

## LITURGY AVOIDANCE AND ANTIDOSIS IN CLASSICAL ATHENS\*

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The well-being of the Athenian state depended largely on its ability to harness the private resources and energy of the wealthy through a system of “liturgies,” or compulsory public services. The liturgy was both a financial and a personal obligation, requiring its performer not only to bear the costs of essential state services, but also to supervise their execution. Davies describes this system of public finance and administration as “a (for Greece) unusually effective taxation system;” Lauffer, on the other hand, sees in it evidence of “perhaps the greatest weakness” of the democratic state, namely, its economic dependence on the

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The following works will be cited by author and, in the case of multiple entries, date.

A. M. Andreades, *A History of Greek Public Finance* (Cambridge, Mass. 1933); P. Cloché, “La démocratie athénienne et les possédants aux v<sup>e</sup> et iv<sup>e</sup> siècles avant J.-C.,” *RH* 192 (1941) 1–45, 193–235; E. David, *Aristophanes and Athenian Society of the Early Fourth Century B. C.* Mnemosyne Supplement 81 (Leiden 1984); J. K. Davies, “Demosthenes on Liturgies: A Note,” *JHS* 87 (1967) 33–40, *Athenian Propertied Families* (Oxford 1971), and *Wealth and the Power of Wealth in Classical Athens* (New York 1981); K. J. Dover, *Greek Popular Morality* (Berkeley 1974); V. Gabrielsen, “ΦΑΝΕΡΑ and ΑΦΑΝΗΣ ΟΥΣΙΑ in Classical Athens,” *C&M* 37 (1986) 99–114, and “The Antidosis Procedure in Classical Athens,” *C&M* 38 (1987) 7–38; A. R. W. Harrison, *The Law of Athens*, vol. 2 (Oxford 1971); B. Jordan, *The Athenian Navy* Univ. of Calif. Publications: Classical Studies, vol. 13 (Berkeley 1975); S. Lauffer, “Die Liturgien in der Krisenperiode Athens,” in *Hellenische Poleis*, vol. 1, ed. by E. C. Welskopf (Berlin 1974) 147–59; D. M. MacDowell, *The Law in Classical Athens* (Ithaca 1978), and “The Law of Perikles about Symmories,” *CQ* n.s. 36 (1986) 438–49; C. Mossé, *Athens in Decline 404–86 B. C.*, trans. by J. Stewart (London 1973); J. Ober, *Mass and Elite in Democratic Athens* (Princeton 1989); M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley 1986); P. J. Rhodes, *A Commentary on the Aristotelian ‘Athenaion Politeia’* (Oxford 1981), and “Problems in Athenian *Eisphora* and Liturgies,” *AJAH* 7 (1982) 1–19; G. E. M. de Ste. Croix, “Demosthenes’ TIMHMA and the Athenian *Eisphora* in the Fourth Century B.C.,” *C&M* 14 (1953) 30–70; R. K. Sinclair, *Democracy and Participation in Athens* (Cambridge 1988); B. S. Strauss, *Athens after the Peloponnesian War: Class, Faction and Policy 403–386 B. C.* (Cornell 1986); D. Whitehead, *The Ideology of the Athenian Metec* Cambr. Phil. Soc. Suppl. vol. 4 (Cambridge 1977), and “Competitive Outlay and Community Profit: φιλοτιμία in Democratic Athens,” *C&M* 34 (1983) 55–74.

wealthy.<sup>1</sup> This paper will explore the response of the wealthy to the liturgical system and, in particular, the nature and scale of their opposition to it from the late fifth century on. I will argue that 1) the problem of liturgy avoidance in Athens was more serious than scholars have allowed, and 2) the *antidosis* procedure, rather than alleviating the problem, aggravated it.

## I. THE LITURGICAL SYSTEM

The liturgical system underwent considerable change from the time of its inception in the early years of the Athenian democracy until the late fourth century B. C. when it fell into disuse.<sup>2</sup> Throughout this period, however, there were two basic classes of liturgical service, festival and military.<sup>3</sup>

1. *Festival liturgies.* Each year the Athenian state relied on approximately one-hundred wealthy men to perform liturgies in connection with its numerous festivals.<sup>4</sup> The proper functioning of these important civic rituals depended on the zeal and energy of wealthy liturgists, whose responsibilities entailed, for example, the training and financing of a chorus (*choregia*) or the supervision and support of the young men training for a torch-race (*gymnasiarchia*). Depending on the specific service involved and the generosity of the performer, the cost of performing a festival liturgy ran as high as 3000 drachmae.

2. *Military liturgies.* The chief military liturgy was the trierarchy. The smooth operation of the Athenian navy rested on the efforts of its trierarchs, each of whom maintained a trireme and supervised its crew during his year of service. The high cost of the trierarchy—anywhere from 4000–6000 drachmae—prompted the state to experiment from the late fifth century on with different strategies for distributing the burden fairly among the rich.<sup>5</sup> A relative latecomer on the liturgical scene was the *proeisphora*, which first appears in our sources in

<sup>1</sup> Davies (1971) xvii, and Lauffer 157.

<sup>2</sup> The best introduction to the liturgical system is Davies (1971) xvii–xxxi, and (1981) 9–37. The figures for liturgical costs cited below in the text are from Davies (1971) xxi–xxii.

<sup>3</sup> For the distinction, see Davies (1967) 33. Festival liturgies are also referred to by scholars as “regular liturgies,” since they recurred annually (cf. D. 20.21: ἐγκύκλιοι), and military liturgies as “irregular liturgies,” since their imposition was less predictable (see, e.g., Andreades 291).

<sup>4</sup> In the mid-fourth century, “the sum-total of annual liturgical appointments appears to have been over 97..., rising to over 118 in a Panathenaic year” (Davies [1967] 40).

<sup>5</sup> The *syntrierarchy*, an arrangement whereby two trierarchs shared responsibility for a single ship, first appeared in the later years of the Peloponnesian War and became increasingly common in the first decades of the fourth century. A law of Periandros (ca. 357 B.C.), however, divided responsibilities for the trierarchy among twenty groups (*symmoriai*) of sixty men each. In 340 B.C. Demosthenes won passage of a law that made the 300 wealthiest men in the state (still divided into *symmories*) responsible for financing the navy. V. Gabrielsen, however, has recently revived the view that this law “did not limit liability to the 300 but only increased the financial burdens carried by the group” (“The Number of Athenian Trierarchs after ca. 340 B. C.,” *C&M* 40 [1989] 146). For a succinct overview of all these developments with bibliography and ancient sources, see Rhodes (1981) 679–81.

the mid-fourth century. The 300 performers of this liturgy paid in advance the war-tax (*eisphora*) for their tax-groups (*symmoriai*).<sup>6</sup>

The magistrates administered the selection of candidates for these liturgies.<sup>7</sup> After soliciting volunteers, they proceeded to assign the remaining liturgies to those whom they deemed most capable of carrying them out.<sup>8</sup> Two legal procedures were available to those assigned against their will to public service, *skepsis* for those claiming that they were legally exempt,<sup>9</sup> and *antidosis* for

<sup>6</sup> The *eisphora* was an irregular levy, based on a man's own assessment (*timema*) of his wealth. In 378/7 B.C. the *eisphora* system was reorganized to facilitate the collection of taxes: all payers of the *eisphora* were divided into symmories; within each symmory, the wealthiest members were responsible for the advance payment (*proeisphora*) of their group's tax. On the *eisphora* system, see esp. de Ste. Croix 30–70. More recent treatments include R. Thomsen, *Eisphora* (Copenhagen 1964) (critically reviewed by de Ste. Croix in *CR* n.s. 16 [1966] 90–93), and P. Brun, *Eisphora—Syntaxis—Stratiotika*, *Annales Littéraires de l'Université de Besançon*, no. 284 (Paris 1983) 3–73. Scholars continue to debate how the system operated and, in particular, whether the *eisphora* symmories and naval symmories were identical. For the most recent round of debate with earlier bibliography, see MacDowell (1986), who argues for identity, and Rhodes (1982), who argues against it. Although estimates of the number of men subject to the *eisphora* range from 1200 up to 9000, the evidence, in my opinion, favors a number toward the lower end of this range. For a survey of opinions on this question, see Ober 128–29, notes 58 and 59.

<sup>7</sup> In Aristotle's time, the eponymous archon administered the selection of *choregoi* (*Ath. Pol.* 56.3), except for those at the Lenaea. The latter, together with the gymnasiarchs, fell under the jurisdiction of the archon basileus (*Ath. Pol.* 57.1). The *strategoi* shared responsibility for selecting the 300 *proeispherontes* (D. 42.5), but delegated selection of trierarchs to one of their number (*Ath. Pol.* 61.1). For further details on selection, see Rhodes' commentary (1981) on these passages, Rhodes (1982) 3–4, and Jordan 61–67.

<sup>8</sup> The tribes assisted the magistrates by nominating gymnasiarchs and, in some cases, *choregoi* (see Rhodes [1981] 638–39, and 622–24). Individuals might also nominate one another, at least for festival liturgies (And. 1.132). From 357 B.C. on a "list of men liable for the trierarchy" was available (Rhodes [1982] 3). Any magistrate seeking candidates for public service could presumably consult this list, as well as the *timema* submitted by individuals for purposes of the *eisphora* from 378/7 B.C. on (see above, note 6).

