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Audience Memory as Evidence in the Trial on the Crown

Abstract: This chapter takes its cue from the curious near-absence of formal witness testimony in the extant speeches from the trial on the Crown in 330 BC (Aeschines, *Against Ctesiphon*; Demosthenes, *On the Crown*). It argues that both orators base their cases on the understanding that the trial audience – above all, the judges – could act as proxy witnesses because many of them had experienced events central to Aeschines' prosecution, namely Demosthenes' policy of resistance to Macedon and his public activities before, during, and after the war of 340–338 BC. But whereas Aeschines largely just assumes that the judges will accept his negative versions of these events and activities, Demosthenes overtly mobilises the judges' personal memories, and in a positive direction. The judges' status as "witnesses" therefore becomes a powerful way for him to assert both the appropriateness of the honours proposed for him by Ctesiphon and, consequently, Ctesiphon's innocence on Aeschines' main charge.

1 Introduction

In 330 BC, eight years after Philip's defeat of the Theban-Athenian alliance at Chaeronea, Aeschines conducted a prosecution of another politician, Ctesiphon, for proposing an honorific crown for Demosthenes (which would be his third since 340 BC). Aeschines' claim was that Ctesiphon's decree was illegal – the procedure used was the *graphē paranomōn* (indictment of an illegal proposal) – and he had launched it as long ago as 336 BC. He possibly revived it now in response to a renewed proposal of the decree itself, though this is a vexed issue.[1] He lost, and apparently failed to gain a fifth of the judges' votes.[2] Speeches survive which represent Aeschines' prosecution (3, *Against Ctesiphon*) and Demosthenes' defence of Ctesiphon, as (apparently sole) *synēgoros* (18, *On*

1 Carawan 2019; Harris 2019, 83–93 argues that there is no need to posit a renewed proposal (or a revived action). For earlier discussions, see e.g. Burke 1977, 334–340; Harris 1995, 140–142; Sawada 1996, 60–71; Worthington 2000, 96–97; Yunis 2001, 10–11; Martin 2009, 86–87; Todd 2009, 162–163.

2 Plut. *Dem*. 24.2–3.

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the Crown).[3] Ctesiphon's own speech, which must have opened the defence case, does not survive in any form, and we have little sense of its length or coverage.[4] But *Against Ctesiphon* and *On the Crown* leave us in no doubt that it was the proposed honorand, Demosthenes, who really mattered in this trial, and that the main issue was his political career to date. One of the three elements of Ctesiphon's decree to which Aeschines objected was its very framing: it honoured Demosthenes explicitly "for his virtue and integrity" (ἀρετῆς ἕνεκα καὶ ἀνδραγαθίας) and "because he consistently speaks and acts in the best interests of the people" (ὅτι διατελεῖ λέγων καὶ πράττων τὰ ἄριστα τῷ δήμῳ).[5]

As Demosthenes and his political group had been instrumental in bringing Athens to a state of war with Philip, in building up a formidable alliance system to confront him, and in dealing with the fallout when Athens was defeated, the part of Demosthenes' career on which both he and Aeschines lay particular emphasis in the Crown speeches is the sixteen-year period since 346 BC and the negotiation of the Peace of Philocrates, which involved both of them. The relative importance of the two more technical charges in Aeschines' *graphē* (that Demosthenes was still subject to audit for his office as *teichopoios* – and so could not be crowned – and that his crown could not legally be proclaimed in the Theatre) has been much discussed, usually as part of assessments of the strengths and weaknesses of the prosecution and the defence,[6] but I focus here on Aeschines' "third" charge (treated by him as the most serious one: 3.49–50): that Ctesiphon's claims about Demosthenes' outstanding statesmanship were simply false.

While Demosthenes' and Aeschines' surviving speeches from their previous major court battle, the "Embassy trial" of 343 BC, make much use of witness testimonies (e.g. from fellow envoys), the Crown trial speeches make very little use of them even though they make ample use of other familiar types of documentary evidence. Demosthenes only calls witnesses twice (18.135, 137), and

3 Editions used in this chapter: Dilts 1997 for Aeschines 3; Dilts 2002 for Demosthenes 18. Translations: Carey 2000; Yunis 2005 unless otherwise noted. Although these speeches are the products of post-trial revision, the rhetoric I discuss is so pervasive in Demosthenes' case that even if some of the individual passages I examine do not reflect material that appeared in the live version, we can still be confident of its importance to his approach. On the revision issue, see e.g. Yunis 2001, 26–27; Hubbard 2008, 193–195; Westwood 2020, 284–286.

4 Aeschin. 3.201 – highly misleading – is the best we can do; see also e.g. Harris 2000, 60–61 n. 60, 61.

5 Aeschin. 3.49, 101, 237. On the honorific terms: Whitehead 1993, 47–62; Cook 2009; 2012, 228.

6 For which see e.g. Harris 1994, 141–148; 2000, 59–67; Cook 2012, 227–229; Gagarin 2012; Harris 2013, 225–233; 2017.

Aeschines never calls any. I argue in this chapter that Demosthenes' near-avoidance of witnesses is part of a concerted strategy to co-opt the judges (and the citizens in the informal trial audience)[7] as the most significant "witnesses" to his own career (and Aeschines'), and part of a wide-ranging effort to capitalize on Aeschines' failure (at least judging by *Against Ctesiphon* as we have it) to build explicit meaningful connection with the judges based on their past shared experiences and on their recollection of how the *dēmos* – many of the listeners included – had personally endorsed Demosthenes' policies, especially in the critical years 341–338 BC.[8]

It was open to Aeschines to support his tendentious versions of the recent past (where Demosthenes' bad policies led directly to Athenian defeat in 338 BC) with appropriately-curated appeals to the audience's recollections – for example their memory of moments where an alternative course of action had been possible (and popular).[9] So it is intriguing that he takes very few opportunities to do so directly. Aeschines' decision – and his active embrace of his own low profile in the period concerned (3.215–220) – gave Demosthenes the chance to spin negative versions of that profile and to activate positive recollections of the decisions he himself and the audience had taken together since 346 BC. In one notable case (18.229), which I discuss below, Demosthenes even uses the formal language of witnessing (μαρτυρέω and its cognates, in this case μάρτυσι) to appeal to their memories, and this is notable because both he and Aeschines concentrate most of their usage of μαρτυρέω-cognates in these speeches on the straightforward designation of witness testimony itself and how their opponent's behaviour "bears witness to/against" his own failures or wrongdoing.[10] Broader appeals to audience members' knowledge and experiences are more important to Demosthenes' strategy, and I will discuss some key examples from *On the Crown* later. The strategy aims, ultimately, to present the audience with a positive and inspiriting vision of Athens' present and future at a time when the failed uprising by Agis III of Sparta earlier in the year had shown that open resistance to Macedonian power was not presently an option.[11] Articulating this

7 Several of the points I make below apply equally to the judges and to the wider audience, so the term "audience" is used relatively loosely in what follows.

