The Phantom Stelai of Lysias, Against Nicomachus 17

Max Nelson

*University of Windsor*

Follow this and additional works at: [https://scholar.uwindsor.ca/llcpub](https://scholar.uwindsor.ca/llcpub)

Part of the Modern Languages Commons, and the Modern Literature Commons

**Recommended Citation**


[https://scholar.uwindsor.ca/llcpub/19](https://scholar.uwindsor.ca/llcpub/19)

This Article is brought to you for free and open access by the Department of Languages, Literatures and Cultures at Scholarship at UWindsor. It has been accepted for inclusion in Languages, Literatures and Cultures Publications by an authorized administrator of Scholarship at UWindsor. For more information, please contact [scholarship@uwindsor.ca](mailto:scholarship@uwindsor.ca).
common word in tragedy, occurring some twenty-five times.\textsuperscript{18} In addition to these arguments (which respond to my arguments against \textit{ēthos}), it suits the context for Theseus to refer to his \textit{̓ēthos} after saying that not to respond to Adrastus’ plea, but instead to run away from a terrible situation, would not be in keeping with his ways, \textit{ése tois ἔμοισιν οὐχὶ πρόσφερον τρόποις} (338). A bare (as opposed to arthrous) infinitive stands in apposition to \textit{̓ēthos} elsewhere at Pl. Resp. 375E: \textit{οἶδα γὰρ τοὺς γενναίους κυνῶν, ὅτι τοῦτο φύσεi αὐτῶν τὸ \textit{̓ēthos}, πρὸς μὲν τοὺς σωμῆτες\textsuperscript{19} τε καὶ γνωρίμους ὡς οὖν τε πραστάτους \textit{ἐίναι}, πρὸς δὲ τοὺς ἀγνώτας τῶναντίον.} 

In summary, the problem as I see it here is that what Theseus claims to have shown the Greeks is a personal quality, what we might even call his ‘ethos’. \textit{̓ēthos} does not convey that, but \textit{̓ēthos} does.\textsuperscript{20}

\textit{Little Venice, London}  
NICHOLAS LANE  
doi: 10.1017/S0009838806000292

one can also hide character, although not, according to Pindar, if it is inborn, because \textit{ἀμαχον δὲ κρύφαι τὸ συγγεγενὸς \textit{̓ēthos}} (Ol. 13.13). Dr Dawe suggests a possible parallel with the Herodotean usage of \textit{ἀποδείκνυμαι} with the nouns \textit{ἀρετάς, εὐεργεσίας, σοφία}, and \textit{δύναμιν}.

\textsuperscript{18} Figures for particular writers are as follows Aesch. (4), Soph. (3), Eur. (15), Chaeremon (1), and \textit{Trag. Adesp.} (2). Although the word is particularly common in Eur. (60 per cent of occurrences in tragedy), that may simply be down to the comparative bulk of his surviving corpus.

\textsuperscript{19} Another ethical wordplay from Plato.

\textsuperscript{20} I am grateful to Dr Roger Dawe and Professor James Diggle for helpful comments and suggestions on a previous (longer) draft of these notes, but neither should be taken to approve the contents of this version. At a later stage the \textit{CQ}’s anonymous reader made several useful observations which I have attempted to address.

\textbf{THE PHANTOM STELAI OF LYSIAS, AGAINST NICOMACHUS 17}

Probably in 399, Lysias composed a speech (\textit{Corpus Lysiacum} 30) for an unknown client concerning the alleged malfeasance of a certain Nicomachus in his role as publisher in both phases of the re-edition of secular and sacred Athenian laws between 410 and 399.\textsuperscript{1} Lysias at one point remarks of Nicomachus, according to the generally accepted text (17);\textsuperscript{2}

