

# SITOPOLAI AND SITOPHYLAKES IN LYSIAS' "AGAINST THE GRAINDEALERS:" GOVERNMENTAL INTERVENTION IN THE ATHENIAN ECONOMY

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## *Introduction*

LYSIAS' ORATION "AGAINST THE GRAINDEALERS" (22) provides us with a rare glimpse into Athenian governmental supervision of the trade in grain, that most vital of imports. This speech by an unknown speaker was delivered in court against a group of metics who were *sitopolai* ("grain-dealers"). The charge involves purchases of more than a permitted amount of grain, 50 *phormoi*. Our subject will be how and why the graindealers transgressed this law, and what was the economic context of this legislation and what were the likely effects of the transgression. While most scholars have seen their crime as hoarding (or striving for individual monopoly), I shall argue that Athenian legislation acted against collaboration in the buying of grain and against anti-competitive practices which involved price-fixing. Lysias' client, the speaker of Oration 22, who paints a dark picture of the destructive machinations of the anti-social *sitopolai*, has been followed all too quickly. Previous work on this speech has over-estimated the extent and efficacy of regulation of the grain trade and exaggerated the individual actions of *sitopolai* and *emporoi* ("importers"), the principal agents in supplying Athens with food from abroad.<sup>1</sup> This episode ought not to be made a test case for an evaluation of the management by the state of crisis in the grain supply. Moreover, this speech is discernibly a "bad brief" (below,

The following will be cited by author's name: C. D. Adams, *Lysias: Selected Speeches* (New York 1905); D. Alesia, *Lisia: Contro I Rivenditori di Grano* (Florence 1949); A. Boeckh, *The Public Economy of Athens*<sup>2</sup> (London 1842); L. Gernet and M. Bizos, *Lysias: Discours 2* (Paris 1955); C. Hude, *Lysiae Orationes* (Oxford 1912); H. P. Kohns, "Die staatliche Lenkung des Getreidehandels in Athen (zur Lysias or. 22)," in *Studien zur Papyrologie und antiken Wirtschaftsgeschichte* (Festschrift F. Oertel), ed. H. Braunert (Bonn 1964) 146–166; R. Rauchenstein, *Ausgewählte Reden der Lysias*<sup>12</sup>, rev. K. Fuhr (Berlin 1917); R. Seager, "Lysias against the Corndalers," *Historia* 15 (1966) 172–184; E. S. Shuckburgh, *Lysiae: Orationes XVI*<sup>2</sup> (London 1892); T. Thalheim, *Lysiae Orationes* (Leipzig 1901); D. Whitehead, *The Ideology of the Athenian Metic* (Cambridge 1977, PCPS Suppl. 4); U. von Wilamowitz-Moellendorff, *Aristoteles und Athen* (Berlin 1893). The author would like to thank M. B. Wallace for helpful suggestions and criticisms.

<sup>1</sup>So strong has been the credence accorded the speaker that editors have often emended the text to bring consistency and plausibility to his arguments. See below, nn. 14, 30, 31, 41.

168), made to protect the speaker from accusations regarding the motives for his intervention in the affair.

The speech appears to have been delivered in 386, after the Peace of Antalkidas had been concluded, and to concern events in the previous months, during the last stages of the Corinthian War, when the Peace was being finalized.<sup>2</sup> Hence, the *sitopolai* are accused of plotting in τοῦτοις τοῖς (or τοῖς αὐτοῖς [Cobet]) καιροῖς “these (or the same) crises” in which enemies plot (cf. Dem. 34.37). The affair was precipitated by the advice of Anytos, a *sitophylax* (“overseer of grain selling”), to the *sitopolai* to curb their competition in bidding for grain shipments. This Anytos is probably the prominent politician of that name, the accuser of Socrates;<sup>3</sup> if so, the *sitopolai* may be understood even more emphatically as the agents of an initiative in public policy, not common criminals.

### *The Administration of the Grain Trade*

As a background to the speech, let us first consider the data on Athenian administration of grain importing. As Athens greatly depended on imported grain (Dem. 18.87; 20.31; cf. Eubulus fr. 10K; Xen. *Mem.* 3.6.13), the regulation of the grain trade was an important part of political business. In each prytany, at the ἐκκλησία κυρία (“principal assembly”) the city’s food supply was considered (AP 43.4). A Solonian law forbade exporting from Attica food-stuffs except for olive oil (Plut. *Solon* 24.1–2). It was forbidden for anyone resident in Attica to transport grain elsewhere than to Athens, or to lend money for that purpose (Dem. 24.136 with Schol.; Dem. 34.37; 35.50–54; [Dem.] 56.5–6, 10–11; 58 Hypoth., cf. 5, 12; Lyc. *Leoc.* 27). The *epimeletai tou emporiou* (“overseers of the import market”) who had re-

<sup>2</sup>Rumors that grain ships had been destroyed in the Pontus or intercepted by the Spartans (Lysias 22.15) suit the period of Antalkidas’ operations in the straits (Xen. *Hell.* 5.1.25–29; cf. Seager 172), which induced the Athenians to accept the King’s Peace. The rumor that the *spondai* were about to be broken may refer to truces in force while the Peace was being concluded (winter 387/6). Antalkidas was navarch in 388/7, relinquishing office in fall 387 (J. Beloch, “Die Nauarchie in Sparta,” *RhM* 34 [1879] 117–130). By late spring in the Attic year 387/6, the Peace was concluded (Ael. Arist. 46.286J). It is preferable to see the rumors as contemporaneous not with the speech, since the speaker would not be so confident of their falsity, but rather with Anytos’ advice in the previous winter. Cf. Wilamowitz 2.374; Kohns 146, n. 1; Alesia xii; Adams 213.

<sup>3</sup>The name is uncommon, and the other bearers of it seem to have been relations of the well-known one. He was an *erastes* of Alkibiades (Plut. *Alc.* 4.4–5; *Mor.* 762; Athen. 12.534e–f; Schol. Plato *Apol.* 18b), and so born before 451. Thus he was in his late sixties or older in 386. He is otherwise last attested as among the leaders counselling caution toward Sparta on the eve of the Corinthian War (*Hell. Oxy.* 6.2). An unknown homonym, or even Anytos’ son, a drunkard (Xen. *Apol.* 30–31), are unlikely candidates for the *sitophylax* whose advice was obeyed by the *sitopolai* and whom the speaker is eager to exculpate (22.8, 9). See further J. K. Davies, *Athenian Propertied Families: 600–300 B.C.* (Oxford 1971) 40–41. Cf. Wilamowitz 2.375–377.

sponsibility for the *emporion* in the Peiraieus received accusations against diverters of grain (Dem. 35.51, [Dem.] 58.9). They also insured that the *emporoi* brought two thirds of the grain imported to the *sitikon emporion* ("grain import market") up to the city (AP 51.4).<sup>4</sup>

The *sitophylakes*, however, were concerned with the wholesale and retail sale of grain.<sup>5</sup> They kept a record (presumably, an aggregate record) of the grain cargoes arriving in the Peiraieus (Dem. 20.32). A 2% tax was levied on imported grain ([Dem.] 59.27), probably on the price at which it was sold to the *sitopolai*, as there was no other good way of assessing its value. To prevent extortionate collection, this tariff must have been supervised by or appealable to public officials, presumably the *sitophylakes* since they supervised the bidding for grain (22.8). Thus the *sitophylakes* had some awareness of the cost to the *sitopolai* of imported grain (see below, 162–164), as well as of its provenience (cf. Dem. 20.32).

While the *agoranomoi* ("administrators of the market") policed buying and selling in general, grain sales were important enough for separate arrangements.<sup>6</sup> According to Lysias 22.8 the *sitophylakes* set the mark-up allowed the *sitopolai*. Concerning this jurisdiction, the AP says that they saw to it that unmilled grain was for sale fairly (δικαίως) and that the millers and bread-sellers were selling barley groats and bread in proportion to the value of unprocessed barley and wheat. They also established the weights for retail trade in grain products (51.3). The Attic law of 375/4 regulating the validation of coinage in the market orders that accusations of merchants for refusing to accept valid coinage are to come before the *sitophylakes* for transactions ἐν τῷ σίτῳ (SEG 26 [1976/77] 72.22–26).<sup>7</sup> To summarize, the *epimeletai* supervised the importation of grain by the *emporoi* until it was first put up for sale; thereafter the *sitophylakes* watched over its pricing, super-

<sup>4</sup>Emendation of σιτικόν—the lexica have ἀστικόν or ἸΑττικόν—(J. D. Sandys, "Notes on the Text of the ἸΑΘΗΝΑΙΩΝ ΠΟΛΙΤΕΙΑ," CR 5 [1891] 105–123, esp. 117) should be resisted (Wilamowitz 1.220–221, n. 68; P. J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* [Oxford 1981] 579).

