The State of Blame: Politics, Competition, and the Courts in Democratic Athens

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Abstract

Politics in democratic Athens routinely spilled over into the courts. From an Athenian perspective, this process was fundamentally democratic; it allowed the courts to provide a check on the power of individual political leaders and contributed to the view that the courts were the most democratic branch of Athenian government. That said, there were some downsides to transferring the scene of politics to the courts. When political issues and rivalries were brought into the courts, there was a tendency to render them into the court's adversarial rhetoric. This translation of political issues into the polarizing language of judicial rhetoric in turn impoverished political reasoning and the political process. This study examines this broad process by first reviewing the culture of competitive honor that informed Athenian political and judicial practice, and then by examining how it operates in one famous and exceptionally competitive political trial in which politics and policy-making are center stage: Demosthenes’s prosecution of Aeschines for misconduct on the embassies leading to the Peace of Philocrates between Athens and Philip II of Macedon. The arguments and emotion strategies in this case indicate that intra-Athenian competition, both in and out of the courts, inflected the way foreign policy issues were conceptualized and understood, and was a factor in Athens’s inability to formulate a coherent policy and response to Philip of Macedon in the context of the Peace of Philocrates.

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In the United States, the judicial system is supposed to be inoculated from political concerns, even though this is often more an ideal than reality. The ancient Athenians, however, harbored no such illusions. Politics was expected to spill over into the courts and there were a variety of legal procedures to ensure that it did, most notably the graphê paranomôn (prosecution of an illegal decree) and graphê nonon mé epitêdeion theinai (prosecution of an unsuitable law) but also eisangelia (impeachment) and various forms of scrutiny

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meant to hold officials and politicians (political speakers) accountable to the people. From an Athenian perspective, this process was fundamentally democratic; it provided a check on the power of individual political leaders and contributed to the view that the courts were the most democratic branch of Athenian government. That said, there were some downsides to transferring the scene of politics to the courts.

Broadly speaking, the ability of Athens’s leaders to continue their political battles in the courts fostered their competitiveness, and in some cases, inhibited their ability to cooperate. More significant, the courts became a privileged venue for creating political meaning. Although Athenian policy was always made in a competitive context (the courts and Assembly were both highly competitive spaces), the courts were directly adversarial. Accordingly, when political issues and rivalries were brought into the courts, there was a tendency to render them into the adversarial rhetoric of the court. In turn, this translation of political issues into the polarizing language of judicial rhetoric impoverished political reasoning and the political process.

To investigate this multi-layered process, this study focuses on one famous and exceptionally competitive trial in which politics and policy-making are center stage: Demosthenes’s prosecution of Aeschines for misconduct on the embassies leading to the Peace of Philocrates between Athens and Philip II of Macedon. The arguments and emotion strategies in this example suggest that intra-Athenian competition, both in and out of the courts, was a factor in Athens’s inability to formulate a coherent policy and response to Philip of Macedon in the context of the Peace of Philocrates; despite concluding a peace and alliance with Philip in 346 BCE, it took them years to decide whether he was, in fact, friend or foe.

It should be noted at the outset that these deliberative difficulties were likely due to a constellation of causes. In 355 BCE, after being forced to concede defeat in the Social War, (the war with her allies in the second Athenian league), Athens suffered a crippling financial crisis. In consequence, politics in the Post-Social War period became

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2 Dem. 19.296-7; Hansen, Sovereignty, supra note 1, at 7, 17; Mogens Herman Hansen, The Athenian Democracy in the Age of Demosthenes (1991). Hansen highlights that the courts could reverse decisions made by the Assembly, rendering them the most authoritative or sovereign branch of government. On why the courts were viewed as “demic” (supporting the demos) and democratic, see Daniela Cammack, The Democratic Significance of the Athenian Courts (http://scholar.harvard.edu/files/dlcammack/files/avec2_10.14_3.pdf?r=1432733759).
intensely factional, in large part due to budgetary disagreements.\(^3\) Additionally, Philip himself was notoriously inscrutable and at times deceptive in dealing with the Greek cities; in other words, he was just the kind of leader who would expose and exploit fault lines in Athenian policy and decision making.\(^4\) These fault lines had nothing to do with democracy per se but rather were products of the competitive ethos sanctioned within Athens’s political culture and by the political use of the courts.

Although highlighting the agonistic quality of Athenian politics is nothing new, it remains curiously understudied in Athens after the Social War, one of the best-documented periods in Athenian history. This lack of scholarly attention is also surprising because Athenian political culture became more competitive in the fourth century. In the fifth century, political competition was often held in check by the use of ostracism; when the rivalry between two leaders was jeopardizing the city’s ability to formulate a coherent domestic or foreign policy, one of those leaders was often removed or ostracized from the city for a period of ten years. For unknown reasons, however, the institution fell out of use near the end of the fifth century; at about the same time ostracism recedes from view, the first datable instance of the graphê paranomôn, or prosecution of an illegal decree, appears.\(^5\)

With the graphê paranomôn, a citizen charged that another citizen’s decree was illegal either on procedural grounds or as a matter of democratic principle and/or law.\(^6\) In practice, since the Athenian legal system was a voluntary one, this allowed politicians to turn the courts into a political forum.\(^7\) Interestingly, many of the known instances of this action involve a particular type of decree, namely decrees conferring honors on other citizens or foreigners. This tells us that conferring and distributing honor was a key activity of democratic politics in ancient Athens (inter alia).\(^8\)

In addition, in the Post-Social War period, the polis and its subgroups increasingly began to endorse agonistic social values. In political trials dating from after the Social War, the formerly aristocratic value of philotimia—the love of honor—is reinvented in democratic terms (e.g., Dem. 21). At the same time, litigants in political trials from this

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\(^3\) For increased factionalism at this time, see Raphael Sealey, Athens After the Social War, 75 J. Hellenic Stud. 74 (1955); Raphael Sealey, Demosthenes and His Time (1993). For factionalism in Athenian politics more generally, and the applicability of the term itself, see Barry S. Strauss, Athens After the Peloponnesian War: Class, Faction, and Policy, 403-386 BC (1986).


\(^5\) Hansen, supra note 2, at 205; Sara Forsdyke, Exile, Ostracism and Democracy (2005). The graphê nomon mé epitêdeion theinai (prosecution of an unsuitable law) was introduced after 403/02, and used much less frequently than the prosecution of an illegal decree. See Hansen, supra note 2, at 212.

\(^6\) See Lanni, supra note 1; Schwartzberg, supra note 1; Yunis, supra note 1.

\(^7\) “The group that lost a vote in the Assembly often refused to accept it” and made use of this procedure. Hansen, supra note 2, at 210. On the democratic significance of the graphê paranomôn, see id. at 208-10. There were checks on the overuse of this procedure; a prosecutor who failed to get 1/5 of the votes was fined 1,000 drachmas. See Todd, supra note 1, at 109; Edward M. Harris, The Penalties for Frivolous Prosecution in Athenian Law, 2 Dike 13 (1999).

\(^8\) Hansen, supra note 2, at 211.
period also articulate and theorize the Athenian state’s key function of rewarding good behavior and punishing bad behavior, or one might say, divvying up praise and blame.\(^9\) While the Athenian state had long deployed this carrot-stick method of social and civic control, litigants do not expound on the principles behind the city’s use of praise and blame until after the Social War, perhaps as a response to innovations in honorific culture and the heightened focus on competitiveness and exemplarity they produced.

Although the state’s reward and praise function, honorific culture, and its blame function, captured mostly in juridical and punishment practices, have been well studied in isolation, they have not been considered as part of one dynamic system fueled by the pursuit of political honor, which is precisely the way the Athenians saw it, at least in the second half of the fourth century.\(^10\) The first part of this study sketches out the broad linements of this system because competitive social values and practices and the city’s new cultivation of them provide the key context for interpreting the multilayered rhetoric of competition in the embassy trial. For the state’s strategy of relying on honor to work, it obviously required that political leaders and citizens generally desire the praise and blame the democracy had to offer. In other words, the competitive political honor system operated psychologically on political actors. Appreciation of this psychological dimension—here examined in affective terms through the operation of envy and contempt—allows us to consider how the timocratic context may have influenced political reason.

The second part of this study focuses on the trial itself, offering a reading and interpretation of Demosthenes’s prosecution speech and Aeschines’s defense, as they now survive. This is one of only two trials from classical Athens for which we have both sides of the case; that said, it does not make interpretation and reconstruction any easier. Demosthenes and Aeschines give contradictory accounts of their own and each other’s behavior, both in the embassy case and in their later rematch in the crown case (330 BCE). While both litigants have been critiqued by historians for the viciousness of their rhetoric and for their mendacity, the content of the speeches offers important evidence above and beyond its veracity or lack thereof. Accordingly, rather than attempting a hi-

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\(^9\) Id. at 157.

torical reconstruction of the peace process or the trial, this study focuses on how the competitive political honor system—the struggle to win reward and to avoid punishment—informs and orients the arguments, explanations and emotion strategies in the embassy trial.

