

Rhetorical Exercise or Political Pamphlet? Thomas Magistros' Exploitation of Demosthenes' *Against Leptines*

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ANCIENT EDUCATION and display oratory largely drew on historical themes.¹ In a few cases, a hidden message could be detected behind the seemingly uncontroversial facade of declamations.² The exploitation of historical themes continued in the Byzantine Empire. Thus we have, among other declamations, a speech *Against Demosthenes on Tax Exemption* (*Or.* 1) and a reply *For the Opposite in Favor of Tax Exemption* (*Or.* 2) by the fourteenth-century scholar Thomas Magistros.³ These are based on Demosthenes' *Against Leptines*. This paper aims to demonstrate that Magistros chose and altered the form and subject matter of the Demosthenic model deliberately so as to allude to an issue of great importance in his own time: the problem of the Byzantine *pronoia* and its possible abolition. He is not concerned with accuracy in reproducing a historical setting or in the imitation of Demosthenes' arguments, but exploits the original as raw material to make his own points and to cherry-pick the arguments he values most.

I

Shortly after the Social War Demosthenes shared in the

¹ See Ricardus Kohl, *De scholasticarum declamationum argumentis ex historia petitis* (diss. Münster 1915).

² E.g. Cass. Dio. 59.20.6, 67.12.5, cf. J. E. B. Mayor, *Thirteen Satires of Juvenal* (London 1877) on Juv. 7.151, and N. Deratani, "Le réalisme dans les declamations," *RevPhil* III 3 (1929) 184–189.

³ The speeches have been transmitted in *Vat.gr.* 714 and edited by F. Lenz, *Fünf Reden Thomas Magisters* (Leiden 1963). For most other texts of Magistros, *PG* 145 is still the standard edition.

prosecution at a trial about the unconstitutionality of a law that proscribed the abolition of all exemptions from liturgies (γράφῃ νόμον μὴ ἐπιτήδειον θεῖναι).⁴ In a time of extreme financial difficulty Leptines had proposed the law as a means to tax the richest Athenians or at least as a symbolic act of enforcing solidarity upon those who had been exempted from liturgies because of extraordinary merits or because they had inherited this privilege.⁵

The main prosecutor at the trial was Phormion, followed by Demosthenes, who spoke on behalf of general Chabrias' minor son Ktesippos, who enjoyed immunity from liturgies. Significant about the speech is that Demosthenes does not launch into a forceful invective against his opponents. The only passage with some pathos is when he praises the merits of Chabrias (and thus demonstrates how ungrateful it would be to rob his son of the privilege of immunity). The tone of the speech earned Demosthenes high praise from later commentators and rhetoricians.⁶ Accordingly, it was a popular model for imitation, and we have a school exercise on the theme.⁷

The prominent sophist Aelius Aristides tells us (4.3) that he too wrote a speech *Against Leptines*. A short time after its composition Aristides became involved in a legal dispute in which he tried to be freed of the burden of liturgies.⁸ It is impossible

⁴ In modern discussions there are doubts as to the exact form of the trial against Leptines, cf. P. J. Rhodes, "Sessions of *nomothetai* in Fourth-century Athens," *CQ* 53 (2003) 124–129, at 128–129. However, in ancient treatments of the speech—the only relevant ones in our context—the formulation is γράφεισθαι τὸν νόμον (so both hypotheses) and the like. The hypothesis to Magistros speaks of γράφεισθαι τοῦτον (sc. Λεπτίνην or τὸν νόμον) παρανόμων.

⁵ Cf. J. E. Sandys, *The Speech of Demosthenes against Leptines* (Cambridge 1890) xxi.

⁶ Cic. *Or.* 111, Dion. Hal. *Amm.* 1.4.2, Max. Plan. *In Hermog.* Id. V 517.21–26 Walz.

⁷ P.Berol.inv. 9781: K. Kunst, *Rhetorische Papyri. Im Auftrage der Berliner Papyrusskommission bearbeitet* (BKT VI [Berlin 1923]) 4–13 (Pack 2511).

⁸ Antoninus Pius had limited the number of *ateleiai* granted to (among others) philosophers and sophists in each city. Aristides appealed to the governor for exemption; see C. A. Behr, "Studies on the Biography of Aelius Aristides," *ANRW* II.34.2 (1994) 1140–1233, at 1207–1209.

to link his declamation against Leptines directly to Aristeides' own struggle for exemption from liturgies. The closeness in time between the speech and Aristeides' struggle, however, is striking, and might suggest that something was already in the air.⁹ This instance as well as an anecdote in Philostratos shows that liturgies and *ateleiai* were important issues for the rich in Roman times, and the popularity of Demosthenes' speech is at least partly due to this fact.¹⁰ It seems clear that Demosthenes' *Leptinea* dealt with an issue that was relevant for the author and conveyed a clear message to the audience. Thus speeches on this topic were not just written as rhetorical exercises and showpieces to impress one's audience.¹¹

Whether Thomas Magistros' declamations make use of those of Aristeides is impossible to say.¹² Only some of the core issues of Aristeides' speech (as suggested by himself) are taken up.¹³ Essential parts of Demosthenes' argumentation are also disregarded by Magistros. The constitutionality or unconstitutionality of the law is not an issue at all. Therefore, Magistros is not trying to imitate the original situation of the trial, which centers on exactly this question. Neither does Magistros quote older

⁹ In this context an earlier dream of Aristeides on the same liturgy he was forced to take on in 147 (Ael. Arist. 50.53) may be significant.

¹⁰ Philostr. *VS* 601: when Apollonios is about to set off for Leptis, his rival Herakleides tells him to read the *Leptinea*. Apollonios sneers back at Herakleides, who was involved in a dispute about exemption from liturgies, that he was the person to read it, as it dealt with *ateleia*. See also *VS* 527.

