

## 10 “Artful dodging”, or the sidestepping of oaths

### 10.1 The difficulty of proving an oath false: the case of Euripides’ *Cyclops*

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Although there are unequivocal examples of perjury in the corpus of archaic and classical Greek texts (on which see especially ch. 12), it seems that, on the whole, the ancient Greeks were careful about avoiding perjury and sometimes used ambiguous phrasing to do so. Some of the more extreme examples of purposely duplicitous phrasing will be discussed by Andrew Bayliss in the remainder of this chapter.<sup>1</sup> By way of introduction to this phenomenon, I will discuss here the example of Silenus’ formal oath to the Cyclops in Euripides’ *Cyclops* (example #4 in the table in §10.2 below). It seems at first glance to constitute a straightforward perjury, and Judith Fletcher has discussed it in this light,<sup>2</sup> but it is possible to argue that the language of Silenus is carefully ambiguous, and the example highlights the potential difficulty of proving an oath false.

Silenus makes a statement on oath in which he denies selling the property of the Cyclops to Odysseus and his men (*Cycl.* 262–9). This seems to contradict directly the oath of Odysseus sworn immediately beforehand in which he stated that Silenus was selling the sheep in exchange for wine (253–61). Moreover, the audience has seen that Odysseus and Silenus were indeed engaged in the transaction described by Odysseus when the Cyclops returned to his cave, and the chorus of satyrs promptly throw in their own oath stating that they saw Silenus selling the Cyclops’ property to the strangers (270–2). On the face of it, it seems that Silenus is lying on oath. If the oath is indeed a perjury, however, it is curious that it is formal and elaborate, far more so than any other oath in the play. Silenus invokes as sanctifying witnesses Poseidon (as the Cyclops’ father), great Triton and Nereus, Calypso and the Nereids, the sacred waves and the whole race of fish (262–5), and expresses a formal curse for perjury, that his children (the satyrs) whom he loves very much should perish wretchedly (268–9). The length of the oath and its formal details should make us wonder whether Silenus really is committing perjury. It is possible that the curse on the satyrs is supposed to be a joke, and that Silenus really does not care about them. This would seem to be confirmed by the satyrs’ contradiction of their father’s oath, expressed with a curse

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<sup>1</sup> On the subject of duplicitous or ambiguous oaths, see also Torrance 2012, 301–12.

<sup>2</sup> Fletcher 2005, and 2012, 146–57.

against *him* (270–2). Seaford compares Soph. *Ichn.* 157, where Silenus calls the satyrs “the basest of beasts” and stresses Silenus’ cowardice in this scene, suggesting that “[t]o invoke destruction on oneself is more convincing than invoking it on others”.<sup>3</sup> However, if the “others” in question are one’s own children, then the oath-curse conforms to the expected punishment for perjury *for mortals*, which was the extinction of one’s family line. Seaford is right to stress that normally a swearer would put a conditional curse on themselves as well as on their children, but we can compare the fate of Jason in Euripides’ *Medea*. He breaks his oath and although he survives, he is punished by the death of his children and the death of his new bride by whom he had hoped to have more children (see pp. 133–4 for further discussion). Silenus’ expressed curse conforms to expected terms for human oaths,<sup>4</sup> but since he and the satyrs are immortal there is no possibility that either he or they will perish miserably, and they do not. The joke, then, seems to focus on Silenus’ cleverness in using an oath-curse which does not apply to his species.<sup>5</sup>

Even if the oath-curse is not valid, there remains the long list of deities invoked as sanctifying witnesses. As is discussed in §6.1, the number and identity of divinities called to witness an oath can add solemnity to that oath, and it is striking that, although Silenus swears six out of the nine oaths in the play, this is his only formal oath, and the only oath in which multiple deities are called upon as witnesses.<sup>6</sup> It would be remarkable for Silenus to perjure himself with his most elaborate oath. The sea-divinities Silenus invokes are chosen, in the first instance, for their connection to the Cyclops who is the son of Poseidon.<sup>7</sup> The deities are also appropriate given that the play is set on the coast of Sicily. If Silenus is committing perjury, then it would be expected that he will be hounded by the forces who have witnessed his oath, but there is no indication that this happens. The end of the play is vague concerning the fate of Silenus, but one can reasonably assume that he will join the satyrs in returning to the service of Dionysus (*Cycl.* 709). Judith Fletcher has argued that the implied rape of Silenus by

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<sup>3</sup> Seaford 1984, *ad* 268.

<sup>4</sup> See also S&B 86 with n. 90 on the validity of swearing oaths on the heads of one’s children.

<sup>5</sup> A comparable joke occurs in Aristophanes’ *Frogs* (586–8) when the god Dionysus swears an oath in which he specifies his own death and that of his wife (who is either immortal herself, or long dead) as a conditional curse.

<sup>6</sup> Silenus swears informal oaths at *Cycl.* 8–9, 154, 554–5, 558–9, 560. Odysseus, the chorus of satyrs and the Cyclops swear one oath respectively at 253–61, 270–72, 585–6.

<sup>7</sup> We will later discover that Polyphemus has no care for his father or for any of the other gods (*Cycl.* 316–35), but their power is never in question.

the Cyclops is his punishment for perjury,<sup>8</sup> but the rape is never confirmed, and even if it is to be imagined as having occurred, this would be an unparalleled and unprecedented punishment for perjury. The normal punishment for immortals who committed perjury was exclusion from their community for a period of many years as we saw above (§7.3.1). With no comparative data, it is difficult to conclude that a Greek audience would have made any connection at all between a potential rape and swearing a false oath. Fletcher’s arguments highlight the complex nature of this case. Silenus certainly appears to be committing perjury without incurring any punishment, unless we posit, as Fletcher does, that he is punished in Polyphemus’ cave. However, since oath-language can be cleverly manipulated to avoid perjury, as the remainder of this chapter shows, it is worth considering exactly what language Silenus uses in making his sworn statement.

Silenus claims that he was not selling the property of the Cyclops to the strangers (*Cycl.* 267–8 μή τὰ σ’ ἐξοδᾶν ἐγὼ | ξένοισι χρήματ’), but the infinitive used in the indirect-statement construction can be read as equivalent either to an imperfect indicative (“I *was* not selling your property to the strangers”) or to a present indicative (“I *am* not selling your property to the strangers”). The former would be perjury, but the latter is perfectly true. Silenus is not at that point selling anything. If he swears on oath that he *is* not in the process of selling the property, he is not contradicting the oath of Odysseus, who swears by means of a self-curse, using imperfect tenses, that Silenus *was* in the process of selling sheep in exchange for wine (253–61). Similarly the subsequent oath of the satyrs in which they state that they *saw* Silenus in the process of the selling the goods (270–2) does not make Silenus’ oath untrue.<sup>9</sup> All three oaths in this exchange can be read as technically true. The ambiguity of Silenus’ oath-statement, coupled with the formality of the oath with its additional sanctifying features (numerous deities invoked, and a curse specified), and the lack of any clear perjury-related punishment, suggest that Silenus’ oath is true.

Of the remaining oaths sworn by Silenus in *Cyclops*, several are basic factual statements related to the wine. Silenus swears that he has not seen the wine which Odysseus has brought but can smell it (*Cycl.* 154), that he will not weep about loving the wine which does not love him back (554–5), that he will not hand over the wine until he sees the Cyclops taking the garland and has a little taste himself (558–9), and that the wine-pourer (i.e. Silenus himself) is not unfair

<sup>8</sup> Fletcher 2005 and 2012, 146–57.

<sup>9</sup> The satyrs make the statement with a conditional curse on their father, a comic response to the conditional curse that he had placed on their heads. In spite of the unusual curse-formula of the satyrs, the passage is clearly meant to be a counter-oath to that of Silenus.

(560). Silenus' first and last oaths, however, are less straightforward. In the prologue he lists several uncharacteristically brave actions, which he claims to have accomplished for Dionysus during the Gigantomachy (1–8). He then breaks off and wonders whether he had dreamt it all, before confirming with an oath that it was not a dream since he had displayed the spoils of his victories to Dionysus (8–9). The sequence is rather striking. As Seaford observes, it is highly unlikely that Silenus actually performed any of the feats of combat which he claims to his credit.<sup>10</sup> The fact that he questions the validity of his own narrative seems to function as a cue for the audience to question it also.<sup>11</sup> The affirmatory oath is then unexpected, as are the reported “proofs” displayed before Dionysus. The function of the oath here is to stress that Silenus *believes* he has accomplished the brave deeds he has listed. Similarly, in the last oath of the play sworn by the Cyclops where he states that Silenus is Ganymede (585–6), it is clear that this is what the Cyclops *believes* in his drunken stupor. In these cases the swearers' belief overrides the factual accuracy of their statements and the oath cannot be regarded as a perjury, since intention is an important element in the Greek understanding of perjury, as will be discussed further in ch. 12.

## 10.2 The concept of sidestepping

A.J. Bayliss

The Greeks had a tricky reputation when it came to oaths. According to Herodotus (1.153) the Persian king Cyrus the Great dismissed the Greeks as a people “who have a place set apart in the middle of their city, where once assembled they deceive each other swearing oaths”.<sup>12</sup> The thrust of Cyrus' jibe is clearly that the Greeks condoned casual perjury,<sup>13</sup> and the evidence we possess on first reflection suggests that Cyrus was not misinformed about the Greeks. For out of the

<sup>10</sup> Seaford 1984, *ad* 1, 5–9, 7, 8, cf. Ussher 1978, *ad* 5–8, Biehl 1986, *ad* 7f.

<sup>11</sup> Silenus draws the audience's attention to the fictional potential of poetic narrative. On meta-poetic games in Euripides' *Cyclops*, see Torrance 2013, 245–64.

<sup>12</sup> It has been well noted that it is particularly ironic that Cyrus chooses to make this jibe to the Spartans, the least mercantile of the Greeks (S&B 165–6; Lateiner 2012; Cartledge 2006, 25). But perhaps the fact that the Spartans appear to have been the most ready to deceive their fellow Greeks with oaths (see Bayliss 2009) makes them the right target after all? It is also worth bearing in mind that Plato (*Laws* 917c) considered perjury in the marketplace such a potential hazard that the market-sellers in Magnesia were to be forbidden from swearing oaths in order to promote their wares to customers (see p. 389).

<sup>13</sup> Lateiner 2012, 159.

2096 entries for formal oaths recorded in the Nottingham database no less than 268 (12.5%) represent either an accusation of a false or broken oath or discussion of the concept of a broken oath. But taken together these passages need not mean that the Greeks were happy perjurers. Rather, the relatively frequent accusations of oath-breaking should be interpreted as a signal that the Greeks were very much not content with casual perjury.<sup>14</sup> Clearly some Greeks were prepared to break their sworn word or to lie under oath, but concrete examples of this are comparatively rare. Presumably some Greeks were more willing to consider perjury in a crisis, for Democritus (fr. 239) laments that base people swear oaths in a tight spot and do not bother to keep them when they get out of that tight spot.

But swearing a false oath was considered dangerous, as the oft-discussed case of Glaucus the Spartan makes clear<sup>15</sup>. According to Herodotus (6.86) the Spartan king Leotychidas claimed that Glaucus was punished by the gods for even *thinking* about swearing a false oath. When Glaucus asked the oracle at Delphi whether it would be acceptable to lie under oath in order to cheat some Milesian strangers out of their share of a sum of money that had been left with him on trust he received the following reply:

For now, Glaucus son of Epicydes, you have an immediate profit; to win by oath and steal the money; swear, since death awaits even the man who swears well. But Horkos has a child with no name, nor hands, nor feet, but swift in pursuit, until he has in his grasp all a man's offspring and household, which he destroys. But the offspring of the man who swears well shall afterwards be better.

Although this passage has generated some scholarly confusion,<sup>16</sup> the procedure involved here is obviously that of the oath-challenge (S&B §5.11), and Glaucus was clearly asking Apollo whether it would be acceptable to swear a false oath denying that he received the money on trust. Our sources make it clear that fraudulent claims could be made by both the depositor and the trustee,<sup>17</sup> and

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<sup>14</sup> The relatively frequent accusations of perjury should be seen as a reflection of the fact that the very nature of a sworn agreement inevitably implies that a false oath might be sworn, or that the oath might be broken, rather than the fact that oaths were actually frequently broken. As Hollmann (2005, 286, citing Burkert 1996, 170) notes, “the institution of the oath is inevitably accompanied by that of the false oath”.

