

Guardianship in Athenian Law: New Evidence

(Dem. 27–29, Lys. 32,
Hyperid. Against Timandros)

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ABSTRACT

The paper focuses on three guardianship cases from 4th century Athens: the well known one of young Demosthenes (or. 27–29), and those presented in Lysias or. 32 and in the recently published fragment of Hyperides' speech Against Timandros held for a former ward Akadēmos. In all of them former guardians are called to account through dikē epitropēs. They are liable for "holding in their hands" (echein) the value of the wards' assets. From Hyperides one gets new information about misthōsis oikou, leasing out the ward's estate, whereby the guardian can avoid rendering account. In all three speeches the wards' mothers are players in the background, and the speechwriters use the rhetorical technique of 'isolating the facts.'

I will focus on two topics: first on the administration of the wards' inherited properties and the methods to safeguard them;¹ second on the rhetorical techniques the wards used in their court speeches when calling their former guardians to account. Both I will do in three case studies: (I) the case of young Demosthenes, his speeches no. 27–29; (II) that of the young plaintiff in Lysias 32, and finally (III) the case *Akadēmos vs. Timandros* preserved in a quite recently published fragment of Hyperides.

I.

My first example is the young Demosthenes' lawsuit against one of his former guardians, Aphobos (from 364/3 B.C.), well preserved since antiquity and discussed in scholarship for centuries. The claim was a *dikē epitropēs* for the value of Demosthenes' father's assets, of which Aphobos had assumed liability for one-third. Despite his youth, Demosthenes addressed the court in person. As his bill of complaint and a statute demonstrate, in Athenian law the guardian is presumed to "have in his hands" (ἔχειν)² the value of the assets he took over at the beginning of his function less expenditures and losses.³ By his will Demosthenes' father, also named Demosthenes, appointed three guardians: his sister's son Aphobos, his brother's son Demophon and an old friend of him, Therippides; and he left behind two workshops with over 30 slaves, money lent at interest and considerable movable goods to a total value of about 14 talents. After ten years of guardianship Demosthenes numbered the value "in the guardians' hands" including accumulated income 30 talents whereof he charged Aphobos ten. Demosthenes won his case; I think, not because of his exact calculation, but rather due to his excellent speeches. It was quite impossible for the 401 Athenian citizens sitting at court to check all the figures of the account without inspection of a written record; they had to rely on the speaker's words and on witness depositions. Furthermore, even if some of the judges doubted about one or the other figure they only could choose between

¹ Generally on guardianship see, e.g., HARRISON 1968, 99–121.

² Dem. 29.31: ἔστιν οὖν τοῦ μὲν ἐγκλήματος ἀρχὴ 'τάδ' ἐγκαλεῖ Δημοσθένης Ἀφόβω· ἔχει μου χρήματ' Ἀφοβος ἀπ' ἐπιτροπῆς ἐχόμενα, ὀγδοήκοντα μὲν μνάς, ἣν ἔλαβεν προίκα τῆς μητρὸς κατὰ τὴν διαθήκην τοῦ πατρὸς.' ("So this is the beginning of the charges: 'Demosthenes makes the following charges against Aphobos. Aphobos has money of mine which he held as a guardian: 80 minas, which he received as a dowry for my mother in accordance with my father's will.'")
Dem. 29.36: περὶ μὲν γὰρ ὧν καθυφείκας, νόμος ἔστιν, διαρρηθῆναι ὅς κελεύει σ' ὁμοίως ὀφλισκάνειν ὥσπερ ἂν αὐτὸς ἔχης; ("With regard to what you allowed to be misappropriated, there is a law which explicitly states that you owe it just as if you had kept it yourself.")
All Demosthenes translations from MACDOWELL 2004)

³ BECKER 1968, 68–78.

either party's estimate: the plaintiff, Demosthenes, successfully estimated ten talents and the defendant, Aphobos, counter-estimated only one talent. So it makes no sense re-calculating the items listed in the speech 27.18–39, carefully tabulated by MacDowell (2004: 20) in his Austin translation.