<sup>9</sup> Those exempt from public service included: minors (Lys. 32.24; cf. D. 21.154, Arist. *Ath. Pol.* 56.3), archons (exempt at least from the trierarchy [D. 20.27]), and recipients of grants of *ateleia* (exempt from festival liturgies only [D. 20.27]). Cleruchs (D. 14.16) and the disabled (cf. MacDowell [1978] 162) may also have been ineligible. It is not clear that poverty was grounds for exemption, *pace* D. 20.19. Metics were eligible for some festival liturgies, but not generally for the trierarchy (see Whitehead [1977] 80–82).

In addition, current and past performers of public service received special consideration:

1) No man could be compelled to perform two liturgies simultaneously (D. 50.9) or, apparently, the same festival liturgy more than once in his life (Arist. *Ath. Pol.* 56.3).

2) A performer of a festival liturgy was entitled to a one-year respite from all public service upon completion of his office (D. 20.8).

3) A trierarch, in recognition of the greater financial and personal demands of his liturgy, received a two-year reprieve (Is. 7.38).

those who, though they acknowledged their eligibility, believed that they could identify a wealthier man to serve in their place.<sup>10</sup> Estimates of how many men served regularly as liturgists in the fourth century range from 300–1200.<sup>11</sup>

Although the liturgical system dictated the parameters within which the wealthy were to serve the city, it left the individual with a certain degree of discretion as to where and how extravagantly to perform public service.<sup>12</sup> The wealthy were encouraged, however, to vie with one another in performing liturgies conspicuously and more frequently than the law required. The reward for those who displayed *philotimia* in serving the city was prestige and *charis* that might be exploited in the political arena or in the courts.<sup>13</sup> The city and its wealthy citizens were thus, at least in theory, parties to a mutually beneficial arrangement whereby the city received essential services, and the wealthy, in exchange for their benefaction, recognition and privilege.

In encouraging the wealthy to surpass one another in civic munificence, the Athenian democracy adapted to its own purposes the traditional competition among aristocrats in Hellenic culture to confirm their status within the community through conspicuous expenditure.<sup>14</sup> The liturgical system, as it emerged under the early democracy, provided an institutional framework within which the wealthy could continue to enjoy the benefits of prominence, including public office, while at the same time serving the needs of the state.<sup>15</sup> The wealthy did not, as far as we know, object to this gradual redirection of their competitive expenditure to support the growing state. They no doubt shared in the civic pride that burgeoned especially after the Persian Wars. As the Athenian empire grew, they reaped no less than their fellow citizens the financial benefits of the naval expeditions on which they served as trierarchs.

On exemptions, see Harrison 234–35, MacDowell (1978) 162, and Gabrielsen (1987) 8n. 4. On *skepsis*, see esp. Harrison 232–36, and Rhodes (1981) 625, 639, and 681.

<sup>10</sup> On *antidosis*, see below, Section IV.

<sup>11</sup> For the lower estimate, see Davies (1981) 15–28, for the higher, Rhodes (1982) 4–5. The disparity is due to disagreement over how the rules governing exemptions worked. Rhodes' arguments are, in my opinion, more convincing. Most scholars, in any case, would agree with Davies' calculation ([1981] 28–37) that a fortune of at least three to four talents was necessary to qualify one as a member of the liturgical class. Cf. the calculations of E. Ruschenbusch, "Ein Beitrag zur Leiturgie und zur Eisphora," *ZPE* 59 (1985) 237–40.

<sup>12</sup> On the element of choice, see Davies (1981) 24–26, and 91. Davies, however, overestimates the degree to which individuals were free to choose not to perform festival liturgies, as Rhodes notes ([1982] 4).

<sup>13</sup> On *charis* as a reward for public service, see Davies (1971) xvii, and (1981) 92–100, Dover 292–95, and Ober 226–40.

<sup>14</sup> On the importance of expenditure in the aristocratic ethos, see A. Szastynska-Siemion, "La δαπάνη chez Pindare," *Eos* 65 (1977) 205–9, and Davies (1981) 98–99. Sinclair (188–90) and Ober (333) rightly note how the democracy adapted to its advantage this aristocratic code of competition. Lauffer (157) and J. T. Roberts ("Aristocratic Democracy: The Perseverance of Timocratic Principles in Athenian Government," *Athenaeum* n.s. 64 [1986] 369) exaggerate the extent to which the liturgical system clashed with democratic principles.

<sup>15</sup> On political office as a key inducement to willing public service, see Anaximenes 2.15–17=[Arist.] *Rhet. ad Alex.* 1424a20–32.

As the fifth century progressed, however, democratic reforms severely limited the number of offices available to the conspicuous liturgist, and a new breed of politician won popular support not so much by private beneficence as expenditure from the public coffers.<sup>16</sup> Although our fragmentary source material for the mid-fifth century does not permit us to trace the impact of these developments on the attitudes of liturgists, more than one wealthy Athenian must have viewed the new situation with cynicism and suspicion. Our first documentation of resentment toward public service appears in the "Old Oligarch," a treatise dating perhaps to the outbreak of the Peloponnesian War ([Xen.] *Ath. Pol.* 1.13).<sup>17</sup> To all appearances, however, it was the final years of the Peloponnesian War that triggered a crisis in the relationship between the state and its wealthy citizens. After the defeat in Sicily (413) and the revolt of its allies (412), the city called increasingly on the wealthy to shoulder the costs of the war.<sup>18</sup> At the same time, however, the wealthy—many of whom were already politically disenchanted—were themselves hard-pressed by the economic turmoil that accompanied the war. In this period signs of opposition to the liturgical system appear regularly and prominently in our sources.<sup>19</sup>

In the fourth century, the relationship between the state and its wealthy citizens continued to be a troubled one. Tensions were perhaps at their highest during the Corinthian War (395–386) and the Social War (357–355). In each case, economic hard times made the wealthy especially sensitive to the pressure on them to support the city's costly military expeditions.<sup>20</sup> Even in times of economic revival, however, resentment persisted. It is against this backdrop that we must understand the state's repeated attempts in the fourth century to reform the liturgical system and the system for collecting the *eisphora*.<sup>21</sup>

<sup>16</sup> For an analysis of the new politicians, see W. R. Connor, *The New Politicians of Fifth-Century Athens* (Princeton 1971). On Pericles' use of public moneys to counteract Cimon's private expenditure, see Arist. *Ath. Pol.* 27.3–4 and Plut. *Per.* 9. Isocrates (*De Pace* 13) criticizes similar tactics in the fourth century.

<sup>17</sup> On the treatise's date of composition, see Ostwald 182n. 23.

<sup>18</sup> On the heavy *eisphora* during the Decelean War, see D. S. 13.47.7, 52.5, and 64.4. For the city's increasing dependence on the wealthy at this time, see Ostwald 344, and Davies (1981) 90. On Athenian finance during this period, see R. Meiggs, *The Athenian Empire* (Oxford 1972) 369.

<sup>19</sup> For evidence of opposition in the late fifth century, see Lys. fr. 35 (Thalheim) (after 413 B.C.), Lys. 20.23 (ca. 410 B.C.), Ar. *Ran.* 1063–68 (405 B.C.), Lys. 21.12 (403/2 B.C.), and Isoc. 18.59–60 (400/399 B.C., referring to the situation in 405 B.C.).

<sup>20</sup> On tensions between the rich and the state in the early years of the fourth century, see Mossé 12–17, Strauss 55–59, and Ober 98–99. Aristophanes' late plays reflect the social and economic pressures of this period: see David 3–5, and S. D. Olson's forthcoming article, "Economics and Ideology in Aristophanes' *Wealth*," *HSCP* 93 (1990). On tensions during and after the Social War, see Mossé 54–55, and G. L. Cawkwell, "Eubulus," *JHS* 83 (1963) 65.

<sup>21</sup> On fourth-century reforms, see above, notes 5 and 6.

## II. THE RELUCTANT LITURGIST

To assess the nature and scale of opposition to the liturgical system among the wealthy, we must first appreciate that our sources are for the most part biased toward recording compliance.<sup>22</sup> In public decrees, for example, the Athenian state apparently preferred to laud dutiful liturgists, rather than censure cheats.<sup>23</sup> Furthermore, the man who performed state service readily boasted of that fact in speeches before popular audiences and built monuments to commemorate his benefaction, while the liturgy dodger did his best to escape notice. For evidence of antisocial attitudes and behavior among the wealthy we are forced to rely on 1) the writings of elite authors, including Isocrates and Xenophon; 2) oratory, especially the slanders of litigants against one another; and 3) comedy, with its frequent caricatures of the rich. To accept at face value individual statements within any of these sources is clearly dangerous. To reject them collectively, however, is to miss an excellent opportunity to gain insight into the attitudes of Athens' liturgical class. Indeed, taken as a group these sources provide a plausible and relatively consistent portrayal of the private fears, resentment and cynicism of the rich in Athens. Let us first consider the evidence for such feelings among the wealthy, and then attempt to determine their impact on the behavior of these men.

Scholars have tended to focus their attention too narrowly on the question as to whether the complaints of the wealthy about their civic obligations were "legitimate."<sup>24</sup> Even if such an objective evaluation is possible, it is largely irrelevant to our understanding of the perceptions and misperceptions upon which the wealthy based their response to the liturgical system. A further hindrance to such an understanding is the temptation to cast Athens' wealthy citizens in the role of reluctant modern taxpayers. The aristocratic background of Athenian liturgists and the personal nature of their obligations, however, makes this analogy inappropriate. Rich men in Athens object to the liturgical system, as we shall see, not only as a threat to their financial security, but also as a challenge to their personal autonomy.