<sup>5</sup>For attestations of Athenian *sitophylakes*, see R. S. Stroud, "An Athenian Law on Silver Coinage," *Hesperia* 43 (1974) 157–188, esp. 180, n. 90. For non-Athenian *sitophylakes*: Tauro-menion: IG 14.423–430 (120–50 B.C.), cf. M. Guarducci, *Epigrafi Greca* 2 (Rome 1969) 290–294; Priene: *IPriene* 81 (ca 200); Herakleia Perinthos: *IGRRP* 1.797 (late Antonine or later); generic usage: Kaunos: Polyaeus 3.16; Sicilian Sicily: Polyaeus 5.1.3.

<sup>6</sup>The speaker attributes this separate regulation to the πανουργία and κακόνουα of the *sitopolai* (22.16). Why they should be so hostile is unexplained save for their status as metics (5, cf. 16, 21; see below, 168–171 and nn. 44, 45). He comes closer to the truth when he assigns great profits to them (20), since such profits go along with the great scale (and risks) of the grain trade.

<sup>7</sup>Stroud gives reasons for thinking that this phrase is locative, "in the grain-market" (above, n. 5, 180), though naming a market *sitos* rather than *sitikon* (AP 51.1, above, n.4) may seem unlikely in a document. See below, 159–160.

vising each successive purchase, by the *sitopolai*, and later by the *mulothroi* ("millers"), by the *artopolai* ("breadsellers"), and finally by ordinary Athenians.<sup>8</sup> This arrangement of duties was not adventitious: the division of responsibility between *epimeletai* and *sitophylakes* parallels the division of economic function between *emporoi* and *sitopolai*.

### *Terms for Buying in Lysias 22*

The responsibility of the *sitophylakes* for the price of grain precipitates the event prompting the charges of the speaker. The essential matter to be determined concerns the meaning of the related terms *συμπρίασθαι* and *συνωνείσθαι*. The *sitopolai* had transgressed a law which forbade anyone in Attica to *συμπρίασθαι/συνωνείσθαι* or, that is, "buy" (leaving the terms vague for now) more than 50 *phormoi* of grain. The law is usually interpreted as prohibiting the purchase by an individual of more than 50 *phormoi*,<sup>9</sup> alternatively (1) at one time, (2) within a set time period (e.g., a day), or (3) until a previous stock or purchase was exhausted.<sup>10</sup> It was thus a regulation intended to punish excessive acquisition or hoarding of grain. The interpretation depends on the idea that *συμπρίασθαι* and *συνωνείσθαι* mean "to accumulate by purchase." The prefix *συν-* conveys the additive, repeated character of the buying (Alesia 7) rather than any collaborative nature. Although the *sitopolai* were obviously considered by the speaker to have been participants in a buying-ring or cartel, the traditional view of the speech holds that for tactical reasons or because a cartel was not forbidden (a loophole in the law) the speaker accused the *sitopolai* of transgressing an anti-hoarding law (so both Seager and Kohns, above, note 9). Nonetheless, there are passages in which the notion of collaboration is foremost in these verbs (such a sense in Hdt. 1.27.3 is usually conceded).<sup>11</sup> More important, they must mean "to collaborate in buying" at several points in Oration 22. For instance, Seager (among others) interprets the dialogue between the accuser and one of the accused metic *sitopolai* (5–6) as a conversation at cross-purposes in which the meaning of *συμπρίασθαι* and *συνωνείσθαι* shifts back and forth between "to accumulate by buying" and "to buy in collaboration" (175–176, cf. Kohns 153–154, n. 35).

The two words can convey the ideas both of additive and of collaborative

<sup>8</sup>Alesia 20. Cf. Kohns 147, 158–159; Kohns believes that an unnamed group of middlemen were cut out of the trade by the *sitopolai*. The *sitopolai* are only *kapeloi* ("small retailers") in one derogatory reference to them slipped into the speaker's closing remarks (21). On *kapeloi*: M. I. Finkelstein, "Ἐμπορος, Ναύκληρος, and Κάπηλος," *CP* 30 (1935) 310–336, esp. 329–336. Compare also the list of terms for grainsellers in Pollux 7.18.

<sup>9</sup>Seager 173–176; Kohns 148–149, 153–154, n. 35; Alesia vii; Adams 222.

<sup>10</sup>See Kohns 151–153 for a survey of views on the subject and below, 159–161; cf. Seager 174.

<sup>11</sup>Seager 174, with n. 21. Cf. Kohns 153–154, n. 35. But J. E. Powell, at *A Lexicon to Herodotus* (Cambridge 1938) 346, translates "buy up."

buying. Both connotations could be operative together. They may find a common denominator in the concept of cornering a market or creating a monopoly, as the prefix συν- can imply the carrying of an action to its completion (LSJ s. v. σύν). So the meaning “accumulate by buying” may be a sub-category of the sense “buy up” suggested by the prefix. The appearances (known to me) of συμπρίασθαι and συνωνεῖσθαι in Classical prose outside Lys. 22 will show the range of possibilities.

- (1) Hdt. 1.27.3. Aegean islanders are to cooperate in purchasing (συνωνέονται) horses against Lydia. The number μυριάην (“10,000”) stands for any great number, here a number so large that all available horses are probably to be bought.
- (2) Xen. *Hell.* 5.4.56. In 377, the Thebans send men to Thessaly for grain. Certainly multiple purchases by agents in cooperation appear here. They were sent to buy up all the available grain. The Thebans were like Athenian *sitonai*, who are described by Pollux with the term συνωνούμενοι (8.114).
- (3) Plato *Soph.* 224. The sophist travels purchasing (ξυνωνούμενον) learning which he resells. This is accumulation by purchase, which possibly includes the notion of hoarding.
- (4) Arist. *Pol.* 1259a24. An individual creates a monopoly in iron (συνεπρίατο) through multiple purchases.
- (5) Theopompos, *FGrHist* 115 F 193. Architeles supplies envoys of Hieron with gold from a hoard accumulated in small amounts (συνωνούμενος κατὰ μικρόν), yet so large that it amounts to a corner.
- (6) [Dem.] 13.30. Politicians out for private gain have bought (συνεωνημένοι) large estates. Somewhat like monopolizers of goods, “they acquired as much as they never expected in a dream.” Cf. (7) below.
- (7) Dem. 23.208. These remarks are similar to (6) above. Note the self-aggrandizement of an individual official with property equivalent to that of an entire jury (at least 500).
- (8) Theoph. *Char.* 2.7 (*Kolax*). The participle (συνωνούμενος) may mean “to buy together with,” a form of collaborative buying.

Three later passages from Plutarch can serve as further illustration.

- (9) Plut. *Mor.* 524. Plutarch is describing a *philoploutos*, as indicated by the conspicuous purchase of unnecessary goods. Here the idea of accumulation is primary, but whether successive purchases amount to a corner is unclear.
- (10) Plut. *Solon* 15.7–8; *Mor.* 807. The *chreokopidai* were prominent Athenians who took advantage of foreknowledge of Solon’s debt-cancellation in order to borrow money to buy land (συνεωνημένοι, συνωνήσαντο). Since Athenian tradition saw them as conspirators, the idea of collaboration is present as well as that of accumulation.
- (11) Plut. *Brut.* 21.5. Brutus buys up (συνεωνήμενος) for his praetorian

games a great number of animals. He accumulates by purchase and seems to buy all the available animals.

The notion of collaborative buying appears in 1, 2, 8, 10. The idea of accumulation by repeated buying can be seen in 1, 2, 3, 4, 5, 6, 7, 9, 10, and 11. Creating a corner or monopoly appears in 1, 4, 5, 11 (strongly), and residually in 2, 6, and 7. Collaboration and repetition can both be aspects of monopolization, which itself often involves hoarding.<sup>12</sup>

The terms συμπρίασθαι and συνωνεῖσθαι may now be considered in Lysias 22. They are synonyms, used interchangeably in two paraphrases of the relevant law (cf. 22.5, 7: συμπρίασθαι and 22.6: συνωνεῖσθαι [*bis*]). When a metic *sitopoles* is asked by the speaker whether he is guilty of buying (συμπρίασθαι) more than 50 *phormoi* (5), he concedes that he has done this. The accuser then echoes this admission by observing that no further accusation is necessary because the accused has admitted that he has bought (συμπρίασθαι), which the law forbids (7). The *sitopoles* intended to excuse his actions as having been ordered by the *sitophylakes*, one of whom, Anytos, concedes that he advised the *sitopolai* to suppress their competition. Thus, the metic must be using συμπρίασθαι in the sense of “to collaborate in buying” since his reference to the *sitophylakes* is without sense otherwise. This is conceded by scholars, who believe, however, that the speaker, in his question and his recapitulation of the metic’s answer, is using συμπρίασθαι in the sense of “to accumulate by buying” (Seager 175–176). Yet it is simpler to assume that both the speaker and the *sitopoles* are using the term in the same way. This interpretation becomes stronger when the same pattern is seen in the speaker’s interpretation of the testimony of Anytos, who, he points out, did not advise the graindealers to collaborate in buying (συμπριαμένους; 9) but counselled them not to ἀντωνεῖσθαι (cf. ὑπερβαλλόντων, μαχομένων, φιλονικούντων [8]). Since ἀντωνεῖσθαι means “to bid (or buy) competitively” here (cf. Andok. 1.134; Dem. 18.239), συμπρίασθαι

