

Misthos for Magistrates in Fourth-Century Athens?

Mogens Herman Hansen

IN TWO ARTICLES and in *The Athenian Democracy in the Age of Demosthenes*¹ I have argued that *misthos* for magistrates, which was abolished by the oligarchs in the late fifth century,² was not reintroduced in connection with the restoration of the democracy in 403 and that, during the second democracy (403–322), citizens served as magistrates (*archai*) without any regular remuneration from the treasury. The only exceptions were the nine archons (who had been paid even under the oligarchical regime in 411), the overseas magistrates, and a few others (*Ath. Pol.* 42.3 and 62.2).

Before I published my articles the generally accepted view was that all fourth-century Athenian magistrates were paid a daily allowance. A. H. M. Jones, for example, states that “the magistrates numbered about 350 in the later fourth century, and, if they received on an average 1 drachma a day, the total annual bill would be 21 talents.”³ As the number of magistrates in Athens seems to have been ca. 700,⁴ the calculated annual expense goes up to ca. 40 talents. By way of comparison it can be mentioned that in the 330’s the assembly cost ca. 45 talents,

¹ M. H. Hansen, “*Misthos* for Magistrates in Fourth-Century Athens,” *SymbOslo* 54 (1979) 5–22; “Perquisites for Magistrates in Fourth-Century Athens,” *ClMed* 32 (1980) 105–125; *The Athenian Democracy in the Age of Demosthenes* (Oxford 1991) 240–242, 274–276.

² Thuc. 8.97.1; Arist. *Ath. Pol.* 29.5; abolition upheld during the rule of the 5000: *Ath. Pol.* 33.1.

³ A. H. M. Jones, *Athenian Democracy* (Oxford 1957) 6.

⁴ Hansen, *The Athenian Democracy* 239–240.

the council probably about 15, and the courts somewhere between 22 and 37.⁵

Ever since my two articles were published scholars have been divided over the issue. The two principal critics of my view have been Vincent Gabrielsen in his fascinating book devoted to the problem⁶ and now David Pritchard's article in this periodical.⁷ I have not treated the topic since my general account of Athenian democracy was published in 1991, and I take Pritchard's well-structured presentation of the view with which I disagree to be an opportunity to question his interpretation of some of the evidence he has adduced and to adduce some new evidence that supports my position.

The bone of contention is not whether citizens could profit from serving as *archai*. The disagreement concerns the source of the profit. Pritchard subdivides the problem into three sub-problems which can be treated one by one and which lead to the conclusion that fourth-century Athenian magistrates must have obtained a form of *misthos* like the one the citizens obtained for attending the assembly, the council, and the courts. In the first and longest section (5–10) Pritchard argues that the Athenians were ferocious in their treatment of magistrates who took bribes or embezzled public money or were remiss in returning public funds they had handled etc. In the second section (10–12) he points out that many magistracies were filled by poor citizens who must have been compensated for lost earnings. Since it has been shown in the first section that all other forms of income were illegal and severely punished, the compensation can only have been regular *misthos* from the state. In the third section (13–16) he reviews the evidence we have for

⁵ Hansen, *The Athenian Democracy* 315.

⁶ V. Gabrielsen, *Remuneration of State Officials in Fourth Century B.C. Athens* (Odense 1981).

⁷ D. Pritchard, "The Public Payment of Magistrates in Fourth-Century Athens," *GRBS* 54 (2014) 1–16. Others who reject my view refer to Gabrielsen's book without debating the issue, cf. Pritchard 3 with nn.15–18, where Pritchard also refers to those who support my position.

the payment of fourth-century magistrates which therefore must have been *misthos*.

Pritchard takes up a clear position and his conclusion is cogent, provided that he paints a full picture, which in my opinion is not the case. I shall adopt his organisation of the issue and comment on each of his subdivisions.

