

Playing games with law: the case of Demosthenes and Aischines

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- 1) Dem.19.179 ὁμωμόκατε ψηφιεῖσθαι κατὰ τοὺς νόμους καὶ τὰ ψηφίσματα τὰ τοῦ δήμου καὶ τῆς βουλῆς τῶν πεντακοσίων· φαίνεται δ' οὗτος πάντα τάναντία τοῖς νόμοις, τοῖς ψηφίσμασι, τοῖς δικαίοις πεπρεσβευκῶς· (= You have sworn to vote in accordance with the laws and the decrees of the assembly and the Boule of five hundred, and it's plain that Aischines' conduct as ambassador has been completely contrary to the laws, the decrees, and justice; so sensible jurors ought to convict him. Translation by MacDowell).
- 2) Dem.19. 215 Οὐκοῦν ἐγὼ μέν, ἐκ τοῦ μηδὲν ἐμαυτῷ συνειδέναι, καὶ λόγον διδόναι καὶ πάντα τὰς τῶν νόμων ὑπέχειν ᾧμην δεῖν, οὗτος δὲ τάναντία. (=So, I have clear conscience, though I ought to render an account and undergo all the legal requirements, while Aeschines thought the opposite; translation by MacDowell).
- 3) Dem. 19. 247 (from iambics of Sophokles', *Antigone*): ἀμήχανον δὲ παντὸς ἀνδρὸς ἐκμαθεῖν /ψυχὴν τε καὶ φρόνημα καὶ γνώμην, πρὶν ἂν/ ἀρχαῖς τε καὶ νόμοις ἐντριβῆς φανῇ./ ἐμοὶ γὰρ ὅστις πᾶσαν εὐθύνων πόλιν/ μὴ τῶν ἀρίστων ἅπτεται βουλευμάτων,/ ἀλλ' ἐκ φόβου τοῦ γλῶσσαν ἐγκλείσας ἔχει./ κάκιστος εἶναι νῦν τε καὶ πάλαι δοκεῖ. (= It is impossible to learn fully any man's heart and mind and thought until he is tested by government and law. To me, a man who does not cling to the best counsels when guiding a whole city, but from some fear keeps his mouth closed, seems and has long seemed to be despicable; translation by MacDowell).
- 4) Dem. 19.4 ff. where the duties of every ambassador are specified: πρῶτον μὲν τοίνυν ὧν ἀπήγγειλε, δεύτερον δ' ὧν ἔπεισε, τρίτον δ' ὧν προσετάξατ' αὐτῷ, μετὰ ταῦτα τῶν χρόνων, ἐφ' ἅπασιν δὲ τούτοις, εἰ ἀδωροδοκῆτως ἢ μὴ πάντα ταῦτα πέπρακται. τί δήποτε τούτων; ὅτι ἐκ μὲν τῶν ἀπαγγελιῶν τὸ βουλευσασθαι περὶ τῶν πραγμάτων ὑμῖν ἐστίν· ἂν μὲν οὖν ᾧσιν ἀληθεῖς, τὰ δέοντ' ἔγνωτε, ἂν δὲ μὴ τοιαῦτα, τάναντία. τὰς δὲ συμβουλίας πιστοτέρας ὑπολαμβάνετ' εἶναι τὰς τῶν πρέσβεων· ὥς γὰρ εἰδότες περὶ ὧν ἐπέμφθησαν ἀκούετε· οὐδὲν οὖν ἐξελέγχεσθαι δίκαιός ἐστιν ὁ πρεσβευτῆς φαῦλον οὐδ' ἀσύμφορον ὑμῖν συμβεβουλευκός. (=First, for his reports; Second, for his advice; third, for the instructions to him; after that, for his timing; and above all, whether all this has been carried out incorruptibly or not. Why for these things particularly? Because, first, the reports provide the basis for your political deliberation; if they are true, you take suitable decisions, but if they are not so, you don't. Recommendations, next, you regard as more reliable if made by the ambassadors, because you assume, when you hear them, that they are knowledgeable about the subjects of their mission; so an ambassador ought not to be discovered to have made any poor or disadvantageous recommendation to you; translation by MacDowell).

