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Notes on the "Stele of the Punishments" from Epidaurus

Note sulla "Stele delle sanzioni penali" di Epidauro

Abstract
This essay examines several legal aspects in the recently published "Stele of the Punishments" from Epidaurus. The essay shows that the search of the house of Pasiteles in Hermione for stolen goods by officials from Epidaurus was in no way illegal. In the account of the search the text mentions the role of a slave to establish the liability of Lykiskos. Pasiteles was summoned before the Three Hundred at Epidaurus, questioned about his actions, and asked to name sureties, to swear an oath of denial, and to pay court fees. After he did not show up at his trial, the Three Hundred found him guilty of theft, condemned him to a fine of double the amount stolen, and voted to confiscate his property. Some time later, Lykiskos was condemned to pay a fine either for his role in this theft or for another offense. The legal procedure followed in the cases reveals similarities and differences from legal procedure at Athens. Finally, the stele aimed to warn those working in the sanctuary against embezzling valuable items and also demonstrated to Greek visitors to the shrine of Asclepius that the people of Epidaurus upheld the basic tenets of the rule of law.

Questo saggio esamina diversi aspetti giuridici della recentemente pubblicata "Stele delle sanzioni penali" di Epidauro. Il saggio dimostra che la perquisizione della casa di Pasiteles a Ermione, alla ricerca di beni rubati, da parte dei funzionari di Epidauro non era affatto illegale. Nel resoconto della perquisizione, il testo menziona il ruolo di uno schiavo nel determinare la responsabilità di Lykiskos. Pasiteles fu convocato davanti ai Trecento a Epidauro, interrogato sulle sue azioni

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e invitato a nominare dei garanti, a prestare giuramento di negazione e a pagare le spese processuali. Dopo che non si presentò al processo, i Trecento lo dichiararono colpevole di furto, lo condannarono a una multa pari al doppio dell'importo rubato e votarono di confiscare i suoi beni. Qualche tempo dopo, Lykiskos fu condannato a pagare una multa per il suo ruolo in questo furto o per un altro reato. La procedura legale seguita nei casi in questione rivela somiglianze e differenze rispetto alla procedura legale in uso ad Atene. Infine, la stele aveva lo scopo di mettere in guardia coloro che lavoravano nel santuario dal sottrarre oggetti di valore e dimostrava anche ai visitatori greci del santuario di Asclepio che il popolo di Epidauro sosteneva i principi fondamentali dello Stato di diritto.

Keywords: Epidaurus, house-searches in Greek Law, legal procedure (Greece), oaths in litigation, theft, rule of law as source of legitimacy

Parole chiave: Epidauro, perquisizioni domiciliari nel diritto greco, procedura legale (Grecia), giuramenti nei contenziosi, furto, Stato di diritto come fonte di legittimità

In February 1972 Charalampos Kritzas discovered an ancient inscription used as the lintel to the door of the church of the Dormition of the Virgin at the village of Koroni near the town of Ligario in the Peloponnese.[1] The stele was then removed from the wall of the church, and a preliminary report was published by Kritzas and Mavrommatidis in 1987.[2] In 2020 Kritzas and Prignitz published a complete text and detailed study of the inscription and dated lines 1-50 to around 360 BCE, lines 51-55 to around 355 BCE, and lines 56-63 to after 338 BCE. Prignitz and Thür have recently published a new study of the inscription.[3] The inscription concerns several trials arising from work done in the sanctuary of Asclepius at Epidaurus.

The first part of the inscription concerns legal proceedings against Pasiteles, a man from Hermione. When about to work at the shrine of Asclepius he agreed to have any legal case against him heard at Epidaurus (lines 2-5). Officials at Epidaurus received a denunciation that there was glue, wax and ivory in the house of Pasiteles at Hermione, and this was removed

[1] For the discovery of the inscription and a photograph see Kritzas and Prignitz 2020: 1-3.

[2] Kritzas and Mavrommatidis 1987: 11-14.

[3] Prignitz and Thür 2025. The analysis of the legal issues in this article draws on Thür 2021. In this article I will address the arguments in Prignitz and Thür 2025 and refer to Thür 2021 in the notes.

from his house (lines 5-11). The names of five men from Epidaurus who removed the materials follow (lines 11-14). These men caught at the door a slave-girl taking out in her garment ivory sent out by the wife of Lykiskos, the son of Pasiteles (lines 14-18). The names of six men from Hermione called as witnesses follow (lines 18-22). The Three Hundred at Epidaurus conducted a preliminary hearing, which Pasiteles attended and at which he was asked to swear an oath (lines 22-29). When Pasiteles then did not attend his trial, the court voted that he was guilty of the theft of the ivory and for the costs of additional work (lines 29-37). The Three Hundred also voted to confiscate and sell the property of Pasiteles (lines 37-39). The names of the twelve *epistatai* follow (lines 40-47). The sale of his property yielded two thousand drachmas (lines 47-48). The next section concerns three more cases, which I will not discuss here (lines 49-59). The final case concerns Lykiskos for the theft of ivory (lines 60-64).

The inscription raises several important questions about legal matters, which I will discuss in the following notes.

The Agreement to Have the Case Heard at Epidaurus (lines 2-5)

[Π]ασ[ιτέ]λης Ἑρμιονεὺς τ̣άδε ὡμολό[γησε]
ἐ̣ργασόμενος ἐν τῶι ἰαρῶ̣ι τοῦ Ἀσκλᾰ̣[πι]-
οῦ· αἴ τί κα φαίνηται περὶ τὸν θεὸν ἀδι[κ]-
[ῶ]ν, δίκαν ὑφέξεν Ἐπιδαυρίοις.

Translation: Pasiteles, a citizen of Hermione, agreed the following when about to work in the sanctuary of Asclepius: if he is clearly committing an injustice against the god, he will undergo a trial among the Epidaurians.

line 2 ὡμολό[γησε]: The contract or contractual agreement is expressed by the verb with the future participle. The law of the Epidaurians therefore appears to be similar to the law of the Athenians, which required that whatever one party agreed willingly with another is binding (Dem. 42.12; Dem. 56.2). Prignitz and Thür claim that "After being awarded a contract and offering a surety they received their wages, or a first instalment thereof, and at that point the contract was valid."[4] First, not all contracts for work in construction contained a clause about a surety, but primarily those in charge of a large project such as constructing an entire building.[5] As C. Carusi has

[4] Prignitz and Thür 2025: 207. Cf. Thür 2021: 62.

[5] See for instance *IG* VII 3073, line 27 (Lebadeia). Guarantors could also be required for small jobs. See for example *IG* I^3 476, lines 46-54, 270-280; *I.Oropos* 292.

observed, "one third of the contractors attested in the Eleusinian accounts operated outside the framework of building contracts," which means that they were not subject to such clauses.[6] In the records studied by Feyel most of the craftsmen working at Greek temples did not provide a surety.[7] In fact, in this case the document states that Pasiteles had not provided a surety at the time of the trial (line 30). If he had provided a surety when he made this original agreement, the court would have collected the penalty imposed on him at his trial from his surety. The fact that the court had to confiscate and sell the property of Pasiteles also reveals that he had not named a surety (lines 37-38). Nor is there any reason to believe that the contract was valid only after the craftsman received some payment. The document states nothing about such a payment. Thür follows the view of Wolff about Greek contracts, but this view is not convincing and has been widely criticised.[8]
line 3 ἐργασόμενος. Prignitz and Thür translate the future participle as "in order to start working", but this is misleading because it implies that this promise was needed as a requirement to start the work. The future participle only means "when about to start working." The agreement of Pasiteles to undergo a trial at Epidaurus may however have been contained in his building contract at Epidaurus, but we do not know what that contract contained.
lines 4-5 - Prignitz and Thür translate φαίνηται περὶ τὸν θεὸν ἀδι[κ]||[ῶ]ν "if he should seem to do wrong to the god."[9] The construction φαίνηται with the participle ἀδι[κ]||[ῶ]ν means "if he is clearly doing wrong to the god."[10] The verb φαίνεται with the infinitive means "appear to."[11]