1. *The lack of public tolerance of financial misconduct by magistrates*

The principal source that shows the other side of the coin is a passage in Hyperides' speech against Demosthenes in the Harpalos affair (1.24–25):

[π]ολλὰ ὑμεῖς ὦ [ἄνδρ]ες δικασταὶ δίδοτε ἐκόντες τοῖς στρατηγοῖς καὶ τοῖς ῥήτορσιν ὠφελεῖσθαι, οὐ τῶν νόμων αὐτοῖς δεδωκότων τοῦτο ποιεῖν, ἀλλὰ τῆς ὑμετέρας πραότητος καὶ φιλανθρωπίας, ἐν μόνον παραφυλάττοντες, ὅπως δι' ὑμᾶς καὶ μὴ καθ' ὑμῶν ἔσται τὸ λαμβανόμενον. καὶ Δημοσθένη καὶ Δημάδην ἀπ' αὐτῶν τῶν ἐν τῇ πόλει ψηφισμάτων καὶ προξενιῶν οἶμαι πλείω ἢ ἑξήκοντα τάλαντα ἐκάτερον εἰληφέναι, ἔξω τῶν βασιλικῶν καὶ τῶν παρ' Ἀλεξάνδρου.

Gentlemen of the jury, you grant the *rhetores* and *strategoī* tremendous perquisites, although the laws do not permit them to receive such benefits, only your mildness and indulgence: your only proviso is that the gain should be for your advantage and not to your harm. Demosthenes and Demades have, I believe, made more than 60 talents each from their decrees at home and from acting as *proxenoi*, quite apart from what they have got from the King of Persia and Alexander.

Hyperides' account of the Athenians' attitude to emoluments obtained by *rhetores* and *strategoī* is surely trustworthy: it comes in a speech where it would have been to the prosecutor's advantage to claim that all 'gifts' were bribes. It is a truism, but an important one, that ancient Greek had just one word for gifts and bribes, viz. δῶρον. Pritchard takes all 'gifts' to magistrates to have been bribes and argues that the recipients were taken to court and severely punished. Hyperides, however, draws a distinction between gifts accepted in the interest of the people and against the interest of the people. Gifts of the first kind—though not strictly legal—are tolerated by the people.

Only those of the second kind are punishable.⁸ Furthermore, the gifts accepted by Demosthenes and Demades are associated with their position as *proxenoi*. In Greece *xenia* and *proxenia* were important institutions that bridged private and public affairs. They formed a network of ‘international’ relations.⁹ For a citizen who was the *proxenos* of another *polis* it was not necessarily a bribe to receive a gift from that *polis*. Similarly, receiving gifts from one’s *xenos* abroad was permitted, unless of course one’s *polis* was at war with that of one’s *xenos*. Such was Aischines’ answer to Demosthenes’ accusation that he had been bribed by Philip and Alexander: the gifts he had received were given by his *xenos*.¹⁰

The line between δῶρον in the sense gift and in the sense of bribe was a blurred one as is best shown by the two duels between Aischines and Demosthenes, the first in 343 (Dem. 19 and Aeschin. 2), the second in 330 (Aeschin. 3 and Dem. 18). Lists of all the ‘gifts’ they accuse each other of having received are conveniently printed in John Davies’ *Athenian Propertied Families* 133–135 (Demosthenes) and 547 (Aischines). Davies concludes (134) that “though few, if any, of the figures, emanating as they do almost entirely from hostile sources, can be taken on trust (and they are here quoted with this warning), our information ought to reflect the truth at least in its general structure.” So in both cases there is little doubt that gifts had been given, but Aischines was acquitted in 343 and in 330 Demosthenes succeeded in having Ktesiphon acquitted. Nor is there any evidence that Aischines was ever convicted of corruption and, similarly, if Demosthenes in the course of his political

⁸ F. D. Harvey, “*Dona Ferentes*: Some Aspects of Bribery in Greek Politics,” in P. Cartledge and F. D. Harvey (eds.), *Crux. Essays presented to G. E. M. de Ste Croix* (London 1985) 76–117, at 108–113: “The Hypereides Principle.” D. Whitehead, *Hypereides. The Forensic Speeches* (Oxford 2000) 438.

⁹ G. Herman, *Ritualised Friendship and the Greek City* (Cambridge 1987).