It is necessary to offer a close reading of key passages from both speeches because the way Demosthenes and Aeschines present their cases—particularly their recurring appeals to honor, competitive values and emotion strategies—reveals their assumptions (and the assumptions they expected to resonate with jurors) about political honor and the way political actors might behave in pursuit of it. While this obviously does not tell us either what happened on the embassies in Macedon or in the Athenian Assemblies in which the peace was deliberated, it does provide important information about the atmosphere in which Athenian political deliberation took place. Despite the institutional differences between the Assembly and the courts, the trial speeches paint a picture of their common affective inflection. Their argumentative strategies suggest that the competitive and emotional dynamics fostered especially by the political use of the courts were also operative in the political arena. Since the litigants in this case were the very political leaders involved in presenting and framing Macedonian issues for the Assembly, the trial provides insight on the interplay between forensic and political reasoning generally, and more particularly on the corrosive effects of the hyper-competitive and status-driven culture on the political process.

I. The Timocratic Turn: Praise and Blame in Post-Social War Athens

That Athenian civic life was intensely agonistic is a commonplace. In particular, politicians were ruthlessly competitive, often using the courts to target and eliminate rivals. Although all Athenian contests were fundamentally about honor, honor was the quintessential reward in political contests.12 From the Athenian state’s perspective, honor played a valuable role in motivating citizens to seek rewards and avoid punishments, and


12 Allen, supra note 10, at 50. For the link between honor and competitiveness, see Peter Wilson, The Athenian Institution of the Khoregia 145 (2000).
hence it was harnessed to promote social norms and values. Litigants in political trials offer frank assessments of the state’s rationale in inspiring citizens to pursue honor. According to one prosecutor, the city’s strength depends on laws that punish malefactors and on those that reward the upstanding.

If all men alike were keen to benefit the community, because they had become ambitious for the honors and rewards of such service, and if all were to recoil from wrong-doing, through fear of the pains and penalties enacted for malefactors, could anything prevent our city from becoming great? . . . If conditions were reversed, or if there were no recompense for the virtuous, if evil-doers were to enjoy all the immunity that Timocrates sought to enact, what utter chaos would be the natural result?

Here and elsewhere, the opportunity to win honor—rewards—is understood as a necessary incentive to motivate citizens to go the extra mile for their community. During the fourth century, the Assembly and Council awarded crowns made of foliage or even gold, dining privileges, exemption from taxation, and in exceptional circumstances, bronze statues to native citizens. In addition to formal honorific awards, the ability to speak in the Assembly, to propose decrees, and to have the demos act on one’s advice were intangible but highly valued honors.

If citizens needed the carrot of rewards to stimulate exceptional service, they also needed the stick of punishment or dishonor to inoculate them against civicly undesirable behavior. By the mid-350s litigants treated the reward and punishment functions of the state as two sides of the same coin, which is increasingly presented as one of the main sources of civic education and reproduction. In political trials dating from after Athens’s defeat at Chaeronea in 338 BCE, litigants theorize this most explicitly, although the basic principles of the reward/punishment system were already articulated in trials dating from the 350s and 340s. For instance, Aeschines explains to a body of jurors in a graphê para-

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15 See, e.g., Dem. 20.5-6, 103, 155.

16 Alan S. Henry, Honours and Privileges in Athenian Decrees 75-78 (1983). The state’s use of honors to shape behavior actually began with foreigners and only later was expanded to native citizens. For the history of honorific practice, see Meyer, supra note 10.

17 See, e.g., Dem. 18.320; Liddel, supra note 10; Lambert, Inscribed Honorific Decrees, supra note 10.

18 In addition to rewarding good behavior, the Assembly issued “blame” decrees against malefactors not within the city’s judicial ambit. See, e.g., Dem. 19.270, 19.277-80.

19 For Athens’s rule through rewards and punishments, see Allen, supra note 10; Lambert, Inscribed Honorific Decrees, supra note 10; Hansen, supra note 2, at 157; Polly Low, Athenian Foreign Policy and the Quest for Stability, in Stability and Crisis in the Athenian Democracy 67 (Gabriel Herman ed., 2011); Gabriel Herman, Morality and Behavior in Democratic Athens (2006). For praise and blame expressed in and via political institutions as the means of democratic civic education, see Plato Republic 492b-c. For the increasing emphasis on civic education in the second half of the fourth century, see Josiah Ober, The Athenian Debate over Civic Education, in Athenian Legacies: Essays on the Politics of Going on Together 128 (2005);
nomôn trial about public honors for Demosthenes that young men pattern their lives after paradéigmata (examples) of men they see honored in public proclamations and correspondingly shun what they see condemned in court (Aeschin. 3.235).

The heightened emphasis on imitation and the role of praise and blame in rousing it in political trials after the Social War may have been inspired by—and in process with—the changes in Athenian honorific practice that appear to commence in the mid-350s. At this time, the polis and its subgroups regularly began to inscribe decrees honoring native citizens and to publish them on the acropolis and, less commonly, in the agora. Although native citizens received honors before this time, the decrees authorizing them were not inscribed.20 At the same time, these decrees—manifestations of civic honor—now also begin to praise the honorands themselves (citizens in elected or allotted offices) for behaving with “philotimia” (“love of honor”) in the performance of their civic duties.21 This was a political about-face insofar as in the fifth century, philotimia, literally, “love of honor,” had been associated with elite competitiveness and self-aggrandizement rather than, or especially over and above, service to their communities.22 In addition to making philotimia into a community-oriented virtue, many of these decrees also include what has been termed a “hortatory intention” clause in which the honoring body explicitly seeks to inspire others to perform similar service.23

Taken together, these changes speak to the deliberate cultivation of competitive emulation and honor, the driver of such competition and the reward for it.24 According to Elizabeth Meyer, this represents a “shift in mentality.” “In the fourth century,” she writes, “the democracy yoked itself to older ideologies of competitive and displayed honor to craft an effective form of ruling in which honors constitute both rewards for, and incentives to, just behavior, and all behavior has honor-consequences.”25

Meyer also emphasizes that the polis’s tendency to “govern through honors” required that honors be known, which is stressed in the disclosure formula in most extant

20 Lambert, Inscribed Athenian Laws, supra note 10, points out that inscribed honors for native citizens are rare prior to 340. That said, from at least the sixth century BCE, magistrates dedicated stelai and statues commemorating their service. Liddel points out that honorific practice and dedicatory habit worked together to promote emulation in performance of civic duties. Liddel, supra 10, at 200-02.


22 In the fifth century philotimia was seen as a danger to the city and social stability. Thuc. 2.65.7; see also Whitehead, supra note 21.

23 Henry, supra note 10.

24 For the encouragement of competitive emulation as a reason for public honoring, see Liddel, supra note 10, at 170.

25 Meyer, supra note 10, at 488. For the polis’s cultivation of competitiveness in honorific practice at this time, see also Sickinger, supra note 10, at 94; Liddel, supra note 10; Engen, supra note 10.
Critical Analysis of Law 3:1 (2016)

honorific decrees. With this, the city encouraged and expected its citizens to compare themselves to esteemed exemplary others; in other words, the democratic polis tapped into and promoted processes of social comparison. The importance of social emotions dealing with relative position (i.e., envy, both hostile and benign, scorn, and contempt, inter alia) and their attendant strategies in the Attic lawsuits underlines that social comparison was indeed pervasive.

Ideally, seeing another citizen receive public honors and esteem would elicit the emotion that the fourth-century Greeks called zêlos (e.g., Dem. 18.120). Although zêlos and its cognates are often translated in terms of emulation, emulation is zêlos’s action tendency rather than the emotion itself. For the sake of convenience, I use the nearest English equivalent for zêlos: benign envy. According to Aristotle, zêlos is pain felt by the virtuous when they see another with a coveted good; the key here, which distinguishes zêlos from hostile envy, is that one feels pain because one lacks the desired good, rather than simply because someone else has it. Aristotle and the Attic lawsuits agree that zêlos or benign envy is a positive emotion that motivates or inspires self-improvement.

That said, seeing someone with a desired good can also elicit hostile envy or phthonos, particularly when that other person is like us (Arist. Rhet. 2.10.1). But in con-

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28 See also Ed Sanders, Envy and Jealousy in Classical Athens (2014).
29 As with philotimia, the term zêlos can refer to an emotion, to its action tendency, or to the person or object who possesses honor. See Dem. 18.217, 22.73, 74, 23.64, 60.24. After the classical period, zêlos comes to mean jealousy. See David Konstan, The Emotions of the Ancient Greeks (2006); Sanders, supra note 28.
31 Arist. Rhet. 2.11.1. For the applicability of Aristotle’s Rhetoric to the study of the emotions in forensic texts and Athenian social life, see Konstan, supra note 29, at 34.
32 For a different interpretation of zêlos, see Sanders, supra note 28, at 20.
33 For the sake of convenience, I use the modern emotion labels “envy” (for phthonos) and “contempt” (for kataphronêsis), with the caveat that the ancient Greek emotion terms do not seamlessly correspond to modern labels, see Konstan, supra note 29; Douglas L. Cairns, Look Both Ways: Studying Emotion in Ancient Greek, 50 Crit. Q. 43 (2008). To my knowledge, contempt has not been studied in the Attic lawsuits; it has also been relatively neglected in contemporary research until the last decade or so. Contempt has recently been included among the basic emotions identified cross-culturally by facial expression, see David Matsumoto & Paul Ekman, The Relationship Among Expressions, Labels, and Descriptions of Contempt, 4 J. Personality & Soc. Psych. 529 (2004). To avoid the difficulties of a purely lexical approach, recent scholarship suggests an orientation to emotion scripts or scenarios, rather than an exclusive focus on emotion words. An emotion script is akin to a mini-dramatic narrative that involves situational elicitors (i.e., someone has a desired good, as in envy), appraisals (e.g., the perception that this is harmful to the self), and the responses, including the motivational tendency (e.g., to harm the desired good or its bearer), see Cairns, supra, at 46-47; Sanders, supra note 28. Although a recent methodological turn, the analysis of emotion scripts is consistent with Aristotle’s approach in the Rhetoric. It is particularly appropriate in the case of Athenian trial speeches because litigants often seek to rouse hostile emotions
In contrast to zêlos, this form of envy has a hostile action tendency, encouraging its bearer to harm the coveted good or the person with it. 34 Interestingly, Aristotle remarks that politically ambitious men (philotimoi) are more envious than others because people envy those with whom they compete for honor (Arist. Rhet. 2.10.3). Like modern theorists, Aristotle detects a connection between competition and envy. 35 The Attic lawsuits also suggest such a link, as litigants often complain that they are victims of envious attack (e.g., Aeschin. 2; Dem. 18).