Search of the House of Pasiteles (lines 5-11)

Ἐμανύθ[η]
[ἐ]ν τᾶι οἰκίαι τᾶι Πασιτέλευς τοῖς ἐπ[ι]-
[σ]τάταις τοῦ ἔργου καὶ τοῖς ἰαρομνάμο-
σι καὶ τοῖς ἰαρεῦσι κόλλα καὶ κηρὸς ἰα-
ρὸς καὶ ἐλέφας καὶ ἐξηνίχθη ἐκ τᾶς οἰκ-

[6] See Carusi 2020: 140.
[7] See Feyel 2006: 31-316.
[8] See Harris 2020 with references to earlier works. See also Maffi 2018.
[9] Prignitz and Thür 2025: 191.
[10] Smyth 1956: 476. See, for example, Antiphon 5.29: ἐφαίνετο τῶν προβάτων ὂν αἷμα ("it was clearly the blood of cattle"); Isaeus 2.20: οὐ παραφρονῶν φαίνεται ("he is clearly not insane"), 23: ἐπιτιμῶν αὐτῷ φαίνεται ("he is clearly blaming him").
[11] L.-S.-J. φαίνω B 2.

ίας τᾶς Πασιτέλευς ἐν Ἑρμιόνι· τοίδε ἐ-
ξήνικον ἐκ τᾶς οἰκίας·
Translation: It was denounced to the commissioners of the work and to the overseers of the sanctuary (ἰαρομνάμονες) and to the priests that glue and sacred wax and ivory (were) in the house of Pasiteles and were carried out of the house of Pasiteles in Hermione. The following carried (them) out: (names of five men of Epidaurus).

This section is very abbreviated because it mentions two actions and omits several steps that must have occurred between these two actions. The first action is the denunciation of the items taken from the construction at the shrine of Asclepius in Epidaurus. The second action is the removal of these items from the house of Pasiteles at Hermione. After the report that the stolen items were in the house, the authorities of Epidaurus must have instructed the five men to go to Hermione and to search the house. What is also not stated is whether the five men from Epidaurus approached the authorities at Hermione and obtained permission to search the house. One must recall that in this period Hermione and Epidaurus were both members of the Kalaurian Amphictyony (Strabo 8.6.14; *IG* IV 842), but there is no information about the legal arrangements in force among members.[12] There may have been a convention among the members like the one between Delphi and Pellana and the one between Stymphalos and Demetrias, both of which contained provisions about theft.[13] One should also recall that in the treaty between Antiochus and Rome the Rhodians are granted the right to collect debts and conduct searches for property in the territory of Antiochus (Livy 38.38.11-12: si quae pecuniae debentur, earum exactio esto; si quid ablatum est, id conquirendi cognoscendi repetendique item ius esto. Cf. Polybius 21.43.17). There also appear to be rules about theft in the convention between Athens and Troezen (*IG* II^2 46, line 72: [- ἐπ αὐ]τοφώρω[ι - -]).[14] Whatever the regulations governing the relationship between the two

[12] On the Calaurian Amphictyony see Kelly 1966. Prignitz and Thür 2025 do not discuss the Amphictyony.
[13] Convention between Delphi and Pellana: Haussoullier 1917 (115-130 on theft); *IPArk* 17.
[14] Prignitz and Thür 2025: 211 assert that "in a foreign polis they (i.e. the men from Epidaurus) could not intervene with official authority but only as private persons searching for stolen goods, undoubtedly with the permission of the domestic authorities and under control of the six Hermionian citizens listed in lines 18-22, who had been called up for this purpose." As the evidence from the treaties shows, it may have been possible for the men of Epidaurus to make the search as members of the Calaurian

communities, it is clear that what the Epidaurians did in Hermione was not illegal because six citizens of Hermione were summoned (ἐνσκλη|θέντες) as witnesses to the removal of the stolen items. Had their actions been illegal, the men of Epidaurus would certainly not have summoned citizens of Hermione to witness what they were doing. The text does not indicate who called the witnesses though the passage seems to indicate that it was the men of Epidaurus.

Prignitz and Thür claim that this document "provides the first evidence of a house search (as opposed to the enforcement of a court sentence) practiced in Greece, and it comes not from an Archaic source, but rather from the Classical period."[15] Prignitz and Thür notice that Kritzas and Prignitz compared the episode mentioned in this inscription with an episode described in the demosthenic speech *Against Evergus and Mnesibulus* ([Dem.] 47.58-59).[16] Prignitz and Thür rightly observe that the parallel is not close because the episode in the demosthenic speech concerns the "private enforcement of a court sentence although performed with illegal violence" while in the case of Pasiteles there is "a private invasion of a private house in search of stolen goods."[17] Yet Prignitz and Thür claim that the search of the house of Pasiteles was underhanded and irregular.[18] They also claim that as a result Pasiteles later objected to the search before the Three Hundred.[19]

Prignitz and Thür then examine evidence about the search of a house for stolen goods in Roman Law, which provided the procedure *quaestio lance et licio* by which the victim of a theft could enter the house of the alleged thief (Gaius *Inst*. 3.192-193. Cf. Gellius 11.18.9-10; 16.10.8). The person making the search was to enter the house naked wearing only a girdle and

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Amphictyony, a point Prignitz and Thür miss. The passage also does not state that the six men had control of the investigation but only indicates that they were present (παρέγεντο) presumably as witnesses. See Kritzas and Prignitz 2020: 28 with note 144 who identify the passive participle as a form of the verb εἰσκαλέω, which is used for the action of calling witnesses (Arist. *Vesp.* 936). For the practice of summoning witnesses during a search see Dem. 47.36: ἐκέλευσα τὸν παῖδα καλέσαι εἴ τινας ἴδοι τῶν πολιτῶν παριόντας ἐκ τῆς ὁδοῦ, ἵνα μάρτυρές μοι εἴησαν τῶν λεγομένων.

[15] Prignitz and Thür 2025: 213.

[16] Kritzas and Prignitz 2020: 27-28.

[17] Thür in Prignitz and Thür 2025: 211.

[18] See Prignitz and Thür 2025: 211 ("The commission was sent to Hermione without the knowledge of the suspected person"), 213 ("Instead, in bad faith, they took advantage of his (i.e. of Pasiteles) absence").

[19] Prignitz and Thür 2025: 214.

carrying a dish to prevent him from bringing anything into the house. If the goods were discovered in the house, the theft was considered *furtum manifestum*, and the thief was condemned to a a fine of four times the stolen goods. Prignitz and Thür then assert that "In Archaic Greek law, however, we have no direct evidence of a similar institution" and that "the survival of the verb in the technical sense 'to search a house for stolen goods' indicates that this institution was well known even in Classical times."[20] Yet Prignitz and Thür go on to claim that "In Athens, intruding into a private house was probably illegal except for the purpose of enforcing a court sentence, which was the normal practice for a victorious plaintiff."[21] Prignitz and Thür next cite two passages in note 83 but do not discuss them. The first is Aristophanes *Clouds* 498-499 where Socrates states that it is customary to enter the Phrontisterion naked (γυμνοὺς εἰσιέναι νομίζεται). Strepsiades agrees but states that he is not going in to conduct a search (ἀλλ᾽οὐχὶ φωράσων ἔγωγ᾽εἰσέρχομαι). The EM scholion on the passage explains the term φωράσων in the following way: οἱ γὰρ εἰσιόντες ἐπὶ τὸ θεάσασθαι χρήματα τοῦ δημοσίου ἢ ἐπὶ τὸ ἐρευνῆσαι γυμνοὶ εἰσῄεσαν, ἵνα μὴ τι ὑπὸ τὰ ἱμάτια κρύψωσιν (translation: Those who enter to see money from the treasury or to search entered naked so that they did not hide anything under their clothes). The term is also found at Aristophanes' *Frogs* (1363). A passage from Isaeus (6.42) provides more context. The speaker states that when slaves told his clients that their opponents had removed furniture to a neighbouring house, his clients demanded the right to search the house (φωρᾶν) according to the law (κατὰ τὸν νόμον). *Pace* Prignitz and Thür, this passage clearly indicates that such a house-search was legal.[22]

