

# Diodotus, Son of Eucrates

*Martin Ostwald*

THE TITLE of this paper gives us one of the only two facts known about the man to whom Thucydides assigns one of the most profound and important speeches in his *History*. The other fact is that the speech reported by Thucydides was not Diodotus' first on Cleon's motion in the summer of 427 B.C., that all adult male Mytileneans be killed and their women and children be taken as slaves: he had been the most vociferous opponent of that motion already a day earlier when it had been successfully passed by the Athenian Assembly.<sup>1</sup>

To try to identify Diodotus by identifying his father is almost hopeless. Of the twenty-five men named Eucrates listed in the *Prosopographia Attica*, there are two possible candidates: one is the *στυππειοπώλης* mentioned in Aristophanes' *Knights* as a predecessor of Cleon as a demagogue<sup>2</sup> and the other was a general in 432/1 B.C.<sup>3</sup> A third possible candidate is Nicias' brother Eucrates,<sup>4</sup> but arguments based on names alone cannot be very strong. Whether Diodotus was the son of any of these three can only be guessed, and even if we could guess accurately, it would tell us nothing significant about Diodotus, unless additional information on the various persons named Eucrates were also to come forth.

The purpose of this paper is to seek a little more light on the identity of Diodotus from a much neglected passage in the much discussed speech which Thucydides puts into his mouth. In the course of his plea against Cleon that a renewed deliberation of the Mytilenean issue is beneficial rather than harmful to Athens, Diodotus states:

<sup>1</sup> For the motion, see Thuc. 3.36.2; for Cleon's sponsorship in the first Assembly meeting, *ibid.* 36.6; for his advocacy of it in the second meeting, *ibid.* 37–40. For Diodotus' opposition in the first Assembly meeting, see *ibid.* 41; in the second, *ibid.* 42–48.

<sup>2</sup> Ar. *Eq.* 129 with schol.; *cf. ibid.* 254 with schol. and fr.696 (K).

<sup>3</sup> IG I<sup>2</sup> 296.5 with C. W. Fornara, *The Athenian Board of Generals from 501 to 404* (= *Historia Einzelschrift* 16, Wiesbaden 1971) 52–53.

<sup>4</sup> A. W. Gomme, *A Historical Commentary on Thucydides* II (Oxford 1956) 313.

χρῆ δὲ πρὸς τὰ μέγιστα καὶ ἐν τῷ τοιῷδε ἀξιοῦν τι ἡμᾶς περαιτέρω  
 προνοοῦντας λέγειν ὑμῶν τῶν δι' ὀλίγου σκοποῦντων, ἄλλως τε καὶ  
 ὑπεύθυνον τὴν παραίνεσιν ἔχοντας πρὸς ἀνεύθυνον τὴν ὑμετέραν  
 ἀκρόασιν.<sup>5</sup>

Why does Thucydides feel constrained to include this sentence in his argument?

Those who have commented on the peculiarity of this passage at all have brought the *γραφὴ παρανόμων* into the discussion,<sup>6</sup> but only rarely has the question been raised in what way Diodotus might envisage the possibility that his remarks could be construed as a violation against which this procedure, unattested before 415 B.C., could have been invoked.<sup>7</sup> To the best of my knowledge, only G. Mathieu has something to say on that subject.<sup>8</sup> He believes that Cleon might have invoked the *γραφὴ παρανόμων* against Diodotus' request for reopening an issue already voted upon by the Assembly, implying that the proposer of renewed discussion of a decision already made was subject to this procedure. But the parallel he cites is no true parallel. When Nicias encourages the prytanis not to be afraid of putting the decision to sail against Sicily to a vote again, since "he could not be charged with subverting the laws, if so many witnesses are present,"<sup>9</sup> he is speaking of formalities which have not been observed, whereas in the Mytilenean debate the necessary formalities had been observed and the permission to reopen the question had been granted by οἱ ἐν τέλει.<sup>10</sup> Moreover, there is neither any indication that the request to reopen the debate had come from Diodotus nor any evidence that such a request made the proposer subject to

<sup>5</sup> Thuc. 3.43.4: "Faced with matters of the greatest importance and in the kind of situation in which we are, we must be expected, as we make our speeches, to be thinking ahead rather further than you who give the issue but a moment's attention, especially as the advice we give is subject to an accounting, whereas the hearing you give is subject to no accounting."