Since hostile envy is unpleasant to feel, those experiencing it often try to ward it off, consciously or unconsciously. 36 One strategy is to counteract the upward social comparison that produced the envy with a downward comparison. “In social comparison terms, the experience of envy may begin with an upward comparison on a nonmoral dimension, which then inspires an immediate downward comparison on a moral dimension. The sting of the envied person’s advantage yields to one’s own quick developing superiority on more ‘important’ moral domains.” 37 The Attic lawsuits are filled with just this emotion strategy. Litigants often diminish successful rivals by marshalling contempt, scorn, and disdain (virtual synonyms captured by the Greek kataphronêsis), as well as ridicule and disgust at their real or imagined social transgressions. 38 Contempt strategies may have been a useful defense against envy because, as Aristotle points out, it is the opposite of zêlos or benign envy (Rhet. 2.2.4). 39 In other words, contempt reroutes the upward social comparison required for both benign and hostile envy. Instead of seeing someone as worthy of imitation, in contempt one devalues them and treats them as worthless; as I will discuss, both parties in the embassy trial extensively deployed this tactic. 40

against their opponents by offering narratives containing emotion scripts, rather than by using emotion labels overtly. See, e.g., infra note 67.

34 Arist. Rhet. 2.11.1; see also Aaron Ben-Ze’ev, The Subtlety of the Emotions (2000); Jon Elster, Alchemies of Mind (1998). Envy’s hostile action tendency is captured by the fact that the verb baskainein (and its cognates)—to give the evil eye—serves as a synonym for envy. E.g., Dem. 18.132, 139, 307; 20.24. For the link between envy and the evil eye in other cultures, see Fiske, supra note 27.

35 According to Ben-Ze’ev, supra note 34, envy is intrinsically linked to competition because it deals with one’s comparative position. See also Elster, supra note 34; Arist. Rhet. 2.10.5.

36 Douglas L. Cairns, The Politics of Envy: Envy and Equality in Ancient Greece, in Envy, Spite, and Jealousy: The Rivalrous Emotions in Ancient Greece 181 (David Konstan & Keith Rutter eds., 2003); Elster, supra note 34. The study of envy is also complicated by the fact it is often a blended emotion, co-occurring especially with shame. See Smith, supra note 27, at 51; Fiske, supra note 27, at 15.

37 Smith, supra note 27, at 48. In modern studies, denigrating a rival appears as a defense against the feeling of inferiority that accompanies envy.

38 Contempt is one of three forms of belittling—oligôria, literally, “making small” or “less”—identified by Aristotle; spite (eperasmos) and outrageous insult (hubris) are the other two. Rhet. 2.2.3-4.

39 On contempt as a moral emotion, see Fiske, supra note 27.

40 Contempt has been identified as belonging to an emotion family whose linguistic exemplars also include disdain, scorn, and disrespect. See Fiske, supra note 27, at 15. For the concept of emotion families, see Paul Ekman, An Argument for Basic Emotions, 6 Cognition & Emotion 169 (1992).
II. Competing in Court

To sum up, by deploying praise and blame (and thereby cultivating benign and likely hostile envy) to shape civic behavior, the polis necessarily sanctioned and enhanced the standing of honor as a social value. At the same time, since awards of praise and blame were competitive, to varying degrees, they necessarily fed into the culture of political honor and its psychological mechanism, social comparison. To be clear, the reliance on honorific culture and exemplarity certainly had important benefits for civic education and socialization, as well as for allowing the city to meet resource needs of all kinds.41 So too, competition may have raised the bar, bringing out the best in individuals and groups. That said, recent studies have shown that competition among subgroups in a larger entity fosters unity whereas competition among individuals tends to have a detrimental effect on group solidarity.42 Even if Athenian political leaders belonged to small groups or factions, they were forced to compete as individuals, more or less constantly, to maintain their leadership position. Moreover, whether or not one views Athenian political competition as zero-sum, the prize of honor for those seeking to shape Athenian policy was necessarily scarce.43 For these reasons, the new prominence of honor available to individuals in non-military positions certainly gave a boost to competitive values and to the emotional climate they both encouraged and relied upon.

Whether or not the embassy trial directly engages with the polis’s recent enhancements of its habit of governing through honors, both litigants appeal to psychological and emotional explanations related to competitive values to explain the behavior of the other. They expend a good deal of their speaking time rehashing old scenes of competitive engagement and seeking to make them turn out differently, all the while enlisting upward and downward social comparison to assail their opponent’s position.44 Demosthenes links Philip’s rise to power in Greece to competition gone awry—to the malfunctioning of the reward/punishment system central to the state’s security. As Demosthenes sees it, the system can only work if the citizens want the reward the state has to offer and are willing to punish malefactors. But instead of seeking reward from the state, he argues that men like Philocrates, Aeschines, and a host of others throughout the Greek world are taking rewards from Philip. This diagnosis provides Demosthenes’s theory of the case as well as a highly tendentious account of Philip’s rise to power in Greece.

41 See further Engen, supra note 10.
43 The question of the extent to which Athenian/Greek contests were zero-sum remains controversial, although most scholars reject or refine Gouldner’s strong claim that they were (supra note 11). For purposes of this study, fourth-century politicians treat honor as a limited resource, implying that while politics may not have been exactly a zero-sum game, political honor could not be infinitely expanded to include all players. See, e.g., Demosthenes, On the Trierarchic Crown, 51.19-20.
44 Although they do not use the vocabulary of social comparison, many studies emphasize that litigants engage in contests of social status. See, e.g., Cohen, supra note 11; Roisman, supra note 11; Ober, supra note 11.
Although he is speaking in the law court rather than in the Assembly, Demosthenes’s rhetoric reveals the lens through which he views Athenian-Macedonian relations: he has transposed the competitive political honor system onto the scene of inter-state relations. By contrast, Aeschines eschews competition with Philip. In his defense, he identifies Demosthenes’s excessive competitiveness with him as the cause of the disastrous peace as well as the prosecution itself. To this end, he provides a character sketch of a politician deformed by envy and the pursuit of his own aggrandizement.

III. Demosthenes’s Prosecution

Demosthenes and Aeschines were two of the ten envoys elected to negotiate the treaty with Philip. Both were rising stars in the Assembly and, according to Demosthenes, there was no prior enmity or feud between them (Dem. 19.222). But by the time they returned from the second embassy sent to gain Philip’s oath, their relationship was irreparably damaged. Aeschines convinced the Assembly that Philip was going to settle the Third Sacred War to their advantage, rather than to that of his other ally, and Athens’s traditional adversary, Thebes. Specifically, Aeschines reported that Philip was not going to harm the Phocians—Athens’s allies whose strategic location formed the lynchpin of the city’s land defense—but that he was going to humble Thebes. Aeschines’s speech gave Demosthenes, Timarchus, and possibly one other citizen the ammunition they needed to accuse Aeschines of misconduct; they did so at the official scrutiny for his service as an envoy to Philip on the second embassy.

Demosthenes and his associates so muddied the waters concerning Philip that Athens refused his repeated invitations to take the field with him in settling the Sacred War, out of fear that their new ally planned to do their soldiers harm. Since the Athenians failed to respond to his requests, Philip obliged the Thebans, allowing them to dismantle the Phocian cities, and with them, a key source of Athens’s security. The Athenians panicked when they learned of this news: they passed emergency measures to evacuate the women and children from the countryside and to hold the festival of Hercules within the city walls; they also made provisions to fortify the frontier forts and the Piraeus (Dem. 19.86, 125). Although their new ally’s anticipated invasion never materialized, they were forced to keep a peace that made them less rather than more secure.

45 Thebes’s (and the Amphictyonic league’s) inability to end the Third Sacred War with Phocii caused them to turn to Philip II for assistance, putting him in the middle of Greek affairs. See John Buckler, Philip II and the Sacred War (1989); see also John Buckler & Hans Beck, Central Greece and the Politics of Power (2008); Ian Worthington, Philip II of Macedonia (2008).

