

CURBING THE COMEDIANS: CLEON VERSUS ARISTOPHANES AND SYRACOSIUS' DECREE

There is a tendency to prune the record of restrictions on the freedom of thought and expression in fifth-century Athens. K. J. Dover has demonstrated that many of the stories of attacks on intellectuals rest on little more than flimsy speculation.¹ Similarly there has been a reluctance to accept the historicity of the several restrictions on comedy recorded by scholiasts. Thus, for example, H. B. Mattingly has expressed doubts about Morychides' decree,² and S. Halliwell has rejected Antimachus' decree as a fiction and has adopted an agnostic attitude towards Syracosius' decree.³ But one cannot sweep all the references aside as fallacious inferences. This short paper looks first at the evidence that Cleon initiated a legal action against Aristophanes (or possibly Callistratus) after the production of the *The Babylonians*, in the light of what the Old Oligarch wrote about curbs on comedians. Secondly, the historicity of Syracosius' decree will be tested by an attempt to define its nature and purpose in its political context. This exercise will show that circumstantial evidence adduced against the historicity of the decree has no compelling force.

A. The prosecution of Aristophanes

In the *Acharnians* Dikaiopolis comments on the way his fellow citizens are easily won over by any orator who flatters them and their polis, however dishonest his purpose, and he complains of the acerbity of the old men in their rôle as jurors: 'I know that from my own experience from what I suffered at Cleon's hands because of last year's comedy. For he dragged me into the Council Chamber, slandered me, churned out lies against me, and shot the excrement through the fan, so that I almost drowned in the business' (377–82).

The scholiast informs us that Aristophanes was referring to *The Babylonians*, in which, the scholiast continues, Aristophanes abused many people, 'for he made a mockery of officials picked by sortition and by election and of Cleon, while there were foreigners present... For this reason Cleon was angry and laid a charge against Aristophanes before the people for wrongdoing (*adikia*), claiming that Aristophanes had acted with intent to insult (*eis hybrin*) the people and the Boule.⁴ The procedure appears to have been that of *εἰσαγγελία* (impeachment). The scholiast's reference to a legal action has been dismissed as his own inference,⁵ and it has even been suggested that *Acharnians* 378 may have been 'a fictional invention by Aristophanes'.⁶ But one

¹ 'The Freedom of the Intellectual in Greek Society', *Talanta* 7 (1975), 24–54.

² 'Poets and Politicians...', in *Greece and the Eastern Mediterranean... Studies Schachermeyr* (Berlin, 1977), pp. 231–45, esp. p. 243.

³ *CQ* 34 (1984), 83–8, esp. p. 87.

⁴ Cf. the fragment of another scholion in *Ox. Pap.* vi.856, esp. 25–7, and the brief reference in the anon. *vit. Ar.* 4.

⁵ Recently stated, for example, by E. M. Carawan, 'The Five Talents Cleon Coughed Up', *CQ* 40 (1990), 137–47, esp. p. 140.

⁶ D. Gilula, 'A Case for Aristomenes (*IG* ii².2325)', *CQ* 39 (1989), 332–8, esp. p. 337. Gilula also picks up K. J. Dover's point that in 377–8 (and 501–2) the first person singular must refer to the comic protagonist (*Greek and the Greeks* (Oxford, 1987), p. 296, originally in *Maia* 15 (1963)). But Dover was commenting on the literary interpretation of the two passages, and not arguing that Cleon's legal action was fictional.

must consider beside lines 377–82 the elaboration of the point in lines 501–5, which would seem to be improbably obscure, if they bore no relation to any historical reality.

