

Sometime in the last few decades of the last millennium, I think it was 1974, I taught a class in Greek rhetoric, or maybe more accurately, in the theory and practice of speech making in Athens. We read a mixture of theory and speech specimens, but the only continuous work of any great length on the syllabus was Demosthenes 21, *Against Meidias*. Though I don't believe I did any lasting harm with that course, it became clear to me that the syllabus was too diffuse for the general run of students, and that what particularly appealed to *all* of them was the concreteness of *Against Meidias*, a speech arising from real men in verbal and physical conflict, bad-mouthing and punch-in-the-nose sort of thing—whether or not Demosthenes' speech was actually delivered. About the same time, it was becoming increasingly clear to me that most of our students, undergraduate and graduate, were reading too little prose and, aside from the historians among them, were *very* foggy on the evolution of Athenian political institutions. Then and to this day, my department has been reluctant to make many specific courses mandatory, and its fairly large faculty has been able to offer a long menu of many dishes. With all this in mind—the year was 1988, if I can trust my records—I devised a course that would combine prose texts from the most richly attested feature of Athenian public life, its law courts, and add, as dessert, as it were, the comedy Aristophanes was kind enough—and prescient enough—to compose for such a course, the *Wasps*. This structure has worked well pretty well since its inauguration, though as with all such things, successive iterations have varied widely in the competence of the students and their tastes and, as always, in classroom atmosphere. The name has remained the same: “Athenian Law and Law Courts.”

In this course, the larger history of Greek law is virtually, or totally, ignored — matters such as the Gortyn Code, or the general question of the relationship between written law and the rise of tyrants and democracy in archaic Greece—unless students voice a strong interest in them. Instead, we head straight for Athens, and look briefly at the principal events in the history of Athenian law, with a decent minimum of time devoted to controversies in interpretation. In the archaic period we discuss: the replacement of self-help by written laws and the city's construction of a judicial apparatus increasingly independent of eupatrid control; Draco, Solon, relevant aspects of Peisistratid rule, including the report that under the tyranny the laws on the books remained on the books, and what the general implication of such a practice might be; Cleisthenes' tribal reorganization and its importance for what was to come in the next century and a half; then, Miltiades in court, Ephialtes and the Areopagus, with a brief stopover at the *Eumenides*—which nearly all students have read, at least in English; the institution of jury pay and its consequences; and the fourth-century changes in the selection and assignment of jury panels. Though I provide some narrative and mention some of the most important issues, much of the class time at the start goes into s-l-o-w reading, in Greek, from the epigraphical sources, Herodotus, several excerpts of the *Athênaiôn Politeia* describing fourth-century procedure, and some particularly interesting excerpts of Aristotle's *Politics*. There I single out Aristotle's description of jury service as an ἀρχή

One perennial challenge is accommodating wide differences in historical knowledge; what many students know of the courts is Plato's *Apology*, and though that piques the interest, it is, of course, far from straightforward reportage of the historical

reality. Worth emphasizing from the start is the need to be suspicious of the sources in two regards. First, the chronological lag of virtually all of our sources; though I can't impersonate a Hignet dismissing of the *Ath. Pol.* as fourth-century rhetoric, the class does need to keep in mind that Athens is not Philadelphia, 594 B.C. is not 1776, and there is a reason that the *Ath. Pol.* needs to squeeze political history out of Solon's propaganda in verse. Second, they should develop a consciousness of distortions rising from opportunism of the moment and of ideology. It is important for them to be conscious that when reading court speeches, all or most from the fourth century, the phrase "the laws of Solon" has no universally accepted referent, and that however much you may trust your grandmother, *you* cut the cards.

The main reading, of course, is from actual law court speeches, or rather, the preserved speeches that correspond, at least roughly, to actual court events. The first time the texts included Lysias 3 *Against Simon* and a portion of Demosthenes 23 *Against Aristocrates*. As for the first: Even as compared to Lysias 1, which became a staple of elementary instruction in the Great Retreat of Blue Stocking Pedagogy which followed Dover's commentary on the *Clouds*, and certain profound changes that the *Clouds* commentary—by itself—triggered in American society, *Against Simon* is a sure thing. The students are immediately spellbound by the narrative. *Mutatis mutandis*, many of us have been there. The speech is short, and the Greek is easy. Help is available from Ruth Scodel's *Bryn Mawr* commentary, and at a more advanced level Chris Carey's Green and Yellow, *Lysias: Selected Speeches*. For students with only two years of Greek, these books make an enormous difference. The other text was a less intelligent

