constructed during their period of office. They will assert that the treasurer of the *trieropoioi* has embezzled two and a half talents (Dem. 22, 17) and that this has rendered the *boule'*s task impossible. They will claim that, consequently, the *boule* is not to blame for the offence of omission and should not be denied its crown. Diodotos dismisses the validity of this an excuse for the council's failure to carry out its duty, but his argumentation is obviously highly tendentious. It cannot be taken for granted that the rest of the Athenians, including the judges, would have shared his opinion. Many may well have agreed that this was a plausible excuse, and that this would be sufficient reason for the *bouleutai* to be exculpated.

When a mandatory legal hearing was prescribed prior to the imposition of the penalty in connection with the board's *euthynai*, be it a hearing where individual officials were subjected to a proper trial or a hearing of the "Arginousai" or "Plataiai" type, there may have been an opportunity for the defendant to incriminate his colleagues even at this late stage. By contrast, in those cases where the collective fines were to be imposed summarily and instantly by another board of officials or by a council, it may have been all the more urgent for a board member who knew about offences such as bribery or embezzlement committed by his colleagues to report the offence well in advance of the mandatory scrutiny at the end of the year. An official who was aware that a crime of bribery or embezzlement had been committed by a colleague would not have been required to wait until the end of the year in order to make his denunciation, as long as there were procedures akin to the *graphe doron* or *eisangelia*, which are attested for classical Athens, and which almost certainly

existed in other Greek states as well in various shapes and forms. Furthermore, it is possible that, if the collective penalty was imposed summarily during the officials' period of office, an individual board member might also himself create an opportunity for being subjected to an individual legal hearing and being granted a personal defence, simply by refusing to pay the fine and ending up as a defendant in court as a result.[54]

From the point of view of the community, be it a *polis*, a civic subdivision, or other association, the practice of prescribing collective fines, especially for crimes of omission, would, I think, have created a win-win situation. If the officials decided to protect each other and close ranks, they would all have been required to pay up. The question of individual culpability would have been irrelevant as long as it could be firmly established that they had left a prescribed task undone. As a result, the community would be amply compensated for any financial damage caused by the board's neglect.[55] But if just one of the board members decided to act as denunciator and turn on his colleagues in order to escape the penalty himself, this would provide

[54] See the examples in n. 26 and 27 above. This was often a high-risk strategy, since refusal to pay the summary fine up front might result in the fine being increased, sometimes doubled.

[55] In some instances it is made clear in the penalty clause that each individual member of the board would be required to pay the entire penalty, and sometimes even double. In such cases, the money destined for the treasury would be several times the amount that may been lost due to the officials' non-compliance, provided that all the board members paid up as prescribed. See *e.g. CID* 1, 9 = Rhodes-Osborne 2003, 1A, lines 35-38, B, lines 25-31, C, lines 12-16 (Delphi, Labyadai C5/4); *IC* I ix 1 = Chaniotis 1996, no. 7, lines 108-114 (Dreros, C3); Minon 2007, no. 20 = *IvO* 2, lines 2-5 (Elis C5); *IK* 3, 25, lines 131-153 (Ilion C4/3); *IG* XII/8, 51, lines 6-8 (Imbros C2); *IC* III iv 7, lines 16-23 (Itanos C3); *Milet* I.6, 187, lines 8-9 (Miletos C5); *Milet* I.3, 145, lines 23-25 (Miletos C2); *IG* XII/3 *Suppl*., 87, lines 7-9 (Nisyros C3); *PEP Teos* 41 = Laum 1914, no. 90, lines 66-69 (Teos C2); *IC* IV 78, lines 4-8 (Gortyna C5); *IC* IV 79, lines 116-119 (Gortyna C5); *IC* I xix 1 = Chaniotis 1996, no. 11, lines 14-16 (Malla and Lyttos C3); *IC* I viii 13 = Chaniotis 1996, no. 50, lines 18-19 (Hierapytna and Knossos C2; note that in this text, *hekastos ho kosmos* may refer to each of several boards rather than to the individual members of a single board; this applies also to *IC* I xvi 1 = Chaniotis 1996, no. 18, lines 31-34, Lato and Gortyn C3, as well as to *IC* I xvi 5 = Chaniotis 1996, no. 61, lines 25-30, Lato and Gortyn C2, and to *IC* III iii 3B = Chaniotis 1996, no. 26, lines 4-7, Hierapytna and Lyttos C2). But although a considerable number of penalty clauses explicitly stipulate that each official is to pay the penalty in full, there are many others which are more ambiguous. It is frequently the case that a collective penalty clause simply prescribes that the officials are to pay or owe a certain amount. It may well be implied in some or all of these instances that the full penalty was to be imposed on each and every board member, but another possible interpretation is that the board members would have been required to share the liability between themselves, as recently suggested by Johnstone 2011, p. 132. If so, the treasury would still have received compensation (and often amply so) for the officials' negligence – but how the members of the affected board would have ensured that each of them paid his fair share is quite another question, which deserves more attention than can be devoted to it here.

an opportunity for "invisible," victimless crimes of commission to be exposed, prosecuted, and punished. Above all, collective penalties of this type would in themselves have constituted a significant deterrent against wrongdoing in the first place, since the board members would have had a powerful, personal incentive to be constantly vigilant and to assume personal responsibility for ensuring that their collective tasks, however unpleasant, onerous or dangerous, would be carried out as prescribed.

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