### A. A Burdensome Honor

At the heart of the liturgical system lay what Whitehead has called "the paradoxical conjunction of burden and honour."<sup>25</sup> Theoretically, these elements

<sup>22</sup>On the problem of bias, see Davies (1971) xxviii, and Dover 176–77.

<sup>23</sup>On the frequency of honorific decrees commending the φιλοτιμία of the city's benefactors, see Whitehead (1983) 62. The city at times promulgated the names of wealthy men who fell short in serving it. A list of defaulters, for example, was posted in the Agora before the Eponymous Heroes when a number of men failed to make the donations (*epidoseis*) that they had promised after the capture of Lechaeum in 392 B. C. (Is. 5.38). See also *IG II<sup>2</sup>* 1581.1–2, which apparently records the confiscation of property that had been concealed to avoid the *eisphora*.

<sup>24</sup> See, e.g., Cloché 36–37, de Ste. Croix 69–70, A. H. M. Jones, *Athenian Democracy* (Oxford 1957) 55–58, Strauss 58, and Sinclair 124.

<sup>25</sup> Whitehead (1977) 81. Isocrates states the paradox well in *Panath.* 145, where he compares magistracies under the ancestral constitution with

were not in conflict: precisely *because* the man of wealth had endured the personal and financial burden of state service, he was entitled to honor and its privileges. In practice, however, this logic of sacrifice and reward was vulnerable to the private calculations of the rich: if public service represented an "investment in goodwill,"<sup>26</sup> it was only natural for the wealthy to evaluate the return on their outlay. Many wealthy men made just such an assessment and concluded that the uncertain rewards of public service hardly warranted its high costs.

In some instances, liturgical service must have posed a genuine threat to the financial security of the rich, especially to those with lesser fortunes.<sup>27</sup> Indeed, the high cost of public service, combined with the difficulty of anticipating its imposition, meant that the wealthy frequently had to borrow money to meet their civic obligations.<sup>28</sup> Regardless of the actual impact of liturgical service on the fortunes of the wealthy, they were acutely conscious of the drain it represented. Theophrastus, for example, plays off his audience's familiarity with complaints about liturgical costs in his caricature of the Oligarch who laments

πότε παυσόμεθα ὑπὸ τῶν λειτουργιῶν καὶ τῶν τριηραρχίῳ ἀπολλύμενοι; (*Char.* 26.6)

Such complaints, in fact, were so common in public orations that one fourth-century speaker cynically notes that "no one ever blamed himself [for squandering his wealth]; on the contrary, he claims that the city has robbed him of his property" (D. 38.26; cf. D. 36.39). To be sure, the wealthy had good reason to exaggerate the detrimental effect of public service on their fortunes in seeking *charis* from popular audiences. To therefore dismiss these complaints as self-serving, however, is to miss their deeper significance as expressions of the anxiety of the wealthy.

Public service is so often connected in our sources with feelings of fear, pressure, and insecurity that we cannot deny its psychological impact on the wealthy. In the anxious minds of the rich, public service evoked the specter of utter financial ruin.<sup>29</sup> It did not therefore seem farfetched to them to equate the financial risk of public service with the physical danger involved in serving the

λειτουργίαις...ταῖς ἐνοχλούσαις μὲν οἷς ἂν προσταχθῶσι, τιμὴν δέ τινα περιτιθείσαις αὐτοῖς.

<sup>26</sup> Davies (1971) xvii.

<sup>27</sup> On the potential burden of liturgical expenses, see Davies (1981) 82–83, and Rhodes (1981) 680. De Ste. Croix (69) dismisses too hastily the complaints of the rich about the burden of the *eisphora*: the unanticipated expense of the war-tax might well cause distress, especially among those currently financing a liturgy.

<sup>28</sup> See, e.g., D. 28.17, 47.54, 50.7, 50.13, Is. fr. 29 (Thalheim). In Is. 6.38, the speaker implies that it is unusual to be able to carry out costly liturgies from current income (cf. D. 36.41). This evidence, however, reveals more about the lack of liquidity of the rich than about the ultimate impact of liturgies on their wealth. On hypothecation of property to meet liturgical expenses, see M. I. Finley, *Land and Credit in Ancient Athens* (New Brunswick, NJ 1952) 84, and Davies (1981) 82–83.

<sup>29</sup> For images of ruin, see, e.g., Is. fr. 29 (Thalheim), Isoc. *Antid.* 160, D. 21.61, D. 28.17, D. *Cor.* 102, Antiphanes fr. 204 (Kock), Theophr. *Char.* 26.6. Cf. the common image of the rich "lamenting" their liturgical burdens: Ar. *Ran.* 1063–68, Lys. 29.4, Isoc. *De Pace* 128.

city in war.<sup>30</sup> Public service thus plausibly figures prominently among the hazards a rich character in Antiphanes bemoans (ca. 349 B. C.):

ὅστις ἄνθρωπος δὲ φύς  
 ἀσφαλές τι κτῆμ' ὑπάρχειν τῷ βίῳ λογίζεται,  
 πλείστον ἡμάρτηκεν· ἡ γὰρ εἰσφορά τις ἤρπακεν  
 τάνδοθεν πάντ', ἡ δίκη τις περιπεσὼν ἀπώλετο,  
 ἡ στρατηγήσας προσώφλεν, (ἡ) χορηγὸς αἰρεθεὶς  
 ἱμάτια χρυσὰ παρασχὼν τῷ χορῷ ῥάκος φορεῖ,  
 ἡ τριηραρχὼν ἀπήγξατ', ἡ πλέων ἤλωκέ ποι  
 ἡ βαδίζων, ἡ καθεύδων κατακέκοθ' ὑπ' οἰκετῶν.  
 (fr. 204 [Kock])

Any mortal man who reckons that any possession is secure [to him] in life is seriously mistaken: for a war-tax is sure to come along and snatch away his wealth; or perhaps a lawsuit will leave him ruined; or having served as general, he will find himself in debt; or having decked out his chorus in golden robes when selected as *choregos*, he will be forced himself as a result to wear rags; or being named trierarch, he will hang himself; or sailing or walking somewhere he will be captured, or slain by his household slaves in his sleep.

While a popular audience could afford to laugh at this exaggerated self-pity, a wealthy man might not find so absurd this list of threats to the peace of mind of men of his class.<sup>31</sup>

Two factors heightened the sensitivity of the rich to the expense of public service. First, some felt it was frivolous and wasteful to spend extravagant sums on festival liturgies; it would be far better, they asserted, to devote these resources to socially useful purposes like the trierarchy or perhaps poor relief.<sup>32</sup> A further irritant was the perception that liturgical costs were not borne equally by the wealthy. Indeed, an element of inequity was built into the system: since liturgies were of variable cost and irregularly imposed, it was unlikely that men of identical wealth would be subject, even in the long term, to the same total expenses.<sup>33</sup> More demoralizing, however, was the widespread belief that many rich men were getting off scot-free from public service. Leptines, for example, proposed and carried a law in 356/5 B. C. revoking special grants of exemption

<sup>30</sup> See, e.g., D. 19.282, 50.21, Lys. 3.47, 12.38, 18.7, 21.3, 21.11, Is. 4.29. Cf. Dover 175: "...contributions of money in capital levies and the performance of religious, military or administrative functions involving financial outlay were put in the same category as service entailing physical danger."

<sup>31</sup> Cf. Xen. *Symp.* 4.32, where Charmides identifies two threats to the wealthy man's fortune: the πόλις and τύχη.

<sup>32</sup> For general criticism of festival liturgies, see Arist. *Pol.* 1309a14–19 and frs. 88–89 (Rose). For the argument that it would be better to devote these resources to the trierarchy, see Plut. *Mor.* 349a–b=Dem. Phal. fr. 136 (Wehrli), Lyc. *Leocr.* 139–40, and cf. D. *Ph.* 1.35–37. For the poor-relief argument, see esp. Isoc. *Areop.* 53–55, and cf. Arist. *Pol.* 1320b4. We may rightly suspect here the sincerity of Isocrates' armchair philanthropy.

