

IMAGINING PAST AND PRESENT:  
A RHETORICAL STRATEGY IN AESCHINES 3,  
*AGAINST CTESIPHON*\*

Since Aristotle (*Rhet.* 1417b) first advised speakers of deliberative oratory to include in their narrative ‘things of the past’ (*tōn genomenōn*) so that listeners might be inclined towards better counsel in the future, the use of historical allusions as a rhetorical device has been recognized and explored. While some scholars have focused on the range and extent of the historical knowledge shared by speakers and their audiences, others have considered the historicity of the events and personages referred to in order to expose their manipulation by orators in the assembly and lawcourts.<sup>1</sup> In particular, the appeal of historical allusions to the mythical and more recent past to forensic orators intent on winning their jury’s favour has come under scrutiny. For example, references to the ‘myth of Solonian democracy’ are said to invoke nostalgia for an idealized, long-gone era, especially when paired with negative observations regarding the poor state of the present city.<sup>2</sup> In addition, the extension of such ‘reactionary sentiment’ through praise of the past and censure of the present is thought to establish an authoritative role for the speaker in the lawcourt, whilst he communicates with the masses in their own ideological language, pursuing a ‘topos of blame’.<sup>3</sup> Historical allusions are therefore a key persuasive weapon in the arsenal of prosecution and defence speakers. However, because of their broad interests in historical memory, rhetorical practice and the dynamics of the lawcourts, scholarly treatments often isolate the allusions under consideration from the broader rhetorical ploys of the speeches in which they appear. By consequence, immediate contexts and possible effects can be lost. As a counterpoint to this tendency, the present paper focuses on the use of historical allusion in one particular speech, Aeschines’ third lawcourt oration, *Against Ctesiphon*, delivered in 330 B.C.E. It demonstrates how references to Athens’ past construct imaginary visions of the bygone city that, in conjunction with re-imaginings of the present, advance the immediate prosecution of Ctesiphon. The investigation thereby extends current

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<sup>1</sup> Investigations into the range of historical allusions and the implied knowledge of their audience have been conducted by L. Pearson, ‘Historical allusions in the Attic orators’, *CPh* 36 (1941), 209–29, and R. D. Milns, ‘Historical paradigms in Demosthenes’ public speeches’, *Electronic Antiquity* 2.5 (1995). S. Perlman, ‘The historical example, its uses and importance as political propaganda in the Attic orators’, *Scripta Hierosolymitana* 7 (1961), 150–66, begins to consider the political significance of allusion-making, although M. Nouhaud, *L’utilisation de l’histoire par les orateurs attiques* (Paris, 1982), provides the most comprehensive attempt to locate references to historical people and places within the political–rhetorical ambitions of individual speakers. For an earlier approach to the topic, see K. Jost, *Das Beispiel und Vorbild der Vorfahren bei den attischen Rednern und Geschichtsschreibern bis Demosthenes* (Paderborn, 1936).

<sup>2</sup> M. H. Hansen, ‘Solonian democracy in fourth-century Athens’, *C&M* (1989), 71–99; cf. R. Thomas, ‘Law and the lawgiver in the Athenian democracy’, in R. Osborne and S. Hornblower (edd.), *Ritual, Finance, Politics: Athenian Democratic Accounts Presented to David Lewis* (Oxford, 1994), 119–33, at 123–4.

<sup>3</sup> J. Ober, *Mass and Elite in Democratic Athens* (Princeton, 1987), 319–22.

understandings of Aeschines' rhetorical technique and provides a new consideration of the possible deployment of 'historical allusions' in forensic oratory. Moreover, studies of lawcourt dynamics focus on the role of identity construction in creating empathy or community between speakers and their jury.<sup>4</sup> Aeschines' rhetorical strategy of imagining past and present plays with this central dynamic in an innovative way.

# I

In *Against Ctesiphon*, Aeschines pursues two principal lines of attack appropriate to a suit concerning illegal decrees (*graphē paranomōn*) and to the precise circumstances of the case: proving the illegality of the decree issued six years earlier by Ctesiphon honouring Demosthenes with a crown, and disproving the terms of the award that Demosthenes διατελεῖ καὶ λέγων καὶ πράττων τὰ ἄριστα τῷ δήμῳ ('accomplishes the best for the *dēmos* in word and deed', 3.49; cf. 3.92, 237).<sup>5</sup> Within this framework, extended depictions of the people, city and events of Athens' past enter into the narrative in conjunction with the present-day *polis* at three points: at the beginning (3.2–12) and end (3.257–60) of the speech, and approximately two-thirds of the way through (3.178–89, 190–6), once the account of Demosthenes' political disservices is complete and a concentrated assault on his democratic character has begun. On each occasion, presentation of the past is accompanied by discussion of the contemporary city, creating a series of juxtapositions whose individual coherence is signified by shifts in tenses and temporal indicators distinguishing past from present.<sup>6</sup> These interrelated imaginings therefore underpin and even offer structure to Aeschines' attack, introducing and enhancing the debate over the legality of Ctesiphon's decree and the extent to which Demosthenes merits the proposed crown.

Aeschines' opening sally pitches a city whose political conduct is governed by the laws of Solon against the tumultuous democracy that is said to constitute the city today. In the present day, the fine procedures of the past have been replaced by illegal decrees; men gain authority by dishonest means, treating the city as their private property and enslaving the *dēmos*; Solon's laws and the order of the Assembly has been overturned; and the disorder of the *rhētores* runs free (3.2–4). More specifically, the reason for the current malaise is the demise of Solonian procedure for regulating speech-making in the Assembly.<sup>7</sup> In the state best-governed, the oldest citizens are

<sup>4</sup> Ober (n. 3), and S. Johnstone, *Disputes and Democracy: The Consequences of Litigation in Ancient Athens* (Austin, 1999).