Prignitz and Thür quote a passage from the Plato's *Laws* (954a-c) about the search of a house. It is necessary to give the entire passage with an English translation:

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[20] Prignitz and Thür 2015: 211-212. Prignitz and Thür do not observe that the Greek term ἐπ᾽αὐτοφώρῳ was considered to be equivalent to the Roman term *furtum manifestum* in Roman Law. See Justinian *Institutes* 4.1.3 and *Digest* 47.2.3 with Harris 2006: 373-390, which shows that the analysis of the term ἐπ᾽αὐτοφώρῳ by Cohen 1983: 52 and Hansen 1976: 48-53 is not reliable and that the term should be translated "red-handed." The conclusions of this essay have been accepted by Kapparis 1996: 72 note 19, MacDowell 2000: 254, Fisher 2001: 225-226, Carey 2004 and Pelloso 2008: 77-98. One cannot find any reference to these works in Prignitz and Thür 2025.

[21] Thür in Prignitz and Thür 2015: 212.

[22] Cf. Lipsius 1905-1915: 440 and Harrison 1968: 207.

> φωρᾶν δὲ ἂν ἐθέλῃ τις παρ᾽ ὁτῳοῦν, γυμνὸς ἢ χιτωνίσκον ἔχων ἄζωστος, προομόσας τοὺς νομίμους θεοὺς ἦ μὴν ἐλπίζειν εὑρήσειν, οὕτω φωρᾶν. ὁ δὲ παρεχέτω τὴν οἰκίαν, τά τε σεσημασμένα καὶ τὰ ἀσήμαντα, φωρᾶν. ἐὰν δέ τις ἐρευνᾶν βουλομένῳ φωρᾶν μὴ διδῷ, δικάζεσθαι μὲν τὸν ἀπειργόμενον, τιμησάμενον τὸ ἐρευνώμενον, ἂν δέ τις ὄφλῃ, τὴν διπλασίαν τοῦ τιμηθέντος βλάβην ἐκτίνειν. ἐὰν δὲ ἀποδημῶν οἰκίας δεσπότης τυγχάνῃ, τὰ μὲν ἀσήμαντα παρεχόντων οἱ ἐνοικοῦντες ἐρευνᾶν, τὰ δὲ σεσημασμένα παρασημηνάσθω καὶ ὃν ἂν ἐθέλῃ φύλακα καταστησάτω πέντε ἡμέρας ὁ φωρῶν. ἐὰν δὲ πλείονα χρόνον ἀπῇ, τοὺς ἀστυνόμους παραλαβὼν οὕτω φωράτω, λύων καὶ τὰ σεσημασμένα, πάλιν δὲ μετὰ τῶν οἰκείων καὶ τῶν ἀστυνόμων κατὰ ταὐτὰ σημηνάσθω.
>
> If anyone wishes to make a search on any man's property, let him search in this way, naked or wearing a short *chiton* without a belt after swearing an oath before (entering) by the customary gods that he expects to find (the stolen items). Let him (i.e. the owner) make the house available to search, both the sealed and the unsealed items. If one (the owner) does not allow the person wishing to search to make the search, let the person prevented initiate legal proceedings after assessing the value of the object being sought, and if he (i.e. the defendant) owes (the judgment), let him pay damages worth double the assessed amount. If the master of the house happens to be away, let those living in the house make available the unsealed items to search, and let him the person searching counter-seal the sealed items and place any guard he wishes for five days. If he (i.e. the owner) is away a longer time, let him (the person making the search) take along the *astynomoi* and make the search in this way, opening the sealed items and sealing them up again in the presence of the inhabitants and the *astynomoi*.

Prignitz and Thür compare the actions of the men from Epidaurus with the provisions for a search in Plato's *Laws*.[23] First, the inscription does not state that the men from Epidaurus followed the requirement to enter the house naked. Second, "there was no one in the house who could oppose the search" because "Pasiteles and his son Lykiskos were probably working at Epidaurus at the time." Third, the owner of the house Pasiteles was absent. As a result, Prignitz and Thür claim that the men from Epidaurus "took advantage of his absence" and "violated "his right to be heard in court if we include pretrial measure as part of court proceedings."[24] Because the men

[23] Prignitz and Thür 2025: 213.

[24] Prignitz and Thür 2025: 213 note 86 claim that the men of Epidaurus violated the principle found in the Judicial Oath at Athens that the defendant had the right to present his case. For the Judicial Oath Prignitz and Thür cite Dem. 24.151 (this should be Dem.

of Epidaurus did not follow correct procedure, Prignitz and Thür speculate that "Pasiteles, when summoned to stand trial on the charge of *klope*, had protested the search of his house, which was the basis of the charge, as illegal."[25] Prignitz and Thür cite no evidence at all for this speculation, and there is nothing in the inscription that suggests Pasiteles objected to the search of his house.

There are several objections to the analysis of Prignitz and Thür. First, the type of house search described by Plato in the *Laws* is made by a private individual searching for his own private property. In the document from Epidaurus public officials from Epidaurus are searching for public property. Second, in the house search described by Plato the victim of theft does not know whether the stolen goods are in the house he is about to search or not. As a result, he has to swear a preliminary oath by the legally prescribed gods that he expects to find (the stolen goods) (προομόσας τοὺς νομίμους θεοὺς ἢ μὴν ἐλπίζειν εὑρήσειν). In the case from Epidaurus, however, the authorities knew that the stolen goods were in the house because someone had presented a denunciation (line 5: ἐμανύθη) that they were to be found there. The two procedures were therefore not similar. In the passage from Plato's *Laws* a search is conducted to determine if the stolen goods are in the house of the person suspected of committing the theft. In the document from Epidaurus the men sent by the authorities of the temple know that the goods are in the house of Pasiteles and enter the house to recover the stolen goods, not to establish the guilt of Pasiteles. There was no reason for them to enter the house naked so that they would not plant items in the house and make a false accusation. They could not be suspected of framing Pasiteles because Pasiteles had already been denounced prior to the search.

Second, it is not correct to state that Pasiteles was deprived of his right to be heard in court. In the following section (lines 22-37) it is clear that Pasiteles was summoned to appear before the court in Epidaurus. He had the opportunity to attend his trial and present a defense against the charges but did not appear at the trial (ἐγδεδρακὼς τὸ δικ[α]στήριον).

Third, even in the passage from Plato's *Laws* it is not illegal to make the search in the absence of the owner. If the owner is away for a long

24.149-151), but this document has long been recognized to be a forgery and omits several provisions from the oath. See Canevaro 2013: 173-180 for detailed analysis and references to earlier discussions.

[25] Prignitz and Thür 2025: 214.

time, the person searching for stolen goods can take the *astynomoi* with him (τοὺς ἀστυνόμους παραλαβών) and make the search (φωράτω) together with members of the family and the *astynomoi*. The two procedures are therefore very different. The passage in Plato shows that there is no reason to believe that the search of a house in the absence of its owner was necessarily illegal. What made the search of a house legal was the cooperation of the authorities, in this case, the *astynomoi*.

Other passages show that a house-search was legal provided it was carried out in the correct manner. In the *Oeconomica* (2.1351b34) attributed to Aristotle Charidemus once issued an order (κήρυγμα) in the cities he controlled that no one should keep a weapon in the house and if anyone did not obey, he should pay the penalty imposed by the order. The people thought that Charidemus was not serious in making the order, and each kept the weapons that he had in countryside. Charidemus then made a sudden search of the houses (ἔρευναν ἐξαίφνης ποιησάμενος τῶν οἰκιῶν) and from those in whose houses he found a weapon he imposed a fine. Nothing in the passage indicates that such a search was illegal. Nor was there a requirement for the search to be made in the presence of the owner.

