CHAPTER FIVE

IMAGINING JUSTICE IN THE ATHENIAN LAWCOURT: AESCHINES AND OTHERS

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This chapter explores how speakers in Athenian trials shaped and engaged the imaginations of the listening judges. It examines how opposing litigants fashioned competing understandings both of justice itself and of the specific elements of the case and its context that should be thought relevant to a just verdict. The chapter looks first at the forms taken by *enargeia* as a mediator for the formation of ideas of justice across the surviving speeches. It then focuses on two late fourth-century texts, the prosecution and main defence speeches from Aeschines' prosecution of Ctesiphon in 330 BCE: Aeschines 3, *Against Ctesiphon*, and Demosthenes 18, *On the Crown*. The author argues that one of Demosthenes' aims was to counteract the persuasive effects of a vivid passage of *enargeia* in Aeschines' speech: Demosthenes' response engages with Aeschines' use of *enargeia* but refocuses the judges' imaginations, seeking to efface Aeschines' versions of the past. This case-study highlights the interaction between real and imaginary in lawcourt speeches: litigants craft arguments in such a way as to build upon – and reconfigure – judges' grasp of the details of the case and wider aspects of their civic experience (in this case their cultural memory).

INTRODUCTION

This chapter explores how speakers in Athenian trials shaped and engaged the imaginations of the listening judges to forge a unity of response from them which would be favourable to their own cause. It examines how opposing litigants fashion competing understandings both of justice itself and of the specific elements of the case and its context which should be thought relevant to a just verdict. Litigants harness the capacity of judges' imaginations to act as flexible and dynamic interfaces between the conceptualization of justice and just verdicts in the abstract on the one hand, and the lived material realities of the Athenian lawcourt environment and judges' individual backgrounds and experiences as democratic citizens (and decision-makers) on the other.

Such entanglement of the ideal with the real, the social with the private, and the mental with the material speaks to many of the studies gathered in this volume; my concerns are especially close, however, to those explored by Zacharoula Petraki in the next chapter. Both of us investigate the concept of justice, as constructed by fourth-century prose texts from Classical Athens, and both of us are concerned with the cultural and rhetorical mechanisms of that construction. Also pertinent is the previous chapter, in which Leah Lazar investigates the citizen community's collective thinking from an epigraphic perspective, tracing public inscriptions' negotiation of individual and collective identities. In the present chapter, we will see that the imaginative constructs that lawcourt speakers shape for the listening judges tend to resolve any tension between individual and collective by assuming *both* that the judges will process those constructs individually *and* that they will apply accepted communal values and ethical standards to that processing.

The way speakers cater to both of the judges' identities in tandem – i.e. to their group identity and their individual identities – reflects the way Athenian trials themselves operated. Reaching

a verdict involved very large, socially-diverse panels of male citizen judges aged over thirty – up to 2,501 of them, or (rarely) more –[1] coming to individual decisions which they then expressed via a secret final individual vote, with no formal conferring and with only the vocal and gestural reactions of fellow judges and of informal audience members to guide them on how other listeners felt about the case as it unfolded.[2] Before being empanelled, the judges swore the 'dicastic' oath. This required them to vote according to the laws, to listen to both sides equally, to vote on the matters in the prosecution's plaint, and to vote using their 'most just judgment' (or 'opinion') (γνώμῃ τῇ δικαιοτάτῃ: e.g. Dem. 20.118) when considering matters not covered by any laws.[3] The oath's clauses therefore not only emphasized the primacy of the city's laws for the judges' decision-making, but also invoked abstract standards of justice which each judge was meant to recognize and apply individually based on his civic experience (including of previous trials, whether as judge, informal spectator, or participant). Accordingly, in addressing the judges, opposing litigants had to seek to frame what a just verdict would look like in ways both advantageous to their own case and simultaneously responsive to and manipulative of the judges' likely understandings of norms of social behaviour in general and of Athenian civic values, customs, and traditions in particular. Front and centre (sometimes literally, written on boards displayed in the court) were the laws relevant to the present legal action.[4] Each litigant would ask the court secretary to read out some of these, or excerpts from them, during the trial as part of the evidence presented. Speakers (especially prosecutors) sometimes represent these legal texts as expressive of justice in the

[1] Sizes of panels: e.g. Hansen (1999: 187).
[2] Judges' loud reactions (*thorubos*): Bers (1985); Hall (2006: 364); Thomas (2011; 2016).
[3] On this oath see Harris (2013: 101–37).
[4] As in e.g. Aeschin. 3.200–1; on these boards see Fischer (2003: 238–44); Todd (2020: 638–9). On the interaction between material texts and the democratic community's imagination, see Lazar (this volume).

abstract; elsewhere they appeal to abstract principles of justice or to culturally central entities who could embody justice.[5]

One important medium for the persuasive delivery of such arguments across surviving lawcourt speeches is *enargeia*, the visualization of aspects of the case in order to appeal to judges' imaginations and thus shape their view of the issues at stake.[6] It could, for example, involve imagining the presence of absent individuals living or dead, sometimes speaking; the terms *ethopoeia*, *prosopopoeia*, and *eidolopoeia* are used for such instances in later critical texts.[7] This family of techniques should be understood as part of classical Athenian speakers' broader discourse and manipulation of sight, seeing, and not-seeing (explored recently by Peter O'Connell).[8] Sustained passages of *enargeia* would be 'high-visibility' parts of a given speech because of the care and control the orator needed to exercise in performance to ensure that such passages carried conviction and did not strike judges as unsuitable, overdone, or irrelevant. If successful, such set-pieces would raise the agonistic temperature and the oratorical stakes, and opposing speakers might well want to challenge them in their own speeches, whether by attempting to criticize or mock them retrospectively or by upstaging them with even more compelling passages of sustained *enargeia* on related themes – or both.

In order to trace the processes of appealing to the judges' imaginations in the lawcourt setting, I look first at the forms taken by *enargeia* as a mediator for the formation of ideas of justice across the surviving speeches. I then focus on two late fourth-century texts which represent the

[5] For the relation between 'justice' in the abstract, educational models of justice, and just individuals, see Petraki (this volume) on Plato's *Republic*.
[6] See also Huitink (this volume) on *enargeia* in Greek historiography.
[7] These terms (and the associated terms *diatyposis*, *hypotyposis*, and *ecphrasis*) are used quite variously in later criticism: Lausberg (1998: 359–72, 495–6). On *enargeia* see e.g. Webb (2009a; 2009b: 132–4); O'Connell (2017a: 124–40; 2017b); Spatharas (2017); Huitink (2019).
[8] O'Connell (2017a; 2017b).