¹¹ On the relevance of Leptinean declamations for the sophists' own time see S. Rothe, *Kommentar zu ausgewählten Sophistenviten des Philostratos* (Heidelberg 1989) 190: "Dieses Thema konnte ... dem römischen Kaiser die Bedeutung der ἀτέλεια u.a. für die Sophisten vor Augen führen." I. Rutherford, *Canons of Style in the Antonine Age* (Oxford 1998) 95, goes so far as to say that Hermogenes may have written his study on Demosthenes' speech because of the interest in *ateleia* in this period.

¹² Speeches of Aristeides were perhaps still extant in the eleventh century that are lost now; cf. S. Glöckner, *Über den Kommentar des Johannes Doxopates zu den Staseis des Hermogenes I* (Bunzlau 1908) 16 (the authenticity is doubted by C. A. Behr, *P. Aelius Aristides. The Complete Works I* [Leiden 1981] 504 n.72).

¹³ Aristeides (4.3) says that he concentrated on the *praemunitio* against the opponents, which corresponds to arguments at Dem. 20.99–133.

laws that conflict with Leptines' nor does he incriminate or defend the way in which the lawgiving procedure had evolved. When he attacks a specific clause of the law—the prescription of the death penalty for anyone who proposes to abrogate the law—he does not call it unconstitutional (*paranomōn*) or unsuitable (*ouk epitēdeion*), which would be the appropriate terms for such a trial. Instead, his argument runs that the ancestors did not seem to need this precaution, so it must be a sign of the law being a bad one. The law drafted and proposed by Apsephion instead of Leptines' (Dem. 20.88–101) is not even mentioned.

Concerning two other declamations, based on a model by Polemon, Lenz states that Magistros largely reproduces Polemon's arguments but changes the formulations.¹⁴ This is not true for the Leptinean orations with their fundamental change to the setting. This brings us to the question of how accurate Magistros is in re-enacting the distant past, which will then lead to two underlying problems: did he make deliberate “mistakes” and, if so, what are his intentions?

II

Magistros shows that he is familiar with Demosthenes' speech both by verbal correspondences and by content.¹⁵ He also uses external information on the speech.¹⁶ Moreover, we know that some scholarly work was done on the speech around the time of Magistros, including constitutional and legal questions.¹⁷ Given that Magistros was of some importance in the

¹⁴ F. W. Lenz, “On the Authorship of the Leptinean Declamations Attributed to Aristides,” *AJP* 63 (1942) 154–173, at 160.

¹⁵ *Or.* 1.17 = Dem. 20.1, *Or.* 1.108 = Dem. 20.96; for more parallels see the apparatus of Lenz, *Fünf Reden*.

¹⁶ A personal connection with Ktesippos (cf. *Or.* 1.5) is not mentioned by Demosthenes; a stepfather-stepson relationship could be inferred e.g. from Plut. *Dem.* 15.3 and *Suda* s.v. Δημοσθένης, μαχαίροποιός (Δ 456). The hypothesis reflects knowledge of the debate of rhetoricians on the speech, cf. n.57 below.

¹⁷ On the P scholia, which derive from the Palaiologan era, see M. R. Dilts, “Palaeologian Scholia on the Orations of Demosthenes,” *ClMed* 36 (1985) 257–259; cf. e.g. schol. P on Dem. 20.118 (ed. W. Dindorf): ἀλλὰ καθ' οὗς] οὐ γὰρ νόμῳ ἢ ψηφίσματι, ὡς προίων ἐρεῖ, τὰς ἀτελείας ἐδίδοσαν οἱ

philological circles of Thessalonica,¹⁸ one might assume that information on Athenian politics would have been accessible to him.

Therefore, it seems odd that even on a most basic level (the order of the speeches) Magistros should have made a fundamental blunder. An anonymous orator (not Leptines, cf. *Or.* 1.62) speaks first, referring to Demosthenes' original; the second speaker seems to be Demosthenes himself (henceforth: "Demosthenes").¹⁹ But while he is addressed as a famous politician in the first speech, he does not refer to his prominence or reveal his identity.²⁰ So the fictional order of speeches is Demosthenes/τις/"Demosthenes"; there is no room for Leptines or any other supporting speaker.²¹

My aim, to repeat, is not to accuse Magistros pedantically of mistakes, but to show that he makes deliberate changes to the original situation and a rather free use of Demosthenes' speech. The argumentation regarding the unconstitutionality of Leptines' law, for example, obviously does not interest him. He transforms the setting of the trial according to his own needs, shifts the emphasis of the speeches, disregards most of the original arguments and hardly mentions the background. Demosthenes, it is true, had not mentioned the Social War in his speech either (except for the battle in which Chabrias was killed), but at least he had addressed problems such as the necessity of imports and a recent shortage of grain.²² In Magistros, hardships the city might be suffering are not pre-

¹⁸ Ἀθηναῖοι, and on 20.132: πρόξενοι] ὁ τὸν ἀπὸ ἄλλης πόλεως ἀναδεχόμενος καὶ προσόδου φροντίζων τοῦ πρὸς τὸν δῆμον αὐτῷ.

¹⁸ Cf. N. G. Wilson, *Scholars of Byzantium* (London 1983) 247–249.

¹⁹ The structure of the hypothesis (explanation of the matter, description of Demosthenes' speech as sophistry, characterization of "somebody's" reply, characterization of Demosthenes' speech) leaves it unclear if it refers to the second declamation at all or only to Demosthenes' original.

²⁰ The first person appears only in formulae such as ὡς γε ἐγὼ νομίζω.

²¹ This has been pointed out by B. Keil, "Die pseudo-aristideischen Leptineen," *Hermes* 71 (1936) 171–186, at 178–179. Since Magistros refers to Demosthenes' being a *sunégoros* (e.g. *Or.* 1.3, 8), he must also have been aware of his misrepresentation of the prosecution.