46 Aeschines says, contra Dem. 19.20-21, that he advised Philip to humble Thebes, but not that Philip promised to do so. Aeschin. 2.119.

47 In keeping with the democratic emphasis on accountability, all officials, envoys, magistrates, etc., had to undergo a two-stage scrutiny or review at the end of their service. See Aeschin. 3.17-20; Roberts, supra note 1; Hansen, supra note 2, at 222-24; Efstathiou, supra note 1, at 126; MacDowell, supra note 21.

48 Dem. 19.51-2; Aeschin. 2.137.

49 Dem. 19.60. But see Aeschin. 2.142.
Demosthenes and others blamed the unfavorable outcome of the peace on certain ambassadors whom Philip had paid off. Rather than prosecuting Aeschines for bribery, however, Demosthenes waited about two years before bringing him to trial for misconduct related to the second embassy as part of Aeschines’s scrutiny or *euthyna* for his service as an envoy.\(^{50}\) Although Demosthenes blamed the delay on Aeschines, Demosthenes himself likely waited until he and others had generated sufficient dissatisfaction with the peace among the Athenians to risk a trial. To establish Aeschines’s misconduct on the embassy, Demosthenes identifies the key criteria for which an envoy’s service ought to be judged, including his reports, compliance with instructions, and timing. The last and most important issue raised in the trial is whether the envoy accomplished his duties without accepting bribes or gifts (*adôrodokêtôs*) (Dem. 19.4).

Demosthenes’s central claim is that Aeschines failed in his duty on all counts, specifically because he accepted bribes from Philip. Aeschines (and the other envoys) clearly did accept gifts from Philip.\(^{51}\) The Macedonian and Persian kings were known to give lavish gifts to envoys; such gifts were a perk of serving as an envoy for the city.\(^{52}\) What muddies the waters is that the word for these gifts—*dôra*—was also used to designate bribes. But when does accepting gifts (*dôra*) become equivalent to taking political bribes (λαμβάνειν *dôra*/λαμβάνω δοκέω)?\(^{53}\) The obvious answer is when they induce their recipient to act on the donor’s behalf (19.7).\(^{54}\) Therefore, the prosecution argued that the gifts taken by Aeschines (and Philocrates) were bribes because both men supported the dishonorable peace terms that made Athens less rather than more secure (Dem. 19.8, 114, 145).

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\(^{50}\) For the date, see MacDowell, supra note 21, at 22. Recent discussions of Demosthenes 19 (On the False Embassy) can be found in Athanasios Efthathiou, The Peace of Philocrates: The Assemblies of 18th and 19th Elaphebolion 346 B.C., 53 Historia 385 (2004); Anne Duncan, Performance and Identity in the Classical World (2006); Fiona Hobden, Symposion and the Rhetorics of Commensality in Demosthenes 19, On the False Embassy, in Rollenbilder in der athenischen Demokratie 71 (Christian Mann et al. eds., 2009); Iris Samotta, Demosthenes (2010); MacDowell, supra note 21; Douglas M. MacDowell, Demosthenes the Orator (2009); Gunther Martin, Divine Talk: Religious Argumentation in Demosthenes (2009); John Buckler, Demosthenes and Aeschines, in Demosthenes: Statesman and Orator 114 (Ian Worthington ed., 2000); P.E. Easterling, Actors and Voices: Reading Between the Lines in Aeschines and Demosthenes, in Performance Culture and the Athenian Democracy 154 (Simon Goldhill & Robin Osborne eds., 1999); Sanders, supra note 28; Nancy Worman, Abusive Mouths in Classical Greece (2008); Ian Worthington, Demosthenes of Athens and the Fall of Classical Greece (2012); Thomas Paulsen, Die Parapsebeia-Reden des Demosthenes und des Aeschines (1999); Victoria Wohl, Law’s Cosmos: Juridical Discourse in Athenian Forensic Oratory (2010).

\(^{51}\) Aeschines received an estate in Pydna from Philip. See Dem. 19.145, 314; MacDowell, supra note 21.

\(^{52}\) On bribery in Greek diplomacy, see, e.g., F.D. Harvey, Dona Ferentes: Some Aspects of Bribery in Greek Politics, in Crux: Essays in Greek History Presented to G.E.M. de Ste. Croix 76 (P.A. Cartledge & F.D. Harvey eds., 1985); Buckler, supra note 50.

\(^{53}\) For the Greek vocabulary of bribery, see Harvey, supra note 52, at 82. On the language of bribery in Dem. 19, see Paulsen, supra note 50, at 481. Herman, however, argues the issue of gift/bribes should be interpreted through the rubric of gift exchange. See Gabriel Herman, Ritualized Friendship and the Greek City 75-78 (1987).

\(^{54}\) For the bribery law cited by Demosthenes at 19.7, see Douglas M. MacDowell, Against Meidias 337 (1990).
But in addition to signifying both gift and bribe, the word *dôra* could also refer to the honorific rewards bestowed by the Athenian state. This polysemy thus underlies the central opposition that structures Demosthenes’s narrative, namely the conflict between the state’s power to reward and punish, praise and blame, and Philip’s gifts—timber, wheat, land, gold—or his power to bribe and corrupt. That Demosthenes sees the situation in terms of competition between Philip’s gift/bribes (*dôra*) and Athenian honors (*dôra*) becomes explicit in the following passage:

Is there any one of the ambassadors sent by Philip, of whom you, men of the jury, would set up a bronze statue in the Agora? Or again, would you grant any of them the right to dine in the public dining hall, or any other gift (*dôrean*) with which you honor benefactors? I think not. Why? You’re not ungrateful people, nor unjust or mean. It’s because they acted wholly in Philip’s interest and not at all in yours, you’d say—which is true and fair. Then, if you take that view, do you think Philip doesn’t, but gives so many substantial gifts (*dôreas*) because they did good and honest service as ambassadors in your interest?55

While Philip may have made liberal use of gifts and bribes, the notion that they were the analogue to the city’s honorific culture appears to be Demosthenes’s specific take on the situation. He hates his colleagues, he says, because their bribery robbed him of the honor (*philotimia*) due to him for his good service (Dem. 19.223). Similarly, he explains that he steered clear of corruption, in part, because he expected to be honored by the citizens for having served them with integrity (Dem. 19.223). Aeschines therefore not only compromised Demosthenes’s reward for service on the embassy, but he also actively colluded with Philip to diminish Demosthenes’s *philotimia* in other ways. According to Demosthenes, Aeschines even had Philip write a letter specifically to undermine Demosthenes’s efforts to ransom some Athenians taken in the fall of Olynthus (Dem. 19.39-40).

To make matters worse, Demosthenes argues, Aeschines also robbed the ancestors of honor and praise (Dem. 19.313-14). Before he went to Macedon, Aeschines called Philip a barbarian and a fiend (19.305), and praised the Athenian ancestors, adducing the battles of Salamis and Marathon in his efforts to inspire Athenian and Greek resistance to Philip.56 After he visited Macedon, however, Demosthenes says Aeschines changed his tune, calling Philip the most “Greek” man in the world, a fine orator and a lover of Athens (Dem. 19.308). Even worse, he instructed the Athenians “not to remember the ancestors, not to mention trophies, and not to send support to anyone, not to deliberate with the Greeks, and all but to demolish the city walls!” (Dem. 19.16, 307, 311).

Macedon, or Philip, Demosthenes says, changed Aeschines in other ways, too. One way the competitive political honor system could lead to difficulties in Athens was when a citizen went too far on honor’s vertical dimension, when honor-seeking metamorphosed into acts of *hubris*—behavior that denigrated others’ status. Before Aeschines traveled to Macedon, according to Demosthenes, he was *metrios*, a middling citizen who

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knew his social place. As evidence of this, Demosthenes points out that Aeschines did not mind admitting he had been a *grammateus*, a secretary to Athenian officials, and that he expressed proper gratitude (*charis*) to the people for appointing him to the position. After visiting Macedon, however, Demosthenes contends that Aeschines began to raise his brows at such reminders, regarding them as insults. He started strolling about the agora with his cloak reaching his ankles and his cheeks puffed out, wanting to be recognized as Philip’s friend. This man who “used to worship at the Council house,” Demosthenes warns, has joined those who wish to eliminate democracy (Dem. 19.314).

As further evidence of Aeschines’s grandiosity, Demosthenes warns the jurors that Aeschines “thinks big” on account of his voice and hopes “to overcome them by acting.” He cautions the jurors against playing into Aeschines’s hands by treating the trial as a competition of orators and speeches—which is, paradoxically, an admission that it was just such a competition (Dem. 19.216; cf. Dem. 18.226). That said, Aeschines’s prior behavior and social status made it difficult to cast him in the mold of an anti-democratic scare figure, as Demosthenes does with rivals like Meidias, Eubulus, or Androtion (Dem. 21, 22). For this reason, Demosthenes most often presents Aeschines’s overreaching as a form of falling short, casting him as a figure of ridicule or contempt rather than as a hubristic abuser.