<sup>15</sup> See p. 281 and S&B 168.

<sup>16</sup> Scott (2005, 318–319) argues that there are three possibilities: an oath of denial, an oath of complaint to the ephors, and an oath of denial before the ephors. But the first seems the most obvious, and by far the least complicated. Mirhady (1991, 78) rightly treats this story as an oath-challenge.

<sup>17</sup> Aelian (VH 3.46) cites a law from Stagira which reads: “do not claim what you did not put

it appears that claims and counter-claims could only be verified under oath. In theory the disputing parties could maintain the dispute right up until the point at which oaths were required without any penalty. The Greeks were not alone in allowing this possibility – in Near Eastern texts backing out at the last moment is known as “stepping back” from the oath.<sup>18</sup>

But Glaucus was not even allowed that option. When Glaucus entreated the god to pardon him for contemplating a false oath he was given the terrifying response “that to tempt the god and to do the deed had the same effect”. Although modern scholars tend to focus on the unsuitability of Leotychidas as a commentator on the rights and wrongs of human behaviour,<sup>19</sup> his message is blunt and clear: even though Glaucus summoned the Milesian strangers and gave them back their money, “there are today at Sparta no descendants of Glaucus, nor any household that bears his name; he has been utterly rooted out of Sparta”. Leotychidas’ lack of personal morality need not diminish the potency of his message. Indeed, it may even enhance his message with Herodotus wanting his audience to see that even someone as dubious as Leotychidas can see that the gods punish perjury.<sup>20</sup>

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on deposit”.

**18** Sandowicz (2011, 36) discusses the options available to those involved in Babylonian oath-challenges, and identifies “stepping back” and “retreating” as options open to those who have claimed moneys left in trust, but then thought better of perjury. She notes that as far as the Babylonians were concerned, “losing a case was preferable to ‘light-heartedly swearing a solemn oath by one’s god’ [*niš ilišu kabti qalliš zakāru*]”.

**19** Several modern attempts to explain this story (e.g. Immerwahr 1966, 214; T. Harrison 2000, 118; Scott 2005, 319) have been undermined by the knowledge that Leotychidas is by no means the best mouthpiece for a morality tale. We know that Leotychidas owes his throne to Cleomenes’ bribing the Delphic priestess and his own denunciation (under oath no less!) of Demaratus in court (Hdt. 6.65–6), and that he will be deposed after being caught accepting bribes (6.72), and modern scholars have been too eager to focus on this aspect to the story. Johnson sees Leotychidas’ speech as much better suited than meets the modern eye. Attempting to view the speech as Herodotus’ contemporaries would have done, Johnson argues that Leotychidas’ speech is not designed to convince the Athenians that they should hand over the men, but rather to demonstrate that his goodwill had been lost, just as Glaucus had lost Apollo’s favour. As Johnson (2001, 22–3) puts it, “Herodotus...does not clumsily attribute an ineffective moralizing speech to the immoral Leotychidas” but rather he gives Leotychidas a blunt message that the Athenians and Aeginetans of his own day would understand – the threat of Spartan displeasure and punishment. This works even better if one interprets Leotychidas as issuing an oath-challenge to the Athenians – a challenge they do not accept. Effectively the Athenians have placed themselves in the position of Glaucus and are asking for retribution.

**20** Lateiner (2012, 168 n41) speculates that the Glaucus story was “perhaps an ancient and use-

But keeping an oath could lead to disaster too. When Euripides’ Hippolytus swore an oath not to reveal to anyone what Phaedra’s nurse was about to tell him he could not have foreseen the trouble his oath would cause him. When the awful consequences of his oath became apparent Hippolytus lamented: ‘my tongue swore, but my heart is unsworn’ (Eur. *Hipp.* 612). This line, which illustrates perfectly the plight of someone who has regretted swearing an oath when circumstances have changed, became notorious because it seems on first reading to advocate the breaking of an oath.<sup>21</sup> Aristophanes parodied Euripides’ line and the poet himself on more than one occasion (*Thesm.* 275–6; *Frogs* 1471),<sup>22</sup> while Hygiaenon went so far as to accuse Euripides of impiety because of the line (Arist. *Rhet.* 1416a31–2). In a slightly different vein the twentieth-century philosopher J.L. Austin interpreted the line as the ultimate get-out clause for an oath, arguing that Euripides “provides Hippolytus with a let-out, the bigamist with an excuse for his ‘I do’, and the welsher with a defence for his ‘I bet’.”<sup>23</sup> But the reality is that despite its notoriety Hippolytus’ line is not obviously advocating perjury,<sup>24</sup> and it is not a successful escape clause.<sup>25</sup> Although it could be argued that Hippolytus was punished, like Glaucus, for even contemplating perjury,<sup>26</sup> we must bear in mind

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ful example of Delphic boilerplate for intending cheats”, and suggests that the phrasing parallels the Hesiodic picture of Horkos.

**21** S.R. West (2003, 444) argues that the line “became notorious”, and emphasises that Hippolytus’ statement “makes a deeper impression on Phaedra...than Hippolytos’ subsequent assurance that he regards his oath as binding”. For a fuller discussion of this utterance of Hippolytus and reactions to it, see §11.3.

**22** In *Thesm.* 275–6 Euripides’ in-law feels the need to remind the tragedian that it was his heart that had sworn an oath to save him rather than merely his tongue (Euripides will go on to keep his oath, contrary to expectations), while the decidedly un-godlike Dionysus in *Frogs* (1471) uses Hippolytus’ line to counter Euripides’ claim that he has sworn by the gods to bring him back from the underworld.

**23** Austin 1965, 10.

**24** Mikalson (1991, 86) argues that “It is ironic and most unfair that this line, spoken by a character proven, in all tragedy, most loyal to oaths in the most trying and tragic circumstances, should have laid Euripides open to ancient and modern charges of impiety, promoting perjury, and hostility to traditional religion”. When Plato (*Tht.* 154d) casts Socrates gently mocking the eponymous character for an ambiguous answer which is “in the Euripidean spirit; for our tongue will be convinced but not our heart” he seems much closer to the mark than Aristophanes or Hygiaenon. Cicero (*de Officiis* 3.108) did not interpret Euripides as advocating perjury, and in fact cited Euripides’ line as evidence that oaths must be kept.

**25** It is such an unsuccessful escape that Phaedra leaves the letter accusing him of rape because she is sure he will denounce her, despite his specific statement (656ff) that he will respect his oath and keep silent, and 612 explains why she disbelieves him.

**26** Fletcher 2012, 191.

that Hippolytus ultimately keeps his oath despite the fact that doing so destroys any chance he has of defending himself, ruins his reputation and his relationship with his father, and ultimately costs him his life, and that the goddess Artemis explicitly praises him for doing so (*Hipp.* 1305–10).<sup>27</sup>

The stories of Glaucus and Hippolytus suggest that there were three options available to a man in trouble: (1) keeping the oath and suffering; (2) breaking the oath and suffering; or (3) swearing a false oath and suffering. But other Greeks found a fourth option: they dodged or *sidestepped* their sworn obligations<sup>28</sup> while ensuring that they did not perjure themselves. This could involve interpreting the oath in an unexpected manner, or intentionally phrasing a false oath in such a way that it was no longer technically false, or a combination of both.<sup>29</sup> Thus, Hippolytus might have been able to find a way out of his oath “not to reveal” what the nurse told him in a similar manner to the way in which the young Demetrius Poliorcetes is said to have dodged an oath of silence imposed on him by his father. According to Plutarch (*Dem.* 4) Antigonos the One-Eyed bound Demetrius by an oath of silence and then informed him of his plan to murder Mithridates who was one of his *hetairoi*. Demetrius was appalled, but “though he

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**27** Mikalson (1991, 86) argues that Hippolytus’ line should be seen as a “momentary lapse, an immediate angry outburst by a character who almost immediately...reassumes and then maintains a proper, even exemplary, attitude towards his oaths”. Benardete (2000, 94) stresses that Artemis praises Hippolytus for keeping his oath, and argues that the chorus need no such praise for keeping their oaths because unlike Hippolytus who considers breaking his oath “it never occurs to them to break it”.

**28** There is a minor problem of nomenclature here. Wheeler (1984, 253–74) includes Themison’s successful dodging of his sworn obligation in a catalogue of 45 examples of what he designates “sophistic interpretations” of oaths. This tag is based on Eustathius’ use of the term ὄρκος σοφιστικός. But it is a serious stretch to argue that this practice is “what the Greeks called a ὄρκος σοφιστικός” based on the writings of a twelfth-century AD theologian. There is in fact no *ancient* source which uses the term, and the oath for which Eustathius coined the term (Odysseus’ entirely true oath to Penelope in his guise as the old beggar at *Odyssey* 19.303) is not discussed in this chapter because it does not really qualify as a dodging of an oath in the first place! Others have preferred to call the practice an attempt to “weasel” out of an oath (Lateiner 2012, 163; Bolmarcich 2007, 38). The Nottingham oath team chose the slightly less negative term “artful dodging” for the online database and for S&B, and this term has achieved a certain currency in modern scholarship (Fletcher 2012, 31). But for this chapter I have chosen to employ also the term “sidestepping”, partly because I have come to consider this terminology more appropriate, and partly because of the phenomenon of “stepping back” from oaths in Near Eastern texts.

**29** Wheeler (1984, 254) describes such practice as “neither perjury, i.e. swearing something false, nor breaking an oath, but rather an overly literal interpretation of the wording of the oath or agreement, of playing on some ambiguity of meaning to produce an interpretation contrary to that intended”.



did not venture to open his lips on the matter or to warn him orally, because of his oath”, he managed to sidestep his oath by drawing Mithridates aside while they were hunting and writing “fly, Mithridates” in the dirt with his spear. Demetrius was able to save his friend who would have been murdered unjustly and keep his oath to his father because he did not break his silence. Plutarch stresses that he has chosen this anecdote to provide an illustration of “the strong natural bent of Demetrius towards kindness and justice”, which strongly suggests that Plutarch approved of Demetrius’ sidestepping of his sworn obligations.

This technique would not have helped Glaucus, but he could have dodged out of paying his debt by swearing an oath that was true but misleading rather than trying to swear one that was obviously false. Hermes did just that when he offered to swear by Zeus’ head “that he himself is not responsible [for the theft of Apollo’s cattle], and that he hasn’t seen anyone else stealing the cattle” (lines 274–6), but later swore merely that “he did not drive the cows home nor cross the threshold” (lines 379–80), and that “he will never pay compensation for ruthless theft” (lines 383–5). As Torrance notes above (§7.3.3), although both oaths are true, neither actually proves that Hermes is not a thief. While Zeus and Apollo are not fooled by Hermes’ trick, neither compels him to clarify whether or not he really did steal the cattle, so the ruse does get Hermes off the hook so to speak. Furthermore, the fact that Zeus laughed at his young son’s cunning (lines 389–90) implies strongly that he did not regard Hermes’ attempt to use oaths to deceive as morally unacceptable.<sup>30</sup>

That Hermes’ trick could be morally acceptable is significant. For chronologically Hermes’ oath is merely the first of many oaths in Greek literature which can be said to have been dodged or sidestepped. **Table 3** provides the details of 35 such sidestepped oaths from what I have termed the “mythical past” to the end of the classical period.<sup>31</sup>

The aim of this chapter is to explore the variety of techniques that Greeks employed to sidestep their sworn obligations. Although the vast majority of passages are from works which can be placed in the genre of historical writing in its broadest sense (e.g. Herodotus and Thucydides, as well as Plutarch, Polyaeus and Pausanias), the majority come from what Wheeler has called “the genre of

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**30** Wheeler (1984, 260) suggests that the Zeus who laughs indulgently at his infant son’s deception is Zeus Epiklopeios (wily, trickster, thief).