prosecution and main defence speeches from Aeschines' prosecution of Ctesiphon in 330 BCE for proposing an honorific crown for Demosthenes in 336 (Aeschines 3, *Against Ctesiphon*, and Demosthenes 18, *On the Crown*).[9] *On the Crown* features a renowned passage of *enargeia* (18.169–79) where Demosthenes reminds his audience of the alarm at Athens on the arrival of the news of Philip of Macedon's seizing of Elatea in late 339 and of the subsequent Assembly meeting where Demosthenes himself successfully proposed an embassy to Thebes to secure an alliance (which endured until Philip's victory over it at Chaeronea in 338). I show that in dramatizing an outstanding moment in his own career,[10] one of Demosthenes' aims is to counteract the likely persuasive effects of an extremely vivid passage of *enargeia* in *Against Ctesiphon* (3.152–7) where Aeschines invokes the judges' imaginations to make them experience something they had not witnessed.[11] This was Alexander's sack of Thebes after its revolt in 335, a disaster Aeschines blames on Demosthenes' personal retention of funds received from Persia to support the Thebans.[12] Aeschines seeks to make the concentrated emotional impact of this passage determinative for the question of Demosthenes' reputation and Ctesiphon's guilt or innocence. Demosthenes' response engages with Aeschines' use of *enargeia* but refocuses the judges' imaginations on the circumstances of the making of the alliance with Thebes in 339,[13] which could be spun much more positively than Athens' failure to support Thebes in 335.[14] Demosthenes accordingly seeks to efface Aeschines' versions of 339 and 335 alike and to highlight his own notable (and well-remembered) public

[9] Though both speeches have been subsequently revised, they probably represent the delivered content fairly accurately: Yunis (2001: 26–7); Hubbard (2008: 193–5); Westwood (2020: 284–6). All dates in this chapter are BCE unless obvious.

[10] Duncan (2006: 75) coins the term 'auto-*ethopoeia*' to describe 18.169–80. For a study of the theatrical and ecphrastic qualities of 18.169–73, see Serafim (2015: 99–105).

[11] On defining the imaginative experience see especially Huitink (this volume) and the Introduction.

[12] Cf. 3.239–40 (where Aeschines anticipates that Demosthenes will want to talk about 339/8 and not 335).

[13] Demosthenes also uses this passage to upstage Aeschines' lively account of his activities at Delphi in Athens' interests in 340/39 (3.115–24): Westwood (2020: 287–301, esp. 287 and 307–8 for the multiple referentiality of such passages).

[14] Especially as the Assembly may initially have voted to support Thebes: Diod. Sic. 17.8.6.

achievements, thus assuring the judges that Ctesiphon had been right to propose the award of the crown, and that acquitting him would therefore be a just verdict. This case-study seeks to highlight the dynamic interaction between real and imaginary in lawcourt speeches, where litigants craft arguments in such a way as to build creatively upon – and reconfigure – both the judges' immediate grasp of the details of the case and wider aspects of their civic experience (in this case their cultural memory). The ultimate aim was to fashion a conception of justice which stood the best chance of securing a positive outcome for the speaker.

IMAGINING JUSTICE ACROSS LAWCOURT SPEECHES

Athenian lawcourt speakers often use metaphor to shape the judges' conceptualizations of law and justice,[15] inviting them to apply one or more aspects of their familiar, lived experience as citizens to the evaluation of a specific legal case. In Lysias 1, for example, Euphiletus prefaces his murder of the adulterous Eratosthenes with the claim that 'it is not I who will kill you, but the law of the city'[16] (1.26) – a moment embedded in an absorbing narrative which constantly engages the judges' individual imaginations while appealing to their collective awareness of the legality of killing an adulterer caught in the act.[17] But in some important cases the judges' cognitive faculties are recruited by the orator's explicit invitation. In the *epilogos* (concluding passage) of the pseudo-Demosthenic *Against Macartatus*, for example, an emotive metaphor and a claim about what would constitute a just verdict in the case concerned are combined with an invitation to the judges to re-conceptualize what they see in front of them: the speaker asks

[15] Filonik (2017) is a valuable case-study of metaphor in Lycurgus 1. For other treatments of metaphor to communicate abstraction, see the chapters by Sekita and Petraki (this volume), on death and justice respectively.
[16] All translations of speeches in the current chapter are taken from the relevant volumes of the University of Texas Press *Oratory of Classical Greece* series, edited by Michael Gagarin (1998–2018).
[17] See recently Webb (2020); Wohl (2020). Ar. *Ecc*. 1055–6 may suggest that the expression was hackneyed.

the judges to think of (νομίζετε)[18] the boy Eubulides before them 'as the olive branch of a suppliant set before you' on behalf of his deceased older relatives – on whose collective behalf the judges should 'come to the aid of the laws and show concern for the dead ... If you do this, you will give a verdict that conforms to justice, to your oath, and to your own best interests' ([Dem.] 43.83-4). Like appeals to pity in general (including the displaying of family members),[19] these appeals to the judges to imagine the space in front of them differently – and so render a just verdict – cluster in *epilogoi*,[20] and they share this with other techniques that put pressure on the judges to make the 'right' decision.[21] One example is Andocides' *On the Mysteries*, which ends with a plea to the judges to remember the services of his aristocratic forebears: 'imagine you can see them in person (νομίσατε τὰ σώματα αὐτῶν ὁρᾶν), asking you to save me' (1.148).[22] The judges are to perform the imaginative task of mentally projecting into the court space the material, bodily presence (σώματα) of Andocides' ancestors. Likewise, νομίσατε ὁρᾶν ('imagine you can see') is used by Aeschines to introduce his set-piece visualization sequences in *Against Ctesiphon*. The shared usage may indicate that this was a mainstream formulation.

Several surviving speeches – all for the prosecution – give *enargeia* an even more significant role as a means of conceptualizing justice and of impressing on the judges what would constitute a just verdict. In the *epilogos* of his early prosecution speech *Against Leptines*, Demosthenes appeals to judges and informal spectators alike as follows (165–6):

[18] Greek quotations in this chapter are taken from Dilts (1997) for Aeschines and from Dilts (2002; 2005; 2009) for the Demosthenic corpus.
[19] See Rubinstein (2000: 154–8). This could happen at other points in speeches too: Aeschin. 2.147–52.
[20] The speaker of *Against Olympiodorus* ([Dem.] 48) asks the judges to 'imagine' (νομίσατε) his wife and daughter as his supporters at this point (57). This must mean they are absent: Gagarin (1998: 46).
[21] These include imagining that the dead could be aware of the current trial (e.g. Lys. 12.100).
[22] Text: Dilts & Murphy (2018).

> None of those attending the trial nor anyone else is unaware that although Leptines is our opponent in court, in the mind of each of you seated here (ἐν δὲ τῇ τῶν καθημένων ὑμῶν ἑνὸς ἑκάστου γνώμῃ) generosity is set against (ἀντιτάττεται) envy, justice against evil, and noble sentiments against the worst. [166] If you are influenced by the better of these, if you follow our advice when voting, you will appear to have come to the right decision and to have voted what is best for the city.

The judges are therefore asked to conceive of a just verdict as a resolution of a war of moral abstracts conducted in their individual minds as much as a resolution of a contest between physical litigants in the material court environment.[23] The judges' mental efforts matter because these are moral standards that should govern the resolution of *every* trial, not just this one: only the judges – those 'seated' (καθημένων) – are spoken of as actually hosting these warring abstracts, even though the informal spectators are described as aware of them too. Demosthenes therefore constructs the imagination (signposted by the non-technical γνώμῃ here) as a source of normative decision-making which, if accessed appropriately by the judges, will deliver the right verdict (and serve as a model for future decision-making). This vivid essentialization of the legal contest is paralleled in Apollodorus' *Against Neaera*, where, in a section leading up to the *epilogos*, Apollodorus seeks to recalibrate the judges' perceptions in a way that combines the techniques exemplified above in *Against Macartatus* and *On the Murder of Eratosthenes* with the involvement of abstracts just seen in *Against Leptines*: 'do not suppose (ἡγεῖσθε) it is I, Apollodorus,[24] who am speaking, nor the citizens who will speak to defend and support [Neaera], but imagine that the laws are actually in litigation with Neaera

[23] For (rather different) images of 'private' deliberation, as a deep dive or a voyage, see Buxton (this volume).
[24] Dilts (2009: 334) applies braces to εἶναι Ἀπολλόδωρον.

here …' ([Dem.] 59.115). Apollodorus combines the familiar material realities of Athenian judicial process – the laws as documents and as agreed cultural standards – with the assertion that there is another, invisible dispute going on concurrently which judges can (and should) conceptualize: an exercise which will make the wider civic significance of their eventual decision clear to them.