<sup>33</sup> The problem of inequity is especially evident in the case of the trierarchy, where costs varied considerably, depending on the quality and age of the assigned vessel (see Jordan 68–70). For the possibility that a general might assign an inferior ship to a personal enemy, see Ar. *Eq.* 912–18 and Schol. *ad loc.*



(*ateleia*) from festival liturgies, on the grounds "that [these] liturgies now fall on poor men" (D. 20.18). Demosthenes, on similar grounds, won passage of a law in 340 B.C. reforming the trierarchic system (D. *Cor.* 108).<sup>34</sup>

The expense of public service might have irked the wealthy less, had they been more confident that the community would reward their efforts with *charis*. The wealthy, however, had good reason to doubt that they would profit personally from their expenditures. Opportunities for cashing in one's accrued stock of *charis* in the political arena were limited by the development of the "radical" democracy.<sup>35</sup> Nor could a rich man be sure that a popular jury would respond well to his claim to favorable treatment as a reward for public service. The premise of such claims was regularly challenged by opposing speakers, who questioned the relevance of a man's liturgical record to his guilt or innocence.<sup>36</sup> A further hazard was that one's opponent might accept the pertinence of this type of argument, but proceed to demonstrate his own superior claim to *charis* based on his more impressive record of public service.<sup>37</sup>

Two developments within the liturgical system must have made it more difficult for liturgists in the fourth century to posit claims to *charis*. First, "the tendency for liturgies to become state-mandated rather than remaining voluntary" meant that the mere performance of public service was no longer enough to engender *charis*.<sup>38</sup> Second, the depersonalization of trierarchic service with the introduction of symmories in 357 B. C. made it more difficult for individuals to demand a personal reward for their contributions.<sup>39</sup> At the same time, moreover, men outside the liturgical class were questioning the very premise that liturgists deserved special recognition for their contributions to the city. One manifestation of this challenge is the democratization of the term *leitourgia*: although it originally was limited in its application to public service by the wealthy, from the late fifth century on it came also "to be used in the broadened sense of any service to the country."<sup>40</sup>

### B. Compulsory Philanthropy

The wealthy resented not only the cost of public service, but also its compulsory character. Although the model bearer of a liturgy was an eager volunteer

<sup>34</sup> On the date of Leptines' law, see Rhodes (1982) 19n. 64. On the use of πένητες in D. 20.18 and D. *Cor.* 108 to describe less able liturgists, see Davies (1981) 12–13, and Ober 194–96.

<sup>35</sup> In the fourth century, therefore, claims to *charis* for performing public service are found almost exclusively in forensic contexts, as Davies ([1981] 96–98) notes. For some possible exceptions, however, see Strauss 13–14.

<sup>36</sup> See Lys. 12.38, 26.3, D. 21.169 and 225, 25.76–78, 54.44, and 59.117.

<sup>37</sup> The *loc. class.* is D. 21.154–59, where Demosthenes argues that his considerably older opponent, Meidias, has a poor liturgical record compared to his own. On Demosthenes' distortion here of the difference between his age and Meidias', see E. M. Harris, "Demosthenes' Speech Against Meidias," *HSCP* 92 (1989) 123–24. For other possible rejoinders to an opponent's claim to *charis* for public service, see Ant. *Tetr.* 1.3.8, Lys. 19.57, 27.9–12, 29.4, Isoc. *De Big.* 32–33, D. 21.167, and Lyc. *Leocr.* 139–40.

<sup>38</sup> Ober 241–42.

<sup>39</sup> Sinclair 61–62.

<sup>40</sup> N. Lewis, "Leitourgia and Related Terms," *GRBS* 3 (1960) 181.

(ἐθελοντής), by the fourth century many, if not most, wealthy men performed liturgies only after being nominated for them. Speakers thus sometimes boast that they not only carried out public service, but *even* volunteered to do so. Such a claim is intelligible only if a popular audience deemed volunteerism exceptional.<sup>41</sup> The standard terminology that the wealthy employ to refer to public service also suggests that it was in its essence regarded as obligatory: to perform a liturgy was to comply with the city's orders (τὰ προσταττόμενα) and to act in accordance with its laws (νόμοι).<sup>42</sup>

The compulsory aspect of public service roused on more than one occasion the indignation of a class accustomed to giving rather than receiving orders. In Xenophon's *Symposium* (4.45), for example, the wealthy Callias notes acerbically that one advantage of poverty is that at least "the state does not use you as a slave ordering you about" (οὔτε ἡ πόλις σοι ἐπιτάττουσα ὡς δούλῳ χρῆται).<sup>43</sup> To be sure, liturgists were free in some cases to choose how extravagantly to fulfill their public obligations. Nevertheless, it was difficult to dispel the impression among the wealthy that the system was at its roots exploitative, and that, as the Old Oligarch puts it, the rich carry out public service, while the demos benefit from it ([Xen.] *Ath. Pol.* 1.13).<sup>44</sup>

Compulsory public service also represented in the minds of the rich an encroachment on their property rights. It is perhaps in part to assuage such concerns that the new eponymous archon, before turning to his task of assigning wealthy men to public service, first issued a general proclamation that all would continue during his term to hold and possess whatever they had when he entered office (Arist. *Ath. Pol.* 56.2). The state, in fact, encouraged the man of wealth

<sup>41</sup> See, e.g., Lys. 21.5, 29.4, and D. 45.85. Demosthenes boasts frequently of his volunteerism: D. *Cor.* 99, 19.230, 21.13, 21.156, and cf. 28.24. Relatively few liturgists could apparently make this claim, and fewer still could boast that they did not take advantage of the respite permitted them by law after performing a public service (Lys. 19.29, 21.3, Is. 5.41, and 7.38). Volunteers for the trierarchy were, at least at times, so uncommon that an opponent could attribute ulterior motives to a volunteer (Lys. 29.4). Cf. Davies' suspicions ([1971] 592–93) of the extraordinary liturgical record of the speaker of Lys. 21. A new citizen, in particular, might feel pressured to perform public service more lavishly or frequently than required by law (D. 45.78 and 85).

<sup>42</sup> τὰ προσταττόμενα: Xen. *Symp.* 4.30, And. *Alc.* 42, Lys. 7.31, 12.20, 18.7, 21.23–24, 25.13, Isoc. *Panath.* 145, *Antid.* 150, *De Pace* 128, Is. 6.61, 7.35, D. 29.24, 38.26. νόμοι: Lys. 21.5, Isoc. *Antid.* 145, D. 45.78, 47.48. For the presence of compulsion (ἀνάγκη) in the liturgical system, see Lys. fr. 35 (Thalheim), Xen. *Hell.* 6.2.12–14, Is. 5.36, D. *Ol.* 2.30, 18.102, 20.40, Arist. *Rhet.* 1399a36–37, and cf. Lys. 7.31, 19.56 and 63.

<sup>43</sup> For the image of the wealthy as δούλοι, see also Xen. *Symp.* 4.29–30 and 32, and cf. D. 42.32.

<sup>44</sup> The Old Oligarch highlights the one-sided nature of this relationship by contrasting the activity of the wealthy with the passivity of the demos: ἐν ταῖς χορηγίαις αὐτὸ καὶ γυμνασιαρχίαις καὶ τριηραρχίαις γινώσκουσιν ὅτι χορηγοῦσι μὲν οἱ πλούσιοι, χορηγεῖται δὲ ὁ δῆμος, καὶ γυμνασιαρχοῦσιν οἱ πλούσιοι καὶ τριηραρχοῦσιν, ὁ δὲ δῆμος τριηραρχεῖται καὶ γυμνασιαρχεῖται. See also the similar complaint attributed to Meidias in D. 21.203–204, and cf. D. *Ol.* 2.30. Aristotle confirms the sensitivity of the rich to exploitation, noting that excessive liturgical burdens may incite them to *stasis* (*Pol.* 1305a4–5, and cf. 1304b25–31).

to regard himself not so much as the owner of his property, as a steward (ταμίας) of it on behalf of the city.<sup>45</sup> As such he was responsible for preserving his property intact in anticipation of the state's future claims on it. Personal extravagance on the part of a wealthy man could thus be construed as an offense against the city.<sup>46</sup> The state's assumption that the assets of the wealthy were in a certain sense its own provoked indignation. Xenophon's Socrates (*Oec.* 2.6–7), for example, remarks on the absurd situation in which the wealthy found themselves: the Athenians punish the wealthy man who falls short in his financial obligations “just as if they had caught him stealing their own possessions” (οὐδὲν ἦττον ἢ εἰ τὰ αὐτῶν λάβοιεν κλέπτοντα).<sup>47</sup>

The complaints of the wealthy about the liturgical system reflect the complexity and awkwardness of the situation in which they found themselves. Many wanted to enjoy quietly their riches in a world all too prone to turmoil and crisis, and for them public service represented an expensive and disturbing intrusion into their private lives.<sup>48</sup> It is no accident that Xenophon's Charmides (*Symp.* 4.30) complains in the same breath of homebreakers and assignment to public service: invasive, unpredictable and costly, each threat evokes fear and anxiety among the wealthy.<sup>49</sup> Such feelings led more than one rich man to fantasize about the untroubled life of the poor.<sup>50</sup> Many, however, found a more concrete outlet for their feelings of frustration and anger through circumvention of the liturgical system.<sup>51</sup>

### III. LITURGY AVOIDANCE

The opposition of the rich to the liturgical system manifested itself in a variety of ways.<sup>52</sup> Wealthy men who were unable to avoid assignment to public

<sup>45</sup> For the image of the man of wealth as ταμίας, see Lys. 21.13–14 and Is. 6.61, and cf. Lys. 19.61–63, D. *Ph.* 4.45, and 14.28.

<sup>46</sup> See, e.g., Lys. 19.9–10, Is. 5.41–43, fr. 22 (Thalheim), D. 21.158–59, 38.25–26, and Aes. *Tim.* 97, and cf. Dover 173 and 179, and Gabrielsen (1986) 108. Cf. the common boast of wealthy speakers that they spend more on the city than on themselves: Lys. 19.9, Is. 6.60, and Isoc. *Antid.* 158.

<sup>47</sup> Cf. Isocrates' lament (*Antid.* 160) that the wealthy are treated as criminals by the democracy.

<sup>48</sup> On the rich ἀπράγμων and public service, see L. B. Carter, *The Quiet Athenian* (Oxford 1986) 103–5.