**31** This table is based partly on that of Wheeler (1984), but includes several instances that Wheeler missed, and excludes numerous non-Greek and post-classical instances that Wheeler included. It also excludes several instances which did not strictly involve oaths, but instead vows. Although the focus of this chapter is the archaic and classical periods, later sources are included where they discuss events from these periods.

**Table 3** Sidestepped oaths from the Mythical Past to the Fourth Century BC

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
1 <i>Homeric Hymn to Hermes</i> 379	Mythical times	Hermes	Devised	When accused of stealing Apollo's cattle Hermes swears that he "did not drive Apollo's cattle home" when the reality is that he did steal them but hid them in a cave	No – Zeus laughs at Hermes' clever deception	Arguably, given that Hermes is the god of deception
2 Sophocles, <i>Trachiniae</i> 398–9	Mythical times	Lichas	Devised	After swearing to tell Deianeira the truth Lichas states that he "has no means to say" rather than "does not know" the identity of the principal female captive	Yes – after swearing by Zeus Lichas was killed by Zeus' son at Zeus' altar	No
3 Homer, <i>Iliad</i> 15, 36–46	Mythical times	Hera	Devised	Hera swears that it is not by her will that Poseidon is harming the Trojans because she did not explicitly order him to attack the Trojans	No, although Zeus does not seem to believe her	No – Hera shows great fear that Zeus will realise she is lying
4 Euripides, <i>Cyclops</i> 262–9	Mythical times	Silenus	Devised	When accused of having sold the Cyclops' property Silenus swears that he is not currently selling the Cyclops' property	Yes – the Chorus accuse Silenus of lying	No, he did sell the Cyclops' property
5 Ephorus fr. 119	Distant past	Thracians	Devised	The Thracians agree to a truce with the Boeotians for a specified number of days and then attack during the night	Yes – this led to the saying 'the Thracian pretence'	No
6 Plut. <i>Lycurgus</i> 2	Eighth century BC?	Soös, king of Sparta	Devised	Soös agreed to return land captured from the Cleitorians if he and all his men "would drink" but did not drink himself thus rendering the oath null	No – Plutarch remarks that Soös was held "in great admiration"	Yes – Soös kept territory they captured legitimately

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
7 Polyaeus 5.5.1	730 BC	Theocles the Chalcidian (of Leontini)	Neither	Bound by an oath “not to disturb” the Sicels Theocles admits Mega- rian invaders into the city who drive the Sicels out on his behalf	No	No – Theocles and the Megarians were later driven out
8 Herodotus 4.154	ca. 700 BC	Themison	Imposed	Themison is bound by an oath to throw his friend’s daughter into the sea, but ties a rope around her so he can draw her out afterwards	No	Yes – Themison was avoiding murder
9 Ergias of Rhodes <i>FGrHist</i> 531 F1	Seventh century BC?	Phalanthus, leader of the Phoenicians	Devised	Phalanthus agrees that he and his people will leave Rhodes with what they carry “in the belly”, and then stuffs sacrificial victims with gold and silver	Yes – Iphiclus tried to stop Phalanthus when he learned of the trick	No – Iphiclus has bested the Phoenicians as foretold by an oracle
10 Ergias of Rhodes <i>FGrHist</i> 531 F1	Seventh century BC?	Iphiclus	Neither	Bound by an oath to provide the Phoenicians with boats (and in order to counter Phalanthus’ trick), Iphiclus provides boats without oars or rudders	No – Iphiclus’ attack on the Phoenicians is in fulfilment of an oracle	Arguably – Iphiclus is countering a trick
11 D.H. <i>Ant. Rom.</i> 19.1.3; Strabo 6.1.15	Seventh century BC?	Leucippus	Devised	Leucippus agrees to stay for “day and night” rather than “a day and a night” and thus argues he can stay forever	No	Yes – Leucippus is fulfilling an oracle
12 Polybius 12.6.3–5; Polyaeus 6.22	Seventh century BC?	Locrians	Devised	The Locrians agree to be friends with the Sicels while they have heads on their shoulders and tread on this earth, but have secretly hidden heads of garlic on their shoulders and dirt in the shoes	Yes – this ruse led to the saying ‘Locrian faith’	No

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
13 Plut. <i>Moralia</i> 244f–245b; Polyaeus 8.66	Seventh century BC?	Chians	Imposed	Bound by an oath to the victorious Erythraeans to leave with one cloak and one tunic, the Chians are encouraged by their wives to argue that their shields are tunics and their spears are cloaks	No – their opponents are stunned by their boldness and let them depart	Arguably given the lack of criticism
14 Herodotus 6.62	545–530 BC	Ariston, king of Spartan	Devised	Ariston offers his friend Agetus whatever item “of his” he might want and requires the same of Agetus. Once Agetus is bound by an oath Ariston demands Ariston’s wife	Arguably starts a chain of events which end in the deposition of his son Demaratus	No (unless Agetus was asking for trouble by asking for oaths)
15 Aelian, <i>VH</i> 12.8	ca. 530–520 BC	Cleomenes, king of Sparta	Devised	Cleomenes beheads his friend and carries his preserved head in a jar in order to fulfil an oath “to consult his head” when making decisions	No	No
16 Herodotus 4.201	ca. 512 BC	Amasis, Persian general	Devised	Amasis dodged a sworn truce with the Barcaeans that would hold while “the earth on which they stood held firm” by means of a secret platform over a trench which was concealed with soil	No	Yes – the Barcaeans were justly punished for murdering their king
17 Athenaeus 8.338c	ca. 500 BC	Lasus of Hermione	Devised	Lasus stole a fish, gave it to someone else, and then swore that he did not have the fish and did not know anyone else who had stolen it	No	Yes – it was only a sophisticated game “for fun”
18 Athenaeus 8.338c	ca. 500 BC	Bystander	Devised (by Lasus)	Under instructions from Lasus the bystander swears that he did not steal the fish and does not know anyone else who possesses it	No	Yes – it was only a sophisticated exercise

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
19 Plut. <i>Moralia</i> 223b	ca. 494 BC	Cleomenes, king of Sparta	Devised	Cleomenes agrees a truce with the Argives for seven days and attacks on the third night on the grounds that nights were not included in the sworn agreement	Yes – the Argives accused him of violating an oath	No – Plutarch attributes his grisly death to his sacrilege
20 Polyaeus 6.53	437/6 BC	Hagnon of Athens	Devised	Hagnon makes a sworn truce for “three days” but takes advantage of the truce to build fortifications each night	Yes – the Thracians accuse him of breaking the sworn truce	Yes – Hagnon’s foundation of Amphipolis fulfils an oracle
21 Thuc. 2.5.6	431 BC	Plataeans	Devised	The Plataeans swore that they would restore Theban captives if the Thebans withdrew from their territory, but they slew the captives and returned their corpses	Yes (they even felt the need to deny they had sworn an oath)	No
22 Thuc. 3.52–3	431 BC	Spartans	Devised	The Spartans lured the Plataeans into surrendering to them by stipulating that only the guilty would be punished and not contrary to justice; at the trial justice was defined as service to Sparta	Yes – the Plataeans complain bitterly that the decision is unfair	No – Thucydides judges that the Spartans acted as they did only to please Thebes
23 Thuc. 3.34; Polyaeus 3.2	428/7 BC	Paches	Devised	Paches swore to return the garrison commander Hippas safely, but after doing so gave orders for him to be shot down	No	No

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
24 Frontinus, <i>Stratagems</i> 4.7.17	428/7 BC	Paches	Devised	Paches swore to allow the enemy to depart safely if they surrendered their “irons”, but slew them all on the grounds that they were still wearing their iron fibulae	No	No
25 Aelian, <i>VH</i> 10.2; Clement of Alexandria, <i>Strom.</i> 3.6.50–1	409/8 BC	Eubotas of Cyrene	Imposed by himself	When bound by an oath to leave with Lais the courtesan, Eubotas (Aristoteles according to Clement) left with an image of Lais rather than the actual girl	No – Aelian adds that Eubotas’ wife set up a statue of him for his self-restraint	Arguably – Eubotas is avoiding wronging his wife
26 Polyaeus 2.6, frag. 39	399 BC	Dercylidas the Spartan	Devised	Dercylidas swore to return the tyrant Meidias safely, but when he did so he bullied him into opening the city gates on the grounds that he had sworn to return Meidias safely, not to stop attacking the city.	No	Arguably, given that the victim was a tyrant
27 Polyaeus 2.19	390s BC	Thibron the Spartan	Devised	Thibron swore to return the garrison commander safely, and then led him back into the city and gave orders for him to be killed	No	No
28 Polyaeus 4.2.5	350s BC?	Philip of Macedon	Devised	After agreeing to a sworn truce with the Illyrians for collecting the dead Philip drew up his army and attacked as soon as the dead had been recovered.	No	No

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
29	Polyaenus 5.12.2; Plut. <i>Timoleon</i> 34	Timoleon	Devised	Timoleon swore not to prosecute Mameucus the tyrant of Catana himself, but then handed him over to the Syracusans for them to prosecute him instead	No	Yes – Mameucus is said to have deceived others by broken oaths
30	Paus. 6.18.2–4; Valerius Maximus 7.3. ext. 4	Anaximenes	Imposed by Alexander on himself	After Alexander the Great swore that he would do the opposite of what Anaximenes asked, Anaximenes asked Alexander to kill all the inhabitants of Lampsacus in order to save them	No	Yes – he is praised for saving a famous town from ruin
31	Plut. <i>Alex.</i> 59; Arrian, <i>Anab.</i> 4.27.3; Polyaenus 4.3.20; Diod. 17.84.1–5	Alexander the Great	Devised	After allowing a host of Indians he was besieging to leave under the protection of a sworn truce Alexander drew up his army and attacked them	Yes – the Indians complained that Alexander had transgressed his oath	No – Plutarch goes so far as to describe this as Alexander’s one unkingly act
32	Stobaeus, <i>Anth.</i> 3.8.21	Cydias	Devised	Cydias attempted to deny he had received a deposit from Archetimus, and when it was agreed that he would purge himself by an oath he gave Archetimus a hollow cane filled with the money and swore he was returning the deposit.	Yes – Cydias’ premature death is ascribed to his false oath being exposed to witnesses	No – Stobaeus emphasises Cydias’ guilt.

Reference	Date	Perpetrator	Devised/ Imposed	Nature of Dodge	Criticised/ Punished?	Morally Justifiable?
33 Aesop, <i>Fables</i> (Perry 66; Chambray 246)	Classical period?	Thief	Devised	When a boy stole a piece of meat from a butcher and hid it in another boy's garment, the boy who had taken the meat swore that he didn't have it, and the one who had the meat swore that he didn't take it.	Yes – the butcher observes that they will never deceive the god by whom they have sworn falsely	No – Aesop notes that even if one deceives his fellows by swearing falsely, there is no way the gods will be deceived
34 Plut. <i>Eumenes</i> 12; Nepos, <i>Eumenes</i> 5; Diod. 18.53.5	319 BC	Eumenes of Cardia	Devised (although after an oath was imposed)	When required to swear an oath of loyalty to Antigonus, Eumenes changed the wording to an oath of loyalty to the joint-kings Philip Arrhidaeus and Alexander IV as well as Antigonus	No – Eumenes' version of the oath was deemed more just by Antigonus' own men	Yes – Antigonus was not the king to whom an oath of loyalty was required.
35 Plut. <i>Demetrius</i> 4	Late fourth century BC	Demetrius Poliorcetes	Imposed	When bound by an oath of silence, Demetrius warned his friend Mithridates that Antigonus planned to kill him by writing "fly, Mithridates" in the sand with his spear	No – Plutarch praises Demetrius for his kindness and justice	Yes – Demetrius was preventing an unjust killing



anecdotes”,<sup>32</sup> which means that it will be frequently impossible for us to separate historical reality from literary motif. Nonetheless we should still be able to explore the extent to which the Greeks deemed it acceptable to stretch the meaning of an oath to one’s advantage, or as Fletcher puts it, just how far the Greeks were willing to go “to outsmart the oath”.<sup>33</sup>

### 10.3 “The art of Autolycus”: extremely careful wording to conceal the truth

A.J. Bayliss

Hermes was not the only individual to construct an oath to hide the fact that he was a thief. Others excelled at what Redfield has categorized as “the art of Autolycus” in the light of Homer’s claim (*Od.* 19.396) that Autolycus “excelled all men in thievery and in oaths”.<sup>34</sup> A prime example is the sixth-century philosopher Lasus of Hermione (#17, #18) who is said to have stolen a fish, and then given it to a bystander. When the fishmonger exacted an oath from him, Lasus swore “that he did not have the fish himself, nor did he know anyone else who had taken it”. The oath was technically true because Lasus no longer had the fish himself, and the bystander had not “taken it” but had been given it. Lasus instructed the bystander to swear that “he had not taken it himself, nor did he know anyone else who had the fish”. This oath was technically true too, for Lasus had “taken it”, but he himself “had it”.