The *Acharnians* was produced in 425, and in line 378 Aristophanes says that his clash with Cleon arose from his play of the previous year, which must be 426. The Suda iv.318, 7–9 states that the *Babylonians* was produced in the archonship of Eucles (427/6).⁷ Cleon was a *bouleutes* before 424 (*Knights* 774–6), and it has been supposed that he held this position in 427/6, but P. J. Rhodes objects that this is pure speculation, and M. Ostwald argues that he served in 428/7 and again ‘in 425’.⁸ Ostwald accepts the argument that Cleon’s claim to have boosted the Athenian coffers when he was a *bouleutes* (Aristophanes, *Knights* 774–5) suggests that he was the initiator of *eisphora* in 428/7. To this we shall return. Ostwald would assume that Cleon must have been a member of the Boule to have participated in the discussion of Sparta’s proposals for a peace treaty. The first stage in the debate came before the end of 426/5, after the naval battle off Pylos, possibly towards the end of June 425.⁹ Ostwald argues from Thucydides 4.22.2 that Cleon was a *bouleutes* at the time of the first Spartan approach.¹⁰ But the critical sentence in the scholiast on Aristophanes, *Peace* 665 linking Cleon with a debate in the Boule relates to the aftermath of the Athenian capture of Sphacteria, towards the end of 425.¹¹ This issue is a weak one on which to base a discussion of the date of Cleon’s membership of the Boule, since the sources emphasise Cleon’s advocacy in the Assembly of rejection of Sparta’s peace proposals.¹² No source explicitly attests that Cleon influenced the Boule as one of its members. Furthermore, Ostwald’s case is weakened by his advocacy for Cleon’s having served two terms as a *bouleutes*: the silence of the sources about any such iteration is suggestive, if not telling; and the case collapses if one has to accept that Cleon is further indicated as a member of the Boule after the surrender of Sphacteria. He cannot have served three terms on the Boule.¹³

In Aristophanes, *Knights* 773–6 Paphlagon, the thinly disguised Cleon, claims that as a *bouleutes* he had raised a great deal of money for the city by racking some, throttling others and securing additional payments from others. *Knights* 923ff. shows that the reference was to *eisphorai*, which from the autumn of 428 constituted a regular source of income to sustain the war effort. Thus it is possible that Cleon was a *bouleutes* in 428/7 and in that capacity introduced a motion relating to *eisphora*, but Thucydides omits to charge this form of wealth tax to Cleon,¹⁴ and this may suggest that he was not the initiator. An alternative interpretation is that Cleon was a *bouleutes* in 427/6 and exploited that position to enforce the collection of *eisphora* vigorously, which would make better sense of *Knights* 773–6.¹⁵ This would mean that

⁷ A catalogue of victors at the Dionysia gives ‘Ari[-----]’ for what is believed to be 427/6: *IG* ii².2325, col. II. D. Gilula, art. cit. (n. 6, above), challenges E. Capps’ case for restoring Arix[stophanes] (*AJPh* 28 (1907), 179–99), and argues that Arix[stomenes] has to be considered.

⁸ *The Athenian Boule* (Oxford, 1972), p. 4; M. Ostwald, *From Popular Sovereignty to the Sovereignty of the Law* (Berkeley, 1986), pp. 204–7.

⁹ The debate fell within Euthynos’ archonship (Schol. Lucian, *Tim.* 30, p. 116, 4 R = Jacoby, *FGrHist* 328 F 128b), and H. T. Wade-Gery and B. D. Meritt, *AJPh* 57 (1936), 377–94, pp. 382–3, starting from the temporal indication in Thuc. 4.2.1, set the battle on 25 June 425.

¹⁰ Ostwald (n. 8, above), pp. 206–7.

¹¹ Schol. RV Aristoph. *Pax* 665 (Jacoby, *FGrHist* 328 F 128a). The capture of Sphacteria fell 72 days after the naval battle (Thuc. 4.39.1).

¹² Philochorus, Jacoby, *FGrHist* 328 F 128; Thuc. 4.21.3ff.; [Ar.] *Ath. Pol.* 28.3.

¹³ [Ar.] *Ath. Pol.* 62.3.

¹⁴ Thuc. 3.19.1.

¹⁵ The scholion on Ar. *Acharn.* 6 (Theopompus, Jacoby, *FGrHist* 115 F 94) is of no practical value in interpreting the history of *eisphora* in this period.

he was in a privileged position at the time of the debate on the punishment of the Mytileneans,¹⁶ and that he was a member of the Boule when he asked that body to take action against the author of the *Babylonians*.

Thus 427/6 is the most attractive possibility as the year of Cleon's membership of the Boule, but with regard to the case concerning the *Babylonians* we must stop short of producing a cyclical argument.

If the *Babylonians* was produced in 427/6, then it was not done in Aristophanes' name, for Aristophanes only went on his own with the *Knights*, and in the period 427–5 collaborated with Callistratus, who would have taken the credit for the *Banqueters*, *Babylonians* and *Acharnians*. Thus, in MacDowell's view, it was not Aristophanes who was taken to court by Cleon in 426, but Callistratus.¹⁷ This uncertainty about the identity of the defendant does not materially affect the question of the historicity of the impeachment.