The model chosen by the guardians, administering young Demosthenes' estate by themselves, held both chances and risks for the ward. On the one hand all returns produced by the guardians would have devolved on the ward; on the other hand—and this was Aphobos' argument—also the loss fell on the ward; and we do not know how the economic situation of the business had developed during the ten years, especially wanting its efficient boss. Therefore, when guardians administered the estate by themselves disputes concerning their accounts frequently followed.

To avoid this situation, Demosthenes senior—unavailing—had ordered another model shortly mentioned in Dem. 27.58: leasing out the business.⁴ In this case the leaseholder had to pay annual interest to sustain the wards and, after their coming of age, deliver the capital he had taken over. The consequences of this option were: with the value of the enterprise fixed, on the one hand the ward had the guarantee to get his money—not the objects—when coming of age. (Demosthenes only speaks of paying money, not of returning the enterprises.) On the other hand, the leaseholder had the chance to make much more profit than the modest interest he had to pay to sustain the ward. But the leaseholder also took the full risk of any loss, with his property encumbered to the ward. After leasing the estate out to a third person—sometimes the guardian was allowed to be leaseholder himself—, the guardian did not have any problems of being called to account. In Athens the general view was that letting an enterprise was the safer option for the wards. Later I will return to the questions how the leasing took place and how—according to Demosthenes 27.59—the capital could have been doubled in six years.

In addition to the few words generally spoken about the two models of administering the wards' estate the speeches *Against Aphobos* also give some information about guardianship in the broader sense, about three more persons legally depending from other ones: the slave—or freedman—Milyas, Demosthenes' mother Kleoboule, and his sister, two years younger than him. Dealing with these three persons I will examine the—successful—rhetorical tactics used by young Demosthenes.

⁴ Dem. 27.58: τούτω γὰρ ἐξήν μηδὲν ἔχειν τούτων τῶν πραγμάτων, μισθώσαντι τὸν οἶκον κατὰ τοῦτους τοὺς νόμους. ("He could have avoided all this trouble if he'd leased the estate in accordance with these laws.")

I will start with the dispute about Milyas, the foreman of the knife-workshop, inherited from Demosthenes senior.⁵ Previous to the lawsuit, through a challenge (*proklēsis*) Aphobos, the defendant, had demanded this man from Demosthenes junior to be questioned under torture first about the income of the workshop of 30 minas (27.19–23, 28.12, 29.50), and then about the assertion that Demosthenes had already obtained ten talents, the whole amount he was claiming (27.50–52, in 29.30 only indirectly referred to). Milyas was requested to confirm or deny that Demosthenes had received all the money. Such challenges for torturing slaves by *basanos* were, as far as we know, tactic maneuvers.⁶ In no way Demosthenes would have agreed to torturing, mainly with uncertain outcome, the man faithfully serving the family for years. However, declining the challenge gave the opponent a strong argument that his statement was true. So Demosthenes replied that Milyas was no more a slave but rather a free man and therefore no more subjected to torture. And he produced a witness deposition that Aphobos himself by *homologia* “had acknowledged that Milyas was a free man set free by Demosthenes’ father” (quoted in Dem. 29.31;⁷ most probably Demosthenes had produced this witness deposition in 27.22). However, in Athens testamentary manumissions were not valid unless an act of publicity occurred, which apparently had not yet happened.

How did Demosthenes handle this delicate situation? By «isolating the facts». Through this rhetorical technique speechwriters disjoined facts that belonged together and, by using psychological links, combined individual aspects of an issue that were true *per se*. Thereby, out of a set of true facts the logographers shaped an overall impression that was falsified, but met the needs of their clients’ cases.⁸ In his first speech *Against Aphobos* young Demosthenes did so in the following way: in section 9 he seems to be uncertain about the figure of 32 or 33 knife-maker (slaves)—a feigned uncertainty regarding Milyas. In 19 he first introduces Milyas by name and as “our freedman” and depicted him as manager with full authority. In 22, eventually, without saying a single word about Aphobos’ *proklēsis*, he most probably produces the witness testimony about Aphobos’ *homologia*. Independently, in section 50 he refers to an “unreliable” *proklēsis*, this time without mentioning the name of Milyas. In this way the plaintiff undermined foreseeable conclusions from the *proklēsis* he had rejected, without saying a single word about the *basanos*,

⁵ For details see THÜR 1972 = 1987.

