

4 Friendship and enmity, trust and suspicion

4.1 Oaths between warriors in epic and tragedy

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The martial sphere often conjures up extreme models of trust relationships: military comrades have colloquial parallels in family, such as the “band of brothers”; military enemies are often understood in equally intense terms (“you’re either with us or you’re against us”). Yet the reality, even the literary reality, presents us with a different picture, where there is a broad spectrum of trust relationships that spans the poles between “friends” and “enemies”. Oaths serve as critical focal points between these two poles. Oaths create the initial terms of military alliance, and ideally render further oaths between military allies redundant. When bonds of alliance are strained, or even broken, then oaths serve to re-establish lost trust. Oaths can also compensate for other issues within an alliance, and can offset differences in status or community between allies. Between “enemies”, oaths serve to establish trust, usually temporarily, where there is none: this allows for the retrieval of corpses, for individual combats, and any other event that requires a temporary truce. This means that oaths between enemies, in establishing trust between them, make them friends, at least in a limited sense. At the same time, an oath between friends suggests that there was a lack of trust between them before, so that in a sense they were enemies. The archaic and classical Greek texts that survive portray an amazingly fluid spectrum of war relationships, and oaths serve a crucial role (both by their presence and by their absence) in determining the status of any relationship along that spectrum.

Oaths that create military alliances are actually fairly rare in epic and tragedy, perhaps because these genres tell stories where the alliances depicted have already been established in traditional myth. Aeschylus’ *Seven against Thebes* provides us with our first example of an alliance within a play, with the description of the oath that binds the eponymous seven men against Thebes, as the men swear by Ares and Enyo and by battle-fear (Phobos), slaughtering a bull over a shield (*Seven* 42–49). This oath is nearly parodied in Aristophanes’ *Lysistrata*, where the women, in forming their alliance of sexual abstinence against the men, suggest taking their oath on a shield (*Lys.* 185–90); they swear by Peitho and the Cup of Amity, and eventually, Zeus, with wine instead of blood (191–5). Euripides’ *Suppliant Women* also focuses on an oath-based alliance, this one between Argos and Athens, represented by Adrastus and Theseus respectively; here they slay three sheep over a tripod, engrave the tripod with the oath and give it to Delphi, while they bury the sacrificial knife in the ground (*Supp.* 1187–1232).

The previous chapter has discussed what stands as perhaps the most famous oath of literary alliance, the Oath of Tyndareos, which bound the suitors of Helen together against anyone who might take her, so binding the Achaeans against Paris and Troy.¹ The *Iliad* itself makes only the vaguest of mentions of oaths taken by the Achaeans, and I suspect that these might refer to what were likely a series of oaths that took place between the oath of Tyndareos and the events of the *Iliad*: first Odysseus mentions a promise (*huposkheis*) taken as the Achaeans left Argos to come to Troy (2.286),² then Nestor is even more obscure when he mentions the agreements (*sunthesiai*) and oaths (*horkia*) that they have taken, with unmixed wine and right hand pledges (2.339–41).³ The vagaries of these references suggest that tradition had established the Achaeans at Troy as bound together by oaths of some kind, even when the oath is not specified. These oaths hold the military alliance together throughout the campaign.

Oaths between individuals who are already allied are more common in epic and tragedy than those that establish military alliances. This is probably due to the inherent character drama that arises in conflict between individuals. When conflict arises and erodes an individual trust relationship that a military oath-alliance should firmly bind, then only an oath can bring the two parties back to where they need to be. There are several examples of this type of trust-cycle within both epic and tragedy, where oaths and their absences play significant roles in understanding where a relationship stands. The most notable in epic is the conflict between Achilles and Agamemnon that is so central to the plot of the *Iliad*. It is a good relationship to examine because it comes from a very early literary source, yet still provides us with a complex oath-relationship between the two Achaean warriors. Achilles did not swear the Oath of Tyndareos, and therefore

1 Direct references to the Oath of Tyndareos occur in Sophocles' *Ajax* (1113) and *Philoctetes* (72), with the most occurring in Euripides' *Iphigeneia in Aulis* (58–65, 78, 391, 395).

2 See §6.3. The Oath Database (remarks on oath #314) suggests that Odysseus' mention of a promise here is “retrospectively upgraded to an oath for rhetorical purposes” in Nestor's speech at 2.284–8, in an early example of the “Sophoclean Oath” (see §5.2). I believe that Odysseus' reference to this promise is actually to oaths taken by the army; the only other time in Homer that the formula ὑπόσχεσιν ἦν περ ὑπέστης is used is at *Od.* 10.483, where Odysseus specifically refers to the oath that Circe made to him (also referenced at 10.299–301, 343–6, and 381).