¹⁰ Dem. 19.145, 166–168, vs. Aeschin. 3.66. Cf. L. G. Mitchell, *Greeks Bearing Gifts* (Cambridge 1997) 182–186.

career down to 330 had been convicted of corruption, it would undoubtedly have been pointed out by Aischines in his speeches. Only in 324 in connection with the Harpalos affair was Demosthenes taken to court and convicted of bribery. The inference is that previous *dora* received by Demosthenes and Aischines must have been accepted by the Athenians as gifts, not bribes.¹¹

So much for ‘gifts’. A different kind of profit which some magistrates could enjoy was for long periods to have public money at their private disposal. One example is a long list of public debts recovered by the *epimeletai ton neorion* from their predecessors.¹² Some of the debts go back to 378/7 but were only recovered in the quadrennium 345–341. Some of the amounts are insignificant, others substantial. A debt recovered from a *tamias eis ta neoria* totalled 2 talents 4600 drachmas. So far as we can see only the principal was repaid. There is no indication of any interest or a penalty. I am inclined to think that such debts are covered by what Isokrates at 7.24 refers to as ἐκ τῶν κοινῶν τὰ σφέτερον αὐτῶν διοικεῖν, see 411 below. The Athenians’ tolerance towards public debtors is spelled out at Dem. 25.85–91.¹³

2. *The prevalence of poor citizens serving as magistrates*

When we hear about gifts to political leaders the amounts mentioned in the sources are talents whereas the profit obtained by all the minor magistrates seems to have been counted in drachmas. We have evidence of (1) benefits that were legal and regulated by decree, (2) perquisites that were strictly speaking illegal but often tolerated, and (3) outright bribes that might lead to a trial and conviction of the magistrates who had been

¹¹ In 338/7 Demosthenes served as *sitones*; at his *euthynai* he was charged with embezzlement (κλοπή) but acquitted: Dem 18.248–249, Plut. *Mor.* 849F.

¹² *IG II²* 1622.387–573; cf. Hansen, *ClMed* 32 (1980) 114–119.

¹³ Cf. M. H. Hansen, *Apagoge, Endeixis and Ephegesis* (Odense 1976) 59.

bribed. In this section I shall adduce an example of each of the three types.

Re (1). A perfectly legal form of emolument was the meat portioned out to magistrates after a sacrifice. A decree regulating the Lesser Panathenaia includes instructions to a board of *hieropoioi* about two sacrifices to Athena.¹⁴ Oxen worth 4100 drachmas shall be bought and sacrificed and of the meat the *hieropoioi* shall portion out a preferential part to various boards of magistrates: the *prytaneis*, the *archontes*, the *tamiai tes Athenas*, the *strategoï*, the *taxiarchoi*, and the *hieropoioi* themselves. The rest goes to the citizens at large. Of the Athenian *archai* more than 100 were sacral magistrates and for many of these boards their principal duty was to organise sacrifices to the gods and festivals in connection with the sacrifices.¹⁵ For them their share of the sacrificial meat may have been the entire compensation for the relatively minor tasks they had to perform. The leading officials—for example the nine archons—probably obtained a share of many sacrifices during the year, which may have constituted a welcome supplement to their daily dole of four obols *eis sitesin*, for which see 415 below.

Re (2). An instance of perquisites acquired by magistrates is mentioned by Demosthenes in one of his *proimiai* where he accuses some magistrates of making money instead of complying with the people's decrees (*Proem.* 48.2). The *archai* in question are probably the *epimeletai ton neorion*,¹⁶ and the occasion is the launching of a squadron. Each trierarch was responsible for having his ship ready for sea at the date stipulated by the people's decree. The ship and its necessary equipment—oars, mast, rudder, sail, etc.—was provided by the *archai*,¹⁷ but the

¹⁴ *IG* II³ 447.36–42 (from ca. 335).

¹⁵ Seventeen boards of sacral magistrates are listed in M. H. Hansen, *Det Athenske demokrati i 4. årh. f.Kr. 5 Embedsmændene* (Copenhagen 1979) 75–77; cf. *ClMed* 32 (1980) 119.

¹⁶ Hansen, *ClMed* 32 (1980) 112 n.14.

¹⁷ E.g. Dem. 50.7, 51.5; cf. V. Gabrielsen, *Financing the Athenian Fleet* (Baltimore 1994) 76, 136–137.

equipment given to the trierarchs was of variable quality and apparently the *epimeletai ton neorion* took advantage of their position and demanded a consideration for providing the equipment or at least for providing equipment of good quality. In this case the trierarch refuses to pay the consideration and complains to the *demos*. It is not a large amount the trierarch has been requested to pay, and the speaker apologises for troubling the *demos*. His excuse is the principle involved.