Although both of these oaths were true, this sort of sophistry would have been impractical in the real world – all one would have needed to do was exact the correct oath from either Lasus or the man in possession of the fish! Such trickery also seems to have been deemed morally unacceptable outside the philosophical “classroom”, for in Aesop’s version of the story (#33) when a boy stole a piece of meat from a butcher and hid it in another boy’s garment and “swore that he didn’t have it, and the one who had the meat swore that he didn’t take it”, the butcher angrily observes that “even if you manage to deceive me, you will never deceive the god by whom you have sworn falsely”, and Aesop notes that “the fable shows that even if we succeed in deceiving our fellows by swearing falsely, there is no way that we can deceive the gods”.

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<sup>32</sup> Wheeler 1984, 255.

<sup>33</sup> Fletcher 2012, 31.

<sup>34</sup> Redfield 2003, 258. See also Wheeler (1984, 260–2) who argues that Autolycus was regarded as the first man to swear deceptive oaths.

Together these stories probably explain Pausanias’ cryptic claim (10.30.2) that “Pandareus was implicated in the theft of Tantalus and the trick of the oath”. Presumably Tantalus denied under oath that he had stolen Zeus’ golden dog when it was Pandareus who had stolen the dog and deposited it with him. If this is the case, the ruse failed spectacularly, with Zeus burying Tantalus under Sipylus as punishment for his actions (*Σ Od.* 19.518). These ruses also probably explain the Sausage-Seller’s claim (*Ar. Knights* 418–24) that when he stole food from the markets “if they suspected a trick, I hid the meat in my crotch and denied the thing by all the gods”,<sup>35</sup> although it should be borne in mind that elsewhere (*Knights* 298, 1239) the Sausage-Seller does happily admit to real perjury.

As Torrance has noted above (§7.3.3), even the goddess Hera resorted to such trickery. When Zeus rightly blames Hera for the fact that Poseidon is attacking the Trojans against his wishes, Hera swears (*Iliad* 15.36–46) that it is “not by my will that Poseidon is harming the Trojans ... but it is his own passion that urges and drives him”. But the reality is that Hera has orchestrated the whole affair by ensuring that Hypnos put Zeus to sleep so that he would not be able to act against Poseidon if Poseidon chose to assist the Greeks. Clearly the veracity of Hera’s oath (by Zeus’ own head no less!) rests on the fact that she did not explicitly order Hypnos to tell Poseidon that Zeus was out of action so to speak, and that there was thus sufficient wiggle-room in the chain of causation to keep the oath technically true. But the fact that Zeus effectively tests the veracity of her oath by demanding that Hera order Poseidon to cease and desist suggests that he has not been entirely convinced by Hera’s careful phrasing. So while Hera gets away with her artful oath, Zeus gets his way without the need to fulfil his threat to beat her for disobeying him.

Where Hera left just enough wiggle-room, Lichas (#2) crossed the line between sidestepping and perjury in Sophocles’ *Trachiniae*. Bound by an oath by “great Zeus” to “speak what truth he knew”, when Deianeira demanded to know the identity of the principal captive (actually the daughter of King Eurytus), Lichas responded, “A Euboean; of her parents I have no means to say (οὐκ ἔχω λέγειν)”. Clearly Lichas was attempting to bamboozle Deianeira into believing that “I have no means to say” meant the same as “I do not know”. But the fact that soon afterwards Lichas was denounced by the Messenger (427), and later has his brains dashed out by Zeus’ son at Zeus’ sanctuary, with “his skull crushed to fragments, and his hair bedaubed with blood and flecked with scattered brains” (779–82), strongly suggests that Zeus did not see his attempt to dodge his oath as acceptable.

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<sup>35</sup> Zafiroopoulos 2001, 114; Bowie 1993, 55.

The vast majority of artful dodges discussed in this chapter were more obviously successful than those of Lasus, Tantalus, Hera, or Lichas. A prime example is the dodge attributed to the mythical Spartan king Soös (#5) who found himself besieged in a rugged waterless spot after defeating the Cleitorians and capturing some of their territory.<sup>36</sup> Starved of options (literally) Soös negotiated a truce whereby the Spartans would surrender the conquered territory to the Cleitorians if he and all his men “would drink” from a nearby spring. The Cleitorians clearly took “would drink” to mean “would *be allowed* to drink” and assumed that the agreement guaranteed the return of their land. But Soös clearly intended that the agreement would be binding if and only if he and all his men drank. In an effort to ensure that the oath could be sidestepped Soös assembled his men and offered to confer the kingship of the area upon the one who refrained from drinking. However, not one of the Spartans possessed the required self-restraint, and they all drank from the spring. Soös went down to the spring after everyone else and merely splashed himself with water, thus ensuring that the terms of the oath were not quite fulfilled. Soös then led his army off, not only retaining control of the formerly Cleitorian land but also his kingship because he had not drunk. Plutarch stresses that Soös ensured that the Cleitorians were there to see his actions and that the Spartans were able to keep the territory “on the plea that all had not drunk”. The Cleitorians were deceived because they never imagined that Soös’ terms actually included the caveat that if not all his men drank the agreement would be null and void.

Significantly, there is no hint of criticism of Soös in Plutarch’s account, not even from the Cleitorians he has deceived. In fact Plutarch stresses that Soös was “held in great admiration” because of his achievements including the trickery perpetrated against the Cleitorians. It seems likely that the fact that Soös’ ruse relied on the Cleitorians assuming that he meant more than he said rather than a distortion of the truth made his deceptive oath admirable rather than morally dubious.

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<sup>36</sup> This story is clearly later invention, with even Soös himself dismissed by Cartledge (1979, 90; 1987, 23) as a fourth-century “spurinyum”.

## 10.4 The “Thracian pretence”

A.J. Bayliss

The story of Soös and the Cleitorians fits well with Lateiner’s assertion that “oaths can seduce participants to under-negotiate difficult and complex transactions”.<sup>37</sup> It is surely significant that Soös’ deceptive oath is one of many examples of sidesteppings which occurred in the context of diplomatic exchanges regarding sworn truces, for there is perhaps no more difficult or complex negotiation than a peace treaty or a truce. I have already discussed in S&B §11.1 the tense state of affairs that existed with two armies in the field of battle, and the frequency of these stories (no less than 15 of the 35 instances of sidestepping in this chapter took place in the context of a sworn truce) suggests that the ambiguity generated by hostilities was ideal for deceptive oaths. Perhaps the most notorious deceptive oath employed in truce negotiations is the so-called “Thracian pretence”. Ephorus (#5) claims that the Thracians first used this particularly cunning ruse against the Boeotians when they, the Phoenicians, and the Pelasgians were vying for control of Boeotia. After the Thracians and Boeotians agreed a truce and swore oaths that they would not attack each other for a specified number of days, the Thracians attacked the unsuspecting Boeotians at night on the grounds that nights were not included in the oath. From this incident apparently arose the proverb of “Thracian pretence” (Θρακία παρεύρεσις), and the Thracians thereafter had a bad reputation when it came to oaths, with Zenobius (4.32) stating “Thracians do not stand by oaths” (or “Thracians do not understand oaths”).<sup>38</sup>

The Thracian pretence is a recurring motif in our sources. The Spartan king Cleomenes allegedly employed it against the Argives in 494 BC (#19), agreeing to an armistice for seven days, but attacking them on the third night when he saw that the Argives were sleeping because of their reliance on his oath. When Cleomenes was later reproached for “the violation of his oath”, he denied the charge, arguing that he had not included nights in his sworn statement, only days. Just as the Thracians were criticized by the Boeotians, Cleomenes was heavily

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<sup>37</sup> Lateiner 2012, 161.

<sup>38</sup> Torrance (S&B 311) links this story with Herodotus’ information (5.7) that the Thracians only swore oaths by Hermes. If so, it would only be fitting that the Thracians excelled at deceptive oaths. It is also worth pondering whether the fact that one of the reasons for Conon, Bacchius, and Aristocrates being known as “the Triballoi” in their wild youth because of their alleged tendency to commit perjury casually (Dem. 54.39) owes its origins to the deceptive reputation of the Thracians demonstrated here.

criticized for his use of this ruse, and Plutarch implicitly links this incident with Cleomenes’ later grisly death.

But the Thracians’ dodge was repeated by other generals without criticism. A Spartan named Leucippus (#11) reputedly founded a colony at Callipolis (near the port of Tarentum) after persuading the Tarentines to allow him to encamp there for what was worded as “day and night” (ἡμέραν καὶ νύκτα), but what the Tarentines believed would be the duration of *a* day and *a* night.<sup>39</sup> When Leucippus did not leave after a day and a night, the Tarentines insisted that he should leave.<sup>40</sup> However, Leucippus stated that the sworn agreement stipulated that he could stay while there should be day or night, with the absence of the word *mian* “one” meaning that the agreement was actually forever. When the Tarentines realised they had been tricked they allowed Leucippus and the Spartan colonists to remain. There is no hint of criticism in either source which records this incident.

Ironically enough the Athenian commander Hagnon is said to have employed the “Thracian pretence” against the Thracians (#20) when he founded the Athenian colony of Amphipolis at the Nine Ways on the Strymon river in 437/6 BC. According to Polyaeus (6.53) the Athenians were acting in accordance with an oracle that told them to return the Thracian king Rhesus’ bones from Troy to his homeland and to found a city there.<sup>41</sup> When the local Thracians tried to prevent the Athenian colonists from crossing the Strymon, Hagnon kept them at bay by making a truce with them for three days. Each night he led his troops across the river in secret. They buried Rhesus’ bones, and built fortifications by the light of the moon. When the Thracians returned after three days and saw the finished wall, they charged Hagnon with breaking his oath. But he replied that he had done nothing wrong, since they had made the truce for three days and not three nights.

There is an air of unreality about these stories. Indeed, it is extremely unlikely that Cleomenes ever made this agreement with the Argives, for Herodotus’ earlier account of the battle (6.78–80) makes no mention of an oath and has Cleomenes deceiving the Argives by a different means altogether.<sup>42</sup> The fact that the same

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<sup>39</sup> Malkin (119 n13) goes so far as to have Leucippus “becoming an Achaean” in this version of the story, but there is no need to read that much into Strabo’s thin account.

<sup>40</sup> In Strabo’s version, when the Tarentines asked Leucippus to leave, he asked them to return at night. When they did so he then told them to return the next day. This process was repeated for several days until the Tarentines realised that they had been deceived.

<sup>41</sup> Hagnon’s ruse comes after an oracle warned the Athenians that their attempt was “unauthorised by Heaven”, but that once they have returned Rhesus’ bones “Fate shall render it a glorious deed”.

<sup>42</sup> The story of Cleomenes using the “Thracian pretence” probably owes its origins to

ruse is used again and again even to the point that the Thracians could be duped by their own “invention” suggests strongly that by the time Polyaeus was writing the Thracian pretence had become a “floating anecdote” which could attach itself to anyone. Why else would the protagonists – especially the Thracians – fail to recognise that the trick was coming?