In his speech *On the Crown* Demosthenes (18.132) recalls that he arrested (λαβόντος ἐμοῦ) Antiphon, who had lost his citizenship at Athens (ἀποψηφισθέντα) and was hidden in the Piraeus (κεκρυμμένον ἐν Πειραιεῖ) after having promised Philip to burn the shipyards. Demosthenes then brought him to the Assembly (καταστήσαντος εἰς τὴν ἐκκλησίαν). Aeschines objected that Demosthenes' conduct was intolerable in a democracy when he treated abusively (ὑβρίζων) unfortunate citizens and went into houses (ἐπ᾽οἰκίας βαδίζων) without a decree (ἄνευ ψημίσματος).[26] What this clearly implies is that the search of a house was legal if made in accordance with a decree of the Council or Assembly.[27] The Areopagus later investigated Antiphon and arrested him, but it is not clear whether they found him inside a house or not. It is also possible that after Gylippus was denounced to the ephors at Sparta for having Athenian owls hidden under his roof, the ephors may have searched his house for the stolen coins (Plu. *Lys*. 16-17.1).

[26] Antiphon must have been a non-citizen at the time because he was later tortured (Dem. 18.133).

[27] For analysis of the passage see Harris 1995: 172, which corrects the mistakes in Hansen 1976: 32-33.

The most detailed account of a house-search is found in the demosthenic speech *Against Evergus and Mnesibulus* (47.22-38). A trierarch was told by the Council to collect naval equipment held by Democharesand Theophemus. Democharesdid not. The trierarch then went to the house of Theophemus and showed him the decree of the Council giving him the power to collect the equipment in any way possible. He invited Theophemus to tell the men sending out the fleet and the Council that he was not responsible for the equipment or to return it. If he did not comply, he would seize his property in compensation for what he owed. When Theophemus still did not comply, the trierarch seized the slave woman and attempted to drag her away as compensation for his debt. There was disagreement about what happened next, but the trierarch claims that Theophemus struck him. The trierarch then went to the Council and showed the members the marks from the blows and later won a judgment against Theophemus, which shows that his attempt to stop the search was illegal. What the incident shows is that the trierarch had the right to enter the house of Theophemus in search of public property or to distrain on his property when following a decree of the Council.[28]

There is another case of a house-search in a papyrus from Kerkeosiris dated to 113 BCE (*P. Ten*. I 38.10-28).[29] Apollodorus, who supervised the oil monopoly, received a report of smuggling in the village and conducted an investigation with the local *epistates* and the *archiphylakitês.* Apollodorus went to the house of a leather-worker and found a Thracian woman inside but the smuggled goods removed. The papyrus is fragmentary at this point but appears to indicate that the search continued in another house where the contraband goods were found.

All this evidence makes it clear that house-searches conducted by public officials in the pursuit of criminals or for the recovery of stolen public property were perfectly legal in the Greek *polis*. *Pace* Prignitz and Thür, there is no reason to think that Pasiteles had any grounds for objecting to the actions of the men of Epidaurus who searched for stolen property in his house at Hermione.[30] There are also no grounds for believing that he was deprived of his legal rights because he was summoned before the court at Epidaurus and had the opportunity to reply to the charges against him.

[28] For analysis of the incident see Harris 2013a: 41-43.
[29] For analysis of the incident see Bauschatz 2013: 233-236.
[30] Cf. Thür 2021: 48.

The Role of the Slave-Woman in the Theft (lines 14-18)

τὸν δὲ ἐκπεμπόμενον ὑπὸ τᾶς γυναι-
κὸς τᾶς Λυκίσκου τοῦ υἱοῦ τοῦ Πασιτέλ-
ευς ἐπὶ ταῖς θύραις ἐν τῶι κόλπωι τὰν θ-
εράπαιναν ἐχφέρουσαν ἔλαβον ἐλέφαν-
τα.

Translation: They caught (the ivory) being sent out by the wife of Lykiskos, the son of Pasiteles, at the door (of the house) as the slave-girl was carrying the ivory out (of the house) in the fold (of her garment).

First, a point of syntax. Prignitz and Thür translate: "They (also) seized the ivory that was sent out (of the house) by the wife [15] of Lykiskos, the son of Pasiteles (when they caught) at the doors the servant who tried to smuggle it out in her bosom."[31] They therefore translate the verb twice, in the first case with the ivory being sent out as the object and in the second case with the slave-girl as the object. But there is only one verb in the sentence, and the two nouns in the accusative cannot both be the objects of the main verb because they are not linked by a connective. They do not understand the syntax of the sentence and do not see that the phrase τὰν θ|εράπαιναν ἐχφέρουσαν is an accusative absolute. The construction is rare but well attested.[32]

In their discussion of the legal aspects of the inscription, Prignitz and Thür do not comment on this section. Kritzas and Prignitz compare the slave-woman in the demosthenic *Against Mnesibulus and Evergus* ([Dem.] 47.58), who attempts to remove some property belonging to the trierarch, but the two situations are not comparable.[33] The slave woman in this case

[31] Kritzas and Prignitz 2020: 7 translate the section "They (also) seized the ivory which was sent out (of the house) by the wife of Lykiskos, the son of Pasiteles, (when they caught) at the doors the servant who tried to smuggle it out in her bosom."

[32] See Smyth 1890: 339-340 and Schwyzer 1950: 402-403. There are several examples preceded by ὡς (Xen. *Mem*. 1.3.2: καὶ ηὔχετο δὲ πρὸς τοὺς θεοὺς ἁπλῶς τἀγαθὰ διδόναι, ὡς τοὺς θεοὺς κάλλιστα εἰδότας ὁποῖα ἀγαθά ἐστι. Lys. 14.16: οὐκ ἀξιοῦντες τοῦ Ἀλκιβιάδου υἱέος τοσαύτην δειλίαν καταγνῶναι, ὡς ἐκεῖνον πολλῶν ἀγαθῶν ἀλλ᾽ οὐχὶ πολλῶν κακῶν αἴτιον γεγενημένον), but there are also several without ὡς (Plato *Lg*. 819d: περὶ ἅπαντα ταῦτα ἐνοῦσάν τινα φύσει γελοίαν τε καὶ αἰσχρὰν ἄγνοιαν ἐν τοῖς ἀνθρώποις πᾶσιν, ταύτης ἀπαλλάττουσιν. Herodot. 5.103: καὶ γὰρ τὴν Καῦνον πρότερον οὐ βουλομένην συμμαχέειν, ὡς ἐνέπρησαν τὰς Σάρδις, τότε σφι καὶ αὕτη προσεγένετο). There is also an example in [Arist.] *Ath. Pol.* 30.2 - see Harris 1990: 249-250.

[33] Kritzas and Prignitz 2020: 28.

attempts to take away items that Theophemus does not have a right to seize. In the Epidaurus inscription the slave-girl is removing stolen items and trying to prevent them from being seized by the officials from Epidaurus. The phrase is very important however from a legal perspective. The sentence states that the ivory was sent out of the house by the wife of Lykiskos, yet makes it clear that the men from Epidaurus did not catch the wife with the ivory but the slave.