The fourth-century sources we have for the administration of the navy are particularly good. I suggest that similar sources for all the various boards of magistrates would provide us with a plethora of other examples.

Re (3). An example of outright bribes is described by Aristotle in *Politics* (1321b40–32a4):

μετὰ δὲ ταύτην ἐχομένη μὲν ἀναγκαιοτάτη δὲ σχεδὸν καὶ χαλεπωτάτη τῶν ἀρχῶν ἐστὶν ἢ περὶ τὰς πράξεις τῶν καταδικασθέντων καὶ τῶν προτιθεμένων κατὰ τὰς ἐγγράφας καὶ περὶ τὰς φυλακὰς τῶν σωμάτων. χαλεπὴ μὲν οὖν ἐστὶν διὰ τὸ πολλὴν ἔχειν ἀπέχθειαν, ὥστε ὅπου μὴ μεγάλα ἔστι κερδαίνειν, οὐτ' ἄρχειν ὑπομένουσιν αὐτὴν οὐθ' ὑπομείναντες ἐθέλουσι πράττειν κατὰ τοὺς νόμους.

Coming next after this—perhaps the most necessary and most trying of all offices—is the one that is concerned with exacting the penalties from those who have been condemned and from those who have been posted according to the lists [as debtors to the state], and with the custody of their persons. The office is trying because it invokes a great deal of hostility, so that where it is not possible to make great profits from it, people either do not consent to hold it or, when they do consent, are unwilling to act in accordance with the laws. (transl. Keyt)

μεγάλα κερδαίνειν suggests a profit of more than a drachma a day and οὐθ' ... πράττειν κατὰ τοὺς νόμους that the profit was illegal. Aristotle does not explicitly mention Athens, but later in the same section (1322a20) he refers to the Eleven in Athens, and an Athenian example is provided by Plato's description of what Socrates' friends tried to do to save the life of their beloved master. They planned to smuggle Sokrates out of the prison and they told him that they had the necessary money to

finance their scheme.¹⁸ It is only Sokrates' refusal to escape that prevented his friends from carrying out their plan. Sokrates was in chains in his cell (*Phd.* 59E), and for the plan to succeed the Eleven and their staff must have been persuaded to turn a blind eye to Sokrates' escape from the prison. The intended use of the money collected by Sokrates' friends must have been to bribe the Eleven. Furthermore the friends anticipate the possibility that after Sokrates' escape a sycophant might threaten to take them to court, but they are convinced that for a modest amount they can buy off a sykophant, should he appear (*Cri.* 44E). The risk that a sykophant might threaten to charge the Eleven at their *euthynai* is not their concern and is not mentioned. From Plato's dialogues we get the impression that what the Athenians wanted was to get rid of Sokrates, and his escape to some *polis* outside Attika would probably have been as satisfactory as his execution.

3. *Evidence for the payment of fourth-century magistrates*

In the third section (13–16) Pritchard adduces the principle sources that testify to payment of fourth-century magistrates. Since in the second section he has disposed of the possibility of profit derived from perquisites and similar forms of income, he infers that any evidence of profit must relate to *misthos*. As argued above, however, I believe that there is solid evidence for *archai* who with the permission of the people obtained perquisites, emoluments, and free possession of public funds for long periods. Consequently, whatever evidence we have of profit obtained by magistrates must be examined with an open mind as to its source and nature. The evidence adduced by Pritchard stems from Isokrates and Lysias.

The principal passage is Isokrates' *Areopag.* 7.24–27 where the greed that dominates contemporary democracy is contrasted with the altruistic mentality that characterised the magistrates

¹⁸ Pl. *Cri.* 44C, 45A–B, 45E–46A. Cf. also the consideration given by Kriton to ὁ τοῦ δεσμοτηρίου φύλαξ (43A).

in the age of Solon.¹⁹ From his account we learn that the fourth-century magistrates attempted to profit from their position in the following ways:

- (a) τοῖς ἀλλοτρίοις ἐπιβουλεύειν
- (b) ἐκ τῶν δημοσίων τὰ σφέτερ' αὐτῶν διοικεῖν
- (c) ἀκριβέστερον εἰδέναι τὰς ἐκ τῶν ἀρχαίων προσόδους ἢ τὰς ἐκ τῶν ἰδίων γιγνομένας αὐτοῖς
- (d) ἐμπορίαν νομίζειν εἶναι τὴν τῶν κοινῶν ἐπιμέλειαν
- (e) σκοπεῖν εἴ τι λῆμμα παραλελοίπασιν οἱ πρότερον ἄρχοντες