8 See in general on the "rhetoric of community" involved here Serafim 2017a, 47–54; 2017b.

9 Demosthenes occasionally indicates (e.g. 18.143–144, 236) that there were times when he was simply not listened to, even during his political ascendancy between 341 and 338 BC.

10 The other instances: Aeschin. 3.27, 31, 41, 96, 119, 249; Dem. 18.118, 136, 217, plus the two witness testimonies (135, 137), and 267–268, which I discuss below.

11 See Aeschin. 3.133. For a summary of the uprising and the evidence for it: Kralli 2017, 68–75.

vision involves constructing positive, affirming versions of both the recent and the more distant past, as Harvey Yunis has shown.[12] In particular, it encourages the judges to deploy their memories of Demosthenes' and Aeschines' own activities, especially over the past decade, not only to uphold the terms of Ctesiphon's decree and secure his acquittal and Demosthenes' award of the crown, but also to validate *dēmos* endorsement – i.e. up to a point, their *own* endorsement – of Demosthenes' policies in the crucial 341–338 BC period.

The basic technique of co-opting judges and other audience members as witnesses (whether with μαρτυρέω-cognates or not) – witnesses to the speaker's life and activities up to now, of his liturgies, and so on – can be found in many other speeches from public or private cases, notably Aeschines' *Against Timarchus*;[13] and the "rhetoric of seeing" (and thus "knowing"), explored recently by Peter O'Connell, is a fundamental part of this.[14] Demosthenes applies the technique in *On the Crown* on numerous occasions, and in a distinctive way: appeals to the knowledge and experiences of the judges and wider audience effectively *take the place of* actual witness testimony. This is not true of *Against Timarchus*, where the two techniques operate alongside, and complement, one another;[15] and so it is a surprise, given Aeschines' many appeals to the judges in that speech to use their own knowledge of the defendant, that he makes only a small number of such appeals in *Against Ctesiphon* – and all the more surprising given his ambitious deployment in it of *enargeia* and related imaginative visualization techniques (e.g. asking the audience to imagine a past event they could not have witnessed, or a hypothetical future one, or that they see something other than the real trial in front of them in the present).[16] I will discuss Aeschines' reticence first, and then how Demosthenes capitalises on it.

12 Yunis 2000; 2001, 13–17; 2005, 30; see also Westwood 2020, 275–327, especially 324–327.

13 For examples, see e.g. the list in Harrison 1971, 138 n. 2; also Mirhady 2002, 264–265, singling out *Against Timarchus*.

14 O'Connell 2016; 2017a, especially 86–112; 2017b.

15 See e.g. Aeschin. 1.50 (appeal to popular knowledge combined with a witness statement); 1.65–66 ("you all know" followed by a witness statement); 1.115–116 (witness statement followed by an acknowledgement that these were "things you knew").

16 See e.g. Aeschin. 3.153–157, 180, 244, 257–259. Discussions: Hobden 2007; Webb 2009; O'Connell 2017a 124–136, especially 128–131; 2017b, 241–242; Serafim 2017a, 101–102; Westwood 2017; 2020, 301–305.

2 Aeschines' prosecution

The policies and events most at issue in the Crown trial would have been well within the competence of most of the judges. Even those only just over the age-limit for dicastic service would have completed their *ephēbeia* shortly before war with Philip broke out. Though some judges, for various reasons (distance, military service, etc.), would not have engaged continuously with political developments in the critical 341–338 BC period, many present would have voted on the key decisions, or fought at Chaeronea (or lost relatives and/or friends there), or have taken part in the mass evacuation from the Attic countryside into the city after the defeat. Many of them would also have seen the leading anti-Macedonian politicians hounded by their opponents in the courts across the 330s[17] BC – something Demosthenes describes as especially familiar to the judges in *On the Crown* (18.249: "you certainly know and remember…"[18] [ἴστε γὰρ δήπου καὶ μέμνησθε]) – and so they would have heard several of the arguments made by Aeschines and Demosthenes in the Crown trial before (cf. 18.125), in trials like the prosecution of Hyperides by Diondas (probably in 334 BC) from which the fragmentary *Defence Against Diondas* derives.[19] This series of prosecutions had been overwhelmingly unsuccessful (18.10, 250), and Demosthenes' resilience in particular (as well as his two previous crowns) would have served to foster favourable popular versions of his activities in the 341–338 BC period at a time when he appears to have been less politically active.[20] But hostile alternative arguments were clearly available and well-used.[21] Demosthenes could be targeted for failing to support the Theban revolt in 335 BC, for example (and Aeschines claims he had Persian money for this purpose: 3.156, 239–240) – so Aeschines' failure to make plausible alternatives stick was not a foregone conclusion: but the fact that he does not invoke the audience's memory for Demos-

17 Dem. 18.222–223, 249–250, 322; Hyp. *Dion*. 3.145r9–144v22; Plut. *Dem*. 21.1.

18 Literal translation mine; Yunis 2005, 93 has "surely you recollect…".

19 This is probably the same as Diondas' legal attack on Hyperides and Demomeles for proposing the second of Demosthenes' earlier crowns: Dem. 18.222–223; cf. [Plut.] *Vit. Hyp*. 848f. Date: Horváth 2014, 10–23.