²² Dem. 20.31, 33; general lack of funds: 24–25.

sented with reference to historical events.²³

Most startling, however—and hardly superficial—is the concept of liturgy as presented in the declamations. There can be no doubt that in Demosthenes it is the rich who pay liturgies (e.g. 20.18, 127). The specific kinds of service are also clear: he explicitly lists *chorégoi*, *gymnasiarchoi*, and *hestiatores* (21). One of the possible objections by Leptines that Demosthenes anticipates is that the exemption from liturgies decreases funds necessary for religious events. So it is clear that at least a major part of the liturgies in question concern the festivals. Finally, in order to show that the effects of *ateleia* are more or less negligible, Demosthenes explains in detail that nobody is exempt from the trierarchy (26).

By contrast, in Magistros a liturgy is described in places as something everyone has to pay.²⁴ More than that, the trierarchy features in lists of liturgies (*Or.* 1.28, 40). On top of that, several other “public services” are mentioned, none of which actually counted as liturgy in classical times: embassies are one example, but the most important liturgy seems to be military service comparable to the trierarchy. Thus Magistros mentions *démagôgein* and *strateuesthai* a number of times as relevant liturgies (1.28, 40, 59).²⁵ On the other hand, he does correctly mention the *chorégia* once as one of the liturgies in question (1.59).

III

From the foregoing points it appears unlikely that a mere lack of knowledge and understanding led Magistros to make these blunders. We will see that in places he did misunderstand his classical sources. However, many deviations from Demosthenes which have a considerable impact on the argumentation

²³ One famine in mythical times is mentioned, but does not befall Athens (*Or.* 2.126, possibly inspired by *Ael. Arist.* 1.399). It is referred to in order to demonstrate the generosity of Athens towards others.

²⁴ *Or.* 1.34 κοινῇ πάντας λειτουργεῖν ἀναγκάζει; 1.45 λειτουργίαν ... κοινήν τῶν ἀνθρώπων.

²⁵ It is clear from the context that *démagôgein* has the meaning of “commanding an army,” not “being a politician” or the like, a meaning not uncommon in Byzantine times (e.g. *Anna Comn. Alex.* 1.6.9).

can be explained as creative use of the Demosthenic material (and the circumstances of the trial) and deliberate adjustments transforming the classical heritage into something that was meaningful to Magistros' own time. In this context, one must not forget that Magistros, apart from his work on classical poets, wrote speeches, letters, and treatises with a political background. The *Peri Politeias* will be of particular relevance for the assessment of the *Leptineae*.²⁶

The openly political part of Magistros' oeuvre illustrates the close combination of literary education and politics. Not only were a good knowledge of classical texts and the ability to express oneself in the standard language of Attic Greek a prerequisite for public activity. By one's mastery of the language and the quality of one's virtuoso pieces one might even impress powerful listeners and recommend oneself for more influential positions.²⁷ In this light, Magistros' *Ecloga vocum Atticarum* can be interpreted as a tool for a political career. It provided the would-be civil servant with a guide to the language that he was allowed to use and that would form the means for his advancement in the emperor's service.²⁸

In this context, then, it is not surprising that the declamations of Magistros may serve a function on both the educational and the political level. Even though they were undoubtedly meant to demonstrate the author's achievement and the right use of the official language, it will not be inappropriate to look for

²⁶ F. Tinnefeld, "Intellectuals in Late Byzantine Thessalonike," *DOP* 57 (2003) 153–172, at 166–167, counts only the *Peri Basileias*, *Peri Politeias*, and *Peri Homonoias* as political speeches, but for example his defence of Chandrenos can be called political in a wider sense as well.

²⁷ Cf. H. Hunger, "Klassizistische Tendenzen in der byzantinischen Literatur des 14. Jh.," in *Actes XIV^e congr. internat. études byz.* (Bucharest 1974) 138–151, at 150, and Wilson, *Scholars* 2–3, also C. N. Constantinides, "Teachers and Students of Rhetoric in the Late Byzantine Period," in E. Jeffreys (ed.), *Rhetoric in Byzantium* (Aldershot 2003) 39–53, at 41–42.

²⁸ Cf. the numerous warnings that a synonym is κοινόν (e.g. s.vv. ἄπεισιν, ἔρκος, ἡλθε)—and must therefore not be used. The title *Suda*, "bulwark," may not only refer to the structure of the lexicon (cf. F. Dölger, "Der Titel des sog. Suidaslexikons," *SBMünch* 1936.6, 24–25), but also to its being a defence against improper use of vocabulary.

some meaning in the choice of the subject and the alterations mentioned above. The declamations were thought worthy (by Magistros himself?²⁹) of being included in a collection of his works comprising items of theological and openly political content.³⁰ So if it can be shown that there is a possible connection to issues current at Magistros' time or even treated by him elsewhere, it will be plausible to attribute a significance beyond a pedagogical purpose to his declamations.³¹ If we find a similar meaning for the Leptinean orations, the focus on a few points in them might also make more sense: the omission of all legal arguments would then reflect the exclusion of aspects irrelevant to his own time, whereas a discussion of them would be a mere antiquarian show-off.

The clearest parallel between Demosthenes' plea and Magistros' declamation concerns the Athenian *ateleia* and its approximate Byzantine equivalent. The empire's disastrous economic condition under Michael VIII and Andronikos II

²⁹ On the question of Magistros' involvement in the production of the manuscript see Giovanni Mercati in Lenz, *AJP* 63 (1942) 158.

³⁰ The table of contents on fol. 336^r of *Vat.gr.* 714 is reproduced in Lenz, *AJP* 63 (1942) 156.