Nonetheless these stories are useful when it comes to assessing the reaction of the protagonists and the sources. Both Hagnon and Leucippus are said to have survived their dodges with their reputations unscathed whereas Cleomenes and the Thracians (when they are the perpetrators rather than the victims) are criticized for their deceptive oaths. As I have argued elsewhere, the difference may well be that both Hagnon and Leucippus were fulfilling oracles, and therefore their actions could be seen as endorsed by the gods.<sup>43</sup> It may also be important that whereas Cleomenes and the Thracians use the ruse to attack their enemies, Leucippus and Hagnon (like Soös) use the ruse for self-defence. It is also surely significant that they were duping outsiders, which is something that the Greeks seemed to do with pride. According to Dougherty, “these accounts justify Greek claim to new territory not in physical or military terms but as a result of their mental prowess”.<sup>44</sup> Although the Leucippus story (as Dougherty is quick to point out) is a case of Greek outwitting Greek, it is very much cut from the same cloth as the “Greeks outwitting dopey locals” literary motif.<sup>45</sup> The fact that Hagnon was using the “Thracian pretence” against the Thracians surely leaves the impression

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Cleomenes’ reputation for sacrilege. Not only did he bribe priests at Delphi (Hdt. 6.66), he also later tried to convince the Arcadians to break their oaths of loyalty to Sparta and swear an oath of loyalty to him personally, invoking the Styx (Hdt. 6.74). Given that only gods swear by the Styx (see §7.3.1), Cleomenes is clearly out of line here. The fact that Cleomenes later went mad drinking neat wine and hacked himself to pieces with a knife suggests that he was perhaps not an ideal moral compass for us!

<sup>43</sup> Bayliss 2009, 248.

<sup>44</sup> Dougherty 1993, 53.

<sup>45</sup> The same theme is present in the Greek versions of the foundation myth of Carthage. Appian (*Pun.* 1.1) describes how Dido from Tyre tricked the local inhabitants of North Africa into allowing her to found Carthage. The local inhabitants initially tried to repel the Tyrians, but when they asked only for as much land as an ox-hide would encompass, they were ashamed to deny them such a small favour. Appian states that the locals could not understand how a town could be built in so narrow a space, and wishing to unravel the subtlety, agreed to give it up, and confirmed their promise with an oath. The Phoenicians then cut the hide into a very thin thread, and enclosed the place where the citadel of Carthage would stand. This story is hinted at by Virgil (*Aen.* 1.367–8), and Servius in his commentary on Virgil explains that Dido exploited the ambiguity of the term *tenere* which could mean either “to cover”, but also “to circumscribe” or “to encompass”. Cf. Dougherty 1993, 59 n40.

of the non-Greek Thracians being remarkably foolish, if not asking for trouble when they agreed to the oath.

## 10.5 Capturing the commander

A.J. Bayliss

Whereas Soös is said to have employed a trick to escape a siege, other commanders devised alternative means of attacking their enemies after making truces. A well-known ruse involved luring the enemy leader out to a parley and then attacking while he was occupied (cf. Polyaeus 7.27, 4.2–4). Unlike Soös’ trick this particular ruse did not depend upon oaths. But another common tactic appears to have been to capture the enemy commander during a parley by lulling him into a false sense of security by means of an oath that was designed to be sidestepped.

The earliest and most historically reliable example of this tactic comes from Thucydides of all authors. Thucydides (3.34) notes that when the Athenians were besieging the city of Notium during the Peloponnesian War the Athenian general Paches (#23) summoned Hippias (the commander of the Arcadian mercenaries stationed at Notium) to a conference on condition that if his proposals were unsatisfactory he would restore Hippias “safe and sound” (σῶν καὶ ὑγιᾶ) to the fortress. When Hippias came out Paches kept him under guard, but unfettered (therefore also undamaged),<sup>46</sup> and made a sudden and unexpected attack on the fortress. Paches then took Hippias back into the fortress, “just as he had agreed to do”, and as soon as he was inside, seized him, and shot him down.<sup>47</sup> Paches then put to death all the Arcadians and “barbarians” in the city and handed it over to the Colophonians.

Thucydides adds no further details, and makes no comment on the rights and wrongs of Paches’ behaviour, which is remarkable given that the episode belies Pericles’ claim (Thuc. 2.39) in the funeral oration that it is the Peloponnesians, not the Athenians, who deploy “devices and deceits”.<sup>48</sup> Thucydides’ silence is all the more remarkable when one considers that Thucydides’ contemporary audience would have known that not long after his sidestepped oath Paches committed suicide in the courtroom when he failed to persuade the Athenians at home

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<sup>46</sup> Lendon (2010, 185–6) argues that Paches was “fulfilling the exact terms of the promise” and stresses that he did not use chains because they would have chafed Hippias.

<sup>47</sup> This story is repeated virtually word for word by Polyaeus (3.2).

<sup>48</sup> Hesk 2000, 99.

that his conduct while in office was entirely above board (Plut. *Nic.* 6; *Arist.* 26).<sup>49</sup> Paches' notoriety was such that as late as the 390s an Aristophanic character is appalled by the thought that Paches' son, Epicurus, might call him "daddy" (Ar. *Eccl.* 644–5). It is tempting to think that this episode, which ended with the summary execution of his opponents, may have helped bring about Paches' downfall. Although our only other evidence suggests that Paches was charged with raping two Mytilenian women whose husbands he had caused to be killed (*Anth.Pal.* 7.614), this charge may have been merely one of many brought against Paches.<sup>50</sup>

The Spartan commander Dercylidas (#26) is alleged to have used a similar stratagem to defeat Meidias the tyrant of Scepsis in Asia Minor, thus turning Euripides' claim (*Bellerophon* fr. 286.7) that "tyrants break oaths to sack cities" on its head! According to Polyaeus (fr. 39) Dercylidas swore that if Meidias the tyrant of Scepsis came out for a conference he would send him back to the city quickly. When Meidias emerged, Dercylidas ordered him to open the gates and threatened to kill him if he did not. As soon as Meidias opened the gates, Dercylidas announced, "Now I release you to the city, for I swore this, and I am coming in with my force, for I did not swear about doing this". Polyaeus records an extremely similar stratagem employed by Dercylidas' contemporary Thibron (#27), but this time provides considerably less detail. In both cases our hopes of assessing the relative morality of the device are again thwarted by a lack of detail from our only source. This is almost certainly because Polyaeus was not interested in the morality of the acts, but rather their utility for Lucius Verus' war against the Parthians.<sup>51</sup>

But we do have one more example with which to work. The manner in which Dercylidas explains his trick to his audience by indicating exactly what he did not swear – the very information that Meidias assumed his sworn statement had included, namely that he would not enter the city by force – echoes (or is echoed in) the accounts of Alexander the Great's deception (#31) of a group of Indian mercenaries in 327 BC. Our earliest source – Diodorus (17.84.1–5) – indicates that Alexander allowed the mercenaries to depart the city under a sworn truce, but then followed them and attacked them out of "implacable hatred". When the Indians kept shouting out that the attack was in violation of the sworn treaty Alexander shouted back that "he had granted them the right to leave the city, but not that of being friends of the Macedonians forever". Polyaeus (4.3.20) tells a slightly dif-

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<sup>49</sup> For another possible reference see Ar. *Wasps* 522–3.

<sup>50</sup> Tuplin 1982, 328 nn16, 17.

<sup>51</sup> For a recent discussion of Polyaeus' motives see Wheeler 2010.



ferent story, but again Alexander revels in revealing his trick to the enemy. In Poly-aenus’ version, when the Indians shout reminders of the sworn treaty, Alexander retorts that “he agreed that they could leave the city, but had not promised that they could go where they pleased”. Whereas Paches, Dercylidas, and Thibron are not explicitly criticized by their victims,<sup>52</sup> Alexander is explicitly criticized for his deception. Diodorus stresses that when the Indians realised what was happening they kept shouting that the attack was in contravention of the truce, and called upon the gods to witness that Alexander was violating his oath. The Indians in Poly-aenus’ account likewise shout reminders about the treaty. Plutarch (*Alex.* 59) merely states that Alexander made a truce with the Indians and later massacred them. Plutarch does not give voice to the Indians, but chooses to criticize Alexander himself, noting that “this act adheres to his military career like a stain (*kēlis*); in all other instances he waged war according to custom, and like a king”.

On first glance it would appear that Alexander has crossed a line by employing this dodge in this fashion. But if we were tempted to see this as clear criticism of the tactic we need to bear in mind that neither Diodorus nor Poly-aenus criticizes Alexander as Plutarch does. In their accounts it is only his victims who criticize Alexander. Moreover, Arrian (*Anab.* 4.27.3) provides an alternative version of the story where Alexander is the innocent party. In Arrian’s version Alexander agrees to a truce which stipulates that the Indians will join his army. When Alexander learns that the Indians intend to violate this treaty he slaughters them. While it is tempting to see Arrian as whitewashing Alexander, it is entirely possible that his account reflects the original version of events as described by Ptolemy and Aristobulus, and that Diodorus and Poly-aenus reflect a later reworking of the events.<sup>53</sup> As I have argued elsewhere,<sup>54</sup> it was common for classical-period deceptions not involving oaths to be rewritten by later sources to involve an oath. Cleomenes’ alleged use of the Thracian pretence in 494 is a case in point. So too is Dercylidas’ capture of Scepsis from Meidias. The eyewitness account provided by Xenophon (*Hell.* 3.1.20–8) does not mention a side-stepped oath, although it does describe deception and clever word-play. According to Xenophon, Dercylidas gained access to Scepsis by promising Meidias “full justice”, but later deprived him of Scepsis by proving that the city actually belonged to the Spartans. After

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52 Nonetheless Lendon (2010, 185–6) is at pains to point out that Paches chose a particularly “nasty and slow way to die”.

53 Modern scholars (e.g. Bosworth 2010, 40) typically prefer Arrian on this matter. Baynham (2012, 28) argues that if the Indians had indeed broken their oath Alexander was in his rights to do so, but if they had not, what he did was a massacre. Tarn played it both ways, arguing that it was either an “abominable quibble” or a “horrible mistake” due to translation problems.

54 Bayliss 2009.

Meidias admitted that the city had previously belonged to his mother-in-law Mania, and that she had been a subject of the Persian Pharnabazus, Dercylidas argued that given that Pharnabazus was his enemy, Scepsis ought now to belong to the Spartans, not Meidias. Given that the stories of Cleomenes and Dercylidas were reworked to include sneaky oaths, it is entirely possible – if not likely – that Alexander slaughtered the Indians because they violated a sworn agreement and that later tradition reinvented this as deliberately deceptive swearing by Alexander. The fact that his father Philip engaged in similar practices (#28) might have influenced later sources.

## 10.6 Other careful or dubious interpretation of wording: agreements that end sieges

A.J. Bayliss

While it is unclear whether Alexander used a carefully phrased oath to massacre large numbers of the enemy, we can be certain that other Greeks did just that. Perhaps the most notorious example of this type of dodgy interpretation of wording is the so-called “Plataean perjury” (#21). According to Thucydides (2.5) the Plataeans negotiated an agreement with the besieging Theban army whereby if the Thebans withdrew from their territory without doing further harm they would return 180 prisoners to them, but then slew their captives and returned their corpses. Obviously the Thebans assumed that the Plataeans would return their men alive, but the agreement did not make this clear. The Plataeans later tried to claim that they did not swear an oath (perhaps relying on the difference between an oath and a mere promise), but the Thebans clearly felt otherwise.

Hornblower makes much of the fact that the Thebans later (3.66) mention only a “promise” by the Plataeans rather than an oath. This would seem to undermine the Thebans’ own case. But we should bear in mind the fact that the Thebans also use the term “agreement”, which perhaps suggests that Thucydides is putting only general terms for describing the agreement into the mouths of the Thebans. Hornblower also concentrates on the fact that the Plataeans steer clear of the issue, arguing that this should not be taken as an admission of guilt. Rather, he claims, “one would cut a poor figure if one was reduced to saying, ‘Yes, we promised but it was not a binding promise because we did not swear an oath’. Much better to do what the Plataians actually do and stick to generalities”.<sup>55</sup> But

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<sup>55</sup> Hornblower 1991, 242–3.

although it would have appeared as if the Plataeans were following the letter rather than the spirit of the law, the Plataeans could have done just that had they promised rather than sworn.