<sup>12</sup>The Roman Empire and especially Roman Egypt saw συνωνεῖσθαι and its related noun συνώνη used for compulsory purchase, a connotation with affinities to monopoly: the state held primary, exclusive rights of disposition on the whole property of the nation (e.g., Procop. *Anec.* 22.19; *Cod. Just. Novellae* 10.27.2.5; *BGU* 807.11; *PRyl* 85.11). Occasionally the terms connote buying on another’s behalf, usually a superior, a form of collaborative buying (*PFlor* 142), additive buying (*POxy* 507.24–25), or perhaps simply buying (*POxy* 1578.5). συναγοράζειν is apparently not attested before the Hellenistic period (if we may include therein [Arist.] *Oec.* 1347b5, where it means “buy up”). Thereafter, the word has a similar semantic range to συμπρίασθαι and συνωνεῖσθαι: “accumulate by purchase” (DS 5.13.2; Ath. 5.214e) and “buy up” (DS 19.91.5; 36.2.3). The term συγκτᾶσθαι is used at Arist. *Pol.* 1307a30, where the upper class (γνώριμοι) at Thourioi are said to have joined in buying up the whole countryside (Ael. Arist. 14.204.21): cooperation rather than repetition or monopolization is implied at Thuc. 6.69.3 and 7.57.1.

must mean "to collaborate in buying" (9).<sup>13</sup> Once more, the speaker sums up the testimony by saying that the *sitopolai* bought grain (συνεπρίαντο) not having been ordered by the magistrates (10). Here, συμπρίσθαι has the same meaning as in the testimony of Anytos which is summed up, namely "to collaborate in buying." So also συνωνεῖσθαι (συνωνούμενοι) is employed to sum up another aspect of the testimony, that the advice of Anytos took place in the previous year, while the "collaboration in buying" occurred in the present one (9).

Less clear are the remaining three occurrences of συνωνεῖσθαι: (1) The speaker says that the *sitopolai* will allege that they bought (συνεωνούντο) grain out of good will toward the city (11). (2) The price, however, fluctuated by as much as a drachma in one day. It should have stayed constant until the grain bought (συνεωνημένως) was exhausted (12). (3) The price fluctuations over a drachma range better fit the pattern of buying wherein the *sitopolai* were κατὰ μεδίμνους συνωνούμενοι ("buying by *medimnoi*," 12). In (1), that the *sitopolai* defended themselves collectively argues for the meaning "to collaborate in buying." In (2), if "accumulate by buying" is meant, the speaker believes that hoarded grain should have a constant value. Why this should be so, if the grain was bought at different prices, is unsaid. In the case of collaborative buying, however, the grain is expected to maintain a constant price, because it was purchased at the same price by agreement, an observation that is self-explanatory. In (3), the speaker contrasts bulk purchases (50 or more *phormoi*), leading to price stability, with purchases "by *medimnoi*" which cause the price to vary. The meaning "accumulate by buying" destroys the contrast, since such accumulations by *medimnoi* would add up to amounts of 50 or more *phormoi*. Rather, the phrase κατὰ μεδίμνους συνωνούμενοι is a contradiction in terms, for it describes colluding to buy small amounts in which the rationale for collusion is removed: wholesale buying approximates retail purchasing.<sup>14</sup> In these passages, the notion of collaboration stands foremost.

### *The Scale of the Athenian Grain Trade*

The term *phormos* (derived from φέρω) denotes a woven object, either a "mat" (Aristoph. *Pl.* 542) sometimes worn as clothes (Hdt. 3.98.4; Paus. 10.29.8; Theocr. 21.13) or a "basket." A *phormos* is used to carry sand or straw in siege warfare (Aen. Tact. 32.2; Hdt. 8.71.2; Polyb. 1.19.13) and to carry agricultural produce, as in Lysias 22 (cf. Hes. *Op.* 482). Obviously

<sup>13</sup>Even the three passages cited in *LSJ* s.v. ἀντωνέομαι "to buy instead" (Xen. *Oec.* 20.26; Men. *Sic. fr.* 1; Jul. *Orat.* 1.42) make good sense with the meaning "to buy competitively."

<sup>14</sup>See Gernet-Bizos 84, 88, 89. At 153–154, n. 35 Kohns interprets συνωνούμενοι to mean merely "buy," and assigns the prefix no force. Dobree, cited by Hude, excised the prefix. Cf. Rauchenstein 55.

such a *phormos* was of no great size. A *phormos* probably of grain is considered a negligible theft by a woman at Aristophanes *Th.* 813. If the woman meant to resell the *phormos*, it cannot have been more than a *medimnos*, inasmuch as women were forbidden by law to enter into a transaction for more than a *medimnos* of grain (Isaeus 10.10). To offer a *phormos* (but *pace* LSJ this is more probably a mat than a basket of grain) is to win gratitude with a small service (Arist. *Rhet.* 1385b27–28). A *phormos*, then, is most unlikely to have been much larger than the normal bulk unit, the *medimnos*. An Attic *medimnos* of wheat took up ca 0.52 hl. of volume (about 1.5 bushels) and weighed ca 41 kg. (taking a rather high density for the wheat).<sup>15</sup> Comparative material argues that the *phormos*, if a load meant to be borne by a porter for a moderate distance (cf. Arist. *Wasps* 58), must approximate this weight.<sup>16</sup> Thus, it is likely that a *phormos* of grain weighed no more than a *medimnos*.<sup>17</sup> The only other appearance of the term in a legal setting in this period is in the sale by the *poletai* of vetch, lentils, and wheat from the property of the mutilators of the Herms. On the basis of selling prices, Pritchett (following Boeckh) believes that an equation of the *phormos* and the *medimnos* is valid.<sup>18</sup> Nonetheless, the *phormos* may not have been the legal equivalent of *medimnos*, but only a substitute for it in certain contexts where an exact measurement was unnecessary (below, 161).

How might a 50-*phormoi/medimnoi* limit have affected patterns of grain importation and consumption in Attica? Gomme's estimates (like others, extrapolated from scant data and useful only for illustrative purposes) for 323 B.C. included a total population of 258,000 with a consumption of 1,610,000 *medimnoi* per year, of which 1,200,000 *medimnoi* were imported.<sup>19</sup> If large wheat freighters carried ca 3000 *medimnoi* (= 150 mt.),<sup>20</sup> 400

<sup>15</sup>See A. Jardé, *Les céréales dans l'antiquité grecque* (Paris 1925) 31–32; cf. G. Rickman, *The Corn Supply of Ancient Rome* (Oxford 1980) xiii.

<sup>16</sup>C. Clark and M. Haswell, *The Economics of Subsistence Agriculture*<sup>4</sup> (Glasgow 1970) 194–195, 202–203.

<sup>17</sup>If the *phormos* equalled many *medimnoi*, the force of the quantitative arguments below is partially dissipated, although it would need to be very many to vitiate them entirely. See Seager 175, n. 7; Wilamowitz 2.375, n. 2. On the other hand, diminution of the *phormos* enhances their force. Cf. Alesia xiii, 10.

<sup>18</sup>Boeckh 1.82, n. 375; W. K. Pritchett, "The Attic Stelai, Part II," *Hesperia* 25 (1956) 178–317, esp. 194–195.

<sup>19</sup>A. W. Gomme, *The Population of Athens in the Fifth and Fourth Centuries B.C.* (Oxford 1933) 9–11, 17–18, 21–22, 26–33. For a higher estimate: L. Gernet, "L'approvisionnement d'Athènes en blé au Ve et au IVe siècle," *Mélanges d'histoire ancienne* 1 (Paris 1909) 171–385, esp. 273–293. A lower estimate: J. Beloch, *Die Bevölkerung der griechisch-römischen Welt* (Leipzig 1886) 99; cf. also A. Kocavalov, "Die Einfuhr von Getreide nach Athen," *RhM* 81 (1932) 321–323; A. Segrè, "Note sull'economia di Atene nel IV secolo av. Cr.," *SIFC* 22 (1947) 133–163.

<sup>20</sup>L. Casson (*Ships and Seamanship in the Ancient World* [Princeton 1971] 183–184) bases this estimate on the port regulations of Thasos (*IG* 12, *Supp.* 348) and on inscriptions honoring



loads would be needed for the postulated level of imports. The 50-*medimnoi* maximum (assuming the *phormos* equals a *medimnos*) would necessitate 24,000 transactions per year between *emporoi* and *sitopolai*. The cargo of each arriving freighter would have been divided among at least 60 *sitopolai*. Also the arrival of groups of grain ships<sup>21</sup> would not necessarily coincide with the exhaustion of their stocks by enough *sitopolai* or with the fulfillment of their mandated waiting period (if one existed, see below, 160).