As one learns from the scholiast, the burden of the complaint was that Aristophanes had made fun of various classes of officials, and Cleon, while there were foreigners present; but in *Acharnians* 501–5 Dikaiopolis says: 'What I am going to say will be blunt, but fair comment. At least this time Cleon will not be attacking me for speaking ill of the city (τῇ πόλιν) in the presence of foreigners. For it is just ourselves, it's only the Lenaea, and there are no foreigners here yet.' Fragments from *The Babylonians* include taunts that Athenian demagogues were corrupt and an attestation of the verb 'Lacedaemonize'.¹⁸

There is no suggestion in the scholium that Cleon was looking for protection of his good name as a private citizen, and an action for defamation would not have won him more than a token victory.¹⁹ It is possible that Cleon sought protection for his dignity as a member of the Boule: this is allowed by the scholiast's formulation of the issue (ad *Acharn.* 377). In considering this proposition and the scholiast's note that the action was restricted to protecting men who held office gained by sortition or election, one should refer to a passage in the pseudo-Xenophontic, *The Constitution of the Athenians* 2.18. It is necessary at the outset to consider the date of this work, though this is not the place to offer a full Forschungsbericht and discussion of all the issues. The work appears to reflect the operation of the Periclean strategy during the Archidamian War (2.4, 13–16). These passages, together with the reference to an annual requirement of 400 trierarchs (3.4, whereas Thucydides 2.13.8 gives the number as 300 at the outset of the War), seem to rule out a date earlier than 431.²⁰ E. Will takes 2.14–16 to demonstrate that the work was produced in 431/0 during the early months of the war.²¹ But in 2.19–20 the writer expresses a concern about demagogues which is more intelligible if he was writing after the death of Pericles.²²

¹⁶ Thuc. 3.36.6 indicates that the original motion adopted was Cleon's.

¹⁷ 'Aristophanes and Kallistratos', *CQ* 32 (1982), 21–6, esp. p. 24. For further discussion and references see Carawan, *CQ* 40 (1990), esp. p. 138 n. 3.

¹⁸ J. M. Edmonds, *The Fragments of Attic Comedy* (hereafter *FAC*) (Leiden, 1957), i, esp. 592ff., frs 70, 81 and 95.

¹⁹ The defamation law was that attributed to Solon: Plut. *Solon* 21.2; M. Radin, *AJPh* 48 (1927), 215–30, esp. pp. 221–2. For a general treatment of Athenian law relating to slander see D. M. MacDowell, *The Law in Classical Athens* (London, 1978), pp. 126–8.

²⁰ For references to works dating the *Ath. Pol.* earlier than 431 see M. Treu, *RE* 2.R. IX A (1967), cols. 1928–82, esp. 1947–59.

²¹ 'Un nouvel essai d'interprétation de l'Athénaiôn Politeia Pseudo-Xénophontique', *REG* 91 (1978), 77–95, pp. 83–4.

²² Cf. W. G. Forrest, 'The Date of the Pseudo-Xenophontic Athenaiôn Politeia', *Klio* 52 (1970), 107–16, pp. 108 and 113.

The references to the payment of *phoros* in 2.1 and 3.2 and 5 should antedate the scrapping of *phoros* in 413 (Thuc. 7.28.4).²³ In 3.5 the writer states that as a rule tribute-assessments were undertaken every fifth year. This has been taken to reflect the tightening up of the organisation of *phoros* collection in the latter part of 425 in terms of a bill introduced by Thoudippos.²⁴

The observation in 2.5 that a land power has an effective range of action of a few days march implies that this was written before Brasidas reached Thrace in the late summer of 424 (Thuc. 4.78ff.), and the Delion campaign towards the end of 424 (Thuc. 4.89ff.) marked a departure from the Periclean strategy reflected in 2.4.²⁵ Thus a credible case can be made for dating the *Ath. Pol.* to the period between late 425 and the summer of 424, without drawing in the question of the relationship of 2.18 to Aristophanes' record.²⁶ If Brasidas' campaign into Thrace marks the terminus ante quem then there is no need here to comment on C. Leduc's case for dating the *Ath. Pol.* to the period 421–418.²⁷

Thus it would seem that the *Ath. Pol.* was written after Cleon's action over the *Babylonians* and fairly close in time to Aristophanes' production of the *Knights*.