choice. I *think* I chose *Against Demosthenes Aristocrates* because I figured that discussion of the laws of homicide would appeal to the cheap thrill of violence and, at the same time, would appeal by its very self-consciousness, manifest in its long stretches explicitly about procedure and terminology. This choice proved a blunder. It's a symbouleutic speech with a tangled fourth-century inter-polis background; however thin the typical student's knowledge of fifth-century history, it is profound compared to what he knows of the fourth. The instructor was, and still is, disgracefully shaky in the history of that period; worse, there is, to my knowledge, no English-language commentary at any level; I assigned 61 sections out of the speech's 220, which guaranteed that the students made excessive use of a "native language corroboratory text," or in vulgar language, a pony or trot.

I have found it best, at least at the start, to avoid the *Against Aristocrates* sort of text, and instead choose speeches arising from events closer to the students' knowledge, or perhaps even their own experience. Obviously, Lysias 3 can stay: we've all been there; Demosthenes 54 *Against Conon* will also work if you've been to Boy Scout Camp or dealt with fraternities, like Yale's repellent Delta-Kappa-Epsilon. Demosthenes 59 *Against Neaera* is by content a very good bet indeed, but its length means that reading assignments will have to be a mix of Greek and English. Moreover, an honest treatment of *Against Neaera*, does require something of a diversion: a short, or maybe not *so* short, talk on the authorship problem, but forgery, or even innocent misattribution, always seems to attract a sort of salacious interest. I've seen—and been part—of a crowd of very attentive spectators at an exhibition of paintings attributed to Rembrandt. To an

idiôtês like myself, that paintings were copied for illicit gain, or—which is a little more complicated—that masters worked alongside their students, is a fascinating business, provided there are at least some easy-to-understand clues to follow. And I am grateful for an opportunity to defend Dover’s theory in *Lysias and the Corpus Lysiacum*, now some forty years old, and widely rejected, of composites of composition by the men he calls the “consultant” and “client.” I confess to an ulterior motive: the Dover theory buttresses my own theory of poor amateurs speaking in court—and doing a bad job of it. Once I have delivered my sales pitch for the amateur speaker and his professional counterpart, I am content to leave these phantom speakers and move on to speeches arising from the life of the men we can call *politeuomenoi* and *plousioi*.

I’ve already touched on the near necessity of commentaries to help the students prepare the text; without them, you are virtually guaranteed a tortoise-slow movement through the readings. It might be useful to survey what’s available. Lysias is, of course, the easiest of the *logographoi*, and Chris Carey has several of the speeches most suitable to the course I’m describing. Carey also has *Against Conon* in Green & Yellow, but I have shied away from Demosthenes 37 *Against Pantaenetus* and 57 *Against Dionysodorus*, where the complexity and intrinsically drier material are likely to leave many students bored, even truculent. I haven’t tried the other speech in the same set, Demosthenes 39 *Against Boeotus*, but would guess that despite the intriguing premiss—two men have the same name—it wouldn’t do much better. For Demosthenes’ early forays against his guardians, I have found that a now old commentary, with little for more advanced students, has worked well: Lionel Pearson’s *Demosthenes: Six Private Speeches*, an APA paperback textbook. Better avoid the bottomry case. I’m currently

directing a dissertation in the form of a commentary on those first speeches; the author is a Yale Law School graduate, and he might eventually prune away the technicalities to produce something an elementary student will find helpful.

For the speech *Against Neaera* there is Kapparis' excellent commentary, but it seems to me excluded by two disadvantages: *huge* expense, courtesy de Gruyter, and a facing translation to which students' eyes will too often stray. Publishers have come to favor the facing-language format, once seen only in Loeb and Budés. The modern trend began, I think, with the Aris & Phillips oratory series very competently executed by scholars like Stephen Usher and Mike Edwards, and has spread to the Oxford Press—Nick Fisher's *Aeschines Against Timarchus* and Whitehead's *Hyperides*—but it's dangerous for Hellenists-in-training. I wish the pony-free Cambridge Green & Yellow were cheaper and better constructed—I mean physically: turning from text to commentary too often means fighting the tight bindings. We shouldn't have to think about these things.