<sup>5</sup> The *graphē paranomōn* is discussed by H. Yunis, 'Law, politics, and the *graphē paranomōn* in fourth-century Athens', in *GRBS* 29 (1988), 361–82; see esp. 370–2 on the prosecution strategy in the present case.

<sup>6</sup> For instance, in the first example the separation between the contemporary and Solonian city is established by a movement from historic to primary tenses, reinforced by a comparative *νυνί* (3.3); a similar shift occurs when Aeschines compares the lawcourts of his father's time to those in existence today (3.192). An alternative strategy of juxtaposing 'now' and 'then' is also deployed: for example, the jury are encouraged to consider which is more prosperous: ἡ πόλις ἡμῶν . . . ἐπὶ τῶν νυνὶ καιρῶν ἢ ἐπὶ τῶν προγόνων (3.178).

<sup>7</sup> Whether or not Aeschines referred to a long-standing and well-known Solonian law is debatable. R. Lane Fox, 'Aeschines and Athenian democracy', in R. Osborne and S. Hornblower (edd.), *Ritual, Finance, Politics: Athenian Democratic Accounts Presented to David Lewis* (Oxford, 1994), 135–55, at 148–9, recognizes its likely fictionality, whether perceived as a law of Solon or created by Aeschines for the immediate occasion. Hansen (n. 2), 97, even questions whether Solon regulated for the Assembly: the law quoted by Aeschines here and in his speech *Against*

called upon to mount the platform, followed by whoever wishes (*ho boulomenos*) to offer advice to the city's benefit, with each man speaking in turn according to his age. From this, a distinction between the open speaking of yester-year and the present stifling of *ho boulomenos* evolves. In the current circumstances the best (*kalliston*) and most modest (*sōphronestaton*) call to the eldest members of the Assembly to speak has been silenced, and so, therefore, have the people (3.4). This subversion by contemporary politicians (who soon transpire to include Ctesiphon, 3.12) of procedures imbued with antiquity and prestige through their Solonian attribution follows a well-established pattern. Demosthenes, in his first public oration in 355 B.C.E., asserts the illegality of a new law introduced by Leptines which withdraws immunity from Athens' honorands by criticizing the proliferation of contradictory laws that have arisen: under today's power-grabbing politicians no one follows Solon's traditional rules for scrutiny (2.90–1). And about two years later, he reprised the motif in another *graphē nomon mē epitēdeion theinai*: Timocrates' law permitting debtors to remain on bail until the ninth prytany brings down Solonian protocols for imprisonment and punishment (24.102–3). Furthermore, Athens' *rhētores* legislate almost every month in pursuit of their own advantage, repealing the laws of Solon and their ancestors and enacting new laws to the detriment of the city (24.142). However, Aeschines gives a distinct twist to this motif by invoking the democratic concept of *parrhēsia*, free and frank speaking, and affirming the significance of his present lawsuit.<sup>8</sup> According to his analysis, the neglect of Solonian law has deprived the *dēmos* of its legitimate voice, making the city akin to a tyranny or oligarchy (3.6). In such circumstances, when men pass illegal decrees and set aside the processes of the lawcourts, and when the disorder of the *rhētores* cannot be halted by the laws or the city's presiding officers (3.4), only one part of the constitution remains: the *graphē paranomōn* (3.5). Therefore, a vote in a *graphē paranomōn* trial, the kind the jurors sit upon now, amounts to a vote for or against their own *parrhēsia* (3.6). Upholding the laws—or rather accepting Aeschines' forthcoming interpretation of them—and exerting their lost voice become tantamount to a renewal of Solonian procedure and a confirmation of the democratic state.<sup>9</sup> For the lawgiver who instituted the juror's oath knew *οἷ ἀν διατηρηθῶσιν οἱ νόμοι τῇ πόλει, σῶζεται καὶ ἡ δημοκρατία* ('that if the laws are maintained by the city, the democracy is also preserved', 3.6). In short, by voting in support of Aeschines' *graphē paranomōn*, the jurors, acting at the behest of the laws, will become guardians of democracy this very day (*φύλακες τῆς δημοκρατίας τήνδε τήν ἡμέραν*, 3.7), and so fulfil the role entrusted to them by their fellow-citizens (3.8).

The primacy afforded to the *graphē paranomōn* by Aeschines as an instrument of democracy puts a positive spin on another argument presented in Demosthenes' prosecution of Timocrates, namely that in the past, the overthrow of democracy had been accomplished when the *graphē paranomōn* was abolished and the courts stripped of their authority (24.154). In both cases, the prestige and downfall of the *graphē*

*Timarchus* make up half of the references to any such legislation. However, concern with the truth is unnecessary. With its recollection of 'the myth of Solonian democracy' (Hansen, 99), Aeschines' speech participates in the creation of the myth as much as it reflects any perceived 'reality'.

<sup>8</sup> On *parrhēsia* in democratic ideology, see R. Wallace, 'Law, freedom and the concept of citizen's rights in democratic Athens', in J. Ober and C. Hedrick (edd.), *Dēmokratia: A Conversation on Democracies, Ancient and Modern* (Princeton, 1991), 105–19, at 114. The development of *parrhēsia* into the near-equivalent of a democratic right is analysed by K. A. Raafaub, 'Aristocracy and freedom of speech in the Graeco-Roman world', in I. S. Sluiter and R. Rosen (edd.), *Free Speech in Classical Antiquity* (Leiden, 2004), 41–61.

