

Lysias and his Clients

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IN THE EIGHTH CHAPTER of his book *Lysias and the Corpus Lysiicum*, Professor K. J. Dover argues that “among the speeches ascribed to Lysias by the booksellers many, perhaps the majority, were to some degree or other his work, but not wholly his work.”¹ The discussion which precedes this proposition is concerned chiefly with the relationship between a litigant and his *κύμβουλος* (‘consultant’), a rôle which no ancient authority assigns to Lysias. It broadens thereafter to include the circumstances of ancient publication and the popular Athenian attitude to the profession of *λογογράφος*, and Dover’s treatment of these two subjects is lucid and convincing in so far as it is concerned with general conditions. It is to some extent vitiated, however, by the repeated assumption that clients,² and even friends of clients,³ might have had strong motives for publishing forensic speeches after their use in trials. But far more serious is Dover’s omission of the direct evidence for the independent composition of forensic speeches by the speechwriter. It is the purpose of the present article to reexamine this evidence, and to adduce fresh evidence and arguments in support of independent and against composite authorship.

We may usefully begin with the words employed in the fifth and fourth centuries B.C. to describe the function of the speechwriter. By far the commonest verb appears to be *γράφειν*. The others are *παρασκευάζειν*, *πορίζεσθαι*, *μηχανᾶσθαι*, *ποιεῖν*, *ἐκδιδόναι*. None of these implies cooperation, nor do the two compound verbs *συγγράφειν* and *συντάττειν*, in which the prefix *συν-* bears the sense not of collaboration but of artistic composition.⁴ Examination of the noun *λογογράφος* confirms his literary pretensions. Nowhere is he found cooperating with anyone⁵ but works alone on his writings, whether they be history, forensic speeches or epideictic discourses.

¹ Sather Lectures 39 (Berkeley and Los Angeles 1968) 152 (hereafter, DOVER).

² Dover 156, 160, 165.

³ Dover 159.

⁴ For references see M. Lavency, *Aspects de la logographie judiciaire attique* (Louvain 1964) 34, 124–29.

⁵ See Lavency, *op.cit.* (*supra* n.4) 36–45.

Contemporary evidence of a different kind arises from a comparison between Lysias and his older contemporary Antiphon. Dover refers to Thucydides' famous tribute (8.68) and suggests, very reasonably, that the rôle here ascribed to Antiphon by the historian is that of *σύμβουλος*.⁶ This and the passage which Dover quotes from Aristophanes' *Clouds* (462–75) illustrate very well the confusion that existed in the fifth century between the nascent profession of speechwriter and the other activities that came within the purview of the sophists. There is good reason to suppose that Antiphon acted as consultant to litigants who shared his political beliefs, or whose cases might further his political aims by discrediting the democratic administration which he sought to overthrow. But he also wrote speeches for the lawcourts and subsequently published them, being the first to do so according to tradition.⁷ His three surviving speeches⁸ show none of the stylistic inconsistencies noticed in the speeches of Lysias by Dover and adduced as evidence of composite authorship, and it has never been suggested that he collaborated with his client in the composition of a speech. He offered two distinct forms of legal assistance, and two only: advice and the complete speech, ready for delivery. If Dover's thesis is accepted, Lysias offered neither of these but something in between, and in so doing lost his individual identity as a writer and broke with the precedent established by Antiphon.

Such ready self-effacement is hardly consonant with the impression of the talents and reputation of Lysias which we receive from Plato in the *Phaedrus*. In this dialogue he is described as *δεινότατος τῶν νῦν γράφειν*, sharply contrasted with the *ιδιώτης*, the ordinary man (228A). He is a creative literary artist comparable with the poets (258D, 278C). Although the Lysianic speech which he analyses is epideictic, Plato acknowledges the breadth of Lysias' literary field by mentioning his activities as a forensic and political speechwriter, which had been the object of a jibe by a contemporary (257B–258E, esp. 257C). Ability to write in a variety of styles would be part of such a versatile author's stock-in-trade. While primarily a forensic speechwriter, Lysias was famous enough as an epideictic orator to have commanded an audience at Olympia in 388/7 B.C. for his remarkable invective against

⁶ Dover 149.

⁷ Diod.Sic *ap. Clem.Alex. Strom.* 1,365; [Plut.] *Vit.X Or.* 832c-D; Quint. 3.1.11.

⁸ *Murder of Herodes, On the Choreutes, Prosecution for Poisoning*. I regard the *Tetralogies* as rhetorical exercises of doubtful authorship.

