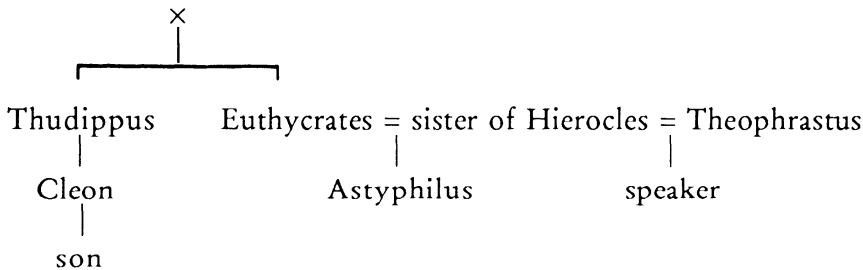


# Isaeus 9 and Astyphilus' Last Expedition

*David Welsh*

ISAEUS 9, *ON THE ESTATE OF ASTYPHILUS*, can be conveniently studied through part of the family stemma of the litigants.<sup>1</sup> The speech relates that the professional soldier Astyphilus died on military service at Mytilene, and subsequently in Athens Cleon, his first cousin and the speaker's opponent in the suit, took possession of the estate in the name of his own son.



Cleon maintained that Astyphilus had adopted this son before his departure and invoked a will deposited with a certain Hierocles. The (unnamed) speaker, Astyphilus' uterine half-brother by the remarriage of Euthykrates' widow to Theophrastus, denounces the will as a forgery and contends that he has a stronger claim to the estate.<sup>2</sup> One of his chief arguments is

<sup>1</sup> The following works will be cited by author's name: A. R. W. HARRISON, *The Law of Athens: The Family and Property* (Oxford 1968); J. K. DAVIES, *Athenian Propertied Families 600-300 B.C.* (Oxford 1971); W. WYSE, *The Speeches of Isaeus* (Cambridge 1904); A. P. BURNETT and C. N. EDMONSON, "The Chabrias Monument in the Athenian Agora," *Hesperia* 30 (1961) 74-91; T. T. B. RYDER, *Koine Eirene* (London 1965); S. HORNBLLOWER, *Mausolus* (Oxford 1982).

<sup>2</sup> Since Cleon and his son were respectively the first cousin and first cousin once removed of Astyphilus on the paternal side, either would normally have enjoyed legal precedence over the speaker in the order of succession to the

based on Astyphilus' alleged hostility to Cleon because Thudippus was said to have killed Euthycrates in a fraternal quarrel over partition of the family estate. The speaker contrasts this hostility with the close bonds that he had formed with Astyphilus when they were boys and recalls how Theophrastus had brought them up together.

The Athenian expedition on which Astyphilus lost his life has long been a mystery. The speaker says (9.14) that his half-brother had served through the Theban war (*i.e.*, 378–371 against Sparta), before leaving for Mytilene, but there is no other evidence for the presence of Athenian troops there in the period following this war. Accordingly, some scholars have dated Isaeus 9 “after 371.”<sup>3</sup> Others, favoring a date of *ca* 369 for the speech, have tacitly assumed that Astyphilus' force left for Lesbos shortly after the war.<sup>4</sup> Attempts to find an historical context for the campaign have led to speculation: Jebb and Wyse raised the possibility that the troops provided military assistance to Mytilene early in the 360s, but most have linked Astyphilus' service to Timotheus' departure for the eastern Aegean in 366 and theorized that Mytilene was his base of operations against Samos in that year.<sup>5</sup> Although Timotheus

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estate if Astyphilus had died intestate. Thudippus, however, had been adopted into another family (9.2, 33), so his descendants had lost their natural claim to the inheritance. On the legal points see Harrison 143–46, 93.

<sup>3</sup> See *e.g.* Blass, *Att. Ber.* II<sup>2</sup> 561; Davies 229.

<sup>4</sup> See J. F. Dobson, *The Greek Orators* (London 1919) 124; R. F. Wevers, *Isaews: Chronology, Prosopography, and Social History* (The Hague 1969) 25, arrived at this date mainly through a statistical analysis of the rhythms of the clausulae; D. M. MacDowell, “Dating by Rhythms,” *CR* 85 (1971) 24ff, amplified this analysis in his review of Wever's book and concluded that unless contradictory evidence were discovered he was inclined to accept that Isae. 9 is probably an early speech.

<sup>5</sup> R. C. Jebb, *The Attic Orators from Antiphon to Isaeus* II (London 1893) 331 with n.3, dated Isae. 9 “probably about 369” and conjectured that Mytilene was under attack from the other four Lesbian cities. These cities, however, like Mytilene were members of the Second Athenian Confederacy and in an Athenian decree of 368/7 the *synedroi* of all five cities are invited to hospitality in the Prytaneum (Tod II 131.26–30. Lower on the same stele follows another (partly mutilated) decree passed in 369/8 in response to a Mytilenean embassy to Athens (Tod II 131.35ff) and Wyse (627) seems to have believed that the ambassadors may have requested military help against the Samians or the Persians. It is now generally agreed, however, that the purpose of this earlier decree was simply to reassure the Mytileneans about the recent alliance that Athens had made with Sparta: see F. H. Marshall, *The*

supposedly once lived on Lesbos and possibly used Mytilene as a base during his successful ten-month siege of Samos, firm evidence is lacking.<sup>6</sup> On this basis the date of Astyphilus' departure cannot be fixed with certainty, but it is possible to establish the nature of his last campaign.

