

A Social and Historical Commentary on Demosthenes' *Against Euboulides*

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of Philosophy**



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Abstract

Demosthenes' *Against Euboulides* is a vibrant lawcourt speech which has rarely been given the attention it deserves in modern scholarship. The case focuses on the crucial issue of Athenian citizenship in the mid-fourth century BC and arose from the state's decision to review citizen membership in every Attic deme. In the deme of Halimous, Euboulides was in charge of proceedings when the demesmen voted against a man named Euxitheos and thereby stripped him of his citizen rights. Euxitheos chose to appeal the decision before a jury and, seeking reinstatement as a citizen, he again faced Euboulides as his main opponent in court. Since citizenship was restricted to those whose parents were both Athenian, Euxitheos must defend the citizen status of both his father and his mother; specifically, he must account for his father's strange accent and his mother's humble employment in the marketplace, both of which have been used as evidence that they were of foreign extraction. As such, the speech stands as an important source for Athenian attitudes towards citizenship and status. Moreover, the speaker illuminates a number of topics vital to our understanding of classical Athenian legislation, politics, and society at that time.

My thesis seeks to provide the historical context to the speech, and to explain the social and even cultural significance of all its aspects. Primarily, it examines Euxitheos' life and family background, and the procedural elements of his appeal. Along with the commentary, I include both the Greek text and my own translation of the speech. In addition, I present an extensive introduction which covers key background issues such as the decree, process, and penalty relevant to this case.

Acknowledgements

First and foremost, I must record my debt of gratitude to my supervisor, Dr. Kieran McGroarty; without his invaluable insights, support and encouragement at every stage throughout my research, this work simply would not be what it is today. His interest and his patience never faltered, and I will be forever obliged to him for his mentorship. Furthermore, I ought to extend my sincerest thanks to all my colleagues in the Ancient Classics department, on whose doors I often knocked and who continually offered reassurance. I have to particularly thank Prof. David Scourfield for always being so generous with his time and for giving me crucial guidance throughout my postgraduate years. To Dr. William Desmond, Dr. Eoghan Moloney and Dr. Gordon Campbell for their instruction in Greek and, quite often, their perseverance in teaching me. And lastly, Ms. Breege Lynch deserves my sincere thanks for her unwavering assistance in all matters great and small.

When I came to Maynooth University as an undergraduate in 2005, I had no idea what the future had in store but I was excited to see where my studies would take me. It is a testament to both the institution and its people that I am currently presenting this PhD thesis here over ten years later. As a doctoral student, my research was endorsed by a John and Pat Hume Scholarship, and I am profoundly grateful to Maynooth University for facilitating and funding my learning.

During this project, I was fortunate enough to meet a number of scholars who were a source of inspiration. In particular, two individuals had a significant impact on advancing and informing the directions that I took; Prof. Chris Carey and Prof. David Whitehead deserve specific thanks for taking the time to discuss my research with me and for their subsequent advice and encouragement.

I owe more personal thanks to a number of students, past and present, who I met on my journey and now have the pleasure of calling my friends. Naming all of them here would undoubtedly cause such an increase in page numbers that I would require another volume, so I hope they will forgive me if I do not attempt to mention them all by name. However, I must mention Marty Ryan and Helen Gilmore McVeigh, whose friendships both ensured that the PhD process was a more enjoyable experience than it would otherwise have been. A special thanks must go to my fellow postgraduates and tutors, Stephen Strickland and Stephen McCarthy, who not only endured many Demosthenes-related conversations with me but offered countless cups of coffee and bars of chocolate in my hours of need; I sincerely thank them both for their good ears and sharp eyes.

Finally, I need to acknowledge my friends and family at home. I am incredibly lucky to have had Louise, Aileen and Fionnuala in my life since our schooldays; I treasure their loyalty and all the laughter in their company. What my family's moral support has meant to me over the last years cannot be expressed in any way which would do it justice. They may not always have understood what my research entailed or even why I chose to pursue it but they cheered me on regardless. I ought to thank my dear brothers and sisters for always reminding me to see the bigger picture. But of course, my fondest gratitude goes to my parents. To my wonderfully strong mother, Margaret, who has always been my rock and kept me grounded no matter what. I've never had to look very far for a role model; she always was and forever will be an inspiration to me. And my late father, Peter, who never had the opportunity to pursue his own dreams but who made sure that I had everything I could need to follow mine. No words can describe just how important my father was to me, and what a powerful influence he continues to be. It is with much love that I dedicate this work to both my parents, without whom none of this would ever have been possible.

Abbreviations

Where they have been applied, abbreviations for ancient authors and works adhere to the conventions of *The Oxford Classical Dictionary* (3rd ed.). The only exceptions are for Androtion (Androt.), Deinarchos (Dein.), and Lycourgos (Lycourg.).

Note on the text

The text for Demosthenes' *Against Euboulides* derives from the most recent Oxford Classical Text, *Demosthenis Orationes IV*, edited by M. R. Dilts (2009). Since my focus has been on the creation of a social and historical commentary, rather than a philological one, I have accepted Dilts' reading of the manuscripts and the reader should refer to his edition for a critical apparatus.

For Libanios' *Hypothesis to Demosthenes' Against Euboulides*, I have used the Teubner edition, *Libanii Opera VIII*, edited by R. Foerster (1915).

1. Introduction

1.1: Introducing Demosthenes' *Against Euboulides*

Against Euboulides is a lawcourt speech that is concerned with Athenian citizenship. It was written by Demosthenes for a certain Euxitheos from the deme of Halimous. Euxitheos delivered this speech to appeal the deme's decision to strike him from its register of members and to thereby strip him of his citizenship. Although Euxitheos initiated the appeal before the court, it seems that the hearing which followed took the form of a trial, with the appellant assuming the position of defendant and delivering his speech after the opposition had already presented its case. The deme therefore assumed the role of prosecutor, primarily represented by Euboulides who is named in the title of the speech. Euboulides had also been in charge of proceedings when a majority of his fellow demesmen voted to expel Euxitheos. The appellant claims that his opponent has abused his position as councillor (βουλευτής) and official in charge of conducting the review, and that he has deliberately manipulated the deme's vote against him due to personal rivalry. Euxitheos maintains that there was no foundation for the accusations laid against him and that he does indeed meet the requirements for citizenship, namely descent from an Athenian father and an Athenian mother. Euxitheos' ejection can be dated to the mid-fourth century BC, after the Athenian *Ecclēsia* mandated a decree compelling every deme to hold a vote on the citizen status of each one of its members. In this speech then, Euxitheos is fighting to be reinstated as a member of the deme of Halimous and thus to retrieve his citizen status.

Since Demosthenes is the author of the speech, I will begin with a brief overview of his career as a logographer (1.2: Demosthenes and his speech-writing career). Secondly, I will examine the information provided by the ancient rhetorician, Libanios; specifically, from his *Hypothesis to Against Euboulides* (1.3: Libanios' *Hypothesis* for

Against Euboulides). The issues to which Libanios refers will be the focus of subsequent sections of my Introduction: firstly, the citizenship law which was revived nearly sixty years before Euxitheos was ejected from the deme of Halimous (1.4: The re-enactment of Pericles' citizenship law in 403/2 BC); next, the procedures which controlled deme membership and the decree which initiated the deme-wide review of 346/5 BC (1.5: Demophilos' decree and the extraordinary διαψήφισις of 346/5 BC); finally, Libanios' claim that slavery was the given sentence for an appellant who lost his case for readmission (1.6: Slavery as the penalty of a failed appeal against expulsion). The Introduction will conclude with a brief comment on the likely outcome of Euxitheos' appeal (1.7: Concluding remarks).

1.2: Demosthenes and his speech-writing career

Against Euboulides belongs to a vast body of writings attributed to Demosthenes. Because of his prodigious output, there have been many biographies tracing his life and career.¹ Of these, Worthington has produced the most recent in-depth study, in his work entitled *Demosthenes of Athens and the Fall of Classical Greece*.² While it is not necessary to delve into Demosthenes' familial and personal history in as much detail here as Worthington does, it is essential to provide a brief account of his life in order to better appreciate the career and reputation of the author of *Against Euboulides*. Moreover, knowledge of the writer's own historical background aids the placement of this particular speech as one of the last public orations which Demosthenes wrote for a client.³

¹ To list but a few examples: A. W. Pickard-Cambridge's *Demosthenes and the Last Days of Greek Freedom 384-322 B.C.* (1914); W. Jaeger's *Demosthenes* (1938); P. Carlier's *Démosthène* (1990); G. A. Lehmann's *Demosthenes von Athen* (2004); D. M. MacDowell's *Demosthenes the Orator* (2009).

² Published in 2013, see his chapter entitled 'Demosthenes, Son of Demosthenes', pp. 9-41. His monograph also provides details on Demosthenes' private life, specifically his sexuality and his marriage, see pp. 29-31.

³ See Introduction, pp. 13-4.

Sixty orations, an essay, and a collection of letters and proems have survived under Demosthenes' name.⁴ Such a prolific body of writings serves to confirm his status as one of the most distinguished orators in antiquity. His speeches are classified under three forms of oratory: deliberative orations (speeches 1-17), forensic speeches (speeches 18-59), and an epideictic funeral oration (speech 60).⁵ The authenticity of the orations belonging to the Demosthenic corpus has caused much debate, from ancient commentators to modern, and it usually concerns the quality of the works. Most of the deliberative speeches are now considered to be authentic.⁶ Similarly, the *Funeral Oration* has come to be recognised as a genuine work by Demosthenes.⁷ But a number of the forensic speeches under Demosthenes' name have now been ascribed with some certainty to Apollodoros, son of Pasion (*circa* 394-after 343 BC), and several more have been tentatively associated with other orators.⁸ Though only broadly defined legal categories, the forensic speeches may be roughly subdivided into two groups: public speeches, for legal suits which had an impact on society as a whole or involved crimes committed against the state, and private speeches, in which the onus fell on the aggrieved party to

⁴ The *Erotic Essay* ([Dem.] 61) is a rhetorical exercise, not a speech, and so it is not considered to be relevant to the present study. This work, the collection of proems and the letters which are also attributed to Demosthenes are discussed in detail by I. Worthington, in *Demosthenes, Speeches 60 and 61, Prologues, Letters* (2006).

⁵ For a detailed list of these speeches, see Table 1, pp. 262-7.

⁶ The set of deliberative speeches contains one work that was clearly not written by Demosthenes, *Philip's Letter* ([Dem.] 12), and two speeches which even ancient commentators deemed to be too dissimilar to his style of writing to be genuine (Dem. 7 and 17; see Dion. Hal. *Dem.* 57; Lib. *Hyp* 7 [Dem. 7], *Hyp.* 16 [Dem. 17]). Doubts were initially raised over the authenticity of several other speeches in this group: Dem. 10, 11, and 13, see R. Sealey, *Demosthenes and His Time*, pp. 230-7, 239-40. However, it is now generally accepted that Dem. 10, 11 and 13 are genuine speeches by Demosthenes; see the brief discussion in J. Trevett, *Demosthenes, Speeches 1-17*, pp. 18-9.

⁷ Worthington sets out a solid defence for the genuine status of Dem. 60, in *Demosthenes, Speeches 60 and 61, Prologues, Letters*, pp. 21-37.

⁸ It is widely accepted that the following six speeches were written by Apollodoros: [Dem.] 46, 49, 50, 52, 53 and 59. J. Trevett persuasively argues that [Dem.] 47 might also be attributed to Apollodoros, in *Apollodoros the Son of Pasion*, pp. 50-77, and MacDowell suggests that he might have been the speaker besides, in *Demosthenes the Orator*, p. 141. Moreover, it is clear that neither [Dem.] 26 nor [Dem.] 58 was written by Demosthenes: see Sealey, in *Demosthenes and His Time*, pp. 237-9; V. Bers, *Demosthenes, Speeches 50-57*, pp. 130-1. Questions have been raised regarding the authorship of several other speeches: Dem. 32-5, 40, 45, 48, 51, and 56. For a brief analysis of each of these speeches, see D. M. MacDowell, *Demosthenes, Speeches 27-38*, pp. 84-149; A. C. Scafuro, *Demosthenes, Speeches 39-49*, pp. 59-85, 215-67, 329-53; and Bers, *Demosthenes, Speeches 50-57*, pp. 39-45, 92-106, 129-50. However, it cannot be conclusively proven that any of these orations were composed by another writer and thus, for the purposes of this analysis, I accept them as a genuine part of the Demosthenic corpus.

bring a suit.⁹ Of the public and private speeches, Demosthenes presented several himself and the rest were written for delivery by other litigants. Unlike some of the other forensic speeches in the corpus, it has rarely been doubted that Demosthenes composed *Against Euboulides*.¹⁰

Demosthenes was born *circa* 384/3 BC,¹¹ and belonged to the deme of Paeania ([Plut.] *X orat.* 844a).¹² It is known that his paternal grandfather was named Demomeles.¹³ This man had three children between 430 and 420 BC: the eldest was his son Demon, followed by an unnamed daughter,¹⁴ and finally another son Demosthenes senior.¹⁵ This was undoubtedly a wealthy family.¹⁶ Demosthenes, the father of the orator, was a businessman who owned workshops, in which over fifty of his slaves made swords, knives and furniture (Dem. 27 9; Plut. *Dem.* 4.1).¹⁷ He is described as a free man by Aeschines (3.171) and as belonging to the aristocracy by Theopompos of Chios (*FGrH*

⁹ For a discussion of these terms, see Appendix 7, pp. 303-4.

¹⁰ With the exception of L. Rubinstein, *Litigation and Cooperation*, pp. 58 n. 91, and 61-2 n. 99. Unfortunately, Rubinstein does not explain why she doubts the authorship of *Against Euboulides* in this work. Elsewhere, however, she appears to accept Demosthenes as the writer of this speech, see *Adoption in IV. Century Athens*, pp. 44 n. 43, 49 n. 58, and 66 n. 7.

¹¹ The exact year of Demosthenes' birth is controversial, as either 385/4 BC or 384/3 BC is possible given the details provided by the orator, see J. K. Davies for a thorough examination of these dates in *Athenian Propertied Families 600-300 B.C.*, pp. 123-6. However, Demosthenes' comment at 21.154 that he was thirty-two years old at that time (in 347 BC) conflicts with the other information provided by the speaker and ought to be disregarded, since there appears to have been a corruption to the text, see D. M. MacDowell, *Demosthenes: Against Medias (Oration 21)*, pp. 370-1. A later source states that Demosthenes was born during the archonship of Dexitheos, in 385/4 BC ([Plut.] *X orat.* 845d). Yet Hyperides speaks of Demosthenes as being over sixty years old in 323 BC, probably sixty or sixty-one years of age (5.21-22), thereby making 384/383 BC a more credible date.

¹² The deme Paeania was located to the east of mount Hymettos, approximately ten miles from Athens. It was a 'divided deme', comprised of two sections: Upper Paeania was located in the north and Lower Paeania was to the east. Paeania belonged to the tribe Pandionis. For further details on this deme, see J. S. Traill, *The Political Organization of Attica*, pp. 7-8, 43, and 127.

¹³ His name is provided by a decree in honour of his son, Demon (*IG II² 1140, 7*). This may have been the same Demomeles who was the architect of a bridge at Eleusis in 421 BC (*IG I³ 79, 16-7*), but this cannot be definitively established, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 113-4.

¹⁴ The name of Demomeles' daughter is not reported in any of Demosthenes' speeches, nor has it been recorded elsewhere. It was not socially acceptable to name respectable Athenian women, particularly during court proceedings. See D. M. Schaps' article, 'The Woman Least Mentioned', pp. 323-30.

¹⁵ See Davies, *Athenian Propertied Families 600-300 B.C.*, p. 115.

¹⁶ The numerous records of liturgies which were performed by members of the family attest their solid financial status. Demon served as *triērarch* in 373/2 BC and in 366/5 BC (*IG II² 1607, 26, IG II² 1609, 13*), as did one of his sister's sons (Aphobos, Dem. 27.14). For a discussion of the range of liturgies performed in Athens and their annual number, see J. K. Davies, 'Demosthenes on Liturgies', pp. 33-40.

¹⁷ Writing several centuries after the events he is describing, Plutarch (AD 46-120) was writing a biography of Demosthenes' life and not a history. As a source, he must be treated with caution; throughout this work, I have used Plutarch in conjunction with other sources.

115 F325 *apud* Plut. *Dem.* 4.1).¹⁸ He had two children by his wife, whose name is not reported by the orator himself, but later writers call her Cleobule ([Plut.] *X orat.* 844a; Lib. *Hyp.* 28 [Dem. 27]). She was the daughter of Gylon of Kerameis, who was active in Athenian politics at the end of the fifth century BC.¹⁹ Aeschines states that Gylon married a wealthy woman of Scythian blood, as it seems, a non-Greek. But since he was a political enemy of Demosthenes', he had every reason to distort the truth.²⁰ If there had been any serious doubts regarding Demosthenes' legitimacy for citizenship, surely his rivals would have publicly challenged his status in much the same manner as Euboulides had accused Euxitheos in the events which led to *Against Euboulides*. Yet there is nothing in the surviving sources to suggest that any such challenge was ever brought. If Aeschines is to be believed, however, Demosthenes' status would have been legally unaffected provided that his mother was born before 403/2 BC.²¹ Irrespective of her true status, it is clear that Cleobule brought a substantial dowry with her upon her marriage to Demosthenes senior (Dem. 27.4, 28.19, 29.23). Though his father's wealth derived from manufacturing rather

¹⁸ Both sources were hostile towards Demosthenes the orator. Most famously, Aeschines the orator and statesman was a bitter political opponent of Demosthenes. Theopompos was a fourth century BC historian, who was both pro-Spartan and pro-Macedonian. But here their descriptions of Demosthenes' father demonstrate no obvious bias.

¹⁹ Kerameis was located northwest of the Dipylon Gate, possibly extending outside the city walls, and its location is confirmed by its association with the Kerameikos. This deme belonged to the Acamantis tribe. See Traill, *The Political Organization of Attica*, pp. 44, 47 and 67. Gylon was accused of treason and fled Athens without awaiting his trial, and it is likely that the penalty given in his absence was death, though this may have been reduced to a fine at a later date (Dem. 28.1-3). He lived as an exile in Bosporos, on the north side of the Black Sea, where he took a wife and from that union two daughters were born (Aeschin. 3.171-2), one of which was Demosthenes' mother. Gylon's other daughter was named Philia and she married the *triērarch*, Demochares of the deme Leuconoion (Dem. 27.14, 28.3; Leuconoion has been tentatively located four kilometres northwest of the city, see Traill, *The Political Organization of Attica*, pp. 43-4). A son called Laches was born from this union, and he eventually married Demosthenes' sister. Laches' son, Demochares, became a successful orator in the late fourth century ([Plut.] *X orat.* 847c). When Demosthenes committed suicide in 322 BC, Demochares was his heir and he used his own political influence to persuade the Athenians to dedicate a statue to his uncle forty years after his death, in 280/79 BC (Cic. *Brut.* 83.286; Plut. *Dem.* 30.4-5; [Plut.] *X orat.* 847a-d, 850f). For further details on this branch of the family tree, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 138-9, and 141-2.

²⁰ Plutarch also questions whether Aeschines was merely slandering his opponent (Dem. 4.1). Indeed, Deinarchos also utilises knowledge of Demosthenes' lineage to taunt the orator (1.15). Allegations regarding birth qualifications seem to have been used quite often as a rhetorical device to gain a competitive advantage in Athenian politics; Demosthenes too makes similar allegations against Aeschines (Dem. 18.129-31).

²¹ See Introduction, pp. 21-5. Davies estimates that the earliest possible date for Cleobule's birth was 408 BC and, if she was younger than her sister Philia, that it was no later than 406 BC, in *Athenian Propertied Families 600-300 B.C.*, pp. 121, 141. It is impossible, however, to prove an Athenian woman's birth year since they were not formally registered with a deme like their male counterparts.

than landed property, the younger Demosthenes hailed from an affluent family and possessed notable familial connections through both his paternal and maternal lines.

Demosthenes' father died from an illness in 376/5 BC, when his son was seven years old and his daughter five (Dem. 27.4, 28.15; Plut. *Dem.* 4.3; [Plut.] *X orat.* 844a). He left his family and his estate in the hands of three guardians.²² However, these trustees failed to abide by the terms of their guardianship and they defrauded the estate to such an extent that Demosthenes as the rightful heir received almost nothing when he came of age.²³ The young Demosthenes would have to bring a series of suits against the guardians in order to recover his inheritance (Dem. 27-31).

Training in rhetoric was a standard element in the education of a wealthy Athenian adolescent male, in preparation for his future career in politics. Demosthenes confirms that he attended 'the right schools' (Dem. 18.257), referring to a costly upper-class education.²⁴ But having to depend on his guardians to finance his schooling was yet another point of contention.²⁵ To the young Demosthenes, oratory presented itself as the means through which to rectify the guardians' mismanagement of his father's affairs.

²² Two of whom were his nephews, Aphobos by his sister and Demophon by his brother, and the third was a childhood friend of his, Therippides (Dem. 27.4-5). With Aphobos expected to marry Cleobule and the young girl betrothed to Demophon, the property was to be administered by all three for young Demosthenes' benefit. This was an estate which Demosthenes himself claimed was worth between fourteen and fifteen talents (Dem. 27.4, 9).

²³ According to Demosthenes, ten years passed between his father's death and his own coming of age (Dem. 27.6, 17, 24, 26, 29, 35, 36, 59 and 63, 29.34 and 59, 31.14). For a comprehensive analysis of this figure of ten years, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 123-5. Demosthenes was registered in Paeania during the archonship of Polyzelos, by his fellow demesman Philodemos (Dem. 30.15, 17; Aeschin. 2.150). The precise date could be at the end of 367/6 BC or at the beginning of 366/5 BC, see R. Sealey, 'On Coming of Age in Athens', p. 195. Indeed, it would seem likely that the annual examination of new candidates for deme enrolment took place at the beginning of the civil year (for details on this procedure, see Introduction, pp. 26-8). Taking Demosthenes' birth year as 384/3 BC, he would have turned eighteen in the year 366/5 BC and was enrolled in his deme in that same year. Demosthenes claims that, when he came of age, the value of the estate had been reduced to only seventy minas (Dem. 27.6, cf. 37). For an evaluation of this claim and the estate, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 126-33.

²⁴ Plutarch claims that Demosthenes had missed out on the traditional physical training in the gymnasium because he had been a sickly child (*Dem.* 4.3). However, this detail is not confirmed by any other source. It is possible that this portrayal was a rhetorical *topos*, similar to Isocrates' claim of a weak voice (5.81, 12.9-10, *Ep.* 8.7); see Y. L. Too, *Rhetoric of Identity in Isocrates*, pp. 74-112.

²⁵ Demosthenes complains that Aphobos failed to pay his teacher's fees (Dem. 27.46). Plutarch also suggests that Demosthenes was further frustrated by his orphan status and thus was unable to afford the fees of Isocrates' famous school of rhetoric (Plut. *Dem.* 5.6).

According to tradition, he was inspired to pursue studies in declamation after he persuaded his tutor to smuggle him into court, where he heard the successful defence of Callistratos of Aphidna (Plut. *Dem.* 5.1-4).²⁶ While Plutarch states that Demosthenes was struck by Callistratos' fame, he emphasises that the boy admired the power of oratory even more. This, in conjunction with his desire to seek retribution against the guardians for squandering his inheritance, compelled Demosthenes to pursue a career in speech-writing.

Plutarch reports that Demosthenes' skill in oratory was developed under Isaeus' training. Isaeus was an orator who specialised in inheritance suits (*circa* 415-340 BC). One account specifically recounts how Isaeus helped him to prepare his case against the guardians (Dion. Hal. *Isae.* 1).²⁷ According to later biographies, Demosthenes had to overcome a weak voice and a lisp during his training and he supposedly practised speaking with pebbles in his mouth (Cic. *De or.* 1.260-1, *Div.* 2.96; Plut. *Dem.* 4.4-5). It is reported that he employed other techniques to physically improve his condition: he used an apparatus to stop his shoulder from shaking uncontrollably, he recited speeches in front of a large mirror and while walking or running uphill in order to strengthen his breathing, and he practised speaking on the shore at Phaleron in order to make his voice heard above the waves (Plut. *Dem.* 6.3-4; Demetrios of Phaleron, *FGrH* 228 F17a *apud* Plut. *Dem.* 11.1; [Plut.] *X orat.* 844e-f). While the reliability of later biographies is questionable, Plutarch might be considered trustworthy here as he uses Demetrios as one

²⁶ Callistratos was an Athenian politician and orator, who was elected *stratēgos* in 378/7 BC. Plutarch's account is problematic, however, as this trial occurred in 366/5 BC when Demosthenes had already come of age. It is possible that Plutarch has mistakenly attached the anecdote to Callistratos' most famous case, see MacDowell, *Demosthenes the Orator*, p. 20. It is reported by Hegesias of Magnesia that Demosthenes attended Callistratos' address to the people in the *Ecclēsia* ([Plut.] *X orat.* 844b).

²⁷ According to MacDowell, it would indeed be possible for Demosthenes to consult Isaeus since he was a specialist in inheritance litigation, with eleven of his twelve surviving speeches relating to inheritance, *Demosthenes the Orator*, p. 21. At the very least, it is clear that Demosthenes' early forensic speeches were influenced by Isaeus' style of oratory (particularly noting the repetition of material from Isaeus in Dem. 27 and 29, and also 31, 41, 55). It certainly seems more appropriate for Demosthenes to have consulted Isaeus rather than Isocrates, since the latter claims that his instruction in rhetoric had nothing to do with private cases before the courts (15.37).

of his sources for this information. Demetrios was only a generation younger than Demosthenes and he claimed to have obtained the information from the orator himself.²⁸ A childhood nickname, either ‘Batalos’ or ‘Battalos’,²⁹ was given to him by his nurse and probably refers to his stammer (Dem. 18.180; Aeschin. 1.126) or possibly a weak physique (Plut. *Dem.* 4.5; [Plut.] *X orat.* 847e). Aeschines, though, gives it a more obscene and degrading meaning of cowardly or effeminate (Aeschin. 1.131, 2.99). Those writing about Demosthenes’ life also propose that he studied extensively the published speeches of other orators, including Isocrates, and that he read prose literature, especially Thucydides and Plato (Dion. Hal. *Thuc.* 53-4; Hermippos of Smyrna, *FGrH* IV a, 1026, F49a *apud* Plut. *Dem.* 5.7; [Plut.] *X orat.* 844b).³⁰ When viewed in conjunction with one another, these accounts portray Demosthenes’ determination to succeed in developing his skills in oratory; he would subsequently employ these skills in both the private and public spheres, applying them to his own legal and political disputes and to speeches like Euxitheos’ *Against Euboulides* which he wrote for his clients.

While the young Demosthenes eventually took possession of his father’s house, fourteen of his manufacturing slaves, and thirty minas from the guardians (Dem. 28.8), he had to bring numerous suits against them in order to recover what was owed to him from the rest of his inheritance. He won the first of these private cases in 364/3 BC (Dem. 27 and 28), and the jury voted that Aphobos pay him the large sum of ten talents (Dem. 28.18 and 30.32). Aphobos failed to pay and so Demosthenes was able to take possession of Aphobos’ house and slaves (Dem. 30.8). Over a three-year period, further suits

²⁸ Demetrios of Phaleron was an Athenian politician and orator, *circa* 360-280 BC. While Demetrios was the pro-Macedonian governor of Athens for ten years from 317 BC, the information he provides here with regard to Demosthenes’ training exercises does not demonstrate any particular bias against him as an enemy of Macedon.

²⁹ The spelling of this nickname differs in the manuscripts. See MacDowell, *Demosthenes the Orator*, p. 19.

³⁰ Plutarch uses the third century BC biographer, Hermippos, as a source for asserting that Demosthenes was a student of Plato’s. While there is no contemporary evidence to confirm Demosthenes’ familiarity with Plato, MacDowell suggests that it is indeed credible for the orator to have attended some of Plato’s lectures during his youth, in *Demosthenes the Orator*, pp. 21-2.

followed in which the guardians disputed the status of the possessions which Demosthenes sought.³¹ Having to fight for his inheritance in a series of prolonged lawsuits was probably part of the reason why he turned to writing speeches for other people in order to support himself and his legal battles. Apart from what he initially received upon coming of age and what he won from Aphobos, it is not known what exactly he obtained from Demophon and Therippides.³² Later sources state that Demosthenes only recovered a fraction of his father's wealth (Plut. *Dem.* 6.1; [Plut.] *X orat.* 844c-d). Aeschines, however, claims that he turned to writing speeches after squandering what inheritance he did receive (1.170, 3.173). Whatever Demosthenes' financial position might have been, it is certain that his pursuit of the guardians gave him his first opportunity to develop his oratorical ability in a real court setting. It is also highly likely that his demonstration of skill during these proceedings and his eventual personal success brought him a favourable reputation as a winning speaker. The series of suits against the guardians certainly helped Demosthenes to develop his ability. Crucially, this laid the foundation for his career as a speech-writer.

Since Demosthenes' earliest forensic speech was his successful private suit against Aphobos, it is most likely that his skill in rhetoric was initially in demand for cases concerning guardianship and familial property disputes. Of his surviving speeches, his earliest private speech for another litigant that can be dated with any certainty is

³¹ The next speech in the series against his guardians is *Against Aphobos for Phanos* (Dem. 29), probably dating to 362/1 BC. Aphobos brought a charge of perjury against Phanos, one of Demosthenes' witnesses and the orator delivered a speech in defence of this man. It is likely that Phanos was acquitted or that Aphobos abandoned this case, see MacDowell, *Demosthenes the Orator*, pp. 45-53. In 362/1 or early in 361/0 BC, Demosthenes then brought two cases against Onetor, who had received Aphobos' farm when the latter had married the former's sister (*Against Onetor 1*, Dem. 30, and *Against Onetor 2*, Dem. 31). It is not known for sure who won this case, but MacDowell suggests that Demosthenes would have been able to take possession of Aphobos' farm if he had prevailed, in *Demosthenes the Orator*, pp. 53-8. Unfortunately, the speeches against Demophon and Therippides do not survive. For a succinct summary of his battle with the guardians, see Worthington, *Demosthenes of Athens and the Fall of Classical Greece*, pp. 20-7.

³² For the amount that he might have eventually recovered, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 127-33.

Against Leochares (Dem. 44).³³ Dating sometime between 361 and 356 BC, this was a speech for the prosecution in a suit for bearing false witness (δίκη ψευδομαρτυριῶν) during a dispute over the inheritance of an estate.³⁴ After this, he became sought after by others and began to write speeches for the prosecution or for the defence in a wide range of forensic cases in both the private and public spheres of Athenian law: maritime loans, mining rights, forgery, assault, and trespass.³⁵ Winning cases and personal recommendations would have promoted his abilities and generated further demand for his speech-writing skills. Revised copies of his successful court speeches were also circulated to the public to further increase business and to cement his reputation.³⁶ But the profession of logographer was not held in high-esteem. The sources indicate that the act of being paid to write a speech bore a similar disapproval to making money from rhetorical practice or philosophical teaching (Dem. 19.246; Aeschin. 1.94, 125, 175; Isoc. 13.19-21, 15.37-44; Dein. 1.3). Nevertheless, this did not prevent some of the wealthiest and most influential men of Athens from becoming his clients. Among them was the banker, Phormion, one of the richest men in Athens in 350/49 BC and for whom Demosthenes wrote the highly successful speech *For Phormion* (Dem. 36) in a counter-indictment procedure (παραγραφή).³⁷ Having such men obligated to him or even being

³³ MacDowell suggests that *Against Callicles* (Dem. 55) may also be a contender for the earliest known private oration, in *Demosthenes the Orator*, p. 66. This speech was a defence speech in a suit for damages (δίκη βλάβης) in a dispute between neighbours over flood damage. However, its date is impossible to determine, see Bers, *Demosthenes, Speeches 50-57*, pp. 81-91.

³⁴ Some doubts have been raised regarding this speech's authenticity, see MacDowell, *Demosthenes the Orator*, pp. 97-8, and Scafuro *Demosthenes, Speeches 39-49*, pp. 190-1. But I agree with E. M. Harris' classification of it among Demosthenes' genuine speeches, in *The Rule of Law in Action in Democratic Athens*, pp. 401-2.

³⁵ For the competitive nature of the Athenians in court and the frequency with which they resorted to litigation, see M. R. Christ's specialised study on the matter in *The Litigious Athenian* (1998).

³⁶ For Demosthenes at least, Plutarch implies that revisions took place after a speech was delivered and before copies of it were circulated (Dem. 11.4-5). For a full analysis, see I. Worthington 'Greek Oratory, Revision of Speeches and the Problem of Historical Reliability', pp. 55-74.

³⁷ This Phormion was a former slave who became an Athenian citizen in 361/0 BC. His opponent in the counter-indictment was his stepson, Apollodoros. The speech, *For Phormion*, was such a success that Apollodoros later claims that the jury had been so impressed by this speech that they refused to listen to his account after it had been delivered (Dem. 45.4-5). In this subsequent case, *Against Stephanos I*, Demosthenes had changed sides and had written Apollodoros' prosecution speech against Stephanos for bearing false witness (δίκη ψευδομαρτυριῶν) on Phormion's behalf. This change of sides probably had a political motivation, since Apollodoros had begun advocating the use of the Theoric fund against Philip by the time of this latter trial, see M. Edwards, *The Attic Orators*, p. 43.

able to class them as friends enabled Demosthenes to build a network of connections which was useful for his budding political career.

Composing speeches for others was more than just a way of making money and establishing connections; it was also the means through which Demosthenes grew familiar with the Athenian legal system, its economy and, essentially, its political life. Several years after concluding his cases against the guardians, he decided to pursue a political career himself and he began delivering speeches on public issues in the courts and in the *Ecclēsia*. In 355/4 BC, Demosthenes made his first court appearance in a public case as one of the two supporting speakers (συνήγοροι) for Apsephion's prosecution for an inexpedient law (γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι), in *Against Leptines* (Dem. 20). In the same year, Demosthenes wrote a speech for Diodoros, *Against Androtion* (Dem. 22), who was a supporting speaker in Euctemon's public suit for an illegal proposal (γραφὴ παρανόμων). This was quickly followed by his earliest extant deliberative speech before the *Ecclēsia*, *On the Symmories* (Dem. 14) in 354/3 BC, and was followed in quick succession by further political speeches on public policy (*For the Megalopolitans* (Dem. 16) in 353/2 BC; *For the Freedom of the Rhodians* (Dem. 15) between 353 and 350 BC; *First Philippic* (Dem. 4) circa 352/1 BC; and *On Organisation* (Dem. 13) circa 350 BC).³⁸ While delivering speeches in the *Ecclēsia* during this period, Demosthenes continued to write speeches for others to deliver in public political trials (*Against Timocrates* (Dem. 24) in 353/2 BC; *Against Aristocrates* (Dem. 23) in 352/1 BC). He may have decided to enter into political affairs either before his lawsuits against the guardians or as a result of discovering his talent in oratory. In any case, Demosthenes would take centre stage in the political arena.

³⁸ Demosthenes' early political speeches were largely unsuccessful. For a thorough analysis of these speeches, see Worthington, *Demosthenes of Athens and the Fall of Classical Greece*, pp. 71-154, especially pp. 86-9 and 98.

After 350 BC, Demosthenes' main focus was on public policy and the relations between Athens and Macedon: he delivered the three *Olynthiacs* (Dem. 1-3) in 349/8 BC, and the three remaining *Philippics* (Dem. 6, 9 and 10) between 344/3 and 341 BC. At the height of his political career during the 340s BC, he must have had less time and even less financial necessity for forensic oratory but he did continue to write speeches for a number of public and private cases. By his own admission, however, he did not appear in person in private legal suits after entering public life (Dem. 32.32). He continued his career as a logographer into the 320s BC, even as his political career deteriorated and until he was eventually exiled as a result of the Harpalos Affair in 324/3 BC.³⁹ The forensic speeches which he wrote during this period include *Against Phormion* (Dem. 34) in 327/6 BC,⁴⁰ *Against Aristogeiton* (Dem. 25) in 325/324 BC,⁴¹ and *Against Dionysodoros* (Dem. 56) in 323/2 BC.⁴² Though *Against Dionysodoros* is the last surviving speech that we possess, six letters are attributed to Demosthenes, which were composed during his exile from Athens, and one might reasonably presume that he continued to write after his return to Athens.

Demosthenes' political career and deliberative speeches have been discussed in great detail elsewhere, and one might argue that neither of them are directly relevant to his career as a logographer. Yet it is important to note that he needed his career as a

³⁹ No defence speech of Demosthenes survives from the Harpalos Affair, but Deinarchos' speech for the prosecution has been preserved almost in its entirety (Dein. 1). For the background and details of the Harpalos Affair, see I. Worthington, *A Historical Commentary on Dinarchus*, pp. 41-77.

⁴⁰ This is a private speech written for Chrysispos to deliver during a counter-indictment (*παραγραφή*) lodged by a different Phormion from the banker depicted in Dem. 36. MacDowell has convincingly argued that there is no reason to doubt the authenticity of this speech, in *Demosthenes the Orator*, pp. 279-87.

⁴¹ It is a public speech in a procedure taken against an alleged disfranchised citizen (*ἔνδειξις*). While scholars generally agree that [Dem.] 26 was not written by Demosthenes, there has been considerable debate regarding the authenticity of Dem. 25. Several scholars believe that Dem. 25 is a forgery along with [Dem.] 26, most notably Sealey in *Demosthenes and His Time*, pp. 237-9, and Harris in *The Rule of Law in Action in Democratic Athens*, p. 154. However, other scholars have more persuasively defended the authenticity of Dem. 25, including M. H. Hansen in *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, pp. 144-52, and MacDowell, *Demosthenes the Orator*, pp. 298-313.

⁴² This is a private speech delivered by Dareios in a suit for damages which, accepting Demosthenes as its author, was written after his return from exile in 323 BC and before he died in the autumn of 322 BC, see MacDowell, *Demosthenes the Orator*, pp. 284-7. It is also likely that Demosthenes wrote his proems for political speeches during this late period in his career. See Worthington, *Demosthenes, Speeches 60 and 61, Prologues, Letters*, pp. 55-98.

speech-writer to fund his political pursuits. Though he was far from destitute,⁴³ it appears that Demosthenes' wealth was not enough to support his political career and the lifestyle that he desired. With no regular pay for politicians, personal affluence was fundamental to engage in the political arena at state-level since there were potential challenges in court and fines for failed prosecutions. The writing of speeches not only offered him a way to make money, since it is likely that he charged a considerably high price for each speech,⁴⁴ but it also served to enhance his rhetorical skill and enabled him to make political contacts. It is clear that Demosthenes' career as a logographer served both his personal and public interests.

While the exact price of a speech is not known, it was probably more than an Athenian of modest means could afford and it is likely that the most successful logographers could use their reputation to charge a higher amount. We may wonder about the case of Euxitheos, then, and how this ribbon-seller could afford Demosthenes' services in 346/5 BC. At this time, the orator's political career was at its peak and he would certainly have been a well-known figure in Athens. During his appeal, Euxitheos states that one of the accusations laid against him is that he is wealthy enough to bribe numerous men to testify that they are his relatives and yet he claims that, if he was indeed wealthy, he and his mother would not still be employed in the ribbon trade (see §§35 and

⁴³ Demosthenes' financial status is confirmed by the fact that he performed many liturgies: he was *triērarch* on several occasions (in 364/3 BC, Dem. 21.78-80 and 154, 28.17, Aeschin. 3.173; in 360/59 BC, Aeschin. 3.51-2; and again *circa* 358/7 or 357/6 BC, Dem. 18.99, 21.161), he was chairman of a tax-syndicate (Dem. 21.157), he was *chorēgos* (Dem. 21.13 and 156; [Plut.] *X orat.* 844d and 851a), and he acted as guarantor of ships ([Plut.] *X orat.* 851a). For a full synopsis of his public contributions, see Davies, *Athenian Propertied Families 600-300 B.C.*, pp. 135-7. It is also known that Demosthenes owned two houses (one in Athens and one in the Piraeus, Aeschin. 3.209; Dein. 1.69).

⁴⁴ Aeschines makes several references to Demosthenes charging a fee for his speeches (2.165, 3.173). However, given the enmity between the two men, it is difficult to decipher the truth from the slander. In a similarly hostile manner, since he was writing a speech for one of Demosthenes' prosecutors in 323 BC, Deinarchos reports that Demosthenes expected a fee for his legal services (1.111). The only other specific indication that logographers charged a fee for their work is found in a fragment of Antiphon's defence speech from 411 BC, after the rule of the Four Hundred *oligarchs*. Here Antiphon states that one of his accusers' claims against him is that he profited from composing speeches for others (fragment 1a, in M. Gagarin and D. M. MacDowell, *Antiphon and Andocides*, pp. 90-2). A comment made by Philostratos *circa* AD 237 supports this by asserting that comedy attacked Antiphon for selling high-price speeches (*VS.* 499).

52). From this, two conclusions may be drawn: either Euxitheos was misleading the court with regard to his personal wealth and he was indeed rich enough to pay for the services of the renowned orator, or the appellant had some personal connection to Demosthenes, who may have written a speech for him as a favour or even in return for another type of payment. Unfortunately, there is no evidence for either assumption. Euboulides' speech against Euxitheos does not survive and so there is nothing to indicate what proofs he might have offered for the appellant's alleged wealth. Furthermore, it cannot be known why Euxitheos specifically sought Demosthenes' help other than for his public renown at the time. The orator did not specialise in disfranchisement cases, as attested by the variety of actions involved in the surviving speeches that he wrote for other litigants during this period.⁴⁵ Any further link between Euxitheos and Demosthenes other than client and successful logographer eludes us.

Demosthenes certainly earned his reputation as one of the most distinguished orators in antiquity. His mastery of Greek prose style was highly praised by ancient commentators, such as Dionysios of Halicarnassos, Cicero and Plutarch. Plutarch's account of Demosthenes' education in the art of speaking reflects that his priority had been on honing his oratorical skills. Moreover, he possessed the ability to adapt these skills and vary his presentation, depending on the requirements of each legal case. Every speech offered a new challenge for the logographer. In each of his forensic speeches, it is clear that Demosthenes paid careful attention to its individual style and delivery. With such a great talent for character portrayal and logical argument, his expertise was truly demonstrated in his application of these features with a mind to suit the topic and to give

⁴⁵ Demosthenes may have been personally hostile towards Euboulides, perhaps in connection with his public role in the Athenian *Boulē* (§8) or his kinship ties to a prominent political family (at the very least in the deme of Halimous, §§26 and 60; cf. Lysias' defence of Euphiletos after he murdered Eratosthenes, a possible relative of Eratosthenes the tyrant (Lys. 12), see S. C. Todd, *A Commentary on Lysias*, pp. 59-60.

variety and vigour to his speeches.⁴⁶ *Against Euboulides* is one such speech, in which it is evident that Demosthenes paid considerable attention to the presentation of the speaker and dedicated much of the oration to drawing on the jury's empathy. Dating to 346/5 BC, *Against Euboulides* was written at a time when Demosthenes' political activity was at its peak and, as such, it stands as one of the last public speeches written for a client which can be ascribed to him without any significant doubt.

1.3: Libanios' *Hypothesis* for *Against Euboulides*

Together with a biography of Demosthenes, the fourth century AD author and teacher of rhetoric, Libanios, wrote a series of *Hypotheses* (ὑποθέσεις) or introductions to his speeches.⁴⁷ Libanios' *Hypothesis* for Demosthenes' *Against Euboulides* provides valuable information regarding the case: he names the appellant, offers information about the speech's historical background, and alludes to the main charges brought against the speaker which must be countered during the speech. As such, the *Hypothesis* serves as a useful starting point for the study of Demosthenes' speech for Euxitheos.

The *Hypotheses* and the biography of Demosthenes were written *circa* AD 352. They were requested by the proconsul of Constantinople, Lucius Caelius Montius, and as such were dedicated to him (introd. 1).⁴⁸ Gibson argues that Libanios' *Hypotheses* were intended to match the needs of novice readers of Demosthenes, for someone like Montius who was a native Latin speaker studying Greek literature.⁴⁹ The biography follows the dedication, and the author states that it will only mention the things which contribute to a more exact understanding of the speeches (introd. 1: τοσοῦτων μνημονεύοντες ὅσα δοκεῖ

⁴⁶ For effective character portrayal in forensic speeches, narrative was an important tool to persuade those listening (Arist. *Rh.* 1417a8). Dionysios, however, rated Lysias' skill in narrative above all other orators, including Demosthenes (*Lys.* 18).

⁴⁷ For a brief biography on Libanios, see Appendix 2, pp. 280-1.

⁴⁸ Little is known with regard to Montius. It is possible that he was the *quaestor* in Antioch who was murdered two years after Libanios wrote his *Hypotheses* (Amm. Marc. 14.7.12-6).

⁴⁹ C. A. Gibson, 'The Agenda of Libanios' *Hypotheses* to Demosthenes', p. 173.

καὶ πρὸς κατάληψιν ἀκριβεστέραν τῶν λόγων συντελεῖν). He discusses Demosthenes' familial line (2-3), his childhood (4-5), his training in rhetoric (6-7), the influence of Isaeus on his style (8), his entry into public life (9), and his defects as a speaker (10-3). Next, Libanios gives a concise history of the Athenian political scene when Demosthenes made his political debut (14-9: ὅπως εἶχε τά τε τῶν Ἑλλήνων καὶ τῶν Ἀθηναίων πράγματα, ὅτε ἐπὶ τὸ δημαγωγεῖν ἦλθε Δημοσθένης). This section breaks off in mid-sentence, and the text resumes with Libanios claiming that the epideictic works in the Demosthenic corpus are not genuine (20-1: the *Funeral Oration* and the *Erotic Essay*).

Libanios makes very few specific references to the sources he used in his *Hypotheses*. While he employs some of Demosthenes' terminology and also paraphrases the orator, he only quotes him directly on two occasions.⁵⁰ Besides Demosthenes, he names Aeschines,⁵¹ Dionysios of Halicarnassos,⁵² and a historical work called the *Philippic Histories*.⁵³ When Libanios does not specify who his sources were, he occasionally gives an indication of contemporary opinion.⁵⁴ It seems clear that he had access to many sources about Demosthenes and his works, including lexicographers and rhetoricians. Amongst his unnamed sources, Gibson's analysis finds that Libanios used Lycourgos' *Against Aristogeiton*, Harpocration's lexicon, Aristotle's *Rhetoric*, and a stasis-theory by Hermogenes.⁵⁵ In addition to a close familiarity with the texts of the Attic orators, Norman plausibly contends that Libanios had other commentaries besides that of Dionysios of Halicarnassos, and that Didymos was most probably one of these.⁵⁶ Gibson

⁵⁰ *Hyp.* 1.11 (Dem. 1) and *Hyp.* 7.4 ([Dem.] 7).

⁵¹ *Hyp.* 17.6-8 (Dem. 18), *Hyp.* 18.5 (Dem. 19), referring to *Against Ctesiphon* and *On the Embassy* respectively.

⁵² *Introd.* 20 and *Hyp.* 24.11 (Dem 25 and [Dem.] 26).

⁵³ *Hyp.* 6.2 (Dem. 6). Although Libanios does not name the author of this work, it is probably by the fourth century BC historian, Theopompos (*FGrH* 115 F401).

⁵⁴ Referring to οἱ πολλοί: *Hyp.* 32.2 (Dem. 31), *Hyp.* 26.1, 4 ([Dem.] 58); also, οἱ πρεσβύτεροι οἱ τινας: *Hyp.* 7.5 ([Dem.] 7).

⁵⁵ Gibson, 'The Agenda of Libanios' *Hypotheses to Demosthenes*, pp. 179 and 182-7.

⁵⁶ A. F. Norman, 'The Library of Libanios', p. 169.

makes a similar argument, and states that these commentaries are now unknown to us.⁵⁷ He also suggests that Libanios used Anaximenes' *Rhetorica ad Alexandrum* and Caecilius of Caleacte.⁵⁸ Since Libanios provides so little information with regard to his sources, the analyses of both Gibson and Norman play a helpful role in identifying which material Libanios most likely used when writing the *Hypotheses*.

In addition to the important information he supplies, Libanios' particular placement of Euxitheos' speech in the Demosthenic corpus is significant for his understanding of the speech. Libanios' treatment of *Against Euboulides* is highly significant: he moved orations 57-59 to an earlier position in the collection, as opposed to their current placement in the Demosthenic corpus, locating them between 26 and 27. Libanios explicitly notes that most authors before him had wrongly considered [Dem.] 58 as private (οἱ πολλοί: *Hyp.* 26.1); this may suggest that Dem. 57 and [Dem.] 59 were also moved forward with [Dem.] 58 for the same reason. In relation to [Dem.] 58, Libanios deduced that the whole affair was a public one in view of the fact that the defendant was alleged to have broken three Athenian laws, for which the penalties were heavy fines and disfranchisement (*Hyp.* 26.4). Apart from that, he does not offer any specific evidence as to why Dem. 57 and [Dem.] 59 ought to be regarded as public rather than private. It may have been only the threat of slavery for Neaera in the latter case and the same possible penalty for Euxitheos in the former that suggested to Libanios to group these speeches under the classification of public.⁵⁹

⁵⁷ Gibson, 'The Agenda of Libanios' Hypotheses to Demosthenes', pp. 179 and 189. It does seem likely that Libanios had access to more evidence for Demosthenes' speeches than what survives today. This would certainly have had a bearing on his classification of *Against Euboulides*, see Introduction, p. 17.

⁵⁸ Gibson, 'The Agenda of Libanios' Hypotheses to Demosthenes', pp. 187-9.

⁵⁹ R. Foerster, *Libanii Opera* VIII, pp. 645-7; 'The Decree of Demophilus, 346-345 B.C.', p. 197; Gibson, 'The Agenda of Libanios' Hypotheses to Demosthenes', p. 176. For a discussion regarding slavery, see Introduction, pp. 43-9.

Euboulides read as follows:

ΥΠΟΘΕΣΙΣ 27

[1] Γράφεται νόμος παρ' Ἀθηναίοις γενέσθαι ζήτησιν πάντων τῶν ἐγγεγραμμένων τοῖς ληξιαρχικοῖς γραμματείοις, εἴτε γνήσιοι πολῖται εἰσιν εἴτε μή, τοὺς δὲ μὴ γεγονότας ἐξ ἀστοῦ καὶ ἐξ ἀστῆς ἐξαλείφεσθαι, διαψηφίζεσθαι δὲ περὶ πάντων τοὺς δημότας, καὶ τοὺς μὲν ἀποψηφισθέντας καὶ ἐμμεΐναντας τῇ ψήφῳ τῶν δημοτῶν ἐξαληλίφθαι καὶ εἶναι μετοίκους, τοῖς δὲ βουλομένοις ἔφεσιν εἰς δικαστὰς δεδόσθαι, κἂν μὲν ἀλῶσι καὶ παρὰ τῷ δικαστηρίῳ, πεπρᾶσθαι, ἐὰν δ' ἀποφύγῳσιν, εἶναι πολῖτας. [2] Κατὰ τοῦτον τὸν νόμον τοῦ Ἀλιμουσίων δήμου διαψηφιζομένου ἀποψηφίζεται Εὐξίθεός τις, φάσκων δ' ἑαυτὸν ὑπ' Εὐβουλίδου ἐχθροῦ ὄντος κατεστασιάσθαι ἐφῆκεν εἰς τὸ δικαστήριον, καὶ ἐπιδείκνυσιν ἑαυτὸν ἐξ ἀστοῦ καὶ ἐξ ἀστῆς. Εἰ δὲ ἐτίθειυσεν ἡ μήτηρ μου, δι' ἀπορίαν τοῦτ' ἐποίησεν. Ὁ δὲ πατὴρ ἐξένιζε τῇ γλώττῃ, αἰχμάλωτος γενόμενος καὶ πραθείς. Δεῖ δὲ μὴ τὰ ἀτυχήματα προφέρειν, ἀλλὰ τὰ γένη ζητεῖν.

[1] A law is enacted by the Athenians for an investigation to take place of everyone listed on the deme registers to determine whether they are legitimate citizens or not, and that those who have not been born of a male citizen and a female citizen are to be struck off the rolls, and for the demesmen to vote by ballot on all of them. Those who are disfranchised and abide by the vote of the demesmen are to be struck off the rolls and are deemed to be metics. Those who wish have been granted an appeal before a jury, and if they are also convicted by the court, they are to be sold as slaves, if they are acquitted, they are deemed to be citizens. [2] In accordance with this law, when the deme of the Halimousians has voted by ballot, a certain Euxitheos is disfranchised, but he asserts that he came to court having been persecuted by his enemy Euboulides, and he shows himself to have been born of a male citizen and a female citizen. 'But if my mother was a wet-nurse, she did this because of poverty. And my father spoke with a foreign tongue, because he had been a captive and was sold as a slave'. One must not bring up the misfortunes, but examine the family line.

In this *Hypothesis*, Libanios reveals the name of the speaker of Demosthenes' *Against Euboulides*. Euxitheos' name does not appear in the speech itself but it is supplied by Libanios, presumably from a document which was cited in a manuscript that was available to the author in the fourth century AD but regrettably has not been preserved. Libanios begins his *Hypothesis* by expressly tying the speech to a law which instigated an extraordinary scrutiny of all those registered in the Attic demes. Unfortunately, he does not identify the proposer of the law. In an earlier text, Dionysios similarly connects

Isaeus' *On Behalf of Euphiletos* (Isae. 12) to a law which resulted in a deme-wide scrutiny of those listed in the deme registers (Isae. 16).⁶⁰ Like Dionysios, Libanios goes on to provide the terms of the scrutiny which had been implemented under this law. The process they describe falls into two parts: the voting by ballot (διαψήφισις) in the demes and the appeal (ἔφεσις) to the court. Libanios, however, provides more detail than Dionysios by specifying that the men who were struck off the deme registers were those who were not born of two Athenian citizen parents. He then asserts that those who were disfranchised assumed metic status. Both Dionysios and Libanios claim that those who wished to appeal the deme's decision took their case to court. If they were successful, they were reinstated as citizens but, if they lost their appeal, they were sold into slavery.⁶¹ It becomes clear that both authors are referring to the same law which instigated the extraordinary διαψήφισις of 346/5 BC.⁶²

The penalty of enslavement mentioned by Libanios has caused considerable debate. While both the author of the *Athēnaiōn Politeia* and Dionysios also state that slavery was the given punishment, nowhere in Euxitheos' speech is enslavement explicitly stated as a potential penalty for losing his appeal. Recently, MacDowell has specifically cast doubt on Libanios' account of the slavery penalty, on the grounds that Euxitheos only refers to becoming an outcast (see ἄπολιν at §70).⁶³ However, since MacDowell fails to mention the reports provided by the *Athēnaiōn Politeia* and Dionysios, it may be that MacDowell's scepticism of Libanios' *Hypothesis* is unwarranted.⁶⁴ As such, further research is required about whether or not slavery was indeed the penalty for the failed appeals arising out of the deme-wide extraordinary

⁶⁰ For an overview of this speech, see Appendix 1, pp. 270-9.

⁶¹ Dionysios adds that those who lost their appeal also had their property confiscated. This is certainly plausible in light of the law cited at [Dem.] 59.16, in which an alien man convicted of living with an Athenian citizen woman as husband and wife was to be sold into slavery and his property confiscated.

⁶² See Introduction, pp. 25-43.

⁶³ MacDowell, *Demosthenes the Orator*, p. 288 n. 3.

⁶⁴ Harris arrives at a similar conclusion, in *The Rule of Law in Action in Democratic Athens*, p. 76 n. 52.

scrutiny. The penalty and the problems it generates will be discussed in a later section of this Introduction.⁶⁵

Libanios notes that Euxitheos describes the situation as being the result of his persecution by his enemy, Euboulides. During his appeal, Euxitheos maintains that his disfranchisement had come about because of a personal dispute between his family and that of Euboulides (see §§48 and 61). He accuses Euboulides of conspiring to have him ejected from the deme when the opportunity of the extraordinary scrutiny arose. Moreover, he claims that Euboulides abused his position and postponed the vote on Euxitheos until late in the day (see §12). With many of the demesmen having departed, Euboulides had his co-conspirators cast multiple votes against Euxitheos. But, regardless of the injustice administered by his opponent, the mainstay of the appeal is the veracity of Euxitheos' claim to citizenship. Libanios' description of the case appears to suggest that he, as a reader, was sufficiently satisfied by Euxitheos' defence of his citizen status.

Providing details about the suit, Libanios outlines the charges that Euxitheos claims have been brought against him by Euboulides. Euboulides has attacked the citizen status of both Euxitheos' parents.⁶⁶ Firstly, he states that Thoucrites' foreign accent is proof of his foreign status (see §18). Next, he cites Nicarete's menial employment as evidence of her non-citizen status (see §35). By stating that 'one must not bring up the misfortunes, but examine the family line', Libanios indicates his thorough understanding of Euxitheos' defence against Euboulides' charges.

The details highlighted by Libanios' *Hypothesis* provide a number of issues which require significant attention in a historical and social analysis of *Against Euboulides*. The

⁶⁵ See Introduction, pp. 43-9.

⁶⁶ The necessary condition of two Athenian parents in order to attain citizenship will be discussed in the subsequent section, pp. 21-5.

sections which follow will examine these issues and give a full account of the legislation which instigated the appeal, the nature of the case, and its penalty.

1.4: The re-enactment of Pericles' citizenship law in 403/2 BC

According to Libanios, the purpose of the extraordinary διαπήφισις was to determine the legitimacy of everyone listed on the deme registers; anyone who was discovered not to have been born of an Athenian father and an Athenian mother was disfranchised. Two citizen parents was a legal requirement for citizenship since the re-enactment of a law by Pericles nearly sixty years before the extraordinary διαπήφισις of 346/5 BC. Euxitheos' opponents made accusations against both of his parents. He specifically defends his father's citizen status by claiming that, even if Thoucritos was Athenian on one side only, he was entitled to citizenship because he had been born before the archonship of Euclidean (see §30). Here, Euxitheos refers to the revival of Pericles' statute during Euclidean's term in office in 403/2 BC. This section will discuss the re-enactment of the citizenship law and its implications for the citizen body in order to understand the motivation behind the extraordinary διαπήφισις which led to Euxitheos' appeal against his deme.

During the archonship of Antidotos in 451/0 BC, Pericles passed a law limiting citizenship to those who had Athenian parentage on both sides.⁶⁷ Unfortunately, no further information survives with regard to how the law was put into effect.⁶⁸ It may be assumed that after the law was passed, only the sons of two Athenian parents were entitled

⁶⁷ [Arist.] *Ath. Pol.* 26.4: ἐπὶ Ἀντιδότου διὰ τὸ πλῆθος τῶν πολιτῶν Περικλέους εἰπόντος ἔγνωσαν μὴ μετέχειν τῆς πόλεως, ὃς ἂν μὴ ἐξ ἀμφοῖν ἀστοῖν ἦ γεγονώς. For an overview of Pericles' law, see Appendix 3, pp. 282-8.

⁶⁸ S. D. Lambert makes a case in favour of two fragmentary pieces of evidence being included in Pericles' law, even suggesting that they might be extracts from the law itself: the first fragment is from Crateros' fourth book (*FGrH* 342 F4 *apud* Suda s.v. ναυτοδίκαι Adler N86), and the second fragment is from Philochoros' fourth book of his *Atthis* (*FGrH* 328 F35a *apud* Suda s.v. ὀργεῶνες Adler O510), in *The Phratries of Attica*, pp. 45-9. Since both fragments relate to phratry membership, it is his belief that Pericles' law not only directly affected phratries but also made provisions for genuine admissions to them and against fraudulent ones. While his theory is certainly interesting, the very nature of his evidence makes it impossible to substantiate.

to be entered onto the lexiarchic register of their father's deme (ληξιαρχικὸν γραμματεῖον; see §8). Should a deme make any fraudulent admissions, individual citizens could bring a public action against those they suspected of arrogation of Athenian citizenship (γραφὴ ξενίας).⁶⁹ The official status of Pericles' legislation during the Peloponnesian War (431-404 BC) is unclear. Though no formal change to the requirement for citizenship appears to have been made,⁷⁰ it does seem likely that social divisions between citizens and aliens had been relaxed during the period of the conflict.

The evidence for measures taken after the Peloponnesian War to restrict citizenship once again is indicative. There were some brief regulations to introduce further qualifications for Athenian citizenship: as part of oligarchic rule in 411 BC, access to citizen rights was restricted to men who were able to be of service to the state by means of their possessions and persons (Thuc. 8.65.3; [Arist.] *Ath. Pol.* 29.5), and with the restoration of democracy in 403 BC, the possession of land became a requirement (Lys. 34).⁷¹ Moreover, the Athenians were very reluctant to grant citizenship to outsiders who

⁶⁹ A γραφὴ ξενίας was a public prosecution which was voluntarily brought against an individual alleged to be a foreigner usurping citizen rights; having been imprisoned until his trial, the defendant was brought before the court and was auctioned as a slave if he was found guilty (Isae. 3.37; Dem. *Ep.* 3.29; Dem. 24.131 with schol.). *Against Neaera* ([Dem.] 59) is the only surviving speech which depicts a prosecution for a fraudulent claim to citizenship. Like other public suits, any qualified citizen might bring a γραφὴ ξενίας and thus measures were established to dissuade frivolous cases. Any accuser who abandoned his case or failed to obtain one fifth of the jury's vote received a fine of a thousand drachmas and a prohibition against bringing another public prosecution in the future; for a discussion on the penalties for frivolous prosecution, see §8 (see also E. M. Harris, *Democracy and the Rule of Law in Classical Athens*, pp. 405-22). Euxitheos states that Euboulides had previously obtained less than a fifth of the votes of the jurors in a γραφὴ ἄσεβείας (indictment for impiety), yet he was able to serve as one of the prosecutors on the deme's behalf during Euxitheos' appeal (see τὸ πέμπτον μέρος at §8).

⁷⁰ D. Ogden argues that the law was formally revoked, most likely in 411 BC, since Euxitheos' statement (see §30) seems to imply that significant numbers of children had been born before 403/2 BC who had only one Athenian parent, in *Greek Bastardy in the Classical and Hellenistic Periods*, p. 77. However, one would expect even a single reference to such an event to be specifically noted in the source material, particularly in relation to the law being re-affirmed in 403/2 BC. Yet there is no evidence in any of the existing sources to suggest that Pericles' law had been removed. Indeed, Pericles' law does not appear to have been formally cancelled since Euripides' *Ion*, written around the time of the Sicilian expedition of 415-13 BC, makes allusions to its requirements (668-75; cf. Heracles' exclusion from succession rights because his mother was a foreigner, in Ar. *Birds*, 1649-70, which was performed in 414 BC). K. R. Walters finds it very doubtful that Pericles' law was officially set aside given the lack of evidence from the end of the fifth century for Athenian citizens of mixed parentage, in 'Pericles' Citizenship Law', p. 325. Though it cannot be definitively known, it would appear most likely that the law was merely ignored during the war rather than formally annulled.

⁷¹ Walters makes a persuasive suggestion that the re-enactment of Pericles' legislation was connected with the codification of Athenian laws, a process that was started in at least 411 BC and finally completed in

had helped them overthrow the Thirty ([Arist.] *Ath. Pol.* 40.2; Aeschin. 3.195; [Plut.] *X orat.* 836a-b). After the restoration of the Athenian democracy, Pericles' law was re-enacted during the archonship of Eucleides in 403/2 BC (see πρὸ Εὐκλείδου at §30).⁷² Once again, the Athenian state sought to ensure that only those born from two citizen parents had a share in the rights of citizenship. Several sources confirm the re-enactment of the law. The first, a fragment from Eumelos, states that a certain Nicomenes proposed a decree that no one born after the archonship of Eucleides should share in the rights of citizenship unless he can demonstrate that both of his parents were citizens.⁷³ Here, the phrasing is quite similar to that provided in the *Athēnaiōn Politeia* for Pericles' law ([Arist.] 26.4).⁷⁴ The final clause from this fragment, regarding those born before the year of Eucleides' archonship, corresponds to the situation described by Euxitheos (see §30) and the speaker of Isaeus' *On the Estate of Ciron* (8.43).

While Eumelos makes no mention of bastardy, a second reference from Athenaeus states that Aristophon the orator proposed a law in 403/2 BC that whoever was not born of a citizen woman was a νόθος (bastard).⁷⁵ Many scholars have taken the statements from Eumelos and Athenaeus as parts of the same law, even though the two writers appear to disagree over who proposed it.⁷⁶ During his appeal, Euxitheos does refer to Aristophon

399 BC, in 'Perikles' Citizenship Law', p. 326. For a discussion of the revision of the laws during this period, see A. R. W. Harrison, 'Law-Making at Athens at the End of the Fifth Century B.C.', pp. 26-35; A. L. Boegehold, 'The Establishment of a Central Archive at Athens', pp. 23-30; and A. Lanni, *Law and Justice in The Courts of Athens*, pp. 142-8.

⁷² J. Blok raises the interesting point that both Pericles' law and its re-enactment were introduced after the distressing and chaotic times of prolonged warfare and, therefore, the Athenians may have felt a general need to create order and face the future on a better basis than before, in 'Perikles' Citizenship Law', p. 159.

⁷³ Eumelos, *FGrH* 77 F2 *apud* schol. Aeschin. 1.39: ... Νικομένη τινὰ ψήφισμα θέσθαι μηδένα τῶν μετ' Εὐκλείδην ἄρχοντα μετέχειν τῆς πόλεως, ἂν μὴ ἄμφω τοὺς γονέας ἀστοὺς ἐπιδείξηται, τοὺς δὲ πρὸ Εὐκλείδου ἀνεξετάστως ἀφεῖσθαι.

⁷⁴ Walters also draws attention to the similar wording presented in a subsequent passage of the *Athēnaiōn Politeia*, which refers to the constitution of the Athenians at that time and the fact that two citizen parents was still a requirement in the final decades of the fourth century BC ([Arist.] 42.1); he surmises that it must derive from the reformulation of Pericles' original law during the archonship of Eucleides in 403/2 BC, in 'Perikles' Citizenship Law', pp. 316 and 324-7.

⁷⁵ Ath. 13.577b-c: Ἀριστοφῶν δ' ὁ ῥήτωρ, ὁ τὸν νόμον εἰσενεγκὼν ἐπ' Εὐκλείδου ἄρχοντος ὃς ἂν μὴ ἐξ ἀστῆς γένηται νόθον εἶναι.

⁷⁶ H. J. Wolff, 'Marriage Law and Family Organization in Ancient Athens', pp. 85-6; J. K. Davies, 'Athenian Citizenship', p. 118; P. J. Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 331.

and his re-enactment of an earlier law, but it appears to relate to Solon's law restricting trade in the marketplace to citizen men and women (see §32). Since the accounts of both Eumelos and Athenaeus essentially delineate that the possession of citizenship requires two citizen parents, it is indeed difficult to believe that they refer to two separate decrees.⁷⁷

It is likely that neither Pericles' original citizenship law nor its re-enactment were retroactive, but that they were applicable to all those who had yet to be registered as citizens by 451/0 and 403/2 BC respectively.⁷⁸ Euxitheos claims that his father's citizenship was certain because Thoucritos was born before the archonship of Eucleides (see §30); yet he overlooks the fact that his father was not only born before the law was passed, but he was old enough to have served Athens in the Decelean War (413-404 BC; see §18). He must have turned eighteen years old before participating in the war effort and, therefore, he would have been enrolled in his deme long before 403/2 BC. The existence of an exemption for those already registered in their demes certainly implies that no deme-wide review of membership was carried out when Pericles first introduced the law or at its renewal.

As Pericles' citizenship law and its subsequent re-enactment restricted citizenship to those born of two citizen parents, the processes by which to scrutinise candidates for citizenship had to develop accordingly, for both future admissions and for occasions which warranted the re-evaluation of current membership. Thus the purpose of the

⁷⁷ Walters maintains that the sources refer to two separate laws, and that Nicomenes' decree only deals with citizenship while Aristophon's law refers to legitimacy, in 'Perikles Citizenship Law', p. 322. However, A. R. W. Harrison offers the more plausible possibility that Aristophon's law made the rule retrospective and Nicomenes' decree simply reversed this particular clause, in *The Law of Athens* Vol. I, p. 26 n. 1. For the non-retroactive nature of Pericles' law and its re-enactment, see n. 78 below.

⁷⁸ S. C. Humphreys convincingly argues that Pericles' law and its later re-enactment in 403/2 BC were applicable to those born before they were passed, but who had not yet been enrolled in the demes at that time, in 'The Nothoi of Kynosarges', pp. 92-4. Scholars have generally agreed that the law had a non-retroactive effect, see Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*, pp. 332-4; C. Patterson, 'Those Athenian Bastards', p. 64 n. 93; and E. Carawan, 'Pericles the Younger and the Citizenship Law', p. 383 n. 13.

διαψηφίσεις, both in ordinary and extraordinary circumstances, was to prevent aliens and the offspring of unlawful unions between citizens and aliens from assuming the rights of citizens. It is clear, then, that Pericles' original law and its revival had a lasting impact on the behaviour and self-consciousness of the Athenians in relation to their citizenship.

1.5: Demophilos' decree and the extraordinary διαψηφίσεις of 346/5 BC

Without the existence of any centralised process of citizen registration or state records of citizenship, the responsibility for scrutinising candidates for citizenship and maintaining a list of its admissions fell to the one hundred and thirty-nine Attic demes.⁷⁹ Both entry to the demes and ejections from them were executed by a διαψηφίσις, carried out by the existing deme members. There were two types of διαψηφίσεις: an ordinary vote which was held for candidates seeking enrolment in a deme, and an extraordinary vote which could be undertaken by a deme as the means through which to review its own admissions or which was implemented as a result of a state decree requiring every deme to scrutinise its membership. This section will briefly examine the διαψηφίσις process in both ordinary and extraordinary circumstances, the latter of which appears to have closely

⁷⁹ After Cleisthenes' establishment of the deme system in 508/7 BC (Hdt. 5.66-9; [Arist.] *Ath. Pol.* 21), the Attic demes began to control access to Athenian citizenship. However, the part played by the phratries with regard to citizenship after Cleisthenes' reforms has been a much debated topic: those who believe that Cleisthenes' deme system brought about the end of an essential connection between phratry membership and citizenship include H. T. Wade-Gery, 'Studies in the Structure of Attic Society II', pp. 17-29; A. Andrewes, 'Philochoros on Phratries', p. 13; Harrison, *The Law of Athens* Vol. I, pp. 64-5; F. J. Frost, 'Tribal Politics and the Civic State', p. 67; Rhodes, *A Commentary on the Aristotelian Athenaiion Politeia*, pp. 70, 253 and 258; R. Osborne, *Demos*, pp. 72-4; D. Whitehead, *The Demes of Attica*, p. 97 n. 55; and P. B. Manville, *The Origins of Citizenship in Ancient Athens*, p. 24 n. 79. Those who maintain that phratry membership continued to be an important criterion of *polis* membership include C. Patterson, *Pericles' Citizenship Law of 451-450 B.C.*, pp. 10-11 and 26-7; and R. Sealey, *The Athenian Republic*, p. 4. In particular, Lambert maintains that the demes at least shared access to citizenship with the phratries, in *The Phratries of Attica*, pp. 261-7. While he acknowledges that Pericles' law neither explicitly required an Athenian citizen to be a phratry member nor that the demes were obliged to consider the phratry credentials of those that had them before admission, Lambert argues that phratry membership was a matter of confirming Athenian descent whereas deme membership controlled the access to citizenship, pp. 25-57. His case is certainly persuasive; since neither the phratry nor the deme was exempt from corruption as a social body (for an example of phratry corruption, Dem. 44.41; for the deme, §§58 and 60-1, and Dem. 44.44), any correlation between the two would be an effective way to circumvent fraud in one of those groups. Successful introductions to the phratries were frequently used as evidence in claims regarding citizenship (see §§23 and 54; Dem. 43.14; [Dem.] 59.59; Isae. 12.3, 8, 7.16-7, 8.19). Undoubtedly, rejection by a phratry would also have been considered relevant during an application for deme membership. For further details on phratry membership, see Appendix 5, pp. 293-7.

followed the former, and will analyse Demophilos' decree of 346/5 BC which instigated the διαψήφισις process in which Euxitheos was ejected from his deme of Halimous.

During an assembly of its members, a body of demesmen would implement an ordinary διαψήφισις in order to confirm or refute the citizenship of those applying for deme admission. Written in the second half of the fourth century BC, the *Athēnaiōn Politeia* is the only surviving source which describes the procedure that took place during that period. Athenian males normally submitted to such a vote at the age of eighteen, when the members of their intended demes made an annual scrutiny of those entering the deme for the first time ([Arist.] *Ath. Pol.* 42.1).⁸⁰ This vote took place during the deme's assembly of its members and, since every Attic deme would carry out this process for new members at least once a year, it is likely that these διαψηφίσεις were coordinated to take place on or near the beginning of each deme's administrative year (Lys. 21.1).⁸¹ With the *dēmarch* presiding over proceedings, the name of the candidate was read out before the assembled demesmen and any member who wished could object to the candidate's admission on the grounds of at least one illegitimate parent.⁸² The *dēmarch* presumably administered the sacred oath to the members, which they took over sacrificial victims, and it was then the task of members to vote upon the age and legitimate birth of each of the new candidates.⁸³ Those candidates deemed to be of age and legally born of two

⁸⁰ For a summary of the debate regarding whether or not men were registered after reaching their eighteenth birthday (and were thus entering their nineteenth year) or were enrolled after entering their eighteenth year (after their seventeenth birthday), see M. Golden, 'Demosthenes and the Age of Majority at Athens', pp. 25-38, and Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, pp. 497-8. Since there was no registration process at birth, age would certainly have been a difficult factor to determine and so evidence of a candidate's physical maturity was most likely the primary consideration for enrolment (cf. Ar. *Wasps*, 578).

⁸¹ See Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 497; Whitehead, *The Demes of Attica*, p. 103. For the location and frequency of the deme assemblies, see nn. 109 and 110 respectively.

⁸² The *dēmarch* was the official who convened the deme's assemblies, by virtue of his custody of the lexiarchic register, see §§8 and 26. As the presiding official, his role would also have included the supervision of the oath-taking during regular deme assemblies. Despite the fact that Euxitheos' case came about as a result of an extraordinary διαψήφισις, the procedures which he describes do closely follow that of the ordinary διαψήφισις, see n. 83 below. For the *dēmarch* as the agent who executed the deme's decisions, see Whitehead's comprehensive discussion, in *The Demes of Attica*, pp. 122-30.

⁸³ The *Athēnaiōn Politeia* states that the two questions put before the demesmen are as follows: πρῶτον μὲν εἰ δοκοῦσι γεγονέναι τὴν ἡλικίαν τὴν ἐκ τοῦ νόμου, and εἰ ἐλεύθερός ἐστι καὶ γέγονε κατὰ τοὺς νόμους ([Arist.] 42.1). With regard to the former condition, Rhodes states that the demesmen could be fined for

citizen parents were enrolled on the lexiarchic register. If a candidate was unsuccessful with regard to his age, he was not registered at that time. If the demesmen voted against a candidate's free status during the διαψήφισις, that man did not become a citizen; if he was deemed to have been a slave, he was most likely sold or if he was found to be foreign but free, he was probably classed as a metic thereafter.⁸⁴ The rejected candidate could either accept the deme's judgement or bring an ἔφεσις before the jury-court (δικαστήριον) and face five prosecutors selected from his deme (κατήγοροι, [Arist.] *Ath. Pol.* 42.1).⁸⁵ This jury-court was presided over by the Thesmothetae ([Arist.] *Ath. Pol.* 59.4).⁸⁶ The *Athēnaiōn Politeia* only records two possible outcomes: if the appellant was unsuccessful, the candidate was sold as a slave but, if he was successful in court, the deme was obliged to admit him ([Arist.] 42.1).

Unfortunately, there are no surviving accounts of appeals brought from an ordinary διαψήφισις, though there are certain indications of abuse in the system of deme enrolment which suggest ensuing disputes would have been brought before the lawcourt (see §§58 and 60-1; Dem. 44.44). All those who fulfilled the requirements of the διαψήφισις and those who were successful in a court appeal then had to pass a subsequent review by the *Boulē* in order to be accepted as cadets into their deme (this investigation by the *Boulē* was termed a δοκιμασία, [Arist.] *Ath. Pol.* 42.2; cf. Ar. *Wasps*, 578).⁸⁷ The

accepting candidates who were younger than the required age, in *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 499. The second question requires that two conditions are met in order to attain citizenship, since a candidate might be free but illegitimate if he was born out of wedlock. However, A. W. Gomme notes that the author of the *Athēnaiōn Politeia* makes no reference to the consequences which arose out of such cases, either out of carelessness in his writing or because no punishment followed, in 'Two Problems of Athenian Citizenship Law', p. 132. Gomme concludes that the candidate remained free but an alien, though a later prosecution might follow if perjury or fraud was suspected on the father's part,

⁸⁴ Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 502. For a definition of the term μέτοικος, see D. Whitehead, *The Ideology of the Athenian Metic*, pp. 6-10.

⁸⁵ Cf. the similar phrasing used in *IG II²* 1205. An ἔφεσις was presumably initiated via the rejected candidate's father or guardian, since only registered adult citizens could initiate court proceedings of this kind.

⁸⁶ Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 501; Whitehead, *The Demes of Attica*, p. 101.

⁸⁷ Cf. §62, Dem. 27.5, 44.1; Lys. 21.1, 10.31, 26.21, 32.9. The δοκιμασία was a general term used to describe an investigation held by either the *Boulē* or the court, in which the purpose was to confirm whether a man was to be accepted as a newly enrolled citizen or if he was formally qualified to hold the public office to which he had been appointed. B. G. Robertson has persuasively argued that the *Boulē*'s δοκιμασία of

fact that the demes' decisions were subject to revisions by state-appointed bodies underscores the importance of the ordinary διαψήφισις procedure as a rite of passage to citizenship.

One would expect that a man's status as a citizen would have been certain after confirmation by the *Boulē* and his subsequent enrolment in his deme. However, as Euxitheos' situation makes evident, this was not always the case. Since it was impossible to establish one's parentage beyond any doubt, there were several occasions on which an Athenian man had to undergo an official review of his citizen status.⁸⁸ One such occurrence came about when he was selected to hold office.⁸⁹ But the unreliability of the deme registers meant that other occasions had a more extensive reach, namely when an extraordinary διαψήφισις was undertaken at deme level in order to scrutinise each existing member's credentials for citizenship.

First and foremost, a deme could hold an extraordinary διαψήφισις as the means through which to revise its lexiarchic register and to determine if there had been any improper enrolments. This could occur when accusations had been made against a number

young men for citizenship entailed physically examining the bodies of the youths to see if they were the proper age, see 'The Scrutiny of New Citizens in Athens', pp. 149-74. Robertson concludes that, by passing this test, a candidate's adulthood was conferred upon him by the *Boulē*'s δοκιμασία. See also n. 47 in the Commentary.

⁸⁸ Should a deme member's status be called into question at a later stage, he could allude to his initial recognition by the demesmen as proof of his belonging, just as Euxitheos does at §§61-2. This alone was not always enough to confirm one's citizen status, as indicated by the previously mentioned abuses in the system of deme enrolment for political or financial gain. S. Lape summarises the situation by stating that, since there was no one act by which a father could definitely acknowledge and establish his paternity, there was no one act by which a citizen could secure his civic legitimacy once and for all, in *Reproducing Athens*, pp. 73-4. Given the apparent difficulty of maintaining citizenship indefinitely, her argument that acting Athenian and performing to communal expectations was central to the practice of democratic citizenship is highly persuasive.

⁸⁹ Candidates who were chosen had to undergo a δοκιμασία before they could assume office ([Arist.] *Ath. Pol.* 45.2; for generals, *Lys.* 15.2; for priests, *Pl. Laws*, 759d, and for those presiding over a court and those overseeing state business for more than thirty days, cf. *Aeschin.* 3.14). According to the author of the *Athēnaiōn Politeia*, both those appointed by lot and those elected by show of hands underwent this review ([Arist.] 55.2) in order to ascertain that the candidates possessed the legal qualification for office rather than to establish their competence for the role; see Harrison, *The Law of Athens* Vol. II, pp. 201-7. The δοκιμασίαι for these magistrates came before a jury in a court, under the presidency of the Thesmothetae, but separate δοκιμασίαι proceedings were held in the *Boulē* for new members of that body and for the positions of the nine *archōns* ([Arist.] *Ath. Pol.* 45.3; see D. M. MacDowell, *The Law in Classical Athens*, pp. 167-8). The questions asked in the δοκιμασία proceedings are referred to by Euxitheos (see §§66-70; see also *Aeschin.* 1.28 and [Arist.] *Ath. Pol.* 55.3-4).

of its members or when there were suspicions about corruption in the deme's administrative practices.⁹⁰ Moreover, a διαψήφισις of this kind appears to have been the necessary action taken by a deme when it had to replace its register of members due to loss or destruction (either accidental, as initially suggested by Euxitheos at §26, or as a deliberate political move which he subsequently claims at §§60-2).⁹¹ While it is not known what regulations governed such διαψήφισεις, it is clear that the demes themselves were responsible for the reassessment of their own membership and that this process closely followed that of the ordinary διαψήφισις. These scrutinies were informal events, held during an assembly of its members and under the supervision of its own *dēmarch*. As with the coming of age διαψηφίσεις, an oath was administered to the demesmen by the presiding *dēmarch* and the matter put before them on this occasion was whether or not they thought the individual in question to be a true and legitimate citizen. If the gathered demesmen voted against one of their members, he was struck off the lexiarchic register and subsequently expelled from the deme, as in the case of Euxitheos (see also Dem. 18.132-4).⁹² The Suda reports that any man who had been struck from the register would then be taken to the jury-court and tried for being a foreigner; if he was convicted, he was sold as a slave but if he was successful, he was reinstated into the citizen-body.⁹³

⁹⁰ Suda s.v. διαψήφισις, Adler Δ850: οἱ πολῖται συνίασιν ἕκαστοι κατὰ τοὺς αὐτῶν δήμους καὶ περὶ τῶν αἰτίαν ἔχόντων ἢ παρεγγεγραμμένων εἰς τὴν πολιτείαν ψῆφον φέρουσι κρύβδην.

⁹¹ B. Haussoullier suggests that an alternative solution to the διαψήφισις could have been adopted, namely reconstructing the register by a communal effort of memory, in *La Vie Municipale en Attique*, pp. 52-3. Indeed, this might certainly have sufficed for a small deme like Halimous. Yet, one would be more inclined to agree with Whitehead's conclusion that, if a simpler method had been available to replace the register, it is surprising that Euxitheos does not expressly say so since it would suit his argument to portray Antiphilos (the former *dēmarch* and father of his current opponent) in the worst possible light, in *The Demes of Attica*, p. 105. It may have been the case that an unknown Athenian law required that a διαψήφισις take place in every deme, regardless of size, when it was necessary to reconstruct or revise a deme register. But given that the incident in Halimous is the only surviving source which recounts the loss of a lexiarchic register, and that is only briefly referred to by a speaker who is the victim of a subsequent and different type of διαψηφίσεις, it cannot be conclusively known how other such losses were managed.

⁹² A speech dated *circa* 343 BC, Dem. 18.132 uses the verb ἀποψηφίζομαι in relation to a man named Antiphon, who had been 'voted-out' from the citizen body at an unspecified time. Antiphon apparently left Athens after his ejection, since the speaker claims that he returned to Athens in order to burn the docks at the Piraeus for Philip II of Macedon at some point between 346 and 342 BC (see also Plut. *Dem.* 14.4; Dein. 1.63; Worthington, *A Historical Commentary on Dinarchus*, pp. 227-8).

⁹³ Suda s.v. Αποψηφισθέντα Adler A3658: εἴτα εἰσήγετο εἰς τὸ δικαστήριον καὶ ἐκρίνετο ξενίας, καὶ εἰ μὲν ἐάλω, ἐπιπράσκετο ὡς ξένος: εἰ δὲ ἐκράτει, ἀνελαμβάνετο εἰς τὴν πολιτείαν. This tenth century AD Byzantine encyclopaedia was compiled by numerous authors, who had access to the texts of the Greek

It is not clear from this source, however, whether this subsequent process was initiated as a voluntary γραφή ξενίας or as an appeal against expulsion by the ejected man. The isolated and irregular nature of this type of διαψήφισις, and the lack of evidence about local proceedings from the Attic demes, make it impossible to establish any details about the procedure with any certainty. It was certainly fortunate that Euxitheos reports the loss of the lexiarchic register in his deme. He uses this information to bolster his claim to citizenship by referring to the fact that neither his father's nor his own status was called into question during the earlier διαψήφισις in Halimous; a διαψήφισις which was initiated under quite different circumstances from the one which brought about his current disfranchised state.

The demes could be compelled by the state to hold an extraordinary διαψήφισις to remove any intruders generally suspected as having infiltrated the deme system and appropriated the rights and privileges of citizens. This formal review, decreed by the *Ecclēsia*, entailed the widespread revision of the lexiarchic registers in every Attic deme and it was the responsibility of the deme itself to hold a vote on each of its members individually. The very existence of this type of διαψήφισις signals a persistent Athenian preoccupation with protecting citizenship, one which continued from Pericles' restrictive legislation in 451/0 BC. Nevertheless, implementing a deme-wide scrutiny was an extreme measure and, as such, it would appear that it was a rare event. Indeed, only two such occasions when all Athenian citizens were uniformly examined, deme by deme, are known from the source material; the first in the mid-fifth century, and the second in the mid-fourth century which induced Euxitheos' disfranchisement.⁹⁴

poets and their scholia, as well as the Greek and Roman historians, and various different lexical and grammatical works. For a detailed overview of the Suda's sources, see R. Tosi, 'Suda' in *Brill's New Pauly*, published by Brill Online.

⁹⁴ The *Athēnaiōn Politeia* alleges that a διαψήφισμός took place in 510 BC after the tyranny of the Peististratids was overthrown ([Arist.] 13.5). However, if this account is accurate, such a review cannot have taken place in the demes since they were first established by Cleisthenes in 508/7 BC; see A. Diller, 'The Decree of Demophilus, 346-345 B.C.', p. 203, and 'Scrutiny and Appeal in Athenian Citizenship', p.

The first extraordinary διαψήφισις, in 445/4 BC, followed a large gift of grain from Psammetichos of Egypt to be distributed among Athenian citizens during a famine and it revealed close to five thousand fraudulent enrolments (Philoch. *FGrH* 328 F119, *apud.* schol. Ar. *Wasps*, 718a-b; Plut. *Per.* 37.3-5).⁹⁵ However, very little is known about proceedings during this enactment of the extraordinary διαψήφισις and there is no evidence to detail the procedure in the trials arising from it. Since Philochoros does not use either the term διαψήφισις or διαψηφισμός, some scholars have suggested that the widespread ejections at this time occurred as a result of a mass of γραφαὶ ξενίας; specifically, Diller maintains that the situation in 445/4 BC was similar to that presented in Aristophanes' *Wasps*.⁹⁶ A series of these prosecutions is certainly plausible given Plutarch's statement that those convicted were sold into slavery. Alternatively, if the enslavements were to have followed failed appeals like those described by both Dionysios and Libanios after the extraordinary διαψήφισις of 346/5 BC,⁹⁷ Plutarch's statement

305, and Gomme, 'Two Problems of Athenian Citizenship Law', pp. 139-40. It may be the case that the author of the *Athēnaiōn Politeia* has mistakenly applied the term διαψηφισμός from his own day to refer to a scrutiny that took place in the phratries or *genē* ([Arist.] 21.2). Moreover, if one does accept the validity of this διαψηφισμός, it may be argued that it took place before a clear definition of the requirements for citizenship existed, see Manville, *The Origins of Citizenship in Ancient Athens*, p. 176.

⁹⁵ Since neither Philochoros nor Aristophanes refer to any specifications for the distribution among the Athenians, one must assume that in 445/4 BC those who received the grain were those who fulfilled the requirements for citizenship laid down by Pericles in 451/0 BC. Moreover, while both Philochoros and Plutarch present similar figures for those who were found to be illegally in possession of citizenship at this time, the former states that four thousand seven hundred and sixty men were ejected from the demes whereas the latter claims that nearly five thousand were enslaved. The fragment from Philochoros makes no mention of enslavement with regard to those who had been falsely enrolled in the demes. Since Plutarch may have relied on details from the *Athēnaiōn Politeia* regarding the annual scrutinies, one would be inclined to agree with E. Cohen that Plutarch has confused the number of those removed from the deme lists with that of those who were subsequently enslaved after failed appeals, in *Ancient Athenian Maritime Courts*, p. 170 n. 31. For a full discussion of the numbers portrayed in both Philochoros and Plutarch, see F. Jacoby, 'Philochoros von Athen (328F119-120)' in *Die Fragmente der Griechischen Historiker III*, pp. 462-82.