This system would probably have entailed grain storage by the *emporoi*. Yet there is no indication that *emporoi* stored grain in Athens. It is the *sitopolai* who are accused of besieging the city by hoarding grain, not the *emporoi* (15). Surely, the anxiety of the speaker that the *emporoi* be relieved of their fear of a plot against them by the *sitopolai* reflects a situation where the *sitopolai* stored grain. A law was necessary to insure that voyages underwritten by residents of Attica brought grain to Athens precisely because most of the *emporoi* did not have shore installations in Attica and capital tied up in stored grain. It was to the advantage of the *emporoi* to be free to bring grain wherever it commanded the highest price, without a commitment to one destination. Hence, legislation had to compel the *emporoi* to convey two-thirds of their cargoes to the city in order to prevent a disposal of their goods in the Peiraieus. The *emporoi* in this oration are shadowy figures, for whom the alternative denomination εἰσπλέοντες ("sailers in," 17.21) suggests that they had no abiding connection with Attica.<sup>22</sup>

If grain were imported at a steady rate throughout the year there would be at least 65 daily sales by *emporoi* to *sitopolai*, each taking 50 *phormoi*. Thus there would have to be at least the same number of *sitopolai*. Grain importation was in fact not evenly spread over the year but concentrated in the good sailing months of summer. So this estimate for the number of daily transactions indicates over 100 *sitopolai*, while the size of grain freighters may argue for even more. If five 3000-*medimnoi* freighters entered the Peiraieus on the same day, and *sitopolai* could buy only 50 *phormoi* each at a time, 300 *sitopolai* would have had to be at hand to buy their cargo. It might be possible to lower our estimate of the necessary *sitopolai* by adducing more or less arbitrary assumptions on the number of merchants involved with each freighter, the amount of time that grain remained on shipboard within the port, or the duration of time over which the 50-*phormoi* limit operated. Even if there was evidence for any of these assumptions, one would still be

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merchants, on the assumption that a specific gift equals one shipload (SEG 1.361; cf. below n. 37). See also J. Rougé, *Ships and Fleets of the Ancient Mediterranean* (Middletown, Conn. 1981) 77.

<sup>21</sup>For grain freighters sailing in convoy or, at least, in groups during wartime, note Xen. *Hell.* 5.1.23.

<sup>22</sup>This impression is enhanced if the manuscript reading of ἐκπλέονσιν (dat.) "sailers out" is kept in 21. The "sailers in" can become "sailers out," if they are plotted against.

left with a large number of *sitopolai* necessary for the situation which we have just envisaged. The speaker's emphasis on the dangers of the conspiracy by *sitopolai* (to whom he refers without distinctions) and their great profits suggests that their numbers were less and that the defendants represented a significant portion of the trade. It is hard to imagine that there were as many as 50 defendants collectively tried.<sup>23</sup>

Again, if Athens imported 1,200,000 *medimnoi* of grain per year, she used over 3,000 *medimnoi* a day. If there were, say, 100 *sitopolai*, each limited to 50 *phormoi* per purchase, they would collectively have less than two days stock on hand after each set of purchases and so would scarcely be able to affect the cost of grain at auctions. Furthermore, the many Athenians of the zeugite class (200 *medimnoi* in wet and dry measures or its equivalent in money) who depended for their livelihood on grain production and sale would have had more grain in stock at times than the "wholesale" traders in grain.<sup>24</sup> Yet, the speaker contends that purchases of grain κατὰ μεδίμνους ("by *medimnoi*"), which create fluctuating prices for the buyers (12), were different from the purchases in bulk with which the graindealers were charged. The distinction was clearly between a few *medimnoi* bought by an individual and hundreds, if not thousands, purchased by a *sitopoles*. True wholesalers, they held stocks accumulated during the sailing season for sale during the winter months when fewer ships appeared.<sup>25</sup>

Finally, the ancient evidence on how grain was sold is at variance with the view that 50 *phormoi* was the maximum sale. *Emporoi* demonstrated the quality of their product by showing samples, a device hardly necessary if less than 50 *medimnoi*, which could be checked visually, were at issue (Plut. *Demosth.* 23.6). Also, since large consignments of grain could not be weighed, the weight of grain was estimated from volume by knowing its place of origin (Theophr. *CP* 4.9.5).

Just as the foregoing considerations indicate that a 50-*phormoi* limit on each *sitopoles* was impractical, one can argue that the dangers of hoarding and monopoly, the supposed preoccupations behind such a limit, would not have been credible.<sup>26</sup> Grain was a fungible, an undifferentiated product, which was procured from a large number of primary producers and importers. Storage of large amounts was difficult and could not be continued indefinitely. The stock and capital of wholesalers was rolled over many

<sup>23</sup>The number of *sitopolai* cannot be inferred from the number of *sitophylakes*, who had many other duties (above, 151).

<sup>24</sup>Note the production of the large estate of Phainippos: 1000+ *medimnoi* of barley and 800+ *metretai* of wine (Dem. 42.20) and the 619 *medimnoi* annual rent of an Eleusinian estate leased by Hypereides (*IG* 2<sup>2</sup> 1672.253).

<sup>25</sup>A law limiting the size of wholesale purchases increases the number of wholesalers, but a ceiling of only 50 *phormoi* is so low that it would create a very large number of *sitopolai* as wholesalers.

<sup>26</sup>A useful overview is F. Machlup, *The Political Economy of Monopoly* (Princeton 1952).

times in one year. Entry into this business was easy, as presumably anyone could bid for incoming cargoes. In addition, the business was divided by law into two segments, one in the city and another in the Peiraieus. Hence the business of the *sitopolai* was not likely to experience a significant degree of concentration, for example, 4 or 5 firms controlling 60 or 70% of sales. Consider the following hypothetical case.

Wheat was selling for six drachmas per *medimnos* in the early 4th century (IG 2<sup>2</sup> 1356). Its wholesale price for anyone attempting to buy quickly large amounts for withdrawal from the market would have risen. A potential hoarder would be forced to outbid other *sitopolai*, who, anxious to stay in business by procuring grain, would have squeezed the differential between their cost and their selling price by raising their bids. At a wholesale price of five drachmas per *medimnos* (still somewhat discounted in comparison to the original retail price), 100,000 *medimnoi*, for example, costs 83 talents. Such a huge sum, an unparalleled amount of disposable capital, would be tied up in controlling less than ten percent of the annual consumption of grain. In normal times, with less than ten percent withheld, there might have been some short-term rise in price because of the drop in amount for sale, but this would soon have been offset by grain drawn to Attica by higher prevailing prices. In a dearth a hoarder would be dealt with summarily (see below, 164–165, 169). Again, the *sitopolai* are accused of hoarding (καταθέσθαι, 9) incidentally in the speaker's statement that Anytos did not induce them to buy (συμπριάμενους) for hoarding, and again when the speaker asserts that the *sitopolai* used rumors of disaster to refuse to sell (15). Nonetheless, suprisingly little is made of hoarding in the speech, if major supplies of grain were being withheld from the market.

Therefore the law violated by the *sitopolai* was one primarily against collusion, cartelization, and collaborative price-fixing,<sup>27</sup> not directly against excessive acquisition for the purposes of monopoly or hoarding. The terms συμπρίασθαι/συνωνείσθαι would not have admitted any ambiguity or confusion to an Athenian audience, despite the evidence for the meaning "to accumulate by buying." An individual or small group monopolizing the sale of grain through his or their own successive purchases was inconceivable, given the scale of the grain trade.

### *The Implementation of the Law*

The 50-*phormoi* threshold above which cooperative buying was a criminal offense was, we may suppose, predicated on the need to allow common citizens to cooperate with relatives or neighbors. Fifty *medimnoi* would feed about 8 people at base subsistence for a year, so that it may have been a

<sup>27</sup>The evidence for collusion: συνίστασθαι against the *emporoi* (17, 21). Note also the emendation of C. G. Cobet, συναπράξουσιν for ἀναπράξουσιν in (15) (*Lysiae: Orationes et Fragmenta* [Amsterdam 1803] 185; cf. Thalheim 251).

conventional figure for an average household's consumption of grain under conditions above bare subsistence.<sup>28</sup> The immunity for cooperative transactions below 50 *phormoi* permitted individuals to combine to achieve advantageous deals from *sitopolai*. The reason why the term *phormos* may have been used rather than *medimnos* is given by the context in which policing of the law occurred. There was always a danger that grain could be bought by an individual fronting for a consortium of buyers. But this danger was forestalled by the restriction of grain sales to specific places: the *alphitopolis* ("groat-seller") *stoa* in the Peiraieus, perhaps the *sitos* in the city, and perhaps another *alphitopolis stoa* in the city.<sup>29</sup> The stipulation that two-thirds of grain cargoes had to be brought to the city abetted the spatial restriction on sales. Thus buying by a syndicate, through the intermediation of an individual, could be detected if the grain was distributed among the storerooms of the syndicate members (which probably lay near the stipulated points of sale). Naturally, more elaborate forms of collusion, where one *sitopoles* acted as sole factor for a syndicate, were harder to detect, but such schemes demanded extraordinary solidarity among the conspirators (see below, 166).