Burnett and Edmonson long ago concluded that Astyphilus sailed for garrison duty on Lesbos (86 n.33), but their arguments were cursory. Nevertheless, it seems certain that he and his fellow-soldiers not only garrisoned Mytilene but also were stationed there for a considerable time. The first point is historically important, because this was probably the earliest Athenian garrison installed on the territory of a member of the Second Athenian Confederacy after the peace of 371.<sup>7</sup> The second point has obvious implications for the date of Isaeus 9, and the speaker's silence about the length of his half-brother's service at Mytilene raises fresh questions about the merits of his case.<sup>8</sup>

Burnett and Edmonson's theory about Astyphilus' expedition is found in their important article on the statue of Chabrias

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*Second Athenian Confederacy* (Cambridge 1905) 83ff; Ryder 77f; G. T. Griffith, "Athens in the Fourth Century," in P. D. A. Garnsey and C. R. Whittaker, ed., *Imperialism in the Ancient World* (Cambridge 1978) 136; G. L. Cawkwell, "Notes on the Failure of the Second Athenian Confederacy," *JHS* 101 (1981) 53; Hornblower 194. For the view that Astyphilus sailed in 366/5 see H. Pistorius, *Beiträge zur Geschichte von Lesbos im vierten Jahrhundert v. Chr.* (Bonn 1913) 42 with n.5; P. Roussel, *Isée, Discours* (Paris 1922) 161; E. S. Forster, *Isaeus* (London 1957) 325; F. Bourriot, "La famille et le milieu social de Cléon," *Historia* 31 (1982) 412 n.36; H. T. Wade-Gery and B. D. Meritt, "Pylos and the Assessment of Tribute," *AJP* 57 (1936) 392 n.36, may also have adopted this position for they placed Astyphilus' funeral (without argument) "about 366."

<sup>6</sup> For the tradition that Timotheus resided on Lesbos see Theopompus, *FGrHist* 115F105; Nep. *Chabr.* 3.4; for his siege of Samos, expulsion of its Persian garrison, and establishment of an Athenian cleruchy see Hornblower 197-200.

<sup>7</sup> For the dates of the other two definitely-attested garrisons of this type see n.32 *infra*.

<sup>8</sup> Wyse (631, 636f, 640) has already exposed three particularly blatant weaknesses in the speaker's suit: he does not investigate the characters and background of the witnesses to the will; he is unable to find witnesses to testify to the fatal quarrel between Thudippus and Euthykrates that allegedly led to Astyphilus' implacable hatred of Cleon; his version of the plot that Cleon supposedly concocted with Hierocles for their mutual profit is confused and leaves important questions unanswered.

erected in the Athenian agora after his victory over the Spartans at Naxos in 376 (85f with n.33). One of the dedications of crowns on the statue base names οἱ στρα[τιῶτ]αι οἱ ἐμ Μυτιλήνῃ, which is interpreted as an Athenian garrison at Mytilene in the 370s. Noting that Athenian hostilities against Mytilene are out of the question, Burnett and Edmonson observed that the speaker of Isaeus 9 emphasizes (14f) that Astyphilus, though fully aware of the risks of his earlier expeditions, went to Lesbos with every expectation of returning safely. Hence they surmised that Astyphilus and his fellow-soldiers left for garrison duty at a post manned since the 370s.

The final inference of this overly-confident reasoning is certainly wrong, but it is plausible that the soldiers who honored Chabrias were garrison troops. In this instance there seems little foundation for Cargill's reservations that literary or epigraphical references to Athenian soldiers at some location are not firm evidence for a garrison and may only mean that the men were there temporarily "for a siege, on a campaign, or merely camping while passing through":<sup>9</sup> the troops at Mytilene were certainly not besieging the city and beside their dedication on Chabrias' statue is another from "the *demos* of the Mytileneans." The juxtaposition would be odd if the soldiers were there for a short campaign or "passing through," but, as Burnett and Edmonson remarked (87), in third-century garrison decrees the troops join with the *demos* where they are stationed to honor a general with a crown and statue (*IG* II<sup>2</sup> 1299, 1304). In a decree of 369/8 (Tod II 131), Athenian praise of the Mytilenean *demos* for their help during the recent war against Sparta also strengthens the case for an Athenian garrison there in the 370s: the compound verb συν[διεπολέμη]σαν, if correctly restored (lines 39f), and the imperfect ἐβοήθουν (line 45) show that the Mytileneans had cooperated with the Athenians over an extended period. Given the lack of other corroborating evidence for Mytilenean participation in a single campaign, this decree indicates that cooperation was provided, at least in large part, to the Athenian troops known from the Chabrias monument to have been at Mytilene, and that these men remained there a long time.

<sup>9</sup> J. Cargill, *The Second Athenian League* (Berkeley 1981) 151.

Although this by itself proves nothing about Astyphilus' expedition, his confidence that he would survive the campaign unscathed (15) becomes more suggestive when taken in conjunction with the reference to his departure at Isaeus 9.1: μετὰ τῶν εἰς Μυτιλήνην στρατιωτῶν recalls the dedication to Chabrias from "the soldiers at Mytilene." Xenophon (*Hell.* 6.3.18, 4.1f), however, has made clear that the withdrawal of garrisons by both sides was one of the elements of the peace with Sparta in 371, so if Astyphilus' force did go to Lesbos to man a garrison, it was in all probability a new one.<sup>10</sup> Another passage in Isaeus 9, the significance of which has apparently escaped modern commentators, provides confirmation that the troops sailed for this purpose.