⁹⁶ Ar. *Wasps*, 718: καὶ ταῦτα μόλις ξενίας φεύγων ἔλαβες κατὰ χοίνικα κριθῶν. See Diller, 'The Decree of Demophilus, 346-345 B. C.', p. 204 (cf. *Race Mixture Among the Greeks Before Alexander*, p. 93 n. 42; for details on the γραφὴ ξενίας, see n. 64). The ambiguity of the sources is extended by the use of the terms ξηνηλασία (expulsion of foreigners) and τὸ διακρίνειν (judgement) by the scholiast on Ar. *Wasps*, 718a-b. For other scholars who are inclined to believe that the action taken was a series of individual γραφαὶ ξενίας, see Jacoby, 'Philochoros von Athen (328 F119-120)' in *Die Fragmente der Griechischen Historiker III*, pp. 462-8, and Whitehead, *The Ideology of the Athenian Metic*, p. 151 (cf. *The Demes of Attica*, pp. 99-100). However, Philochoros' use of the rare term παρέγγραφοι (illegally enrolled members) may indicate that the author assumed a thorough scrutiny of the citizen lists had taken place (cf. παρέγγραπτοι in Aeschin. 2.177); see P. Harding, *The Story of Athens*, p. 114.

⁹⁷ For slavery as the penalty after this event, see Introduction, pp. 43-9.

would have to imply that everyone who was rejected by the deme then made an appeal. To avoid this incredibly unlikely scenario, Gomme suggests that a διαψήφισις was indeed implemented in 445/4 BC but that the only lawsuits which ensued were a series of γραφαὶ ξενίας.⁹⁸ His analysis is certainly persuasive in light of Plutarch's reference to Pericles' citizenship law enacted six years earlier (μόνους Ἀθηναίους εἶναι τοὺς ἐκ δεῦν Ἀθηναίων γεγονότας); it is entirely plausible that the Athenian preoccupation with citizen numbers and eligibility would have occasioned a full review of the deme registers after receiving the Egyptian grain.

It is fortunate that more details survive regarding the second extraordinary review. This διαψήφισις took place during the archonship of Archias: Harpocration cites Androtion and Philochoros for evidence that the scrutinies took place when Archias was *archōn* in 346/5 BC (see Androt. *FGrH* 324 F52 and Philoch. *FGrH* 328 F52 in Harp. s.v. διαψήφισις).⁹⁹ The date of this general scrutiny appears to be corroborated by

⁹⁸ Gomme, 'Two Problems of Athenian Citizenship Law', p. 135 n. 23 and p. 140. Still, the question remains as to which board presided over the trials. Gomme assumes that such trials were in the hands of the ξενοδίκαι, who were a specially appointed board for this occasion and not long after abolished; his argument follows that of A. Körte, in 'Die attischen ΞΕΝΟΔΙΚΑΙ', pp. 238-42. However, there is little in the surviving evidence to support Körte's assertion that the ξενοδίκαι were established to oversee the γραφαὶ ξενίας after Pericles' citizenship law of 451/0 BC (schon nach Perikles' Bürgerschaftsgesetz), p. 239. In the sources, it would appear that the ναυτοδίκαι originally had charge of γραφαὶ ξενίας. In addition to cases regarding maritime contracts between merchants and sailors in the Piraeus (δίκαι ἐμπορικαί, see Lys. 17.5, 8), this particular magistracy presided over fraudulent attempts at phratry admission in the fifth century, before Pericles' law (Crateros' fragment relates to those born of two foreign parents, *FGrH* 342 F4 in Suda s.v. ναυτοδίκαι Adler N86, see n. 63). In subsequent years, it would appear fitting for the γραφαὶ ξενίας to be assigned to the ναυτοδίκαι. Moreover, Körte's suggestion that the ξενοδίκαι ceased to operate sometime before 437 BC and that their functions were thus transferred to the ναυτοδίκαι is also problematic, p. 240. Their name appears in fragmentary form at *IG*² II 46.144, which is dated *circa* 400 BC. However, the ναυτοδίκαι appear to have been abolished as an office by the middle of the fourth century and their responsibilities transferred to the Thesmothetae (for the γραφαὶ ξενίας, see [Dem.] 59.52, which is dated *circa* 342 BC; for the δίκαι ἐμπορικαί, see Dem. 33.1, which is dated no earlier than 341 BC; [Arist.] *Ath. Pol.* 59.3). Since neither the ξενοδίκαι nor the ναυτοδίκαι were specifically tied to trials arising from the situation in 445/4 BC, it cannot be known which board of magistrates was responsible for the γραφαὶ ξενίας at that time.

⁹⁹ Cf. Suda s.v. διαψήφισις Adler Δ851 and Dion. Hal. *Din.* 11. Dionysios lists two spurious public orations of Deinarchos, namely *Against the Kerykes* and *Against Moschion*, both of which he states were delivered in cases arising from the disfranchisements when Archias was *archōn*. Unfortunately, he provides very little detail about either case; however, the first appears to have been a case against the genos of the Kerykes and not against a deme, but the second speech could indeed have been delivered by a victim of the extraordinary διαψήφισις against his deme in a similar manner to that of Euxitheos against Euboulides. However, Dionysios may be problematic as source for classifying such speeches as elsewhere he lists *Against Euboulides* among a series of private lawsuits (ιδιωτικοὶ λόγοι, *Dem.* 13); see Appendix 7, p. 307.

Aeschines' *Against Timarchos*, a speech which is dated to 345 BC and which refers to the deme-wide review as a current event (1.77-8). Moreover, Aeschines ascribes this review to a motion proposed by the Athenian orator, Demophilos (1.86). In the same passage, he indicates that this man had previously introduced measures to deal with individuals who were attempting to bribe the *Ecclēsia* and also the courts (see also schol. Aeschin. 1.77, 86, 114-5, 2.182). Unlike the previous scrutiny of 445/4 BC, which was initiated in order to assess the eligibility of each member of the citizen body for the grant of grain, Demophilos proposed this review of the deme registers in the belief that a considerable number of individuals had found their way onto the list without the necessary citizen requirements (see §§3 and 49). Several specific reasons for Demophilos' motion at this time have been suggested. The first is that it occurred in the wake of Philip II of Macedon's expulsion of a large number of Athenians (or those pretending to be Athenians) from Thrace a few years earlier, who had been settlers in the region (Dem. 6.20).¹⁰⁰ Other theories for the appearance of Demophilos' proposal concern Athens' economic stability at that time: one asserts that Athens had been experiencing a period of economic growth and political strength similar to that which induced Pericles' restriction of citizen privileges in 451/0 BC,¹⁰¹ while another emphasises that such a period of stability had drawn to a close after fifteen years.¹⁰² After

¹⁰⁰ M. H. Hansen, *The Athenian Democracy in the Age of Demosthenes*, p. 95. The Athenian preoccupation with 'pretend citizens' and thus the need to protect citizen privileges is advocated by R. Zelnick-Abramovitz, who views this as the context which brought about the enactment of the laws for manumitted slaves, in *Not Wholly Free*, p. 278.

¹⁰¹ K. Kapparis, 'Immigration and Citizenship Procedures in Athenian Law', pp. 94-5. Kapparis' theory certainly bears merit in light of the historical reality of the situation at that time. Worthington stresses the economic strains placed on Athens after the Social War (357-5 BC), in *A Historical Commentary on Dinarchus*, p. 71. The arguments for Athens' financial difficulties in the years immediately following the end of the conflict are substantiated by comments made in two of Demosthenes' speeches (Dem. 20.114, 24.98). It was during this period of economic need, in the aftermath of the war, that Euboulos became politically active (355-42 BC) and served as Theoric commissioner. Under his leadership, Athens limited its activities abroad and pursued a policy orientated towards domestic recovery. As a result, revenues rose and the city did indeed experience a period of significant prosperity. For an overview of Euboulos' career, see G. L. Cawkwell, 'Eubulus', pp. 47-67.

¹⁰² G. Glotz details a series of difficulties facing the Athenians in 346 BC, including piracy and uncertain supply routes, in 'Démosthène et les finances Athéniennes de 346 à 339', p. 394. Building on this, J. J. Buchanan makes a striking connection between Demophilos' motion and Athens' economic straits after the costly Euboean campaign and the loss of the city of Olynthos to Philip II of Macedon in 348 BC, in *Theorika*, p. 64. Moreover, S. Lape argues that Demophilos' proposal comes at a time when the fear of

being passed by the *Ecclēsia*, Demophilos' motion required that each deme scrutinise its own members. The extent of the fraudulent admissions is not specifically recorded and it is not known how many lost their citizenship, although there are several indications that Demophilos' decree caused a significant disturbance to the citizen body (see §§1-7; Aeschin. 1.77; in court in 343 BC, Aeschines expects goodwill on the ground of not being responsible for anyone's expulsion, 2.182). It would appear that the extraordinary διαψήφισις had extensive repercussions throughout the demes.

Most details about the extraordinary διαψήφισις of 346/5 BC derive from Euxitheos' appeal and that of Euphiletos (Isae. 12), whose disfranchisements occurred as a result of this action.¹⁰³ Although neither speaker directly refers to Demophilos by name, the commentators to these two speeches provide the connection. In his essay on Isaeus, dating to the first century BC, Dionysios associates Euphiletos' speech with a law passed by the Athenians to hold a scrutiny of all those enrolled in the registers (Dion. Hal. *Isae.* 16). Writing much later in the fourth century AD, Libanios uses similar terms to tie Demosthenes' *Against Euboulides* to such a law, giving the terms of the decree under which it was initiated (*Hyp.* 27).¹⁰⁴ Although Demophilos' decree is not specifically named in relation to the law that they describe, it seems clear that both authors are referring to the same motion which instigated the διαψήφισις of that year. Nevertheless, the nature of the law reported by both Dionysios and Libanios has been much debated;

fraudulent citizens, rather than an actual increase in the usurpation of citizen rights, was the means through which to explain a downturn in Athenian fortunes with increasing military and diplomatic threats, in *Race and Citizen Identity in the Classical Athenian Democracy*, p. 215.

¹⁰³ Besides *Against Euboulides* and Isaeus' *On Behalf of Euphiletos*, there are a couple of other references to cases which arose as a result of this extraordinary διαψήφισις. Having just mentioned Demophilos' deme-wide review (1.77-8, 86), Aeschines then provides an all too brief account of a certain Philotades and his case against the deme of Kydathenaeon (1.114-5). Further references emerge from speeches which are now lost but which may have occurred as a result of the same διαψήφισις. First is Isaeus' *Against Boeotos*: the apparent accuser in this case, Boeotos, could be the same man who was indicted by his half-brother over his use of his name (Dem. 39) and also for the return of a dowry (Dem. 40); if so, the lost speech must relate to a case which took place after the two surviving speeches had been delivered, see Gomme, 'Two Problems of Athenian Citizenship Law', p. 125 n. 3. However, this Boeotos could equally be a nephew of the man referred to in Demosthenes' speeches, see Davies, *Athenian Propertied Families*, p. 365. The second speech is Deinarchos' *Against Moschion* (Dion. Hal. *Din.* 11; see n. 94).

¹⁰⁴ See Introduction, pp. 15-21.

significantly, Diller and Gomme disagree as to whether or not there was a standing law that enabled the *Ecclēsia* to decree a general scrutiny. Diller claims that the law described by Dionysios and Libanios was only a temporary measure, and that Demophilos' decree carried two provisions: the temporary measure attested by the rhetoricians and orators, and the standing law attested by Aristotle.¹⁰⁵ Gomme, however, argues that a standing law must have existed prior to 346/5 BC which enabled an extraordinary scrutiny to take place when the *Ecclēsia* voted for one by a decree, and that it was probably this same law which established the procedure of ordinary annual scrutinies; as such, Dionysios and Libanios are correct in speaking of a law, but they should also have referred to the separate decree which occasioned the speeches of both Euphiletos and Euxitheos.¹⁰⁶ While Euphiletos' incomplete speech makes no mention of either the law or decree which occasioned the extraordinary διαψήφισις, Euxitheos does expressly refer to a ψήφισμα (public decree, see §§7; cf. 30) and speaks of it as being a recent event (see §§2, 15, 49 and 58). In 345 BC, Aeschines does not use the term decree, but refers to Demophilos' πολιτεύματα or measures (1.86). Since no other extraordinary scrutiny from the fourth century is known from the source material, and one would certainly expect even a single reference to a similar upheaval of the citizen body occurring during that period, it is highly unlikely that these speeches could belong to another extraordinary διαψήφισις but that implemented by Demophilos' decree of 346/5 BC.

Moreover, details provided by the speeches of Euxitheos and Euphiletos have presented strong evidence in favour of dating both the speeches to *circa* 346/5 BC. The

¹⁰⁵ 'The Decree of Demophilus, 346-345 B.C.', pp. 195-6.

¹⁰⁶ 'Two Problems of Athenian Citizenship Law', p. 124. Diller responds to Gomme's article by stating that decrees of the *Ecclēsia* were bound not to be inconsistent with Athenian laws but did not have to be specifically authorised by one, in 'Scrutiny and Appeal in Athenian Citizenship', pp. 302-3. He claims that a standing law would imply that there were other general scrutinies besides that of Demophilos in 346/5 BC, yet he fails to recognise any authenticity in the attested scrutiny of 445/4 BC. While it is true that the silence of the source material with regard to any other extraordinary scrutinies is compelling enough to believe that they were rare events, Diller's failure to acknowledge the events surrounding the gift of grain from Egypt and its brief account in the source material lends more weight to Gomme's argument.

date of Demophilos' διαψήφισις also appears to correspond with Euxitheos' age (§§40-2 suggest that Euxitheos was the oldest of Nicarete's children with Thoucritos, born before he was abroad with Thrasyboulos in 387 BC; by the time of the speech he must have been middle-aged given his political and religious involvements at §§46, 62 and 63). Whereas Demosthenes' *Against Euboulides* appears to have been delivered soon after the διαψήφισις of 346/5 BC, possibly within a year of the extraordinary scrutiny taking place, Isaeus' *On Behalf of Euphiletos* is more difficult to date given its fragmentary state.¹⁰⁷ Dionysios' brief comments, however, and details provided by the speaker do correspond to Demophilos' motion which instigated the extraordinary διαψήφισις. Kapparis' convincing reading of the speech makes it highly probable that the demesmen of Erchia, who had been forced to admit the eighteen year old Euphiletos when he lodged a successful appeal against them, seized the opportunity of the extraordinary διαψήφισις of 346/5 BC to have him removed from their register.¹⁰⁸ This ulterior motive of the demesmen of Erchia is indeed comparable to the one alleged by Euxitheos' defence, in which it is claimed that his opponent Euboulides sought his disfranchisement at the deme-wide scrutiny due to both a political (see §§2, 7 and 17) and personal rivalry (see §61). The particulars of both cases are certainly important for demonstrating the opportunity to settle old scores afforded by such an extraordinary διαψήφισις as that which occurred in the middle of the fourth century BC.

Like the ordinary διαψηφίσεις, the extraordinary διαψήφισις of 346/5 BC took place during a deme assembly and its procedure was closely akin to that described for the ordinary διαψηφίσις in the *Athēnaiōn Politeia*. Some aspects of the review, however, are not specified in the source material; certain details provided by Euxitheos relating to the διαψηφίσις in Halimous are not confirmed in other sources. For example, it cannot be

¹⁰⁷ For the analytical problems encountered by scholars, see Appendix 1, pp. 270-9.

¹⁰⁸ Kapparis, 'Immigration and Citizenship Procedures in Athenian Law', pp. 86-91; cf. 'Isaeus 12: On Behalf of Euphiletus' in A. Wolpert and K. Kapparis, *Legal Speeches of Democratic Athens*, pp. 73-8.

definitively known whether or not a special deme assembly had to be called in order to facilitate the required voting or if the enactment of Demophilos' decree occurred at the time of year when the demes typically held their meetings. In *Against Euboulides*, Euxitheos does bring attention to that fact that normal deme business was conducted at the meeting of the Halimousians before the voting actually took place (specifically speech-making and decrees, §9). This may either have been opportunistic on their part or it could simply signal the routine manner in which the extraordinary votes were held. Additionally, the location of the assembly for the deme's extraordinary διαψήφισις may have been different.¹⁰⁹ Euxitheos specifies that the assembly for Halimous took place in the city, a distance of thirty-five stades from the deme itself (an unspecified location in the ἄστυ, see §10). He also reports that the demesmen from Halimous, a small-medium sized deme with approximately eighty demesmen in 346/5 BC (sixty had been examined at §10 while more than twenty remained for the vote at §15), took two days to complete its διαψήφισις.¹¹⁰ Even if each of the one hundred and thirty-nine Attic demes only held

¹⁰⁹ Numerous suggestions from individual deme decrees have given rise to the assumption that deme assemblies were held locally; see Haussoullier, *La Vie Municipale en Attique*, p. 5, and a more detailed discussion in Whitehead, *The Demes of Attica*, pp. 86-90. Yet, as E. Cohen has correctly noted, not a single local meeting is specifically attested in the source material, see *The Athenian Nation*, pp. 114-5. Indeed, *Against Euboulides* is the only source to depict a deme assembly in any detail and, for this gathering, the Halimousians met in the city for a specifically extraordinary διαψήφισις (see τοῦ ἄστεως §10). Cohen, however, argues that two pieces of epigraphical evidence confirm the regularity of assemblies being held in central Athens, namely the deme decree of Eleusinians from 332/1 BC and the earlier phratry decrees of the Demotionidae from 396/5 BC. However, he fails to take into account the specifics of these decrees. The decree from Eleusis depicts the deme elections of the Eleusinians as taking place in the Thesion (*SEG* 28 103, 28), and its location in the city is one of the very few elements of the decree on which scholars agree, see Whitehead, *The Demes of Attica*, pp. 89-90; Cohen, *The Athenian Nation*, pp. 115-6; and E. Lupu, *Greek Sacred Law*, pp. 154-6. In spite of its ambiguities, the decree's specification of the location of the assembly may rather signify that the Eleusinian assemblies were not normally held there. Furthermore, the first motion of the Demotionidae decrees relates to an extraordinary review of membership in that phratry (*IG* II² 1237), and made provision for the regular annual scrutinies to take place in the ἄστυ or city (lines 63-4). Yet it cannot be overlooked that this decree refers to actions taken in a phratry and it was expressly termed as a διαδικασία. In some aspects, this process may have borne some similarities to an ordinary διαψήφισις procedure in a deme; for example, rejected candidates could make an appeal, and in the case of the Demotionidae, could face five representatives from that body (συνήγοροι, lines 26-45; the same right of appeal may have been applicable for the *genē* too, [Dem.] 59.59-61; Andoc. 1.127; Isae. 7.16-7; 8.19). Nevertheless, a major difference between the two can be seen in the fact that there was no subsequent state review for phratry admissions comparable to that undertaken by the *Boulē* for new demesmen (neither the phratries nor indeed the *genē* were considered to be official bodies comparable to the demes).

¹¹⁰ A. W. Gomme assumes that Euxitheos is either understating the population of Halimous, or that the deme was over-represented in the *Boulē*, as its three seats would have required as many as two hundred demesmen, in *The Population of Athens in the Fifth and Fourth Centuries B.C.*, pp. 54-5. However, Osborne uses a more up-to-date population estimate and his own approximation that 32.5 demesmen aged

one assembly per calendar year for normal business, it would be difficult to believe that the city of Athens played host to all of them; demes situated further than Halimous and of varying sizes, required time and resources for their gatherings accordingly.¹¹¹ It may thus have been the case that the extraordinary διαψήφισις of 346/5 BC required that proceedings take place in the city. It would certainly make sense in light of the widespread mistrust at that time and the consequential doubt cast on the deme's ability to be stringent in its admission procedures.¹¹² Furthermore, it is not known whether a deme meeting for the extraordinary διαψήφισις was actually supposed to be completed in a single day. Euxitheos only mentions the duration of the assembly while protesting at the late hour in which the vote on his citizenship credentials was taken; he asserts that it could have been postponed to the following day, when the deme reconvened the assembly in order to hear the remaining cases (see §§12 and 15, cf. §§9-10). Confining the meeting to a single day might have been possible if the deme had not spent time on regular business, but this would certainly have been difficult, if not unavoidable, for demes larger than Halimous. It is definitely plausible that the duration of the deme's assembly depended on the size of the deme. Demophilos' decree undoubtedly made the extraordinary διαψήφισις procedure compulsory in all the demes, yet some features of the meetings it generated are unfortunately not reported in the sources.

over thirty were required for each seat on the Athenian *Boulē* in order to calculate that Halimous needed about one hundred demesmen in order to fill its allocation of three councillors in the *Boulē* (βουλευταί), in *Demos*, pp. 43-4. Osborne's figure is certainly more consistent with Euxitheos' estimation of eighty members in 346/5 BC.

¹¹¹ In addition to the admission of new members, another function of the deme assembly was to appoint local officials for the deme and for the state. There are two examples in the source material of these duties being performed at the same meeting (Dem. 44.39; Isae. 7.27-8). While acknowledging that it may theoretically have been possible for a deme to function with just one assembly a year, Whitehead suggests that it would be more likely for each deme to need several assemblies during the year in order to fulfil all of its sacred and civil duties, in *The Demes of Attica*, p. 92. While these meetings need not have been frequent, as Cohen points out in *The Athenian Nation*, p. 116, larger demes may have required more assemblies than smaller demes and it was a matter for each *dēmarch* to convene an assembly whenever his deme required one (Harp. s.v. δήμαρχος).

¹¹² If the assemblies were all held in the city, it would be hard to believe Haussoullier's claim that they were all held at the same time, *La Vie Municipale en Attique*, p. 41. Whitehead's theory that they were held within a fixed period of time sounds more plausible, in *The Demes of Attica*, p. 108.

Matters are further complicated by the fact that our main source for the extraordinary διαψηφίσις in the deme, Euxitheos, contends that procedures had been manipulated in Halimous. Before the names of the demesmen were read out, the assembled members took an oath to vote honestly on each man's claim to citizenship before the voting commenced (see §§8-9). Part of this oath is presented in Euxitheos' speech, specifically a clause which he claims Euboulides and his co-conspirators had removed (see §63). Irrespective of whether or not the speaker is telling the truth with regard to this alleged misconduct, it is Euboulides' attested position as the demesman in charge of the oath and the lexiarchic register that is most interesting (see §8). These responsibilities would usually belong to the *dēmarch* during ordinary διαψηφίσεις.¹¹³ Yet Euxitheos does not explicitly refer to Euboulides as the *dēmarch* in Halimous; he only states that his opponent was the deme's representative in the *Boulē* (βουλευτής, see §8). This has led to some ambiguity with regard to the capacity in which Euboulides appears to have been in charge of the proceedings at the deme assembly of Halimous: whether he was indeed the *dēmarch* at that time or whether he was fulfilling his obligations as a state-appointed official for his deme during the extraordinary review.¹¹⁴ During Euxitheos' appeal, however, Euboulides serves as one of the five deme representatives on behalf of the prosecution; as his only named opponent, Euboulides presumably took the lead role in representing the deme of Halimous (see §1; cf. [Arist.] *Ath. Pol.* 42.1, Aeschin. 1.114). In its fragmentary form, Euphiletos' speech is of little help; his only reference to the *dēmarch* of Erchia is in relation to his earlier suit against the deme, before the

¹¹³ See n. 82.

¹¹⁴ Whitehead deems Euxitheos' wording at §8 to be a recognisable periphrasis for *dēmarch*, in *The Demes of Attica*, p. 88; cf. P. J. Rhodes, *The Athenian Boule*, p. 174 n. 3. Moreover, he suggests that the dual role may have been more due to necessity than just personal ambition on Euboulides' part given that Halimous had three seats in the *Boulē* and only approximately eighty members in 346/5 BC, see n. 105. Yet R. Develin has questioned whether Euboulides was indeed Halimous' *dēmarch*; he notes that Euxitheos' omission of the term with regard to his opponent stands in stark contrast to his use of it elsewhere, for Antiphilos (Euboulides' father, see §§26 and 60) and for himself (see §63), in 'Euboulides' Office and the Diapsephisis of 346/5 B.C.', p. 76. Develin argues that control of proceedings under Demophilos' decree was given to at least one of each deme's βουλευταί, including administration of the oath and use of the lexiarchic register (by which he could then summon the demesmen), pp. 78-9.

extraordinary διαψήφισις of 346/5 BC (Isae. 12.11). With no further evidence to consult, the uncertainty remains with regard to who exactly officiated at the extraordinary review: whether it was the *dēmarch* as in the deme's annual reviews, or the deme's βουλευτής as a centrally-appointed official for a scrutiny that had been enforced by the state.

During these proceedings, it appears that any of the demesmen present could speak either against or in favour of the individual who was the subject of the vote at that time. Euxitheos not only alleges that Euboulides seized this opportunity to speak against him but, more significantly, he declares that he failed to bring any witnesses from his deme or indeed the citizen body to support his accusations (see §11). Moreover, he informs the jury at his appeal that he had no witnesses in attendance at the assembly to support his claim to citizenship, blaming both the suddenness of the matter and the late hour of the vote (see §12). Although it is not necessary to believe either his excuse or his assertion that Euboulides stood alone in condemning him, the possibility of providing witnesses to support one's claims must have been a genuine feature of the extraordinary διαψήφισις procedure in order for the court to follow his argument. He also speaks of an absence of proofs on Euboulides' part (see §13). The introduction of witness testimonies and evidence during the review undoubtedly lengthened the duration of the assembly for demes with more than just a few dozen members; Euxitheos complains that his vote was the sixtieth of the day and that the meeting still had to be reconvened to fulfil its obligations but, given this process of testimonies and evidence, it may have been an unavoidable situation (see §15). With the matter being put to the vote, it seems that there were no repercussions for any deme member who made an accusation against the subject of the scrutiny. Given that Euxitheos' defence maintains that Euboulides has seized the opportunity of the widespread διαψήφισις in order to settle both a personal and a political feud, it would have been rational for him to mention any possible penalties that his opponent has escaped for using the opportunity of Demophilos' decree to expel his rival.

Likewise, there is no mention of any action taken against Antiphilos after nine men were intentionally but wrongfully expelled from the deme of Halimous due to his deceit over the register (see §60). Euxitheos' accusations against both Antiphilos and his son Euboulides make it clear that deme members could use this procedure to act upon political or personal rivalries in an attempt to eject fellow demesmen without just cause.

As Euxitheos complains that Euboulides and his co-conspirators had engineered the vote against him, he notes that the voting-pebbles (ψηφοί) were placed in an urn (see *καδίσκος* at §13; also §§14, 16 and 61). It is not clear how these ballots were cast: whether a 'guilty' pebble and a 'not guilty' pebble were distributed to the Halimousians and the voter deposited his chosen verdict into a single urn, or if a single pebble was given to each of the demesmen and two urns were used to signify 'guilty' and 'not guilty' (cf. Lys. 13.37, in which votes were placed openly on two tables).¹¹⁵ Moreover, he estimates that only thirty demesmen actually voted on his case (see §13), though seventy-three members had taken the vote (including himself, §9; eighty men were to be voted on, §§10 and 15). Regardless of whether or not one believes the speaker's claim of fraud, a quorum may be inferred from the meeting of the Halimousians in which the extraordinary *διαψηφισις* was held. Two other demes record a similar quorum for voting to be conducted during a deme assembly: first, an inscription from the deme of Lower Paeania which dates between 450 and 430 BC necessitated one hundred members be present (*IG I³ 250.11-4*), and a second from the deme of Myrrhinous required no fewer than thirty demesmen for its assemblies *circa* 340 BC (*IG II² 1183.21-2*). Depending on the size of the deme, it would be reasonable to believe that each one needed its own minimum figure for attendance at the meetings in which motions were to be passed. This corresponds to the quorum that was

¹¹⁵ For the use of the voting-pebbles as a formal ballot over a simple show of hands, see Whitehead's discussion in *The Demes of Attica*, p. 93-4. He also comments on the unlikelihood that voting with leaves was used in deme assemblies, comparable to when the *Boulē* expelled members for failing in their duties (Aeschin. 1.110-2).

established for the *Ecclēsia* to conduct its business (a minimum of six thousand citizens, which was one-seventh to one-third of the total eligible).¹¹⁶ However, as Whitehead has astutely observed from his reading of the Paeania and Myrrhinous inscriptions, each deme's quorum need not have been permanent and the figure could have been determined for specific circumstances.¹¹⁷

If the demesmen voted against an individual in their deme, his name was thus struck from the lexiarchic register and he was expelled (ἀποψηφίζεσθαι),¹¹⁸ and he was no longer classed as a citizen. According to Libanios (*Hyp.* 27), those who were subsequently rejected by their deme had two options: they could accept the decision and become metics (as with ordinary scrutiny),¹¹⁹ or they could seek reinstatement by making an appeal to a jury-court, just as Euxitheos did in *Against Euboulides*. Becoming a metic would certainly place an individual at a disadvantage in Athenian society: losing citizen privileges such as owning property (presumably, any property previously held by the disfranchised would revert to his nearest male relative, on whom his citizenship was not dependant), while still being legally obliged to pay certain taxes and to perform military service.¹²⁰ Diller argues that Demophilos' decree introduced the provision for an ejected member to appeal the deme's decision with a public indictment, stating that the only previous option had been to initiate a private suit against that body; he cites evidence found in *On Behalf of Euphiletos* in which the speaker refers to Euphiletos' initial rejection by his deme and, specifically, his use of δίκη rather than ἔφεσις to contest their decision (Isae. 12.11).¹²¹ Indeed, Euxitheos appears to speak of the appeal as a new

¹¹⁶ M. H. Hansen, 'How Many Athenians Attended the Ecclesia?', p. 132.

¹¹⁷ *The Demes of Attica*, pp. 94-5.

¹¹⁸ See n. 92.

¹¹⁹ See n. 84.

¹²⁰ For the most recent account of metic status in Athens, see D. Kamen, *Status in Classical Athens*, pp. 43-61.

¹²¹ Diller, 'The Decree of Demophilus, 346-345 B.C.', p. 201; cf. *Race Mixture Among the Greeks Before Alexander*, pp. 98-9. Diller also believes that Demophilos' decree established uniformity in the scrutinies within the demes and that his measure determined the regular procedure, as detailed in the *Athēnaiōn Politeia* ([Arist.] 42.1), p. 205.

provision (see §6; also that many availed of this appeal process, see §2). However, Gomme contends that this was unlikely and that there had been similar, if not identical, appeal processes to that portrayed in *Against Euboulides* before Demophilos' decree; he particularly refers to Euxitheos' comment regarding those restored to his deme after the loss of the register (see §60).¹²² But since Euxitheos' comment lacks any significant detail about what type of case was brought against the deme, Diller responds to Gomme's argument by maintaining that it can be assumed that Euxitheos was referring to private cases taken against the deme, comparable to those taken against the phratries and *genē*.¹²³ Given that the evidence as a whole does not reveal when the appeal process was introduced, nor indeed when it was favoured over a private law suit, it cannot be definitively known whether Demophilos' decree actually introduced the appeal procedure or whether it paved the way for this process to be a feature of even ordinary διαψηφίσεις.

Regardless of whether or not the appeal was a new feature, it is obvious that the Athenian lawcourts had an essential role to play in managing any errors made by the demes in their administration of the extraordinary διαψηφίσεις of 346/5 BC. Indeed, Euxitheos describes the courts as a place of redemption for all those who have suffered wrongdoing (see §6, cf. §56). While his comments were certainly intended to flatter the jury he stood before, the truth of his words cannot be denied in that his appeal to the court was his only hope for reinstatement in the citizen body.

1.6: Slavery as the penalty of a failed appeal against expulsion

Euxitheos' appeal to the jury-court was not a venture to be undertaken lightly. Unlike the voluntary γραφή ξενίας, which carried considerable risk for the prosecutor if he lost his case, the five elected accusers carried no personal responsibility and so suffered

¹²² Gomme, 'Two Problems of Athenian Citizenship Law', pp. 128-9, 136.

¹²³ Diller, 'Scrutiny and Appeal in Athenian Citizenship', pp. 307-8.; see also n. 103.

no penalty if the appeal against expulsion was upheld (see ἀνυπευθύνω at §5; just like at an ordinary διαψήφισις, [Arist.] *Ath. Pol.* 42.1).¹²⁴ But the appeal process did carry a real risk for an appellant like Euxitheos. Both Libanios (*Hyp.* 27) and Dionysios (*Isae.* 16) state that if the court upheld the appeal, the defendant was reinstated; if not, he was sold into slavery. Nevertheless, the very notion of enslavement seems to be an overly harsh sentence for an appellant like Euxitheos, who was not specifically accused of being a slave by his opponents, but only of being of foreign descent. Nowhere in his speech does Euxitheos address a charge of being a slave; he does claim that his opponents call him a foreigner and a metic (see §§48 and 55). To what extent the statements of Libanios and Dionysios are reliable, then, requires further discussion.

The penalty of enslavement as mentioned by both Dionysios and Libanios does correspond to the penalty reported by the *Athēnaiōn Politeia* for those having lost their appeals after a deme's annual review. Describing the regular process of deme enrolment, the author of the *Athēnaiōn Politeia* states that those whose court appeals had been dismissed were sold by the state ([Arist.] 42.1). However, Gomme claims that this penalty was too extreme for appellants who were not considered to be citizens but were nevertheless believed to be free men; specifically, he argues that both Libanios and Dionysios were misled by the details provided by the *Athēnaiōn Politeia*.¹²⁵ The cause of their confusion is the author's apparent omission of the cases in which candidates were

¹²⁴ For details on the γραφή ξενίας, see n. 69. Referring to Philotades' appeal which arose out of the διαψήφισις of 346/5 BC in the deme of Kydathenaeon, Aeschines specifies that Timarchos took charge of the prosecution (ἐπιστάς τῆ κατηγορία ἐπὶ τοῦ δικαστηρίου, 1.114). The orator appears to suggest that there was no penalty for a prosecutor such as Timarchos if he abandoned the case (1.114-5). However, Harris notes that it is not clear what exactly the author meant in his use of προῦδωκεν in relation to the appeal, in *Democracy and the Rule of Law in Classical Athens*, pp. 411-2. He argues that Timarchos was not in a position to have the case dropped since the appellant Philotades would have remained expelled from Athenian citizenship. Instead, he argues that the use of προῦδωκεν indicates that Timarchos and his fellow prosecutors presented a weak case when representing their deme, thereby allowing the court to vote in favour of Philotades' reinstatement (similar to a scheme described in *Ar. Wasps*, 691-5). His argument is convincing; had Timarchos been penalised for Philotades' appeal being upheld, it would have been in Aeschines' interest to blacken his character by referring to this punishment in addition to claiming that he had accepted bribes and broken his oath.

¹²⁵ Gomme, 'Two Problems of Athenian Citizenship Law', pp. 130-9.

illegitimate but free, namely those born of Athenian parents but out of wedlock (νόθοι) and those who were the offspring of aliens (μητρόξενοι and μέτοικοι), and that he only describes the situation whereby the rejected candidate was deemed to be a slave. Gomme contends that no such penalty was enforced unless it was determined that the appellant was actually a slave.¹²⁶ Could the description of the penalty in the extraordinary review in Libanios and Dionysios then be based on a misunderstanding of the *Athēnaiōn Politeia*?

I find it hard to believe that both authors were so deceived. In all respects, the extraordinary review process did follow that of the ordinary procedure for deme enrolments: from the vote itself during a deme assembly, to the possibility of appeal and the deme representatives in court.¹²⁷ Moreover, Libanios' report that those who abide by the deme's decision were registered as metics is not detailed in the *Athēnaiōn Politeia*. In his commentary on the text, Rhodes finds no foundation for Libanios' information, as such, he maintains that the rhetorician must have utilised another source.¹²⁸ His argument thereby removes some of the difficulty which Gomme had perceived with Libanios' account, and it thus seems more likely that other sources than the *Athēnaiōn Politeia* indicated that slavery was the stipulated penalty for those who chose to appeal their deme's decision and subsequently lost.

But what do the lawcourt speeches say with regard to the penalty for a failed appeal? Unfortunately, Aeschines makes no reference to enslavement in relation to the appeals which followed the deme-wide voting in *Against Timarchos* (1.77-8). The fragmentary nature of Isaeus' *On Behalf of Euphiletos* means that, even if the speaker had specified what the penalty was for losing the appeal, it is no longer preserved in the

¹²⁶ Both Jacoby and Harrison agree with Gomme's conclusion: F. Jacoby on *FGrH* 324 F52 (Vol. 3B Suppl. II, p. 145 n. 33) and *FGrH* 328 F119 (Suppl. I, p. 463); Harrison, *The Law of Athens* Vol. II, p. 206.

¹²⁷ See Introduction, pp. 26-8.

¹²⁸ Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, pp. 501-2.

existing text. In *Against Euboulides*, however, Euxitheos does refer to the potential outcome he will face if he loses his case against his deme, though he does not explicitly state what the penalty is for a failed appeal. In his opening address to the jury, Euxitheos declares that the danger he faces is great and involves disgrace, and even ruin (λογισαμένους τό τε μέγεθος τοῦ παρόντος ἀγῶνος καὶ τὴν αἰσχύνην at §1). When he returns to this subject towards the end of his speech, in addition to being a ruined man, Euxitheos suggests that exile was one of the potential outcomes of him losing the case: either ordered by the court, or a voluntary exile to avoid the shame of losing his citizen status and his subsequent appeal (ὥσπερ φυγάδος ἤδη μου ὄντος καὶ ἀπολωλότος at §65). There is no specification that this exile would be undertaken to escape being sold as a slave by the state, though it is not impossible. In his closing plea to the jury (see §70), Euxitheos speaks of losing the right to inter his mother in the family burial mounds (ἀπόδοτε μοι θάψαι εἰς τὰ πατρῶα μνήματα), being an outcast (ἄπολιν), and being deprived of his relatives (τῶν οἰκείων ἀποστερήσητε τοσούτων ὄντων τὸ πλῆθος) and complete ruin (ὅλως ἀπολέσητε). He again suggests having to leave Attica, but declares that he would rather commit suicide and still retain the option of being buried in his homeland (πρότερον γὰρ ἢ προλιπεῖν τούτους, εἰ μὴ δυνατὸν ὑπ' αὐτῶν εἶη σωθῆναι, ἀποκτείναιμ' ἂν ἑμαυτόν, ὥστ' ἐν τῇ πατρίδι γ' ὑπὸ τούτων ταφῆναι). His final statements are definitely dramatic, but his lack of specific details means that his comments remain open to interpretation.

The ruin to which he repeatedly refers could simply signify the confiscation of his assets if he loses his appeal against expulsion. Dionysios does add that the appellant's property was confiscated if he failed to prevail upon the jury (*Isae*. 16). This is plausible in light of evidence provided by another speech written by Isaeus, in which a speaker refers to losing his citizenship and his property if the jurors find in his opponent's favour

and believe that his mother was not a citizen (Isae. 8.43).¹²⁹ If slavery was indeed the penalty for losing their appeals, it seems strange that neither the speaker of *On Behalf of Euphiletos* nor the appellant in *Against Euboulides* specifically use its emotive value as they attempt to persuade a jury to vote in their favour at their respective cases.

While on the one hand the speakers do not expressly confirm that slavery was the penalty for losing their appeals, on the other hand their silence does not unequivocally denote that enslavement was not the given sentence. Unfortunately, it is not known how many appeals were brought before the court after the extraordinary scrutiny of 346/5 BC. Yet several sources suggest that there were a large number of appeals. Euxitheos states that, whereas many were justly disfranchised after the extraordinary scrutiny, there were those who were wrongly expelled due to rivalry and the courts saved all those who had been persecuted as a result (see §§2-6). With the deme-wide review having recently occurred at the time of his speech, Aeschines describes going to court on numerous occasions to hear the appeals.¹³⁰ Both speakers refer to the general Athenian discontent with regard to the usurpation of citizen rights, and such an attitude inevitably caused a large number of men to lose their citizenship.

Both Rhodes and Harris propose that the penalty of slavery was a deliberately extreme measure to discourage frivolous litigation.¹³¹ Their argument is certainly credible if one thinks that the threat of enslavement may have deterred numerous appeals from being lodged before the court. Yet for those who did seek recourse in an appeal, it seems likely that an appellant who bemoaned the penalty of slavery would have little success in arousing sympathy from the jury. Instead, Euxitheos speaks of the gravity of the situation

¹²⁹ The children were born to this woman after the re-enactment of Pericles' citizenship law in 403/2 BC. For details on this law, see Introduction, pp. 21-5; cf. Appendix 3, pp. 282-8.

¹³⁰ Aeschin. 1.77-8: ἐπειδὴν προσστῶ πρὸς τὸ δικαστήριον καὶ ἀκροάσωμαι τῶν ἀγωνιζομένων.

¹³¹ Rhodes, *A Commentary on the Aristotelian Athenaiion Politeia*, pp. 501-2; Harris, *The Rule of Law in Action in Democratic Athens*, p. 76 n. 52.

and the possible disgrace, in an attempt to motivate the jurors to vote in his favour on compassionate grounds.¹³² His threat of suicide would seem excessive if slavery was not the intended sentence, and if he faced disgrace and the loss of his property alone.

Elsewhere in the source material, there are several indications that the severe penalty of slavery may have been the standard sentence for those who were found guilty of usurping Athenian citizenship. The possible enslavement of failed appellants in 346/5 BC does correspond to the procedure that took place in the earlier extraordinary διαψηφίσις in 445/4 BC. However, it is not clear whether or not the enslavements which were enforced after this scrutiny occurred as a result of a failed appeal or prosecution by a γραφή ξενίας.¹³³ The punishment of slavery was consistently used in prosecutions for the usurpation of citizen rights. Two sources attributed to Demosthenes convey that anyone who was found guilty of appropriating the rights of an Athenian citizen was sold into slavery (Dem. 24.131, *Ep.* 3.29). It is known that this penalty was imposed on any resident alien who was convicted of living with a female citizen as husband and wife, from the law which is cited in a speech by Apollodoros ([Dem.] 59.16).¹³⁴ Such prosecutions were heard by the Thesmothetae, the same board which presided over the appeals for those who were rejected at the ordinary διαψηφίσεις ([Arist.] *Ath. Pol.* 59.4).¹³⁵ The common feature between the appeals arising from both ordinary and extraordinary διαψηφίσεις and the γραφαὶ ξενίας is the deliberate attempt by the defendant to assume citizen rights which he may or may not have been entitled to in actuality. Although these sources do not prove that slavery was the intended penalty for

¹³² In an attempt to neutralise the jury's hostility towards him, Euxitheos may be using *pathos* (a strong emotional appeal) to establish goodwill without expressly referring to slavery. *Pathos* was a rhetorical technique employed by a speaker in order to stress the magnitude of the danger facing him and to arouse sympathy from audience (cf. Lys. 19.1).

¹³³ See n. 96.

¹³⁴ For a discussion of this law, see nn. 11 and 15 in Appendix 3.

¹³⁵ See n. 86. The Thesmothetae also took over responsibility for the γραφαὶ ξενίας, see n. 98.

failure in appeals against expulsion like that of Euxitheos, they do suggest that this at least was a likely possibility and one which would correspond to cases of a similar nature.

Ultimately, however, it is impossible to ascertain what the penalty of slavery would mean for the failed appellant. The sentence may only have been implemented if the appellant remained in Athens. He may have had the opportunity to flee from the state and thus to live in exile as a free man.¹³⁶ Alternatively, it may have been feasible for a failed appellant to arrange for his family members or friends to secure his release, provided that he was fortunate enough to belong to an affluent circle or that they were able to pool their resources in time to purchase his freedom before he could be sold elsewhere.

The gravity of the intended slavery penalty for a failed appeal reflects the seriousness with which the Athenians regarded their citizenship, and the lengths to which they would go to prevent those without the necessary qualifications from having access to their rights and privileges. An appellant like Euxitheos came before the court as someone who was already suspected of usurping citizen rights and it is thus entirely plausible, if not indeed likely, that the Athenians would have sought to punish severely those who made a second attempt at obtaining citizenship through an appeal and were unable to convince a jury of their legitimacy.

1.7: Concluding remarks

A discussion regarding the possible outcome for Euxitheos' appeal cannot but be speculative given the lack of official records of decisions from the Athenian lawcourts. For the most part, Euxitheos' defence of his parents is indeed satisfactory. He provides a

¹³⁶ The opportunity to escape from Athens was similar to that afforded to the defendant in intentional homicide trials. While the penalty for those convicted in such cases was death, the accused was allowed to go into exile voluntarily at any time up until the second set of trial speeches in court (Dem. 23.69; Antiph. 5.13)

wealth of testimony from his father's family, phratry members and demesmen to prove that his father was a citizen. In my opinion, Euxitheos successfully argues that his mother's occupations, as a wet-nurse first and then a ribbon-seller in the marketplace, are evidence not of his birth but of her financial circumstances.

The weaknesses in Euxitheos' case, specifically his lack of evidence regarding his own credentials for citizenship (see §46), are quickly glossed over by Demosthenes and it is only through picking the case apart as a whole that they become apparent; a luxury of time that the Athenian jury in 346/5 BC did not have when deciding the outcome of his appeal. Judging Euxitheos' case from the perspective of the listening jury, it would seem unlikely that they would have delivered any verdict other than one in favour of Euxitheos' reinstatement.

2. Text and Translation

ΔΗΜΟΣΘΕΝΟΥΣ

ΕΦΕΣΙΣ ΠΡΟΣ ΕΥΒΟΥΛΙΑΔΗΝ

[1] Πολλὰ καὶ ψευδῆ κατηγορηκός τις ἡμῶν Εὐβουλίδου, καὶ βλασφημίας οὔτε προσηκούσας οὔτε δικαίας πεποιημένου, πειράσομαι ἀληθῆ καὶ τὰ δίκαια λέγων, ὧς ἄνδρες δικασταί, δεῖξαι καὶ μετὸν τῆς πόλεως ἡμῖν καὶ πεπονθότα ἑμαυτὸν οὐχὶ προσήκονθα ὑπὸ τούτου. δέομαι δ' ἀπάντων ὑμῶν, ὧς ἄνδρες δικασταί, καὶ ἰκετεύω καὶ ἀντιβόλῳ, λογισαμένους τό τε μέγεθος τοῦ παρόντος ἀγῶνος καὶ τὴν αἰσχύνην μεθ' ἧς ὑπάρχει τοῖς ἀλίσκομένοις ἀπολωλέναι, ἀκοῦσαι καὶ ἑμοῦ σιωπῆ, μάλιστα μὲν, εἰ δυνατόν, μετὰ πλείονος εὐνοίας ἢ τούτου (τοῖς γὰρ ἐν κινδύνῳ καθεστηκόσιν εἰκὸς εὐνοϊκωτέρους ὑπάρχειν), εἰ δὲ μή, μετὰ γε τῆς ἴσης. [2] συμβαίνει δέ μοι τὸ μὲν καθ' ἡμᾶς, ὧς ἄνδρες δικασταί, καὶ τὸ προσήκειν μοι τῆς πόλεως, θαρρεῖν καὶ πολλὰς ἔχειν ἐλπίδας καλῶς ἀγωνιεῖσθαι, τὸν καιρὸν δὲ τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποψηφίσεις φοβεῖσθαι· πολλῶν γὰρ ἐξεληλαμένων δικαίως ἐκ πάντων τῶν δήμων, συγκεκρικωινήκαμεν τῆς δόξης ταύτης οἱ κατεστασιασμένοι, καὶ πρὸς τὴν καθ' ἐκείνων αἰτίαν, οὐ πρὸς τὸ καθ' αὐτὸν ἕκαστος ἀγωνιζόμεθα, ὥστ' ἐξ ἀνάγκης μέγαν ἡμῖν εἶναι τὸν φόβον. [3] οὐ μὴν ἀλλὰ καίπερ τούτων οὕτως ἐχόντων, ἃ νομίζω περὶ τούτων αὐτῶν πρῶτον εἶναι δίκαια, ἐρῶ πρὸς ὑμᾶς. ἐγὼ γὰρ οἶομαι δεῖν ὑμᾶς τοῖς μὲν ἐξελεγκομένοις ξένοις οὗσιν χαλεπαίνειν, εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν λάθρα καὶ βία τῶν ὑμετέρων ἱερῶν καὶ κοινῶν μετεῖχον, τοῖς δ' ἠτυχηκόσι καὶ δεικνύουσι πολίτας ὄντας αὐτοὺς βοηθεῖν καὶ σφῆζειν, ἐνθυμουμένους ὅτι πάντων οἰκτρότατον πάθος ἡμῖν ἂν συμβαίῃ τοῖς ἠδικημένοις, εἰ τῶν λαμβανόντων δίκην ὄντες ἂν δικαίως μεθ' ὑμῶν, ἐν τοῖς διδοῦσι γενοίμεθα καὶ συναδικηθῆμεν διὰ τὴν τοῦ πράγματος ὀργήν. [4] ὥμην μὲν οὖν ἔγωγε, ὧς ἄνδρες δικασταί, προσήκειν Εὐβουλίδῃ, καὶ πᾶσιν δ' ὅσοι νῦν ἐπὶ ταῖς ἀποψηφίσεσιν κατηγοροῦσιν, ὅσα ἴσασιν ἀκριβῶς λέγειν καὶ μηδεμίαν προσάγειν ἀκοήν

πρὸς τὸν τοιοῦτον ἀγῶνα. οὕτω γὰρ τοῦτο ἄδικον καὶ σφόδρα πάλαι κέκριται, ὥστε οὐδὲ μαρτυρεῖν ἀκοὴν ἐῷσιν οἱ νόμοι, οὐδ' ἐπὶ τοῖς πάνυ φαύλοις ἐγκλήμασιν, εἰκότως· ὅπου γὰρ εἰδέναι τινὲς ἤδη φήσαντες ψευδεῖς ἐφάνησαν, πῶς ἄ γε μηδ' αὐτὸς οἶδεν ὁ λέγων, προσήκει πιστεῦεσθαι; [5] ἀλλὰ μὴν ὅπου γε μηδ' ὑπεύθυνον καθιστάνθα ἑαυτὸν ἔξεστιν, δι' ὧν ἂν ἀκοῦσαι τις φῆ, βλάπτειν μηδένα, πῶς ἀνυπευθύνῳ γε λέγοντι προσήκει πιστεῦειν ὑμᾶς; ἐπειδὴ τοίνυν οὗτος εἰδὼς τοὺς νόμους καὶ μᾶλλον ἢ προσῆκεν, ἀδίκως καὶ πλεονεκτικῶς τὴν κατηγορίαν πεποίηται, ἀναγκαῖον ἐμοὶ περὶ ὧν ἐν τοῖς δημόταις ὑβρίσθην πρῶτον εἰπεῖν. [6] ἀξιῶ δ', ὧ ἄνδρες Ἀθηναῖοι, μηδέπω τὴν τῶν δημοτῶν ἀποψήφισιν ποιεῖσθαι τεκμήριον ὑμᾶς, ὡς ἄρ' οὐχὶ προσήκει μοι τῆς πόλεως. εἰ γὰρ πάντ' ἐνομίζετε τὰ δίκαια δυνήσεσθαι τοὺς δημότας διακρίναι, οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν· νῦν δὲ καὶ διὰ φιλονικίαν καὶ διὰ φθόνον καὶ δι' ἔχθραν καὶ δι' ἄλλας προφάσεις ἔσεσθαι τι τοιοῦτον ἡγούμενοι, τὴν εἰς ὑμᾶς τοῖς ἀδικηθεῖσιν ἐποιήσατε καταφυγὴν, δι' ἣν καλῶς ποιῶντες, ὧ ἄνδρες Ἀθηναῖοι, τοὺς ἡδίκημένους ἅπαντας σεσῶκατε. [7] πρῶτον μὲν οὖν ὃν τρόπον ἐν τοῖς δημόταις συνέβη τὴν διαψήφισιν γενέσθαι, φράσω πρὸς ὑμᾶς· τὸ γὰρ εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν τοῦτ' ἐγὼ ὑπολαμβάνω, ὅσα τις παρὰ τὸ ψήφισμα πέπονθεν ἀδίκως καταστασιασθεῖς, ἐπιδειῖται.

[8] Εὐβουλίδης γὰρ οὕτωσιν, ὧ ἄνδρες Ἀθηναῖοι, ὡς ὑμῶν ἴσασι πολλοί, γραψάμενος ἀσεβείας τὴν ἀδελφὴν τὴν Λακεδαιμονίου τὸ πέμπτον μέρος τῶν ψήφων οὐ μετέλαβεν. ὅτι δὴ ἐν ἐκείνῳ τῷ ἀγῶνι τὰ δίκαια, τούτῳ δὲ τάναντία ἐμαρτύρησα, διὰ ταύτην τὴν ἔχθραν ἐπιτίθεται μοι. καὶ βουλευόντων, ὧ ἄνδρες δικασταί, καὶ κύριος ὢν τοῦ θ' ὄρκου καὶ τῶν γραμμάτων ἐξ ὧν ἀνεκάλει τοὺς δημότας, τί ποιεῖ; [9] πρῶτον μὲν, ἐπειδὴ συνελέγησαν οἱ δημόται, κατέτριπεν τὴν ἡμέραν δημηγορῶν καὶ ψηφίσματα γράφων. τοῦτο δ' ἦν οὐκ ἀπὸ τοῦ αὐτομάτου, ἀλλ' ἐπιβουλευόντων ἐμοί, ὅπως ὡς ὀψιαίταθ' ἢ διαψήφισις ἢ περὶ ἐμοῦ γένοιτο· καὶ διεπράξατο τοῦτο. καὶ τῶν μὲν δημοτῶν οἱ ὁμόσαντες ἐγενόμεθα τρεῖς καὶ ἑβδομήκοντα, ἠρξάμεθα δὲ τοῦ διαψηφίζεσθαι δείλης ὀψίας, ὥστε συνέβη, ἠνίκα τοῦμὸν ὄνομ' ἐκαλεῖτο, σκότος εἶναι ἤδη. [10] καὶ γὰρ ἦν

περὶ ἐξηκοστόν, καὶ ἐκλήθη ὕστατος ἀπάντων τῶν ἐν ἐκείνῃ τῇ ἡμέρᾳ κληθέντων, ἡνίχα οἱ μὲν πρεσβύτεροι τῶν δημοτῶν ἀπεληλύθεσαν εἰς τοὺς ἀγρούς· τοῦ γὰρ δήμου ἡμῖν, ὧ ἄνδρες δικασταί, πέντε καὶ τριάκοντα στάδια τοῦ ἄστεως ἀπέχοντος καὶ τῶν πλείστων ἐκεῖ οἰκούντων, ἀπεληλύθεσαν οἱ πολλοί· οἱ δὲ κατάλοιποι ἦσαν οὐ πλείους ἢ τριάκοντα. ἐν δὲ τούτοις ἦσαν ἅπαντες οἱ τούτῳ παρεσκευασμένοι. [11] ἐπειδὴ δ' ἐκλήθη τοῦμόν ὄνομα, ἀναπηδήσας οὗτος ἐβλασφήμει κατ' ἐμοῦ ταχὺ καὶ πολλὰ καὶ μεγάλη τῇ φωνῇ, ὥσπερ καὶ νῦν, μάρτυρα μὲν ὧν κατηγορήσεν οὐδένα παρασχόμενος οὔτε τῶν δημοτῶν οὔτε τῶν ἄλλων πολιτῶν, παρεκελεύετο δὲ τοῖς δημόταις ἀποψηφίζεσθαι. [12] ἀξιῶντος δέ μου ἀναβαλέσθαι εἰς τὴν ὕστεραιάν διὰ τε τὴν ὥραν καὶ τὸ μηδένα μοι παρεῖναι τό τε πρᾶγμα ἄφνω προσπεπτωκέναι, ἵνα τούτῳ τ' ἐξουσία γένοιτο ὅποσα βούλοιτο κατηγορῆσαι καὶ μάρτυρας εἶ τινας ἔχει παρασχέσθαι, ἐμοί τε ἐκγένοιτο ἀπολογήσασθαι ἐν ἅπασιν τοῖς δημόταις καὶ τοὺς οἰκείους μάρτυρας παρασχέσθαι· καὶ ὅ τι γνοίησαν περὶ ἐμοῦ, τούτοις ἤθελον ἐμμένειν· [13] οὗτος ὧν μὲν ἐγὼ προὔκαλούμην οὐδὲν ἐφρόντισεν, τὴν δὲ ψῆφον εὐθύς ἐδίδου τοῖς παροῦσι τῶν δημοτῶν, οὐτ' ἀπολογίαν οὐδεμίαν ἐμοὶ δοὺς οὐτ' ἔλεγχον οὐδέν' ἀκριβῆ ποιήσας. οἱ δὲ τούτῳ συνεστῶτες ἀναπηδήσαντες ἐψηφίζοντο. καὶ ἦν μὲν σκότος, οἱ δὲ λαμβάνοντες δύο καὶ τρεῖς ψήφους ἕκαστος παρὰ τούτου ἐνέβαλλον εἰς τὸν καδίσκον. σημεῖον δέ· οἱ μὲν γὰρ ψηφισάμενοι οὐ πλείους ἢ τριάκοντ' ἦσαν, αἱ δὲ ψῆφοι ἠριθμήθησαν πλείους ἢ ἐξήκοντα, ὥστε πάντας ἡμᾶς ἐκπλαγῆναι. [14] καὶ ταῦθ' ὡς ἀληθῆ λέγω, καὶ ὅτι οὐτ' ἐδόθη ἡ ψῆφος ἐν ἅπασιν πλείους τ' ἐγένοντο τῶν ψηφισαμένων, μάρτυρας ὑμῖν παρέξομαι. συμβαίνει δέ μοι περὶ τούτων τῶν μὲν φίλων ἢ τῶν ἄλλων Ἀθηναίων μηδένα μάρτυρα παρεῖναι διὰ τε τὴν ὥραν καὶ διὰ τὸ μηδένα παρακαλέσαι, αὐτοῖς δὲ τοῖς ἡδίκηκόσιν με χρῆσθαι μάρτυσιν. ἂ οὖν οὐ δυνήσονται ἔξαρνοι γενέσθαι, ταῦτα γέγραφα αὐτοῖς. λέγε.

[MARTYRIA]

[15] Εἰ μὲν τοίνυν, ὧ ἄνδρες δικασταί, συνέβαινεν τοῖς Ἀλιμουσίοις περὶ πάντων τῶν δημοτῶν διαψηφίσασθαι ἐν ἐκείνῃ τῇ ἡμέρᾳ, εἰκὸς ἦν καὶ εἰς ὄψὲ ψηφίζεσθαι, ἴν' ἀπηλλαγμένοι ἦσαν ποιήσαντες τὰ ὑμῖν ἐψηφισμένα. εἰ δὲ πλείους ἢ εἴκοσιν ὑπόλοιποι ἦσαν τῶν δημοτῶν, περὶ ὧν ἔδει τῇ ὑστεραία διαψηφίσασθαι, καὶ ὁμοίως ἦν ἀνάγκη συλλέγεσθαι τοὺς δημότας, τί ποτ' ἦν τὸ δυσχερὲς Εὐβουλίδῃ ἀναβαλέσθαι εἰς τὴν ὑστεραίαν καὶ περὶ ἐμοῦ πρώτου τὴν ψῆφον διδόναι τοῖς δημόταις; [16] διότι, ὧ ἄνδρες δικασταί, οὐκ ἠγνόει Εὐβουλίδης ὅτι, εἰ λόγος ἀποδοθήσοιτο καὶ παραγένοντό μοι πάντες οἱ δημόται καὶ ἡ ψῆφος δικαίως δοθείη, οὐδαμοῦ γενήσονται οἱ μετὰ τούτου συνεστηκότες. ὅθεν δ' οὗτοι συνέστησαν, ταῦτα, ἐπειδὴν περὶ τοῦ γένους εἶπω, τότε, ἂν βούλησθε ἀκούειν, ἐρῶ. [17] νῦν δὲ τί δίκαιον νομίζω καὶ τί παρεσκευάσμαι ποιεῖν, ἄνδρες δικασταί; δεῖξαι πρὸς ὑμᾶς ἐμαυτὸν Ἀθηναῖον ὄντα καὶ τὰ πρὸς πατρός καὶ τὰ πρὸς μητρός, καὶ μάρτυρας τούτων, οὓς ὑμεῖς ἀληθεῖς φήσετε εἶναι, παρασχέσθαι, τὰς δὲ λαιδορίας καὶ τὰς αἰτίας ἀνελεῖν· ὑμᾶς δ' ἀκούσαντας τούτων, ἐὰν μὲν ὑμῖν πολίτης ὧν κατεστασιάσθαι δοκῶ, σώζειν, εἰ δὲ μή, πράττειν ὅποιον ἂν τι ὑμῖν εὐσεβὲς εἶναι δοκῇ. ἄρξομαι δ' ἐντεῦθεν.

[18] Διαβεβλήκασι γάρ μου τὸν πατέρα, ὡς ἐξένιζεν· καὶ ὅτι μὲν ἀλοὺς ὑπὸ τῶν πολεμίων ὑπὸ τὸν Δεκελεικὸν πόλεμον καὶ πραθεὶς εἰς Λευκάδα, Κλεάνδρῳ περιτυχῶν τῷ ὑποκριτῇ πρὸς τοὺς οἰκείους ἐσώθη δεῦρο πολλοστῷ χρόνῳ, παραλελοίπασιν, ὥσπερ δὲ δέον ἡμᾶς δι' ἐκείνας τὰς ἀτυχίας ἀπολέσθαι, τὸ ξενίζειν αὐτοῦ κατηγορήκασιν. [19] ἐγὼ δ' ἐξ αὐτῶν τούτων μάλιστα {ἂν} οἶμαι ὑμῖν ἐμαυτὸν Ἀθηναῖον ὄντ' ἐπιδείξειν. καὶ πρῶτον μὲν ὡς ἐάλω καὶ ἐσώθη, μάρτυρας ὑμῖν παρέξομαι, ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θεῶν τὸ μέρος μετέλαβεν, εἶθ' ὅτι οὐτ' ἐν τοῖς δημόταις οὐτ' ἐν τοῖς φράτερσιν οὐτ' ἄλλοθι οὐδαμοῦ τὸν ξενίζοντα οὐδεὶς πάποτ' ἠτιάσατο ὡς εἶη ξένος. καὶ μοι λαβὲ τὰς μαρτυρίας.

[MARTYRIA]

[20] Περὶ μὲν τοίνυν τῆς ἀλώσεως καὶ τῆς σωτηρίας, ἦν συνέβη γενέσθαι τῷ πατρὶ δεῦρο, ἀκηκόατε. ὡς δ' ὑμέτερος ἦν πολίτης, ὃ ἄνδρες δικασταί (τὸ γὰρ ὄν καὶ ἀληθὲς οὕτως ὑπάρχει), μάρτυρας καλῶ τοὺς ζῶντας ἡμῖν τῶν συγγενῶν τῶν πρὸς πατρός. κάλει δὴ μοι πρῶτον μὲν Θουκριτίδην καὶ Χαρισιάδην· ὁ γὰρ τούτων πατὴρ Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης (ἀδελφὴν γὰρ ὁ πάππος οὐμὸς ἔγημεν οὐχ ὁμομητρίαν), θεῖος δὲ τοῦ πατρὸς τοῦ ἐμοῦ· ἔπειτα Νικιάδην· [21] καὶ γὰρ ὁ τούτου πατὴρ Λυσανίας ἀδελφὸς ἦν τοῦ Θουκριτίδου καὶ τῆς Λυσαρέτης, θεῖος δὲ τοῦ πατρὸς τοῦ ἐμοῦ· ἔπειτα Νικόστρατον· καὶ γὰρ ὁ τούτου πατὴρ Νικιάδης ἀδελφιδούς ἦν τῷ πάππῳ τῷ ἐμῷ καὶ τῇ τήθῃ, ἀνεψιὸς δὲ τῷ πατρὶ. καὶ μοι κάλει τούτους πάντας. σὺ δ' ἐπίλαβε τὸ ὕδωρ.

[MARTYRES]

[22] Τῶν μὲν τοίνυν πρὸς ἀνδρῶν τῷ πατρὶ συγγενῶν ἀκηκόατε, ὃ ἄνδρες Ἀθηναῖοι, καὶ μαρτυρούντων καὶ διομνυμένων <Ἀθηναῖον> εἶναι καὶ συγγενῆ τὸν ἐμὸν πατέρ' αὐτοῖς· ὧν οὐδεὶς δῆπου, παραστησάμενος τοὺς συνεισομένους αὐτῷ τὰ ψευδῆ μαρτυροῦντι, κατ' ἐξωλείας ἐπιорκεῖ. λαβὲ δὴ καὶ τὰς τῶν πρὸς γυναικῶν τῷ πατρὶ συγγενῶν μαρτυρίας.

[MARTYRIAΙ]

[23] Οἱ μὲν τοίνυν ζῶντες οὗτοι τῶν συγγενῶν τοῦ πατρὸς καὶ πρὸς ἀνδρῶν καὶ πρὸς γυναικῶν μεμαρτυρήκασιν, ὡς ἦν ἀμφοτέρωθεν Ἀθηναῖος καὶ μετῆν τῆς πόλεως αὐτῷ δικαίως. κάλει δὴ μοι καὶ τοὺς φράτερας, ἔπειτα τοὺς γεννήτας.

[MARTYRES]

Λαβὲ δὴ καὶ τὰς τῶν δημοτῶν μαρτυρίας, καὶ τὰς τῶν συγγενῶν περὶ τῶν φρατέρων, ὡς εἴλοντό με φρατρίαρχον.

[MARTYRIA]

[24] Τὰ μὲν τοίνυν ὑπὸ τῶν συγγενῶν καὶ φρατέρων καὶ δημοτῶν καὶ γεννητῶν, ὧν προσήκει, μαρτυρούμενα ἀκηκόατε. ἐξ ὧν ἔστιν ὑμῖν εἰδέναι, πότερόν ποτ' ἀστός ἢ ξένος ἦν ὃ ταῦθ' ὑπῆρχεν. καὶ γὰρ εἰ μὲν εἰς ἕν' ἢ δύο ἀνθρώπους κατεφεύγομεν, εἴχομεν ἂν τιν' ὑποψίαν παρεσκευάσθαι τούτους· εἰ δ' ἐν ἅπασιν, ὅσοις περ ἕκαστος ὑμῶν, ἐξητασμένος φαίνεται καὶ ζῶν ὁ πατήρ καὶ νῦν ἐγώ, λέγω φράτερσι, συγγενέσι, δημόταις, γεννήταις, πῶς ἔνεστιν ἢ πῶς δυνατὸν τούτους ἅπαντας μὴ μετ' ἀληθείας ὑπάρχοντας κατεσκευάσθαι; [25] εἰ μὲν τοίνυν εὐπορος ὢν ὁ πατήρ χρήματα δοὺς τούτοις ἐφαίνετο πείσας συγγενεῖς αὐτοὺς ἑαυτοῦ φάσκειν εἶναι, λόγον εἶχεν <ἂν> ὑποψίαν τιν' ἔχειν ὡς οὐκ ἦν ἀστός· εἰ δὲ πένης ὢν ἅμα συγγενεῖς τε παρείχετο τοὺς αὐτοὺς καὶ μεταδιδόντας τῶν ὄντων ἐπεδείκνυε, πῶς οὐκ εὐδηλον ὅτι τῇ ἀληθείᾳ προσῆκε τούτοις; οὐ γὰρ ἂν δήπου, εἰ γε μηδενὶ ἦν οἰκεῖος, χρήματ' αὐτῷ προστιθέντες οὔτοι τοῦ γένους μετεδίδοσαν. ἀλλ' ἦν, ὡς τό τ' ἔργον ἐδήλωσεν καὶ ὑμῖν μεμαρτύρηται. ἔτι τοίνυν ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεῖς. καὶ μοι λαβὲ τὴν μαρτυρίαν.

[MARTYRIA]

[26] Οἶεταί τις οὖν ὑμῶν ἐᾶσαί ποτ' ἂν τοὺς δημότας ἐκεῖνον ξένον καὶ μὴ πολίτην ἄρχειν παρ' αὐτοῖς, ἀλλ' οὐκ ἂν κατηγορεῖν; οὐ τοίνυν κατηγορήσεν οὐδὲ εἶς, οὐδ' ἠτιάσατο. ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις ὁμόσασιν καθ' ἱερῶν, ὅτ' ἀπώλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου, καὶ τινὰς ἀπήλασαν αὐτῶν· περὶ ἐκείνου δ' οὐδεὶς οὔτ' εἶπεν οὔτ' ἠτιάσατο τοιοῦτον οὐδέν. [27] καίτοι πᾶσιν ἔστιν ἀνθρώποις τέλος τοῦ βίου θάνατος, καὶ περὶ ὧν μὲν ἂν τις ζῶν αἰτίαν σχῆ {περὶ τοῦ γένους}, δίκαιον τοὺς παῖδας τὴν ἀειλογίαν παρέχειν· περὶ ὧν δ' ἂν μηδεὶς αὐτὸν ζῶντα καταιτιάζεται, πῶς οὐ δεινὸν εἰ τοὺς παῖδας ὁ βουλόμενος κρινεῖ; εἰ μὲν τοίνυν περὶ τούτων μηδεὶς λόγος ἐξητάσθη, δῶμεν τοῦτο λεληθέναι· εἰ δ' ἐδόθη καὶ διεψηφίσαντο καὶ μηδὲν ἠτιάσατο πώποτε

μηδείς, πῶς οὐδὲ δικαίως ἂν ἐγὼ κατ' ἐκεῖνον Ἀθηναῖος εἶην, τὸν τελευτήσαντα πρὶν ἀμφισβητηθῆναι τοῦ γένους αὐτῶ; ὡς δὴ ταῦτ' ἀληθῆ λέγω, καλῶ καὶ τούτων μάρτυρας.

[MARTYRES]

[28] Ἔτι τοίνυν παίδων αὐτῶ τεττάρων γενομένων ὁμομητρίων ἐμοὶ καὶ τελευτησάντων, ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα, ὧν ὅσοι ἐρῶ εἰσι τοῦ γένους κοινωνοῦσι· καὶ τούτων οὐδείς οὐκ ἀπεῖπεν πώποτε, οὐκ ἐκώλυσεν, οὐδὲ δίκην ἔλαχεν. καίτοι τίς ἔστιν ὅστις ἂν εἰς τὰ πατρῶα μνήματα τοὺς μηδὲν ἐν γένει τιθέναι ἐάσαι; ὡς τοίνυν καὶ ταῦτ' ἀληθῆ λέγω, λαβὲ τὴν μαρτυρίαν.

[MARTYRIA]

[29] Περὶ μὲν τοίνυν τοῦ πατρός, ὡς Ἀθηναῖος ἦν, ταῦτ' ἔχω λέγειν, καὶ μάρτυρας παρέσχημαι τοὺς ὑπ' αὐτῶν τούτων ἐνηφισμένους εἶναι πολίτας, μαρτυροῦντας ἐκεῖνον ἑαυτοῖς ἀνεπιθόν εἶναι. φαίνεται δὲ βιοῦς ἔτη τόσα καὶ τόσα ἐνθάδε, καὶ οὐδαμοῦ πώποτε ὡς ξένος ἐξετασθεῖς, ἀλλὰ πρὸς τούτους ὄντας συγγενεῖς καταφεύγων, οὗτοι δὲ καὶ προσδεχόμενοι καὶ τῆς οὐσίας μεταδιδόντες ὡς αὐτῶν ἐνί. [30] τοῖς χρόνοις τοίνυν οὕτω φαίνεται γεγῶσεν ὥστε, εἰ καὶ κατὰ θάτερα ἀστὸς ἦν, εἶναι πολίτην προσήκειν αὐτόν· γέγονε γὰρ πρὸς Εὐκλείδου. περὶ δὲ τῆς μητρὸς (καὶ γὰρ ταύτην διαβεβλήκασι μου) λέξω, καὶ μάρτυρας ὧν ἂν λέγω, καλῶ. καίτοι, ὧ ἄνδρες Ἀθηναῖοι, οὐ μόνον παρὰ τὸ ψήφισμα τὰ περὶ τὴν ἀγορὰν διέβαλλεν ἡμᾶς Εὐβουλίδης, ἀλλὰ καὶ παρὰ τοὺς νόμους, οἳ κελεύουσιν ἔνοχον εἶναι τῇ κατηγορίᾳ τὸν τὴν ἐργασίαν τὴν ἐν τῇ ἀγορᾷ ἢ τῶν πολιτῶν ἢ τῶν πολιτῶν ὀνειδίζοντά τι. [31] ἡμεῖς δ' ὁμολογοῦμεν καὶ ταινίας πωλεῖν καὶ ζῆν οὐχ ὄντινα τρόπον βουλόμεθα. καὶ εἴ σοί ἐστιν τοῦτο σημεῖον, ὧ Εὐβουλίδη, τοῦ μὴ Ἀθηναίου εἶναι ἡμᾶς, ἐγὼ σοὶ τούτου ὄλως τὸναντίον ἐπιδείξω, ὅτι οὐκ ἔξεστιν ξένῳ ἐν τῇ ἀγορᾷ ἐργάζεσθαι. καὶ μοι λαβὼν ἀνάγνωθι πρῶτον τὸν Σόλωνος νόμον.

[NOMOS]

[32] Λαβὲ δὴ καὶ τὸν Ἀριστοφῶντος· οὕτω γάρ, ὧ ἄνδρες Ἀθηναῖοι, τοῦτον ἔδοξεν ἐκεῖνος καλῶς καὶ δημοτικῶς νομοθετῆσαι, ὥστ' ἐψηφίσασθε πάλιν τὸν αὐτὸν ἀνανεώσασθαι.

[ΝΟΜΟΣ]

Προσῆκει τοίνυν ὑμῖν βοηθοῦσι τοῖς νόμοις μὴ τοὺς ἐργαζομένους ξένους νομίζειν, ἀλλὰ τοὺς συκοφαντοῦντας πονηροὺς. ἐπεὶ, ὧ Εὐβουλίδη, ἔστι καὶ ἕτερος περὶ τῆς ἀργίας νόμος, ὃ αὐτὸς ἔνοχος ὢν ἡμᾶς τοὺς ἐργαζομένους διαβάλλεις. [33] ἀλλὰ γὰρ τοσαύτη τις ἀτυχία ἐστὶν περὶ ἡμᾶς νῦν, ὥστε τούτῳ μὲν ἕξεστιν ἕξω τοῦ πράγματος βλασφημεῖν καὶ πάντα ποιεῖν, ὅπως μηδενὸς τῶν δικαίων ἐγὼ τύχω· ἐμοὶ δ' ἐπιτιμήσετε ἴσως, ἐὰν λέγω ὃν τρόπον οὗτος ἐργάζεται περιῶν ἐν τῇ πόλει, καὶ εἰκότως· ἃ γὰρ ὑμεῖς ἴστε, τί δεῖ λέγειν; σκοπεῖτε δὴ· νομίζω γὰρ ἔγωγε τὸ ἐν τῇ ἀγορᾷ ἡμᾶς ἐργάζεσθαι μέγιστον εἶναι σημεῖον τοῦ ψευδεῖς ἡμῖν αἰτίας τοῦτον ἐπιφέρειν. [34] ἦν γὰρ φησὶν ταινιόπωλιν εἶναι καὶ φανεράν παῖσιν, προσῆκεν δὴπουθεν εἰδότας αὐτὴν πολλοὺς ἥτις ἐστὶ μαρτυρεῖν, καὶ μὴ μόνον ἀκοήν, ἀλλ' εἰ μὲν ξένη ἦν, τὰ τέλη ἐξετάσαντας τὰ ἐν τῇ ἀγορᾷ, εἰ ξενικὰ ἐτέλει, καὶ ποδαπὴ ἦν ἐπιδεικνύοντας· εἰ δὲ δούλη, μάλιστα μὲν τὸν πριάμενον, εἰ δὲ μὴ, τὸν ἀποδόμενον ἤκειν καταμαρτυροῦντα, εἰ δὲ μὴ, τῶν ἄλλων τινά, ἢ ὡς ἐδούλευσεν ἢ ὡς ἀφείθη ἐλευθέρα. νῦν δὲ τούτων μὲν ἀπέδειξεν οὐδέν, λελιοδόρηκεν δέ, ὡς ἐμοὶ δοκεῖ, οὐδὲν ὅ τι οὐ. τοῦτο γὰρ ἐστὶν ὁ συκοφάντης, αἰτιασθαι μὲν πάντα, ἐξελέγξαι δὲ μηδέν. [35] ἔπειτα κάκεινο περὶ τῆς μητρὸς εἶρηκεν, ὅτι ἐτίθουσεν. ἡμεῖς δέ, ὅτε ἡ πόλις ἠτύχει καὶ πάντες κακῶς ἔπραττον, οὐκ ἀρνούμεθα τοῦτο γενέσθαι· ὃν δὲ τρόπον καὶ ὧν ἔνεκα ἐτίθουσεν, ἐγὼ σαφῶς ὑμῖν ἐπιδείξω. μηδεὶς δ' ὑμῶν, ὧ ἄνδρες Ἀθηναῖοι, δυσχερῶς ὑπολάβη· καὶ γὰρ νῦν ἀστὰς γυναῖκας πολλὰς εὐρήσετε τιθουούσας, ἃς ὑμῖν καὶ κατ' ὄνομα, ἐὰν βούλησθε, ἐροῦμεν. εἰ δὲ γε πλούσιοι ἦμεν, οὐτ' ἂν τὰς ταινίας ἐπωλοῦμεν οὐτ' ἂν ὅλως ἦμεν ἄποροι. ἀλλὰ τί ταῦτα κοινωνεῖ τῷ γένει; ἐγὼ μὲν οὐδὲν οἶμαι. [36] μηδαμῶς, ὧ ἄνδρες δικασταί, τοὺς πένητας ἀτιμάζετε

(ίκανὸν γὰρ αὐτοῖς τὸ πένεσθαι κακόν), μηδέ γε τοὺς ἐργάζεσθαι καὶ ζῆν ἐκ τοῦ δικαίου προαιρουμένους· ἀλλ' ἀκούσαντες, ἐὰν ὑμῖν ἐπιδεικνύω τῆς μητρὸς τοὺς οἰκείους οἴους προσήκει εἶναι ἀνθρώποις ἐλευθέροις, ἃ οὗτος κατατιᾶται περὶ αὐτῆς, ταύτας τὰς διαβολὰς ἐξομνυμένους, καὶ μαρτυροῦντας αὐτὴν ἀστὴν οὔσαν εἰδέναι, οὓς ὑμεῖς φήσετε πιστοὺς εἶναι, δικαίαν ἡμῖν θέσθε τὴν ψῆφον. [37] ἐμοὶ γὰρ ἦν πάππος, ὃ ἄνδρες Ἀθηναῖοι, τῆς μητρὸς πατήρ, Δαμόστρατος Μελιτεύς. τούτῳ γίνονται τέτταρες παῖδες, ἐκ μὲν ἧς τὸ πρῶτον ἔσχεν γυναικὸς θυγάτηρ καὶ υἱὸς ὃ ὄνομ' Ἀμυθέων, ἐκ δὲ τῆς ὕστερον, Χαιρεστράτης, ἡ μήτηρ ἡ ἐμὴ καὶ Τιμοκράτης. τούτοις δὲ γίνονται παῖδες, τῷ μὲν Ἀμυθέωνι Δαμόστρατος, τοῦ πάππου τοῦνομ' ἔχων, καὶ Καλλίστρατος καὶ Δεξιθέος. καὶ ὁ μὲν Ἀμυθέων ὁ τῆς μητρὸς ἀδελφὸς τῶν ἐν Σικελίᾳ στρατευσαμένων καὶ τελευτησάντων ἐστίν, καὶ τέθραπται ἐν τοῖς δημοσίοις μνήμασιν· καὶ ταῦτα μαρτυρήσεται. [38] τῇ δ' ἀδελφῇ αὐτοῦ συνοικησάσῃ Διοδώρῳ Ἀλαιεῖ υἱὸς γίνεταί Κτησίβιος. καὶ οὗτος μὲν ἐτελεύτησεν ἐν Ἀβύδῳ μετὰ Θρασυβούλου στρατευόμενος, ζῆ δὲ τούτων ὁ Δαμόστρατος ὁ τοῦ Ἀμυθέωνος, τῆς μητρὸς ἀδελφιδοῦς τῆς ἐμῆς. τῆς δὲ Χαιρεστράτης τῆς ἐμῆς τήθης τὴν ἀδελφὴν λαμβάνει Ἀπολλόδωρος Πλωθεύς. τούτων γίνεταί Ὀλύμπιχος, τοῦ δ' Ὀλυμπίχου Ἀπολλόδωρος, καὶ οὗτος ζῆ. καὶ μοι κάλει αὐτούς.

[MARTYRES]

[39] Τούτων μὲν τοίνυν ἀκηκόατε μαρτυρούντων καὶ διομνυμένων· τὸν δὲ {καὶ ὁμομήτριον} καὶ κατ' ἀμφοτέρ' ἡμῖν συγγενῆ καλῶ, καὶ τοὺς υἱεῖς αὐτοῦ. τῷ γὰρ Τιμοκράτει τῷ τῆς μητρὸς ἀδελφῷ τῆς ἐμῆς <τῷ> ὁμοπατρίῳ καὶ ὁμομητρίῳ γίνεταί Εὐξιθέος, τοῦ δ' Εὐξιθέου τρεῖς υἱεῖς· οὗτοι πάντες ζῶσιν. καὶ μοι κάλει τοὺς ἐπιδημοῦντας αὐτῶν.

[MARTYRES]

[40] Λαβὲ δὴ μοι καὶ τὰς τῶν φρατέρων τῶν συγγενῶν τῶν τῆς μητρὸς καὶ δημοτῶν μαρτυρίας, καὶ ὧν τὰ μνήματα ταῦτά.

[MARTYRIAΙ]

Τὰ μὲν τοίνυν τοῦ γένους τοῦ τῆς μητρὸς οὕτως ὑμῖν ἐπιδεικνύω, καὶ πρὸς ἀνδρῶν καὶ πρὸς γυναικῶν ἀστήν. τῇ δὲ μητρὶ τῇ ἐμῇ γίγνεται, ᾧ ἄνδρες δικασταί, τὸ μὲν πρῶτον ἐκ Πρωτομάχου, ᾧ αὐτὴν ὁ Τιμοκράτης ὁμομήτριος καὶ ὁμοπάτριος ὢν ἀδελφὸς ἔδωκεν, θυγάτηρ, εἶτα ἐκ τοῦ πατρὸς τοῦ ἐμοῦ ἐγώ. ὃν δὲ τρόπον τῷ πατρὶ τῷ ἐμῷ συνώκησεν, ταῦθ' ὑμᾶς ἀκοῦσαι δεῖ· καὶ γὰρ ἂν περὶ τὸν Κλεινίαν αἰτιᾶται καὶ τὸ τιθεῖσθαι τὴν μητέρα καὶ ταῦτα πάντα ἐγὼ σαφῶς ὑμῖν διηγῆσομαι. [41] ὁ Πρωτόμαχος πένης ἦν· ἐπικλήρου δὲ κληρονομήσας εὐπόρου, τὴν μητέρα βουληθεὶς ἐκδοῦναι πείθει λαβεῖν αὐτὴν Θούκριτον τὸν πατέρα τὸν ἐμόν, ὃνθ' ἑαυτοῦ γνώριμον, καὶ ἐγγυᾶται ὁ πατήρ τὴν μητέρα τὴν ἐμὴν παρὰ τοῦ ἀδελφοῦ αὐτῆς Τιμοκράτους Μελιτέως, παρόντων τῶν τε θείων ἀμφοτέρων τῶν ἑαυτοῦ καὶ ἄλλων μαρτύρων· καὶ τούτων ὅσοι ζῶσι, μαρτυρήσουσιν ἡμῖν. [42] μετὰ δὲ ταῦτα χρόνῳ ὕστερον παιδίον αὐτῇ δυοῖν ἤδη γεγενημένων, καὶ τοῦ μὲν πατρὸς στρατευομένου καὶ ἀποδημοῦντος μετὰ Θρασυβούλου, αὐτὴ δ' οὔσα ἐν ἀπορίᾳς ἠναγκάσθη τὸν Κλεινίαν τὸν τοῦ Κλειδίκου τιθεῖσθαι, τῷ μὲν εἰς ἔμ' ἦκοντι κινδύνῳ νῦν μὰ τὸν Δία οὐχὶ συμφέρον πρᾶγμα ποιήσασα (ἀπὸ γὰρ ταύτης τῆς τιθείας ἅπασα ἢ περὶ ἡμᾶς γέγονεν βλασφημία), τῇ μέντοι ὑπαρχούσῃ πενία ἴσως καὶ ἀναγκαῖα καὶ ἀρμόττοντα ποιοῦσα. [43] φαίνεται τοίνυν οὐχ ὁ ἐμὸς πατήρ πρῶτος, ᾧ ἄνδρες Ἀθηναῖοι, λαβὼν τὴν ἐμὴν μητέρα, ἀλλ' ὁ Πρωτόμαχος, καὶ παῖδας ποιησάμενος καὶ θυγατέρα ἐκδούς· ὃς καὶ τετελευτηκῶς ὅμως μαρτυρεῖ τοῖς ἔργοις ἀστήν ταύτην καὶ πολῖτιν εἶναι. ὡς οὖν ταῦτ' ἀληθῆ λέγω, κάλει μοι πρῶτον μὲν τοὺς τοῦ Πρωτομάχου υἱεῖς, ἔπειτα τοὺς ἐγγυωμένῳ παρόντας τῷ πατρὶ καὶ τῶν φρατέρων τοὺς οἰκείους, οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρὸς ὁ πατήρ, εἶτα Εὐνικὸν Χολαργέα τὸν τὴν ἀδελφὴν λαβόντα τὴν ἐμὴν παρὰ τοῦ Πρωτομάχου, εἶτα τὸν υἱὸν τῆς ἀδελφῆς. κάλει τούτους.

[MARTYΡΕΣ]

[44] Πῶς οὖν οὐκ ἂν οἰκτρότατα, ᾧ ἄνδρες Ἀθηναῖοι, πάντων ἐγὼ πεπονθὼς εἶην, εἰ τῶν συγγενῶν ὄντων τοσούτων τουτωνὶ καὶ μαρτυρούντων καὶ διομνυμένων ἐμοὶ προσήκειν, μηδεὶς μηδενὶ τούτων ἀμφισβητῶν ὡς οὐκ εἰσὶ πολῖται, ἐμὲ ψηφίσαισθ' εἶναι ξένον; λαβὲ δὴ μοι καὶ τὴν τοῦ Κλεινίου καὶ τὴν τῶν συγγενῶν αὐτοῦ μαρτυρίαν· οἱ ἴσασι δῆπου τίς οὐδ' ἄ ποτε ἢ ἐμὴ μήτηρ ἐτίθειυσεν αὐτόν. οὐ γὰρ ἂ τήμερον ἡμεῖς φαμέν, εὖορκον αὐτοῖς μαρτυρεῖν, ἀλλ' ἂ πάντα τὸν χρόνον ἤδεσαν τὴν ἡμετέραν μὲν μητέρα, τιτθὴν δὲ τούτου νομιζομένην. [45] καὶ γὰρ εἰ ταπεινὸν ἢ τιτθὴ, τὴν ἀλήθειαν οὐ φεύγω· οὐ γὰρ εἰ πένητες ἦμεν, ἡδικήκαμεν, ἀλλ' εἰ μὴ πολῖται· οὐδὲ περὶ τύχης οὐδὲ περὶ χρημάτων ἡμῖν ἐστὶν ὁ παρὼν ἀγὼν, ἀλλ' ὑπὲρ γένους. πολλὰ δουρικὰ καὶ ταπεινὰ πράγματα τοὺς ἐλευθέρους ἢ πενία βιάζεται ποιεῖν, ἐφ' οἷς ἐλεοῖντ' ἄν, ᾧ ἄνδρες Ἀθηναῖοι, δικαιότερον ἢ προσαπολλύοιντο. ὡς γὰρ ἐγὼ ἀκούω, πολλαὶ καὶ τιτθαὶ καὶ ἔριθοι καὶ τρυγήτριαι γεγονάσι ὑπὸ τῶν τῆς πόλεως κατ' ἐκείνους τοὺς χρόνους συμφορῶν ἀσταὶ γυναῖκες, πολλαὶ δ' ἐκ πενήτων πλούσιαι νῦν. ἀλλ' αὐτίχ' ὑπὲρ τούτων. νῦν δὲ τοὺς μάρτυρας κάλει.

[MARTYRES]

[46] Οὐκοῦν ὅτι μὲν καὶ τὰ πρὸς μητρός εἰμ' ἀστὸς καὶ τὰ πρὸς πατρός, τὰ μὲν ἐξ ὧν ἄρτι μεμαρτύρηται μεμαθήκατε πάντες, τὰ δ' ἐξ ὧν πρότερον περὶ τοῦ πατρός. λοιπὸν δέ μοι περὶ ἐμαυτοῦ πρὸς ὑμᾶς εἰπεῖν, τὸ μὲν ἀπλούστατον οἶμαι καὶ δικαιότατον, ἐξ ἀμφοτέρων ἀστῶν ὄντα με, κεκληρονομηκότα καὶ τῆς οὐσίας καὶ τοῦ γένους, εἶναι πολίτην· οὐ μὴν ἀλλὰ καὶ τὰ προσήκοντα πάντα ἐπιδείξω μάρτυρας παρεχόμενος, ὡς εἰσήχθη εἰς τοὺς φράτερας, ὡς ἐνεγράφη εἰς τοὺς δημότας, ὡς ὑπ' αὐτῶν τούτων προεκρίθη ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ, ὡς ἦρχον ἀρχὰς δοκιμασθεῖς. καὶ μοι κάλει αὐτούς.