Dionysius I of Syracuse.⁹ In a writer of such protean talents stylistic variety is much more naturally explained in purely literary terms than by any assumption that he allowed an alien, uncultivated style to intrude into his compositions.

Plato, then, recognized Lysias' versatility, perhaps even as a talent kindred to his own. But he also must have thought that he could distinguish a Lysianic style, in order either to imitate it, if the *Eroticus* is by Plato, or to select an authentic work of the orator, if the *Eroticus* is by Lysias.¹⁰ Assumption of Platonic authorship leads us to examine the piece for recurrent features which Plato may have regarded as Lysianic traits. The five occurrences of *καὶ μὲν δὴ* (26 in the *Corpus Lysiacum*) and the two of *ἔτι δέ* (24 in the *Corpus Lysiacum*), may be the result of Plato's study of a body of speeches and discourses which were, in his judgement, clearly stamped with one man's style.

Two generations after Plato, Theophrastus also thought he could identify the style of Lysias. It is interesting to note that he emphasised its artificiality, and included the orator among those who made excessive use of antithesis, symmetry, assonance and related figures of language (Dion.Hal. *Lys.* 14). This is surely a surprising judgement if the speeches read by Theophrastus contained passages of any length written in the natural language of Lysias' clients. Dionysius, on the other hand, did see an element of apparent naturalness in Lysias' style, but considered that it was in reality as different as could be from the style of the ordinary man, and more carefully contrived than any work of art (*Lys.* 8). It was by these criteria that he, like his predecessors, identified an individual Lysianic style, and he saw in it too a certain indefinable *χάρις* (*Lys.* 10), absence of which he confidently took to be a sign of non-Lysianic authorship.

Contemporary evidence and subsequent critical opinion thus give

⁹ Dion.Hal. *Lys.* 29; Diod.Sic. 14.109.

¹⁰ Blass deduced Lysianic authorship from both style and method of argument (*Att.Ber.* I. 428–30), and the case was argued at greater length by J. Vahlen ("Über die Rede des Lysias in Platos Phaedrus," *SitzBerl* 1903.2, pp.788ff). But since H. Weinstock's thorough investigation *De erotico Lysiaco* (Westfalen 1912), scholarly opinion has generally favoured Platonic authorship. See A. C. Darkow, *The Spurious Speeches in the Lysianic Corpus* (diss. Bryn Mawr 1917) 90–94; P. Shorey, "On the *Eroticus* of Lysias in Plato's *Phaedrus*," *CP* 28 (1933) 131–32; G. E. Dimock Jr, "Allá in Lysias and Plato's *Phaedrus*," *AJP* 73 (1952) 392–96. Dover (194) considers the problem insoluble by means of "technical criteria," but this excludes perhaps the strongest argument of all, that of literary unity and the convention that authors did not quote *verbatim* long passages from the works of others. This argument is not without relevance to the subject of this article.

an impression of Lysias and his oratory which does not correspond with that suggested by Dover's thesis of a composer of hybrid works in which any literary distinction is diluted and obscured by the intrusion of *ιδιωτισμοί*, the uncultivated speech of his clients. We shall have occasion to return to the question of Lysias' literary reputation but turn now to two passages which describe the relationship between the speechwriter and his client in the fourth century B.C. The first concerns Lysias himself, and though our source is Plutarch, there is no good reason to believe that he was not following a biographical tradition dating back at least to the third century B.C. (Hermippus of Smyrna?).¹¹ The passage runs as follows:

Λυσίας τινὶ δίκην ἔχοντι λόγον συγγράψας ἔδωκεν· ὁ δὲ πολλάκις ἀναγνοὺς ἦκε πρὸς τὸν Λυσίαν ἀθυμῶν καὶ λέγων τὸ μὲν πρῶτον αὐτῷ διεξιόντι θαυμαστὸν φανῆναι τὸν λόγον, αὐθις δὲ καὶ τρίτον ἀναλαμβάνοντι παντελῶς ἀμβλὺν καὶ ἄπρακτον· ὁ δὲ Λυσίας γελάσας “τί οὖν,” εἶπεν, “οὐχ ἅπαξ μέλλεις λέγειν αὐτὸν ἐπὶ τῶν δικαστῶν;”¹²

This curious story seems to imply a lack of collaboration between speechwriter and client in the actual composition of the speech, however much prior consultation there may have been. Clearly the client received and read a speech written by the speechwriter. But his disappointment may suggest something more. If the speech had contained a number of passages in the client's own words, it would have been natural for his self-esteem to gain the better of his literary judgment, so that he might have enjoyed reading the speech simply because he saw his own words 'in print'. Again, if, as is reasonable, he is assumed to have reread the speech with the ultimate purpose of learning it off by heart,¹³ part of his complaint may have arisen from finding its language totally foreign to his own and therefore awkward and unnatural coming from the lips of a man with no experience of acting a part. At the very least, it is evident that the client recognized the speech as the work of the speechwriter, not as a collaborative composition.