20 See e.g. Worthington 2000; 2013, 285–293.

21 See e.g. Martin 2009, 86–88, noting Demades' criticism in Arist. *Rh*. 1401b32–34.

thenes' (non-)role in supporting Thebes five years earlier is already a good sign of the limited room for manoeuvre he seems to have had.[22]

Like most Athenian litigants in surviving trial speeches, Aeschines appeals to the judges (and members of the wider audience) in *Against Ctesiphon* in a wide variety of ways that do not seek to build a particular experience-based relationship with them (pleading with them in §61, warning them in §215, focusing their attention in §64, and so on). But only in a few places (3.144, 166, 175–176, 235) does he appeal directly to their knowledge of relevant facts and events – and of those instances only §144 solicits audience awareness of a specific issue from the period when Demosthenes was a key policymaker, namely his alleged bribe-taking to arrange that the Thebans would have overall command of the allied forces in the campaign that led to Chaeronea (part of a cluster of popular attack routes on the anti-Macedonian politicians in and after 338 BC, according to Aeschines here and as Hyperides' *Diondas* speech shows).[23] §166, by contrast, recalls an incident from only the past year: a speech Demosthenes made in the Assembly during Agis' war. (Aeschines only spends three paragraphs on this recent period, perhaps because he and Demosthenes had been in basic agreement that Athens should not join Sparta.) Conversely, §235 solicits much more distant knowledge (of events of the late fifth century). Finally, §§175–176 raise an issue with wider application.[24] Aeschines alludes here to Demosthenes' alleged flight from the battlefield at Chaeronea, framing this as part of a *general* predisposition towards cowardice on his part; and although he is prepared to say that the judges are well-informed about this (ὑμεῖς σύνιστε), and that he would only need to discuss the matter further if they did not know the facts (εἰ…ὑμεῖς μὴ συνήδετε), he does not appeal to their knowledge or memory *directly* or for any particular *instance* of Demosthenes' cowardice – and this is part of a pattern in *Against Ctesiphon* where audience memory or knowledge is alluded to or conveniently assumed rather than directly invoked. In a few places, for example,[25] Aeschines refers to the judges as possessing the

22 Especially so if Diodorus is right (17.8.5–6) that Demosthenes did try to persuade the Athenians to join the revolt (which pushes against Aeschines here, and also Din. 1.10, 18–21; Plut. *Dem*. 17).

23 Hyp. *Dion*. 4.145v8–12.

24 Cook 2012, 232–242 reads this theme as key to the speech, and in rationalising Aeschines' reticence in going into detail on any particular instance of cowardice (240–241) comes to conclusions similar to those arrived at here on audience memory.

25 See Aeschin. 3.53, 80, 130–131, as well as the instances in the main text. 3.8, 176, 203 – which entreat the judges to remember matters raised *during* the trial – might also be added to the list.

knowledge that can disprove his opponents' claims or buttress his own, but does not appeal directly to them to use it: in §§221 and 237, these comments are even couched in fictive addresses to Demosthenes and Ctesiphon respectively (in §237, for example, Ctesiphon is accused of insulting "people who know the facts and are alert" [τοὺς δ' εἰδότας καὶ αἰσθανομένους]) – a way of indicating that the audience's knowledge is taken for granted (and one which Demosthenes also uses), but hardly a way to build community with them.

In other places, Aeschines almost seems to *avoid* opportunities for forging such a connection, even when the context might invite it (e.g. in the long passage §§244–254). In §§125, 217 and 224, for example, he tells the audience about occasions when he and they were both present in the Assembly to hear speeches he made (standing up to Demosthenes in two of those cases: 125, 224) – but in none of these three (isolated) cases does Aeschines invite the judges to recall the occasions concerned directly.[26] §224 is a particularly good example: Aeschines claims here that when he made Demosthenes admit in the Assembly to having Anaxinus of Oreus, his former host, executed as a spy because he "valued the city's salt more than the shared table of hospitality", "the *dēmos* ('the whole Athenian citizenry [ἅπασιν Ἀθηναίοις]', Aeschines tells us) and all the foreign observers at the Assembly [cried] out". Given that Aeschines is as ready as usual elsewhere in the speech to appeal to the audience's cognitive faculties (whether via visualization techniques or by other means: see e.g. §255), the fact that there is no appeal here to his listeners' own memories of an event he claims so many of them actually witnessed (e.g. by saying "you remember…") does not suggest that he is delicately avoiding dwelling on an already well-known and unpleasant incident, but that he is misrepresenting the incident and/or the reaction. Many of the judges who were in that Assembly audience might have approved of Anaxinus' execution, or have thought there were good grounds at least for arresting him; in *On the Crown*, Demosthenes simply takes Anaxinus' spying activity as read (18.137) (though that need not prove anything either).

As Aeschines does not often ask audience members to tap into their memories directly, and does not lay much emphasis on his own public activities – indeed his personal role in the Anaxinus incident is only marked by ὑπ' ἐμοῦ (3.224), and the only extended section in the speech where he does highlight his own public role is the Delphi sequence (3.115–124), which none of the judges witnessed – his possibilities for the construction of community with his audience are restricted. It is possible that his aim in invoking audience memories as obliquely as he does was to build a suitably insidious pattern of *suggestion* –

26 Aeschin. 3.94 offers a looser example of the same phenomenon (βλεπόντων).

and that this was simply too subtle, in the end, to compete with the optimistic and overt team-building of *On the Crown*. But that seems at odds with the authoritative tone of much of Aeschines' speech, so it is better to posit that he was simply playing safe with the judges: doing his best to avoid provoking the negative response that asking them to remember overly distorted versions of Demosthenes' public activities might yield.