<sup>49</sup> Cf. the similar collocation in Antiphanes fr. 204 (Kock) (quoted above in the text), where assignment to public service and murder at the hands of one's slaves at night appear together as sources of anxiety for the rich.

<sup>50</sup> See, e.g., Xen. *Symp.* 4.30–32 and 45 (cf. Xen. *Oec.* 2.4–8) and Isoc. *De Pace* 128.

<sup>51</sup> Scholars have tended to downplay the scale of the problem. Gabrielsen ([1987] 38), for example, cautiously points to “the presence of men unwilling to expend on liturgies more than the bare minimum, and, if possible, not even that much.” Davies ([1971] xxii) allows only “for some degree of liturgy-dodging,” but notes more recently ([1981] 90) that evasive tactics “were evidently far from uncommon.” For possible instances of liturgy dodging, see Davies' remarks (1971) on Theopompos (2921, XIV), Demosthenes (I) (3597, XIV), Isocrates (7716), Neoptolemos of Melite (10652), and Phainippos (14734).

<sup>52</sup> Davies ([1981] 88–91) provides a good overview of the means available to the wealthy to deploy their “property-power.”

service, for example, might show their displeasure by spending the bare minimum necessary to carry out their obligations. This was not without its risks, since poor performance might expose a liturgist to ridicule or criticism and jeopardize his future claim to *charis*.<sup>53</sup> Nevertheless, as long as the rich avoided the appearance of stinginess, they could cut corners with relative impunity. Although the state reserved special praise for its most generous benefactors, no social stigma seems to have fallen on those who were more moderate in their public outlay. Isocrates, for example, makes no secret of the fact that he did not spend recklessly (ἄσώτως) or carelessly (ὀλιγώρως) on a trierarchy assigned to him (*Antid.* 5–6).<sup>54</sup> A client of Lysias (7.31–32) addressing a popular audience suggests, more tactfully, that moderation in public service is no crime: while lauding his own benefactions to the city, he reminds his listeners that, had he served but moderately (μετρίως), he would have been guilty of no wrongdoing (οὐδὲν ἄδικῶν).

The reluctant liturgist preferred, however, to avoid public service altogether.<sup>55</sup> To reduce the risk of nomination to public service by the magistrates or subsequent assignment to a liturgy through the *antidosis* procedure, it was essential that he conceal his wealth from public view. In practice, this was relatively simple to achieve, and so common as to constitute a cultural norm.<sup>56</sup>

The wealthy had little difficulty in concealing the value of their assets from the public.<sup>57</sup> First, there was no land-registry in Attica to keep track of the frequently scattered land-holdings of the rich.<sup>58</sup> Furthermore, once land and other real property were converted to cash (ἐξαργύρωσις), concealment was even more difficult to detect.<sup>59</sup> Although the city required the man of wealth to submit an estimate of his assets' value for purposes of the *eisphora*, the resulting

<sup>53</sup> For attacks on cheap *choregoi*, see *Ar. Ach.* 1150–52, Eupolis fr. 329 (Kassel-Austin), and *Is.* 5.36, and on stingy trierarchs, *D.* 51.7. Cf. the boast in *Is.* 7.38 that Apollodorus' father did not perform perfunctorily (οὐδ' ἄφοσι-οῦμενος) his trierarchies.

<sup>54</sup> See also *Areop.* 52–53, where Isocrates asserts that under the Areopagus festivals were carried out without extravagance and excess (οὐδὲ...ἀσελγῶς οὐδ' ὑπερφηάνως). Cf. Aristotle's definition of μεγαλοπρέπεια as the mean between βαναυσία and μικροπρέπεια in *NE* 1122a18–1123a33 (discussed by Davies [1971] xviii, n. 5).

<sup>55</sup> The vocabulary used to describe evasion of public service includes: ἀφίστημι: *Lys.* 18.7, cf. *D.* 51.7; διαδύομαι: *Lys.* 21.12, *D.* 42.23; ἐκδέδυνκα: *D.* 20.1; δραπετεύω: *D.* 42.25 and 32; κλέπτω: *Xen. Oec.* 2.5–6, *Hyp.* fr. 134 (Jensen), and cf. *Din.* 1.70; and φεύγω: *Lys.* 19.58, *D.* 45.66.

<sup>56</sup> On concealment of wealth in Athens, see most recently Gabrielsen (1986) 99–114 (with earlier bibliography). Although Gabrielsen rightly points to the ease with which concealment might be effected, he refrains from speculating on its frequency. De Ste. Croix (34), however, argues that “concealment of ἀφανῆς οὐσία and under-valuation of assessed property [for the *eisphora*] were widespread and habitual.”

<sup>57</sup> See, e.g., *Isoc.* 17.1–11. For further evidence, see Gabrielsen (1986) 102–3.

<sup>58</sup> On the absence of a land-registry, see Gabrielsen (1986) 113n. 40 (with earlier bibliography). On scattered land-holdings, see Davies (1981) 52.

<sup>59</sup> On ἐξαργύρωσις, see Gabrielsen (1986) 108.

self-assessment was notoriously unreliable.<sup>60</sup> In most cases, therefore, "it was virtually impossible to obtain a picture of a man's economic standing that was more or less accurate," and the public had to depend largely on insubstantial rumor for its knowledge of a man's wealth.<sup>61</sup>

Our sources attest directly that the rich regularly chose to conceal their wealth to evade their financial responsibilities to the state.<sup>62</sup> Demosthenes, for example, points to the general practice among rich men (οἱ κεκτημένοι) of concealing their wealth; only if they perceive that their persons and property are at risk from enemy attack, he suggests, will they make their resources available to the city (14.25–28). Isocrates contrasts the current situation with that of earlier times, when men not only did not conceal their wealth (*Areop.* 35), but actually went out of their way to appear wealthier than they were (*Antid.* 159–160). Even if we reject Isocrates' idealization of the past,<sup>63</sup> his assessment of evasion by contemporaries accords well with that of Demosthenes.

The arguments of wealthy litigants before large audiences provide less direct, but equally compelling, evidence of sharp practices among the rich. While the boasts and slanders of individual litigants obviously deserve close scrutiny, it is significant that speakers regularly play off the popular belief that the rich conceal their assets to avoid public service. One speaker, for example, boasts of his exceptional service as trierarch after the battle of Aegospotami (405 B.C.): while the other trierarchs lost heart and not only regretted the loss of what they had already spent, "but took measures to conceal what they had left" (τὰ δὲ λοιπὰ ἀποκρυπτομένων), he immediately persuaded his brother to join him as syntrierarch and set out to do harm to the enemy (*Isoc.* 18.59–60). The speaker of *Lysias* 21 also takes advantage of the public's suspicions of the wealthy: if the jury fails to reward him with the *charis* he deserves for performing public service, he asserts, men who shirk liturgies will congratulate themselves on their decision not to serve the state (21.12). The frequent claim of litigants that their opponents were liturgy dodgers must also reflect the receptiveness of popular audiences to such charges. Demosthenes, for example, urges the jury to find in his favor in his suit against his guardians, since he "would be likely to volunteer for public service" if awarded the disputed property, while *Aphobos* would conceal it (28.22–24).<sup>64</sup>

<sup>60</sup> On the unreliability of the *timema*, see de Ste. Croix 33–34, and cf. *Pl. Rep.* 343D6–8. Whitehead ([1977] 78) notes that metics in particular were in a good position to undervalue their assets, since they "would not normally own land—nor, in some cases, much property of any kind in Attica..." For possible cheating by metics, see *Lys.* 22.13.

<sup>61</sup> Gabrielsen (1986) 110–11. On the importance of rumor, see esp. *Lys.* 19.45–52.

<sup>62</sup> The sources leave little doubt that the primary function of concealment was to escape public service and reduce the burden of the *eisphora*: see, e.g., *Is.* 11.47, *D.* 42.23, 45.66, *Aes. Tim.* 101.

<sup>63</sup> Although Isocrates overstates in these passages the difference between fifth- and fourth-century practices (as Gabrielsen notes [1986] 104–5), the basic distinction may well be legitimate (see Davies [1981] 89–90).

<sup>64</sup> For other examples of this common slander, see *Is.* 4.29, 5.35, 11.47–50, *D.* 45.66, *Aes. Tim.* 101, *Hyp. fr.* 134 (Jensen), and cf. *Din.* 1.69.

One might object that the willingness of the public to believe the worst about the behavior of the rich tells us more about popular prejudices than the actual extent of liturgy evasion. Indeed, it was commonly held that the rich were prone to acts of *hubris* because of their privileged status, and that they had, in fact, acquired wealth in the first place only because of their unscrupulousness.<sup>65</sup> The familiarity of wealthy speakers with techniques of concealment, however, and the ease with which they speak of it, suggest that at least in the case of liturgy avoidance the public's suspicions were justified.

In his second speech against Aphobos, for example, Demosthenes reveals how few qualms the wealthy had about concealing their property. He refutes his guardian's assertion that his grandfather, Gylon, had been a state-debtor simply by pointing out that Gylon's heirs did not try to conceal their wealth from the state: this, he argues, is conclusive proof that they did not fear its seizure by the state for the alleged debt (28.1–4). The assumption is clearly that concealment is a natural and logical course to take to protect one's assets from the state. It is noteworthy that Demosthenes does not project this shrewd practice onto enemies or strangers, but onto his own family, and implies that this would have been virtually obligatory under the circumstances posited. Such frankness was perhaps permissible because at least in this instance Demosthenes' family had not had recourse to concealment.