Important parallels appear in the latter part of Demosthenes' *Against Meidias*, a speech particularly invested in visualization techniques. Demosthenes' prosecution had arisen from a physical attack on him by Meidias two years earlier in front of a large theatre gathering, and ideas both of spectacle and of the special mental impact of witnessing or experiencing a crime in person remain fundamental to Demosthenes' strategy in the speech.[25] In its *epilogos*, he briefly entertains the possibility that the personified laws of Athens might be able to run up and help an ordinary citizen who is being harmed – 'one of you' (τις ὑμῶν), he stresses – before admitting the physical reality ('the laws are only written letters, and they could not do this': 224). Instead, he entreats the judges to act as the laws' agents and allies ('defend[ing] them just as the victim of injustice defends himself': 225), just as the laws in turn are the judges' primary means of preserving civic order. This centring of the laws' inability to act alone – and of the reciprocal relationship they need to have with the judges – ties down Demosthenes' preferred conception, as prosecutor, of what is at stake in the trial. So does the singularizing of the imagined victim: Demosthenes intimates that the judges will make their final decision not only as a collective with whom the enacting of community justice resides but as individuals who (by voting) will demonstrate their sensitivity to the wider implications for civic order of a hypothetical crime which could have happened to any of them. That crime, in turn, is given

[25] See especially Dem. 21.72 and Spatharas (2017).

specificity by the very real injury Demosthenes himself sustained in the theatre in full view of an audience which included some of those listening and judging now.

In a similar move earlier in the speech, Demosthenes makes the visible space of the lawcourt crucial to his anticipation of an emotional self-defence by Meidias (186–8). First he points out that his own childlessness means he cannot stand his own children by him (παραστησάμενος: 187) to arouse the judges' pity for the injury he suffered; Meidias, on the other hand, *can* do so (in order to arouse the judges' pity for him as defendant).[26] Demosthenes then frames the decision the judges must ultimately make as follows (187–8):

> For this reason, therefore, will I, the victim, come out worse than the guilty party in your court? No, do not let this happen. [188] But when this man takes his children (ἔχων τὰ παιδία) and asks you to vote for them, then imagine (ἡγεῖσθε) that I have taken the laws and the oath that you swore and stand nearby (τοὺς νόμους ἔχοντά με πλησίον … παρεστάναι καὶ τὸν ὅρκον ὃν ὀμωμόκατε), asking and pleading (ἀξιοῦντα καὶ ἀντιβολοῦνθ') with each of you (ἕκαστον ὑμῶν) to vote for them. There are many reasons why it is more just for you to take their side rather than this man's. Men of Athens, you have sworn to obey the laws, and you enjoy equal rights because of the laws, and all the benefits that you enjoy exist because of the laws, not because of Meidias nor because of Meidias' children.

[26] Andocides likewise emphasizes his childlessness and lack of close family in the *epilogos* of *On the Mysteries*, co-opting the judges as his 'father and brothers and children' (149).

The passage combines many of the techniques I have noted so far: the (partial) personification of non-human entities, in this case not only the laws but also the dicastic oath;[27] the creation of pathos through the visualization of a child or children and of a figure supplicating (ἀντιβολοῦντα here; cf. ἀντιβολῶ in [Dem.] 43.84 above); and the identification of the speaker as the guardian of – and therefore associable with – the laws and lawcourt procedure themselves. However, Demosthenes' emphasis throughout *Against Meidias* on his status as the injured party in the dispute, a status that is, in some sense, analogous to that of a defendant, enables an ambitious manoeuvre which diverges from all the passages previously mentioned: Demosthenes imagines himself invading the defence's space and time, visualizing what the judges should imagine not only now (during Demosthenes' prosecution speech) but also much later, during Meidias' own defence. At that point, the judges – considered here not just as a collective, but as thinking *individuals* (ἕκαστον) – should look at the speaker's platform and imagine Demosthenes standing holding (texts of) the laws and the oath near (πλησίον) Meidias and his children in order to remind the judges of their duty and to act as a visual counterweight to Meidias' attempts to secure the judges' pity. Although Demosthenes is the only person actually envisaged as present (παρεστάναι: 188) on the platform at this stage apart from Meidias and his children (i.e. the laws and the oath are not fully personified),[28] the word παρεστάναι still acts as a structural mirror for the notion (pivoted on παραστησάμενος) that Demosthenes would stand his (human) children by him if he had any. This then informs the *epilogos*' brief image of the laws as unable to help anyone on their own (224); it gestures back to the dependent state at §188 both of Meidias' children, who must be 'held' by their father (an aspect mentioned three times: ἔχων: 186, 188; ἔχοιμι: 187) and of Demosthenes' own proxy

[27] Dobree (1831: 465) thought καὶ τὸν ὅρκον ὃν ὀμωμόκατε should be deleted, and is followed by Weil (1883: 192), MacDowell (1990: 401), and Daix & Fernandez (2017: 543–4); but none of them justifies the deletion convincingly. Dilts (2005: 225) applies braces to the phrase; Goodwin (1906: 106) retains it (with e.g. Σ 630 Dilts). Plato, *Crito* 50a–54d is an important parallel (as Dobree himself indicated).
[28] Goodwin (1906: 106).

'children', the laws and the oath themselves, who he correspondingly 'holds' too (ἔχοντά: 188). Both §188 and the *epilogos* therefore foster a precisely-visualized and personalized sense of the precariousness of justice – in effect, that the laws are orphans unless 'adopted' by each individual judge when he votes.

In asking the judges to use their imaginations to jump to the end of the main part of the trial, Demosthenes executes a counterfactual visualization that reflects, in its complexity, the usage of Aeschines, the surviving orator who demonstrates the most consistently perceptive and creative command of visualization techniques as prompts to imagining. He also deploys them well beyond *epilogoi*, especially in his two surviving prosecution speeches, *Against Timarchus* and *Against Ctesiphon*.[29] His earlier career as an actor probably made him particularly aware of how to design persuasive scenarios that would draw productively on judges' experience of the power of theatrical spectacle,[30] and allow him to capitalize on his performance skills, especially his impressive voice.[31] These abilities would also have served him well in another previous career, that of public secretary, which involved the frequent recitation of official documents to large audiences.[32] The experience derived from these two 'previous lives' makes it plausible that he was more systematically attuned to the performative and structural parallels between lawcourt, theatre, and decision-making contexts like the Boule and Assembly than many of his rivals, and so to the performative possibilities available across those venues.[33]

[29] Aeschines and visualization: Hobden (2007: 495–8); Webb (2009b: esp. 132–4, 143–7); O'Connell (2017a: 124–36, esp. 128–31); Westwood (2017; 2020: 301–23).
[30] Aeschines as actor: Harris (1995: 30–2); Easterling (1999); Duncan (2006: 58–83); Hernández Muñoz (2006); Webb (2009b: 146); Hanink (2014: 134–5, 175–6); Westwood (2020: 57–8, 202–3, 301).
[31] Easterling (1999); Gotteland (2006); Hall (2006: 372–3); Serafim (2017: 84–7); Westwood (2020: 202–3, 237); and more generally Worman (2008: 238–74).
[32] Harris (1995: 29–30).
[33] For example the relationship between oratorical narrative and tragic monologues (especially messenger speeches) as an object of audience attention: see Budelmann & van Emde Boas (2019) and Buxton (this volume).