Now, (a) refers to some illegal or at least highly suspect form of income, in (c)–(e) the income from the magistracy is seen not as a modest daily allowance but as a business profit which the magistrate tries to maximise. (b) treats the only form of income that may be identified as *misthos*. But even here a more plausible alternative is the habit—treated above—that magistrates for long periods could get away with having public money at their private disposal.

The other passages from Isokrates adduced by Pritchard are the *Antidosis* 15.145–146 and 152. At 145 we hear that Isokrates has abstained

τῶν μὲν ἀρχῶν καὶ τῶν ὠφελειῶν τῶν ἐντεῦθεν γιγνομένων καὶ τῶν ἄλλων ἀπάντων τῶν κοινῶν ἐξέστηκας.

you have held aloof from the public offices and the emoluments which go with them, and from all other privileges of the commonwealth as well. (transl. Norlin)

Instead he has served as one of the 1200 who paid *eisphora* and performed liturgies. There is no clue as to the origin of the profit—perhaps it was *misthos*, perhaps other forms of profit, or perhaps both.

At 150 Isokrates contrasts his own civic virtue with the acquisitive attitude of others:

μηδὲν δὲ δέομαι μήτε κληροῦσθαι τῶν ἀρχῶν μήτε λαμβάνειν ἅ τοῖς ἄλλοις ἢ πόλις δίδωσι, μήτ' αὖ φεύγειν δίκας μήτε διώκειν.

¹⁹ For a full discussion of the passage see Hansen, *ClMed* 32 (1980) 106–109. Contra: Gabrielsen, *Remuneration* 90–93; Pritchard 13–14.

I do not ask to have any part in the allotment of the offices nor in the distribution of the gifts she doles out to others nor in the privilege of prosecuting or defending cases in the courts.

Four statements are coordinated by μήτε and “to receive what the *polis* gives to others” is separated from the sortition of magistrates. If we had had καὶ λαμβάνειν that would have been a reference to *misthos* for magistrates. As the text stands τοῖς ἄλλοις has no clear denotation.²⁰

At 152 Isokrates is more specific:

τῶν δὲ λημμάτων τῶν παρὰ τῆς πόλεως ἀπεσχόμεν, δεινὸν ἡγησάμενος εἰ δυνάμενος ἐκ τῶν ἰδίων τρέφειν ἑμαυτὸν ἐμποδῶν τῷ γενήσομαι τῶν ἐντεῦθεν ζῆν ἠναγκασμένων λαβεῖν τὸ διδόμενον ὑπὸ τῆς πόλεως καὶ διὰ τὴν ἐμὴν παρουσίαν ἐνδεής τις γενήσεται τῶν ἀναγκαίων.

And if I have refrained from accepting the bounties which are distributed by the city it was because I thought it outrageous if I, who am able to maintain myself from my private resources, should stand in the way of those who have been compelled to get their livelihood from the city, and if because of my presence anyone should be deprived of the necessities of existence.

Here παρουσίαν indicates that what Isokrates has in mind is the *ekklesiastikon* and the *dikastikon*, cf. the similar passage at 8.129–130.²¹

The other source adduced by Pritchard (14) is Lysias: “In a law-court speech Lysias for one noted how magistrates were paid out of public funds (21.19; cf. 21.56–57).” I agree that in both passages the source of income is public money but in neither case is it *misthos*. (a) In Lysias 21 the defendant is accused of having embezzled public funds²² and he retorts (19)

²⁰ Contra: Gabrielsen, *Remuneration* 96.

²¹ For *ekklesiastikon* paid out only to first-comers see Ar. *Eccl.* 282–284, 378–381; *Plut.* 329–330. M. H. Hansen, *The Athenian Ecclesia* II (Copenhagen 1989) 147–151.