Wealthy liturgists, in fact, took so much for granted the prevalence of concealment among their peers that they felt entitled to special praise for not evading their civic obligations. The speaker of Lysias 20, for example, makes a positive virtue out of the fact that his father shunned sharp practices:

καὶ ἐξὸν αὐτῷ τὴν οὐσίαν ἀφανῇ καταστήσαντι μὴδὲν ὑμᾶς ὠφελεῖν, εἴλετο μᾶλλον συνειδέναι ὑμᾶς, ἢν' εἰ καὶ βούλοιτο κακὸς εἶναι, μὴ ἐξεῖη αὐτῷ, ἀλλ' εἰσφέρει τε τὰς εἰσφοράς καὶ λητουργοίη. (20.23)

Although he might well have concealed his wealth and deprived you of his service, he chose rather that you should have knowledge of it, so that even if he should wish to be unscrupulous, it would not be possible, but he would instead have to pay the war-tax and perform liturgies.

The temptation to evade public service is so great, the speaker suggests, that those who comply with the law deserve special recognition.<sup>66</sup>

#### IV. ANTIDOSIS

Although widespread liturgy avoidance might have proven disastrous for the Athenian state, the institution of *antidosis* insulated the state from the most serious consequences of evasion. This institution required the man initially

<sup>65</sup> On the *hubris* of the rich, see, e.g., Thuc. 3.45.4 and Lys. 24.16, and cf. Dover 110–11. On wealth illicitly gained, see Ar. *Eccl.* 603, 608 and *Pl.* 28–31, 500–504. For further evidence of hostility toward the rich, see David 17n. 70.

<sup>66</sup> Cf. also Lys. 18.7 and Is. 7.40–41. De Ste. Croix (34) rightly notes in his discussion of the *eisphora* that “honest self-assessment was a thing to boast of...”

assigned a liturgy to provide in his place an appropriate substitute if he wished to win release from his obligation.<sup>67</sup> Most scholars would agree that the *antidosis* procedure involved up to three stages.

1. The party initially assigned to a liturgy could formally challenge another man to perform it in his place. If the challengee consented, the procedure came to an immediate end.

2. If the challengee refused to assume the liturgy, the challenger could offer to exchange property with him. If the challengee accepted this proposition, the two parties arranged for an exchange of all their real and personal property. It was then incumbent on the challenger to carry out the liturgy from his new estate.

3. If the challengee refused this offer to "trade places" or if difficulties arose during the exchange, the matter could be brought before a popular jury, which then assigned the disputed liturgy to the man it deemed wealthier.<sup>68</sup>

On a strictly practical level, the *antidosis* procedure was a bureaucratic convenience that enabled the city to keep its liturgical ranks full with minimal

<sup>67</sup> The most recent comprehensive treatment of the *antidosis* procedure is Gabrielsen (1987) 7–38. This procedure attracted much scholarly attention in the nineteenth century as a curious feature of Attic law. W. A. Goligher ("Studies in Attic Law II. The Antidosis," *Hermathena* 14 [1907] 514–15) cites eighteen earlier treatments of the topic, including three dissertations. For a useful survey of the early scholarship, see Gabrielsen (1987) 8–9. More recent discussions include: G. Busolt, *Griechische Staatskunde* (München 1926) 1088–89; Andreades 293–94; Cloché 193–96; L. Gernet, *Démocratie. Plaidoyers Civils*, vol. 2 (Paris 1957) 71–77; Harrison 236–38; MacDowell (1978) 162–64; R. Osborne, "Law in Action in Classical Athens," *JHS* 105 (1985) 53; Ober 242–43.

<sup>68</sup> For a detailed reconstruction of the procedure with ancient sources, see Gabrielsen (1987) 11–31. I am not, however, convinced by Gabrielsen's argument (23–24) that the *only* way the matter might come to court was if a dispute arose during the exchange of property; the sources do not rule out the possibility that a challengee might refuse the offer to exchange property, thereby forcing his opponent, if he wished to pursue the matter, to appeal to the courts (see, e.g., MacDowell [1978] 163).

Many scholars have doubted that the *antidosis* procedure ever entailed an actual exchange of property. To all appearances, however, we have just such a case in Lys. 4.1, and speakers regularly treat exchange as a real possibility (Lys. 24.9, D. 20.40, 21.79, and 28.17, all discussed by Gabrielsen [1987] 15–16). By the late fourth century, property in the silver mines was excluded from exchanges of property (D. 42.18–19). Davies ([1981] 75–76), however, wrongly cites the *antidosis* procedure as evidence of "the curious lack of emotional involvement among Athenians towards real property which they owned." As best we can tell, few exchanges of property were actually carried out, due presumably to the reluctance of individuals to part with their personal property (cf. Gabrielsen [1987] 16–17).

The attribution of the *antidosis* procedure to Solon (D. 42.1) is dubious, *pace* Goligher (see above, note 67) 481–82: "...it was only at a comparatively early period that an enactment pregnant with so much inconvenience and vexatiousness could have been put upon the Athenian statute-book." *Antidosis* is first attested on the deme level in Ikaria in the second half of the fifth century (*IG* I<sup>3</sup> 254=I<sup>2</sup> 187). For interpretation of this inscription, see D. Whitehead, *The Demes of Attica* (Princeton 1985) 215–17, and cf. Gabrielsen (1987) 29–30. Davies ([1971] xxii, n. 8) plausibly dates the *antidosis* procedure back at least to 502/1 B.C. when the Dionysiac contests were established.

commitment of public resources. Only if private negotiations failed was the state called upon to intervene through its courts.<sup>69</sup> This was, in fact, but one of many ways in which the city relied on private initiative to carry out administrative functions that, in more developed polities, are performed by a state bureaucracy.<sup>70</sup> A further advantage of this arrangement was that the wealthy were arguably in a better position than the state's magistrates to ferret out from their own class able performers of public service.

In ideological terms, however, the *antidosis* procedure was more complex.<sup>71</sup> On the one hand, it represented an articulation of the absolute responsibility of the liturgical class to provide public services: regardless of the outcome of the game of liturgy hot-potato among the wealthy, the demos were to receive their due. At the same time, however, the procedure recognized the existence of differences in wealth among members of the upper class and sought to distribute liturgical duties accordingly.<sup>72</sup> It is this important symbolic aspect of the procedure that the unknown speaker of Demosthenes 42 invokes:

διὰ τοῦτο γὰρ οἱ νόμοι καθ' ἕκαστον ἔτος ποιοῦσι τὰς ἀντιδόσεις, ὅτι τὸ διευτυχεῖν συνεχῶς τῇ οὐσίᾳ, οὐ πολλοῖς τῶν πολιτῶν διαμένειν εἴθιστα. (42.4)

For it is on this account that the laws provide each year for *antidoseis*, because few citizens have the good fortune to enjoy for long unbroken prosperity.

The *antidosis* procedure, in fact, was not only available to those with financial hardships, but to *anyone* assigned to public service who believed that a wealthier man had been overlooked by the selection process.<sup>73</sup> Theoretically, therefore, no liturgist could complain that he was bearing a disproportionate share of civic obligations, since he had had the opportunity to shift his burden to a more able man. Had this mechanism succeeded in achieving equity in assignment to public service, it might have reduced considerably the ongoing tensions between the wealthy and the state.<sup>74</sup> In practice, however, the *antidosis* procedure not only

<sup>69</sup> Even during the trial, the disputing parties might still apparently agree to resolve the matter between themselves (D. 42. 19). See Gabrielsen (1987) 36, and Harrison 238.

<sup>70</sup> Cf., e.g., the role of sycophants in Athens and the reliance on current trierarchs to recover ships' equipment from debtors. On the latter, see Gabrielsen (1987) 24–28.

<sup>71</sup> On law as an expression of ideology, see S. C. Humphreys, "Law as Discourse," *History and Anthropology* 1 (1985) 251: "At all levels we are dealing with competing attempts to impose models of what society should be on others."

<sup>72</sup> We must not, therefore, regard the procedure simply as an instrument of class warfare, designed to discourage "class solidarity within the ranks of the wealth elite..." (Ober 242). That wealthy individuals should be permitted to appeal to the courts for liturgical relief reflects, in my opinion, a less antagonistic attitude toward wealth and its possessors (cf. Cloché 194).

<sup>73</sup> Gabrielsen ([1987] 8, 15, and 36) wrongly limits the *antidosis* procedure to those pleading financial inability. Such a claim might prove expedient before a popular law court, but was not, as far as we know, a *sine qua non* for initiating the procedure (see, e.g., MacDowell [1978] 162).