⁶ THÜR 1977, 233–261.

⁷ Dem. 29.31: μαρτυροῦσιν παραγενέσθαι ... ὅτε Ἄφοβος ὡμολόγει Μιλύαν ἐλεύθερον εἶναι ἀφθεθέντα ὑπὸ τοῦ Δημοσθένους πατρὸς.

⁸ THÜR 1977, 256.

which the defendant had demanded. From Demosthenes' first speech on, over the whole *dikē epitropēs* the judges would have remembered Milyas as a free man, not to be subjected to torture.

Another topic of this speech is the case of Kleoboule, Demosthenes' mother; as usual when publicly alluding to honest ladies, in none of the five speeches concerning guardianship she is called by her name. On his dead-bed her husband, Demosthenes senior, gave her in marriage to Aphobos—in Athens a usual provision in wills—with a dowry of 80 minas and granted his post mortem son-in-law the house for residence (27.4). Aphobos took up residence and, allegedly, received the full dowry (27.16) but “refused” to marry Kleoboule. In this sense the audience must have understood the words: μὴ γήμαντος δ' αὐτοῦ τὴν μητέρα τὴν ἐμήν (27.17). Since Demochares, the husband of Kleoboule's sister Philia, was involved in the case we might come to the contrary result. As MacDowell in his Austin translation correctly notes,⁹ Kleoboule left her marital home and moved—with her children—to the house of her sister. Did she, Kleoboule, refuse to marry Aphobos? We should think so. Anyway, in court Demosthenes concedes that “a little disagreement” had taken place between Aphobos and Kleoboule (27.15). Due to the fact that Demochares, being only Kleoboule's brother-in-law, was not her *kyrios* and her son Demosthenes was underage, there was no close relative to administer her legal interests. Therefore Aphobos, constantly pretending that he was willing to marry the widow, had good arguments for living in Demosthenes' house keeping Kleoboule's dowry and not providing her with maintenance, at least until he finally had married another woman (27.15). So we may ask: did Kleoboule incite her son to bring Aphobos to trial first, before trying the other two guardians? Most probably she did. Foxhall, for example, calls Kleoboule the «real heroine of this social drama».¹⁰ Surprisingly, in his *dikē epitropēs* against Aphobos, the speeches 27 and 28, Demosthenes does not dare praising his mother that “she passed her life in widowhood for her children.” He does not do so until his speech held in defense of his witness Phanos (Dem. 29) charged for perjury in a following trial, the *dikē pseudomartyriōn*.¹¹ Here he addressed another law court, whose judges were not aware of the speeches held in the prior trial. Assumingly, Aphobos might have violently slandered Kleoboule in his defense against Demosthenes' *dikē epitropēs*—in vain as it turned out.

⁹ MACDOWELL 2004, 25 n. 24, concerning 27.14.

¹⁰ FOXHALL 1996, 144.

¹¹ Dem. 29.26: ... οἱ μόνοι παῖδες ἔσμεν αὐτῆ, δι' οὗς κατεχίρευσε τὸν βίον (“... being her only children, for whom she passed her life in widowhood”).