¹¹ The unreliability of Hermippus and other sources of biographical material need not lead us to expect them to misrepresent a relationship such as that between speechwriter and client, which was a matter of recent, perhaps contemporary experience for some of them. For purposes of the present argument it does not matter greatly whether Plutarch or his source introduced Lysias' name in order to colour the story.

¹² Plut. *De Garr.* 5 (*Mor.* 504c).

¹³ Dover 150 n.4.

The second passage does not feature Lysias in person, but its author Theophrastus is closer in time than Plutarch to the heyday of the Attic speechwriters and was indeed a contemporary of the later ones. In *Characters* 17.8 we read of a litigant who, on winning his suit with all the jury's votes, criticizes his speechwriter for omitting many legitimate points. A purely fictitious incident, no doubt; but hardly one which *could* not have happened, or its inclusion would have served the purpose neither of illustration nor of humour. If, as seems probable, Theophrastus is describing the habitual practice of the speechwriter, it may be supposed that in some cases consultation was minimal even on legal details, rendering it less likely still that matters of verbal presentation were discussed and agreed upon between speechwriter and client.

Nowhere in ancient literature does a contrary account of the speechwriter-client relationship appear. Indeed, there is a further passage which may seem to confirm what those of Theophrastus and Plutarch imply. Cicero tells us that Lysias composed a defence-speech for Socrates and offered it to him "to learn for use at his trial," *quam edisceret ut pro se in iudicio uteretur* (*De Oratore* 1.231), but Socrates politely declined the offer on the ground that its elegant style did not suit his character. Here we have an exceptional case of a speechwriter volunteering his services gratuitously and writing a speech without prior consultation with the litigant. Dover¹⁴ relates this story aetiologically to the subsequent existence of a Lysianic *Defence of Socrates*. It was apparently written in the orator's epideictic style, which no doubt gave rise to controversy as to whether it was actually delivered. Unscrupulous booksellers might affirm that it was, making it necessary for Socrates' adherents to invent the story in order to set the overall record straight and reestablish the tradition that Socrates conducted his own defence in his own unorthodox way. This is not the only possible explanation of the origin of the story, however. It should not have seemed necessary to fabricate it merely in order to explain the existence of an epideictic defence of Socrates in the fourth century, for his trial was the subject of numerous serious tracts, pamphlets and rhetorical exercises, not to mention the dialogues of Plato. It is therefore quite possible that an original story that Socrates was offered speech(es) for use at his trial by speechwriter(s) came into existence

¹⁴ Dover 192.

independently of the appearance of a Lysianic¹⁵ defence, which served to personalise the story and add to its colour. We may believe that there were exceptional cases when speechwriters offered their services to litigants, especially when their own political convictions or ambitions impelled them to do so. It is possible, without overrating Lysias' political pretensions, to envisage such a context for a number of his speeches, e.g. *Against Agoratus*, *Against Alcibiades I* and *II*, and the *Defence on a Charge of Treason* (*Or.* 25). In these, political flavour is combined with stylistic unity in a high degree.

With the aid of the foregoing evidence we may begin to form a coherent account of the probable procedure followed by Attic forensic orators when composing speeches for their clients. After initial consultation, which would vary in thoroughness according to the complexity or difficulty of the case, the actual composition of the speech was done by the speechwriter,¹⁶ in his own words and with the exact degree of emphasis and emotional appeal that he considered necessary. The client then took the speech and learnt it off by heart¹⁷ if he could, though it seems unlikely that a litigant who was unfortunate enough to have a poor memory and/or a nervous disposition was required to speak from memory and so place himself at a disadvantage.¹⁸ However he chose to deliver his speech, the ordinary litigant was supplied by his speechwriter with various commonplace pleas, contrasting his own inexperience, innocent unpreparedness and retiring character with the perverted cleverness, long-standing malice and litigiousness of his opponent, and so preempting the sympathy and indulgence of a jury which contained many citizens like himself. For his part, a speechwriter with literary talents and consciousness of a reading public, like Lysias,¹⁹ would naturally prefer to compose a

¹⁵ Tradition, and especially biographical tradition, abhors anonymity. Lysias' name could have been superscribed to the anonymous *Defence* any time after his epideictic style had become familiar through the publication of speeches like the *Olympiacus*. Cf. *supra* n.11.