West argues that “[m]orally the Plataeans were in a very weak position whether or not their undertaking was confirmed by an oath”.<sup>56</sup> But the Plataeans were on even weaker ground in trying to use this technique against allies of the Spartans. The Spartans were the masters *par excellence* of the deceptive oath, and would ultimately bring down the Plataeans by a similarly dubious oath (#22). According to Thucydides the Spartans lured the Plataeans into surrendering to them by swearing that “only the guilty would be punished and not contrary to justice”. But once the Plataeans had surrendered they found to their horror that the Spartans chose to define guilt and justice as whether or not they had rendered service to the Spartans and their allies during the current war.<sup>57</sup> The way the Plataeans were caught out by the sidestepping of an oath after (allegedly) sidestepping an oath themselves is reminiscent of the manner in which the Thracians are said to have been caught out by Hagnon when he employed their own notorious stratagem against them. But this time we are not dealing with a floating anecdote: our source is reliable and the massacre of the Plataeans was all too real. Although the Spartans would later regret the decision to sack Plataea (Thuc. 7.18), it was not because of the ethics of this oath, but rather because they decided that the pre-existing oaths of the Thirty Years’ Peace might have been violated.

## 10.7 Substitution

### A.J. Bayliss

The majority of cases we have discussed thus far involved exploiting words that were implied but left unspoken. But another common ruse involved metonymic interpretation of the terms that were spoken. For example when the Olympic athlete Eubotas of Cyrene (#25) was bound by an oath to marry the courtesan Lais and return home with her, he had an image of her made and left with that instead of the actual girl. Aelian makes it clear that he did so “in order not to appear to be breaking his agreement”, and even has Eubotas state that “he was bringing her and not breaking his agreement”. There is an additional pun in that Eubotas’

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<sup>56</sup> S.R. West 2003, 438.

<sup>57</sup> Hornblower (1991, 447) calls this “shocking”.

claim that he would “bring” (*agein*) Lais could mean “to marry” as well as “to lead”.

Eubotas is not the only Greek to have employed this ruse of substitution. Paches, who has already been mentioned for another exploit, is said to have sworn that the enemy would be spared if they put aside their “iron” (#24). His enemies naturally assumed that this meant their weapons, but when they had complied with these terms by surrendering their weapons, Paches ordered them all to be killed anyway since they still had iron fibulae on their cloaks. But we have to bear in mind that this account was written by Frontinus many centuries after the fact as part of a collection of “sundry ruses and devices” (*de variis consiliis*). Thucydides makes no mention of such an act by Paches, so it should therefore be seen as a later invention, as with Dercylidas and Cleomenes.

The Chians took the ruse of substitution one step further when they surrendered to the Erythraeans (#13). According to Plutarch (*Mor.* 244f-245b), after terms were agreed whereby the Chians would evacuate the city carrying “only one cloak, one himation, and nothing else”, their wives found a way for them to sidestep their oaths. They ordered their husbands to keep their weapons and to inform the Erythraeans that the spear serves as a cloak and the shield as a tunic to men of spirit. The men took their advice, and the Erythraeans were so frightened by their act of boldness (*tolma*) that they allowed the Chians to depart unmolested. The only way for this ruse to work would be for the Chians to be naked apart from their shields and spears, which perhaps helps to explain why the Erythraeans were so stricken by the “boldness” of the Chians!<sup>58</sup>

Ergias of Rhodes (## 9, 10) reports that a group of Phoenicians led by a certain Phalanthus who were being besieged in the citadel in Ialysus by the Greeks led by Iphiclus agreed to withdraw under a truce, whereby the Phoenicians swore to take with them only “whatsoever they carried in the belly”, and the Rhodians swore “to supply boats for their departure”. When Iphiclus agreed to these terms, Phalanthus tried to deceive Iphiclus by slaughtering and disembowelling sacrificial victims and filling their bellies with gold and silver. Iphiclus learned of the “trick” (*epitekhnēsis*) and attempted to stop him, but Phalanthus cited the terms of the oath he had sworn, which were that they were permitted “to remove whatever they had in the belly”, a fact which Iphiclus could not dispute.

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<sup>58</sup> When considering the reaction of the Erythraeans, it is worth bearing in mind Plutarch's claim (*Ages.* 34) that when the Spartan youth Isadas fought stark naked (without clothing or armour) against the Thebans those who fought against him thought that he must have been superhuman.

In a passage that is positively Herodotean,<sup>59</sup> Stobaeus (#32) records an anecdote whereby another thief – a certain Cydias – attempted to do what Glaucus failed to do when he denied having received a deposit from his friend Archetimus under oath. When it was agreed that Cydias would purge himself by an oath he gave Archetimus a hollow cane filled with the money and swore he was returning the deposit. Presumably the cane was meant to indicate that Cydias owed Archetimus nothing, or that the cane was all that was left of the money. Clearly Cydias was hoping that Archetimus would return the cane so that he could keep the money, or else the ruse would be pointless. But the angry Archetimus smashed the cane on the ground and Cydias’ deception was revealed. Cydias died almost immediately, and Stobaeus stresses that his premature death was ascribed to his false oath being exposed to witnesses.

But perhaps the most striking case of substitution comes from a charter myth about the foundation of the colony of Locri Epizephyrii related by Polybius and Polyaeus (#12).<sup>60</sup> According to both authors the Locrians made a sworn agreement with the Sicels that they would be friends and share the country “as long as they trod on this earth and wore heads on their shoulders”. This was clearly intended to imply forever. But when the Locrians were taking this oath, they put some soil into the soles of their shoes, and some heads of garlic on their shoulders. In this state they took their oath, but subsequently emptied their shoes of the soil, and threw away the heads of garlic. When the occasion presented itself, they expelled the unsuspecting Sicels from the country. Although the spirit of the agreement was violated, the formal clauses were not.<sup>61</sup>

These stories are particularly useful when it comes to evaluating the ethics of sidestepping oaths. For whereas the Chians were praised for their boldness and Eubotas was praised by his wife for his fidelity to her,<sup>62</sup> the reputation of the Italian Locrians took a battering because of their sidestepped oath, with the saying “Locrian agreements” (Λοκροὶ τὰς συνθήκας) becoming proverbial for

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<sup>59</sup> The passage so resembles Herodotus that at least one nineteenth-century commentator (Lector 1839, 749) ascribed it to Herodotus. This error probably comes from the fact that the 1791 commentary on Herodotus by the Rev. W. Beloe (*Herodotus, translated from the Greek*) and Larcher’s *Notes on Herodotus* (1829) discussed the Stobaeus passage when treating Hdt. 6.86.

<sup>60</sup> Although this story is clearly a charter myth, Graham (1982, 172) notes that the native cemeteries die out at about the time the colony of Locri Epizephyrii was founded in the early seventh century.

<sup>61</sup> Domínguez 2007, 419.

<sup>62</sup> According to Aelian (*VH* 10.2) Eubotas’ wife set up an enormous statue of him in Cyrene in recognition of his fidelity.

bad faith.<sup>63</sup> Indeed, the Locrians' reputation was so tarnished that Polybius was at pains to explain to his audience that these dodgy Locrians were the Locrians of Italy, not those of central Greece. Once again, it might be the case that the intent of the sidesteppers is the crux. For where the Locrians set out to deceive the Sicels, Eubotas and the Chians were merely making the best of a bad situation. Indeed, the Chians did intend to keep their oaths as they were worded. Even when they were denounced as cowards for planning to lay down their arms they piously informed their wives that they had sworn an oath which they could not break. The Locrians had no such scruples.

The fate of Phalanthus and the Phoenicians is also illustrative. Although it seemed that the Phoenicians were likely to get away with their artful sidestepping of their oaths, Iphiclus devised a trick of his own (#10), giving the Phoenicians boats without oars or rudders, arguing that they had sworn to provide boats and nothing else. Although it is tempting to see both parties as equally successful in their attempts to deceive each other with oaths, Ergias states that the Phoenicians were "at a loss" (ἐν ἀπορίᾳ) and compelled to leave much of their money behind for Iphiclus to collect. It is also worth bearing in mind that the Phoenicians were driven to surrender their position in the first place by the fact that Iphiclus had artfully fulfilled an oracle to the effect that "they would control the place until ravens turned white and fish appeared in their mixing bowls". The Phoenicians had hitherto believed that this would never happen, but Iphiclus managed to introduce small fish into the mixing bowl from which Phalanthus' wine was served by way of one of Phalanthus' aides, and released ravens smeared with gypsum into the skies. These sights convinced Phalanthus that "the place was no longer theirs". The message seems to be that the Phoenicians were asking for trouble by trying to trick the Greeks, and the Greeks made them pay a heavy price. For not only had the Phoenicians decided they had no right to keep possession of Rhodes, they had already been deceived by the wily Greeks whom they were trying to deceive themselves! Any attempt to deceive Iphiclus was surely bound to end badly – at least as far as the Greeks were concerned.

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63 Domínguez 2007, 419. Redfield (2003, 258) argues that "the story represents the Locrians as natively duplicitous, manipulators of the literal".

## 10.8 False foundations

### A.J. Bayliss

The Persian general Amasis took the Locrian ruse which relied on the wording “as long as they trod on this earth” a step further against the Barcaeans (#16). According to Herodotus (4.201) when Amasis led an expedition against the Lydian city of Barca he realized he could not take the city by force, but might be able to by guile. Amasis dug a wide trench, laid frail planks across it, and then covered it with a layer of earth. Amasis then invited the Barcaeans to meet with him on the hidden trench. A truce was agreed, with both two parties giving and accepting a sworn assurance that their treaty would be valid “while the ground where they stood was unchanged”. Just as the Sicels had interpreted “as long as they trod on this earth” to mean permanence (or at least throughout the lifetime of the swearers) the Barcaeans believed their agreement with Amasis to be unshakable. “Trusting the oath” they opened their gates and came out of the city, and allowed all their enemies who wished to enter within the walls. Amasis immediately ordered the destruction of the hidden bridge and captured the city. Clearly the ruse works because of “the seeming impossibility of the ground under their feet ever vanishing”.<sup>64</sup> But by setting things up carefully Amasis made the impossible possible!

We have already seen that intentional manipulation of oaths typically draws criticism from ancient commentators. But this is not the case with Amasis. Although modern scholars seem united in their condemnation of Amasis’ ruse,<sup>65</sup> Herodotus (4.201) makes it clear that this was not a false oath, explicitly stating that the Persians destroyed the bridge “in order to abide by the oath sworn with the Barcaeans”.<sup>66</sup> The difference between Amasis’ deliberate manipulation of the oath-exchange and that of the Locrians may be that Amasis can be seen to be righting a wrong by his actions. The purpose of his campaign was to punish the citizens of Barca for the slaying of King Arcesilaus of Cyrene and King Alazir

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<sup>64</sup> Hollmann 2005, 286. Lateiner (2012, 163) argues that the Barcaeans were “depending on a geographical stability lodged in a formula of impossibility”.

<sup>65</sup> Dewald (1993, 60) and Immerwahr (1966, 243 n17) see his device as treachery; Hollmann (2005, 302) calls it a “false oath”; for Goodchild (1970, 11) it is “an ignoble ruse”. Gera (1997, 174) argues that the Persians use this “trickery” (*dolos*) to “break their oath”, which seems to be missing the point altogether. Chamoux (1953, 152) is less critical, calling the tactic a “trick”. Applebaum (1979, 26) seems alone in not mentioning the oath exchange or Amasis, merely commenting that “Barca was besieged and taken by the Persian general Aryandes”.

<sup>66</sup> Polyaeus (7.34) stresses that “the ground, on which the two sides stood when they made the treaty, no longer existed”.

of Barca. Indeed, the Barcaeans actually doom themselves by arguing that they were collectively responsible for the murders when asked to hand over those responsible for the death of Arcesilaus.

We should also bear in mind that the oath-exchange is not the only example of trickery in this passage. The Barcaeans have already shown their ingenuity in discovering mines that the Persians were digging under their walls (a smith carries a shield around the inner side of the walls and smites it against the ground of the city – when he finds hollow ground the shield rings out), digging countermines, and slaying the engineers (Hdt. 4.200; Aen. Tact. 37.6–7).<sup>67</sup> Thus, the implied message might be that the Barcaeans have already engaged in trickery and are therefore asking for trouble when entering into a treaty with Amasis.