[MARTYRES]

[47] Οὐκ οὖν δεινόν, ὧ ἄνδρες δικασταί, εἰ μὲν ἔλαχον ἱερεὺς, ὥσπερ προεκρίθην, δεῖν ἂν με καὶ αὐτὸν θύειν ὑπὲρ τούτων καὶ τοῦτον μετ' ἐμοῦ συνθύειν, νῦν δὲ τοὺς αὐτοὺς τούτους ἐμὲ μεθ' αὐτῶν μηδὲ συνθύειν ἔαν; φαίνομαι τοίνυν, ὧ ἄνδρες Ἀθηναῖοι, τὸν μὲν ἄλλον χρόνον ἅπαντα παρὰ πᾶσιν τοῖς νῦν κατηγοροῦσι πολίτης ὠμολογημένος· [48] οὐ γὰρ ἂν δήπου τὸν γε ξένον καὶ μέτοικον, ὡς νῦν φησιν Εὐβουλίδης, οὔτ' ἀρχὰς ἄρχειν οὔθ' ἱερωσύνην κληροῦσθαι μεθ' ἑαυτοῦ προκριθέντα εἴασεν· καὶ γὰρ οὗτος ἦν τῶν κληρουμένων καὶ προκριθέντων. οὐδέ γ' ἂν, ὧ ἄνδρες Ἀθηναῖοι, παλαιὸς ὢν ἐχθρὸς ἐμοὶ τοῦτον τὸν καιρὸν περιέμενεν, ὃν οὐδεὶς ἤδει γενησόμενον, εἴπερ τι συνήδει τοιοῦτον. [49] ἀλλ' οὐ συνήδει· διόπερ τὸν μὲν ἄλλον ἅπαντα χρόνον δημοτευόμενος μετ' ἐμοῦ καὶ κληρούμενος οὐδὲν ἑώρα τούτων, ἐπειδὴ δ' ἡ πόλις πᾶσα τοῖς ἀσελγῶς εἰσπεπηδηκόσιν εἰς τοὺς δήμους ὀργιζομένη παρῶξυντο, τηνικαῦτα μοι ἐπεβούλευσεν. ἦν δ' ἐκεῖνος μὲν ὁ καιρὸς τοῦ συνειδότος αὐτῷ τάληθῆ λέγειν, ὁ δὲ νυνὶ παρῶν ἐχθροῦ καὶ συκοφαντεῖν βουλομένου. [50] ἐγὼ δ', ὧ ἄνδρες δικασταί (καὶ μοι πρὸς Διὸς καὶ θεῶν μηδεὶς θορυβήση, μηδ' ἐφ' ᾧ μέλλω λέγειν ἀχθεσθῆ), ἑμαυτὸν Ἀθηναῖον ὑπέιληφα ὥσπερ ὑμῶν ἕκαστος ἑαυτόν, μητέρ' ἐξ ἀρχῆς νομίζων ἦνπερ εἰς ὑμᾶς ἀποφαίνω, καὶ οὐχ ἑτέρας μὲν ὢν ταύτης δὲ προσποιούμενος· πατέρα πάλιν, ὧ ἄνδρες Ἀθηναῖοι, τὸν αὐτὸν τρόπον. [51] καίτοι εἰ τοῖς ἐξελεγκομένοις ὢν μὲν εἰσὶν ἀποκρυπτομένοις, ὢν δ' οὐκ εἰσὶν προσποιουμένοις, δίκαιον ὑπάρχειν παρ' ὑμῖν τοῦτο σημεῖον ὡς εἰσὶ ξένοι, ἐμοὶ δήπου τούναντίον ὡς εἰμὶ πολίτης. οὐ γὰρ ἂν ξένην καὶ ξένον τοὺς ἑμαυτοῦ γονέας ἐπιγραψάμενος μετέχειν ἠξίουσαν τῆς πόλεως· ἀλλ' εἴ τι τοιοῦτον συνήδειν, ἐζήτησ' ἂν ὢν φήσω γονέων εἶναι. ἀλλ' οὐ συνήδειν, διόπερ μένων ἐπὶ τοῖς οὔσιν δικαίως γονεῦσιν ἑμαυτῷ τῆς πόλεως μετέχειν ἄξιῶ.

[52] Ἔτι τοίνυν ὀρφανὸς κατελείφθην, καὶ φασὶν με εὐπορον εἶναι καὶ τῶν μαρτύρων ἐνίους ὠφελουμένους μοι μαρτυρεῖν συγγενεῖς εἶναι. καὶ ἅμα μὲν κατ' ἐμοῦ λέγουσιν τὰς ἐκ τῆς πενίας ἀδοξίας καὶ περὶ τὸ γένος διαβάλλουσιν, ἅμα δὲ δι' εὐπορίαν φασὶ πάντα με ὠνεῖσθαι. [53] ὥστε πότερα χρῆ αὐτοῖς πιστεῦειν; ἐξῆν δὲ δήπου τούτοις,

εἰ νόθος ἢ ξένος ἦν ἐγώ, κληρονόμοις εἶναι τῶν ἐμῶν πάντων. εἴθ' οὗτοι μικρὰ λαμβάνειν καὶ κινδυνεύειν ἐν ψευδομαρτυρίοις καὶ ἐπιорκεῖν μᾶλλον αἰροῦνται ἢ πάντ' ἔχειν, καὶ ταῦτ' ἀσφαλῶς, καὶ μηδεμιᾶς ἐξωλείας ὑπόχους ἑαυτοῦς ποιεῖν; οὐκ ἔστι ταῦτα, ἀλλ' οἶμαι συγγενεῖς ὄντες τὰ δίκαια ποιοῦσι, βοηθοῦντες αὐτῶν ἐνί. [54] καὶ ταῦτ' οὐχὶ νῦν πεπεισμένοι ποιοῦσιν, ἀλλὰ παιδίον ὄντα με εὐθέως ἦγον εἰς τοὺς φράτερας, εἰς Ἀπόλλωνος πατρώου {ἦγον}, εἰς τᾶλλα ἱερά. καίτοι οὐ δήπου παῖς ὢν ἐγώ ταῦτ' ἔπειθον αὐτοὺς ἀργύριον διδοῦς. ἀλλὰ μὴν ὁ πατήρ αὐτὸς ζῶν ὁμόσας τὸν νόμιμον τοῖς φράτερσιν ὄρκον εἰσήγαγέ με, ἀστὸν ἐξ ἀστῆς ἐγγυητῆς αὐτῷ γεγενημένον εἰδῶς, καὶ ταῦτα μεμαρτύρηται. [55] εἶτα ἐγὼ ξένος; ποῦ μετοίκιον καταθείς; ἢ τίς τῶν ἐμῶν πώποτε; ποῦ πρὸς ἄλλους δημότας ἐλθὼν, καὶ οὐ δυνηθεὶς ἐκείνους πεῖσαι δεῦρ' ἐμαυτὸν ἐνέγραψα; ποῦ τί ποιήσας ὢν ὅσοι μὴ καθαρῶς ἦσαν πολῖται πεποηκότες φαίνονται; οὐδαμοῦ, ἀλλ' ἀπλῶς, ἐν οἷς ὁ πάππος ὁ τοῦ πατρός, ὁ ἐμός, <ὁ> πατήρ, ἐνταῦθα καὶ αὐτὸς φαίνομαι δημοτευόμενος. καὶ νῦν πῶς ἂν τις ὑμῖν σαφέστερον ἐπιδείξειεν μετὸν τῆς πόλεως αὐτῷ; [56] ἐνθυμείσθω γὰρ ἕκαστος ὑμῶν, ὧ ἄνδρες Ἀθηναῖοι, τοὺς ἑαυτῷ προσήκοντας τίν' ἄλλον ἂν δύναίτο ἐπιδείξειαι τρόπον ἢ τὸν αὐτὸν ἐμοί, μαρτυροῦντας, ὁμνύοντας, πάλαι τοὺς αὐτοὺς ἀπὸ τῆς ἀρχῆς ὄντας;

Διὰ ταῦτα τοίνυν ἐγὼ πιστεύων ἐμαυτῷ κατέφυγον εἰς ὑμᾶς. ὁρῶ γάρ, ὧ ἄνδρες Ἀθηναῖοι, οὐ μόνον τῶν ἀποψηφισαμένων Ἀλιμουσίων ἐμοῦ κυριώτερ' ὄντα τὰ δικαστήρια, ἀλλὰ καὶ τῆς βουλῆς καὶ τοῦ δήμου, δικαίως· κατὰ γὰρ πάντα αἰ παρ' ὑμῖν εἰσι κρίσεις δικαιοτάται.

[57] Ἐνθυμείσθε τοίνυν κάκεῖνο, ὅσοι τῶν μεγάλων δήμων ἐστέ, ὡς οὐδέν' ἀπεστερεῖτε οὔτε κατηγορίας οὔτ' ἀπολογίας. καὶ πόλλα ἀγαθὰ γένοιτο πᾶσιν ὑμῖν τοῖς δικαίως τούτῳ τῷ πράγματι χρησαμένοις, ὅτι καὶ τῶν ἀναβαλέσθαι δεομένων οὐκ ἀφήρησθε τὸ παρασκευάσασθαι· ὧ καὶ τοὺς συκοφαντοῦντας καὶ δι' ἔχθραν ἐπιβουλεύοντας ἐξηλέγχετε. [58] καὶ ὑμᾶς μὲν ἄξιον ἐπαινεῖν, ὧ ἄνδρες Ἀθηναῖοι, τοὺς δὲ καλῶ καὶ δικαίῳ πράγματι μὴ καλῶς χρησαμένους ψέγειν. ἐν οὐδενὶ τοίνυν εὐρήσετε

τῶν δήμων δεινότερα γεγενημένα τῶν παρ' ἡμῖν. οὗτοι γὰρ ἀδελφῶν ὁμομητρίων καὶ ὁμοπατρίων τῶν μὲν εἰσιν ἀπεψηφισμένοι, τῶν δ' οὐ, καὶ πρεσβυτέρων ἀνθρώπων ἀπόρων, ὧν τοὺς υἱεῖς ἐγκαταλελοίπασιν· καὶ τούτων ἂν βούλησθε, μάρτυρας παρέξομαι.

[59] ὁ δὲ πάντων δεινότατον οἱ συνεστηκότες πεποιήκασιν (καὶ μοι πρὸς Διὸς καὶ θεῶν μηδεὶς ὑπολάβη δυσκόλως, ἐὰν τοὺς ἡδίκηκότας ἐμαυτὸν πονηροὺς ὄντας ἐπιδεικνύω· νομίζω γὰρ ὑμῖν τὴν τούτων πονηρίαν δεικνὺς <εἰς> αὐτὸ τὸ πρᾶγμα λέγειν τὸ γενόμενόν μοι)· οὗτοι γάρ, ὧ ἄνδρες Ἀθηναῖοι, βουλομένους τινὰς ἀνθρώπους ξένους πολίτας γενέσθαι, Ἀναξιμένην καὶ Νικόστρατον, κοινῇ διανεϊμάμενοι πέντε δραχμὰς ἕκαστος προσεδέξαντο. καὶ ταῦτ' οὐκ ἂν ἐξομόσαιτο Εὐβουλίδης οὐδ' οἱ μετ' αὐτοῦ μὴ οὐκ εἰδέναί. καὶ νῦν τούτων οὐκ ἀπεψηφίσαντο. τί οὖν οὐκ ἂν οἴεσθε τούτους ἰδίᾳ ποιῆσαι, οἱ κοινῇ ταῦτ' ἐτόλμων; [60] πολλοὺς, ὧ ἄνδρες δικασταί, οἱ μετ' Εὐβουλίδου συνεστῶτες καὶ ἀπολωλέκασιν καὶ σεσῶκασιν ἕνεκ' ἀργυρίου. ἐπεὶ καὶ τὸ πρότερον (ἐρῶ δ' εἰς αὐτὸ τὸ πρᾶγμα, ὧ ἄνδρες Ἀθηναῖοι) δημαρχῶν ὁ Εὐβουλίδου πατήρ, ὥσπερ εἶπον, Ἀντίφιλος, τεχνάζει βουλόμενος παρά τινων λαβεῖν ἀργύριον, καὶ ἔφη τὸ κοινὸν γραμματεῖον ἀπολωλέναι, ὥστ' ἔπεισε διαψηφίσασθαι τοὺς Ἀλιμουσίους περὶ αὐτῶν, καὶ κατηγορῶν δέκα τῶν δημοτῶν ἐξέβαλεν, οὓς ἅπαντας πλὴν ἑνὸς κατεδέξατο τὸ δικαστήριον. καὶ ταῦτα πάντες ἴσασιν οἱ πρεσβύτεροι. [61] πολλοῦ γ' ἔδεόν τινὰς ἐγκαταλιπεῖν τῶν μὴ Ἀθηναίων, ὅπου καὶ τοὺς ὄντας πολίτας συνιστάμενοι ἐξέβαλον, οὓς τὸ δικαστήριον κατεδέξατο. καὶ ὧν ἐχθρὸς τῷ ἐμῷ πατρὶ τότε οὐ μόνον οὐ κατηγόρησεν, ἀλλ' οὐδὲ τὴν ψῆφον ἤνεγκεν ὡς οὐκ ἦν Ἀθηναῖος. τῷ τοῦτο δῆλον; ὅτι ἀπάσαις ἔδοξεν δημότης εἶναι. καὶ τί δεῖ περὶ τῶν πατέρων λέγειν; ἀλλ' Εὐβουλίδης αὐτὸς οὕτως, ἠνίκα ἐνεγράφην ἐγὼ καὶ ὁμόσαντες οἱ δημόται δικαίως πάντες περὶ ἐμοῦ τὴν ψῆφον ἔφερον, οὔτε κατηγόρησεν οὔτ' ἐναντίαν τὴν ψῆφον ἤνεγκεν· καὶ γὰρ ἐνταῦθα πάλιν ἐμὲ πάντες ἐψηφίσαντο δημότην. καὶ εἰ φασὶν με τοῦτο ψεύδεσθαι, ἐπὶ τοῦ ἐμοῦ ὕδατος ὅστις βούλεται τούτων τάναντία μαρτυρησάτω. [62] εἰ τοίνυν, ὧ ἄνδρες Ἀθηναῖοι, τοῦτο δοκοῦσιν οὗτοι λέγειν μάλιστ' ἰσχυρόν, ὡς ἀπεψηφίσαντό μου νῦν οἱ

δημόται, ἐγὼ τετράκις ἐπιδεικνύω πρότερον ὅτε ὁσίως ἄνευ συστάσεως ἐψηφίσαντο, καὶ ἐμὲ καὶ τὸν πατέρα δημότας αὐτῶν εἶναι ψηφισαμένους, πρῶτον μὲν γε τοῦ πατρὸς δοκιμασθέντος, εἴτ' ἐμοῦ, εἴτ' ἐν τῇ προτέρᾳ διαψηφίσει, ὅτε ἠφάνισαν οὗτοι τὸ γραμματεῖον· τὸ δὲ τελευταῖον προκρίναντες ἐμὲ ἐψηφίσαντο ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ. καὶ ταῦτα πάντα μεμαρτύρηται.

[63] Εἰ δὲ δεῖ τὴν δημαρχίαν λέγειν, δι' ἣν ὠργίζοντό μοί τινες, ἐν ἧ' διάφορος ἐγενόμην εἰσπράττων ὀφείλοντας πολλοὺς αὐτῶν μισθώσεις τεμενῶν καὶ ἕτερ' ἅ τῶν κοινῶν διηρπάκεσαν, ἐγὼ μὲν ἂν βουλοίμην ὑμᾶς ἀκούειν, ἀλλ' ἴσως ἔξω τοῦ πράγματος ὑπολήψεσθε ταῦτ' εἶναι. ἐπεὶ καὶ τοῦτ' ἔχω δεικνύουσι τεκμήριον ὡς συνέστησαν· ἕκ τε γὰρ τοῦ ὄρκου ἐξήλειψαν τὸ ψηφιεῖσθαι γνώμη τῇ δικαιοτάτῃ καὶ οὔτε χάριτος ἕνεκ' οὔτ' ἔχθρας. [64] καὶ γὰρ τοῦτο φανερόν ἐγένετο καὶ ὅτι ἱεροσυλήσαντες τὰ ὄπλα (εἰρήσεται γάρ), ἃ ἐγὼ ἀνέθηκα τῇ Ἀθηνᾶ, καὶ τὸ ψήφισμα ἐκκόλαψαντες ὃ ἐμοὶ ἐψηφίσαντο οἱ δημόται, συνώμνουν οὗτοι ἐπ' ἐμὲ οἱ ὑπ' ἐμοῦ τὰ κοινὰ εἰσπραχθέντες. καὶ εἰς τοσοῦτ' ἀναιδεΐας ἐληλύθασι, ὥστ' ἔλεγον περιόντες ἐμὲ τῆς ἀπολογίας ἕνεκα ταῦτα ποιῆσαι. καὶ τίς ὑμῶν ἂν καταγνοίη μου τοσαύτην μανίαν, ὃ ἄνδρες δικασταί, ὥστε τηλικούτων ἕνεκα πρὸς τὸ πρᾶγμα τεκμηρίων ἄξια θανάτου διαπράξασθαι, καὶ ἃ ἐμοὶ φιλοτιμίαν ἔφερον, ταῦτ' ἀφανίζεις; [65] τὸ δὲ πάντων δεινότατον οὐ δήπου γε φήσαιεν ἂν ἐμὲ κατασκευάσαι. οὐ γὰρ ἔφθη μοι συμβᾶσ' ἡ ἀτυχία καὶ εὐθύς, ὥσπερ φυγάδος ἤδη μου ὄντος καὶ ἀπολωλότος, τούτων τινὲς ἐπὶ τὸ οἰκίδιον ἐλθόντες <τὸ> ἐν ἀγρῷ νύκτωρ ἐπεχείρησαν διαφορῆσαι τὰ ἔνδοθεν· οὕτω σφόδρ' ὑμῶν καὶ τῶν νόμων κατεφρόνησαν. καὶ ταῦτα τοὺς εἰδότας, ἐὰν βούλησθε, καλοῦμεν.

[66] Πολλὰ δ' ἔχων καὶ ἄλλ' ἐπιδείξαι, ἃ τούτοις ἐστὶν διαπεπραγμένα καὶ ἃ εἰσιν ἐψευσμένοι, ἠδέως μὲν ἂν ὑμῖν λέγοιμι, ἐπειδὴ δε ἔξω τοῦ πράγματος νομίζετ' εἶναι, ἐάσω. ἀναμνήσθητε δ' ἐκείνων καὶ θεάσασθε, ὡς πολλὰ καὶ δίκαια ἔχων πρὸς ὑμᾶς ἤκω. ὥσπερ γὰρ τοὺς θεσμοθέτας ἀνακρίνετε, ἐγὼ τὸν αὐτὸν τρόπον ἐμαυτὸν ὑμῖν ἀνακρινῶ. 'ὦ ἄνθρωπε, τίς ἦν σοι πατήρ;' ἐμοὶ Θούκριτος. [67] 'οἰκεῖοί τινες εἶναι μαρτυροῦσιν

αὐτῶ;’ πάνυ γε, πρῶτον μὲν γε τέτταρες ἀνεψιοί, εἴτ’ ἀνεψιαδοῦς, εἴθ’ οἱ τὰς ἀνεψιάς λαβόντες αὐτῶ, εἴτα φράτερες, εἴτ’ Ἀπόλλωνος πατρῶου καὶ Διὸς ἐρκείου γεννηῖται, εἴθ’ οἷς ἡρία ταῦτά, εἴθ’ οἱ δημόται πολλάκις αὐτὸν δεδοκιμάσθαι καὶ ἄρχαὸς ἄρξαι, καὶ αὐτοὶ διεψηφισμένοι φαίνονται. τὰ μὲν τοίνυν περὶ τοῦ πατρὸς πῶς ἂν ὑμῖν δικαιοτέρον ἢ καθαρώτερον ἐπιδείξαιμι; καλῶ δ’ ὑμῖν τοὺς οἰκείους, εἰ βούλεσθε. τὰ δὲ περὶ τῆς μητρὸς ἀκούσατε. [68] ἐμοὶ γὰρ ἐστὶν μήτηρ Νικαρέτη Δαμοστράτου θυγάτηρ Μελιτέως. ταύτης τίνες οἰκεῖοι μαρτυροῦσιν; πρῶτον μὲν ἀδελφιδοῦς, εἴτα τοῦ ἐτέρου ἀδελφιδοῦ δύο υἱοί, εἴτ’ ἀνεψιαδοῦς, εἴθ’ οἱ Πρωτομάχου υἱεῖς τοῦ λαβόντος τὴν ἐμὴν μητέρα πρότερον, εἴθ’ ὁ τὴν ἀδελφὴν τὴν ἐμὴν τὴν ἐκ τοῦ Πρωτομάχου γήμας Εὐνικός Χολαργεύς, εἴθ’ υἱὸς τῆς ἀδελφῆς. [69] ἀλλὰ μὴν καὶ φράτερες τῶν οἰκείων αὐτῆς καὶ δημόται ταῦτα μεμαρτυρήκασι. τίνος οὖν ἂν προσδέοισθε; καὶ γὰρ ὅτι κατὰ τοὺς νόμους ὁ πατὴρ ἔγημεν καὶ γαμηλίαν τοῖς φράτερσιν εἰσήνεγκεν μεμαρτύρηται. πρὸς δὲ τούτοις καὶ ἐμαυτὸν ἐπέδειξα πάντων μετελιηφότα ὅσων προσήκει τοὺς ἐλευθέρους. ὥστε πανταχῆ δικαίως καὶ προσηκόντως ἡμῖν ἂν προσθέμενοι τὴν ψῆφον εὐορκοίητε. [70] ἔτι τοίνυν, ὧ ἄνδρες δικασταί, τοὺς ἐννέα ἄρχοντας ἀνακρίνετε, εἰ γονέας εὖ ποιοῦσιν. ἐγὼ δὲ τοῦ μὲν πατρὸς ὀρφανὸς κατελείφθην, τὴν δὲ μητέρ’ ἰκετεύω ὑμᾶς καὶ ἀντιβολῶ διὰ τοῦτον τὸν ἀγῶνα ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα καὶ μὴ με κωλύσητε, μηδ’ ἀπολιν ποιήσητε, μηδὲ τῶν οἰκείων ἀποστερήσητε τοσοῦτων ὄντων τὸ πλῆθος, καὶ ὅλως ἀπολέσητε. πρότερον γὰρ ἢ προλιπεῖν τούτους, εἰ μὴ δυνατὸν ὑπ’ αὐτῶν εἶη σωθῆναι, ἀποκτείναιμι ἂν ἐμαυτόν, ὥστ’ ἐν τῇ πατρίδι γ’ ὑπὸ τούτων ταφῆναι.

Demosthenes'

Against Euboulides

[1] Since Euboulides has brought many false accusations against me, and has made slanderous statements that are neither fitting nor just, I will endeavour to show, men of the jury, by speaking what is true and just, that I share in the right of citizenship and I have unduly suffered from this man. I ask all of you, men of the jury, and I beg and beseech you, considering both the magnitude of this present trial and the shame that it involves for those who have been ruined by convictions, listen to me also and in silence, indeed especially so, if you are able, with greater goodwill than towards this man (for it seems likely that you are more favourable to those who are placed in danger), but if not, indeed with equal goodwill. [2] And as it happens, men of the jury, I am confident with regard to the merits of my case and my claim to citizenship and I have great hopes of doing well in court, but I happen to fear the occasion and that the city has been provoked into carrying out disfranchisements; for while many have been justly driven out from all of the demes, we who have been victimised by political rivals have a joint share of this reputation, and we also fight the charge against them and not just the charges in our own individual cases, so that the fear is necessarily great. [3] Nevertheless, despite this situation, I will first speak to you of what I believe to be just about these very things. For I think it is necessary for you to treat with severity those who have been exposed as foreigners, if neither having persuaded you nor having asked your consent, they have secretly and forcibly shared in your sacred rites and civil privileges; but it is necessary for you to help and to save those who have met with misfortune and can prove themselves to be citizens, bearing in mind that the most pitiable state of all would befall us having been wronged if, when we should rightly belong among those exacting the penalty with you, we should be with those paying the penalty and should be wronged alike because of the anger which the matter arouses. [4] And so I thought, men of the jury, it was fitting

for Euboulides and also all those who now bring accusations in cases of disfranchisement to state that which they know accurately and to bring forward no hearsay in a trial such as this. For in reality this practice has long been deemed very unjust, so that the laws do not permit giving hearsay as evidence, not even in altogether trivial complaints, and rightly so; for when those who claimed to have knowledge were then shown to be lying, how indeed can it be fitting to believe someone who speaks about that which he himself has no personal knowledge? [5] Yet surely when it is not permitted for someone to harm anyone else through that which he says he has heard, even having made himself responsible for it, how can it be proper for you to believe someone speaking without accountability? Well since this man, knowing the laws and indeed more than is fitting, has made this accusation unjustly and for his own advantage, it is necessary for me to speak first of how I was abused amongst the demesmen. [6] And I ask of you, Athenian men, not yet to take my disfranchisement as proof that it is not fitting for me to have citizenship. For if you believed that the demesmen were able to settle all cases justly, you would not have allowed the right of appeal to yourselves; but even now believing something of this sort would happen on account of rivalry and envy and enmity and other pretexts, you made yourselves a place of refuge for those who suffered wrongdoing, through which acting properly, Athenian men, you have saved all those who have been wronged. [7] And so I will first speak to you about the manner in which the voting by ballot actually took place amongst the demesmen; for I take this as speaking on the same matter at hand in every way, demonstrating how much a man who has been unjustly victimised by his political rivals has suffered, contrary to the decree.

[8] For as many of you know, Athenian men, this man here, Euboulides, indicted the sister of Lacedaemonios for impiety but did not get a fifth of the share of votes. Because I gave testimony in that trial, which was just but in opposition to this man, on account of this personal enmity over that event, he is attacking me. And being a member

of the *Boulē*, men of the jury, and the man in charge of the oath and the register from which the demesmen were summoned, what does he do? [9] First, when the demesmen were gathered, he wasted the day by making speeches and proposing decrees. This was not by accident, but because he was plotting against me, so that the vote about me would be as late as possible; and he accomplished this. And seventy-three of us demesmen who swore the oath began voting in the late afternoon, so that it happened that it was already dark by the time my name was called. [10] For I was about sixtieth, and I was called last of all of those summoned that day, when the older demesmen had left for the countryside; for our deme, members of the jury, is thirty-five stades away from the city and most of the demesmen live there, so many had left; and those who remained were not more than thirty. But amongst these were all those who had been suborned by this man. [11] And when my name was called, this man jumped up and immediately slandered me, at great length and in a loud voice, just like now, he brought forward no witness who accused me, neither from the demesmen nor the rest of the citizens, but he urged the demesmen to vote to disfranchise me. [12] And I requested that the vote on me be adjourned until the next day because of both the late hour and that there was nobody present to speak on my behalf, the matter had come about so suddenly, so that the reason behind my request would be for this man to make as many accusations as he wished and to bring forward any witnesses that he might have, and it would grant me the opportunity to defend myself before all the demesmen and to bring forward my relatives as witnesses; and I was willing to abide by whatever they might decide about me. [13] This man paid no attention to what I proposed, but he immediately put the vote to the demesmen who were present, and he neither allowed me a defence speech nor produced any genuine proof. And the conspirators with this man leaped up and voted. It was also dark, and taking two and three votes each from this man they put them in the voting urn. And this is the evidence for it: for those who voted were not more than thirty in number, but the votes that were counted were more

than sixty, so that all of us were stunned. [14] And I will bring forward witnesses before you to testify that I speak these things truthfully, that the vote was not given to all the demesmen and that there were more votes cast than those who had voted. But it happens that none of my friends or other Athenians were present on my behalf as a witness about these matters because of the late hour and because I did not summon anybody, and instead I am making use of those very men who wronged me as my witnesses. And so I have put these things in writing for them, which they will not be able to deny. [*To the clerk*] Read it.

[DEPOSITION]

[15] Moreover, men of the jury, if it had happened that the Halimousians had voted about all of the demesmen on that day, it was reasonable to vote until late, so that they would have fulfilled the terms of your decree before departing. But if there were more than twenty demesmen left who had to be voted on the next day, and it was in any case necessary for the demesmen to gather again, what was the difficulty for Euboulides to adjourn to the next day and to give the demesmen the vote about me first? [16] Because, men of the jury, Euboulides knew well that if I were allowed to make a speech and all the demesmen were present on my behalf and the vote was justly given, his fellow conspirators would be useless. As soon as I have spoken about my lineage, then I will tell you the reason why these men conspired against me, if you wish to hear these things. [17] And now what do I think to be just and what am I prepared to do, men of the jury? I am prepared to show you that I myself am an Athenian on both my father's side and my mother's, and to present witnesses to these matters, who you will agree are honest, and to refute the insults and accusations. And, after you have heard these things, if I seem to you to be a citizen who has been victimised by my political rivals, then save me, but if not, act in whatever manner seems to you to be pious. And I will begin from here.

[18] For they have slandered my father, because he spoke with a foreign accent; and they have omitted the fact that he was captured by the enemy during the Deceleian War and was sold into slavery in Leucas; having fallen in with Cleander the actor, he was brought safely here to his relatives after a very long time; and as if it were right for us to be ruined on account of those misfortunes, they have accused him of speaking with a foreign accent. [19] But most of all I think that these very facts will show you that I myself am an Athenian. And I will present witnesses to you first that he was captured and was rescued, then that having returned he received a share of the property from his uncles, and furthermore that nobody ever accused him, neither amongst the demesmen nor amongst the phratry members nor anywhere else, of being a foreigner despite having a foreign accent. [*To the clerk*] Take the depositions.

[DEPOSITIONS]

[20] Therefore you have heard about the capture and the safe return, how it happened for my father to be here. And to prove that he was your fellow citizen, men of the jury, (for this is the truth of the case), I will call as witnesses my surviving relatives on my father's side. First call Thoucritides and Charisiades; for the father of these men, Charisios, was a brother of my grandfather Thoucritides and of my grandmother Lysarete (for my grandfather married his sister who was born from a different mother), and Charisios is my father's uncle. Then call Niciades; [21] for the father of this man, Lysanias, was a brother of Thoucritides and of Lysarete, and my father's uncle. Then call Nicostratos; for the father of this man, Niciades, was nephew to my grandfather and grandmother, and my father's first cousin. Call all these men. [*To the clerk*] And you, stop the water clock.

[WITNESSES]

[22] Therefore you have heard, Athenian men, my father's male relatives both giving testimony and swearing under oath that my father was an Athenian and a kinsman to them; surely none of them swore falsely, standing beside those who will know him to be giving false testimony, and bringing down utter destruction on himself. [*To the clerk*] Now take the depositions of my father's female relatives.

[DEPOSITIONS]

[23] Therefore my father's living relatives on both the male and the female side have given testimony that he was an Athenian on both sides and justly entitled to the right of citizenship. [*To the clerk*] Now call the members of his phratry, then the members of his genos.

[WITNESSES]

Now take the depositions of the demesmen, and those of my relatives about the members of the phratry, to show that they elected me *phratriarch*.

[DEPOSITIONS]

[24] You have heard then the testimonies of the appropriate people, from my relatives and members of my phratry and the demesmen and members of the genos. From them, it is possible for you to have learned whether someone who has this backing was a citizen or a foreigner. For if we sought the support of one or two men, we would be subject to some suspicion that we had suborned them; but if it is clear that my father, while he was alive, and now I, have been tested in all the groups, as many as each of you belong to, I refer to the phratry members, kinsmen, demesmen and members of the genos, how it is likely or how is it possible to have suborned all these men to be fake relatives? [25] Now if it was shown that my father was rich and gave money to these men to persuade them to say that they were his relatives, it would be reasonable to have some suspicion

that he was not a citizen; but as he was a poor man, if he both brought forward these same men as his relatives and proved that they gave him a share of their property, how is it not abundantly clear that he is truly related to them? For surely, if he was related to none of them, they would not have admitted him into their genos and also given him money. But he was their relative, as both their action has shown and as they have testified to you. And furthermore he was selected to offices by lot and having been approved by scrutiny he held office. [*To the clerk*] Take the deposition.

[*DEPOSITION*]

[26] And so do any of you think that the demesmen would allow that man as a foreigner and non-citizen to hold office among them, but would not prosecute him? Well, not a single person prosecuted him, nor accused him. Yet emergency votes were taken by the demesmen, who had sworn over sacrifices, when their deme register was lost while Antiphilos, Euboulides' father, was serving as *dēmarch* and they ejected some of their members; but nobody said anything about my father nor made any such accusation. [27] And yet for all men death is the end of life and, for whatever reason a man might be accused while alive, it is right that his children always have to account for his conduct; but about matters which nobody accused him while alive, is it not terrible that someone wishing to do so can now put his children on trial for these things? Now if no account of these matters was tested, let us grant that this issue has escaped notice; but if an account was given and the demesmen voted by ballot and no one ever made an accusation, how would I not be justly considered an Athenian on account of my father, since he died before his lineage was disputed? As these statements of mine are true, I call witnesses to these things too.

[*WITNESSES*]

[28] And furthermore, four sons were born to my father from the same mother as myself and, when they died, he buried them in the ancestral burial mounds, which are shared by as many as share in the genos; and none of these men ever forbade it, none prevented it nor brought a suit. And yet who is there that would allow anybody not in their genos to be placed in their ancestral burial mounds? Therefore as these statements of mine are true, [*to the clerk*] take the deposition.

[DEPOSITION]

[29] Now concerning my father, that he was Athenian, I have this to say, and I have brought forward as witnesses those who these very conspirators have voted to be citizens, to testify that my father was their first cousin. And it is clear that he lived for so-and-so many years here in Athens, and that he was never once tested as a foreigner, but he sought the support of these people as relatives, and they accepted him and gave him a share of their property as one of their own. [30] Therefore it is shown in this way that he was born during a period when, even if he was a citizen on only one side, he was entitled to be considered a citizen; for he was born before the archonship of Eucleides. And I will speak about my mother (for they also slander me with regard to this woman), and I will call witnesses to that which I say. And yet, Athenian men, Euboulides' slander of us which concerns doing business in the marketplace is not only contrary to the decree but also against the laws, which order that anyone reproaching any male or female citizens for doing business in the marketplace is liable for slander. [31] And we admit to selling ribbons and to not living in the manner we wish. And if this is a sign to you, Euboulides, of us not being Athenians, I will show you the very opposite of this, that it is not permissible for a foreigner to do business in the marketplace. [*To the clerk*] Take first the law of Solon and read it.

[LAW]

[32] Now take also the law of Aristophon; for, Athenian men, it was thought that this man Solon so wisely and justly made this law that you voted to renew it again.

[LAW]

It is proper for you, then, supporting the laws, not to think that those doing business in the marketplace are foreigners, but to think that those engaging in *sykophancy* are wicked people. Since, Euboulides, there is also another law regarding idleness, to which you yourself are liable even as you slander us for doing business. [33] But there is such a great misfortune on us now that it is permitted for this man to slander us on irrelevant matters and to do all these things so that I obtain no justice; and perhaps you will criticise me, if I speak of the business which this man does as he goes about the city, and rightly so; for what need is there to say what you already know? Consider this then; for I believe our working in the *agora* to be the greatest sign of the false accusations that he brings against us. [34] For of course it was fitting for many people who have knowledge of who my mother is, and as he says she is a ribbon-seller and seen by everybody, to give testimony and not from hearsay alone; and if she was a foreigner, they ought to have examined the tax register in the market, to see if she paid the foreigner tax, and to see if it shows what country she came from; and if she was a slave, the man who bought her should by all means have come to give testimony against her and if not him then the man who sold her and if not him then some other man to give testimony either that she was a slave or that she had been set free. But even now he has produced none of these and, as it seems to me, there is no abuse which he has not used. For this is what a *sykophant* is, someone who makes all kinds of accusations, but proves nothing. [35] He has also said this about my mother, that she was a wet-nurse. And we do not deny that this happened, when the city suffered misfortune and everyone fared badly; but I will show you clearly in what manner and for what reasons she was a wet-nurse. But none of you, Athenian men, should take it up wrongly; for even now you will find many citizen

women are working as wet-nurses, who I will identify by name to you, if you wish. And if we were indeed wealthy, we would not be selling ribbons nor would we be utterly without means. But what do these things have to do with lineage? Nothing, I think. [36] Do not, men of the jury, dishonour the poor (for their poverty is a sufficient evil), nor indeed those choosing to work and to live honestly. But, having heard me out, if I show you that my mother's relatives are such men as is fitting for free citizens to be, and they deny on oath the slanders of which Euboulides accuses her and give testimony that they know her to be a citizen, men whom you will say are trustworthy, cast your vote for us according to justice. [37] For my grandfather, Athenian men, my mother's father, was Damostratos of Melite. To this man, four children were born, from his first wife he had a daughter and a son who is named Amytheon, and from his second wife, Chaerestrata, he had my mother and Timocrates. And to these there were children, Amytheon had Damostratos, having the same name as his grandfather, and Callistratos and Dexitheos. And my mother's brother Amytheon is among those who served and died in Sicily, and has been buried in the public burial mounds; and testimony will be given to these things. [38] And to Amytheon's sister, having married Diodoros of Halae, a son was born named Ctesibios. And this man died in Abydos serving with Thrasyboulos. Of these men Amytheon's son Damostratos still lives, my mother's nephew. And Apollodoros of Plotheia married the sister of my grandmother Chaerestrata; Olympichos was born to them, and a son Apollodoros to Olympichos, and this man lives. [*To the clerk*] Also call them to me.

[WITNESSES]

[39] Well then you have heard these men giving testimony and swearing under oath; and I will also call the man who is related to us on both sides, and his sons. For Timocrates, my mother's brother from the same father and mother, had a son Euxitheos,

and there are three sons to Euxitheos; and all these men are living. [*To the clerk*] Also call those who are in town.

[WITNESSES]

[40] [*To the clerk*] Now also take my depositions from the phratry members of my mother's relatives and from the demesmen, and those who share the same burial mounds.

[DEPOSITIONS]

Now, as to the matter of my mother's lineage, I can show you in this way that she is a citizen on both the male side and the female side. Timocrates, men of the jury, being my mother's brother from the same father and mother, first gave her in marriage to Protomachos, and she had a daughter by him, then she had me by my father. But, about the manner in which she married my father, it is necessary for you to hear; for Euboulides even makes accusations about Cleinias and my mother being a wet-nurse, and all these things I will describe to you clearly. [41] Protomachos was a poor man; but because he was acquiring the inheritance of a wealthy *epiklēros* and, having wished to give my mother in marriage, he persuaded my father Thoucritos, being an acquaintance of his, to take her. And my father was betrothed to my mother by her brother Timocrates of Melite, while both his uncles were present and other witnesses; and they will give testimony for us, as many of these men that are living. [42] Some time after this, when two children had already been born to my mother, my father was serving as a soldier and was abroad with Thrasyboulos; because she was in dire straits, she was compelled to nurse Cleinias the son of Cleidicos. By Zeus, she acted in a manner none too fortunate for the danger which is now upon me (for all the slander about us has come from her nursing), but she was doing what was perhaps both necessary and fitting in her existing poverty. [43] Therefore it is clear, Athenian men, that my father was not the first to have received my mother in

marriage, but Protomachos was, and he produced children and gave his daughter in marriage; he who even having died still gives testimony to her being both a native and citizen by his deeds. Therefore as these statements of mine are true, call first Protomachos' sons, then those present at her betrothal to my father and the kinsmen from the phratry, who my father brought in for the marriage-feast on behalf of my mother, next Eunicos of Cholargos who has received my sister in marriage from Protomachos, and next my sister's son. [*To the clerk*] Call these men.

[WITNESSES]

[44] And so how would my plight not be most pitiable of all, Athenian men, if in spite of so many of these relatives giving testimony and swearing under oath to be related to me, and though nobody claims that any of these men are not citizens, you should vote that I am a foreigner? Then also take the deposition of Cleinias and his relatives; who know, of course, who my mother was when she served as wet-nurse to him. For, to be faithful to their oaths, they must not attest what we claim today but what they had known the whole time about the woman thought to be my mother and wet-nurse to this man. [45] For even if the nurse is a lowly thing, I do not avoid the truth; for we have done nothing wrong if we were poor, but only if we were not citizens; the present trial is neither about fortune nor about our money, but it concerns our lineage. Poverty compels free men to do many servile and lowly tasks, for which they should be more justly pitied, Athenian men, rather than being ruined. For as I hear, many citizen women have become nurses and wool-workers and grape-pickers by the misfortunes of the city at that time, and many who were poor then are now rich. But more regarding these matters presently. [*To the clerk*] And now call the witnesses.

[WITNESSES]

[46] Therefore you have all learned that I am a citizen on both my mother's side and on my father's, from the things that have just been testified to and from the earlier testimony about my father. And it remains for me to speak to you about myself; I think it is most clear-cut and most just, that I being from two citizen parents and having inherited both the property and the lineage, am a citizen. But nevertheless I will also provide all the relevant things by bringing witnesses to the fact that I was introduced to the phratry members, that I was entered into the register of the demesmen, that I was chosen by these same men to draw lots with men of the best lineage for the priesthood of Heracles, and that having been approved by scrutiny I held offices. [*To the clerk*] Call them.

[WITNESSES]

[47] Therefore is it not terrible, men of the jury, if I was chosen by lot as priest when I was initially selected, I personally would have been required to sacrifice on behalf of these demesmen and Euboulides would have been required to join in the sacrifice with me, but now these same men do not allow me to sacrifice with them? Now I make it clear, Athenian men, that all throughout the past I have been acknowledged as a citizen by all those who now bring accusations. [48] For surely he would not allow a foreigner and a metic, as Euboulides now says I am, either to hold offices or to draw lots with himself after being initially selected for the priesthood; for this man was also among those who were initially selected and drew lots. Since he is an old enemy of mine, Athenian men, he indeed would not have waited for this particular time, which nobody knew would come to pass, if he really knew something such as this about me not being a citizen. [49] But he did not know anything of the sort; hence for all the rest of the time, while belonging to the same deme as me and drawing lots, he saw none of these things; but when the entire city had been provoked to anger by those who had outrageously infiltrated the demes, only then did he plot against me. That earlier occasion was the right time to speak for someone who was sure of the truth to speak but right now, the present time, is for an

enemy and someone wishing to engage in *sykophancy*. [50] But, men of the jury, (and by Zeus and the gods let nobody make a commotion, or be annoyed at what I am about to say) I hold myself to be Athenian just as each of you holds himself to be, believing from the beginning that my mother is the woman of whom I have given an account to you, and I am not pretending to be her son while being the son of another; likewise for my father, Athenian men, the same thing goes. [51] And yet if it is right of you to hold this as a sign that they are foreigners, that those who are proven to be hiding their true identity and to be pretending to be who they are not, surely the opposite should hold for me as proof that I am a citizen. For having registered a foreign woman and man as my parents, I would not expect to share in the right of citizenship; but if I had known any such thing, I would have sought people who I could say are my parents. But I did not know any such thing, hence standing by those who are my real parents, I expect to share in the right of citizenship.

[52] And furthermore I was left fatherless, and yet they say that I am wealthy and that some of the witnesses are being paid by me to testify that they are my relatives. One minute they speak against me for the dishonour of my poverty and they slander my lineage, but then the next they say that because of my wealth I am able to buy everything. [53] And so which of the two allegations by them should one believe? And surely it was possible for these relatives, if I indeed was a bastard or a foreigner, to be heirs to all my property. Is it believable if these men choose to receive a small amount and run the risk of a suit for giving false testimony and committing perjury, rather than having everything and doing these things safely, and without anybody making themselves liable to utter destruction? This is not the case, but I believe that being my relatives, they are doing the right thing in helping one of their own. [54] And they are not doing these things because they have been persuaded by me, but because when I was a child they immediately brought me to the phratry members, and to the sacred place of Ancestral Apollo, and to

the other sacred places. And yet surely being a child I did not persuade them to do these things by giving them money. Yet while my father himself was alive, having sworn the customary oath to the phratry members, he introduced me, knowing me to be his citizen son from a citizen wife who was lawfully married to him, and they have given testimony to these things. [55] Then am I a foreigner? Where did I pay the metic's tax? Or who of my family ever did? Have I gone to other demesmen and, not being able to persuade them to enrol me, did I register myself here in Halimous? Where did I do any of the things which all those who were not genuine citizens are seen to have done? Nowhere, but quite simply, I also clearly belong to that same deme in which my father's grandfather, my own grandfather, my father belong. And now how could someone show you more clearly that he shares in the right of citizenship? [56] Let each of you consider, Athenian men, what other way he would be able to show that his relatives were always the same right from the start rather than my own way, by giving testimony after swearing an oath?

Therefore believing in myself on account of these things, I appealed to you. For I see, Athenian men, that the lawcourts are more powerful not only than those Halimousians who disfranchised me, but also than the *Boulē* and the *Ecclēsia*, and rightly so; for in all respects your judgements are most just.

[57] Now consider this too, all of you who belong to the large demes, that you have deprived no one of either the right to make an accusation or the right to make a defence. And let there be many good things for all you who have dealt fairly with this matter, because you also did not hinder the preparation of those asking to adjourn; by which you also exposed the *sykophants* and those plotting on account of personal enmity. [58] You are worthy of praise, Athenian men, but those who have wrongly dealt with this honourable and fair matter are worthy of blame. Now in none of the demes will you find worse things having happened than in ours. For, those who are brothers born of the same mother and the same father, these men have disfranchised some but not others, and have

disfranchised older men without means, but have left behind their sons as citizens; and I will bring forward witnesses about these things, should you wish it. [59] But the worst of all the things which the conspirators have done (and by Zeus and the gods, let no one take offence with me if I show those who have wronged me as being wicked; for I believe that in showing the wickedness of these men I am speaking on the same subject of what happened to me); for these conspirators, Athenian men, admitted some foreigners, Anaximenes and Nicostratos, who wished to become citizens, and having divided the money for this they each received a share of five drachmas. And neither Euboulides nor those with him would deny these things on oath stating that they did not know about them. And yet they did not disfranchise these men now in the latest review. And so what do you think that these men would not do in private matters, men who dared to do these things in public? [60] The conspirators with Euboulides, men of the jury, have both destroyed and have saved many men on account of money. Even at an earlier time (and I will speak on the same matter at hand, Athenian men) while Euboulides' father Antiphilos was serving as *dēmarch*, just as I said, he used trickery wishing to take money from some people, and he said that the deme register had been lost, and thus he persuaded the Halimousians to revise their deme list, and accusing ten of the demesmen he expelled them, all of whom bar one were readmitted by the lawcourt. And the elders know of all these things. [61] It is far from likely that they left behind any who were not Athenians, when they were conspiring to expel even those being citizens, whom the lawcourt readmitted. And being an enemy of my father at that time, not only did he not accuse him but neither did he cast his vote that he was not Athenian. How is this proved? Because he was considered to be a deme member by all. And why is it necessary to speak about our fathers? Euboulides himself, at the time when I was entered into the register and all the demesmen cast their vote about me after swearing an oath, neither accused me nor cast an opposing vote; for even on this occasion they again all voted me a deme member. And

if they say I am lying about this, let whoever wishes give testimony to the contrary in the time allotted to me. [62] Therefore, Athenian men, if my opponents seem to advocate this strong argument that the demesmen disfranchised me on this occasion, I can show that four times previously, when they voted piously without any conspiracy, they voted both me and my father to be members of their deme, indeed first when my father was approved by scrutiny, then me, then in the earlier voting by ballot at the time when these men did away with the register; and lastly having initially selected me, when they voted that I draw lots with men of the best lineage for the priesthood of Heracles. And all of these things have been testified to.

[63] And if it is necessary to speak of my service as *dēmarch*, on account of which some were angry at me, and during which I became unpopular by exacting owed rents for sacred precincts from many of them and other debts which they pilfered from public property, I would like for you to hear it from me, but perhaps you will take these things to be outside the matter at hand. And I also have this to show as proof that they have conspired: for they removed from the oath the clause to vote according to their most just judgement and not on account of favour or hatred. [64] For this also became public knowledge and also that these men, from whom I exacted the public money, then conspired against me and stole the sacred arms (for it will be said) which I dedicated to Athena, and defaced the stone decree which the demesmen voted in my honour. And they have gone to a level of such shamelessness, that going around the place they said I was doing these things myself on account of my defence. And who of you would judge me on such madness, men of the jury, so as to commit an act worthy of death on account of such important evidence, and to ruin the things which brought me honour? [65] But surely they would not say that I contrived the worst thing of all. No sooner had misfortune befallen me when immediately, just as if I was already an exile and a ruined man, some of these men came to my cottage in the country at night and attempted to plunder the things within;

thus they held so much contempt for you and the laws. And, if you wish, I will call those who know these things.

[66] And I also have many other things that I could show, crimes which have been committed by these men and lies which they have told, and I would gladly tell you, but since you consider them to be beyond the matter, I will leave them out. But remember and observe the following, that I have come to you having many and just arguments. For just as you questioned the Thesmothetae, I will question myself in the same manner before you. ‘Sir, who was your father?’ Thoucritos was my father. [67] ‘Are there any relatives that give testimony for him?’ Of course, indeed first there are his four first cousins, then the son of a first cousin, next those having received his female first cousins in marriage, then members of his phratry, next the members of his genos who share Ancestral Apollo and Zeus of the Household, then those who share the same burial mounds, then the demesmen give testimony that he has often been approved by scrutiny and held office, and they themselves having decided it by a vote make it clear. Therefore about the matters concerning my father how could I show them to you more fairly or more clearly? But I will call my relatives before you, if you wish. Now listen to the matters concerning my mother. [68] For my mother is Nicarete, daughter of Damostratos of Melite. Who of this woman’s relatives give testimony? First her nephew, then the two sons of another nephew, next a son of her first cousin, then the sons of Protomachos having received my mother first, then Eunicos of Cholargos having married my sister from Protomachos, then my sister’s son. [69] Yet even the members of her relatives’ phratry and the demesmen have given testimony to these things. And so what could you need besides? For testimony has also been given that my father married according to the laws and that he held a marriage-feast for the members of his phratry. And in addition these things, I also proved that I myself have been sharing in everything which is fitting for free citizen males. So that in every respect you would be faithful to your oath having cast your vote justly and

fittingly in our favour. [70] Moreover still, men of the jury, you question the nine *archons* whether they treat their parents well. I was left orphaned by my father, but as for my mother, I beg and beseech you through this trial to give me back the right to bury her in the ancestral mounds and not to prevent me, or to make me an outcast, or to rob me of such a multitude of relatives, and bring me to complete ruin. For rather than abandoning them, if it is not possible to be saved by them, I would kill myself, so that I could be buried in my homeland.

3. Commentary

§§1-7: προοίμιον

In his introduction, Euxitheos reveals what he claims to fear most about his present circumstance: the anger of the Athenians had provoked them into implementing disfranchisements (§2). The state's current passion could very well lead to his conviction, which he equates with both shame and ruination (§1). Nonetheless, in spite of his desperate situation, Euxitheos seeks to dissociate himself from those who have been rightly ejected by the deme and attempts to obtain favour with the jury by agreeing with the Athenians' policy of severely punishing those who had been exposed as foreigners (§3). His observations on correct procedure naturally lead to criticism of the manner of Euboulides' prosecution (§4).

[1] **Πολλὰ καὶ ψευδῆ κατηγορηκόςτος**: 'many false accusations'. The actions which the speaker's opponent has taken against him are summed up in his opening words. Demosthenes applies a similar technique to several other speeches, specifically by using the very first word to stress an opponent's behaviour: καταψευδομαρτυρηθείς in Dem. 45.1 and ὑβρισθείς in Dem. 54.1, cf. αἴτιος in Dem. 44.1. Accusing an opponent of bringing false charges against him was a common tactic at the beginning of a speech, and part of a rhetorical *topos* on conspiracy (*παρασκευή*: Andoc. 1.1; Aeschin. 3.1). It is clear that such an opening was intended to have an immediate and striking impact on a jury. The speaker, Euxitheos, will appeal his disfranchisement on the basis that the deme's decision was corrupt (§§8-14).¹ He sets out to prove that he was the victim of a conspiracy (§§15-6), and he claims that his ejection was the result of a personal feud between his family

¹ The speaker's name does not appear in the text but is supplied by Libanios' *Hyp.* 27; see Introduction, p. 18.

and his opponent's (§§48 and 61). For Euxitheos' frequent use of the motif of conspiracy, see συγκεκοινωνήκαμεν τῆς δόξης ταύτης οἱ κατεστασιασμένοι at §2.

ἡμῶν: 'me'. The proper translation of this first-person plural pronoun is 'us'. It seems likely that Demosthenes used the plural pronoun to formally represent a collective viewpoint. While the accusations levelled at Euxitheos by his opponent did indeed centre on the status of his parents (§§17-45 and 52-6), he alone was the only member of his family to be disfranchised by the deme. As such, the singular 'me' suitably denotes the effect of the allegations on Euxitheos and that he was the only appellant in this case. Cf. the translation of ἡμῖν in μετὸν τῆς πόλεως ἡμῖν below.

Εὐβουλίδου: 'Euboulides'. Euboulides is identified as Euxitheos' accuser. Naming an opponent in the opening sentence is a frequent feature of Demosthenes' public and private speeches (Dem. 21.1, 22.1, 23.1, 24.1, 27.1, 28.1, 29.1, 30.1, 37.1, 38.1, 39.1, 41.1, 44.1, 54.1). It is highly likely that Euboulides was one of five prosecutors appointed by the deme to argue for Euxitheos' appeal to be overturned: five men were elected by the deme to serve as its representatives in appeals held after an ordinary διαψήφισις ([Arist.] *Ath. Pol.* 42.1), and this procedure was closely followed in the appeals which were initiated after the extraordinary διαψήφισις of 346/5 BC (*IG II² 1205*).² But since Euxitheos only refers to Euboulides throughout his speech (naming him fifteen times in total: §§4, 8, 15, 16, 26, 30, 31, 32, 48, 59, 60, 61), it appears that he took the lead in making the deme's case before the court (in a separate case, Aeschines notes that his opponent Timarchos took charge of the prosecution in Philotades' appeal against disfranchisement, 1.114). Euboulides may have obtained this position due to the political office he held within the deme. Euxitheos states that his opponent serves as a βουλευτής, a councillor representing

² For a thorough discussion of both processes, see Introduction, pp. 25-43. For the evidence provided by the *Athēnaiōn Politeia*, see Rhodes' detailed analysis, in *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 501.

his deme (see βουλεύων at §8). Additionally, the speaker lists several official duties which Euboulides carried out during the extraordinary διαπήφισις procedure: being in charge of the oath and summoning the demesmen from the register (see κύριος ὢν τοῦ θ' ὄρκου, τῶν γραμμάτων and ἐξ ὧν ἀνεκάλει τοὺς δημότας at §8), making speeches and proposing decrees (see κατέτριψεν τὴν ἡμέραν δημηγορῶν καὶ ψηφίσματα γράφων at §9), initiating the vote (see τὴν δὲ ψῆφον εὐθὺς ἐδίδου at §13) and supplying the voting pebbles, and having the ability to adjourn a deme assembly (see τί ποτ' ἦν τὸ δυσχερὲς Εὐβουλίδῃ ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §15). Because of these responsibilities, it has often been assumed that Euboulides was the current *dēmarch*. However, Euxitheos does not specify that his opponent actually held this office, though he explicitly states elsewhere in the text that both he himself and Euboulides' father had held this office in the past (for Euxitheos, see §63; for Antiphilos, see §§26 and 60). For Euboulides' alleged lack of personal liability as a prosecutor in this case, see ἀνυπευθύνῳ at §5; cf. τὸ πέμπτον μέρος at §8.

ὧ ἄνδρες δικασταί: 'men of the jury'. Most legal cases came before one of the popular courts (the δικαστήρια of the fifth century BC derived from the Solonian ἡλιαία: Ar. *Knights*, 897; Paus. 1.28.8; both Dem. 21.47 and Antiph. 6.21 speak of suits which were referred to the court by the Thesmothetae). These cases were decided by a panel drawn from a pool of about six thousand citizen males over the age of thirty. Panels were selected by lot and were paid to hear the various suits coming before a single court for the duration of a year. They varied in size according to the seriousness of the alleged offence or the amount of money involved. The word δικασταί, however, has caused considerable difficulty regarding its translation; while most scholars opt for 'jury', some prefer the

term ‘judges’.³ Neither word suitably conveys the role undertaken by the δικασταί. This body of men wielded considerable legal power given the fact that their verdict was binding and that there was no provision for appeal to a higher tribunal. However, they did not receive any professional instruction in the relevant laws pertaining to a case nor did they have any guidance with regard to relevancy during the proceedings by a presiding judge. Since the functions of such a panel are most similar to those performed by a modern jury,⁴ I have employed the term ‘jury’ throughout my translation. Addressing the jury at the beginning of a speech is common feature in Athenian forensic oratory. But the formula by which a logographer directs his argument towards the jury at the start of a speech and also during it can vary. In this speech, Demosthenes uses both ὧ ἄνδρες δικασταί (sixteen times) and ὧ ἄνδρες Ἀθηναῖοι (‘Athenian men’; twenty times); two expressions which he employs throughout his body of writing.⁵ Of the two, the latter addresses the jurors as representatives of the city as a whole; indeed it appears to have been the proper way to address the *Ecclēsia* at the opening of a speech (Dem. 18.1, 19.1, 20.1, 21.2, 22.4, 23.1, 24.6, 25.8). Euxitheos’ more frequent use of ὧ ἄνδρες Ἀθηναῖοι was probably intended to remind the jury that they were acting on behalf of the state and that they were not to be influenced by the deme-level prejudice against him. Certainly, the random selection of jurors and their power of judicial review prompted Euxitheos to feel that he was safe from the conspiracy which he had faced during the vote of his deme (see on ὁρῶ γάρ, ὧ ἄνδρες

³ I refer to the choices made by a mere selection of recent translators of Demosthenes’ speeches; for ‘jury’, see Bers, *Demosthenes, Speeches 50-57* (2003), MacDowell, *Demosthenes, Speeches 27-38* (2004), and R. Waterfield (trans.) and C. Carey, *Demosthenes, Selected speeches* (2014); for ‘judges’, see C. Carey, *Trials from Classical Athens* (1997), E. M. Harris, *Demosthenes, Speeches 20-22* (2008), and Scafuro, *Demosthenes, Speeches 39-49* (2011).

⁴ For a succinct summary of the differences between ancient Athenian and modern legal practices, see S. C. Todd, *The Shape of Athenian Law*, pp. 82-3.

⁵ Isaeus consistently applies the formula ὧ ἄνδρες δικασταί in Euphiletos’ case (fourteen times in the fragmentary Isae. 12), though he rarely uses it in his other existing speeches (he primarily uses ὧ ἄνδρες in his inheritance cases).

Ἀθηναῖοι, οὐ μόνον τῶν ἀποψηφισαμένων Ἀλιμουσίων ἐμοῦ κυριώτερ' ὄντα τὰ δικαστήρια, ἀλλὰ καὶ τῆς βουλῆς καὶ τοῦ δήμου, δικαίως at §56).

μετὸν τῆς πόλεως ἡμῖν: 'I share in the right of citizenship'. In line with ἡμῶν (above), ἡμῖν has also been translated into singular form for the purpose of clarity. By claiming that he is entitled to citizenship, Euxitheos refers to the fact that civic rights and privileges were restricted to those who were of Attic decent on both their paternal and maternal lines. In 451/0 BC, Pericles passed a law limiting citizenship to those who had Athenian parentage on both sides.⁶ Then, after falling into obscurity during the Peloponnesian War, the law was subsequently re-enacted in 403/2 BC. Euxitheos specifically refers to this later legislation as proof of his father's citizenship, since he had been born before its re-enactment (see §30).⁷ The Athenians' self-consciousness with regard to their citizenship continued in the decades which followed; their preoccupation with preventing those who were illegitimate, foreign or slave from usurping citizen privileges such as owning land and accessing the state's decision-making bodies subsequently culminated in the extraordinary διαψήφισις of 346/5 BC,⁸ and ultimately Euxitheos' disfranchisement.

λογισαμένους τό τε μέγεθος τοῦ παρόντος ἀγῶνος καὶ τὴν αἰσχύνην: 'considering both the magnitude of this present trial and the shame', sc. 'you', the unexpressed object of ἀντιβολῶ ('I beseech'). The 'magnitude' and 'the shame' signify the penalty that Euxitheos will face if he loses his appeal against the deme. However, nowhere in the speech does he explicitly state what that penalty was; he only speaks of exile (ὥσπερ φυγάδος ἤδη μου ὄντος καὶ ἀπολωλότος at §65) and complete ruin (ὅλως ἀπολέσητε at §70). Libanios' introduction to the speech claims that those who accepted their deme's

⁶ See Appendix 3, pp. 282-8.

⁷ For a detailed discussion of this renewal, see Introduction, pp. 21-5.

⁸ See Introduction, pp. 25-43.

rejection during the extraordinary διαψήφισις of 346/5 BC were registered as metics, but those who appealed it and lost were sold as slaves (*Hyp.* 27).⁹ While it is impossible to determine the veracity of this from Euxitheos' case alone, a thorough discussion of the evidence provided by other sources does indeed suggest that enslavement was plausible.¹⁰

τοῖς ἀλισκομένοις ἀπολωλέναι: 'those who have been ruined by convictions'. In order to emphasise further the 'magnitude' of his appeal, as noted above, Euxitheos calls on the jury to think of the recent disfranchisement cases in which men's lives were allegedly devastated by losing their appeals for reinstatement. If the penalty for a failed appeal was not slavery, but merely to remain disfranchised and be compelled to register as a metic, would the lives of such men really have been ruined? Metic status would not have prevented the disfranchised man from living or working in Athens, though the loss of civic rights would have prevented him from voting and owning land, and he would have been required to abide by certain conditions set by the Athenian state (such as paying the metic's tax, ποῦ μετοίκιον καταθείς at §55). It is possible that men who were former citizens felt that being reduced to metic status was indeed a bleak existence. Therefore, Euxitheos' comment about ruin need not be taken literally, but rather it may simply be a plea directed towards the emotions of the Athenian jurors and their citizenship sensibilities.

καὶ ἐμοῦ: 'to me also'. Euboulides had already presented his case before the court. The accuser, serving as the prosecution in court, spoke first and the defendant second. See also, ἀδίκως καὶ πλεονεκτικῶς τὴν κατηγορίαν πεποιήται at §5.

σιωπῆ: 'in silence'. Athenian juries had a reputation for being vocal during a hearing (see §§50 and 59; cf. *Dem.* 45.6; *Pl. Rep.* 492b, *Laws*, 876b). In Euxitheos' case, the need for

⁹ See Introduction, pp. 15-21.

¹⁰ See Introduction, pp. 43-9.

the jury's goodwill was especially great. The appeal of a former citizen expelled by his deme for wrongly exercising citizen rights would have been an acutely provocative subject for an Athenian jury and could have easily roused strong reactions. The recent extraordinary διαψήφισις had caused a significant disturbance amongst the citizen body and had undoubtedly produced much public resentment towards those who had been found by the demes to be usurping citizen rights. Subsequent comments by Euxitheos during his speech confirm the widespread tension at that time (see τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποψηφίσεις at §2, διὰ τὴν τοῦ πράγματος ὀργὴν at §3, and ἐπειδὴ δ' ἡ πόλις πᾶσα τοῖς ἀσελγῶς εἰσπεπηδηκόσιν εἰς τοὺς δήμους ὀργιζομένη παρῶξυντο at §49; cf. Aeschin. 1.77, 2.182).

μετὰ πλείονος εὐνοίας: 'with greater goodwill'. An effective rhetorical method to persuade an audience was *captatio benevolentiae* (Aristotle states that a defendant ought to make a listener well-disposed to his case in his introduction, *Rh.* 1415a35). Demosthenes frequently avails himself of this feature throughout his forensic speeches: Dem. 23.4, 27.3, 34.1, 35.5, 37.3, 38.2, 40.4, 45.1, 54.2. Euxitheos asks the jurors to listen to him in silence with 'greater goodwill' than they did to Euboulides, or to at least show him 'equal' (ἴσος) favour. This may indicate that the prosecution's case had been well-received.

(τοῖς γὰρ ἐν κινδύνῳ καθεστηκόσιν εἰκὸς εὐνοϊκωτέρους ὑπάρχειν): 'for it seems likely that you are more favourable to those who are placed in danger'. This appeal to the jury's sentiment can also be found in other lawcourt speeches ([Dem.] 59.1; Andoc. 1.6; Lys. 19.3). As such, it seems to be a common practice for a litigant to refer to his perceived danger at the outset of his speech.

[2] **καθ' ἡμᾶς:** 'the merits of my case'. Dilts has followed Schaefer's amendment of ἡμᾶς, rather than the manuscript reading ὑμᾶς ('your', which would denote the jurors'

role in the matter).¹¹ Here, the reference to himself conforms to the subsequent τὸ προσήκειν μοι τῆς πόλεως.

τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποψηφίσεις: ‘the city has been provoked into carrying out disfranchisements’. Euxitheos makes his first direct reference to the recent deme-wide διαψηφίσις and the disfranchisements of former citizens that it brought about (see also τὴν διαψηφίσις at §7).¹² He stresses the Athenians’ emotional attachment to their citizenship and their resentment towards even the notion that illegitimate men had assumed their citizen rights and privileges. Euxitheos returns to this motif of the city’s anger at §49. His comment strongly suggests that the Athenians had ejected numerous men from their citizen body as a result of an extraordinary διαψηφίσις.

συγκεκριωνήκαμεν τῆς δόξης ταύτης οἱ κατεστασιασμένοι: ‘we who have been victimised by political rivals have a joint share of this reputation’. In this context, ‘we’ refers to Euxitheos and those allegedly like him who were disfranchised after being falsely accused of illegally claiming citizenship by their personal enemies. His use of the verb καταστασιάζω is particularly strong in furthering his claim of a conspiracy (the verb is applied again at §§7 and 17; the notion of a conspiracy is further propounded by his use of συνίστημι at §§13, 16, 59, 60, 61 and 63). Euxitheos claims that he is being wrongly subjected to the same judgment made about those justly expelled from their demes and wishes to dissociate himself from them.

οὐ πρὸς τὸ καθ’ αὐτὸν ἕκαστος: ‘not just the charges in our own individual cases’, Euxitheos speaks of having to deal with the circumstances of past disfranchisement cases in which those at the centre were guilty.

¹¹ M. R. Dilts (ed.), *Demosthenis Orationes* IV (2009), p. 253; cf. W. Rennie (ed.), *Demosthenis Orationes* III (1963), p. 253. For G. H. Schaefer’s edition, see *Apparatus criticus et exegeticus ad Demosthenem* (1824-7).

¹² For a full discussion of this extraordinary event, see Introduction, pp. 25-43.

[3] οὐ μὴν ἀλλὰ καίπερ τούτων οὕτως ἔχόντων: ‘Nevertheless, despite this situation’. In their study of the grammar used in Greek literature, Denniston and Dover find that οὐ μὴν ἀλλὰ was used to present a supplementary argument which takes such a precedence over the previous argument that it appears to contrast with it rather than reinforce it (also found in Dem. 8.8, 34.4, 37.23, 38.11; Arist. *Pol.* 1262a14, 1264a11, 1276b36).¹³ Their analysis corresponds to Demosthenes’ use of this phrase here: οὐ μὴν ἀλλὰ marks a change in Euxitheos’ line of reasoning, from the perceived conspiracy against him to the jury’s ability to save him, as he moves from an unjust topic to a just one. He employs the phrase again at §46.

τοῖς μὲν ἐξελεγχόμενοις ξένοις οὖσιν: ‘to those who have been exposed as foreigners’. Those who were voted out of their demes were reduced to metic status. They could either abide by their deme’s decision or lodge an appeal before the court. If a jury voted in favour of the appellant, he was re-registered in his deme and thereby reinstated as citizen. However, the penalty which he faced if the jury voted against him may have been as severe as enslavement.¹⁴

εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν: ‘if neither having persuaded you nor having asked your consent’. Pericles’ citizenship law of 451/0 BC and its subsequent re-enactment in 403/2 BC confined civic rights to persons of citizen birth on both the maternal and paternal sides.¹⁵ However, legal provisions were made to enable the state to bestow citizenship on those who had served the city as benefactors. The *Ecclēsia* was required to convene twice and to conduct a secret ballot of at least six thousand Athenians at its second meeting before a decree for the conferral of citizenship could be passed (the

¹³ J. D. Denniston and K. J. Dover, *The Greek Particles*, pp. 28-30.

¹⁴ For a thorough discussion of slavery as the possible penalty, see Introduction, pp. 43-9.

¹⁵ See Introduction, pp. 21-5.

procedure for naturalisation is described in [Dem.] 59.88-92).¹⁶ Euxitheos reminds the jurors that, without the necessary condition of Athenian parentage, the only legal route to citizenship was by seeking the permission of the Athenian people. Of course, bribing an Athenian family or even a deme official was the illicit way for an individual to obtain Athenian citizenship. Euxitheos' use of *πείθω* appears to be a direct reference to paying or bribing one's way onto the citizen registers (see *πείθει* at §41) but, since he must subsequently deny that he was one such man (§52), he does not dwell on the matter here. By addressing them directly as 'you' (*ὕμῶν*), the speaker accentuates the jury's civic duty and sharpens the contrast between their ability to punish and their ability to save (see also *οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν* at §6 below, and *οὕτω γάρ, ὧ ἄνδρες Ἀθηναῖοι, τοῦτον ἔδοξεν ἐκεῖνος καλῶς καὶ δημοτικῶς νομοθετῆσαι, ὥστ' ἐψηφίσασθε πάλιν τὸν αὐτὸν ἀνανεώσασθαι* at §32).

τῶν ὑμετέρων ἱερῶν καὶ κοινῶν: 'your sacred rites and civil privileges'. Here, *κοινῶν* denotes the political rights which belonged to an Athenian citizen: membership of the *Ecclēsia*, eligibility to hold public office and the potential to serve as juror. The term *ἱερῶν* refers to the participation of an individual in rituals, ceremonies and sacrifices by virtue of their Athenian citizenship: roles in the cults belonging to the state and the social groups,¹⁷ and the right to hold priesthoods. While membership in the tribes (*φυλαί*), phratries and *genē* was exclusively reserved for citizens, metics were allowed partial participation in both deme and state religion (see also *τόν γε ξένον καὶ μέτοικον* at §48).¹⁸

¹⁶ For a comprehensive study of the evidence regarding the naturalisation procedure, see M. J. Osborne, *Naturalization in Athens* Vols. 1-4 (1981-3). Osborne suggests that *ἀνδραγαθία* ('manly virtue'; which [Dem.] 59.89 claims was required by a man in order for the state to bestow citizenship) was a part of Pericles' citizenship law, *Naturalization in Athens* Vol. 3, p. 144. However, K. Kapparis' analysis of the use of this condition has shown that the *Ecclēsia* interpreted it quite loosely, in *Apollodoros 'Against Neaira' [D.59]*, pp. 364-5. As such, I find that there is very little merit to Osborne's theory.

¹⁷ The deme, phratry and genos; for a description of the functions of these social groups, see Appendices 4-6, pp. 289-301.

¹⁸ Whitehead provides a brief overview of a metic's 'extremely limited' involvement in Athenian religious practices, in *The Ideology of the Athenian Metic*, pp. 86-9.

However, the privileges of citizenship proved too tempting for some; fourth century Attic oratory frequently refers to instances wherein foreigners, the children of slaves, and those of illegitimate unions managed to pass as full citizens (Dem. 21.149-50; [Dem.] 59.113; Aeschin. 2.76; Lys. 30.2, 5-6, 27-30). Euxitheos makes it clear that he has no sympathy for those foreigners who are found guilty of participating in affairs solely reserved for Athenian citizens.

βοηθεῖν καὶ σώζειν: ‘to help and to save’. While appeals for help are common in lawcourt speeches, Demosthenes often uses these two verbs concurrently as the means to draw on a jury’s sympathy (Dem. 8.46, 74, 14.11, 18.88, 28.20, 36.59). This is a feature which does not appear in the same manner in the works of other Attic orators. In this sentence, βοηθεῖν opposes χαλεπαίνειν, just as δεικνύουσι opposes ἐξελεγχόμενοις.

ἡμῖν ἂν συμβαίη τοῖς ἠδικημένοις: ‘would befall us having been wronged’. Unlike the above examples of ἡμῶν and ἡμῖν (§1) which were translated as the singular, here ἡμῖν has been literally translated as the first person plural. The speaker includes himself in the category of unfortunate men and would have the jury believe that he was among those who were wrongly accused of usurping Athenian citizenship and subsequently disfranchised.

εἰ τῶν λαμβανόντων δίκην ὄντες ἂν δικαίως μεθ’ ὑμῶν: ‘if we should rightly belong among those exacting justice with you’. Literally, ‘we should rightly be a part of’: τῶν λαμβανόντων is a partitive genitive.

διὰ τὴν τοῦ πράγματος ὀργήν: ‘because of the anger which the matter arouses’. For the agitation felt by the Athenian people at the perceived misappropriation of citizenship, see σιωπῇ at §1 and ἐπειδὴ δ’ ἡ πόλις πᾶσα τοῖς ἀσελγῶς εἰσπεπηδηκόσιν εἰς τοὺς δήμους ὀργιζομένη παρώξυντο at §49.

[4] **ᾧμην**: ‘I thought’, i.e. before the trial started. Now that Euboulides has spoken before the jury (see καὶ ἐμοῦ at §1), Euxitheos criticises the poor foundation on which his opponent has apparently built his case against him and his use of unsubstantiated claims. He subsequently reminds the jury of the illegality of presenting hearsay as evidence, see οὐδὲ μαρτυρεῖν ἀκοήν ἐῶσιν οἱ νόμοι below.

νῦν ἐπὶ ταῖς ἀποψηφίσεσιν κατηγοροῦσιν: ‘now bring accusations in cases of disfranchisement’. The use of ἐπὶ and the dative case suggest lawsuits ‘arising out of disfranchisement’ rather than ‘with the intention of obtaining disfranchisement’.

οὐδὲ μαρτυρεῖν ἀκοήν ἐῶσιν οἱ νόμοι: ‘the laws do not permit giving hearsay as evidence’. The use of hearsay from a living person was not admitted as evidence in Athenian lawcourts, although citing the words of the deceased was. The only other form of second-hand information which was legally permissible was the written testimony of anyone who was sick or abroad. This testimony was recorded in the presence of a set of witnesses, who would then appear in court themselves and confirm that the given deposition matched the one given by the absent witness. The testimony of the absentee was called ἐκμαρτυρία (‘a deposition taken outside’; as opposed to μαρτυρία, just ‘a deposition’). The law which details the rules regarding hearsay is paraphrased in [Dem.] 46.6-8 (cf. Aeschin. 2.19; Isae. 3.18-21; Dem. 35.10-4). This speech reports that both the absent witness and the one submitting his testimony were then liable to an action for giving false testimony. But it seems that Euboulides has no such deceased or absent witnesses. By referring to the unjust practice of using hearsay as evidence, Euxitheos condemns the manner in which his opponent has led the prosecution against him and he continues in his criticism of the lack of evidence for the claims that Euboulides has made.

[5] **ὑπεύθυνον**: ‘responsible’, i.e. being liable to action for giving false testimony (δίκη ψευδομαρτυριῶν; actual suits include Dem. 29, 44 and 45, and [Dem.] 46 and 47). See also κινδυνεύειν ἐν ψευδομαρτυρίοις at §53.

ἀνυπευθύνω: ‘without accountability’. Five prosecutors were elected by the deme to serve as its representatives during an appeal (see Εὐβουλίδου at §1). As such, he was not pursuing the lawsuit on his own initiative. Unlike the prosecutors in ordinary γραφαί who faced penalties for failing to obtain one-fifth of the vote (see τὸ πέμπτον μέρος at §8), Euboulides would bear no personal liability if he lost the case (cf. Aeschin. 1.114-5).¹⁹

εἰδὼς τοὺς νόμους καὶ μᾶλλον ἢ προσῆκεν: ‘knowing the laws and indeed more than is fitting’. Athenian laws were intended to serve ordinary citizens (Dem. 20.93) but, without any professional instruction for either juries or litigants, their knowledge of the legal system was often fairly basic. Any understanding of the laws derived from the very experience of bringing a suit or serving on a jury. Indeed, conversations with friends and family members could impart knowledge of a past case and details of a particular ruling ([Dem.] 59.110). However, an overt familiarity with the laws and partaking in frequent litigation drew a common suspicion. This sentiment stemmed from fears regarding false prosecutions for personal profit or *sykophancy* (for details about the *sykophant*, see τοὺς συκοφαντοῦντας πονηρούς at §32 and τοῦτο γὰρ ἐστὶν ὁ συκοφάντης at §34). As such, speakers in the lawcourt often express their fears of being seen as legally meddlesome or litigious (Dem. 39.1 and 56.14, cf. 54.17). Euxitheos alleges that Euboulides has detailed knowledge of the laws and plays upon the jury’s suspicion in order to prejudice them against his opponent.

¹⁹ See n. 124 in the Introduction.

ἀδίκως καὶ πλεονεκτικῶς τὴν κατηγορίαν πεποιήται: ‘has made this accusation unjustly and for his own advantage’. The speaker’s use of the perfect tense once again indicates that his opponent spoke first during the trial (see also καὶ ἐμοῦ at §1). The word πλεονεκτικῶς is often translated as ‘greedy’, but I have used ‘for his own advantage’ in order to convey better Euxitheos’ accusation that Euboulides profited from his disfranchisement (πλεονεκτικῶς is also used at Dem. 22.56, 24.168, 25.24 and 29.27; Isoc. 12.243). Euxitheos returns to Euboulides’ financial greed towards the end of his speech, claiming that he also benefitted from the questionable status of others (see κοινῇ διανεμιάμενοι πέντε δραχμὰς ἕκαστος προσεδέξαντο at §59 and ἔνεκ’ ἀργυρίου at §60).

ὑβρίσθην: ‘I was abused’. The word ὕβρις proffers numerous translations: ‘wantonness’, ‘insolence’, ‘arrogance’, ‘violence’ and ‘outrageous behaviour’. In a legal sense, it denotes the more serious injuries inflicted on a person with the intent to cause shame or dishonour (Dem. 37.33, 45.4; including assault and battery, Dem. 21.35, Isoc. 20.2; rape, Dein. 1.23; and forced confinement, Isae. 8.41). As presented in the existing source material, however, the Athenian law against ὕβρις does not actually outline the acts which constituted deliberately excessive or unrestrained abuse. It only states that any qualified citizen could indict a man in a γραφή ὕβρεως for assaulting a man, woman or child, regardless of whether they were free or slave (Dem. 21.47; Aeschin. 1.15). Those who were found guilty faced a penalty chosen by the jury on that day; this could consist of a fine payable to the state or, in the most extreme cases, the penalty of death (Dem. 21.49; Aeschin. 1.16; Dein. 1.23). As such, it was far more serious than a charge of common assault (the private δίκη αἰκίας; Dem. 54.1), for which the successful plaintiff merely received a financial sum approved by the court. The only existing speech which was delivered in a γραφή ὕβρεως is Demosthenes’ *Against Medias* (Dem. 21).²⁰ It is clear

²⁰ I follow Harris’ convincing analysis that Dem. 21 is a speech which was delivered in a γραφή ὕβρεως, in *Demosthenes, Speeches 20-22*, pp. 79-81.

from the sources that the Athenian attitude towards ὕβρις was one of zero tolerance; it was held in such contempt that it warranted the state's involvement through the public γραφή procedure and a limitless penalty.²¹ Euxitheos portrays Euboulides' treatment of him as hubristic in an attempt to blacken his character and, by sensationalising his behaviour, to signal to the jury that his opponent was the real criminal. Like Euxitheos, the speaker of *On Behalf of Euphiletos* also uses the verb ὑβρίζειν to denote the deme's conduct towards his brother (καὶ ἀδίκως ὑβρίσθη ὑπὸ τῶν ἐν τῷ δήμῳ συστάτων, Isae. 12.12). This word would have undoubtedly impressed upon a jury's moral awareness.

[6] **μηδέπω**: 'not yet'. Euxitheos asks that the jury not be prejudiced against him for already having been disfranchised by his deme. While the members of larger demes may not have all known one another personally, the διαψήφισις procedure appears to have allowed for any demesman present at the assembly to speak either in favour or against a man before the vote was held (see §§11 and 12).²² Therefore, the ability to share any particulars about one another gave the deme the theoretical advantage of being able to vote based on local knowledge. Since Euxitheos' deme was only small to medium in size (see τῶν μὲν δημοτῶν οἱ ὁμόσαντες ἐγενόμεθα τρεῖς καὶ ἑβδομήκοντα at §9 and τοῖς Ἀλμουσίοις at §15), it would be natural to suppose that its members would be familiar with one another. The juries who heard the appeals after the extraordinary διαψήφισις of 346/5 BC, however, were not likely to have known the individuals involved in a particular case and thus they would have been initially inclined to give credence to the deme's decision. Indeed, Aeschines reports that the personal knowledge of the deme was referenced frequently by prosecutors in their opening arguments to justify the actions of that body during this widespread review (1.78). Euboulides may even have claimed that

²¹ For a comprehensive study of ὕβρις in both Athenian law and literature, see N. R. E. Fisher's *Hybris* (1992), particularly pp. 36-85.

²² See also the discussion of the actual διαψήφισις process, Introduction, pp. 25-43.

his deme had sufficient knowledge of its own members rightly to eject anyone falsely in possession of citizenship. Euxitheos' use of μηδέπω certainly anticipates the jury's inclination to support the decision of the deme and, as such, he must convince them that the vote against him was biased.

οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν: 'you would not have allowed the right of appeal to yourselves'. Continuing to urge the jurors not to allow his deme's vote to influence theirs, Euxitheos reminds them that the provision of appeal was made to counteract any unjust decisions by the demes. He appears to speak of the appeal as a new measure; Diller cites this passage while arguing that Demophilos' decree introduced the provision for an ejected member to appeal the deme's decision with a public indictment.²³ While he proposes an interesting theory, there is nothing in the surviving sources to confirm it and, as such, Euxitheos' comment may simply refer to the established appeal process that was in place for both ordinary and extraordinary διαψηφίσεις.

Here, the speaker once again directly addresses the jury as representatives of the Athenian people and, thus, as the collective body who govern the state through their participation in the *Ecclēsia* (see εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν at §3). However, his attempt at flattery could have miscarried if the jurors, who were nevertheless members of a deme themselves, took offence at his slight of a deme's capacity to settle its own disputes. To avoid any further prejudice on their part, he must show that the decision of his own deme to disfranchise him was particularly corrupt.²⁴

νῦν δὲ καὶ διὰ φιλονικίαν καὶ διὰ φθόνον καὶ δι' ἔχθραν καὶ δι' ἄλλας προφάσεις ἔσσεσθαί τι τοιοῦτον ἡγούμενοι: 'but even now believing something of this sort would happen on account of rivalry and envy and enmity and other pretexts'. 'Of this sort'

²³ See n. 121 in the Introduction.

²⁴ For details regarding the ἔφεσις and its use in both ordinary and extraordinary διαψηφίσεις, see Appendix 7, pp. 302-13.

signifies Euxitheos' disfranchisement, which he will contend is a perversion of justice as a result of Euboulides' personal hostility towards him. Throughout his speech, Euxitheos makes several references to the existence of a personal enmity between himself and Euboulides (§§8, 48 and 61). His claim is certainly plausible. There were no state prosecutors in the Athenian legal system: any citizen had the right to initiate a private suit on behalf of an injured party, and could also seek justice in the public court for abuses in political offices and for crimes against the state.²⁵ With the onus for litigation resting with the private citizen, the ability to prosecute on the basis of personal or political animosities, or even a desire for self-enrichment, was a real problem in Athens (cf. Dem. 39.3, Aeschin. 1.1; see τοὺς συκοφαντοῦντας πονηροῦς at §32). The use of the courts in this manner was only tolerated in so far as the charge was justified and it was in the interest of the state (Lycourg. 1.6; see §§49, 57 and 63) but, in some cases, measures were put in place to deter frivolous suits (see τὸ πέμπτον μέρος at §8). It is clear that Euxitheos wants the jurors to believe that his case is indeed a present example of such an abuse of the legal system.

καλῶς ποιοῦντες: 'acting properly'. When καλῶς or εὖ is used with the verb ποιεῖν it becomes an adverbial formula of approbation (Dem. 1.28, 20.110, 23.143).

τοὺς ἠδίκημένους ἅπαντας σεσώκατε: 'you have saved all those who have been wronged'. Having potentially offended the jury by slighting a deme's competence in settling its own disputes, Euxitheos makes another attempt at flattering them by appealing directly to the jurors' vanity (cf. κατὰ γὰρ πάντα αἱ παρ' ὑμῖν εἰσι κρίσεις δικαιοτάται at §56 and οὐδέν' ἀπεστερεῖτε at §57). Clearly, Athenian jurors liked to imagine themselves as the guardians of justice (Dem. 39.14; cf. the *dēmos* too, Ar. *Knights*, 1121-1150). His

²⁵ For a brief classification of legal cases, see Appendix 7, pp. 303-4. Occasionally, the *Ecclēsia* or the *Boulē* appointed official prosecutors for particular cases; for a concise overview, see MacDowell, *The Law in Classical Athens*, pp. 61-2.

implicit plea is for the jury not to spoil their purported impeccable record by subsequently voting in favour of Euboulides and the prosecution.

[7] **τὴν διαψήφισιν**: ‘voting by ballot’.²⁶ Euxitheos was disfranchised when the deme was compelled by the state to hold an extraordinary review of its membership under Demophilos’ decree of 346/5 BC (see *παρὰ τὸ ψήφισμα* below). The speaker also refers to a previous occasion on which the demesmen were obliged to hold an extraordinary vote, but that was only required in his deme alone on account of the supposed loss of its register of members (see *ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις* at §26).

εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν: ‘speaking on the same matter at hand in every way’. This is the first of three occasions that Euxitheos justifies the inclusion of a particular statement to the case in this way (see <εἰς> αὐτὸ τὸ πρᾶγμα at §59, and *ἐρῶ δ’ εἰς αὐτὸ τὸ πρᾶγμα* at §60). On two other occasions he makes a point of excluding statements which ought to have no bearing on the case (cf. *ἔξεστιν ἔξω τοῦ πράγματος βλασφημεῖν* at §33, *ἀλλ’ ἴσως ἔξω τοῦ πράγματος ὑπολήψεσθε ταῦτ’ εἶναι* at §63, and *ἔξω τοῦ πράγματος* at §66). This restraint corresponds to a requirement reported in the *Athēnaiōn Politeia*, written *circa* 320 BC, which states that litigants in *δίκαι* took an oath to speak to the point ([Arist.] 67.1). However, there are few references to such a rule in non-homicide cases before this (*ἀφήμενοι τῶν εἰς αὐτὸ τὸ πρᾶγμα λόγων* in Aeschin. 1.178, *εἰς αὐτὸ τὸ πρᾶγμα λέγουσιν* in Aeschin. 3.197; cf. *πότερον ἀγνοοῦντες ὅτι περὶ τοῦ πράγματος προσήκει λέγειν* in Lys. 9.1, 2-3).²⁷ This suggests that, if such a requirement

²⁶ For a full analysis of the *διαψήφισις* process in both ordinary and extraordinary circumstances, see Introduction, pp. 25-43.

²⁷ Speeches made before the court of the Areopagos or even referring to the homicide courts were compelled to abide by the rule of relevancy and make frequent mention of it, for example: Lys. 3.46; Lycourg. 1.11-13; cf. Antiph. 5.11 (the speaker in this murder case was specifically tried under an *ἐνδειξις κακουργίας*, an indictment for wrongdoing, rather than the regular *δίκη φόνου* for homicide), 6.9. It thus appears that the homicide courts had definite restrictions in place against matters that did not directly pertain to the

had been established before 346/5 BC, it had little effect in practice on the litigants' arguments before the popular courts. Alternatively, it is possible that this rule was adopted not long before the date of the speech, perhaps in connection to the extraordinary διαψηφισις and the large number of appeals that it brought about (cf. §2). If this provision was introduced to more efficiently manage the increase in appeals and to thus curtail the demands on time for each, it must have been considered an advantageous measure to extend to private cases for it to have become general procedure by the time of the *Athēnaiōn Politeia*.²⁸ Therefore, Euxitheos' repetition that he is keeping to the point would not only serve to remind the jury that he is abiding by the new rule but it is an attempt to win their favour by assuring them that he will not waste their time on irrelevant claims. The jury may even have called for Euxitheos to stick to the point during his speech,²⁹ and hence his anticipation of what could irritate those listening shows an acute awareness of the expectations of his audience; see §§50 and 59 for his direct appeals for them to remain calm.