3 Fletcher 2012, 22 suggests that both these references are actually to the oaths at Aulis, rather than the oath of Tyndareos, and says (*ibid.* n. 29) that the “traditional oath of the suitors to Tyndareos is not mentioned in Homer”. See §6.3, especially p. 145–6 with n. 59. As Torrance suggests, “Nestor's mention of “libations of unmixed wine” (*Il.* 2.341) suggests a formal oath”; I am not so certain, however, that “it seems most likely that he is alluding to the oath of Helen's suitors”.

has no sworn obligation to Agamemnon, or to fight the Trojans.⁴ Instead, Achilles claims to Agamemnon that “for you, O shameless one, and for your pleasure, did we follow you to Troy, defending the honour of you, the dog-eyed, and Menelaus” (1.158–60). So even while there was no oath between them, Achilles is still deeply offended by Agamemnon’s taking his prize Briseis, because this action breaks some unsworn understanding between the two men that exists as a part of a larger cultural idea of reciprocity.

While the initial alliance between the two men feels as though it was sworn while it was not, the reparative oath between them that comes later in the epic feels superfluous. Agamemnon first offers an oath (through Odysseus) in Book 9 (see 9.132–4, 274–6), and Achilles finally accepts the oath in Book 19 (after the pleading of Odysseus in public assembly) (19.175–275). The oath does not guarantee a future truce between the two men, but does make amends for a past action, as Odysseus asks Agamemnon to swear that he has not slept with Briseis (19.175–6). This oath before the assembly publicly heals the breach between the two men and reaffirms their mutual commitment to the war, despite their disparate reasons for wanting the oath: Achilles’ eagerness to rejoin the fighting is motivated solely by vengeance for the death of Patroclus, rather than any need to reconcile with Agamemnon, while Agamemnon needs Achilles back in the fight in order to win. So the most famous example of an individual alliance broken and re-forged shows that while oaths are significant to the relationship, it is not entirely clear that they are essential.

Sophocles’ *Philoctetes* portrays a similar cycle of trust within a broken individual military alliance as it follows the relationship between Philoctetes and Odysseus. Neoptolemus, under the orders of Odysseus, arrives on the island of Lemnos where the diseased Philoctetes has been marooned. His orders are to get his bow and bring it back to Troy, as this is the only way the Achaeans can defeat the Trojans. When Philoctetes hears that Neoptolemus is a Greek, he is immediately friendly with him, and assumes that they are allies (he calls Neoptolemus *philtatos* at 234, 237, 242). This relationship is clearly established as Philoctetes does not ask for an oath from Neoptolemus at line 811, but takes a hand-pledge instead (820), trusting Neoptolemus will take him home without an oath.⁵ But when he learns the truth from Neoptolemus about the young man’s mission, Philoctetes accuses him of breaking just such an oath at line 942. While

⁴ Cf. Soph. *Aj.* 1232–4, where Teucer claims that Aias never swore to Menelaus, but came to Troy as his own commander. For more on this “Sophoclean oath”, see §5.2.

⁵ For discussions of this unsworn oath, see Avery 1965, 281, 288; Belfiore 1994, 123; Fletcher 2012, 93–5; Flory 1978, 69; Hamilton 1975, 134 n.14; Scodel 2011, 15–16; Segal 1977, 145–7.

Sophocles frequently uses oath-language ambiguously (see §5.2), it seems logical here that, upon learning he has been betrayed by what he thought was a friend, Philoctetes would regret the unsworn trust he had placed in Neoptolemus, and re-imagine the trust that he had put in the young man as a sworn oath. Regardless of how Philoctetes sees the trust relationship between himself and Neoptolemus as having been forged, it has clearly been broken at this point. When Neoptolemus changes his mind and decides to help Philoctetes, Philoctetes does not trust him, and Neoptolemus must swear to him that he is not tricking him again (1288f), so re-establishing the initial trust between them.

Euripides' *Iphigeneia in Aulis* also provides us with an oath that restores a relationship between allied warriors. Where Menelaus had said that Agamemnon should sacrifice his daughter so that the fleet might sail, he changes his mind, and finally agrees with Agamemnon that they should not kill her. Here he swears an oath to Agamemnon by Pelops and by Atreus to reassure him (473–6): this oath restores trust between the two men which had been broken, even while it can't prevent the death of Iphigeneia (506–12), or over-rule the oath of Tyndareos that binds them to carry on to Troy.

Other examples from the *Iliad* of oaths between allies demonstrate the versatility of the oath in restoring friendships or re-establishing trust. The funeral games of Book 23 provide an example similar to that between Achilles and Agamemnon, but in microcosm, where Menelaus complains against Antilochus during the games with an oath-request – that Antilochus should swear that he did not cheat in the chariot race (23.581–5; see S&B 57–9). Antilochus did cheat, and so refuses the oath, apologizes, and offers recompense. Here an oath is used indirectly to restore faith between two parties.