<sup>6</sup> E. F. Poppo, *Thucydidis De Bello Peloponnesiaco* II.1<sup>2</sup> (Leipzig 1875) *ad loc.*, seems to have been the first to assert: "poterant enim eis intendi *γραφαὶ παρανόμων*." Cf. more recently C. F. Smith in the Loeb ed. of Thucydides, II (1920) 75: "It was open to any Athenian citizen to impeach any law or decree, as contrary to some existing law or as unjust or inexpedient, by a proceeding called *γραφὴ παρανόμων*."

<sup>7</sup> Even H. J. Wolff, in his magisterial "'Normenkontrolle' und Gesetzesbegriff in der attischen Demokratie," *SBHeidlb.* 2. Abh. (1970) 15 with n.21a, does not argue his belief that a reference to the *γραφὴ παρανόμων* here is possible but not provable.

<sup>8</sup> G. Mathieu, "Quelques notes sur Thucydide," *REA* 42 (1940) 242–53, esp. 245–48.

<sup>9</sup> Thuc. 6.14: *εἰ ὀρθωδεῖς τὸ ἀναψηφίσαι, τὸ μὲν λύειν τοὺς νόμους μὴ μετὰ τοσῶνδ' ἂν μαρτύρων αἰτίαν χεῖν...*

<sup>10</sup> *Id.* 3.36.5.

prosecution under the *γραφὴ παρανόμων* at any time in the fourth century, the only period in which we know anything about its operation at all.<sup>11</sup>

In other words, there seems to be no other perceptible reason why Diodotus should have thought of himself as a defendant under a *γραφὴ παρανόμων* or, for that matter, under any other kind of ordinary legal action. It might be argued, for example, that the procedure of *eisangelia*, which we know to have been available in the fourth century against the speaker “who has been bribed not to say what is in the best interest of the Athenian people,”<sup>12</sup> was available for the same purpose as early as the fifth century, or that its general application *ἐπὶ τῶν ἀγράφων δημοσίων ἀδικημάτων*<sup>13</sup> might have been brought to bear against Diodotus. For even though the *νόμος εἰσαγγελτικός* as a whole is unlikely to be earlier than the end of the fifth century,<sup>14</sup> some of its provisions may well have been in force before its enactment in its fourth-century form. However, not only does the only passage that has been cited to support *eisangelia* against a bribed speaker in the fifth century say nothing about bribes,<sup>15</sup> but also, if *eisangelia* for bribery had been available, we can be sure that Cleon would have given a sharper edge to his innuendo of bribery against Diodotus than in fact he did.<sup>16</sup> Moreover, by no stretch of the imagination can Diodotus have become—or thought that he might become—guilty of an *ἀγραφον δημοσίον ἀδίκημα*, and thus be liable to an *eisangelia* by proposing a lenient treatment of the Mytileneans.

Gomme, in expressing his doubts that Diodotus might be referring to the *γραφὴ παρανόμων* at this early date, wants to give *ὑπεύθυνον* the general sense that speakers are, in Diodotus’ view, “held responsible

<sup>11</sup> No such case is listed among the thirty-nine described by M. H. Hansen, *The Sovereignty of the People’s Court in Athens in the Fourth Century B.C. and the Public Action against Unconstitutional Proposals* (= *Odense University Classical Studies* 4, Odense 1974) 28–43.

<sup>12</sup> Hyperid. 4.8: *ἢ ῥήτωρ ὦν μὴ λέγῃ τὰ ἄριστα τῷ δήμῳ τῷ Ἀθηναίων χρήματα λαμβάνων. Cf. Lex.Rhet.Cantab. s.v. εἰσαγγελία* and Pollux 8.52.

<sup>13</sup> Pollux 8.51 with P. J. Rhodes, *The Athenian Boule* (Oxford 1972) 163–64.

<sup>14</sup> See M. Ostwald, “The Athenian Legislation against Tyranny and Subversion,” *TAPA* 86 (1955) 103–28, esp. 115–19.