παρὰ τὸ ψήφισμα: 'contrary to the decree'. Euxitheos justifies his inclusion of the upcoming narrative by stating that his disfranchisement was executed against the very legal decree which had ordered the extraordinary διαψηφισις on all the members of the Attic demes.³⁰ The cause of this measure, according to Euxitheos, was the Athenians' anger towards those who had illicitly enrolled in the demes (see ἐπειδὴ δ' ἡ πόλις πᾶσα

charge, a different provision than the oath reported by the *Athēnaiōn Politeia*. For a discussion of relevancy in both the popular courts and the homicide courts, see A. Lanni, *Law and Justice in the Courts of Classical Athens*, pp. 41-114.

²⁸ Notably, Lanni finds that neither Euxitheos' phraseology nor the few allusions to this 'rule' in other lawcourt speeches indicate that there was a law which required the speaker to keep to the point, in *Law and Justice in the Courts of Classical Athens*, p. 100. However, she fails to explain suitably Euxitheos' apparent preoccupation with relevancy if there was no such regulation for the appeals.

²⁹ See V. Bers, 'What to believe in Demosthenes 57', p. 237. For jurymen's interjections, see n. 68.

³⁰ Euxitheos explicitly refers to a decree in connection with the recent extraordinary διαψηφισις; Gomme cites this expression as evidence that such a decree must have been separate to a standing law which facilitated it, in 'Two problems of Athenian Citizenship Law', p. 124. His argument comes in response to Diller, 'The Decree of Demophilus, 346-345 B. C.', pp. 193-205. For a discussion of both viewpoints and their bearing on the decree of Demophilus, see Introduction, pp. 34-5.

τοῖς ἀσελγῶς εἰσπεπηδηκόσιν εἰς τοὺς δήμους ὀργιζομένη παρώξυντο at §49) and so its aim was to remove those who had usurped citizen rights. Since the sources indicate that there were two such extraordinary scrutinies, one in the mid-fifth century and the second in the mid-fourth century, it has been established that Euxitheos was disfranchised as a result of the latter.³¹ Given that the widespread scrutiny sought to remove illegal aliens, Euxitheos must subsequently prove to the jury that he was born of two citizen parents and thus that his ejection violated the terms of Demophilos' decree (see also *παρὰ τὸ ψήφισμα* at §30).

ἀδίκως καταστασιασθεῖς: 'has been unjustly victimised by his political rivals'. See *συγκεκοινωνήκαμεν τῆς δόξης ταύτης οἱ κατεστασιασμένοι* at §2 (this verb is also used at §17).

§§8-14: δῆγησις

Though Euxitheos' case relates to civic status rather than events, he includes a narrative in order to inform the jurors of the circumstances surrounding his ejection from the deme and the alleged manipulation of the vote, so that they might not be so disposed to accept the deme's decision (cf. §6). He must now show in what manner the process had been corrupt. The inclusion of this narrative is also surprising in light of the fact that Euxitheos already had a strong case without it; unlike Euphiletos who had already undergone a legal challenge to his citizen status,³² it appears that no suit had ever been brought against Euxitheos and concerns about his status had only emerged after Demophilos' unforeseeable decree of 346/5 BC.

³¹ For details on both, and the unlikelihood that others occurred and went unmentioned in the sources, see Introduction, pp. 25-43.

³² See Appendix 1, pp. 270-9.

[8] **οὐτοσί:** ‘this man here’, cf. §61. Dilts accepts Rennie’s οὐτοσί in place of οὔτος, which is conveyed in several manuscripts.³³ This amendment makes sense in terms of Demosthenes’ abundant use of this form elsewhere.³⁴

ὡς ὑμῶν ἴσασι πολλοί: ‘as many of you know’. Rather than introducing any witnesses to support his statement, Euxitheos claims that many of the jurors are familiar with the incident involving Euboulides that he is about to describe. His appeal to common knowledge is a device that he repeats again at §§33 and 60 (see ἂ γὰρ ὑμεῖς ἴστε, τί δεῖ λέγειν and ταῦτα πάντες ἴσασιν οἱ πρεσβύτεροι, respectively). ‘As many of you know’ is a variation of a rhetorical *topos* frequently used in the corpus of the orators (Antiph. 6.36, 41; Lys. 10.1; Dem. 19.19, 21.1-2, 24.128, 39.2, 16, 25, 54.31; [Dem.] 49.13). In a large body of jurors, each individual might suppose that he alone was ignorant of what was allegedly common knowledge and this device would use their shame at their own ignorance to secure their agreement.³⁵ But, it should not be assumed that such claims are true. In Dem. 40.53, Mantitheos asserts that this was a technique that could be employed when the speaker had no evidence to bring forward (ὥστε περὶ ὧν ἂν μὴ ἔχη μαρτυρίας παρασχέσθαι, ταῦτα φήσει ὑμᾶς εἰδέναί, ὧ ἄνδρες δικασταί, ὃ πάντες ποιῶσιν οἱ μηδὲν ὑγιὲς λέγοντες; cf. Arist. *Rh.* 1408a32-6). Indeed, Euxitheos offers no proof that this event ever took place.

γραψάμενος ἀσεβείας: ‘indicted ... for impiety’. Throughout his speeches, Demosthenes mentions both real and potential lawsuits for impiety: Dem. 22.2, 24.7 cf. 21.51, 35.48.

³³ Dilts (ed.), *Demosthenis Orationes* IV, p. 255; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 254.

³⁴ The following examples are not modern emendations: Dem. 18.83, 114, 159, 209, 223, 243; 19.19, 23, 46, 73, 113, 144, 175, 179, 197, 209, 211, 214, 287, 304; 20.94; 21.14, 85, 101, 164, 185; 23.13, 24, 62, 73, 80, 82, 121, 127; 24.9, 26, 29, 57, 72, 145, 208; 25.58, 79, 94; 32.4, 5, 7, 17; 33.6, 9, 32; 34.12, 46; 35.15, 17, 28, 30, 31, 36, 37, 41; 36.2, 8, 9, 26, 28, 47, 56; 37.3, 42; 39.5, 25, 27; 40.18, 28, 35, 53; 41.1; 42.23; 43.11, 14, 15, 26, 29, 41, 47, 48, 50, 82; 44.1, 2, 7, 10, 13, 22, 32, 34, 40, 42, 44, 46, 47, 48, 53, 55, 61; 45.5, 7, 36, 40, 53, 56; 48.5, 6, 17, 20, 22, 23, 28, 30, 31, 36, 51, 53; 54.7, 8, 15, 24; 56.5, 6, 7, 49.

³⁵ For a detailed discussion of this rhetorical *topos* and further examples from the speeches, see J. Ober, *Mass and Elite in Democratic Athens*, pp. 148-51.

But two cases involving the prosecution of women particularly stand out from the others. Ninon was a priestess who was charged with impiety for selling love potions and mocking the mysteries, and she was subsequently put to death (Dem. 39.2, 40.9, cf. 19.281 with schol; Joseph. *Ap.* 2.267) Similarly, Theoris was either a seer (Philoch. *FGrH* 382 F60 *apud* Harp. s.v. Θεωρίς) or a priestess (Plut. *Dem.* 14.4) who was also condemned to death along with her family for practising magic (Dem. 25.79-80). The severity of these sentences makes the gravity of the offences abundantly clear; the Athenians did not tolerate irreverence and the transgression of sacred law. While such prosecutions for impiety may indeed have stemmed from genuine religious suspicions, lawsuits of this kind also could be used as the means through which to attack a personal enemy. As with the γραφή ὕβρεως (see ὕβρισθην at §5), the offences which pertained to the γραφή ἀσεβείας were particularly hard to define; as such, this charge was often used to pursue a political rival in court, particularly through his female relatives.³⁶

τὴν ἀδελφὴν τὴν Λακεδαιμονίου: ‘the sister of Lacedaemonios’. Euxitheos alleges that the hostility between himself and Euboulides arose from his opposing testimony in the latter’s indictment of Lacedaemonios’ sister for impiety, presumably in the same year or earlier. The name of Lacedaemonios’ sister is deliberately omitted by the speaker in keeping with Athenian convention; while a man was recognised by his own name and designations from his paternal line, a respectable woman’s name was not spoken in public but she was identified through association with her κύριος (guardian; see Dem. 39.9).³⁷ Fortunately, an inscription dating *circa* 347 BC reveals that her name was Plangon and

³⁶ For the highly politicised nature of impiety lawsuits, see D. Cohen, *Law, Sexuality and Society*, pp. 203-17; S. C. Todd, ‘Lysias Against Nikomachos’, p. 115 n. 23; E. Eidinow, ‘Patterns of Persecution’, pp. 9-35.

³⁷ For an in-depth discussion regarding the avoidance of Athenian women’s names on the part of the orators, see Schaps, ‘The Woman Least Mentioned’, pp. 323-30.

that she was the daughter of Promachos of Alopeke (*SEG* 12.193).³⁸ It is thus likely that the Lacedaemonios who is referred to as the brother of Satyros of Alopeke in another lawcourt speech, dated between 343 and 340 BC, is the same man ([Dem.] 59.45). Lacedaemonios himself presumably had a role in public life though nothing else is known of him or his career. One would be inclined to agree with Diller's observation that his very obscurity is suggestive of his prominence being short-lived.³⁹ Despite the importance of establishing Euboulides' animosity towards him in his own case, Euxitheos fails to bring Lacedaemonios or indeed any witness to verify his account of their pre-existing conflict.

τὸ πέμπτον μέρος: 'a fifth share'. In general, the γραφαί appear to have given rise to higher penalties for those who were found guilty, and some to have awarded a successful plaintiff a more significant monetary reward than the δίκαι did.⁴⁰ As a result of these financial rewards, false prosecutions became an inevitable drawback in the Athenian legal system (see also τοὺς συκοφαντοῦντας πονηροὺς at §32). Thus, in order to deter frivolous cases, bringing a γραφή placed the prosecutor at risk of a heavy fine of a thousand drachmas if he either abandoned the case after initiating proceedings or if he failed to receive at least a fifth share of the jurors' votes at trial (Dem. 21.47, 23.80, 24.7; [Dem.] 26.9, 58.6; [Andoc.] 4.18).⁴¹ Furthermore, some sources suggest that a failed prosecution

³⁸ For this inscription, see J. C. Threpsiades, 'Τὸ εὔρημα τοῦ Κεραμεικοῦ', pp. 59-63. The deme Alopeke was situated approximately two kilometres south-east of Athens and belonged to the tribe Antiochis. Its most famous deme members include the statesman and military commander, Aristides (*circa* 520s-467 BC), and the philosopher, Socrates (*circa* 470-399 BC).

³⁹ Diller, 'Scrutiny and Appeal in Athenian Citizenship', p. 303.

⁴⁰ For a brief explanation of these two types of legal cases, see Appendix 7, pp. 303-4. In most γραφαί, the Athenian state rather than the prosecutor collected the fine from a convicted defendant. However, certain procedures granted a portion of the collected fine to the successful prosecutor: ἀπογραφαί ([Dem.] 53.2), φάσεις, and some γραφαί ξενίας ([Dem.] 59.52). For further details on these cases, see Christ, *The Litigious Athenian*, pp. 138-43.

⁴¹ The fine of one thousand drachmas was equal to ten minas; the daily wage of a skilled workman rose from one drachma in the mid-fifth century BC to approximately two or two and a half drachmas in the later fourth century BC (*IG* II-III² 1672-3, dating to 329/8 and 327/6 BC), and thus the fine of one thousand drachmas was the equivalent of between four hundred and five hundred days' wages for a skilled workman. For further details on these rates of pay, see Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*,

of this kind would cause the litigant to be banned from bringing a similar action in the future (Dem. 18.266, 21.103; [Dem.] 53.1; Andoc. 1.33, 76).⁴² Moreover, if he neglected to pay the fine to the Athenian treasury, he was publicly disgraced and lost his civic privileges until the debt was settled (ἀτιμία; [Dem.] 58.48-9; Andoc. 1.73). If Euxitheos' account of the unsuccessful indictment of Lacaedaemonios' sister is to be believed, Euboulides must have received such a penalty. However, there are a number of potential outcomes to consider with regard to this penalty and his ensuing involvement in the prosecution of Euxitheos. Firstly, Euboulides may have duly paid his fine to be rid of the ἀτιμία.⁴³ Secondly, the ban from further prosecutions may have only centred on the same type of γραφή and may not have extended to other public actions.⁴⁴ This would mean that participation in the appeals arising from an extraordinary διαψήφισις were not covered by the prohibition, perhaps because they arose from a deme's vote and not from a public prosecution brought by an individual. And finally, it may have been the case that Euboulides' prominence in the public life of the deme (see below) resulted in a lesser or partial penalisation. This would make sense if he had prosecuted Lacedaemonios' sister as a deme official and would correspond to the unaccountability of the five prosecutors in an appeal (see ἀνυπευθύνω at §5). Unfortunately, Euxitheos provides no further detail with regard to this failed prosecution. Without any further comment on the penalty which Euboulides may have received or indeed how long ago this trial took place, it is not possible to decide which one of these plausible scenarios was the most likely.

διὰ ταύτην τὴν ἔχθραν ἐπιτίθεται μοι: 'on account of this personal enmity over that event, he is attacking me'. This open opposition in a public suit and his subsequent failure

p. 691, and Ober, *Mass and Elite in Democratic Athens*, pp. 129-30. For the value of money in the fifth and fourth centuries BC, see A. H. M. Jones, *Athenian Democracy*, p. 135 n. 1.

⁴² For this penalty, see MacDowell, *The Law in Classical Athens*, p. 64.

⁴³ Harrison suggests that the ban from bringing further γραφαί also ended with the payment of the fine, in *The Law of Athens* Vol. II, p. 83.

⁴⁴ As argued by Hansen, in *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, pp. 63-5.

to secure sufficient votes was likely to have affected Euboulides' political ambitions for the worse and he probably held Euxitheos responsible. A personal feud was a fairly standard motive in Athenian lawsuits, but it was only tolerated in so far as the applied charge was justified and the prosecution was in the interest of the state (see §6). Euxitheos seeks to persuade the jury that Euboulides' action against him was a perversion of justice, which was motivated by revenge. But, although the speaker alludes to this enmity between himself and Euboulides again at §48 (and even the animosity between their fathers at §61), he does not actually prove that Euboulides held any particular resentment against him. His lack of witnesses to attest to its existence on Euboulides' part means that this alleged enmity can only be taken as a personal observation.

βουλευών: 'being a member of the *Boulē*'. Euxitheos informs the jury that Euboulides was a βουλευτής or representative of the deme on the Council of Five Hundred, known as the *Boulē*. Euboulides' position is corroborated by an honorific decree from 346/5 BC (*IG* II² 218, 6-7). The five hundred βουλευταί were appointed from the ten Attic tribes, with each tribe appointing fifty men from among the demes according to their individual populations. These men, at least thirty years of age and belonging to the three upper social classes (i.e. the πεντακοσιομέδιμνοι, ἰππεῖς and ζευγῖται, but not the lowest class, the θῆτες), were selected by lot and could only serve twice in their lifetime. The role of βουλευτής could be very demanding since the *Boulē* met every day, except for public holidays and days of ill omen ([Arist.] *Ath. Pol.* 43.3), and each deme was obliged to provide a proportionate number of βουλευταί. Using the average male life expectancy for that period and society, it has been determined that a minimum population of approximately thirty-two men over thirty years old was required for a deme to fulfil its bouletic quota.⁴⁵ The survival of epigraphic evidence from the mid-fourth century has

⁴⁵ Osborne, *Demos*, pp. 43-4.

further facilitated the calculation of the number of councillors provided by each deme at that time. Thus, with three seats in the *Boulē* in the fourth century BC (*IG II² 1700, 77, IG II² 1742, 10; SEG 19.149*), the deme of Halimous needed approximately one hundred of its male citizens to fill the positions each year.⁴⁶ In fact, Euxitheos indicates that at the time of the speech there were no less than eighty: his case was about the sixtieth on the deme's list for scrutiny, with more than twenty to review after it (see §§10 and 15). If a deme could not meet its bouleutic quota, its members may have been compelled to serve simultaneously in more than one office. Although it cannot be known for certain whether or not Euboulides also served as *dēmarch* (see ἐξ ὧν ἀνεκάλει τοὺς δημότας below), Euxitheos refers to his role as βουλευτής in order to draw the jury's attention to the fact that he held such a position of responsibility and how he subsequently abused it with his conduct during the διαψήφισις.

κύριος ὧν τοῦ θ' ὄρκου: 'the man in charge of the oath'. All the demesmen, including the deme officials, swore an oath before the extraordinary διαψήφισις to vote honestly upon the validity of each man's claim to membership (the speaker estimates that seventy-three demesmen took this vote at §9). Such an oath, sworn over religious sacrifices, was likewise used at the annual διαψήφισις for the enrolment of new members ([Arist.] *Ath. Pol.* 42.1 cf. §61 and Isae. 7.28) and at the δοκιμασία (scrutiny to hold public office: [Arist.] *Ath. Pol.* 55.3-5).⁴⁷ Moreover, Euxitheos reveals that a similar oath was taken for the emergency διαψήφισις occasioned by the loss of the deme register in Halimous (see §26). He also presents one of the clauses of the oath taken by the demesmen at the extraordinary διαψήφισις; a clause which he claims Euboulides had removed, presumably

⁴⁶ Whitehead, *The Demes of Attica*, pp. 88-9 n. 11.

⁴⁷ For the δοκιμασία to assume public office, see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεὶς at §25 and ἀλλ' οὐκ ἂν κατηγορεῖν at §26; for the δοκιμασία specifically held before being appointed as one of the Thesmothetae, see τοὺς θεσμοθέτας ἀνακρίνετε at §66. For the *Boulē*'s δοκιμασία of newly enrolled citizens after the annual διαψήφισις in a deme, see Introduction, pp. 27-8.

in his capacity as oath administrator (see ἔκ τε γὰρ τοῦ ὄρκου ἐξήλειψαν τὸ ψηφιεῖσθαι γνώμη τῆ δικαιοσύνη καὶ οὔτε χάριτος ἔνεκ' οὔτ' ἔχθρας at §63). Given that the *dēmarch* normally convened and presided over deme assemblies (see §26), it is tempting to assume that dispensing the oath at events such as the διαψήφισις proceedings fell to him. However, Euboulides is not explicitly labelled a *dēmarch* in the text (unlike his father Antiphilos at §§26 and 60, and Euxitheos himself at §63). And, since it was not unheard of for duties between the *dēmarch* and the deme's βουλευταὶ to overlap (cf. [Dem.] 50.6, 8), Euboulides' official role in charge of the oath at the extraordinary διαψήφισις may have been based simply on his position as βουλευτής (see βουλευών above; also ἐξ ὧν ἀνεκάλει τοὺς δημότας below).

τῶν γραμμάτων: 'the register'. The γράμματα (list) was the deme's official register of its members, which Euxitheos successively refers to in various ways: τὸ ληξιαρχικὸν γραμματεῖον at §26 (cf. Isae. 7.27; Dem. 44.35; Lycourg. 1.76; τὰ γραμματεῖα τὰ ληξιαρχικὰ in Isoc. 8.88), τὸ κοινὸν γραμματεῖον at §60 (cf. τὰ κοινὰ γραμματεῖα in SEG 2.7.20-1), and simply τὸ γραμματεῖον at §62 (cf. Dem. 44.37). Each deme was responsible for the scrutiny of candidates presented for enrolment and so it updated its own record of members under the supervision of the *dēmarch*. The *dēmarch* was normally the custodian of the actual register (Dem. 44.37; schol. Ar. *Clouds*, 37; Harp. s.v. δήμαρχος; Suda, s.v. δήμαρχος Adler Δ420). Euxitheos' reference to Euboulides being in charge of the register during the extraordinary διαψήφισις might indicate that the latter served as *dēmarch* at that time, though it is far from certain (see ἐξ ὧν ἀνεκάλει τοὺς δημότας below). Moreover, one also learns from the speaker that a previous *dēmarch* of Halimous had lost the register some years before (namely Euboulides' father, Antiphilos, see §26). Euxitheos later claims that the loss of the register was a fraud (§60) but, as he is the only source for this alleged deceit, one cannot know whether or not this incident resulted in subsequent registers being removed from the care of the *dēmarch*. The gravity of the

situation, however, can be measured by the fact that a compulsory διαπήφισις had to be held to reconstruct the deme's record. The register was crucial; since there was no central archive of *polis* inhabitants in Athens, these lists not only recorded deme membership but they constituted a record of the collective citizen body. But such administration at local level meant that entries could be falsified and open to abuse. The need to implement the widespread διαπήφισις in 346/5 BC is itself evidence that some demes had become unreliable in their own scrutinies for admission and that improper records had been made (see τὴν διαπήφισιν and παρὰ τὸ ψήφισμα at §7). Euxitheos' removal from Halimous' register as a result of this διαπήφισις was, according to him, another such abuse of the record at the hands of a deme official. Without his name on the register, Euxitheos and other such men struck from the lists needed the testimony of live witnesses, preferably relatives and fellow members from their demes and phratries, to prove their descent and claims to citizenship (see τοὺς οἰκείους μάρτυρας παρασχέσθαι at §12).

ἐξ ὧν ἀνεκάλει τοὺς δημότας: 'from which the demesmen were summoned'. Although the speaker does not explicitly state that Euboulides was Halimous' *dēmarch*, some of the duties which he ascribes to him suggest that his opponent may have held this office in addition to that of βουλευτής. It would appear that the demesmen of Halimous were summoned by the official in charge of the deme register. Whitehead finds that only the *dēmarch* could convene the assembly, specifically by virtue of his control of the deme register.⁴⁸ If Euboulides was indeed βουλευτής and *dēmarch*, his dual role in the deme may have been the result of more than just personal ambition. As already noted (see βουλευόν above), the bouletic quota was not met in the deme of Halimous in 346/5 BC and so Euboulides' duplication of roles may have been brought about through necessity. Moreover, his role as βουλευτής presumably obliged him to spend much of his time in

⁴⁸ Whitehead, *The Demes of Attica*, pp. 88 and 122.

the city and thus he may have used his authority as *dēmarch* to have the deme unusually convene in the city (see τοῦ ἄστεως at §10). If this was the case, Euboulides was very fortunate in that his *dēmarchy* coincided with the widespread διαψήφισις and he could thus use both of his positions to exact revenge on Euxitheos. However, the speaker's failure to confirm that his opponent was *dēmarch* caused Develin to propose that Demophilos' decree gave control of the διαψήφισις proceedings in each deme to one or more of its own βουλευταί, granting them access to the deme registers and the ability to summon the demesmen for the vote, and even to administer the oath.⁴⁹ His argument is certainly persuasive in light of the fact that the widespread διαψήφισις had been brought about by illicit enrolments and improper procedures under the supervision of the *dēmarchs*.

[9] **κατέτριπεν τὴν ἡμέραν δημηγορῶν καὶ ψηφίσματα γράφων:** 'he wasted the day by making speeches and proposing decrees' (for γράφων cf. Dem. 1.19, 18.25, 79). This is the only detailed description of a deme ἀγορά (assembly) from surviving sources. Under the supervision of the *dēmarch* (for details regarding this office, see ὄτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26), the internal administrative and financial business was conducted at these assemblies in much the same manner as the Athenian *Ecclēsia*.⁵⁰ Essentially, each deme governed its own local affairs: it owned property that could be leased out, it supervised communal religious cults (for example ὡς ὑπ' αὐτῶν τούτων προεκρίθη ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46) and maintained the upkeep of sacred spaces, and it extracted taxes from those residing within the deme (as at §63). However, we cannot ascertain whether Euboulides was truly wasting the day with

⁴⁹ Develin, 'Euboulides' Office and the Diapsephisis of 346/5 B.C.', p. 76.

⁵⁰ Haussoulie, *La Vie Municipale en Attique*, p. 5.

his speeches and proposals since it is not known what deme business required attention before the vote had to be taken. By addressing these matters before the scrutiny, Euboulides may have wanted to avoid the inconvenience of convening another ἀγορά so soon after this one had taken place and asking the Halimousians to travel the thirty-five stades back to the city (see τῶν πλείστων ἐκεῖ οἰκούντων at §10; Euxitheos does ask to reconvene the next day, see ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §12), but the speaker fails to provide any detail as to the content of the speeches and decrees.

τοῦτο δ' ἦν οὐκ ἀπὸ τοῦ αὐτομάτου: 'This was not by accident', refers to Euboulides making speeches and proposing decrees (for a comparable use of ἀπὸ τοῦ αὐτομάτου, cf. Dem. 54.32, 56.14). This appears to suggest that the order in which the demesmen were to be scrutinised had already been decided before the ἀγορά took place but, since Euxitheos claims that the vote on his case took him by surprise (§12), the order may have been known only to the deme officials and those subject to the vote only found out at the assembly.

τῶν μὲν δημοτῶν οἱ ὁμόσαντες ἐγενόμεθα τρεῖς καὶ ἑβδομήκοντα: 'seventy-three of us demesmen who swore the oath'. Euxitheos asserts that seventy-three demesmen took the oath before voting (though he was apparently able only to estimate the number of those who actually cast ballots at §13, see οὐ πλείους ἢ τριάκοντ' ἦσαν). This number apparently did not constitute all of the demesmen; he subsequently states that the vote on his citizenship was about sixtieth on the list of scrutinies (§10) and he was followed by more than twenty (§15). As a result of this discrepancy, Gomme finds that Euxitheos either understates the number of demesmen present at that meeting or that the deme was over-represented in the *Boulē*.⁵¹ I find that the latter is more plausible, as the bouleutic

⁵¹ Gomme finds the latter reason more plausible than the former, given that it was a small deme and was liable to suffer considerable damage to its population if catastrophe struck, in *The Population of Athens in the Fifth and Fourth Centuries*, pp. 54-5.

quota for a single deme was not likely to have been immediately modified by the state in the case of a sudden and localised decrease in population. Adjusting the quota for a small to medium deme, like Halimous, may have been overlooked for several decades.

σκότος: ‘dark’. See σκότος at §13.

[10] **οἱ μὲν πρεσβύτεροι τῶν δημοτῶν**: ‘the older demesmen’. The deme’s ἀγορά was convened in the city (see τοῦ ἄστεως below) and, for the average Athenian, the normal means of travel between the city and their deme would have been on foot. If proceedings drew on into the evening, older members of the deme would certainly need to leave the assembly earlier in order to return home before the light faded. Attic roads could be particularly treacherous at night, not only leaving their users vulnerable to thieves but to the hazards of poor road conditions (roads often served also as watercourses, see Dem. 55.6).⁵² The departure of these senior demesmen would certainly have been a disadvantage to Euxitheos’ scrutiny, since these men were likely to have been most familiar with his family history and would have been able to object to any blatant victimisation on Euboulides’ part.

Moreover, several of Euxitheos’ living paternal relatives belonged to his father’s generation and were probably old men (§§20-21). Their age and the late hour of the vote may explain why none of them were present at the assembly in order to support Euxitheos during the vote on his citizenship (see §14). Both they and Euxitheos may have been confident enough of his status to allow them to depart. Unfortunately, however, the speaker does not specifically relate that his elderly relatives were amongst those who departed (cf. the alternative explanation that Euxitheos bribed suspicious relatives to appear in court, see §52).

⁵² For a general overview of the rudimentary nature of Greek roads, see W. K. Pritchett, *Studies in Ancient Topography*, pp. 151-8.

τοῦ ἄστεως: ‘from the city’. The speaker reveals that the deme’s ἀγορά for the extraordinary διαψήφισις took place in Athens, though he does not specify the exact whereabouts. Since Euxitheos’ speech is the only source to present any detail with regard to a deme ἀγορά and its location, it is not clear whether the city was the normal meeting place or if the special circumstances had required it. One would reasonably expect the routine meetings of the demesmen to take place locally rather than to envisage a scenario in which members of all one hundred and thirty-nine Attic demes regularly travelled to the city for each and every ἀγορά.⁵³ There are several possibilities which may account for the Halimousians meeting in Athens on this occasion. First and foremost, Demophilos’ decree (see τὴν διαψήφισιν at §7) may have changed the normal practice and stipulated that the demes meet at a neutral setting in the city for a vote on each of its members. Alternatively, Euboulides’ role as βουλευτής could have required him to be in the city at that time and so the ἀγορά was relocated to Athens for his convenience (see βουλευῶν and ἐξ ὧν ἀνεκάλει τοὺς δημότας at §8). Specifically, if Euboulides’ tribe was serving as πρυτάνεις at the time of the widespread διαψήφισις, he and the other βουλευταί of Halimous were obliged to remain in Athens; each tribal contingent held this presidency in rotation for one-tenth of the year, a period of thirty-five or thirty-six days ([Arist.] *Ath. Pol.* 43.2), managing the daily business of the *Boulē* and presiding over all treaties and public acts. However, since Euxitheos makes no mention of either the decree or Euboulides’ political duties, it is impossible to determine the specific reason why the ἀγορά took place in the city. Rather than to appear undemocratic, Euxitheos protests at the excessive length of the meeting instead of the fact that the deme assembly was held

⁵³ Whitehead observes that general probabilities favour the likelihood that the ἀγοραί normally took place within the boundaries of each deme, in *The Demes of Attica*, pp. 88-90. N. F. Jones arrives at a similar conclusion in his analysis of the demes’ ἀγοραί, in *The Associations of Classical Athens*, pp. 87-8. Nevertheless, no surviving source definitively shows that a deme assembly was held within the deme locality. Four inscriptions from different demes direct that their decrees be placed in their local marketplace: *IG II² 1188*, 31-3 (Eleusis); *IG II² 1174*, 13-4, 17-8 (Halae Aexonides); *IG II² 1176*, 20 (Piraeus); *IG II² 1180*, 24-5 (Sounion). Unfortunately, these inscriptions do not confirm that the deme assemblies which decided the decrees also took place there.

in Athens; this location particularly impacted upon his case, not only as it caused the older deme members to leave before the vote on his citizenship (see above) but it was probably also cited by Euboulides as the primary reason for not reconvening the ἀγορά the next day (see ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §12).

τῶν πλείστων ἐκεῖ οἰκούντων: ‘most of the demesmen live there’, i.e. within the deme locality. Halimous lay thirty-five stades away from the city, a distance of just over six kilometres (for the location of the deme, see τοῖς Ἀλιμουσίοις at §15). After Cleisthenes’ tribal reforms in the last decade of the sixth century (Hdt. 5.66-9; [Arist.] *Ath. Pol.* 21.3), membership of a deme was inherited through the paternal line. Thus, citizens did not necessarily have to live in or near the deme to which they belonged. Euxitheos’ remark was inserted to explain the situation to the predominant number of city-dwellers on the jury.⁵⁴ If Euboulides had delayed the proceedings of the ἀγορά by making speeches and proposing decrees, as the speaker claims (see κατέτριψεν τὴν ἡμέραν δημηγορῶν καὶ ψηφίσματα γράφων at §9), the vote on his citizenship would not have occurred so late and he would not have felt the need to ask for the deme to reconvene the next day (ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §12), which would undoubtedly have been an inconvenience to all those living in the countryside.

οὐ πλείους ἢ τριάκοντα: ‘not more than thirty’. At first glance, there is nothing significant about the reported number of remaining demesmen at the meeting. Elsewhere, however, an average number of thirty men appears in a decree belonging to the deme Myrrhinous as the minimum required for a vote to take place (dating *circa* 340 BC, *IG* II² 1183, 21-3).⁵⁵ While there is no specific evidence to suggest that the deme of Halimous

⁵⁴ M. H. Hansen presents a convincing analysis of Attic settlement patterns in the fourth century BC in his article, ‘Political Activity and the Organisation of Attica in the fourth century B. C.’, pp. 227-38 (see in particular pp. 234-5).

⁵⁵ The deme of Myrrhinous was located on the south-eastern coast of Attica. A similar quorum was required for Lower Paeonia, a deme located on the eastern side of Mount Hymettos, in the previous century (*circa* 450-430 BC, *IG* I³ 250, 11-14).

required a certain number of members to be present at the deme ἀγορά, a quorum of thirty demesmen out of approximately eighty registered members in 346/5 BC (see §§9 and 15) certainly seems plausible. If Halimous did indeed require a minimum number of voters per meeting, this figure may have varied depending on the nature of the deme's business.⁵⁶

ἐν δὲ τούτοις ἦσαν ἅπαντες οἱ τούτῳ παρεσκευασμένοι: 'But amongst these were all those who had been suborned by this man', i.e. amongst the demesmen present at the ἀγορά. The verb παρασκευάζω is regularly used in a negative sense in forensic speeches (see also παρεσκευάσθαι τούτους at §24; Dem. 20.45, 29.28; [Dem.] 47.8, 59.9, 120). Rather than providing any testimony against Euxitheos, the role of these men was to cast additional ballots against him and thus falsify the deme's decision on his citizenship (see §13).

[11] ἐβλασφήμει κατ' ἐμοῦ ταχὺ καὶ πολλὰ καὶ μεγάλη τῇ φωνῇ: 'immediately slandered me, at great length and in a loud voice'. As with ἀναπηδήσας in the previous line, Euxitheos again emphasises the suddenness and forcefulness of his opponent's interjection. References to speakers dominating proceedings with their particularly loud or strong voices are not uncommon in oratory (Dem. 19.199, 206, 339; Isoc. 5.81, 12.9-10; Isae. 6.59; cf. speaking in a loud voice was considered a particularly annoying trait to possess, Dem. 37.52, 55, 45.77, and Theophrastos equates it to boorishness, ἀγοικία, *Char.* 4).

⁵⁶ Whitehead notes the specific circumstances of the Myrrinhou and Lower Paeania decrees, and persuasively suggests that a quorum was only necessary for deme assemblies which had to deal with business that was unattractive to the ordinary demesmen, in *The Demes of Attica*, p. 94, see n. 45 in particular.

ὥσπερ καὶ νῦν: ‘just like now’, i.e. at the present trial. Euboulides as the prosecutor would have spoken first (see καὶ ἐμοῦ at §1), and Euxitheos’ comment here suggests that he presented his case before the jury just as vigorously as he did before the demesmen.

μάρτυρα μὲν ὧν κατηγορήσεν οὐδένα παρασχόμενος: ‘he brought forward no witness who accused me’. In light of this comment and the speaker’s subsequent statement about having no one with him to support his claim to citizenship at the διαψήφισις (τὸ μηδένα μοι παρῆναι τό τε πρᾶγμα ἄφνω προσπετωκένας at §12), it must have been possible for both the deme officials and those subjected to the vote to make prior arrangements for witnesses to be present.

[12] **ἀναβαλέσθαι εἰς τὴν ὑστεραίαν**: ‘be adjourned until the next day’. Euxitheos claims that he requested an adjournment, though the witnesses who he subsequently summons at §14 were supposedly present to confirm the manner of the demesmen’s vote and not specifically his call for a deferral (cf. οὐ δυνήσονται ἕξαρνοι γενέσθαι). For Euxitheos to inform the jury that he made such a request, however, does confirm that it must have been possible for a deme to reconvene its ἀγορά on a second day. However, given the distance of the deme of Halimous from the city (it was just over six kilometres, see §§9 and 10), it may be presumed that to do so would have been an inconvenience to the demesmen. Although it is highly plausible that a normal deme meeting lasted no longer than a day,⁵⁷ the scrutinies brought about as a result of the widespread διαψήφισις may have required longer meetings, depending on the size of the deme and the number of members. A small to medium sized deme like Halimous (with between seventy-three and eighty registered demesmen in 346/5 BC, see §§9 and 15) could have divided its caseload over two days so as not to rush proceedings. Since daylight had faded by the

⁵⁷ Whitehead finds it ‘arguably likely’ that the duration of a normal deme meeting was one day, although he also makes the point that there is no evidence to confirm or refute this in the source material, see *The Demes of Attica*, p. 108 n. 110.

time the speaker's name was called (see §§9 and 13), Euxitheos' petition for an adjournment thus seems reasonable, albeit troublesome for his fellow demesmen. Yet the additional time to prepare his defence may not have altered the outcome of the demesmen's vote if Euboulides was as determined to exact his revenge as was claimed (as previously seen at §§8-9; if Euxitheos' allegations of his opponent's vote-rigging are indeed true, see οἱ δὲ λαμβάνοντες δύο καὶ τρεῖς ψήφους ἕκαστος παρὰ τούτου at §13).

τὴν ὥραν: 'the late hour'. In general, ὥρα refers to an unspecified period of time, whether of the year, month, or day. Here, Euxitheos uses this term in relation to the time of day (which he repeats again at §14; see also Dem. 54.4, 26; cf. Dem. 54.30, 56.3).

τὸ μηδένα μοι παρεῖναι τό τε πρᾶγμα ἄφνω προσπεπτωκέναι: 'that there was nobody present to speak on my behalf, the matter had come about so suddenly'. By declaring that neither he nor Euboulides had any witnesses with them (see μάρτυρα μὲν ὧν κατηγορήσεν οὐδένα παρασχόμενος at §11), Euxitheos implies that it was normal procedure to allow the testimony of witnesses and counter-witnesses at the διαψήφισις. A statement in Isaeus' *On the Estate of Pyrrhos* appears to support this suggestion, whereby the speaker claims that it was normal practice to bring support in a situation which might involve litigation (3.19). But, given the significant nature of the διαψήφισις, it appears odd that there was nobody present at the deme's ἀγορά who could or even would speak on Euxitheos' behalf. Firstly, one would presume that the relatives of his father, since they also had to belong to the deme of Halimous, would have been present at the deme's ἀγορά for at least part of the day. Their absence when Euxitheos' name was called could be explained by their lack of knowledge as to the order in which the votes were to be taken (see τοῦτο δ' ἦν οὐκ ἀπὸ τοῦ αὐτομάτου at §9), and even an overconfidence in the remaining demesmen voting in his favour if they ultimately departed before it took place. Yet, Euxitheos' claim that the matter came about all of a sudden does not suffice as an excuse for not providing

any witnesses, since it later appears that he deliberately did not summon any (see τῶν μὲν φίλων ἢ τῶν ἄλλων Ἀθηναίων μηδένα μάρτυρα παρεῖναι at §14). Neglecting to ensure that he had the support of any family members during the deme ἀγορά stands as a particular weakness in Euxitheos' case, given that one of his main arguments has been that there was a pre-existing animosity between him and Euboulides (see διὰ ταύτην τὴν ἔχθραν ἐπιτίθεται μοι at §8). It seems odd that he apparently had no idea that Euboulides would use his official position during the διαψήφισις to in some way influence the proceedings against him.

τοὺς οἰκείους μάρτυρας παρασχέσθαι: 'to bring forward my relatives as witnesses'. Given the unreliability of the deme registers, witness testimonies from a man's family and community were crucial to account for his claim to citizenship (see τῶν γραμμάτων at §8). For the speaker, witnesses who could verify the civic status of his parents and both his familial and social connections were the only means through which to prove that he should rightfully be reinstated as a citizen. Though he failed to produce his relatives to those assembled at the deme's ἀγορά, Euxitheos will bring them forward to testify before the jury during his appeal.

[13] **τὴν δὲ ψήφον εὐθὺς ἐδίδου:** 'but he immediately put the vote'. ἡ ψήφος refers to the pebble used in voting, mentioned repeatedly by Euxitheos (§§14 and 16, cf. §61). This is the regular expression to describe putting a matter to a vote. By referring to Euboulides being in charge of initiating the vote and supplying the assembled demesmen with the necessary pebbles (see οἱ δὲ λαμβάνοντες δύο καὶ τρεῖς ψήφους ἕκαστος παρὰ τούτου below), Euxitheos emphasises again this abuse of his role as a deme official (though he fails to specify whether these duties were affiliated with his role as βουλευτής or as Halimous' *dēmarch*, see §§8 and 26).

οἱ δὲ τούτῳ συνεστῶτες: ‘and the conspirators with this man’. The verb συνίστημι is commonly used to denote two or more men banding together to scheme against another party (Dem. 34.34; Lys. 22.17, cf. 30.10; Thuc. 8.66.2; Xen. *Cyr.* 1.1.2; Ar. *Knights*, 843, *Lys.* 577). The accusation of a conspiracy is referred to repeatedly throughout the speech, at §§2, 7, 13, 15-6, 17, 59, 60, 61, and 63 (see also Πολλὰ καὶ ψευδῆ κατηγορηκός at §1; for a similar claim, see Isae. 12.12: καὶ ἀδίκως ὑβρίσθη ὑπὸ τῶν ἐν τῷ δήμῳ συστάντων). The speaker’s use of καταστασιάζεσθαι at §§2, 7 and 17 further propounds his claim of a rivalry between them.

σκότος: ‘dark’. Unfortunately, Euxitheos does not disclose just how dark it was at the time of the balloting: whether it was still twilight or whether the light had completely faded. It is not possible to identify what time of year this appeal took place and so it cannot be estimated how many hours of daylight were available on average at that time. On the one hand, if Euxitheos’ account of the additional votes is true (see below), the light must have been very poor indeed for the scheme to work; on the other, his subsequent claim that the demesmen ‘were stunned’ suggests that there was enough light for them to observe the discernible difference between the tally and the number of men present. As Euxitheos is so vague, it is only clear that the departure of the older members of the deme before nightfall (see οἱ μὲν πρεσβύτεροι τῶν δημοτῶν at §10) and the encroaching darkness would have been favourable conditions for anyone conspiring to manipulate the vote against him. However, the speaker makes no mention of anyone else protesting at the late hour, particularly the twenty or so demesmen whose cases were to be heard after his own (see §15).

οἱ δὲ λαμβάνοντες δύο καὶ τρεῖς ψήφους ἕκαστος παρὰ τούτου: ‘and taking two and three votes each from this man’. In addition to the darkness, Euxitheos also notes that alleged vote-rigging was further facilitated by the fact that Euboulides was the official

who handed out the ballots, either in his official capacity as βουλευτής or possibly as *dēmarch* (see §§8 and 26; later evidence suggests that it was indeed the *dēmarch* that distributed the ballots at the ἀγορά: schol. Ar. *Clouds*, 37; Harp. s.v. δήμαρχος; Suda, s.v. δήμαρχος Adler Δ420).

εἰς τὸν καδίσκον: ‘in the voting urn’. The voting process in deme assemblies appears to have been administered in much the same manner as the vote which took place in the lawcourts (Dem. 43.10; Lycourg. 1.149; cf. Isae. 11.21, 23). In the courts, jurors were given two voting pebbles each, one for the plaintiff and one for the defendant. There were also two urns in which the pebbles were deposited; a bronze urn received the cast vote and a wooden urn for the unused pebble ([Arist.] *Ath. Pol.* 68.3). However, it is not clear from Euxitheos’ use of the singular τὸν καδίσκον whether just one urn was used for the διαψήφισις or whether he was only referring to the urn in which the votes were cast. Further details provided by the *Athēnaiōn Politeia* state that the bronze urn was constructed in such a way as to prevent voters from depositing more than one pebble ([Arist.] 68.3). Since Euxitheos fails to provide any witness testimony to verify that there were even suspicions of vote-fixing and resorts to claiming that his fellow demesmen were ‘stunned’ by the outcome in an effort to influence the jury (see ὥστε πάντας ἡμᾶς ἐκπλαγῆναι below), his account must not be readily accepted as true.

οὐ πλείους ἢ τριάκοντ’ ἦσαν: ‘were not more than thirty in number’. According to Euxitheos’ estimation, thirty out of the seventy-three demesmen who swore the oath (see τῶν μὲν δημοτῶν οἱ ὁμόσαντες ἐγενόμεθα τρεῖς καὶ ἐβδομήκοντα at §9) were actually present to make a decision on the speaker’s claim to citizenship, which seems reasonable given the late hour.

ὥστε πάντας ἡμᾶς ἐκπλαγῆναι: ‘so that all of us were stunned’. If the speaker is telling the truth about the demesmen’s reaction to the tally, it is strange that he does not report

that any of those present asked for a recount. Moreover, he does not summon any of them to acknowledge their mutual shock or even to express concerns about possible vote-tampering.

[14] ὅτι ... πλείους τ' ἐγένοντο τῶν ψηφισαμένων: 'that there were more votes cast than those who had voted'. If Euxitheos is to be believed, this would be a significant example of vote-fixing at deme level. However, the witnesses that Euxitheos provides for this are the men he claims conspired with Euboulides, and it is therefore highly improbable that they supported his statement regarding the manipulated vote (see αὐτοῖς δὲ τοῖς ἡδίκηκόσιν με below).⁵⁸

τῶν μὲν φίλων ἢ τῶν ἄλλων Ἀθηναίων μηδένα μάρτυρα παρεῖναι: 'none of my friends or other Athenians were present on my behalf as a witness'. A particular flaw in Euxitheos' argument is that he brought no witnesses with him to speak on his behalf before the demesmen (see also τὸ μηδένα μοι παρεῖναι τό τε πρᾶγμα ἄφνω προσπεπτωκέναι at §12; cf. καὶ διὰ τὸ μηδένα παρακαλέσαι below). It is yet more surprising that no neutral party spoke out in his favour, since Euxitheos acknowledges that not all of those present at the ἀγορά were conspiring with Euboulides (cf. ἐν δὲ τούτοις ἦσαν ἅπαντες οἱ τούτῳ παρεσκευασμένοι at §10, and ὅστε πάντας ἡμᾶς ἐκπλαγῆναι at §13). It thus appears that amongst the thirty demesmen, those whom the speaker deems to have actually voted, none felt wholly satisfied with Euxitheos' claim to citizenship so as to speak on his behalf. It may even have been the case that these men had sufficient doubts actually to vote against him themselves.

⁵⁸ Litigants normally summoned witnesses who would be favourable to them or their case, usually friends or neutral parties to support their account of events. Occasionally, however, a litigant might have to rely on a hostile witness to confirm their testimony in court or swear an oath of disclaimer (cf. Aeschin. 1.47; Isae. 9.18).

καὶ διὰ τὸ μηδένα παρακαλέσαι: ‘and because I did not summon anybody’. For the expectation that Euxitheos would have brought witnesses with him to the διαψήφισις proceedings, see τὸ μηδένα μοι παρεῖναι τό τε πρᾶγμα ἄφνω προσπεπτωκέναι at §12; cf. παραγένοντό μοι πάντες οἱ δημόται at §14.

αὐτοῖς δὲ τοῖς ἡδικηκόσιν με: ‘those very men who wronged me’ (cf. the speaker’s use of strong vocabulary with regard to his opponent, Πολλὰ καὶ ψευδῆ κατηγορηκός at §1). The men that Euxitheos is referring to here do not include Euboulides or the deme officials, for a litigant could not compel his opponent to be a witness (a law to this effect is quoted at [Dem.] 46.10: τοῖν ἀντιδίκωιν ἐπ’ἀναγκας εἶναι ἀποκρίνασθαι ἀλλήλοις τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή). This rule refers to the preparations at the pre-trial examination, or ἀνάκρισις, at which a litigant questioned his opponent in front of witnesses and gave him an opportunity to review the documents he would have read aloud to the court (for a picture of proceedings at this preliminary stage, see Dem. 48.23; [Dem.] 52.22; Isae. 6.12-5). During these proceedings, both parties were obliged to cooperate with one another but this did not carry over to the main trial before a jury. Rather, he refers to the demesmen present at his scrutiny; those he claims are the fellow conspirators with Euboulides.⁵⁹ These men were unlikely to admit to any misconduct on their own or Euboulides’ part if they had truly acted dishonourably to have him disfranchised. But calling witnesses who were allegedly hostile towards him would certainly help to persuade the jury, since they were not likely to have Euxitheos’ best interests in mind by acknowledging any part of his story. These men are the first witnesses that Euxitheos calls upon in his appeal.

⁵⁹ Harrison has produced a valuable and detailed overview of the witnesses’ role in the judicial process, in *The Law of Athens* Vol. II, pp. 136-47; in particular, see pp. 138-43 on the litigant’s power to compel reluctant witnesses.

οὐ δυνήσονται ἔξαρνοι γενέσθαι: ‘which they will not be able to deny’. Euxitheos has written a deposition (see **ταῦτα γέγραφα αὐτοῖς** below) which will be read out to the jury by a clerk. The witnesses he has summoned before the court could not alter the information it contained, they could only confirm the content or swear an oath that they had not been present (this process of denying knowledge of a matter on oath was known as ἐξωμοσία; cf. **καὶ ταῦτ’ οὐκ ἂν ἐξομόσαιτο Εὐβουλίδης οὐδ’ οἱ μετ’ αὐτοῦ μὴ οὐκ εἰδέναι** at §59).⁶⁰ By Euxitheos’ own admission, these were the men who had wronged him and one can thus suppose that they would only acknowledge such details as the lateness of the vote, and possibly that he had sought an adjournment (see above; cf. **ἀναβαλέσθαι εἰς τὴν ὕστεραίαν** at §12).

ταῦτα γέγραφα αὐτοῖς: ‘I have put these things in writing for them’. The speaker’s use of the future tense of δύναιμι (above) may suggest that Euxitheos is offering a previously unseen deposition, which was only possible in cases which had not been submitted to public arbitration (most δίκαι went to arbitration, while the γραφαί did not).⁶¹ It may have been the case that Euxitheos was able to introduce apparently new evidence during the appeal proceedings in his capacity as the defendant.⁶² Yet, it is difficult to believe that litigants in a γραφή were expected to speak before the court without the necessary knowledge to address all the charges laid against them by the other party. It seems most likely that, in cases where arbitration was not necessary, evidence was committed to

⁶⁰ For a recent, in-depth discussion of this process, see C. Carey, ‘The Witness’s Exomosis in the Athenian Courts’, pp. 114-9.

⁶¹ For further details on arbitration, see Appendix 1, pp. 269-75. For a brief overview of the introduction of new written evidence during the fourth century BC for γραφαί and other such suits which did not pass before an arbitrator, see R. J. Bonner, *Evidence in Athenian Courts*, pp. 48-52.

⁶² A possible explanation similarly tendered by Gomme, in ‘Two Problems of Athenian Citizenship Law’, p. 128.

writing at the ἀνάκρισις.⁶³ Ultimately, however, there is no definitive evidence to confirm whether the contents of this document had been divulged at a preliminary investigation.

§§15-65: πίσταις

At §§16-17, the speaker focuses on proving that Euboulides' motives were dishonest. In §§17-65, Euxitheos offers proof that he satisfies the conditions for citizenship. Because the status of Euxitheos' parents had been called into question, he must prove to the jury that both his father and his mother were indeed citizens. First, to prove his father Thoucritos' citizen status (§§18-30), he calls various living relatives of his father as witnesses and details their familial connection to him (§§20-3, although he is not named until §41). The subsequent passages relate to his mother Nicarete (§§30-45, although she is not named until §68), her family relationships (§§37-9), and how Thoucritos was her second marriage (§§40-3).

[15] **τοῖς Ἀλμουσίοις**: 'the Halimousians'. This is the speaker's first mention of the name of his deme. Belonging to the Leontis tribe (schol. Ar. *Birds*, 496; cf. Harp. s.v. Ἀλμουσιοί), Halimous lay on the western coast of Attica and probably derived its name from its location near the shore.⁶⁴ It was situated between Aexone and Phaleron (Str. 9.1.21), thirty-five stades from the city (a distance of just over six kilometres, §10).⁶⁵ In Euxitheos' day, Halimous can be classified as a small to medium sized deme (with between seventy-three and eighty registered demesmen in 346/5 BC, see τῶν μὲν δημοτῶν οἱ ὁμόσαντες ἐγενόμεθα τρεῖς καὶ ἑβδομήκοντα at §9). In addition to the cult of

⁶³ G. M. Calhoun persuasively argues that in the first quarter of the fourth century BC litigants were henceforth obliged to submit their initial formal statements of accusation or denial in writing, in 'Oral and Written Pleading in Athenian Courts', pp. 177-93. Gomme rather tentatively asserts that an offer of new evidence was a rhetorical device used to refer back to details which were made clear during the ἀνάκρισις, in 'Two Problems of Athenian Citizenship Law', p. 128.

⁶⁴ H. G. Liddell and R. Scott, *A Greek-English Lexicon*, s.v. ἄλιμος.

⁶⁵ The site was identified by a decree as being near the modern Alimos and Agios Kosmas, see J. J. E. Hondius, 'A New Inscription of the Deme Halimous', pp. 151-60.

Heracles (see ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46), the deme had a temple dedicated to Demeter Thesmophoros (Paus. 1.31.1) and held a festival in the goddess' honour. It was during such celebrations and on the deme's promontory of Cape Colias that Plutarch places Solon devising his successful strategy against the Megarians; a victory which subsequently led to the Attic conquest of Salamis (Plut. *Sol.* 8.4). Yet Halimous is undoubtedly most famous for being the deme to which the historian, Thucydides, belonged (Plut. *Cim.* 4.2).

ποιήσαντες τὰ ὑμῖν ἐψηφισμένα: 'they would have fulfilled the terms of your decree', Euxitheos makes yet another reference to the recent decree of Demophilos, and the widespread διαψηφισις it induced (see τὸ παρωξύνθαι τὴν πόλιν πρὸς τὰς ἀποψηφίσεις at §2, and also §§7, 49, 58). Dilts accepts Wolf's correction ὑμῖν; whereas several manuscripts have ἡμῖν.⁶⁶ This emendation certainly correlates with the speaker's other direct addresses to the jury (see εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν at §3); the jury represented the Athenian people and, specifically, the *Ecclēsia* which had approved the enactment of Demophilos' decree (cf. οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν at §6).

τί ποτ' ἦν τὸ δυσχερὲς Εὐβουλίδη ἀναβαλέσθαι εἰς τὴν ὑστεραίαν: 'what was the difficulty for Euboulides to adjourn to the next day'. The formula of ἀναβαλέσθαι and εἰς τὴν ὑστεραίαν is also used at §12 and Dem. 21.84. It is not clear in what capacity Euboulides would have had the authority to delay actions to be taken at the deme assembly, whether as βουλευτής or as *dēmarch* (see §§8 and 26).

[16] **παραγένοντό μοι πάντες οἱ δημόται:** 'all the demesmen were present on my behalf'. Euxitheos wants the jury to believe that, had he been given time to prepare fully,

⁶⁶ Dilts (ed.), *Demosthenis Orationes* IV, p. 257; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 256. For H. Wolf's edition, see *Demosthenis et Aeschinis opera* (1604).

he would have been able to present his case along with a supporting body of demesmen. As noted earlier, however, this does not correspond with his earlier comments that he had full knowledge of Euboulides' hostility towards him before the διαψήφισις and that, in spite of this awareness, he failed to bring any witnesses with him to his deme's ἀγορά to endorse his claim to citizenship (see τὸ μηδένα μοι παρεῖναι τό τε πρᾶγμα ἄφνω προσπεπτωκέναι at §12 and τῶν μὲν φίλων ἢ τῶν ἄλλων Ἀθηναίων μηδένα μάρτυρα παρεῖναι at §14). Elsewhere in his speech, the speaker refers to his own active participation in his deme (see §§49 and 55).⁶⁷ But, for Euxitheos' present purposes, he needs to present the vote as corrupt due to Euboulides' personal vendetta against him and to emphasise where he has evidence from deme members to support him.

ἡ ψῆφος δικαίως δοθείη: 'the vote was justly given'. For the ψῆφος, see τὴν δὲ ψῆφον εὐθὺς ἐδίδου at §13. By once again asserting that his case could have been left until the next day, Euxitheos wants the jury to believe that the vote on his citizenship would not have been corrupted. Since the status of all members did not have to be decided on that day (see ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §12), he implies that the deferment of his case would have ensured that a greater number of deme members voted on the matter (since the speaker claims that only thirty remained at the assembly by the time his case was heard, see οὐ πλείους ἢ τριάκοντα at §10), and presumably there would have been fewer opportunities for Euboulides and his co-conspirators to influence the vote (for the speaker's claim that the vote on his case was corrupt, see οἱ δὲ λαμβάνοντες δύο καὶ τρεῖς ψήφους ἕκαστος παρὰ τούτου at §13). Euxitheos presents himself here as a victim of improper procedures.

⁶⁷ For a comprehensive overview on deme membership and the workings of the deme itself, see Appendix 4, pp. 289-92.

οἱ μετὰ τούτου συνεστηκότες: ‘his fellow conspirators’. For the use of the verb συνίστημι to denote a conspiracy, see οἱ δὲ τούτῳ συνεστῶτες at §13 (it is used again in Euxitheos’ speech at §§59, 60, 61 and 63). Before delving into his own family history, Euxitheos sets out prove that Euboulides’ motives were dishonest.

ὄθεν δ’ οὗτοι συνέστησαν: ‘I will tell you the reason why these men conspired against me’. Having already accused Euboulides of conspiring with others to fix the vote against him (see §13), Euxitheos promises to reveal to the court what the cause of the conspiracy was after he has spoken about his lineage. However, Euxitheos does not return to the topic. While he makes a fleeting reference to a disagreement over rents due when he himself served as a debt-collector (see ἐπεὶ καὶ τοῦτ’ ἔχω δεικνύναι τεκμήριον ὡς συνέστησαν at §63; for debt-collection as a duty of the *dēmarch*, see ὅτ’ ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26), which may have made him generally unpopular within the Halimous community, he fails to explain the conflict between himself and Euboulides satisfactorily. Since Euxitheos’ primary concern was to address the charges set out by Euboulides, a discussion about an apparent rivalry between the two men may have been considered irrelevant (for the irrelevancy rule, see εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7). But one would expect an account of why these men conspired against him to be most advantageous to his case for wrongful disfranchisement. On the other hand, his ambiguity with regard to the cause of Euboulides’ hostility may be deliberate to influence the jury on an issue that was difficult to prove before the court. For similar promises made by the speaker to present information which ultimately does not emerge, see §§35, 45, 58 and 65.

ἂν βούλησθε ἀκούειν: ‘if you wish to hear’. Euxitheos appeals to the jury’s desire to hear specific material in an attempt to win their favour (cf. §§35, 58 and 65). In fact, this technique is used more often in Euxitheos’ individual speech than in any other forensic

speech (similar requests from a speaker for the jurors to make their wishes known occur in Dem. 23.18-9; [Dem.] 59.20; Hyp. 1.20; Aeschin. 2.24). It is likely that it featured more prominently in speeches written for others, since an experienced speechwriter would be able to predict what information was likely to appeal to a jury. This technique not only emphasised the speaker's willingness to provide the details that they wanted but this conditional statement added an element of extemporaneity to a commissioned speech. Naturally, an Athenian jury would have expected a truthful presentation from each litigant, befitting both his status in society and his role as prosecutor or defendant during the proceedings; rather than reciting a speech which was aimed merely at winning a case, they would presumably value an argument aimed at revealing the truth of the matter. There is evidence that a jury did indeed interject during proceedings in order to make their feelings about a topic known to the speaker (Dem. 18.52, 45.6; [Dem.] 58.31; Aeschin. 2.4).⁶⁸ In view of the fact that Euxitheos does not return to the topic (see ὅθεν δ' οὗτοι συνέστησαν above), it may be supposed that either the jury did not verbalise its wish to hear of the cause of Euxitheos' stated conspiracy or that the speaker simply continued on regardless.

[17] **νῦν δέ:** 'And now'. In the previous passage, Euxitheos informed the jury that he was going to speak about his lineage (§16). Before he turns his attention to his descent though, he first anticipates the jury's reaction after hearing his witnesses. By making a connection between justice, family ties and honesty, Euxitheos introduces his argument by referring to the social norms which an Athenian jury valued most.⁶⁹

⁶⁸ For a thorough discussion of courtroom interjections, see V. Bers, 'Dikastic Thorubos', pp. 1-15. If the jurors had shouted the speaker down during a trial, it could have prompted a series of revisions before the speech was published, indicating that he had been willing to omit some of what he had intended to say.

⁶⁹ A. Lanni presents a detailed analysis of the presence of informal social norms in Athenian forensic speeches, such as the repeated allusions to family and friends, moderation and loyal service to the state, in 'Social Norms in the Courts of Ancient Athens', pp. 691-736. References like those made by Euxitheos support Lanni's theory that the speechwriters must have believed that the jurors would be influenced by the mention of such customs.

δειξαι πρὸς ὑμᾶς ἑμαυτὸν Ἀθηναῖον ὄντα καὶ τὰ πρὸς πατρός καὶ τὰ πρὸς μητρός:
‘to show you that I myself am an Athenian on both my father’s side and my mother’s’. In 346/5 BC, citizenship was a matter of being born of two Athenian parents ([Arist.] *Ath. Pol.* 42.1; this law was initially established by Pericles in 451/0 BC, see εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν at §3, and was re-enacted in 403/2 BC, see πρὸ Εὐκλείδου at §30).⁷⁰ With no birth records or any physical evidence to offer as proof of his lineage, the speaker must assure those listening that he will present verifiable witnesses to confirm his statements about his parentage. In addition, Euxitheos will later attempt to convince the jury that his parents were lawfully married; he produces witnesses to his father’s betrothal to his mother (see ἐγγυᾶται at §41) and to the wedding-feast that his father held for members of the phratry (see οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρός ὁ πατήρ at §43), and he confirms that his father had successfully passed the scrutiny to hold office which required that he be married in accordance with the laws (see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεῖς at §25; see also ὅτι κατὰ τοὺς νόμους ὁ πατήρ ἔγημεν at §69). However, Euxitheos does not stipulate whether being born in wedlock was actually another criterion of the citizenship law. The *Athēnaiōn Politeia* is also silent with regard to the issue of legitimacy and citizenship. As a result, the question of whether or not bastards born of two Athenian parents who were not lawfully betrothed or married could still claim citizenship cannot be answered with any satisfaction based on the surviving evidence.⁷¹ It is only clear that such offspring needed the alleged father openly to acknowledge paternity before admission into his genos, phratry or deme (Dem. 39.1-4, 24), but they still remained at risk of an attack on their status during official scrutinies as they lacked the guarantee of legitimacy which was bestowed on those born from marriage.

⁷⁰ See Introduction, pp. 21-5.

⁷¹ Scholarly opinion is divided on the topic of whether or not the illegitimate children of two Athenian parents were admitted to citizenship; see n. 12 in Appendix 3. For the use of the term νόθος to describe a child born of a non-Athenian mother, see ἐξῆν δὲ δήπου τούτοις, εἰ νόθος ἢ ξένος ἦν ἐγώ, κληρονόμοις εἶναι τῶν ἐμῶν πάντων at §53.

As such, Euxitheos focuses on the possession of two Athenian parents as the prerequisite for citizenship and their marriage as the proof of his legitimate qualification for it.

τὰς δὲ λοιδορίας καὶ τὰς αἰτίας ἀνελεῖν: ‘and to refute the insults and accusations’.

Specifically, Euxitheos’ task is to disprove his opponent’s charges against his parents: first, his father’s accent (§18) and then his mother’s employment in menial labour (§30).

ἐὰν μὲν ὑμῖν πολίτης ὢν καταστασιάσθαι δοκῶ: ‘if I seem to you to be a citizen who has been victimised by my political rivals’. By propounding the notion that his accusers have victimised him due to a personal rivalry (as indicated by his use of the verb καταστασιάζω at §§2 and 7, cf. §63), Euxitheos seeks to persuade the jury that these men seized the opportunity provided by the recent decree of Demophilos (see τὴν διαψήφισιν at §7) to accuse him falsely of claiming citizen rights and to subject him to the same judgement as those who had been justly expelled from their demes as a result.

πράττειν ὅποιον ἂν τι ὑμῖν εὐσεβὲς εἶναι δοκῇ: ‘act in whatever manner seems to you to be pious’. The speaker asks the jurors to abide by the sacred oath that they had sworn before joining the panel. At the beginning of each year, the panel of potential jurors swore the dikastic oath to vote in accordance with the laws and decrees of the Athenian people (Dem. 20.118, 23.96, 24.149–51, 39.37, 40; cf. Poll. *Onom.* 8.122).⁷² Several speakers make a point of reminding the jury to vote according to their oath (Dem. 39.37: λοιπὸν ἡγοῦμαι τοῦτο ὑμῖν ἐπιδειξαι, ὃ ἄνδρες Ἀθηναῖοι, ὡς οὐ μόνον εὐορκήσετε, ἀν ἃ ἐγὼ λέγω ψηφίσησθε; Andoc. 1.9: ψηφίζεσθαι κατὰ τοὺς ὅρκους; Lys. 19.11: εὐορκότατον νομίζητε εἶναι, τοῦτο ψηφίσασθαι; cf. Lys. 10.32; Isae. 2.47; Aeschin. 3.6; Dem. 36.61, 45.88). Such reminders were meant to focus the jurors’ attention on the speaker’s

⁷² A. C. Scafuro reconstructs this oath from several passages in the Attic orators, in *The Forensic Stage*, p. 50. For a detailed discussion of the use of the dikastic oath in Athenian lawcourt speeches, see S. Johnstone, *Disputes and Democracy*, pp. 33–42.

supposedly more reasonable argument and to grant it an air of authority.⁷³ Similarly, Euxitheos prompts those listening to act in keeping with their religious practices and, in doing so, he flatters them by referring to their crucial role as jurors in upholding Athenian values (cf. εὐορκοίητε at §69).

§§18-30: Euxitheos' father

According to Euxitheos, Euboulides has claimed that Thoucritos' foreign accent is evidence of his non-citizen status. The speaker counters this accusation by explaining that his father was captured during the Deceleian War and was subsequently sold abroad as a slave (§18). Euxitheos adduces a wealth of testimony from his father's family (§§20-2), phratry members and demesmen (§23) to prove that Thoucritos was Athenian. He also refers to the fact that his father was selected to hold office, and that no previous charges had ever been made against him (§25).

[18] Διαβεβλήκασι γάρ μου τὸν πατέρα, ὡς ἐξένιζεν: 'For they have slandered my father, because he spoke with a foreign accent'. Euxitheos first addresses the expressed doubts concerning his father's citizen status due to his foreign accent (he turns to the accusation against his mother at §30). It must have been the case that his father was able to speak the Attic dialect but with a noticeably different intonation (see *πραθεις εις Λευκάδα* below). But it would be hard to believe that a non-Athenian accent alone would serve as evidence against those who were not citizens. Both the Old Oligarch and Plato attest to the fact that there was a vast mixture of accents and dialects in the city ([Xen.]

⁷³ Alternatively, Sommerstein proposes that the frequency of such reminders was due to the fact that the oath was sworn by a panel of jurors at the beginning of the year, rather than before each separate trial (Isoc. 15.21), and so these cues were employed when a significant period of time had elapsed since it was taken: see A. H. Sommerstein and A. J. Bayliss, *Oath and State in Ancient Greece*, pp. 69-70 n. 35. While his theory is certainly plausible, I am inclined to believe that the reminders were intended to do more than just refresh the jury's memory with regard to the oath they had taken in the months prior to a trial; it was a rhetorical tool with which a speaker could lead the jurors to believe that a vote in his favour would be the means through which to uphold their sacred pledge.

Ath. Pol. 2.8; *Pl. Lysis*, 223a, *Prt.* 341c). Foreign visitors, metics, and citizens who had spent significant time abroad all added to this diversity of accents in Athens; as a result, Euboulides' accusation that Thoucritos 'spoke with a foreign accent' could hardly stand as the basis of definitive proof of his non-citizen status. Of the two specific accusations made against his parents, the charge laid against Euxitheos' father was certainly the weaker argument in the prosecution's case.

ἀλοῦς ὑπὸ τῶν πολεμίων: 'captured by the enemy'. Though Euxitheos does not expressly say, it would seem as though his father was captured in battle. To be eligible for military service, Thoucritos must have been at least eighteen years old to participate in the Athenian war effort.

ὑπὸ τὸν Δεκελεικὸν πόλεμον: 'during the Decelean War'. The Decelean War is the name given to the latter part of the Peloponnesian War, from 413-404 BC (Strabo, 9.396; also known as the Ionian War, see Thuc. 8.11.3). After the disastrous Athenian attempt to conquer the island of Sicily, the Spartans renewed their efforts in 413 BC by occupying and fortifying Decelea, a small Attic town that was one hundred and twenty stades from Athens (approximately twenty-one kilometres, Thuc. 7.19). Thucydides claims that the Spartans moved to Decelea on the advice of the exiled Athenian general, Alcibiades (Thuc. 6.91-3, 7.18); this action changed how Sparta conducted its war efforts and, as such, it significantly contributed to Athens' eventual defeat in the last decade of the Peloponnesian War. Possession of Decelea meant that the Spartans had a strategically important garrison near to the city and control over one of the main roads in Attica. Moreover, the Attic countryside was under constant threat of raids and the Athenians had lost access to vital supplies, such as the silver mines at Laureion, thereby crippling their economy. If Euxitheos' father served at the start of the Decelean War, he must have been

born by 431 BC since he must have turned eighteen years old in order to join the Athenian ranks (for details pertaining to his father, see Θούκριτον τὸν πατέρα τὸν ἐμὸν at §41).⁷⁴

πραθεῖς εἰς Λευκάδα: ‘was sold into slavery in Leucas’. Leucas, an island in the Ionian Sea, lies opposite the coast of Acarnania on the north-western coast of Greece. Having been colonised by Corinthian settlers *circa* 625 BC, the island remained loyal to its mother-city during the Classical period and thus was an ally of Sparta during the Peloponnesian War. Since there was no common set of rules which governed the treatment of those captured in battle and the maintenance of prisoners of war would have been a burden to either side, enslavement was often practised as an alternative to their execution if no ransom was offered for their return. Thucritus was enslaved after his capture and Euxitheos states that his father was sold in Leucas. Presumably, Thucritus’ accent was affected by the western dialect spoken in Leucas.⁷⁵

Κλεάνδρω περιτυχὼν τῷ ὑποκριτῇ: ‘having fallen in with Cleandros the actor’. Euxitheos claims that his father’s release was brought about by an encounter with an actor named Cleandros. While nothing certain is known regarding this Cleandros, there are a couple of inscriptions which bear the same name and correspond to the correct period in time: one inscription records a competition between the tragic actors Cleandros and Aristomedes in Rhodes and cannot be dated any later than the first quarter of the fourth century BC (*IGUR* I 223, 5), while another reveals that a certain Cleandros won the Athenian Dionysia in 387 BC (*IG* II² 2318, 200). Elsewhere, a tentative familial connection may be made between the actor named by Euxitheos and the Cleandros

⁷⁴ If Thucritus only joined the Athenian forces in the final years of the war, then he had to have been born by 422 BC at the latest. However, marriage patterns in Classical Athens demonstrate that it was normal for a man to marry at an older age and a woman at an earlier age, see C. A. Cox, *Household Interests*, pp. 68-129. If Thucritus was born *circa* 422 BC, he would have been much closer in age to Nicarete, who was born no later than 420 BC (see παιδίων αὐτῆ δουῖν ἤδη γεγεννημένων at §42), and this later date for his birth thus seems unlikely.

⁷⁵ The dialect of Leucas was the same as its mother-city, see C. D. Buck, *The Greek Dialects*, p. 11.

mentioned in the anonymous *Life of Aeschylus*, who was hired by Aeschylus a generation before (*Vit. Aesch.* 15; he may have been his grandfather). It may be supposed that this Cleandros was abroad in Leucas as part of a touring theatrical troupe. Renowned actors were not only invited to travel abroad and perform for foreign rulers but their celebrity status could attract requests for them to use their skills in public speaking as political ambassadors. Thettalos, who acted on the Athenian stage at the start of the latter half of the fourth century, was a favourite of Alexander the Great and he accompanied the king on his expedition to the East (*Plut. Alex.* 29.1-3, *Mor.* 334d-c). Alexander even sent Thettalos to Caria as his emissary to arrange a marriage on his behalf (*Plut. Alex.* 10.1-3). Successful actors like Thettalos were granted considerable privileges and could amass a fortune under the protection of such a patron. If we accept Euxitheos' story to be true, a couple of issues remain unresolved. Firstly, the speaker does not explain how Cleandros came into contact with his enslaved father, or whether they had known each other previously. Furthermore, one can only guess at how the release of his father was accomplished: either Cleandros bought Thoucritis and set him free, perhaps with an agreement of receiving money from his family upon his return to Athens, or he contacted Thoucritis' relations to arrange for them to buy his freedom directly. Euxitheos does present witnesses to confirm his story in the subsequent passage (see *μάρτυρας ὑμῶν παρέξομαι* at §19) though, unfortunately, we are not told what information they provided to the court. On the other hand, even if Euxitheos' account is false, he must have expected the jury to believe a rescue story with a travelling actor. There may be some support in Solon's claims to have repatriated many Athenians in the sixth century who had been sold abroad as slaves and no longer knew Attic Greek (fr. 36 West).⁷⁶ While these men were sold into slavery due to poverty, the effect on their language skills does bestow

⁷⁶ M. L. West, *Greek Lyric Poetry*, p. 82. See also S. Colvin, *Dialect in Aristophanes*, p. 52.

plausibility on Euxitheos' explanation that his father's accent had changed as a result of his enslavement while abroad on military duty.

πολλοστῷ χρόνῳ: 'after a very long time'. The speaker does not specify at what stage during the Decelean War his father was captured or precisely how long he served as a slave; Thoucritos was presumably released before 395 BC in order to have married Nicarete by that date (see *Θούκριτον τὸν πατέρα τὸν ἐμὸν* at §41) and to have had two children by her by 387 BC (see *ἀποδημοῦντος μετὰ Θρασυβούλου* at §42). I agree with Lacey's suggestion that a period of enslavement of no less than a decade, but not much more than fifteen years, was necessary in order to develop a noticeably foreign accent.⁷⁷ Indeed, his estimate of a decade seems most credible if one assumes that Thoucritos continued to be held at the end of the war in 404 BC down until 395 BC.

[19] **ἐξ αὐτῶν τούτων**: 'these very facts'. Euxitheos counters Euboulides' accusation against Thoucritos by using his father's foreign accent as a support in his own appeal. Despite such an obvious change in the way he spoke, the speaker maintains that since his return to Athens Thoucritos was nevertheless accepted by his family (see *ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν* below), deme (see *μάρτυρας ὑμῖν παρέξομαι* below), and phratry (see *ἐν τοῖς φράτερσιν* below).

μάρτυρας ὑμῖν παρέξομαι: 'I will present witnesses to you'. That Euxitheos is able to produce witnesses to support his story of his father's capture abroad and subsequent safe return to Athens does grant him credibility (see *Κλεάνδρῳ περιτυχῶν τῷ ὑποκριτῇ* at §18). These witnesses were presumably fellow demesmen.

ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν: 'then that having returned he received a share of the property from his uncles'. Thoucritos was able

⁷⁷ W. K. Lacey, 'The Family of Euxitheos (Demosthenes LVII)', p. 59.

to recover his share of the family property from his uncles, Charisios and Lysanias, upon his return to Athens (for these uncles, see Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης at §20, and ὁ τούτου πατὴρ Λυσανίας ἀδελφὸς ἦν τοῦ Θουκριτίδου καὶ τῆς Λυσαρέτης at §21). Euxitheos does not specify what this property was comprised of or its size. Lacey persuasively concludes that the property was merely farm-land which, given the challenging nature of Greek agriculture, would have been difficult for Thoucrites to make an ample living from (see πένης ὦν at §25) and would explain Nicarete's destitution in Thoucrites' absence (see ἐν ἀπορίας at §42).⁷⁸ Euxitheos also refrains from specifying from whom it was passed. If the property had belonged solely to Thoucrites I, Thoucrites' father, then Thoucrites would not have merely received a share of the property but all of it; Athenian law dictated that property should pass from father to son and Thoucrites appears to have been an only child (Euxitheos does not refer to any living or deceased siblings of his father). Accordingly, this property must have belonged to Thoucrites' unnamed grandfather. In Athens, the law made provision for a man with more than one son to leave his estate to all of them equally, with no rule of primogeniture to give the eldest son an advantage over his younger brothers. Since the equal division of inheritance was expected, willing sons either co-owned the property and shared its income, or they mutually divided it or drew lots.⁷⁹ In order for Thoucrites' uncles to have possession of the family property, Thoucrites I must have died before his own father passed away, who then in turn died while Thoucrites

⁷⁸ Lacey, 'The Family of Euxitheus (Demosthenes LVII)', p. 59. However, Lacey's dates of Nicarete's hardships during 405-3 BC are, in my judgement, a little early. He places her financial difficulties during the time when Thoucrites was absent during the Deceleian War (see ὑπὸ τὸν Δεκελεικὸν πόλεμον at §18) and states that this was probably the same campaign that Euxitheos mentions later in the text, specifically when Nicarete had two young children to support and her husband was abroad with Thrasyboulos (παίδιον αὐτῇ δυοῖν ἤδη γεγεννημένων and ἀποδημοῦντος μετὰ Θρασυβούλου at §42). But Lacey's allusion to the city's misfortune would also be applicable to the first decades of the fourth century and the economic hardships experienced at that time. See also n. 191.

⁷⁹ Comments made in the lawcourt speeches indicate that it was more common for sons to remain the joint owners of the familial estate: Lys. 32; Dem. 44.10, 18. However, there are some references to the division of the inheritance: Dem. 36.11, 48.12. See Harrison, *The Law of Athens* Vol. I, pp. 239-43, and MacDowell, *The Law in Classical Athens*, p. 92.

was taken captive. Thoucritides I's share would have passed to his son but, in his absence, Charisios and Lysanias retained full possession unless he should return to claim his stake. By referring to this property, Euxitheos' purpose is to demonstrate the family's acceptance of Thoucritos upon his return to Athens (a vital argument that he continues at §28, see ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα). If Charisios and Lysanias had doubted Thoucritos' identity, or had even sought to keep the property themselves, they could have publicly challenged his claim. But their undisputed transferral of the property must prove, as Euxitheos would have the jury believe, that they recognised Thoucritos as their kin.

ἐν τοῖς φράτερσιν: 'amongst the phratry members'. This, Euxitheos' first reference to the social group to which both his father and he belonged, is indeed significant since Athenian descent was as fundamental to being a member of an Attic phratry as it was to being a citizen.⁸⁰ Euxitheos later calls some members of his phratry as witnesses at §23 (see τοὺς φράτερας) and makes reference to his admission into this group at §54 (see με εὐθέως ἦγον εἰς τοὺς φράτερας). Isaeus also uses this technique in his defence of Euphiletos (12.3, 8). Since the phratry and the deme were two separate institutions, it is reasonable that both litigants emphasise evidence from their fellow phratry members as both had been ejected by their demes.

[20] **μὲν τοίνυν**: 'Therefore'. Following Dilts, I include τοίνυν here.⁸¹ The addition of the adverb is consistent with the speaker's practice after depositions and laws in order to continue with the speech: cf. §§22, 23, 24, 28, 29, 32, 39 and 40. Demosthenes only omits conjunctions from the speech when another document is called for immediately: §§23, 31-2 and 39-40.

⁸⁰ For details regarding the phratry (roughly 'brotherhood') and how it worked, see Appendix 5, pp. 293-7.

⁸¹ Dilts (ed.), *Demosthenis Orationes* IV, p. 258. In Rennie's edition of the text, he follows the several manuscripts which omit τοίνυν from the passage, see *Demosthenis Orationes* III, p. 257.

τῆς ἀλώσεως καὶ τῆς σωτηρίας: ‘the capture and the safe return’. For Thoucritos’ capture while serving abroad during the Deceleian War and subsequent enslavement, see §18. His eventual return to Athens and his family is discussed by the speaker at §19.

μάρτυρας καλῶ τοὺς ζῶντας ἡμῖν τῶν συγγενῶν τῶν πρὸς πατρός: ‘I will call as witnesses my surviving relatives on my father’s side’. Euxitheos presents the jury with a brief overview of his father’s living relatives (§§20-2). Of these relatives, Euxitheos calls more attention to the male line than the female. He refers to these female relatives as a group (see τὰς τῶν πρὸς γυναικῶν τῷ πατρὶ συγγενῶν μαρτυρίας at §22). Tracing his patriline, however, Euxitheos individually names the male relatives whom he will call as witnesses and outlines their relationship to his father. Ultimately, their male gender granted them access to the social, political and economic spheres in the *polis* while the female gender did not. Membership of the *genos*, *phratry* and the *deme* were imparted by the male line. As a result, the testimony from Thoucritos’ male relatives was more relevant with regard to confirming his civic status.

Θουκριτίδην καὶ Χαρισιάδην: ‘Thoucritides and Charisiades’.⁸² As the sons of Thoucritos’ uncle, Charisios, Thoucritides II and Charisiades were first cousins to the speaker’s father and first cousins once removed to the speaker himself.⁸³ The fact that Euxitheos’ grandfather and a first cousin of his father share the same name could suggest that name derives from the paternal line through his great grandfather, who may even have borne the name himself (see τοῦ πάππου τοῦνομ’ ἔχων at §37).

⁸² All the names listed in this and subsequent passages are arranged in Table 2, pp. 268-9. See also Davies’ overview of the family tree, in *Athenian Propertied Families*, pp. 93-5.

⁸³ Whitehead notes that a certain Charisandros, honoured for religious duties between 330 and 325 BC, could conceivably be the son of this Charisiades (*SEG* 2.7, 3, 11-3) and that a likely descendant was Charisandros of Halimous, a *ὄπλομάχος* (drill sergeant) of the *ephēbes* in the 240s BC (*IG* II² 766, 10, 41-2), in *The Demes of Attica*, p. 435.

Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης: ‘Charisios, was a brother of my grandfather Thoucritides and of my grandmother Lysarete’. Charisios was the father of Thoucritides II and Charisiades. He may have been a non-*eponymous archōn* in the first half of the fourth century.⁸⁴ Davies identifies Charisios as a full brother to Euxitheos’ paternal grandfather, Thoucritides I (see also ὁ τούτου πατὴρ Λυσανίας ἀδελφὸς ἦν τοῦ Θουκριτίδου καὶ τῆς Λυσαρέτης at §21).⁸⁵ However, as Bicknell has indicated, this would cast little doubt on Thoucritides I’s Athenian descent as the status of Charisios and his sons went unchallenged.⁸⁶ It would be more reasonable to assume that Thoucritides I had a different mother than his brother Charisios, and his sister Lysarete (Euxitheos’ paternal grandmother, see below). Charisios would thus be a full-brother to Lysarete but a half-brother to Thoucritides I. The fact that the speaker describes Charisios and Thoucritides II as brothers, without noting the half-sibling relationship, is not unusual since he does not make the distinction between himself and his half-sister from his own mother’s first marriage (see τοὺς τοῦ Πρωτομάχου υἱεῖς at §43). Charisios therefore stands as uncle to Thoucrites and great uncle to the speaker.

(ἀδελφὴν γὰρ ὁ πάππος οὐμὸς ἔγημεν οὐχ ὁμομητρίαν), θεῖος δὲ τοῦ πατρὸς τοῦ ἐμοῦ: ‘(for my grandfather married his sister who was born from a different mother), and Charisios is my father’s uncle’. Dilts has accepted Rennie’s rearrangement of this sentence, whereas the manuscripts placed the first clause after θεῖος δὲ τοῦ πατρὸς τοῦ ἐμοῦ at the end of the section.⁸⁷ The adjustment to the text certainly gives a more natural word order to the sentence. Here, Euxitheos specifies that his grandfather Thoucritides I

⁸⁴ No. 9, lines 13-4, in B. Meritt, ‘Greek Inscriptions’ (1936), pp. 390-3.

⁸⁵ Davies, *Athenian Propertied Families*, p. 94.

⁸⁶ P. J. Bicknell, ‘Thoucritides’ mother’, p. 114.

⁸⁷ Dilts (ed.), *Demosthenis Orationes* IV, p. 258; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 257. Rennie briefly discusses the displacement of this clause in an earlier article, see ‘Demosthenes LVII. 20’, p. 192.

and his grandmother Lysarete were half-siblings, born from different mothers.⁸⁸ It is likely that Thoucritides I was older than Lysarete, and the offspring of his father's first marriage. Though there are a number of sources which relate to a marriage between half-siblings, this is one of two cases in which it explicitly emphasises that the man and wife involved are homopatric siblings (i.e. those with the same father but not the same mother; for the other case, see Plut. *Them.* 32, in which Themistocles' daughter marries her half-brother). Such marriages were permitted under Athenian law, only if the two siblings shared the same father and not the same mother; however, the evidence for this law only survives in later sources: Nep. *Cim.* 1.2; Philo, *de Spec. Leg.* III, 4.22. It was prohibited for homometric siblings (i.e. those with the same mother but not the same father) to marry to avoid property accumulation, since it would be possible to inherit two estates by having two different fathers, but the evidence for this law is also late in date (schol. Ar. *Clouds*, 1371). It is worthy of note that, although Thoucritides I and Lysarete were homopatric siblings, not all of Thoucritos' relatives were related to his father (Lysarete's mother appears to have been married twice, see *πρῶτον μὲν γε τέτταρες ἀνεψιοί* at §67) but they were each related to Lysarete (§§20-2).

ἔπειτα Νικιάδην: 'Then call Niciades'. As the son of Thoucritos' uncle, Lysanias, Niciades was a first cousin to the speaker's father and a first cousin once removed to Euxitheos himself.

[21] ὁ τούτου πατήρ Λυσανίας ἀδελφὸς ἦν τοῦ Θουκριτίδου καὶ τῆς Λυσαρέτης:
'for the father of this man, Lysanias, was a brother of Thoucritides and of Lysarete'.

Davies categorises Lysanias as a full brother to Thoucritides I, as he does Charisios.⁸⁹ Yet

⁸⁸ It seems to have been acceptable for speakers to refer to Athenian women by name in court after their deaths; women who such men probably would not have been willing to name while they were alive: Dem. 44.9-10, 45.74; see also *ἐκ δὲ τῆς ὕστερον, Χαίρεστράτης* at §37. For a further details, see Schaps, 'The Woman Least Mentioned', p. 328.

⁸⁹ Davies, *Athenian Propertied Families*, p. 94.

it seems more probable that Lysanias and Charisios had a different mother than their brother Thoucritides I. Like Charisios and his sons, the citizen status of Lysanias and both his son Niciades and his grandson Nicostratos appears to have been uncontested (for Charisios, see Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης at §20). Bicknell also draws attention to the similarity of the name of Lysanias and Lysarete as positive indication of their full sibling relationship.⁹⁰ Lysanias was Thoucrites' uncle and great uncle to the speaker.

ἔπειτα Νικόστρατον: 'Then call Nicostratos'. Davies lists Nicostratos as the grandson of a third brother of Thoucritides, and son of another Niciades.⁹¹ But there is no specification in the text that there is more than one Niciades, therefore one is inclined to take it as Bicknell does that he is grandson of Lysanias.⁹² Thus, with Nicostratos as the son of Niciades, he is a first cousin once removed to Thoucrites and second cousin to Euxitheos. This Nicostratos may be the same man who served as ταμίᾱς (treasurer) of Athena in 340/39 BC (*IG II² 1455, 5*) and who was listed on the *bouleutic* catalogue of 335/4 BC (*IG II² 1700, 82*).⁹³ By naming his father's relatives and presenting details of their lineage in this manner, Euxitheos attempts to make his witnesses seem more important than their number alone could imply in an attempt to speak to his legitimacy.

ἀνεψιὸς δὲ τῷ πατρὶ: 'and my father's first cousin'. Since Euxitheos subsequently refers to four first cousins at §67 (see *πρῶτον μὲν γε τέτταρες ἀνεψιοί*), it has been widely accepted that the name of the fourth cousin has been omitted by the manuscripts.

⁹⁰ Bicknell, 'Thoucritides' mother', p. 114.

⁹¹ Davies, *Athenian Propertied Families*, p. 95.

⁹² Bicknell, 'Thoucritides' mother', p. 115.

⁹³ Davies notes that Nicostratos' service as treasurer meant that he was or at least claimed to be a *πεντακοσιομέδιμνος*, although this may not have meant very much by 340 BC (cf. [Arist.] *Ath. Pol.* 47.1, in which the author claims that the man elected to this office was poor), see *Athenian Propertied Families*, p. 93. As a result, he persuasively argues that he belonged to a family of small means and that its members were unable to escape their inherited positions in society. Comments made by Euxitheos about his family members living in poverty certainly support Davies' conclusions (§§25, 34-6, 41 and 45).

Thompson, however, has argued that Thoucritos' maternal grandmother (Lysarete's mother, not Thoucritis I's) was married twice and that she had one or more children with her first husband; under Attic kinship reckoning, the offspring of one such child would thus be Euxitheos' maternal cousin.⁹⁴ While Thompson makes an interesting suggestion, it has to be noted that there is no further evidence to confirm or deny his theory regarding the fourth cousin.

σὺ δ' ἐπίλαβε τὸ ὕδωρ: 'And you, stop the water-clock'. Any case which came before the Athenian courts had to be settled on that date.⁹⁵ Whereas only one public case could be tried by a jury on a particular day, several private cases could be heard in a single day ([Arist.] *Ath. Pol.* 67.1). But prompt decisions were facilitated by timing speeches with the use of a water-clock or a κλεψύδρα (literally, a 'water thief').⁹⁶ Aristophanes' references to the κλεψύδρα confirm its use in the Athenian lawcourts from as early as the last quarter of the fifth century (Ar. *Ach.* 693, *Wasps*, 93, 856), but by the mid-fourth century the word ὕδωρ was used in court as a synonym for the time allotted to each litigant by this vessel (see also ἐπὶ τοῦ ἐμοῦ ὕδατος at §61; cf. ἐν τῷ ἐμῷ ὕδατι at Dem. 18.139, 19.57, and [Dem.] 50.2). The κλεψύδρα itself was a small water-filled pot with a hole in the base through which the water was allowed to trickle out (schol. Ar. *Ach.* 693a; Suda s.v. κλεψύδρα Adler K1743), and the speaker had to finish his speech when all the water had been drained away. During private cases, however, the hole in the κλεψύδρα was closed with a bung while the clerk read out laws, documents and witness depositions; a member of the jury was chosen by lot to perform this duty of stopping and then re-starting the κλεψύδρα, he is referred to as 'the man at the water' (ἐπὶ τὸ ὕδωρ, [Arist.] *Ath. Pol.*

⁹⁴ W. E. Thompson, 'The Prosopography of Demosthenes, LVII', pp. 89-91.