²² Lys. 21.16: ἡγοῦμαι ... πολὺ ἂν δικαιότερον ὑμᾶς ὑπὸ τῶν ζητητῶν ἀπογραφῆναι τὰ ἐμὰ ἔχειν ἢ ἐμὲ νυνὶ κινδυνεύειν ὡς τοῦ δημοσίου χρήματα ἔχειν, “In my view ... it would be far more just for you to face an *apographe*

that he has never yielded to pleasure nor been tempted by gain: μήθ' ὑφ' ἡδονῆς ἠττηθῆναι μήθ' ὑπὸ κέρδους ἐπαρθῆναι. (b) At 19.57 Lysias mentions some citizens who have spent money on liturgies for the sole purpose of getting twice as much back when they have been awarded an office as a reward for their services as liturgists:

εἰσὶ δὲ τινες οἱ προαναλίσκοντες οὐ μόνον τούτου ἕνεκα, ἀλλ' ἵνα ἄρχειν ὑφ' ὑμῶν ἀξιωθέντες διπλάσια κομίσωνται.

Some people admittedly spend money in advance, not merely for the sake of altruism but so that they will be chosen by you for public office, and will be able to carry off twice as much.

Now the cost of a liturgy came to at least many hundred and mostly many thousand drachmas (Lys. 21.1–2). To get twice as much back would imply a gain of at least 1000 drachmas and not the 354 drachmas which he would allegedly get if he had served as a full-time paid magistrate. So what Lysias has in mind must be other forms of profit by serving as a magistrate.

The argument from silence

So, where do we stand? For the fifth century we have explicit evidence of *misthos* for magistrates²³ but in spite of the much better sources we have for the fourth century there is not yet a single piece of evidence that shows beyond doubt that the many hundreds of Athenian magistrates were paid by the *polis*. Consequently we must, once again, examine the opposite view, that magistrates did not as a rule receive public payment. The crucial testimony is Arist. *Ath.Pol.* 62.2:

μισθοφοροῦσι δὲ πρῶτον ὁ δῆμος ταῖς μὲν ἄλλαις ἐκκλησίαις δραχμῆν, τῇ δὲ κυρία ἐννέα <ὀβολούς>. ἔπειτα τὰ δικαστήρια τρεῖς ὀβολούς. εἴθ' ἡ βουλὴ πέντε ὀβολούς· τοῖς δὲ πρυτανεύουσιν εἰς σίτησιν ὀβολός προστίθεται. ἔπειτ' εἰς σίτησιν λαμβάνουσιν ἐννέ' ἄρχοντες τέτταρας ὀβολούς ἕκαστος καὶ

(writ of confiscation) in front of the commission of investigators (*zeletai*) on a charge of possessing my property than for me now to be prosecuted for possessing property belonging to the treasury" (transl. Todd).

²³ Arist. *Ath.Pol.* 24.3, 29.5; [Xen.] *Ath.Pol.* 1.3; *IG I³* 82.17–21.

παρατρέφουσι κήρυκα καὶ αὐλητήν, ἔπειτ' ἄρχων εἰς Σαλαμίνα δραχμὴν τῆς ἡμέρας. ἀθλοθέται δ' ἐν πρυτανείῳ δειπνοῦσι τὸν Ἑκατομβαιῶνα μῆνα, ὅταν ᾗ τὰ Παναθήνια, ἀρξάμενοι ἀπὸ τῆς τετράδος ἰσταμένου. ἀμφικτύονες εἰς Δῆλον δραχμὴν τῆς ἡμέρας ἑκάστης ἐκ Δήλου <λαμβάνουσιν>. λαμβάνουσι δὲ καὶ ὅσαι ἀποστέλλονται ἀρχαὶ εἰς Σάμον ἢ Σκύρον ἢ Λήμνον ἢ Ἵμβρον εἰς σίτησιν ἀργύριον.

Stipends are paid first to the people, at the rate of one drachma for other assemblies, nine obols for the Principal Assembly. Next the jury-courts, three obols. Then the council, five obols; and the members of the prytany are given a further one obol for maintenance. The nine archons receive four obols each for maintenance, and support a herald and a piper. The governor of Salamis is given one drachma a day. The *athlothetae* dine in the town hall in the month Hecatombaeon, the month of the Panathenaea, from the 4th onwards. The amphiktyons sent to Delos receive one drachma a day from Delos. The officials sent to Samos, Scyros, Lemnos and Imbros receive money for maintenance (transl. Rhodes).