In the first speech against Aphobos there is also another instance of «isolating the facts»: emotionally the whole speech is structured around Kleoboule’s dowry of 80 minas. From this point Demosthenes started his account of Aphobos’ misdeeds (27.13–18), and about this dowry the last words were spoken (27.69). Imploring the judges for pity, Demosthenes complained about another dowry too: if Aphobos was not condemned in this trial he, Demosthenes, would never be able to spend the 120 minas his father had bequeathed as dowry (*proix*) to his, the younger Demosthenes’, sister (27.65, 29.43). Eventually the judges must have forgotten that the co-guardian Demophon, who was provided to marry the girl when she came of age, had cashed the sum in advance (mentioned just at the beginning of the speech, 27.5). Nevertheless Demophon refused to marry her. However, does this item concern Aphobos? If the sister’s dowry really was thus important, why did Demosthenes not bring Demophon to trial first? Demosthenes may have trapped the judges by the fact that usually the mother’s *proix* passed to her daughter.¹² *Proix* was an ideal emotional topic to frame sober business accounts. And Demosthenes’ teacher Isaios knew how to deal with inheritance cases.

II.

My second case is the *dikē epitropēs* of another young man against his former guardian, Lysias 32, *Against Diogeiton* (a bit earlier, from 400/399 B.C., but only partly preserved). Being called up to serve as a hoplite Diodotos appointed his brother Diogeiton by will to be guardian of his three children, two sons and one daughter. Diodotos died in battle and eight years after the elder son came of age. The young man charged Diogeiton six talents and 20 minas. Because of his own inexperience his brother-in-law spoke for him as *synēgoros* (supporter); their names are not preserved. Again, I will omit recalculating the items listed in the speech. One may check the table inserted by Todd in his Austin translation.¹³ Also this claim is based on the allegation that the former guardian “has in his hands” the wards’ property (ἔχειν, Lys. 32.2, 20 and 28).¹⁴ Diogeiton had agreed (*hōmologēsen*) having taken over the value but he deducted huge expenses on the children and probably also financial losses.

¹² THÜR 1992, 127.

¹³ TODD 2000, 320.

¹⁴ Lys. 32.2: Διογείτων ἃ φανερώς ἔχων ἐξηλέγετο; 20: τὰ δὲ τελευτῶν ὁμολογήσας ἔχειν, and 28: ὅσα τελευτῶν ὁμολόγησεν ἔχειν αὐτὸς χρήματα.

Parallel to Dem. 27.58¹⁵ we find the suggestion that the guardian should have rented out the property, thereby ridding himself of many troubles.¹⁶ The speaker continues advising the alternative purchase of land in order to get steady income for bringing up the orphans; thereby the guardian might also maintain the value of the estate. From this text one can infer that *misthōsis oikou* does not mean renting out the “dwelling house” or agricultural land or the whole estate, but rather a commercial enterprise with all its chances and risks. In Demosthenes’ case the two factories were meant. Therefore his calculating the profit at a fixed rate per annum seems to be economically inadequate.

Diodotos’ ran the highly risky business of maritime trade (*emporía*, 32.4) and like Aphobos and his co-guardians also Diogeiton administered the children’s estate by himself. However, in this case the plaintiff calculated the value of the property in a different way, claiming nothing in interest payments. The speaker relies on an account book (*biblion*, 32.14) the children’s mother allegedly came across by chance. And out of the statement the speaker arbitrarily picks up the guardian’s debits and credits fitting best his arguments. Like Demosthenes later on, the speaker had to prove every debit and refute every credit by witness depositions. This was the consequence of the Athenian administration of justice. A panel of several hundreds of lay judges was not able to scrutinize documents. So the result of a case lastly depended on rhetorical devices; for the debits Diogeiton’s very own acknowledgment (*homologia*, 32.20, 28)¹⁷ was essential, only the expenses and losses, the guardian’s credits, were in dispute.