⁹⁵ I. Worthington has disputed this and argued that, in some cases, political trials could last for two or three days, in 'The Duration of an Athenian Political Trial', p. 205. However, scholarly consensus is that even the most serious public trials were completed in a day.

⁹⁶ A. L. Boegehold, *The Lawcourts at Athens*, pp. xxvi and 27.

66.2).⁹⁷ During the case, each speaker was allowed a certain number of χόες, or measures of water contained in a pitcher, which was determined by the type of suit and the value of the claim being sought.⁹⁸ Both Young and Rhodes estimate that one χοῦς emptied in three minutes; while Boegehold's more recent analysis maintains that one χοῦς is equal to more than four minutes, he recognises that six minutes is the mean time for a κλεψύδρα holding two χόες to discharge its contents.⁹⁹ Despite the variance in time measurements, it is important to note that the water-clock did ensure that the same amount of time was allotted to both the prosecutor and the defendant, each having an equal opportunity to make their case. There was no obligation, however, for either party to use up all of his allowance and he could ask for his remaining water to be poured out (see ἐξέρα τὸ ὕδωρ at Dem. 36.62, 38.28).

Apart from Euxitheos' call for the water to be stopped here, this exact formula is utilised in several definitively private speeches (σὺ δ' ἐπίλαβε τὸ ὕδωρ, Dem. 45.8, 54.36; Isae. 2.34, 3.12, 76) and, as such, it seems to be more a feature of private legal actions. This appears to correspond with a statement contained within the *Athēnaiōn Politeia*, in which the author describes how public cases are timed by the διαμεμετρημένη ἡμέρα (measured day); specifically, he relates that the flow was not stopped in actions conducted in a διαμεμετρημένη ἡμέρα but rather that each party received an equal amount of water ([Arist.] 67.3-5; cf. Xen. *Hell.* 1.7.23, Aeschin. 2.126, Harp. s.v. διαμεμετρημένη ἡμέρα).

⁹⁷ The practice of stopping the flow of water from the κλεψύδρα for the presentation of documents meant that a litigant could effectively extend the amount of time allotted to him to deliver his case. By utilising this tactic, however, he risked annoying the jury with tedious information which drew their attention away from his first-hand account of events. For the stoppage of water during Euxitheos' speech, see Appendix 7, pp. 309-11.

⁹⁸ The *Athēnaiōn Politeia* records the time allowances for δίκαι: for those worth over five thousand drachmas, both the plaintiff and defendant were allowed ten χόες for the first speech and three for the second; for δίκαι between the value of one thousand and five thousand drachmas, both parties were allowed seven χόες for the first speech and then two for the second; for those suits worth less than one thousand drachmas, five χόες and then two χόες were given for the respective speeches; the parties in a διαδικασία (suit to decide between claimants) were only granted one speech each and that was measured in six χόες ([Arist.] 67.2).

⁹⁹ S. Young, 'An Athenian Clepsydra', p. 281; Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, p. 720; Boegehold, *The Lawcourts at Athens*, p. 77.

However, it is not clear from this increasingly fragmentary section of the *Athēnaiōn Politeia* that all public suits were measured in this particular way.¹⁰⁰

ΜΑΡΤΥΡΕΣ: '[WITNESSES]'. This is the first instance of Euxitheos presenting witnesses to the court (he has previously only had depositions read to the jury, at §§15 and 19). At a trial, the witnesses had to appear before the court in person and either go up to or onto the speaker's raised platform (βῆμα), where he himself would recite his own testimony or assent to its contents as a clerk read it aloud (for references to the use of this platform in the lawcourts, see Dem. 48.31; Aeschin. 3.207).¹⁰¹ In the fourth century BC, this testimony was most commonly composed with the litigant before the trial and its details may have first been made public at a preliminary hearing ([Dem.] 46.11). In court, a witness neither provides any additional information to the jury ([Dem.] 46.6) nor does he submit to questions during his testimony.¹⁰² However, he was compelled to accept responsibility for the truth of his pre-written statement as his evidence could be challenged by the opposing litigant before the jury delivered its verdict ([Arist.] *Ath. Pol.* 68.4), leaving him at risk of a subsequent δίκη ψευδομαρτυριῶν (suit for false testimony, see κατ' ἐξωλείας at §22).

The aim of every litigant in the Athenian courtroom was to present himself surrounded by a close network of respectable and law-abiding kinsmen, neighbours and fellow members of the various social groups, and so he selected witnesses who were typically

¹⁰⁰ For further discussion on Euxitheos' reference to the water-clock and its importance to the debate regarding whether or not *Against Euboulides* is a public or private case, see Appendix 7, pp. 302-13.

¹⁰¹ For a general synopsis of the functions of a witness both before and after the trial, see G. Thür, 'The Role of the Witness in Athenian Law', pp. 146-69.

¹⁰² S. C. Humphreys convincingly argues that, if the possibility of cross-questioning witnesses was ever possible, it was certainly abolished in 378/7 BC when the introduction of written testimonies was made compulsory, see 'Social Relations on Stage', p. 356 n. 6. Amongst the evidence which she cites, she persuasively counters the use of two legal speeches as proof that witness questioning was in fact available at the start of the fourth century BC: Andoc. 1.14 records a litigant delivering the testimony for his witness and the latter agreeing with each statement that is made, and Isae. 3.79 reveals that the speaker urges the jury to question his opponent, in what was most likely a call for heckling rather than serious cross-examination.

relations or personal supporters of his in order to depict himself as an upstanding member of the community.¹⁰³ Family members were particularly important witnesses in cases regarding legitimacy or inheritance since they were expected to have first-hand information about their kinsmen and could thus validate any relationship claims. Both the unnamed speaker of Isaeus' *On Behalf of Euphiletos* and Euxitheos call on multiple kinsmen in order to defend their individual rights to citizenship. The witnesses that Euxitheos specifically calls upon at this particular stage in his speech are family members who could verify his father's citizen status, but unfortunately it cannot be known what specific information their testimonies contained.¹⁰⁴

[22] **διομνυμένων**: 'swearing under oath'. Any citizen male who was summoned to appear as a witness in court had three options: he could give evidence, swear an oath of disclaimer that he knew nothing of the matter (ἐξωμοσία: see Dem. 19.176; Poll. *Onom.* 8.37, 55; Suda, s.v. ἐξωμόσασθαι Adler E1797), or he could refuse to comply and face a subsequent fine (κλητεύειν: [Dem.] 59.28; Aeschin. 1.46).¹⁰⁵ Surviving evidence indicates that different conditions applied to Athenian women who were required to testify in a legal dispute; it appears that a woman could affirm her knowledge outside of the court through swearing an oath (for example, two speakers challenge their opponents to agree to an oath but none are ultimately taken, see Dem. 29.33, 55.27; cf. Dem. 39.3, 40.41; Lys. 32.11-18), otherwise she could consent for her κύριος to give testimony on her behalf in court (see οἱ τὰς ἀνεπιμὰς λαβόντες αὐτῶ at §67). Euxitheos, however, claims

¹⁰³ Humphreys has produced a comprehensive study of witness testimonies from the corpus of Athenian court speeches and suitably observes that the main concern of a litigant was to demonstrate that he had the solid support of a large body of kin, in 'Social Relations on Stage', pp. 313-69.

¹⁰⁴ Thür's analysis of formulas in both written and oral testimonies is particularly interesting, though there is no specific indication in Euxitheos' text to suggest that his relatives were bound by a traditional formula in their given witness statements, see 'The Role of the Witness in Athenian Law', pp. 152-60.

¹⁰⁵ For a brief overview, see Harrison, *The Law of Athens* Vol. II, pp. 136-47, and MacDowell, *The Law in Classical Athens*, pp. 243-4. For the more detailed discussion of witness ἐξωμοσία, see Carey, 'The Witness's Exomosis in the Athenian Courts', pp. 114-9. For the process of κλητεύειν, see S. C. Todd, 'The Purpose of Evidence in Athenian Courts', pp. 24-5.

that all of his witnesses swore an oath before giving their testimonies about his parents' status (cf. §§39, 44 and 56). It is not specified in his speech at what stage during proceedings this oath was administered, nor indeed whether it was taken on a voluntary basis or if Demophilos' decree required alleged relatives to testify under oath to an appellant's citizenship.¹⁰⁶

<Ἀθηναῖον> εἶναι: 'was an Athenian'. Dilts rightly maintains Dobree's addition of Ἀθηναῖον to the text.¹⁰⁷ Since Euxitheos had to defend his father's citizen status, the inclusion makes contextual sense.

παραστησάμενος τούς συνεισομένους αὐτῷ τὰ ψευδῆ μαρτυροῦντι: 'standing beside those who will know him to be giving false testimony'. Euxitheos' argument is conspicuously weak here. Since these men will supposedly testify that Thoucritos was an Athenian citizen and one of their kinsmen, either all of them are telling the truth or they are lying. In the latter case, they must have consented to tell the same lie to the court and thus would have no concern regarding contradictory testimony from one of their group.

κατ' ἐξωλείας: 'bringing down utter destruction on himself'. Having agreed to give testimony, each witness made himself responsible for its contents. The destruction refers to the witness presenting false evidence after he had sworn a sacred oath (the speaker refers to it again at §53: μηδεμιᾶς ἐξωλείας ὑπόχους ἑαυτοῦς ποιεῖν; cf. Dem. 54.40-1; witnesses in homicide cases also curse themselves with potential perjury: [Dem.] 59.10; Aeschin. 2.87; in addition to speakers in the *Ecclēsia*: [Dem.] 49.66; Aeschin. 3.99; Dein. 2.16). But it was only possible to test the truth of the testimony delivered during a trial

¹⁰⁶ For details on the decree, see Introduction, pp. 25-43. L. Gernet suggests that the decree compelled men to swear to their kinship with the appellant, in 'Sur le discours pour Euphiletos attribué à Isée', pp. 174-5. While his theory is certainly interesting, there is no further evidence regarding the terms of Demophilos' decree with which to support it.

¹⁰⁷ Dilts (ed.), *Demosthenis Orationes* IV, p. 258; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 258. For P. P. Dobree's edition, see *Adversaria critica* (1874).

after the verdict had been given. A δίκη ψευδομαρτυριῶν could be brought if one party contested his opponent's witness testimony, and a successful conviction probably entailed a fine for the amount of the damage. A third condemnation for false testimony carried the penalty of ἀτιμία (Hyp. 2.12). A female witness, however, could not be held legally responsible for the perjury or the false testimony of her κύριος (see οἱ τὰς ἀνεψιάς λαβόντες αὐτῷ at §67). By reminding the jurors that his father's relatives would have risked deadly repercussions for giving false testimonies, Euxitheos attempts to persuade them that his witnesses must be telling the truth with regard to Thoucritos' citizen status.

τὰς τῶν πρὸς γυναικῶν τῷ πατρὶ συγγενῶν μαρτυρίας: 'the depositions of my father's female relatives'. In this passage, the speaker distinguishes between the testimony given by his father's male relatives (τῶν μὲν τοίνυν πρὸς ἀνδρῶν τῷ πατρὶ συγγενῶν ἀκηκόατε) and that given by his female kin (see also μάρτυρας καλῶ τοὺς ζῶντας ἡμῖν τῶν συγγενῶν τῶν πρὸς πατρός at §20). He differentiates between them again in his summary of witnesses at §67. It makes sense for Euxitheos to prioritise the evidence provided by Thoucritos' male relatives over that of his female kin since men took precedence in Athenian inheritance law, and their acceptance of his father as a lawful citizen would have borne more legal sway.

[23] **ὡς ἦν ἀμφοτέρωθεν Ἀθηναῖος:** 'that he was an Athenian on both sides'. Since Thoucritos was born before the archonship of Euclides in 403/2 BC, it was only necessary for him to have one Athenian parent (see πρὸ Εὐκλείδου at §30). But Euxitheos stresses that his father was an Athenian from both his paternal and maternal lines in order to strengthen Thoucritos' claim to citizenship and thereby his own.

τοὺς φράτερας: 'the members of his phratry'. See ἐν τοῖς φράτερσιν at §19.¹⁰⁸

¹⁰⁸ For a fuller note on the phratries and their functions, see Appendix 5, pp. 293-7.

τοὺς γεννήτας: ‘the members of his *genos*’. Euxitheos subsequently summons the members of his father’s *genos* (commonly translated as ‘clan’) in order to confirm his admission into their group. Though it was not necessary to belong to a *genos* in order to obtain Athenian citizenship, the speaker uses Thoucritos’ admission to this group as proof of his civic status since their conditions were stricter than those required by the state.¹⁰⁹ As a *γεννητής*, his father was not portrayed as being wealthy or particularly prominent in Attic society; Euxitheos speaks of Nicarete’s financial hardship in her husband’s absence for military duty at §42, and he later refers to his and his mother’s lowly way of life after his father’s death at §31 (for confirmation of Thoucritos’ death, see §§27, 52 and 54). But the speaker does claim a noble bloodline for himself (see ὡς ὑπ’ αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46).¹¹⁰ Euxitheos could have claimed *genos* membership through his father, although he never calls upon the *γεννήται* to attest to his own citizenship as he does for his father (see κεκληρονομηκότα καὶ τῆς οὐσίας καὶ τοῦ γένους at §46; he claims he had been introduced to the cult worship of Apollo at §54, which he specifies is sacred to the *genos* of his father at §67, and there is the implication at §24 that he could have been scrutinised by the *genos* along with his father). Ultimately, with Thoucritos as a confirmed member of the *genos*, Euxitheos establishes yet another proof of his father’s citizenship and seeks to assure the jury that, at least through his father, he too ought to be judged a citizen.

τὰς τῶν δημοτῶν μαρτυρίας: ‘the depositions of the demesmen’. With this reference to the demesmen, the speaker has now presented testimonies to attest to his father’s citizenship from the four main groups of the Athenian social structure to which he

¹⁰⁹ For details on the role of the *genos* in Athenian society, see Appendix 6, pp. 298-301. F. Bourriot’s collection of the textual and archaeological evidence for the *genē* remains the most comprehensive study on the subject, see his two-volume work *Recherches sur la nature du genos* (1976).

¹¹⁰ Andrewes makes a persuasive case in favour of a *genos* becoming the elite of a *phratry*, in ‘Philochoros on *Phratries*’, pp. 1-15.

belonged: the family, the phratry, the genos, and the deme (he does the same for his mother Nicarete with regard to her male relatives' membership, see τὰς τῶν φρατέρων τῶν συγγενῶν τῶν τῆς μητρὸς καὶ δημοτῶν μαρτυρίας at §40).

τὰς τῶν συγγενῶν περὶ τῶν φρατέρων: 'those of my relatives about the members of the phratry'. The testimonies from Euxitheos' relatives, along with that of the demesmen, are to confirm Euxitheos' appointment as *phratriarch* for his phratry (see φρατρίαρχον below). Instead of calling on unconnected members of the phratry, Euxitheos utilises evidence provided by his undoubtedly subjective relatives about a phratry matter. It appears strange that the phratry members he initially called as witnesses at the start of this passage do not also give testimony regarding his *phratriarchy*. This may cast uncertainty on whether or not Euxitheos actually was chosen as *phratriarch* but, since some phratry members were already present as his witnesses, it would be unlikely that the speaker could claim to have held office without incurring their open objections in court.

φρατρίαρχον: '*phratriarch*'. Euxitheos had served as *phratriarch*, the chief officer of a phratry. Existing evidence with regard to this office is quite sparse. Lambert notes that there are only five named *phratriarchs* from known phratries; of these five, we possess the most information about Euxitheos' service to his phratry from the details he provides in this speech.¹¹¹ For the most part, the functions of the *phratriarch* seem to have been similar to those of the *dēmarch* (two *dēmarchs* are mentioned in this speech: Euboulides' father at §§26 and 60, and the speaker at §§63-4; for the possibility of Euboulides holding the same office, see ὅτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26). During his term in office, most likely a year-long position like that of the *dēmarch*, the *phratriarch* was responsible for phratry

¹¹¹ Apart from Euxitheos, the other identified *phratriarchs* are Pantacles of Oion, Deceleicon from the Demotionidae/Deceleieis, Callicles and Diopeithes of Myrrhinous from the Dyaleis, and Cichonides of Gargettos from the Medontidae, in Lambert, *The Phratries of Attica*, pp. 231-2.

administration: he presided over the admissions procedures and performed the duties of bursar (collecting rents etc. due to the phratry, *IG II² 1241*, 34-55), registrar (with the phratry priest, *IG II² 1237*, 18-29), religious functionary and disciplinary officer. Of the responsibilities of the *phratriarch*, the admission procedures were the most important, particularly with regard to the state, since they controlled access to Athenian citizenship (see §19). It may be assumed that the *phratriarch* was responsible for summoning group assemblies in much the same manner as the *dēmarch*. The *phratriarch* also had a role to play in external activities, including acting on behalf of the phratry in the sale or leasing of landed estates (epigraphic evidence records that a certain Ariston represents his unnamed phratry in a sale of land, *IG II² 1600*). But one point of contrast between the *phratriarch* and his deme counterpart is that of the method of appointment; according to Euxitheos, the *phratriarch* was elected to hold office whereas external evidence suggests that the *dēmarch* was most probably appointed by lot.¹¹² Moreover, another difference was the number of men who were appointed to this office in a single term; there is no surviving evidence for any deme having selected more than one *dēmarch*,¹¹³ but it seems to have been possible for larger phratries to elect more than one *phratriarch*.¹¹⁴ Beyond being a citizen, there do not appear to be any particular conditions for eligibility attached to the office. Lambert notes that Euxitheos makes no mention of any special qualifications needed to be elected *phratriarch* and one would expect him to relate any which would then strengthen his case as a citizen.¹¹⁵ It is interesting that Euxitheos calls demesmen rather than the phratry members to provide testimony about his *phratriarchy*. But rather than casting doubt on Euxitheos' appointment as *phratriarch* (see τὰς τῶν συγγενῶν περὶ

¹¹² For the method of appointment for the *dēmarch*, see Whitehead, *The Demes of Attica*, pp. 115-6.

¹¹³ Whitehead, *The Demes of Attica*, p. 59 with n. 85.

¹¹⁴ In the early third century, there were two *phratriarchs* in the Dyaleis and Therricleidae phratries (*IG II² 1241*, 5-7; *SEG 32.150*, 9-10), and Lambert argues for more than one *phratriarch* in the Demotionidae phratry earlier in the fourth century BC (*IG II² 1237*, 11-2), see *The Phratries of Attica*, pp. 225-6.

¹¹⁵ Lambert, *The Phratries of Attica*, p. 229 n. 135, and pp. 122-3.

τῶν φρατέρων above), Lambert persuasively suggests that the speaker's phratry may have overlapped closely with the deme Halimous in the same manner as the Deceleieis phratry did with the deme Decelea.¹¹⁶ The speaker's primary intention by mentioning his time serving the phratry in this capacity is that his fellow members had no concerns regarding his father's citizen status.

[24] **πότερόν ποτ' ἀστός ἢ ξένος ἦν ᾧ ταῦθ' ὑπήρχεν:** 'whether someone who has this backing was a citizen or a foreigner'. Euxitheos' use of the word ἀστός in opposition to ξένος here is particularly interesting. Since his witnesses have just given their testimonies regarding Thoucritos' citizen status, one might expect the speaker to employ the term πολίτης.¹¹⁷ Aristotle expressly differentiates between the civil rights of the ἀστός and the additional political rights of the πολίτης (*Pol.* 1278a34).¹¹⁸ If Euxitheos only had his father in mind when making this statement before the jury, πολίτης ought to have been the more appropriate term. However, his use of ἀστός might be better understood by a passage from the *Athēnaiōn Politeia*; the author uses πολῖται to refer to the men who shared in the rights of Athenian citizenship but specifically utilises ἀστοί to denote both the men and women of citizen birth from whom this citizenship was transmitted ([Arist.] 26.3, cf. 42.1). If Euxitheos had both of his parents in mind when making this statement before the court, his use of the term ἀστός does make sense. He must defend the citizen status of both his father and his mother in order to convince the jury of his own entitlement to citizenship (cf. his use of ἀστός in reference to Thoucritos' parentage at §30, see εἰ καὶ

¹¹⁶ Lambert, *The Phratries of Attica*, p. 71 n. 54, cf. p. 109 n. 52.

¹¹⁷ Both ἀστός and πολίτης express a civil connection to the community; with the former deriving from the ἄστυ (settlement), and the latter from the πόλις (city). The two nouns make an early appearance in the Homeric poems, although neither is applied in a legal sense (ἀστός: *Il.* 11.242, *Od.* 13.192; πολίτης: *Il.* 2.780, 2.806, 15.558, 22.429, *Od.* 7.131, 17.206).

¹¹⁸ Two earlier sources appear to make a similar distinction between the two terms, though they offer no such explanation for their doing so (Thuc. 6.54.2; [Dem.] 59.107). But a clear division is not always exhibited in the sources. Indeed, the term ἀστός could be used in reference to political rights, though it is rare (Ar. *Birds*, 33-4, *Eccl.* 459-60).

κατὰ θάτερα ἀστὸς ἦν). It is worthy of note that Whitehead makes an alternative proposal regarding the speaker's choice in terminology; irrespective of the true distinction between ἀστὸς and πολίτης, he contends that the contrast between ἀστὸς and ξένος became a traditional cliché.¹¹⁹ In light of the frequency with which these two terms are used in opposition to one another in Greek literature, his argument certainly bears merit (Pind. *Oi.* 7.89-90; Hdt. 2.160.4, 3.8.2; especially at Athens: Thuc. 2.34.4, 2.36.4, 6.27.2, 6.30.2; [Dem.] 46.22, 59.16; [Andoc.] 4.10; Lys. 6.17, 12.35; Pl. *Ap.* 30a, *Rep.* 563a). Ultimately, it appears that Euxitheos' use of ἀστὸς was intended to signal a civic status bestowed by a person's birth right, and not one which was specifically granted by gender or legal age. While ἀστὸς is translated as 'citizen' here in order to convey Euxitheos' differentiation between citizen status and foreign, the feminine form has also been translated as 'native' elsewhere in the speech when it was applied alongside the female form of πολίτης (see ἀστὴν ταύτην καὶ πολίτιν εἶναι at §43).

παρεσκευάσθαι τούτους: 'we had suborned them'. In an earlier passage, Euxitheos accuses Euboulides of having induced a number of the demesmen to vote against him at the deme assembly (cf. ἐν δὲ τούτοις ἦσαν ἅπαντες οἱ τούτῳ παρεσκευασμένοι at §10). Here he claims that, since so many men from the various social groups can verify his account with regard to Thoucritos' citizen status, it would be highly unlikely for him to have bribed such a great number to testify in his favour. The body of witnesses which Euxitheos can bring with him to court is certainly a strength in his case.

ὅσοισπερ ἕκαστος ὑμῶν: 'as many as each of you belong to'. Though the content of the depositions was not recorded, it is clear from the context that they must have confirmed that both he and his father passed the scrutinies for the various social groups. Moreover, Euxitheos attempts to identify with the jury by appealing to their individual experience

¹¹⁹ Whitehead, *The Ideology of the Athenian Metic*, p. 60.

of having gone through similar admission procedures themselves. There is certainly an element of flattery to this comment (cf. his further attempts at adulation, §§56-7); while deme membership was compulsory, not all jury members would have belonged to a phratry or genos but they may have wished to do so.

γεννήταις: ‘members of the genos’. By including the genos in his list of social groups in which he has been tested, Euxitheos suggests that he had been successfully admitted to this group.¹²⁰ However, nowhere in his speech does he openly confirm that he is indeed a genos member, though he does confirm his father’s membership (see τούς γεννήτας at §23).

[25] εἰ μὲν τοίνυν εὖπορος ὢν ὁ πατήρ χρήματα δοὺς τούτοις ἐφαίνετο πείσας συγγενεῖς αὐτοῦς ἑαυτοῦ φάσκειν εἶναι: ‘Now if it was shown that my father was rich and gave money to these men to persuade them to say that they were his relatives’. See χρήματ’ αὐτῷ προστιθέντες οὗτοι τοῦ γένους μετεδίδουσιν below.

λόγον εἶχεν <ἄν> ὑποψίαν τιν’ ἔχειν ὡς οὐκ ἦν ἀστός: ‘it would be reasonable to have some suspicion that he was not a citizen’. Here, Dilts follows Schaefer in supplying ἄν.¹²¹ The combination of ἔχω and λόγος signify a statement of theory or reasoning and, when

¹²⁰ Andrewes, however, has an altogether different theory regarding Euxitheos’ allusion to the γεννήται; he sees this statement as evidence that Thoucritos did not actually belong to a genos, in ‘Philochoros on Phratries’, pp. 6-9. Andrewes proposes that the reference to the γεννήται here (and also at §§23 and 67) only reveals that the genos formed the elite of Thoucritos’ phratry and controlled the cults therein. While his theory that Thoucritos’ father was not a member does provide one explanation as to why Euxitheos has nothing to say about his own admission to the genos, it is by no means the only one. Taking a more straightforward view of the matter, it seems more plausible that here Euxitheos simply sought to flatter the jury by assuming that they all belonged to *genē*. Nothing overtly suggests that the speaker’s references elsewhere were anything but confirmation for Thoucritos’ communal belonging; one would expect that Euboulides would have taken full advantage of Thoucritos’ lack of membership in the genos in his case against Euxitheos, and the speaker would then have attempted in some way to explain his exclusion before the jury. Therefore, there is no solid reason to doubt that Thoucritos belonged to a genos.

¹²¹ Dilts (ed.), *Demosthenis Orationes* IV, p. 259; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 259. See Schaefer, *Apparatus criticus et exegeticus ad Demosthenem* (1824-7).

taken with the infinitive verb, Schaefer's addition appropriately represents the potential optative.

πένης ὢν: 'he was a poor man'. The word πένης bears the sense of a man with little means, as opposed to one who is completely without (πτωχός, 'beggar'). Since Euxitheos does not specify what kind of property his father received from his family or even what size it was (see ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν at §19), it is still plausible that he found it difficult to make an ample living from it to support a wife and children upon his return from Leucas (for his enslavement see πραθεῖς εἰς Λευκάδα at §18). Thoucritos' poverty would certainly explain why Nicarete found it so difficult to cope financially in his absence; she had to resort to working as a wet-nurse (see ἐν ἀπορίαις at §42) and then as a ribbon-seller (see ταινίας πωλεῖν at §31). However, Euxitheos may have indeed exaggerated his father's financial situation in order to induce the jury's pity and discredit any claim that his father bought witnesses. Subsequent statements made by the speaker indicate that, at the time of the speech, he was financially comfortable (see πολλὰ δ' ἐκ πενήτων πλούσια νῦν at §45), if not particularly wealthy (§§52, 64 and 65). Unfortunately, it is impossible to tell how much of this apparent fortune he had actually inherited and how much he had acquired.

χρήματ' αὐτῷ προστιθέντες οὗτοι τοῦ γένους μετεδίδοσαν: 'they would not have admitted him into their genos and also given him money'. Having dismissed claims that he had suborned men to speak on his behalf (see παρεσκευάσθαι τούτους at §24), Euxitheos reverses the claim that his father was rich enough to bribe witnesses (see above) and states that their relatives actually gave Thoucritos money. For the irony, see §§26 and 48.

ἀλλ' ἦν, ὡς τό τ' ἔργον ἐδήλωσεν καὶ ὑμῖν μεμαρτύρηται: 'But he was their relative, as both their action has shown and as they have testified to you'. For a similar linguistic expression, cf. ἐδήλωσε δὲ αὐτὸ τὸ ἔργον at Dem. 56.13.

ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθείς: 'he was selected to offices by lot and having been approved by scrutiny he held office'. The speaker's point is that his father's citizen status could have been challenged at any of the scrutinies that he underwent before he took up office. No public office, whether it was appointed by sortition such as these referred to here, or election, or indeed πρόκριτοι (selection from a preliminary list, see §§46-8 and 62), could be ratified without the candidate having passed the δοκιμασία. This process verified the candidate's eligibility with regard to his birth and character, and whether or not there were any existing preclusions to prevent him from assuming the role such as holding the same office previously or having lost his civic rights through ἀτιμία ('dishonour'). A candidate also had to have been married according to Athenian law in order to hold office (see ὅτι κατὰ τοὺς νόμους ὁ πατήρ ἔγημεν at §69). The juries heard appeals from candidates who were subsequently rejected at the δοκιμασία ([Arist.] *Ath. Pol.* 55.2).

Euxitheos does not specify which offices his father held, only that they were selected by lot, but he probably refers to those within his deme (see καὶ ἐμὲ καὶ τὸν πατέρα δημότας αὐτῶν εἶναι ψηφισαμένους, πρῶτον μὲν γε τοῦ πατρὸς δοκιμασθέντος, εἶτ' ἐμοῦ at §62). He does, however, support his account of his father's term in office with a deposition. Seeing as Thoucritos must have passed the scrutiny in order to hold office, Euxitheos employs it as a further proof of his father's citizen status.

[26] **ἐκεῖνον ξένον καὶ μὴ πολίτην:** 'that man as a foreigner and non-citizen', this is heavy irony, see §48; cf. §25.

ἀλλ' οὐκ ἂν κατηγορεῖν: ‘but would not prosecute him?’. During a δοκιμασία procedure, prospective officials had to answer a series of questions (cf. §§66-7), before those overseeing the proceedings asked if anyone wished to bring a charge against the candidate ([Arist.] *Ath. Pol.* 55.4: ἐπειδὴν δὲ παράσχηται τοὺς μάρτυρας, ἐπερωτᾷ ‘τούτου βούλεται τις κατηγορεῖν;’). If an objection was made, the matter was brought to trial and was put to the vote after both the accusation and the rebuttal were heard. If no charge was made, those present at the δοκιμασία voted immediately. Euxitheos asks the jury to consider the likelihood of the demesmen of Halimous allowing his father to hold office instead of bringing a suit against him if there was any doubt with regard to his citizen status.

ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις: ‘Yet emergency votes were taken by the demesmen’. A διαψήφισις was undertaken on the rare occasions when a deme had to review the registration of its members because of improper enrolments (see τὴν διαψήφισιν at §7) or when the deme register had to be reconstructed.¹²² Here, διαψηφίσεις ἐξ ἀνάγκης refers to votes taken out of necessity when the register was lost (see ὅτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου below). The plural of διαψήφισις is used in order to refer to the vote on each demesman. This compulsory vote due to the loss of the register is again referred to at §61.

ὁμόσασιν καθ' ἱερῶν: ‘who had sworn over sacrifices’. A similar oath was sworn by the demesmen present at the annual enrolment of new members ([Arist.] *Ath. Pol.* 42.1; cf. κύριος ὢν τοῦ θ' ὄρκου at §8).

ὅτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου: ‘when their deme register was lost while Antiphilos,

¹²² For a full analysis of this process, see Introduction, pp. 26-30.

Euboulides' father, was serving as *dēmarch*'. This is the first mention of the name of Euboulides' father, Antiphilos. Nothing else is known about Antiphilos other than the information provided by Euxitheos that he held the office of *dēmarch* in Halimous before 346/5 BC (two honorific decrees which mention Antiphilos' name only confirm that he was Euboulides' father: *IG II²* 218, 5-6 and *IG II³* 302, 6-9). Moreover, this statement is also the speaker's first explicit reference to the office of the *dēmarch*. The *dēmarchy* was a public office, held for a year, and each *dēmarch* was selected by lot from among the deme's members. The *Athēnaiōn Politeia* reports that the position was established under Cleisthenes ([Arist.] 21.5), and the author probably included it among the offices that could only be held once in a man's lifetime ([Arist.] 62.3). Since every deme presumably had its own *dēmarch*, those selected for this office should be regarded as *polis* officials working at a local level.¹²³ Their responsibilities included implementing matters agreed upon at their own deme assembly and applying regulations laid down by the state: from erecting inscriptions to implementing decrees, offering sacrifices and maintaining sacred spaces, ensuring the proper burial of members of the deme (Dem. 43.57-8), and collecting debts and taxes from their fellow demesmen.¹²⁴ Regarding this final duty, Euxitheos pointedly asserts that his official role as debt-collector caused at least some of the hostility towards him, see §§63-4.

Unlike Antiphilos and Euxitheos himself (see εἰ δὲ δεῖ τὴν δημαρχίαν λέγειν at §63), Euboulides is never expressly called a *dēmarch* at any stage in the text but it may be possible that he also held this office as some of his official duties, as stated in the text, normally fell to the *dēmarch* (see κύριος ὢν τοῦ θ' ὄρκου at §8; κατέτριψεν τὴν ἡμέραν

¹²³ Whitehead lists the evidence which explicitly confirms their existence in around thirty demes and concludes that every deme had such an official, and indeed, no more than one at a time, see *The Demes of Attica*, pp. 58-9 nn. 84-5.

¹²⁴ For a full discussion of the functions and character of the *dēmarch* as agent of his deme assembly and as agent of the state, see Whitehead's *The Demes of Attica*, pp. 121-38. He also argues that because of the responsibilities of the *dēmarch*, it may be surmised that the candidate pool for the office was reduced by selecting only those 'willing and able' and then casting lots between those believed to be competent enough to satisfy its requirements, see p. 139.

δημηγορῶν καὶ ψηφίσματα γράφων at §9; τὴν δὲ ψῆφον εὐθὺς ἐδίδου at §13; τί ποτ' ἦν τὸ δυσχερὲς Εὐβουλίδῃ ἀναβαλέσθαι εἰς τὴν ὑστεραίαν at §15). The speaker's earlier reference to Euboulides' custody of the deme register appears to tie him specifically to the role since it was the *dēmarch* who was normally responsible for its supervision (for both the register and Euboulides' care of it, see τῶν γραμμάτων and ἐξ ὧν ἀνεκάλει τοὺς δημότας at §8). With the register in the custody of one man and probably kept at his residence, it was at risk of both accidental damage and deliberate destruction. At this stage in his speech, Euxitheos refers to the prior loss of Halimous' register as a fact but, when he returns to the topic of Antiphilos' *dēmarchy* again, he claims that his opponent's father was being deceitful about the loss of the register in order to blackmail fellow demesmen (see τεχνάζει βουλόμενος παρά τινων λαβεῖν ἀργύριον, καὶ ἔφη τὸ κοινὸν γραμματεῖον ἀπολωλέναι at §60) and to expel his personal enemies (see ὅπου καὶ τοὺς ὄντας πολίτας συνιστάμενοι ἐξέβαλον at §61). We cannot know for certain if Euxitheos is telling the truth about Antiphilos' corruption or indeed how frequently allegations such as this occurred, but *dēmarchs* abusing their position and interfering with the register was certainly a plausible event (one speech mentions a corrupt *dēmarch* who entered a name illegally, [Dem.] 47.37). Since the year of Antiphilos' *dēmarchy* is not known, we cannot know when the register was lost and the compulsory votes were carried out by the demesmen. Apart from his reference to these events occurring during Antiphilos' *dēmarchy*, the only details that Euxitheos provides are that the elders could recall this event (ταῦτα πάντες ἴσασι οἱ πρεσβύτεροι at §60) and that his father was not challenged in terms of his legitimacy (καὶ ὦν ἐχθρὸς τῷ ἐμῷ πατρὶ τότε οὐ μόνον οὐ κατηγόρησεν, ἀλλ' οὐδὲ τὴν ψῆφον ἤνεγκεν ὡς οὐκ ἦν Ἀθηναῖος at §61).

καὶ τινὰς ἀπήλασαν αὐτῶν: 'and they ejected some of their members'. Euxitheos notes that some deme members were indeed ejected as a result of the compulsory votes by ballot (see ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις above). He later states

that ten were expelled, nine of whom were subsequently reinstated (see καὶ κατηγορῶν δέκα τῶν δημοτῶν ἐξέβαλεν, οὓς ἅπαντας πλὴν ἑνὸς κατεδέξατο τὸ δικαστήριον at §60). Crucially, however, Thoucritos was not amongst those who were cast out after Antiphilos' compulsory votes, as the speaker subsequently confirms at §61. While Euxitheos' main point is to convey that nobody had ever made any allegations against his father's status, despite the fact there had been an ample opportunity for them to do so with the loss of the register, his comment also highlights the lack of transparency in the διαψήφισις procedure. Management at a local level and the manner in which the voting was conducted facilitated abuses in this process for the sake of settling political disputes and personal rivalries. Without the ability to provide physical evidence to confirm his citizen status, it was very difficult for a man to counter any prejudiced accusations that might be laid against him during a deme's διαψήφισις.

[27] **καίτοι πᾶσιν ἔστιν ἀνθρώποις τέλος τοῦ βίου θάνατος:** 'And yet for all men death is the end of life'. The same formula is utilised in Dem. 18.97, with πέρασ in place of τέλος (πέρασ μὲν γὰρ ἅπασιν ἀνθρώποις ἔστι τοῦ βίου θάνατος). However, it does not appear elsewhere in the Attic orators. With this statement, Euxitheos refers to the death of his father; this must have occurred at some stage before the speaker came of age (see ἔτι τοίνυν ὀρφανὸς κατελείφθη at §52 and με εὐθέως ἦγον εἰς τοὺς φράτερας at §54), though no details are given regarding the date or even circumstances.

καὶ περὶ ὧν μὲν ἂν τις ζῶν αἰτίαν σχῆ {περὶ τοῦ γένους}, δίκαιον τοὺς παῖδας τὴν ἀειλογίαν παρέχειν: 'for whatever reason a man might be accused while alive, it is right that his children always have to account for his conduct'. Dilts maintains Taylor's deletion of περὶ τοῦ γένους, because he similarly considers it to be spurious.¹²⁵ The

¹²⁵ Dilts (ed.), *Demosthenis Orationes* IV, p. 260; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 259. For J. Taylor's edition, see *Demosthenous, Aischinou, Deinarchou kai Demadou ta sozomena* (1748-57).

possible accusations to which the speaker refers must denote a wide range of offences for which future generations inherit the blame for the conduct of their ancestors. Euxitheos' statement demonstrates the ancient Greek notion that the family existed as a single entity in which both honour, and the more forceful dishonour, carried from generation to generation. This concept of 'inherited guilt' had a long history behind it, though it is first explicitly defined in Solon's poem, *Elegy to the Muses* (fr. 13, 25-32 West).¹²⁶ Here, Solon relates how a man may escape retribution himself but, in due course, his children or subsequent descendants will be punished. This belief was so widespread and influential that it echoed throughout Greek literature.¹²⁷ It also appears in Attic oratory, especially in cases of impiety and perjury (Lys. 6.20; Isoc. 11.25; Lycourg. 1.79). Such sources, when viewed in conjunction with Euxitheos' statement, make it abundantly clear that the Athenian family existed as a single unit both legally and morally, and that a son inherited his father's crimes in exactly the same manner as he received his estate.

πῶς οὐ δεινὸν εἰ τοῦς παῖδας ὁ βουλόμενος κρινεῖ: 'is it not terrible that someone wishing to do so can now put his children on trial for these things?'. Dilts adheres to Bekker's use of the future κρινεῖ, rather than the present form κρίνει which appears in some of the manuscripts.¹²⁸ The future tense rightly conveys Euxitheos' description of a possibility rather than a fact.

¹²⁶ For Solon's poem, see West, *Greek Lyric Poetry*, p. 77. E. R. Dodds describes the concept related by Solon as 'the characteristic archaic doctrine', in *The Greeks and the Irrational*, pp. 33-4, 150-6. Notably, however, R. Parker was the first scholar to analyse the earlier presence of inherited guilt in Homer for cases of oath-breaking (which was an offence against the gods: Hom. *Il.* 4.158-65; cf. Hes. *Works and Days*, 282-5); see *Miasma*, pp. 198-206.

¹²⁷ In the most recent comprehensive study of the matter, R. Gagné tracks the appearance of this concept from Homer and Hesiod, to its use by Herodotus and to its pervasive presence in Attic drama; see *Ancestral Fault in Ancient Greece* (2013). Moreover, Gagné argues that the phrase 'inherited guilt' carries Christian connotations and so he prefers the label of 'ancestral fault' instead.

¹²⁸ Dilts (ed.), *Demosthenis Orationes* IV, p. 260; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 259. For I. Bekker's edition, see *Oratores Attici* (1823).

καλῶ καὶ τούτων μάρτυρας: ‘I call witnesses to these things too’. Since the original deme register was allegedly lost during Antiphilos’ *dēmarchy* and its replacement was created under corrupt practices (see §§26 and 60), Euxitheos lays a greater emphasis on witness testimony in order to verify his father’s belonging (see also *καὶ ταῦτα πάντα μεμαρτύρηται* at §62). Not only was it crucial for these witnesses to confirm that nobody accused Thoucritos during the vote to reconstruct the register, but they presumably also verified that the newly created register did indeed list him amongst its members.

[28] Ἔτι τοίνυν παίδων αὐτῷ τεττάρων γενομένων ὁμομητρίων ἐμοὶ: ‘And furthermore, four sons were born to my father from the same mother as myself’. Four other sons were born from the marriage of Thoucritos and Nicarete and, if one accepts Euxitheos’ account of his parents’ relationship, they were thus his full siblings. With Nicarete’s birth year estimated to be no later than 420 BC (see *παιδίων αὐτῇ δυοῖν ἤδη γεγεννημένων* at §42) and her marriage to Thoucritos assigned to 395 BC (see *Θούκριτον τὸν πατέρα τὸν ἐμόν* at §41), she must have been an old woman in her early seventies by the time of the appeal in 346/5 BC.¹²⁹ Despite having had more than six children, Euxitheos’ speech indicates that only one daughter survived from Nicarete’s first marriage to Protomachos (see *θυγάτηρ* at §40 and *παῖδας ποιησάμενος* at §43) and that the speaker himself outlived her subsequent children from Thoucritos (see below). With so many deceased offspring, Gernet posits that Euxitheos was a metic who had bought his way into a poor Athenian family and had concealed himself by borrowing one of their names (cf. §§52-3).¹³⁰ Such practices were not unknown (Isae. 12.2). However, if

¹²⁹ In opposition to Davies, Lacey places Nicarete’s marriage to Thoucritos between 410 and 405 BC before his participation during the Decelean War, specifically having Euxitheos and a second child by him before he left, in ‘The Family of Euxitheus (Demosthenes LVII)’, p. 59. He also dates her financial difficulties to 405-403 BC, making Nicarete less than twenty years old when she had borne a daughter to Protomachos and her first two children to Thoucritos. Yet his dates seem a little early in light of other evidence from the text (see nn. 74 and 182) and Davies’ dates seem to me to be more likely.

¹³⁰ L. Gernet, *Plaidoyers Civils* Tome IV, p. 11. S. C. Humphreys draws a somewhat similar conclusion, wherein both Thoucritos and Nicarete were passing Euxitheos off as their legitimate son and that their poor

Gernet's theory is correct, all of Euxitheos' purported relatives must have been lying to the court. Alternatively, if Euxitheos was indeed born a metic, he could have been smuggled into Thoucritos and Nicarete's family in infancy.¹³¹ It is not implausible that Nicarete's work as wet-nurse (§42) brought her into contact with a rich metic family and that she was paid a substantial sum to raise Euxitheos as her own citizen child. The advantage of this second hypothesis is that it allows for the speaker's extended family to be telling the truth to the best of their knowledge. If nobody other than Nicarete and the baby's birth mother knew the details of Euxitheos' birth, then Euboulides would have had no evidence of this event to use in court.

ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα: 'he buried them in the ancestral burial mounds' (see also εἶθ' οἷς ἠρία ταυτά at §67; cf. τὰ ἱερὰ τὰ πατρῶα at Isae. 2.46 and ἱερὰ πατρῶά at Dein. 2.17). Euxitheos' four brothers were all dead before his appeal. Unfortunately, the speaker provides no detail as to how and when they died. His reference to their burial in the ancestral mounds was intended to serve as the final proof of his father's acceptance by his family (completing the line of defence which he began at §19). In another lawcourt speech, the speaker Sositheos utilises the fact that the defendant's father and grandfather were not buried in the ancestral burial place as proof that his opponent bears no relation to the family (Dem. 43.79-81). Only those recognised as kin, whether by blood or through adoption, were buried in the family grave; to admit those considered to be outsiders to the *oikos*, such as illegitimate offspring, would have dishonoured one's ancestors. A passage from the *Athēnaiōn Politeia* reveals that a candidate at the δοκιμασία was asked whether

relatives had been bribed to go along with the deception, in 'Kinship Patterns in the Athenian Courts', pp. 60-2.

¹³¹ For the treatment of supposititious children, see A. Powell, *Athens and Sparta*, pp. 364-8; Ogden, *Greek Bastardy in the Classical and Hellenistic Periods*, pp. 108-10. K. McGroarty has conducted a wide-ranging survey of the extant sources which refer to the practice of fraudulently introducing a child into an *oikos* and subsequently presenting it as a legitimate heir, in 'Swapping the Swaddling' (2015). McGroarty's study gives due consideration to the possibility that the wife acted alone and in secret, and that the husband also engaged in this activity in collusion with his wife. Of the two scenarios, the existence of the latter would indeed remove some of the practical difficulties related to bringing a supposititious child into the household.

he has family tombs and where they are: εἶτα ἡρία εἰ ἔστιν καὶ ποῦ ταῦτα ([Arist.] 55.3; cf. ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα at §70). Familial bonds and obligations continued after death and, for those who could afford it, burials with or alongside one's kin were most desirable (Dem. 43.57-8; Isae. 6.64-5; it was important that someone dear to the deceased carried out the proper funerary rites, Isae. 4.19, 9.4, 7). This facilitated Athenian religious practices that were required to maintain the family connection: including regular visits to the tombs, bringing food and drink offerings, and taking gifts and items with which to decorate the monumental *stele* (Hdt. 4.26; Pl. *Laws*, 717e; Isae. 6.51, 65, 7.30, 32, 9.7).¹³² Indeed, having one's worst enemies perform these rites over the burial mound was a very real fear for an Athenian (Isae. 1.10, 9.36). Worse still was having no burial (Andoc. 1.138; Lycourg. 1.45). Ultimately, it is clear from the source material that the ability to refer to burial in a family grave is an important point in establishing one's claim to citizenship. Thucritus' burial of four of his sons in his ancestral mounds openly acknowledges their recognisable citizen status and Euxitheos uses this as proof of his own.

ὧν ὅσοι ἐρ εἰσι τοῦ γένους κοινωνοῦσι. 'which are shared by as many as share in the genos'. Euxitheos ascribes a common burial ground to all members of his genos, since the members are all part of the same descent group. By mentioning the fact that the members of the genos share this burial ground, Euxitheos indirectly identifies his deceased brothers as recognised members of the genos and also emphasises his family's continued relationship to this exclusive group.

¹³² Apart from celebrating the birthdays of deceased relatives, Wyse finds that yearly visits were made to family burial mounds on the day of 'all souls', during the Athenian festival of the Anthesteria (roughly February); see W. Wyse on Isae. 2.46, in *The Speeches of Isaeus*, pp. 269-71. R. Garland provides further detail in *The Greek Way of Death*, pp. 66-8, 104-120; see especially pp. 106-7 for group burial mounds.

[29] **μάρτυρας παρέσχημαι τοὺς ὑπ’ αὐτῶν τούτων ἐψηφισμένους εἶναι πολίτας:**

‘I have brought forward as witnesses those who these very conspirators have voted to be citizens’. The witnesses that Euxitheos refers to here are those who were related to his father through the male line, listed at §§20-1: Thoucritides II and Charisiades (first cousins once removed to the speaker), and Niciades (another first cousin once removed) and his son Nicostratos (a second cousin). These men belonged to the same deme as Thoucritos and Euxitheos and, since they did not face trial themselves, they thus had to have passed both the annual scrutiny for enrolling new members (see κύριος ὢν τοῦ θ’ ὄρκου at §8),¹³³ and the emergency deme διαψηφίσις when the register was lost (ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις at §26). Euxitheos exploits the fact that his relatives’ citizen status has gone unquestioned and brings them before the jury as crucial witnesses of both his father’s right to citizenship and his own.

μαρτυροῦντας ἐκεῖνον ἑαυτοῖς ἀνεψιὸν εἶναι: ‘to testify that my father was their first cousin’. These witnesses confirmed their relationship with the speaker’s father, and with the exception of Nicostratos who was in fact a first cousin once removed (ἀνεψιαδοῦς), they were all first cousins to Thoucritos.

§§30-45: Euxitheos’ mother

The subsequent passages primarily concern Euxitheos’ mother, Nicarete (first named at §68). Insofar as they can be reconstructed from Euxitheos’ speech, the accusations which Euboulides has made against Nicarete centre on her lowly employment: initially as a wet-nurse (§35), and then as a ribbon-seller (§34). Without the ability to own land in Attica, most metics engaged in trade and manufacture.¹³⁴ Euboulides must have asked the jury

¹³³ For deme membership, see also Appendix 4, pp. 289-92.

¹³⁴ For an overview of the Athenian privileges which were denied to metics, see τὸν γε ξένον καὶ μέτοικον at §48.

to suppose that because many metics are employed in this field those who are seen engaging in retail are most likely to be metics. Though he plays upon the common prejudices against menial occupations, trade was by no means closed to Athenian citizens. Nicarete's sex is also relevant. The seclusion of Athenian women was a custom and ideal established by their male counterparts. In principle, respectable wives of citizens were supposed to be segregated from men other than their immediate family and were occupied by domestic chores. Yet, in practice, such separation was only attainable for the upper classes. Inevitably, Athenian women who belonged to poor families had to work outside the confines of the home in order to supplement the income of their household. But ideological pressure meant that there was a marked difference between work undertaken by women in remote or private spaces, such as agricultural work or even midwifery, and that carried out in the public gaze (cf. φανεράν πᾶσιν at §34), such as work in the ἀγορά (marketplace). Nicarete's exposure in public may have been financially necessary but it was nonetheless highly unfavourable for an Athenian woman.

[30] εἰ καὶ κατὰ θάτερα ἀστὸς ἦν: 'even if he was a citizen on only one side'. For the use of this terminology, see πότερόν ποτ' ἀστὸς ἢ ξένος ἦν ᾧ ταῦθ' ὑπῆρχεν at §24 and ἀστὴν ταύτην καὶ πολίτιν εἶναι at §43.

γένονε: 'he was born'. The perfect tense is employed by the speaker to suggest that there were implications from this event for the present.

πρὸ Εὐκλείδου: 'before the archonship of Eucleides'. Eucleides held the office of *archōn* in the year 403/2 BC (Isae. 6.47, 8.43; Dem. 43.51). On the proposal of Aristophon, Pericles' citizenship law was re-introduced to address the situation of civic rights being exercised by those born of non-citizen women (Aristophon is named with regard to another piece of legislation at §32, see τὸν Ἀριστοφῶντος). It seems most likely that initially the legislation was retroactive, but an amendment by Nicomenes determined that

it should not be applicable to those born before that year and they were exempt from birth scrutiny.¹³⁵ This exemption implies that this was the only action taken by the *polis* on this occasion and that there was no διαψήφισις.¹³⁶ Thus, Thoucritos was legally entitled to Athenian citizenship even if his mother had not been a freeborn woman, since he was already an adult when the law was reintroduced (see ὑπὸ τὸν Δεκελεικὸν πόλεμον at §18). Nevertheless, Euxitheos strives to remove any doubt of his father's entitlement by showing that he was indeed born to an Athenian mother, and thereby strengthening his appeal to be reinstated as a citizen himself.

περὶ δὲ τῆς μητρὸς (καὶ γὰρ ταύτην διαβεβλήκασι μου) λέξω: ‘And I will speak about my mother (for they also slander me with regard to this woman)’. Since Euxitheos was born approximately fifteen or sixteen years after the re-enactment of Pericles’ citizenship law in 403/2 BC (see ἀποδημοῦντος μετὰ Θρασυβούλου at §42), he needed two Athenian parents to be legally entitled to Athenian citizenship. It has been suggested, however, that a particular strength in Euxitheos’ appeal lies in the fact that Euboulides excessively maligned both Thoucritos and Nicarete on different grounds, when it would have been sufficient to target only one parent to disfranchise the speaker.¹³⁷ While this statement is in essence true, it seems more likely that Euboulides made accusations against both Euxitheos’ mother and father as a security measure; persuading an assembly of demesmen, who would have been familiar with Euxitheos and his relatives, to expel him based on a foreign accent or an occupation alone would have been a risky undertaking for an official like Euboulides. Therefore, for Euboulides, attacking two parents served as a guarantee; for Euxitheos, defending both alike was a necessity.

¹³⁵ See nn. 77 and 78 in the Introduction.

¹³⁶ I follow Lambert in believing that such an exemption meant that there was no need for an extraordinary scrutiny to be implemented throughout the Attic demes, and that the phratries and the *genē* continued to take their own measures with respect to their own membership, see *The Phratries of Attica*, pp. 48-9.

¹³⁷ Lape, *Race and Citizen Identity in the Classical Athenian Democracy*, pp. 204-5.

Rather than directly countering Euboulides' accusations against Nicarete's status, Euxitheos argues that her occupations are evidence not of her birth but of her financial circumstances. He thus makes the issue all about his family's poverty.

Παρά τὸ ψήφισμα: 'contrary to the decree'. Dilts accepts Blass' correction, τὸ ψήφισμα, in place of τὰ ψηφίσματα ('decrees') which is denoted in most of the manuscripts.¹³⁸ It is highly plausible that the single decree mentioned here is the same as at §7, namely that of Demophilos (see τὴν διαψήφισιν and παρά τὸ ψήφισμα). Nevertheless, Euxitheos does not specify which decree he is referring to, nor does he quote from the law. But having directly addressed the jury, Euxitheos may have believed that the jurors knew to which decree he was referring and that he had no need to denote its terms. It would certainly make sense for Euxitheos to argue that Euboulides' slander of citizens for doing business in the marketplace does go against Demophilos' decree which was only directed at ejecting illegal aliens.

παρὰ τοὺς νόμους: 'against the laws'. Euxitheos claims that Euboulides' actions also break Athenian laws against slander (κακηγορία). Various laws dealing with defamation are attested in the source material: firstly, it was illegal to insult the memory of the dead under any circumstances (Dem. 20.104; cf. Plut. *Sol.* 21); secondly, it was prohibited to make a slanderous statement about a living person in certain public places (for example, insulting a public official in court: Lys. 9.6). Lysias' *Against Theomnestos*, dating to 384/3 BC, provides further details as to what specifically constituted slander under Athenian law: it was illegal to accuse a man of murder, of assaulting his parents, or of

¹³⁸ Dilts (ed.), *Demosthenis Orationes IV* (2009), p. 261; cf. Rennie (ed.), *Demosthenis Orationes III* (1963), p. 260. For F. Blass's edition, see *Demosthenis Orationes III*, p. 257. However, it must be noted that the use of the plural here could have been deliberate exaggeration on the part of the speechwriter, with Demosthenes referring to numerous decrees for rhetorical effect. This would mean that the reading of τὰ ψηφίσματα in the majority of the manuscripts is genuine. But given both the context and the fact that the singular form corresponds with Demosthenes' earlier reference to the decree (§7), I ultimately accept Blass' emendation.

deserting his position in battle (Lys. 10.6-9). Presumably other offences were also prohibited which are not related in Lysias' text, including the one which made it illegal to reproach a citizen for his or her employment in the marketplace. Unfortunately, Euxitheos also fails to cite the slander laws and does not ask for any of them to be read aloud to the jury, as he does with other legislation that he utilises in following lines (see both §§31 and 32). The existence of slander laws pertaining to trade would stand as a clear indication that citizens involved in such occupations were frequently susceptible to abuse. However there is no further reference to corroborate the information provided by Euxitheos which specifically relates to the defamation of citizen tradespeople and indeed it is not clear whether such laws could be actively enforced. They certainly did not prevent Aristophanes from his notorious attacks on Euripides' mother, Cleito, for selling vegetables in the agora (*Ach.* 478, *Thesm.* 387, 456, *Frogs*, 840).¹³⁹ Since Euxitheos fails to offer any information about the stipulations in the laws, it is indeed possible that he may be exaggerating their reach.

ἔνοχον εἶναι τῇ κακηγορίᾳ: 'is liable for slander'. Athenian slander laws penalised false assertions and abusive language at a price of five hundred drachmas (Dem. 21.88; Lys. 10.12; Isoc. 20.3). Initially, when Solon established laws against slander, he set the penalty at three drachmas to be paid to the person slandered and two to the public treasury (Dem. 20.104, 40.49; Plut. *Sol.* 21.1). The amount to be paid had certainly increased significantly by the fourth century but it is not known whether the payment continued to be divided between the person slandered and the state. Nevertheless, a person was guilty of slander only if what he claimed was actually false; if the claim was proven to be true, then no offence had been committed (Dem. 23.50; Lys. 10.23, 30).

¹³⁹ While it is true that things could be said on the comic stage which were not permissible in real Athenian society, it is hard to believe that Aristophanic humour would have been so successful if his comedy was not in part based on elements of real life; cf. n. 21 in Appendix 3.

[31] **ἡμεῖς δ' ὁμολογοῦμεν καὶ**: 'And we admit'. The first-person plural pronoun may just be rhetorical usage (cf. ἡμῶν and μετὸν τῆς πόλεως ἡμῖν at §1). However, given that the accusations against his mother centre on *her* employment in the marketplace, the use of 'we' here more likely indicates Euxitheos' involvement in the sale of ribbons along with Nicarete.

ταινίας πωλεῖν: 'to selling ribbons'. The use of the present infinitive suggests that both Euxitheos and his mother continued to be actively engaged in the trade at the time of the speech. The Greek word ταινία, here translated as 'ribbon', is used to describe both headbands worn as a sign of victory after a competition (Pl. *Symp.* 212e; Xen. *Symp.* 5.9; Paus. 6.20.19) and breast-bands worn by young girls (Paus. 9.39.8). Aristophanes employs the use of two other terms to denote similar textiles specifically worn by women: μίτρα for a headband (Ar. *Thesm.* 257, 941) and στρόφιον for a woman's breast-band or girdle: (Ar. *Lys.* 931, *Thesm.* 139, 251, 255). But since Euxitheos only uses the term ταινία (here and again at §35, and ταινιόπωλις at §34), it is not clear what type of ribbons he and Nicarete were selling, or whether they sold a variety for different uses.

ζῆν οὐχ ὄντινα τρόπον βουλόμεθα: 'to not living in the manner we wish'. Here, Euxitheos indicates that he does feel some shame at their way of life. Standing before a jury of his peers, he cannot ignore the stigma attached to menial labour in public opinion. But, by the time of his appeal, Euxitheos is thought to have been financially comfortable (see πολλὰ δ' ἐκ πενήτων πλούσιαι νῦν at §45), or indeed to have been wealthy enough to provide financial aid to his relatives and to have sufficient funds to buy witnesses for his present case (see §52).

ἐγὼ σοι τούτου ὄλως τοῦναντίον ἐπιδείξω: 'I will show you the very opposite of this'. Since the most significant aspect of the attack on the speaker's citizenship concerns the

status of his mother, Euxitheos' defence must deny the connection made by Euboulides between her economic activity and her civic status.

ὅτι οὐκ ἔξεστιν ξένῳ ἐν τῇ ἀγορᾷ ἐργάζεσθαι: 'that it is not permissible for a foreigner to do business in the marketplace'. Euxitheos overturns his opponent's denunciation of Nicarete's employment in the ἀγορά to use it as veritable proof of her citizenship. Sixth century legislation originally prohibited metics from trading in the ἀγορά (see *πρῶτον τὸν Σόλωνος νόμον* below). However, in a subsequent passage, Euxitheos reveals that the law was seemingly relaxed with the introduction of a special tax (see *εἰ ξενικὰ ἐτέλει* at §34; a new clause may have been added to the law when it was re-introduced by Aristophon, see *τὸν Ἀριστοφῶντος* at §32). Foreigners could not engage in trade in Athens without paying this tax and without being registered with an appropriate deme (Poll. *Onom.* 3.57).¹⁴⁰ Both of these requirements would have generated official records, and these documents ought to have been used by Euboulides as proofs in his case against Euxitheos. Nevertheless, the failure to produce such evidence in court does not definitively prove that Nicarete was of Athenian birth, as she could simply have been trading without having fulfilled the necessary conditions for a metic. If that was the case, one would expect Euboulides to have prosecuted her for illegal trading, though Euxitheos would hardly have mentioned any such indictment against Nicarete during his own trial.

πρῶτον τὸν Σόλωνος νόμον: 'first the law of Solon'. Euxitheos quotes a past law that he accredits to Solon, through which only citizens were permitted to engage in business transactions in the ἀγορά. Crucially, Solon's law had to include both male and female citizens for the speaker to avail upon its premise in this case.

¹⁴⁰ Whitehead presents a brief discussion of what little evidence survives about the process for deme registration for metics and the subsequent need to monitor those who had enrolled with regard to their public obligations, in *The Ideology of the Athenian Metic*, p. 75.

However, trade in the marketplace would not enable women of civic birth to make a fortune. There existed another Athenian law, preserved in a speech by Isaeus, wherein it was decreed that women – or children – could not contract for the disposal of more than a bushel of barley (Isae. 10.10). Schaps estimates that this *medimnos* of barley was the equivalent of three drachmas.¹⁴¹ This law was also parodied in Aristophanes' *Ecclesiazusae*, in which men were restricted to transactions below the value of a *medimnos* (Ar. *Eccl.* 1024). The decree certainly had a real impact on the fifth and fourth century Athenian community as large-scale trade by women is virtually unknown even in the documentary source material. While the measure was established to prevent citizen women from participating in large financial transactions, it certainly allowed them to engage in petty trade. Knowledge of the law mentioned by Isaeus supports the picture drawn by the speaker and his reference to Solon's law in which Athenian women are legally permitted to work in the ἀγορά.

[32] τὸν Ἀριστοφῶντος: 'the law of Aristophon', sc. νόμον. A native of the deme of Azenia (Aeschin. 1.64, 158, 3.139), Aristophon proposed many laws during his lengthy political career which spanned the years at the end and in the aftermath of the Peloponnesian War (by his own admission, Aristophon introduced more decrees than any other man: Aeschin. 3.194). In particular, during the archonship of Eucleides (see πρὸ Εὐκλείδου at §30), he is noted for reviving Pericles' citizenship law and seemingly introducing a provision which stated that whoever was born of a citizen father but not an Athenian woman was a bastard (Ath. 13.577b-c).¹⁴² Like so many prominent Athenian politicians, being in the public eye made Aristophon vulnerable to attacks. Indeed, he was accused seventy-five times of making illegal proposals but was acquitted of all charges

¹⁴¹ D. M. Schaps, *The Economic Rights of Women in Ancient Greece*, p. 137 n. 32. This amount was by no means a trivial sum since that volume of barley was estimated to have fed the average family for six days.

¹⁴² See Introduction, pp. 21-5.

in each case (Aeschin. 3.194). His talent for public speaking may have contributed to his successful defence of his motions, as even Demosthenes respectfully notes his rhetorical ability by classing him amongst ‘very able speakers’ (20.146).¹⁴³

In this part of Euxitheos’ speech, the speaker refers to Aristophon’s re-enactment of the law of Solon (cited above). But since Euxitheos later refers to a special tax which allowed metics to trade in the ἀγορά (see εἰ ξενικὰ ἐτέλει at §34), Aristophon’s re-introduction may have included this tax as a new provision.

οὕτω γάρ, ὧ ἄνδρες Ἀθηναῖοι, τοῦτον ἔδοξεν ἐκεῖνος καλῶς καὶ δημοτικῶς νομοθετῆσαι, ὅστ’ ἐψηφίσασθε πάλιν τὸν αὐτὸν ἀνανεώσασθαι. ‘for, Athenian men, it was thought that this man Solon so wisely and justly made this law that you voted to renew it again’. Here, τοῦτον refers to Solon’s law, with ἐκεῖνος referring to he who originally enacted it. It is not stated why or when exactly Solon’s law needed to be re-enacted; presumably, its implementation was no longer being strictly enforced by the end of the fifth and the start of the fourth century BC. By specifying that Solon acted ‘wisely and justly’ in introducing this measure, and also reminding the jurors that they as representatives of the *dēmos* voted to renew it under Aristophon for that very reason (for the speaker’s use of second person, see also εἰ μήτε πείσαντες μήτε δεηθέντες ὑμῶν at §3), Euxitheos highlights the fact that Athenian women like his mother had a right to work in the ἀγορά and were legally granted preferential treatment over both metics and foreigners.

τοὺς συκοφαντοῦντας πονηροῦς: ‘those engaging in *sykophancy* are wicked people’. In a state which had only a minimalist police force for law enforcement, the Athenian legal system encouraged volunteers to bring prosecutions before a court and offered financial

¹⁴³ For further details on Aristophon’s political career, see Dem. 18.162, 19.21, 20.148; see also D. Whitehead, ‘The Political Career of Aristophon’, pp. 313-9.

reward to the successful prosecutor in some types of cases. By the latter part of the fifth century, the practice of *sykophancy* ('falsely prosecuting'),¹⁴⁴ attributable to personal enmities or the will to obtain the payment for a successful case, had become a major problem (Dem. 21.103, 39.2, 40.9; Lys. 7.39, 25.3). The financial rewards for the prosecutors arising from certain successful public γραφαί tended to be greater than those resulting from private δίκαι.¹⁴⁵ Thus, in order to discourage false accusations being brought before a court, a penalty of a thousand drachmas was introduced for a prosecutor in a public case who obtained less than a fifth share of the jury's votes (see τὸ πέμπτον μέρος at §8).¹⁴⁶ Moreover, a man accused of *sykophancy* could be prosecuted in a προβολή (a preliminary accusation): this hearing was initially heard by the *Ecclēsia* before the plaintiff brought the accused to stand trial before a jury. This information is detailed in the *Athēnaiōn Politeia*, which also reports that both citizens and metics could be charged with *sykophancy* ([Arist.] 43.5; cf. Aeschin. 2.145).¹⁴⁷

Though the present appeal arose from Euboulides' accusations in his official capacity as βουλευτής (see βουλεύων at §8) and possibly *dēmarch* of Halimous (see ὄτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26) rather than as a volunteer, Euxitheos mentions the practice of *sykophancy* in order to draw a comparison between their false accusations and those of Euboulides against himself. He returns to the topic of *sykophancy* again at §§34, 49 and 57.

¹⁴⁴ Transliterated as 'sykophancy' to avoid confusion with the English noun 'sycophancy', which derives from a later, post-classical development in the meaning of the word. The origin of συκοφάντης and the related verb συκοφαντέω is unknown. When taken literally, συκοφάντης means the 'one who shows the fig'. But when the verb appears first in Aristophanes' *Acharnians* in 425 BC, it describes a common informer (519, 828). But any explanations regarding the development of the terms are mere guesses.

¹⁴⁵ See n. 40.

¹⁴⁶ See also n. 69 in the Introduction.

¹⁴⁷ MacDowell notes that it was also possible to prosecute a *sykophant* by an ordinary γραφή, though the source material provides little information with regard to such prosecutions (Isoc. 15.313-4), in *The Law in Classical Athens*, p. 65. Elsewhere, R. Osborne presents a detailed analysis of the practice of *sykophancy* and its impact in the broader setting of the Athenian democracy, rather than the state's legal system alone, in *Athens and Athenian Democracy*, pp. 205-28.

ἔστι καὶ ἕτερος περὶ τῆς ἀργίας νόμος: ‘there is also another law regarding idleness’.

Some authors assign this law on ἀργία to Dracon (Lys. fr. 10 T; cf. Diog. Laert. 1.55; Plut. Sol. 17.1, 22.3), whereas others attribute it to Solon (Hdt. 2.177) or even Peisistratos (according to Theophrastos, Plut. Sol. 31.2; cf. Poll. Onom. 8.42). According to Herodotus and Plutarch, the given penalty was death; Lysias, however, claims that Solon established a fine of one hundred drachmas for a first or second conviction, and ἀτιμία for a third offence. Harrison postulates that such a law was enacted in order to protect familial lines of inheritance from those who would seek to squander the given estate.¹⁴⁸

While Euxitheos confirms that a law governing ἀργία was still in force by the mid-fourth century BC, it is not clear whether or not it bore the same stipulations as the one that originally came into existence in the fifth century. The speaker’s point is simple: trade in the marketplace was not a crime for a citizen, but the ἀργία of which he accuses Euboulides certainly was. Indeed, a comment made by Isocrates reveals that there was a real Athenian fear that idleness begot poverty, which in turn gave rise to wrongdoing (Isoc. 7.44). Euboulides’ idleness has brought about his *sykophantic* pursuit of Euxitheos who, in contrast, is presented as the more honourable citizen. It must be noted, however, that Euxitheos offers no evidence to confirm his opponent’s alleged ἀργία.

[33] ἔξεστιν ἔξω τοῦ πράγματος βλασφημεῖν: ‘that it is permitted for this man to slander us on irrelevant matters’. For Euxitheos’ preoccupation with ‘keeping to the point’, see also <εἰς> αὐτὸ τὸ πρᾶγμα at §59 and ἐρῶ δ’ εἰς αὐτὸ τὸ πρᾶγμα at §60. If the rule barring irrelevant matters was enforced during Euxitheos’ appeal, neither speaker ought to have referred to details beyond the case (see εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7).¹⁴⁹ However, this rule may have had a greater impact on Euxitheos’ speech than on

¹⁴⁸ Harrison, *The Law of Athens* Vol. I, pp. 79-81. His comments are certainly persuasive in light of the evidence which indicates that dissipating one’s inheritance was an actionable offence: Lys. 19.37; cf. Aeschin. 1.30.

¹⁴⁹ See n. 27.

Euboulides'. For anything Euboulides had said about Nicarete would arguably have been relevant to the question of Euxitheos' citizen status, whereas any personal attacks made against Euboulides would likely have been thought irrelevant. As such, Euxitheos attempts to make it abundantly clear to the jury that he is deliberately and honourably excluding elements which have no bearing on his entitlement to citizenship (see ἀλλ' ἴσως ἔξω τοῦ πράγματος ὑπολήψεσθε ταῦτ' εἶναι at §63, and ἔξω τοῦ πράγματος at §66). However, by deliberately reminding the jury that he will not elaborate on certain points, Euxitheos is actually drawing their attention to them. *Paraleipsis* was a rhetorical device used to accentuate a detail which was designedly passed over by a speaker (παράλειψις: [Arist.] *Rh. Al.* 1434a19-25, 1438b6; also referred to by the Latin term, *praeteritio*). In the Demosthenic corpus, this pretend omission was often expressed by several specific verbs (παραλείπω, Dem. 19.18, 22.52, 24.177; σιωπῶ, Dem. 19.145; ἐάσω, Dem. 21.15). By using this device, Euxitheos seeks to colour the jury's opinion of Euboulides. Alternatively, if he was not bound by any such irrelevancy rule, Euxitheos' attempts to limit deliberately the scope of the case may have been part of his rhetorical strategy to dismiss Euboulides' remarks about his family as 'beyond the matter at hand'.

ἐὰν λέγω ὃν τρόπον οὗτος ἐργάζεται περιῶν ἐν τῇ πόλει, καὶ εἰκότως: 'if I speak of the business which this man does as he goes about the city, and rightly so'. Euxitheos does not explicitly state what this 'business' was. If this information pertained to Euboulides' official public duties, not only would it have been relevant to Euxitheos' claim that his disfranchisement had occurred as a result of his opponent abusing his political office but it would have been yet another way for the speaker to successfully blacken his opponent's reputation. Regrettably, though, Euxitheos provides no further details, claiming instead that the jurors would criticise him for recounting what was already generally known (see below). However, it is highly unlikely that the jury would have been familiar with Euboulides as a public figure and so it seems that Euxitheos'

vagueness had another purpose. His ambiguity was likely a rhetorical strategy intended to would allow the jurors' imaginations to run wild (cf. Dem. 21.79, 54.9; Aeschin. 1.55).

ὄ γὰρ ὑμεῖς ἴστε, τί δεῖ λέγειν: 'for what need is there to say what you already know?'

Euxitheos utilises this appeal to common knowledge several times throughout the speech, although such references need not even be true (see ὡς ὑμῶν ἴσασι πολλοί §8, and ταῦτα πάντες ἴσασιν οἱ πρεσβύτεροι at §60).

[34] **φανερὰν πᾶσιν:** 'seen by everybody'. Athenian ideology directed women of civic birth towards a life of domesticity and away from the public sphere. Xenophon explicitly states that it was more honourable for women to remain indoors rather than to be outside, whereas he directs men towards external pursuits (*Oec.* 7.30).¹⁵⁰ Athenian women who were active outside of the home were undoubtedly susceptible to derogatory comments. In the case of the speaker's mother, her visible employment in the public domain as a ribbon-seller has become the main subject of Euboulides' slander. Moreover, by suggesting that Nicarete is 'seen by everybody', Euboulides has suggested that she is well-known and consequently casts aspersions on her respectability.¹⁵¹ Euboulides plays upon the established social ideal in his case against Euxitheos and, since the speaker cannot deny his mother's activities in the ἀγορά, he must use their obvious nature to his

¹⁵⁰ It would appear that, overall, public celebrations and religious ceremonies were acceptable instances during which female citizens could enter the predominantly male public domain: for wedding ceremonies (Isae. 8.18; Ar. *Ach.* 1056-68), funerary processions and to visit tombs (Dem. 43.63; Lys. 1.8), participation in sacrifices (Ar. *Ach.* 253, Lys. 643), and attendance at festivals (Isae. 3.80, 6.48, 8.19-20; Ar. *Thesm. passim*). Although citizen women could not make a case for themselves in court, they could indeed be brought physically into the court by a male relative in order to arouse the sympathy of the jury (Ar. *Wealth.* 380; Aeschin. 2.148, 152; Pl. *Ap.* 34c-35b; Dem. 19.310, 21.99, 186, 25.85, 54.35). Elsewhere, the question of whether citizen women attended the theatre is still widely debated by scholars, whereas their presence at symposia would make them liable for social disdain (Ath. 588d). However, only well-to-do households could afford to send slaves to carry out the necessary chores of washing, fetching water, and shopping errands. In particular, shopping was a task that would have been ideally performed by servants (Lys. 1.8-18) or by citizen husbands (Ar. *Eccl.* 817-22, *Wasps.* 493-9; Theophr. *Char.* 22.7). However, Athenian women would undoubtedly have to leave the confines of the *oikos* to carry out such chores themselves, in lower class households without the possession of slaves or indeed in the absence of their husbands due to political or military activities.

¹⁵¹ According to a speech attributed to Pericles by the historian, Thucydides, 'the greatest glory of a woman is to be least talked about by men, whether they are praising you or criticising you' (Thuc. 2.46). In Athens, ἐταῖραι (prostitutes) were the quintessentially visible women; see Lape, *Reproducing Athens*, p. 76-9.

advantage by calling witnesses to them to testify that they know her to be a citizen woman nonetheless. Euxitheos also avails himself of Nicarete's visibility to bolster his argument that there would have to be the necessary documentary evidence of her trading in the marketplace as a metic woman as a result of being so conspicuous (see below).

τὰ τέλη ἐξετάσαντας τὰ ἐν τῇ ἀγορᾷ: 'they ought to have examined the tax register in the market'. The Athenian state was not only involved in the administration of the markets to benefit both the vendor and the buyer, but it applied a series of indirect taxations on wholesale and retail trade to benefit itself. Specifically in terms of retail trade, sales taxes and location duties for shops and stalls in the marketplace were among the revenues collected. Typically, taxes were 'farmed' out to the highest bidders (μισθοῦν: [Arist.] *Ath. Pol.* 47.2-5; Plut. *Alc.* 5.1) and, having paid a partial payment to the state, the successful buyer would strive to collect a greater tax than the amount he had paid.¹⁵² The whole process was probably overseen by the ἀγορανόμοι (market-controllers, [Arist.] *Ath. Pol.* 51.1). The collection of these taxes presupposes the use of official lists or registers, kept constantly up to date, to record the payments made and those outstanding.

εἰ ξενικὰ ἐτέλει: 'if she paid the foreigner tax'. As detailed above at §31, Solon's law originally forbade foreigners from doing business in the marketplace. But, possibly during Aristophan's re-enactment of this law (τὸν Ἀριστοφῶντος at §32), a provision was introduced in order to allow metics who were willing to pay for the privilege of selling their wares in the marketplace in the form of a special tax, or ξενικά. While such a law did enable metics to trade alongside citizens, it nevertheless favoured Athenian producers and the state by limiting the external competition in the market to those able to pay into

¹⁵² G. J. Oliver, 'The Economic Realities', in *A Companion to The Classical Greek World*, p. 302.

the state treasury. Very little is known about the ξενικά;¹⁵³ what is clear is that it was paid in addition to the required annual sum to legitimately live in the community, the μετοίκιον (for an overview of the metic's tax, see ποῦ μετοίκιον καταθείς at §55). Given that this fixed tax would also have been farmed out annually (see above), one can presume that official lists were kept to track those who had paid and those who had not. If this was the case for the μετοίκιον, it was probably the same for the ξενικά (see καὶ ποδαπὴ ἦν ἐπιδεικνύνας below). Since the overt nature of their trade in the marketplace has contributed to Euxitheos' disfranchisement, the lack of any record of them paying this tax or their registration would stand in their favour for this case.

καὶ ποδαπὴ ἦν ἐπιδεικνύνας: 'and to see if it shows what country she came from'. Euxitheos' statement suggests that any payment records for the ξενικά may have indicated the country of origin for the metic listed. Metics were required to register with a deme but the actual procedure of enrolment remains obscure; it is not known if an equivalent deme register was kept for non-citizens (Themistocles' decree implies that foreigners were registered with the *polemarch*: *ML* 23, 29-31).¹⁵⁴ But, if indeed one existed, it could have been as problematic or even unreliable as the deme register (see τῶν γραμμάτων at §8). Thus, the records of the ξενικά could perhaps have served as an alternative for a register of resident foreigners (implied by *IG* II² 141, a decree which records the privilege of exemption from the μετοίκιον). Again, the lack of any record pertaining to Nicarete on

¹⁵³ The ξενικά is not expressly attested elsewhere. In Aristophanes' *Acharnians*, the character of Dicaeopolis offers to pay the market tax for the Boeotian with whom he is conversing, though it is expressly termed as ἀγορᾶς τέλος (896). It is possible that Dicaeopolis is simply referring to the general taxes exacted by the state on all traders in the marketplace, ἀγοραῖα τέλη ([Arist.] *Oec.* 2.1346a2). If that was the case, ξενικά may refer to a difference in the rate between the τέλη paid by metics and that paid by citizens. In his extensive examination of the place of metics in Athenian society, Whitehead briefly comments on the ξενικά as part of his analysis of the financial obligations laid on resident aliens, in *The Ideology of the Athenian Metic*, pp. 77-8.

¹⁵⁴ Based on M. H. Jameson's notes on the fourth century BC copy of the decree, in 'A Revised Text of the Decree of Themistokles from Troizen', pp. 310-5.

such a list would support the speaker's claim that Euboulides had brought a case against them based on slander.

τὸν πριάμενον ... τὸν ἀποδόμενον: 'the man who bought her ... the man who sold her', referring first to her present owner and then to her previous owner. Euxitheos states that, if Nicarete was actually a slave, the men involved in either buying or selling her should testify to doing so before the jury. It would be preferable for the man having bought her to testify since he was readily purchasing her as a slave but, failing that, the man who had sold her would be sufficient to verify her status at the time of the sale. Notably, however, Euboulides has not been able to produce either as a witness and Euxitheos emphasises this as a deficiency in his case against him.

This is the only reference in the speech to the status of slave. It is interesting that Euxitheos does not allege that he himself had been accused of being a slave (see τὸν γε ξένον καὶ μέτοικον at §48 and ποῦ μετοίκιον καταθείς at §55).¹⁵⁵ It seems most likely that Euboulides had never specifically accused either Euxitheos or his mother of being slaves, but rather he had sought to prove that they were of foreign descent. Euxitheos may have been exaggerating his opponents' charges for rhetorical effect.

ἀφείθη ἐλευθέρᾳ: 'she had been set free'. Rather than being afforded full citizen rights, an emancipated slave who chose to remain in Athens could only register as a metic. In order to attain this status, the freed slave required the consent of their former owner to be their προστάτης (citizen sponsor). One would expect that, if Euboulides had actually made a serious allegation that Nicarete was a freedwoman, it would have been easy to produce her sponsor as a witness for his case.

¹⁵⁵ For the harshness of a penalty of enslavement for a man like Euxitheos, who was not alleged to be a slave, see Introduction, pp. 43-9.

τοῦτο γάρ ἐστιν ὁ συκοφάντης: ‘For this is what a *sykophant* is’. As detailed at §32 (see τοὺς συκοφαντοῦντας πονηρούς), *sykophancy* was the practice of using the state’s legal system for illegitimate personal advantage and engaging in prosecutions solely for financial gain. Unlike the previous reference, here Euxitheos directly calls Euboulides a *sykophant*. According to the speaker, the definition of a *sykophant* is one who makes all kinds of accusations, without proving them. The labelling of one’s opponent as a *sykophant* was common practice in the lawcourts, a technique designed to create a negative portrayal of an opponent which suited the speaker’s case (Lys. 25.3; Aeschin. 2.145; Lycourg. 1.31). Identifying Euboulides as a *sykophant* to the court serves to further Euxitheos’ argument that the charges against him are false.

[35] **ὄτι ἐτίθουσεν:** ‘that she was a wet-nurse’. Euboulides’ accusations, according to Euxitheos, focused on what Nicarete did rather than who she really was. As we have seen at §34, her occupation in the ἀγορά has been the main subject of his attack on Euxitheos. Here, the speaker specifies that her past employment as a wet-nurse was also used in Euboulides’ accusations against her. The trend of employing a nurse to both feed and rear children was all the more widespread in the Classical period than in other phases in Athenian history. This seems to be reflected in Plato’s description of the ideal state in the *Republic*, wherein citizen wives are wholly relieved of the chore of nursing their own children (Pl. *Rep.* 373c). Notably, in this passage, Plato differentiates between the requirement of citizen women for τίθαι (wet-nurses), and τροφοί (dry-nurses). Neither role required any professional training. Indeed, the only prerequisite for τίθαι was that they had to have children of their own. In subsequent years, many of these women probably went on to serve as τροφοί. For the most part, it would seem that the role of the τίθη was occupied by foreigners (Amycla, the Spartan wet-nurse of Alcibiades, in Plut. *Alc.* 1.2, *Lyc.* 16.3) and slaves (the unnamed freed wet-nurse in [Dem.] 47.55-6). Although Nicarete stands as the only surviving example of a citizen τίθη in the source

material, it makes the existence of others more likely. Moreover, while Euxitheos must later acknowledge the lowly nature of this occupation (see ταπεινὸν at §45),¹⁵⁶ he presents wet-nursing as an opportunity through which citizen women in situations like Nicarete's could and did earn a legitimate living for their services (see §§42 and 45).

ὄτε ἡ πόλις ἠτύχει καὶ πάντες κακῶς ἔπραττον: 'when the city suffered misfortune and everyone fared badly'. To account for Nicarete's employment as a wet-nurse, the speaker alludes to Athenian misfortunes at that time. Lacey estimates that this was the period of 405-3 BC, when siege, starvation, and civil war befell the city.¹⁵⁷ But Lacey fails to take into account the possibility that these misfortunes could easily refer to the first decades of the fourth century, when the aftermath of the war continued to have a negative impact on economic and social conditions. The sources confirm the poverty experienced by Athens in this later period (Lys. 19.11, 50, 28.3, 11) and that the city was under threat from other Greek states (Lys. 30.22; Xen. *Hell.* 5.1.29). In light of this evidence, and the most likely date of 395 BC for Thoucritos' marriage to Nicarete (see Θούκριτον τὸν πατέρα τὸν ἐμόν at §41), it seems most plausible that Euxitheos is referring to Athenian misfortunes of the 390s BC. The speaker will reiterate this widespread suffering again in a later passage (see ὑπὸ τῶν τῆς πόλεως κατ' ἐκείνους τοὺς χρόνους συμφορῶν at §45). Euxitheos deliberately utilises the fact that everybody was suffering during this period in order to strengthen his defence of his mother's past occupation.

¹⁵⁶ Jones argues that juries in the fourth century BC were predominantly middle class, in *Athenian Democracy*, pp. 36-8, and 123-4. It certainly seems that the values ascribed to the jurors by the fourth century orators were middle class, and distinguishable from those of larger working class and tradesmen (Dem. 21.98, 123, 213; Lys. 28.3). K. J. Dover also finds in favour of a similar view and stresses that any poorer men of the jury would have been flattered to be classed amongst a more prosperous group of men, in *Greek Popular Morality in the Time of Plato and Aristotle*, pp. 34-5. S. C. Todd has analysed the conclusions of both Jones and Dover and, after examining the ancient sources, he deduces that the bulk of the Athenian juries were composed of farmers, including both gentlemen farmers and subsistence farmers, in 'Lady Chatterly's Lover and the Attic Orators', pp. 148-70. In light of the evidence concerning the typical jury, it is easy to see how Euxitheos must specifically appeal to Athenians belonging to a middle-income group and acknowledge their prejudices with regard to his mother's lowly employment in trade as both a wet-nurse and a ribbon-seller, in order to ingratiate himself with the majority of those listening.

¹⁵⁷ Lacey, 'The Family of Euxitheos (Demosthenes LVII)', p. 59. See also nn. 74 and 182.

ὡς ὑμῖν καὶ κατ' ὄνομα, ἐὰν βούλησθε, ἐροῦμεν: ‘who I will identify by name to you, if you wish’. Euxitheos states that he knows of many women of civic birth still publicly undertaking the role of wet-nurse. Deliberately, though, orators sought to avoid naming respectable Athenian women in court who were still alive at the time of the speech.¹⁵⁸ Still, cases do exist wherein some women were expressly identified if it was absolutely necessary for the success of the case and especially if they were connected with the speaker’s opponent (Dem. 18.130, 284, 19.281, 39.9, 40.27, 42.27, 43.29; [Dem.] 59.1, 50, 121; Isae. 3.2, 30, 32, 60, 6.13-14; Andoc. 1.16, 127; cf. ἐμοὶ γὰρ ἔστιν μήτηρ Νικαρέτη Δαμοστράτου θυγάτηρ Μελιτέως at §68). Here, Euxitheos offers to do just that and name examples of other citizen women in the same situation as Nicarete, should the jury wish it (for the unfulfilled promise, see §16). Although this was probably only a rhetorical offer, his confident manner pertaining to the number of Athenian women involved in wet-nursing is highly significant for confirming their employment in this role as a whole.

[36] **μηδαμῶς, ὧ ἄνδρες δικασταί, τοὺς πένητας ἀτιμάζετε (ικανὸν γὰρ αὐτοῖς τὸ πένεσθαι κακόν):** ‘Do not, men of the jury, dishonour the poor (for their poverty is a sufficient evil)’. Euxitheos appeals to the jurors’ emotions, urging them to have pity on impoverished citizens rather than shaming them further for their misfortunes. If he can prevail upon their compassion, the speaker can thereby create resentment against his opponent for his deliberate degradation of such poor citizens. In *Against Conon*, Ariston makes a similar attempt to arouse the jury’s pity, casting himself as the victim of an unprovoked attack and one who stands to be further disgraced should he lose his suit (Dem. 54.43). Euxitheos, however, stands to lose his citizen status if, as he claims,

¹⁵⁸ See n. 37.

Euboulides' social prejudices are one of the issues which brought about his disfranchisement.

μηδέ γε τοὺς ἐργάζεσθαι καὶ ζῆν ἐκ τοῦ δικαίου προαιρουμένους: 'nor indeed those choosing to work and to live honestly'. Anticipating that the jury may have held similar social prejudices, the speaker does not deny that such occupations are held in low regard (see ζῆν οὐχ ὄντινα τρόπον βουλόμεθα at §31). He nevertheless implores the jury to recognise them as much more preferable to those that lack any sort of decency and respectability, for example those working as *ἐταῖραι*.