The last example in this category of re-establishing an alliance is also from the *Iliad*, and is often seen as an oath that takes place between enemies. When Glaucus, a Lycian (one of the Trojans' allies), and Diomedes, an Achaean, discover on the battle-field as they are about to fight that they are actually ancestral guest-friends, they call an individual truce, swap armour, and clasp hands to confirm their alliance. Since they are guest-friends, the relationship between the two men is actually pre-existing, and only needs to be reaffirmed upon its discovery here on the battlefield. Their individual truce acts as a reminder of a permanent relationship, and needs only to be expressed as a pledge here, rather than a full oath.⁶

⁶ Compare this to the pledge, rather than oath, between Neoptolemus and Philoctetes mentioned on p. 97–8. Diomedes and Glaucus do not swear an oath here, contrary to Fletcher 2012, 76.

Oaths can also serve to create trust or buttress a relationship between allies that is under strain due to a difference in status. An example of this is the oath that Calchas asks for from Achilles (and which Achilles gives) in the *Iliad* (see further §8.1). Calchas is afraid that he might anger Agamemnon with his divination (that Apollo is angry at the Achaeans because Agamemnon has stolen Chryseis, the daughter of his priest), and he asks Achilles to protect him, to which Achilles agrees (1.76–91). This shows that an oath is needed between two men of different status in order to assure their cooperation, particularly against a man of even higher status.

Another example from the *Iliad* that shows an oath bridging a status gap between two allies is that which takes place in Book 10 between Dolon and Hector. When Hector promises the chariot and horses of Achilles to whoever successfully spies on the Achaeans for him, Dolon volunteers and asks for an oath to back up the promise (10.321–33). So while Dolon, a man of lower status (an ugly son of a herald), might not be able to force Hector to give up the goods if he does succeed in his mission, the oath confirms the trust between them and strengthens the military hierarchy.

This kind of status oath, which maintains the military hierarchy, is reversed in the *Odyssey*, when Odysseus must obtain an oath from his own crew that they will not eat any of the livestock on the island of the Sun (12.298–307). This is the only oath in Homer where a commander must ask for an oath from one of his subordinates. The natural problem of being a leader on a ship is that one is always left open to mutiny, geographically separated from normal societal conventions or any other authority that might intervene, and outnumbered by the crew. Odysseus' language confirms this: "Eurylochus, you force me, since I am only one man" (12.297). More than the simple numerical truths of life on board a ship, his men have already shown themselves to be untrustworthy when they released the winds of Aeolus (10.34–49), and there has been a previous breach of trust between Eurylochus and Odysseus over Odysseus' actions in relation to Circe (10.429–41). In the *Odyssey*, Odysseus uses oaths to try to maintain his power over his crew, and maintain the military hierarchy, but he fails (12.339–73, cf. 1.7–8).

These issues of status seem to become slightly different in Sophocles' *Philoctetes*, perhaps because of its fifth-century Athenian context. The pseudo-merchant describes how Odysseus and Diomedes are "oathbound" (*diōmotoi*, 593) to capture Philoctetes by either force or persuasion, and "all the Achaeans" heard him (595).⁷ While this oath is a fiction invented by the "merchant" to help

7 Philoctetes himself refers to this oath a short time later, subtly changing it to say only that Odysseus swore to persuade him (623).

Odysseus' cause, it stands out in our consideration of oaths and status in military hierarchy. The Philoctetes frequently has its characters beholden to "the whole army": the whole army is described as an active agent of persuasion and force by both Philoctetes and Odysseus in the final exchanges of the play (1225, 1243, 1250, 1258, 1294). So while this is a fictional oath, it reflects the strikingly democratic military hierarchy that the world of the play establishes, where the "whole army" tops the hierarchy even above heroes like Odysseus.

So oaths not only create alliances, but reinforce those alliances, particularly between individuals who should be allied but who come into conflict. Oaths can also overcome differences in status between allies, and can strengthen the military order within an allied force.