\begin{footnotesize}
\begin{enumerate}
\item For a recent overview of this speech, see S. C. Todd, ‘Lysias Against Nikomakhos: the fate of the expert in Athenian law’, in L. Foxhall and A. D. E. Lewis (eds.), \textit{Greek Law and Its Political Setting: Justifications not Justice} (Oxford, 1996), 101–31. The first phase of the re-edition lasted from 410 to 404 (Lys. 30.2–3, and see Thuc. 8.97.2 and Andoc. 1.81–82 for the election of law-givers after the fall of the Four Hundred in 411), during which time (in 409–408) Draco’s law on homicide was re-edited (\textit{IG} \text{1} \text{104}; see now A. B. Gallia, ‘The republication of Draco’s law on homicide’, \textit{CQ} \text{54} [2004] 451–60), as well as many others (see \textit{IG} \text{1} \text{105} and 236–41), and the second from 403 to 399 (Lys. 30.4, and see the controversial Teisamenus decree of 403 quoted in Andoc. 1.83–4, along with the remarks in \textit{Schol. Aesch.} 1 \text{Tim}. 39 and Poll. 8.112). From the latter phase we have remains of the sacrificial laws written in Ionic letters on top of a mysteriously erased text (see F. Sokolowski, \textit{Lois sacrées des cités grecques, supplément} [Paris, 1962], 27–31 [no. 10]), the exact date of which is much debated (see Todd [above] 116, n. 24). S. Dow (‘The law codes of Athens’, \textit{PMHS} \text{71} [1953–57 (1959)], 3–36, at 11 and ‘The Athenian calendar of sacrifices: the chronology of Nikomakhos’ second term’, \textit{Historia} \text{9} [1960], 270–93, at 289) dated it to 400–399 (or, less likely, 402–401) by restoring the prescript (fr. A, line 30) on the
\end{enumerate}
\end{footnotesize}
I am amazed that he is not considering that when he alleges that I am impious for saying that it is necessary to make the sacrifices from the kyrbeis and the stelai according to the drafts he also is accusing the city, since you voted for these things.

The στηλῶν here is actually the widely accepted emendation of Taylor; the manuscript readings are the nonsensical ἐσπλων and ἐσπλων. At first sight, Taylor’s emendation seems eminently suitable, but further scrutiny warrants rejecting it for an alternative.

Scholars have supported Taylor’s reading by suggesting that these stelai would have contained the corrigenda and addenda to the kyrbeis and axones (of Draco and Solon) from 479 to 411. When Lysias mentions the traditional laws again, however, he speaks of them only as ἐκ τῶν κύρβεων (17 and 18) or ἐν ταῖς κύρβεσι (20) with no mention of stelai. Harrison rightly showed that the conjecture is problematic and ‘an insecure foundation for historical deduction’, arguing that these stelai are not distinguished, as one would expect, from the stelai on which Nicomachus published the re-edition of laws, which are mentioned later (21). Robertson, some thirty-five years later, responded by saying that the emendation ‘is a certainty’, adding the challenge, ‘what else could Lysias have written?’; he also suggested that these stelai were in fact distinguished from those of Nicomachus by the specification κατὰ τὰς συγγραφάς.

assumption that the Lesser Eleusinia (for which sacrifices are clearly prescribed) were celebrated in the second and fourth years of the Olympiad. However, R. M. Simms has more recently suggested that this festival rather took place in the first and third years (‘The Eleusinia in the sixth to fourth Centuries B.C.’, GRBS 16 [1975], 269–79, at 269–70, but see also K. Clinton, ‘IG I² 5, the Eleusinia, and the Eleusinians’, AJP 100 [1979], 1–12, at 10–12), thus providing a date of 403–402 or 401–400 for the inscription. In the interim between the two phases (404–403), while the Thirty were in power, Critias made his own changes to the laws (see the references collected in P. J. Rhodes, ‘The Athenian code of laws, 410–399 B.C.’, JHS 111 [1991], 87–100, at 93 and n. 33).