To this passage must be added what the author writes at 42.3: δίδωσι (the *demoi*) δὲ καὶ εἰς τροφήν τοῖς μὲν σωφρονισταῖς δραχμὴν α ἑκάστω, “for maintenance one drachma each is provided for the *sophronistai*.”

These two passages must be compared with Aristotle’s general remarks in *Politics* 1317b35–38 about public payment for political participation in democracies:

ἔπειτα τὸ μισθοφορεῖν μάλιστα μὲν πάντας, ἐκκλησίαν, δικαστήρια, ἀρχάς, εἰ δὲ μή, τὰς ἀρχάς καὶ τὰ δικαστήρια καὶ <τὴν> βουλὴν καὶ τὰς ἐκκλησίας τὰς κυρίας, ἢ τῶν ἀρχῶν ἃς ἀνάγκη συσσιτεῖν μετ’ ἀλλήλων.

Also, [it is democratic] for the parts of the constitution to receive pay, preferably all parts—the assembly, the courts and the offices—or failing that, the offices, the courts, the council and the supreme meetings of the assembly, or those offices that necessitate eating with each other.

In which of these two categories does Athens belong? The traditional view has been that Athens must have been a democracy of the first type in which not only *ekklesiastai* and

dikastai but also *archai* were paid by the *polis*.²⁴ But when we compare the information in *Politics* with that in *Ath. Pol.*, fourth-century Athens seems to have been a democracy in which the only *misthos* paid out to magistrates covered expenses for *sitesis* and *trophe*. Magistrates who received this type of *misthos* are recorded in *Ath. Pol.* 62.2 and 42.3. Since the list of magistrates mentioned in 43–61 is far from complete there may have been other boards of magistrates who received a daily allowance of some obols εἰς σίτησιν or τροφήν, but even so a somewhat larger list of such magistrates is far removed from the traditional view of an allowance of, say, a drachma per day paid out to perhaps 700 magistrates.²⁵

The Aristotelian *Constitution of Athens* is not the only source that fails to mention *misthos* for magistrates in general. In the speech *Against Timokrates* 24.97–101 Demosthenes describes the catastrophic financial consequences of Timokrates' law:

καὶ πῶς οὐ δεινόν, εἰ διὰ τὸν νόμον, ὃν σὺ τέθηκας μισθὸν λαβῶν, ἄμισθος ὁ δῆμος καὶ ἡ βουλὴ καὶ τὰ δικαστήρι' ἔσται;

Then is it not monstrous that the Assembly, the Council, and the law-courts must go unpaid for the sake of a statute which you were paid to introduce? (99, transl. Vince)

Why did Demosthenes not add: καὶ ἄμισθοι αἱ ἀρχαί? Ph. Gauthier explains Demosthenes' silence by assuming that the amount paid out to magistrates was negligible.²⁶ I agree. If the

²⁴ Cf. e.g. D. Stockton, *The Classical Athenian Democracy* (Oxford 1990) 54.

²⁵ Gabrielsen's estimate is 20–30 talents, cf. "Finances and Taxes," in H. Beck (ed.), *A Companion to Ancient Greek Government* (Chichester 2013), 332–348, at 333. A rough calculation based on Pritchard's table of magistrates (12) indicates that in a normal year of 354 days *misthos* to ca. 700 magistrates would cost ca. 25 talents if full-time magistrates received a daily allowance of one drachma and part-time magistrates a fraction thereof corresponding to their duties.

²⁶ Ph. Gauthier, *Un commentaire historique des Poroi de Xénophon* (Paris 1976) 28: "Démosthène omet les salaires des magistrats, qui étaient quantité négligeable, evocation peu propre à remuer les foules." Gabrielsen, *Remuneration* 97, suggests that *misthos* to magistrates is subsumed under ἱερά,

annual expenditure on *misthos* for magistrates had totalled some 20–30 talents it would have been mentioned by Demosthenes.

Finally there is a third fourth-century source in which pay to a board of magistrates should have been mentioned if it had existed. The fifth-century accounts of the *epistatai* of the Eleusinion record a payment of four obols per day to the *epistatai* (IG I³ 32.7–9), but in the fourth-century accounts this item is conspicuous by its absence whereas payments to architects and a scribe are duly recorded.²⁷

But is it likely that the Athenians did not revive *misthos* for magistrates when democracy was restored in 403? A comparison with the other forms of public payment may provide a clue.