Thus, as an anti-cartel measure, the 50-*phormoi* limit was enforceable, something that such a limit was not for individuals. For example, if the law forbade anyone from buying more than 50 *phormoi* at once, what was to stop the division of a large purchase into small ones? In turn, if a *sitopoles*' stock had to be exhausted before he bought 50 more *phormoi*, the *sitopoles* could conceal a part of his stock, building up a reserve over time. The *sitophylakes* in this case would have to monitor the storerooms of the *sitopolai*. Alternatively, the law could have permitted 50-*phormoi* purchases at set intervals, in which case the *sitophylakes* would need to keep records of all purchases of grain and the dates of their purchases. Yet, Demosthenes says that anyone might check the *apographe* of the *sitophylakes* so that the *apographe* was a document publicly displayed (20.32). Thus, although it cannot be ruled out that the *sitophylakes* had other records, the *apographe*, at least, could not have contained much information on prices. If the interval was long, a prytany let us say, the *sitopolai* would become occasional salesmen, who depended on another source for much of their livelihood. A short interval like a day would be more easily enforced, but would still necessitate the existence of a large number of *sitopolai* to be watched. Yet, in all these

<sup>28</sup>In Arist. *Wasps* 715–718 Demos is promised 50 *medimnoi* by demagogues, but only gets 5 *medimnoi* in *choinix* installments. The 50 *medimnoi* may appear here as an improbably high figure for a private individual to procure.

<sup>29</sup>R. E. Wycherley, *The Athenian Agora 3: Literary and Epigraphical Testimonia* (Princeton 1957) 22, no. 7, 191–193, nos. 632–635, who equates the *alphitopolis* with the μακρὰ στόα (*IG* 2<sup>2</sup> 968) 21, no. 3. For the Peiraieus *alphitopolis* see Σ Ar. *Ach.* 548a–c, cf. Thuc. 8.90.5, Dem. 34.37, Paus. 1.1.3; for the *sitos* in Athens, above, n. 7; for a possible *alphitopolis* in Athens, Ar. *Eccl.* 686 cf. Σ Pl. 1037, *Wasps* 147b, Eustath. *ad Il.* 11.630, Hsych. ἀλφιτόπωλις, ΕΜ τηλία.

cases, nothing would prohibit relatives or slaves of the *sitopoles* from making additional purchases on his behalf. Hence, scholars have envisaged a 50-*phormoi* limit for a “firm,” a concept alien to Athenian law, or for a “family,” a term of which the Greek equivalent *oikos* suggests that such a provision would not be an aid to enforcement (references in Kohns 152–153). Finally, all these interpretations demand the existence of sub-provisions of the law, of which there is no hint in the speech.

In observing that people did not split up purchases of more than 50 *phormoi*, the actual size of the container (whether exactly a *medimnos* or not) was unimportant so long as more than 50 *phormoi* “portable containers” were not divided. When *phormos* is used in the accounts of the *poletai* instead of *medimnos*, a similar reason is to be adduced. The state had no incentive to determine the size of the containers in which grain was put up for auction. The buyers were left to make a judgment about the amount of grain in each consignment, just as they were left to judge its quality.

### *The Intervention of Anytos*

The collusion among the graindealers charged in Lysias 22 was provoked by the *sitophylakes*. The excuse of the *sitopolai* was that they had colluded to buy grain because ordered to do so by the ἄρχοντες, by which they meant the *sitophylakes*, acting as a board. It seems likely that only one board of *sitophylakes* was involved, along with the *sitopolai* whom they supervised.<sup>30</sup> Since more grain was sold by *emporoi* to the graindealers in the city than to those in the Peiraieus, the *sitophylakes* of the city are possibly those accused. Only one segment of the *sitopolai*, but at least half or the dominant segment, was on trial.

The speaker accounts for only 3 of the 5 *sitophylakes* in the city (cf. *AP* 51.3). Of these the two that he claims knew nothing of the matter are oddly not called to give evidence, so that the jurors must trust him.<sup>31</sup> Only Anytos is brought forward as a witness. It does seem, however, unlikely that even

<sup>30</sup>Only one board of *sitophylakes* appears in any one honorific decree, which argues (as the nature of their work also suggests) that the two boards functioned separately. See above, n. 5.

<sup>31</sup>The speaker’s purpose may have been to free himself from the suspicion of having accused the *sitopolai* for profit more than to win the case. Accordingly, there is no certainty that the defense did not call one or more of the other *sitophylakes*, damaging the case of the speaker. Yet, various expedients have been produced to save the speaker’s credibility. 1) There were 3 *sitophylakes* at this time (W. Göz, “Die Zahl der σιτοφύλακες in Athen zu Lysias 22.8,” *Klio* 16 [1920] 187–190); 2) We emend οἱ μὲν δύο τοῖς οἱ μὲν ἑνὶν (Thalheim 249, accepted by Seager 174). This gives the comparison a rather elliptical flavor. Note that the phrases οἱ μὲν . . . and Ἄνυτος δ’ look partitive, and the introduction of τοῦ προτέρου χειμῶνος is used to exculpate Anytos, not to distinguish him from the οἱ μὲν δύο. 3) We emend to οἱ μὲν τέσσαρες (T. Bergk, *Commentationum de reliquiis Comoediae Atticae Antiquae* [Leipzig 1838] 16–18) arguing that δύο came from δ’ = τέτταρες—so Adams 223, 378, Alesia 9, Shuckburgh 317, Rauchenstein 54; (cf. Kohns 150, n. 21). Hude in his OCT edition preserves the reading of the manuscripts.

Anytos the statesman could have acted without (at least) the acquiescence of his colleagues. Anytos claims that he advised the *sitopolai* to stop striving against each other, because he believed it was advantageous to the consumers that the *sitopolai* buy grain as cheaply as possible. In his testimony, Anytos showed himself to be an ally of the *sitopolai*, who reciprocated by refusing to cast their guilt onto the *sitophylakes*.<sup>32</sup> Anytos' advice was carefully phrased in order to save him from the charge of urging the *sitopolai* "to buy together" (συμπρίασθαι/συνωνείσθαι), but his advice amounted to the same thing. Once the *sitopolai* had forsworn the competitive pricing mechanism to allocate grain among themselves by refusing to raise bids to levels necessary to apportion grain among bidders, they could only make some collusive agreement to allocate it. Mindful of the reaction of the *emporoi*, Anytos may have intended that the *sitopolai* agree covertly on a price and then split up the incoming cargoes among themselves. They could have held a mock auction during which the cargo was awarded to a prearranged bidder at a stipulated price. Yet such a compact demanded an unusual degree of trust among the *sitopolai*, whom the speaker charges with φιλονικία "competitiveness" and an excessive hunger for profits (8, 20). Under such an agreement, those *sitopolai* who had first taken their allotment at a bargain would have been tempted to renege and bid competitively for later cargoes. Having acquired a stock of grain, they could strive for a bigger share of the market by shutting out their competitors. Therefore, the *sitopolai* seem to have put forward a single bidder offering one price, and split up the grain afterwards. The speaker interrogates a single metic (5), which has been explained as a formalization of many interrogations.<sup>33</sup> Yet it is hard to see how an admission from a single metic proves the collusion of all, unless he acted as an agent for the group, and could implicate the others with himself.

The speaker explains why a cessation of competition would provide the cheapest possible grain by observing that the allowable mark-up was only an obol (8) (see below 166). It has been thought that an obol per *medimnos* is meant, which is a very small profit, if a *medimnos* retailed for ca 6 drachmas (Boeckh 82; cf. Kohns 156–158). It has been suggested, however, that an

<sup>32</sup>This point depends on the interpretation of 22.11: ἀλλὰ μὲν γάρ, ὦ ἄνδρες δικασταί, οἴομαι αὐτοὺς ἐπὶ μὲν τοῦτον τὸν λόγον οὐκ ἐλεύσεσθαι (printed by Hude). The emendations οὐ τρέψεσθαι (Cobet, followed by Adams 225, 378), πορεύσεσθαι (Frohberger, cited by Hude), καταφύξεσθαι (Rauchenstein) keep the sense of the preserved text. Another possibility, τοῦτῳ τῷ λόγῳ . . . ἐλεήσεσθαι (A. Weidner, *Lysiae: Orationes Selectae* [Leipzig 1888] 112, 153; followed by Thalheim 250; Gernet-Bizos 88), suggests that an accusation has in some sense been made. The last emendation does, however, give a rather abrupt transition to the discussion of the good will of the *sitopolai* which follows.