Here one needs to recall the rule about the liability of masters for the actions of their slaves.[34] If a slave committed an offense on her or his own initiative, only the slave could be held liable for the offense. On the other hand, if the slave committed an offense on the orders of the master, the master could also be held responsible for the offense. The most famous example of this principle is found in the speech of Antiphon *On the Stepmother.* The stepmother of the accuser gave a drug to the slave of Philoneus and told her to put it in the cups of Philoneus and her husband, claiming that it was a love-potion, when it was actually poison (Antiphon 1.15-16; 20). After the men drank the poison, they became ill and died (Antiphon 1.19-20). As a result, the stepson of the wife accused her of murdering his father (Antiphon 1.2-3).[35] There was also a law at Athens that "Damages and losses caused by slaves are to be paid by the master who owned the slaves at the time they caused them" (trans. Cooper) (Hyp. *Ath*. 22).[36]

In the law code of Gortyn (G47 Gagarin-Perlman = *IC* IV 47, lines 1-8) a male slave or a female slave (δῶλος ἢ δόλα) who is given over to a creditor to work off a debt (κατακείμενος) and is in a position comparable to a slave and who does wrong (ἀδικήσει) on the orders of the current master to whom he has been surrendered, the case is to be brought against the current master (κελομένο ἀμάρτη|ι τοῖ καταθεμένοι).[37]

The document clearly establishes that even though the men from Epidaurus caught only the slave-girl carrying out the ivory, the slave-girl was acting on orders from the wife of Lykiskos. This links Lykiskos to the theft

[34] This topic is not discussed by Thür 2021 and by Prignitz and Thür 2025.

[35] The accusation is a case of intentional homicide. See Harris 2006: 398-399 (*pace* MacDowell 1963: 62-63 who mistakenly thought the charge is *bouleusis*). See also Lewis 2018: 47, note 79.

[36] On this passage see Lewis 2018: 46-47.

[37] On the terms for slaves in the Gortyn Lawcode see Lewis 2013, Lewis 2020 and Lewis 2023 (*pace* Gagarin 2010), who shows that the words *dolos* and *woikeus* both denote slaves.

and shows that both Pasiteles and Lykiskos were responsible for the theft of the ivory, which meant that each could be sentenced to pay a fine for the theft.

The First Phase of the Legal Proceedings (lines 22-29)

Τάδε ἐδίκα-
σαν τοὶ Τριᾳ[κ]άτιοι Ἐπιδαυροῖ, ἀπὸ τοῦ
βωμοῦ τὰν ψ[ᾶφο]ν φέροντες τοῦ Ἀσκλαπι-
ῳοῦ, διαδικα[σά]μενοι παρέντος Πασιτέλ-
[ε]υς, π[ρο]σδε[χθέ]ντος καὶ ἐλενχομένου· ὅ-
ρκον δ[ιδό]ναι το[ῖς] θεοῖς μὲν καὶ βωμοῖ-
[ς] Ἐπιδαυρίων ἐκείν[οις], οὕς κα αὐτὸς ἕλ-
ηται.

Translation: The Three Hundred at Epidaurus made the following legal judgments, taking the ballot from the altar of Asclepius, after having conducted a hearing when Pasiteles was present and was admitted to the court and questioned (and asked) to give an oath to the gods and at those altars of the Epidaurians, whichever ones he would choose.

This section is very important for the understanding of legal procedure at Epidaurus. At Athens there were several steps required to get a case to court. First, the accuser was required to summon the defendant to appear before the relevant magistrate on a given day and to have two people act as witnesses to the summons.[38] When the two litigants met before the magistrate, the accuser presented his charges in a written plaint (*enklema*), which contained the full name of the accuser, the full name of the defendant, the kind of procedure being brought, and a statement of the charges indicating how the defendant had violated the substantive part of the relevant statute.[39] At this stage the defendant had to reply to the charges and deny that he violated the substantive part of the relevant statute (Dem. 42.17; 45.46). It was probably at this point that the magistrate ordered the litigants to pay the court-fees or *prytaneia* (Pollux 8.38). For certain private cases, the magistrate sent the case to a public arbitrator. If the public arbitrator

[38] Harrison 1971: 85-86.

[39] On the form of the plaint and its role in litigation at Athens see Harris 2013b and for the impact of the *enklema* on the arguments presented in court see the essays in Harris and Esu 2025. Thür 2008 does not see that the statement of the charges had to conform to the language of the statute.

could not reconcile the parties or if one party did not accept his judgment, the documents were placed in an *echinos*, and the case was sent to court ([Arist.] *Ath. Pol.* 53.1-7).[40] After the magistrate received the plaint and the response to the plaint, he set a date for the *anakrisis*. During this part of the procedure, the magistrate could question the parties, and the parties could question each other.[41] It was possible at this stage for the accuser in a public case to withdraw his charge without penalty.[42] At the end of the *anakrisis* the magistrate decided whether or not to accept the plaint. If he accepted the plaint as presented or with modifications, he assigned the case to a court, and the trial took place before the judges who had sworn an oath.[43] The magistrate who conducted the *anakrisis* played no role at the trial in court.[44]

It is clear in the document from Epidaurus that Pasiteles must have been summoned to appear in court because he was present, received before the court and questioned (lines 25-26: παρέντος Πασιτέλ|[ε]υς, π[ρο]σδε[χθέ]-ντος καὶ ἐλενχομένου) even though the document does not state this explicitly. The verb ἐλέγχειν can mean either "test/interrogate" or "convict," but the participle ἐλενχομένου cannot mean "convicted" because the conviction of Pasiteles occurred at a later stage. The document also does not indicate who brought the charges before the Three Hundred though it appears that it must have been the *epistatai* who are listed in lines 40-47. These omissions are similar to the omission of the order by the authorities in Epidaurus to the five men to conduct a search of the house of Pasiteles. The document gives an abbreviated account of the legal procedure, providing only a few salient points. There is also a phrase about giving an oath (lines 26-29), but the syntax is unclear: there are three participles followed by the infinitive διδόναι, but it is difficult to see the connection between the participles and the infinitive. The verb ἐλέγχειν never appears to be followed by an infinitive.

The stage of the procedure at which Pasiteles was present, admitted to the court and questioned must have taken place before the Three Hundred voted to convict him of theft because the document states that when the Three Hundred made their final judgment Pasiteles avoided the court (ἐγδεδρακὼς

[40] On private and public arbitration see Harris 2018.
[41] On the *anakrisis* see Harrison 1971: 94-105.
[42] See Harris 2006: 404-422.
[43] For the judicial oath see Harris 2013a: 101-137.
[44] For officials presiding at trials see [Arist.] *Ath. Pol*. 64-66, 68-69.

τὸ δικ[α]στήριον) and was not present for his trial (φυγο[δ]ικήσας). On the other hand, there is no indication that there was another hearing between the initial hearing and the final trial before the Three Hundred. Lines 22-25 are a little confusing because they start by stating that the Three Hundred voted from the altar, a phrase that is repeated later about the trial at which the judgment to convict was made.[45] But the document appears to make a clear distinction between the preliminary phase at which Pasiteles appeared and the trial at which he did not appear by using one verb for the preliminary phase (διαδικα[σά]μενοι) and another for the actual trial (lines 22-23: ἐδίκα|σαν; line 31: ἐδικάσθη). The aorist participle also appears to imply that the action of the participle in the middle voice (διαδικα[σά]μενοι) took place before the action of the verb in the active voice (ἐδίκα|σαν). One should therefore translate lines 22 to 26 "the Three Hundred judged the following taking the ballot from the altar, after having conducted a hearing when Pasiteles was present and was admitted to the court and questioned." This clearly indicates that the preliminary hearing and the trial in court were both conducted by the Three Hundred.

Prignitz and Thür attempt to link the passive participle ἐλενχομένου with a procedure like the *anakrisis* at Athens and object: "No Greek court "questions" a defendant." They also find it odd that "Instead of being presided over by the competent magistrate, the president of the Council, the session was held by the entire Council, which served as the authority under which the preparatory stage was carried out." The problem with this analysis is that there is no other evidence for legal procedure at Epidaurus and no way of knowing if the president of the Council normally received legal charges. Prignitz and Thür then try to explain the unusual procedure by the nature of the case: "The reason may have been that Pasiteles, when summoned to stand trial on the charge of *klope*, had protested the search of his house, which was the basis of the charge, as illegal."[46] There is not a shred of evidence that Pasiteles made such an objection to the charge. Moreover, as we saw in the previous section, there was nothing illegal about house-searches conducted by officials, especially if they had evidence that there were stolen goods inside the house.