3 J. Taylor, Lysiae orationes et fragmenta (London, 1739), ad loc.

4 See, for instance, J. H. Oliver, ‘Greek inscriptions: laws’, Hesperia 4 (1935), 5–32, at 10 (‘the στήλα can scarcely have been anything else than later changes or additions published like other decrees on marble steles’), followed by L. H. Jeffery, ‘The Bou Sophedon sacral inscriptions from the Agora’, Hesperia 17 (1948), 85–111, at 109 (‘the sacrifices . . . ἐκ τῶν στήλῶν are the later additions, erected on marble stelai like any other decrees, which the Athenians had to admit to be definitely post-Solonic’), and also R. Stroud, The Axones and Kyrbeis of Drakon and Solon (Berkeley, etc., 1979), 8 (‘Supplementing the sacrifices on the kyrbeis, and later in date, were sacrifices which Nikomachos and his colleagues found on stelai’). Scholars now often accept this assumption without hesitation; see e.g. Medda (n. 2), 365, n. 17 (‘Le stelai contenevano degli aggiornamenti delle norme soloniane’) and Edwards (n. 2), 169 (‘The stelai were enactments later than Solon’).

5 Stroud (n. 4), 11 compares these passages in Lysias to the surviving sacrificial regulations of the Salaminioi of Attica of 363–362, in which there is a mention of sacrifices ἐκ κύρβεων (Hesperia 7 [1938] 5, line 87), but again with no accompanying mention of stelai. Much later, Harpocratin (Lex. s.v.) confused the κύρβεις with stelai.

6 A. R. W. Harrison, ‘Law-making at Athens at the end of the fifth century B.C’, JHS 75 (1955), 26–35, at 34, n. 55; he calls this ‘a very difficult case’ at 28. Recently, Todd (n. 1), 111 and n. 19, has also remarked upon the insecurity of the conjecture.

Rhodes, accepting that the stelai were those ‘on which more recent enactments had been published’, further added that Lysias, when he mentioned Nicomachus’ stelai, had simply ‘conveniently’ forgotten that he had mentioned the earlier laws as having been written on stelai.8

The issue has been further needlessly complicated by some who have connected this passage to the ἐκ τῶν σ[ηλῶν] found in a line on the largest surviving portion of the re-edition of the Athenian law code (fr. A, line 77), having restored it to ἐκ τῶν σ[ηλῶν].9 Robertson, however, has made a good case for reading ὁ[γγαραφῶν] instead.10 In any case, this line, as fragmentary as it is, cannot shed any light on the Lysias passage.

Rather, it is important to note that Lysias has crafted his speech by expressing numerous dichotomies between the transmitted laws and those presented by Nicomachus. The former, decided upon by ‘law-givers’ (νομοθέται; see 2, with n. 1 above), and ‘drafted’ (συγγράφεις; 17 and 21), included ‘ancestral sacrifices’ (αἱ πάτριαι θυσίαι; 18–20), and were based on the κύρβεις (17, 18, and 20), while Nicomachus, the ‘publisher’ (ἀναγραφεῖς; 2, 17, and 25), wrongly acting like a law-giver (2 and 27), as he was ‘publishing’ (ἀναγραφεῖς; 2, 4, and 29) on to στήλαι (21) secular and sacred laws (25), added and erased (2, 5, and 19–21) without permission, and thus corrupted the laws (26). In fact, Lysias accuses Nicomachus directly by saying: ‘you transcribed in excess of the things assigned’ (ἀναγράφας γὰρ πλείω τῶν προσταχθέντων; 19).11

And further on he mentions that ‘he transcribed six talents in excess’ (πλεῖον ἀνέγραφην ἐξ ταλάντοις) for sacrifices (20), and again, that he spent twelve talents ‘in excess’ (πλεῖω; 21). The traditional sacrifices, as recorded on the κύρβεις, had to be duly performed and not neglected as had happened because of Nicomachus (there supposedly had been three talents’ worth of sacrifices on those κύρβεις which had not been completed [19]), and further useless sacrifices added by Nicomachus on the stelai had to be ignored. Thus the main passage in question can be logically read as follows: χρῆθεν τὰς θυσίας τὰς ἐκ τῶν κύρβεων, καὶ οὐ πλεῖω, κατὰ τὰς συγγραφάς. This could be translated as: ‘it is necessary to make the sacrifices from the kurbeis (and not in excess) according to the drafts’. Lysias would then be quoting from the original drafts of the law-givers (which had been ordered by public vote), who apparently had specifically called for the transcriptions to include no additions.