<sup>15</sup> Lys. 20.10, cited by R. J. Bonner and G. Smith, *The Administration of Justice from Homer to Aristotle I* (Chicago 1930) 305 with n.2; see also M. H. Hansen, *Eisangelia: The Sovereignty of the People’s Court in Athens in the Fourth Century B.C. and the Impeachment of Generals and Politicians* (= *Odense University Classical Studies* 6, Odense 1975) 17.

<sup>16</sup> Thuc. 3.38.2: *ἢ κέρδει ἐπαιρόμενος*, which, as Gomme, *ad loc.*, rightly points out, does not even necessarily imply bribery; *cf.* also 40.1. We shall have to say more about these passages below.

for the advice we give.”<sup>17</sup> This interpretation might be thought to be corroborated by a passage in Demosthenes’ *De corona*, in which the accountability of a *κύμβουλος*, who publicly recommends a course of action before the event, is contrasted with the conduct of a sycophant, who refrains from speaking when the occasion demands it but takes malicious legal action when the measure has untoward results.<sup>18</sup> It fails, however, to take note of one important point. We know that *κύμβουλος* was not the title of a public official in Athens; still, it is clear that throughout the *De corona* Demosthenes speaks of the crown as having been awarded for his activities as a *κύμβουλος* and *ρήτωρ*,<sup>19</sup> that is, for his activities as *τειχοποιὸς καὶ ἐπὶ τῷ θεωρικῷ τεταγμένος*, for which he was subject to an *euthyna* (*ὑπεύθυνος*).<sup>20</sup> In other words, Demosthenes uses *κύμβουλος* to describe his position(s) as a public official, and, further, throughout the speech *ὑπεύθυνος* is used almost invariably to describe explicitly or implicitly a public official whose conduct is subject to an *euthyna* upon the expiration of his term of office.<sup>21</sup> If we add to this the observation of M. Piérart, that in the inscriptions of the fifth century *εὐθύνω*, *εὐθυνα*, *εὐθυνος*, *ὑπεύθυνος*, *ἀνεύθυνος*, etc. consistently refer to the supervision and punishment of magistrates or of persons officially entrusted with a public mission,<sup>22</sup> and the fact that our literary sources include no meaning other than this for *ὑπεύθυνος* in the fifth century,<sup>23</sup> we realize that Diodotus’ point is more specific than Gomme believes. Evidently, the first

<sup>17</sup> Gomme, *op.cit.* (*supra* n.4) 316.

<sup>18</sup> Dem. 18.189: ὁ γὰρ κύμβουλος καὶ ὁ κυκοφάντης . . . ἐν τούτῳ πλείστον ἀλλήλων διαφέρου-  
σιν· ὁ μὲν γε πρὸ τῶν πραγμάτων γνώμην ἀποφαίνεται, καὶ δίδωσιν ἑαυτὸν ὑπεύθυνον τοῖς  
πεισθεῖσι, τῇ τύχῃ, τῷ καιρῷ, τῷ βουλομένῳ· ὁ δὲ κυγῆσας ἡνίκ’ ἔδει λέγειν, ἂν τι δύσκολον  
συμβῆ, τοῦτο βασκαίνει.

<sup>19</sup> *Ibid.* 94, 209, 212, 320; *cf.* also 66, 190 and 290.

<sup>20</sup> See the text of Aeschines’ writ against Ctesiphon, *ibid.* 55, *cf.* 58.

<sup>21</sup> *Ibid.* 111 (*bis*), 112, 113 (*bis*), 117 (*bis*), 118, 235 and 246. The single exception is a metaphorical use at 196, in which Aeschines is said to be as *ὑπεύθυνος* for his ignorance of the future as are all other Athenians.

<sup>22</sup> M. Piérart, “Les εὐθῆνοι athéniens,” *AntCl* 40 (1971) 526–73, esp. 543–49.