Oaths between enemies are quite different, because they temporarily create trust where there previously was none. In this function, the power of oaths is necessarily limited. The most common use of oaths between enemies is when temporary truces are brokered; these truces usually allow for the retrieval of corpses or for a single combat to take place. The *Iliad* provides us with examples of each of these types of oaths. The long oath of Book 3, proposed by Paris to Hector at 3.73–5, then by Hector to the Achaeans at 3.94 and sworn by Agamemnon at 3.267–94, is meant to ensure that there will be peace between the Trojans and the Achaeans, and that Helen will be awarded to whichever of Paris and Menelaus wins in single combat. In Book 7, Agamemnon swears a truce to Priam through the herald Idaeus for the retrieval of corpses (7.408–13). Euripides' *Phoenician Women* also gives us an example of an oath being sworn for single combat, where a messenger tells us that Eteocles offered to take on Polyneices alone, and peace was sworn between the Argives and the Thebans (1223–41). There is another treaty at the beginning of the play, which a servant mentions and which probably refers to a temporary truce for the embassy between Polyneices and Eteocles to take place (*spondas*, 97). In all these cases, oaths establish a temporary peace that can be trusted between enemies. The only seemingly permanent sworn peace is made through the oath that closes the *Odyssey*, brokered by Athene at the behest of Zeus (24.482–6; 24.546–8). Zeus says to "let Odysseus be *basileus* always" (483) and that they will make the families of the suitors forget all the violence, so that "loving each other,/as before, let there be wealth and peace aplenty" (485f.)

While oaths between enemies can create trust, the absence of oaths between enemies can be just as significant, and can signal either a mutual understanding where there perhaps shouldn't be one, or an absence of trust which is simply so total that no oath can fill the space or heal the breach. The latter is true in two specific instances in the *Iliad*. The first is between Menelaus and Paris, where in the oath that we have already seen in *Iliad* 3, Menelaus refuses to take an oath with Paris and demands that Priam come onto the battlefield to take it instead (3.105f.).

Menelaus declares that the sons of Priam are *apistoi*, and their untrustworthiness is apparently too great to even be redeemed by oath. This great distrust makes sense, of course, if we think of how brutally Paris had betrayed the trust of Menelaus with his theft of Helen. The other instance where hatred is too great to be bridged by an oath is that between Hector and Achilles. In Book 22, Hector makes an oath-proposal to Achilles to give his body proper funeral rites once he has fallen (22.254–9), and Achilles vehemently turns him down (261–72), famously saying that “there can be no trusted oaths between lions and men” (262).⁸

The absence of oaths between enemies, however, does not always mean a rejection of a relationship, or the impossibility of trust. The first example that the *Iliad* provides is the single-combat scene in Book 7. Here Hector proposes single combat, and swears that whoever of the combatants should win should return the body of the loser to his people for proper burial rites (7.76–91). While the combat does take place eventually, with Ajax standing as Hector’s opponent, the oath is never taken by any of the Achaeans. This means that single combat takes place during an unsworn temporary truce, under unsworn terms: Hector simply trusts that his opponent will do as he has sworn he himself will do, and return his corpse should he fall, in what it seems is largely an act of faith. The second example from the *Iliad* is the unsworn truce that Priam and Achilles agree to in Book 24 for the sake of Hector’s funeral (24.656–72). This absent oath serves to redeem Hector’s oath-proposal that Achilles had so vehemently rejected, not only in its substance, but in its spirit. Where Achilles refused to allow for Hector’s body to be returned to his people in Book 22, here he not only gives the body back, but allows a full funeral among the Trojan people. Where no oaths were possible there because his hatred was too great for Hector, here no oaths are necessary, because his empathy is so great for Priam.

So we can see that the absence of oaths lies at both extremes of the spectrum of military trust; at one end where no trust is possible, at the other where friendship is implicit, and oaths serve to establish, or re-establish, every degree of trust, and every corresponding relationship, in between.

⁸ For more on this oath, see §8.1.

4.2 Oaths in business

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Business, in its broadest sense – transactions affecting the ownership, possession and use of property of all kinds – is a sphere from which in general, among classical Greeks, the oath is conspicuously absent. At first sight this may be surprising. Business, as we are constantly reminded, often involves great risks; in the ancient world this was especially true in the important sphere of maritime trade. Consider the case, a very common one, in which A lends money to B to enable B to buy a cargo with which he will make a voyage from Peiraeus to some distant region – Crimea, say, or Phoenicia – where he will sell the cargo and buy other goods which he will sell upon his return.⁹ If B returns safely he is liable to repay the loan to A with appropriate interest (usually at a rather high rate); if the ship or the cargo is lost at sea, the debt is to be written off and A loses his money; if B fails to make the voyage agreed upon, or fails to ship an adequate return cargo, or returns to a different port from the one where he began his voyage, he may be liable to penalties enforceable by the courts. It is of the nature of such a contract that A risks heavy losses from events over which neither he nor B has any control. But he also risks heavy losses from the actions or omissions of B himself. There is unlikely to be any means of communication between A and B from the time B puts to sea until he returns, which may be several months later. If B breaks his agreement, A will not be able to do anything about it unless B returns to Athenian territory or A manages to track him down elsewhere. And yet we hear of no case in which a lender in such circumstances put the borrower on oath to fulfil his contract. A written agreement, legally enforceable, always sufficed. Why was this so?