This fits with Aeschines' occasional signs of awareness that some of his claims will actively clash with audience members' recollections. In *Against Ctesiphon* 59, for example, when trying to show that Demosthenes and Philocrates took bribes from Philip, he admits that such a claim may "[strike] some of you as rather suspect on suddenly hearing it (εἰ δέ τισιν ὑμῶν ἐξαίφνης ἀκούσασιν ἀπιστότερος προσπέπτωκεν ὁ τοιοῦτος λόγος)"; predictably, Demosthenes easily demolishes it in *On the Crown* (18.228). Later, when highlighting his allegation that Demosthenes took Theban bribes (3.144), Aeschines observes that although others criticize Demosthenes for this too, "you (i.e. the audience) know it (σύνιστε) and feel no anger. This is what Demosthenes has done to you; you are already habituated to hearing of his crimes, and as a result you feel no surprise". This is an important moment: as well as indicating Aeschines' awareness of the scale of his task in reversing popular perceptions, it is one of a number of moments in the speech where Aeschines seems to make his nurturing of a close speaker-audience relationship even harder to achieve. The implication that the audience's wits have become dulled risks alienating them, an outcome he risks elsewhere by accusing them of insensitivity (ὦ σιδηροῖ: 3.166),[27] by criticising the behaviour of judges in general (see e.g. 3.192, 251), by laying emphasis on the practical inferiority of present-day Athenians compared with their distinguished forebears (3.178), and by issuing his listeners with distasteful veiled threats about how an acquittal of Demosthenes might be seen by Athens' Macedonian masters (3.254). Although Demosthenes also occasionally criticises his audience too (e.g. 18.138), Aeschines risks offending them on several occasions. So while we can assume that Aeschines' versions of matters relevant to the third charge might already struggle to compete with Demosthenes' (at least for most listeners), we can also see that he does not obviously succeed in finding a good alternative means of getting the judges and wider audience on his side.

His strategic engagement with his audience's experiences can therefore be seen as bipartite. One part of the strategy, the "factual" part, seeks a kind of objectivity in presenting a narrative of Demosthenes' activities which is supported

27 Following Todd 2007, 686.

not (for the most part) by directly harnessing audience knowledge/recollection of experiences they shared with Aeschines (who, as we saw, downplays his own public contributions), but instead by three other interrelated methods. First, as noted above, Aeschines sometimes performs the assumption that the judges *do* remember what he wants them to (the way he wants them to), and mentions that obliquely, without actually appealing to them personally. Second, he supports his narrative with numerous documents (especially laws and decrees) of varying relevance (this is the speech, after all, where he goes out of his way to praise the practice of preserving public documents: 3.75). Third, he sometimes attempts to forestall the connection Demosthenes will seek to make with the judges by divorcing his opponent's policy disasters from the *dēmos* who voted for them. But this frequently (though not always: 3.125–126) involves depicting those who so voted, and are now listening, as swallowing Demosthenes' deceptive rhetoric (e.g. 3.72, 93–94, 142, 166–167), which in turn risks alienating them in the way mentioned above, and also leaves ample room for a much more positive and gratifying spin on the audience's past decisions by (Ctesiphon and) Demosthenes. Meanwhile, the other part of Aeschines' overall strategy (the "fictive" part) relies on the production of vivid alternative scenarios (past, present, and future) mentioned above: examples include the passages where Aeschines asks the audience to imagine the public shame Athens (and the audience) will incur when Demosthenes is crowned (3.153–156); his dramatic evocation of the plight of the Thebans after Alexander's destruction of their city in 335 BC (3.157, supported by a familiar formal "witnessing" term, παρεγένεσθε[28]); his tour of the Agora monuments, not visible to the judges, though nearby (3.183–187); and his conjuring up of the figures of Solon, Aristides, and others as co-pleaders in the *epilogos* (3.257–259).[29]

The problem with this twin strategy is that Aeschines does not – and clearly cannot easily – combine the two parts (i.e. the professedly factual and the overtly fictive) in this speech as he had in *Against Timarchus*. This is strikingly reflected in the fact that although he often uses the most common verb of seeing, ὁράω, in *Against Ctesiphon*, he never uses it to get the judges to recall particular relevant sights they have witnessed in the past (e.g. "you all saw how Demos-

28 Thür 2005, 153; O'Connell 2017a, 87. Elsewhere in the speech Aeschines uses both παραγίγνομαι and another formal "witnessing" term, πάρειμι, to refer to those watching the trial now (3.8, 56; cf. 247), but only once in relation to the judges' previous experiences (3.71), though without encouraging them to recall them.

29 For discussions of these passages, see above n. 16.

thenes did X").[30] A middle-way option – actively and frequently inviting the audience to tap into their memories and recall the experiences they shared with the speaker, rather than just alluding to them – is left largely untried; and that is the strategic route Demosthenes is then free to take unhindered in *On the Crown*.

3 Demosthenes' defence

Like Aeschines (e.g. 3.221), Demosthenes shows himself conscious (at points when it suits him) of the possible effects of the lapse of time between 338 and 330 BC on the clarity of his audience's memory (e.g. 18.226), accepting that some listeners may be too young to recall the pre-338 BC events accurately (and using that as an excuse to produce authoritative versions of those events) (18.50). He also envisages limits on the audience's ability to recall Aeschines' misdemeanours in the run-up to war (18.138), a moment which comes directly after the two moments in the speech where he has offered regular witness testimony (18.135, 137) to events to which a majority of judges would not have been privy (an Areopagus meeting and an alleged private meeting between Aeschines and Anaxinus) – though this does fall within the same few minutes as three separate assertions that the audience *will* remember Aeschines' role in key events (18.132, 136, 142). There are also well-known events which Demosthenes insists on giving documentary proof for (on some occasions with variations on the formula ἵν' εἰδῆτε, "so that you may know": 18.173, 218, 305), even though a plurality of judges will have been present, and also plenty of moments where he appeals to the judges' memories only obliquely, like Aeschines (e.g. 18.215, 283). In general, though, *On the Crown* sees Demosthenes investing to a much greater degree than Aeschines in techniques of community-building: a prominent one is his use of the language of *eunoia* to posit a reciprocal relationship of goodwill between himself and the judges.[31] This is especially notable in §8, in phrases repeated from the proem (1): "I pray…that in this trial you have as much concern for my welfare as I have always had for yours" (εὔχομαι…ὅσην εὔνοιαν ἔχων

30 As for other familiar "seeing" verbs, Aeschines uses βλέπω (and ἀποβλέπω) several times in *Against Ctesiphon* but only once (and very obliquely) to recall a situation supposedly involving the judges (3.94); he does not use θεάομαι at all; and both he and Demosthenes only use θεωρέω to draw audience attention to what can be "seen" from the current speech itself.