Demosthenes’s endeavor to marshal downward social comparison against Aeschines, to elicit contempt in particular, may be a response to his own envy. At the time the peace was negotiated, Aeschines had more political clout than Demosthenes. For instance, when in 348 BCE embassies were sent to various Greek cities to form an anti-Macedonian coalition, it was Aeschines, rather than Demosthenes, who was sent. And, in the Assembly held to discuss the second embassy (16 Skirophorion, June/July), Aeschines easily won the day while Demosthenes himself failed to get an adequate hearing.

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58 Dem. 19.314; see also id. 19.70, 95, 200, 237, 314, 18.127, 261. MacDowell, supra note 21 at 307, discusses the positions Aeschines may have held. See also Edward M. Harris, Aeschines and Athenian Politics 29-30 (1995).

59 Dem. 19.314; see also the portrait of Meidas in Dem. 21.

60 Dem. 19.337; see also Dem. 19.126, 199, 206, 216; id. 18.259, 285, 313. On performance and acting in the speech, see Duncan, supra note 50; Easterling, supra note 50.

61 See especially Demosthenes’s slurs on Aeschines’s family. See Ober, supra note 11, at 272; Martin, supra note 50. According to recent research in the United States, those relatively low in the social hierarchy often enjoy experiencing contempt for a social superior who has transgressed or otherwise mishandled social boundaries and norms. For this reason, contempt and scorn often serve elite ends insofar as they operate to preserve the social status quo. See Fiske, supra, note 27, at 34, 44, 45; Ben-Ze’ev, supra note 34, at 390. Demosthenes’s attacks on Aeschines’s supposedly low social origins before juries composed of citizens of disparate social status would seem to indicate that contempt operated similarly in classical Athens.


63 Dem. 19.11, 304-05; Aeschin. 2.79.
(Dem. 19.19-23, 19.44-46). In some passages, Demosthenes appears to be undoing his defeat in the Assembly that day, as much as or more than showing Aeschines’s corruption. For instance, he complains that Aeschines and Philocrates prevented him from speaking by heckling him, much to the amusement of the demos.64

In a later passage, however, we learn that Demosthenes was not completely silenced in that Assembly meeting. After the speech in which Aeschines either reported or promised Philip’s goodwill in settling the Sacred War, Demosthenes interjected:

If any of these things does come about, men of Athens, make sure you give the praise and honor and crowns to these men, not to me; and on the other hand, if the opposite happens, make sure these men incur your anger (Dem. 19.45-6).

With this quip, Demosthenes says more than he intends; that is, he inadvertently reveals his own investment in the contest for political honor. Similarly, Demosthenes seems concerned to compensate for his political defeat in the Assembly by restaging the scene in court, this time silencing his hecklers by ventriloquizing them and imitating their voices.65 More than this, however, he also recalls the scene of Aeschines’s political victory to revise it, to replace the admiration he won with contempt. He reminds the jurors of the promises Aeschines made at the end of his speech:

Moreover he said there was also something else he’d arranged but he didn’t want to reveal it yet, because already some of his fellow-ambassadors were envious of him. That was a hint and insinuation about Oropos. Naturally, he got kudos from all this, and was thought to be an excellent orator and a wonderful man, and he descended the platform most pompously (semnôs).66

Although Aeschines was regarded as the best speaker that day in the Assembly, Demosthenes erodes the vestiges of his prestige by highlighting his deluded conceit. One of the scenarios that reliably elicits contempt is when someone brags about an accomplishment they failed to achieve, exactly what Demosthenes portrays Aeschines doing here.67

IV. Philip as Affective Disease

As should be clear, a great deal of Demosthenes’s prosecution is dedicated to the competitive renegotiation of political status, revising his own past political defeats, portraying Aeschines as an inept and corrupt social climber, and encouraging the jurors to join him in downward social comparison. Much of this status renegotiation serves Demosthenes’s construction of a new political narrative meant to explain not only how Philip got the


66 Dem 19.22-23. This translation is slightly adapted from MacDowell, supra note 21. See Aeschines’s answer at Aeschin. 3.97.

67 For this contempt scenario, see Matsumoto & Ekman, supra note 33, at 16. Again, Demosthenes’s rhetoric suggests an overlap between ancient Greek and contemporary contempt scenarios.
better of Athens in the peace process but also how he gained ascendancy in the Greek world. As Demosthenes repurposes this narrative in a famous political speech delivered after the trial, this is a particularly good illustration of the interface between juristic and political/deliberative reasoning (Dem. 9.36-39, 9.41-45).

Rather than acknowledging Philip's diplomatic and military victories, Demosthenes argues that the Greeks themselves are responsible for Philip's good fortune (Dem. 19.68). While he certainly decries Philip's bribery of wayward officials in and out of Athens, the problem is deeper than corruption per se. According to Demosthenes, Philip is derailing the Greek cities by replacing the drive to win state rewards and the corresponding desire to avoid punishment with the desire to win his friendship. Instead of emulating and benignly envying the recipients of civic rewards, political leaders and masses alike admire (and wish to emulate) Philip's friends. In Demosthenes's metaphor, this is a disease:

A terrible disease has infected all of Greece, a serious one, needing some good luck and care on your part. The men who are most prominent in the several cities, and are thought fit to be in charge of public affairs, are sacrificing their own freedom, poor fools, and of their own volition are bringing slavery on themselves, calling it euphemistically a relationship with Philip and comradelyship and friendship and so on, while the rest of the population and whatever authorities there are in each of the cities, who ought to have inflicted punishment and immediate execution on them, are so far from doing any such thing that they admire and benignly envy (ζῆλοις) them and would each like to be a man like that himself! And yet it's this conduct and this kind of benign envy (ζηλοματα), men of Athens, that, until yesterday or the other day, had ruined the Thessalonians' supremacy and national reputation, and now is even depriving them of their freedom . . . . It's entered the Peloponnese and caused the killings in Elis, and filled those poor people with such insane frenzy that, in order to control one another and gratify Philip, they murdered their own relatives and fellow citizens. And it hasn't stopped there. It's entered Arcadia and turned everything there upside down; and now many Arcadians, who should take the greatest pride in their freedom, like you (for you and they are the only peoples who are indigenous), admire Philip, and set up a bronze statue, and award him a crown . . . . The Argives are doing just the same.68

According to this diagnosis, Philip's ascendancy is due to emotional contagion, to psychological rather than military conquest. He has superseded the Greek city as the source and arbiter of value and moral norms; in effect, Demosthenes argues, Philip is replacing civic honorific culture.69

Although Demosthenes presents the Greek cities that honored Philip as emotionally diseased, the use of civic honors as a tool of foreign policy was hardly unknown at Athens. Traditionally, Athens bestowed honors on foreign rulers (a reputational good) in exchange for service of varying kinds; such awards subtly pressured those rulers to keep

68 Dem. 19.259-60. MacDowell, supra note 21, translates ζῆλοις (verb) as “envy” and ζηλοματα (noun) as envy. In both cases, however, the sense is clearly benign envy, see above.

69 Dem. 19.177. Since many aspects of Athens’s honorific practice appear to have been unique, see Hedrick, supra note 10; Liddel, supra note 10; Meyer, supra note 10; Lycurg. 1.50, Demosthenes’s explanation obviously tells us more about Demosthenes and Athenian culture than about the actual cities he purports to describe.
up the good work. Accordingly, after receiving Philip’s oath, the Athenians voted honors for Philip that included extending the peace and alliance to his descendants, an implicit effort to ensure his goodwill going forward (Dem. 19.48). However, it was impossible to coerce Philip into behaving like a benefactor when some Athenians were already treating him as an enemy.

Philip’s gifts, according to Demosthenes, were bribes rather than benefactions. Yet, he argues, instead of punishing men who have taken Philip’s gifts, politicians and citizens alike in other cities admire and envy them; hence the contagion spreads. To illustrate the prognosis of this disease, Demosthenes leaves the case of Olynthus for last. Before Olynthus was captured, several Olynthians received gifts from Philip: Lasthenes roofed his house with Macedonian timber and Euthycrates returned from Macedon with a herd of cows; others, he says, returned with sheep, horses and the like (Dem. 19.265). What destroyed Olynthus was not these bribe-takers themselves, Demosthenes contends, but rather the reaction of the mass of citizens. Instead of being angry with these men or punishing them, the public “gazed at them, benignly envied them (εξέλουν), honored them (ετίμων), and considered them real men . . .” (Dem. 19.266). In consequence of this corruption, or “insanity,” Philip was able to destroy the well-resourced Olynthus, and all the Chalcidicean cities within a single year (Dem. 19.267).

According to Demosthenes’s rhetoric, the Athenians ought to be immune from such “disease” or misguided emulation because they, “alone of all men,” have ancestral models to imitate (19.268). To this end, he has a fifth-century inscription condemning Arthmius of Zelcia as an outlaw for bringing Persian gold to the Greeks read out. The stele with the inscription was set up on the acropolis next to the statue of Athena Promakhos commemorating the Persian War. According to Demosthenes, this spatial arrangement means two things: that inscription has enduring exemplary importance and that the ancestors considered the “punishment” of such offenders to be signs of their own honor.