I think the plaintiff used the method of picking up isolated facts also for accounts kept by third persons. In his defense Diogeiton claimed to have contributed 48 minas in a joint trierarchy with a certain Alexis, whereof he charged half of the sum, 24 minas, to the boys (32.24). After continuing with a different story the speaker returns to the trierarchy in 32.26: in the records of the *syntriērarchos* Alexis he found an entry that Diogeiton contributed only 24 minas and, therefore he inferred, Diogeiton has charged the costs of his whole trierarchy to the boys. Could there not have been two different entries at different positions, each of 24 minas, one concerning the boys and the other one the guardian? Bearing testimony to only one of them (32.27) was not perjury, and nobody was allowed to question or cross-examine the witnesses. Only the defendant could object to them within his speech, but he must have penetrated the trick before.

¹⁵ See above, n. 4.

¹⁶ Lys. 32.23: ... μισθῶσαι τὸν οἶκον ἀπηλλαγμένον πολλῶν πραγμάτων.

¹⁷ See above, n. 14.

As indirect contribution to Legal Document Studies the speech allows some insight into the practice of record keeping of an Athenian businessman. When dealing with Diogeiton's accounts the speaker referred to a sophisticated way of defrauding the wards (32.25): Diogeiton invested two talents in cargo to be shipped to the notoriously dangerous Adriatic. When it was leaving he told the boys' mother that the risk (*kindynos*) was theirs. But the goods purchased in return got to Athens safely and doubled in value; so immediately he declared the cargo was his own.¹⁸ From the high profit rate one can infer that Diogeiton invested the children's or his own assets directly in return sea trading and not in granting a sea loan¹⁹—even the high interest of such a loan would not have doubled the principal. Technically Diogeiton kept at least two accounts, one for his own business and another one for that of the wards. He waited for entering the expense until the outcome of the risky job was clear.²⁰ In this way he easily could shift the profit to his own account and the loss to that of the wards.

Up to now the children's mother, Diodotos' widow—as usual never called by her name—has been mentioned sometimes. Like Kleoboule in Demosthenes' case she played a central role in the story.²¹ Diodotos had married his niece, the daughter of his brother Diogeiton. So Diogeiton, the guardian, in one person was the children's uncle from their father's side and their maternal grandfather; and Diodotos' widow in one person was the children's mother and the guardian's daughter. Since her father, Diogeiton, had married a second time she—daughter out of his first marriage and Diodotos' widow (also remarried now)—could not bear that her (probably young) stepmother's children in the new family of her wealthy father were much better off than her own ones (32.17). By isolating the facts Lysias concealed the central role of the children's mother: on the one hand, he most effectively placed the part of the speech slandering the unfaithful guardian Diogeiton in the mouth of Diogeiton's own daughter (32.12–17); on the other hand, he excused her for not being accustomed to speak in front of men (32.11); so her appearance seemed to be an exceptional one. Later, in 32.14, we hear the implausible sto-

¹⁸ Lys. 32.25: καὶ ἀποπέμψας εἰς τὸν Ἀδριακὸν ὀκτάδα δυοῖν ταλάντοι, ὅτε μὲν ἀπέστειλεν, ἔλεγε πρὸς τὴν μητέρα αὐτῶν ὅτι τῶν παίδων ὁ κίνδυνος εἴη, ἐπεὶ δὲ ἐσώθη καὶ ἐδιπλασίασεν, αὐτοῦ τὴν ἐμπορίαν ἔφασκεν εἶναι. (“He also sent to the Adriatic a merchant ship with cargo valued at two talents. When it was leaving, he told their mother that the ride was the boys' responsibility, but when it arrived and doubled in value, he claimed that the cargo was his own.” — Translation TODD 2000).

¹⁹ So ISAGER & HANSEN 1975, 27.

²⁰ JAKAB 2007, 113.

²¹ TODD 1993, 202–206.

ry that the children by chance came across the account book allegedly thrown away. Eventually, in 32.25, the audience is told that Diogeiton did inform his daughter about the risky Adriatic business. Putting all these facts together one can infer that the children's mother, maybe differently from Kleoboule, all the time over kept an eye on the administration of the property.

III.