Aeschines' distinctiveness also extends to the precise way he shapes his appeals to the judges' imaginations, paying close attention to the cognitive process and using appropriate (and perhaps intellectually-inflected) vocabulary. Importantly for us, he is the only surviving lawcourt orator to use the word *dianoia* ('thought', 'thought process', 'mind', 'intellect') to signify mental activity that the judges are to perform *in the moment*, rather than attitudes or views they are to adopt for the duration of the trial.[34] Applying *dianoia* to the thought processes of the judges at all is not in fact common; we saw above that Demosthenes used γνώμη in *Against Leptines* 165, and there the implication was that the battle of moral abstracts in the judges' minds had been raging throughout the trial, even if Demosthenes only identifies it now, in the *epilogos*, at the point where he particularly wants them to have their oath in mind (and the 'most just γνώμη' the oath required judges to apply).[35]

Aeschines uses *dianoia* in this temporally pinpointed way on four occasions, all embedded in rich visualizing contexts.[36] In *Against Timarchus* 49, for example, he takes care to explain to the judges that the youthful looks of Timarchus' older former lover Misgolas (who has been called to testify) are deceptive 'so that when you suddenly (ἐξαίφνης) see him you will not be surprised and mentally respond (τῇ διανοίᾳ ὑπολάβητε): "Heracles! He is not much older than Timarchus!"' In this passage and elsewhere, Aeschines shows himself distinctively alert to the likely impression on a judge's mind of a particular *sudden* new piece of information (cf. 1.17, 3.59), pointing both to a sophisticated command of how cognitive and persuasive processes might interact and probably also to a shrewd grasp of how to encourage judges to apply their

[34] Isocrates is a more frequent user of *dianoia* in various senses (though never in his logographic lawcourt speeches). His fictive *Archidamus* features a lawcourt-style *prosopopoeia* in the *epilogos* (6.110), using *dianoia(i)* as Aeschines does. For *dianoia* in Aristotle's *Poetics* and elsewhere, see Buxton (this volume, p. XXX).

[35] Judges' *dianoia(i)* (beyond instances in the main text and omitting Isocrates' fictive works): Aeschin. 3.8; Lys. 24.21; Lycurg. 1.75, 146; Dem. 31.9 (and 23.143 by implication; cf. e.g. 15.32 for an Assembly audience).

[36] Aeschin. 1.49; 3.153, 157, 186.

experiences of surprises and urgent decision-making in drama to what they heard in court. Aeschines also uses *dianoia* as part of his introductions to two set-piece *enargeia* passages (3.153 and 186; see below); elsewhere, he tends to choose the phrase νομίσατε ὁρᾶν ('imagine you can see'), like Andocides above, or the closely related ὑπολαμβάνετε/ὑπολάβετε ὁρᾶν. Later in *Against Timarchus*, for example, he constructs two imaginary scenarios (161–4 and 175) where he invites the judges (respectively) to 'see' a parallel, fictive trial, in two versions: 'imagine that you're not hearing it from me but seeing the thing taking place' (ἀλλὰ γιγνόμενον τὸ πρᾶγμα νομίσαθ' ὁρᾶν: 161) and to imagine they can see (ὑπολάβετε ὁρᾶν: 175) a victorious Demosthenes bragging to his young 'pupils' after helping Timarchus escape justice. Aeschines' appeal to the judges' imaginations is therefore typically very overt: other orators almost uniformly prefer more oblique transitions. As we will see, Demosthenes in the 'news from Elatea' sequence appeals to a combination of the judges' memories and their senses to generate a competing imaginative effect.

Aeschines' *Against Ctesiphon* is still more ambitious. Fiona Hobden and Ruth Webb have discussed Aeschines' harnessing of *enargeia* and related techniques to impress relevant facets of the Athenian past on the judges in this speech, especially the moment where he asks them to imagine (τῇ διανοίᾳ: 3.186) that they are in the Stoa Poikile, examining the details of the painting of the battle of Marathon there.[37] Aeschines' aim here is to demonstrate that Demosthenes cannot possibly deserve the crown proposed for him, and the immediacy of the switch of venue helps force that conclusion. Another historically-pivoted passage, the first part of the *epilogos* (257–9), goes further.[38] It resembles Demosthenes' *Against Meidias* in its construction of an alternative image of the point in the defence's time where the defendant will

[37] Discussions: Hobden (2007: 495–8); Webb (2009b: 138–45); Westwood (2020: 311–20).
[38] Discussions: Webb (2009b: 144–5); Westwood (2017: 61–71; 2020: 301–11).

appeal to external support: in Meidias' case, his children; in Ctesiphon's case, Demosthenes and possibly other supporting speakers (συνηγόρους: 257). But Aeschines' passage pushes the judges' imaginations further than *Against Meidias* had. Where Demosthenes had asked them to imagine him standing holding the laws and the dicastic oath and voicing an appeal to each listener, thus (ideally) drowning out the emotive pleas of Meidias, Aeschines instead builds on an appropriation of the laws as his supporting speakers that he had made earlier in *Against Ctesiphon* (συνηγόρους: 3.37). He asks the judges to imagine the temporary resurrection in court – and the forceful counter-appeals – of two historical individuals whom he could be confident the judges would understand as *embodying* justice, not just championing it. These are Solon (described here as a 'philosopher and a worthy legislator': ἄνδρα φιλόσοφον καὶ νομοθέτην ἀγαθόν: 257) and Aristides ('expressing his anger at the insult to justice': ἐπὶ τῷ τῆς δικαιοσύνης προπηλακισμῷ: 258). Judges would naturally view Solon as almost interchangeable with the laws, and his appeal to them 'under no circumstances (μηδενὶ τρόπῳ) to set more value on Demosthenes' arguments than on [their] oaths and the laws (τῶν ὅρκων καὶ τῶν νόμων)' (257) cements the identification.[39] As for Aristides, Aeschines had prepared for this moment by featuring him earlier on in such a way as to remind listeners of his defining traditional attribute: his reputation for just behaviour (ὁ δίκαιος ἐπικαλούμενος: 'known as "the Just"'), contrasted with the perfidy of Demosthenes (181), as here.

Both Solon and Aristides are now to be imagined standing on the speaker's platform exactly where Aeschines is speaking now (οὗ νῦν ἑστηκὼς ἐγὼ λέγω),[40] thus encouraging judges to

[39] On Solon's iconic role in Athenian legal culture: Thomas (1994a); Mossé (2004); Carey (2015); see also Westwood (2020: 203–8) (on Aeschines' use of Solon's statue to make a moralizing point in *Against Timarchus*). Petraki (this volume, p. XXX) discusses the educational role of so-called 'portrait statues' or *eikones* in Classical Athens, focused not on superficial likeness but rather the embodiment of certain civic virtues.