There are two main reasons to accept this conjecture. Firstly, οὐ πλεῖω better explains the manuscripts’ τῶν ἐμπτῶν and τῶν ἐσπλὴν than does the standard restoration τῶν στήλῶν. Once another τῶν was added after the καὶ by mistake, οὐ πλεῖω may have been changed to agree with the article into something like οὐπλεῖοι, which had to be transformed into a recognizable word, hence ἐπόπλησα, which is found in our earliest witness to the passage (from the twelfth century).12 Some time later, in the fifteenth century, either Andronicus Callistus or Joannes Rhous emended

8 Rhodes (n. 1), 95 (and see also 88).
9 Beginning with Dow (n. 1, 1959), 20, who wrote that stelai were ‘indubitably’ involved.
10 Robertson (n. 6), 68–70; Rhodes (n. 1), 95 (and see 94, n. 40) disputes this and defends the standard reading. Another possibility perhaps is σ[ανίδων], since such tablets are connected with the κύρβεις (e.g. in Phot. Lex. s.v.). Oliver (n. 4), 21 and 28, had suggested σ[αμβας], positing that sources of funds are being described, though now there is no doubt that sources of law are involved.
11 Stroud (n. 4), 9 connects this with the sacrifices [ἐκ] νέων at fr. A, line 51 (as restored by Dow [n. 1, 1959], 20), for which, however, one would expect the inclusion of an article.
εὐπλων to δπλων. 13 Secondly, the new reading has the advantage of maintaining the striking antithesis between the old, trustworthy kyrbeis and the new, suspicious stelai, 14 and it further remains consonant with Lysias’ later accusations against Nicomachus for adding excessively to the laws beyond what the law-makers had decided upon (in which the word πλείω is used three times). Thus a set of phantom stelai can finally be forgotten. 15

University of Windsor
MAX NELSON
mnelson@uwindsor.ca
doi: 10.1017/S0009838806000309

13 Andronicus Callistus used MS X as the sole exemplar for his copy (Codex Ambrosianus H52 sup. (gr. 436) [= MS Amx]) while his friend Joannes Rhous used Callistus’ copy for his own (Codex Laurentianus 57.4 [= MS C]), as shown by Sosower (n. 12), 59–62 (though in his stemma at xvii Am1 is mistakenly placed above C instead of AMx). The reading in MS C is δπλων but I have been unable to discover what the reading is in MS Amx.

14 Rhodes (n. 1), 95 notes that with Taylor’s reading Lysias ‘shifts stelai to the other side of the balance’ but does not provide a satisfactory explanation for this.

15 I would like to thank Philip Harding for bringing the issues involved here to my attention, for encouraging me to publish my thoughts on them, and for looking over a draft of this paper.

PLATO, LAWS 10, 905E3: ENTELLEXΩΣ OR ENΔΕΛΕΛΧΩΣ

The bulk of Laws 10 is devoted to refuting what Plato considers three impious positions: atheism, deism (the gods exist, but do not care about humans), and traditional theism (the gods exist, and can be bribed through prayer and gifts).

Having completed his refutation of deism at 905D2, Plato sets his sights on traditional theism, beginning: ‘In what way would they [the gods] come to be appeased by us, if they could be? And what or what sort would they be?’ (905D8–E2). But it is the line that immediately follows this passage that interests me here. At 905E2–3, Plato continues (in the words of the manuscripts):

[...] μὲν ἀναγκαῖον ποι ἐγνεφθαι τοῦ γε διοικήσαντας τὸν ἄπαντα ἐντελεχῶς οὐρανοῦ.

Presumably they [the gods] will necessarily be rulers, since they manage the entire heavens perfectly [ἐντελεχῶς].

The fifth-century A.D. anthologist Stobaeus, however, has ἐτελεχῶς (perpetually) in place of ἐντελεχῶς (Flor. 1.3.55). Of recent editors, Burnet and England follow the manuscripts, while Bury and Diès follow Stobaeus. 1 Among English translators of the Laws, only Taylor accepts the reading of the manuscripts: ‘Governors, to be sure, they must be supposed to be, if they are to have effective control of the whole universe.’ (As he often does, Taylor seems here to be following a suggestion of