31 Hernández Muñoz 1989; Whitehead 1993, 52–54; Cook 2009; 2012, 249–251; Sanders 2016, 168–175.

ἐγὼ διατελῶ τῇ τε πόλει καὶ πᾶσιν ὑμῖν, τοσαύτην ὑπάρξαι μοι παρ᾽ ὑμῶν εἰς τουτονὶ τὸν ἀγῶνα) (echoing, in διατελῶ, the honorific language of Ctesiphon's proposal). He also solicits more reactions in general from the audience, the best-known of which is his open encouragement to them to join him in calling Aeschines a hireling (52: μισθωτὸς or indeed μισθωτός).[32] His appeals to the audience as witnesses to his (and Aeschines') activities intersect with, and complement, related techniques like this, in order to construct this audience not only as observers of Demosthenes' past actions, but also as his supporters (like regular lawcourt witnesses)[33] – as people who have not only shared difficult times with him but have also endorsed his political responses to the events concerned.

A key example is the section (18.227–231) where (as noted above) Demosthenes dismisses Aeschines' attempt (3.59–61) to refashion *him* as the one who took bribes from Philip – something Aeschines knows the audience will find doubtful (3.59). There, Aeschines had used the image of accounting at audit (λογισμός) to encourage the judges to listen to his version fairly – a significant choice given the charge in his current *graphē* that Demosthenes was still subject to audit (ὑπεύθυνος), and given that ideas of audit and the frame of the *euthyna(i)* procedure are consequently important to interpreting both speeches' rhetoric. In *On the Crown* 229 – after exposing Aeschines' refashioning attempt to the audience and reworking Aeschines' imagery for his own purposes (227–228)[34] – Demosthenes uses "accounting" as a foil to introduce an itemised list of his own successful policies (229–231), as follows:

> καὶ μὴν ὅτι γε οὐ δίκαια λέγει μεταθέσθαι ταύτην τὴν δόξαν ἀξιῶν, ἐγὼ διδάξω ῥᾳδίως, οὐ τιθεὶς ψήφους (οὐ γάρ ἐστιν ὁ τῶν πραγμάτων οὗτος λογισμός, ἀλλ᾽ ἀναμιμνήσκων ἕκαστα ἐν βραχέσι, **λογισταῖς ἅμα καὶ μάρτυσι τοῖς ἀκούουσιν ὑμῖν χρώμενος**.
>
> Yet I will easily demonstrate that he is wrong to demand that you change your opinion. I will not add up figures, which is no way to examine policy. Instead, I'll briefly recount all the particulars and use you, the audience, as both accountants and witnesses.

Where Aeschines had encouraged the judges to "audit" his version of Demosthenes' activities objectively, Demosthenes makes it a *subjective* matter: he is encouraging the judges and the wider audience (τοῖς ἀκούουσιν) to "audit" *his*

32 On this passage see Wankel 1976, 354–356; Yunis 2001, 139–140; Serafim 2017a, 53–54; 2017b, 35–37.

33 See the works cited in n. 49; Mirhady 2002 pushes against the idea that witnesses were primarily supporters.

34 See Yunis 2001, 236–237 on the imagery in 18.227–229.

version of his activities not just on the basis of what they hear now but also on the basis of what they themselves know already. He extends the scope of μάρτυσι beyond its immediate reference (presumably) to the witnesses who might be present at an official audit, to include the audience's "witnessing" of his past policies more generally (i.e. as participants in Assembly debates on them, as participants in the campaign that ended at Chaeronea, etc.), and also the function they can now perform as proxies for regular witnesses in court. In addition, his rejection of Aeschines' auditing/accounting analogy as insufficient – because it sticks to figures and does not take into account the lived reality of audience members' experiences[35] – helps to mark Aeschines' whole prosecution as frivolous and false to how the wider community had chosen to recall the period in question; so does the passage's link with Demosthenes' earlier reference to his own appearances before the auditors (λογισταί) (18.117), one of the many (seventy-two?)[36] moments in the speech where he makes the argument that Aeschines had ample opportunities for accusing him personally before now (indeed was *present* [παρὼν], like a witness, on key occasions: 18.83, 117, 222, 239), but did not speak out – another sign of the bad faith of his prosecution.

Also important here, and closely related, is Demosthenes' use of ἀναμιμνήσκων. The notion of "reminding" the judges of what they are assumed to know already has a fundamentally collaborative quality, helping to break down the speaker-audience divide. Aeschines uses ἀναμιμνήσκω four times in *Against Ctesiphon*, but only to get the judges to recall (or to point to his own recall of) matters outside the scope of the accusation (3.31, 112, 154, 177). For Demosthenes in *On the Crown*, "reminding" enables him to impute knowledge to – and so work with – his hearers, as here at §229; it also introduces important narratives of Philip's rise and Demosthenes' resistance to him in the 340s earlier in the speech, at §17 (ἀναμνῆσαι) and §60 (ἀναμνήσω). Furthermore, it buttresses (136: ἀναμιμνήσκεσθε) – and indeed introduces (131: ἀναμνήσω) – his factually dubious discussion of the activities he alleges Aeschines undertook on behalf of the enemy (i.e. 131–138): his defence of the alleged Macedonian agent Antiphon, his support for Philip's envoy Python, and his fraternising with Anaxinus. This is the section where Demosthenes calls his two sets of regular witnesses, probably to attest more neutral versions of the sensational claims that frame them: at §135, for example, the witnesses probably attested merely that Aeschines had been replaced by Hyperides as Athens' advocate at Delos, not that the Areopa-

35 And also because it cannot take account of what those who voted for Demosthenes' policies *hoped* they would achieve: Donnelly 1941, 309.

36 Σ *ad* Dem. 18.14 (48 Dilts).

gus judged him a traitor, as Demosthenes claims.[37] The high concentration of the language and actuality of "recalling" and "witnessing" in this sequence probably points to its high level of exaggeration. But the factual basis of Demosthenes' claims only mattered up to a point. Crucial to being believed, or to having his exaggerations overlooked by the audience, was the establishment of community with them; and this is what his willing submission to the scrutiny of the judges at §229 helps to achieve. I now offer some more examples of this.