[40] Aeschines therefore specifies the *speaker's* platform (cf. 3.55, 165) rather than the prosecution platform (there were three platforms for the litigants in total in this trial: cf. 3.207).

view him as in some sense their material analogue in the immediate present.[41] Importantly, Aeschines does not use the word *dianoia* here, but the more general ὑπολαμβάνετε ὁρᾶν formula: he wants the judges not only to form the image now but also to retain it in their minds and apply it to their thinking as the defence team speak. By asking the judges to imagine this symbolic takeover of the platform by Solon and Aristides at the point where Ctesiphon has almost finished his own defence and is calling his supporting speakers, Aeschines ensures that the figure whose speech Solon and Aristides will be drowning out as they make their counter-appeals will be Demosthenes himself. Rather than flanking Demosthenes (to shout him down more effectively), Solon and Aristides are to be imagined standing *together* to oppose him (ἀντιπαρατεταγμένους) – and also Ctesiphon if he has not yet left the platform – in a way that echoes Demosthenes' own vision of the opposition of moral virtues and vices in the *epilogos* of *Against Leptines* (ἀντιτάττεται: 20.165). Meanwhile, the striking compound ἀντιπαρατεταγμένους participates in the repeated use of military imagery (especially that of the battle-line: *taxis*) in both *Against Ctesiphon* and *On the Crown*,[42] prompted by Aeschines' sustained allegation that Demosthenes' 'desertion' at Chaeronea should be a major reason to convict Ctesiphon and deny Demosthenes his crown. It therefore effectively clinches Aeschines' co-opting of these great men of the past to his own side.

Aeschines' depiction of a Demosthenes opposed by two unassailable cornerstones of the history of Athenian justice therefore seeks to imprint vividly on the judges' minds that conviction would be the just verdict, and functions as a highly economical way of drawing together (at this critical stage, the *epilogos*) two essential threads of the prosecution case. First, the figure of Aristides reminds the judges of how their ancestors outlawed Arthmius of Zelea,

[41] On the bodily movement of imagined figures, cf. Huitink (2019; this volume).
[42] Christ (2006: 134–41); Cook (2012: 232–8, 248–51); Brock (2013: 161–3, 191).

who brought Persian bribe-money to Greece (258–9), and this connects to Aeschines' earlier accusation that Demosthenes had simply pocketed the Persian money he received to help Thebes in its revolt against Alexander in 335 BCE. Aristides' bitter complaint (σχετλιάζοντα) and the imagined and vocal horror of the victorious dead of Marathon and Plataea, who Aeschines adds to the background in §259, seem jointly set up to recall an earlier moment of *enargeia* (244) where Aeschines had specifically asked the judges to imagine (νομίσαθ' ὁρᾶν) the dead of Chaeronea complaining (σχετλιάζοντας) should the judges allow the crowning of Demosthenes. Second, in inviting the judges to envisage the material, bodily presence of Solon and Aristides (rather than, for example, personified laws or moral abstracts), Aeschines reinforces the relevance of active comparison between the conduct of great past leaders and Demosthenes' own disastrous leadership, something that has occupied him throughout the speech (e.g. 3.177–90). In *On the Crown*, to which I now turn, Demosthenes appeals to the judges' imaginations by reminding them of his achievements both before and after Chaeronea, emphasizing those achievements' fidelity to Athens' traditional identity and rebutting Aeschines' claims;[43] his 'news from Elatea' sequence forms an important part of this rhetorical self-vindication project. Both orators' appeals, then, operate on the assumption that the judges' imaginations can serve as interfaces between the real court environment and its wider civic setting on the one hand, and justice-led decision-making in the abstract on the other.

AESCHINES VERSUS DEMOSTHENES: LAWCOURT, THEATRE, AND ASSEMBLY

Ctesiphon's proposed decree stated that Demosthenes was to be crowned 'for his virtue and integrity (ἀρετῆς ἕνεκα καὶ ἀνδραγαθίας) … [and] because he consistently speaks and acts in the best interests of the people' (Aeschin. 3.49). The Crown trial in 330 BCE gave both

[43] On this theme, see Yunis (2000).

Aeschines and Demosthenes creative flexibility because both accepted that the most important of Aeschines' three charges was the one not tied to specific laws: his straightforward contention that Ctesiphon's honorific claims about Demosthenes were false.[44] Accordingly, each orator shapes his material in such a way as to identify a just verdict as a matter, first and foremost, of the judges endorsing or rejecting Ctesiphon's claims about Demosthenes' reputation. We have already seen (with Andocides, for example) that the link between memory and the imagining of justice can be strong, and this becomes instrumental in the case of Aeschines' and Demosthenes' competing imagined versions of Athens' relationship with Thebes (and Demosthenes' role in shaping this) at the critical points of 339 and 335 BCE. Both orators' attempts to get the judges to imagine these depended on establishing a connection with their memories of the physical experience of marching out, voting, and so on. Unlike Aeschines in *Against Ctesiphon*, though, Demosthenes recognized that success would mean invoking the judges' *preferred* memories: the judges would enter into the reciprocal process of imagining more readily if they were given positive memories to access and not negative ones. That meant recalling the making of Athens' alliance with Thebes in 339 and not Athens' failure to support Thebes in 335. In *On the Crown*, Demosthenes makes this insight essential to his strategy of upstaging the lengthy *enargeia* passage of Aeschines' speech (3.152–7) which culminates in the horrors of Alexander's sack of Thebes.[45]

Aeschines' passage is preceded by an extended advance rebuttal of Demosthenes' claims to have been personally responsible for the Theban alliance, complete with an account of Demosthenes' 'real' (venal) motives at the time, which serves to link 339 with 335 (3.137–51).

[44] Discussions of Aeschines' charges: Gagarin (2012); Harris (2013: 225–33; 2017; 2019); Westwood (forthcoming).
[45] Discussions of the passage: Webb (2009b: 141–4); Hanink (2014: 116–17, 121–2); O'Connell (2017a: 128–31; 2017b: 241–2); Serafim (2017: 101–2); Westwood (2020: 302–3); Bajnok (forthcoming).

Aeschines then (152–6) stakes out an imagined space which he populates with no fewer than four real ones. These are: (i) the battlefield of Chaeronea (where those who died did so thanks to Demosthenes: 152); (ii) the public tomb of the dead (which Demosthenes disgraced by standing on it to give the funeral oration, despite his earlier battlefield desertion: 152); (iii) the lawcourt environment now; and (iv) the theatre: 'please imagine yourselves for a moment (γένεσθε δή μοι μικρὸν χρόνον τὴν διάνοιαν) not in the court but in the theatre, and suppose that you see (νομίσαθ' ὁρᾶν) the herald coming forward, the announcement in the decree about to take place'. Demosthenes' crown was due to be proclaimed at the presentation of the new tragedies during the next City Dionysia festival (cf. Aeschin. 3.34), and this gives Aeschines a chance to connect the pathos the tragedies will induce in the dead men's relatives with their negative emotions about the crowning of Demosthenes (153). To increase this pathos, Aeschines adds a temporal dimension to the spatial one. The judges are already being required to imagine the theatre during the next Dionysia, and Demosthenes' crowning, superimposed on the lawcourt situation before their eyes, but now Aeschines also asks them to imagine the further superimposition of a parallel moment in the theatre during Dionysia festivals past. He recalls the long-discontinued ceremony at which the herald used to present (παραστησάμενος: 154) the orphaned sons of Athens' war dead to the festival audience to announce the state's provision for them up to this point: a fine proclamation 'most calculated to inspire courage (ἀρετήν)' according to Aeschines.[46] Now he associates these orphans with the sons of the dead of Chaeronea in the recent past, underscoring the full horror of what will happen at the next Dionysia, where the herald will present Demosthenes instead:

[46] Hanink (2014: 116–17) notes the contrast in treatment with Isoc. 8.82. For the ceremony itself, see Goldhill (1987: 63–8).