At 9.4 the speaker says that when Astyphilus' remains were brought back to Athens ὁ μὲν προσποιούμενος πάλαι ὑὸς εἰσπεποιῆσθαι οὐ προύθετο οὐδ' ἔθαψεν. From a legal standpoint the charge is invalid. Since Cleon's son was evidently still a minor at the time of the lawsuit, Cleon would have been responsible for any neglect and the speaker quickly shifts the direction of the attack, asserting that "Cleon did not bury Astyphilus" (5).<sup>11</sup> The charge levelled at the son is nevertheless important, because elsewhere the speaker consistently represents his opponents as maintaining that the adoption had taken place *immediately* before Astyphilus sailed for Mytilene (6, 14f). Yet if the words, "the one claiming to have been long ago adopted as his son," are taken at face value, a number of years must have separated Astyphilus' departure and his funeral or at least the litigation over his estate.<sup>12</sup>

<sup>10</sup> Diodorus 15.38.2 reports that the withdrawal of garrisons by both sides was also a provision of the peace of 374/4, so the garrisons must have been employed again when the war resumed. Burnett and Edmonson (85 n.32), without discussing the treaty of 371, speak of the (surely mutual) "agreement to withdraw garrisons" in 375/4; but Diodorus says specifically that *exagogeis* were sent to the various cities and supervised the withdrawal of *all* the garrisons. See too Ryder 59, who notes that the withdrawal of all garrisons, however welcome, was regarded as a prerequisite of secure peace.

<sup>11</sup> See Davies 229, who notes that the son, never referred to by name in Isae. 9 but always designated ὑός, shows that he was underage. Cf. Harrison 73 for a minor's inability to control property or to represent himself in court, and 108 for the duty of a minor's father or guardian.

<sup>12</sup> Modern editors who discuss or translate this passage, correctly and without hesitation take πάλαι to mean 'long ago': see Wyse 629; Roussel (*supra* n.5) 163; Forster (*supra* n.5) 329. Isaeus never uses the word elsewhere in its

It seems impossible to avoid this conclusion. Distortion of the facts in the use of *πάλαι* would have been not only pointless but counterproductive for the speaker, since in his discussion of the alleged circumstances of the adoption he is concerned to emphasize the improbability of Astyphilus' making a will and adopting a son so *late* in his military career when he had not done so before his earlier expeditions (9.14f). Clearly, too, *πάλαι* cannot be ironic. When Isaeus employs irony, it is usually sustained and bitterly sardonic (Blass, *Att. Ber.* II<sup>2</sup> 517ff), but at this stage in the ninth oration the speaker has not yet informed the jurors when the adoption was supposed to have taken place. Consequently, they could not possibly have understood irony here unless he or Cleon had referred to the precise time of the adoption in the charge or counterplea read in court at the beginning of the proceedings.<sup>13</sup> Even if this had happened, and the speaker gives no indication of it in his recapitulations of the two statements (9.1, 34), it is inconceivable that he could then have expected a large jury to pick up the implicit irony in a single word. One of Isaeus' greatest assets as a speech writer is his ability to simplify complex issues and to present lucidly the facts that he chooses to emphasize. If the adoption was alleged to have taken place not long before the funeral and hence a short time before Astyphilus died, it would obviously have been in the speaker's interest to spell this out in court: "the one claiming to have been adopted by Astyphilus shortly before his death did not lay out his remains nor bury them." Such a statement would certainly have had more impact than fleeting irony, which would only have confused many of the jurors on an important point.

The precise meaning of *πάλαι* here cannot be established, but in his other speeches it usually refers to a period twenty years or more in the past. At 8.6 it is used of events ostensibly

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rare, secondary sense of 'just now', 'recently', and for it to bear this meaning here, Astyphilus must have died almost immediately after reaching Mytilene. As I shall argue *infra*, if this had happened it would certainly have been advantageous to the speaker to draw attention to the fact in a number of different contexts in the speech, but he fails to do so. Strictly, the words should mean that there was a long interval between Astyphilus' departure for Mytilene and his funeral but, as Wyse 629 observed, they may mean "the person who now pretends that he has been long adopted."

<sup>13</sup> For the charge and counterplea see A. R. W. Harrison, *The Law of Athens: Procedure* (Oxford 1971) 156.

beyond living memory; at 10.1 of the seizure of an estate more than thirty-seven years earlier. Again, at 3.33, 5.15, and 8.36, it means “more than twenty years ago,” “twenty-two years ago,” and “about twenty years ago” respectively.<sup>14</sup> The solitary exception occurs at 6.14 where the speaker, eager to ridicule the idea that a woman thirty years old should still be unmarried, argues that she should have been married *πάνυ πάλαι*. Here *πάνυ πάλαι* means “about fifteen years ago.”<sup>15</sup>