The third case, finally, is a *dikē epitropēs* of a young man Akadēmos against his former guardian Timandros, Hyperides *against Timandros* (second half of 4th century B.C.). Recently a fragment of 64 lines of this speech otherwise lost has been deciphered in the famous Archimedes Palimpsest.²² From this speech we get some new evidence, foremost on leasing out the wards' property and how to control the guardian's administration.²³ The facts are: an Athenian couple died and left behind four orphans, two boys and two girls. Surprisingly a guardian living in Lemnos was appointed, Timandros. He was an Athenian citizen and most probably *klērouchos*, in possession of public land there. Timandros took the younger of the two girls with him, allegedly by "dragging her away" (l. 25). I think for the other three children who stayed in Athens a co-guardian was appointed, as usual by their father's will like the three guardians of Demosthenes and his sister. Maybe, in his will, the father also gave the younger daughter to the co-tutor Timandros in marriage.

After 13 years and coming of age, Akadēmos charged Timandros more than five talents; a probably elder *synēgoros* spoke for him. The kind of legal action is not clear: from the words "he did the same man's sister a wrong worthy of capital punishment" (ll. 19–20) Whitehead infers that it was an *eisangelia*, a public prosecution of an ex-orphan desiring for revenge.²⁴ However, in my opinion the *timēma* was not death penalty²⁵ but rather financial compensation through a private *dikē epitropēs*. To be specific, in line 62 we read the crucial word ἔχειν used in the same way as in the other guardianship speeches: "... while now *holding* assets from his estate worth more than five talents, as I shall demonstrate to you."²⁶ The following list of assets is lost.

²² Text now in HORVÁTH 2014, 184–188 (with a German translation by H. Maehler); for the new Hyperides fragments see also ENGELS 2014 (*Against Timandros*: 244–245).

²³ THÜR 2010 with further references.

²⁴ WHITEHEAD 2009, 142–145.

²⁵ WHITEHEAD 2009, 148.

²⁶ *Against Timandros*, ll. 61–62: ... ἐκ τῶν τούτου πλέον ἢ πέντε ταλάντων οὐσίαν ἔχει, ὡς ὑμῖν ἐπιδείξω.

The main accusation against Timandros was that he conducted the guardianship completely contrary to the laws (ll. 10-17). In detail: 1) he did not register the guardianship with the *archōn*; 2) he did not have the property leased out, and 3) he prevented a denunciation (*phasis*) to let the property from being filed with the *archōn*. From Isae. 6.36 we know the duties of guardians on the one hand and the competence of the *archōn*, the magistrate responsible for family, inheritance and guardianship, on the other. The Isaeus text runs: “They registered these two boys with the *archōn* as being adopted by Euktemon’s two sons who had passed away putting themselves down as their guardians, and they asked the *archōn* to lease out the estates as belonging to orphans...and that they themselves might become lessees and obtain the income”.²⁷ After registration, a guardian may request that the magistrate assembles a law court for publicly leasing out the property in a kind of auction. Until now the question was: could the guardian himself apply for leasing the assets? Tchernetska, the first editor of the fragment, denied the question and translated *αὐτοῖς*²⁸ in l. 3 “to lease for their own profit”.²⁹ With Wolff³⁰ I would take Isaeus seriously and translate *αὐτοῖς* “on their own authority”, meaning: the laws forbid the guardian to lease by himself, without the *archōn* and the *dikastērion*. So the plaintiff Akadēmos argues that Timandros did not lease at all, the guardian Timandros replies that he did. Akadēmos claims the principal and all the returns Timandros had apparently made administering the estate for 13 years, the five talents mentioned in line 61; Timandros counters to be liable only up to the much lesser value of the estate at that time when he took it over as tenant.

Nevertheless, in line 12 the speaker produced witnesses for the fact that Timandros “did not lease” the estate. I believe that this is another instance of “isolating the facts”. The witness deposition might have been correct for Athens. However, Timandros could reply that he fulfilled all his duties correctly with the magistrates of his *klērouchia* at Lemnos. There he might have registered the guardianship and obtained in lease a principal and slaves probably for trading with grain; the island of Lemnos is located on the main route from the Black Sea to Athens. But Timandros’ reply could have got missed in face of the emotions Hyperides was able to excite.