The answer, in one word, is trust. To ask for an oath, as we saw earlier in this chapter, implied a lack of trust. But if you don't trust the other party to a deal, why are you making a deal with him at all? There is no compulsion; if you have reason to think that this particular trader isn't trustworthy, you will simply not deal with him but with someone else. And if he gets a general reputation for unreliability, he will be hard put to it to make any deals with anyone. Looking at it the other way round, if you are negotiating for a deal and the other man asks you for an oath, he is serving notice on you that he doesn't trust your honesty, and your relationship with him is thus starting on the wrong foot; again, you might well be better off doing business with someone else who does not advertise himself as a

⁹ On loans of this and related types, see E.E. Cohen 1992, 136–83; Millett 1992, 188–93; and MacDowell 2009, 257–87. For an actual loan contract of this kind see Dem. 35.10–13.

suspicious man. It is not surprising to find that even the pathologically mistrustful man (*apistos*) of Theophrastus, who is hesitant even about lending a friend or relative a set of cups for a party without a third-party guarantee,¹⁰ is not described as demanding an oath from any of his borrowers or debtors.

There are, however, two situations in which we do find undertakings given in business transactions being confirmed by oath. One of these is exemplified only once in our sources, and then by a fictional case. In Aristophanes' *Clouds* (1214ff) a character appears who has lent the anti-hero, Strepsiades, twelve minae – or, to capture more precisely in modern terms the nature of the transaction, judging by the way he describes it (1224–5), has sold him on credit a horse worth this amount.¹¹ He is a member of the same deme (local community) as Strepsiades, and he implies that it would have been thought improper for him to refuse this favour to a fellow-demesman in financial difficulties.¹² He did, however, ask Strepsiades to swear that he would repay the advance (1227) – or alternatively we may be meant to suppose that Strepsiades himself, perceiving that the seller was reluctant to give credit, volunteered an oath. The creditor has recently been pressing for payment, and has been met with evasions and delays (1135–41); he has now decided to take legal proceedings, and has come to Strepsiades' house, accompanied by a witness, to issue a summons. Strepsiades, having learned from Socrates that the gods either do not exist or have lost their power, blithely denies (1225–6, 1230–1) that he ever bought the horse or incurred the debt, and equally blithely expresses his willingness to swear to his denial by Zeus, Hermes and Poseidon, and to do so, if desired, in a sacred place (1232–6).

This is clearly not a normal business transaction. Rather, the seller was extending credit, as a matter of neighbourly duty, to a person whom he knew, and who knew himself, to be a poor credit risk with little if any prospect of raising the money elsewhere – a beggar who could not be a chooser. In these circumstances he was evidently entitled to secure his position as far as he could by demanding an oath (or accepting one if it was volunteered). We cannot tell how common an occurrence this was. In *Clouds* it is an important part of the background to the plot that Strepsiades, on account of the extravagance of his aristocratic wife and their son's obsession with chariot-racing, has been spending far beyond his resources

¹⁰ Thphr. *Char.* 18.7. He *does* demand a third-party guarantee when leaving his cloak at the cleaner's (18.6)!

¹¹ See MacDowell 1978, 138–9, and E.E. Cohen 2005, 293–6. MacDowell 2010 gives a detailed analysis of the legal aspects of Strepsiades' loan transactions.

¹² He now says (1215–16) that it would have been better for him to have “refused unblushingly” (*aperuthriasai*); this verb means “to show no shame in situations in which a normal person would feel ashamed” (cf. Men. fr. 750, Apollodorus com. fr. 13.10).

– but also that, unlike his wife and son, he does not belong by birth or upbringing to the leisured and moneyed class and cannot rely on their mutual support networks. But for his improbable marriage¹³ he would never have dreamed of buying horses in the first place.

There is also, in principle, another possibility, though nothing in the text of *Clouds* positively warrants us to assume it. This is that this was not the first time this man had given credit to Strepsiades, and that the latter had already shown himself a bad payer. This brings us to the second situation in which oaths are found in business dealings, one which has been well discussed by Carawan 2007. It was considered highly desirable, when possible, for two people who had quarrelled to effect a reconciliation, either by themselves or with the aid of mutual friends; often it would be very much in their material interests, too, especially if they were facing a common threat from some third party. But in many cases their past relations would be such that they would have to be more than human not to feel some continuing suspicion, and solemn mutual oaths would be an excellent device for disarming such suspicion – second only, perhaps, to a marriage alliance. Several instances of such reconciliations are narrated in surviving lawcourt speeches, most often in connection with inheritance disputes. Not surprisingly, we usually hear about them only when they break down.