*paranomōn* urges the jurors towards a conviction that will protect the *politeia*, although Demosthenes' jurors must strike pre-emptively to prevent a recurrence of past events, whilst for Aeschines' audience the negation of traditional process and their democratic privileges is well underway. Furthermore, by defining his lawsuit as central to democracy, Aeschines insinuates himself into the communal effort to protect the city. Lycurgus had practised a similar technique when impeaching Leocrates for treachery shortly before Ctesiphon's trial. In language strikingly similar to Aeschines', he first recounts the three items which guard (*diaphylattei*) and preserve (*diasōizei*) the democracy: the system of law, the vote of the jury, and the method of prosecution (1.3–4).<sup>10</sup> Then, after outlining his civic-minded motivation for undertaking the trial, Lycurgus explains that all public trials are important. Yet, the *graphē paranomōn* merely corrects single errors and it depends upon the extent to which a decree harms the city. His own *eisangelia* is much more useful: ὁ δὲ νῦν ἐνεστηκὼς ἄγων οὐ μικρόν τι μέρος συνέχει τῶν τῆς πόλεως οὐδ' ἐπ' ὀλίγον χρόνον, ἀλλ' ὑπὲρ ὅλης τῆς πατρίδος καὶ κατὰ παντὸς τοῦ αἰῶνος ἀείμνηστον καταλείψει τοῖς ἐπιγιγνομένοις τὴν κρίσιν ('but the present trial has been set up not to consider some small portion of the *polis* or an insignificant moment, but on behalf of the city, and it leaves an everlasting verdict to be remembered by our descendants for all time', 1.7). Following Lycurgus, whose case Aeschines alludes to (3.252), Aeschines promotes the centrality of his own prosecution to the city, and thereby aligns himself to its cause.

The juxtaposition of an orderly past and a disorderly present, the silencing of *parrhēsia*, and demise of the *graphē paranomōn* in the opening portion of Aeschines' speech position the orator and his procedure as vital to the task of maintaining the law and democracy. Although more complex, it is reminiscent of his self-promotion as an upholder of law and defender of the city in the trial of Timarchus (1.1–2), and of Demosthenes' introductory promise to help the city and achieve justice by bringing his *graphē paranomōn* against Androtion (22.1; cf. 24.8).<sup>11</sup> However, in the present case, the endorsement is enhanced by a supplementary contrast between past and present. This time, the procedure for awarding honours and auditing the city's officers instigated by a lawgiver in former times has become obsolete (3.9–10). That lawgiver's intention had been to prevent a man being rewarded for his conduct during public service and then indicted for it, avoiding embarrassment all round. By recommending a crown for Demosthenes before his *euthunai*, Ctesiphon disregarded this supposedly long-established process and 'overleaped the law' (*ὑπερπηδήσας τὸν νόμον*, 3.12; cf. 3.204). Thus, this secondary disjunction between past and present reinforces the foregoing presentation of a contemporary Athens bereft of Solonian procedure and

<sup>9</sup> By presenting his *graphē paranomōn* as the only means of saving the *polis*, Aeschines additionally asserts the correctness of his understanding of the law whilst making any challenges to it unnecessary. The weakness of Aeschines' legal argument may influence the choice of emphasis here: E. Harris, 'Law and oratory', in I. Worthington (ed.), *Persuasion: Greek Rhetoric in Action* (London, 1994), at 141–2, provides a *résumé* of scholarship on the question. Harris, 148, concludes that Demosthenes offers a narrow interpretation of the law, while Aeschines innovates and misdirects to prove his case. C. Carey, *Aeschines* (Austin, 2000), 161, alternatively proposes that the law cited by Aeschines in support of his argument was ambiguous.

<sup>10</sup> M. Christ, *The Litigious Athenian* (Baltimore, 1998), 148.

<sup>11</sup> A more modest claim is made by Lysias who asserts that his prosecution of the corn-sellers for price-fixing was made in support of the existing laws (*τοῖς νόμοις τοῖς κειμένοις ἐβόηθουν*, 22.3). The connection identified here between upholding the law and the city was part of a broader strategy aimed at presenting the prosecutor as a guardian of democracy: see Christ (n. 10), 147–9.

embroiled in illegality, with Demosthenes and Ctesiphon at its heart. It marks again the role of Aeschines' *graphē paranomōn* in creating a new future in which orator, jury, and law work together to maintain the democracy against those *rhētores* who seek to destroy it.