²⁷ Isae. 6.36: Ἀπογράφουσι τὸ παῖδε τούτω πρὸς τὸν ἄρχοντα ὡς εἰσποιήτω τοῖς τοῦ Εὐκτήμονος ὑέσι τοῖς τετελευτηκόσιν, ἐπιγράψαντες σφᾶς αὐτοὺς ἐπιτρόπους, καὶ μισθοῦν ἐκέλευον τὸν ἄρχοντα τοὺς οἴκους ὡς ὄρφανῶν ὄντων ... μισθωταὶ δὲ αὐτοὶ γενόμενοι τὰς προσόδους λαμβάνοιεν.

²⁸ *Against Timandros*, ll. 3–5: *αὐτοῖς* δὲ τοὺς ἐπιτρόπους ἀπαγορεύουσιν οἱ νόμοι μὴ ἐξείναι τὸν οἶκον μισθώσασθαι.

²⁹ TCHERNETSKA 2005, 3, following WYSE 1904, 526–527.

³⁰ WOLFF 1953, 202–205.

Leaving aside the emotional tendency of the fragment, its first twelve lines now make much clearer how leasing out a commercial enterprise, an *oikos*, did work. First, it was not the *archōn*, who concluded the contract, but rather the *dikastērion*, the law court, had the last word by casting votes (ll. 7–8). Second: if there was more than one person interested in leasing the enterprise a kind of auction took place. This, in general, has been well known before. However, it was not clear what the highest bid was. It was conjectured that the person who offered the highest rate of interest obtained acceptance.³¹ But no source tells us about interest rates at all. Probably the rate was fixed by law or by custom. From a possible restoration of the first sentence of the fragment³² one may infer that the auction was carried out to obtain the highest assessment of the capital, not the highest rate of interest on an unknown amount of capital. The person who offered the highest assessment of the substance received the enterprise to lease. The only reasonable way of securing a ward's property, which consists in a producing firm, is assessing its value. And now we can understand Demosthenes saying in 27.58–59 that the value of an *oikos* could be doubled and tripled during a guardianship: not by the principal's interest only, but rather by comparing the value when the auction had started with the highest bid and interest thereof.

Finally, the fragment throws new light on the *phasis oikou*, a “denunciation” to control the guardian administering the enterprise. Formerly the *phasis* was thought to be a public action brought by a *boulomenos*, but not mentioned by Aristotle in his catalogue of remedies in *Ath. Pol.* 56.6. Wolff held that it was nothing other than a report to the *archōn* that there was an orphan's *oikos* to be let.³³ Now, from the word ἀμφισβητεῖν (“oppose”, ll. 5–6) one can infer to opposing claims about a ward's enterprise: the claim of the denunciator that the enterprise should be leased to him, and the counter-claim of the guardian, who intends to carry on administering the business by himself. Thus the *phasis* resulted in a public auction, which had the character of a *diadikasia*, a competition between two or more parties.³⁴

One may ask how Timandros could “prevent” such a *phasis*, which someone had brought forward in Athens (ll. 16–17). As said before about isolating the facts, if Timandros had correctly fulfilled his duties at Lemnos, the *archōn* in Athens evidently had had no reason to suspect that something was wrong with the guardianship.

³¹ HARRISON 1968, 106.

³² THÜR 2010, 8 n. 4.

³³ WOLFF 1953, 207.

³⁴ THÜR 2010, 16–17.

In the fragment the role of the children's mother is only indirectly touched. Since the mother also had passed away she could not interfere with the administration. Nevertheless she is mentioned, strikingly only in connection with her daughters (l. 22): "When there were left these two brothers and two sisters, the girls being orphans without mother or father, and all of them small children..." This concerns only personal custody and meets the line of argumentation in this part of the speech. Only in special situations the speakers refer to economic activities of women also within the family.

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