³¹ Similarly, it has been suggested that his declamations based on Polemon's speeches on Kallimachos and Kynaigeiros (also in *Vat.gr.* 714) can be read as an appeal to fight the Turks: N. Gaul, *Eine dritte Sophistik? Thomas Magistros und seine Zeitgenossen* (diss. Bonn 2005) 270, suggests that Magistros "letztlich ein Zeugnis seines ausgeprägten Hellenismus dadurch ablegte, daß er für die Gegenwart nach Mustern der Vergangenheit suchte." He points out that the historical example is used in Magistros' letter to Joseph, in which he laments the war against the Catalans (*PG* 145.442A). There are also two Olynthiac orations in the same MS. Magistros may have chosen that topic because Demosthenes advised the Athenians to dispatch their own men instead of relying only on mercenaries (Dem. 1.6, 24, 2.13, 4.20–25), a point labored by Magistros in connection with Byzantium's dependence on the Genoese fleet (*Peri Basileias*, *PG* 145.457–461), cf. *Peri Politeias* 145.509C, 520B, and A. Laiou, *Constantinople and the Latins. The Foreign Policy of Andronicus II* (Cambridge [Mass.] 1972) 133. It could, more generally, be a warning about the foreign conqueror. In the Palaiologan era Philip II was frequently referred to for political purposes, albeit normally as conqueror of the barbarians: A. Karathanassis, "Philip and Alexander of Macedon in the Literature of the Palaiologan Era," in J. Burke and R. Scott (eds.), *Byzantine Macedonia. Identity Image and History* (Melbourne 2000) 111–115.

had led to the reduction of troops and thus the vulnerability of the empire. While the neighboring monarchies exerted ever-increasing pressure, the size of the Byzantine army had been reduced and the navy completely disbanded and replaced by a Genoese mercenary fleet.³² This situation was not due to a general lack of wealth, but to tax exemption in the form of the *pronoia*. Many Byzantine aristocrats had been awarded the privilege to exact tax on the estates of a specific region and keep it for themselves instead of handing it on to the imperial fiscus.³³ In return, the *pronoia* holder was obliged to provide a contingent for the emperor's army and to lead it into battle. By the time of Andronikos II, the *pronoia* had been established as an inheritable prerogative, while the obligation to fulfill one's military duties had become a "dead letter."³⁴ This development contributed heavily to the central power's difficulties, and it allowed the aristocrats to further heighten their power and defy the control of the central government.³⁵ Andronikos tried in various ways to reverse this trend. He imposed a special 10% tax on the revenues of *pronoiai*, which was later gradually increased to one third.³⁶ However, the effect was less than desired and the *pronoiai* still increased. In this way the independence of the aristocrats grew, and society developed from more or less direct rule to a feudalized structure.

IV

Hence the possible connection of the Leptinean theme with current political affairs seems obvious. The central aspect is one

³² G. Ostrogorsky, *History of the Byzantine State* (Oxford 1968) 483.

³³ On the difficulties connected with the meaning and history of the term *pronoia* see A. Kazhdan, "Pronoia: The History of a Scholarly Discussion," *Mediterranean Historical Review* 10 (1995) 133–163.

³⁴ D. M. Nicol, *The Last Centuries of Byzantium, 1261–1453*² (Cambridge 1993) 109; cf. also Ostrogorsky, *History* 482.

³⁵ Nicol, *Last Centuries* 109; Laiou, *Constantinople* 115, points out that the developments were interconnected: lack of funds led to distribution of land for services, and the extension of *pronoiai* led to a decrease in revenues.

³⁶ Cf. Laiou, *Constantinople* 116, 123, 141, and "Le débat sur les droits du fisc et les droits régaliens au début du 14^e siècle," *REB* 58 (2000) 97–122, at 102.

that did concern the political elite of the empire at the time. Despite the difference in terminology some clear parallels emerge: both *ateleia* and *pronoia* are forms of tax exemption, and just as Leptines tried to reduce or abolish the former, Andronikos II was looking for ways to reduce or abolish the latter. Given this similarity, the remaining task is to see whether it can be shown that Magistros realized and deliberately exploited these parallels, and, if that is the case, how he did so.

First, it is interesting to see how Magistros introduces a motif that is hardly mentioned in Demosthenes: the damage done to Athens by granting such tax privileges. The difference is partly to be explained by the fact that we do not have the reply of Leptines, in which he probably justified his law by stating that the city needed the extra funds.³⁷ However, Magistros comes up with this motif by himself, without a Demosthenic antecedent. Since the Social War is absent from the declamations, Magistros' *τις* has to look for the reasons of Athens' situation elsewhere. He blames the *ateleiai* directly and solely. Thus his argument is not that owing to the dire circumstances exemptions from liturgies should be abolished (as would be appropriate for the actual historical setting of 355 B.C.). Instead, he argues on a general level, claiming that the lack of revenues itself is directly responsible for the hardship of the city (*Or.* 1.74, cf. 119):

ἄνευ δὲ τούτων ἀτελειῶν μὲν ἐκποδῶν γενομένων οὐδ' ἠτισοῦν ἔσται
ταῖς πόλεσι βλάβη, ἀλλὰ καὶ κέρδος οὔτοι μικρὸν τὸ πλείους ἂν ἐν-
τεῦθεν τὰς λειτουργίας γενέσθαι, ἐξ ὧν αἱ πόλεις συνίστανται· εἰ δ'
αἱ λειτουργίαι τοῦτ' αὐτὸ πείσονται, οἰχήσονται αἱ πόλεις.

It is interesting to note the use of *συνίστανται*, which suits the Athenian context. In a Byzantine context, it could also be read in a more literal sense as warning of the disintegration of the empire through the growing independence of the aristocracy. Most probably, however, it alludes to one of Magistros' political leitmotifs: the need for harmony (*homonoiia*) within the

³⁷ The scholia reconstruct this as one of Leptines' strongest points, e.g. schol. Dem. 20.5c (p.138 Dilts).

cities and the common effort to preserve the city community.³⁸

The omission of the legal issues too can be explained by Magistros' attempt to make his argumentation more easily applicable to his own time. Dealing with Athenian legislation could only have served for the virtuoso display of Magistros' ability to treat difficult and obscure material. So Magistros abandons the form of a trial on the constitutionality of the law, leaving something that is more reminiscent of a debate in the assembly. He reduces the arguments to those used in political discussions: justice, expediency, and the consequences for the reputation of the community³⁹—and thus only the pros and cons of the proposal as such. The issue of the lawgiving process does not help to decide whether *ateleiai* are a good thing and should be retained. By passing over this set of arguments a distraction from the underlying political significance of the speeches is removed.