<sup>23</sup> The rule of Xerxes in Aesch. *Pers.* 213 and the rule of Zeus in *PV* 324 are called ‘not *ὑπεύθυνος*’; Hdt. 3.80.6 praises the rule of the *πλήθος* as *ὑπεύθυνος*; Ar. *Ach.* 938, *Eq.* 259 and *Vesp.* 102, speaks of sycophants enriching themselves by bringing suits against *ὑπεύθυνοι*; Eupolis, fr.223 (K): ἄνδρες λογισταὶ τῶν ὑπευθύνων χορῶν, seems to presuppose the rôle of the *logistai* in *euthynai*; and Antiphon 6.43 and [Andoc.] 4.30 speak of magistrates as *ὑπεύθυνοι*. Even Clytaemnestra’s command to the servant to look after the strangers at Aesch. *Cho.* 715: αἰνῶ δὲ πράσσειν ὡς ὑπευθύνῳ τάδε, suggests that the Queen will hold the servant accountable for the performance of an assigned task.

person plural (*ἡμᾶς*) which he uses at Thucydides 3.43.4 does not so much classify Diodotus merely as a speaker but, in view of the phrase *ὑπεύθυνον τὴν παραίνεσιν ἔχοντας*, as an official whose conduct in office will be subject to an accounting (*εὐθυνα*) upon the expiration of his present incumbency. In other words, Diodotus' point in the statement under discussion is that public officials must take a long-range view in urging a particular course of action before the Assembly because it is they who will have to implement what is voted and it is they who will have to submit to an accounting for their official acts when they lay down their office. There is, he maintains, no similar constraint on the members of the Assembly: they concentrate only briefly on an issue presented to them and will not be held personally accountable for the consequences of their vote.

This interpretation seems confirmed by the immediate sequel. Diodotus goes on to say: "For if the person who gives advice and he who takes it were to suffer the same harmful consequences, you would be more balanced in your decisions. But as it is, whenever you are faced with failure, you give way to whatever emotion overcomes you and punish the man who persuaded you, although he cast only one vote toward the decision made; but you do not punish yourselves for the votes you have cast if your many votes contributed to the wrong decision."<sup>24</sup> The assumption that the persuasive speaker is also a public official, who will be faced at the end of his term with an *εὐθυνα* and possible judicial action arising from it, better explains the 'harmful consequences' and 'punishment' in store for him than the inference that punishment could be inflicted on an ordinary citizen for proposing a particular course of action before the Assembly.

Obviously, Thucydides has not assigned the sentence under discussion to Diodotus in order to give us, his readers, a hidden clue as to the identity of the speaker. Why, then, is Diodotus made to say what he does? To answer this question we have to remember that Diodotus' speech is constructed to parallel in considerable detail the speech of Cleon, to which it is a response.<sup>25</sup> As is well known, each speech falls into two parts, of which the first enunciates the general

<sup>24</sup> Thuc. 3.43.5: *εἰ γὰρ ὁ τε πείσας καὶ ὁ ἐπισπόμενος ὁμοίως ἐβλάπτοντο, σωφρονέστερον ἂν ἐκρίνετε· νῦν δὲ πρὸς ὀργὴν ἤντινα τύχητε ἔστιν ὅτε σφαλέντες τὴν τοῦ πείσαντος μίαν γνώμην ζημιούτε καὶ οὐ τὰς ὑμετέρας αὐτῶν, εἰ πολλοὶ ὄσαι ξυνεξήμαρτον.*

<sup>25</sup> On the closeness of the parallel structure, see L. Bodin, "Diodote contre Cléon," *REA* 42 (1940) 36–52.

principles on which the specific recommendations of policy in the second part are based. Diodotus' differentiation between himself and his listeners constitutes, therefore, his response to Cleon's rebuke to the Assembly for letting its love of discussion get the better of the need for an imperial power to abide by a decision once taken (3.37–38). Specifically, he seems to reply to Cleon's comment on the reaction of the Assembly to those who address it:

*καὶ μάλιστα μὲν αὐτὸς εἰπεῖν ἕκαστος βουλόμενος δύνασθαι, εἰ δὲ μὴ, ἀνταγωνιζόμενοι τοῖς τοιαῦτα λέγουσι μὴ ὕστεροι ἀκολουθήσαι δοκεῖν τῇ γνώμῃ, ὁξέως δὲ τι λέγοντος προεπαινεῖσαι, καὶ προαιθέσθαι τε πρόθυμοι εἶναι τὰ λεγόμενα καὶ προνοῆσαι βραδεῖς τὰ ἐξ αὐτῶν ἀποβησόμενα, ζητοῦντές τε ἄλλο τι ὡς εἰπεῖν ἢ ἐν οἷς ζῶμεν, φρονούντες δὲ οὐδὲ περὶ τῶν παρόντων ἰκανῶς ἀπλῶς τε ἀκοῆς ἡδονῇ ἡσκάμενοι καὶ σοφιστῶν θεαταῖς εὐκότες καθημένοις μᾶλλον ἢ περὶ πόλεως βουλευόμενοι.<sup>26</sup>*