Despite having such models before them, Demosthenes warns, the Athenians are making judgment errors in failing to discern their own advocates:

It’s because, whereas Philip, who of course has just one body and one soul, wholeheartedly loves those who do good to him and hates those who do the opposite, each one of you, for one thing, doesn’t think that someone who does good to the city is doing good to him, or that someone who harms it harms him, but each man has stronger influences by which you are often distracted—pity, envy, anger, doing a good turn to someone who asked for it, thousands of other things (Dem. 19.227-28).

70 The Athenians were involved in exactly this activity in the same Assembly in which the envoys to Philip made their initial reports. See Rhodes & Osborne, supra note 21, #64 (decree honoring the rulers of the Cimmerian Bosporus).

71 Dem. 19.270. In the crown trial in 330 BCE, Aeschines deployed this example against Demosthenes. See Aeschin. 3.258; Din. 2.24-25.

72 19.272. In a political speech delivered after this trial, Demosthenes offers a more extended discussion of the inscription “punishing” Arthmius, that also focuses on its role as a paradeigma. Id. 9.41-45.
The subtext here is that Demosthenes is the benefactor whom the citizens fail to recognize. Although Demosthenes is trying to correct certain affective and cognitive distortions, he introduces a new distortion, namely the perception that the polis’s international problems were really internal ones. Intentionally or not, he diminishes the significance of actual circumstances, including Philip’s military power and wealth, and the fact that many Greek cities wished to be free of Athenian and/or Spartan power, by promoting an illusion of civic potency. Waging political battles in the courts helped to foster this illusion inasmuch as litigants tended to present the punishment of their rivals as the lynchpin of the state’s security. As Demosthenes puts it, “I’m not afraid if Philip is alive, but if Athens’s policy of hating and punishing criminals is dead” (Dem. 19.289).

The discussion of punishment precedents sets the stage for Demosthenes’s attack on Eubulus, a leading politician and ally of Aeschines who was going to speak in Aeschines’s defense. Demosthenes frequently found himself at odds with Eubulus and his supporters because their financial policies included scaling back military initiatives. In this particular case, however, we know that Eubulus made the speech that convinced the Athenians to vote for the peace. According to Demosthenes, he terrified the citizens by presenting them with two alternatives—either to prepare for war by paying the war tax and converting the festival (theoric) fund into a military one, or to vote for the peace (19.291). Rather than using scare tactics, Eubulus was simply giving voice to the existing situation: the Athenians had no will to continue the war, and Philip had the upper hand. These conditions, more than any gifts Philip made to the Athenian envoys, were responsible for the terms of the treaty.

But for Demosthenes, the trial was a chance to reinvent political realities. To that end, he ridicules Eubulus’s prosecution of small-time financial offenders, calling them a joke, thereby implicitly emphasizing the importance of his own activity as a prosecutor (19.292-94). He warns the jurors that it is not small-time financial offenders who threaten the state, but rather “men who consider themselves worthy to be called Philip’s guests and friends, those who wish to be generals and aspire to leadership; those who think they ought to be greater than the masses”; as the context clarifies, he is referring to Eubulus and Aeschines (Dem. 19.295).

The attack on Eubulus reveals the way intra-Athenian competition was interfering with the city’s ability to compete on the international level and the way the political use of the courts exacerbated the problem. Extending policy and personal disagreements into the courts often led litigants to convert them into core ideological disputes. For example, in political trials, Demosthenes regularly presents himself as a loyal democrat and casts his opponents as oligarchs and enemies of the democracy, even in cases where his rivals are pursuing more demotic or popular policies than Demosthenes himself. Demosthenes’s

73 Demosthenes also points to a lack of demotic unity elsewhere in the speech. Id. 19.135-36.
75 See Dem. 22, 23, 24.
tactics were well known enough that Aeschines has a name for them; in the crown trial, he complains about Demosthenes’s use of “factious words,” that is, rhetoric calculated to create political schism (Aeschin. 3.208). This critique, however, did not stop Aeschines from making ample use of the same tactic (Aeschin. 3.3-5, 7, 168-172, 233-35).

In the embassy trial, Demosthenes links Aeschines’s support for the peace to his supposed joining with the anti-democratic faction; similarly, he presents Eubulus’s backing of the peace as a sign of his tyrannical aspirations, and his support for a political ally as an effort to overpower the courts, the mainstay of the democracy. “The greatest threat to democracy,” Demosthenes cautions, stems from “allowing any man to become greater than the many. Let no man be acquitted and no man condemned by the desire of So-and-So or So-and-So” (Dem. 19.296).

The embassy speech, however, differs from most other extant political trials because there is a foreign power triangulating the supposed ideological battle. In the law court, the question of whether Philip is friend or foe maps onto the ideological divide Demosthenes and others project onto their opponents. Those who oppose Philip are loyal democrats while those who continue to support the peace must be closet oligarchs or, like Eubulus, seeking absolute power. The Macedonian question has been subsumed within intra-Athenian political competition.

V. Aeschines’s Defense

Aeschines defends himself by offering an alternative theory of the case in which Demosthenes stars as the real architect of the city’s difficulties. This includes, inter alia, an explanation of why he changed his mind about Philip along with a lengthy narrative calculated to show that Demosthenes was equally guilty in this respect.

After the destruction of Olynthus, Eubulus proposed a decree to send envoys to various Greek states—all but to the Red Sea, Demosthenes quips—for the purpose of creating an anti-Macedonian coalition (19.11). Aeschines was sent to Arcadia and gave an impassioned speech before the Ten-Thousand in which he denounced Philip as “a man of blood” (19.11, 304-05, Aeschin. 2.79). But his plea fell on deaf ears: the Arcadians, like many others, saw Philip as a liberator and benefactor. During this same period, Athenian citizens were abandoning the Chersonese and Philip was “competing” with Athens for Lemnos, Imbros, and Scyros (Aeschin. 2.72). In other words, the grain route was in

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76 Dem. 19.297. On the democratic salience of the courts, see Hansen, supra note 2.

77 Discussions of Aeschines 2, On the Embassy, can be found in Buckler, supra note 50; Carey, supra note 11; Duncan, supra note 50; Efstathiou, supra note 1; Efstathiou, supra note 50; Harris, supra note 58; Jon Hesk, Deception and Democracy (2000); Martin, supra note 50; Paulsen, supra note 50; Christian Preus, The Art of Aeschines: Anti-Rhetorical Argument in the Speeches of Aeschines (2012) (unpublished Ph.D. dissertation, University of Iowa); Worman, supra note 50. Translations of Aeschin. 2 are from Carey, supra note 11.

78 See Aeschin. 2.13, 121, 178.

79 Dem. 19.259-60. On Philip’s positive reception in many Greek cities, see Buckler & Beck, supra note 45.
peril. Despite this precarious situation, other speakers were encouraging the demos to pursue the war with Macedon by pointing to perennial paradigms and telling the people to remember iconic battles like Salamis, to gaze at the city’s monumental architecture (the propylaea), and to remember the tombs and trophies of the ancestors. In effect, the popular speakers were tapping into the logic of honor and exempla to motivate civic behavior and sentiment.

Aeschines cleverly turns the traditional ancestor-rhetoric to his own advantage. While he says that he agreed in principle that the Athenians should emulate the battles of the Persian Wars, he adds that they should also imitate the ancestors’ sound reasoning (euboulia) rather than their mistakes and untimely contentiousness (philonikian). Closely related to philotimia, philonikia (literally the “love of victory”) is competitiveness gone too far. To illustrate how it leads to poor decision-making, he reminds the jurors of the disaster in Sicily. After this, Aeschines adduces another negative historical exemplum from the Peloponnesian War, namely the decision to reject the Spartan peace terms after they had been beaten. He attributes this decision not to a competitive politician, but to a fraudulent one.

They refused all of this but determined on a war they could not fight; and Cleophon, the lyre-maker, a man whom many remembered seeing in chains, who had got himself falsely enrolled as a citizen to our shame and corrupted the people with distributions of money, was threatening to take a dagger and cut the throat of anyone who mentioned peace.

The reference to Cleophon’s leadership is a calculated one, allowing Aeschines to draw correlations between hawkish policies, fraudulent citizenship, and the destruction of democracy. To ensure that the jurors grasp the relevance of the example to Demosthenes, Aeschines reminds the jurors of his foreign ancestry. After explaining that he heard Cleophon’s story from his own father, a man reviled by Demosthenes, he directly addresses Demosthenes—“you, Demosthenes, a descendant through your mother of the nomad Scythians” (Aeschin. 2.78). Although Demosthenes’s citizenship was perfectly legal because his parents married during a time when the city’s rules linking citizenship to bilateral Athenian parentage had been relaxed due to war, Demosthenes did have mixed ancestry on the maternal side. Accordingly, he was vulnerable to the link between irregular citizenship and disastrous war-mongering that Aeschines draws throughout.

Aristotle says that paradeigmata or examples are properly a tool of deliberative oratory since we judge the future by the past (Rhet. 1366a). Nevertheless, they often crop up in forensic oratory, as they do here—a case where past deliberative speeches were central to the argumentation. Not surprisingly, later in the speech, Aeschines offers another his-

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80 Aeschin. 2.71-75. Aeschines combines the history of the Social War with the history of the Macedonian War (both started in 357) to highlight Athens’s grim situation. For use of historical examples in fourth-century oratory, see Liddel, supra note 10, at 144-45; Ian Worthington, History and Oratorical Exploitation, in Persuasion: Greek Rhetoric in Action 109 (Ian Worthington ed., 1994).