The crucial passage in the *Ath. Pol.* reads:

Caricaturing the *demos* in comedy and speaking ill of it²⁸ they do not allow, so as not to acquire a bad reputation. But as regards private individuals they encourage it, if anyone wishes to malign someone, for they know very well that the person pilloried in comedy is generally not one of the people or masses, but someone either wealthy, or distinguished, or influential. A few men of impecunious or lower class origins are made fun of in comedy, but only if they are prone to get involved in every public issue or seek to lord it over the *demos*...²⁹

One interpretation of this passage is that there was a specific law, rather like the Roman *maiestas* law, which protected the institutions of the Athenian democracy against attack in comedy. But most scholars have taken the writer of the declamation to mean that the people were not prepared to put up with ridicule of the *demos*, rather than that there was a formal law restricting the scope of satire.³⁰ This seems to be the better interpretation, for the middle section of the passage quoted is a complaint that the majority tolerates ridicule of individuals – or rather individualists –, since the latter tend to be of the upper crust of society. Thus the comment is about a feature of class conflict in Athens. There is no suggestion that the assembly maintained a law that protected the dignity of any elected, or lot-elected official, because he was the

²³ C. Leduc, *La constitution d'Athènes attribuée à Xénophon* (Paris, 1976), p. 30.

²⁴ IG i³.71. The year is fixed as 425/4, but the prytany date is disputed (R. Meiggs and D. Lewis, *Greek Historical Inscriptions* (Oxford, 1969), pp. 194–9). This item is crucial to W. G. Forrest's case (n. 22, above), pp. 114–15.

²⁵ Forrest (n. 22, above), pp. 107–8, Treu (n. 20, above), col. 1951, G. W. Bowersock, *Xenophon: vol. 7, Scripta Minora* (Cambridge, Mass., 1968), pp. 463–4.

²⁶ Though this is central to E. Kalinka's discussion of the date of the *Ath. Pol.*: *Die Pseudoxenophontische 'Αθηναίων πολιτεία...* (Leipzig, 1913), pp. 5–15.

²⁷ *La Constitution d'Athènes attribuée à Xénophon* (Paris, 1976), to which E. Will responded in *REG* 91 (1978), 77–95. C. Leduc, 'En marge de l'Athénaiion Politeia attribuée à Xénophon', *Quaderni di storia* 7(13) (1981), 281–334 counters Will's attempt to dismiss her earlier study as an exercise in the misapplication of Marxist sociology.

²⁸ *κωμωδεῖν καὶ κακῶς λέγειν* might be taken as a form of hendiadys, 'to abuse in comedy' (whether verbally or representationally): the scholiast on Ar. *Ach.* 378 uses the expressions interchangeably, and in what follows in 2.18 the writer uses only the verb *κωμωδεῖν*; but E. Kalinka (n. 26, above), p. 244 is, in my view, right to differentiate the two.

²⁹ This translation is an adaptation of that of H. Frisch, *The Constitution of the Athenians...* (Copenhagen, 1942); cf. the translation by G. W. Bowersock in the Loeb edition, *Xenophon, VII: Scripta minora* (Cambridge, Mass., 1968).

³⁰ Frisch (n. 29, above), p. 278 lists as examples Bergk, Kirchhoff, Stail and Gelzer.

agent of the *demos*, whether or not he was a wealthy citizen. The term *demos* had a range of meanings covering the abstract notion of democracy, the institutions of the democracy and the people who lived by the system.³¹ The writer, while not avoiding the ambiguity, was using the word, as the context shows, as a collective noun for the common people: the sense which it also has in 2.19.³²

There is no firm evidence for, nor any need to posit, a law relating to comedy which Cleon could have invoked against Aristophanes.³³ Wolff suggests that Cleon initiated an action in terms of the law of *Kannonos*, which was used in the prosecution of the generals in 406.³⁴ Xenophon, *Hellenica* 1.7.20 refers to this law as providing that 'if anyone wrongs the Athenian *demos*, he shall be bound and plead his case before the people, and, if he is found guilty of wronging the *demos*, he shall be put to death ...' Wolff takes the failure of Cleon's prosecution as an indication that freedom of speech was recognised in Athens.³⁵ There is no certainty that *Kannonos'* law was in existence in 426, but it is possible that Cleon sought the impeachment of Aristophanes in terms of a general principle that legal action could be taken against anyone accused of wronging the polis or *demos*, the onus being on Cleon to establish that Aristophanes had acted in a way that had, or could have, damaged the interests of the state. Hence the repeated qualification in *Acharnians* 515–16: οὐχὶ τὴν πόλιν λέγω. *Acharnians* 631 suggests that Cleon elaborated his charge with a dikolon coupling *demos* and *polis*.