In §§87–89, Demosthenes recalls one of his key policy achievements in the run-up to war with Philip – cementing friendship between Athens and Byzantium in 340 (88–89):

> ἀλλὰ τίς ἦν ὁ βοηθήσας τοῖς Βυζαντίοις καὶ σώσας αὐτούς; τίς ὁ κωλύσας τὸν Ἑλλήσποντον ἀλλοτριωθῆναι κατ' ἐκείνους τοὺς χρόνους; ὑμεῖς, ἄνδρες Ἀθηναῖοι. τὸ δ' ὑμεῖς ὅταν λέγω, τὴν πόλιν λέγω. τίς δ' ὁ τῇ πόλει λέγων καὶ γράφων καὶ πράττων καὶ ἁπλῶς ἑαυτὸν εἰς τὰ πράγματα ἀφειδῶς δούς; ἐγώ. [89] ἀλλὰ μὴν ἡλίκα ταῦτ' ὠφέλησεν ἅπαντας, **οὐκέτ' ἐκ τοῦ λόγου δεῖ μαθεῖν, ἀλλ' ἔργῳ πεπείρασθε**·
>
> But who was it who helped the Byzantians and saved them? Who was it who prevented the Hellespont from falling into foreign hands at that time? It was you, Athenians, and when I say you, I mean the city. And who was it who addressed the city, moved decrees, took action, and in truth devoted himself unsparingly to the situation? It was I. [89] But you do not need a report to teach you how much everyone benefited; you lived through the actual events.

The passage neatly encapsulates what we might call the "synergy rhetoric" of *On the Crown* – that both the Athenians themselves and Demosthenes as their chief policymaker were working together to enact the only course consistent with Athens' reputation and core identity. Demosthenes will shortly develop this aspect by recalling (18.96–100) a series of circumstances where the Athenians took action in defence of other states since the 390s – thus involving the total age-range of his audience.[38] Λέγων καὶ γράφων καὶ πράττων in §88 keeps his reminder of his record relevant to the legal case by recalling the terms of Ctesiphon's proposal (λέγων καὶ πράττων); but synergy is the keynote, and all the more emphasised by the misleading nominative singulars here (τίς ἦν ὁ βοηθήσας...καὶ σώσας...; τίς ὁ κωλύσας...) which then culminate not in fact in (the singular) Demosthenes at all, but in the true achievers, the *audience*, the Athenians themselves (ὑμεῖς, ἄνδρες Ἀθηναῖοι) as a civic body. Demosthenes goes out of his way to specify this (τὸ δ' ὑμεῖς ὅταν λέγω, τὴν πόλιν λέγω) –

37 Yunis 2001, 189; cf. Wankel 1976, 748 on Anaxinus.

38 For a discussion of this passage's strategy, see Westwood 2020, 27–29.

ὑμεῖς on its own could usually denote the *dēmos* wherever gathered and at whatever time, and not just the present judges, so would have been sufficient for Demosthenes' purposes here, but laying emphasis on the πόλις helps to remind the judges that the city's physical and political essence as well as its communal life were in danger in the war with Philip, and that the interrelated actions of Demosthenes and his audience were aimed at preserving the *totality* of Athens itself and its people.[39] Crucial in the passage for our purposes, though, and for the sustaining of Demosthenes' "synergy rhetoric", is his open reminder of their lived – and shared – experience (ἔργῳ πεπείρασθε, "you lived through the actual events").

This passage is one of many in *On the Crown* where Demosthenes seeks to activate audience recollection by invoking it directly (here with πεπείρασθε), and, predictably enough, his clearest efforts to co-opt the audience as witnesses to his actions come with uses of forms of οἶδα,[40] especially ἴστε,[41] though he does use alternative verbs of perception and recall for this purpose too (including, as we saw above, ἀναμιμνήσκω).[42] By contrast, ἴστε is notably avoided by Aeschines when addressing the judges in *Against Ctesiphon* (except – as with his uses of ἀναμιμνήσκω – in a handful of cases, none of which ask his audience to recall Demosthenes' activities in the period at issue: 3.6, 119, 246, 247). An alternative, σύνοιδα/σύνιστε, is only deployed on three occasions to invoke audience knowledge of Demosthenes' activity and behaviour,[43] and only once in the case of a specific, relevant event: in *Against Ctesiphon* 144, as we saw above, referring to 339/8 BC and the Theban command of the allied forces. This is a case where Aeschines as good as admits he is not going to get the reaction from the judges that he wants (ὑμεῖς σύνιστε καὶ οὐκ ὀργίζεσθε), and is also one of only two occasions in the speech where the judges' *aural* memory is directly invoked (ἀκούειν).[44] Alternative lexical means of directly invoking audience

39 Not least the measures he took in 338 BC to improve the city's defences: Aeschin. 3.236 (cf. Lycurg. 1.44).

40 For this verb's centrality in witnessing, see e.g. Thür 2005, 153–155; O'Connell 2017a, 12, 87, 100–104 (esp. 101).

41 The relevant instances are Dem. 18.10, 168, 249, 268; relevant variations can be found at 18.129, 130, 282 (ἴσασι); 18.50, 95 (εἰδότες/ας); cf. also 18.85, 132, 205, 315 for the τίς…οὐκ οἶδε; formulation type.

42 Beyond compounds, μιμνήσκω/μέμνημαι and cognates are rarely used of the judges' memory here, but see 18.226, 249, 269, 283; cf. 18.138 (μνήμην) and 142 (μνημονεύοντας).