Prignitz and Thür continue with more speculation: "In Athens, when protesting a charge as unlawful, a defendant could enter a *paragraphe* and

[45] Pace Thür 2021 42-43, I see no reason to assume that the vote was by secret ballot.
[46] Prignitz and Thür 2025: 214. Cf. Thür 2021: 48.

the whole law court was required to vote on this claim. In Epidaurus the "questioning session" and the decision on unlawfulness could have occurred at the same time before the Council, and the participle προσδεχθέντος probably indicates that the Three Hundred admitted hearing Pasiteles' remonstration during an extended pretrial session."[47] Yet nothing in the document indicates that Pasiteles brought an action similar to a *paragraphe* at Athens. The participle προσδεχθέντος shows that Pasiteles was admitted to the court and does not indicate that any counter-charge he made was admitted by the court. At Athens the trial on a charge of a *paragraphe* was heard by a court after the preliminary hearing and not at the preliminary hearing.[48]

There is a much better way to understand the participle ἐλενχομένου at the preliminary stage of the procedure. In the *Eumenides* of Aeschylus, Athena acts like the magistrate who received the charges at Athens.[49] The Erinyes act like accusers by identifying themselves and presenting their charges. They then invite Orestes to swear an oath of denial as was standard at the hearing when the accuser presented his charge. When he refuses to swear an oath that he did not kill his mother because he will plead that he did so justly, the Erinyes call on Athena to question Orestes (line 433: ἐλέγχε), which she then does (lines 436-438) by asking him about his country (χώραν), his lineage (γένος) and his version of the events (ξυμφορὰς τὰς σάς) and then to reply to the charge (τόνδε ἀμυναθοῦ ψόγον). In the account of Cinadon's conspiracy in the Xenophon's *Hellenica* (3.3.4-11) the ephors receive information from an informer about the plot. After Cinadon was arrested and brought back, he was questioned by the ephors (ἠλέγκετο) and, after confessing, was punished.[50] In both cases the verb ἐλέγχειν is used about officials who question a defendant. The questioning of Pasiteles by the Three Hundred fits very well into the preliminary phase of the trial when Pasiteles had the chance to reply to the charges. What is different from legal procedure in Athens where the magistrate who received

[47] Prignitz and Thür 2025: 214.

[48] On the *paragraphe* in Athenian Law see Harris 2015.

[49] For analysis of the passage see Harris 2019: 413-415.

[50] Note also that at Thuc. 1.131.2 Pausanias presents himself for trial to those who wish to question (ἐλέγχειν) him. It is clear that the magistrates who try him are the same as those who question him. *Vat. Gr.* 2306 fr. A 1-30 appears to refer to questioning by magistrates at Sparta (ἀνακρίνουσι . . . ἀνακρίναντες). See the discussion ın Keaney 1974. At private and public arbitrations at Athens the arbitrator could question the litigants. See Is. 5.32 and Dem. 27.50-51 with Harris 2018.

the charges and conducted the *anakrisis* did not participate at the trial was that at Epidaurus the Three Hundred conducted both the preliminary hearing and the trial that followed. It also appears that in contrast to Athens where there were three phases in the procedure (first when the magistrate received the charges, second when the magistrate conducted the *anakrisis*, and third the trial in court) at Epidaurus there were only two phases, both before the Three Hundred. At the preliminary hearing the defendant was asked to swear an oath denying the charges both at Athens (Pollux 8.55) and at Epidaurus, and after this preliminary hearing at Epidaurus the defendant was expected to pay court fees (lines 30-31: πρυτανε|ῖα) as at Athens. There were both similarities and differences between the legal procedures in the two communities.[51]

The Trial before the Three Hundred (lines 29-37)
ἐγδεδραḳὼς τὸ διḳ[α]στήριον, ἐν ᾧι
ǫ̣ὐδ᾽ ἔδω[κ]ε[ν] ἐνγύαν μηδ᾽ ἔθηκεν π̣ρυτανε-
.ῖα, φυγο[δ]ικήσ̣ας, τάδε ἐδιḳάσθη ὑπὸ τῶ̣ν
Τριακατίων, ἀπὸ τοῦ βωμοῦ τὰν ψᾶφον φέ-
ροντες τοῦ Ἀσ[κ]λαπιοῦ· ἐπιγράψαι ἔνο[χ]-
ον [τοῦτ]ον τᾶς κλοπᾶς τοῦ ἐλέφαντος [κα]-
[ὶ] ἀναγρά[ψ]α[ι] τῶν παρέργων ὧν ἔλετο ὁ ἐ[ρ]-
γ̣ώνα̣ς [δρ]αχμὰ̣ς Ᏼ, σ]ὺν ζαμίαις ταῖς λυθ[η]-
[σ]ομ[έ]να[ις] γίνεται χίλιαι δραχμαί.

Translation: Having not shown up before the court, in which he did not present a pledge of personal security nor deposit the court-fees and having avoided the trial. The following was judged by the Three Hundred, taking the ballot from the altar of Asclepius: to record this man guilty of theft of the ivory and to write up the (five hundred?) drachmas for the additional work that the workman undertook. With the penalties to be paid the (total) is one thousand drachmas. The Three Hundred, taking the ballot from the altar, voted a public sale of (i.e. his property).

[51] There is no reason to believe that Pasiteles refused to swear the oath and that "if he had sworn, he would have been acquitted of the charge of embezzlement." Cf. Thür 2021: 49. The oath at Epidaurus was clearly similar to the one sworn by defendants at Athens before a trial and not to the exculpatory oath at Gortyn (*pace* Prignitz and Thür 2025: 215). Defendants who swore the oath of denial at Athens could still be convicted in court.

The most striking aspect of this section is the loose syntax. The participles ἐγδεδραḳὼς (line 29) and φυγο[δ]ικήσας (line 31) are not connected to a noun in the nominative or to the implicit subject of a verb in the singular. In fact, there appears to be a sentence with two participles and no main verb. In lines 31-33 the present active participle in the nominative φέ|ροντες modifies the noun τῶ̣ν Τριακατίων in the genitive. The text mentions the fact that the Three Hundred took their ballots from the altar of Asclepius three times (lines 23-25, 32-33, 39-40).

Pasiteles clearly did not show up for his trial before the Three Hundred and was condemned to a fine *in absentia*. The power of a court to condemn a defendant *in absentia* is well attested in Athenian Law. Perhaps the best known is the conviction of Alcibiades in 415 (Thuc. 6.61.7). There were others also convicted *in absentia* for impiety during the same year (Andoc. 1.13). Another famous example is the conviction of Philocrates for treason in 343 (Dem. 19.116; Aeschin. 2.6; *Agora* XIX, P26, lines 455-460). Courts at Sparta also condemned defendants in their absence (Xen. *Hell*. 3.5.25).

The document implies that Pasiteles should have named a surety but states that he did not (line 30 - οὐδ᾽ ἔδω[κ]ε[ν] ἐνγύαν). In Athenian law there are two procedures for theft, but in neither case was the defendant required to name a surety. The first is *apagoge* to the Eleven ([Arist.] *Ath. Pol*. 52.1). If the thief was caught "red-handed" (ἐπ᾽αὐτοφώρῳ), the accuser could seize him and bring him to the Eleven.[52] If he admitted his guilt, the Eleven put him to death. If he denied his guilt, the case was heard in court, and if the defendant was convicted, he was put to death. The second procedure was the private action for theft, which followed the procedure used in other private actions. If the defendant was convicted, he paid a penalty of double the amount of the stolen item. The search of the house was only a method of discovery and not a legal action. The evidence for both these procedures does not indicate that the defendant was required to name a surety before the trial.

The reason why the authorities in Epidaurus required a surety was because Pasiteles was not a citizen.[53] At Athens a metic who was accused in

[52] For the meaning of the term see Harris 2006: 373-390. The term is mistranslated by Cohen 1983: 52. The procedure also applied to "clothes-snatchers" and enslavers but not to seducers (*moichoi*) *pace* Cohen 1984: 156-157 and Hansen 1976: 44-45. See Harris 2006: 291-293.