The provisions of the law on *Eisangelia* relating to political offences were directed against reasonably well defined serious offences.³⁶ Hypereides' exposition of the law relating to impeachment might suggest that it would not have been the right weapon to use against a comedian, but it suited Hypereides' immediate purpose to emphasise that *eisangelia* was intended for serious crimes against the state. He also concedes that it had been used for what appear to be trivial offences (4.3), which Pollux may have had in mind when he referred to ἀγράφα δημόσια ἀδικήματα (8.51).

Aristophanes implies in *Acharnians* 381–2 that Cleon did not follow the action through, or failed to secure a conviction, but there is no good reason to dismiss the reference to an arraignment as a fiction.

The sequence of events would seem to have been as follows: after the production of *Babylonians* in 427/6, Cleon initiated an impeachment of Aristophanes (or Callistratus), which required him to establish that damage had been done to the *polis*. The *bouleutae* gave the playwright some anxious moments but were reluctant to give Cleon the satisfaction of exacting revenge. When the *Acharnians* was produced in 425 Aristophanes was careful to say that he could not be charged this time with maligning the *polis* with foreigners present (502–3: the qualification is as important as the preceding noun). In February 424 Aristophanes presented the *demos* sympathetically. Between then and Brasidas' arrival in Thrace in August 424 we may possibly date the

³¹ C. A. Behr, *Old Comedy and the Free State* (Diss. Harvard, 1959, summarised in *HSCP* 65 (1961), 345–8) argues that it means democracy rather than the people. M. H. Hansen surveys the range of connotations in *CetM* 40 (1989), 101–6 (reprinted in *The Athenian Ecclesia II* ... (Copenhagen, 1989), pp. 213–18.

³² The translators of *The Old Oligarch* (Lactor, 2) (1968), p. 9 commit themselves by rendering the phrase 'the common people', but that removes the ambiguity of the original.

³³ Cf. Carawan, *CQ* 40 (1990), 140 n. 8.

³⁴ H. Wolff, *ZPE* 36 (1979), 279–302; Xen. *Hell.* 1.7.20 and 34; *Mem.* 1.1.18; Ar. *Eccles.* 1089.

³⁵ H. Wolff (n. 34, above), esp. p. 284 n. 6. M. Ostwald (n. 8 above), p. 207 likewise assumes that Cleon relied on *Kannonos'* decree.

³⁶ Hypereides 4.7–8; 29; 39; P. J. Rhodes, *Commentary on the Aristotelian Athenian Politeia* (Oxford, 1981), pp. 317, 524–5, and *JHS* 99 (1979), 109–14.

Athenaion Politeia. [Xenophon] *Ath. Pol.* 2.18 may thus include a comment on the *Knights*. This would explain why the key word was now the *demos* rather than the *polis*.

B. Syracosius' decree

A law banning satire on named individuals was supposedly introduced in 415/414 on the motion of one Syracosius.³⁷ The existence of the decree has been a matter of dispute because of the tentative way in which the scholiast on Aristophanes, *Birds* 1297 refers to it: 'It seems that Syracosius proposed a bill banning attacks in comedy on named individuals.' The scholiast goes on to quote from the *Hermit* of another comic poet, Phrynichus: 'I hope Syracosius gets psoriasis ... He stopped me making fun of anyone I liked.'³⁸ In another fragment of the same play Phrynichus refers to Nicias, and the scholiast links the reference with the siege of Melos in 416.³⁹ The scholiast on *Birds* 1297 cites lines from Eupolis' *Cities*, in which Syracosius as an orator is likened to a puppy dog running round yapping.⁴⁰

It has been argued that the law was no more than a scholiast's hypothesis,⁴¹ as it is introduced by the formula 'it seems', and the *Hermit* itself named Syracosius, Teleas, Peisander, Nicias and Meton, among others,⁴² while Aristophanes named thirty-one contemporary Athenians in the *Birds*, which was produced in the same year.⁴³ Nevertheless, the Phrynichus fragment has generally been taken as proof that Syracosius did in some way limit the freedom of comedians by disallowing satirical attacks on a class of persons not defined in the fragment.