## II

The next opposition between past and present strengthens the disjunction between the ancestral city and its leaders and their contemporary counterparts. But it also pursues another theme pertinent to the immediate case: the awarding of honours. The transformation of Athenian honorific practice across the ages was deployed in the speech *Against Aristocrates*, composed by Demosthenes for Eubulus in 352 B.C.E. The prosecutor, bringing a *graphē paranomōn* against a decree making the person of the Euboean mercenary general Charidemus inviolable, outlines past practices in order to highlight the excessive nature of that award. An Athens which lacked tangible awards for its heroes but was replete with virtue is compared with the contemporary city, where honours are debased and sold by accursed *rhētores* (23.199–201). In days gone by, bronze statues were set up to neither Themistocles, nor Miltiades, nor anyone else, even though their good deeds surpassed those of generals today; and these men were not loved excessively, despite the city's gratitude for their achievements. In fact, these sober men (*sōphrosin anthrōpois*) considered it a greater honour to be judged 'beautiful and good' (*kaloι kagathoi*) than to be measured by bronze (23.196–7). In *Against Ctesiphon* Aeschines recalls a near-identical time, before crowns and proclamations, when men were a superior breed motivated by competition in the pursuit of virtue and enduring fame, and the city prospered (3.178–9). Within this environment, the great fifth-century generals won their battles and reputations, and the *demos* returned triumphantly to Athens from Phyle, where it had resided in exile under the Thirty Tyrants (404/3 B.C.E.). All achieved immortality in the memory of the *polis*. However, these reminiscences are deployed to very specific effects. First, the individuals recalled provide an express comparison with Demosthenes, who lacks the courage in battle of Themistocles, Miltiades, and the men who restored democracy, as well as Aristides' propensity for justice (3.181–2). More implicitly, they draw a contrast between the glory such men brought to Athens, and the damage which Demosthenes has inflicted on the city. Building on the general characterization of Demosthenes throughout the speech, the heroic vision of Athens' ancestral past emphasizes the remove at which Aeschines' opponent stands from these great men in time and in character.<sup>12</sup> Second, the oppositions enable Aeschines to contend that although more honours are distributed today, the city was greater in bygone years. In the present climate, anybody and everybody can conspire to gain honours, cheapening their award and discouraging citizens from the pursuit of true fame and the advancement of the city (3.178–9). Of course, this presentation has direct bearing on the prosecution of Ctesiphon for soliciting honours for Demosthenes.

<sup>12</sup> Cowardice is a recurrent accusation against Demosthenes (3.149–76), while the *rhētōr's* propensity towards illegal conduct is conveyed in the narrative of his career (3.49–176), and in the accusation that he and Ctesiphon transgress the laws (3.204). More implicitly, a general contrast is drawn between the glory Athens' past leaders brought to the city and the damage Demosthenes has inflicted on it. This is introduced programmatically early on in the speech (3.16) and remains a central tenet throughout the prosecution (3.57, 80, 92, 145, 147).

The critique of Athens' current honorific procedure is expanded in the next scene, an imagined journey through the contemporary Agora. Aeschines transports the jurors beyond the courtroom walls to the Stoa of the Herms, the Stoa Poikile, and the Metroön, in order to examine inscriptions and paintings erected in celebration of key moments in Athens' history and collective psyche: battles against the Persians at Eion and at Marathon, fighting on the plains of Troy, and the victory of the democrats from Phyle over the Thirty and their Spartan allies (3.183–7, 190).<sup>13</sup> At each monument, Aeschines performs a reading of the buildings, their inscriptions and images, to demonstrate the city's earlier commitment to honouring the collective over the individual, and to link that impulse to Athens' previous well-being. The inscriptions from the Stoa of the Herms offer the first testimony to this habit. Reciting the verses which adorn its statues, Aeschines asks where the names of generals can be found on these monuments and confirms in reply, οὐδαμοῦ, ἀλλὰ τὸ τοῦ δήμου ('Nowhere; only the name of the People', 3.185). The painting of the battle of Marathon in the Stoa Poikile is likewise submitted as evidence; although Miltiades features in the mural, the *dēmos*' supposed refusal to inscribe the general's name on the painting is brought to the juror's notice (3.186). Both monuments are presented as evidence for the shared undertaking and shared virtue which Aristocrates' prosecutor also noted: οὐδ' ἔστιν οὐδεὶς ὅστις ἂν εἴποι τὴν ἐν Σαλαμῶνι ναυμαχίαν Θεμιστοκλέους, ἀλλ' Ἀθηναίων, οὐδὲ τὴν Μαραθῶνι μάχην Μιλτιάδου, ἀλλὰ τῆς πόλεως ('there was no one who would say that the naval battle of Salamis belonged to Themistocles, but to the Athenians, or that the battle of Marathon belonged to Miltiades, but to the *polis*', Dem. 23.198). In this way, the monuments are subsumed into the democratic language of communal endeavour exemplified in fifth- and fourth-century funeral orations, in which Athens' war dead are awarded glory and honour through their mutual contribution and service to the *dēmos* as *polis*.<sup>14</sup> This democratic perspective is extended when Aeschines advances towards the Metroön. This complex had housed Athens' laws since the last decade of the fifth century, accompanying the revision of the laws after the two oligarchic coups (411/0 and 404/3 B.C.E.). Placed under the protection of the Mother of the Gods, it embodied the authority of the renewed democracy and the prosperity of the city.<sup>15</sup> Here, the decree of Archinus of Coele dictated that honours be awarded equally and in moderation to those who stood strong at Phyle and restored the democracy (3.187, 191).

Aeschines' extended perambulation around the Agora is particularly interesting because in his speech *On the Embassy* (343 B.C.E.), he complains that when the assembly deliberated over a response to Philip's aggression, prominent *rhētores* ignored the safety of the city, and instead called upon the *dēmos* to gaze upon the

<sup>13</sup> If, as proposed by A. Boegehold et al, *The Lawcourts at Athens: Sites, Buildings, Equipment, Procedure, and Testimonia* (Princeton, 1995), 10–16, 99–113, the 'rectangular peribolos' and 'square peristyle' situated respectively in the north-east and south-west of the Agora hosted Athens' lawcourt trials, the jurors sitting in judgement on Ctesiphon were only a short distance from the buildings to which Aeschines directs them. However, this alluring idea is undermined by the argument of R. S. Stroud, *The Athenian Grain-tax Law of 374/3 B.C.* (Princeton, 1998), 94–108, that the 'rectangular peribolos' was actually a grain store.

<sup>14</sup> N. Loraux, *The Invention of Athens: The Funeral Oration in the Classical City*, trans. A. Sheridan (Cambridge, MA–London, 1986).