43 Aeschin. 3.175 (two forms) and 232, as well as 144.

44 The other is at Aeschin. 3.166 (ἀκροώμενοι).

memories are rare in the speech,[45] as we saw above with appeals to visual memory (e.g. via ὁράω). But while, like Aeschines, Demosthenes also seems to miss what look like some ideal opportunities for appealing to audience memory directly (with relatively few direct cues to the judges to recall things they saw and heard), the moments where he *does* draw on it directly are carefully placed: for example, although he does not solicit direct support from the audience for the speech he made in the Assembly the morning after the news arrived of Philip's taking of Elatea (18.169–180) – at which at least some of them must have been present – he prefaces the whole passage with a claim that *all* of his audience know (ἴστε μὲν ἅπαντες) about the alarm it caused at Athens and that he will only tell "just a few of the most important points" (μικρὰ δ' ἀκούσατε ὅμως αὐτὰ τἀναγκαιότατα). His claim about their knowledge, as framed, is entirely plausible: and although not all audience members will have witnessed the panic at first hand, the claim also embraces those who heard of it at second hand and in doing so assimilates their experience to the more vivid and relevant experience of those who were there. Nobody is left out.

On the Crown 268 is another example of a moment where Demosthenes includes a general appeal to audience memory – one which applies to his whole record, not just a time-specific part of it – and places it at a point where it can have special synoptic impact for a whole passage. Here he has just had a list of his liturgies read out to illustrate his public record. This piece of documentary evidence supplements earlier expressions of confidence like §110, where (after discussing his successful reform of the trierarchy in response to war in 340 BC) Demosthenes had claimed that even if he were to say nothing about the rest of his domestic policy achievements, audience knowledge could supply them anyway (ὁμοίως παρ' ὑμῶν ἑκάστῳ τὸ συνειδὸς ὑπάρχειν μοι). A similar moment is reached here in §268, where Demosthenes turns towards his record as a private citizen:

> ἐν μὲν τοίνυν τοῖς πρὸς τὴν πόλιν τοιοῦτος· ἐν δὲ τοῖς ἰδίοις **εἰ μὴ πάντες ἴστε** ὅτι κοινὸς καὶ φιλάνθρωπος καὶ τοῖς δεομένοις ἐπαρκῶν, σιωπῶ καὶ οὐδὲν ἂν εἴποιμι οὐδὲ παρασχοίμην περὶ τούτων οὐδεμίαν μαρτυρίαν, οὔτ' εἴ τινας ἐκ τῶν πολεμίων ἐλυσάμην, οὔτ' εἴ τισιν θυγατέρας συνεξέδωκα, οὔτε τῶν τοιούτων οὐδέν.
>
> That is my record in public life. If any of you are unaware that in my private life I am generous, compassionate, and helpful to the needy, I'll say nothing. I would rather not utter a word or provide any testimony about those matters, for instance, about any prisoners of

45 Aeschin. 3.152 ("are we to suppose your ability to remember [ἡ ὑμετέρα μνήμη] will die along with the dead men?") is one – and rather oblique.

> war whom I ransomed from the enemy, or about the daughters of any citizens whose dowry I provided, or about any similar matters.

We know Demosthenes had ransomed prisoners in the past,[46] and so can probably assume that he was known to have provided at least some dowries; the *paraleipsis* here clearly supports an appeal to the knowledge of the *entire* audience – as in §168 – to corroborate his positive reputation (and to counteract Aeschines' various attacks on it). The most striking point for us here, though, is his effective rejection of the primacy of documentary evidence (μαρτυρία, to which the μαρτυρίαν here must at least partly refer given its proximity to the reading-out of the μαρτυρίαι about his liturgies) in favour of the personal knowledge he claims all judges have and can deploy to support him. This may partly respond to Aeschines' smug highlighting of the capacity of preserved written documents to convict people like Demosthenes (3.75 and 103–105) – Demosthenes certainly targets Aeschines' former career as secretary to the Boule in *On the Crown* (18.127, 209), as he had done in *On the False Embassy* – but the principal effect is to elevate the judges to the status of witnesses who can testify in Demosthenes' favour from what they know, just as in §89 the judges had needed no λόγος to remind them of their support for Byzantium but could rely on the ἔργον of their shared experience.

The way that Demosthenes frames their knowledge here in §268 – as part of a negatively-pitched conditional – also responds to a similar framing in a similar passage just after the proem (10) where Demosthenes – again, placing it at the very start of an extended discussion (10–52) that he figures as simply a necessary response to the extraneous attacks Aeschines had launched – had made a striking request of the judges:

> περὶ μὲν δὴ τῶν ἰδίων ὅσα λοιδορούμενος βεβλασφήμηκεν περὶ ἐμοῦ, θεάσασθ' ὡς ἁπλᾶ καὶ δίκαια λέγω. **εἰ μὲν ἴστε** με τοιοῦτον οἷον οὗτος ἠτιᾶτο (οὐ γὰρ ἄλλοθί που βεβίωκ' ἢ παρ' ὑμῖν), μηδὲ φωνὴν ἀνάσχησθε, μηδ' εἰ πάντα τὰ κοινὰ ὑπέρευ πεπολίτευμαι, ἀλλ' ἀναστάντες καταψηφίσασθ' ἤδη.
>
> Consider how simply and fairly I can answer all the outrageous slanders he devised about my personal life. If you know me to be the kind of person he has alleged – and I have not lived anywhere else except among you – do not allow me to go on, not even if my entire public career has been exemplary, but stand up and convict me now.

These direct appeals in §10 and §268 (both with εἰ…ἴστε) engage audience memory much more compellingly than Aeschines does when covering the same

46 Dem. 19.166–171; see also: Wankel 1976, 1170–1171; Usher 1993, 263.

topic: in *Against Ctesiphon* 53, for example, Aeschines had asserted that the "details" of Demosthenes' early life were "so certain and familiar to the hearers" (οὕτως…πιστὰ καὶ γνώριμα τοῖς ἀκούουσιν) that they did not need more exploration by him – without any accompanying appeal to the judges to recall any of them themselves, even the three specific anecdotes he had actually just mentioned at 3.52. By contrast, Demosthenes shapes *On the Crown* 10 and 268 in such a way as to emphasise the complete sufficiency of the judges' knowledge to settle – on its own – the whole issue of his own life-long good character (and his personal/private character, not his public performance): in both cases he undertakes to stop speaking (either under their instruction, in §10, or voluntarily, in §268) if they refuse to validate his claim. It is fair to point out that Demosthenes cannot have expected to be stopped at §10, and that his daringly succinct (cf. ἁπλᾶ) request is to some extent purely rhetorical; but by offering the judges the *opportunity* to shut him down, he affirms his trust in "them" – both as representatives of the democratic civic community he has always been part of, and as an audience of individuals some of whom *have* observed his entire career – and does so in a way which gratifies them (in reminding them of the extent of their power) and complements the reciprocal *eunoia* with them that he had prayed for moments earlier (8). Shortly after §268, Demosthenes will deploy their knowledge in a similar way against Aeschines, challenging the abusive terms the latter has used against him ("sophist", "conjurer", etc.) (276):