<sup>33</sup>So Alesia 6; cf. Adams 222. Others have approached the same problem by the importing of a notion foreign to Athenian law, i.e., the guild: Wilamowitz 2.374, 378; E. Ziebarth, *Beiträge zur Geschichte des Seeraubs und Seehandels in alten Griechenlands* (Hamburg 1929) 61; Rauchenstein 53. Cf. Kohns 147, n. 6.

obol on the drachma is meant, or, in other words, a mark-up of one sixth.<sup>34</sup> This is a more believable margin, but the usage of the speaker would then be unparalleled.

If historic costs (the amount of money used to procure wheat) were the sole determinative of price, such a fixed mark-up would be workable. Current demand, however, conditioned by the expectation of the availability of wheat in the future, and current supply (with the replacement cost of wheat to the *sitopolai*) were also significant factors in the determination of price. This restriction on mark-ups, when applied to hold down strongly rising retail prices, could only lead to shortages and powerful pressures from consumers to apportion supplies by raising prices in spite of the law. Moreover, there would probably have been *sitopolai* who were more or less efficient at storing or marketing grain. Therefore a set margin would seem generous to some and not so favorable to others, leading to different degrees of compliance. Indeed, compliance with this stipulation is the major problem. If the *sitopolai* bought grain at different prices with the grain mixed in their stores, it would be difficult for the *sitophylakes* to determine whether the just price was being upheld. At any one time in the grain market, different fair prices would need to be allowed among different graindealers, whose stocks were made up of different-sized amounts of grain purchased at different prices. It is doubtful, however, that the *sitophylakes* will have kept records that allowed them to trace the price history of the surviving components of the stocks of the *sitopolai* (see above, 160). To come up with a fair price without averaging, a device which there is no reason to think was available, would have been impossible.

The *AP* tells us that the *sitophylakes* saw to it that grain sold "justly," but there is no reason to think that the specific mark-up mentioned in this speech always constituted the means of calculating the just price. In the next year, as observed by the speaker, grain was varying in price over the one-drachma range in one day (12) which would be a normal variation (that is, one without official intervention). Such variations would be illegal on the basis of the speech's one obol mark-up limit. Consequently, it is preferable to hypothesize that in reckoning the just price the *sitophylakes* merely saw to it that grain sold with an appropriate mark-up calculated from its current price in the *emporion*. Ordinarily, setting the "just" price, like so many other attempts to codify prices that seemed fair, probably contented itself with creating a ceiling for prices. The aforesaid difficulties of enforcing a one

<sup>34</sup>So Kohns (160–162), whose only parallel is the ἐπωβέλλαια, the responsibility of an unsuccessful litigant to pay one sixth of the sum at issue (Pollux 8.39, 48; Isoc. 18.3, 12, 35; Dem. 45.6, [Dem.] 47.64). In Plato *Laws* 921d the term denotes one sixth interest, but the phrase τῇ δραχμῇ, not present here, makes misunderstanding impossible. There are no parallels in M. N. Tod, "Epigraphical Notes on Greek Coinage: III, ΟΒΟΛΟΣ," *NC* 6 7 (1947) 1–27.

obol mark-up suggest that it was not the normal means of price control in the Attic grain market (cf. Adams 224)

Yet some regulation of mark-up was necessary before any attempt to meddle in the wholesale purchase of grain could begin. There was no sense in lowering the prices that *sitopolai* paid *emporoi* unless those lower prices would be passed along to the ordinary buyer. A limit on the mark-up of wheat was designed to curb excessive, "windfall" profits. Furthermore, a collusive (or anti-competitive) auction which held prices to a narrow range allowed a set mark-up to be imposed, since the price of all grain bought by the *sitopolai* would be approximately the same. The limited mark-up and the attempt to dampen competition among the *sitopolai* were measures in a single program of intervention and were mutually supportive.

Anytos, therefore, was involved in a two-phase effort to hold down the price of grain. It was winter, when imports would have been few. From the rumors that were in the air, hostilities might break out anew, interrupting the flow of imports. But this was only a potential crisis, unlike the shortages of the late 330s and 320s, attested by the decrees for those who aided Athens. The Athenians developed a repertoire of methods for coping with crises, none of which are mentioned in the speech or appear on documents closely contemporaneous to the speech. The Athenians might receive gifts of grain or supplies at low price from friendly states.<sup>35</sup> Public monies, supplemented by donations, formed sitonic funds, employed by *sitonai* ("grain-buyers") to procure food.<sup>36</sup> Merchants also helped with gifts or sales at pre-crisis prices, and were happy to get honors in return (Xen. *Poroi* 3.4).<sup>37</sup> The grain acquired was distributed, perhaps under the supervision of the ἐπιγραφείς σίτου (Pollux 8.103 = Antiphon, DK 87 F 112).<sup>38</sup> Public stocks

<sup>35</sup>Psammetichos: Plut. *Per.* 37.3–4; Philochoros, *FGrHist* 328 F 119; Σ Arist. *Wasps* 718a–b; Amasis: Schol. Arist. *Pl.* 178; the Spartocids: Strabo 7.4.6.c (311); Dem. 20.33, cf. 34.36; Isoc. 17.57; *IG* 2<sup>2</sup> 212, 653; Harpalos: Athen. 596a–b; Kyrene: Tod, *GHI* 2.196.5; Demetrios Poliorketes: Plut. *Demetr.* 34.5 (cf. *Mor.* 183b–c); Ptolemy I: *IG* 2<sup>2</sup> 682; *SEG* 28 (1978) no. 60; Audoleon of the Paionians: *IG* 2<sup>2</sup> 654; Lysimachos: *IG* 2<sup>2</sup> 657.

<sup>36</sup>Contributions to *sitonia*: *IG* 2<sup>2</sup> 360, 479, 480, 499, 906; Theophr. *Char.* 23.5; Plut. *Mor.* 851b; Dem. 34.39. *Sitonai* and *grammateus*: Pollux 8.114; Dem. 20.33 (Kallisthenes); *IG* 2<sup>2</sup> 698 (?), 744, 792, 906 (?); *SEG* 3.92; *Agora* 1.6096 (W. B. Dinsmoor, "The Archonship of Pytharatos, (271/0 B.C.)," *Hesperia* 23 [1954] 284–316, no. 183, esp. 296–312); *Agora* 1.6064 (B. D. Meritt, "Greek Inscriptions," *Hesperia* 17 [1948] 1–53, no. 3, esp. 3–13). The τάμιαις (γραμματεὺς) τῶν σιτωνίκων: *IG* 2<sup>2</sup> 1272, 1708; *Agora* 1.605 (B. D. Meritt, "Greek Inscriptions," *Hesperia* 5 [1936] 355–430, no. 15, esp. 419–428). Demosthenes as *sitones*: Plut. *Mor.* 845f; Dem. 18.248, cf. Dein. 1.43.

<sup>37</sup>Gifts: *IG* 2<sup>2</sup> 363, 398 (?), 845; *Agora* 1.605 (above, n. 36). Sales at prevailing or low prices: *IG* 2<sup>2</sup> 283 (?), 360, 400, 408, 499 (?), 903; *SEG* 24.154; Dem. 34.38–39. Importation of grain: Lys. 6.49; *IG* 1<sup>2</sup> 31 (?); *IG* 2<sup>2</sup> 283, 398 (?), 407, 409, 416, 499; *Agora* 1.4956 (E. Schweigert, "Greek Inscriptions," *Hesperia* 9 [1940] no. 39, 309–357, esp. 332–333).

<sup>38</sup>Arist. *Wasps* 715–718; Schol. *Wasps* 718a–b; *Eq.* 1100–06; Plut. *Per.* 37.3–4; Philochoros, *FGrHist* 328 F 119; Dem. 34.37, 39.



of grain were stored in the stoas around the agora or in the *alphitopolis stoa* in the Peiraieus (above, note 29). If other emergency measures failed, the government took private stocks of grain under public supervision, as the 400 attempted to do in 411 (Thuc. 8.90.5; cf. 3.27.3 [Mytilene]; Dem. 34.37 [?])

These measures can be divided into two groups, the diplomatic (external) and the coercive (internal). Diplomatic techniques predominate in the sources, since reward of benefactors was a key factor in this sort of procurement. The coercive methods are less well documented, but the death penalty for collusion of Lysias 22 reminds us of their potential strength. Supervision of the *sitopolai* was coercive; there are no honorific decrees for them. The terminology of price parallels the distinction between diplomatic and coercive methods. The *sitophylakes* were to establish the δίκαιος "just" price, and used their police powers to enforce the community's vision of fairness. In honorific decrees there is nothing of fair prices, but only the καθεστηκυῖα τιμή ("prevailing price")—(Dem. 34.39; cf. SEG 24.154; IG 2<sup>2</sup> 400). In dealing with the world outside their polis, the Athenians were compelled to concede pricing to the forces of the market. If they could get grain at pre-crisis prices, they were eager to reward the donor.