<sup>74</sup> For the complaints of the wealthy about the maldistribution of liturgies, see above, Section IIA.



failed to avert feelings of malaise, but actually contributed to them. Frequently employed, yet all too vulnerable to abuse, it further alienated the class upon whose goodwill the Athenian state depended.<sup>75</sup>

#### A. Frequency

Men of wealth in Athens expected as a matter of course to be party to *antidosis* disputes.<sup>76</sup> A casual remark in Xenophon's *Oeconomicus* (7.3) reveals how much they took for granted their regular involvement in the *antidosis* procedure. When Socrates asks his wealthy interlocutor, Ischomachos, how he came to be called a καλὸς κάγαθος, he responds with some amusement that this is certainly not the form of address men use "whenever they summon me for an *antidosis* over a trierarchy or *choregia*" (ὅταν γέ με εἰς ἀντίδοσιν καλῶνται τριηραρχίας ἢ χορηγίας). Ischomachus clearly indicates that such occasions were not infrequent for a man of his class. Indeed, our ancient sources consistently treat the *antidosis* procedure as routine and familiar. The speaker of Lysias 24, for example, assumes that his listeners are familiar enough with the procedure that they will fully comprehend the significance of his brief allusion to it: as a vivid and concise proof of his own poverty, he asserts that his opponent, if invited to exchange property with him over a *choregia*, "would choose ten times over to perform the office of *choregos* rather than exchange property once" (24.9).<sup>77</sup>

Unfortunately, relatively little evidence of this regular feature of civic life has survived.<sup>78</sup> Specific instances of the *antidosis* procedure are often preserved only because they involved notable figures—Euripides, Isocrates and Demosthenes. Much of our information about the procedure derives from *Against*

<sup>75</sup> Scholars have too readily assumed that the procedure succeeded in distributing evenly liturgical burdens: see, e.g., Davies (1981) 83, Sinclair 64, and Ober 199. Gabrielsen ([1987] 37) recognizes the potential for abuse, but does not pursue the matter. R. J. Littman, however, rightly notes that "Despite this remedy [i.e. the *antidosis* procedure], the liturgy did not fall on all men of wealth in a systematic pattern, and there were many inequities" ("Greek Taxation," in *Civilization of the Ancient Mediterranean*, vol. 2, ed. by M. Grant and R. Kitzinger [New York 1988] 802).

<sup>76</sup> *pace* Gabrielsen (1987) 29: "It is not possible to infer anything about the frequency with which the *antidosis* procedure was employed..." Ober (223) suggests, in contrast, that the procedure led to "frequent legal disputes."

<sup>77</sup> On the routine character of the *antidosis* procedure, see also Arist. *Ath. Pol.* 56.3 and 61.1, and D. *Ph.* 1.36.

<sup>78</sup> Gabrielsen conveniently collects most of the ancient references, and the testimony of lexicographers and scholiasts ([1987] 10n. 9, and 10–11n. 11, respectively). I list the former here with some additions: *IG I<sup>3</sup>* 254, [Xen.] *Ath. Pol.* 3.4, Cratinus fr. 290 Kassel-Austin, Lys. 3.20, 4.1–3, 24.9, Περὶ τῆς ἀντιδόσεως (Thalheim [X<sup>a</sup>]: "Laudatur apud Harp. v. 'Εννεάκρουνον, quem locum ad Isocr. XV 287 spectare Orelli vidit."), Xen. *Oec.* 7.3, Isoc. *De Pace* 128, *Antid.* 4–5, 8, 144, D. *Ph.* 1.36, 20.40, 130, 21.78–80, 156, 28.17, D. 42, Hyp. Περὶ ἀντιδόσεως πρὸς Πασικλέα fr. 137, and perhaps also frs. 134–36 (Jensen), Arist. *Rhet.* 1416a28–35 (on Euripides' involvement in an *antidosis* dispute with Hygiaion), *Ath. Pol.* 56.3, 61.1, [Din.] 'Υπὲρ ἀντιδόσεως (πρὸς Μεγακλείδην fr. 96 (Conomis) (this speech was given by Aphareus in 354/3 B.C. on behalf of his adoptive father, Isocrates, and is too early to belong to Dinarchus, as noted in D. H. *De Din.* 13, and cf. [Plut.] *Mor.* 839c).

*Phainippus* (D. 42), a speech composed for an unknown individual who appealed to the courts to resolve his *antidosis* dispute. Although only one oration in this genre has survived, speeches *Περὶ ἀντιδόσεως* were apparently part of the professional orator's stock in trade.

The fact that participation *per se* in the *antidosis* procedure carried no social stigma may help explain why the wealthy turned to it with apparent frequency. The speaker of *Lysias* 4, for example, speaks freely of his prior involvement in an *antidosis* dispute with his opponent, without fear that this will alienate his audience (4.1–2). Even if the case came to court, there was no presumption that either party had acted improperly. On the contrary, it was considered simply a *diadikasia*, “an action to settle disputed claims (LSJ).” As in inheritance disputes, culpability was not at issue, but rather the legitimacy of competing claims.<sup>79</sup>

Although the loser in the *antidosis* procedure, like any disappointed litigant, might feel a measure of embarrassment, this was hardly debilitating. While the performer of a liturgy ἐξ ἀντιδόσεως might encounter difficulty later in laying claim to public *charis* for his willing service to the state, nothing prevented him from trying to reap advantage from it anyway, as Demosthenes' enemy, Meidias, apparently did (D. 21.156). A loser might, in any case, save face by claiming that he had fallen victim to an enemy's exaggeration of his wealth, as Isocrates complained (*Antid.* 4), or to malicious plotting, as Demosthenes asserted (D.21.80). The speaker of *Lysias* 3 is so unabashed as to seek to gain some advantage in court from his loss of an *antidosis* dispute. He accuses his current opponent of poor gamesmanship for having brought suit against him for wounding with intent to kill, only “when he perceived that I had lost a private suit arising from an *antidosis* challenge” (ἐπειδὴ δὲ δίκας ἰδίας ᾗσθετο κακῶς ἀγωνισάμενον ἐξ ἀντιδόσεως [3.20]). The speaker's lack of shame for his *antidosis* loss contrasts sharply with his manifest embarrassment over his involvement in the current suit, which arose from a dispute over a handsome boy.

### B. Abuse and Manipulation

Even if the *antidosis* procedure had only touched directly the lives of a few wealthy men each year, it would still have been important for the morale of the liturgical class that it be seen to allot public services fairly in these representative cases. The widespread use of the procedure, however, made the issue of fairness an immediate and personal concern for the wealthy. Few could have been reassured by their own experience or that of their peers that it would protect their fortunes from excessive burdens. First, consider how easily the *antidosis* procedure was adapted to serve private purposes. Demosthenes' guardians, for example, employed it to harass and befuddle him as he tried to reclaim his patrimony:

ὥς γὰρ τὰς δίκας ταύτας ἔμελλον εἰσιέναι κατ' αὐτῶν,  
ἀντίδοσιν ἐπ' ἐμὲ παρεσκεύασαν, ἵν' εἰ μὲν ἀντιδοίην, μὴ  
ἐξείη μοι πρὸς αὐτοὺς ἀντιδικεῖν, ὥς καὶ τῶν δικῶν τούτων

<sup>79</sup> On the legal nature of the *diadikasia*, see MacDowell (1978) 103 and 163.

τοῦ ἀντιδόντος γιγνομένων, εἰ δὲ μηδὲν τούτων ποιήην, ἦν' ἐκ βραχείας οὐσίας λητουργῶν παντάπασιν ἀναιρεθείην. (28.17)

For when I was about to bring suit against them, they arranged for an *antidosis* challenge to be put to me, in order that, if I accepted it, it might not be possible for me to pursue my action against them, since this suit would then belong to the one who had proposed the exchange; and if I did not do this, in order that I might perform the liturgy from my meager property, and so be utterly ruined.

Faced with this dilemma, Demosthenes chose as the lesser evil to pay the cost of the trierarchy in question.<sup>80</sup> The speaker of Lysias 4 describes an equally imaginative misapplication of the *antidosis* procedure. His opponent, he notes, had challenged him to an exchange of property in hope of gaining possession of a courtesan; the exchange, however, was called off when the parties agreed to share the woman in question (4.1–2).

Even when the *antidosis* procedure was applied within its proper sphere, however, it had little chance of achieving an equitable distribution of liturgical duties. The agonistic framework within which it operated made it a better test of gamesmanship than of wealth. That the city should choose to allot liturgies in this way is perhaps not surprising, given Hellenic culture's preoccupation with competition and contest. This was, however, no ordinary contest in the eyes of the rich: participation was involuntary for the challengee and the stakes exceptionally high. Although a loser might feel anger toward his victorious opponent, his resentment naturally extended to the city that sanctioned this contest. Let us consider more closely the competitive character of the procedure in both its private and public stages.

### 1. Private Agon

The competitive acumen of the wealthy was put to the test even before the *antidosis* procedure formally began. Before initiating the procedure, the shrewd man of wealth concealed as best he could the value of his own estate, while at the same time identifying promising candidates for an *antidosis* challenge. In selecting a target, it was crucial to assess both his material resources and his character.<sup>81</sup> Less important than the target's actual wealth was the amount of it that was unconcealed, since this was the true measure of his vulnerability. The indebtedness of one's prospective opponent had also to be taken into account. When the speaker of Demosthenes 42 describes how he inspected Phainippus' property for *horoi* (5–6), it is safe to assume that this was not his first inquiry into his target's indebtedness. The target's personality and character were also germane: inexperience, aversion to risk and excessive attachment to personal property were all desirable in an opponent. An inexperienced youth, for example, might play into his opponent's hand, as Demosthenes did (D.21.80). The young Phainippus (D. 42.24), however, displayed a shrewdness beyond his

<sup>80</sup> On the attachment of Demosthenes' suit (against his guardians) to his property, see Gabrielsen (1987) 33–34.