81 See also Dem. 19.269.

82 Aeschin. 2.76-77. On Cleophon and Aeschines’s historical distortion here, see Carey, supra note 11.
historical narrative, this one adapted from a deliberative speech written decades earlier. He introduces the narrative by slipping in another dig at Demosthenes’s ancestry: “Nor do I prevent you from imitating Demosthenes’s ancestors (he hasn’t any) but call on you to emulate those policies that are honorable and protect the city.” After attributing periods of democratic decline to foreign influence and fraudulent citizens, he wraps up his history lesson by commenting on some of the current political leaders:

And they are placing the city in extreme danger. They support the name of democracy not with their conduct but with their flattering words; they are trying to destroy the peace that keeps democracy safe, while they champion the wars that destroy democracy. These are the men who have now formed ranks and come against me . . . . (Aeschin. 2.177-8).

Aeschines translates a political difference into an ideological divide, just as Demosthenes did in the prosecution. And again, the political difference concerns international affairs—the Macedonian question. Instead of being enemies of Macedon, the hawkish politicians have become enemies of democracy. As in the Timarchus case, Aeschines guides the jurors to look inside the city for the cause of their difficulties with foreign powers. In this case, his logic points directly at Demosthenes’s political leadership.

The attacks in the register of gender operate by a logic of exclusion. According to Demosthenes, the only possible explanations for Aeschines’s behavior were either that he had been bribed, or that he had made a mistake in trusting Philip in the first place. Aeschines, however, concedes neither of these points. Remarkably, in his own defense in 343/2 he continues to support the peace, despite the recent disastrous attempt to renegotiate it. Accordingly, he had to ward off the perception that his position was inspired by bribery or by cowardice. To this end, Aeschines reminds the jurors of his own sterling military record while repeatedly casting aspersions on Demosthenes’s manhood and fitness as a soldier, calling him a coward, a deserter, a cross-dresser, a womanly man, a barbarian, a sycophant, and a kinaidos, inter alia.

VI. Envy and Embassies

The skilled use of exempla coupled with ad hominem attacks in the registers of gender, genealogy, and civic morality, no matter how rhetorically effective, could not serve as Aeschines’s only defense strategy. His more encompassing theory of the case relies on a psychological argument, as in his prosecution of Timarchus. However, rather than ex-

83 Aeschines (2.171-77) adapts the historical narrative from [Andocides]’s On the Peace, an Assembly speech in which Andocides defends a peace treaty he negotiated. See John Buckler, supra note 50, at 152-53.
84 Aeschin. 2.171 answers Dem. 19.16. For the text, see Carey, supra note 11, at 153 n.226.
plaining the prosecution by appeal to Demosthenes’s diseased moral psychology, Aeschines harps on Demosthenes’s hostile or negative envy as the motivation behind his political moves. This portrait is significant not because it is necessarily true, but because it shows that Aeschines expected the jurors to believe that the competitive political honor system could go wrong in ways that not only generated malicious prosecution but also undermined the deliberative and cooperative capacity of their leaders.

Aeschines portrays the embassies in Macedon as a competition less between the ambassadors and Philip than between Demosthenes and himself. His negative envy at losing out in this competition becomes the explanation for his efforts to sabotage the peace and to destroy Aeschines himself. Aeschines begins his tale by highlighting what he wants the jurors to see: Demosthenes’s “excessive envy (phthonon), strange cowardice, mean-spiritedness, (kakoêtheian)” and plotting against his colleagues (Aeschin. 2.22).

On the first journey to Pella, Demosthenes wearied his colleagues by boasting about the power of his oratory; he supposedly promised to speak about the Athenian claim to Amphipolis, and “to sew up Philip’s mouth with a dry reed” (Aeschin. 2.21). As it happened, however, it was Aeschines who spoke about Amphipolis and Philip who, without trying at all, silenced Demosthenes. While it is unclear whether the envoys formulated a joint plan about what needed to be said or who would say what, they all wanted to address Philip. At the last minute, they decided to speak in order of age from eldest to youngest; this meant Aeschines would speak second last and Demosthenes last.

After rehearsing his own speech about Amphipolis to Philip for the jurors, Aeschines describes Demosthenes’s performance.

[At last came Demosthenes’s turn to speak, and all paid close attention, expecting to hear perfect examples of his verbal skill (for his extravagant boasting had been reported to Philip himself and his comrades, as we learned later). With all listening so intently, this creature uttered an obscure prologue in a voice dead with fright, and after a brief narration of earlier events, suddenly fell silent and was at a loss for words, and finally abandoned his speech. Seeing the state he was in, Philip encouraged him to take heart and not to suppose that he had suffered a complete catastrophe, like an actor in the theatre; he should calmly and patiently recollect his arguments and make the speech he had planned. But Demosthenes, once he had become confused and had lost his place in his notes, was now unable to recover; he tried once more to speak, and the same thing happened. In the ensuing silence, the herald asked us to withdraw.]

This report is exceptional insofar as Aeschines’s typical modus operandi is to alert the jurors to Demosthenes’s rhetorical finesse and sophistry. According to Joseph Roisman, this exceptional story of Demosthenes’s failure “turned the jurors into spectators of a contest in public speaking and service to the state, and demanded that they proclaim Aeschines the winner.” While this is true, it is only half the story. When Aeschines deploys rhetorical and cultural conventions to his opponents’ disadvantage, he usually adds a spe-

86 Aeschin. 2.34-35. On this passage, see Easterling, supra note 50 at 164; Carey, supra note 11, at 106 n.60; Paulsen, supra note 50, at 313-25; Roisman, supra note 11, at 397; Plutarch, Demosthenes 16.1.

87 On this tactic, see Hesk, supra note 77, at 241.

88 Roisman, supra note 11, at 395.
cific spin; in this case, Demosthenes’s failed performance operates as an eliciting condition for his hostile envy and motivated reasoning that follows.

When the envoys were alone waiting for Philip’s response, Demosthenes supposedly put on a sullen expression and complained that Aeschines’s speech had angered Philip and ruined the city’s hopes for peace (Aeschin. 2.26). But when Philip returned, he acknowledged all the points Aeschines had made, referred to him by name, and expressed words of goodwill towards him. At this, Demosthenes nearly choked (Aeschin. 2.38). By highlighting the disjunction between Demosthenes’s interpretation and the reality of Philip’s response, Aeschines depicts Demosthenes as a victim of envy and of motivated reasoning; he cannot see past the conclusion that his emotions and esteem want to be true. His discomfort supposedly persisted through the dinner that followed (Aeschin. 2.39).

The envy script continues on the embassy’s return journey, with Demosthenes plotting to undo his colleagues’ success (envy’s hostile action) to compensate for his defeat. To this end, he feigned recovery from his failure before Philip and began ingratiating himself with his colleagues. After disarming them, he dared them to repeat their praise of Philip in their report to the Assembly; but the dare was really a trap (Aeschin. 2.43).

On 8 Elaphebolion (March/April), the envoys addressed the Assembly, speaking in the same order of age as they did before Philip. First, Ctesiphon spoke, who included in his account praise of Philip’s good looks and social accomplishments; apparently he even said that Philip was an enjoyable drinking companion, as agreed in the dare with Demosthenes. Aeschines also included praise of Philip’s memory and eloquence in his account of the mission, also as previously agreed. When it was Demosthenes’s turn to speak, he was prepared to use his position in the speaking cue to his advantage. “Last of us all,” Aeschines says, “Demosthenes stood up and, with that portentous manner he usually adopts, he scratched his head; seeing that the Assembly was about to give its approval and acceptance of my report, he said he was amazed at both sides, both the audience and the returning envoys” (Aes. 2.49). He complained that both the speakers and the listeners were wasting time with foreign gossip. He had Philip’s letter read out and said: “You have your answer and that [which] remains is for you to decide” (2.50). At this, the Assembly erupted in an uproar, with some people shouting words of praise, but with the majority supposedly condemning Demosthenes’s envy (Aeschin. 2.51).

Demosthenes’s activities at this Assembly also show his support for the peace. It was Demosthenes who proposed that Philip’s herald and ambassadors should be admitted to Athens and that, on their arrival, the Assembly should meet on two consecutive days to discuss the peace and alliance. The Assembly dates were fixed for 18 and 19 Elaphebolion, immediately following the City Dionysia. Demosthenes also proposed that a vote of thanks be given the envoys as well as an invitation to dine in the public dining hall. Aeschines has these decrees read out less as proof of what the Assembly did than as proof of Demosthenes’s inconsistency (anomalian), envy (phthonon), and of his plotting and untrustworthy character (Aeschin. 2.54).

89 See also Aeschin. 2.53-5, 57-9; Harris, supra note 58; MacDowell, supra note 21, at 319.
Shortly after this Assembly meeting, Demosthenes also proposed (in the Council) that Philip’s ambassadors get front row seats at the Dionysia. He also hosted a lavish dinner party for the Macedonian ambassadors. Conceding that this behavior made him appear a strong supporter of the peace, in his prosecution, Demosthenes attributed it to his own sense of honor and competitiveness:

I entertained the ambassadors from Philip, and very lavishly too, men of Athens; for after seeing how they pride themselves on their affluence and lavishness, I at once thought that the entertainment of those ambassadors was my first opportunity to surpass them and be seen more generous (19.235).