*πάλαι* is so elastic in meaning that not much weight can be given to these passages, but it should be kept in mind that the speaker of Isaeus 9, unlike his counterpart in Isaeus 6, has nothing to gain from exaggeration. Yet Cleon’s son, still a minor at the time of the suit, was already old enough to be thought capable of performing the last offices for Astyphilus when the latter’s remains came home (9.4). Given the importance that Athenians attached to the proper performance of funeral rites, the son must already have been close to the age of majority when Astyphilus was buried, so the interval between the funeral and the litigation can only have been a few years at the very most.<sup>16</sup>

In fact, it is extremely doubtful whether it was as long as a year. When Astyphilus’ remains arrived in Athens, the speaker was also abroad on military service, but in his allusions to his own campaign (9.3f, 7) he gives no hint that it was protracted. His preparation of the case must have occupied some months, but there is no apparent reason why it should have taken longer, and although Cleon had neglected to submit a written application to the archon before taking possession of the estate (3), it is relevant that such applications could be made at any time except during Skirophorion: the exclusion of only the last

<sup>14</sup> For 10.1 see Wyse 654, 664; at 3.33 the reference is to events allegedly occurring at the tenth-day ceremony held by Pyrrhus for his daughter (3.30ff), and he had died more than twenty years before the case came to court (3.1, 57). At 5.1 the speaker is discussing two wills, the first of which was produced *πάλαι*. This will was produced twelve years before the second (5.7), which had been in effect for ten years (5.35). For 8.36 see Wyse 616.

<sup>15</sup> For the normal age of marriage of Athenian girls see M. Golden, “The Exposure of Girls at Athens,” *Phoenix* 35 (1981) 322f n.22.

<sup>16</sup> On the age of the son at the time of the funeral, see Wade-Gery and Meritt (*supra* n.5) 392 n.36; Davies 229. It does not seem credible that the speaker is seriously misrepresenting the youth’s age here. By doing so, he would have been exposing himself to telling ridicule from Cleon in order to make a point that, as I have already noted, had no legal force.

month of the year shows that in normal circumstances claims to a disputed estate were expected to be settled in court within two months.<sup>17</sup> In Athens adjournments or postponements of legal proceedings were admittedly by no means unknown, but they seem impossible here. Despite the speaker's criticism of Cleon for his effrontery in seizing the estate as soon as he heard of Astyphilus' death (3, 22), he does not refer to the length of time that his opponents had enjoyed possession of property rightfully belonging to him. Nor does he try to justify any procrastination on his own part in bringing the suit,<sup>18</sup> so it probably came to court within a year of Astyphilus' funeral.

This should have given Cleon's son enough time to make his repeated attempts to participate in the banquets of Astyphilus' *phrateres* (33).<sup>19</sup> Cleisthenes' reforms had deprived the phratries of much of their political significance and in the fourth century their activities seem to have been largely social and religious.<sup>20</sup> The 'Demotionid' decrees (*IG* II<sup>2</sup> 1237) reveal a phratry divided into thiasoi and there is evidence for different subsections within others.<sup>21</sup> Accordingly, it is not unreasonable to suppose that members of a phratry or of its component groups met to sacrifice every month or so. In any case, because of Cleon's son's age when Astyphilus was buried, an inordinate delay between the funeral and the lawsuit is certainly out of the question.

It follows that if *πάλαι* is to bear anything remotely resembling its normal force, Astyphilus must have been stationed on Lesbos for a long time before he died and can only have been performing garrison duty on the island. At the beginning of the oration (1), however, the speaker passes quickly over his half-

<sup>17</sup> For formal applications in succession cases that had to be brought to court by the archon under whom they had been initiated see Harrison 158f.

<sup>18</sup> The speaker does in fact give the impression that after returning to Athens from his campaign he moved quickly to interrogate Cleon and Hierocles as the first steps in initiating his suit (9.5f).

<sup>19</sup> Although there is a lacuna in this section, it seems certain that οὔτοι who refused to give the son a share in the sacrificial victims were members of Astyphilus' phratry: see Wyse 645, who also noted that the *phrateres* were simply declining to anticipate the issue of the trial. The son may have begun his attempts to 'infiltrate' the banquets as soon as he heard of Astyphilus' death (9.3), *i.e.*, some time before the funeral, but see n.24 *infra*.

<sup>20</sup> See W. S. Ferguson, "The Athenian Phratries," *CP* 5 (1910) 264f.

<sup>21</sup> For the subsections see C. W. Hedrick, Jr, "The Phratry from Paiania," *CQ* NS. 39 (1989) 130.



brother's service at Mytilene and never provides a clear reference to its length. Since the duration of this service has no direct bearing on the merits of the speaker's case, his silence, though possibly fortuitous, arouses reasonable suspicion of a connection with the soldiers serving with Astyphilus on his last campaign.

Ex-soldiers often testified in Athenian lawsuits—usually about an individual's conduct or an incident that had occurred while on campaign.<sup>22</sup> Since most who met their end on military service were killed in action before they had formed close ties with their fellow-soldiers, these soldiers would not normally expect to be summoned as witnesses in inheritance suits.<sup>23</sup> If Astyphilus, however, had spent a number of years at Mytilene before he died, he would have had time to develop friendships with his companions; and since some of them voluntarily participated in his funeral services along with his friends (4), it appears that he had done so. In these circumstances the soldiers would clearly have been in a unique position to testify in the dispute over his estate—as not only the last men with the opportunity of discussing his personal affairs with him, but the only ones able to do so at any length after his alleged adoption of Cleon's son. Yet although the speaker summons Astyphilus' other friends as witnesses at various points (4, 9, 30), he does not call the soldiers and seems uneasy about their testimony.