<sup>15</sup> J. P. Sickinger, *Public Records and Archives in Classical Athens* (Princeton, 1999), 93–113, explores the connection between the Metroön and the revision of the laws in the late fifth century and charts the extension of the name 'Metroön' from the cult accommodated within the Old Bouleuterion to the entire building and its archives in the 340s, not long before the present trial.



Propylaea and to remember the battle of Salamis, and the tombs and trophies of their ancestors (2.74). To Aeschines, this use of the city's monumental landmarks was misguided and misleading. Remembering such things is necessary, he remarks, but a critical engagement with the past is required, one which imitates the prudence of the ancestors, but also guards against their mistakes and untimely rivalries (2.75). Yet, Aeschines is happy to harness the physicality of the city and practice a little dissimulation in his own self-styled attempt to protect the *polis*. In the absence of archaeological evidence, the old argument regarding whether Aeschines correctly recalls the inscriptions from the Stoa of the Herms cannot be settled.<sup>16</sup> But surprisingly for inscriptions purported to reveal the awarding of anonymous and collective honours, direct praise of Athens' leaders (admittedly unnamed, but hardly the masses) and the mythical Menestheus who lead Athenian troops against the Trojans is given. Indeed, the Stoa complex had a strong Cimonian subtext. The praise of stout-hearted men who fought at Eion against the Mede in Aeschines' first inscription (3.184–5) in particular cannot be dissociated from the praise of their leader Cimon, whose propaganda sought to integrate his personal achievements with those of Athens, to his greater glory.<sup>17</sup> As Plutarch later surmised, *ταῦτα καίπερ οὐδαμοῦ τὸ Κίμωνος ὄνομα δηλοῦντα τιμῆς ὑπερβολὴν ἔχειν ἐδόκει τοῖς τότε ἀνθρώποις* ('although these records nowhere showed the name of Cimon, they seemed to his contemporaries to be an extraordinary honour', *Cim.* 8.1; cf. 7.3). Furthermore, although the Cimonian associations may well have diminished by the later half of the fourth century, Aeschines' reasoning could be disputed from a contemporary perspective. Demosthenes, in his prosecution of Leptines, implies that orators hoping to corroborate the reticence of earlier generations to honour men who performed great deeds might mention the inscriptions on the Stoa of the Herms as evidence, but he dismisses such arguments as unjust because they denigrate the city (20.112–13).

Selectivity in reading is further apparent in Aeschines' interpretation of the painting in the Stoa Poikile as a monument to the collective. Even within his own rhetoric, the orator is forced to acknowledge and account for the prominence of Miltiades in the composition, and he ignores the presence of the polemarch Callimachus and hero Echetus who were easily recognizable to Pausanias (1.5.3) four hundred years later, even without identifying labels. In fact, alternative readings of this work were possible. For Apollodorus, striving to impress upon a jury the despicable nature of his opponent Neaera's usurpation of citizen status, it is the presence of an identifiable Plataean force amongst the *mêlée* which is important, because it highlights the contribution which earned the Plataeans the award of citizenship ([Dem.] 59.94). It seems plausible that Aeschines' analysis was just one amongst a number of competing analyses potentially familiar to the jurors.<sup>18</sup> Finally,

<sup>16</sup> A. E. Raubitschek, 'The heroes of Phyle', *Hesperia* 10 (1941), 284–95, at 295 and n. 31 refers to the relevant discussions, but refuses to come down in favour of either position.

<sup>17</sup> See D. Castriota, *Myth, Ethos and Actuality: Official Art in Fifth Century BC Athens* (Madison–London, 1992). On the Stoa, see R. E. Wycherley, *The Athenian Agora 3. Literary and Epigraphical Testimonia* (Princeton, 1957), 102–8; H. A. Thompson and R. E. Wycherley, *The Athenian Agora 14. The History, Shape and Uses of an Ancient City Centre* (Princeton, 1972), 94–6; J. Camp, *The Athenian Agora* (London, 1986), 74–7.

<sup>18</sup> Modern analyses also contradict Aeschines' vision. The investigations of E. B. Harrison, 'The south frieze of the Nike temple and the Marathon painting in the Stoa', *AJA* 76 (1972), 353–78, attest to the glorification of individual leaders in public architecture and art at this time. Furthermore, for Castriota (n. 17), the Stoa Poikile, like the Stoa of the Herms, is central to a

even in the Metroön, where surviving fragments of the decree of Archinus infer an accurate rendition of its epigram at least, the focus on the offering of meagre rewards to a limited number of individuals, rather than, say, the dispersal of honour to non-citizens who aided the Athenians in their work at Phyle, is deliberate and pertinent to the question of honours for Demosthenes.<sup>19</sup> Thus, all the monuments visited by the orator and the jurors on their imaginary tour of the Agora are reworked to fit Aeschines' narrative purpose. Aeschines not only reminds the jurors of the buildings and monuments of Athens' past, but also shifts and refines their appreciation of them, presenting their inscriptions and paintings to endorse his case. His loaded analyses mould the jurors' engagement with their contemporary city, where these monuments of the past continue to stand.