In 388/7, Anytos mixed the coercive and diplomatic approaches. His advice to the *sitopolai* was tantamount to an order, but its success needed their cooperation. Hence, rather like *emporoi* who imported grain in time of famine, the *sitopolai* felt they deserved credit for their *eunoia*, and claimed that they acted in order to sell grain as cheaply as possible. Anytos' intervention tended to blur a distinction between the *sitopolai*, private businessmen, and the *sitonai*, the public officials charged with emergency purchases of grain (attested somewhat later in the century). The *sitopolai* were accused of doing (in defiance of the law) precisely what the *sitonai* were authorized to do: συνωνοῦμενοι (Pollux 8.114). Similarly, Anytos attempted to extend the supervision of the public grain store by the *sitophylakes*<sup>39</sup> to the stocks of the middlemen in the trade, the *sitopolai*, as though methods for dealing with crisis could be adapted to minor constrictions in the flow of imports (for there is no evidence that the rumors of 388/7 had any other result). The result of this intervention in the marketplace is well paralleled, the encouragement of a price-fixing, anti-competitive grouping of businessmen.<sup>40</sup>

### *The Reaction of the Sitopolai*

To the speaker the actions of the *sitopolai* were entirely outside the spirit

<sup>39</sup>P. Gauthier, in "De Lysias à Aristote (*Ath. pol.*, 51,4): Le commerce du grain à Athènes et les fonctions des sitophylakes," *RD* 59 (1981) 5–28, esp. 18–19, citing the functions of the *sitophylakes* at Tauromenion, Kaunos, and in Sicilian Sicily (above, n. 5), believes that *BE* 1966 no. 137 with *IG* 2<sup>2</sup> 657 indicates such supervision.

<sup>40</sup>See, for example, Y. Brozen, *Is Government the Source of Monopoly and Other Essays* (San Francisco 1979).

of Anytos' responsible advice. He charges that Anytos gave them advice in the previous official year (8–9), but they colluded in the present year. Such a continuation of the collusion is hardly surprising. The less efficient *sitopolai* would have profited from a sanctioned cessation of competition, which might have split up the market at the status quo. Moreover, any collusive system would be expected to continue until the necessarily controversial point at which all participants consider themselves to have come out about equal. Even the speaker expected that the price fixing agreement was to continue until the stocks of grain bought in common were exhausted, for he is outraged at the drachma fluctuation in the price within a day. So too the *sitopolai* would also have been aggrieved at any of their number who broke ranks to raise prices, and risked losing for them their claim to *eunoia* ("goodwill").

The speaker's observation about the duration of collusion, however, is less important for incriminating the defendants than for exculpating Anytos, a task over which he takes some pains (Kohns 150). Anytos, himself, on the other hand, does not seem to have emphasized that his advice was last year, but the collusion was this year.<sup>41</sup>

Yet, the higher prices were not solely (or even primarily) the result of exploitation by the *sitopolai*, since there may have been a range over which grain varied daily. Moreover, if grain was becoming scarcer, many would press the *sitopolai* to sell it to them at higher prices. Price not only acted to allocate existing grain, it gave information to buyers about the likely availability of grain in the future. Rising prices counselled preservation of existing stocks, avoidance of non-essential consumption, and conservation. To maintain artificially low prices did not increase the stock of grain in Athens, but contributed to an inefficient use of it. However much the intervention in the market of the *sitophylakes* was meant to aid the consumer, it tended to profit the *sitopolai* more (to the disadvantage of the *emporoi*), if prices rose in any case.<sup>42</sup>

<sup>41</sup>After "Ἀνυτον μάρτυρα παρέξομαι, the Codex Palatinus 88, 12th century, has a space of ca 8 letters, where a marginal note marks μαρτυρία. Thus Thalheim (249) and Hude put the testimony of Anytos here. In the Lysian corpus, testimony usually follows directly on παρέξομαι (3.14, 20; 10.5; 12.42; 13.42; 19.27, 58; 20.25, 28; combined with a reference to the κλέψυδρα: 23.4, 8, 11, 14, 15), except where the jurors are themselves noted as witnesses (7.25; 12.74; 22.12). In several instances, some amplifying remarks follow παρέξομαι before the call for witnesses (using καλέω). The appearance in some manuscripts of μάρτυρες after φαίνονται (at the end of the next sentence), is held by Thalheim and Hude to be an incorrect emendation. Adams (378) opts for a second round of testimony, and Gernet-Bizos (88), Rauchenstein (55), and Shuckburgh (143) place a single round of testimony at this point. The latter alternative is unparalleled and should be rejected. Two μαρτυρίαι with the same witness (for no others are summoned) divided by a single sentence is also unlikely. To be preferred is the view of Wilamowitz that the speaker deliberately chose not to linger on this point (2.377, n. 6).

<sup>42</sup>Yet, had retail prices for grain fallen unexpectedly, the consumers would have gotten the better of the collusion, because the agreed price for purchases by the *sitopolai* would have been too high.

The speaker generally puts a hostile construction on the information-processing role of the *sitopolai*, one that is not confined to his treatment of the pricing mechanism just discussed. Their profits depended upon their ability to learn quickly about events affecting the future supply of grain. Hence, they were the first to learn of the disasters which the speaker outlines in 14. Their self-interest compelled them to react to such news and even to the risk of such eventualities by paying more for available grain, if they could get it, and putting a higher valuation (now justified) on the grain in their stores. So they were eager for news rather than glad (ἄσμενοι) to hear of disasters. It was not in the long-term advantage of the *sitopolai* that their Athenian customers be killed or become impoverished. It was also in society's interest that the *sitopolai* react so as to allocate grain in a period of scarcity.

It was not even in the interest of individual graindealers to traffic in fabricated stories (λογοποιούσιν). They could not raise prices unless the rumors were believed by their competitors. Although a generally believed lie might get higher prices for a time, eventually the Athenians would learn to discount the value of such stories. Successful falsification implies systematic collusion, a risky undertaking. Any *sitopoles* refusing to give currency to the story by raising his prices would quickly sell out his entire stock. The possession of good news unshared by competitors could be as valuable as bad news. The rumors retailed by the speaker were all too credible at the moment. If the *sitopolai* helped circulate them, it was probably because they believed them. They had the misfortune of being the bearers of ill tidings.

### *The Question of Guilt: Sitopolai or Sitophylakes*

An obvious attempt to get the *emporoi* to sell grain at a low price left the *sitopolai* open to accusations under the law forbidding collusion in such a way that the magistrates could no longer directly support them. As the speaker observes on several occasions, the authority of the *sitophylakes* did not give them the right to suspend the law (6, 10). What is more, such open price-fixing hastened the inevitable reaction of the *emporoi*. Once an *emporos* reached the Peiraieus, he had no choice but to sell his cargo for whatever price was available. However, when prices at Athens began to fall substantially below those elsewhere, other *emporoi* would avoid Attica, since they sailed to areas with the highest prevailing prices (Xen. *Oec.* 20.27).<sup>43</sup> To run the risk of losing future imports was perhaps justified, or at least tempting, when magistrates confronted the prospect of public anxiety over the grain supply, possibly of short duration. The more apparent the price-fixing was, the less time it took for the *emporoi* to react. To

<sup>43</sup>The system of communication among merchants concerning prices could be highly developed, as the activities of the associates of Kleomenes of Naukratis indicate ([Dem.] 56.8–10; cf. [Arist.] *Oec.* 1352a16–23, b15–20).

head off this reaction, blame could be shifted to the *sitopolai* and they could be punished. The shift in blame was facilitated by the metic status of the *sitopolai*. This is, in fact, the purpose of the speaker: to reassure the *emporoi* by punishing the *sitopolai*.

The prytaneis had called the *boule* into session (2), presumably when the complaints from the *emporoi* became acute. The speaker argued for a regular trial, not summary action (cf. *AP* 45.1), which may have tainted him in the eyes of his fellow-citizens as a supporter of the *sitopolai*. Thereafter, he had a personal motivation in carrying on the case in order to distance himself from the *sitopolai* (1, 3–4). Once embarked upon this course he could not stop because he would have been thought to have been bought off (cf. 4). However, when the case was brought before the *boule* for preliminary consideration, the speakers who had previously demanded summary punishment were now silent (3). Perhaps the role of Anytos was now known. Another reasonable assumption is that the cartel had been dissolved, and that it was hoped that the *emporoi* had been placated by the unfulfilled intention of the *boule* to take strong action. The speaker in turn must now be afraid that the jurors will accuse him of sycophancy against the *sitopolai*, who had probably begun a recovery in the eyes of the public from enemies to indispensable servants of the community (1). Similar sycophancy against *emporoi* was subsequently treated harshly ([*Dem.*] 58.10, 12, 53–54). Connected with the speaker's fear is his repeated emphasis on the power of the jury to decide as they wish (4, 17), which he attempts to prejudice by many references to the defendants as self-accused<sup>44</sup> and to the jurors' oaths to abide by the laws (7, 10, 17–18).