Shortly after describing Astyphilus' funeral, the speaker says that since none of the deceased's relatives was present at the deathbed and he (the speaker) was absent from Athens when the remains were brought home, he is compelled to use the statements of his opponents to prove that the will was forged (7). This sentence puzzled Wyse (631), who complained that he

<sup>22</sup> See e.g. *Lys.* 20.24; *Aeschin.* 2.167, 170; *Dem.* 54.6.

<sup>23</sup> *Isae.* 4, however, seems to prove that there were exceptions. This speech was delivered by a friend of two young claimants to the estate of Nicostratus, another professional soldier, who was apparently killed in action abroad after an eleven-year absence from Athens; for the details of the background to the suit see Wyse 367. Nicostratus had allegedly made a will adopting Chariades, a mercenary in the same force, as son and heir, and the two claimants were contesting the genuineness of this document. It is clear from *Isae.* 4 that they had obtained a great deal of detailed testimony about Nicostratus' relationship with Chariades while the two mercenaries were campaigning (4.18ff, 26). Since the claimants had never visited the country where Nicostratus died (4.1), it appears that this testimony must have been provided by the soldiers who had served with him.

was unable to "discover any force in the speaker's statement that he was not in Athens when the bones arrived," but the sequence of thought seems clear: the soldiers who attended Astyphilus' funeral (4) brought back the remains from Mytilene, and since there is no good reason to believe that he died in action, some of them probably had been with him when he died.<sup>24</sup> In effect, then, what the speaker really appears to say is that because he was unable to interrogate the soldiers about Astyphilus' last words, he has to rely on his opponents' arguments to expose the will as a forgery.

This attempt to brush over the importance of the soldiers' presence is interesting: by emphasizing the absence of Astyphilus' relatives from his deathbed, the speaker implies that they alone would have been credible witnesses to his half-brother's last words. Yet Antiphon (1.29f) provides solid evidence that friends as well as the relatives of a dying man were considered competent witnesses of his final statements, and apparently some soldiers could have been included in this category. They would also have been objective witnesses, as they evidently had not tried to profit personally from Astyphilus' death. Moreover, the speaker's absence from Athens when the deceased's remains arrived would not justify his inability to obtain the soldiers' testimony, since he could have questioned them upon his return. It could not have been impossible, although inconvenient, for him to discover whether Astyphilus had made a deathbed statement and to contact those present if he had done so.

The success of the speaker's suit depended on his ability to convince the jurors that the will was a forgery, but he is unable

<sup>24</sup> As the soldiers, not the ship that arrived with news of his death, brought Astyphilus' remains home, he probably died shortly before the garrison or his contingent was due to return to Athens. But even a long interval between Astyphilus' death and his funeral would not affect my arguments on the nature of his military service on Lesbos or the date of Isae. 9. If Astyphilus had been killed in action, the speaker would surely have referred to the patriotism of his half-brother who had 'died for his city', particularly at the end of the speech when he appeals to the jurors to honor Astyphilus' memory and wishes (36f). See Wyse 629, citing Isae. 6.9, 10.22, for references to such patriotism. Moreover, although Wyse refused to draw any conclusion from Astyphilus' private burial, on the grounds that it is uncertain whether soldiers killed in action were given a public burial in this period, there is no reason to doubt that this was the case: see F. Jacoby, "*Patrios Nomos*: State Burial in Athens and the Public Cemetery in the Kerameikos," *JHS* 64 (1944) 65 with n.134.

to provide any testimony that Astyphilus had not reached an agreement with Cleon concerning the adoption just before sailing to Mytilene. All he can do is to summon an assorted group of Astyphilus' relatives, *phrateres*, demesmen, and friends, who can only confirm that they were not present when the alleged will was made and knew nothing about it (9). Some soldiers, however, might have supported the speaker on this crucial point. In the absence of Astyphilus' relatives from his deathbed (7), he could have spoken to these soldiers; and if he had believed himself close to death, it is natural that his thoughts would have turned to the disposition of his estate. Even if the soldiers could only testify that he had said that he had never made a will, this would obviously have been extremely helpful to the speaker's case.<sup>25</sup>

Given the potential value of the soldiers' testimony, the speaker's apparent uneasiness about it and his failure to summon any of the men as witnesses require an explanation. If he had thought or hoped that their testimony might be useful and perhaps decisive, it is difficult to believe that he would have neglected to find out what information they could provide. Consequently, his uneasiness can scarcely be explained by assuming that he simply had not bothered to contact the soldiers and was trying to cover up his omission. It appears far more likely that he strongly suspected or had discovered while preparing his suit that their testimony would be damaging, but in either case he would understandably avoid drawing attention to the length of time Astyphilus spent with his companions on Lesbos. Nevertheless, there are still a number of other indications in the speech that it had been considerable.