In comparing Cleon's statement with Diodotus' response, one notices at once that the forethought (*προνοῆσαι*) which Cleon expects of his listeners is for Diodotus a quality belonging to the speaker rather than to the audience, precisely because it is the speaker and not his listeners who will have to take the "consequences of what is being said": Cleon's phrase *τὰ ἐξ αὐτῶν ἀποβησόμενα* prefigures Diodotus' *ὑπεύθυνον τὴν παραίνεσιν ἔχοντας*. It is hard to escape the conclusion that the purpose of Diodotus' remark is to differentiate himself also from Cleon: unlike Cleon, who is not encumbered by an official position, Diodotus cannot appeal to the emotions of the Assembly and encourage them to vote in a way which will merely vent their anger because as a public official he himself, not the Assembly, will be held answerable at his *εὐθυνα* for the consequences of whatever the vote will be. In making a proposal *he* will therefore have to think ahead (*προνοοῦντας*) what the consequences of that proposal will be since he will have to pay for any failures which may be its outcome; the Assembly will vote, but it will not be held

<sup>26</sup> Thuc. 3.38.6–7: "The greatest desire of each of you is to be himself a speaker, and if he can't, to compete with speakers of this sort by giving the impression that you are not mere followers in reaching a decision but applaud a sharp formulation before it is out of the speaker's mouth; you are as eager to sense what is being said before it is said as you are slow to think ahead what the consequences arising from it will be. You seek, one might say, a reality other than that with which we are faced and pay insufficient attention to the problems at hand. In short, you fall an easy prey to the pleasure of listening and are more like the audience of a sophistic display than like men deliberating about the affairs of state."

accountable for the consequences of its vote in the way a public official is held accountable for implementing it. In short, one of Thucydides' purposes in introducing Diodotus' statement is to put into high relief the position of Cleon as an irresponsible leader *vis-à-vis* the responsible public official Diodotus.

Another passage in Diodotus' speech corroborates our argument. We noted already that Cleon's innuendo that Diodotus was bribed (3.38.2) to speak in behalf of the Mytileneans is unlikely to be a veiled threat to use against him an *eisangelia* procedure which could be employed against bribed speakers in the fourth century. But we know that bribery (*δῶρα λαβόντα*) was—probably already in the fifth century—one of the three charges which could be brought against an official at his *εὔθυνα*.<sup>27</sup> That the possibility of having this charge levelled against him at his *εὔθυνα* by Cleon may have been on Diodotus' mind is indicated by his response to Cleon's innuendo:

*χαλεπώτατοι δὲ καὶ οἱ ἐπὶ χρήμασι προκατηγοροῦντες*<sup>28</sup> *ἐπίδειξίν  
τινα. εἰ μὲν γὰρ ἀμαθίαν κατηγιῶντο, ὁ μὴ πείσας ἀξυνετώτερος ἂν  
δόξας εἶναι ἢ ἀδικιώτερος ἀπεχώρει. ἀδικίας δ' ἐπιφερομένης πείσας  
τε ὕποπτος γίγνεται καὶ μὴ τυχῶν μετὰ ἀξυνεσίας καὶ ἄδικος.*<sup>29</sup>

Gomme interprets the passage as “not so much to make the charge before your opponent can speak, as to try to settle the issue before arguing on the merits of the case.”<sup>30</sup> But this does not seem very pointed since the *merits* of harsh versus lenient action are likely to have been argued in the Assembly which met on the preceding day. The passage makes much more sense, once it is recognized that Diodotus is a public official, arguing that the *εὔθυνα* at the end of an official's term of office is a more appropriate occasion for bringing charges of bribery against him than to bandy them about in a

<sup>27</sup> Arist. *Ath. Pol.* 54.2 with J. H. Lipsius, *Das attische Recht und Rechtsverfahren* (Leipzig 1905–15) 290–91 with n.18. The other two charges are embezzlement (*κλοπή*) and malfeasance in office (*ἀδικίου*).