A. H. Sommerstein⁴⁴ has revived the hypothesis of J. G. Droysen that Syracosius' decree prohibited reference by name in comedy to any of those convicted for impiety in the matter of the Mysteries or the Herms, and that Syracosius' purpose was to deprive Alcibiades of publicity even of a satirical nature.⁴⁵ Sommerstein supports these conjectures by arguing that none of the men known to have been charged with impiety in 415 is named in what survives of the comedies from 415 down to the establishment of the oligarchic administration of the Four Hundred in 411. Sommerstein may not be correct, if Eupolis' *Demes* was produced in 413, 412 or 411,⁴⁶ for that play seems to have featured Alcibiades,⁴⁷ and included a jibe at Diognetus, 'the shrine robber' (*τὸν ἱερόσυλον*, which may mean, in a more general sense, 'the defiler of sacred things'). He may have been the man denounced by Teucer and forced into exile,⁴⁸ though admittedly the name Diognetus was so common in Athens that the identification cannot be considered at all certain.⁴⁹

³⁷ The date of the bill depends on the date of Phrynichus' *Hermit*, and, although the text is corrupt, the scholiast on *Birds* 997 seems to date the *Hermit* to the archonship of Charias, viz. 415/14.

³⁸ Phrynichus F 26, in Edmonds, *FAC* i.460; R. Kassel and C. Austin, *Poetae Comici Graeci* (PCG), vii (Berlin, 1989), p. 407 F 27.

³⁹ Edmonds, *FAC* i.458 F 22; Kassel and Austin, *PCG* vii.406 F 23.

⁴⁰ Edmonds, *FAC* i.386 F 207.

⁴¹ S. Halliwell, *CQ* 34 (1984), 83–8, esp. pp. 86–7.

⁴² Edmonds, *FAC* i.458–60, frs 20–2 and 26.

⁴³ A. H. Sommerstein, 'The Decree of Syrakosios', *CQ* 36 (1986), 101–8, p. 102.

⁴⁴ *CQ* 36 (1986), 101–8.

⁴⁵ *RhM* 4 (1836), 27–62, esp. pp. 59–60.

⁴⁶ 413: J. Schwarze, *Die Beurteilung des Perikles* (1971), 133–4; cf. A. J. Podlecki, *Athenaeum* 51 (1973), p. 432; 412: A. Körte, *Hermes* 47 (1912), esp. p. 296, followed by Chr. Jensen, *Hermes* 51 (1916), p. 338; 411: Edmonds, *FAC* i.360ff.

⁴⁷ Edmonds, *FAC* i.360ff., and 979ff.

⁴⁸ Andocides 1.15; perhaps the brother of Nicias: Lysias 18.9.

⁴⁹ Cf. C. Austin, *Comicorum graecorum fragmenta* ... (Berlin, 1973), p. 92.

Since the guilty (the term is used with intentional ambiguity) fled or were executed, it would not be altogether surprising if their names did not appear in comedies of the period 415 (one should rather say 414) to 411. Death and flight, like electoral defeat, tend to give public figures a reprieve, or at least a temporary respite, from satirical attack. The guilty hardly needed the protection of a form of censorship.

The time gap between the denunciations of 415 and the staging of the comedies of 414 deprived the affair of some measure of topicality. Furthermore the exposure of Diocleides' perjured testimony elicited an immediate public response, as those awaiting execution of the death sentence were released and exiles were recalled.⁵⁰ The informers became the butt of topical humour: Phrynichus at least made fun of Diocleides and Teucer.⁵¹

Thus another hypothesis suggests itself to explain the nature and purpose of Syracosius' decree. It is possible that Syracosius' bill was one of the measures taken to protect those who had been falsely accused of involvement in the mutilation of the Herms. When Diocleides admitted under cross-examination that he had given false evidence, the reaction was outrage and he was sentenced to death:⁵² his victims, as was noted above, were exonerated and given back their rights as citizens.