- 5) Dem. 19.239: [...] ἐκεῖν' ἐνθυμούμενοι, ὅτι τούτοις μὲν τούτου· προσήκει φροντίζειν, ὑμῖν δὲ τῶν νόμων καὶ ὅλης τῆς πόλεως καὶ παρὰ πάντα τῶν ὄρκων, οὓς αὐτοὶ κάθησθ' ὁμωμοκότες. (=Bear in mind that, while it's proper for these men to be concerned about Aeschines, you should be concerned for the laws and the whole city, and above all for the oaths which you yourselves have sworn before taking your seats; translation by MacDowell).
- 6) Dem. 19.283: οὐκ ἀναμνησθήσεσθ' ὧν κατηγορῶν ἔλεγεν Τιμάρχου, ὥς οὐδὲν ἐστ' ὄφελος πόλεως ἥτις μὴ νεῦρ' ἐπὶ τοὺς ἀδικοῦντας ἔχει, οὐδὲ πολιτείας ἐν ἧ συγγνώμῃ καὶ παραγγελίᾳ τῶν νόμων μείζον ἰσχύουσιν. [...] ὅτι, εἰ προήεσθε τὰ τῶν νόμων καὶ τῆς πολιτείας, οὐχ εὐρήσετε τοὺς ὑμᾶς αὐτοὺς ἐλεήσοντας. (= Won't you recollect what he said when prosecuting Timarchos, that a city is no use if it doesn't have the guts to take action against offenders, and a constitution is no use in which indulgence and canvassing prevail over the law, [...] if you abandon the requirements of the law and constitution, you'll find that no one will show pity to yourselves; translation by MacDowell).
- 7) Dem. 19.297: [...] ἐν δὲ τοῖς δικαστηρίοις οὐδεὶς πω μέχρι τῆς τήμερον ἡμέρας ὑμῶν οὐδὲ τῶν νόμων οὐδὲ τῶν ὄρκων κρείττων γέγονεν. μὴ τοίνυν μηδὲ νῦν τοῦτον ἐάσητε. (= but in the law-courts up to this day no one has ever prevailed over you or the law and the oaths; translation by MacDowell).
- 8) Aesch. 2.6 Παράδοξος δέ μοι κάκεῖνος ὁ λόγος ἐφάνη καὶ δεινῶς ἄδικος, ὅθ' ὑμᾶς ἐπηρώτα εἰ οἷόν τ' ἐστὶν ἐν τῇ αὐτῇ πόλει Φιλοκράτους μὲν θάνατον καταψηφίσασθαι, ὅτι καταγνοὺς ἀδικεῖν ἑαυτοῦ τὴν κρίσιν οὐχ ὑπέμεινεν, ἐμοῦ δ' ἀπογῶναι. Ἐγὼ δ' ἐπ' αὐτῷ τούτῳ δικαίως ἂν ὑπολαμβάνω μάλιστα σφύζεσθαι· εἰ γὰρ ὁ καταγνοὺς ἑαυτοῦ καὶ μὴ παρὼν ἀδικεῖ, ὃ γε ἀπογνοὺς καὶ τὸ σῶμα τοῖς νόμοις καὶ τοῖς πολίταις παραδοὺς οὐκ ἀδικεῖ. (= But another argument of his did seem to me strange and monstrously unjust: it was when he [Demosthenes] asked you if it was possible in the same city to sentence Philocrates to death because he condemned himself of the crime by refusing to stand trial and then to acquit me. But I think that on this very ground I ought most certainly to be cleared for if the man who convicts himself by failing to appear in court is guilty, certainly a man who denies the charge by submitting himself to the laws and to his fellow citizens is not guilty).
- 9) Aesch. 2.184: Ὁ μὲν οὖν ἐμὸς λόγος εἴρηται, τὸ δὲ σῶμα τοῦμὸν ἤδη παραδίδωσιν ὑμῖν καὶ ἐγὼ καὶ ὁ νόμος (= My speech is finished. my life I and the law, now commit to your hands).
- 10) Aesch. 2. 160: Σκοπεῖτε γὰρ δὴ καθ' ἕκαστον, ὃ Ἀθηναῖοι, ποῖον ψήφισμα γράψας κρίνομαι, ἢ ποῖον νόμον λύσας, ἢ ποῖον γενέσθαι κωλύσας, ἢ τίνας ὑπὲρ τῆς πόλεως συνθήκας ποιησάμενος, ἢ τί τῶν δεδογμένων περὶ τῆς εἰρήνης ἀπαλείψας, ἢ τί τῶν μὴ δοξάντων ὑμῖν προσγράψας. (=Consider them