The most striking “blunder” (or rather: anachronism) can be explained in a similar way. As has been mentioned, Magistros refers only once to the most important form of liturgy addressed by Leptines' law, the *chorégia*; the other forms are not even alluded to. The main ways in which the term liturgy is used are (a) for military duties and (b) for a common tax. However, if *ateleiai* are similar to *pronoiai*, one can also find approximate Byzantine equivalents to liturgies.

On the one hand, they are the service in return for *ateleia*, the

³⁸ For examples other than the treatise *Peri Homonoias* cf. Gaul, *Eine dritte Sophistik?* 174 (e.g. on *Epist.* 1, *PG* 145.408–409).

³⁹ In the hypothesis to the declamations it is said that he uses all the *telika kephalaia* (cf. *Or.* 1.33, Λεπτίνης τοίνυν οὐ μόνον δίκαιον, ἀλλὰ καὶ συμφέροντα καὶ προσέτ' αἴτιον τῇ πόλει δόξης εἰσήνεγκε νόμον). However, in Hermogenes (*Stas.* 3.201–202), the most read rhetorician of the time, *to nomimon* counts as one of these. Perhaps Magistros understands general arguments (e.g., Why did the ancestors not introduce a law like Leptines', *Or.* 1.52ff; or, May one pass laws dealing with the future?) as legal points. The discussion at *Or.* 1.108–111 (with a quotation from *Dem.* 20.96) is completely beside Demosthenes' point: the lawgiving procedure itself is not debated (as in *Dem.* 20.89–94); what τῆς says about the validity of the laws and expediency is so general that it is applicable to any society. The argument that there was no law on *ateleia* is apparently wrong for Demosthenes' time—perhaps Magistros again takes the perspective of his own time.

pronoia holder's "benefaction" so to speak to the state. In Byzantium this consists in military service, which comprises not only the expenditure of money, but also the duty to serve as a commander. As such, it is different from Athens, where there was no such remuneration for the liturgist and where the main part of the trierarch's obligation was to provide the means for the ship to be built. However, the two systems are comparable in that both kinds of service are an extra effort made by the "liturgist" individually. Even though the trierarchy was nothing the aristocrats could be forced to take on after Andronikos II had given up the fleet, it can stand for military service in general.⁴⁰ Thus the tricolon of *démagôgein*, *strateuesthai*, *triérarchein* covers the whole field of war.⁴¹ If Magistros wanted to allude to a contemporary issue, it makes good sense to say that these military tasks represent the nobleman's part of the *ateleia/pronoia* deal.⁴²

On the other hand, the *pronoia* meant that one did not have to pay a tax that would normally be claimed by the emperor. So the liturgy could be compared to the money that one does not have to pass on to the central government. This usage of the word liturgy seems to have been muddled by Magistros. There is some confusion: in one place, the liturgy is referred to as the same as the *eisphora*,⁴³ in others as something similar.⁴⁴

⁴⁰ Magistros obviously disapproved of the fleet being disbanded and mercenaries being employed: *PG* 145.460B–D. Possibly, Magistros depicts the ideal state with a fully equipped army as he proposed it.

⁴¹ Cf. n.25 above.

⁴² Embassies might be mentioned among the liturgies (*Or.* 1.28) because they were official liturgies in the time of the second sophistic, when sophists often went on missions to emperors or governors; cf. F. Quaß, *Die Honoratiorenschicht in den Städten des griechischen Ostens* (Stuttgart 1993) 168–176. But more importantly, intellectuals took on the duty of serving as envoys on missions, for example, to the emperor. Magistros himself is known to have traveled to Andronikos on behalf of his hometown of Thessalonica: M. Treu, "Die Gesandtschaftsreise des Rhetors Theodulos Magistros," *Jahrb. class.Phil. Suppl.* 27 (1900) 5–30.

⁴³ *Or.* 1.34, δίκαιον μὲν ἀνθ' ὧν κοινῇ πάντας λειτουργεῖν ἀναγκάζει, ὅπερ ἐστὶ δημοκρατουμένων ὡς ἀληθῶς καὶ τὴν ἰσότητα διὰ πάντων τιμώντων, ἀλλὰ μὴ δι' ἀτελείας τὴν ἀναγκαίαν καὶ δημοτελεῖ ταύτην εἰσφορὰν παραιτεῖσθαι. In 35 the formulation καὶ πολέμου μὲν ἐπιόντος πάντας ὑπὲρ αὐτῆς κινδυνεύειν

The latter formulation, however, may just be an *amplificatio* without a real distinction between the two terms.

So, as we see the ambiguity in the term liturgy, we can also see why Magistros has difficulties pinning down its meaning. He blends the two things—the tax one is exempt from and the return service—in the one word liturgy.

V

At least some of the apparent blunders can thus be explained if we assume there is an intention behind these speeches. Anachronisms and inaccuracies in the use of technical language must not be counted as mistakes if there is a reason for them; and they are in fact reconcilable with the realities of fourteenth-century Byzantium. Nevertheless, there are passages where Magistros has clearly misunderstood his models.⁴⁵ However, the possible argument that the parallelism of *pronoia* and *ateleia* is merely coincidence or too benevolent an interpretation can be refuted by a look at Magistros' political writings. It has recently been emphasized by Angeliki Laiou that in his *Peri Basileias* Magistros alludes to the *pronoia* system and Andronikos

αίρεισθαι is ambiguous: καὶ could introduce either an analogy (i.e. military service as something different from liturgy) or another form of the same matter.

⁴⁴ *Or.* 1.22, ἀξιόσουσι λειτουργεῖν καὶ τὰς ἀναγκαίας εισφοράς, ὡς νόμος, εἰσφέρειν; the *eisphora* as (material or immaterial) contribution to the state: 2.38.