As in the aftermath of similar political crises, there may well have been a ban on malicious references to the past – in this case to alleged involvement in blasphemous acts, and as the mutilation of the Herms had been seen as part of a broader plot to undermine democracy,⁵³ closure of debate on the extent of involvement in the plot was a critical political issue.⁵⁴ If the supposition is right that, when the list of culprits was finalised, an agreement was reached to guarantee those exonerated or pardoned freedom from harassment, then the law attributed to Syracosius may have formed part of the deal. Its purpose would have been clear, but its phraseology may have been non-specific, in the same way that other legal agreements to ban recriminations were non-specific about what would constitute harassment. Its definitions would thus have been less precise than those of the law on defamation.⁵⁵

The records of the sale of property confiscated from those charged with the mutilation of the Herms or with mocking the Mysteries⁵⁶ indicate that the process continued through to the late winter of 414/3,⁵⁷ but the names given all tally with the entries in Andocides' lists, save for three partially preserved names,⁵⁸ which may in fact belong to men on Andocides' lists or to men whose names he omitted (1.47).

⁵⁰ Andocides 1.66; cf. Lysias 25.27.

⁵¹ Plut. *Alcib.* 20.6–7 = Edmonds, *FAC* i.466–9 F 58.

⁵² Andocides 1.66.

⁵³ Andocides 1.36; Thuc. 6.27.3.

⁵⁴ For other attempts to stop recriminations after a political crisis had been resolved cf. Thuc. 4.74.2, Andocides 1.79 (Patrocleides' decree) and 81 (the settlement of 403), Xen. *Hell.* 2.4.43, and [Arist.] *Ath. Pol.* 40.2.

⁵⁵ The key phrase in the settlement of 403/2 was *μη μνησικακεῖν*: Andocides 1.90; other references in T. C. Loening, *The Reconciliation Agreement of 403/402 B.C. in Athens* (Wiesbaden, 1987), esp. p. 21 and n. 6. On specific terms banned by the law on defamation see Lysias 10 and works cited in n. 19, above.

⁵⁶ *SEG* xiii.12–22 and xix.23–5; W. K. Pritchett, 'The Attic Stelai ...', *Hesperia* 22 (1953), 225–99. Stele VII refers to those guilty of blasphemy in the matter of the Mysteries (*SEG* xiii.18, line 1).

⁵⁷ D. M. Lewis, 'After the Profanation of the Mysteries', in *Ancient Society and Institutions: Studies ... V. Ehrenberg* (Oxford, 1966), pp. 177–91, esp. pp. 181–4; cf. M. Walbank, *Hesperia* 51 (1982), esp. p. 95.

⁵⁸ Two demotics and a filiation plus demotic, listed by W. K. Pritchett, *Hesperia* 22 (1953), p. 298; cf. A. W. Gomme, A. Andrewes, and K. J. Dover, *A Historical Commentary on Thucydides*, vol. 4, *Books V 25–VII* (Oxford, 1970), p. 280.

This means that, though the process of confiscation and sale dragged on, the list of accused was not extended after 415. Thus the evidence from the confiscation records is quite compatible with the theory that Syracosius' decree was designed to stop comedians from alluding to discredited evidence against men who had been exonerated.

If the decree had such a well-understood purpose, this would explain why it did not stop the naming of public figures in comedy. Pherecrates referred to Pulytion's house as *ὑπόβολον* 'sold for a song' (Fine) or 'mortgaged',⁵⁹ which may refer to the confiscation of his property after the revelation that it was the scene of the burlesquing of the Mysteries.⁶⁰ Edmonds would date Pherecrates' *Kitchen* to March 415 or 413, and slightly prefers the latter. March 415 would be before the scandal broke, and, if the date was 413, one would conclude that Syracosius' bill did not prevent a comedian naming anyone outlawed.

Telecleides had a character in *The Truth-tellers* accuse Charicles of buying someone's silence about his origins,⁶¹ and Charicles was one of the board appointed to investigate the charges of blasphemy in 415.⁶² Edmonds dates *The Truth-tellers* to March 415, and takes the title to be a reference to the informers against the violators of the Mysteries. It was clearly possible for a comedian to introduce a topical reference into a play right up to the time of its presentation, but it was surely not possible to build a comedy around a topical issue at very short notice. This makes it most unlikely that *The Truth-tellers* centred on the informers of 415, if the play was produced as early as March 415. K. J. Dover has argued that the mutilation of the Herms occurred on c. 25 April at the earliest, and more likely on c. 25 May.⁶³ Andocides clearly states that the scandal broke shortly before the expeditionary force was to leave for Sicily. Thus, if Edmonds is right about the point of reference of *The Truth-tellers*, its production must have been in 414 rather than 415, and the reference to Nicias in F 41 tends to rule out a date as late as 413.⁶⁴ Either *The Truth-tellers* had nothing to do with the scandals of 415, or it was produced in 414, if not later, and Syracosius' bill was not defined in such a way as to block Telecleides from alluding to some of the characters in that story.