¹⁶ There can be little doubt that forensic speeches were written out in full. See *Isoc. Paneg.* 188; *Antid.* 1, 46; *Panath.* 1-2, 271.

¹⁷ See *Ar. Eq.* 347-50, and H. Hudson-Williams, "Political Speeches in Athens," *CQ* N.S. 1 (1951) 68-69.

¹⁸ Memorisation played an important part in ancient education, and general standards were probably higher than they are today. But Alcidas refers to it as a difficult and burdensome exercise (*Soph.* 18), and we know of one famous case in which a very experienced politician 'dried up' (Demosthenes on the first embassy to Philip, according to Aeschin. 2.34-35).

¹⁹ See below, pp. 37-38.

speech in a self-consistent style and to use his own judgement as to the form and degree of characterisation demanded by the case.

Dover observes correctly that the needs and abilities of litigants varied,²⁰ so that those with confidence or experience in legal matters or public speaking did not require the fullest available services of the speechwriter. But discussion of the *Corpus Lysiacum* centres around the published speeches, and even if Dover's thesis of collaborative composition is accepted, for some speeches the crucial *εἰκόσ*-question must still be asked: from the cases in which Lysias was consulted, which speeches is he likely to have prepared for publication as specimens of his professional and literary skill, those which he composed himself in their entirety or those which contained varying contributions from his clients? The answer should be obvious, but we cannot be sure that all the speeches in the corpus were chosen and prepared for publication by Lysias. It should be possible, however, to assert that "probably the majority" were, if some evidence could be adduced to show that Lysias, or any other orator, was able to exercise effective supervision over the publication of speeches under his name. To this evidence we now turn.

If it is accepted, as I think it must be, that Lysias established himself as a writer on rhetorical theory, whether through the media of technical treatises,²¹ exercises²² or a wide range of display pieces,²³ it may be confidently assumed not only that readers would be anxious to obtain copies of his works and hence have a direct interest in their genuineness,²⁴ but that the orator, in order to increase his reputation and widen his clientèle, would actively promote a market for his speeches, concentrating in the case of forensic speeches on those which were successful.²⁵ Epideictic speeches by famous orators of the period were certainly distributed among their pupils and admirers,²⁶ and there is no evidence to suggest that forensic speeches were held in

²⁰ Dover 150.

²¹ [Plut.] *Vit.X Or.* 836B: *εἰς δ' αὐτῶ καὶ ῥητορικὰ τέχνη πεποιημένα . . .*

²² Schol. Hermog. Walz IV 352,5. Blass, *op.cit.* (*supra* n.10) 382, points out that the topic here mentioned is treated by Lysias in 24.15, and may therefore have been drawn by him from one of his already published *παρασκευαί*.

²³ Dion.Hal. *Lys.* 1: *πλείστοις δὲ γράψας λόγους εἰς δικαστήριά τε καὶ βουλὰς καὶ πρὸς ἐκκλησίας εὐθέτους, πρὸς δὲ τούτοις πανηγυρικούς, ἐρωτικούς, ἐπιστολικούς.*

²⁴ Dover 153, 159.

²⁵ Lysias is said to have lost in only two of his published speeches ([Plut.] *Vit.X Or.* 836A).

²⁶ See E. G. Turner, *Athenian Books in the Fifth and Fourth Centuries B.C.* (London 1952) 19.

lower esteem: on the contrary, those by reputable authors were considered desirable reading for any man who wished to make his mark in public life.²⁷ The same conditions obtained in the matter of distribution for forensic as for epideictic speeches, so that when Isocrates says of his own speech *Against the Sophists* *λόγον διέδωκα γράψας* (*Antid.* 193), Turner deduces very reasonably that “The author in person supervises the circulation of his work.”²⁸ We have no cause to believe that others who relied on their literary talents for their livelihood were less vigilant than he was in guarding their reputations.

An interesting illustration of the extent to which an author could influence opinion regarding his literary output is supplied, once more by Isocrates, who appears to have succeeded in disowning a large number of forensic speeches which he wrote early in his career.²⁹ If Isocrates could do this in the case of speeches which he may actually have written, Lysias should have had an easier task in disowning speeches which he did not compose. Another reason for supposing Isocrates’ task to have been the more difficult is that we know he had many detractors, against whom he spoke at length in his early discourses and in the *Antidosis*, some of whom tried to discredit him by drawing attention to his early career as a speechwriter. We know nothing, however, about contemporary imitators of Lysias who tried to pass off their work as his, but we can be sure that their task would have been rendered the more difficult by his reputation and a discerning literary public.