<sup>81</sup> Gabrielsen ([1987] 11–12, 17–18) focuses his remarks on the target's material resources, noting rightly that his wealth should be both visible and unencumbered.

years and proved a foxy and troublesome opponent. Those who had publicly demonstrated their disdain for the demos might also mark themselves out as good prospects for an *antidosis* challenge, since they would be none too eager to plead their case, if necessary, before a hostile popular jury.

Careful selection of a target paid off when the time came to initiate the *antidosis* procedure. A weak and vulnerable opponent might feel constrained to consent immediately to perform the public service in question. The canny challenger would do well to adopt a resolute guise from the start: a reluctant opponent might be induced to accept the liturgy at an early stage, if convinced that his challenger was willing to pursue the matter to an exchange of property. If the challengee, however, could not be persuaded so easily to concede, the bold challenger might raise the stakes by offering to exchange property. This offer put the challengee in an awkward situation: if he agreed to an exchange, he had to relinquish personal property to which he might be very attached and perhaps lose out in the bargain; if, however, he refused the offer and the matter was later referred to a jury, his opponent could cite his refusal to exchange property as proof of his superior wealth.<sup>82</sup> To escape this dilemma, the challengee might consent after all to carry out the liturgy.

## 2. Public Trial

If the *antidosis* dispute entered the courts, the private struggle between the opposing parties became a contest of self-presentation before the eyes of a popular jury. The situation was a delicate one for the wealthy contestants, as each attempted to convince a jury of *penetes* that his opponent was the more appropriate candidate for public service. While the social and economic disparity between popular jury and wealthy litigants came into play constantly in Athenian courts,<sup>83</sup> nowhere could it have been more evident than in *antidosis* disputes, where the explicit issue was the responsibility of the wealthy to subsidize state services. The unknown speaker of Demosthenes 42 provides good evidence of how an astute challenger might deal with this potentially tense situation.

The speaker of Demosthenes 42 presents himself as a keen public servant who has fallen victim to τύχη (3–4, 21) and must therefore seek a respite (ἀνάπαυσις: 25, 32) from his obligations. Despite his “meager estate,” he has always been an exemplary liturgist (22–23). It is therefore only right, he asserts, that the state he served so well, now render *him* assistance (βοήθεια: 4, 15, 32) in his time of need. Phainippus, the speaker argues, is just the man to step into his place in the liturgical ranks. This “young, rich and able man” (24) has up until this point been a “deserter” (δραπέτης: 25, 32) of the city in its liturgical need:

<sup>82</sup> Gabrielsen ([1987] 23) exaggerates, however, the harm to a man’s reputation from a “flat refusal of both the liturgy and the exchange of properties.” In court, the challengee might explain his rejection of the offer to exchange by asserting that his opponent had considerable concealed wealth, and could not be trusted, in any case, to carry out an exchange honestly.

<sup>83</sup> Cf. Ober 45 (and *passim*): “...the elite litigant, facing a mass jury, had a particularly pressing need to appeal to a common ideology.”

ἀποκρύπτεσθαι γὰρ καὶ διαδύεσθαι καὶ πάντα ποιεῖν ἐξ ὧν  
μὴ λητουργήσεις τουτοισὶ μεμάθηκας. (23)

For you have learned to conceal, to evade and to do everything  
you can to avoid performing liturgies on behalf of these men.

The only reason the dispute has come before the court, according to the speaker, is that Phainippus perversely obstructed a private settlement. The speaker, like any moderate and peace-loving man (ἀπράγμων), would have been happy to resolve the matter privately (12).

Although the jury had the benefit, which we do not, of hearing Phainippus' response, they were most likely still in a poor position to determine which party was the wealthier.<sup>84</sup> Even if a jury was competent to comprehend financial subtleties, it would appear from this speech that contestants provided them but meager financial data to work with. Such information was, in any case, highly unreliable, given the prevalence of concealment of wealth. The jury then could do little more than assign the liturgy to whichever party seemed the wealthier, based on the speeches presented.<sup>85</sup> In court, as in the theater, the popular audience might wonder if the pathetic figure in front of them was an illusion, one of Euripides' cliché beggar-kings.<sup>86</sup>

The vulnerability of the *antidosis* procedure to abuse and manipulation prompted the wealthy to view it not as a means for the financially pressed to gain liturgical relief, but rather as a further manifestation of the city's insensitivity toward its benefactors. Isocrates thus asserts that the wealthy lament

...τὸ πλῆθος τῶν προσταγμάτων καὶ τῶν λειτουργιῶν καὶ τὰ  
κακὰ τὰ περὶ τὰς συμμορίας καὶ τὰς ἀντιδόσεις· ἃ τοιαύτας  
ἐμποιεῖ λύπας, ὥστ' ἄλγιον ζῆν τοὺς τὰς οὐσίας κεκτημένους  
ἢ τοὺς συνεχῶς πενομένους. (*De Pace* 128)

...the multitude of duties [placed upon them by the city] and litur-  
gies and the evils connected with the symmories and *antidoseis*;

<sup>84</sup> There are numerous reasons to suspect that the speaker is not the innocent victim he claims to be. To avoid any appearance of manipulation of the *antidosis* procedure, for example, he has presented himself as a naive participant in the private negotiations that preceded the trial. The obvious care with which he selected his young and wealthy target and the advanced planning required to determine his opponent's indebtedness understandably receive no comment. The speaker's vagueness about his liturgical record is also suspect: if he is indeed the avid public servant he claims to be, why does he not list his numerous civic benefactions, as other litigants do and in situations where such information is less germane? For further discussion of the speaker's slippery character, see esp. G. E. M. de Ste. Croix, "The Estate of Phaenippus (Ps.-Dem., xlii)," in *Ancient Society and Institutions: Studies presented to V. Ehrenberg*, ed. by E. Badian (Oxford 1966) 109–14, and cf. Mossé 93.

<sup>85</sup> Gabrielsen ([1987] 29) rightly notes "the subordination of substance to sleight-of-hand employment of argument and rhetoric" in the court phase of the *antidosis* procedure.

<sup>86</sup> In *Ar. Ran.* 1063–68, Euripides' beggar-kings are said to inspire the wealthy to don rags to escape the trierarchy. W. J. W. Koster plausibly suggests that the deception alleged here may be aimed at "iudices de ἀντιδόσει deliberantes" (*Scholia in Aristophanem* IV.3 [Groningen 1962] ad line 1068). On rich men assuming the role of poor men in court, see Ober 223.

for these cause such distress that men of property find life more painful than do those who are continually in want.

To dismiss such strong language as empty rhetoric is to overlook the genuine anger that men of Isocrates' class felt toward the liturgical system in all its facets.<sup>87</sup>

## V. CONCLUSIONS

While democratic Athens was spared for the most part the open class conflict that ravaged other Hellenic states, many wealthy Athenians from the late fifth century on struggled behind the scenes against what they viewed as the intrusive and expensive prospect of public service. These men scrambled to evade completely their civic obligations by concealing their wealth, or sought, once assigned a liturgy, to transfer it to another wealthy man through the *antidosis* procedure. In focusing on sharp practices, I do not mean to argue that all Athenian men of wealth were wily, Odyssean dodgers; a close look at the evidence suggests, however, that it would be a mistake to view them collectively as slaves to *philotimia*. Despite the attraction of public recognition, it is clear that wealthy men in considerable numbers valued the preservation of their fortunes over the praise of the demos. That many wealthy men made such a choice attests to the financial pressures they felt and their alienation from the city.

For the Athenian state, the widespread evasion of public service posed both a pragmatic and an ideological problem. On the pragmatic level, it threatened key elements of civic life—festivals and military expeditions. That the state was not oblivious to these dangers is evident in its repeated attempts in the fourth century to reform the liturgical system and the system for collecting the *eisphora*. On the ideological level, evasion represented a serious challenge to social cohesion and civic unity. The demos responded to this challenge in a variety of ways. Through its honorific decrees, it lauded the exemplary *philotimia* of wealthy men who served the city well; through the control it exercised over public discourse, it encouraged speakers to embrace the ideal of public service

<sup>87</sup> While the *antidosis* procedure, to the best of my knowledge, has no precise modern analogue, economists have discussed the use of private initiative to assist in tax assessment. According to one scenario, individuals might be permitted to assess their own property's value for purposes of taxation; to ensure the honesty of this self-assessment, other individuals would be permitted to purchase the property at, e.g., 20% above its assessed value. Many economists, however, have pointed to the dangers of a scheme in which unscrupulous bidders might capitalize on the innocent mistakes of other private citizens. It has also been noted that some individuals, because of their attachment to their property, might be forced to assess their property well above its market value simply to hold on to it. For a brief discussion of this scheme and its defects, see A. C. Harberger, "Issues of Tax Reform for Latin America," in *Fiscal Policy for Economic Growth in Latin America* (Baltimore 1965) 119–20 and 132. A more detailed treatment is found in D. M. Holland and W. M. Vaughn, "An Evaluation of Self-Assessment under a Property Tax," in *The Property Tax and its Administration*, ed. by A. D. Lynn (Wisconsin 1969) 79–118.

before popular audiences.<sup>88</sup> We must not, however, mistake these frequent public proclamations lauding liturgical service for evidence of consensus in Athens between rich and poor. Rather we should regard them as part of an ongoing ideological struggle against the persistent cynicism and resentment of the city's liturgical class.

<sup>88</sup> On honorific decrees, see Whitehead (1983); on public discourse, Ober 226–40.