The danger to the Barcaeans is particularly apparent when one considers that they are engaging in games with the Persians on dry land. Greek mastery of the sea and Persian mastery of the land is a recurrent theme in Herodotus' *Histories* and wider Greek literature.<sup>68</sup> Herodotus' narrative demonstrates that the city of Cyrene and by extension the colony at Barca exist only because of the Theran fisherman Themison's inherent mastery of the sea which allowed him to sidestep an oath to Etearchus. According to Herodotus (4.154) the Cretan ruler Etearchus tricked Themison and bound him under oath to do whatever he wished, and then asked Themison to throw his daughter into the sea (*katapontōsai*, literally "submerge in the sea"). Themison did indeed throw the girl into the sea "in order that he might fulfil the oath he had sworn", but cunningly tied a rope around the girl and immediately hauled her out of the water again. The girl Phronime will later become the mother of Battus the founder of Cyrene, and the Cyrenaeans will set up a colony at Barca. All this was made possible by Themison's manipulation of the sea. But Barca ultimately falls because the Greeks placed too much confidence in their understanding of the Persians' natural element, the land. Although the Barcaeans are known as horsemen and famed for their chariots, their confrontation with Amasis ends with the Persians proving themselves the true masters of land warfare. Overall the saga suggests that the Greeks ought not to stray too far from their own domain, that of the sea.

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<sup>67</sup> Intriguingly, Aeneas Tacticus (§39) also discusses the use of covered trenches by the besieged as a means of fooling the besiegers. It would be deliciously ironic if the Barcaeans were undone partly by their own attempts to deceive the Persians.

<sup>68</sup> See for example Hdt. 1.27. Hirsch (1986, 226) discusses "the recurrence of the land/sea motif" in the writings of Herodotus and his contemporaries, and later (p. 229) argues that Herodotus "seems to regard mastery at sea as being part of the Greek *nomos*, while the *nomos* of the Persians confines them to the land".



Gera argues that the Persians are punished for their trickery with the failure of the subsequent expedition against Cyrene (4.203).<sup>69</sup> But this is not in keeping with how Herodotus portrays the events. According to Herodotus:

1. After capturing Barca the Persians hand the guilty over to Pheretime who mutilates them and impales them on the city walls.
2. The Persians then appear before Cyrene and the Cyrenaeans admit the Persians into their city on the pretext of fulfilling an oracle on the matter.
3. Badres (the commander of the fleet) recommends capturing the city
4. Amasis (land commander) refuses on the grounds that the sole objective of their mission was Barca.<sup>70</sup>
5. After passing through Cyrene “they” (it is not stated who) are sorry that they had not taken Cyrene, and try (unsuccessfully) to enter the city a second time.
6. The Persian soldiers withdraw in panic and set up camp nearby.
7. Aryandes (the supreme commander) recalls these soldiers, and the whole army withdraws into Egypt.
8. Pheretime dies having been afflicted by worms as punishment from the gods “so that mankind might see that violent vengeance earns the gods’ grudges”.

Significantly, Herodotus does not seize the opportunity to blame Amasis for the failure to capture Cyrene.<sup>71</sup> Instead, Amasis is cast in a positive light. He refuses to attack Cyrene despite the good opportunity, because it would not be right to do so. These are hardly the actions of a man meant to be seen as a shameless perjurer! It is Pheretime who incurs the displeasure of Herodotus and the gods for her dreadful treatment of the Barcaeans captives.<sup>72</sup> Significantly, later tradition had that it was Pheretime and not Amasis who deceived the Barcaeans (*Suda* ε1006).<sup>73</sup> Unlike the reworking of the tales of Cleomenes and Dercylidas which introduced an oath where none had been, the later reworking of the Barcaeans story changes the identity of the deceptive swearer, perhaps because of Pheretime’s alleged polluted death.

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<sup>69</sup> Gera 1997, 174.

<sup>70</sup> Amasis states that “he had been sent against Barca, only against Barca, of all the Greek cities”.

<sup>71</sup> Although Hollmann (2005, 302) casts Amasis’ oath as false he notes that Herodotus does not link the failure of the overall campaign to the oath.

<sup>72</sup> Chamoux (1953, 152) has Pheretime display “eastern cruelty” before being struck down.

<sup>73</sup> Gera 1997, 174.

## 10.9 Dodging the “blank-cheque” oath

### A.J. Bayliss

The vast majority of the techniques discussed thus far were oaths which were devised to trip up the unwary. But one final technique involves turning an unfair or deceptive “blank-cheque” oath against the instigator. As the name suggests the blank-cheque oath requires swearers to bind themselves to carry out as yet unspecified acts.<sup>74</sup> Swearers of blank-cheque oaths took an immense risk. The potential dangers can be seen in the fact that when the Persian queen Atossa swore to give the Greek doctor Democedes “whatever he asked” in return for secret medical treatment (Hdt. 3.154), Democedes felt the need to offer Atossa assurances that he would ask for nothing shameful (literally nothing which she could blush to hear). The dangers became a hideous reality for Xerxes when he swore to give his mistress Artaynte “whatever she desired” (Hdt. 9.109). Xerxes could not have foreseen that the foolish girl would demand a magnificent cloak Xerxes was wearing which happened to have been made by his wife Amestris. Despite offering the girl alternatives (gold, cities, command of an army!), she insisted on the cloak. The result was disastrous, with Amestris wreaking a horrible vengeance on Artaynte’s mother.<sup>75</sup>

But there were greater dangers than mere happenstance. Braund has argued that “blind entry into reciprocity gives power to the other party which may subvert ethical norms”.<sup>76</sup> This is precisely what the Spartan king Ariston did (#14) when he duped his friend Agetus into swearing an oath to give him an item “from what he had” and then demanded Agetus’ exceptionally beautiful wife. According to

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<sup>74</sup> For the Nottingham Database and in S&B (321) we used term “the blank-cheque oath”. Fletcher (2012, 31) calls this the “blind” oath. Hollman (2005, 287) opts for “the device of the open-ended oath”. Harrison (2000, 109 n24) prefers the term “rash promises”.

<sup>75</sup> For more on this blank-cheque oath see S&B 314–15. Such oaths typically end in disaster for the swearer – as the story of Hippolytus’ downfall due to his blind oath of silence to Phaedra’s nurse demonstrates – which means that they make a powerful literary motif. Ovid uses this to great effect in his *Metamorphoses* where Jupiter’s oath to Semele to grant her an unspecified gift (3.273ff) and Phoebus’ oath to Phaethon to grant him an unspecified favour (2.31ff) both end with the death of the swarree because the oath must be kept despite the fact that the swearer knows that it will not end well. Not every swearer of a blank-cheque oath was as lucky as Antigonus Gonatas (Ael. *VH* 9.26). When he drunkenly swore to do what Zeno of Citium asked, the philosopher merely asked the king to go to sleep. A less scrupulous man would have gained much from the situation.

<sup>76</sup> Braund (1988, 171) argues that “Atossa took a huge risk committing herself blindly to reciprocity”.

Herodotus (6.62), Ariston set out to entrap Agetus because he was tortured by a passionate longing for Agetus’ wife, the most beautiful woman in Sparta. Ariston promised to give to Agetus whatever single item Agetus might choose out of all that was his and he bade Agetus to make him the same promise. Agetus (foolishly) had no fear about his wife, seeing that Ariston was already married, so he agreed and they exchanged oaths (greater than a mere promise) on these terms. Ariston gave Agetus whatever he chose out of all his “treasures”, and then, seeking equal recompense from him, demanded his wife. Agetus says that he had agreed to anything but that, “but he is forced by his oath and the trick by which he has been deceived, and suffers Ariston to take her”. The message is clear – Agetus would dearly love to weasel out of the agreement, but he cannot break his oath.

But where Agetus failed to see a way out of his bind the Thera trader Themison (#8) fared better when the Cretan ruler Etearchus tricked him into swearing an oath to do whatever he wished, and then asked Themison to throw his daughter Phronime into the sea. Like Agetus Themison is trapped by an oath that binds him to do something he would never have imagined he would have to do when he swore his oath. But – as noted above – unlike Agetus the angry Themison found a way out of his oath. By tying a rope around the girl and hauling her straight back out Themison was able to keep his conscience clear by allowing Phronime to live, yet also escape the terrible consequences of breaking an oath.

The two situations were remarkably similar. When Ariston raised the idea of taking whatever he desired from Agetus’ property, Agetus assumed that his friend would not ask for anything he would not happily surrender. But Ariston did not explicitly say so. Likewise when Etearchus asked Themison to swear to do whatever he asked after making him his friend, Themison naturally assumed that Etearchus would not ask him to do anything unpalatable. But again Etearchus did not explicitly say so. The devious behaviour of both Ariston and Etearchus is clear to see in that Herodotus describes their deceit as a “device” (*mēkhanē*), and the fact that both Agetus and Themison become “angry” and complain that they have been deceived by “the trick of the oath” (τῇ ἀπάτῃ τοῦ ὅρκου). But whereas Agetus found himself bound by his blind oath, Themison was able to sidestep his sworn obligation, literally “freeing himself from the burden of the oath” (ἀποσιεύμενος τὴν ἐξόρκωσιν τοῦ ἑτεάρχου). Themison’s ability to evade the oath shows that the danger of the blank-cheque oath is double-edged. Although (like Agetus) Themison is imperilled by accepting the request to make a blank-cheque oath, Etearchus is equally in danger of being tricked himself once he has

commenced the process.<sup>77</sup> As Lateiner argues, “tricksters too are tricked, deservedly hoisted by their own petards”.<sup>78</sup>

Herodotus’ unambiguous appraisal of Themison’s actions is reflected in the judgements of most modern scholars.<sup>79</sup> But none seem particularly sorry for Agetus. To an extent one could argue that Agetus was asking for trouble. He is explicitly stated to be a *hetairos* of Ariston,<sup>80</sup> and in the light of that one wonders why he would have required an oath from his king and friend in the first place. But Themison was the unfortunate victim of a guest-friend (*xenos*) who demanded an oath of him. While Herodotus does not explicitly praise Themison for his actions, he could hardly make his disapproval of the plotting against Phronime clearer: Herodotus calls Etearchus’ wife “a real stepmother”,<sup>81</sup> who devised “all evil” against Phronime,<sup>82</sup> and accuses Etearchus of “devising an unrighteous deed against his daughter” because he was “overpersuaded”. There is a certain folk-tale feel to the story,<sup>83</sup> and it may be that there is a hidden message in the names of the protagonists: Themison = “The Man who does what is Right”, Phronime = “Sensible Woman”, and her eventual lover Polymnestus, the father of Battus, is “the man who woos too much”.<sup>84</sup> Intriguingly, given that his actions are so questionable, Etearchus’ name means “true ruler”.<sup>85</sup> Elsewhere Pindar (*Pyth.* 5.77–93) calls Battus “Aristoteles”, which could be translated as “one who brings things to the best of conclusions”,<sup>86</sup> which would fit well with this folktale. But that good conclusion is relatively short-lived. Like the “saga” of Spartan oaths which was

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77 Hollmann (2005, 287) sees Themison as responding to Etearchus’ “manipulation” of the oath procedure with a “counter-manipulation, fulfilling the literal terms of the oath...if not Etearchus’ intention”.

78 Lateiner 2012, 164.

79 Lateiner (2012, 164) notes that Themison remains as his name implies a good man, and “by a sophisticated *pied de la lettre* compliance evades a greater wrong”. Ogden (2008, 21) states that Themison “kept to his oath”. P.A. Watson (1995, 230) argues that Themison “fulfils his obligation”. Osborne (1996, 11) sees Themison as having “evaded his oath” to drown Phronime. T. Harrison (2000, 109 n24) argues that “the narrative is shaped around Themison’s ingenious fulfilment of the oath”.

80 Scott (2005, 258) interprets his status as an *hetairos* as greater than a *philos*, and speculates that Agetus was “perhaps a hunting-companion [of Ariston] or periodically invited to eat with him”.

81 Ogden (2008, 21) compares Phronime and the as yet unconceived Battus to Danae and Perseus, whereas Watson (1995, 230) includes Phronime’s stepmother prominently in her catalogue “the murderous stepmother”.