ἐὰν ὑμῖν ἐπιδεικνύω τῆς μητρὸς τοὺς οἰκείους οἴους προσήκει εἶναι ἀνθρώποις ἐλευθέρους: 'if I show you that my mother's relatives are such men as is fitting for free citizens to be'. Both here and at §69 (see καὶ ἑμαυτὸν ἐπέδειξα πάντων μετεληφότα ὅσων προσήκει τοὺς ἐλευθέρους), the term *ἐλεύθεροι* must specifically refer to citizen males, not merely free men, given that the speaker needs to prove his citizen status in spite of his engagement in menial labour alongside his mother.¹⁵⁹

[37] **Δαμόστρατος Μελιτεύς:** 'Damostratos of Melite'. Melite was an urban deme of the tribe Cecropis, located within the Themistoclean walls to the west of the Acropolis (Strabo, 1.4.7).¹⁶⁰ It extended from the Athenian ἀγορά towards the Pnyx and, on the other side, out the Panathenaic Way.¹⁶¹ Interestingly, Whitehead's survey from the last quarter of the fifth century to the last quarter of the fourth revealed that Melite had the highest

¹⁵⁹ W. L. Newman was the first to suggest that *ἐλευθερία* occasionally has the meaning of 'citizen birth', rather than just 'free birth', in *The Politics of Aristotle* Vol. I, p. 24 n. 1, Vol. IV, p. 173. Wyse concurs with Newman's explanation, citing a passage from Aeschines (3.169) in addition to the two examples provided by Demosthenes' *Against Euboulides*, in *The Speeches of Isaeus*, p. 281; cf. Rhodes, *A Commentary on the Aristotelian Athenaiou Politeia*, p. 499, and pp. 501-2.

¹⁶⁰ Cecropis was also the tribe of one of the demes of Halae: Halae Aexonides, see τῆ δ' ἀδελφῆ αὐτοῦ συνοικησάση Διοδώρω Ἀλαιεῖ at §38.

¹⁶¹ G. V. Lalonde, 'IG I³ 1055 B and the Boundary of Melite and Kollytos', p. 116.

concentration of attested metics.¹⁶² Since Damostratos I hailed from this deme, the accusation that his daughter Nicarete was of metic status may have been more reasonable than his grandson Euxitheos would have the jury believe. For Damostratos I's dates, Davies' estimation that he must have been born before 460 BC, and that he cannot have lived long into the fourth century, seems to be the most plausible.¹⁶³

ἐκ μὲν ἧς τὸ πρῶτον ἔσχεν γυναικὸς θυγάτηρ καὶ υἱὸς ᾧ ὄνομ' Ἀμυθέων: 'from his first wife he had a daughter and a son who is named Amytheon'. Damostratos I had two children by his first wife, a daughter and a son called Amytheon. Amytheon, at least, was born before 433 BC (see τῶν ἐν Σικελίᾳ στρατευσαμένων καὶ τελευτησάντων below). Although the son is named, the names of both mother and daughter are typically not given.¹⁶⁴ However, the husband and son of this daughter are named in the subsequent passage (see §38). Damostratos I's son and daughter were homopatric siblings to Nicarete, and uncle and aunt to Euxitheos.

ἐκ δὲ τῆς ὕστερον, Χαιρεστράτης: 'and from his second wife, Chaerestrates'. Euxitheos freely names Damostratos I's second wife. Litigants in courts cases were apparently willing to name Athenian women after their deaths and, thus, it would explain why Euxitheos mentions the name of his grandmother Chaerestrates but not his grandfather's first wife or his aunt from that union (cf. his reference to Lysarete at §§20-1).¹⁶⁵ Following Davies' assessment, it seems most likely that the marriage between Damostratos I and Chaerestrates took place sometime before 420 BC.¹⁶⁶

¹⁶² Seventy-five in total, see Whitehead, *The Demes of Attica*, p. 83.

¹⁶³ Davies, *Athenian Propertied Families*, p. 93. All the names listed in this and subsequent passages are arranged in Table 2, pp. 268-9.

¹⁶⁴ See n. 37.

¹⁶⁵ See n. 88.

¹⁶⁶ Davies, *Athenian Propertied Families*, p. 94.

ἡ μήτηρ ἢ ἐμὴ καὶ Τιμοκράτης: ‘my mother and Timocrates’. Because Nicarete’s status has been called into question, Euxitheos must prove her legitimate citizen descent to the jury by detailing her familial relationships. She is referred to frequently throughout his speech but, since it was not socially acceptable to name respectable Athenian women in court, the speaker only names her on one occasion and specifically in accordance with the δοκιμασία format he has adopted for the conclusion to his speech (see ἐμοὶ γὰρ ἐστὶν μήτηρ Νικαρέτη Δαμοστράτου θυγάτηρ Μελιτέως at §68). Since they share the same parents, Damostratos I and Chaerestrates, Timocrates is a full brother to Nicarete and uncle to Euxitheos.

τῷ μὲν Ἀμυθέωνι Δαμόστρατος: ‘Amytheon had Damostratos’. Amytheon was Nicarete’s homopatric half-brother, born from her father’s first marriage. Amytheon’s son, Damostratos II, was therefore a nephew to Nicarete and a first cousin to Euxitheos under Attic kinship ties.

τοῦ πάππου τοῦνομ’ ἔχων: ‘having the same name as his grandfather’. Damostratos II was named after his paternal grandfather. In *Against Boiotos I*, the speaker Mantiheos claims that his half-brother has usurped his name because he alleges that he is the elder of the two and thus he has the right to the name of their paternal grandfather: ἀξιοῖ δ’ αὐτὸς ὡς δὴ πρεσβύτερος ὄν τοῦνομ’ ἔχειν τὸ τοῦ πρὸς πατρὸς πάππου (Dem. 39.27). It would seem that the eldest son was usually named after his paternal grandfather and subsequent children after other relatives.¹⁶⁷ Thus it is likely that Damostratos II was the eldest male child of Amytheon (see below).

¹⁶⁷ A second son would often take the name of his maternal grandfather. As such, either Callistratos or Dexitheos may have bore the name of their mother’s father. But this naming convention was not a universal rule. Cleisthenes was the eldest son born to Megacles and Agariste *circa* 570 BC, and was named after his maternal grandfather (Hdt. 6.131). Similarly, Euxitheos seemingly was the first born son of Thoucritos and Nicarete and was given the name of one of his mother’s relatives, probably his great grandfather (see §§39-40).

Καλλίστρατος καὶ Δεξιθεός: ‘Callistratos and Dexitheos’. Euxitheos also refers to two other sons of Amytheon, Callistratos and Dexitheos, who were likewise nephews to Nicarete and first cousins to the speaker. Both of these men had died by 346/5 BC, as the speaker states that Damostratos II is the only surviving son of Amytheon who could be a witness on his behalf (§38).¹⁶⁸

τῶν ἐν Σικελίᾳ στρατευσαμένων καὶ τελευτησάντων: ‘among those who served and died in Sicily’. The speaker refers to the unsuccessful Sicilian Expedition which the Athenians made during the Peloponnesian War. He not only informs the jury that Amytheon served as a soldier during this expedition but also that he died there. Euxitheos probably included this detail of his uncle losing his life while performing his military duty for the state in order to curry favour with the jury. Given that the minimum age for military service was eighteen years old and the dates for the Sicilian Expedition are 415-13 BC, Amytheon must have been born before 433 BC. Moreover, if one takes Damostratos II to be the eldest of Amytheon’s sons and Dexitheos to be the youngest (taking the order in which Euxitheos identifies them to be correct with regard to the sequence of their birth), the former must have been at least in his early seventies at the time of Euxitheos’ trial (a reckoning based on the latest date of the expedition, 413 BC, and of the trial, 345 BC).

τέθασται ἐν τοῖς δημοσίοις μνήμασιν: ‘has been buried in the public burial mounds’. These public burial mounds were located in Athens. Unlike other Greek states which carried out the practice of burying their dead on the battlefield, Thucydides relates that the *πάτριος νόμος* (ancestral custom) of the Athenians was to bring the bones of their dead back to the city for burial in a public ceremony at the state’s expense, with the only exception being those who died at Marathon in 490 BC and Plataea in 479 BC on account

¹⁶⁸ Davies notes that Callistratos had a son, Callimachos, who died at a young age *circa* 360 BC (*IG II² 6857, 1-3*), in *Athenian Propertied Families*, p. 94. Although Euxitheos refers to this man’s deceased father, he must have felt no need to make mention of Callimachos.

of their remarkable bravery (for Marathon, see Thuc. 2.34; for Plataea, see Hdt. 9.85 and Plut. *Arist.* 21). Such public recognition for those who died in battle was endorsed under the democratic state and, moreover, the ability to tend to one's dead and to perform the customary rites was intrinsically tied to Athenian family life.¹⁶⁹ These mounds were located in a suburb of Athens, in a part of the Kerameikos which was outside the city's gates. Pausanias, writing in the second century AD, asserts that he saw the public burial mounds and specifically the monument for the men who perished in Sicily (Paus. 1.29.4, 11).

[38] τῆ δ' ἀδελφῆ αὐτοῦ συνοικησάσῃ Διοδώρῳ Ἁλαιεῖ: 'And to Amytheon's sister, having married Diodoros of Halae'. Both Amytheon's mother and sister remain unidentified (see ἐκ μὲν ἧς τὸ πρῶτον ἔσχεν γυναικὸς θυγάτηρ καὶ υἱὸς ᾧ ὄνομ' Ἀμυθέων at §37). Instead, Euxitheos informs the jury that Amytheon's sister married Diodoros from the deme of Halae. There were two demes of this name: Halae Araphenides lay on the east coast of Attica between Brauron and Araphen, and Halae Aexonides was situated on the western coast just south of the deme Aexone.¹⁷⁰ Halae Araphenides belonged to the tribe Aegeis (like the deme of Plotheia, see Ἀπολλόδορος Πλωθεύς below), and Halae Aexonides to the tribe Cecropis (the same tribe as the deme of Melite, see Δαμόστρατος Μελιτεύς above, §37).¹⁷¹ Davies estimates that, from the age of their son Ctesibios (see below), the marriage must have taken place by 408 BC, but a date *circa* 420 BC or earlier

¹⁶⁹ D. Kurtz and J. Boardman, *Greek Burial Customs*, p. 143. See also Garland, *The Greek Way of Death*, pp. 89-93.

¹⁷⁰ Traill, *The Political Organization of Attica*, p. 124.

¹⁷¹ Unfortunately, there is no evidence to confirm which Halae was Diodoros' home deme. It is possible that he was the ancestor of a well-known cavalry family from Halae Aexonides, which was prominent in Athens from the late second century BC until the first century AD (*IG II²* 1961, 3, 13); it seems unlikely, however, given the lack of evidence provided by any of Diodoros' family during Euxitheos' appeal and indeed such an absence may rather suggest that this family died out *circa* 370 BC, see n. 173 below.

is possible and even likely if she was similar in age to Amytheon (see ἐκ μὲν ἤς τὸ πρῶτον ἔσχεν γυναικὸς θυγάτηρ καὶ υἱὸς ᾧ ὄνομ' Ἀμυθέων at §37).¹⁷²

υἱὸς γίγνεται Κτησίβιος: ‘a son was born named Ctesibios’. Amytheon’s anonymous sister and Diodoros had a son together, named Ctesibios.¹⁷³ Since his mother was Nicarete’s homopatric sister, Ctesibios was a nephew to Nicarete and a first cousin to Euxitheos under Attic kinship ties.

οὗτος μὲν ἐτελεύτησεν ἐν Ἀβύδῳ μετὰ Θρασυβούλου στρατευόμενος: ‘this man died in Abydos serving with Thrasyboulos’. A certain Thrasyboulos of the deme of Collytos is reported by Xenophon as joining the Athenian contingent at Abydos, on the shore of the Hellespont, where he performed unsuccessfully in 387 BC (*Hell.* 5.1.25-6).¹⁷⁴ Another Thrasyboulos from the deme of Steiria is reported as being in the east Aegean circa 389/8 BC (*Xen. Hell.* 4.8.25-31), but Xenophon does not make any direct connection between him and Abydos as he does with Thrasyboulos of Collytos (*Hell.* 4.8.25-6).¹⁷⁵ Taking Euxitheos to be referring to Thrasyboulos of Collytos, this man is most noteworthy for his opposition to Alcibiades and for his contribution to restoring the Athenian democracy (*Plut. Alc.* 36.1-2; *Aeschin.* 3.138; *Dem.* 24.134). If Ctesibios was at least the minimum age for military service when he joined Thrasyboulos’ campaign in 387 BC, he must have been born no later than 405 BC.

¹⁷² Davies, *Athenian Propertied Families*, p. 155.

¹⁷³ Davies notes that there was another son born to Diodoros and Damostratos I’s daughter: a gravestone bearing the name of Sosistratos, son of Diodoros of Halae, and his wife Phanocleia dates to the period 390-365 BC (*IG II² 5520*), in *Athenian Propertied Families*, pp. 155-6. Although this Sosistratos may be safely regarded as another son, the speaker makes no reference to him or any offspring. This would suggest that Diodoros’ line ended with the death of Ctesibios in Abydos (see οὗτος μὲν ἐτελεύτησεν ἐν Ἀβύδῳ μετὰ Θρασυβούλου στρατευόμενος at §38).

¹⁷⁴ Collytos was a medium-sized deme, within the city walls just south of the Acropolis and Areopagos, and was affiliated with the Attic tribe Aegeis (*Strabo*, 1.4.7). See Traill, *The Political Organization of Attica*, p. 40. Collytos was the deme of the philosopher, Plato (*Diog. Laert.* 3.3).

¹⁷⁵ The deme of Steiria was located on the eastern coast of Attica between Prasiae and Brauron (*Strabo*, 9.1.22). See Traill, *The Political Organization of Attica*, p. 43.

ὁ Δαμόστρατος: ‘Damostratos’. This is Damostratos II, the only surviving son of Amytheon at the time of Euxitheos’ case (see τῷ μὲν Ἀμυθέωνι Δαμόστρατος at §37).

τῆς δὲ Χαιρεστράτης τῆς ἐμῆς τήθης τὴν ἀδελφὴν: ‘the sister of my grandmother Chaerestrates’. Unlike his presumably deceased grandmother (see ἐκ δὲ τῆς ὕστερον, Χαιρεστράτης at §37), Euxitheos avoids naming her sister in accordance with court etiquette regarding respectable Athenian women who were still alive. This unidentified woman was the speaker’s great aunt.

Ἀπολλόδωρος Πλωθεύς: ‘Apollodoros of Plotheia’. Apollodoros was from the deme of Plotheia, a small deme located on the north-eastern slope of Mount Pentelicon and affiliated with the Aegeis tribe (like the eastern deme of Halae, see τῆ δ’ ἀδελφῆ αὐτοῦ συνοικησάσῃ Διοδώρῳ Ἀλαιεῖ above).¹⁷⁶ This Apollodoros I married Nicarete’s unnamed maternal aunt (see above), in all likelihood before the end of the fifth century BC.¹⁷⁷

τούτων γίγνεται Ὀλύμπιχος: ‘Olympichos was born to them’. Apollodoros I and Chaerestrates’ anonymous sister had a son, named Olympichos.¹⁷⁸ Olympichos was a first cousin to Nicarete and a first cousin once removed to Euxitheos, but he had already died by the time of the appeal.

τοῦ δ’ Ὀλυμπίχου Ἀπολλόδωρος: ‘and a son Apollodoros to Olympichos’. Euxitheos states that Olympichos had a son named Apollodoros II, after his paternal grandfather as was customary (see τοῦ πάππου τοῦνομ’ ἔχων at §37). Since Euxitheos further specifies

¹⁷⁶ See Traill, *The Political Organization of Attica*, p. 41.

¹⁷⁷ Davies, *Athenian Propertied Families*, p. 94.

¹⁷⁸ Besides Olympichos, Davies refers to another son of theirs, in *Athenian Propertied Families*, p. 94. He cites a fragment of a gravestone published by Meritt, which dates to the first half of the fourth century BC, and records the death of another son, named either Diodoros or Theodoros; see ‘Greek Inscriptions’ (1961), p. 275 n. 121.

that Apollodoros II was still living, this man must have been one of the witnesses who appeared in court. The speaker and Apollodoros II were second cousins.

ΜΑΡΤΥΡΕΣ: '[WITNESSES]'. In both this and the previous passage, Euxitheos has identified a significant number of his mother's kin, extending through several demes. Yet the only witnesses that he calls at this stage are Damostratos II (see §37) and Apollodoros II (above). These men are related to Nicarete through her father and her mother respectively (in contrast to Euxitheos' subsequent witnesses, see §39).

[39] **διομνυμένων:** 'swearing under oath', cf. διομνυμένων at §22.

τὸν δὲ {καὶ ὁμομήτριον} καὶ κατ' ἀμφοτέρ' ἡμῖν συγγενῆ καλῶ: 'and I will also call the man who is related to us on both sides'. Dilts follows Blass in considering καὶ ὁμομήτριον to be spurious.¹⁷⁹ It does appear to be a corruption of the text since Euxitheos reveals that he will now call witnesses who are related to him through both of Nicarete's parents. In the previous passage, the speaker summoned witnesses who were related to Nicarete through only one of her parents (see ΜΑΡΤΥΡΕΣ at §38).

τῷ γὰρ Τιμοκράτει: 'For Timocrates'. Timocrates was Nicarete's brother by the same father and mother, Damostratos I and Chaerestrates. He was thus an uncle to the speaker (see ἡ μήτηρ ἢ ἐμὴ καὶ Τιμοκράτης at §37).

γίγνεται Εὐξίθεος: 'had a son Euxitheos'. The speaker's first cousin, the son of his mother's brother Timocrates, was also named Euxitheos. Since Nicarete and Timocrates shared the same parents, it would be likely that they would name their children after a common relative. Both men could be named after one of their great grandfathers, either Damostratos I's father or Chaerestrates' father, whose names are not given in the speech

¹⁷⁹ Dilts (ed.), *Demosthenis Orationes* IV, p. 264; cf. Rennie (ed.), *Demosthenis Orationes* III (1963), p. 263. For Blass' edition, *Demosthenis Orationes* III, p. 259.

but one of which could very well have been called Euxitheos (see τοῦ πάππου τοῦνομι' ἔχων at §37).

τοῦ δ' Εὐξιθέου τρεῖς υἱεῖς· οὗτοι πάντες ζῶσιν: 'and there are three sons to Euxitheos; and all these men are living'. These sons, first cousins once removed to the speaker, are not named. From this statement, it would appear that the father of these men, Euxitheos, was not included with those reported as still living since he is not named as having given testimony at the close of the speech (see §68).

τοὺς ἐπιδημοῦντας αὐτῶν: 'those who are in town'. This detail may suggest that not all of Euxitheos' sons were present in Athens to bear witness for the speaker, cf. εἶτα τοῦ ἐτέρου ἀδελφίδου δύο υἱοί at §68. Though it was possible for an absentee witness to give his testimony in the form of ἐκμαρτυρία (see οὐδὲ μαρτυρεῖν ἀκοήν ἐῶσιν οἱ νόμοι at §4), there is no indication by Euxitheos that this is what his missing relative has done.

[40] **τὰς τῶν φρατέρων τῶν συγγενῶν τῶν τῆς μητρὸς καὶ δημοτῶν μαρτυρίας:** 'depositions from the phratry members of my mother's relatives and from the demesmen'. Since the possession of citizen rights depended on Athenian descent through the female line as well as the male,¹⁸⁰ the account taken of women by the phratry is significant in a case concerning legitimacy. The extent of female involvement in family life is difficult to assess since procedures appear to have varied from phratry to phratry. Athenian women could be introduced to their father's phratries as children,¹⁸¹ but they were more commonly received by their husband's phratries at the γαμηλία (marriage feast; see οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρὸς ὁ πατήρ at §43). But what exactly a woman's

¹⁸⁰ See Introduction, pp. 21-5.

¹⁸¹ Isaeus' *On The Estate of Pyrrhos* presents crucial evidence for their introduction: the speaker suggests that it could be the law of a particular phratry for a father to introduce his legitimate daughter (3.76), and he specifically states that fathers intending their daughters to be ἐπίκληροι (heiresses) were presented to their phratry (3.73; for a discussion of the significance of ἐπίκληροι, see ἐπικλήρου δὲ κληρονομήσας εὐπόρου at §41).

association with either her father's or her husband's phratry meant in practice cannot be determined;¹⁸² it is only clear that they were not regarded as actual members of phratries. Even if Nicarete was introduced to her father's phratry (which one would expect the speaker to mention if she had been), she was not a member in her own right and Euxitheos provides depositions from the phratry members of his mother's male relatives in order to confirm their legitimate citizen birth and thus, by indirect means, Nicarete's.¹⁸³ The demesmen, undoubtedly from her father's deme of Melite (see *Δαμόστρατος Μελιτεύς* at §37), could also testify to her relatives' successful enrolment in their group.¹⁸⁴

ὧν τὰ μνήματα ταῦτά: 'those who share the same burial mounds'. Cf. §§28, 67 and 70.

ἀστήν: 'that she is a citizen', cf. *ἀστήν ταύτην καὶ πολίτιν εἶναι* at §43.

Πρωτομάχου: 'Protomachos'. Building as much support as possible, Euxitheos extends his evidence to before his mother's marriage to his father. This is his first mention of Nicarete's first husband, Protomachos. Their daughter (see *θυγάτηρ* below) was the speaker's half-sister. In a subsequent passage, Euxitheos reveals that Protomachos divorced his mother in order to marry an *ἐπικλήρος* (see *ἐπικλήρου δὲ κληρονομήσας εὐπόρου* at §41) and he then had several children with his second wife (the sons from this union stand as witnesses for Euxitheos, see *τοὺς τοῦ Πρωτομάχου υἱεῖς* at §43).

αὐτὴν ὁ Τιμοκράτης ὁμομήτριος καὶ ὁμοπάτριος ὧν ἀδελφὸς ἔδωκεν: 'Timocrates ... being my mother's brother from the same father and mother ... gave her in marriage'. Nicarete's father was presumably dead by the time of her marriage to Protomachos and

¹⁸² Although Lambert estimates that women may have participated in phratry cult activities, in roles comparable to those which they had in the religious life of the deme and the *polis* as a whole, in *The Phratries of Attica*, p. 186.

¹⁸³ Isaeus' *On the Estate of Ciron* carries a similar implication: the speaker calls witnesses to his mother's wedding and to the fact that her son was accepted into his father's phratry as proof of her legitimate status (8.18-20).

¹⁸⁴ For the association between a deme and the female kin of its members, see Appendix 4, p. 291.

therefore Timocrates gave his sister in marriage, acting as her κύριος ([Dem.] 46.18 specifies that Athenian law required a woman to be betrothed by her father and, if not, by a homopatric brother or by her grandfather on her father's side: ἦν ἂν ἐγγυήση ἐπὶ δίκαιοις δάμαρτα εἶναι ἢ πατὴρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρός, ἐκ ταύτης εἶναι παῖδας γνησίους; cf. Dem. 44.49).¹⁸⁵ As previously attested by the speaker, Nicarete had two brothers, Timocrates and Amytheon. Whereas Amytheon was born from Damostratos I's first marriage (see ἐκ μὲν ἧς τὸ πρῶτον ἔσχεν γυναικὸς θυγάτηρ καὶ υἱὸς ᾧ ὄνομ' Ἀμυθέων at §37), Timocrates and Nicarete were born from his second marriage to Chaerestrata (see ἡ μήτηρ ἢ ἐμὴ καὶ Τιμοκράτης at §37). Since they shared the same mother and father, it was more appropriate for Timocrates to be Nicarete's κύριος rather than her older homopatric sibling Amytheon.

Θυγάτηρ: 'a daughter'. Euxitheos informs the jury that Nicarete had a daughter by her first husband, Protomachos (see Πρωτομάχου above). This unnamed daughter was the eldest of those born from this union (for other children who must have subsequently died see παῖδας ποιησάμενος at §43).¹⁸⁶ Euxitheos refers to his homometric sibling as his sister (τὴν ἀδελφὴν λαβόντα τὴν ἐμὴν at §43 and οἱ Πρωτομάχου υἱεῖς ... τὴν ἀδελφὴν τὴν ἐμὴν at §68), and calls both her husband and her son before the jury as his witnesses (§43).

εἶτα ἐκ τοῦ πατρὸς τοῦ ἐμοῦ ἐγώ: 'then she had me by my father'. The phrasing here suggests that Euxitheos was the first child born of the marriage between Thoucritos and Nicarete. The speaker had previously stated that there were four other sons born to his mother and father (see ἔτι τοίνυν παίδων αὐτῷ τεττάρων γενομένων ὁμομητρίων at §28).

¹⁸⁵ Davies suggests that this marriage took place during the 390s BC, because Thoucritos must have been an adult to assume this role, in *Athenian Propertied Families*, p. 94.

¹⁸⁶ For the Athenian avoidance of naming respectable women's names in court while they were still living, see n. 37.

τὸν Κλεινίαν: ‘Cleinius’. Cleinius, son of Cleidicos (see τὸν Κλεινίαν τὸν τοῦ Κλειδίκου at §42), was born *circa* 390 BC.¹⁸⁷ Euxitheos informs the jury that his mother served as a wet-nurse for this child. As an adult and witness for Euxitheos during his appeal, Cleinius presumably confirmed that his family had hired Nicarete as a citizen wet-nurse during his testimony at §44.

τὸ τιθεῖσαι τὴν μητέρα: ‘my mother being a wet-nurse’. See ὅτι ἐτίθευσεν at §35.

ταῦτα πάντα ἐγὼ σαφῶς ὑμῖν διηγῆσομαι: ‘all these things I will describe to you clearly’. By detailing how Protomachos arranged for Thoucritos to take Nicarete as his wife, Euxitheos pre-empts any suspicion that he is digressing from the issue of Nicarete’s menial employment as a wet-nurse (first raised at §35).

[41] **ὁ Πρωτόμαχος πένης ἦν:** ‘Protomachos was a poor man’. In the previous passage, Euxitheos revealed that his mother was married to Protomachos before she married his father (see Πρωτομάχου at §40). Euxitheos must explain why his father divorced Nicarete in order to avoid raising doubt about her citizen status. He provides the jury with the legitimate reason that Protomachos was entitled to marry an ἐπίκληρος (see below).

ἐπικλήρου δὲ κληρονομήσας εὐπόρου: ‘but because he was acquiring the inheritance of a wealthy *epiklēros*’. Although the term ἐπίκληρος is often translated as ‘heiress’, the daughter of an Athenian citizen or even a metic was not entitled to inherit her father’s property in her own right if he died without leaving a male heir. She was, however, the means through which it was passed to an heir as possession of the estate was obtained through her hand in marriage, until sons born from that union came of age to inherit it (the term ἐπίκληρος literally refers to the ‘one attached to the estate’; Isae. 3.74). If a man

¹⁸⁷ Davies also discusses the ultimately unlikely possibility that Cleinius was related to the family of Alcibiades, in *Athenian Propertied Families*, p. 14.

died intestate, leaving only a female child, Athenian law stated that the nearest surviving male relative (ἀγχιστεύς) should marry her, keeping the deceased man's property in the family; he would then have a certain control over the property until a son from that union came of age ([Arist.] *Ath. Pol.* 56.6-7; cf. Lys. 15.3; Isae. 3.46; Dem. 35.48, 37.33, 43.74). Should the nearest male relative decline his claim to the inheritance, the right to her hand descended in the order of a defined group of relations or ἀγχιστεία (cf. Isae. 3.74). In a case of more than one relative claiming a citizen ἐπίκληρος, the *eponymous archōn* adjudicated between the men in a process known as ἐπιδικασία ([Dem.] 46.22). Such marriages were equally as valid as those brought about by dowries and formal betrothals (Isae. 6.14; see ἐγγυᾶται below). If the ἐπίκληρος was already married to a man other than her father's adopted heir, it could be insisted on that she divorce her husband (if she had no children by him who could claim the property themselves when they reached maturity) to ensure that the estate remained within the family (Isae. 3.64).¹⁸⁸ The same appears to be true for the potential groom, as here Euxitheos relates how Protomachos had to divorce Nicarete in order to take possession of the ἐπίκληρος and thus the estate that went with her. By stating that Protomachos was a poor man (see ὁ Πρωτόμαχος πένης ἦν above), the speaker makes it clear that his reason for divorcing Nicarete was solely financial and had nothing to do with doubt regarding her citizen status.

πειθεῖ: 'persuaded'. The verb πείθω is often used to denote a financial incentive (Hdt. 8.4, 134, 9.33; Thuc. 1.37.2, 2.96.2; Xen. *An.* 1.3.19; Lys. 7.21, 21.10). In this context, it might imply the offer of a dowry (προίξ).¹⁸⁹ Unfortunately, however, Euxitheos does not

¹⁸⁸ Schaps discusses the purpose of the ἐπίκληρος in greater detail, in *Economic Rights of Women*, pp. 24-47. For a more general overview of Athenian law with regard to both women and inheritance rights, see R. Sealey, *The Justice of the Greeks*, pp. 68-87, cf. *Women and Law in Classical Greece*; pp. 29-45; see also Cox's more recent study, in *Household Interests*, pp. 94-104.

¹⁸⁹ For a detailed discussion of the exchange of a dowry, see Wolff, 'Marriage Law and Family Organization in Ancient Athens', pp. 53-65.

state whether Protomachos had induced Thoucritos to take Nicarete as his wife with the offer of a monetary payment.

Θούκριτον τὸν πατέρα τὸν ἐμόν: ‘my father Thoucritos’. This is the first time that Euxitheos’ father is named in the speech. Thoucritos was the son of Thoucritides I (see Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης at §20) and belonged to the deme of Halimous (for details on the deme, see τοῖς Ἀλμουσίοις §15). Since Euxitheos asserts that his father served in the Deceleian War of 413-404 BC (see ὑπὸ τὸν Δεκελεικὸν πόλεμον at §18), Thoucritos must have been born before 431 BC to have served at the outbreak of war.¹⁹⁰ Davies dates this marriage to Nicarete to around 395 BC.¹⁹¹ Euxitheos’ birth year is uncertain but, taking him to be the eldest of their children (see εἶτα ἐκ τοῦ πατρὸς τοῦ ἐμοῦ ἐγὼ at §40), it would seem that he was born in the early 380s BC (see ἀποδημοῦντος μετὰ Θρασυβούλου at §42). Apart from the speaker, Thoucritos and Nicarete had four sons, and at least one of these was born soon after Euxitheos (see §42). However, all four were dead by the time of the speech (see ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα at §28). Protomachos’ obvious concern about Nicarete’s future must have stemmed from the fact that she was blameless in the divorce and so he sought to arrange her prompt remarriage to his friend (the simultaneous arrangement of a divorce and a remarriage also occurs in two other cases in which a husband divorces his wife without wishing to impute any fault to her: Isae. 2.8-9; Plut. *Per.* 24.5). The speaker states that his father was an acquaintance of Protomachos and he had been persuaded by him to take Nicarete as a wife.

¹⁹⁰ See n. 78.

¹⁹¹ Davies, *Athenian Propertied Families*, p. 94. Alternatively, Lacey proposes that their marriage took place between 410 and 405 BC, on account of the speaker’s reference to Athenian misfortunes (at §§35 and 45) in the aftermath of the Peloponnesian War, the period which he dates to 405-3 BC, in ‘The Family of Euxitheus (Demosthenes LVII)’, p. 59. However, as previously attested, Lacey fails to consider the possibility that these misfortunes could refer to the first decades of the fourth century (see also n. 78; see especially ὅτε ἡ πόλις ἠτύχει καὶ πάντες κακῶς ἔπραττον at §35). Therefore, Davies’ date of 395 BC is entirely plausible.

ἐγγυᾶται: ‘was betrothed’. Many marriages were contracted by ἐγγύησις (formal betrothal) and by ἔκδοσις (the ceremonial transferal of the bride to the dwelling of her new husband). For a lawful ἐγγύησις, the woman’s κύριος arranged her marriage with the man intended to be her husband (see αὐτὴν ὁ Τιμοκράτης ὁμομήτριος καὶ ὁμοπάτριος ὦν ἀδελφὸς ἔδωκεν at §40). The term refers to the civil contract entered into between the κύριος (seller) and the prospective husband (buyer). The right to citizenship was reserved for those born from one of the two forms of marriage recognised by Attic law: either by ἐγγύησις and ἔκδοσις, or by ἐπίδικασία (see ἐπικλήρου δὲ κληρονομήσας εὐπόρου above).¹⁹² Euxitheos emphasises the fact that his father was properly betrothed to Nicarete and thus their marriage came about according to official proceedings. In doing so, he seeks the jury’s recognition of his right to citizenship as the son of a female citizen who had been given in marriage by ἐγγύησις (for his specific reference to it, see ὁμόσας τὸν νόμιμον τοῖς φράτερσιν ὄρκον εἰσήγαγέν με, ἀστὸν, ἀστὸν ἐξ ἀστῆς ἐγγυητῆς αὐτῶ γεγενημένον εἰδώς at §54).

τοῦ ἀδελφοῦ αὐτῆς Τιμοκράτους Μελιτέως: ‘her brother Timocrates of Melite’. Nicarete’s father must have died before her first marriage as it was Timocrates who gave his sister in marriage to Protomachos (αὐτὴν ὁ Τιμοκράτης ὁμομήτριος καὶ ὁμοπάτριος ὦν ἀδελφὸς ἔδωκεν at §40). Euxitheos reveals that his uncle then gave her in marriage to her second husband, Thoucritos. Cohn-Haft suggests that the mention of Nicarete being given to Thoucritos by Timocrates is an indication of her family’s acceptance of the

¹⁹² It must be noted that ἐγγύησις, while a necessary condition for marriage, was not itself sufficient proof of a marriage; two cases are known from the source material which document that ἐγγύησις had taken place, but no marriage had occurred (Isae. 6.22-4; Dem. 27.17). For an overview of the relationship of these marriage customs between Athenian law and life, see Wolff, ‘Marriage Law and Family Organization in Ancient Athens’, pp. 46-53; W. K. Lacey, *The Family in Classical Greece*, pp. 105-6.

divorce that they might otherwise have opposed.¹⁹³ Euxitheos' account does appear to denote a positive manner in which the divorce and remarriage were conducted.

παρόντων τῶν τε θείων ἀμφοτέρων τῶν ἑαυτοῦ καὶ ἄλλων μαρτύρων: 'while both his uncles were present and other witnesses'. There was no local or central marriage record kept by officials. But the ἐγγύησις was attended by the relatives of both parties, who could then be called as witnesses to the validity of the process and presumably the subsequent marriage (cf. Isae. 3.18-20; Dem. 30.21, 39.22). The uncles that the speaker refers to were Charisios and Lysanias (see Χαρίσιος ἀδελφὸς ἦν τοῦ πάππου τοῦ ἐμοῦ Θουκριτίδου καὶ Λυσαρέτης τῆς ἐμῆς τήθης at §20, and ὁ τούτου πατὴρ Λυσανίας ἀδελφὸς ἦν τοῦ Θουκριτίδου καὶ τῆς Λυσαρέτης at §21). Euxitheos states that these men, along with other unidentified individuals, were witnesses to the betrothal of his mother and father.

καὶ τούτων ὅσοι ζῶσι, μαρτυρήσουσιν ἡμῖν: 'and they will give testimony for us, as many of these men that are living'. It was important for Euxitheos to provide testimonies to the court to account for his mother's divorce. Thoucritos' uncles, Charisios and Lysanias were presumably dead at the time of his appeal (they do not feature in the speaker's summary of those who gave testimony from his father's side at §68), and so Euxitheos must have relied on the 'other witnesses' to confirm that Protomachos was required to marry an ἐπίκληρος (see ἐπικλήρου δὲ κληρονομήσας εὐπόρου above) and that his father rightfully married Nicarete.

[42] **παιδίων αὐτῇ δυοῖν ἤδη γεγενημένων:** 'when two children had already been born to my mother'. Since the speaker has just spoken of Thoucritos' betrothal to Nicarete

¹⁹³ If Protomachos and Nicarete's surviving child had been a son, rather than a daughter, L. Cohn-Haft persuasively argues that Nicarete's family could have legally opposed Protomachos' dissolution of the marriage, in 'Divorce in Classical Athens', p. 9. See also Harrison, *The Law of Athens* Vol. I, pp. 11-2, 309-11.

(see ἐγγυᾶται at §41), it is reasonable to expect that their marriage took place soon after and thus these children would be the product of that union.¹⁹⁴ However, Davies mistakenly takes these children to be sons of Protomachos,¹⁹⁵ which would imply that Nicarete continued to live with Protomachos after he came to receive the ἐπίκληρος. He does make a more persuasive case for Nicarete's birth year being no later than 420 BC, given that she had three children at this time (albeit one with Protomachos and two with Thoucritos), and it can be estimated that Nicarete was in her late twenties or early thirties by the time her second husband went on campaign in 387 BC (see below; see also ἔτι τοίνυν παίδων αὐτῷ τεττάρων γενομένων ὁμομητρίων at §28). As for Nicarete's daughter with her first husband, it was probably the case that she remained with Protomachos after he divorced her mother since children were produced to maintain their father's *oikos*.¹⁹⁶ This appears to correspond with details provided in the subsequent passage (see θυγατέρα ἐκδούς at §43). With Euxitheos seemingly the eldest child of the union between Thoucritos and Nicarete (see εἶτα ἐκ τοῦ πατρὸς τοῦ ἐμοῦ ἐγὼ at §40), the two children that the speaker refers to here must be himself and a younger brother.

ἀποδημοῦντος μετὰ Θρασυβούλου: 'was abroad with Thrasyboulos'. In an earlier passage, the speaker mentions that his first cousin Ctesibios died in Abydos while serving with Thrasyboulos of Collytos in 387 BC (see οὗτος μὲν ἐτελεύτησεν ἐν Ἀβύδῳ μετὰ Θρασυβούλου στρατευόμενος at §38). Although Euxitheos does not specify that Thoucritos joined the same campaign, there is no outstanding reason why it cannot be

¹⁹⁴ Lacey makes a similar argument, stating that §42 as a whole clearly indicates that Nicarete was financially dependent on Thoucritos at this stage in her life, in 'The Family of Euxitheus (Demosthenes LVII)', pp. 57-8.

¹⁹⁵ He assimilates these children with the two sons of Protomachos who testify for Euxitheos at §43 (τοὺς τοῦ Πρωτομάχου υἱεῖς), see Davies, *Athenian Propertied Families*, p. 94.

¹⁹⁶ For an overview of marriage dissolutions, and the freedom of an Athenian wife to remarry and bear children for a subsequent husband, see Harrison, *The Law of Athens* Vol. I, pp. 39-44.

identified with the one embarked upon by Ctesibios.¹⁹⁷ Bearing in mind the date of Thrasyboulos' campaign, Euxitheos must have been born before 388 BC since he was the eldest of the two children born to Nicarete before Thoucritos went abroad. This would make Euxitheos at least forty-two years old at the earliest date of the speech, 346 BC.

ἐν ἀπορίαις: 'in dire straits'. After marrying Thoucritos, Nicarete was financially dependent on him as her husband. The speaker makes the connection between his father's absence on campaign with Thrasyboulos and his mother's financial difficulty, having been left with two young children. Euxitheos previously stated that Thoucritos was poor (see πένης ὄν §25) and, taking his claim to be true, Nicarete would thus have had little or no means to live off in his absence. However, it is difficult to explain why his family did not support her. Thoucritos' uncles had kept the family property in his absence during the Decelean War and his subsequent enslavement in Leucas (see ὑπὸ τὸν Δεκελεικὸν πόλεμον and πραθεῖς εἰς Λευκάδα at §18), and only divided it to give him his share upon his return to Athens (see ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν at §19). Lacey deduces that Thoucritos' family property was farm-land from which they had been unable to obtain an income after the Spartan occupation of Decelea and subsequent devastation of Attica (cf. Lys. 7.6; for this property, see ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν at §19).¹⁹⁸ As such, the family would only have been in a position to support Nicarete when peace and economic stability was restored to Athens. As previously noted, Lacey's dates for this period are a

¹⁹⁷ Lacey, however, suggests that the campaign with Thrasyboulos was probably the one in which Thoucritos was captured and enslaved (Euxitheos claims that this occurred during the Decelean War of 413-404 BC, see ὑπὸ τὸν Δεκελεικὸν πόλεμον at §18). He accounts for the speaker's lack of explicit connection between the two events as 'a Greek orator's typical presentation of facts' and argues that the Thrasyboulos in question was Thrasyboulos of Steiria, in 'The Family of Euxitheus (Demosthenes LVII)', pp. 58-9. But since Lacey's premise primarily depends on an earlier estimation for the dates of the misfortunes of the city (§§35 and 45), his timeline does not align with other dating evidence (see nn. 79 and 191).

¹⁹⁸ Lacey, 'The Family of Euxitheus (Demosthenes LVII)', p. 59.

little early in light of other evidence,¹⁹⁹ but his allusion to instability in Athens would have continued to be applicable to the first decades of the fourth century BC and the economic hardships experienced in the aftermath of losing the Peloponnesian War. Members of Thoucritos' family, in particular his ageing uncles (presumably dead at the time of the speech, see καὶ τούτων ὅσοι ζῶσι, μαρτυρήσουσιν ἡμῖν at §41) may have had financial difficulties of their own and may have been unable to provide for Nicarete and her children. Of course, an alternative explanation for their lack of support is that Nicarete's children by Thoucritos were illegitimate and, as his mistress, she would have no formal claim on his family and her children by him would have been regarded as bastards. Without the public recognition of his father on the tenth day after a child's birth, in a ceremony known as the δέκατος, illegitimate children were not accepted by their fathers' relatives and members of their wider kinship groups (Dem. 39.20, 22, 24); these children could not subsequently inherit (Ar. *Birds*, 1649-70), nor could they receive any state support if their fathers died in battle (Lys. fr. 10a).²⁰⁰

τὸν Κλεινίαν τὸν τοῦ Κλειδίκου: 'Cleinius the son of Cleidicos'. Cleidicos' son Cleinius was born *circa* 390 BC (see τὸν Κλεινίαν at §40). Very little is known about their family,²⁰¹ but the fact that Cleidicos could afford to employ a wet-nurse to attend to his son does suggest that he was a man of some means.

τῇ μέντοι ὑπαρχούσῃ πενία ἴσως καὶ ἀναγκαῖα καὶ ἀρμόττοντα ποιοῦσα: 'but she was doing what was perhaps both necessary and fitting in her existing poverty'. When faced with such dire circumstances, the speaker presents Nicarete's action in becoming a τίτθη as extemporised and opportunistic in the need for economic survival. This does not prove,

¹⁹⁹ See nn. 79 and 191.

²⁰⁰ *Against Theozotides*, in S. C. Todd, *Lysias*, p. 385. For a concise evaluation of the separation of illegitimate children from their fathers' families, see D. Ogden, 'Bastardy and fatherlessness in Ancient Greece', pp. 107-14.

²⁰¹ This Cleidicos may have been related to Alcibiades, but the connection is tentative; see Davies, *Athenian Propertied Families*, pp. 13-5.

as Euboulides would have the jury believe, that she was not a citizen. However, his slander against Nicarete may have some merit with regard to Euxitheos' status. Since the speaker acknowledges that this slander stemmed from Nicarete's activities as a wet-nurse, one cannot exclude the possibility that she served as a wet-nurse to another child other than Cleinias. She may have been induced by the promise of financial aid or even the loss of her own child to raise that infant as her own citizen son (Euxitheos previously stated that four of Nicarete's other sons by Thoucritos had died, see ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα at §28). If Euxitheos was indeed this non-Athenian child and he had entered into Thoucritos' family in his infancy as a supposititious child, it is likely that none of the relatives who stand as witnesses on his behalf knew of his true origin and so their testimonies would be true based on the extent of their knowledge.²⁰² Indeed, Euboulides may have had suspicions but he would have had no evidence of Euxitheos' concealment within Thoucritos' household, if only Nicarete and the birth mother knew of it. Still, MacDowell rightly notes that it is a weakness in his defence that Euxitheos cannot prove that he had been born while Thoucritos was at home or indeed within nine months of his departure.²⁰³ With such potential for doubt arising from the issue of Nicarete's wet-nursing, it is understandable that Euxitheos does not dwell on the matter.

[43] **παῖδας ποιησάμενος**: 'he produced children'. Here, Euxitheos is speaking of Nicarete's first marriage to Protomachos and thus the children born from that union (in contrast to τοὺς τοῦ Πρωτομάχου υἱεῖς below); they are not, as Lacey assumes, the children from Protomachos' subsequent marriage to the ἐπίκληρος (for the heiress, see ἐπικλήρου δὲ κληρονομήσας εὐπόρου at §41).²⁰⁴ The verb ποιεῖσθαι literally means 'to make for oneself', but it commonly signifies 'to adopt' or 'to acknowledge' (in particular,

²⁰² See n. 131.

²⁰³ MacDowell, *Demosthenes the Orator*, p. 290.

²⁰⁴ Lacey, 'The Family of Euxitheos (Demosthenes LVII)', p. 58.

see Dem. 39.4, *passim*). Given the context, it cannot denote adoption here. Rudhardt makes a more cogent argument that ποιῆσθαι bears a distinctly social meaning, specifically the civil act of recognising a child that was only permitted for those born to an Athenian mother.²⁰⁵ Accordingly, Euxitheos' purpose in using this verb must be to expressly emphasise the citizen status of Nicarete and, as a result, the legitimacy of her children.

The speaker's use of the plural, παῖδες, must refer to children born to Protomachos and Nicarete who subsequently died, for he has previously only made reference to one daughter (see θυγάτηρ at §40). If other children from his mother's first marriage had survived, Euxitheos would surely have been able to call upon more witnesses for his case: either homometric half-brothers to provide testimony to the court themselves, or the men who had married any other surviving half-sisters, or even any additional nephews from such siblings (cf. εἶθ' υἱὸς τῆς ἀδελφῆς at §68).

Θυγατέρα ἐκδοῦς: 'gave his daughter in marriage'. As we have seen, the re-enactment of Pericles' citizenship law meant that civic rights were restricted to persons born of a citizen father and a citizen mother.²⁰⁶ There existed another Athenian law which stated that it was illegal for a citizen male to give a non-citizen woman in marriage to another citizen male, representing her as his own daughter (ὡς ἑαυτῷ προσήκουσαν, [Dem.] 59.52). According to the details provided by the orator in this speech, the punishment for breaking this law was ἀτιμία and the confiscation of the accused's property. The punishment for the false kinswoman, however, is not recorded. It is likely that this law was primarily intended to penalise a citizen attempting to give in marriage his illegitimate daughter, but it covered circumstances of misrepresenting any female metic or slave as a relative. Since the law stipulated that anyone qualified to do so (typically an Athenian male citizen who

²⁰⁵ J. Rudhardt, 'La reconnaissance de la paternité dans la société athénienne', pp. 55-6.

²⁰⁶ See Introduction, pp. 21-5.

was not himself subject to ἀτιμία) could indict a man who he suspected of giving a non-citizen woman in marriage, Euxitheos therefore reports that Protomachos' actions with regard to his daughter are not indicative of a man who doubted her mother's citizen status and who held any fear that he could be charged. After Protomachos divorced Nicarete, he most likely kept their daughter with him (see παιδίων αὐτῆ δυοῖν ἤδη γεγενημένων at §42) and Euxitheos makes the point that Nicarete's former husband gave their daughter in marriage to an Athenian man (see εἶτα Εὐνικόν Χολαργέα below). Protomachos' actions were his open acknowledgement of both mother and daughter being citizen women. Furthermore, one would expect that if there were significant doubts about the status of his daughter and a summons had been made, Euboulides would have referred to it in his case against Euxitheos, yet the latter makes no reference to any such accusation against that side of his family.

ἀστήν ταύτην καὶ πολῖτιν εἶναι: 'her being both a native and citizen'. Like their corresponding male forms, ἀστή and πόλιτις express a civil connection to the community.²⁰⁷ Wolff suggests that the male term πολίτης referred to a citizen with full rights, while ἀστός and ἀστή referred to natives of Athens who were not full citizens (without the right to vote, i.e. Athenian boys or Athenian women);²⁰⁸ however, his differentiation does not work in this context. Patterson makes a more convincing distinction between the two terms by making reference to the fact that ἀστή was implicitly and often explicitly used in contrast to a ξένη to indicate a native member of the community, whereas πόλιτις was coined in the later fifth century to refer to a female member of the πόλις and which could be used to indicate internal participation.²⁰⁹ Since

²⁰⁷ See n. 117.

²⁰⁸ Wolff, 'Marriage Law and Family Organization in Ancient Athens', p. 83.

²⁰⁹ C. Patterson, 'Athenian Citizenship Law', p. 269. In a similar manner, J. Blok notes that the term πολίτιδες is first attested in the 420s BC, and contends that its appearance demonstrates the indispensable role of female citizens, in 'Perikles' Citizenship Law', p. 159. See also R. Osborne's analysis of the family as the origin of *polis* membership, in 'Law, the Democratic Citizen and the Representation of Women in Classical Athens', pp. 3-33.

both terms nonetheless indicate citizen status for a woman, and I have translated ἀστός and ἀστή as ‘citizen’ elsewhere in this text (see also πότερόν ποτ’ ἀστός ἢ ξένος ἦν ὃ ταῦθ’ ὑπῆρχεν at §24), here I distinguish between the two terms as ‘native’ and ‘citizen’ respectively.

τοὺς τοῦ Πρωτομάχου υἱεῖς: ‘Protomachos’ sons’. These are the sons of Protomachos’ second marriage to the ἐπίκληρος (as opposed to παῖδας ποιησάμενος above). Euxitheos does not refer to them as his brothers, only as the sons of his mother’s former husband, but he does identify the daughter of Protomachos and Nicarete at his sister (see below; the distinction is made again at §68: οἱ Πρωτομάχου υἱεῖς ... τὴν ἀδελφὴν τὴν ἐμὴν). Protomachos’ sons from his subsequent marriage are called to confirm that their father, deceased at the time of the trial, married Nicarete while being certain of her citizen status and that he also accepted the daughter from that union to be his legitimate offspring.

οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρὸς ὁ πατήρ: ‘who my father brought in for the marriage-feast on behalf of my mother’. Having just referred to Nicarete’s first marriage to Protomachos, Euxitheos calls witnesses to the fact that his own father had married her according to custom and had offered a γαμηλία for the phratry members on her behalf. It was an event held after the wedding had taken place, involving both a feast (Hsch. s.v. γαμηλία) and a sacrifice (Poll. *Onom.* 8.107), but further details have not been preserved. Euxitheos seems to imply that Nicarete’s γαμηλία was celebrated before a select group of phratry members rather than the whole phratry. The size of a gathering may have varied according to the specific requirements of each phratry, or it may simply have depended on the means of the individual (Euxitheos claims that Protomachos was a poor man in an earlier passage, §41). Though the γαμηλία may have been normal practice, it does not appear to have been an explicit legal requirement nor does it seem to have required the same tight control as male introductions to the phratry (i.e. during a

candidate's infancy at a ceremony known as the *μείων*, and during his adolescence at the *κουρεῖον*)²¹⁰ and there probably was no official scrutiny or opportunity for the phratry members to object to a wife's presentation. These wives do not seem to be regarded as actual members of their husband's phratry and there is no surviving information as to what, if indeed anything legally, the *γαμηλία* meant in practice. Apart from Euxitheos' reference, the *γαμηλία* is mentioned in two of Isaeus' speeches regarding legitimacy: the speaker of *On the Estate of Ciron* calls witnesses to his mother's wedding and her son being accepted into his father's phratry (8.18, 20), and the point at issue in *On the Estate of Pyrrhos* is the status of an alleged daughter of the speaker's uncle (3.76, 79). In fact, the phrasing appears to be standard construction as it features in all three (§43; Isae. 8.18, 3.79).

Yet unlike Isaeus' speeches which refer to legitimacy with regard to inheritance rights, Demosthenes' alone uses the *γαμηλία* as evidence for citizenship legitimacy. The *γαμηλία* itself did not bestow legitimacy by descent – that derived from the citizenship status of the parents – but it was a guarantee of a woman's legitimate status. Ultimately it was this part of the marriage process which officially authenticated a woman's role as an Athenian wife, capable of bearing children whom the members could subsequently receive into the community as citizens. As witnesses, the phratry members who attended Thoucritos' *γαμηλία* for Nicarete were thus witnesses to her citizen status and crucial to Euxitheos' case in proving his own qualification for citizenship. There is a similar scenario in *On Behalf of Euphiletos* wherein the speaker, whose brother was also ejected by his deme during the extraordinary *διαψήφισις* of 346/5 BC, emphasises the evidence provided by members of his phratry (Isae. 12.8).²¹¹

²¹⁰ See Appendix 5, pp. 293-7.

²¹¹ For the significance of phratry members providing evidence in cases involving citizenship, see Appendix 5, pp. 295-6.

εἶτα Εὔνικον Χολαργέα: ‘next Eunicos of Cholargos’. Eunicos married Euxitheos’ half-sister, the unnamed daughter of Protomachos and Nicarete (see also §68). Cholargos was a deme of the tribe Acamantis and was located just north of Athens.²¹² Eunicos is therefore the speaker’s brother-in-law.

τὴν ἀδελφὴν λαβόντα τὴν ἐμὴν: ‘who has received my sister in marriage’, cf. οἱ Πρωτομάχου υἱεῖς ... τὴν ἀδελφὴν τὴν ἐμὴν at §68.

εἶτα τὸν υἱὸν τῆς ἀδελφῆς: ‘next my sister’s son’. Euxitheos’ homometric half-sister and Eunicos had a son who, though unfortunately not named in the speech, was evidently an adult by 346 BC since he stands as a witness for his uncle.

[44] **εἰ τῶν συγγενῶν ὄντων τοσούτων τουτωνὶ καὶ μαρτυρούντων καὶ διομνυμένων ἐμοὶ προσήκειν:** ‘if in spite of so many of these relatives giving testimony and swearing under oath to be related to me’. Euxitheos deliberately turns the jury’s attention to his family connections and their undisputed citizenship status, focusing his argument on genealogical descent. He emphasises the number of relatives he can produce and their sworn testimonies which confirm that they are his kin. The strength of Euxitheos’ argument relies on the weight of this number. At first glance, such a solid body of kinsmen appears to be a significant strength in his case. Yet, an undeniable weakness lies in the fact that Euxitheos fails to address sufficiently the possibility of fraud with regard to his witnesses. On the one hand, Euboulides has accused Euxitheos of bribing witnesses to testify that they are relatives (see §§52-3); on the other hand, and perhaps a more likely scenario, the witnesses themselves could have all been deceived with regard to Euxitheos’

²¹² Traill, *The Political Organization of Attica*, p. 47. Most notably, Cholargos was the deme in which Pericles was born (Plut. *Per.* 3).

status if he had been smuggled into Thoucritos and Nicarete's family as a baby (for this hypothesis, see ἔτι τοίνυν παίδων αὐτῶ τεττάρων γενομένων ὁμομητρίων ἐμοὶ at §28).

τοῦ Κλεινίου: 'of Cleinias', see τὸν Κλεινίαν τὸν τοῦ Κλειδίου at §42.

[45] **ταπεινὸν:** 'a lowly thing' (this term appears throughout the Demosthenic corpus, denoting humble or even humiliating rankings, see Dem. 1.9, 4.23, 8.67, 9.21, 10.69, 13.25, 16.24, 18.108, 178, 19.325, 21.186, 45.4). In general, manual labour was ascribed negative overtones in ancient Greece and was considered to be an improper practice for citizen males (working for another and losing one's independence was considered particularly unbecoming: Pl. *Laws*, 846d-e, *Rep.* 371e; Xen. *Mem.* 2.8; Arist. *Pol.* 1254b20-36, 1278a6-20, 1329a1-40, 1337b10-15; yet Xenophon presents a more realistic view of such labour, specifying that husbandry was the most appropriate manual occupation, *Oec.* 5.4-17).²¹³ If manual labour carried negative connotations for men, then for women of civic status to be engaged in such activities, the implications were even worse. By describing the occupation of wet-nurse as ταπεινός, Euxitheos once again acknowledges the particular stigma attached to the former profession of his mother (cf. §§35 and 42).

πολλὰ δουλικά καὶ ταπεινὰ πράγματα τοὺς ἐλευθέρους ἢ πενία βιάζεται ποιεῖν: 'Poverty compels free men to do many servile and lowly tasks'. The notion that poverty wielded a corrupting force was commonplace in different genres (Hom. *Od.* 14.157; Thuc. 3.45.4; Eur. *El.* 376; Arist. *Pol.* 1295b5-10).

²¹³ For the jury's middle class prejudices, see n. 156.

ἔριθοι: ‘wool-workers’ (cf. *ταλασιουργοί* is the commonly used term to denote freedwomen occupied as wool-workers).²¹⁴ Spinning and weaving was characteristically a female skill which traversed marital status, age, and social classification (Pl. *Alc.* 126e, *Rep.* 5.455c; Xen. *Oec.* 7.6, *Lac.* 1.3-4). Since all Athenian women, even those of the upper-classes, learned to spin and weave, they could logically take their skills to the marketplace in times of economic need and thus make a decent income. Xenophon provides specific details about Aristarchos’ female relatives who have descended upon him, having been left behind in the city after the revolution caused an exodus to the Piraeus at the close of the Peloponnesian War (Xen. *Mem.* 2.7.2-12; for the date, cf. *Hell.* 2.3.4). Aristarchos is advised by the character of Socrates to put the women to wool-working in order to lessen their financial burdens as a family unit; his initial attitude to manual labour concurs with the typical Athenian mentality to paid employment, but Socrates reminds him that weaving was a suitable occupation for respectable women. In the paradigm provided by Xenophon, wool-working is presented as lowly but honourable work for Athenian women to undertake. It would seem that this occupation was generally held in higher esteem than earning a livelihood through wet-nursing.

τρογγήτριαι: ‘grape-pickers’. Euxitheos’ statement that many Athenian women had undertaken such work appears to be corroborated by the discovery of many pots, namely black and red figure *lekythoi* and *skyphoi*, which depict scenes of groups of women in what appear to be orchards: in some scenes the women pick fruit and collect the crop in baskets, while in others they are portrayed as sitting around a tree.²¹⁵ However, it is not

²¹⁴ In one inscription, five of the thirteen female names and occupations inscribed are wool-workers: Lyde, Itame, Olympias, Malthace, and Echo; see D. M. Lewis, ‘Attic manumissions’, pp. 208-38. Overall, more than half of the freedwomen attested in fourth-century manumission inscriptions are listed as *ταλασιουργοί*; see *IG II²* 1553-78; *SEG* 18.36, 25.178, 180 in Schaps, *The Economic Rights of Women in Ancient Greece*, p. 19. Schaps further notes that of forty-two freedwomen whose trades are known to us from the Athenian manumission inscriptions, thirty-one were *ταλασιουργοί*; the remainder are distributed among eight other occupations.

²¹⁵ In particular, see fig. 2.29, Attic black figure *lekythos*, Braunschweig, Herzog Anton Ulrichs-Museum AT 700; fig. 1.12, in S. Lewis, *The Athenian Woman*, p. 84.

clear whether the women depicted on these pots are indeed hired help or citizen wives and daughters working for their own households (the greater part of Attica was probably occupied by peasant farmers who were too poor to afford slaves; Aristotle describes the lowest classes of society having to use their wives and children, *Pol.* 1323a5). Nevertheless, a comment made by Hesiod does indicate that situations could arise in which free women needed to undertake paid agricultural work beyond their own farmsteads, specifically when economic hardship befell the family. Hesiod urges his brother to work lest he, his wife and children be compelled to resort to hiring themselves out as agricultural workers to their neighbours (Hes. *Works and Days*, 399-400). When viewed in conjunction with one another, these sources do suggest definitive female involvement in agricultural work and, thus, they corroborate Euxitheos' example of numerous Athenian grape-pickers.

ὑπὸ τῶν τῆς πόλεως κατ' ἐκείνους τοὺς χρόνους συμφορῶν: 'by the misfortunes of the city at that time'. Euxitheos again states that Athens as a whole was experiencing particular hardship at the time when his mother and other citizen women undertook paid employment outside of the *oikos* (see also ὅτε ἡ πόλις ἠτύχει καὶ πάντες κακῶς ἔπραττον at §35). As previously highlighted, the period of the Decelean War was particularly severe on the city of Athens and its population (ὑπὸ τὸν Δεκελεικὸν πόλεμον at §18). A substantial part of the male population had already been killed during the Peloponnesian War and many slaves had fled from the city after 413 BC, when the Spartans fortified a base at Decelea (Thuc. 7.25.5). The effects of the war and the Athenian defeat would certainly have had a lingering impact on Athens in the decades which followed.

πολλαὶ δ' ἐκ πενήτων πλούσιαι νῦν: 'and many who were poor then are now rich'. Here, *πολλαί* is the third use of the adjective *πολύς* in this passage. Such a repetition by the speaker stresses how widespread the undertaking of paid manual labour had become.

Euxitheos appears to be among those who were once poor but now live comfortable lives. The speaker refers to both the poverty of his father (see πένης ὄν at §25) and of his mother while her husband was abroad on military campaign (see ἐν ἀπορίαις at §42) but, at the time of the speech, Euxitheos himself is wealthy enough for his opponents to accuse him of buying witnesses (see τῶν μαρτύρων ἐνίους ὠφελουμένους μοι μαρτυρεῖν συγγενεῖς εἶναι at §52). Though Euxitheos might have financially prospered from business in the marketplace (for his involvement in the trade along with his mother see ταινίας πωλεῖν at §31), such work was not the means through which a citizen woman could make a fortune in her own right. Athenian law forbade women from making a contract valued at more than a bushel of barley (Isae. 10.10); essentially, they were not permitted to engage in sales for more than three drachmas.²¹⁶ Preventing women from performing large financial transactions limited them to making a living from petty trade. Thus, it must be Euxitheos' own participation in the trade which has enabled his family to achieve their present financial security.

ἀλλ' αὐτίχ' ὑπὲρ τούτων: 'But more regarding these matters presently'. For the unfulfilled promise see §16.

§§46-51: Euxitheos' evidence about himself

Since Euxitheos' status depends on that of his parents, he has already dedicated a considerable amount of his speech to detailing their citizen lineages. But yet, it remains for the speaker to prove that he is indeed their son, born from their legally sanctioned union and that he was subsequently recognised by their family and social groups. One would expect him to list his own credentials separately, providing witnesses to each stage, and particularly detailing his service in various deme offices (in a similar manner to his

²¹⁶ Schaps, *The Economic Rights of Women in Ancient Greece*, p. 137 n. 32.

report about his father at §§23-5). But at §46, despite a declaration that he will bring witnesses, he does not do this and instead presents the factual information altogether, thereby devoting more time to argumentation. It is possible that Demosthenes deliberately sought a direct and decisive climax to the factual demonstration. But, if Euxitheos was attempting to deceive the jury with regard to his origin and parentage, a short overview of the evidence pertaining to his own citizen status could indicate that he wished to avoid dwelling on what was actually a crucial flaw in his case. In fact, the speaker brings no evidence after §46, and such a complete lack of evidence to support claims which could easily have been proven before the court is certainly suspicious. Moreover, it seems strange that Euxitheos was apparently not introduced into Thoucritos' *genos* (§46). The brevity on his own credentials stands as a definite weakness in Euxitheos' defence overall. Further difficulties follow at §51. Euxitheos' assumption that he is indeed the son of Thoucritos and Nicarete leads him to argue that he must be a citizen since he openly declares them to be his parents, whereas a non-citizen would claim to be the son of parents other than his own. Rather than providing some evidence that Thoucritos and Nicarete are his parents, the speaker surprisingly relies on a rather flimsy contention.

[46] **κεκληρονομηκότα καὶ τῆς οὐσίας καὶ τοῦ γένους**: 'having inherited both the property and the lineage'. Since Euxitheos first speaks of having acquired property from his parents (more specifically from his father, see ἔπειθ' ὅτι ἀφικόμενος τῆς οὐσίας παρὰ τῶν θείων τὸ μέρος μετέλαβεν at §19), τοῦ γένους must then refer to the citizen 'lineage' that he also attained from them rather than the social group, the *genos*. Although *genos* membership was hereditary and Euxitheos' father Thoucritos was certainly a member (as confirmed by τοὺς γεννήτας at §23; see also §§24 and 67), Euxitheos' membership of this group is never explicitly attested anywhere in the speech. Given that the speaker merely implies that he also belongs to the *genos* (see γεννήτας at §24 and εἰς Ἀπόλλωνος πατρῶου {ἧγον} at §54), it is more fitting to translate τοῦ γένους as 'the lineage' here.

It seems strange that Euxitheos would not have been admitted to Thoucritos' *genos* when he was a child.²¹⁷ However, doubts regarding Euxitheos' legitimacy and therefore his citizen status may explain why he was not introduced (or indeed, if the *genos* rejected his membership). The *genē* were more exclusive than phratries and so it would have been harder to enrol a suspicious candidate.²¹⁸

οὐ μὴν ἀλλὰ: 'But nevertheless'. For the use of this phrase, see **οὐ μὴν ἀλλὰ καίπερ τούτων οὕτως ἐχόντων** at §3.

ὡς εἰσήχθην εἰς τοὺς φράτερας: 'that I was introduced to the phratry members'. A candidate was introduced to his father's phratry either in infancy or during childhood.²¹⁹

ὡς ἐνεγράφην εἰς τοὺς δημότας: 'that I was entered into the register of the demesmen'. Deme enrolment usually took place at the age of eighteen.²²⁰

ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱεροσύνης τῷ Ἡρακλεῖ: 'that I was chosen by these same men to draw lots with men of the best lineage for the priesthood of Heracles'. Local deme cults were separate from the state cults that were situated in some of the demes and managed by central authorities. It is possible that the majority, if not all, of the Athenian demes possessed their own local cults and maintained control over them. For example, the cult of Artemis Colaenis was important in the deme of Myrrhinous (*IG* II² 1182, 18-21; Paus. 1.31.4); the deme of Acharnae had temples dedicated to Ares and Athena (*SEG* 21.519, 6-9); the deme of

²¹⁷ Thoucritos' absence for military service may have been the reason why Euxitheos was not admitted into his father's *genos* in his infancy (see §42). Nevertheless, it does not explain why he was not subsequently enrolled upon Thoucritos' return or indeed why none of his father's relatives sought to introduce him to the *genos* themselves (a practice which was apparently admissible in phratry registrations, see n. 11 in Appendix 5).

²¹⁸ For general details regarding the *genē*, see Appendix 6, pp. 298-301.

²¹⁹ See Appendix 5, pp. 293-5.

²²⁰ See n. 80 in the Introduction.

Aexone particularly worshipped Hebe (*IG II² 1199*).²²¹ However, the nature of the deme cults is hard to assess. Cleisthenes' formal creation of the deme system in 508/7 BC may have occasioned a deme to engage in the cult-worship of its founder or the relevant eponymous hero of the ten Attic tribes ([Arist.] *Ath. Pol.* 21.5-6). Yet many cults must have come down from archaic times and predated Cleisthenes' reorganisation, since his reforms left Athenian citizens free to engage in traditional religious practices (τὰ δὲ γένη καὶ τὰς φρατρίας καὶ τὰς ἱερωσύνας εἶασεν ἔχειν ἐκάστους κατὰ τὰ πάτρια, [Arist.] *Ath. Pol.* 21.6; cf. Thucydides' description of the rural Athenians' resentment at having to abandon their homes and ancient shrines at the start of the Peloponnesian War, 2.16.2). Thus, the very nature of a deme cult is a problematic one, as indeed is noted by Whitehead.²²²

Euxitheos here provides information about one such cult in the deme of Halimous, that of Heracles and the selection process for its priesthood. He notes that the demesmen, presumably during the deme assembly, oversaw the appointment of the priest by sortition from a preselected list of candidates. This preliminary list comprised of 'men of the best lineage'; since the speaker was not from an aristocratic family, this clearly did not refer to noble-born men but rather the requirement that the candidates have a long established ancestry on both sides.²²³ This specification suggests that choosing the priest of Heracles from among the sons of the best families in Halimous was a longstanding tradition, possibly preceding Cleisthenes' deme system. Unfortunately, however, Euxitheos does not detail how long this appointment was held, whether this was a one-year term of office or whether it was for life. His only other allusion to the priesthood notes that one of the duties of the priest of Heracles was to offer a sacrifice on behalf of the demesmen (see

²²¹ For a comprehensive study of deme religion and cults, see Osborne, *Demos*, pp. 178-82, and R. Parker, *Polytheism and Society at Athens*, pp. 50-78.

²²² Whitehead, *The Demes of Attica*, pp. 176-8.

²²³ For further details, see Haussoullier, *La Vie Municipale en Attique*, pp. 137-8, 153-61. For a concise evaluation of deme cult calendars and sacrifices, see Parker, *Polytheism and Society at Athens*, pp. 61-78.

δεῖν ἄν με καὶ αὐτὸν θύειν ὑπὲρ τούτων καὶ τοῦτον μετ' ἐμοῦ συνθύειν at §47). Interestingly, Euxitheos does not stipulate that he actually held the priesthood of Heracles, only that he was among those preselected to draw lots for the position. This detail, however, would not have had any bearing on Euxitheos' case; the speaker uses his inclusion in this preselection process to not only confirm his citizen status but to further claim to be among those of the best lineage.

ὡς ἦρχον ἀρχὰς δοκιμασθεῖς: 'and that having been approved by scrutiny I held offices'. Euxitheos refers to holding deme offices as further proof of his previously established citizen status, in much the same manner as he claims for his father in a previous passage (see ἀρχὰς ἔλαχεν καὶ ἦρξεν δοκιμασθεῖς at §25; for the δοκιμασία process, see §§25-6). He claims that he too had been scrutinised during δοκιμασία proceedings and had been deemed fit to hold office.

Although Euxitheos subsequently claims to have held the office of *dēmarch* (§§63-4), he does not clarify here which other offices he personally held or when he served. Nor does he call for any deposition to be read before the court, as he did when referring to his father's time spent in deme offices. Since providing details about these roles could only help his case, it appears strange that he does not make more of the part he played in the deme's civic life. It is not impossible that such an omission was due to Euxitheos' exaggeration of his role in deme politics; if he was embellishing the truth with regard to holding several deme offices, it would be less surprising that his expulsion from the deme was so easily attained than for one who had played such an active role in Halimous.

[47] **δεῖν ἄν με καὶ αὐτὸν θύειν ὑπὲρ τούτων καὶ τοῦτον μετ' ἐμοῦ συνθύειν:** 'I personally would have been required to sacrifice on behalf of these demesmen and Euboulides would have been required to join in the sacrifice with me'. If Euxitheos had won the lottery between the preselected candidates, he would have been appointed as the

priest of Heracles for the deme of Halimous and would have undertaken all the duties that went with it (for deme cults in general, see ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46). One such duty was to offer sacrifices on behalf of the demesmen and to sacrifice alongside them. Euxitheos makes the point that if there were any real suspicion with regard to his birth, someone would surely have opposed his initial nomination in order to prevent a foreigner from sacrificing on behalf of Athenian citizens. He thus asks the jury to consider how the very same men were once prepared to have him make sacrifices on their behalf but are now no longer willing to sacrifice together with him.

τὸν μὲν ἄλλον χρόνον ἅπαντα παρὰ πᾶσιν τοῖς νῦν κατηγοροῦσι πολίτης ὁμολογημένος: ‘that all throughout the past I have been acknowledged as a citizen by all those who now bring accusations’. Euxitheos uses the priesthood (ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46) as evidence not only of his citizen status but also that his fellow demesmen, including Euboulides, have always accepted it.

[48] οὐ γὰρ ἂν δήπου ... εἴασεν: ‘For surely he would not allow ...’. The use of δήπου with the negative is heavily ironic in an oral context. The term is often used to denote mock surprise or incredulity (Ar. *Birds*, 269, *Eccl.* 327, *Wealth*, 140; Pl. *Symp.* 194b; Xen. *Mem.* 4.2.11).²²⁴

τόν γε ξένον καὶ μέτοικον: ‘a foreigner and a metic’. This is Euxitheos’ first and only specific mention of the status of metic in the text.²²⁵ It has already been noted that metics were required to register with an Attic deme, pay the annual μετοίκιον and obtain

²²⁴ See Denniston and Dover, *The Greek Particles*, pp. 267-8.

²²⁵ While I take ξένος to simply mean ‘foreigner’, μέτοικος is a particular type of foreigner, one who wished to take up residence in Athens for more than a short period. For an in-depth discussion of the Greek terms used to describe foreigners, see Whitehead, *The Ideology of the Athenian Metic*, pp. 6-13.

sponsorship from an Athenian citizen (see §34). But what of their place in Athenian society? Though they lived amongst the native community, Aristotle clearly distinguishes metics as non-citizens in view of the fact that they were excluded from public honours (*Pol.* 1278a35-8). Xenophon specifies that they had no right to own land or a house on it (*Ways and Means*, 2.6). Furthermore, Euxitheos reveals that metics could not hold either political or religious offices, nor could they become members of the tribes, phratries and *genē* (see below and also τῶν ὑμετέρων ἱερῶν καὶ κοινῶν at §3). Thus, their participation in their demes and in the *polis* as a whole was extremely limited.

In the current context, the terms metic and foreigner are synonymous. When they were specifically directed at a citizen, they were intended primarily as an insult. But accusations of this kind had lasting ramifications for a man's status since they destabilised his claim to citizenship. Euboulides' accusations against Thoucritos and Nicarete stemmed from events in their lives which occurred either before Euxitheos was born or shortly after; if there had been any prior doubts regarding Euxitheos' legitimacy, rumours about his status ought to have been long established. Euxitheos uses this knowledge to his advantage by ironically asking the jury to consider whether Euboulides would have allowed either a metic or a foreigner to assume the citizen rights which they were not legally entitled to (cf. on §25). It is important to note that Euxitheos at no stage in his speech answers an accusation of him being a slave, but only of being of foreign descent (see also ποῦ μετοίκιον καταθείς at §55).

οὔτ' ἀρχὰς ἄρχειν οὔθ' ἱερωσύνην κληροῦσθαι μεθ' ἑαυτοῦ προκριθέντα: 'either to hold offices or to draw lots with himself after being initially selected for the priesthood'. Metics were excluded from crucial aspects of citizen life (see above). Here, Euxitheos specifies that they could not hold office, a measure that isolated them from the political life of the Athenian state. Their exclusion is completed by their prohibition from the priesthods. Though metics lived in the deme alongside citizens and paid the appropriate

charges for the privilege of doing so, they had no lasting tie to it.²²⁶ In practice, however, it would have been difficult to distinguish physically a metic from a citizen. In Lysias' *Against Pancleon*, the speaker initially sued his opponent as a metic (23.2, cf. 15) and then as a citizen (23.2), before he finally concluded that Pancleon was slave (23.3). For both the speaker of *Against Pancleon* and Euboulides, it was easy to bring a charge against their opponent's status; with such uncertainty regarding status, it would have been much more difficult for these men actually to prove their allegations.

οὐδέ γ' ἄν, ὃ ἄνδρες Ἀθηναῖοι, παλαιὸς ὢν ἐχθρὸς ἐμοὶ τοῦτον τὸν καιρὸν περιέμενεν:

‘Since he is an old enemy of mine, Athenian men, he indeed would not have waited for this particular time’. Euxitheos has previously claimed that it was his opposing testimony in a prior case of Euboulides’ that was the cause of the animosity between the two of them (see §8, particularly διὰ ταύτην τὴν ἔχθραν ἐπιτίθεται μοι). But Euxitheos does not offer any proof of this long-standing enmity, either then or at this point in his speech, though he continues to use it as the motivation behind his disfranchisement (he also speaks of a feud involving their fathers at §61; for general cases arising from rivalries see §§6, 49, 57 and 63).

εἴπερ τι συνήδει τοιοῦτον: ‘if he really knew something such as this about me not being a citizen’. Euxitheos questions why Euboulides has waited for so long before bringing to light information about the former's foreign or illegitimate birth. His opponent could not have foreseen the *Ecclēsia*'s decision to order an extraordinary scrutiny in every deme, nor did he need it to make an accusation against him before this. Euboulides could have brought a γραφὴ ξενίας at any time,²²⁷ and the speaker uses the fact that he did not initiate such a suit to entice the jury to question the validity of his claim now.

²²⁶ If a metic moved deme, his designation changed. If a citizen moved deme, his did not.

²²⁷ For details on this public suit, see n. 69 in the Introduction.

[49] τὸν μὲν ἄλλον ἅπαντα χρόνον δημοτευόμενος μετ' ἐμοῦ καὶ κληρούμενος: 'for all the rest of the time, while belonging to the same deme as me and drawing lots'. The sense conveyed here is that deme membership came to mean more than just living in a deme, it also meant active participation (see also ἐν οἷς ὁ πάππος ὁ τοῦ πατρός, ὁ ἐμός, <ὁ> πατήρ, ἐνταῦθα καὶ αὐτὸς φαίνομαι δημοτευόμενος at §55; for similar uses of the verb δημοτεύομαι, see Dem. 44.39 and Lys. 23.2-3). This notion is further compounded by Thucydides, who has Pericles claim that there was no reason for a man who was uninterested in politics to live in Athens (Thuc. 2.40.2).

ἐπειδὴ δ' ἡ πόλις πᾶσα τοῖς ἀσελγῶς εἰσπεπηδηκόσιν εἰς τοὺς δήμους ὀργιζομένη παρώξυντο: 'when the entire city had been provoked to anger by those who had outrageously infiltrated the demes'. The result of so much public resentment was the formulation and enactment of the widespread review of the deme registers in 346/5 BC.²²⁸ Euxitheos' own words to the jury indicate that there was significant support in favour of expelling those who had wrongly assumed citizenship (see also σιωπῆ at §1 and διὰ τὴν τοῦ πράγματος ὀργὴν at §3). Demosthenes applies the verb εἰσπηδάω to express a sudden or violent irruption elsewhere, at Dem. 21.22, 78, 54.5, 20.

ἦν δ' ἐκεῖνος μὲν ὁ καιρὸς τοῦ συνειδότης αὐτῷ τάληθῆ λέγειν: 'the right time to speak for someone who was sure of the truth'. The time that Euxitheos refers to here was after the preliminary selections for the priesthood of Heracles and before the sortition took place (see ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46).

ὁ δὲ νυνὶ παρῶν ἐχθροῦ: 'but right now, the present time, is for an enemy'. Again, Euxitheos reminds the jury that there are men who would bring false charges against

²²⁸ The previous extraordinary διασηφισις in 445/4 BC took place after the city had received a gift of Egyptian grain, necessitating a full review of the deme registers, see Introduction, pp. 31-2.

others in order to win a victory over their enemy (see also §§6, 57 and 63). His intention is obviously to draw a parallel with the state of affairs between himself and Euboulides, and the alleged personal enmity between them (for their personal feud, see §§8, 48 and 61).

συκοφαντεῖν βουλομένου: ‘someone wishing to engage in *sykophancy*’. For details regarding the *sykophant*, see τοὺς συκοφαντοῦντας πονηροὺς at §32 and τοῦτο γὰρ ἐστὶν ὁ συκοφάντης at §34.

[50] (καὶ μοι πρὸς Διὸς καὶ θεῶν μηδεὶς θορυβήσῃ, μηδ’ ἐφ’ ᾧ μέλλω λέγειν ἀχθεσθῆ): ‘(and by Zeus and the gods let nobody make a commotion, or be annoyed at what I am about to say)’. Euxitheos asks the jurors to remain calm as he is about to say something that might cause them offence (he does so again at §59, καὶ μοι πρὸς Διὸς καὶ θεῶν μηδεὶς ὑπολάβῃ δυσκόλως ...). The phrase πρὸς Διὸς καὶ θεῶν appears in several other lawcourt speeches, indicating that it was most likely a formulaic entreaty (Dem. 18.199, 55.9, 35; Aeschin. 1.87).²²⁹ On this occasion, the speaker describes himself as a fellow Athenian even though the jury have yet to decide his case. Indeed, it is a common technique to anticipate an audience’s negative reaction to a point made by the speaker (Plat. *Apol.* 20e, 21a, 30c; Dem. 3.10, 8.32, 23.144).²³⁰ The speaker had to be careful not to incite the jurors’ resentment and, to continue with a point irrespective of its potential to provoke, he must deem it to be essential to his case.

²²⁹ For a discussion on entreaties to the gods, see M. Edwards, ‘Les dieux chez les orateurs attiques’, pp. 417-25.

²³⁰ For vocal expressions made by one or more jurymen to a litigant, see n. 68.

καὶ οὐχ ἑτέρας μὲν ὧν ταύτης δὲ προσποιούμενος: ‘and I am not pretending to be her son while being the son of another’. Euxitheos denies outright that he was a supposititious child.²³¹

[51] **ὧν δ’ οὐκ εἰσὶν προσποιούμενοι:** ‘and to be pretending to be who they are not’. When used in conjunction with a negative, the verb προσποιέω means ‘to pretend the contrary’.

δίκαιον ὑπάρχειν παρ’ ὑμῖν τοῦτο σημεῖον ὡς εἰσὶ ξένοι, ἐμοὶ δὴπου τὸναντίον ὡς εἰμὶ πολίτης: ‘it is right of you to hold this as a sign that they are foreigners ... surely the opposite should hold for me as proof that I am a citizen’. If the general consensus is to believe that a person is a foreigner for claiming to be the child of other parents, Euxitheos then contends that he must be a citizen for acknowledging his true parents. But this is ultimately a poor argument. A man who was unsure of his parents’ status would be more likely to lie about it rather than to find ‘new’ parents.

ξένην καὶ ξένον τοὺς ἐμαυτοῦ γονέας ἐπιγραψάμενος: ‘For having registered a foreign woman and man as my parents’. Since deme lists probably only recorded the father’s name (in accordance with normal identification practices, see Dem. 39.10), the inclusion of two parents was probably meant to emphasise the absurdity of such a notion.

ἀλλ’ εἴ τι τοιοῦτον συνήδειν, ἐζήτησ’ ἂν ὧν φήσω γονέων εἶναι: ‘but if I had known any such thing, I would have sought people who I could say are my parents’. Euxitheos uses irony in an attempt to undermine Euboulides’ attack on the citizenship of his parents, stating he would have sought actual citizens to register as his parents had he known that they were foreigners (cf. καίτοι οὐ δὴπου παῖς ὧν ἐγὼ ταῦτ’ ἔπειθον αὐτοὺς ἀργύριον διδοῦς at §54). Of course, what he neglects to say is that lying about their foreign status

²³¹ For supposititious children, see n. 131.

would also be an option. Though his argument is superficial, his ironical approach enabled him to pass over the point that he really ought to prove, that he was the legitimate offspring of Thoucritos and Nicarete.

§§52-6: Euboulides' accusations against Euxitheos

Euxitheos deals with Euboulides' allegations at §§52-3, specifically that he bribed Thoucritos' family to say that they were his relatives. This suggests that his opponent's attack placed more emphasis on Nicarete, claiming that Thoucritos' family were lying by accepting the illegitimate Euxitheos as one of their own.

[52] Ἔτι τοίνυν ὀρφανὸς κατελείφθην: 'And furthermore I was left fatherless' (cf. §§27 and 54). The Greek word ὀρφανός can be translated as 'orphan', but it does not necessarily imply that the son or daughter had lost their mother too (Hes. *Works and Days*, 330; Eur. *El.* 914, 1010; Lys. 2.60, 3.7).²³² Since Euxitheos' mother was still alive at the time of the speech's delivery, ὀρφανός is translated here as 'fatherless'. The loss of one's father was considered to be such a social problem that the Athenian state made provisions to maintain the orphans of fallen soldiers at public expense until they turned eighteen years of age. But, as demonstrated by Euxitheos' use of ὀρφανός here, the term did not only refer to a child. He employs this term again when making his final entreaty to the jury to vote in his favour for the sake of his mother (see ἐγὼ δὲ τοῦ μὲν πατρὸς ὀρφανὸς κατελείφθην at §70), perhaps in a further attempt to rouse the jury's pity.

τῶν μαρτύρων ἐνίουσ ὠφελουμένους μοι μαρτυρεῖν συγγενεῖς εἶναι: 'some of the witnesses are being paid by me to testify that they are my relatives'. At the time of the speech, Euxitheos' opponents believe him to have sufficient funds to buy witnesses for

²³² Liddell and Scott, *A Greek-English Lexicon*, s.v. ὀρφανός.

the present case. If these reports were true, the speaker must have acquired his wealth through business rather than inheriting it from the father he himself claimed was poor (see πένης ὄν at §25). Despite the fact that Euxitheos previously declared that he and his mother do not live in a manner they could wish (see ζῆν οὐχ ὄντινα τρόπον βουλόμεθα at §31), other elements in the speech appear to confirm that he thrived from this business (see πολλαὶ δ' ἐκ πενήτων πλούσιαι νῦν at §45) or even amassed considerable wealth (ἄ ἐγὼ ἀνέθηκα τῇ Ἀθηνᾶ at §64, and τούτων τινὲς ἐπὶ τὸ οἰκίδιον ἐλθόντες <τὸ> ἐν ἀγρῷ νύκτωρ ἐπεχείρησαν διαφορῆσαι τὰ ἔνδοθεν at §65). If Euxitheos was indeed a man of means, it would certainly explain how he was able to afford to pay Demosthenes' fee for writing his speech.²³³

One speculative aspect worth consideration is if Euboulides' accusation of bribery was true. This would not only explain why Euxitheos was unsupported during the vote of the demesmen at the διαψήφισις (see §14) but also how he was able to produce some of Thoucritos' relatives during his appeal (see §20-1). Before his case came to court, Euxitheos could have bought their apparent change of heart (cf. the alternate theory that his elderly relatives had departed the deme ἀγορά early along with other senior demesmen, see οἱ μὲν πρεσβύτεροι τῶν δημοτῶν at §10).

καὶ ἅμα μὲν κατ' ἐμοῦ λέγουσιν τὰς ἐκ τῆς πενίας ἀδοξίας καὶ περὶ τὸ γένος διαβάλλουσιν: 'One minute they speak against me for the dishonour of my poverty and they slander my lineage'. Euxitheos' use of the plural, τὰς ἀδοξίας, may be rhetorical exaggeration, though he may well have had Nicarete's work as both a wet-nurse and as a ribbon-seller in mind. Here, he emphasises his opponents' apparent inconsistency in order to draw the jury's attention away from the charge that he bought witnesses.

²³³ See pp. 13-14 in the Introduction.

[53] ἐξῆν δὲ δήπου τούτοις, εἰ νόθος ἢ ξένος ἦν ἐγώ, κληρονόμοις εἶναι τῶν ἐμῶν πάντων: ‘And surely it was possible for these relatives, if I indeed was a bastard or a foreigner, to be heirs to all my property’. The re-enactment of Pericles’ citizenship law in 403/2 BC once again restricted citizenship to the offspring of two Athenian citizen parents. This renewal included a clause, attributed to Aristophon (see §§30-2), which stated that whoever was not born of a citizen woman was a νόθος (Ath. 13.577b-c: Ἀριστοφῶν δ’ ὁ ῥήτωρ, ὁ τὸν νόμον εἰσενεγκὼν ἐπ’ Εὐκλείδου ἄρχοντος ὃς ἂν μὴ ἐξ ἀστῆς γένηται νόθον εἶναι; similar comments regarding the possession of only one Athenian parent are found in Dem. 23.213 and Plut. *Them.* 1).²³⁴ Since they lacked one of the two Athenian parents necessary for citizenship (εἰ μήτε πείσαντες μήτε δεθθέντες ὑμῶν at §3), νόθοι were not legally entitled to inherit money or property; both Dem. 43.51 and Isae. 6.47 attribute this provision to the same proposal of Aristophon. The right to inherit was thus a privilege of citizens and the fact that it was denied to both νόθοι and ξένοι alike is used by the speaker to support the reliability of his witnesses and thus his citizen status. The ‘people’ that Euxitheos refers to here are the family members that he brings as witnesses, specifically those who could have prevented the speaker from inheriting from his father and who could stand to inherit his possessions should he lose his appeal to be reinstated in the deme (according to Dionysios at *Isae.* 16, the property of a failed appellant was confiscated by the state, but debts and even exemptions could be claimed from that property by a third party: cf. [Dem.] 49.45 and [Dem.] 53; Lys, 17).²³⁵ While this is a strong argument with regard to Thoucritos’ relatives standing as witnesses to his case, it is interesting that the speaker does not deny outright that he is a

²³⁴ For a brief discussion of the status of bastards with regard to Pericles’ citizenship law of 451/0 BC and its subsequent re-enactment, see Introduction, pp. 23-4 and also n. 12 in Appendix 3. A comprehensive study of bastardy in Greek society was undertaken by Ogden, in *Greek Bastardy in the Classical and Hellenistic Periods* (1996).

²³⁵ This is only true if Euxitheos’ property was that which he inherited from Thoucritos. If, however, Euxitheos’ assets were from his own earnings, his paternal relatives could have no claim on it.

νόθος. Either Euxitheos believed that he had devoted enough time to detailing how his father had legally married an Athenian woman (§§40-3) and felt it was reliable enough not to warrant dwelling further on the issue, or he was attempting to gloss over any suggestion that he was a νόθος in order to cover a particular weakness in his case.

κινδυνεύειν ἐν ψευδομαρτυρίοις: ‘run the risk of a suit for giving false testimony’. In Attic oratory, there are numerous references to giving false testimony before a court. While many describe the trials and the convictions (Dem. 24.131, 39.18, 45.50; [Dem.] 46.10, 47.1, 9, 76, 49.56; Aeschin. 1.85), others refer to the danger of providing a false deposition like Euxitheos does here (for the use of κινδυνεύειν and ψευδομαρτυρεῖν together, see Dem. 29.16, 34.19, 41.16 and [Dem.] 47.5). While Euxitheos makes only a brief argument that those providing testimony as his relatives would not have chosen to undergo the risk of perjuring themselves, the speaker in *On Behalf of Euphiletos* dedicates more time to arguing from probability that his alleged family members would not risk giving false testimony (Isae. 12.4-8).