[53] Cf. Kritzas and Prignitz 2020: 35, who do not however cite any sources.

a private action was required to provide sureties to the Polemarch, who would pay the amount awarded by the court if the defendant did not pay (Dem. 32.29; Isoc. 17.12). There is a similar rule in the judicial treaty between Stymphalos and Demetrias (303-300 BCE) (*IPArk* 17, lines 173-176: τοὺς δὲ μετοικέ[ο|ντ]ας γα κατενγ[υ]ῆν εἰς δίκαν τ[οὺς] | ἐν Δημητριάδι [πο]λιτεύοντας ἢ ἐ|[ν Σ]τυμφάλοι).[54]

The document also states that Pasiteles did not pay the court fees. At Athens both the accuser and the defendant were required to pay the *prytaneia* (Pollux 8.38; Isocr. 18.3, 12; Dem. 47.64; [Xen.] *Ath. Pol.* 1.16), but the term is not attested elsewhere. In the convention between Stymphalos and Demetrias there was a court fee called the *epidekaton* (*IG* V, 2 357, lines 58-63. Cf. *IG* XII 8, 640 (Peparathos), lines 24-25: προ|[δ]ικίαν ἐπιδεκάτωγ).

The Decision to Confiscate the Property of Pasiteles (lines 37-40)

Κατ-
εδίκασσεν τὰν τ[ῶ]ν ἐόντων δαμοπρασία-
[ν ἀ]πὸ τοῦ βωμοῦ τὰν ψᾶφον φέροντες ἁ [Τρ]-
ια[κ]ατία·

Translation: The Three Hundred taking the ballot from the altar voted the public sale of the property (of Pasiteles).

This appears to be a separate vote from the vote to convict Pasiteles for theft. If Pasiteles had attended the trial, the court could have asked him to pay the penalty. Alternatively, if Pasiteles had named a surety, the court could have collected the fine from the surety. This compelled them to confiscate his property, that is, to declare that the state owned his property as a result of his failure to pay the penalty and to sell this property and use the sale price to pay the penalty imposed by the court. This should not be called a "forced sale" because the court is not forcing Pasiteles to sell but confiscating his property. It is the state that sells the property because the state has become the owner for the property. The noun δαμοπρασία|[ν (lines 38-39) therefore includes two steps, first, the confiscation and, second, the sale of the property. One can see the two steps in the *poletai* records from Athens for the year 367/6 (*Agora* XIX, *Poletai* P5 (367/6) = Crosby *Hesperia* 10 (1941) = *SEG* 12.100, lines 1-38).

[54] See Thür and Taüber 1994: 175, 215.

The Sale of the Property of Pasiteles (lines 47-48)
πὰρ τῶμ πριαμένων τὰ Ϝιασ-
[ι]τέλευς τᾶς καταδίκας ΧΧ

Translation: From the buyers of the property of Pasiteles from the sentence two thousand drachmas.

This amount is double the amount of the one thousand drachmas mentioned in line 37, which was the value of the ivory stolen and the work that the new worker had to do. Kritzas and Prignitz claim that "The 2000 drachmas can only be part of the total proceeds of the auction, which can hardly by chance have been a round sum. We think that the 2000 drachmas, being double of the 1000 drachmas given in l. 37, is the part of the sale of property that benefits the building concerned. There was likely more, which could then either have been the state's revenue or have been used to cover a first subtotal of the penalty for theft."[55] But lines 33-37 make it clear that the amount of one thousand drachmas was the amount of damage assessed for the theft of the ivory (τᾶς κλοπᾶς τοῦ ἐλέφαντος) and for the additional work to be done. The text they give combining the phrases in lines 33-37 with only a comma at line 36 is misleading because the phrase σ]ὺν ζαμίαις ταῖς λυθ[η|[σ]ομ[έ]να[ις] γίνεται χίλιαι δραχμαί with the finite verb γίνεται is clearly a separate sentence from the preceding sentence, which contains two infinitives (ἐπιγράψαι . . . ἀναγρά[ψ]α[ι]). A full stop is required and not a comma. This phrase gives the total amount of damages assessed by the court: "with the damages to be paid (the total) comes to one thousand drachmas."[56]

Then why is the amount taken from the sale of Pasiteles' property double the amount of the damage assessed by the court? There are two reasons. First, in cases of theft the defendant who was convicted had to pay double the amount of the stolen item (Dem. 24.114-115; Aulus Gellius 9.18 [dupli poena]; Plato *Laws* 857a. Cf. Gaius *Inst.* 3.190).[57] The rule about payment of twice the amount of the item stolen was also in effect in the convention

[55] Kritzas and Prignitz 2020: 37.
[56] The verb γίνεται is often used in the accounts from Epidaurus to indicate a sum of money. See *IG* IV²,1 108 *passim.*
[57] On the information contained in the document at Dem. 24.105 see Canevaro 2013: 157-173 with detailed refutation of the attempt of Scafuro 2005 to defend the authenticity of the document.

between Delphi and Pellana (*FD* 1.486, line IIA1 20).[58] Second, because in cases of damage committed willingly the defendant also had to pay double the amount of the damage (Dem. 21.43. Cf. *IG* I^3 6B, lines 4-8). If the proceeds from the sale did not cover the penalty to be paid, the document would have stated that there was a deficit.[59]

Kritzas and Prignitz claim that the property of Pasiteles sold cannot have been the house at Hermione "as the polis Epidaurus has no access to any property in a foreign territory."[60] This may be true, but we do not know anything about the legal arrangements between members of the Kalaurian Amphictyony, which may have allowed one member to collect debts in the territory of another member (see above). Kritzas and Prignitz then suggest that "τὰ ἐόντα in this case are Pasiteles' workshop, his equipment, and possibly his slaves that were moved to Epidaurus."[61] But if Pasiteles owned a workshop in Epidaurus, he could not have done so without the right to own property (*enktesis*) in Epidaurus.[62] If the Kalaurian Amphictyony was like the Chalcidian League (Xen. *Hell*. 5.2 11-19), then the citizens of each member community would have had *enktesis* in the territories of the other members. One hopes that new evidence will shed light on the nature of the relationship between members of the Kalaurian Amphictyony.[63]

The Conviction and Fine of Lykiskos (lines 60-63)
Λυκίσκο[υ] ⁝ ἰαρὰ ⁝ ⊙ ⁝ δαμόhια ⁝ ⁝⁝⁝⊏⊏ ⁝ ἰαρὰ ⁝ MXΓ⌐Γ⊙⊙⊙⊙⁝⁝⁝⁝
ζαμιῶν χρήστας ⁝ Καλλίκριτος ⁝ ἀρήτευε ⊏ ⊏

[58] See also Haussoullier 1917: 117-118. Cf. Thür 2021: 57-58.
[59] Rubinstein 2023: 290 note 23 fails to see that the amount given in the plaint at Dion. Hal. *Din*. 3 is the assessed amount of the damage in the plaint (γραφήν) and not the penalty imposed by the court after conviction, which would have been double this amount. Her point about the gold/silver ratio is irrelevant. Rubinstein relies on Mørkholm 1991 for the gold-silver ratio of 1:12, but this work is out of date. Kagan and Ellis-Evans 2022 have now shown that the ratio 1:10 after 355 BCE. Rubinstein also misrepresents my analysis at Harris 2013a: 122-123 where I clearly distinguish between the damages assessed in the plaint and the penalty imposed by the court.
[60] Kritzas and Prignitz 2020: 36.
[61] Kritzas and Prignitz 2020: 36.
[62] On the right of *enktesis* in Greek communities see Hennig 1994.
[63] Mackil 2013: 403, 492 believes that the right to acquire property in the territory of other members was characteristic of all federal leagues, but see Sizov 2021a and Sizov 2021b who shows that this was not true for the Achaean League and for the Aeolian League.