The most detailed narrative we have of a sworn reconciliation is in Demosthenes' speech 48 (*Against Olympiodorus*), probably delivered in the late 340s. What follows is the account given by the speaker, whom I will call Callistratus;¹⁴ it is likely to be very far from the whole truth,¹⁵ but it must have been expected

13 Strepsiades' wife is the niece of Megacles son of Megacles (*Clouds* 46) – a member of the Alcmeonid family, which for two hundred years or more had been at or close to the very top of Athenian society – and yet we are expected to believe that her kinsfolk required the services of a matchmaker (*promnēstria*) to find a husband for her (41–2) and that the latter thought a hard-working, leather-jerked (72) farmer was just the man.

14 He is so named in Libanius' *Hypothesis*, though his name is never given in the speech itself. Probably some early copies of the speech bore the title *For Callistratus* as well as, or instead of, *Against Olympiodorus*; there are other speeches (Antiphon 5, Lysias 16, Demosthenes 57) for which the name of the client is given in the speech title, the *Hypothesis*, or in a testimonial source, although it never appears in the text of the speech.

15 Callistratus gives no adequate explanation for agreeing in the first place to share an inheritance with a man whom (he says) he knew from the start to have no genuine claim to it (§6); and the part played in the whole affair by his half-brother Callippus (§§10, 20, 22, 29) remains entirely obscure. Most of the story Callistratus tells is unsupported by witness evidence; and, very unusually for an inheritance-related case, the information given about the family relationships of those involved is extremely sketchy. See MacDowell 2009, 88–92.

to carry conviction with a jury¹⁶ (who admittedly, as Lysias is said to have once reminded a client, would only have the chance to hear it once).¹⁷

Callistratus had married Olympiodorus' sister, and the two men were apparently accustomed to work closely together. Accordingly, when an elderly, childless relative of Callistratus named Comon fell dangerously ill, Callistratus consulted his brother-in-law. Comon soon died, and Olympiodorus then claimed that he was related to Comon through his mother and had a right to a share of the estate. Callistratus (he says) knew that this was a lie and that no one was closer kin to Comon than he himself was, and there were high words between the two; eventually they agreed to thrash the matter out after the funeral (which they apparently organized jointly). A meeting was duly held, to which other family members were invited.¹⁸ There was much wrangling, but eventually the two agreed that they should divide the estate equally "and that there should be no further unpleasantness" (§8).

And after this we wrote down an agreement with each other about everything, and swore strong oaths to each other to the effect that we would divide the visible assets¹⁹ fairly and justly, and that neither of us would seek to gain more of what Comon had left than the other, and that we would seek out all the other property jointly, and that we would take such action as might at any time be needed in consultation with each other (§9).

The agreement was witnessed by "the gods by whom we had sworn to each other", by the family members present,²⁰ and by a mutual friend, Androcleides, with whom the written document was deposited.

Callistratus claims to have consistently and conscientiously fulfilled the agreement, even when it was much against his interest to do so. In dividing the estate, he followed the classic procedure of first splitting it into two shares and

16 Though it is certainly surprising that Callistratus was thought likely to get away with admitting – indeed asserting – that he had conspired with Olympiodorus to bring collusive lawcourt proceedings in which they would pretend to be rivals and in which Olympiodorus was free, if he wished, to bring forward false evidence against him (§§28–31).

17 Plut. *Mor.* 504c.

18 Callistratus' half-brother, Callippus, who was expected to put in a claim to all or part of Comon's estate (§10), was abroad at the time; the agreement seems to have been, at least in part, directed against him.

19 The terms "visible" (*phanera*) and "invisible" (*aphanēs*), as categories of property, were not precisely defined (see A.R.W. Harrison 1968, 228–35), but they did not give rise to any dispute in this case; the actions of both parties show that by "visible" assets they understood simply those whose existence was evident without investigation – which proved to mean (i) houses with their contents and (ii) the slave workforces of two manufacturing establishments (§12).

20 Curiously, none of these is at any stage called as a witness to the agreement.

then asking Olympiodorus to choose between them (§§12–13). Olympiodorus' share included a slave named Moschion, who was suspected of having stolen and secreted some of Comon's money; the two heirs threatened him with torture, and he produced some 600 drachmae which they shared between them. Olympiodorus, however, in breach of the agreement, subsequently imprisoned and tortured Moschion himself, and Moschion confessed to having stolen a further 70 minae (7000 drachmae), all of which he handed over to Olympiodorus (§18). Callistratus learned of this, and after a time asked why he was not being given a share, but Olympiodorus procrastinated.