one by one, men of Athens. What decree am I accused of proposing? What law have I repealed or prevented from being passed? What agreement have I made on behalf of the city? Which of the clauses you approved in the peace treaty have I erased or what clause of my own have I added that you did not vote for?).

- 11) Aesch.2. 22: Ἴνα δὲ μὴ μακρολογῶ τὴν τούτου διεξιῶν ὑπερηφανίαν, ὥς τάχιστα ἤκομεν εἰς Μακεδονίαν, συνετάξαμεν <πρὸς> ἡμᾶς αὐτούς, ὅταν προσίωμεν Φιλίππῳ, τὸν πρεσβύτατον πρῶτον λέγειν καὶ τοὺς λοιποὺς καθ' ἡλικίαν· ἐτύγγανε δ' ἡμῶν νεώτατος ὢν, ὥς ἔφη, Δημοσθένης. Ἐπειδὴ δὲ εἰσεκλήθημεν, —καὶ τούτοις ἤδη μοι σφόδρα προσέχετε τὸν νοῦν· ἐντεῦθεν γὰρ κατόψεσθε ἀνθρώπου φθόνον ὑπερβάλλοντα καὶ δεινὴν δειλίαν ἅμα καὶ κακοήθειαν, καὶ τοιαύτας ἐπιβουλὰς κατ' ἀνδρῶν συσσίτων καὶ συμπρέσβων ἃς οὐδ' ἂν κατὰ τῶν ἐχθίστων τις εἰκῇ ποιήσαιτο. Τοὺς γὰρ τῆς πόλεως ἄλλας καὶ τὴν δημοσίας τράπεζαν περὶ πλείστου δὴ φησι ποιεῖσθαι, οὐκ ὢν ἐπιχώριος, εἰρήσεται γάρ, οὐδ' ἐγγενής. Ἡμεῖς δέ, οἷς ἱερὰ καὶ τάφοι προγόνων ὑπάρχουσιν ἐν τῇ πατρίδι, καὶ διατριβαὶ καὶ συνήθειαι μεθ' ὑμῶν ἐλευθέριοι, καὶ γάμοι κατὰ τοὺς νόμους καὶ κηδεσταὶ καὶ τέκνα, Ἀθήνησι μὲν ἦμεν ἄξιοι τῆς ὑμετέρας πίστεως, οὐ γὰρ ἂν ποτε ἡμᾶς εἴλεσθε, ἐλθόντες δ' εἰς Μακεδονίαν ἐξαίφνης ἐγενόμεθα προδόται. Ὁ δὲ οὐδὲν ἄπρατον ἔχων μέρος τοῦ σώματος, οὐδ' ὅθεν τὴν φωνὴν προίεται, ὥς ὢν Ἀριστείδης δυσχεραίνει καὶ καταπτύει δωροδοκίας. (= But not to describe at length the overweening self-confidence of this fellow, as soon as we were come to Macedonia, we arranged among ourselves that at our audience with Philip the eldest should speak first, and the rest in the order of age. Now it happened that the youngest man of us was, according to his own assertion, Demosthenes. When we were summoned--and pray now give especial attention to this, for here you shall see the exceeding enviousness of the man, and his strange cowardice and meanness too, and such plottings against men who were his own fellow ambassadors and his messmates as one would hardly enter into even against his bitterest enemies. For you remember he says [1] it is the salt of the city and the table of the state for which he has most regard--he, who is no citizen born--for I will out with it!--nor akin to us; translation by Adams).
- 12) Aesch. 2. 23: Ἡμεῖς δέ, οἷς ἱερὰ καὶ τάφοι προγόνων ὑπάρχουσιν ἐν τῇ πατρίδι, καὶ διατριβαὶ καὶ συνήθειαι μεθ' ὑμῶν ἐλευθέριοι, καὶ γάμοι κατὰ τοὺς νόμους καὶ κηδεσταὶ καὶ τέκνα, Ἀθήνησι μὲν ἦμεν ἄξιοι τῆς ὑμετέρας πίστεως, οὐ γὰρ ἂν ποτε ἡμᾶς εἴλεσθε, ἐλθόντες δ' εἰς Μακεδονίαν ἐξαίφνης ἐγενόμεθα προδόται. Ὁ δὲ οὐδὲν ἄπρατον ἔχων μέρος τοῦ σώματος, οὐδ' ὅθεν τὴν φωνὴν προίεται, ὥς ὢν Ἀριστείδης δυσχεραίνει καὶ καταπτύει δωροδοκίας. (=But we, who have shrines and family tombs in our native land, and such life and intercourse with you as belong to free men, and lawful marriage, with its offspring and connections, we while at Athens were worthy of your confidence, or you would never have chosen us, but when we had come to Macedonia we all at once turned traitors! But the man who had not one member of his body left unsold, posing as a second Aristides "the Just," is displeased, and spits on us, as takers of bribes) Translation by Adams.
- 13) Aesch 2.149: Ἀφόβητος δ' οὐτοσί, ὁ νεώτατος ἀδελφὸς ἡμῶν, πεπρεσβευκῶς μὲν ὑπὲρ ὑμῶν ἀξίως τῆς πόλεως πρὸς τὸν Περσῶν βασιλέα, καλῶς δὲ καὶ