First, whenever the speaker refers to the alleged date of the adoption he always represents his opponents as maintaining that Astyphilus had adopted Cleon's son just before his departure for Mytilene, but never adds that this was shortly before his death (6, 14f). In the last of these passages in particular, the context has to be taken into account. Here the speaker heaps ridicule on his opponents' claims, arguing that it would be stretching coincidence too far to believe that Astyphilus made his first will immediately before he left on the expedition on

<sup>25</sup> The testimony of the soldiers could, of course, also have been based on earlier conversations with Astyphilus on Lesbos, but the Athenians clearly attached special importance to deathbed statements: see R. J. Bonner, *Evidence in Athenian Courts* (Chicago 1905) 20ff.

which he would die (15). The coincidence would clearly have been more striking if Astyphilus had died soon after he was supposed to have made his will, but although the speaker tries to highlight it by juxtaposing the words ἐκπλεύσαντα and τελευτῆσαι he does not make this point explicitly. Yet if Cleon did maintain that the adoption had taken place towards the end of Astyphilus' life, it would have been almost mandatory for the speaker to emphasize this fact not only here and in his reference to the son's failure to bury Astyphilus, but elsewhere in the speech. He stresses the bitter hostility that his half-brother had always shown to Cleon (16f, 20f, 23, 31, 36f) and denounces the latter's shamelessness in pretending that Astyphilus would have adopted his son (16, 22, 32, 35). If Cleon had also claimed that Astyphilus, supposedly his life-long enemy, had done so shortly before his death, the speaker would surely have expressed his indignation at what he would have had to represent as a special piece of impudence, but this is totally absent from the speech.

A long interval between Astyphilus' departure for Mytilene and the return of his remains to Athens would also resolve a definite problem in Isaeus 9. It is a curious feature of the oration that the speaker quickly denounces the alleged son's failure to bury Astyphilus but omits anything of substance about their relationship during Astyphilus' lifetime. Thus he claims that Thudippus' assault upon Euthykrates and the latter's deathbed injunction to his relatives not to allow any of τῶν Θουδίππου to approach his tomb prompted Astyphilus never to speak to Cleon (17–20), but he does not say that his silence extended to the son, Thudippus' grandson. Again, when the speaker describes how he had been brought up with Astyphilus, he recalls that his own father, Theophrastus, always used to take the two of them to religious ceremonies when they were boys (30). Instead, however, of contrasting Theophrastus' behavior with Astyphilus' hostility or at least indifference to Cleon's son, the speaker only mentions that Cleon never accompanied Astyphilus to the religious festivals of their common deme whenever the latter was in Athens (21).<sup>26</sup>

<sup>26</sup> Astyphilus' long military career (14) obviously entailed extended absences from Athens, but he must have been in the city for some time between the end of the war against Sparta in 371 and his embarkation for Mytilene. Since

Nevertheless, the speaker does take satisfaction from noting that after Astyphilus' death Cleon's son had presented himself frequently to the members of the latter's phratry but received no share of the sacrificial meat (33).

In other speeches, if it suited his purpose, Isaeus is ready enough to discuss in detail the relations between minors and individuals whose estates were disputed (e.g. 1.9–12, 8.15ff). The speaker's peculiar silence concerning Astyphilus' behavior towards Cleon's son becomes intelligible, however, if the son had been too young to form a real relationship with Astyphilus before the latter left Athens for the last time. Such evidently was not the case when his remains were brought home, so Astyphilus' garrison duty at Mytilene had apparently been long enough for the son to be approaching the age of majority at the time of the funeral.

As the date of the garrison's departure is unknown, it is impossible to determine conclusively why the Athenians dispatched it. Nevertheless, Astyphilus' confidence that he would come to no harm on Lesbos (15) suggests that the soldiers were to protect a base on the island, and Timotheus' ten-month siege of Samos (366/5) provides the most plausible context for their departure.<sup>27</sup> Yet whatever the date of their embarkation, a long tenure would not be surprising, considering developments in the northeastern Aegean during the 360s and the first half of the 350s. The situation cannot be discussed in detail here, but if the garrison was installed before 366/5, concern for the vital grain route from the Black Sea and/or the depredations of pirates in the north perhaps originally motivated the Athenians.<sup>28</sup> They had certainly, however, obtained Greek recognition of their claim to Amphipolis by 369, and when they sent Iphicrates against the city in 368 (Aeschin. 2.27), they probably had real hopes of ultimately

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he had allegedly adopted Cleon's son then, this was the crucial period of their relationship for the speaker to discuss. On the length of this period see n.39 *infra*.

<sup>27</sup> Even if the garrison was initially dispatched for some other purpose, the Athenians could have later decided to take advantage of the access to Mytilene's fine harbor guaranteed by the soldiers' presence and to establish a base there. For an argument for dating the garrison to 366/5 see n.39 *infra*.

<sup>28</sup> For the prevalence of piracy and the need for Athenian policing of the Aegean after 371 see Cawkwell (*supra* n.5) 47f.

recovering the Chersonese.<sup>29</sup> A secure base on Lesbos would prove very useful in achieving this objective—hence another reason for keeping soldiers on the island. Accordingly, the garrison was possibly already in position when Timotheus besieged Samos, but in either case he could have employed Mytilene as a base not only during the siege, but while operating around the Chersonese after replacing Iphicrates as the northern commander in 365 (Dem. 23.149).