⁴⁵ For example, when “Demosthenes” talks about the battle of Marathon, he does not repeat correctly what he has taken from Aristides (Iakchos: *Or.* 2.66 ~ Ael. Arist. 22.6 Keil, cf. B. Keil, “Die pseudo-Aristeidischen Leptineen,” *Hermes* 71 [1936] 171–185, at 179). As regards the law, he claims that Leptines has fixed the death penalty for anybody who proposes the re-introduction of *ateleia* (*Or.* 2.23, τοῖς ὑπὲρ ἀτελείας αὐθις θήσουσι νόμον θανάτου τιμᾶται, cf. 123, 137, 1.120). What the real Demosthenes does tell us is that the law forbade future grants of *ateleia*, but says nothing about any draconian measures (cf. the quotation from the law, Dem. 20.4). Magistros might have mixed this up with another passage of the speech or made his “Demosthenes” exaggerate by adding a clause from a law known from the scholia on Demosthenes' *Third Olynthiac* (Dem. 20.156, “ἐὰν δ' ἀλφ, ἔνοχος ἔστω τῷ νόμῳ ὅς κεῖται, ἐὰν τις ὀφείλων ἄρχῃ τῷ δημοσίῳ.” θάνατον λέγει, and schol. Dem. 1.1–2 Dilts).

II's attempts to abolish it.⁴⁶ In general, Magistros' concern is with the emperor's moderation in the way he uses his power: he must not rule the cities arbitrarily, but respect his subjects' property rights (*PG* 145.472A–B, 478–482). Laiou attributes this attitude to the increasing taxation, which also led other intellectuals of the time to protest in a stronger than usual form.⁴⁷ So the political reading of the declamation coincides with Magistros' own interests.

Moreover, further similarities between the declamations and the *Peri Basileias* can be detected.⁴⁸ Demosthenes' speech was particularly suitable for adaptation because the orator spoke on behalf of the heir of someone awarded *ateleia*. Ktesippos was in danger of losing his privilege, and both Demosthenes and Magistros' "Demosthenes" defend its inheritability. Magistros takes over a passage in which Demosthenes praises Chabrias for his achievements for Athens in several wars. Demosthenes goes on to request Ktesippos' *ateleia* as a reward for his father's bravery and merits (20.82–83). He also mentions that Chabrias met his fate in a battle, but does not go into detail.⁴⁹ By contrast, "Demosthenes" makes little fuss about Chabrias'

⁴⁶ Laiou, *REB* 58 (2000) 97–122, and "Economic Concerns and Attitudes of the Intellectuals of Thessalonike," *DOP* 57 (2003) 205–223. Laiou herself (*REB*, 98) dates that treatise between 1301 and 1304. I. G. Leontiades, *Untersuchungen zum Staatsverständnis der Byzantiner aufgrund der Fürsten- bzw. Untertanenspiegel (13.–15. Jahrhundert)* (diss. Vienna 1997) 37–38 (followed and further corroborated by Gaul, *Eine dritte Sophistik?* 173–176), however, shows that the treatise is probably addressed to Andronikos III and that therefore a later date (presumably in the 1320s) is more likely. The political issues addressed in this paper are equally relevant to that later period.

⁴⁷ Laiou, *REB* 58 (2000) 99: "elles [sc. les opinions de Magistros] sont présentées avec une force exceptionnelle"; also *DOP* 57 (2003) 206–207.

⁴⁸ In the *Peri Politeias*, too, parallels can be found: the theme that the Athenians are the *bellistoi* of all because they act unselfishly for the best of Greece and honor their benefactors (*PG* 145.528–529) looks almost like a summary of the second declamation (though *ateleia* is not explicitly mentioned).

⁴⁹ Dem. 20.80, 82; cf. C. Bearzot, "L'orazione demostenica 'Contro Leptine' e la polemica sulla morte di Cabria," in M. Sordi (ed.), "*Dulce et decorum est pro patria mori*". *La morte in combattimento nell'antichità* (Milan 1990) 95–110.

other achievements, but strongly emphasizes his heroic death and demands *ateleia* for this act of patriotism.⁵⁰ Magistros, speaking in his own voice in the *Peri Basileias*, requests the emperor to grant the children of the war dead the same privileges and status (*charis, taxis*) as their fathers (i.e. the noble officers). Magistros promotes the institution of hereditary *pronoia* by special emphasis on death in war.⁵¹ Again, it seems, a shift in the argumentation from the overall merit (Demosthenes) to the sacrifice of life (“Demosthenes”) brings about a closer correspondence between the declamation and Magistros’ treatise.

A shift of emphasis is also perceptible when both speakers, defending *ateleia*, list examples of benefactors. Demosthenes stresses their initial effort and makes clear that they have deserved their rewards.⁵² Magistros, on the other hand, whose *pronoia* holders have no special benefactions to present, has his “Demosthenes” focus on the ingratitude shown by depriving people of something given to them.⁵³ He thus follows the principles laid out in *Peri Basileias* dealing with the virtues of the giver of privileges rather than the recipient.

⁵⁰ *Or.* 2.165–170, esp. 167, τὸν δ’ ὑπὲρ ἡμῶν καὶ ζῶντα καὶ μέχρι θανάτου κεκινδυνευκότα πολλάκις καὶ τὴν τελευτὴν τῆς προαιρέσεως ἀξίαν ἐπιθέντα τῷ βίῳ, αὐτόν (sc. Chabrias) τε δὴ πού καὶ τοὺς υἱεῖς ... ἐθέλειν ... τῶν δοθέντων ἀποστερεῖν.

⁵¹ *PG* 145.461–464. Magistros produces an Athenian example: not the hereditary *ateleia*, but the free education and armor for war orphans, a point mentioned in the same context in *Or.* 2.167; on this passage Lenz, *AJP* 63 (1942) 167, says: “Both passages agree in such a striking manner that every reader will be inclined to believe that the same writer is author of both.”