The *dikastikon* was raised from two to three obols in the 420s and a century later it was still three obols. The *ekklesiastikon* was introduced in the 390s and in the course of the century it went up from one obol to one drachma for an ordinary meeting and to one and a half drachmas for the somewhat longer *ekklesia kyria*. So for a session of a *dikasterion* that lasted a full day the juror got less than a citizen who attended an *ekklesia*, whose meetings usually lasted only half a day or so.²⁸ The reason was probably that enough citizens, e.g. a minimum of some 2000, turned up for the sessions of the *dikasteria* whereas pay for the assembly meetings apparently had to be raised to ensure the required quorum of 6000 citizens.²⁹

Misthos for magistrates was abolished in 411 and for the next decades the Athenian state was short of money. But as long as a sufficient number of citizens showed up for the annual sortition of magistrates there was no need to reintroduce a

²⁶ ὄσια mentioned by Demosthenes at 24.101.

²⁷ IG II² 1672 and 1673, cf. W. T. Loomis, *Wages, Welfare Costs and Inflation in Classical Athens* (Ann Arbor 1998) 25; pointed out by D. Lewis in his review of Gabrielsen in *JHS* 102 (1982) 269.

²⁸ Hansen, *The Athenian Democracy* 136–137.

²⁹ Hansen, *The Athenian Democracy* 188–189.

regular remuneration. The various perquisites and considerations which the Athenians were ready to tolerate were enough to make most of the magistracies attractive. A blind eye was turned to the fact that many of these emoluments were in fact illegal. But the annual *euthynai* of all magistrates on the expiration of their year in office ensured that unofficial remuneration of *archai* did not get out of hand. Only *misthos* to members of the council of five hundred had to be reintroduced in order to ensure that this—the most important of all boards of magistrates—had its full complement. For the same reason the rule that no one could fill the same office twice was lifted for the members of the council. At least in the fourth century, if not before, a citizen could serve on the council twice in his lifetime (*Ath. Pol.* 62.3). On the other hand, the Athenians accepted that some of the boards of *archai* sometimes had fewer than ten members, in some cases as few as six.³⁰ Since the administration of the *polis* functioned reasonably well without public remuneration of magistrates there was no reason to have it back.

The argument from analogy with other societies

A professional and disinterested staff of civil servants whose sole form of income is the salary paid by the state is a modern phenomenon only to be found in some western societies and not before the nineteenth century. In his monumental treatise *Wirtschaft und Gesellschaft* Max Weber shows that in all historic societies the bureaucracy was what he calls a “patrimonial bureaucracy,” one in which an official’s principal income was all kinds of possessions, gifts, and perquisites which he got either from the ruler or with the ruler’s permission from those who depended on his services.³¹ Everywhere, however, such emoluments were viewed with suspicion and many were illegal but nevertheless tolerated by society. The line between a gift

³⁰ Hansen, *The Athenian Democracy* 232–233.

³¹ M. Weber, *Wirtschaft und Gesellschaft* (Tübingen 1972; orig. 1921) 131–140, 580–624.

and a bribe was never clearly drawn and if an official fell into disgrace with the ruler (or rulers) he could be dismissed and severely punished. “Any implication that—as sometimes argued at other times—republics were freer than principalities of corruption or greed for office was as emphatically belied by the Italian as by the ancient city-states.”³² “As normal with such systems, officials were expected in substance to support themselves from fees, fines, and perquisites, gifts of food and drink ... charges in principle limited by statute but amounting to a requirement to make justice and service pay that only too easily generated abuses.”³³

In fifth-century Athens magistrates received *misthos* and supplemented what they got from the *polis* with what they could get in the form of perquisites and gifts. In the fourth century—as I read the sources—the Athenian magistrates had to content themselves with the indirect emoluments which, however, in some cases could be substantial.

May, 2014

SAXO-instituttet
Njalsgade 80
2300 Copenhagen S
Denmark
mhh@hum.ku.dk

³² P. Jones, *The Italian City-State from Commune to Signoria* (Oxford 1997) 538.

³³ Jones, *The Italian City-State* 532. W. Schuller (ed.), *Korruption im Altertum* (Munich 1982).