[155] This was the proclamation in those days, but not now. No, with the man responsible for the children's orphan state beside him (παραστησάμενος), what announcement will the herald make? What will he say? For if he goes through the actual announcement ordered by the decree, shame prompted by the truth will not stay silent but will seem to proclaim in opposition to the herald's voice that this man, if man he really is, is being crowned by the Athenian people for his virtue when he is utterly base (ἀρετῆς ἕνεκα τὸν κάκιστον), and for his manly excellence when he is a coward who has deserted his post (ἀνδραγαθίας ἕνεκα τὸν ἄνανδρον καὶ λελοιπότα τὴν τάξιν). [156] No, in the name of Zeus and the gods, I beg you (ἱκετεύω), men of Athens, do not set up a trophy to your own defeat in the orchestra of the theatre of Dionysus. Do not convict the Athenian people of madness in the presence of all of Greece. Do not remind the wretched Thebans, who were exiled because of him and have been given refuge in our city, of their incurable and irreparable sufferings, when their temples and children and tombs have been destroyed by Demosthenes' corruption and the King's gold. [157] But since you were not there in person (τοῖς σώμασιν οὐ παρεγένεσθε), witness their disasters with your mind's eye (ταῖς γε διανοίαις ἀποβλέψατ[ε]) and imagine that you can see (νομίσαθ' ὁρᾶν) their city being captured, the demolition of the walls, the burning of the houses, the women and children being led away to slavery, old men (πρεσβύτας ἀνθρώπους), old women (πρεσβύτιδας γυναῖκας) learning late in life to forget their freedom, weeping, begging you (ἱκετεύοντας), angry not at the people who were taking revenge on them but at the men responsible for these events, solemnly instructing you under no circumstances (μηδενὶ τρόπῳ) to crown the curse of Greece …

As we saw earlier with the *epilogos*, this passage allows Aeschines to crystallize the speech's case so far. It lets him connect parts of the argument which could otherwise easily be thought disparate, and it establishes the basis for a just verdict before the judges' eyes by urging emotive parallels between a multiplicity of venues (adding a fifth at §157: the spectacle of the burning Thebes of 335, on which the judges are to concentrate: ἀποβλέψατ[ε]).[47] Aeschines reveals that these various situations are cognate if viewed through a specific lens: Demosthenes' responsibility for the destruction or corruption involved. He also makes some overt connections between some of them: for example, the figurative trophy in the theatre in §156 ties down the alignment between battlefield and theatre begun in §153. But it is important to understand how else the judges might be able to process the complex and indeed perhaps *over*-populated space Aeschines asks them to visualize here.[48] Even though Aeschines accepts that the judges were not present at the fall of Thebes, using the language of formal lawcourt witnessing to say so (οὐ παρεγένεσθε),[49] this in fact draws attention to the dramatic economy of his own presentation: the judges are treated to an impressive illusion of access to multiple spaces and times at once. However, rationalizing how these variously-occupied spaces actually connect with one another remains a task left up to them.

One device that might help them to make sense of Aeschines' construct is the role of the herald. Heralds were naturally able to move between a variety of spaces, both military contexts (even battlefields) and purely civic ones like the theatre and the annual public burial;[50] their official function also allowed the easy mapping between temporal contexts that Aeschines needs here

[47] ἀποβλέπω is consistently used by the orators of *serious* attention to a highly significant object: Aeschin. 1.141, 178; 2.74; Isoc. 15.130; Lycurg. 1.64, 100; Hyp. *Eux*. 36; Din. 1.110.
[48] On the possible cognitive efforts imposed, cf. Phillips on the ecphrasis of a Euripides ode (this volume) and Budelmann & van Emde Boas (2019: esp. 77–9 – including discussion of Polvinen's concept of 'joint attention').
[49] Thür (2005: 153); O'Connell (2017a: 87).
[50] On heralds' functions: Lewis (1996: 51–4, 63–8).

in his contrast between Dionysia practices in different periods. Aeschines' present-day herald (and his olden-days counterpart) is given a good deal of agency: the judges are to imagine the olden-days herald physically placing the orphans where they need to be, and the word-choice (παραστησάμενος: 154) recalls Demosthenes' hypothetical lining-up of his non-existent children in *Against Meidias*, as we saw earlier. Aeschines' pathetic image of the present-day herald doing the same thing with Demosthenes so that he can receive his crown (155), as though he too were a young orphan, invites judges to tap into some of the emotions of anger (against Demosthenes) and pity (for past and present war-orphans) that they would expect to feel during an *epilogos*.

Furthermore, the herald's role guarantees that the envisaged scenario can (like Aeschines' own *epilogos*) impress itself as much through imagined *speech* – and imagined *speakers* – as imagined sight. This extends beyond the herald's own words too: the dispossessed Thebans' supplication of the judges (ἱκετεύοντας: 157) parallels Aeschines' own here in the court (ἱκετεύω: 156) in issuing from a speaking, material entity. The *epilogos* then seems calculated to recall this sequence, with the use there (in the imagined Solon's appeal) of the phrase μηδενὶ τρόπῳ (257), which echoes that of the Thebans here (157). But the versatility and interspatial and intertemporal mobility of the herald – and his visibility as a symbol of ordinary civic life – allows Aeschines to achieve a striking effect with the personification of 'Shame prompted by the truth' (τό γ᾽ ἐκ τῆς ἀληθείας αἰσχρόν) interrupting the herald's recitation of the decree's terms in §155. Though only performance would have made this clear, 'Shame' is presumably to be imagined shouting 'τὸν κάκιστον!' ('he's a villain!') when the herald mentions ἀρετή ('virtue') and 'τὸν ἄνανδρον καὶ λελοιπότα τὴν τάξιν!' ('he's a coward who deserted his post!') when the herald mentions ἀνδραγαθία ('manly excellence'), in order to make a nonsense of the herald's proclamation (just as Demosthenes imagined himself drowning Meidias out in *Against*

Meidias and Aeschines' own *epilogos* imagines Solon and Aristides drowning Demosthenes out). The judges are probably meant to find this disruption of a herald doing his official duty disorientating,[51] and will therefore remember these key terms of Aeschines' prosecution: that Demosthenes' bad moral character and especially his cowardice mean that Ctesiphon must be convicted.