Then, as had been expected, Callistratus' half-brother Callippus came home and laid claim to half the estate, and other claimants also appeared. Callistratus and Olympiodorus agreed that the latter should claim the whole estate and Callistratus half of it. Before the date specified for the trial, Olympiodorus had to go abroad on campaign. This should have resulted in the postponement of the trial, but the other claimants succeeded in persuading the jury that Olympiodorus "was absent because of the trial and not on public business" (§25); Olympiodorus' claim was struck out, and Callistratus had to abandon his also (presumably because of the agreement, though he does not at this point mention it). The victorious claimants forthwith took possession of the whole estate, "and that," says Callistratus, "was the benefit I reaped from my partnership with this man" (§28).

When Olympiodorus returned, the pair agreed to launch separate counter-suits against the successful claimants – Olympiodorus again claiming the whole estate and Callistratus half – with whoever won giving the other his share "according to the agreement and the oaths". Olympiodorus spoke first, and was awarded the whole estate – and held on to it all, and to Moschion's 70 minae too. Callistratus mentions some of the justifications he had raised: that he had never received any money from Moschion; that anyway Moschion belonged to him and therefore the money did too; more seriously, that Callistratus had "violated the agreement ... and persistently spoken and acted in opposition to him". It was common in such reconciliation agreements to provide that future disputes should be taken to arbitration, but here it seems to be assumed by both sides (see §46) that if the agreement is broken by either side, the other side can treat it as null and void. That, of course, begs the question of what constitutes a breach. At any rate Callistratus cites his conduct throughout all the past dealings over the estate as evidence of the absurdity of the claim that he had persistently opposed Olympiodorus. He points out, in particular, that when Olympiodorus' original claim was struck out, he could still have laid claim successfully to a half-share, since none of the other claimants were opposing this (§41):

But if I had done that, I would at once have become a perjurer; for I had sworn and agreed to do everything in common with you, consulting as to what seemed best for you and me (§42).

Altogether, Callistratus in this speech refers to “the oaths” about fourteen times. He links them closely with the written agreement, and makes that document the centrepiece of his case. Androcleides, with whom the agreement had been deposited, has been asked to bring it to court; his witness statement is presented in two instalments (§§11, 47), and Callistratus challenges Olympiodorus to allow the agreement to be opened and read, because

I want you to hear the agreement and the oaths which this Olympiodorus and I swore to each other. And if he agrees, so be it; just listen to the words, whenever he sees fit to have them read. If he is not willing to do this, is it not then plain, members of the jury, that he is the most shameless man alive, and that you have no justification for taking seriously a single thing he says? ... He himself is well aware that he is wronging me, that he is wronging the gods by whom he swore, and that he is a perjurer (§§51–52)

Oaths appear again in two other reconciliation agreements in the course of inheritance disputes. In Isaeus 2 (*On the Estate of Menecles*), we hear of a dispute between Menecles and his brother over some property claimed by the latter, resulting in a lawsuit between them, in which Menecles appears to have been advised and assisted by his adopted son. It was eventually agreed to settle the dispute by arbitration, and the arbitrators decided

that we [i.e. Menecles and his adopted son, the speaker] should withdraw from the property [Menecles' brother] claimed and make it over to him as a gift; for they did not see any other possibility of a settlement, except by [the brother and his son] getting a share of Menecles' property. For the future they ruled that we should treat each other well in word and deed, and they compelled us all to swear at the altar to do so; and we did swear to treat each other well in future, to the best of our ability, in word and deed (§§31–2)

Yet now, with Menecles dead, his brother is claiming the whole of his estate by challenging the legality of the speaker's adoption: “this is their idea of treating us well” (§33). The speaker emphasizes that Menecles' brother is violating his

oath, and argues that the very fact that he was included in the oath constituted an effective recognition of the validity of his adoption (§§38–40).²¹

Isaeus 5 (*On the Estate of Dicaeogenes*) is an episode in a long-running feud between Dicaeogenes III – the cousin and, he claims, the adopted son of the long-dead Dicaeogenes II whose estate is in dispute – and the sons of Dicaeogenes II's sisters. The most recent round of this feud had ended with a last-minute compromise under which Dicaeogenes III agreed to surrender to the nephews two-thirds of his cousin's estate, with two friends, Leochares and Mnesiptolemus, going surety for his performance of the agreement (§18). It turned out that little of the property survived, much having been sold or mortgaged and much money spent on building and repairs, and the nephews are now suing Leochares in his capacity as surety. Before the trial, Leochares and Dicaeogenes III asked for arbitration; each side nominated two arbitrators, and both sides swore before the arbitrators to abide by whatever decision they gave (§31).²² Here, it will be seen, the oath of reconciliation does not form part of the arbitrators' award but is taken before they begin their work – a wise precaution, seeing that the dispute had already lasted ten years. In the end the arbitrators were deadlocked and made no decision at all, so that the oaths became inoperative.