So much for the material to read in Greek. I think it a very good idea to broaden the course by simultaneously reading other speeches in translation. Then, when as they read slowly through the Greek, both clichés and surprises will have their proper effect.

It's a good thing that orators can now be read in their Loeb translations on *Perseus*, and an even better thing that we are now very nearly free from the many defects of the Loeb's: out-dated scholarship and an English style that gives contemporary students increasing trouble each year. How many understand, let alone correctly pronounce "blackguard." Two recently published books should prove very useful, not just to the sort of class I'm describing, but courses taught entirely in translation. Besides Michael

Gagarin's Texas series of individual authors—very close to completion —there is a single-volume of "Texas' greatest hits." And Kapparis and Wolpert have produced a smaller and proportionally less expensive volume. \$25 and \$10 respectively, at least on Amazon.

If there's enough time during the term—and not once yet *has* there been nearly enough time— I would like to add some fictional forensic speeches written in the classical period, like Gorgias' *Palamedes*, and Plato's descriptions of proper adjudication for Magnesia in the *Laws*.

Throughout, I aim to keep students focused on the texts and thinking things through on their own, but there are, of course, matters for which they need to consult scholarship when writing a short paper. MacDowell's *The Law in Classical Athens* has proved remarkably durable, but there is now a long list of distinguished usual suspects, including, among books, Todd's *The Shape of Athenian Law* and our commentator's *Law and Justice in the Courts of Classical Athens*.

To avoid even the appearance of bait-and-switch, I am careful never to suggest that the appearance of this course will enhance a student's attractiveness to a law school admissions committee. It has reached me that LSAT-s pretty much rule the roost in that world. Nevertheless, I exploit the students' experiences whenever there's a contrast or similarity between contemporary legal practice that might serve a pedagogical, or even vaguely heuristic, purpose. The lowering of age requirements for jury service might mean that a student has at least the experience of *voir dire* to contrast with Attic sortition, or even sat on a jury. Twice there have been students with law degrees in the class; one undergraduate, our commentator as it happens, had seen for herself Hudson County, NJ

“law in action,” as the phrase goes. At the risk of pandering, I have adduced *comparanda* from some regrettably spectacular cases in or near Yale.

I won't take the time to rattle of the “topics for student presentations and term papers” mentioned in my abstract¹. They have proved fruitful in the past, but require—and repay—revision at each iteration of the course. It goes without saying that controversies come and go, and I would recommend that a colleague who mounts a course like this be alert to currents not only outside Greek legal scholarship *per se*, but to Greek literature in general, even though I often feel that some colleagues engage in over-homogenization, for instance in claiming improbable connections between real trials and Attic tragedy. A student who has studied Roman law should be encouraged to draw contrasts, even if it encourages contempt for our Athenians and risks sending students to rigorous instruction à la Bruce Frier. A student who has watched lay magistrates at work in the UK could tell us how they operate. An Israeli student might know about his country's blending of Jewish, Ottoman, and Common Law. For a year or two more, Yale students will know about how the Cheshire home-invasion case was adjudicated.

I'll conclude with a few words on how I've handled the *Wasps*. From the start I've used MacDowell's text and commentary; when it went out of print, I had to get permission from the Oxford Press to reproduce it, which they granted, *gratis*. Now it's back in print as a paperback, but for \$70. Good news/bad news. Among the book's

¹ “Procedural vs. substantive law,” litigiousness, stylistic and rhetorical analysis, slave evidence citizenship, arbitration, the economic status of the jurors, “open texture” of Athenian law, homicide courts, the interplay of real litigation and dramatic fiction, comparisons of Athenian law with other ancient or “traditional” systems of dispute resolution, and comparisons with contemporary Common Law and Civil Law systems.

virtues is an introduction to prosody and meter, and I try—not always with great success—to get the students scanning and reciting. If the class has sufficiently histrionic members, I have them stage the trial of Labes/Laches, with a diffident student chosen to do the defendant's *ἀὖ ἀὖ*. As I've already mentioned, I make a conscientious effort to make the students aware of the differences between a comedy and real litigation, between the 420s and the Athens of the *Ath. Pol.*, while stressing the need even a caricature has to keep its distortion anchored to the recognizable. If stiff-necked legal types in the class show intolerance to the *Wasps* the next time I teach this course, I will encourage them to think of opportunities for prosecuting Aristophanes for *κακῆγορία*.