As to his choice of speeches for publication, those which would display his art in its most favourable light would be speeches on difficult cases for obscure clients³⁰ who were inexperienced or diffident or both.³¹ Examples of such speeches are easy to find in the *Corpus Lysiacum*. By publishing speeches of this kind Lysias might have expected to attract clients of all kinds.

A further consideration arises from the publication of forensic

²⁷ The fact is deplored by Isocrates (*Paneg.* 11). See G. Kennedy, *The Art of Persuasion in Greece* (Princeton and London 1963) 34; Dover 182–83.

²⁸ *op.cit.* (*supra* n.26) 20.

²⁹ *Antid.* 36. His attitude gave rise to the famous controversy involving Aristotle, described by Dion.Hal. *Isoc.* 18. See Dover 25.

³⁰ Dion.Hal. *Lys.* 16: ἀμείνων ἐστὶ τὰ μικρὰ καὶ παράδοξα καὶ ἄπορα εἰπεῖν καλῶς.

³¹ It is an interesting question whether the large number of clients who claim inexperience or display diffidence are merely using commonplace pleas, or whether this large number is the result of the orator’s choice of speeches for publication.

speeches. To what extent were they revised and retouched before publication? An extreme view of this question was advanced by Darkow, who, in her examination of individual Lysianic speeches, emphasised the characteristics which rendered them unsuitable for delivery in court, and regarded the published speeches as purely epideictic in character. She even went so far as to suggest that "Lysias and indeed all the orators of the canon were not *λογοποιοί* in the sense of professional speechwrights. They were the real representatives of a *τέχνη* behind which all speech mongers sheltered themselves."³² Although arrival at this conclusion entails an intolerably narrow and tendentious interpretation of the evidence, it is undoubtedly true that certain of the speeches contain strong epideictic elements, and it is arguable that the short fragments of speeches which found their way into the corpus did so because of their literary interest. If the orator revised his speeches before publication, his own part in their composition was thereby enhanced, and his client's, if he had any at all, diminished.

These arguments against composite authorship in the published speeches of Lysias receive internal confirmation from the passages of live speech which occur in them. In live speech, if anywhere, the orator might be expected to have allowed his clients to speak in their own words. The first fact which should surprise the proponents of composite authorship is that live speech, *i.e.* the quotation of the actual words alleged to have been used in a conversation, argument or harangue, is rare in Lysias, and this is one of the characteristics which makes him less of a 'natural' orator, than for example, Andocides and Aeschines. More interesting, however, is the fact that when live speech is used by Lysias, it tends to have a certain stiff formality, which may even contrast with the more relaxed style of the surrounding narrative. I have drawn attention to this peculiarity elsewhere³³ in reference to passages of *oratio recta* in *The Slaying of Eratosthenes*, where this strange formality is particularly striking. Another example, in which rhetorical resources are deployed most effectively, is the powerful harangue put into the mouth of Diodotus' widow in the speech *Against Diogeiton* (15–17), which must rank as one of the finest pieces of female Athenian oratory outside Aristophanes, though it is scarcely credible for its realism. Lysias, having no doubt received a verbal account of

³² Darkow, *op.cit.* (*supra* n.10) 17.

³³ *Eranos* 63 (1965) 104–05.

the widow's harangue from his client, converted it into a highly polished *tour de force* which presents the 'rhetoric of the situation' with the maximum of emotional appeal. In this as in other aspects of our study of Lysias we are impressed more by his conscious literary artistry than by his naturalism.

Dover's hypothesis would have surprised Dionysius and Plutarch and astounded Plato. Taking literary unity as a basic assumption, they would have explained the realism and variety of style which they found in the Lysianic speeches in terms not of composite authorship but of the writer's own talents, whether innate or cultivated. The foregoing investigation suggests that we should follow their example. It seems inconceivable that they could have misunderstood the literary habits of their own age. On the historical side of the question, it seems clear that the speechwriter-client relationship was more clear-cut than Dover requires us to believe, and that the publication and transmission of speeches was probably less haphazard. And finally, since it casts doubt upon the authenticity of all Attic oratory, not only the *Corpus Lysiacum*, the study is as yet incomplete and Lysias should not be singled out.

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