Moreover, before Timotheus returned to Athens in 362, the importance of Athenian vigilance in the Hellespont had already been underlined in 364/3 when Epaminondas sailed with a Theban fleet to Rhodes, Chios, and Byzantium (Diod. 15.78.4–79.1). Presumably he hoped to detach them from the Athenian Confederacy and perhaps obtained some quick success in the case of Byzantium; at any rate the fall of each year from 364 to 360 saw Athenian commanders in the Hellespont whose responsibilities apparently included convoying grain ships headed for the Piraeus, while the Byzantines with Chalcedon and Cyzicus beached these ships in 362/1 ([Dem.] 50.4ff).<sup>30</sup> In that year, too, the Athenians sent troops to help Miltocythes in revolt against Cotys and offering to restore the Chersonese to them ([Dem.] 50.4ff). Furthermore, they continued to operate intermittently in the region until Chares reached a settlement with the Thracian kings in 357 (Tod II 151; Dem. 23.173). A little later in the same year, the Social War began and much of the action occurred near Lesbos. An initial

<sup>29</sup> For 369 as the *terminus ante quem* for Greek recognition of Athens' claim to Amphipolis, see Ryder 129f. Although Athenian operations against the Chersonese did not begin before Timotheus reduced Samos in 365 (Isoc. 15.112), S. Accame (*La lega ateniese del secolo IV a.C.* [Rome 1941] 165) may be correct in proposing that Athens' claims to Amphipolis and the Chersonese were recognized by the Greeks on the same occasion. The arguments of Cawkwell ("The Common Peace of 366/5 B.C.," *CQ* n.s. 11 [1961] 80–83) that Athens only obtained Greek recognition of her claim to the Chersonese in 366/5 are not conclusive: see R. Sealey, *A History of the Greek City States ca 700–338* (Berkeley 1976) 429f; cf. L. Kallet, "Iphikrates, Timotheos, and Athens, 371–360 B.C.," *GRBS* 24 (1983) 245f, who ascribes Athens' failure to take direct action against the Chersonese in the early 360s to the generally hesitant policy she was adopting vis-à-vis Persia.

<sup>30</sup> Accame (*supra* n.29) 179 n.3 concluded that Byzantium revolted from the Confederacy in the mid-360s; for a more cautious interpretation of the effects of Epaminondas' enterprise see G. L. Cawkwell, "Epaminondas and Thebes," *CQ* n.s. 22 (1972) 270–73; and for Athenian operations in the Hellespont see Sealey (*supra* n.29) 434, 437 n.3.

Athenian attack on Chios was repelled with the aid of troops from Byzantium, Rhodes, Cos, and from Mausolus (Diod. 16.7.3f). The rebel allies with a fleet of a hundred ships then took the offensive, ravaging Lemnos, Imbros, and many other islands "subject to the Athenians," wasting the countryside of Samos, and besieging that city by land and sea (Diod. 16.21.2). Later they also gained the upper hand in an engagement with the Athenians at Embata (near Erythrae).<sup>31</sup>

From 371 to the end of the Social War in 355, then, the Athenians could have utilized a base at Mytilene in different ways, while an unprotected Lesbos could have been vulnerable to the rebels.<sup>32</sup> In these circumstances the Athenians are unlikely to have been eager to withdraw the garrison, and Apollodorus' speech *Against Polycles* ([Dem.] 50.53) suggests that it was still stationed at Mytilene early in 360: during Apollodorus' trierarchy (mainly in the northern Aegean) Lucinus, recently installed as commander of the ship of which he was trierarch, promised him that he would get money for the sailors' provisions from Mytilene. Cawkwell has assumed that the money was to come from the *syntaxeis*, but he misinterpreted the situation by referring to an Athenian naval force in the north.<sup>33</sup> It is extremely doubtful whether Lucinus, not a general but the temporary commander of a single ship on

<sup>31</sup> Diodorus 16.21.3f refers to a naval battle about to take place in the Hellespont when it was aborted by a storm, but Polyaeus (*Strat.* 3.9.29) has an actual engagement begin at Embata and Nepos (*Tim.* 3.5) alludes to the loss of Athenian ships. On the contradictions and the location of Embata see Hornblower 213 with nn.252f.

<sup>32</sup> The installation of Athenian garrisons on Amorgos and Andros (Tod II 152, 156) has often been regarded as a response to the threat from the rebels during the Social War, but this is not certain. There is no firm evidence for the date of Tod II 152, honoring Androtion for his conduct as governor on Amorgos, and Cawkwell (*supra* n.5) 51 has suggested that in view of the ransoming of prisoners of war with which the latter is credited (lines 15f), his governorship may belong to the period of Alexander of Pherae's depredations in the late 360s ([Dem.] 50.4; Diod. 15.95.1f). This reasoning, however, is not decisive, considering rebel raids on loyal island members of the Confederacy to raise money during the Social War (Diod. 16.21.2). Although Tod II 156 is securely dated to 356, the garrison on Andros to which it refers seems to be already established on the island. Timarchus' governorship of Andros at some point in the 360s is not provable, as Cawkwell (51f with n.47) realizes.

<sup>33</sup> G. L. Cawkwell, "Notes on the Peace of 375/4," *Historia* 12 (1963) 92 n.73.

its way back to Athens, could collect the 'contributions' on his own initiative, and he more probably intended to obtain the money from Athenian authorities at Mytilene.<sup>34</sup> Furthermore, as Mytilene remained loyal to Athens during the Social War, the garrison may well have stayed there until 355.<sup>35</sup>

Exactly how long Astyphilus was stationed at Mytilene can only be a matter for conjecture, but it is not of vital importance that the sources do not reveal how long soldiers usually remained abroad on garrison duty before replacement. Astyphilus evidently enjoyed military life<sup>36</sup> and had always been accustomed to offer his services wherever an army was assembling (14). Originally a volunteer to Mytilene (15), he probably re-enlisted on Lesbos if and when the opportunity arose. Accordingly, he could well have died there shortly before the garrison withdrew (*supra* n.24).