82 Hollmann (2005, 287) notes that Etearchus’ wife is “all-scheming”.

83 Lateiner 2012, 163.

84 Osborne 1996, 12.

85 Osborne (1996, 12) suggests “just king”, whereas Lateiner (2012, 163) opts for “early ruler”.

86 Osborne 1996, 12.

kicked off by Ariston’s blank-cheque oath (Ariston will go on to deny his son’s paternity under oath, and by so doing doom his son to being deposed by a process that will involve Leotychidas accusing Demaratus under oath), and has been well noted by modern scholars,<sup>87</sup> Themison’s sidestepping of his oath is part of a saga of stories about the colony of Cyrene which ends with the fall of Barca by way of a similarly sidestepped oath. Perhaps both stories demonstrate that in the long run it is difficult to prosper if you dabble in oath-related trickery.

Just as Themison’s sidestepping of his oath secures the future Battiad dynasty, Demetrius Poliorcetes’ (#35) sidestepping of his blank-cheque oath mentioned above has positive results. Plutarch explicitly states that Demetrius’ actions allowed Mithridates to make “himself master of a large and fair territory, and founded the line of Pontic kings, which, in the eighth generation, was brought to an end by the Romans”. Had Demetrius not found the wherewithal to sidestep his oath to his father, none of this would have come to pass. The parallel between the two cases is even stronger when we consider that just as Themison’s sidestepping of his oath allowed the Battiads to rule in Cyrene for eight generations, Mithridates’ descendants would rule for eight generations as a result of Demetrius’ sidestepping of his oath. Again, the ends appear to have justified the means. But once again, the good that comes from the sidestepping does not last forever.

## 10.10 What does this evidence tell us about Greek attitudes to sidestepped oaths?

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The examples discussed in this chapter confirm Lateiner’s claim that “oaths are good to deceive with”.<sup>88</sup> But clearly some of these dodges were considered more acceptable than others. Thus, on the one hand Themison’s sidestepping of his blank cheque to avoid an unjust killing oath clearly impressed Herodotus, while

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<sup>87</sup> Boedeker (1987, 194) noted that Ariston’s oath sparked off a chain of events that disrupt the Eurypontid royal house and bring about the overthrow of his son as a result of another oath. Scott (2005, 62) claims, “In view of Ariston’s earlier exchange of oaths with Agetos ... it is a nice touch to make him swear an oath which he will shortly be able to withdraw”. Lateiner (2012, 164) links the story of Glaucus as told by Leotychidas to the story of Demaratus’ conception and argues that these “otherwise admirable Dorians” all “live under a cloud of dubious oaths”. Elsewhere (2012, 168) Lateiner refers to “Spartan oath narratives”. Fletcher (2012, 31) discusses how oaths “both generated structure and story” with regard to the tale of Demaratus’ conception and ultimate deposition.

<sup>88</sup> Lateiner 2012, 162.

Soös, Demetrius Poliorcetes, and Anaximenes (#30) were explicitly praised for their dodges. But on the other hand Lichas and Cydias were struck down by the gods for attempting to sidestep oaths, and the Locrian and Thracian sidestepping of oaths led to the abusive terms “Locrian faith” and “Thracian pretence”.

So what conclusions can we draw? Table 1 records whether the sidesteppers were criticized or punished for their actions, and whether or not their sidestepping could be seen to be justifiable. A superficial analysis of the data reveals that only 11 of the 34 sidesteppers (32%) are explicitly criticized for dodging their oaths, and only 6 (18%) are explicitly or implicitly punished for their actions. With two-thirds of the cases going without criticism and unpunished, it is tempting to reach the conclusion that the sidestepping of oaths was more often than not seen to be legitimate by the Greeks.

But a closer examination of the evidence suggests that Greek attitudes were much more nuanced. Of the 18 examples that could be seen as obviously immoral (“No” in the rightmost column), 12 (two-thirds) are definitely or arguably criticized or punished, and most of the remainder are narrated only by writers on stratagems (Polyaenus or Frontinus) who do not normally comment on the acceptability of the practice. In each of these “immoral” dodges the oath was devised by the dodger himself/herself, which perhaps enhances the immorality of the act. Of the dodges which are criticized or punished only one (#20) could be regarded as morally justifiable, and even then the criticism comes from the victims rather than the source. By the same token not one of the dodgers who had an oath imposed on him is criticized.

This pattern is even stronger when we look only at examples cited from archaic and classical sources rather than from Hellenistic, Roman, and Byzantine sources. Out of these 14 examples only four (#1, 8, 10 and 16) could be seen as justifiable, and not one of these is criticized or punished. Of the other nine, all but one (#23) definitely attract criticism or punishment (#2, 4, 5, 21, 22, 33) or arguably do so (#3, 9, 14). It is thus very nearly the case that in archaic and classical Greece, a sidestepper could expect to be criticized or punished if, and only if, his dodge was clearly immoral. Furthermore, the exception – Paches – might not actually be an exception, for as we have already noted Paches committed suicide in open court on being convicted of misconduct in office.

Another means of assessing Greek attitudes to the sidestepping of oaths is to put the practice in an international context. Wheeler argues that the sampling “yields that Greeks are three times as likely as Romans or barbarians (60% versus 20%) to perpetrate sophistic interpretations”.<sup>89</sup> But given that our sources are

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<sup>89</sup> Wheeler 1984, 263.

almost entirely Greek, a more accurate way of putting it would be that according to largely Greek sources the Greeks were more than three times as likely as non-Greeks to engage in such deception. Where the Greeks really do stand out is in their response to such dodges after the fact. For while non-Greeks are more than capable of sidestepping oaths in the heat of the moment – Amasis’ success against the Barcaeans is a case in point – they were not necessarily as accepting as the Greeks were after the fact. The majority of evidence we have for the sidestepping of oaths by non-Greeks comes from Roman sources, and that evidence strongly suggests that the Romans did not normally consider such practices acceptable.<sup>90</sup> Indeed, Cicero (*de Off.* 1.33) argues that such “dexterity” (*sollertia*) is to be avoided at all times. The Roman aversion to sidestepping oaths extended even to when they were correcting a wrong like Amasis, or had been placed in an impossible situation like Themison. A prime example of this is the *post eventum* reaction to the Roman decision to award land disputed by the Aricians and Ardeates to themselves after swearing “to award it to those whom they should find it belonged”. Livy (3.71–2) condemns their decision as “shameful” and deems their victory “sullied”; whereas the Greek writer Dionysius of Halicarnassus (*Ant. Rom.* 11.52) defends the Romans by pointing out that the Romans were aggrieved at being forced to arbitrate over lands they felt were their own.

But perhaps the best illustration of Roman views is the general praise of Regulus for his stubborn fulfilment of an oath to return to his Carthaginian captors if he failed to negotiate an exchange of prisoners, and the corresponding condemnation of the Roman prisoners of war who tried to sidestep a similar sworn obligation to return to Hannibal after the Battle of Cannae. Cicero (*de Off.* 1.39, 3.99–115), Livy (*Per.* 18), and Horace (*Carm.* 3.5) all praise Regulus for keeping his oath, and Cicero even has Regulus argue in the Senate against the proposed exchange of prisoners that would allow his release. By contrast Cicero (*de Off.* 1.40; 3.113), Livy (22.58–61), and Aulus Gellius (*NA* 6.18) condemn the Roman prisoner who, not following Regulus’ (mythical) example,<sup>91</sup> tried to sidestep an oath to return to Hannibal’s camp if he failed to convince the Roman Senate to agree to ransom Carthaginian prisoners. Although the soldier could claim that by returning briefly to Hannibal’s camp on the pretext that he had forgotten something he

<sup>90</sup> Roman interest in preventing such sharp practice has been discussed. Cf. Wheeler 1984, 254–5; Lammert, *RE* Suppl. 6 (1935) 1356.

<sup>91</sup> Of course the fact that there is nothing about Regulus’ oath in Polybius’ much more contemporary account of the events to back up Cicero’s claims suggests a later reinvention to prove Roman rectitude. Indeed, Cicero cites the story of the Carthaginian prisoners after his first mention of Regulus in the *de Officiis*.

was released from the obligation of his oath, the Censors nonetheless condemned him for perjury and sent him back to Hannibal in chains. Cicero's judgement is that "deceit does not remove the guilt of perjury – it merely aggravates it. His cunning that impudently tried to masquerade as prudence was, therefore, only folly". By contrast the Greek writer Polybius (6.58) was not particularly critical of the perpetrator stating merely that he was acting "under the belief that by means of this return he had kept his promise and discharged his oath". Polybius is struck not by the immorality of the perpetrator, but rather by the hyper-morality of the Romans which meant that Hannibal no longer rejoiced at his victory in the battle, but was instead astonished "at the unshaken firmness and lofty spirit displayed in the resolutions of these senators". Clearly the Romans could not tolerate or condone a practice that the Greeks could see as acceptable under the right circumstances. For the Roman writers it is the unbending Regulus, not the artful Autolycus, who serves as a role model.

## 10.11 Conclusions

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This chapter has discussed a host of examples where the Greek sidestepped their sworn obligations, either by design or by happenstance. These examples amply demonstrate, as Lateiner puts it, that "oaths are good to deceive with".<sup>92</sup> This chapter has also explored what types of behaviour the Greeks considered to be acceptable and unacceptable when it came to the sidestepping of oaths. When this evidence is considered we can draw four clear conclusions:

1. While Greek authors are consistent in their portrayal of the oath as a binding contract that must be fulfilled in good faith, regardless of whether doing so will benefit the parties involved, they also tend to show that the intended outcome of the oath can be legitimately sidestepped – not by perjury or by breaking the oath – but by fulfilling the terms of the oath to one's own advantage. As Scott puts it, "the gods punished perjury, but not being clever".<sup>93</sup>
2. Sidestepping was not merely a passive act, when one was caught out by a disadvantageous oath. There is considerable evidence in classical Greek literature to suggest that the Greeks were adept at framing oath-exchanges to their own advantage, and were to an extent proud of that skill. As Torrance argued,

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<sup>92</sup> Lateiner 2012, 162.

<sup>93</sup> Scott 2005, 319.



“avoiding perjury was important for the Greeks, but tricking a swearee with duplicitous language was entirely fair play”.<sup>94</sup>

3. This practice was deemed acceptable when the sidestepper was acting with divine sanction, e.g. Leucippus (#11), avoiding a serious injustice, e.g. Themison (#8), or righting a wrong, e.g. Amasis (#16).
4. But when the sidestepper was clearly in the wrong, e.g. Lichas (#2) or the Locrians (#12), he/she was more than likely to be criticized for dodging the oath.

To conclude it is worth discussing one final example, an alleged exchange between Alexander the Great and the philosopher Anaximenes of Lampsacus (#30). When Alexander threatened to attack the people of Lampsacus and saw Anaximenes approaching to try to dissuade him, Alexander swore by all the gods that he would do the opposite of what Anaximenes asked. Clearly this open oath was intended to stymie Anaximenes, but the wily philosopher then politely asked Alexander to enslave the women and children of Lampsacus, to raze the city to the ground and burn the sanctuaries of their gods. Pausanias makes it clear that Alexander “unwillingly” pardoned the Lampsacenes because he failed to find a way “to counter” (*antimēkhanēsasthai*) what he calls the “trick” (*sophisma*) and was therefore bound “by the compulsion of his oath”. While all the exempla discussed in this chapter are “artful”, I cannot help but feel that the successful dodgers of the blank-cheque oaths like Themison, Demetrius Poliorcetes and Anaximenes are the best of the “artful dodgers” or “sidesteppers”. Having found themselves bound by a seemingly unbreakable oath they find a way out which not only safeguards them against divine retribution but also leads to a greater good. That the Greek sources praised their actions is entirely understandable. That the Greeks could also praise the likes of Soös, Dercylidas, and Leucippus for their carefully crafted dodges which defied “reasonable expectations”<sup>95</sup> makes them not only truly remarkable, but also a joy to study.

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<sup>94</sup> S&B 310.

<sup>95</sup> Lateiner 2012, 161.