Charicles' associate in the investigations, Peisander, was the butt of a comedy by Plato.⁶⁵ Edmonds would date the play any year from c. 428, but before the passage

⁵⁹ Pherecrates: Edmonds, *FAC* i.228–9 F 58; R. Kassel and C. Austin, *PCG*, vii (Berlin, 1989), p. 132 F 64. Photius took *ὑπόβολον* to be the equivalent of *ὑπόβλημα*, and thus to mean 'mortgaged', which is how the translators of this fragment generally take it (including Sommerstein (n. 43, above), pp. 105–6); but J. V. Fine, *Horoi...* (Baltimore, 1951), pp. 171–6 plausibly argues that the reference in *-ωβολον* was to the tax imposed on the sale price of confiscated goods, and thus renders the adjective 'sold for a song' (p. 175).

⁶⁰ Andocides 1.12 and 14; Plut. *Alcib.* 19.1–2; Paus. 1.2.5. It has been argued that the reference to a mortgage puts the play earlier than the confiscation (so A. H. Sommerstein (n. 43, above), pp. 105–6), but that is not a necessary conclusion, and depends on a questionable interpretation of the term *ὑπόβολον*. The simple point is that Pulytion's house was marked as being no longer at his free disposal.

⁶¹ *The Truth-tellers*, in Edmonds, *FAC* i.192–3 F 41.

⁶² Andocides 1.36.

⁶³ In A. W. Gomme, A. Andrewes and K. J. Dover (n. 58, above), p. 276.

⁶⁴ Telecleides was not one of the three prize winners at the Dionysia in 414: Hypothesis, Ar. *Birds*. Telecleides was thus not a contestant, if the common view is correct that during the Peloponnesian War the number of comedies presented at this festival was limited to three, whereas before and after the war (e.g. Hypothesis IV Ar. *Plutus*) the number was five. Against the common view note W. Luppe, 'Die Zahl der Konkurrenten ...', *Philologus* 116 (1972), 53–75, followed by A. J. Podlecki, *Athenaeum* 51 (1973), esp. p. 432. The victors in the Lenaia of 414 are not known.

⁶⁵ Edmonds, *FAC* i.521 F 95 = Athen. 9.385d–e; Andocides 1.36.

of Syracosius' bill: he favours a date in the period 417–415 (p. 997), but most likely after the ostracism of Hyperbolus in 417 (p. 521). But if Charicles could be introduced into a comedy after the decree was enacted, so too could Peisander.⁶⁶

The sum of the evidence suggests that Syracosius' bill did not impose a blanket ban on the naming of individuals in comedy, and that if it was an element in the settlement of the political crisis of 415, it was introduced to protect the innocent against damaging accusations.

A reason for targeting comedy for a restriction on invective may have been that a number of comedians were implicated in the scandals of 415, for MacDowell identifies Archippus, Aristomenes and Cephisodorus, mentioned in Andocides 1.13 and 15, as the homonymous comedians known from other sources.⁶⁷ The judicial, no less than the religious scandals provided those vulnerable to attack by comedians with a convenient pretext for a measure to inhibit satire.

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⁶⁶ Plato included a reference to the Herms apparently in the *Daedalus* (*FAC* i.550–1 F 188). Edmonds puts it after 415, but concludes that the only vacant date for the *Daedalus* is 399. The list is so tentative that a date before 399 remains an option.

⁶⁷ D. M. MacDowell, *Andokides, On the Mysteries* (Oxford, 1962), esp. p. 211. I gratefully acknowledge the helpful comments of Dr M. R. Mezzabotta on an earlier draft of this paper, and I am indebted to the anonymous referee, whose influence may now be traced in the line taken with regard to the dates of Cleon's term as *bouleutes* and of the composition of the 'Old Oligarch's' *Athenaion Politeia*.