Despite the lack of precise evidence for the length of Astyphilus' service, the speaker's total silence about his half-brother's behavior towards Cleon's son indicates that the son, probably near the age of majority when Astyphilus was buried, was still a child or not much more than a child when Astyphilus left for Mytilene.<sup>37</sup> When one also considers the meaning of

<sup>34</sup> See Burnett and Edmonson 85, who concluded from this passage that the Athenians were probably using Mytilene as a supply and repair base.

<sup>35</sup> Pistorius (*supra* n.5) 44 argued that Mytilene, given its importance, would certainly have been named in the sources if it had joined the rebels. More decisive, however, is [Dem.] 13.8 on the oligarchies established in Mytilene and on Rhodes shortly after the Social War. The speaker's admission that Rhodes (but not Mytilene) had been an enemy of Athens shows that Mytilene had remained within the Athenian Confederacy during the war. Moreover, his complaint in this passage that the Athenians had done nothing to prevent either of the oligarchic takeovers proves that the garrison was no longer stationed at Mytilene at the time. It seems very possible that the soldiers left when the war ended and that their departure together with the reverses that Athens suffered encouraged the oligarchs to take control.

<sup>36</sup> See Davies 230, who notes that since Astyphilus' estate was well worth fighting over, his manner of life as a professional soldier must have been a matter of choice rather than necessity.

<sup>37</sup> Even in the speaker's general allusions to Astyphilus' attitude towards his son (23, 31, 36f), the latter is never treated as an individual in his own right but always linked with Cleon. Cf. especially the references to him as "the son of one of Astyphilus' enemies" (31) and "the one towards whose father Astyphilus was most hostile" (37). Clearly when the speaker couples the son



πάλαι in Isaeus' other speeches, and the speaker's inability to vent his indignation on Cleon for the adoption near the end of Astyphilus's life, it can be safely inferred that even if Astyphilus sailed in the summer of 371, Isaeus 9 cannot be much earlier than Isaeus 6, securely dated to 365/4 or 364/3.<sup>38</sup> In fact, Isaeus 9 is almost certainly the later of the two speeches, as the dispatch of an Athenian garrison in 371 is highly improbable and a date of 370 very doubtful.<sup>39</sup> Furthermore, Astyphilus could easily have been stationed at Mytilene for ten years or more. If he sailed in the early 360s, Isaeus 9 was probably not delivered much, if at all, before the end of the decade; if he left Athens in 366, the speech can scarcely be earlier than 360 and dates of 355 or even 354 are entirely possible.

Unfortunately, the nature of the evidence precludes establishing exact dates for Astyphilus' final military service and hence a secure date for Isaeus 9. Nevertheless, my arguments have proved the existence of an Athenian garrison at Mytilene at least in the 360s. They also call into question Wevers' relative chronology of Isaeus' speeches, based on his progressive avoidance of "bad" rhythms as he gained experience: Isaeus 9 has a substantially higher percentage of these rhythms than Isaeus 6.<sup>40</sup> Finally, a considerably later date than has previously been suspected for Astyphilus' funeral would affect the widely

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and Cleon as "the bitterest enemies of Astyphilus" (23, 36), his references to Astyphilus' alleged hostility to the son rest solely on the latter's parentage.

<sup>38</sup> The war of 378–371 ended with the peace of Sparta on 14 Skirophorion 371 (Plut. *Ages.* 28), so the earliest possible date of Astyphilus' embarkation for Mytilene is the summer of 371. For the date of Isae. 6 see Wyse 500.

<sup>39</sup> If Astyphilus left for Mytilene immediately after the war with Sparta ended, the speaker would presumably have drawn attention to this when he emphasizes the implausibility of Astyphilus' making a will before his final expedition (9.14f). Moreover, it is intrinsically unlikely that the Athenians agreed to a treaty involving the withdrawal of garrisons (see *supra* with n.10) and promptly sent a garrison to Mytilene, particularly since later in 371 (after Leuctra) they convened a second peace conference at Athens that resulted in a treaty providing firmer guarantees for the autonomy of the Greek cities: see Ryder 70ff, 131ff. Presumably, the Athenians later felt less restricted by the two treaties, and I suggest this as an argument in favor of a garrison installed in 366/5.

<sup>40</sup> Wevers (*supra* n.4) 9–33; MacDowell (*supra* n.4) 24ff employed Wevers' figures to provide a more complete tabulation of the percentages—43.6 and 32.3 for Isae. 9 and 6 respectively.

accepted identification of Thudippus, his uncle, as the proposer of the Athenian tribute reassessment decree of 425 and the son-in-law of Cleon, the politician of the Archidamian War.<sup>41</sup> I hope to discuss this identification in a future article.

UNIVERSITY OF OTTAWA

*August, 1991*

<sup>41</sup> The identification, first proposed by Wade-Gery and Meritt (*supra* n.5) 392 n.36, has been queried by Bourriot (*supra* n.5) 412–18, who does not explore the chronological difficulties in depth.