The concentration of detail in Aeschines' interpretation and its development through several civic locations constitute a considerable elaboration of an existing forensic technique, namely the advancement of an argument through the physicality of the city. In speeches composed by Demosthenes and Lysurgus, spaces, buildings, and monuments all become manifestations of the values, spirit, and character of the Athenian *polis*. Docks and stoae, private houses and public structures, and the Piraeus, Parthenon, and Propylaea can testify to Athens' past wealth and devotion to glory (Dem. 22.76, 24.184), or highlight changes in the dynamics of power which govern the city by reflecting changes in the awards and quality of honours (Dem. 23.207–8). Or the statues of victorious generals and the tyrannicides which stand in the Agora can demonstrate Athens' propensity to award the greatest honours to its benefactors (Lyc. 1.51). This varied deployment of the Athenian cityscape, its famous landmarks and its monuments, echoes the technique of modern film-makers who appropriate elements of city-landscapes to develop central narrative themes, taking advantage of the fact that 'cities in discourse have no absolute and fixed meaning, only a temporary positional one'.<sup>20</sup> So, on film, the London cityscape can be testimony to Blighty's spirit of resistance in the Blitz, or to the economic and social alienation of Thatcherite Britain, or to anxieties about immigration and terrorism, such as dominate the British media and, supposedly, the collective psyche today.<sup>21</sup> Likewise, in the lawcourts of fourth-century Athens, the cityscape could be variously deployed to narrative effect. Its buildings and monuments might signify the collective glory of the city, or indicate its absence, or provide evidence of honorific practices,

Cimonian propaganda project which developed an ideology featuring Athens as leaders of a Panhellenic movement against inferior Asiatic forces. This simultaneously promoted the family associations of Theseus, Cimon, and his son, Miltiades.

<sup>19</sup> Recent analysis of the extant decree and the historical record by M. A. Taylor, 'One hundred heroes of Phyle', *Hesperia* 71 (2002), 377–97, puts an end to a long-running dispute regarding whether Aeschines correctly recalled the approximate number of honorands, and presents a case for the inclusion of foreigners amongst them.

<sup>20</sup> C. McArthur, 'Chinese boxes and Russian dolls: tracking the elusive cinematic city', in D. B. Clarke (ed.), *The Cinematic City* (London–New York, 1997), 19–45, at 20.

<sup>21</sup> McArthur (n. 20), 35–6, summarizes the narrative significance of London's cinematic appearances from the 1930s to 1990s, noting amongst others the use of London landmarks like St Paul's Cathedral in Humphrey Jennings' *London Can Take It* (1940), and the 'London sequences' of Terry Gilliam's *Brazil* (1985). In the latter, the city's industrial spaces offer a bleak setting within which the banality, bureaucracy and bizarreness of the protagonist's daily life unfolds, with the cooling towers of Croydon power station providing the location for the film's chilling climax. More recently, Alfonso Cuarón's *Children of Men* (2006), which evokes many of *Brazil*'s themes, opens with a bombing in a Fleet Street coffee shop. This everyday location on a familiar London street prefigures the coming juxtaposition of normalcy and horror which characterizes life in 2027, whilst presenting a future which plausibly (and terrifyingly) could be our own.



good or bad, to prove the illegality of a law or a decree, or demonstrate the character of a rival. However, despite its adaptability, the Athenian landscape is deployed within a very limited remit. The structures and memorials which recur are linked to Athens' prosperity, and reflect the honour and glory of the city and its citizens; and these are repeatedly co-opted into discussions about honours. Indeed, Aeschines' journey from the Stoa of the Herms to the Stoa Poikile to the Metroön amplifies this. For the Agora was not only the administrative hub of the democracy but its primary honorific space. In this arena, the *polis* erected statues, monuments, and inscriptions in honour of individuals and communities. It thereby displayed gratitude to benefactors and simultaneously articulated the type of people and actions that deserved recognition, as well as the appropriate manner for rewarding them. However, each monument not only attested honorific practices, but, standing alongside other buildings in the public arena, provoked an on-going conversation about them. Furthermore, like Archinus' decree, established through the indictment of an alternative proposal from Thrasybulus, deemed illegal (*paranomōn*) for its inclusive approach to honouring the returning heroes, they may have resulted from a vociferous debate.<sup>22</sup> It is this discursive potential which Aeschines exploits in his perambulation of the Agora as its monuments are brought to bear on a new conversation about honours, pursued by the orator in his *graphē paranomōn* against Ctesiphon.

### III

As well as supporting his argument on the awarding of honours, the monument erected at the Metroön offers Aeschines an opportunity to construct another disjunction between past and present through the four-lined epigram which adorned it. The poem records the crowning by the *dēmos* of the men who first brought an end to those who governed through injustice (*adikois thesmois*) (3.190). From here, Aeschines recalls the attitude and behaviour of citizens immediately following the restoration of democracy, reprising his earlier elevation of the *graphē paranomōn* and consolidating his ambitions for the jurors to maintain the democracy. The unjust rule identified in the epigram is identified explicitly with the removal of the *graphē paranomōn*: ἐναυλον γὰρ ἦν ἔτι τότε πᾶσιν, ὅτι τηνικαῦτα ὁ δῆμος κατελύθη, ἐπειδὴ τινες τὰς γραφὰς τῶν παρανόμων ἀνείλον ('for then it was still fresh in the memory of everyone, that at that time the *dēmos* was put down when certain men did away with the *graphē paranomōn*', 3.191; cf. Dem. 24.154, above). Then, when democracy was restored and *graphai paranomōn* were heard in the lawcourts again, the prosecutor's word was as good as the deed; convictions were brought on the basis of the law, even if only one syllable had been transposed (3.191–2). So it was in the time of Aeschines' father. Now, by contrast, jurors listen to the recitation of laws as though listening to an incantation (*epoidēn*), and they have succumbed to the tricks (*technōn*) of Demosthenes (3.192–3). Accusations of sorcery and deceit in lawcourt oratory, especially between Aeschines and Demosthenes, have been explored as part of a 'rhetoric of anti-rhetoric', a ploy which attacks and undermines an opponent's argumentation by exposing and condemning their rhetorical strategies.<sup>23</sup> However, on this occasion, they do not merely broadcast Demosthenes' deceit, but corroborate Aeschines' contention to the jurors that μετενέγκται γὰρ ὑμῶν τὰ τῆς πόλεως δίκαια ('the legal customs of the city have been confounded by you', 3.193). They are

<sup>22</sup> [Arist.] *Ath. Pol.* 40.2. Cf. Aesch. 3.195.