> ἐγὼ δ' οἶδ' ὅτι **γιγνώσκετε τοῦτον ἅπαντες**, καὶ πολὺ τούτῳ μᾶλλον ἢ ἐμοὶ νομίζετε ταῦτα προσεῖναι.
>
> But I am confident that all of you know him and realize that those terms apply far more to him than they do to me.

Although the referential field of γιγνώσκετε *could* be restricted to the judges' awareness as gleaned during Aeschines' behaviour in the trial so far (i.e. γιγνώσκετε here as a proxy for "see", or indeed "see through"), knowledge of his political activity since 346 BC is very likely to be implicated; even if not, this sentence still qualifies – just as much as the previous examples do – as a move to encourage the audience to play the role of witnesses: this time as witnesses to what *all* participants in the trial have seen together.[47]

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47 Assertive poetic rhythms – two dactylic hexameter half-lines, assuming the presence of Attic correption – underline the views he wants the judges to take (γιγνώσκετε τοῦτον ἅπαντες – νομίζετε ταῦτα προσεῖναι).

4 Conclusion

As these examples demonstrate, Demosthenes' chosen strategy for combating Aeschines' own as effectively as possible involves calculated – and often striking – direct appeals (as well as many less direct appeals) to the judges' and wider audience's recollection of their experiences in the period at issue in the trial. The strategy's effectiveness consists partly in its reliance on repeated reference to events and circumstances which Demosthenes could easily represent as reflecting well on the Athenians in spite of their ultimate failure to beat Philip, and as the right thing to do both at the time and with Athens' future in mind. There are certainly sections where he invokes the language (and actuality) of witnessing to buttress weak points (e.g. in 18.131–137, as we saw above), but – lethally for Aeschines' case – Demosthenes' discussion is sustained by its emphasis on what he actually did do and say (thus sticking close to the terms of Ctesiphon's proposal and Aeschines' *graphē*: λέγων καὶ πράττων) and on how many of those present among the judges and wider audience approved his proposals.

This becomes especially clear if we consider that some of the passages where we might expect reference to audience memory of specific major events do not in fact have any direct signposting to the listeners, because Demosthenes could take it as read that they would draw on their memories of them anyway.[48] His account of his election to deliver the funeral oration for the dead of the Chaeronea campaign (18.285–288) is a good example: even if they could quarrel with his *presentation* of the facts, no audience member could deny that Demosthenes *had* been elected to deliver the oration (287) or that the funeral meal *had* been held at his house (288). This part of the speech is supported by clear reminders that (many of) the judges have witnessed his career (272: ἐμὲ τὸν παρὰ τουτοισὶ πεπολιτευμένον) and voted for his policies (note the deft claim that he was only doing what the *dēmos* wanted: ταὐτὰ γὰρ συμφέρονθ' εἱλόμην τουτοισί: 281). Judges' memories of the lengthy period covered by the dispute might well be hazy, and some judges might doubt aspects of Demosthenes' versions (or, as just noted, object to his presentation of them) – but what Demosthenes apparently succeeds in doing is constructing a narrative which, for a

48 This is why he does not bother connecting two formally separate claims in *On the Crown* 248: (1) that all his listeners (οἱ πάντες ὑμεῖς), i.e. the citizen body, elected him as grain-commissioner after Chaeronea; and (2) that the *dēmos*, who "knew and had seen" everything he had done (ὁ δῆμος, εἰδὼς καὶ ἑορακὼς πάντα ὅσα ἔπραττον ἐγώ), and who could reasonably have chosen *not* to elect him, did so anyway.

large plurality of judges, underpinned a more convincing and dynamic reading of Athens' actions and priorities over the last decade than Aeschines' did – and one that looked powerfully forward in highlighting the immortality of Athens' core values. Ultimately, the question becomes not why Demosthenes succeeded, but why Aeschines failed to present a cogent enough alternative or communicate it to the judges, and although there are several possible answers (including an over-reliance on suggestion rather than overt enunciation, as mentioned above), the most obvious is that the facts left him a limited range of possibilities, and so he could not risk drawing sustained attention to the alternative facts about 346 BC onwards that he does present (as, e.g., in 3.59) by trying to use the judges' memories to buttress them. As part of a lively and engaging narrative, they might get through or be seen as relatively venial; inviting judges to confirm them was a different matter.

As modern work on Athenian witnesses has shown, the surviving speeches indicate that orators selected witnesses whose brief oral endorsement of the text prepared for them was not their only, or even perhaps their most important, contribution to the trial: their very appearance and known attributes (including those mentioned by the orator himself) were important too.[49] In the Embassy trial in 343 BC, for example, Aeschines' claim to distinguished military service in Euboea will have been very seriously bolstered by the appearance for him of the eminent commanding general Phocion (later called as a *synēgoros*: 2.184), of his own *taxiarchos*, and of some of his fellow soldiers (2.169–170). In *On the Crown*, Demosthenes rhetorically empowers the judges – many of whom had fought with him at Chaeronea as fellow-soldiers, or had voted for war with Philip on his proposal, or had come to his house for the funeral meal for the fallen – to do something similar for Ctesiphon: to attest, with their vote (and, like contemporary witnesses, without independent speech) that the versions of events offered by Demosthenes, whatever their flaws, were truer to their lived experiences than Aeschines' unheroic alternatives.

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49 See Humphreys 1985, especially 350–351; Todd 1990; Rubinstein 2005; Thür 2005, 164–166.

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