μηδεμιᾶς ἐξωλείας ὑπόχους ἑαυτοῦς ποιεῖν: ‘without anybody making themselves liable to utter destruction?’. In taking the oath, a litigant called ‘utter destruction’ down on himself if he violated it in any way (see κατ’ ἐξωλείας at §22).

[54] **με εὐθέως ἤγον εἰς τοὺς φράτερας**: ‘they immediately brought me to the phratry members’. The speaker’s relatives brought him to the phratry members, presumably in the absence of his father (either Euxitheos’ father was still abroad with Thrasyboulos, see ἀποδημοῦντος μετὰ Θρασυβούλου at §42, or his father had already died, see §§27 and 52).²³⁶ Although phratry membership does not appear to have directly affected a man’s legal status, it could be used as evidence of his legitimacy if his citizenship was

²³⁶ See n. 11 in Appendix 5.

questioned (their refusal could also be exploited in court to challenge somebody's status, as demonstrated by [Dem.] 59.59).²³⁷ Hence, Euxitheos endeavours to show the jury that he was accepted by his father's phratry, notably from a customarily young age.

There is, however, a noticeable lack of witnesses to confirm Euxitheos' story. Though a number of his paternal relatives were present to give testimonies during the trial (§§20-2), none confirm that he was introduced to the phratry as a young child. Likewise, the phratry members who appear in court to attest to his father's membership do not subsequently testify that they bore witness to Euxitheos' presentation at either the *μειῖον* or the *κουρεῖον*. Such an absence is certainly striking, and it gives weight to the theory that Euxitheos was illegally being passed off as the legitimate son of Nicarete and Thoucritis.²³⁸ The phratry members may have had sufficient doubts regarding his birth that they were reluctant to give testimony on his behalf.

εἰς Ἀπόλλωνος πατρῶου ἱῆγον: 'to the sacred place of Ancestral Apollo'. Dilts maintains Schaefer's deletion of the word ἱῆγον.²³⁹ Since it is repeating a verb that had already been included in the previous clause, I concur that its recurrence here is unnecessary. In addition to the state cults, deities such as Ancestral Apollo and also Zeus of the Household (Ζεὺς Ἐρκεῖος; literally, 'Zeus of the Courtyard') were common to the phratries (*IG* II² 4973; Dein. *Against Moschion*)²⁴⁰ and to the *genē* (see Ἀπόλλωνος πατρῶου καὶ Διὸς ἔρκειου γεννηταί at §67; *IG* II² 2602, 3629, 3630). Indeed, Demetrios of Phaleron defined an Athenian citizen as one who worshipped Zeus of the Hearth and

²³⁷ See Appendix 5, pp. 295-6.

²³⁸ See nn. 130 and 131.

²³⁹ Dilts (ed.), *Demosthenis Orationes* IV, p. 268; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 267. For Schaefer's edition, see *Apparatus criticus et exegeticus ad Demosthenem* (1824-7).

²⁴⁰ For the Deinarchos fragment, see Harp. s.v. Ἐρκεῖος Ζεὺς; fr. B. 11, see *Minor Attic Orators*, pp. 316-7. The more literal translation of 'Zeus of the Courtyard' refers to the small courtyard altars which may have featured in many Greek households (Hom. *Od.* 22.334-5; Soph. *Ant.* 487). Domestic cults were symbolically dependent on and sanctioned by the cults of the social bodies; for the multi-layered nature of the cult of Zeus of the Household, see Lambert, *The Phratries of Attica*, pp. 215-6.

Ancestral Apollo (*FGrH* 228 F6 *apud* Harp. s.v. Ἐρκεῖος Ζεύς; cf. Pl. *Euthyd.* 302b; [Arist.] *Ath. Pol.* fr.1 in Harp. s.v. Ἀπόλλων πατρῶος). For Euxitheos' implication that he too was a genos member, see γεννήταις at §24.

εἰς τᾶλλα ἱερά: 'and to the other sacred places'. This must refer to places of worship for other cults belonging to the deme, phratry and genos.²⁴¹ Probably included amongst such 'sacred places' were the deme cult of Ζεὺς Ἐρκεῖος (*SEG* 33.147, 22), the phratry cult of Ζεὺς φράτριος (*IG* II² 1237, 1) and the genos cult of Ζεὺς Ἐρκεῖος, which is specifically mentioned by the speaker towards the end of his speech (see Ἀπόλλωνος πατρῶου καὶ Διὸς ἔρκειου γεννῆται at §67).

καίτοι οὐ δήπου παῖς ὦν ἐγὼ ταῦτ' ἔπειθον αὐτοὺς ἀργύριον διδούς: 'And yet surely being a child I did not persuade them to do these things by giving them money', for the use of πείθω to denote bribery, see πείθει at §41. In much the same manner as §51 (see ἄλλ' εἴ τι τοιοῦτον συνήδειν, ἐζήτησ' ἂν ὦν φήσω γονέων εἶναι), Euxitheos employs the use of irony to belittle the accusation against him that he paid his present witnesses to admit him into the phratry.²⁴² Undoubtedly, Demosthenes was ridiculing such claims against his client for rhetorical effect. This allowed the speaker to gloss over the issue rather than to offer an unequivocal response.

ὁμόσας τὸν νόμιμον τοῖς φράτερσιν ὄρκον εἰσήγαγέν με, ἀστὸν ἐξ ἀστῆς ἐγγυητῆς αὐτῷ γεγενημένον εἰδώς: 'having sworn the customary oath to the phratry members, he introduced me, knowing me to be his citizen son from a citizen wife who was lawfully married to him'. Here, τὸν νόμιμον refers to the customary oath sworn by a father when

²⁴¹ For an overview of worship in the phratry cults, see Lambert, *The Phratries of Attica*, pp. 206-25. For the deme cults, see Osborne, *Demos*, pp. 178-82, and Parker, *Polytheism and Society at Athens*, pp. 50-78.

²⁴² Since admission usually took place when the candidate was young, see Appendix 5, pp. 293-5.

introducing his son to the phratry.²⁴³ A similar formula is presented in a speech by Isaeus.²⁴⁴ Euxitheos is careful to mention that his father swore such an oath, specifying that his son had been born of a citizen woman pledged by ἐγγύησις. Since citizenship was reserved for those born of two legally married citizens, the speaker reminds the jury that his parents have abided by proper procedures in their union (for legally-recognised betrothals and thus both legitimate marriages and children, see ἐγγυᾶται at §41).

[55] ποῦ μετοίκιον καταθείς: ‘Where did I pay the metic’s tax?’. Like his previous statement at §48 (τόν γε ξένον καὶ μέτοικον), Euxitheos claims that he is being accused of being of metic status. He does not, however, address any charge of being a slave and it thus seems likely that Euboulides only alleged that Euxitheos was a foreigner. The μετοίκιον was an obligatory tax, paid annually by metics in order to legitimately live in the community (Xen. *Ways and Means*, 2.1). This poll tax was levied on the person rather than his or her property or activities, at a rate of one drachma per month for a male metic and half a drachma per month for a female (Harp. s.v. μετοίκιον).²⁴⁵ A similar phrase to the one used by Euxitheos here can be found at both Dem. 29.3 and Lys. 31.9, and collectively they give the impression that metics deposited this payment in person. If this is taken to be true, tax-collectors merely had to record the transaction (as noted at §34, see εἰ ξενικὰ ἐτέλει) and pursue those who did not pay. Since paying this tax classified

²⁴³ It should be noted, however, that Lambert believes it to be more likely that τὸν νόμιμον is a reference to Pericles’ citizenship law, which provided that citizen descent was necessary in the female line, see *The Phratries of Attica*, pp. 170-1 n. 159. While he poses an interesting theory, there is simply nothing to support it in this speech or elsewhere.

²⁴⁴ Isae. 8.19: ὁμόσας κατὰ τοὺς νόμους τοὺς κειμένους ἢ μὴν ἐξ ἀστῆς καὶ ἐγγυητῆς γυναικὸς εἰσάγειν. But the wording of the oath seems to have varied between phratries, as other introducers only swore that the candidate was born in wedlock (Isae. 7.16; Andoc. 1.127; [Dem.] 59.60; *IG II²* 1237, 109-111). Although it cannot be known for sure whether or not every phratry required that their members were born from lawfully betrothed or married Athenian women, Odgen suggests that bastard children of two Athenian parents were excluded from phratry, deme and citizenship alike, *Greek Bastardy in the Classical and Hellenistic Periods*, pp. 152-3; for the issue of bastardy with regard to Pericles’ renewed citizenship law, see Introduction, pp. 23-4, and Appendix 3, pp. 284-6 (cf. nn. 17 and 20 in Appendix 5).

²⁴⁵ This was not an overly harsh fee; see Whitehead, *The Ideology of the Athenian Metic*, pp. 75-7; see also MacDowell, *The Law in Classical Athens*, pp. 76-7, and N. R. E. Fisher, ‘Citizens, Foreigners, and Slaves in Greek Society’, in *A Companion to The Classical Greek World*, p. 339.

him as a metic and separated him from the class of citizen, the penalty of slavery was enacted for those convicted of evasion (Dem. 25.57). Defaulters were committing fraud; their lack of payment blurred the deliberate divide between citizen status and that of metic. By asking ‘have I paid the metic’s tax?’, Euxitheos again emphasises that Euboulides has brought no evidence of his family’s name appearing in the tax records in order to support his claims. However, if the speaker or even his mother were illegally passing for citizens, they certainly would not have registered to pay this tax.

ἐν οἷς ὁ πάππος ὁ τοῦ πατρὸς, ὁ ἐμός, <ὁ> πατήρ, ἐνταῦθα καὶ αὐτὸς φαίνομαι δημοτευόμενος: ‘I also clearly belong to that same deme in which my father’s grandfather, my own grandfather, my father belong’. Dilts maintains Reiske’s insertion of the article after the noun, in order to include rightly the speaker’s grandfather.²⁴⁶ For the speaker’s use of δημοτευόμενος, see τὸν μὲν ἄλλον ἅπαντα χρόνον δημοτευόμενος μετ’ ἐμοῦ καὶ κληρούμενος at §49.

[56] ὁρῶ γάρ, ὧ ἄνδρες Ἀθηναῖοι, οὐ μόνον τῶν ἀποψηφισαμένων Ἀλιμουσίων ἐμοῦ κυριώτερ’ ὄντα τὰ δικαστήρια, ἀλλὰ καὶ τῆς βουλῆς καὶ τοῦ δήμου, δικαίως: ‘For I see, Athenian men, that the lawcourts are more powerful not only than those Halimousians who disfranchised me, but also than the *Boulē* and the *Ecclēsia*, and rightly so’. For a brief account of the jury, see ὧ ἄνδρες δικασταί at §1. When citizens were selected to serve as jurors, they swore to abide by laws and decrees of the *Ecclēsia* and the decrees of the *Boulē* (Dem. 24.27; a subsequent passage purports to be the text of that oath, beginning ‘ψηφιοῦμαι κατὰ τοὺς νόμους καὶ τὰ ψηφίσματα τοῦ δήμου τοῦ Ἀθηναίων καὶ τῆς βουλῆς τῶν πεντακοσίων ...’, Dem. 24.149).²⁴⁷ But jurors, like those

²⁴⁶ Dilts (ed.), *Demosthenis Orationes* IV, p. 269; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 267. For J. J. Reiske’s edition, see *Oratorum Graecorum quorum princeps est Demosthenes, quae supersunt*.

²⁴⁷ The document quoted at Dem. 24.149-51 can hardly be genuine; it omits clauses which are known to be part of the oath and includes others which make little contextual sense; see M. Canevaro’s recent work on this topic, in *The Documents in the Attic Orators*, pp. 173-80. For Scafuro’s reliable reconstruction of the oath, see n. 72.

voting in the *Ecclēsia*, were not held accountable for their decisions and could not be penalised for their vote (unless it could be effectively shown that they had accepted bribes; a difficult feat, given the size and random selection of juries). Moreover, the lawcourts had the power of judicial review.²⁴⁸ It is thus understandable why these courts could be viewed as the true governing power in Athens; one source observes that some blamed Solon for making the courts too powerful (Arist. *Pol.* 1274a4-5) and others made claims that the courts were viewed as above the law (Dem. 2.78; Isoc. 20.22). As a result, Euxitheos' appreciation of the lawcourts' power seems to be more than just a blatant attempt at flattering the jury. Yet, in practice, the Athenian court system belies such a picture of lawcourts truly being more powerful than the *Boulē* and the *Ecclēsia*. The courts lacked written records and, as such, cases were tried on an individual basis rather than according to precedent. The juries' decisions were made without any formal deliberation and were delivered without any authoritative interpretation of the law. More importantly, they did not possess the power to introduce legislation. Nevertheless, Euxitheos' view that the jury before him was more powerful than the Halimousians who disfranchised him holds true; should they find in his favour, the court possessed the necessary authority to overturn the deme's decision and reinstate him as a citizen.

κατὰ γὰρ πάντα αἱ παρ' ὑμῖν εἰσι κρίσεις δικαιοτάται: 'for in all respects your judgements are most just'. Euxitheos purposefully compliments the jury's decision-making (cf. τοὺς ἠδίκημένους ἅπαντας σεσώκατε at §6 and οὐδέν' ἀπεστερεῖτε at §57).

²⁴⁸ In addition to hearing appeals from candidates for office who were rejected at the *δοκιμασία* (see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεὶς at §25) and complaints made against officials ([Arist.] *Ath. Pol.* 45.2-3, 48.4-5, 54.2), the fourth century BC Athenian juries tried cases in which the proposers of new decrees and laws were challenged by a *γραφὴ παρανόμων* (indictment for illegal legislation; Andoc. 1.17, 22) and a *γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι* (public procedure for introducing an unsuitable law; [Arist.] *Ath. Pol.* 59.2) respectively, either before or after they were enacted (Xen. *Hell.* 1.7.12-14; Dem. 22.5, 9-10). For a comprehensive study of Athenian institutional history, see M. H. Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B. C. and the Public Action Against Unconstitutional Proposals* (1974); for a more recent discussion, see A. Lanni, 'Judicial Review and the Athenian 'Constitution'', pp. 1-22.

This is a variation of a rhetorical *topos* expressing confidence in the jury, and intended to flatter them (Antiph. 2.1, 5.4, 8, 6.10, 51; Andoc. 1.2, 9; Lys. 3.2; Isoc. 15.169-70; Aeschin. 2.24). Having just referred to the Halimousians who disfranchised him, Euxitheos makes a direct comparison between what he believes to be an unjust expulsion on their part and his confidence in the present jury's just judgement to reinstate him.

§§57-65: corruption in Halimous

Euxitheos refers to abuses in the deme's administration as further proof that Euboulides' charges against him are unjust. However, he provides no evidence to support his claims of incompetency and dishonest practices in Halimous, and so it is difficult to give any credence to his claims of misconduct or deliberate malice on Euboulides' part.

[57] **οὐδέν' ἀπεστερεῖτε**: 'you have deprived no one'. Euxitheos flatters the jury again (cf. τοὺς ἠδίκημένους ἅπαντας σεσώκατε at §6 and κατὰ γὰρ πάντα αἱ παρ' ὑμῖν εἰσι κρίσεις δικαιόταται at §56), but here he specifically directs his comments to those who belong to large demes. Larger demes would probably have been subject to more attention from outside officials than the smaller demes, and were thus more likely bound by fair administration procedures; smaller demes were most likely thought to be able to control better their own admissions, given their size and supposed thorough knowledge of their compact community, and thus corruption might have gone unchecked. Essentially, the speaker is asking the jury not to take it for granted that the Halimousians voted fairly because of their relatively small size and localised knowledge. But, since the Attic demes differed in practices regardless of size (see παραγένοντό μοι πάντες οἱ δημόται at §16), Euxitheos' accusation cannot be proven and his flattery of these jurors cannot be taken as more than a further attempt to suggest that his disfranchisement was a direct result of corruption in his own deme.

τῶν ἀναβαλέσθαι δεομένων: ‘those asking to adjourn’. According to the speaker, Euboulides was unwilling to postpone the vote on Euxitheos’ citizenship until the next day (see ἀναβαλέσθαι εἰς τὴν ὕστεραίαν at §12).

δι’ ἔχθραν ἐπιβουλεύοντας: ‘those plotting on account of personal enmity’. The speaker has reminded the jury on several occasions that cases arising from personal rivalries have often come before the court (see §§6, 49 and 63). His purpose in doing so is to draw a comparison with the case before them now, which he claims is a direct result of the animosity between himself and Euboulides (see §§8, 48 and 61).

[58] **τοὺς δὲ καλῶ καὶ δικαίῳ πράγματι μὴ καλῶς χρησαμένους:** ‘those who have wrongly dealt with this honourable and fair matter’, i.e. the extraordinary scrutiny held by each deme, in accordance with the *Ecclēsia*’s decree (for the decree, see τὴν διαψηφισιν at §7).²⁴⁹

παρ’ ἡμῖν: ‘in ours’, referring to the deme of Halimous. Having informed the jury that the deme register had previously been lost during Antiphilos’ *dēmarchy* (ὄτ’ ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26 and also δημαρχῶν ὁ Εὐβουλίδου πατήρ ... Ἀντίφιλος at §60), the speaker declares that Halimous’ actions with regard to its membership are the worst of all the demes (see below). Once again, Euxitheos relies on exaggeration for rhetorical effect. But, while it is difficult to believe that political malpractices were not similarly known in other demes, there may be an element of truth in his assertion that Halimous was experiencing particular difficulties around the time of his trial. Aside from the details provided in Euxitheos’ account, sources recount an episode in which an ex-slave was indicted for bribing his way into an illegal enrolment in Halimous (Dein. *Against*

²⁴⁹ See also the Introduction, pp. 25-43.

Agasicles; cf. Hyp. 4.3).²⁵⁰ But this incident occurs later than Euxitheos' appeal, somewhere between 336 and 324 BC, and so it cannot be known whether wrongful expulsions and admissions in the deme were the result of corruption alone (and if so, to what extent this pervaded the deme) or whether administrative ineptitude played a part. Either way, this sort of conduct in a deme explains why it was necessary for the state to hold the extraordinary διαψήφισις of 346/5 BC.

οὔτοι γὰρ ἀδελφῶν ὁμομητρίων καὶ ὁμοπατρίων τῶν μὲν εἰσιν ἀπεψηφισμένοι, τῶν δ' οὐ, καὶ πρεσβυτέρων ἀνθρώπων ἀπόρων, ὧν τοὺς υἱεῖς ἐγκαταλελοίπασιν: 'For, those who are brothers born of the same mother and the same father, these men have disfranchised some but not others, and have disfranchised older men without means, but have left behind their sons as citizens'. Those born of the same mother and same father had exactly the same qualifications for citizenship. Consequently, by informing the jury that the Halimousians had disfranchised some such men, Euxitheos wants to demonstrate their irrational conduct with regard to deme membership. He makes a similar point about disfranchising a father but retaining his son, since citizenship derived from Athenian parentage. Moreover, the speaker stipulates that these older men were without means and his intention may have been to suggest that they were too poor to pay the necessary bribes to remain as members of the deme (see §§59 and 60). Euxitheos sought to display events occurring in his deme in the worst possible light in order to persuade the jury that his disfranchisement was among such illogical and corrupt acts.

[59] **ὃ δὲ πάντων δεινότατον οἱ συνεστηκότες πεποιήκασι:** 'But the worst of all the things which the conspirators have done', once again referring to Euboulides' alleged

²⁵⁰ For the Deinarchos fragment, see Harp. s.v. Ἀγασικλῆς (cf. Suda, s.v. Ἀγασικλῆς Adler A169); fr. A. 7, see *Minor Attic Orators*, pp. 314-5.

fellow conspirators (cf. οἱ μετὰ τούτου συνεστηκότες at §16; for the use of the verb συνίστημι, see also §§13, 60, 61 and 63).

(καί μοι πρὸς Διὸς καὶ θεῶν μηδεὶς ὑπολάβῃ δυσκόλως ...): ‘(and by Zeus and the gods, let no one take offence ...)’. For a similar formulaic entreaty cf. καί μοι πρὸς Διὸς καὶ θεῶν μηδεὶς θορυβήσῃ, μηδ’ ἐφ’ ᾧ μέλλω λέγειν ἀχθεσθῆ at §50.

<εἰς> αὐτὸ τὸ πρᾶγμα: ‘on the same subject’. Dilts retains Blass’ amendment of <εἰς>.²⁵¹ It appears to be a sensible addition since it correlates to the phrase εἰς αὐτὸ τὸ πρᾶγμα, used by the speaker at §§7 and 60. Euxitheos is prevented from making further accusations against Euboulides by the rule which states that litigants in private suits must keep to the issues directly concerning the case (for this rule, see εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7). But given that he has just asked the jurors not to take offence, it appears that he was aware that they may consider him to be going further than he ought to.

Ἀναξιμένην καὶ Νικόστρατον: ‘Anaximenes and Nicostratos’. Nothing is known about these foreigners beyond Euxitheos’ assertion that Euboulides and his associates illegally enrolled them in the deme in return for money. Elsewhere, a certain Nicostratos is likewise accused of bribery around this time but it cannot be determined if he was the same man as mentioned here (Aeschin. 1.86; for another named individual in an unlawful enrolment, see παρ’ ἡμῶν at §58). This was a serious charge of corrupting an official (cf. Dem. 44.37; Aeschin. 1.86).²⁵² Whether or not the speaker is telling the truth cannot be

²⁵¹ Dilts (ed.), *Demosthenis Orationes* IV, p. 270; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 268. For Blass’ edition, see *Demosthenis Orationes* III, p. 265.

²⁵² Elsewhere, Dem. 21.113 quotes a law, possibly dating from the sixth century BC, which details that if any Athenian accepts a bribe to the detriment of any individual citizen or the state as a whole, then both he and his children were punished with ἀτιμία and their familial property was confiscated. More specifically, the *Athēnaiōn Politeia* states that a magistrate who was convicted of bribery was fined ten times the amount he received ([Arist.] 54.2). The same text also indicates that the γραφὴ δωροξενίας was aimed at exposing people who became citizens by bribing an official ([Arist.] *Ath. Pol.* 59.3).

known, but naming these individuals makes his claims against his opponents seem more believable.

κοινῇ διανεμιάμενοι πέντε δραχμὰς ἕκαστος προσεδέξαντο: ‘having divided the money for this they each received a share of five drachmas’. Again, by including the exact amount, Euxitheos makes his claim appear plausible. Yet if Euxitheos is telling the truth, there are two possible scenarios with regard to this figure: either the total sum had to be divided amongst so many men that it only amounted to five drachmas each (unfortunately, at no stage in the text does the speaker reveal how many conspirators there were), or the original amount was a relatively small sum used to purchase Athenian citizenship (at Aeschin. 1.114-5, the politician Timarchos accepted two thousand drachmas from a relative of the man he had sought to disfranchise).²⁵³ If this is a fictitious account, the sum of five drachmas was meant to convince the jury that Euboulides thought so little of Athenian citizenship.

καὶ ταῦτ’ οὐκ ἂν ἐξομόσαιτο Εὐβουλίδης οὐδ’ οἱ μετ’ αὐτοῦ μὴ οὐκ εἰδέναι: ‘And neither Euboulides nor those with him would deny these things on oath stating that they did not know about them’. Athenian law decreed that neither party in a suit could be asked to give evidence (see αὐτοῖς δὲ τοῖς ἡδίκηκόσιν με at §14). As such, Euboulides himself could not testify but the speaker does call on those who conspired with his opponent to either confirm or deny on oath the contents of his deposition (for the witness’ ἐξωμοσία, cf. οὐ δυνήσονται ἔξαρνοι γενέσθαι at §14). However, Euxitheos does not call any witnesses to confirm that his opponent denied the oath.

²⁵³ Five drachmas is a surprisingly small sum for purchasing Athenian citizenship. Indeed, Whitehead has also questioned whether or not this sum of five drachmas is a corruption in the text and, if not, he rightly surmises that Euxitheos wished to imply that their ‘threshold of corruptibility was so low’, in *The Demes of Attica*, p. 296 n. 16. For the rates of pay in the fourth century BC, see n. 41.

καὶ νῦν τούτων οὐκ ἀπεψηφίσαντο: ‘And yet they did not disfranchise these men now in the latest review’, sc. διαψήφισις, at the time that Euxitheos was expelled.

[60] **ἔνεκ’ ἀργυρίου:** ‘on account of money’. Euxitheos accuses Euboulides and his co-conspirators of accepting payments from those wishing to have their enemies expelled from the deme, of extorting money from those threatened with an attack on their citizenship, and of taking bribes from impostors wishing to remain in the deme. Whether or not this was true, it does suggest that the abuse of citizenship regulations was perhaps not uncommon.²⁵⁴

εἰς αὐτὸ τὸ πρᾶγμα: ‘the same matter at hand’. Euxitheos again anticipates the jury’s intolerance for him straying from the main issues pertaining to the case, see εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7, and <εἰς> αὐτὸ τὸ πρᾶγμα at §59.

δημαρχῶν ὁ Εὐβουλίδου πατήρ ... Ἀντίφιλος: ‘while Euboulides’ father Antiphilos was serving as *dēmarch*’, see ὅτ’ ἀπώλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26.

τεχνάζει βουλόμενος παρά τινων λαβεῖν ἀργύριον, καὶ ἔφη τὸ κοινὸν γραμματεῖον ἀπολωλέναι: ‘he used trickery wishing to take money from some people, and he said that the deme register had been lost’. At §26, Euxitheos informed the jury that the deme register had been lost, yet he made no mention of any suspicions surrounding its disappearance at that stage of his speech. Here, he reveals his doubts about the register’s supposed disappearance. He believes that Antiphilos was bribed to say that he had lost the register in order to have a compulsory vote on all of the demesmen. This accusation serves not only to blacken Antiphilos’ character but also his son’s, furthering his previous

²⁵⁴ For utilising charges of false citizenship as a weapon in the fifth century BC, see schol. Ar. *Frogs*, 416, 418, *Birds*, 765, 1669; see also Walters ‘Perikles’ Citizenship Law’, p. 327 n. 39.

claim that Euboulides too accepted bribes (see §59). The speaker presents the episode as a deliberate political move by some demesmen to attack other members. The compulsory voting that followed this loss of the register did not bring to light any accusations against Euxitheos' family (καὶ ὄν ἐχθρὸς τῷ ἐμῷ πατρὶ τότε οὐ μόνον οὐ κατηγορήσεν, ἀλλ' οὐδὲ τὴν ψῆφον ἤνεγκεν ὡς οὐκ ἦν Ἀθηναῖος at §61), and the speaker can thus use this as evidence that Euboulides' present claims are unfounded.

καὶ κατηγορῶν δέκα τῶν δημοτῶν ἐξέβαλεν, οὓς ἅπαντας πλὴν ἑνὸς κατεδέξατο τὸ δικαστήριον: 'and accusing ten of the demesmen he expelled them, all of whom bar one were readmitted by the lawcourt'. According to the speaker, nine of the ten men who had been expelled under Antiphilos' compulsory voting were subsequently reinstated (for the vote, see ἀλλὰ μὴν καὶ διαψηφίσεις ἐξ ἀνάγκης ἐγένοντο τοῖς δημόταις and καὶ τινὰς ἀπήλασαν αὐτῶν at §26). Since these men were ejected as a result of a compulsory deme vote rather than a deme-wide review of the registers, they may have each brought a δίκη βλάβης (a private suit for compensation) which would compel the deme to readmit them if the δικαστήριον found in their favour. In *Against Neaera*, Phrastor sought to bring a private suit against his phratry and his genos after they refused to admit his child ([Dem.] 59.59-60). In *On Behalf of Euphiletos*, the appellant had initially brought a private suit against his deme after he had been rejected during their annual διαψηφίσεις proceedings when he was eighteen years old; as a result, he was subsequently admitted but the deme seized this opportunity presented by the extraordinary deme-wide διαψηφίσεις of 346/5 BC to have him removed from their register (Isae. 12.11-12).²⁵⁵ But, without any confirmation from Euxitheos that the nine disfranchised Halimousians brought

²⁵⁵ See Appendix 1, pp. 278-9.

definitively private cases, we cannot be sure that they did not bring (or at least have the option to bring) public appeals like his own case.²⁵⁶

Euxitheos' statement that nine were successful was obviously meant to show the scandal around the whole affair and was thereby intended to blacken his opponent's name via his father's corrupt expulsion of several demesmen. He does not comment on why Antiphilos had these men ejected, whether he had a personal grievance against them or whether he was acting on behalf of others, but his specification of the number of members involved does make his account sound credible. Ultimately, we cannot know if Euxitheos' report is genuine, though he would have been taking a significant risk if he was fabricating such a story.

ταῦτα πάντες ἴσασι οἱ πρεσβύτεροι: 'the elders know of all these things' (cf. Antiph. 5.71; Isoc. 16.4; Lycourg. 1.93). For other variations of this rhetorical device, see ὡς ὑμῶν ἴσασι πολλοί at §8, and also ἃ γὰρ ὑμεῖς ἴστε, τί δεῖ λέγειν at §33. But since the speaker does not bring one such man forward, nor indeed anyone who could verify this claim, it cannot be assumed that such a claim is indeed true.

[61] **ὅπου καὶ τοὺς ὄντας πολίτας συνιστάμενοι ἐξέβαλον:** 'when they were conspiring to expel even those being citizens', see §60.

καὶ ὦν ἐχθρὸς τῷ ἐμῷ πατρὶ τότε οὐ μόνον οὐ κατηγόρησεν, ἀλλ' οὐδὲ τὴν ψῆφον ἤνεγκεν ὡς οὐκ ἦν Ἀθηναῖος: 'And being an enemy of my father at that time, not only did he not accuse him but neither did he cast his vote that he was not Athenian'. Thoucritos was not among those expelled as a result of the compulsory votes when the deme register was being reconstituted having been lost (see τεχνάζει βουλόμενος παρά τινων λαβεῖν ἀργύριον, καὶ ἔφη τὸ κοινὸν γραμματεῖον ἀπολωλέναι at §60). Here,

²⁵⁶ For a discussion of the appeal process in relation to Demophilos' decree, see Introduction, pp. 25-43 and also Appendix 7, pp. 302-13.

Euxitheos specifies that Antiphilos neither accused Thoucritos nor cast an opposing vote against him despite being an enemy of his. Although he does not explain the cause of their enmity, Euxitheos obviously wants the audience to see that Antiphilos' loss of the register was an ideal opportunity for him to triumph over Thoucritos, either by publicising any knowledge of his illegitimacy or by using corrupt means to expel him illegally. Since Euxitheos has made two prior claims that Euboulides was a personal enemy of his (see *διὰ ταύτην τὴν ἔχθραν ἐπιτίθεται μοι* at §8 and *οὐδέ γ' ἄν, ὃ ἄνδρες Ἀθηναῖοι, παλαιὸς ὢν ἐχθρὸς ἐμοὶ τοῦτον τὸν καιρὸν περιέμενεν* at §48), it is not surprising that he suggests that their enmity derived from the hostility between their fathers. The *topos* of a personal enmity being passed down to a younger generation, specifically from father to son, also appears in Isaeus' *On the Estate of Astyphilos* (9.17-20). Though Euxitheos does not corroborate this claim, the parental connection serves as an attempt to persuade the jury that Euboulides was as dishonest as his father (see §60, especially *καὶ κατηγορῶν δέκα τῶν δημοτῶν ἐξέβαλεν, οὓς ἅπαντας πλὴν ἐνὸς κατεδέξατο τὸ δικαστήριον*).

ὅτι ἀπάσαις ἔδοξεν δημότης εἶναι: 'Because he was considered to be a deme member by all'. However, Euxitheos does not provide witnesses or written testimony to prove this.

ἀλλ' Εὐβουλίδης αὐτὸς οὐτοσί: 'Euboulides himself'. For the prolific use of οὐτοσί throughout Demosthenes' genuine speeches, see οὐτοσί at §8.

οὔτε κατηγορήσεν οὔτ' ἐναντίαν τὴν ψήφον ἤνεγκεν· καὶ γὰρ ἐνταῦθα πάλιν ἐμὲ πάντες ἐψηφίσαντο δημότην: 'neither accused me nor cast an opposing vote; for even on this occasion they again all voted me a deme member'. Euxitheos successfully passed the demesmen's vote to be entered into the register after his father had previously undergone the compulsory vote, when the deme register was lost. A compelling statement but, again, no evidence is offered by the speaker to confirm this.

ἐπὶ τοῦ ἐμοῦ ὕδατος: ‘in the time allotted to me’. For the water-clock, see σὺ δ’ ἐπίλαβε τὸ ὕδωρ at §21.²⁵⁷ It appears that a litigant could interrupt his own speech in order to make an offer to relinquish some of his own time to his opponent: Dem. 18.139, 19.57; [Dem.] 50.2 (cf. ἐν τῷ ἐμῷ λόγῳ at Andoc. 1.26, 35, 55; Aeschin. 2.59). The frequent recurrence of such proposals suggests that it was an effective way for a speaker to present himself in a confident manner, with some even requesting that the attendant pour out the remaining water because he had no need for the rest of his time allowance (ἐξέερα τὸ ὕδωρ at Dem. 36.62, 38.28). Whether or not this offer was genuine on the speaker’s part, and he actually paused to await a response, cannot be known but it is unlikely that an opponent would accept such a challenge and risk the jury’s disfavour for taking someone else’s time-allowance.

[62] **ἐγὼ τετράκις ἐπιδεικνύω πρότερον**: ‘I can show that four times previously’. Euxitheos summarises the four occasions at which the demesmen have previously voted on his legitimacy: his father having passed the scrutiny, when he himself passed the scrutiny, after the register was lost and a compulsory vote was held, and finally when he himself was among those preselected for a priesthood.

ὅτε ὁσίως ἄνευ συστάσεως ἐψηφίσαντο: ‘when they voted piously without any conspiracy’, i.e. they voted in accordance with the oath (see κατ’ ἐξωλείας at §22).

καὶ ἐμὲ καὶ τὸν πατέρα δημότας αὐτῶν εἶναι ψηφισαμένους, πρῶτον μὲν γε τοῦ πατρὸς δοκιμασθέντος, εἴτ’ ἐμοῦ: ‘they voted both me and my father to be members of their deme, indeed first when my father was approved by scrutiny, then me’, see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεῖς at §25.

²⁵⁷ See also Appendix 7, pp. 309-11.

ἐν τῇ προτέρᾳ διαψηφίσει: ‘then in the earlier voting by ballot’. Dilts accepts Wolf’s introduction of the word διαψηφίσει in place of the manuscript’s διαδικασίᾳ.²⁵⁸ While this amendment is contextually appropriate, it must be noted that the use of the verb διαδικάζειν (with the meaning ‘to decide individually’) as equivalent to διαψηφίζεσθαι is not unknown (*IG* II² 1237).

Here, the wording employed by Euxitheos seems to imply that both he and his father underwent the compulsory vote. However, since it is not known when the deme register was lost (see ὅτ’ ἀπώλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26), it cannot be determined if the speaker himself was actually included. Moreover, his previous statements at §§26 and 61 suggest that it was just his father who was confirmed by the vote of the demesmen.

καὶ ταῦτα πάντα μεμαρτύρηται: ‘And all of these things have been testified to’. Witnesses are crucial to speak on behalf of someone when the only archival record of attendance, the deme register, had been lost (see καλῶ καὶ τούτων μάρτυρας at §27).

[63] **Εἰ δὲ δεῖ τὴν δημαρχίαν λέγειν:** ‘And if it is necessary to speak of my service as *dēmarch*’. In addition to Antiphilos, Euxitheos expressly states that he too held the office of *dēmarch* (for this office and the speaker’s ambiguity with regard to Euboulides serving as *dēmarch*, see §26). Yet such a casual reference, to his *dēmarchy*, and a late one at that, appears strange; surely a detailed account of his time in this office could have been used as evidence for his legitimacy (the office would have been as important as the missed priesthood which he emphasises at §§46-8 and 62). This would have been particularly useful for the jury, since Euxitheos’ *dēmarchy* in Halimous may not have been a matter of widespread public knowledge. Alternatively, Euxitheos’ brevity regarding his term in

²⁵⁸ Dilts (ed.), *Demosthenis Orationes* IV, p. 271; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 269. For Wolf’s edition, see *Demosthenis et Aeschinis opera* (1604).

this office may be explained by his unpopularity in this role; he makes the point that he was *dēmarch* and therefore an Athenian citizen, but he refrains from presenting a detailed account because of he was so disliked by his fellow demesmen

The speaker proceeds by informing the jury that he became unpopular for honouring his debt-collecting duties. However, tensions could have arisen with the demesmen if suspicions about Euxitheos' legitimacy had begun to circulate. If Euxitheos is to be believed about his unpopularity as *dēmarch*, his election to the post was probably quite recent and may have facilitated his ejection from the deme, though he makes no more of use of this claim during his defence.

ἐν ἧ διάφορος ἐγενόμην εἰσπράττων ὀφείλοντας πολλοὺς αὐτῶν μισθώσεις τεμενῶν:

‘and during which I became unpopular by exacting owed rents for sacred precincts from many of them’. Euxitheos' τεμένη were lands dedicated to a god and leased out by the deme. It was the duty of the *dēmarch* to collect rents due on such land (and also to enforce payments to private creditors, as implied by Ar. *Clouds*, 37; see ὅτ' ἀπόλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26). But defaulting appears to have been a particular issue in Halimous, as Euxitheos believes his role as a debt collector instigated his unpopularity amongst the demesmen. Unlike Euboulides (see κοινῇ διανεμιάμενοι πέντε δραχμὰς ἕκαστος προσεδέξαντο at §59), though, Euxitheos presents himself as incorruptible.

ἕτερ' ἃ τῶν κοινῶν διηρπάκεσαν: ‘other debts which they pilfered from public property’.

These debts were owed to the deme, and may refer to money owed for the use of public lands (*IG* II² 2492, 2493, 2498) or for building contracts (*IG* II² 1176 and 1215) by men serving as deme officials.

ἀλλ' ἴσως ἔξω τοῦ πράγματος ὑπολήψεσθε ταῦτ' εἶναι: ‘but perhaps you will take these things to be outside the matter at hand’. Euxitheos appears to foresee the jury's reaction

to an account of his activities as *dēmarch* and is afraid that they would consider them to be irrelevant to the present case (for the *paraleipsis*, see ἔξεστιν ἔξω τοῦ πράγματος βλασφημεῖν at §33 and ἔξω τοῦ πράγματος at §66; cf. εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7).

ἐπεὶ καὶ τοῦτ' ἔχω δεικνύουσι τεκμήριον ὡς συνέστησαν: 'And I also have this to show as proof that they have conspired'. Euxitheos makes yet another reference to the alleged conspiracy against him (see also §§13, 16, 59, 60 and 61).

ἔκ τε γὰρ τοῦ ὄρκου ἐξήλειψαν τὸ ψηφιεῖσθαι γνώμη τῇ δικαιοτάτῃ καὶ οὔτε χάριτος ἔνεκ' οὔτ' ἔχθρας: 'for they removed from the oath the clause to vote according to their most just judgement and not on account of favour or hatred'. During the *διανήφισις*, the demesmen were asked to vote according to their most just understanding of the situation, and were bound by the oath to vote on the matter at hand and not another issue. Presumably, Euxitheos alleges that this clause was removed so as to allow Euboulides and his co-conspirators to corrupt the demesmen's vote on him (for the personal enmity between Euxitheos and Euboulides, see §§8 and 48; for Euxitheos' lack of popularity with the demesmen, see ἐπεὶ καὶ τοῦτ' ἔχω δεικνύουσι τεκμήριον ὡς συνέστησαν above). The wording of this oath bears a striking resemblance to that of the jurors.²⁵⁹ This was the oath that was noted at §8 as being administered by Euboulides (see κύριος ὢν τοῦ θ' ὄρκου). Yet Euxitheos did not mention the removal of this clause in his earlier reference. Here, he fails to bring any witnesses to substantiate his claims before the jury.

[64] **ἱεροσυλήσαντες τὰ ὄπλα:** 'stole the sacred arms'. Euxitheos unceremoniously throws in this accusation against the demesmen from whom he collected outstanding debts (see ἐν ἧ' διάφορος ἐγενόμην εἰσπράττων ὀφείλοντας πολλοὺς αὐτῶν μισθώσεις

²⁵⁹ The passage at Dem. 24.149-51 purports to be the text of that oath, though it does not appear to be wholly genuine, see n. 234. For Scafuro's reconstruction of the dikastic oath, see n. 72.

τεμενῶν at §63; for similar unrestrained claims, see Dem. 36.45, 45.79, 54.37; Andoc. 1.124-5). On the one hand, it serves to portray these demesmen as deliberately seeking revenge, and on the other, to present Euxitheos as dedicated to his deme and a pious citizen.

ἃ ἐγὼ ἀνέθηκα τῇ Ἀθηνᾷ: ‘which I dedicated to Athena’. Arms belonging to an enemy and captured in war were commonly dedicated in temples and shrines after battle (Hdt. 5.95; Thuc. 3.114.1; Aeschin. 3.116). Given that Euxitheos makes no mention of a battle or even a war, he may have purchased the arms as an offering to be placed in a sacred space in his deme.²⁶⁰ If that was the case, such an ostentatious purchase must undermine his earlier argument of ‘not living in a manner’ he would wish (ζῆν οὐχ ὄντινα τρόπον βουλόμεθα at §31).

καὶ τὸ ψήφισμα ἐκκολόψαντες ὃ ἐμοὶ ἐψηφίσαντο οἱ δημόται: ‘and defaced the stone decree which the demesmen voted in my honour’. Stone decrees could be erected as an expression of gratitude, and this decree most likely thanked Euxitheos for his dedication of arms (see above; for such deme decrees, see for example *IG II²* 1178, 1179, 1186 and 1198). Alternatively, the decree may refer to a statute proposed by the speaker and passed by the deme at an assembly, and thereby may confirm his past service as a *dēmarch*. But the speaker would presumably have specified that it was such a decree, given the honour that would accompany it, and he would easily have been able to provide witnesses to its existence. Ultimately, he does not provide any witnesses to verify his account and he does not make any more of the decree as part of his case.

²⁶⁰ A. Westermann, *Ausgewählte reden des Demosthenes*, p. 180. There is nothing in the source material which reveals the cost of such a dedication. But H. Van Wees estimates that a basic shield and spear had a price of approximately twenty-five to thirty drachmas, or the value of a month’s wages, in ‘Tyrants, Oligarchs and Citizen Militias’, p. 63. He also calculates that a full set of bronze armour and a sword would have cost between seventy-five and one hundred drachmas, or the equivalent of three month’s wages.

[65] ὥσπερ φυγάδος ἤδη μου ὄντος καὶ ἀπολωλότος: ‘just as if I was already an exile and a ruined man’. Euxitheos’ use of the term φυγάς suggests that exile was one of the potential outcomes of him losing the case; either he could be punished with exile by the court, or he could go into voluntary exile in order to avoid the shame of losing his citizen status or even to avoid being enslaved. At no stage in the text does the speaker explicitly state what the penalty would be if he lost his appeal; in the very first passage, he only acknowledges the magnitude of his trial and shame that could befall him (λογισαμένους τό τε μέγεθος τοῦ παρόντος ἀγῶνος καὶ τὴν αἰσχύνην at §1), and later reiterates that it involved ruin (ὅλως ἀπολέσητε at §70).²⁶¹

τούτων τινὲς ἐπὶ τὸ οἰκίδιον ἐλθόντες <τὸ> ἐν ἀγρῷ νύκτωρ ἐπεχείρησαν διαφορῆσαι τὰ ἔνδοθεν: ‘some of these men came to my cottage in the country at night and attempted to plunder the things within’. Dilts maintains Blass’ acceptable addition of <τὸ>.²⁶² Those who faced trial and the possibility of their possessions being confiscated by the state may also have had to contend with potential attacks from looters (cf. Lys. 19.31). If caught in the act, τοιχώρυχοι (robbers) were liable to ἀπαγωγή (summary arrest) by the Eleven: if they immediately confessed, they would have been executed, if not they faced trial and would have faced the death penalty if convicted (for the jurisdiction and functions of the Eleven, see [Arist.] *Ath. Pol.* 52.1).

Euxitheos, however, makes no mention of any convictions for this alleged crime. Nor does he specify what, if anything, was actually taken from amongst his possessions; but, if his allusion to living a lowly life is true (see ζῆν οὐχ ὄντινα τρόπον βουλόμεθα at §31), they could hardly have taken many valuable possessions. Moreover, he fails to name the men supposedly responsible for this raid; it can only be assumed that they were at least

²⁶¹ For a thorough discussion of the possible penalty, see Introduction, pp. 43-9.

²⁶² Dilts (ed.), *Demosthenis Orationes* IV, p. 272; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 270. For Blass’ edition, see *Demosthenis Orationes* III, p. 267.

some of the men from whom he exacted the money owed to the deme (ἐν ἧ διάφορος ἐγενόμην εισπράττων ὀφείλοντας πολλοὺς αὐτῶν μισθώσεις τεμενῶν at §63). Given that Euxitheos refrains from identifying the culprits, it is thus unlikely that Euboulides himself had been amongst them.

καὶ ταῦτα τοὺς εἰδότας, ἐὰν βούλησθε, καλοῦμεν: ‘And, if you wish, I will call those who know these things’. For such promises, see ὅθεν δ’ οὗτοι συνέστησαν at §16. It is unfortunate that Euxitheos does not fulfil such a promise, since witnesses to these things could only make his argument more readily believable.

§§66-70: ἐπίλογος

At §§66-9, Euxitheos sums up his case; §70 closes the speech with his final and emotional appeal to the jury. Interestingly, Euxitheos summarises his case by structuring it as a series of questions and answers in the same manner as that of the δοκιμασία.

[66] **ἃ τούτοις ἐστὶν διαπεπραγμένα:** ‘crimes which have been committed by these men’. The men to which Euxitheos refers are the same men mentioned in the previous passage, those who broke into his cottage (τούτων τινὲς ἐπὶ τὸ οἰκίδιον ἐλθόντες <τὸ> ἐν ἀγρῷ νύκτωρ ἐπεχείρησαν διαφορῆσαι τὰ ἔνδοθεν at §65). Thus I translate διαπεπραγμένα here as ‘the crimes which have been committed’, rather than the more literal translation of ‘the deeds which have been done’.

ἔξω τοῦ πράγματος: ‘beyond the matter’, see εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν at §7. Euxitheos seeks to win the jury’s favour by specifying that he will not introduce details which they consider to be beyond the matter at hand (cf. ἔξεστιν ἔξω τοῦ πράγματος βλασφημεῖν at §33 and ἀλλ’ ἴσως ἔξω τοῦ πράγματος ὑπολήψεσθε ταῦτ’ εἶναι at §63). Although by first making reference to his knowledge of their many other crimes and lies,

he succeeds in bringing such charges to their attention without invoking the jury's displeasure.

τοὺς θεσμοθέτας ἀνακρίνετε: 'you questioned the Thesmothetae'. The Thesmothetae were six of the nine *archōns* (other than the *eponymous archōn* – civic magistrate, the *basileus* – chief religious officer, and the *polemarch* – war official) appointed annually. These six magistrates were the state's lawgivers with the power to deal with a number of cases which were typically concerned with the interests of the whole community; in addition to presiding over the ἐφέσεις of men rejected by their demes, the Thesmothetae had jurisdiction over εἰσαγγελίαι (for treason), προβολαί (preliminary accusations presented to the *Ecclēsia*), δοκιμασίαι (for magistracies), and numerous γραφαί, including the γραφαί ξενίας and γραφαί παρανόμων (indictment for illegal legislation; for an overview of their responsibilities, see [Arist.] *Ath. Pol.* 59.1-7).²⁶³

The 'questioning' that Euxitheos is referring to is the δοκιμασία which the Thesmothetae would have been subjected to after being selected by lot and before they were allowed to enter office (for the questions associated with this process, see below). Other public officials underwent the same scrutiny; Euxitheos has previously mentioned the δοκιμασία as the process which both he and his father underwent in order to hold office in Halimous (see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεὶς at §25; see also §§46, 62 and 67). Here, he refers to the questioning of the Thesmothetae to emphasise just how important such a process was to establish a man's credentials.

ἐγὼ τὸν αὐτὸν τρόπον ἑμαυτὸν ὑμῖν ἀνακρινῶ: 'I will question myself in the same manner before you'. Euxitheos informs the jury that he will utilise the format of the

²⁶³ For further details regarding the Thesmothetae, see Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*, pp. 657-68. For their specific involvement with the ἐφέσεις, see Introduction, pp. 27-8, and 32-3; with the γραφαί ξενίας, see n. 69 in the Introduction.

δοκιμασία and show in the subsequent passages that he has answered the same questions that were asked of the Thesmothetae.²⁶⁴ He covers all the questions, directly or indirectly (§§66-9), except two: whether he pays his taxes and whether he has performed military service (cf. Dein. 2.17-8).²⁶⁵ Crucially, these are two aspects of Athenian life which would have been easy to prove for a citizen.

The speaker intends to demonstrate that the strict procedure that the Thesmothetae were subject to has also been applied to him and, moreover, that he ought to pass this scrutiny based on the content of his speech. Since Euxitheos' case seemingly arose from the widespread διαπήφισις directed by Demophilos in 346/5 BC (see τὴν διαπήφισιν at §7),²⁶⁶ he draws the jurors' attention to the authority of the δοκιμασία as another occasion in which citizen status could be called into question. Scafuro notes that he thereby creates the ultimate scrutiny, 'a scrutiny, then, within a scrutiny'.²⁶⁷ By successfully answering such questions, the jury was expected to acknowledge the inextricable relationship between holding office and being an Athenian citizen.

‘ὦ ἄνθρωπε, τίς ἦν σοι πατήρ;’: ‘Sir, who was your father?’. First of all, the candidate in a δοκιμασία was asked to name his father and the deme to which he belonged (τίς σοι πατήρ καὶ πόθεν τῶν δήμων, [Arist.] *Ath. Pol.* 55.3). Given that his father died before he

²⁶⁴ The questions put to the candidates for the archonship are recorded in the *Athēnaiōn Politeia*: ‘τίς σοι πατήρ καὶ πόθεν τῶν δήμων, καὶ τίς πατὴρ πατήρ, καὶ τίς μήτηρ, καὶ τίς μητὴρ πατήρ καὶ πόθεν τῶν δήμων;’ μετὰ δὲ ταῦτα εἰ ἔστιν αὐτῷ Ἀπόλλων Πατρῶος καὶ Ζεὺς Ἐρκεῖος, καὶ ποῦ ταῦτα τὰ ἱερά ἐστιν· εἶτα ἡρία εἰ ἔστιν καὶ ποῦ ταῦτα· ἔπειτα γονέας εἰ εὖ ποιεῖ, καὶ τὰ τέλη εἰ τελεῖ, καὶ τὰς στρατείας εἰ ἐστράτευται. ταῦτα δ’ ἀνερωτήσας, ‘κάλει’ φησὶν ‘τούτων τοὺς μάρτυρας.’ ἐπειδὴν δὲ παράσχηται τοὺς μάρτυρας, ἐπερωτᾷ ‘τούτου βούλεται τίς κατηγορεῖν;’ ([Arist.] 55.3-4; cf. Aechin. 1.28; Dein. 2.17).

²⁶⁵ In the fourth century BC, the only mandatory tax on citizens was the εἰσφορά (a property tax levied for the purposes of war), which was paid on an occasional basis by all but the poorest classes of Athenians; see M. R. Christ, ‘The Evolution of the *Eisphora* in Classical Athens’, pp. 53-69. If Euxitheos was truly poor (see ζῆν οὐχ ὄντινα τρόπον βουλόμεθα at §31), he would not have paid this tax nor would he have performed any liturgies.

²⁶⁶ See also Introduction, pp. 25-43.

²⁶⁷ A. C. Scafuro, ‘Witnessing and False Witnessing’, p. 165.

came of age (see §§27, 52 and 54), Euxitheos adjusts the question appropriately to ‘who was your father?’.

ἐμοί Θούκριτος: ‘Thoucritos was my father’. Dilts follow Blass’ addition of a question mark after ἐμοί.²⁶⁸ But, since Euxitheos has already stated that he will question himself in the same manner as the δοκιμασία, a question mark after ἐμοί seems to be an unnecessary insertion to the text and so it has not been included here. Maintaining the question mark in the translation (‘Mine? Thoucritos’) would impede the flow of the text.

[67] **‘οἰκεῖοί τινες εἶναι μαρτυροῦσιν αὐτῷ;’:** ‘Are there any relatives that give testimony for him?’. Euxitheos continues with his summary in the format of a δοκιμασία but the phrasing of this question is not found in the *Athēnaiōn Politeia*. Instead, it appears there that a candidate is given the chance to call witnesses to his statement at the conclusion of the questioning (ταῦτα δ’ ἀνερωτήσας, ‘κάλει’ φησὶν ‘τούτων τοὺς μάρτυρας’, [Arist.] 55.3; also see καλῶ δ’ ὑμῖν τοὺς οἰκεῖους, εἰ βούλεσθε below).

πρῶτον μὲν γε τέτταρες ἀνεψιοί: ‘indeed first there are his four first cousins’. However, only three first cousins of his father were named in earlier passages: Thoucritides II and Charisiades at §20, and Niciades at §21. Rather than being regarded as a corruption to the text, scholars have attempted to identify this fourth cousin. Davies contends that this anonymous cousin is the son of another sibling from the second marriage of the speaker’s great grandfather, therefore making him a half-brother to Thoucritides I but a full brother to Lysarete.²⁶⁹ On the other hand, Thompson and Bicknell assert that he is the son of a

²⁶⁸ Dilts (ed.), *Demosthenis Orationes* IV, p. 272; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 271. For Blass’ edition, see *Demosthenis Orationes* III, p. 268.

²⁶⁹ Davies refers to Thoucritos, son of Kephisodoros of Halimous, who served as βουλευτής in the first half of the fourth century (*IG* II² 1742, 15-6), in *Athenian Propertied Families*, p. 95.

previous marriage on the part of a maternal great grandmother.²⁷⁰ If Lysarete's mother had indeed married twice, the children of that marriage would be her half-brothers and half-sisters and their children would be Thoucritos' first cousins on only his mother's side under Attic kinship ties.²⁷¹ This would appear to correspond more readily with other details in the text; at §22, Euxitheos differentiates between those related to his father through the male line (τῶν μὲν τοίνυν πρὸς ἀνδρῶν τῷ πατρὶ συγγενῶν ἀκηκόατε) and those related to him through the female line on Thoucritos' mother's side (τὰς τῶν πρὸς γυναικῶν τῷ πατρὶ συγγενῶν μαρτυρίας). By calling a fourth first cousin of Thoucritos, related to him through his mother's half-siblings from another marriage, Euxitheos strengthens his case by establishing his own father's claim to citizenship through his extended family (see also οἱ τὰς ἀνεψιάς λαβόντες αὐτῷ below).

εἴτ' ἀνεψιαδοῦς: 'then the son of a first cousin'. Referring to Nicostratos, the son of Niciades, who was the son of Thoucritos' uncle Lysanias (see §21). Lysanias and Thoucritides I were half-brothers, sharing the same father. Nicostratos is a first cousin once removed to Thoucritos and a second cousin to Euxitheos.

οἱ τὰς ἀνεψιάς λαβόντες αὐτῷ: 'those having received his female first cousins in marriage'. This is the first mention of these female first cousins of Thoucritos. Since they are not listed with his relatives through his father's line, it is probable that they are relatives on his mother's side, perhaps even sisters of the fourth male first cousin mentioned above (see πρῶτον μὲν γε τέτταρες ἀνεψιοί above). It would make sense for the speaker to distinguish between the paternal and maternal relatives of Thoucritos in this manner, referring to those most closely related to his father first and then his other

²⁷⁰ Thompson, 'The Prosopography of Demosthenes, LVII', p. 90; and Bicknell, 'Thoukritides' mother', p. 115. Thompson has also suggested that this cousin was probably the βουλευτής Thoucritos or his father Kephisodoros (see n. 255 above).

²⁷¹ For the genealogical tree, see Table 2, pp. 268-9.

relations in descending order (Euxitheos does the same with his mother's kin at §68). But these female cousins do not testify before the court in their own right, they do so through their husbands, who legally became their κύριοι upon marriage. A woman's κύριος could testify on her behalf and seemingly with her consent (Isae. 12.5; female plaintiffs could also claim inheritances in court through their κύριοι: Isae. 3.2-3, 7.2; Dem. 43.9). However, she could not be held legally responsible for his perjury or false testimony (Isae. 3.3-4; see also κατ' ἐξωλείας and τὰς τῶν πρὸς γυναικῶν τῷ πατρὶ συγγενῶν μαρτυρίας at §22).²⁷² It would be in the interest of their husbands to testify to Thoucritos' citizenship as the doubt cast on his citizenship could potentially extend to their wives through his mother's line if his status is not adequately verified. Of course, these women are not identified before the court as it was not socially acceptable to do so.²⁷³

εἶτα φράτερες: 'then members of his phratry'. Euxitheos called the members of his phratry as witnesses along with the members of his genos at §23.

Ἀπόλλωνος πατρώου καὶ Διὸς ἑρκείου γεννήται: 'the members of his genos who share Ancestral Apollo and Zeus of the Household'. During a δοκιμασία, the candidate was asked if he worships the household gods (εἰ ἔστιν αὐτῷ Ἀπόλλων Πατρῶος καὶ Ζεὺς Ἑρκεῖος, καὶ ποῦ ταῦτα τὰ ἱερά ἐστιν, [Arist.] *Ath. Pol.* 55.3). At §54, Euxitheos states that he was taken to the temple of Ancestral Apollo and to other sacred shrines of his phratry and genos (see εἰς Ἀπόλλωνος πατρώου {ἦγον} and εἰς τᾶλλα ἱερά; cf. Euxitheos' selection to draw lots for the priesthood of Heracles at §46).

εἶθ' οἷς ἡρία ταυτά: 'those who share the same burial mounds', cf. ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα at §28 and ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα at §70. Euxitheos had reserved the final testimony on his father's behalf for those who share common burial

²⁷² For a concise overview, see R. Just, *Women in Athenian Law and Life*, pp. 23-7.

²⁷³ See n. 37.

ground. Previously, the speaker ascribed the use of these common graves to the members of his *genos* (see ὧν ὅσοιπέρ εἰσι τοῦ γένους κοιωνοῦσι at §28) but, at this point in the speech, he does not make a connection to a specific social body. Moreover, he deviates from the order of the testimony given in the body of the speech by mentioning them here before the demesmen (see §§23 and 25). It is likely that he does this to continue with his allusion to procedure in the *δοκιμασία*, in which the candidate is then asked whether he has family tombs and where they are (εἶτα ἡρία εἰ ἔστιν καὶ ποῦ ταῦτα, [Arist.] *Ath. Pol.* 55.3).

οἱ δημόται πολλάκις αὐτὸν δεδοκιμάσθαι καὶ ἀρχὰς ἄρξαι: ‘the demesmen give testimony that he has often been approved by scrutiny and held office’, sc. μαρτυροῦσιν. From Euxitheos’ summary, it can be inferred that some members of his deme gave depositions which attested to the fact that his father had passed the scrutiny for public office (ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεὶς at §25; whereas he had previously called on members of his deme as witnesses to his election as *phratriarch* at §23). Their testimony was not only relevant for confirming the fact that Thoucritos had been approved but also their very membership in the deme is significant since it was the deme’s decision to disfranchise Euxitheos at their assembly.

καλῶ δ’ ὑμῖν τοὺς οἰκείους, εἰ βούλεσθε: ‘But I will call my relatives before you, if you wish’. After questioning, a candidate in the *δοκιμασία* is given the chance to call witnesses to his statements (ταῦτα δ’ ἀνερωτήσας, ‘κάλει’ φησὶν ‘τούτων τοὺς μάρτυρας’, [Arist.] *Ath. Pol.* 55.3). Though Euxitheos has already called his relatives through his father’s line as witnesses during the trial, he persists with the premise of a *δοκιμασία* because it was an occasion besides a *διαψήφισις* procedure in which citizen status could be called into question. He seeks to impress upon the jury that, since both he and his father have passed the scrutiny to hold office, then thus they must pass the test for citizenship.

[68] **ἐμοὶ γὰρ ἔστιν μήτηρ Νικαρέτη Δαμοστράτου θυγάτηρ Μελιτέως**: ‘For my mother is Nicarete, daughter of Damostratos of Melite’. This is the first time that Euxitheos’ mother is named in the speech (cf. §37, wherein Euxitheos lists Damostratos I’s children but he does not name his two daughters). During a δοκιμασία for holding public office, the candidate was asked about his mother’s lineage (τίς μήτηρ, καὶ τίς μητρός πατήρ καὶ πόθεν τῶν δήμων, [Arist.] *Ath. Pol.* 55.3). Rather than breaking the social norm of not naming respectable Athenian women who were still living, Euxitheos utilises the format of the δοκιμασία to name his mother and to demonstrate to the jury that she has a right to citizen status.²⁷⁴

πρῶτον μὲν ἀδελφιδούς: ‘First her nephew’. Dilts retains Westermann’s emendation of ἀδελφιδούς, in place of the ἀδελφοὶ δύο of most of the manuscripts.²⁷⁵ This correction is in keeping with the details provided in the body of the speech (see §38). Thus, this nephew is Damostratos II, the son of Nicarete’s half-brother Amytheon, and thus a first cousin of the speaker.

εἶτα τοῦ ἑτέρου ἀδελφιδοῦ δύο υἱοί: ‘then the two sons of another nephew’. The other nephew indicated here is the one also named Euxitheos, and first cousin to the speaker (see §39). His sons were therefore cousins to the speaker once removed. However, in the earlier passage, the speaker refers to Euxitheos as having three sons (see τοῦ δ’ Εὐξιθέου τρεῖς υἱεῖς· οὗτοι πάντες ζῶσιν at §39). It must have been the case that only two of his sons were present in court to testify on Nicarete’s behalf. Unfortunately, no reason is given as to why the third was absent; it could simply be the case that he was not present in Athens at the time of the trial, he may even have been abroad on military duty (see

²⁷⁴ See n. 37; cf. n. 88.

²⁷⁵ Dilts (ed.), *Demosthenis Orationes* IV, p. 272; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 271. For Westermann’s edition, see *Ausgewählte reden des Demosthenes*, p. 182.

τοὺς ἐπιδημοῦντας αὐτῶν at §39), but perhaps the speaker's lack of explanation betrays some familial tension between these two men.

εἶτ' ἀνεψιαδοῦς: 'next a son of her first cousin'. Dilts again follows Westermann's introduction of ἀνεψιαδοῦς to the text, whereas the manuscripts provide ἀνεψιοὶ αὐτῆς.²⁷⁶ Referring to Apollodoros, the son of Olympichos, who was son of her mother's sister and thus her first cousin (see §38). Apollodoros is a cousin once removed to Nicarete and a second cousin to Euxitheos. By referring to Apollodoros after Euxitheos' sons, the speaker slightly deviates from the order in which the witnesses were presented in the body of the speech.

οἱ Πρωτομάχου υἱεῖς ... τὴν ἀδελφὴν τὴν ἐμὴν: 'the sons of Protomachos ... my sister'. For the distinction between the two see τοὺς τοῦ Πρωτομάχου υἱεῖς and τὴν ἀδελφὴν λαβόντα τὴν ἐμὴν at §43.

Εὔνικος Χολαργεύς: 'Eunicos of Cholargos'. See note for εἶτα Εὔνικον Χολαργέα at §43.

εἶθ' υἱὸς τῆς ἀδελφῆς: 'Then my sister's son'. Euxitheos calls his nephew, Nicarete's grandson, as witness at §43. Euxitheos follows the same pattern in reporting witnesses to his mother's status as he did with his father's relatives in the previous passage (see §67). He began with those most closely related to his mother from the family she was born into and then moved on to those from her marital families.

[69] **φράτερες τῶν οἰκείων αὐτῆς καὶ δημόται ταῦτα μεμαρτυρήκασι**: 'the members of her relatives' phratry and the demesmen have given testimony to these things'. The phratry members and the demesmen cannot give testimony about Nicarete's citizen status, since she is neither a member of the phratry (see ἐν τοῖς φράτερσιν at §19) or the

²⁷⁶ Dilts (ed.), *Demosthenis Orationes* IV, p. 272; cf. Rennie (ed.), *Demosthenis Orationes* III, p. 271. For Westermann's edition, see *Ausgewählte reden des Demosthenes*, p. 182.

deme. There is nothing in the text to suggest that Nicarete had been introduced to Damosstratos I's phratry and, if she had been, one would expect Euxitheos to make explicit reference to it. The phratry members who gave testimony are therefore described as 'members of her relatives' phratry' (cf. τὰς τῶν φρατέρων τῶν συγγενῶν τῶν τῆς μητρὸς καὶ δημοτῶν μαρτυρίας at §40). Yet, these phratry members and the demesmen can testify that Nicarete's kin are indeed members and are thus recognised citizens.

ὅτι κατὰ τοὺς νόμους ὁ πατήρ ἔγημεν: 'that my father married according to the laws'. A candidate for the archonship had to have been legally married to a citizen wife ([Dem.] 59.104-6). Thus, Euxitheos' father had to have been married in accordance with Athenian law in order to hold office (for Thucritos' term in a public role, see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεὶς at §25).

γαμηλίαν τοῖς φράτερσιν εἰσήνεγκεν: 'he held a marriage-feast for the members of his phratry'. See οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρὸς ὁ πατήρ at §43.

καὶ ἑμαυτὸν ἐπέδειξα πάντων μετελιηφότα ὅσων προσήκει τοὺς ἐλευθέρους: 'I also proved that I myself have been sharing in everything which is fitting for free citizen males'. Only a small section of Euxitheos' summary directly concerns himself, as he affirms that he has had a share in everything that befits free citizen males. While his lack of evidence after §46 certainly arouses suspicion, Euxitheos' concision with regard to his own credentials may not be so surprising given that the majority of the main body of the text focused on proving the citizen status of both of his parents, which would then ensure his own right to citizenship. For the term ἐλεύθεροι, cf. §36.

εὐορκοίητε: 'you would be faithful to your oath', cf. πράττειν ὅποῖον ἂν τι ὑμῶν εὐσεβὲς εἶναι δοκῆ at §17.

[70] **εἰ γονέας εὖ ποιοῦσιν**: ‘whether they treat their parents well’. Having been questioned as to whether or not he has family tombs (see εἶθ’ οἷς ἡρία ταῦτά at §67), a candidate in a δοκιμασία is then asked whether he treats his parents well (γονέας εἰ εὖ ποιεῖ, [Arist.] *Ath. Pol.* 55.3). Though his conduct towards his parents could have no direct impact on his social status, Euxitheos includes this clause in order to appeal to the jury’s conscience (for a similar appeal to the jury’s pity, see μηδαμῶς, ὧ ἄνδρες δικασταί, τοὺς πένητας ἀτιμάζετε (ικανὸν γὰρ αὐτοῖς τὸ πένεσθαι κακόν) at §36). Subsequently, he directly pleads to the jury on behalf of his mother, so that he might bury her in the ancestral mounds. Only a favourable vote can enable the speaker to abide by a citizen’s duty to honour their parents.

ἐγὼ δὲ τοῦ μὲν πατρὸς ὀρφανὸς κατελείφθην: ‘I was left orphaned by my father’. For Euxitheos’ use of the term ‘orphan’, see ἔτι τοίνυν ὀρφανὸς κατελείφθην at §52. His mother was still alive at the time of his appeal.

ἀπόδοτέ μοι θάψαι εἰς τὰ πατρῶα μνήματα: ‘to give me back the right to bury her in the ancestral mounds’. For the obligations of relatives after death, see ἔθαψε τούτους εἰς τὰ πατρῶα μνήματα at §28 (cf. εἶθ’ οἷς ἡρία ταῦτά at §67). Having been disfranchised by the deme, Euxitheos has lost his access to the family burial mounds. Rather than his own right to be buried there, the speaker pleads on behalf of his mother who, as the speaker has claimed she was the legitimate wife of Thoucritos (see ἐγγυᾶται at §41), was entitled to be buried there alongside her husband and deceased children. If, however, the penalty for losing his appeal was indeed slavery,²⁷⁷ Euxitheos would thus be incapable of burying his mother.

²⁷⁷ See Introduction, pp. 43-9.

ὄλως ἀπολέσητε: ‘bring me to complete ruin’. For the speaker’s possible penalty, see also λογισαμένους τό τε μέγεθος τοῦ παρόντος ἀγῶνος καὶ τὴν αἰσχύνην at §1 and ὥσπερ φυγάδος ἤδη μου ὄντος καὶ ἀπολωλότος at §65.

πρότερον γὰρ ἢ προλιπεῖν τούτους, εἰ μὴ δυνατόν ὑπ’ αὐτῶν εἶη σωθῆναι, ἀποκτείναιμ’ ἂν ἑμαυτόν, ὥστ’ ἐν τῇ πατρίδι γ’ ὑπὸ τούτων ταφῆναι: ‘For rather than abandoning them, if it is not possible to be saved by them, I would kill myself, so that I could be buried in my homeland’. If exile was not an alternative penalty to be suffered in the place of being enslaved, the language which Euxitheos uses during this final address may signal that he believed that he would be sold abroad. But both voluntary exile and slavery abroad would deny Euxitheos an Athenian burial.²⁷⁸ Such a dramatic close to his speech was certainly intended to play on the jurors’ emotions.

²⁷⁸ For epitaphs emphasising the Greek attitude towards being interred in one’s native land, see R. Lattimore, *Themes in Greek and Latin Epitaphs*, pp. 199-202.

Table 1: divisions and dates of speeches¹

Deliberative oratory

Name of the speech	Date ²
- <i>On the Symmories</i> (Dem. 14)	354/3 BC
- <i>For the Megalopolitans</i> (Dem. 16)	353/2 BC
- <i>On the Freedom of the Rhodians</i> (Dem. 15)	353-0 BC
- <i>First Philippic</i> (Dem. 4)	<i>circa</i> 352/1 BC
- <i>On Organisation</i> (Dem. 13)	<i>circa</i> 350 BC
- <i>First Olynthiac</i> (Dem. 1)	} 349/8 BC
- <i>Second Olynthiac</i> (Dem. 2)	
- <i>Third Olynthiac</i> (Dem. 3)	

¹ **KEY:**

() Round brackets are used for the speeches which I accept as having been written by Demosthenes.

[] Square brackets are used for the speeches which were clearly not written by Demosthenes.

² The orations are arranged chronologically rather than numerically.

- *On the Peace* (Dem. 5) 346 BC
- *Second Philippic* (Dem. 6) 344/3 BC
- *On Halonnesos* ([Dem.] 7) 342 BC
- *On the Situation in the Chersonese* (Dem. 8) 341 BC
- *Third Philippic* (Dem. 9) 341 BC
- *Fourth Philippic* (Dem. 10) 341 BC
- *Response to Philip's Letter* (Dem. 11) } 340 BC
- *Philip's Letter* ([Dem.] 12) }
- *On the Treaty With Alexander* ([Dem.] 17) circa 331 BC

Epidictic oratory

- | Name of the work | Date |
|------------------------------------|-----------|
| - <i>Erotic Essay</i> ([Dem.] 61) | 350-35 BC |
| - <i>Funeral Oration</i> (Dem. 60) | 338 BC |

Forensic oratory

Public Speeches:

Name of the speech	Date	Legal action	Name of speaker
- <i>Against Nicostratos</i> ([Dem.] 53)	<i>circa</i> 366/5 BC	ἀπογραφή	Apollodoros
- <i>On The Trierarchic Crown</i> (Dem. 51)	360/59 BC	διαδικασία before the Council	Demosthenes (?)
- <i>Against Leptines</i> (Dem. 20)	355/4 BC	γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι	Demosthenes
- <i>Against Androtion</i> (Dem. 22)	355/4 BC	γραφὴ παρανόμων	Diodoros
- <i>Against Timocrates</i> (Dem. 24)	353/2 BC	γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι	Diodoros
- <i>Against Aristocrates</i> (Dem. 23)	352/1 BC	γραφὴ παρανόμων	Euthycles
- <i>Against Medias</i> (Dem. 21)	347/6 BC	γραφὴ ὕβρεως	Demosthenes
- <i>Against Euboulides</i> (Dem. 57)	346/5 BC	ἔφεσις	Euxitheos
- <i>On the False Embassy</i> (Dem. 19)	343 BC	εὐθυναί	Demosthenes
- <i>Against Neaera</i> ([Dem.] 59)	<i>circa</i> 342 BC	γραφὴ ξενίας	Theomnestos & Apollodoros

- <i>Against Theocrines</i> ([Dem.] 58)		<i>circa</i> 340 BC	ἔνδειξις	Epichares
- <i>On the Crown</i> (Dem. 18)		330 BC	γραφὴ παρανόμων	Demosthenes
- <i>Against Aristogeiton I</i> (Dem. 25)	}	<i>circa</i> 325/4 BC	ἔνδειξις	Demosthenes
- <i>Against Aristogeiton II</i> ([Dem.] 26)				(unknown)

Private Speeches:

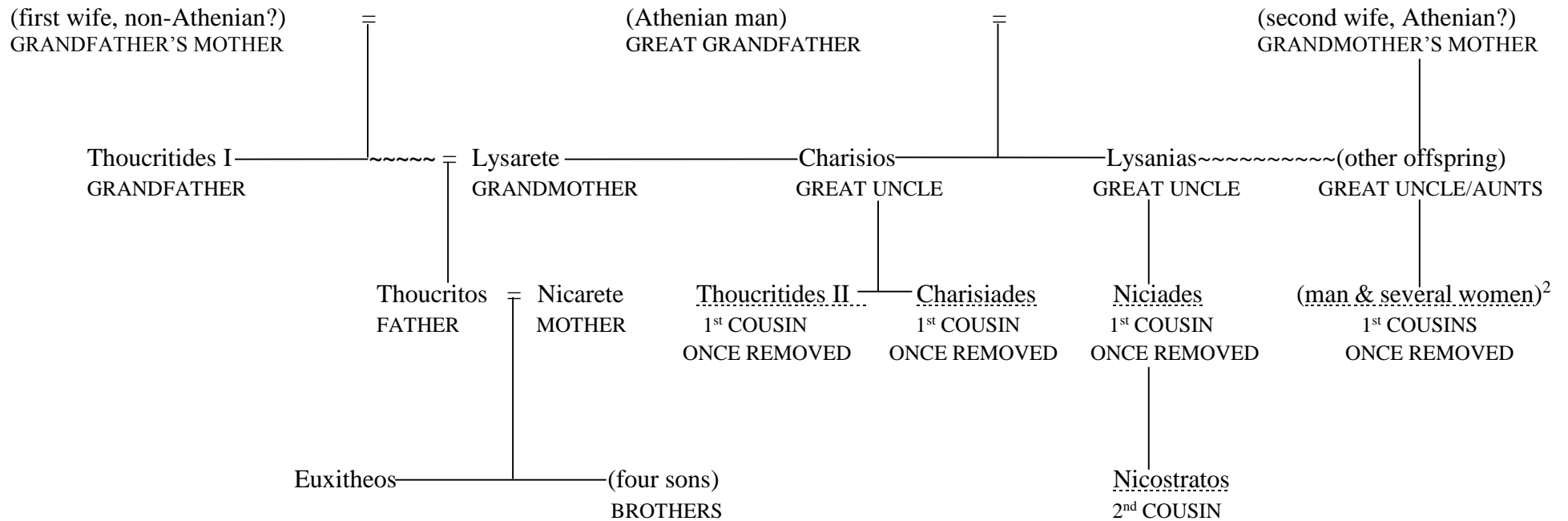
- <i>Against Callippos</i> ([Dem.] 52)		369/8 BC	δίκη ἀργυρίου	Apollodoros
- <i>Against Aphobos I</i> (Dem. 27)	}	364/3 BC	δίκη ἐπιτροπῆς	Demosthenes
- <i>Against Aphobos II</i> (Dem. 28)				
- <i>Against Timotheos</i> ([Dem.] 49)		<i>circa</i> 362 BC	δίκη βλάβης/χρέως	Apollodoros
- <i>Against Aphobos For Phanos</i> (Dem. 29)		362/1 BC	δίκη ψευδομαρτυριῶν	Demosthenes
- <i>Against Onetor I</i> (Dem. 30)	}	362/1 or early 361/0 BC	δίκη ἐξούλης	Demosthenes
- <i>Against Onetor II</i> (Dem. 31)				
- <i>Against Callicles</i> (Dem. 55)		unknown	δίκη βλάβης	Teisias' son
- <i>Against Leochares</i> (Dem. 44)		361-56 BC	δίκη ψευδομαρτυριῶν	Aristodemos' son

- <i>Against Spoudias</i> (Dem. 41)	<i>circa</i> 360 (?)	δίκη ἀργυρίου/βλάβης/ἐνοικίου	Polyeuctos
- <i>Against Polycles</i> ([Dem.] 50)	360-58 BC	δίκη τριηραρχικοῦ/βλάβης	Apollodoros
- <i>Against Conon</i> (Dem. 54)	357 or 343 BC	δίκη αἰκίας	Ariston
- <i>Against Euergos & Mnesiboulos</i> ([Dem.] 47)	356-3 BC	δίκη ψευδομαρτυριῶν	Apollodoros (?)
- <i>Against Zenothemis</i> (Dem. 32)	between 354/3-340 BC	} παραγραφαί	Demon
- <i>Against Lacritos</i> (Dem. 35)	<i>circa</i> 351/0 BC		Androcles
- <i>For Phormion</i> (Dem. 36)	350/49 BC		Demosthenes (?)
- <i>Against Stephanos I</i> (Dem. 45)	} 350/49 BC	δίκη ψευδομαρτυριῶν	Apollodoros
- <i>Against Stephanos II</i> ([Dem.] 46)			
- <i>Against Boiotos I</i> (Dem. 39)	349/8 BC	δίκη βλάβης	} Mantitheos
- <i>Against Boiotos II</i> (Dem. 40)	<i>circa</i> 347 BC	δίκη προικός	
- <i>Against Pantaenetus</i> (Dem. 37)	347/6 BC	} παραγραφαί	Nicoboulos
- <i>Against Nausimachos & Xenopeithes</i> (Dem. 38)	346 BC		Aristaechmos' son
- <i>Against Olympiodoros</i> (Dem. 48)	<i>circa</i> 342 BC	δίκη βλάβης	Callistratos
- <i>Against Apatourios</i> (Dem. 33)	<i>circa</i> 341 BC	παραγραφή	(unknown)

- <i>Against Macartatos</i> (Dem. 43)	late 340s BC	διαδικασία	Sositheos
- <i>Against Phaenippos</i> (Dem. 42)	335/4, 330/29 or 328/7 BC	ἀντίδοσις & διαδικασία	(unknown)
- <i>Against Phormion</i> (Dem. 34)	327/6 BC	παραγραφή	Chrysippos
- <i>Against Dionysodoros</i> (Dem. 56)	323/2 BC	δίκη βλάβης	Dareios

Table 2: Euxitheos' family tree

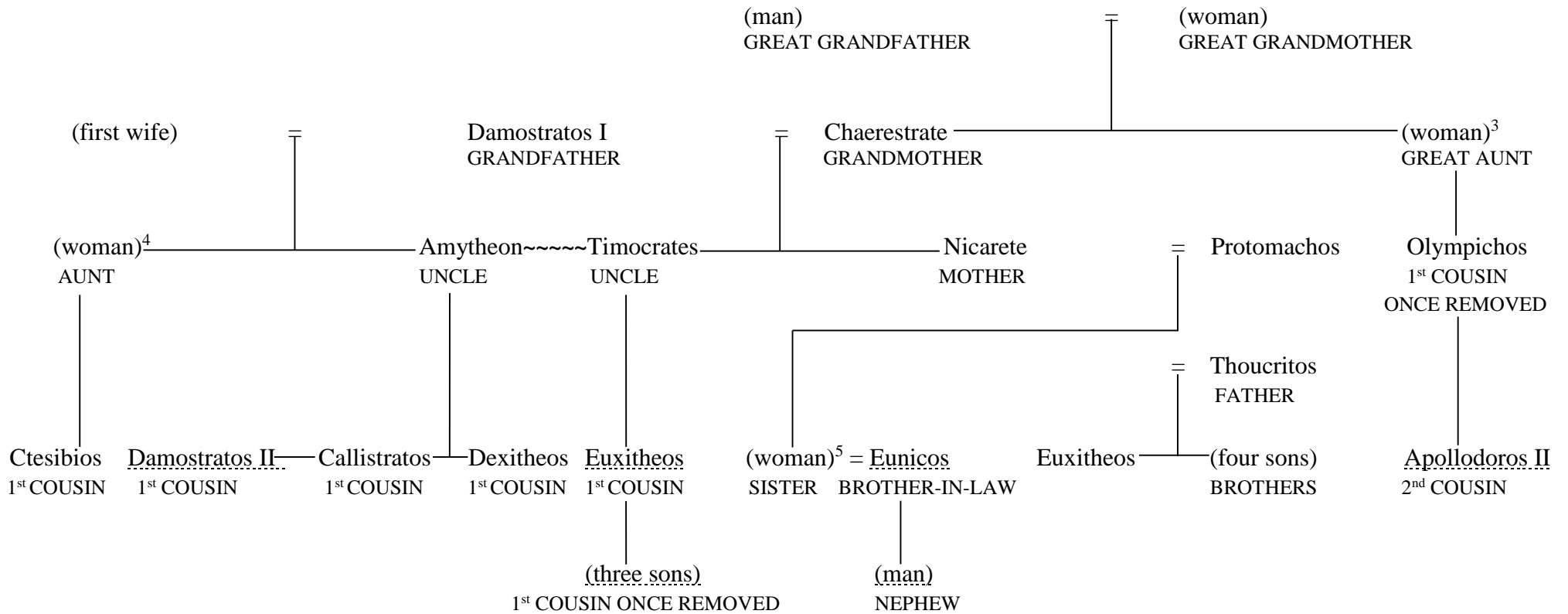
Euxitheos' paternal lineage¹



¹ **KEY:**
 CAPS Indicates relationship to the speaker ~~~~~ Indicates half-sibling relationship = Indicates marriage
 Indicates witnesses cited by Euxitheos. Womenfolk on his father's side also give testimonies but are not named.

² These homometric siblings (to Lysarete) produced one male and several female offspring who were reckoned as cousins to the speaker's father under Attic kinship ties (see *πρῶτον μὲν γὰρ τέτταρες ἀνεμιοί* at §67).

Euxitheos' maternal lineage



³ Married Apollodoros I of Plotheia (see Ἀπολλόδωρος Πλωθεύς at §38).

⁴ Married Diodoros of Halae (see τῆ δ' ἀδελφῆ αὐτοῦ συνοικησάση Διοδώρῳ Ἀλαιεῖ at §38).

⁵ Nicarete's first marriage to Protomachos bore several children, but it would appear that only a daughter survived (see θυγάτηρ at §40 and παῖδας ποιησάμενος at §43). This daughter was a sibling to Euxitheos under Attic kinship ties. Protomachos had more children with his second wife, specifically sons, whom Euxitheos also calls upon as witnesses (τοὺς τοῦ Πρωτομάχου υἱεῖς at §43).

Appendix 1: Isaeus' *On Behalf of Euphiletos* (Isae. 12)

While material contained within the Demosthenic canon is useful for the analysis of *Against Euboulides*, a speech composed by his oratorical predecessor depicts the only extant suit which bears a strikingly close relation to Euxitheos' case. Written by Isaeus, this speech is unique within his corpus as his only work which does not pertain to an inheritance dispute.¹ The case involves a man named Euphiletos who has been disfranchised by the deme of Erchia.² The text is Euphiletos' defence of his right to citizenship before an Athenian jury. Unfortunately, however, Euphiletos' speech does not survive in its entirety; only a fragment is preserved in a lengthy quotation by Dionysios of Halicarnassos (*Isae. 17*). While the appellant in this case was Euphiletos, the fragment which we possess was spoken by the appellant's unnamed brother. Dionysios states that this section was delivered after the facts of the case had been presented and confirmed by witnesses (*Isae. 16*).³ He also comments on the speech's strong argumentation and consolidation of the witness testimonies, noting that the quoted passage particularly demonstrates Isaeus' thoroughness and great attention to detail. It is unfortunate, however, that Dionysios' observations cannot be considered with regard to the whole speech. Being bereft of the text in its entirety has certainly deprived its readers of some significant background details and has left it open to much speculation.

The extant fragment does reveal several facts pertaining to the case. It is known that Euphiletos, son of Hegesippos, had been accepted as a legitimate citizen into the deme of Erchia (12.12). It can be presumed that this took place after the regular deme-

¹ For a general overview of Isaeus' career and an introduction to each of his speeches, see M. Edwards, *Isaeus* (2007).

² The deme of Erchia belonged to the tribe Aegeis. It was located approximately twenty kilometres east of Athens. Notable members of this deme include the logographer Isocrates and the historian Xenophon. For its geographical placement, see E. Vanderpool, 'The Location of the Attic Deme Erchia', pp. 21-6.

³ In an earlier passage, Dionysios states that Isaeus departed from the conventional form of narrative in some of his speeches and, in this speech, he notes that the logographer divided Euphiletos' narrative into sections and added a proof to each part (*Isae. 14*).

enrolment procedure, when the candidate had attained the age of eighteen.⁴ However, when the deme held an extraordinary vote on all of its members at a later date, the vote of the διαψήφισις went against Euphiletos (12.12). But his family strongly opposed the deme's decision and legal proceedings were initiated between Euphiletos and the deme. Euphiletos' unnamed half-brother is the speaker of the preserved fragment from this subsequent case, acting as a supporting speaker (συνήγορος).⁵ He was Hegesippos' son from a previous marriage (12.2, 5-6). His help is particularly valuable since he would not have to share his inheritance if Euphiletos were to be disfranchised (12.4). Euphiletos also had the support of both of his parents, his half-sisters and their husbands, Hegesippos' former brother-in-law, and several phratry members (12.1, 5-6, 8-9). The testimonies of his male relatives and fellow phratry members were a crucial element in countering the deme's argument that he was not the biological son of Hegesippos. Evidently, the deme of Erchia maintained that Euphiletos had been illicitly adopted (12.2).⁶ The demesmen did not, however, appear to question the citizen status of either Hegesippos or his second wife (12.2-3, 9). Exactly how the deme sought to prove Euphiletos' illegitimacy or indeed what evidence the demesmen brought is regrettably not discussed by the speaker. Ultimately, the deme did not have to ascertain who Euphiletos' father actually was, it only had to justify why they voted to strike his name from the register.

Since the jury would presumably have already heard the main arguments of Euphiletos' case from the appellant himself, his brother's speech mainly refers to points which have already been made. The speaker begins with possible motives why his father might have adopted Euphiletos, either because he had no legitimate children of his own

⁴ This ordinary διαψήφισις is described in most detail by the *Athēnaiōn Politeia* ([Arist.] 42.1). For a discussion of this process, see Introduction, pp. 25-43.

⁵ It was not unusual for litigants to invite a family member or friend to stand up before the court and speak on their behalf. In theory, the συνήγορος offered their support freely and was not paid to be an advocate. For a comprehensive discussion on συνηγορία in Athenian courts, see Rubinstein, *Litigation and Cooperation* (2000).

⁶ For supposititious children, see n. 131 in the Commentary.

or because he was compelled by poverty to adopt a non-citizen child illegally in return for a fee (12.2). He argues that both scenarios were improbable since Hegesippos already had the speaker as a legitimate heir, and that bringing up another son caused him considerable expense (12.2-3). Hegesippos has already testified that Euphiletos is his son, seemingly swearing before the court that no adoption took place (12.1, 8-9). The speaker then argues that it was implausible that he, being older by thirteen years (12.10), would testify falsely on behalf of Euphiletos when he would then have to share his inheritance with an unlawful heir (12.4). Indeed, the speaker maintains that Euphiletos' present witnesses would have had more reason to testify against him than in his favour if they doubted his paternity: if his half-sisters had any reason to believe that Euphiletos was only the son of their stepmother, their husbands would not have vouched for him, nor would the brother of Hegesippos' first wife whose doing so would harm the interests of his nieces and nephew (12.5-6). He even refers to the threat of perjury to bolster his argument from improbability (12.4, 6). Consequently, the speaker notes that their opponents could not have produced better witnesses if they found themselves in Euphiletos' position (12.7-8). In addition to the testimonies provided by these relatives and some phratry members, the speaker informs the court of his own willingness, together with that of his stepmother and his father, to swear an oath that Euphiletos is who they claim (12.9-10).⁷ Furthermore, he makes a point of contrasting the number of people willing to testify on his brother's behalf with the opposition's lack of witnesses, a detail which he claims strongly influenced the arbitrators (12.11). The fragment ends with the speaker's request that the jury take the compelling verdict from the arbitration process into account, giving it as much consideration as his opponents would have asked for if

⁷ Informing the jury that Euphiletos' mother was willing to confirm her son's paternity with a sworn oath may have been a particularly effective tool in persuading a jury of his legitimacy. Giving an example of rhetorical induction, Aristotle notes the probability that women always discern the truth in matters of parentage (*Rh.* 2.23.11). He refers to the success of the oath when Plangon utilised it to compel Mantias to acknowledge her two sons as his (*Dem.* 39.4, 25-6, 40.11); see S. Usher, *Greek Oratory*, pp. 168-9.

the judgement had gone against Euphiletos rather than in his favour (12.12). While it is impossible to fully reconstruct Euphiletos' case from such a small quotation, it is clear that his defence of his right to citizenship rested heavily on his multiple witness testimonies from both relatives and phratry members and the prior decision of the arbitrators.