<sup>23</sup> J. Hesk, *Deception and Democracy in Classical Athens* (Cambridge, 2000), 202–41, esp. 231–41.

thus held jointly responsible with Demosthenes' trickery for the prevalence of lawcourts where prosecution and defence speakers swap roles, jurors forget the matter they are supposed to be judging and make their vote on other bases, and defendants side-step the illegality of their own decrees by proving that another person on a similar charge had been acquitted. This topsy-turvy situation is reminiscent of Aeschines' Assembly, where correct procedure has been ejected, and men gain position by intrigue (*paraskeuēs*, 3.3). Furthermore, the concomitant shame encourages Aeschines to embark on another short comparison between past and present to reinforce the importance of the *graphē paranomōn*. In previous years, men were enthusiastic in prosecuting even their friends and companions for passing an illegal decree. Indeed, the prosecution of Thrasybulus by Archinus, whose decree has just been discussed, provides evidence for this (3.195). But now, good generals beg off men charged by *graphai paranomōn*, and so undermine the very city which honours them (3.196).

The contrast between Athens' lawcourts in their past and present incarnations enables Aeschines to reprise themes raised in his opening comparison: the disorder of the city and its *rhētores* and the importance of the *graphē paranomōn* to the well-being of the state. Moreover, his derision of the jurors for their susceptibility to rhetoric is soon replaced by instructions which will enable them to overcome this deficiency, and earn them their lost *parrhēsia* and the guardianship of democracy. Like those ancestors who prioritized the letter of the law when judging *graphai paranomōn*, the jury is coached to cut through the arguments of Ctesiphon and his friend Demosthenes by asserting its own voice. When Ctesiphon prevaricates and fails to address the main issue, the jury must quietly (*athorubōs*) remind him to place the laws and his resolution side by side (3.201). And when he calls upon Demosthenes to speak in his defence, it should refuse to receive such a sophist, whose words overthrow the laws. But if they agree to listen to Demosthenes, then they should dictate to him the terms of his defence (3.202, 205–10). By re-exerting their control over the spoken word in a quiet but purposeful fashion, the jurors will circumvent the twists and turns of Demosthenes' speech (3.206). In this manner, they will escape the machinations of an evil-doing man (*kakourgon anthrōpon*) and a technician of words (*technitēn logōn*) on whose account Ctesiphon is told: κλέπτεις τὴν ἀκρόασιν, βλάπτεις τὴν πόλιν, καταλύεις τὴν δημοκρατίαν ('you cheat the listener, harm the *polis*, and destroy the democracy', 3.200).

Like the earlier promotion of the *graphē paranomōn*, the incitement of the jurors to reclaim their authoritative voice and counter the deceptive arguments of men who threaten the well-being contributes to Aeschines' self-authorization. For he not only encourages the jurors to raise their voices, but recommends his own speech as a model for Demosthenes to follow (3.202–4). Briefly outlining his main arguments, he restates the centrality of legality and eligibility to the case, and stands them against the likely contribution of Demosthenes, who will no doubt seek to avoid addressing matters of law altogether (3.205). Aeschines thus pursues not only a rhetoric of anti-rhetoric, abusing his opponent for his deceptive, misleading, and dangerous words, but prioritises his own forensic strategy. However, rather than claiming to speak the truth, as he does when citing decrees, resolutions, oracles, oaths and curses (3.68, 70, 75, 93, 101, 105, 112, 124, 187), he assumes authority for his words directly through the law.<sup>24</sup> Thus, Aeschines consolidates his claims for the power and benefit of his own *graphē paranomōn*.

<sup>24</sup> On the promotion of truth versus lies as a feature of the rhetoric of anti-rhetoric, see Hesk (n. 23), 238–9.

## IV

In the speech *Against Ctesiphon*, Aeschines presents his audience with three distinct visions of their city in the past and present, focused on the political arena, honorific practice and space, and the lawcourts. Yet, taken together, they not only complement one another by developing a consistent impression of the contemporary city, but pursue central prosecution themes: the illegality of Ctesiphon's decree and Demosthenes' ineligibility for honours. In addition, they advance a key role for the jury in renewing democracy and maintaining the safety of the city, and they develop an authoritative persona for the speaker too. These aspects are evident in the closing scene, when Aeschines calls upon the jurors to imagine that celebrated benefactors of Athens' past join him on the speaker's platform. As these figures take form in their minds, the boundary between past and present is once more evoked, but then collapsed. The past as it has been construed so far, with its democratic order, heroic endeavour, and prosperity, is now brought into the present to stand in support of Aeschines as he pursues the final assault of his *graphē paranomōn*. In the presence of such great men, Demosthenes' worthiness to the crown is questioned again. Solon warns against holding Demosthenes' words more important than oaths and the law (3.257); Aristides expresses indignation at his contempt for justice (3.258); and Themistocles, together with the men who died at Marathon and Plataea and at the tombs of the ancestors, sighs deeply because a man who treated with the barbarians against the Hellenes receives a crown (3.259). But moreover, drawing on earlier themes, the merging of past and present lends strength to Aeschines' final imperative to the jury: τὰ δίκαια καὶ τὰ συμφέροντα ὑπὲρ τῆς πόλεως ψηφίσασθε ('vote for justice and for the benefit of the city', 3.260). If they follow his recommendation, they will indeed become guardians of the democracy.