<sup>28</sup> That this reading, though preserved only in the *Laurentianus* (C), is to be preferred to the *προκατηγοροῦντες* of all other manuscripts has been recognized by Classen-Steup as well as by Gomme, *op.cit.* (*supra* n.4) 314.

<sup>29</sup> Thuc. 3.42.3: “Most troublesome, however, are those who charge a speaker before the proper time with being bribed to give an exhibition of his rhetorical skill. For if they accused him only of ignorance, the unsuccessful speaker would go away with the reputation of being not bright rather than of being dishonest. But when he is charged with an actionable wrong, he becomes suspect if successful and is regarded as both stupid and dishonest if he fails.”

<sup>30</sup> Gomme, *loc.cit.* (*supra* n.28).

debate, where they cannot be proved or disproved and where they serve only to question the integrity with which an opponent is stating his case. When taken in conjunction with the statement of his accountability at 3.43.4, this passage supports the view that Diodotus is speaking as a public official.

If we can regard it as established that Diodotus was a public official, we should like to know what office he occupied. His interest in Mytilene, as evinced by his two speeches on her fate, may suggest that he was one of the seven unknown generals for 428/7 B.C.<sup>31</sup> and that he had served with Paches during the siege of Mytilene. One would have expected Thucydides to have mentioned this detail as relevant to his narrative, however, and apart from that, Paches will have been able to command his one thousand hoplites on his own and without the assistance of another general.<sup>32</sup> Thucydides provides us with no clue on which even a guess can be based with any degree of confidence. Diodotus argues that generous terms imposed upon an allied city after a revolt will preserve it as a source of further revenue for Athens while a prolonged siege would not only sap Athenian resources but also lead to the capitulation of a city too exhausted to be of any future service to Athens.<sup>33</sup> Is it too daring to suggest on the basis of this passage that Diodotus' office was connected with the collection of the tribute, that he may, for example, have been a *hellenotamias*? Thucydides' silence makes any guess merely a stab in the dark.

But why is Thucydides silent about the identity of the man into whose mouth he has put one of the most profound intellectual statements in his work? Thucydides' silences are too numerous and too baffling to enable us to hope for an answer. If we can rely on his narrative, Diodotus enjoyed but one very brief moment of glory in the history of the Peloponnesian War. He won no major battles, led

<sup>31</sup> We know the names of only three generals for 428/7 B.C., see Fornara, *op.cit.* (*supra* n.3) 56.

<sup>32</sup> Thuc. 3.18.3. On the other hand, G. T. Griffith, "Some Habits of Thucydides when Introducing Persons," *PCPS* 187 [n.s. 7] (1961) 21–33, esp. 21 with n.4, has shown that outside Book 8 and the *pentekontaëteia* only sixteen of thirty-eight Athenian generals are not given a patronymic. This does not, however, permit us to infer from the mention of the patronymic alone that a given Athenian was a general. Griffith himself (p.23) explains Diodotus' patronymic as "conferring consequence on the occasion, by influencing it decisively whether by his words or his actions."

<sup>33</sup> *Ibid.* 46.2–3.

no important missions, and was not even colorful enough to rate a mention in the surviving comedies of Aristophanes. He had an outstanding intellect, and he managed at one critical juncture to stem the tide of Cleon's successes in the Assembly by proposing a new policy toward the allies which was based on his interpretation of what had happened at Mytilene. Had it not been for Thucydides' view of the importance of what he had to say on one occasion and on that occasion only, he would have been consigned to complete oblivion.<sup>34</sup>

SWARTHMORE COLLEGE *and*  
*the* UNIVERSITY OF PENNSYLVANIA  
*December, 1978*

<sup>34</sup> I am pleased to acknowledge my gratitude to the J. S. Guggenheim Memorial Foundation for the grant of a fellowship and to Swarthmore College and the University of Pennsylvania for a leave of absence which gave me the leisure to write this paper. Cordial thanks go also to Russell Meiggs, Donald Lateiner, John K. Davies, Colin W. MacLeod and Peter J. Rhodes for critical comments and suggestions generously given, which, however, do not imply agreement with or responsibility for the views here expressed.