Dionysios' introductory comments are fairly helpful in contextualising Isaeus' speech. First he states that Euphiletos summoned the demesmen of Erchia to court, claiming that they had unjustly deprived him of his citizenship rights (*Isae.* 16).⁸ He then connects the speech to a law (νόμος) passed by the Athenians, which enabled a review (ἐξέτασις) of the demesmen and allowed for those who had been rejected to appeal the decision before a court. He also states that appellants risked losing their property and their freedom if the jury voted against them. However, Dionysios does not state the exact legal procedure involved between Euphiletos and the deme. Nor does he indicate which board heard the appeal, whether it was the Thesmothetae who heard cases concerning ξένια and the appeals from the annual deme enrolments or the Forty who automatically sent cases to arbitration. Indeed, he fails to provide any further details about the case or its background and, as such, his brief remarks have instigated much debate.

The main point of contention for scholars is whether or not to connect Euphiletos' speech to the extraordinary διαψήφισις occasioned by Demophilos' decree in 346/5 BC. Several scholars find that assigning the case to Demophilos' motion is problematic with regard to the speech's authenticity. These scholars have taken the speaker's reference to a two-year arbitration process (12.11) to mean that his current suit was thereby delayed before coming to court and, as such, a date of 344/3 BC appears to be too late for Isaeus

⁸ For the unusual interpretation that the demesmen of Erchia had lodged the appeal before the court, see M. Just, 'Le rôle des διατηταί dans Isée 12, 11', pp. 111-6. While his argument is certainly interesting, he fails to make a wholly convincing case that Dionysios was mistaken and therefore misleading to current scholars in his given title for Isaeus 12 (ἡ ὑπὲρ Εὐφιλίτου πρὸς τὸν Ἐρχιέων δῆμον ἔφεσις, *Isae.* 14.3).

to be the genuine author of the speech.⁹ Still, there is no evidence to prove conclusively that Isaeus' speech-writing career had ended by this date. Both Wyse and Gomme must concede that it was not impossible for him to still be writing in the late 340s BC. Since Isaeus' earliest surviving speech is dated *circa* 389 BC (*On the Estate of Dicaeogenes*, *Isae*. 5), it is certainly plausible that he continued to write into his mid-seventies and that his speech for Euphiletos' case was probably one of the last that he wrote before his death *circa* 340 BC.¹⁰

Dionysios' lack of details with regard to the law or indeed to its proposer has also prompted scholars to question whether the speech can be specifically tied to the *διαψήφισις* of 346/5 BC. Diller believes that Dionysios has simply confused the type of scrutiny that was held before Demophilos' decree with that which was held after, and that the fragment of Euphiletos' speech belongs to a *δίκη* held before Demophilos' decree was passed.¹¹ Gomme refers to the fact that Dionysios indicates elsewhere that two of Deinarchos' speeches concerning disfranchisements were delivered during the archonship of Archias (in 346/5 BC; *Against the Kerykes* and *Against Moschion* in *Din.* 11), the very year in which Demophilos proposed his decree.¹² He maintains that, had Dionysios thought the Euphiletos case was also one of these, he might easily have labelled it accordingly and used the fact to give a more precise date to Isaeus' speech. Gomme subsequently agrees with Diller's conclusion that *On Behalf of Euphiletos* derived from a lone scrutiny in the deme of Erchia rather than at a trial arising from a deme-wide

⁹ Wyse, *The Speeches of Isaeus*, pp. 715-6; Diller, 'The Decree of Demophilus', pp. 201-2; Gomme, 'Two Problems of Athenian Citizenship Law', p. 125. Wyse suggests an alternative possibility that Euphiletos' case may belong to an unattested earlier scrutiny. Though the source material is sparse for this period, it seems unlikely to me that such an event occurred without any record or even passing allusion to it in any of the surviving sources.

¹⁰ Very little is known about Isaeus' life. It is generally accepted that he was born around 415 BC. Dionysios claims that Isaeus was in his prime after the Peloponnesian War and that he lived on into the years of Philip II of Macedon's rule (*Isae*. 1; cf. [Plut.] *X orat.* 839e-f). If these estimations are correct, Isaeus' career as a logographer lasted for approximately forty-nine years.

¹¹ Diller, 'The Decree of Demophilus, 346-345 B.C.', pp. 201-2. For a discussion of Diller's theory that Demophilos' decree established the public appeal process, see Appendix 7, pp. 307-8.

¹² Gomme, 'Two Problems of Athenian Citizenship Law', p. 125. Cf. n. 99 in the Introduction.

extraordinary διαψήφισις.¹³ Ultimately, I cannot agree with Gomme and Diller, since their analyses are entirely dependent on the belief that Isaeus' *On Behalf of Euphiletos* is earlier in date than Demosthenes' *Against Euboulides*, a premise which is far from certain.¹⁴

Establishing the nature of the legal procedure described by Dionysios is certainly a challenge. Scholars are divided in their classification of the speech, with some arguing that it was a γραφή and others maintaining that it was a δίκη (specifically a δίκη βλάβης).¹⁵ Several elements have complicated the issue, one of which is recognising who lodged the case. While it is clear from Euxitheos' case that Euboulides was acting on behalf of the prosecution when he addressed the court first (see §§1 and 5), Diller and Carey have taken the speaker's comments in *On Behalf of Euphiletos* to signify that Euphiletos was the prosecutor in his case.¹⁶ Specifically, they cite the speaker's use of the future tense of ἀξιόω in relation to his opponents.¹⁷ However, his use of this tense does not decisively prove that his opponents have yet to speak. Wyse raises an interesting point by referring to a parallel in another oration attributed to Isaeus, wherein the future tense of ἀξιόω is used in a similar manner and where there are certain indications that the

¹³ Diller perceives a possible connection between Euphiletos' speech and earlier legal actions mentioned by Euxitheos during the course of his own defence, cases which the speaker claims arose from extraordinary circumstances in the deme of Halimous (see §§26 and 60), in 'The Decree of Demophilus, 346-345 B.C.', pp. 201-2; Gomme suggests that Euphiletos' appeal may have originated from an ordinary annual scrutiny of new members admitted at the age of eighteen, in 'Two Problems of Athenian Citizenship Law', p. 127 n. 10.

¹⁴ Even Gomme must acknowledge a certain fluidity with regard to the date; he suggests that the arbitration process need not have lasted for two full years; see 'Two Problems of Athenian Citizenship Law', p. 125 n. 2. If one assumes that the arbitration pertains to Euphiletos' current suit, it is possible that the case was carried over from one year to the next, from one arbitrator to another, and so Euphiletos may have brought his appeal to court in either 346/5 BC or 345/4 BC.

¹⁵ Those who regard it as public: Wyse, *The Speeches of Isaeus*, pp. 716-7; R. J. Bonner, 'The Jurisdiction of Athenian Arbitrators', pp. 415-6; and Hansen, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, p. 64 n. 26 (albeit cautiously). Those who regard it as private: Diller, 'The Decree of Demophilus, 346-345 B.C.', p. 201; Rubinstein, *Litigation and Cooperation*, pp. 61-2 n. 99; and C. Carey, 'An Overlooked Papyrus of Isaios', p. 24 n. 17.

¹⁶ Diller, 'The Decree of Demophilus, 346-345 B.C.', p. 201; Carey, 'An Overlooked Papyrus of Isaios', p. 24 n. 17.

¹⁷ Isae. 12.8: νυνὶ δὲ ἡμῶν πάντα ταῦτα παρεχομένων ἀξιόσουσιν ὑμᾶς τοῖς αὐτῶν πείθεσθαι λόγοις μᾶλλον ἢ τῷ πατρὶ τῷ Εὐφιλῆτου καὶ ἐμοὶ καὶ τῷ ἀδελφῷ καὶ τοῖς φράτορσι καὶ πάσῃ τῇ ἡμετέρα συγγενείᾳ.

speaker delivered his speech second.¹⁸ Ultimately, the matter of which side spoke first during Euphiletos' case hinges on the interpretation of a single word.

While it is difficult to understand the technicalities involved in the case from the speech's fragmentary state, the parallels to which both Wyse and Gomme refer certainly make a more credible case for Euphiletos delivering his speech after his prosecutors had presented theirs. Indeed, the speaker subsequently describes Euphiletos' opponents as being 'without risk',¹⁹ a label which closely parallels Euxitheos' categorisation of Euboulides as 'without liability' (see §5). With neither opponent facing personal risk for their role in the legal proceedings, it seems to indicate that both parties were acting as representatives of their demes rather than on their own behalf.

Another factor which has complicated the identification of the legal procedure is the speaker's allusion to arbitration (12.11).²⁰ While most private cases were submitted to arbitration, typically there was no recourse to it in the case of public actions.²¹ According to the *Athēnaiōn Politeia*, δίκαι were allocated by lot to a public arbitrator for an attempt at preliminary resolution ([Arist.] 53.1-5).²² While the process of arbitration was compulsory in such cases, the arbitrators' verdicts were not binding and the author

¹⁸ Isae. 8.11: οὗτος δ' ὁ νῦν ὑμᾶς ἀξιόσων τοῖς αὐτοῦ μάρτυσι πιστεύειν ἔφυγε τὴν βάσανον (cf. 8.6). See Wyse, *The Speeches of Isaeus*, pp. 596-7, and 719. Wyse also highlights the future tense of ἀξιόω in Isae. 7.2, and directly compares these uses to the opening statement made by Euxitheos in his appeal. Gomme arrives at a similar conclusion, also citing the passage at Isae. 8.11 to explain the use of the future tense at Isae. 12.8, in 'Two Problems of Athenian Citizenship Law', p. 128.

¹⁹ Isae. 12.8: μὴν οὗτοι μὲν οὐδ' ἐν ἐνὶ κινδυνεύοντες ἰδίας ἔχθρας ἔνεκα ποιοῦσιν.

²⁰ For an overview of the legal problems raised by the involvement of arbitrators, see Wyse, *The Speeches of Isaeus*, pp. 716-7.

²¹ For a discussion of the extent of the arbitrators, see Bonner, 'The Jurisdiction of Athenian Arbitrators', pp. 407-18, and Rhodes, *A Commentary on the Aristotelian Athenian Politeia*, pp. 587-95. For a more recent, albeit broad, overview of the matter, see D. Roebuck, *Ancient Greek Arbitration*, pp. 173-6.

²² The author also states that public arbitrators were men aged fifty-nine years old and over who heard private suits exceeding ten drachmas. Normally, cases that were brought before an arbitrator had to be completed before he finished his term in office. However, Euphiletos' case appears to have been with an arbitrator for two years, and not necessarily the same one (the Greek is not clear: ἡμεῖς μὲν τοὺς συγγενεῖς μάρτυρας καὶ ἐπὶ τῶν διαιτητῶν καὶ ἐφ' ὑμῶν παρεχόμεθα ... δύο ἔτη τοῦ διαιτητοῦ τὴν δίκαιαν ἔχοντος, Isae. 12.11). This delay may have been due to the death of the *dēmarch*, as noted by the speaker in the same passage. Moreover, while accepting the arbitrator's decision meant that the matter would be kept out of court and that neither party risked the penalties of losing at a trial, it is important to note that the decision of an arbitrator was not binding.

stresses that an appeal to the jury-court was an option for either party who was dissatisfied with the verdict. Numerous scholars have assumed that the two attempts at arbitration to which Euphiletos' brother refers were made in relation to the current case; with the first terminated by the death of the *dēmarch*, a second action was lodged by Euphiletos as the prosecutor. Several of these scholars have therefore concluded that Euphiletos' case was a δίκη and technically dissimilar to Euxitheos', who makes no mention of having to submit to arbitration during his account.²³ Carey states that none of the existing evidence pertaining to the public arbitration system suggests that it would have been used for cases of such magnitude which arose from the implementation of Demophilos' decree.²⁴ He too finds that Euphiletos' appeal most resembles a private suit and he thus makes the same suggestion as Diller and Gomme that the speech may derive from an extraordinary scrutiny within a single deme.

While Carey's evidence is worthy of note, there are several arguments which persuasively account for Euphiletos' reference to arbitration in a public suit. Wyse surmises that the public arbitrator may have aided in the preparation of appeals arising from the extraordinary scrutiny by conducting the examination (ἀνάκρισις) and the preliminaries before a trial, thereby relieving some of the demand on the Thesmothetae as the presiding body.²⁵ He also claims that no weight need be attached to the fact that

²³ Diller, 'The Decree of Demophilus, 346-345 B.C.', p. 201. In addition to classifying *Against Euboulides* as a private suit due to the speaker's reference to the water-clock, Rubinstein also maintains that the reference to arbitration in *On Behalf of Euphiletos* strongly suggests that this was a private action, in *Litigation and Cooperation*, pp. 61-2 n. 99; see Appendix 7, pp. 309-10.

²⁴ 'An Overlooked Papyrus of Isaios', p. 24 n. 17. Carey concludes that it would be unlikely for the Athenians to allow an alternative route of appeal through the medium of a private suit if a special appeals mechanism had been set up in connection with Demophilos' decree. However, this conclusion rests on his reading of a statement made by Euxitheos in which the speaker seems to refer to the appeals process as a new measure (see §6). While his interpretation is certainly valid, it is by no means the only way to understand the given passage (cf. Diller's theory, Appendix 7, pp. 307-8).

²⁵ *The Speeches of Isaeus*, pp. 716-7; cf. n. 81 in the Introduction. Bonner finds Wyse's explanation to be satisfactory, in 'The Jurisdiction of Athenian Arbitrators', p. 416. However, he notes that the apparent introduction of new evidence by Euxitheos would be incompatible with the regular arbitration (see §14) and, had both parties submitted to a process of arbitration (which is indeed not mentioned by the speaker), it must have been as extraordinary as the scrutiny which occasioned the case itself. Ultimately, both Wyse and Bonner maintain that *Against Euboulides* and *On Behalf of Euphiletos* are public suits. As does Hansen, who also surmises that the special circumstances resulting from the extraordinary διαπήφισις of 346/5 BC

Euxitheos does not mention whether his case was heard by an arbitrator, since his silence may indicate that the arbitrator's verdict had gone against him.²⁶ If Euphiletos' deme, Erchia, and indeed Euxitheos had refused to abide by the decision of each of their arbitrators, Wyse's theory would explain why both cases still came before the jury.²⁷ However, there is no actual evidence to support Wyse's suggestion of collaboration between the arbitrators and the Thesmothetae.

Euphiletos' reference to arbitration has been explained more satisfactorily elsewhere. Kapparis persuasively argues that Euphiletos' brother refers to an earlier case between the appellant and his deme, a private suit which went to public arbitration and was drawn out for two years.²⁸ Certainly, the terms used by the author of the speech would support this.²⁹ Although very few details are given regarding this case, Kapparis' reading is very convincing: Euphiletos alone was rejected by his deme, presumably during his deme's annual διαψήφισις proceedings when he was eighteen years old, but he initiated a δίκη against them and a prolonged period of arbitration resulted in his case being successful and the deme subsequently admitting him (12.12). But when Demophilos proposed a review of the deme registers in 346/5 BC, those in the deme of Erchia who

may have involved the arbitrators, in *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, p. 64 n. 26.

²⁶ Gomme disagrees with Wyse by claiming that, had Euxitheos' case been referred to an arbitrator and the decision had gone against him, it would be more natural for Euxitheos to have referred to it as 'another instance of his enemy's chicanery and cunning', in 'Two Problems of Athenian Citizenship Law', p. 127. However, his argument is far from compelling if one considers that Euxitheos already faced possible bias from the jury, who may have felt more inclined to uphold a deme's official decision against one of its own members. Admitting to a second ruling against him from the office of an arbitrator could further any prejudice on the jury's part. Moreover, Euxitheos already had quite a challenge to convince the jury of Euboulides' corruption of the deme vote against him without also trying to prove that the arbitrator's decision had also been distorted. On the contrary, the speaker of *On Behalf of Euphiletos* makes great use of the fact that the arbitrator had voted in Euphiletos' favour and against his fellow demesmen (12.11-2). In light of this, Wyse's suggestion remains a plausible notion.

²⁷ A similar argument is made by Hansen, in *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, p. 64 n. 26.

²⁸ Kapparis, 'Immigration and Citizenship Procedures in Athenian Law', pp. 86-91; cf. 'Isaeus 12: On Behalf of Euphiletus', pp. 73-8.

²⁹ Isae. 12.11: ἐπειδὴ ἔλαχεν ὁ Εὐφίλητος τὴν δίκην τὴν προτέραν τῷ κοινῷ τῶν δημοτῶν καὶ τῷ τότε δημαρχοῦντι, ὃς νῦν τετελεύτηκε, δύο ἔτη τοῦ διαιτητοῦ τὴν δίκαιαν ἔχοντος οὐκ ἐδυνήθησαν οὐδεμίαν μαρτυρίαν εὐρεῖν ὡς οὐτοσὶ ἄλλου τινὸς πατρός ἐστιν ἢ τοῦ ἡμετέρου.

had initially opposed Euphiletos' membership seized this opportunity to have him removed.

In conclusion, the classification of Euphiletos' action is a complex issue. Though Dionysios fails to mention Demophilos by name when describing the law which authorised the review, sufficient reasons emerge to find that Euphiletos' case arose as a result of this scrutiny; undeniable similarities appear through a direct comparison with Euxitheos' case and a thorough discussion of the extraordinary διαψήφισις of 346/5 BC. While he is indeed vague with regard to the details, Dionysios' description does indeed correspond to Demophilos' motion which instigated the διαψήφισις of that year.

Appendix 2: Libanios' life and career

Fortunately, many details are known about Libanios' life and career; most of these are provided by his *Autobiography* and more than one thousand and six hundred letters which he wrote.¹ Born in Antioch in AD 314, Libanios moved to Athens in AD 336 in order to complete his education, studying there for several years. In AD 340, he took up position as a private teacher in Constantinople. By AD 344/5, he was installed as professor in Nicomedia, a post which he held for five years and which brought him into contact with the future saint Basil and the next ruler Julian. Libanios was summoned by emperor Constantius to return to Constantinople in AD 349 to serve as the city's official sophist, which he reluctantly accepted. He remained in the capital until AD 354 and then finally returned home to Antioch, where he accepted the chair of rhetoric and taught there for the rest of his life. After a succession of domestic troubles and personal bereavements in the early AD 360s, Libanios was cheered by the accession of Julian to the throne. But his devotion to paganism and resolute rejection of Christianity made him an unpopular figure, and his connection to Julian and his regime brought further dislike even after the emperor's death in AD 363, which carried on into Valens' reign. On the other hand, the subsequent ruler Theodosios bore no ill-will against the rhetorician and he even showed his imperial favour by offering him an honorary title of Praetorian Prefect which Libanios turned down. Soon after the death of his only son in AD 391, Libanios himself died, probably in AD 393, having become quite ill in his later years.

Libanios' writings are substantial. In addition to the series of *Hypotheses*, his surviving works include sixty-four orations ranging from sophistic essays to official panegyrics, fifty-one declamations on a variety of historical and mythological topics,²

¹ The fullest recent biography of Libanios can be found in L. Van Hoof, *Libanius*, pp. 7-38.

² Of the fifty-one declamations, forty-four are generally believed to be genuine. The spurious declamations are 17, 34, 40, 43, 45, 49, and 51; see A. F. Norman's translation of Libanios, *Selected Works*, p. xlvi. For

approximately one thousand and six hundred letters to friends and acquaintances both famous and unknown,³ a large collection of rhetorical exercises (προγυμνάσματα), and an autobiography which he composed in AD 374.

a more recent and comprehensive study of Libanios and his texts, see Van Hoof, *Libanios: a critical introduction* (2014).

³ Some one thousand five hundred and forty or more of these letters are considered to be genuine; see Norman's translation of Libanios, *Selected Works*, p. xlix.

Appendix 3: Pericles' citizenship law of 451/0 BC

The *Athēnaiōn Politeia* presents the most detail with regard to Pericles' citizenship law, including the date and contents from the decree itself.¹ It states that, during the archonship of Antidotos (451/0 BC), Pericles passed a law limiting citizenship to those who had Athenian parentage on both sides ([Arist.] 26.4). Rather than defining Athenian citizenship, Pericles' law outlined the necessary requirement in order to attain it. For the first time in a known written law, Pericles restricted Athenian citizenship to those who fulfilled this condition. Previously, any son from an Athenian father and his legally wedded wife was considered to be a legitimate child and would attain full citizen rights when he came of age, whether his mother was Athenian or foreign.² The new law was most likely not retroactive, but was to be enforced for all those who had yet to be registered as citizens by 451/0 BC.³ While there is no epigraphic evidence to reveal the original wording of Pericles' law, the terminology used by the author of the *Athēnaiōn Politeia* may reflect the language of the decree.⁴ Citizenship was to be reserved for the children of two ἄστοί, a term which was explicitly used against that of ξένοι (see πότερόν ποτ' ἄστος ἢ ξένος ἦν ᾧ ταῦθ' ὑπῆρχεν at §24) and, as such, marked a new period in Athenian citizenship.

In a different context from that of the *Athēnaiōn Politeia*, Plutarch also discusses Pericles' citizenship law. In his biography of the prominent politician, Plutarch reveals that Pericles had requested a suspension of his own law in order to enrol his illegitimate

¹ Cf. Ael. *VH.* 6.10, 13.24; Suda s.v. δημοποίητος Adler Δ451. For a comprehensive study of Pericles' law, see Patterson, *Pericles' Citizenship Law of 451-450 B.C.* (1981).

² Enrolment in both the Athenian social groups was agnatic. Thus it may be assumed that children born of an Athenian woman and a foreign man would not be acknowledged as citizens when they came of age, even if their parents were married, as they had no entry route to the necessary deme.

³ See nn. 77 and 78 in the Introduction.

⁴ [Arist.] *Ath. Pol.* 26.4: ... ὅς ἂν μὴ ἐξ ἀμφοῖν ἀστοῖν ἦ γεγινώς. See Blok's in-depth discussion, 'Perikles' Citizenship Law', pp. 141-6.

son as a citizen and, as such, he briefly summarises the decree.⁵ The author goes on to connect Pericles' law to the early extraordinary διαψήφισις which took place after the Egyptian king had given a large gift of grain to Athens. While Plutarch fails to state when exactly this διαψήφισις took place in regard to the law being enacted, Philochoros dates the gift to 445/4 BC (*FGrH* 328 F119 *apud* schol. Ar. *Wasps*, 718a-b).⁶ None of the sources suggest that Pericles' law was specifically enacted in anticipation of such an event. Consequently, it seems more plausible to view the law as propounding Athenian concerns over their citizenship and the διαψήφισις of 445/4 BC as a continuation of those concerns, which were brought to the forefront once again with the Egyptian gift of grain.⁷ Pericles' legislation became the standard norm for evaluating citizenship, and the action taken in 445/4 BC stands as an example of the Athenians enforcing it.

The *Athēnaiōn Politeia* is the only surviving source which offers an explanation for the introduction of Pericles' law at that particular time. The author identifies the large number of citizens at that time as the motivation behind the decree.⁸ On the surface, at least, this reasoning seems appropriate given that the law was enacted as the Athenian offensive was subsiding at the end of the Greco-Persian Wars (492-449 BC), at a time when Athens had acquired a large intake of foreigners as a result of its naval exploits.⁹

⁵ Plut. *Per.* 37.3: ὁ Περικλῆς ... νόμον ἔγραψε μόνους Ἀθηναίους εἶναι τοὺς ἐκ δεῦν Ἀθηναίων γεγονότας. Gomme believes that Plutarch was using a subsequent statement from the *Athēnaiōn Politeia* when he wrote this passage, namely the author's discussion of the form of the constitution at that time (μετέχουσιν μὲν τῆς πολιτείας οἱ ἐξ ἀμφοτέρων γεγονότες ἀστῶν, [Arist.] 42.1), in 'Two Problems of Athenian Citizenship Law', p. 135 n. 23. Walters doubts that Plutarch had this passage in mind, preferring the possibility that he had access to another unnamed text, in 'Perikles' Citizenship Law', p. 334. But, ultimately, it cannot be known where Plutarch obtained the information regarding Pericles' citizenship law.

⁶ For a brief discussion of this event, see Introduction, pp. 31-2. A. Coşkun has recently argued that 445/4 BC is a more plausible date for the enactment of Pericles' citizenship law than the date transmitted in the *Athēnaiōn Politeia*, in 'Perikles und die Definition des Bürgerrechts im klassischen Athen', pp. 1-35. Unfortunately, however, the evidence is ambiguous regarding the revision of the deme lists in 445/4 BC and the subsequent action taken against those who were disfranchised. There is nothing substantial in the source material to warrant accepting Coşkun's theory over the particular details provided by the *Athēnaiōn Politeia*.

⁷ For a similar theory, see Davies, 'Athenian Citizenship', pp. 110-2.

⁸ [Arist.] *Ath. Pol.* 26.4: ... διὰ τὸ πλῆθος τῶν πολιτῶν.

⁹ Rhodes, however, raises the objection that the increase in the citizen body conflicts with the author's earlier point that Athens had endured severe losses at the start of the so-called First Peloponnesian War, fought during the period after Ephialtes' reforms of 462/1 BC, and thus he argues that Pericles was more concerned with the quality of the citizen body than its size, in *A Commentary on the Aristotelian Athenaion*

But since the law was not retroactive, it would not have reduced the citizen body to immediately solve any issue regarding its size. Instead, it is likely that the law sought to deal with the increase in citizen numbers from mixed marriages between Athenian men and foreign women.¹⁰ With the expansion of Athenian imperial power, the opportunity for intermarriage was considerably greater than before and thus the children of these unions made their way onto the deme registers. While there is no specific mention of marriage in the sources for Pericles' decree, the ratification of the law undoubtedly made marriages between citizens and foreigners an unappealing prospect, as any children from such unions would be henceforth excluded from the privileges of citizenship, including the right to inherit property in Attica (Isae. 6.25, 8.43). Indeed, some scholars have interpreted Pericles' legislation as banning marriages between foreigners and citizens.¹¹ However, one would expect the law to address directly the legality of marriage if such a prohibition was to be enforced as a result of its ratification. The silence of the existing evidence with regard to marriage ultimately makes any connection to Pericles' legislation unverifiable.

Politeia, pp. 333-4. Diller had earlier propounded a somewhat similar theory to explain why Pericles had established this law and concluded that it was due to Athenian jealousy of their citizen rights being bestowed on those beyond the ties of kinship, in *Race Mixture Among the Greeks Before Alexander*, p. 92. It is certainly plausible that the growth of Athenian imperialism had attracted people to the city who were then claiming the citizen status that they were not entitled to. Yet Patterson more persuasively argues that the law need not be seen solely as a selfish move to protect access to Athenian privileges; instead, she emphasises that it was a part of the larger development of *polis* organisation and institutions, in line with public burial of the war dead, the paid service in popular courts and expanded public festival boards, in 'Athenian Citizenship Law', p. 280. Blok follows a comparable line of thinking, by concluding that Pericles was upgrading the demes to the same importance as the *genē* and following the process of democratisation of the preceding decades, in 'Perikles' Citizenship Law', p. 165.

¹⁰ Both Patterson and Walters have defended the notion that there was an increase to the Athenian citizen body as result of unions between citizen men and metic or slave women respectively: Patterson, *Pericles' Citizenship Law of 451-450 B.C.*, pp. 99-100; Walters, 'Perikles' Citizenship Law', pp. 331-6. For a similar view, see also Osborne, 'Law, the Democratic Citizen and the Representation of Women in Classical Athens', pp. 6-11, and Carawan, 'Pericles the Younger and the Citizenship Law', pp. 389-91.

¹¹ Wolff, 'Marriage Law and Family Organization in Ancient Athens', p. 67; Harrison, *The Law of Athens* Vol. I, p. 62; D. M. MacDowell, 'Bastards as Athenian Citizens', p. 88; and S. C. Humphreys, 'Public and Private Interests in Classical Athens', p. 99. The law mentioned in the case against Neaera, allowing for the prosecution of a man for cohabiting with a woman in a mixed relationship ([Dem.] 59.16) is not expressly connected to Pericles' law, nor is there any suggestion that it was introduced in the fifth century.

As it stands, the law recorded in the *Athēnaiōn Politeia* only refers to parentage and, as such, the lack of detail has caused further problems in determining the status of a νόθος, both before and after the enactment of Pericles' law. It is not definitively known if νόθοι born of unwed Athenian fathers and free foreign mothers were denied certain or indeed all rights of citizenship before the introduction of the law in 451/0 BC, and whether νόθοι born of two unmarried Athenian parents were similarly refused access to some, if not all, citizenship privileges especially in its aftermath. Since the sources neither wholly confirm nor deny the admission of νόθοι from two Athenian parents into the citizen body, the material remains open to interpretation and is a greatly contested issue.¹² For a son born of two unmarried Athenian parents, and thereby lacking the proof of legitimacy through marriage, it was necessary for his father to openly acknowledge paternity before his deme in order to avoid suspicion regarding his status (Dem. 39.2-4; 40.8-11). Euxitheos therefore, who claims that his parents were married, devotes considerable attention to providing proof of this to the court (see §§40-3, 53 and 69). He specifically refers to his parents' union as having been contracted by one of the two forms of citizen marriages recognised by Attic law (see ἐγγυᾶται at §41). Though no extant source reports that Pericles' law specifically required the marriage of two Athenian citizens, it certainly bestows a guarantee of legitimacy which was most needed when claiming one's right to citizenship.

While the author of the *Athēnaiōn Politeia* may provide the wording of the law's main regulation, no further details are given with regard to how the law was put into

¹² It is argued that they were admitted to citizenship by Harrison, *The Law of Athens* Vol. I, pp. 63-5; MacDowell, 'Bastards as Athenian Citizens', pp. 88-91; Walters, 'Perikles' Citizenship Law', pp. 317-20; and Kamen, *Status in Classical Athens*, pp. 63-70. However, numerous scholars maintain that both Solonian law on legitimacy and Pericles' citizenship law decreed that they were not; for details, see Gomme, 'Two Problems of Athenian Citizenship Law', p. 131 n. 17; Wolff, 'Marriage Law and Family Organization in Ancient Athens', pp. 75-85; Lacey, *The Family in Classical Greece*, p. 282 n. 15; Humphreys, 'The Nothoi of Kynosarges', pp. 88-95; S. B. Pomeroy, *Goddesses, Whores, Wives and Slaves*, pp. 66-7, 91; P. J. Rhodes, 'Bastards as Athenian Citizens', pp. 89-92; Davies, 'Athenian Citizenship', p. 105; Patterson, 'Those Athenian Bastards', pp. 40-73; Ogden, *Greek Bastardy in the Classical and Hellenistic Periods*, pp. 151-65; and Blok, 'Perikles' Citizenship Law', p. 145 n. 12.

effect.¹³ After the law was passed, only the sons of two Athenian parents were entitled to be registered in their father's deme. Should a deme make any fraudulent admissions, individual citizens could bring a γραφή ξενίας against those they suspected of illegally assuming Athenian citizenship.¹⁴ Although it is unclear whether this was a result of Pericles' law, indictments could also be brought against a suspected foreign male or female living with an Athenian citizen as a valid husband and wife union, and against a citizen man for knowingly giving a foreign woman in marriage to a fellow Athenian, the penalties for which included enslavement, fines, confiscations, and loss of citizen rights ([Dem.] 59.16, 52).¹⁵ Since the law does not seem to have been retroactive, it must have been the case that any sons who had been enrolled contrary to Pericles' law between 451/0 BC and the extraordinary διαψήφισις of 445/4 BC were ejected from the demes. The lawsuits which ensued were a series of γραφαὶ ξενίας.¹⁶ This scrutiny has been utilised as evidence of the Athenians applying Pericles' law as rigorously as possible.¹⁷

The official status of Pericles' legislation during the Peloponnesian War is uncertain. The increase to the citizen body which the *Athēnaiōn Politeia* reports as instigating the law was certainly diminished by the prolonged conflict, though no formal change to the requirement for citizenship appears to have been made.¹⁸ However, it does

¹³ See n. 68 in the Introduction.

¹⁴ See n. 69 in the Introduction.

¹⁵ In addition to prohibiting cohabitation in a mixed status relationship (see n. 11 above), [Dem.] 59 also refers to a law which forbade a citizen man from giving a non-citizen woman in marriage to another citizen, representing her as his own daughter (ὡς ἑαυτῷ προσήκουσαν, [Dem.] 59.52). Though there is no evidence to suggest that the possible indictments mentioned in [Dem.] 59.16 and 52 were an actual part of Pericles' citizenship law, Ogden suggests that these actions were indeed a further rationalisation of what was effectively the legislation since 451/0 BC, in *Greek Bastardy in the Classical and Hellenistic Periods*, p. 80. Elsewhere, while maintaining that the two documents cited in [Dem.] 59.16 and 52 were parts of the same law, Kapparis contends that this law was not introduced until sometime in the 380s BC, in *Apollodoros 'Against Neaira' [D.59]*, p. 202. Primarily, he argues that such a date coincides with the time when the first children of mixed unions born after 403 BC, the earliest date for the re-confirmation of Pericles' citizenship law, were no longer entitled to citizenship. Alternatively, the actions referred to by [Dem.] 59 may have arisen from the subsequent re-enactment of Pericles' law in 403/2 BC and, moreover, may bear a connection to the period in which the Athenian state attempted to eliminate inconsistent, outdated, or redundant laws (see n. 66 in the Introduction). For further discussion on such indictments and their penalties, see Harrison, *The Law of Athens* Vol. I, pp. 26-8; and MacDowell, *The Law in Classical Athens*, p. 87.

¹⁶ See Introduction, pp. 31-2.

¹⁷ Hansen, *The Athenian Democracy in the Age of Democracy*, p. 53.

¹⁸ See n. 70 in the Introduction.

seem likely that social divisions between citizens and aliens had been relaxed during the conflict. Indeed, Pericles was allowed to enrol his illegitimate son in his phratry (Plut. *Per.* 37.5). Moreover, there are claims in the source material that the state had been generally less scrupulous about the requisite for citizenship during this period (Isoc. 8.21, 43, 88-9).¹⁹ Ultimately concessions were made, such as a grant for nearly all citizenship rights to be bestowed upon the Plataeans after the siege of 429-7 BC ([Dem.] 59.104-6) and for the right of intermarriage to be given to the Euboeans at some stage before 405 BC (Lys. 34.3). Besides these formal additions to the citizen body, it is likely that ξένοι and νόθοι were admitted into the Athenian ranks intentionally or not and thereby made their way onto the deme registers.²⁰ The impact of such additions and the Athenian preoccupation with citizen identity were brought to the stage by the contemporary playwrights.²¹ Produced sometime between 414 and 410 BC, Euripides' *Ion* has its main character's status and legitimacy questioned throughout the play (see especially 722, 1048-1105). Aristophanes made frequent comments regarding citizenship: in 414 BC, he has his Chorus Leader refer to lenient practices during this period (*Birds*, 764-5), his titular heroine in *Lysistrata* propose the inclusion of metics and well-disposed foreigners to the citizenry early in 411 BC (574-86) and, in 405 BC, and he has another Chorus discuss citizenship under the guise of true and counterfeit coins (*Frogs*, 718-37). Ultimately, however, the Athenians were defeated in the Peloponnesian War and they

¹⁹ Carawan has argued that Pericles' law was temporarily relaxed in two stages: the first in 430/29 BC, allowing νόθοι to be recognised if the family had no legitimate children left, and the second in 411-403, permitting νόθοι to be recognised alongside legitimate children, in 'Pericles the Younger and the Citizenship Law', pp. 383-406.

²⁰ Isocrates states that the public cemetery and the deme and phratry lists had been filled with those who had no claim on the city (8.88). See also Humphreys, 'The Nothoi of Kynosarges', p. 94.

²¹ Social historians increasingly use drama as a source for Athenian history since issues of citizen life and laws are represented in both the tragic and comic plays. Still, one must always be cautious not to take citations out of their dramatic context. For modern discussions of the social, political and ideological context of Athenian drama, see J. J. Winkler and F. I. Zeitlin, F. I., *Nothing to Do with Dionysos?* (1990); D. Rosenbloom, 'From *Ponêros* to *Pharmakos*', pp. 283-346; P. J. Rhodes, 'Nothing to Do with Democracy', pp. 104-19.

found themselves in a position whereby they were compelled to evaluate the nature of citizenship and its privileges, and even seek to limit it once more.

Appendix 4: the workings of the deme

The one hundred and thirty-nine demes varied in size and encompassed both the city and Attic countryside; the purpose of these social groups was the establishment of local communities.¹ The best and fullest ancient source for the demes is the *Athēnaiōn Politeia* which, after attributing the framework of the deme system to Cleisthenes, specifies that those living in each deme were to be fellow demesmen and officially known by their deme's name ([Arist.] 21.4).² By attaching the name of one's deme to one's own appellation, communal membership becomes synonymous with a person's identity.³ By successfully registering with a deme, an Athenian officially became a citizen. The newly registered man became a member of that social group and membership of that same deme passed through the male line from father to son, irrespective of any change in residence.⁴ With Athenian parentage as the principal requirement for membership, the deme was inherently tied to Athenian citizenship since there was no centralised record of citizens belonging to the state.⁵

The second requirement for deme membership was age. Unlike the variable age of entry into the phratry during the child's youth,⁶ the normal age for deme admission was fixed at eighteen years old.⁷ Although admission into a deme was not explicitly

¹ Regarding the number and size of the demes, see Whitehead for a concise overview in *The Demes of Attica*, pp. 17-24.

² Cleisthenes reorganised the Athenian citizen body in 508/7 BC: he left the four existing φυλαί intact but removed their political significance, instead transferring it to his newly created deme system and grouping the demes to form thirty newly established τριτύτες (thirds) and ten φυλαί ([Arist.] *Ath. Pol.* 20-22; Hdt. 5.66, 69-73). For Cleisthenes reforms, see A. Andrewes, 'Kleisthenes' Reform Bill', pp. 241-8; Whitehead, *The Demes of Attica*, pp. 3-38; R. Develin and M. Kilmer, 'What Kleisthenes Did', pp. 3-18.

³ Dem 39.9: καὶ τίς ἤκουσε πρόποτε, ἢ κατὰ ποῖον νόμον προσπαραγράφουτ' ἂν τοῦτο τὸ παράγραμμα ἢ ἄλλο τι πλὴν ὁ πατήρ καὶ ὁ δῆμος.

⁴ Cf. ἐν οἷς ὁ πάππος ὁ τοῦ πατρός, ὁ ἐμός, <ὁ> πατήρ, ἐνταῦθα καὶ αὐτὸς φαίνομαι δημοτευόμενος at §55; [Arist.] *Ath. Pol.* 42.1-2. A change in deme membership could only occur when a man relinquished his attachment to one deme and was adopted by another (Dem. 44.26).

⁵ The renewal of Pericles' citizenship law at the end of the fifth century BC required that candidates for citizenship had two Athenian parents, see Introduction, pp. 21-5; for the implementation of the original law, see Appendix 3, pp. 282-88.

⁶ See Appendix 5, pp. 293-5.

⁷ [Arist.] *Ath. Pol.* 42.1: μετέχουσιν μὲν τῆς πολιτείας οἱ ἐξ ἀμφοτέρων γεγονότες ἀστῶν, ἐγγράφονται δ' εἰς τοὺς δημότας ὀκτωκαίδεκα ἔτη γεγονότες. For the debate regarding the age at which a citizen was

dependent on prior phratry membership, whether or not a candidate had phratry approval may have been considered in evaluating entry to a deme even if members of the same phratry were not necessarily members of the same deme.⁸ Ultimately, each deme was responsible for scrutinising new members during an annual assembly, presided over by its current *dēmarch*.⁹ New admissions were subject only to supervision by the *Boulē*, undertaken in the format of a δοκιμασία and during which the main concern was verifying the age of the candidates.¹⁰ Those gathered at the assembly might also have to review older candidates for admission, specifically adopted sons (Isae. 7.16; Dem. 44.44) and enfranchised immigrants. But, since adopted adult sons would have already undergone the δοκιμασία by the *Boulē* and enfranchised immigrants would have had prior affirmation by the *Ecclēsia*, the deme's role in their admittance was more a matter of a formal confirmation than a comprehensive scrutiny.¹¹

Deme entry enabled the exercise of economic, political, and military privileges and responsibilities: the ownership of landed property, liability for taxation and the performance of liturgies, assignment for military duties, access to religious rites and ceremonies, admission to the courts and jury duty, voting in elections, holding office and participation in the *Ecclēsia*. Thus, since admission into the deme functioned as the control over access to citizenship, it was appropriate that the deme itself or even the state

enrolled in his deme, whether in his eighteenth year or after his eighteenth birthday had passed, see n. 80 in the Introduction.

⁸ It also worked in reverse: if a candidate had been rejected by either the deme or the phratry, he could use his membership of the other as evidence in his appeal given the overlap between the two with regard to Athenian citizenship (Isae. 7.13; Dem. 44.41). For Euxitheos' references to phratry membership in order to bolster his claim for reinstatement in the deme, see ἐν τοῖς φράτερσιν at §19.

⁹ For a full analysis of this entire process, from scrutiny to possible appeal, see Introduction, pp. 26-8. For the role of the *dēmarch* during these proceedings, see τῶν γραμμάτων at §8; for the *dēmarchy* as a public office, see ὅτ' ἀπώλετο αὐτοῖς τὸ ληξιαρχικὸν γραμματεῖον δημαρχοῦντος Ἀντιφίλου τοῦ πατρὸς τοῦ Εὐβουλίδου at §26.

¹⁰ For the *Boulē*'s δοκιμασία of newly enrolled citizens after the annual διαψήφισις in a deme, see Introduction, pp. 27-8. For the timing of this δοκιμασία and annual registration process, see also p. 26.

¹¹ See Whitehead, *The Demes of Attica*, p. 103.

could make revisions to its membership by implementing an extraordinary scrutiny;¹² though provision was made for rejected candidates to lodge an appeal before a δικαστήριον (cf. οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν at §6). Such measures sought to ensure that those lacking the necessary credentials were not included, and that those who did have a legitimate right were.

There is no evidence to suggest that the demes drew up any account of women of citizen birth. A comment in the *Athēnaiōn Politeia* indicates that such women were not regarded as members of a deme in their own right; during a δοκιμασία for holding public office, a candidate was asked about his mother's lineage, specifically regarding her father and his deme.¹³ It would appear that an Athenian woman was associated with a deme only through her κύριος: first through their father and then through their husband (cf. Isae. 8.19 refers to 'the wives of the demesmen'). Although female membership may have been formally ignored by the demes, they did participate in some deme activities, specifically religious ceremonies and customary rituals.¹⁴

Each deme managed its own property and communal land, such as theatres, shrines, and sanctuaries etc. It organised festivals and cult activities (like Halimous' cult of Heracles at §46) and controlled its own levying and expenditures (as at §63). The demes also kept official records of the metics who came to reside within their districts and exacted taxes from their immigrant residents (see ποῦ μετοίκιον καταθείς at §55).¹⁵ With the individual demes governing their own affairs, undoubtedly there was much local

¹² For specific reference to an extraordinary scrutiny held in a single deme, see §§26 and 60-2. Both Euxitheos and Euphiletos were expelled from their respective demes during the deme-wide scrutiny of 346/5 BC; for Euphiletos' case, see Appendix 1, pp. 270-9.

¹³ [Arist.] *Ath. Pol.* 55.3: καὶ τίς μήτηρ, καὶ τίς μητρὸς πατὴρ καὶ πόθεν τῶν δήμων. Cf. τὰς τῶν φρατέρων τῶν συγγενῶν τῶν τῆς μητρὸς καὶ δημοτῶν μαρτυρίας at §40. See also J. P. A. Gould, 'Law, Custom and Myth', pp. 40-6; Sealey, *The Athenian Republic*, pp. 18-9.

¹⁴ Cf. n. 150 in the Commentary. See also Whitehead, *The Demes of Attica*, pp. 77-81.

¹⁵ For the important measure of deme registration, see Whitehead, *The Ideology of the Athenian Metic*, p. 72-5. For a more general discussion of the metic position within the demes, see Whitehead, *The Demes of Attica*, pp. 81-5.

variation with regard to actual practices. However, some uniformity may be found in the general manner through which the demes managed communal life and administration, essentially how the deme assemblies imitated the procedure of the *Ecclēsia*. For normal purposes, these assemblies were probably held within the deme itself but, as Euxitheos specifies that his deme convened in the city on the occasion of his disfranchisement (see τοῦ ἄστεως at §10), there may have been certain circumstances which necessitated the demesmen to gather in Athens. The routine business of a deme assembly appears to have entailed speeches and the enactment of administrative or honorific decrees (see κατέτριψεν τὴν ἡμέραν δημηγορῶν καὶ ψηφίσματα γράφων at §9).¹⁶ In addition to the position of *dēmarch*, the deme assemblies could appoint whatever officials they required.¹⁷ Moreover, Euxitheos expressly refers to local offices which both he and his father had held after undergoing a formal δοκιμασία before taking up their duties (see §§25, 46 and 67). It must be assumed that the other Attic demes also employed this δοκιμασία procedure during their assemblies as the means through which to verify a man's credentials again before he entered a political office. Since membership in a deme was a prerequisite for entry into the *Boulē*, and each deme was at some stage represented in the *Boulē*, the more ambitious Athenians could use local office as the means through which to enter the larger political stage.

¹⁶ However, it is not known whether the presiding *dēmarch* adhered to a predetermined agenda or if the assembly permitted motions from the members gathered, as Whitehead rightly notes in *The Demes of Attica*, pp. 95-6.

¹⁷ For officials chosen by lot, see ἀρχὰς ἔλαχεν καὶ ἤρξεν δοκιμασθεῖς at §25. For officials chosen by lot from a preliminary list, see §§46-8. For elected officials, see Isae. 7.28; Dem. 44.39. Since the speaker does not make reference to any other specific deme offices, it is not necessary to discuss additional officials here. Whitehead provides a full discussion of other administrative positions within the demes in *The Demes of Attica*, pp. 139-48.

Appendix 5: the workings of the phratry

Before the reforms of Cleisthenes in 508/7 BC, every Athenian man belonged to a phratry; a subdivision of the four old tribes which was established for the descendants of a common ancestor and, as such, it was primarily concerned with matters of family and descent.¹ Although the phratries had lost any political significance through Cleisthenes' reorganisation, they continued to play a role in Athenian life for religious purposes and still maintained some control in matters relating to legitimacy of descent, including access to citizenship and inheritance of property. They came to serve as social communities in which citizens were connected to one other by kinship or proximity of abode.² Belonging to a phratry seemed to be normal practice for an Athenian citizen (Ar. *Birds*, 1669-70; Pl. *Euthyd.* 302c-d). Like the demes, the phratries held meetings, leased land and lent money, and organised cultic activities for its members.³

Both natural and adopted sons of Athenian men joined their father's phratry.⁴ Although the phratries were legally required to admit those who had been recognised by a group such as the *genos*,⁵ they were otherwise in control of their own admissions. Some of the surviving evidence connects the admission processes with the main event in the phratry's calendar, the three day festival of the Apatouria.⁶ The phratries held this

¹ The names of most phratries signify that their members were descended from a common and often mythical or divine ancestor. The earliest references to the phratry as a group are found in Homer's *Iliad* (2.362-3, 9.63-4).

² Claiming a common ancestor, all phratry members were theoretically distant relatives; in practice, though, new citizens could enrol in a phratry of their choice (*IG II²* 558, 20-1).

³ Lambert's study remains the most comprehensive analysis of the phratries' role in Athenian society, see *The Phratries of Attica* (1993).

⁴ However, one group of citizens was excluded from the phratries; Lambert notes that certain naturalised citizens were omitted from phratry membership, most commonly those who were enfranchised as part of a group, *The Phratries of Attica*, pp. 49-55.

⁵ For details on this social group, see Appendix 6, pp. 298-301.

⁶ Adopted sons were also normally introduced to their adoptive father's phratry at this event (Dem. 39.4; Pl. *Ti.* 21b). Most adoptions involved relatives and thus there was no need to join more than one phratry; see Osborne, *Demos*, pp. 127-8. Elsewhere, the speaker of *On the Estate of Apollodoros* details the procedure of the enrolment of an adoptive child (*Isae.* 7.15-7); however, he states that this took place at the festival known as Thargelia (in the month of Thargelion, approximately May/June). Wyse notes the irregularity of introducing an heir at this time and suggests that it was due to an apprehension that the adoptive father would not survive until the Apatouria, in *The Speeches of Isaeus*, p. 558.

publicly-funded festival in the autumn month of Pyanepsion (sometime around late September to early November).⁷ Admissions took place on the third day (called *κουρεῶτις*; schol. *Ar. Ach.* 146).⁸ Unlike deme membership which was obtained at the age of eighteen,⁹ a candidate could be introduced to his father's phratry when he was young, either in his infancy at a ceremony known as the *μεῖον* or during his adolescence at the *κουρεῖον*.¹⁰ The *μεῖον* seems to have taken place soon after a child was born (*IG II²* 1237, 5 and 60; *Harp. s.v. μεῖον*) and details provided by the orators confirm that several candidates were introduced to the phratries when they were young children (*Dem.* 43.11; *Isae.* 8.19, 126; *Andoc.* 1.126). The introducer was usually the candidate's father, but a close relative could also present a candidate in his absence.¹¹ This man came before his fellow phratry members to make a sacrifice and to swear an oath before the *phratriarch* that he was proposing the admission a child born of a lawfully married Athenian woman (see §54).¹² There would have been an opportunity for any of the present phratry members to object to his introduction by preventing the ceremonial sacrifice.¹³ Similarly, the members of a phratry could also oppose a candidate's introduction at the *κουρεῖον* by

⁷ The month is confirmed by Theophrastos (*Char.* 3.5; cf. *Harp. s.v. Ἀπατούρια*).

⁸ The first day of the Apatouria (δορπία) involved a communal feast for the phratry members, while the second day (ἀνάρρυστις) entailed sacrifices to the patron deities Zeus Phratrios and Athena Phratia (*Pl. Euthyd.* 302d; schol. *Ar. Ach.* 146; cf. *Suda s.v. Ἀπατούρια* Adler A2940 and φράτορες Adler Φ694). Aristophanes and Plato allude to competitions which take place during the three days of the Apatouria, including boxing, wrestling, horseracing and recitation contests (*Ar. Peace*, 887-99; *Pl. Ti.* 21a-b).

⁹ Either in his eighteenth year or after his eighteenth birthday had passed, see n. 75 in the Introduction.

¹⁰ An inscription from Decelea in 396/5 BC gives the fullest account of the procedure for entry into a phratry and specifically makes reference to both the *μεῖον* and the *κουρεῖον* (*IG II²* 1237; see P. J. Rhodes and R. Osborne, *Greek Historical Inscriptions*, pp. 26-38). But for the problematic nature of the two introductions, see the literature cited by Lambert, *The Phratries of Attica*, p. 161 n. 106; Scafuro, 'Witnessing and False Witnessing', p. 185 nn. 31-2.

¹¹ Presumably, it would be acceptable for family members to introduce the candidate if his father had died. Euxitheos was introduced by relatives (see *με εὐθέως ἦγον εἰς τοὺς φράτερας* at §54). Elsewhere, in Demosthenes' *Against Macartatos*, the speaker introduced his own young son to his father-in-law's phratry in a situation of posthumous adoption (43.11-5, cf. 81-3). In Andocides' *On the Mysteries*, the relatives of the candidate's mother approached the altar to introduce him to his father's phratry but, his father being present, he denied paternity on oath (1.125-6).

¹² For the office of *phratriarch*, see φρατρίαρχον at §23. Euxitheos states that his father specifically swore an oath that he had been born of a woman pledged by ἐγγύησις to her husband: ὁμόσας τὸν νόμιμον τοῖς φράτερσιν ὄρκον εἰσήγαγέν με, ἄστὸν ἐξ ἀστῆς ἐγγυητῆς αὐτῷ γεγενημένον εἰδώς (see §54; but the wording of this oath may have varied between the Attic phratries).

¹³ In *Against Macartatos*, the speaker specifies that the defendant had the opportunity to object to his son's enrolment in his father-in-law's phratry (*Dem.* 43.82; cf. *Isae.* 8.19).

removing the introducer's sacrifice from the altar,¹⁴ an event which may have coincided with the candidate's formal enrolment and entry into the phratry as he came of age (*IG* II² 1237, 6 and 26; Poll. *Onom.* 8.107).

Though practices probably varied from phratry to phratry, it appears that some form of scrutiny was implemented, either as a part of the ceremony itself or as a separate procedure; in such a scrutiny, the introducer would attest the candidate's qualification by descent and the phratry would vote on his eligibility.¹⁵ When this scrutiny took place thus had a bearing on when the candidate was officially inscribed on the phratry register: after the *μειῶν* in his infancy (at Dem. 39.20),¹⁶ or after the phratry's vote (Isae. 7.16; *IG* II² 1237, lines 97-8). But what would rejection by a phratry mean for the candidate? Though there is no surviving evidence which explicitly states that phratry membership was specifically required by law,¹⁷ it did play a crucial role with regard to rights of inheritance and legitimising lines of descent.¹⁸ The importance of phratry membership is attested by the existence of a provision for appeal for those whose application for membership was

¹⁴ In a speech by Isaeus, the elder brother of a candidate objected to his sibling's introduction but, after a discussion with his father regarding inheritance, the two came to an agreement and the younger brother was subsequently admitted (6.22).

¹⁵ Details provided in *On the Estate of Apollodoros* reveal that such a vote took place in addition to the introducer's oath (7.16). According to the inscription from Decelea, this would have taken place a year after the *κουρείων* (*IG* II² 1237, 26-9). For a brief discussion, see Lambert, *The Phratries of Attica*, pp. 172-3.

¹⁶ While the speaker of *Against Boiotos* implies that he was registered in his infancy, he maintains that his adopted brothers were registered at a later age (Dem. 39.4).

¹⁷ The brief comment of the *Athēnaiōn Politeia* on citizenship only refers to deme membership ([Arist.] 42.1). However, Lambert argues that its omission of phratry membership does not demonstrate that it was not another necessary condition, in *The Phratries of Attica*, p. 33 n. 36. His theory is certainly persuasive in light of the situation presented in Demosthenes' *Against Boiotos*: though the speaker maintains that his father was deceived into adopting Plangon's two sons, he asserts that he was nevertheless compelled to introduce them to his phratry: *ὡς δὲ τοῦτ' ἐποίησεν, εἰσάγειν εἰς τοὺς φράτερας ἦν ἀνάγκη τούτους* (39.4). For Boiotos' adopted brothers at least, phratry membership seems to have been a necessary element in obtaining full citizenship.

¹⁸ This is particularly apparent in cases of adoption: the speaker of Isaeus' *On the Estate of Philoctemon* recounts how Philoctemon blocked the introduction of his father's son by another woman because a successful admission would thus result in his having to share his inheritance with him (6.10, 21-3); the litigant in *Against Macartatos* presents his son's introduction into his father-in-law's phratry as decisive proof of his right to inherit (Dem. 43.11, 13-5, 81); in *Against Boiotos*, the speaker does not challenge his adoptive brothers' share of his father's estate, but rather he seeks to compel the elder of the two to abide by the name with which he was registered at his introduction to the phratry (Dem. 39.30-1).

rejected by their phratry.¹⁹ It is also significant that the law decreed that those who wrongly assumed phratry membership could be prosecuted in a central court.²⁰ In practice, without phratry membership, one's citizenship could be liable to challenge. Without it, one could hardly be considered a full citizen as communal participation was integral to the affirmation of Athenian descent.

The association between Athenian women and the phratries is also important. Each phratry regulated its own procedures and it appears that some phratries may have accepted the introduction of their members' daughters.²¹ The extent of this practice, however, cannot be determined since it is not attested elsewhere in the surviving sources. Nevertheless, there is evidence that a citizen woman could be presented to her husband's phratry at a ceremony named as *γαμηλία* (see οἷς τὴν γαμηλίαν εἰσήνεγκεν ὑπὲρ τῆς μητρὸς ὁ πατήρ at §43). But, unlike their male counterparts, these ceremonies were not undertaken to bestow membership on women.²² It is not known what, if anything, a woman's association with the phratry of either her father or her husband would have meant in practice.²³ Rather, the presentation of Athenian women to the phratries was the means through which to acknowledge their legitimacy openly.²⁴ Since the revival of Pericles' citizenship law meant that a candidate for citizenship must have both an Athenian mother and father,²⁵ the phratry was essential as the only institution which could

¹⁹ For appeal to the phratry: Dem. 43.82 and *IG II² 1237*, 29-31; appeal to the court: Phrastor brought a suit against his *genos* after they rejected his son and therefore automatically prevented his admission to his phratry ([Dem.] 59.59-60).

²⁰ In Isaeus' *On the Estate of Pyrrhos*, the speaker directly associates the usurpation of citizen rights with phratry membership (3.37). Cf. Lambert's theory that Pericles' citizenship law regulated phratry admissions, see nn. 68 and 79 in the Introduction.

²¹ In *On the Estate of Pyrrhos*, the speaker reveals that Pyrrhos had the opportunity to introduce his daughter Phile to his phratry if she was legitimately his child (Isae. 3.73).

²² Euxitheos encapsulates the association between the phratry and his mother by describing them as phratry members of her male relatives (see φράτερες τῶν οἰκείων αὐτῆς καὶ δημόται ταῦτα μεμαρτυρήκασι at §69).

²³ Lambert argues that women may have played a role in the cult activities of the phratry, in much the same manner as they did in the demes and the *polis* as a whole, in *The Phratries of Attica*, p. 186 and ch. 6, 'Religion and Officers', pp. 205-35.

²⁴ A fact that was all the more important in a case concerning the rights of the alleged *epiklēros*, Phile, for whom neither was performed (Isae. 3.76).

²⁵ See Introduction, pp. 21-5; cf. Appendix 3, pp. 282-8.

acknowledge the legitimate status of the daughters and wives of its members. Whereas the demes controlled the acquisition of most of the criteria of citizenship, the phratry's role in the *polis* was essentially the control of qualification by descent and thus access to the citizen body and its privileges. Unofficially, the link between phratry membership and citizenship was no less strong than that between deme membership and citizenship.

Appendix 6: the workings of the *genos*

Although the name of a *genos* could be the same as the phratry name, the two groups were not identical.¹ The origin of the *genos* is not clearly outlined in the extant source material and references to this social group are sparse in general. The *Athēnaiōn Politeia* implies that all citizens were members of a *genos* in the early stages of Athenian society, stating that the four old Ionian tribes were divided into three τριττύες or phratries, and each of these groups was subdivided into thirty *genē* and each *genos* comprised of thirty men.² However, it has been noted that this synopsis more likely reflects fourth-century theorising rather than historical reality.³ Elsewhere, the original use of the term seems to denote noble lineages (Thgn. 894; Pind. *Ol.* 6 and 8; Hdt. 5.55, 5.62.2; cf. [Arist.] *Ath. Pol.* 20.1, 28.2). The apparent privileges of certain *genē* and the likelihood that not all citizens belonged to one in the Classical period does give plausibility to the argument that these groups were originally aristocratic in nature.⁴ If this was the case, the *genē* must have dominated the political process before Cleisthenes' reforms of 508/7 BC. By the fourth century BC, all Athenians who belonged to a *genos* would have been able to claim a long established and distinguished bloodline but they were not necessarily wealthy families.⁵

¹ The names of the *genē* typically derived from a common (if mythical) male ancestor, recording the descent of their members, but they could also be geographical (e.g. the Salaminioi) or occupational (e.g. the Bouzygae). For a comprehensive study of most of the known names, see J. Toepffer, *Attische Genealogie*, (1889); see also Bourriot, *Recherches sur la nature du genos*, pp. 1347-66. It was possible for some of the *genē* and the phratries to share the same name as both were hereditary social groups whose membership followed family lines, though they differed in their role and function in Athenian society.

² [Arist.] *Ath. Pol.* fr. 3: καλεῖσθαι δὲ αὐτὰ τριττῦς καὶ φρατρίας· εἰς δὲ τὴν φρατρίαν τριάκοντα γένη διακεκοσμηθῆσθαι, καθάπερ αἱ ἡμέραι εἰς τὸν μῆνα, τὸ δὲ γένος εἶναι τριάκοντα ἀνδρῶν.

³ For a comprehensive analysis of this fragment from the lost beginning of the *Athēnaiōn Politeia*, and its implausible statement that the τριττύες and the phratries were identical, see Rhodes, *A Commentary on the Aristotelian Athenaiōn Politeia*, pp. 68-71. In his comprehensive two-volume work, Bourriot advocates that the *genos*, like the deme, was part of the political fabric of the mature *polis* and that its creation can be traced back to the time of Solon, in *Recherches sur la nature du genos*, pp. 325-6 and 338-9. For Bourriot's discussion of the fourth century BC sources relating to *genē*, see pp. 390-711.

⁴ See Andrewes, 'Philochoros on Phratries', pp. 1-10.

⁵ Euxitheos claims *genos* membership for his father (see §23), yet he speaks of his mother's financial hardship during her husband's absence for military duty (see §42), and he subsequently refers to his and his mother's lowly way of life after his father's death (see §31).

Membership of a *genos* was restricted to legitimate offspring of male citizens. Admissions were made seemingly during infancy ([Dem.] 59.59) and after the candidates had undergone a scrutiny process similar to that for phratry membership.⁶ Indeed, in the fourth century, certain *genē* bore clear ties to a phratry (Aeschin. 2.147; Isae. 7.15-17; [Dem.] 59.59-61; *IG II²* 1237).⁷ A fragment from the fourth book of Philochoros' *Atthis*, covering legislation from the mid-fifth century BC, establishes a further connection between the two social groups as it states that *genos* members had automatic entry into the phratries.⁸ Both Lambert and Andrewes have proposed that it ought to be inferred from this fragment that, while some Athenians were members of a *genos* and had guaranteed access to the phratry, those who were not were thus subject to the routine procedure for entry.⁹ Their position is certainly persuasive in light of the evidence provided by the orators; several speeches refer to phratry admission without any allusion to a *genos* (Isae. 2.14, 3.73-6, 6.22, 10.8, 12.3; Dem. 39.4, 20). Moreover, comments made by Euxitheos suggest that no close association existed between his phratry and his father's *genos*: the speaker could have claimed *genos* membership through Thoucritos, although he never calls upon the members to attest to his own citizenship as he does for

⁶ Including a comparable oath, Andoc. 1.127; [Dem.] 59.60 (for the phratry scrutiny, see Appendix 5, pp. 290-3). Unfortunately, Euxitheos provides no details in his speech about the process of Thoucritos' introduction to the *genos* (see §23).

⁷ For the inscription, and the close relationship between the *genos* of the Demotionidae and the phratry of Decelea, see Andrewes, 'Philochoros on Phratries', pp. 3-5. Lambert has argued that the *genē* were normally 'subgroups' of the phratries, in *The Phratries of Attica*, p. 74. His theory is certainly plausible but, unfortunately, it is far from absolutely proven given the few references which exist in the surviving source material.

⁸ Philoch. *FGrH* 328 F35a: τοὺς δὲ φράτορας ἐπάναγκες δέχεσθαι καὶ τοὺς ὀργεῶνας καὶ τοὺς ὁμογάλακτας, οὓς γεννήτας καλοῦμεν; cf. Harp. s.v. γεννήται; Suda, s.v. γεννήται Adler Γ147. Lambert has proposed an interesting theory that this fragment is an extract from Pericles' citizenship law of 451/0 BC, which restricted *genos* membership to those born of two citizen parents along with that of the deme and the phratry, in *The Phratries of Attica*, pp. 47-8, 60. However, the overall lack of source material for Pericles' original citizenship law makes it impossible to confirm, see Appendix 3, pp. 282-8.

⁹ Lambert, *The Phratries of Attica*, p. 61 n. 12; Andrewes argues that *genos* members were admitted to the phratry without scrutiny because they had already passed a more rigorous scrutiny to secure membership in the smaller group, 'Philochoros on Phratries', pp. 1 and 6.

his father.¹⁰ It is difficult to see how Euxitheos could enter his father's phratry but not his genos if they were in any way closely connected.

However, Euxitheos does use Thoucritos' membership of the genos as proof of his father's citizen status (see τοὺς γεννήτας at §23) and he claims to be among those of the best lineage (see ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46). Genos membership is similarly used as evidence in other suits concerning legitimacy and citizenship: in *Against Neaera*, Apollodoros relates how Phrastor's genos refused to accept his son by Neaera's daughter ([Dem.] 59.55, 59-61); in Isaeus' *On the Estate of Apollodoros*, Thrasyllus utilises details about his introduction to his uncle's genos as proof of the legality of his adoption (7.13-17, 26, 43). Although genos membership did not itself affect a man's legal status, it was valuable as supporting evidence for a person whose legitimacy was in question. Since the principle of descent functioned similarly as the major qualification for membership, belonging to a genos was thus used like phratry membership as proof of possession of that qualification.

Athenian religion appears to have formed the core of the genos social group. Genos members were bound together by rights and duties relating to religion: they shared the same cults and ceremonies (see §§54 and 67; Aeschin. 2.147; *IG II²* 1237, 52-64), a common burial place (see §28), and they could even be preselected to contend for priestly office (see ὡς ὑπ' αὐτῶν τούτων προεκρίθην ἐν τοῖς εὐγενεστάτοις κληροῦσθαι τῆς ἱερωσύνης τῷ Ἡρακλεῖ at §46). Larger *genē*, with a more widely scattered membership pool, may have had a broader focus beyond the religious sphere and had important administrative functions with regard to common land and property (*SEG* 21.527).

¹⁰ See κεκληρονομηκότα καὶ τῆς οὐσίας καὶ τοῦ γένους at §46. However, Euxitheos does claim that he had been introduced to the cult worship of Apollo at §54, which he specifies is sacred to the genos of his father at §67, and he vaguely implies that he had been scrutinised by the genos along with his father at §24.

However, unlike the phratries' role in openly acknowledging the legitimate status of the daughters and wives of its members, the *genē* appear to have had no such public orientation.

Appendix 7: *Against Euboulides* as a public or private action

Initially, it would appear to be a matter of common sense that a case concerning citizenship and one carrying such a harsh penalty for a failed appellant ought to be categorised as a public lawsuit. Yet certain features of Euxitheos' case conflict with what one would expect from a normal public action. As such, the classification of Euxitheos' appeal as either a public action or a private suit has caused considerable scholarly debate. In the many previous attempts to categorise this speech, scholars have also discussed the fragmentary speech *On Behalf of Euphiletos* given that both Euphiletos and Euxitheos are appealing their respective disfranchisements from their demes.¹ Since the precise legal procedure involved in each case was not explicitly stated by either speaker, there has been much disagreement regarding the classification of these texts and the seemingly stable categories of public and private suits. Nonetheless, my contention is that *Against Euboulides* was delivered as a public action and, in order to justify this view, this section will review relevant details from both speeches.

Early scholars on this topic regarded both appeals as private, as Schömann (1831) argued in the case of Euphiletos and Blass (1893) in that of Euxitheos.² This classification appears to have been generally accepted for many years. Wyse (1904) was one of the first to openly contest this view, and he was closely followed by Bonner (1907) in regarding both speeches as public suits.³ Murray (1964) places *Against Euboulides* in one of the later volumes of the Loeb Classical Library series under the label of Demosthenes' 'private speeches' (Vols. IV-VI).⁴ MacDowell (2009) follows suit by counting Euxitheos' speech among Demosthenes' private cases, as does Rubinstein (2000) who lists it

¹ For an overview of this case, see Appendix 1, pp. 270-9.

² F. G. Schömann, *Isaei Orationes* XI, pp. 478-81; F. Blass, *Die Attische Beredsamkeit*, pp. 51 and 487.

³ Wyse, *The Speeches of Isaeus*, pp. 716-7; Bonner, 'The Jurisdiction of Athenian Arbitrators', pp. 415-6.

⁴ *Orationes* Vol. VI, trans. A. T. Murray. The Loeb Classical Library edition of Isaeus' orations does not differentiate between public and private actions: of the surviving twelve speeches, the only division made between the first eleven orations and Euphiletos' appeal is that the former all centre on inheritance disputes whereas the latter pertains to the loss of civic rights, in *Isaeus*, trans. E. S. Forster, pp. ix and 429.

alongside Isaeus' *On Behalf of Euphiletos* in her categorisation of the forensic speeches.⁵ And while Hansen (1976) is a little more cautious with Euphiletos' case, he contends that Euxitheos' suit must be classified as a public action.⁶ Such confidence with regard to *Against Euboulides* is echoed by Harris (2013) in his more recent placement of this speech under the heading of 'public speeches' in the Demosthenic corpus.⁷

First and foremost, one must properly define the official categories of public and private actions which are used in relation to both *Against Euboulides* and *On Behalf of Euphiletos*. An ἔφεσις was a legal action taken when a judgement of an official or a court was contested and the dispute was then brought before a higher authority to be resolved.⁸ The appeal process, however, was not a uniform system: there were variations in when an appeal could be brought and how it was referred to the court.⁹ The author of the *Athēnaiōn Politeia* describes this court as judge in all matters both private and public.¹⁰

The Athenians classified legal cases in various ways. In very general terms, a private suit (more commonly termed as a δίκη) was defined as one which could be legally brought by the aggrieved party or his immediate personal representative, while a public suit (the most usual type was the γραφή) was deemed to affect the whole community and could be brought by any citizen who had not incurred a legal disqualification.¹¹ Both of these were legal avenues which could be pursued in cases relating to someone's civic

⁵ MacDowell, *Demosthenes the Orator*, p. 2; Rubinstein, *Litigation and Cooperation*, pp. 61-2 n. 99.

⁶ Hansen, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, p. 64 n. 26.

⁷ Harris, *The Rule of Law in Action in Democratic Athens*, pp. 383-4.

⁸ According to the *Athēnaiōn Politeia*, Solon introduced the appeal to the lawcourt in what was deemed to be a move to strengthen the power of the people ([Arist.] 9.1).

⁹ It is most likely that the appeal process varied according to the nature of the case from which it originated; in addition to the appeals following both the ordinary and extraordinary διαψηφίσεις, the sources confirm that there was an appeal to the court for those arrested in an ἀπαγωγή (summary arrest) if they maintained their innocence ([Arist.] *Ath. Pol.* 52.1), an appeal process for decisions made at the δοκιμασία for holding office ([Arist.] *Ath. Pol.* 45.3, 55.2), another against the verdicts made by the arbitrators ([Arist.] *Ath. Pol.* 53.2; Dem. 40.31, cf. Dem. 21.86 and Dem. 29.59), and for the arbitrators themselves if they were convicted of making an unjust ruling ([Arist.] *Ath. Pol.* 53.5). However, in a brief overview of the range of the appeals, MacDowell concludes that there were some kinds of case in which a magistrate's decision was final and there was no provision for an appeal, in *The Law in Classical Athens*, pp. 30-2.

¹⁰ [Arist.] *Ath. Pol.* 9.2: καὶ πάντα βραβεύειν καὶ τὰ κοινὰ καὶ τὰ ἴδια τὸ δικαστήριον; cf. Plut. *Sol.* 18.3.

¹¹ See MacDowell for a broad discussion of the types of cases, in *The Law in Classical Athens*, pp. 57-9.

status, though they differed with regard to initiation, intention and even potential outcome. On the one hand, a δίκη (most likely a δίκη βλάβης) was initiated by the person who had been denied admission to a deme, phratry or genos, and most likely against those whom the candidate felt to be most responsible for his rejection rather than that entire social body.¹² This was a voluntary process undertaken by a rejected candidate, or his relative, as the means through which to secure membership in one of the social groups. Athenian law made provision for the dispute to be submitted to public or private arbitration but, since the instigator was not obliged to proceed with a δίκη, the rejected candidate could opt to abide by the group's original decision and continue residing in Athens as a metic (cf. Lib. *Hyp.* 27). A γραφή ξενίας, on the other hand, was an action taken against an individual alleged to be a foreigner usurping citizen rights. While it was also initiated on a voluntary basis, albeit with considerable risk for the prosecutor if he failed to obtain one fifth of the votes in his favour, it was compulsory for the accused to be brought before the court and to submit to a hearing which was presided over by the Thesmothetae.¹³ Ultimately, while the public and private legal proceedings differed in nature, elements of both appear to feature in the known appeals of *Against Euboulides* and *On Behalf of Euphiletos*, which were initiated against the appellants' respective demes after the extraordinary διαψήφισις of 346/5 BC.

The διαψήφισις process itself is a fundamental factor to consider in the classification of the two appeals as this vote, undertaken by the two separate demes, was the cause of both. In ordinary and extraordinary circumstances, the διαψήφισις was a compulsory procedure for those wishing to obtain and even maintain citizen status.¹⁴ It seems that any member of the deme was free to bring an accusation against a candidate

¹² While Phrastor brought a private case against his genos for rejecting his son by Neaera's daughter, six individuals are specifically singled out as refusing to allow the boy's introduction to the group in the subsequent case *Against Neaera* ([Dem.] 59.58-61).

¹³ For details on the γραφή ξενίας, see nn. 69 and 96 in the Introduction.

¹⁴ For a detailed discussion of the process involved, see Introduction, pp. 25-43.

during the meeting, before an actual vote was held. Since accusations were made in the presence of the assembled demesmen, one would expect that any man who was willing to oppose another man's membership would believe that his claim was substantial enough to persuade a majority amongst his fellow members. Indeed, Euxitheos suggests that both those subjected to the vote and those wishing to make accusations against them could make prior arrangements for witnesses to be present to support their claims (§§11 and 12). At the end of a διαψήφισις procedure, any candidate who was subsequently rejected by the deme could either abide by that decision and live as a metic or he could appeal to the lawcourt. These appeals were presided over by the Thesmothetae ([Arist.] *Ath. Pol.* 59.3), and so are comparable to the public γραφαί. If the candidate chose to pursue the matter, his case was brought before a jury and he faced a prosecution that was acting on behalf of the deme. Euboulides served as one of the five prosecutors on behalf of his deme (see §1; cf. [Arist.] *Ath. Pol.* 42.1, Aeschin. 1.114). Yet he is described by Euxitheos as 'without accountability' (ἀνυπεύθυνος at §5), a direct contrast to the γραφαί. It thus appears that, unlike the prosecutors in ordinary γραφαί who faced penalties for failing to obtain one-fifth of the vote, Euboulides bore no personal liability.¹⁵ While an appeal initiated after an extraordinary διαψήφισις bears some resemblance to a γραφή, it does not fully adhere to the criteria that one would expect from a public suit. It becomes clear, then, that it is difficult to categorise *Against Euboulides* and even *On Behalf of Euphiletos* as either public or private based on the διαψήφισις procedure alone.

In an attempt to overcome the problems of classification, scholars have focused their attention on one or two of the features of the appeals and have used other evidence to support their analyses. Diller argues that the involvement of the Thesmothetae and the possible penalty of slavery in an appeal against expulsion are technically similar to a

¹⁵ See n. 124 in the Introduction.

γραφὴ ξενίας.¹⁶ He finds further parallels between the two from known characteristics of the γραφή and comments made by Euxitheos in *Against Euboulides*: firstly, the representatives of the deme spoke first as the accusers and the defendant spoke last (§§ 1 and 5) and secondly, new or unseen evidence could be introduced before the jury (see ταῦτα γέγραφα αὐτοῖς at §14). Diller thus suggests that one may tentatively assume that, in ordinary circumstances, the appeal against expulsion from a deme and the γραφή ξενίας were handled ‘by the same process’.¹⁷ He subsequently uses the account provided in the *Athēnaiōn Politeia* to confirm his view that both the γραφή and the appeal were public in nature; he maintains that the author of the *Athēnaiōn Politeia* specifically associates the appeals against expulsion with public cases such as γραφαί, δοκιμασίαι (scrutinies of newly enrolled citizens and those chosen for public office, held by either the *Boulē* or the court), and καταγνώσεις (guilty verdicts passed on from the *Boulē*), and directly opposes them to the δίκαι ἴδια he refers to thereafter ([Arist.] 59.3-5).

While Gomme acknowledges the resemblance between a γραφή ξενίας and an appeal against expulsion in so far as they both came before the Thesmothetae, he disagrees with Diller’s conclusions and argues that the author of the *Athēnaiōn Politeia* distinguishes between an appeal and a δίκη no less than he does between an appeal and a γραφή.¹⁸ He emphasises that the essential difference between an appeal and a γραφή was the fact that the latter was undertaken on a voluntary initiative whereas the scrutiny was obligatory on the part of the deme, with the deme not bearing any liability in any subsequent appeals which arose from it.¹⁹ Gomme also stresses that the nature of an appeal and that of a γραφή were different; in the appeal, the jury had only to decide whether the appellant was of legitimate birth, with no need to determine if either party

¹⁶ Diller, ‘The Decree of Demophilus, 346-345 B.C.’, p. 196. The severe penalty of slavery would likely indicate that such appeals were public cases; for a discussion of the penalty for a failed appellant in a διαψήφισις, see Introduction, pp. 43-9.

¹⁷ Diller, ‘The Decree of Demophilus, 346-345 B.C.’, p. 197.

¹⁸ Gomme, ‘Two Problems of Athenian Citizenship Law’, p. 129.

¹⁹ Gomme, ‘Two Problems of Athenian Citizenship Law’, pp. 129-30.

was guilty of deception or dishonesty, but the γραφή ξενίας was a specific charge for the fraudulent usurpation of citizen rights.²⁰

Euxitheos' speech did not arise from an unknown διαψήφισις. It is the only extant lawcourt speech which scholars agree originates from the extraordinary διαψήφισις that was occasioned throughout all the demes by the decree of Demophilos in 346/5 BC.²¹ Libanios not only connected the speech to the law passed in that year and gave the terms of the decree under which it was initiated (*Hyp.* 27), but his placement of the speech alongside other public speeches is significant.²² However, Dionysios' categorisation of Euxitheos' appeal is problematic: he groups the action taken against Euboulides among private suits (*Dem.* 13), though he inconsistently classifies two similar disfranchisement cases as public actions (*Against the Kerykes* and *Against Moschion* in *Din.* 11).²³ For the comparable case of Euphiletos' speech, however, Dionysios does not specify whether he believes it to be a private action similar to Euxitheos' or whether he would place it with the two spurious public speeches of Deinarchos (*Isae.* 16). Indeed, it would seem that the classification of *Against Euboulides* and also *On Behalf of Euphiletos* was challenging even for ancient authors.

While it has already been noted that Diller identifies several elements in *Against Euboulides* which resemble a public action, his main contention is that the decree of Demophilos was the mechanism which instituted the appeal from the deme to the court as a public indictment. In his article, Diller's main argument is that previous suits arising from διαψηφίσεις had been private and he specifically cites a statement made by Euxitheos, which he claims is indicative of the appeal being a newly established course

²⁰ Gomme, 'Two Problems of Athenian Citizenship Law', pp. 130, 132-6, and 138-9.

²¹ For Demophilos' decree, see Introduction, pp. 25-43.

²² Libanios probably had access to more evidence for Demosthenes' speeches than we do today; see Introduction, pp. 16-7, especially n. 57.

²³ See n. 99 in the Introduction.

of action and therefore a public one (οὐκ ἂν ἐδώκατε τὴν εἰς ὑμᾶς ἔφεσιν, §6).²⁴ Diller asserts that this provision was established for both the deme-wide scrutiny of 346/5 BC and for all future candidates for deme enrolment, as detailed in the account provided by the *Athēnaiōn Politeia* ([Arist.] 42.1). Yet Gomme subsequently counters that there had been similar, if not identical, appeal processes to that portrayed in *Against Euboulides* before Demophilos' decree; he refers in particular to Euxitheos' comment regarding those restored to his deme after the loss of the register (§60).²⁵ With no further evidence to prove either the theory propounded by Diller or that of Gomme,²⁶ it cannot be definitively known if an appeal against deme expulsion was always a public matter or if it became so with the implementation of Demophilos' decree.

One cannot doubt the elements of Euxitheos' appeal which convinced Diller that this case was nevertheless a public suit. Hansen supports Diller's conclusions by stating that the case presented in *Against Euboulides* must be classified as a public action taken by the deme against Euxitheos, and specifically not a private suit brought by Euxitheos against the deme, for several reasons.²⁷ Firstly, he refers to Dionysios' classification of *Against Moschion* as a public action (*Din.* 11); the similar nature of this case, together with Libanios' categorisation of Euxitheos' trial as a public suit, have convinced Hansen that Dionysios was mistaken in classing the action of Euxitheos as a private action. Moreover, Hansen also stresses the fact that the representatives chosen by the deme are prosecutors and not defendants (§1; cf. Aeschin. 1.77-8), and that this suit was one of several public actions which the Thesmothetae presided over (ἡγεμονία δικαστηρίου; [Arist.] *Ath. Pol.* 59.3-4). For Hansen, such features remove any doubt with regard to the

²⁴ Diller, 'The Decree of Demophilus, 346-345 B.C.'. For his reference to §6, see p. 205 n. 14.

²⁵ Gomme, 'Two Problems of Athenian Citizenship Law', pp. 128-9, 136.

²⁶ See Introduction, pp. 42-3.

²⁷ Hansen, *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, p. 64 n. 26.

public nature of Euxitheos' appeal. Indeed, when viewed together in this manner, the evidence is most persuasive.

Rubinstein, however, finds the classification of *Against Euboulides* as a public action highly problematic because of the appearance of the water-clock (§21).²⁸ She states that Hansen has overlooked the speaker's request for the water-clock to be stopped, the use of which strongly suggests to her that the suit was a private action. This exact expression appears in several other orations; two of these speeches are attributed to Demosthenes and two to Isaeus, but all of them are definitively private cases: a suit for battery (αἰκίας δίκη, Dem. 54.36) and three suits for bearing false witness (δίκαι ψευδομαρτυριῶν, Dem. 45.8, Isae. 2.34 and 3.12, 76). The *Athēnaiōn Politeia* records that each speaker in a δίκη was allowed a certain number of χόες, or measures of water contained in a pitcher, which was determined by the type of suit and the value of the claim being sought ([Arist.] 67.2). A speaker's call for the water-clock to be stopped thus appears to be a feature of private legal actions. This seems to correspond with another statement contained within the *Athēnaiōn Politeia*, in which the author describes how public cases are timed by the διαμεμετρημένη ἡμέρα ('measured day', ([Arist.] 67.1-3). While both parties received an equal amount of water during this process, he specifically states that the κλεψύδρα was not stopped in actions conducted in a διαμεμετρημένη ἡμέρα (cf. Harp. s.v. διαμεμετρημένη ἡμέρα). It is important to note, however, that the text becomes highly fragmentary after the author has stated that the standard of measurement used was the length of the days in the month of Poseidon.²⁹ Further details pertaining to the measured day are scarce. Xenophon briefly notes that the measured day was divided into three parts: one for the prosecution, another for the defence and the final part for the judgement (Xen. *Hell.* 1.7.23). For the possible duration of each of these parts, one must

²⁸ Rubinstein, *Litigation and Cooperation*, pp. 61-2 n. 99.

²⁹ The shortest days of the year, falling in the midwinter ([Arist.] *Ath. Pol.* 67.4-5).

turn to Aeschines' description of how eleven *amphoras* of water were apportioned to the defence on one such measured day (Aeschin. 2.126). When read in unison, these three sources emphasise the importance of time being allocated on an equal basis. At a later stage in his speech, Euxitheos even offers to give some of his allotted time to his opponents so that they might attempt to prove that he is lying to the court (see ἐπὶ τοῦ ἐμοῦ ὕδατος at §61). Offering part of one's own measurement of water and to thus change the time balance was obviously a ploy to win favour with the jury. While this statement of Euxitheos' is certainly compatible with the account of the proceedings provided by the *Athēnaiōn Politeia* with regard to public suits, his earlier request to halt the flow of the water from the κλεψύδρα definitely is not.

If Euxitheos' case was heard in accordance with the measured day, then the water-clock should not have been stopped for witness testimonies. But, there is nothing definitive in the *Athēnaiōn Politeia* passage to state that *all* public suits were measured without stopping the κλεψύδρα and Rubinstein must thus concede that the passage from *Against Euboulides* (§21) could be the only surviving piece of evidence to suggest that the water-clock could indeed be stopped during a public suit.³⁰

Boegehold theorises that there may have been other periods of time for which the κλεψύδρα was not running during a measured day, as he explains the discrepancy in his analysis of a χοῦς estimated to measure four minutes and a χοῦς which actually emptied in three minutes.³¹ Since very little information has survived in regard to the measured day, there may well have been occasions during this process which required that the flow of water be halted: Euxitheos may have been referring to one such occurrence after his witnesses had given their testimonies. Further questions have been raised in relation to the use of the water-clock in private suits from the evidence provided in a speech

³⁰ See also Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*, pp. 722, 726-7.

³¹ Boegehold, *The Lawcourts at Athens*, pp. 77-8.

attributed to Lysias. A similar phrase to that used by Euxitheos occurs frequently in that speech, when the speaker introduces his witnesses to the court in a παραγραφή or counter-indictment (καί μοι ἐπίλαβε τὸ ὕδωρ, *Lys.* 23.4, 8, 11, 14 and 15). But since such a formula is unique within the corpus of Lysias, scholars have found its repetition odd and have debated the reason behind it. Usher describes the request to stop the water as an ‘un-Lysianic mannerism’ which raises doubts as to the authorship of the speech; he also states that the instances of its occurrence in Demosthenes and Isaeus do not seem to be explicable on the grounds of time shortage, and serve only to confirm the impression that its inclusion was fairly haphazard.³² Usher raises an interesting point, when he suggests the thought that the phrase might have been added to Euxitheos’ speech after it was delivered in court. Orations were certainly edited and sometimes amended before they were published.³³ The appearance of the water-clock formula at §21 may subsequently have been added to the text to create an impression that the speaker had no time to waste. Ultimately, one cannot view the reference to the water-clock as definitive proof that Euxitheos’ appeal was a private case.

The fragmentary nature of Isaeus’ speech for Euphiletos poses further questions rather than shedding much light on the issue of whether or not the appeals arising from a διαψήφισις were public or private cases. That there are no references to time measurements in this speech is hardly surprising since only a quotation of it is preserved by Dionysios’ text (*Isae.* 17) so that the precise circumstances pertaining to the case are not known.³⁴ Diller perceives a possible connection between Euphiletos’ speech and earlier legal actions mentioned by Euxitheos during the course of his own defence, cases which the speaker claims arose from extraordinary circumstances in the deme of Halimous. According to the speaker, the loss of the lexiarchic register in Halimous

³² S. Usher, ‘The Speech Against Panoleon’, pp. 10-11 n. 15.

³³ For the practice of revising speeches before publication, see n. 36 in the Introduction.

³⁴ See Appendix 1, pp. 270-9.

occasioned a single extraordinary διαψήφισις and most of those ejected after it were subsequently re-instated by the lawcourt (§§26 and 60; cf. *IG II² 1237* for a single scrutiny in a phratry). Diller assumes that these were private suits rather than appeals; he contends that appeals were made from previous official acts, while the *genē* and the phratries could not introduce such acts since they were not official bodies.³⁵ He cites the example of Phrastor's private suit against his *genos* for not enrolling his son ([*Dem.*] 59.59-61). However, Diller's own differentiation between the *genē* and the official body of the demes casts doubt over whether there were indeed any legal similarities between cases arising from the former social group and the cases in Halimous and Euphiletos' suit; since deme membership was the means through which to access citizen rights and privileges, it seems more plausible that those who were expelled during a διαψήφισις would follow the procedure initiated by rejected candidates at deme enrolment and pursue an appeal ([*Arist.*] *Ath. Pol.* 42.1; Euxitheos' appeal clearly resembled the process for the deme's annual scrutinies as described here). Nevertheless, the lack of any significant corroborative evidence makes it difficult to ascertain whether or not they were public or private cases. Euxitheos does not explicitly state what type of suit the ejected men brought after the previous διαψήφισις in Halimous. While his report confirms the involvement of the court during extraordinary circumstances, such as the loss or destruction of a deme's register, it reveals nothing about the particular type of process undertaken for these cases. As such, I cannot find any merit to Diller's argument.

In sum, the classification of Demosthenes' *Against Euboulides* is undoubtedly a complex issue. Even with the little evidence provided by Isaeus' *On Behalf of Euphiletos*, neither Euphiletos' brother nor Euxitheos explicitly describe the legal procedure involved in each of their cases and, as such, it has become necessary to focus on specific details contained within their speeches in an attempt to determine whether their appeals were

³⁵ Diller, 'Scrutiny and Appeal in Athenian Citizenship', p. 307.

public or private suits. Having reviewed these features, it seems most plausible that both orations derive from public actions. While the fact still remains that elements of these appeals differ from what is typically expected in γραφαί, the irregular circumstances which necessitated the extraordinary διαψήφισις in Halimous and in Erchia may have also required their own form of public suit. However, as Euxitheos' case is the only extant speech depicting an appeal against disfranchisement, it cannot be definitively known whether all such appeals adhered to a similar process.

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