⁵² *Dem.* 20.30, τῶν μὲν ἄλλων εὐεργετῶν χρόνον τιν’ ἕκαστος ἡμῖν χρησίμον αὐτὸν παρέσχεν, οὗτος δέ (sc. Leukon), ἂν σκοπήτε, φανήσεται συνεχῶς ἡμᾶς εὖ ποιῶν, καὶ ταῦθ’ ὧν μάλισθ’ ἡμῶν ἢ πόλις δεῖται. 41, Ἐπικέρδης ὁ Κυρηναιὸς, ὅς, εἴπερ τις ἄλλος τῶν εἰληφότων, δικαίως ἠξιώθη ταύτης τῆς τιμῆς, οὐ τῷ μεγάλ’ ἢ θαυμάσι’ ἠλίκα δοῦναι, ἀλλὰ τῷ παρὰ τοιοῦτον καιρὸν ἐν ᾧ καὶ τῶν εὖ πεπονθότων ἔργον ἦν εὐρεῖν ἐθέλοντά τινα ὧν εὐεργέτητο μεμνήσθαι.

⁵³ E.g. *Or.* 2.18, ἀδικεῖς δὲ καὶ οἷς περὶ τοὺς εὐεργέτας ἀγνωμονοῦντας ἡμᾶς φιλονεικεῖς ἀποφαίνειν (cf. also 39–40, 92–95). Leukon and Epikerdes are not mentioned at all in “Demosthenes” speech (only in *Or.* 1.81), nor is any other benefactor.

VI

I hope to have shown that the subject matter of Demosthenes' *Against Leptines* was in many ways a suitable choice for a declamation in the Byzantine Empire. Not only did it fulfill the criterion of being a classical text worthy of emulation. It also contained a number of parallels applicable to the declaimer's own time. Considering Magistros' own habit of getting politically involved and his professed opinion on the matter of *pronoiai*, one might not be surprised about his choice of subject. At the same time, the fact that Magistros formulates his discussion of *pronoia* in the language of the fourth century B.C. (i.e. avoids terms such as *pronoia*) is less unusual than one might think. The expression of opinions in an official or "serious" setting had to be put in the official language of pure Attic Greek. In *Peri Basileias*, too, where Magistros does not even pretend to talk about anything but current issues, he avoids the use of modern terms.⁵⁴

Thus what we have is a subtle adaptation of Demosthenes' plea. Only on a few points—and those that do not change the basic problem underlying the dispute—does Magistros change the original situation. That means he still succeeds in making the case relevant as he retains (or even strengthens) the parallels between the classical scenario and his present time. He transforms the plea into a discussion, lending a voice to both sides. And this leads to one more irregularity that might be explained by Magistros' wish to relate the topic to his time: the order of the speeches. The one presenting the view Magistros follows in his mirror of princes comes last, which is the place the victorious speech was usually allotted, at least in historical prose.⁵⁵ It could be an indication that Magistros wished to see the defender of *ateleia* prevail, granting him the last word.⁵⁶ Maybe

⁵⁴ Cf. Laiou, *REB* 58 (2000) 98, on the *abiôtikion* or the comments on wars against Triballoi and Mysians (*PG* 145.472C).

⁵⁵ Cf. e.g. Hdt. 3.80–82, Thuc. 3.37–48, 53–67 6.9–18, and others (with the exception of 1.32–43).

⁵⁶ It is also interesting that the first scholar to write historical declamations after a long time, Georgios of Cyprus, did not write *antilogiai*, but only replies to ancient declamations, e.g. to Libanios' *Declamations* 13 and 34 (VI

this is also a reason why the first speaker remains anonymous: Magistros may have been disinclined to allow “his” opponent to have a big name, or, in turn, to burden an ancient authority with a position he himself does not approve.

However, Magistros does not juxtapose a bad and a good declamation, leaving all the highlights and good arguments to the second speaker. Instead, the *τις* who pleads for the abolition of *ateleiai* also offers valid arguments.⁵⁷ For example, he urges that exemptions undermine the stability of the state by consuming its financial basis and that it is best if as many as possible contribute (*Or.* 1.36–43). This can be read as a reminder to the aristocracy of their obligation to fulfill their duties towards the central power. “Demosthenes” in turn denies that the economic effects of abolishing *ateleiai* would be considerable and that Athens’ profit from this act would surpass the good done by her benefactors (*Or.* 2.53–58, possibly taken from *Dem.* 20.28). His main argument, however, is the reputation that the Athenians would lose if they deprived their benefactors of their rewards. The principal idea is that what does not enhance Athens’ glory cannot really be expedient: τὸ μὲν μετὰ δόξης εὖ πρόττειν εὖ πρόττειν ὡς ἀληθῶς ὄν (*Or.* 2.6). The view that pervades the speech is that the Athenians have to live up to their reputation for generosity. In this way, the core of the speech is a eulogy of Athens, drawing heavily on Aelius Aristeides’ *Panathenaikos* and the *topoi* of the Athenian *logoi epitaphioi*.⁵⁸ The tenor is that it is better to give than to re-

52–82 and VII 142–179 Foerster). If Magistros had followed this example, the one against *ateleiai* (i.e. against his own view) would have stood alone.

⁵⁷ The hypothesis concedes him the greater variety of arguments, whereas Demosthenes (or “Demosthenes”? cf. n.19 above) is said to use only *to endoxon*, even where he seems to refer to other aspects. This view derives from discussions of the speech in late antiquity and Byzantine times: *to endoxon* is identified as the overall character of the speech by Apsines and Aspasios (Syrianos *In Hermog. Id.* 66.5–13 Rabe). It is confirmed by Markellinos (IV 112 Walz) and Ioannes of Sicily (*In Hermog. Id.*, VI 347.8–15 Walz). Only Libanios in his hypothesis states that Demosthenes’ strong points are *to endoxon* and *to sympheron*. Magistros might have used Ioannes of Sicily, who stresses Demosthenes’ *apatē*.