A sworn reconciliation in rather different circumstances may or may not be evidenced in a speech by Isocrates (17) concerning dealings with the famous banker Pasion (father of the orator Apollodorus). The speaker is a young nobleman of the kingdom of Bosporus (Crimea) who is on an extended trading-cum-tourist visit to Athens. When his father, Sopaeus, fell under suspicion of treason and was arrested by King Satyrus, the king ordered those of his subjects who resided in Athens to seize the young man's money and force him to return home. In alarm, he consulted his banker, Pasion, with whom he had deposited considerable sums, and they agreed to deny the existence of these deposits and concoct evidence that the young man was actually in debt to Pasion and others. This was all very well for the time being, but presently news arrived that Sopaeus had been released and raised to even higher honours – and Pasion (or so the young man says) continued to deny the existence of the deposits and even demanded sure-

²¹ This argument would be a good deal stronger if it were true, as the speaker here claims, that Menecles' brother had been formally reconciled with *him* "and not with Menecles", and (this is insinuated, not explicitly stated) that he (the speaker) alone had taken the oath; but nothing in §§29–33 indicates that Menecles (the actual owner of the property in dispute!) was not a party to the reconciliation and oaths – indeed the speaker generally refers to his own side in the quarrel as "we" (i.e. Menecles and himself), not "I".

²² For another such oath taken by the parties to a private arbitration, see *Ath. Agora* xix L4a.69–81. On oaths sworn by arbitrators themselves, see S&B §5.13.

ties for his customer's alleged debts. The Bosporan, not surprisingly, prepared to go to law, and at this point Pasion asked to meet him in a sacred place. They met on the Acropolis, and Pasion said that he had acted as he had because he was short of money and asked that he be forgiven and his financial position kept secret (§18). The Bosporan agreed, provided arrangements were made to ensure that he got his money back, and two days later they met a second time, again on the Acropolis, and "exchanged pledges" to keep the matter secret (§19). Since the content of the pledges is introduced by the particles *ē mēn*, which normally introduce the terms of an oath, it is possible that we are to understand they swore to this; but the speaker never explicitly claims that an oath was taken or that Pasion has broken one.²³ They also "agreed" (no mention here of a "pledge") that they would travel together to Bosphorus, where Pasion would repay the money; that on returning to Athens, Pasion could say what he liked about the matter; and that if he failed to carry out these terms, King Satyrus was empowered to condemn him to pay 150% of the sum claimed. This agreement was put in writing and entrusted to Pyron of Pherae, who regularly traded with the Black Sea region, with instructions to burn it if the parties reached a final settlement, otherwise to deliver it to Satyrus (§20).

Whether or not this agreement was sworn to, a degree of sanctity was certainly conferred on it by the place in which it was made.²⁴ It was never carried out in the way originally specified; Pasion refused to make the voyage to which he had allegedly agreed, asserted that no agreement at all had been made, and demanded that the document deposited with Pyron be opened before witnesses – and the document turned out to say that Pasion was released from all claims whatsoever on the Bosporan's part. Of course the Bosporan claims that there had been a fraudulent substitution; but while we need not explore the sequel in detail, it is worth noting that Pasion did in the end carry out the spirit of the agreement. He agreed to travel to Satyrus' court and submit the dispute to his arbitration; and although in the end he did not make the voyage himself, he did send his confidential slave Cittus there (§51). Satyrus refused to give a decision, apparently because he might seem to be infringing Athenian jurisdiction, but he wrote a letter to the Athenian state in terms friendly to Sopaeus' son and encouraged

²³ Accordingly this passage has not been included in the Oath project database.

²⁴ If, that is, it was made at all. Pyron, the only third party who, according to the Bosporan's story, knew about the agreement, is never called as a witness. On the other hand, Agyrrhius, a leading politician of the day and a friend both of Pasion and of the Bosporan, later testifies (§§31–2) to having asked the latter, on Pasion's behalf, either to persuade his friend Menexenus to withdraw a lawsuit he had brought against Pasion *or to annul the agreement*, which implies that at that time Pasion thought the agreement endangered him.

Athenian merchants then in his kingdom to support his cause (§52). Sopaeus' son, of course, claims that Satyrus did this because he thought Pasion was in the wrong; needless to say, it is just as likely that he was simply doing what he could to be kind to the son of his chief minister *without* pronouncing on the rights and wrongs of the matter.

At any rate, the pattern is clear. Normal business transactions are based on trust and do not require oaths – indeed, so far as our evidence goes, oaths are positively avoided. They may be taken, however, when two parties who have quarrelled are trying to resume normal (or at least non-hostile) relations, or when someone is extending a favour to a person with whom he would not be willing to do business in the ordinary way (and who knows it).