The use of 'historical allusions' and their combination with representations of the contemporary polis in *Against Ctesiphon* is not unprecedented. In addition to the various parallels highlighted above, one might compare the closing scenes of Aeschines' speech with the finale of *Against Leocrates*. On this occasion, it is not heroes of the past who urge the jurors to vote for the safety of the Athens, but the city itself, its countryside, trees, harbours, docks, walls, temples, and sanctuaries (Lyc. 1.150). In light of our new understanding of the manipulation of civic space in *Against Ctesiphon*, the connection between these two endings is clear, with Athens' heroes and its landscape playing interchangeable roles as supporters and symbols of civic order. However, the past, the present, and the city are used in Aeschines' speech to special effect. Through references to events, figures, circumstances, and monuments, Aeschines re-imagines Athens for his audience, shaping its awareness and comprehension of the city's history and landscape, and of contemporary circumstances. His new readings harness the social memory of the city—the shared but flexible remembrances that generate identities for individuals in a community and provide them with 'an image of their past and a design for the future'—and the lived experiences of the jury, whilst subtly reconstituting both.<sup>25</sup> Submerged in this illusory world, and hopefully persuaded by it, the jurors are propelled towards action: to vote

<sup>25</sup> S. E. Alcock, *Archaeologies of the Past: Landscape, Monuments, and Memories* (Cambridge, 2002), 1, building on J. Fentress and C. Wickham, *Social Memory* (Oxford–Cambridge, MA, 1992), 25, for whom 'social memory' is 'an expression of collective experience: social memory identifies a group, giving it a sense of its past and defining its aspirations for the future'. Fentress and Wickham observe that because such memory can be 'considered cognitively, as a network of ideas' (x), it is flexible, malleable, and open to reinterpretation.

against the defendant, restore their lost *parrhēsia*, uphold the law, and thereby 'enact' democracy, the practical implementation of procedure being synonymous with democracy itself.<sup>26</sup>

The strategy of imagining past and present in the speech *Against Ctesiphon* thus responds to and relies upon the potentiality of the lawcourt environment. Investigations into the psychological effects of lawcourt performances draw attention to their ability to create convincing and persuasive identities—for the speaker, for his opponent(s), and for the jury. An elite orator might engage in role-playing in order to elicit the sympathy of a jury populated by ordinary citizens, or, working with the performative dynamics of the lawcourt arena, he might attempt to create a shared democratic identity for himself and his audience, as in the present case.<sup>27</sup> Yet, in any lawcourt trial, the jury are faced by two competing narratives.<sup>28</sup> Hence, the identities constructed by both speakers remain pending, suspended until the closing verdict, whereupon the world view of the successful prosecutor or defendant becomes a reality. In the terms of Aeschines' speech, if Ctesiphon is convicted his decree will become illegal, the subversion of the democracy by Ctesiphon and Demosthenes will be confirmed, the jurors' identity as saviours of the democracy will be realized, and the city's fortunes redeemed. To conclude, the persuasive power of Aeschines' strategy lies not simply in a shared nostalgia for the past or its appeal to a pre-existing disgruntlement with the present as the orator seeks to impose blame. Rather, aided by contemporary democratic vocabularies (*parrhēsia*), conversations (about the city and the awarding of honours), narratives (relating Athens' past and present), and existing forensic techniques, its force resides in the vision of the future which it promises to instate: a future in which the citizen-jurors will become vocal participants in a fully functioning democracy. That Aeschines ultimately failed to convince his audience of the validity of this vision does not undermine the potential inherent in this strategy and in the lawcourt arena.<sup>29</sup>

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<sup>26</sup> On the 'enactment' of democracy via other lawcourt strategies, see Johnstone (n. 4), 124–5, 131–3.

<sup>27</sup> On elite role-playing, see Ober (n. 3), 156–91. Johnstone (n. 4), 131–3, shifts the emphasis towards the construction of shared democratic identities between audience and orator through assignments like 'Athenians', 'the polis', and upholders of the law.

<sup>28</sup> Or at least two dominant narratives. Litigants in a fourth-century Athenian court of law might call upon a team of advocates (*synēgoroi*) to press their case, especially in public trials, and so a number of speeches might be given in prosecution or defence: see L. Rubinstein, *Litigation and Cooperation: Supporting Speakers in the Courts of Classical Athens* (Stuttgart, 2000).

<sup>29</sup> According to the ancient tradition reported in the *Lives of the Ten Orators* ([Plut.] *Mor.* 840D–E), the audience at an epideictic performance of the speech against Ctesiphon in Rhodes after the death of Alexander expressed amazement that the orator had been defeated. In explanation, Aeschines adduced the superiority of Demosthenes' defence speech, and modern scholars have followed suit. See G. O. Rowe, 'The portrait of Aeschines in the oration *On the Crown*', *TAPhA* 97 (1966), 397–406; V. R. Dyck, 'The function and persuasive power of Demosthenes' portrait of Aeschines in the speech '*On the Crown*', *G&R* 32 (1985), 42–8; D. Ochs, 'Demosthenes: superior artiste and victorious monomachist', in C. L. Johnstone (ed.), *Theory, Text, Context: Issues in Greek Rhetoric and Oratory* (New York, 1996), 129–45.