Aeschines' decision to dwell on the plight of the Thebans may have been overtly competitive. The first-century CE rhetorician Aelius Theon cites both §157 and Demosthenes' evocation of the plight of the defeated Phocians in *On the False Embassy* (19.65) as imitations of *Iliad* 9.593–4, implying in the process that Aeschines' passage is also a remodelling of Demosthenes'.[52] In *On the False Embassy* – the prosecution speech in a previous legal clash with Aeschines, in the year 343 – Demosthenes had not specifically invited his audience to *imagine* the Phocians' plight. He had simply described it as a 'terrible and piteous sight' (θέαμα δεινόν … καὶ ἐλεινόν) that he and others could witness (ἦν ὁρᾶν ἡμῖν) as they travelled through Phocis. But he had populated the scene with some of the same dispossessed social groups as Aeschines' imagined Thebes (including πρεσβύτας ἀνθρώπους, 'old people', just like Aeschines in 3.157, who adds 'πρεσβύτιδας γυναῖκας', 'old women'). If we take account of the similarity between Aeschines' earlier claim that the sack of Thebes was a disaster for Greece on an unprecedented scale (3.132–3) and Demosthenes' very similar claim prefacing the Phocis passage in *On the False Embassy*, then Theon's juxtaposition begins to look significant. Webb's suggestion that Aeschines may intend his 'fall of Thebes' as some sort of response to Demosthenes' Phocis passage looks correspondingly plausible.[53] It makes it likely

[51] Heralds not only symbolized *polis* wellbeing but were inviolable: Lewis (1996: 63 with n. 63, 148); Rhodes & Osborne (2003: 170, on no. 35).
[52] *Progymnasmata* 62.21–5, 63.3–13 Patillon. *Iliad* 9.593–4: 'they kill the men, and the fire leaves the city in ashes, / and strangers lead the children away and the deep-girdled women' (trans.: Lattimore).
[53] Webb (2009b: 142, 144); cf. Webb (2009a: 114–15, 152–3); for scepticism see O'Connell (2017a: 131 and n. 40). It is admittedly important to keep Lycurgus 1.40–1 in mind too: see O'Connell (2017a: 136–9).

that in *On the Crown* Demosthenes might want to respond to Aeschines' *enargeia* sequence by giving the judges clearly competing images to concentrate on,[54] and making their decision between these sets of images easier by giving them a more palatable set than Aeschines had. *On the Crown* 41 shows that Aeschines' Thebes passage certainly caught Demosthenes' attention: he calls Aeschines '[the man who] now bewails the anguish of the Thebans and proclaims their misery' (ὁ τὰ Θηβαίων ὀδυρόμενος νῦν πάθη καὶ διεξιὼν ὡς οἰκτρά). In the next clause he mentions Aeschines' responsibility 'for what the Phocians suffered', indicating that he might have spotted Aeschines' attempt at an ironic revision of the emotive passage about Phocis in *On the False Embassy*.

Demosthenes' answering strategy in *On the Crown* therefore entails inviting the judges to fill their imaginations with memories of the making of the alliance with Thebes in 339 – and Demosthenes' role in securing it – in order to erase Aeschines' negative coverage of the latter and his criticism of Demosthenes' alleged responsibility for Athens' failure to support Thebes in 335. Something that helps Demosthenes here is Aeschines' own inconsistent attitude to the Thebans in *Against Ctesiphon*. He half-justifies their destruction in §133 and implies that they were not fit to lead the alliance in §§143–5 – and then laments their fate in §§156–7, as we just saw. Demosthenes targets this in *On the Crown* 41, dismissing Aeschines' professed pity for the Thebans as a sham. Instead, he seeks to communicate a simpler, more positive message, reminding the judges of his own indispensable role in what happened in the aftermath of the news from Elatea (169–79), including a compressed version (174–8) of the speech he made in the Assembly the next morning:

[54] For deliberation via the emotive imagining of two alternative futures, see Buxton (this volume).

> [169] It was evening, and a messenger reached the Presiding Officers with the news that Elatea had been taken. Immediately they got up from dinner, some to clear the stalls in the marketplace and set the scaffolding alight, others to summon the generals and call out the trumpeter. The city was full of turmoil. At break of dawn the next day, the Presiding Officers called the Council to the Council-house while you proceeded to the Assembly, and before the Council could deliberate and endorse a proposal, the entire citizen body was seated up there. [170] After this, the Council entered and the Presiding Officers announced the news they had received, and they produced the messenger to give his report. Then the herald asked, "Who wishes to speak?" but no one came forward. The herald asked many times but to no avail. No one rose, though all the generals were present and all the politicians too, and the {common voice of the}[55] country was calling (καλούσης δὲ τῆς {κοινῆς} πατρίδος {φωνῆς}) for a speaker to save it. For the voice of the herald lawfully discharging his task is rightly considered the common voice of the country (ἦν γὰρ ὁ κῆρυξ κατὰ τοὺς νόμους φωνὴν ἀφίησι, ταύτην κοινὴν τῆς πατρίδος δίκαιον ἐστιν ἡγεῖσθαι). … [173] The one who emerged as the right man on that day was I. I stepped forward and addressed you …

Demosthenes' account of the lead-up to the Assembly meeting contrasts with Aeschines' burning Thebes of 335: Athens is on the brink in 339, but Demosthenes' action will save it from the fate Thebes later experienced: the only parts of Athens that will ever burn are the wooden frames of the agora's market-stalls, set alight to spread the news across Attica. The engagement of the judges' imaginations here remains implicit (with no 'imagine' formula). Instead, as also in Aeschines' sequence, Demosthenes concentrates his imaginative 'pitch' to

[55] Braces added with Dilts (2002: 270).

the judges on multisensory immersion for now, drawing on their familiarity with the material surroundings of the city centre and its official emergency procedures, captured here with a wide range of sights and sounds.

The initial sequential organization of the passage is very important. Where Aeschines had ambitiously brought battlefield, monument, theatre, and lawcourt into the same space and had mobilized the herald as a way of slipping between them, Demosthenes initially seeks to keep the judges' cognitive processing strain-free by adopting a narrative movement which is basically linear and only acquires a second layer – i.e. a layer superimposed on the trial situation, like Aeschines' – once we enter the Assembly. The judges' individual memories, appropriately curated and heightened by the synaesthetic experience of §169, become a way of unifying, validating, and personalizing Demosthenes' sequence and enabling them to visualize it easily. Demosthenes had already reminded them that they 'all know' (ἴστε μὲν ἅπαντες: 168) about these events (and that he will cover only the most significant moments: τἀναγκαιότατα). His invitation to them is to recall their feelings at the time if they were in Athens, or to imagine how they might have felt had they been. The claim that the 'entire citizen body' was assembled on the Pnyx (169) ensures that nobody listening to the speech is left out, as does the spectacle of the news cascading through the city. The narrative is also carefully punctuated by pronouns which embrace all hearers in prompting recollection: 'you (ὑμεῖς) proceeded' (169); 'all of you' (πάντες … ὑμεῖς) (171) (with πάντες repeated); 'I … addressed you' (ὑμᾶς) (173). All this means that by the time we reach the more complex visualization of the all-important Assembly meeting, the audience has the context for the emergency fully established and will not need the kind of language we saw Aeschines use to provide immediate access to the scenarios to be imagined. Demosthenes has given the judges that access already.