δικαίως τῶν ὑμετέρων προσόδων ἐπιμεληθείς, ὅτε αὐτὸν ἐπὶ τὴν κοινὴν διοίκησιν εἴλεσθε, καὶ πεπαιδοποιημένος κατὰ τοὺς νόμους, ἀλλ' οὐ Κνωσίῳ τὴν ἑαυτοῦ γυναῖκα παρακατακλίνων, ὥσπερ σύ [...] (= Aphobetus here, our youngest brother, has served as your envoy to the Persian King and was a credit to the city; he was an honest administrator of your revenues, when you elected him as custodian of the public funds; he has sired children according to the laws, without putting his wife in bed with Cnosio, as you did).

- 14)** *Rhet.* 1356a: τῶν δὲ διὰ τοῦ λόγου ποριζομένων πίστεων τρία εἶδη ἔστιν· αἱ μὲν γὰρ εἰσιν ἐν τῷ ἥθει τοῦ λέγοντος, αἱ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναι πῶς, αἱ δὲ ἐν αὐτῷ τῷ λόγῳ διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι. διὰ μὲν οὖν τοῦ ἥθους, ὅταν οὕτω λεχθῇ ὁ λόγος ὥστε ἀξιόπιστον ποιῆσαι τὸν λέγοντα· (= Of the pisteis provided through speech there are three species; for some are in the character [ethos] of the speaker, and some in disposing the listener in some way, and some in the speech [logos] itself, by showing or seeming to show something; translation by Kennedy)