The speaker, however, does not trust to this argument so far as to terminate his accusation with it, but seeks in the general behavior of *sitopolai* grounds for believing that their actions deserved the death penalty. He asserts that they were not public-spirited enough to pay the *eisphora* ("levy"), but pleaded poverty, incongruous behavior when compared with their willingness to risk death in this matter. Yet well-to-do Athenians also found the *eisphora* onerous (*Lys.* 28.3; *Dem.* 2.24; *Xen. Oec.* 2.6; cf. *Isoc.* 8.20) and some tried to avoid paying it (*Lys.* 29.9; *Dem.* 22.42–45; cf. *Lys.* 20.23). Since, as metics, the *sitopolai* did not own real property most of their assets were in "invisible" goods so that the temptation (and ability) to avoid a fair share of the *eisphora* would have been strong (cf. *Lys.* 20.33). In recognition of this situation, inscriptions honoring metics praise them for *eunoia*, "goodwill," the very virtue claimed by the *sitopolai*, and for paying the *eisphora*.<sup>45</sup>

The speaker emphasizes the charge of plotting against the *emporoi*: ὁμολογ-

<sup>44</sup>The emphasis on the metic's admission of fault takes force from the idea of a metic's compact with the city (privileges in return for obedience). See Whitehead 57–59.

<sup>45</sup>Whitehead (78–79) cites *IG* 2<sup>2</sup> 421, 554, 715.

σύντων αὐτῶν ἐπὶ τοὺς ἐμπόρους συνίστασθαι (17); οἳ τοῖς εἰσπλέουσιν ὠμολόγησαν ἐπιβουλεύειν (21). It is not necessary to believe that the speaker is a paid agent of the *emporoi*, or that they were a cohesive pressure group.<sup>46</sup> The *emporoi* did not need to have any common purpose to appear threatening to the Athenians, to most of whom they were personally unknown. Merchants based at the Peiraieus are not at issue, since they had to bring their cargoes back to Athens. *Emporoi* with no connection to Attica, who might take their cargoes anywhere, were objects of fear. Doubt will have existed whether anything save condemnation would reassure the *emporoi*, and an acquittal might implicate the Athenian polis in an attempt to cheat them (17).

The speaker offers no support for the idea that the *sitopolai* tampered with prices regularly, but introduces the red herring (one meant to appeal to the envy of the jurors) that the profits of the *sitopolai* were excessive (20).<sup>47</sup> The justifiable fear of the Athenians that acquittal might deter some merchants from bringing grain to Attica has been expanded by the speaker into a sort of devil-theory of pricing. In that case the greed of the *sitopolai* can only be curbed by savage punishment (19–20). Nevertheless, his most explicit statement that conviction will make grain cheaper and acquittal will make grain dearer is slipped (rather dishonestly) into his closing remarks.<sup>48</sup>

His assertion that the Athenians were besieged in peacetime by the *sitopolai* is a gross exaggeration, since it ignored the emergency means available to the *demos* to feed itself. This charge, however, was attractive because it subtly called to mind Lysander's siege in which many of the jurors will have lost relatives. The *sitopolai* are to be emphatically associated with Athens' enemies. According to the speaker, not only have many of the *sitopolai* been condemned to death (18, 20) but the magistrates supervising them, the *sitophylakes*, have also received the death penalty for failing to control them (16). Although the silence of other sources on a subject as poorly attested as this does not carry conclusive weight, the absence of any parallel is disturbing. Hence, exaggeration may be suspected, because an office carrying a high percentage of risk of capital punishment for mismanagement should have encountered difficulties in staffing itself through sortition. It is surprising then that the *sitophylakes* were not elected. As for the *sitopolai*, that the defendants did not flee Attica directly they were charged is surprising, if many of their colleagues had already been executed. To metics, flight would have been particularly attractive. The speaker claims that the great profits of this trade justified deadly risks, but this seems rather far-fetched. There is no evidence that the *sitopolai* needed perpetual collusion in order to make

<sup>46</sup>Wilamowitz 2.378; cf. Gernet-Bizos 85; Seager 173.

<sup>47</sup>Note the similar ease with which an Athenian landowner like Phainippos could be held responsible for selling grain at thrice its normal price (Dem. 42.31).

<sup>48</sup>See Wilamowitz 2.378–379; Rauchenstein 59; Seager 179.

money. The speaker seems to concede that during times of shortage, high prices prevailed anyway.

Any determination based on such arguments can only be put forward cautiously, but one may suspect the speaker of inaccuracy about these executions. His statement, difficult for many jurors to verify from memory, indicated that precedents were needed to overcome the tendency to pity the *sitopolai* (21). The speaker, in turn, says that the jury should more properly give pity to those citizens who died because of the *sitopolai*. This may be a reference to executed *sitophylakes*, but the vagueness of the remark may also indicate that the speaker is assigning blame for deaths in famine to the *sitopolai*.<sup>49</sup> In the absence, however, of any emergency measures the occurrence of such deaths is unlikely. Such a charge fits in with his equation of the graindealers with the enemies of Athens, and with the graindealers besieging the city in time of peace. Moreover, there had been only one time in the city's recent history when the death penalty might well have been meted out to *sitophylakes* and *sitopolai*, namely the Spartan siege. In such a desperate period the *sitophylakes* may have been held to have diverted grain for their own use. If Lysander's siege lay in the back of the jurors' minds when they thought about the *sitophylakes*, the speaker's veiled allusions to a siege by the *sitopolai*, their status as enemies, and their responsibility for the death of citizens takes on point, if not substance. The speaker wanted to associate the *sitopolai* with the most traumatic event in Athenian history.

### Conclusion

Let us recapitulate the major points made in our discussion.

1) The *sitopolai* had transgressed against a law forbidding cartels in grain through a provision that no more than 50 *phormoi* be bought in cooperation. They had united against the *emporoi* in order to buy grain at a price advantageous to themselves.

2) The initiative in the affair came from the *sitophylax* Anytos, who advised a cessation in competitive bidding. The *sitophylakes* supplemented this advice by establishing the maximum allowable mark-up in order to insure that any saving was passed on to the customer.

3) Anytos' intervention was unique in that it did not belong to the customary arsenal of measures for coping with shortages. It tried to cope with an incipient crisis by changing the way in which the *sitophylakes* influenced the *sitopolai* and by shifting public responsibilities for avoiding a disruption of the grain supply onto their shoulders. Consequently, the *sitopolai* saw themselves (rather like generous *emporoi*) as public benefactors. The singularity of the intervention and the fact that it eventuated in a capital case suggest why it was not repeated.

<sup>49</sup>*Sitophylakes*: Adams 229; deaths in famine: Shuckburgh 319; Alesia 19.

4) Although the defendants have incriminated themselves, the speaker's other arguments are predicated on a misrepresentation of the economic role of the *sitopolai*. Appeals to envy, suspicion of metics, and crude wish-fulfillment (cheap grain in return for condemnation) are prominent. The strongest secondary argument employed by the speaker draws on precedent in the form of previous condemnations of *sitopolai* and *sitophylakes*. Yet, if our suggestion is correct that this was justified in the speaker's mind by crimes during the Spartan siege, we are left wondering to what extent the jurors were willing to abandon their usual sympathy for the *sitopolai*.

After the disruption of the Ionian War, during which the attention of most Athenians was on military survival, a new trade in selling grain may have reconstituted itself as foreign specialists established themselves in Attica to make use of their connections and knowledge of the grain trade. Their political status would, of course, have been metic. Such a status for this trade was useful to the Athenians, who had become used to a high level of grain imports. Fourth-century Attica had to bid for grain supplies with far fewer resources, and without hegemonal power to enforce its wishes. If the intervention of the *sitophylakes* in this episode is any indication, various makeshifts may have been tried to procure grain at less expense. If these endeavors miscarried, scapegoats might be sought, and metics made more satisfactory victims than did citizens. At the same time, the *sitopolai* served the Athenians by managing a vital resource in short supply. To function at all, they had to be immune to a certain extent from emotional appeals. They needed to accumulate capital, so as to maintain their stocks, and to sell at high enough prices to bid successfully against graindealers in other cities for the cargoes of the *emporoi*. Citizens fully enmeshed in the interconnections of Athenian society may not have been able to square the claims made on them by their business and by their duties as citizens. Hence metics had a competitive advantage in the wholesale grain business.

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