On one level, this was a skillful deployment of competitive social values, and one in which the jurors could share. It effectively answered Aeschines’s charges that Demosthenes supported the peace and flattered the Macedonians. On another level, however, his pride in his own competitive ethos provides unwitting support for Aeschines’s envy narrative.

In any event, Demosthenes’s colleagues were better prepared in round two: on the second embassy no one would dine with him (Aeschin. 2.97). The Assembly instructed this embassy to get Philip’s oath to the treaty and alliance and to negotiate for any other good they could. The envoys were clearly uneasy about the latter aspect of their mission. According to Aeschines, the Assembly was deliberately vague, leaving it for ambitious envoys (lovers of honor) to convince Philip how to settle the Third Sacred War, humbling Thebes instead of Phocis (Aeschin. 2.104-5). But the envoys could not come to agreement on what to say and decided instead that that each man should speak as he thought best (Aeschin. 2.107). Demosthenes supposedly admitted to being too afraid to address Philip about Greek affairs (Aeschin. 2.106).

Aeschines’s strategy, once again, is to associate himself and his speech before Philip with what the Athenians really wanted: first Amphipolis, as above, and second the “humbling” of Thebes. One might think that since he (and the Athenians) spectacularly failed to achieve either of these ends, that such an emphasis was misguided. However, it did achieve other important ends in the courtroom. It enabled Aeschines to cast himself as fully aligned with Athens’s interests and the victor in the competition among the envoys before Philip. In the logic of the prosecution, these victories before Philip are the cause of Demosthenes’s hostile envy, and hence the reason why he has done his best to sabotage relations with Macedon.

Although his account of the second embassy is shorter than the first, here Aeschines manages to cast Demosthenes in an even worse light. This time when the envoys met Philip, Demosthenes, the youngest, demanded to speak first, allegedly to prevent Aeschines from monopolizing the meeting (Aeschin. 2.108). According to Aeschines, Demosthenes proceeded to tell Philip about the proposals he had made to secure the peace process.

He began his speech with a veiled slander against his fellow envoys, to the effect that we had not all come with the same purpose or opinions. Then he recounted the services he

90 See Roisman, supra note 11, at 395.
had performed for Philip . . . including the decree granting seats of honor at the Dionysia to Philip's envoys. He went on to mention his own attentiveness, his provision of cushions and his nights on watch because of people who envied him and desired to attack his honor (philotimia) and gave an absolutely ridiculous account that made his colleagues cover their faces, of how he entertained Philip's envoys, how he hired mule teams for them when they were leaving and accompanied them on horseback, not shrinking into the shadow like some people but making a public display of his favor for their cause. And then he also corrected those statements of his: 'I did not say that you were handsome, for a woman is the most beautiful thing there is. Nor that you were a good drinker, which I regard as praise fit for a sponge. Nor that you had a retentive memory, an encomium in my view for a hack sophist.' To avoid a long story, this was said in the presence of representatives from virtually the whole of Greece. This provoked a kind of laughter that one seldom hears. (Aeschin. 2.109, 111-12, trans. Carey 2000 adapted).

In the presence of Philip, Demosthenes's competitive desire to surpass his colleagues transforms into egoism and shameless flattery. By recalling Demosthenes saying that he had to take extra precautions for the ambassadors because certain men in Athens were envious of him and wished to undermine his philotimia, Aeschines makes him look grandiose and ridiculous. The portrait was also calculated to trigger contempt. In mid-fourth century Athens, philotimia was acquired by performing a service that benefitted the demos. By depicting Demosthenes as trying to win philotimia from a foreign ruler, Aeschines shows him as both a flatterer and an inept negotiator of social boundaries. Real philotimia, as Aeschines said in the meeting before the second interview with Philip, meant speaking up to Philip about the importance of handling the Third Sacred War in a way that served Athenian interests (Aeschin. 2.105). After Demosthenes spoke, Aeschines did just this, giving concrete recommendations about how Amphictyonic matters should be handled.

VII. Conclusion

Though the trial ended in a virtual tie, it did affect politics and policy, moving the Athenians closer to the view of Demosthenes and others that Philip was their enemy and the peace a sham. The trial gave Demosthenes (and others) a format in which to offer a revisionist history of the peace, which presented the disadvantageous peace terms as a product of Athenian corruption rather than the actual situation, i.e., Philip's strength and their relative weakness. In other words, waging the political battle in the court provided a way to create new political meaning. Not surprisingly, later characterizations of Philip in Assembly speeches present his behavior in juristic terms, likely in response to the reimagining of the peace process in the law court setting (Dem. 9.1, 22, 32, 34; [Dem. 7]).

More important, the trial suggests that Athenian leaders were vulnerable to the culture of competitive political honor in which they participated. That is, the liti-

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91 Aeschines was acquitted by only 30 votes, Plut. Dem. 15.5; in a case like this, there would have been between 501 and 2501 jurors.
92 See Peter Hunt, War, Peace, and Alliance in Demosthenes’ Athens 68 (2010).
93 For the application of legalistic language to the behavior of states in ancient Greece, see Hunt, supra note 92, at 218.
Critical Analysis of Law 3:1 (2016)

gant/politicians involved in this case were not only manipulating competitive social values to the determinant of their opponent, but were also being manipulated by the conditioning effects of the very cultural values and conventions that they were deploying. Demosthenes explicitly casts many domestic and foreign policy issues in the idiom of the competitive political honor system and/or in the adversarial terms of the law court. By contrast, Aeschines attributes Demosthenes’s prosecution to competitive values gone awry; while his interested narrative is not a reliable source of information about Demosthenes’s psychology, Aeschines clearly believed the jurors would find his tale about the hostility of an envious politician plausible. Although one might object that it did not really matter how they talked about Philip and their standing in the international arena, the Athenians themselves recognized the constitutive effects of speech. In this case, adversarial and reductive rhetoric foreclosed other ways of seeing the situation and increasingly pushed Philip into playing the part into which he was cast: enemy rather than benefactor.

One of the most intriguing possible responses to the trial (and other recent bribery scandals) was the Council’s decision at the end of 343/2 to hold a contest for the speaker of the year, the member of the Council who spoke and acted the best and, of particular interest, who did so without taking bribes (adôrodokêtôs, line 5). It is not known whether this was the first such contest or whether it was the first time that conducting one’s political activity without bribery or corruption was touted as a civic virtue. That said, such praise is not common in honorary decrees prior to the Hellenistic period.

The decree for Phanodemus provided a format for the polis to articulate and promulgate important civic norms and virtues, which in this case included resistance to bribery. Just as Demosthenes supposes in the embassy speech, so the decree champions

94 Demosthenes’s competitiveness manifests with his Athenian opponents, and, due to his close personal identification with the city and its history, with Philip and Macedon. For Demosthenes’s tendency to assimilate himself to the city, see Wohl, supra note 50. Meyer’s comments are pertinent here: “In its most developed form, the process of honoring emphasized the deep intertwining of individual and democratic city . . . .” Meyer, supra note 10, at 486.

95 Demosthenes, On Organization, 13, offers a detailed analysis of the way rhetoric shapes reality. For this speech as Demosthenic, see MacDowell, supra note 21.

96 The honorary decree for Phanodemus is IG II² 223 = IG II³ 1 306. The inscription (one of five on the statue base of a dedication to Hephaestus) records the Council’s decree awarding Phanodemus and their próboloúma (preliminary decree) to the Assembly. In this example, one of the earliest extant inscriptions exhibiting the innovations discussed above, the honors result from a formal contest; in other cases, the honorand may issue a request. See Lambert, Inscribed Athenian Laws, supra note 10. For Phanodemus, see Adele Scafuro, The Crowning of Amphiaraos, in Greek History and Epigraphy, supra note 10, at 59; Liddel, supra note 10.

97 For officials performing their duties adôrodokêtôs as a virtue in honorific decrees, see Whitehead, supra note 21, at 66 n.34. The formula “kalôs kai philotimôs kai adôrodokêtôs” (line 11) in the decree for Phanodemus is only attested here. See Chryssoula Veligianni-Terzi, Wertbegriffe in den attischen Ehrendekreten der klassischen Zeit 207 (1997). Praise for behaving incorruptibly becomes more common in honorific decrees from the Hellenistic period. See, e.g., IG² II 649 = IG³ 1 857.

98 Hansen, supra note 2, at 157, views the decree as an effort to stimulate democratic participation.
civic honors as a defense against bribery. On another level, however, this antidote may have had unintended consequences. That is, honoring a speaker for “saying and doing the best things” may have fueled the affective dynamics that encouraged politicians like Demosthenes to extremes of competitive behavior. While contests proved a useful solution to many issues in Athenian civic life, it is unclear whether the benefits of ratcheting up the competitive drive of political leaders, in a situation where honor was of necessity limited, outweighed the costs.

99 For the possible connection between the honorific decree for Phanodemus with foreign policy issues in 343/2, see Scafuro, supra note 96, at 68, with references cited.