The Assembly meeting (from 170) sustains the encouragement to the judges to remember and so to imagine, but specifically contests *Against Ctesiphon* 152–7 by mapping a cognate but distinct material realm of *dēmos* decision-making familiar to the judges onto the space occupied by the present trial. Two elements are crucial to the double exercise of importing the 339 Assembly meeting into the lawcourt space and allowing the judges to imagine it visually. The first is the image of Demosthenes standing on the speaker's platform, exactly as he is now, in court; the second is the imagined presence and role of the herald, whose embedded speech adds an aural dimension to the judges' mental apprehension of the scene. This herald seems highly likely to function as a direct challenge to Aeschines' herald from *Against Ctesiphon* 152–7. Rather than depicting the personified 'Shame' trying to drown out a herald simply performing his duty, Demosthenes identifies his herald with the voice of the fatherland (*patris*) itself – but he seems to signal his divergence from something like Aeschines' 'Shame' personification by referring to the herald and the *patris* separately before spelling the connection out. The fact that nobody initially responds to the herald contrasts strongly with the clash of voices in Aeschines, as does the sense of order Demosthenes sustains throughout the Assembly scene: the citizens are already in their place despite their anxiety, the usual opening business is transacted, and the messenger reports. Then, at the herald's traditional invitation ('Who wishes to speak?') – and after an awkward pause (showing Demosthenes' restraint), in which the herald continues to call – the one speaker with the right set of qualities to address the issue at hand (172) eventually answers, and all present will endorse his advice to seek an alliance with Thebes ('everyone approved, and no one said a word in opposition': 179). Accordingly, the following of orderly and respectful process, and the identification of the herald's voice as 'the common voice of the country' further revises Aeschines' scene between Demosthenes and the herald by communicating that it will be the *patris* – and all those listening – who will in due course confer Demosthenes' crown on him via the herald's proclamation if Ctesiphon is acquitted.

Demosthenes' Assembly sequence therefore imitates Aeschines' enterprising accumulation of mutually-responsive layered scenes, but draws the whole within more cognitively digestible limits by keeping the number of scenarios involved to just two and by anchoring the resulting construct in the judges' personal memories of the time in question, as well as by building up to it gradually and immersively. Another factor gives it decisive persuasive force: the widely-known reality of Demosthenes' tireless efforts on the city's behalf in the run-up to war with Philip.[56] His reminders of his many diplomatic journeys to different states in that cause (18.211–14, 244, 311) confront the exciting layering of multiple imagined venues offered by Aeschines with the solidity of Demosthenes' actual achievements (ones the judges remember: 179, 221), above all the embassy to Thebes. But he leaves coverage of that until later: rather than follow Aeschines' lead and transport the judges off to Thebes at this point as well as asking them to construct a composite picture of four other venues, Demosthenes' Assembly narrative keeps them focused on the familiar material surroundings of the central Athenian cityscape: the lawcourt now and the nearby Pnyx for the Assembly (ἄνω, 'up there', perhaps accompanied by a gesture: 169).

Demosthenes' Assembly scene also gains force from being cleverly generated out of a gap in Aeschines' own coverage of the same events. Aeschines claims that the Thebans appealed to Athens when Philip took Elatea and that the Athenians marched out in full force 'before Demosthenes had drafted a single syllable about alliance' (140). In *On the Crown* 215, this only occurs *after* Demosthenes' own embassy to Thebes. Neither version is likely to be entirely accurate,[57] but the essential point for us is that Aeschines' version still leaves the moment of

[56] For discussion of this aspect, see Westwood (2021).
[57] See Guth (2014).

initial Athenian response to Philip's seizing of Elatea unaccounted for. Demosthenes therefore fills the gap. We cannot be confident that his Assembly meeting scene accurately portrays its real-life counterpart: there may have been Theban envoys at the meeting whose presence Demosthenes is suppressing in order to aggrandize his own achievement and/or to suppress inconvenient memories of the Theban appeal for aid in 335. What matters is that his version intersects persuasively with how most judges would have *wished* to remember their relationship with, and past assistance to, the now-destroyed Thebes, in the period before Macedonian hegemony – under which they still lived in 330 – became a hard reality. What Demosthenes asks the judges to imagine therefore rejects the material circumstances of the present and comforts Demosthenes' listeners with a better past which is reconstructed from their individual memories of 339 (and earlier) and which draws on ideas of Athens' tradition of altruistic aid to the oppressed. By harnessing the upbeat emotions of the period of the 339 alliance through an exercise in persuasive (even nostalgic) imagining, Demosthenes is therefore able to channel memories of his relentless activity in Athens' interests, and so to substantiate his right to the crown and with it Ctesiphon's innocence.

CONCLUSION

Ultimately, no orator could be sure of *controlling* the imagination of an Athenian judge. Even the stirring *epilogos* of *Against Ctesiphon* failed to influence listeners sufficiently; the judges went on to acquit Ctesiphon by a large margin. What I have tried to do in this chapter is to examine the competitive aims which motivated, and the creative enterprise which characterized, the attempts of Athenian lawcourt orators to reshape the material court environment before the judges' eyes in order to convince them of their version of what a just verdict would look like and to confront the parallel constructions of their opponents. Beyond

its capacity to showcase the orator's performance talents, an appeal to the judges' imaginations was worth making because it could bring much-needed unity to disparate content (as its frequent use in speeches' conclusions shows). The stimulating of judges' imaginations also played to their understandings of their deliberative function and democratic role, because it constructed relationships (often with the aid of metaphor) between *collective* aspects and impulses – their duties as judges; their accountability to the bystanders and absent citizens they represented; the familiar public spaces of the democracy; and their civic experience – and their own *individual* cognitive faculties, views, and interests. Like other aspects of democratic discourse,[58] it works to resolve the tension that existed between collective and individual thinking by acknowledging its functional dependence on the latter while constantly assuming the primacy of the former in setting standards judges would apply when voting.

This dynamic is captured in a striking image offered by Demosthenes in *On the Crown*. Asserting his past policy's adherence to ancestral tradition with a bold claim that this criterion ought in fact to weigh with judges in public cases just as much as the laws do in private ones, he then says: 'each of you must realize (νομίζειν) that when you come into court to decide a case of public import (τὰ δημόσια), you bear along with the staff and token of your office the aspirations (φρόνημα) of the city' (210). This comes at the end of an intense imaginative sequence where Demosthenes had sworn a celebrated oath by the Athenians who fought and died in the Persian Wars (208) in order to show that Athens was right to resist Philip. The image therefore serves to anchor this elaborate argument in two simple material objects – the staff and token – which each judge would have with him to contemplate at this moment[59] – and Demosthenes does appeal to *each individual* judge: ἕκαστον ὑμῶν (cf. 20.165-6 and 21.188

[58] See further Lazar (this volume).
[59] [Arist.] *Ath. Pol.* 65.2–3.

above). Orators' appeals to judges' imaginations, if carefully integrated with the overall strategy and complemented by sufficient performance skills, allowed such conventional sights to take on dramatically enhanced meaning and to give judges the fleeting but empowering illusion that the responsibility for the court's decision, and for the future safeguarding of Athenian justice, resided in them – and them alone.

ABBREVIATIONS

Abbreviations of ancient authors and texts, as well as scholarly reference works, follow those of the *Oxford Classical Dictionary*, fourth edition; abbreviations of journal titles follow those of the *L'Année Philologique*.

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