

Save Ancient Studies Alliance

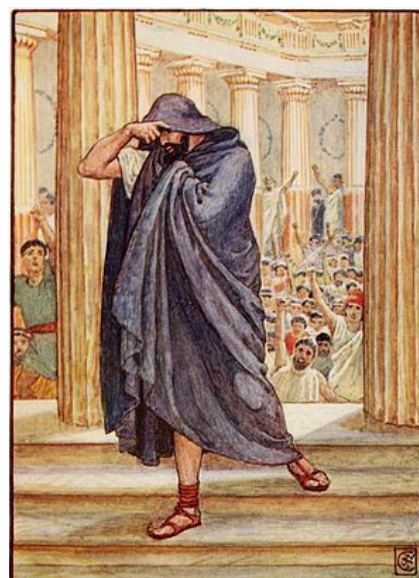
January 2021 Texts-in-Translation Master Class

Gimme My Money! Lawsuits, Foreigners, and Maritime Contracts in Classical Athens



Have you ever wondered what happened when a ship sank in the ancient Mediterranean? Who lost money from all those sunken treasures? Legal speeches from fourth century Athens explain the various ways in which trade was financed and monitored, as well as shows the sophistication of Athenian laws and courts. When ships sunk or business partners committed fraud, the Athenian legal system was the best recourse for injured parties to receive justice. It did not matter if you were Athenian, a citizen from another Greek city-state, a metic, or a foreigner - everyone had access to the *dikai emporikai* or the maritime lawsuits.

This idea of equality before the law is idealistic, just as it is today. Anti-foreigner rhetoric could, and would, be used in order to sway the jury – even if not legally relevant. In this reading group, we will look at the Demosthenic speech *Against Lacritus* in order to understand how contracts were made, enforced, and broken between participants of many different socio-economic groups. Moreover, participants will gain a





better understanding of the speeches which provide so much of our historical information about this period, as well as the court and legal system of Athens in the late Classical period. No previous knowledge of the Athenian legal system is required.

Your SASA Educational Ambassadors:

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Field of Study - Ancient Greek History and Nabataean History

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Date/Time:

January 12, 2021 @ 2pm EST

Location:

Zoom Meeting Link

<https://us02web.zoom.us/j/86858472590?pwd=K1RuZjRBdlkwMVZlMmdDaFpnQi80Zz09>

Zoom Meeting ID

868 5847 2590

Zoom Meeting Password

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Structure:

In this master class, we will start with some of the basics of the Athenian court system and the *dikai emporikai*. We will also discuss Demosthenes as an author and orator, before delving into the details of *Against Lacritus*.

If you are completely unfamiliar with the Athenian legal system, here are a few key facts that you should know. Please know that we will only be dealing with private suits in this master class, the processes of which are different than public issues. Much of the following information is discussed in greater detail in the *Oxford Handbook of Demosthenes*, Chapter 7 “Court Procedures and Arbitration,” but I will briefly summarize below.

1. Arbitration (*diatia* or *epitrope*) between parties was the first step to resolving a dispute, but if that failed (or was refused by one party) then a court case could proceed.
2. Many types of suits were available to litigants - commonly called *dikai* (*dike*, s.). We will be focusing on *dikai emporikai* or maritime suits. Different suits were often tried according to different procedures.
3. Procedure - choosing a suit and magistrate, informing the defendant, leveling the complaint before the magistrate, begin investigation, arbitration, begin trial, verdict, carrying out the penalty.
4. There was another step that could be introduced into this procedure. The defendant could level a *paragraphe* suit against the prosecutor, arguing that he was bringing an illegal prosecution. The *paragraphe* case would be resolved before the initial trial could continue.
5. Penalties were often statutory - fixed and financial in nature - particularly in private cases concerning physical property and ownership. Sometimes contracts delineated the penalty, such as “double damages.” The penalty was then collected by the prosecutor from the defendant, or if the defendant could not pay, he could be imprisoned until he could come up with the money or it was given by a third party on his behalf.
6. The exact degree to which Athenian law courts were open to non-citizens remains unclear. But as Konstas Kapparis stated, “The most likely scenario is that the law allowed access to the Athenian legal system to all free adult males. Free men could bring prosecutions and defend themselves or their family and property. However, social standing and connections may have been important factors for winning one’s case, as they clearly were in the case of citizens going to court, and while a highly educated, splendidly eloquent free-born Greek man such as Lysias had the confidence to appear and speak in person, an illiterate slave-born libertine with broken Greek might not have the courage to present his case in person, and mindful of the outcome he would need to trust his prostates, or a citizen *synêgoros*.”¹

Some of the key issues we will discuss are:

- Procedures for bringing lawsuits before the court
- Differences in procedure for monthly (*emmenoî*) suits and the creation of *dikai emporikai*
- Creation and enforcement of maritime contracts in fourth century Athens
- The role of non-Greeks and metics in the Athenian courts

¹ Konstas Kapparis, “The Social and Legal Position of Metics, Foreigners, and Slaves,” *The Oxford Handbook of Demosthenes* (2018), page 7 of 12.

- The (lack of) preservation of contracts and inherent issues in translating Ancient Greek “legalese.”

Link to Main Reading:

Demosthenes 35, *Against Lacritus*: This speech is all about failure to pay your debts, maritime loans, and contains the only complete written contract we have from the time period.

<http://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.01.0076:speech=35>

Perseus is an open access site that provides free (if dated) translations. When you open the link, you will be able to see section 1 (of 56) of the speech. You can either click through all the sections one at a time (using the blue arrows) or you can change view and see the whole speech at once (by clicking “speech” under “View text chunked by:” on the left hand side).

Useful Books/Links:

- Douglas MacDowell, *Demosthenes, Speeches 27-38*, The Oratory of Classical Greece. Austin: University of Texas Press, 2004. *a really good translation with a few introductory notes*
- Speech by Hypereides (Hyp. 3) which deals with similar topics
- D. D. Phillips, *The Law of Ancient Athens*. University of Michigan Press, 2013.
- Douglas MacDowell, *The Law in Classical Athens*. Cornell University Press, 1978.
- David Whitehead, *The Ideology of the Athenian Metic*. Cambridge Philological Society, 1977.
- E. E. Cohen. *Ancient Athenian Maritime Courts*. Princeton University Press, 1973.



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