⁵⁸ *Or.* 2.65 ~ Ael. Arist. 1.88; 2.103–105 ~ 1.54–55; 2.126 ~ 1.399.

ceive. This mirrors the main qualities of the ideal emperor as described in *Peri Basileias*: in financial straights the emperor should use up all his own resources before he increasing the burden on his subjects (*PG* 145.453–456, 481A–C). His principle is to acquire immortal glory by doing good to others (453A):

καὶ τί μείζον ἂν εἰς εὐδαιμονίαν ζητήσῃς ἢ Θεὸν δι' ὧν οὕτω φιλοανθρώπως ἴσχεις ἀκούειν, θνητὸς πεφυκώς; καὶ τῆς καθ' ἡμᾶς φύσεως γεγινώς εἶτα περισσῆς χρηστότητος δόξης ἀθανάτου κληρονομῶν; καὶ μάλιστα εἴ σοι τοσοῦτον μεγαλοψυχίας περίεστιν ὡς μηδὲν μηδοτιοῦν παρὰ μηδενὸς ἀξιοῦν τοπαράπαν λαμβάνειν ... ἀλλ' ὅπως δι' αὐτὸ τοῦτο μᾶλλον ἅπαντας εὐποιεῖς.⁵⁹

Thus Magistros' declamation against Leptines' law can be interpreted as arguing against the abolition of *pronoia* in a hidden way on the basis of the virtues of the emperor. In the last section of his treatise (*PG* 145.496A–C), Magistros stresses that we are ourselves responsible for our reputation, which is based on our *aretê*. The declamation appeals to these *aretai*, presenting Athens as their embodiment. Key words of the speech, i.e. key virtues attributed to the Athenians (*megalopsychia*, *philotimia*, *doxa*, etc.), recur in *Peri Basileias* as those of the good emperor.⁶⁰ Whilst the first speech reminds those enjoying privileges that they too have a responsibility for the well-being of the state (e.g. *Or.* 1.36, 50), the second concentrates on the lawgiver and his qualities. The possible reactions of others to Athens abolishing *ateleia* are similar to those the emperor must expect if he neglects the needs and wishes of his subjects.

It is impossible to know whether the discussion about unworthy people enjoying *ateleia* is more than an imitation of the

⁵⁹ Equally, if a treasure is found, he must not confiscate it, otherwise he offends God (*PG* 145.477–481). The role of God in the justification of the emperor might explain why the second declamation gives the (pagan) gods a much bigger role (e.g. *Or.* 2.63, 97) than does *Against Leptines*: if the declamation presents the considerations expected from the emperor, his obligation to observe religious norms and to justify his actions before his creator is far stronger than that of the ancient Athenian court.

⁶⁰ *megalopsychia* (*Or.* 2.41, 126, 172, 174, and ten other instances), *philotimia* (*Or.* 2.100 *bis* and eight other instances), *doxa/eudokimia* (*passim*). In *Peri Basileias* these terms are found in high density at 5–6 (*PG* 145.456).

Demosthenic theme.⁶¹ It seems unlikely, too, that the passages containing invective against Leptines and Demosthenes respectively target members of the upper class in Magistros' own time. Many other arguments are so unspecific that one should not attribute much significance to them.⁶² However, it has become clear that the *Leptinea* as a model was not a random choice, and that the way Magistros treats and transforms it is not arbitrary but following a rationale. Depending on how much significance one allows the parallels Magistros constructs between his time and classical Athens, one might come to different conclusions as to the purpose of the speeches. Were they still nothing but model declamations made more interesting to students by the relevance and applicability of their subject matter? Or were they meant to be recited to a fully educated audience consisting of members of the establishment or maybe even brought to the attention of the emperor himself? The argumentation of the second speech makes them suitable for such an occasion. Gaul suspects that some of the criticism of Andronikos II in *Peri Basileias* could have been too strong as to allow it to be addressed to the emperor himself.⁶³ The possible device of *oratio figurata* in the Leptinean speeches could thus be a means to urge the emperor, at the same time softening the appeal by concealing it in the disguise of an antiquarian theme.⁶⁴

To conclude, Magistros wrote the declamations on a his-

⁶¹ *Or.* 1.17–21, 2.8–17 from *Dem.* 20.1–7. A. Mai, *Scriptorum Veterum Nova Collectio* I (Rome 1825) 5, notes that there is a shift in the meaning of *anaxioi* from “unworthy” (Demosthenes) to “of low birth” (Magistros).

⁶² E.g. *Or.* 1.95–101: other cities do not have a comparable institution. The second speech, in particular, provides a lot of material because of its character as a eulogy of Athens: for example, that damage done to the public is worse than damage done in private (2.141–145).

⁶³ *Eine dritte Sophistik?* 178.

⁶⁴ The order in *Vat.gr.* 714 may also show that there was no distinction between declamations and openly political pieces: the declamations on Polemon's theme are separated from the Leptineans by the *prosphônêma* to the Megas Domestikos, which is not at all an antiquarian piece. The content of the declamations makes them appropriate for use both at school and for recitation/publication.

torical theme with an eye on his own time. The past in which his speeches are set is the ideal to which Byzantium should aspire. The need to pursue a sound fiscal policy and to retain a good reputation was no less important in the fourteenth century than after the Social War. Moreover, Magistros does all this in a medium which, as he says in *Peri Basileias*, has enormous importance for the wisdom and glory of Byzantium.⁶⁵ The speeches represent rhetorical craft and political commitment, 1600 years after Demosthenes himself had embodied this combination.⁶⁶

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⁶⁵ *PG* 145.492–493, πάντες δὲ εἰς αὐτοὺς ὡς κοινὸς σωτήρας ἐώρων, καὶ τούτους ἐν τοῖς σκοπέλοις τῆς τύχης ἐποιῶντο καταφυγὴν, διὰ τὸ μόνους τῶν πάντων μετὰ σοφίας καὶ τοῦ λελογισμένως τοῖς πράγμασι χρῆσθαι πρὸς ὄπλα χωρεῖν, καὶ τοὺς αὐτοὺς, ὡς Ὅμηρος λέγει, Μύθων τε ῥητῆρας ἔμμεναι πρηκτῆρας τ' ἔργων.

⁶⁶ I would like to thank Niels Gaul, Gerald Bechtle, and the referees for their help and suggestions.