[K]λεόστρατος Μελινίς ⋮ ἀδικήματος *vacat*
ὅ̣τι τὸν *h*ελέφαντα ἔκλεπτε. *Vacat*

Translation: From Lykiskos: sacred 10 drachmas, public 6 drachmas 4 obols, sacred 11,598 drachmas 4 obols. Magistrate of the penalties: Kallikritos; president: Kleostratos from Melinis. For the offense, because he stole the ivory.

Prignitz and Thür claim that "The case against Pasiteles was reopened several years later when his outstanding debts were enforced against his son Lykiskos (lines 60-63)."[64] Nothing in the language of these lines or in the sections about the cases against Pasiteles supports such an interpretation. First, the section about the punishment of Lykiskos explicitly states that Lykiskos was guilty (line 62: ἀδικήματος) because he stole the ivory (line 63: ὅτι τὸν ηελέφαντα ἔκλεπτε). Second, this section does not state that he was liable to pay the fine because he was the heir of Pasiteles. When an heir was required to pay a debt inherited from his father, the public record stated that his liability resulted from his status as heir.[65] Third, there is no indication in lines 47-48 that the money gained from the sale of the property of Pasiteles did not cover the full amount of the fine. In fact, this section indicates that the sale of the property for two thousand drachmas covered twice the amount of the money (one thousand) owed by Pasiteles (lines 33-37), which was doubled (line 48). This section does not record any outstanding amount from the fine, which Lykiskos, the son of Pasiteles, would have inherited. Fourth, as we noted above, the order of the wife of Lykiskos to have their slave take the ivory out of the house (lines 14-18) shows that Lykiskos was involved in the theft of the ivory and was thus liable for the penalty resulting from conviction for the theft. In fact, Lykiskos appears to have stolen a larger amount than his father because his fine was much greater (2,000 drachmas vs. 10 sacred drachmas, 6 public drachmas, 4 obols and 11,598 sacred drachmas and 4 obols). Alternatively, the fine may have been imposed for another theft.

[64] Prignitz and Thür 2025: 207. Cf. Thür 2021: 38.
[65] See for example *IG* II^{2} 1615, line 96; 1622, line 439; 1623, line 117, etc. Cf. Dem. 35.49.

Conclusion

The "stele of the punishments" is valuable for the information the document provides for law and legal procedure at Epidaurus. The document omits some information such as the identity of the person who provided the information about the stolen goods, the order to the men of Epidaurus to search the house of Pasiteles, the approval of the authorities at Hermione to conduct the search, the summons to Pasiteles to present himself to the court, and the names of the accuser(s). Yet the account of the legal proceeding in lines (22-37) indicates that there were two hearings, one to question the defendant and to invite him to swear an oath, and a second to hear the case, to render a judgment, and to impose a punishment. Both hearings were conducted in front of the Three Hundred. Though there are some similarities with the legal procedure of Athens such as the swearing of an oath of denial by the defendant, the requirement for metics to name a surety, and the payment of court fees, legal procedure at Epidaurus was much different from that at Athens. There were only two hearings and nothing similar to the *anakrisis* at Athens, and the same body, the Three Hundred, receives the charges and tries the case, whereas at Athens the magistrate who received the charges and conducted the *anakrisis* did not play a role at the trial. At Athens the trial was heard by judges drawn from a panel of six thousand selected on the day of the trial; at Epidaurus the trial was conducted by a permanent body, the Three Hundred. In this regard, trials at Epidaurus were similar to trials at Sparta heard by the Council of Elders sitting with the kings (Pausanias 3.5.2). Yet in cases tried before the Council of Elders and kings, the charges were brought first before the Ephors (Xen. *Hell*. 5.4.24). This provides another example of the diversity of legal procedures in the Greek *poleis*.[66] On the other hand, it appears that the penalties for theft and for damage were double the amount of the assessed value of the stolen item and damage sustained. The substantive rule was the same as that found at Athens.[67] At Athens records were kept of trials in the Metroon.[68] We do not know if this record of a trial at Epidaurus was unusual or not. And the inscription raises some questions about the legal relationship between Ep-

[66] This inscription provides another piece of evidence against the unconvincing view of Gagarin 2006: 29-40 that the unity of Greek Law is to be found in matters of procedure.
[67] For the unity of Greek Law in substantive matters and diversity in legal procedure see Harris 2024.
[68] See Harris 2013b and Boffo and Faraguna 286-289.

idaurus and Hermione as members of the Kalaurian Amphictyony, which cannot be answered until more information becomes available.

One must also bear in mind the audience of this inscription. The stele was erected at the sanctuary of Asclepius, which was a shrine open to all Greeks who came from many places to seek cures.[69] This record of the trial of Pasiteles sent a message not only to the people of Epidaurus but also to the Greeks who came to Epidaurus. As Canevaro has recently shown, the rule of law was a value held by all Greeks and served as the source of legitimacy for their institutions.[70] One of the key features of the rule of law was fairness in procedure. In this inscription the authorities at the shrine are not only warning foreigners who come to work there that they must be careful not to steal materials and to perform their work carefully. They are also showing that all those who are accused of crimes will be treated fairly. The accused will have their cases heard in court and be presented with the charges. They will have the opportunity to name sureties. They will be convicted only if there is strong evidence against them. And the document states three times that the Three Hundred took their ballots from the altar of Asclepius and therefore placed themselves under the watchful eye of Asclepius when deciding the case. Their legal duty was also a religious duty. The Three Hundred clearly took their task very seriously. This was an important message to convey to the Greeks coming to worship at Epidaurus.[71]

[69] See Edelstein and Edelstein 1998 for Epidaurus as an international sanctuary.

[70] Canevaro 2017.

[71] For the relationship between law and religion see Harris 2006: 40-80. I would like to thank Marios Anastasiadis, Alberto Esu, David Lewis and two anonymous readers for reading a draft of this essay and offering useful suggestions.

Appendix

ca. 360 [. . . . . .]O[. . . . . .]I [. . . . .] stoich. 31
[Π]ασ[ιτέ]λης Ἑρμιονεὺς τάδε ὡμολό[γησε]
ἐργασόμενος ἐν τῶι ἱαρῶι τοῦ Ἀσκλα[πι]-
οῦ· αἴ τί κα φαίνηται περὶ τὸν θεὸν ἀδι[κ]-
[ῶ]ν, δίκαν ὑφέξεν Ἐπιδαυρίοις. Ἐμανύθ[η]
[ἐ]ν τᾶι οἰκίαι τᾶι Πασιτέλευς τοῖς ἐπ[ι]-
[σ]τάταις τοῦ ἔργου καὶ τοῖς ἱαρομνάμο-
σι καὶ τοῖς ἱαρεῦσι κόλλα καὶ κηρὸς ἱα-
ρὸς καὶ ἐλέφας καὶ ἐξηνίχθη ἐκ τᾶς οἰκ-
ίας τᾶς Πασιτέλευς ἐν Ἑρμιόνι· τοίδε ἐ-
ξήνικον ἐκ τᾶς οἰκίας· Θιό[ξ]ενος Θ⟨ο⟩ποπόμ-
που, Παντόλμας Αἰνέτου, Ἐμπεδοκράτης
[Ἰ]σολόχου, Ἴσυλλος Σωκράτευς, Ἐπιδαύρ-
ιοι· τὸν δὲ ἐκπεμπόμενον ὑπὸ τᾶς γυναι-
κὸς τᾶς Λυκίσκου τοῦ υἱοῦ τοῦ Πασιτέλ-
ευς ἐπὶ ταῖς θύραις ἐν τῶι κόλπωι τὰν θ-
εράπαιναν ἐχφέρουσαν ἔλαβον ἐλέφαν-
τα. Τοίδε Ἑρμιονεῖς παρέγεντο ἐνσκλη-
θέντες· Ἀριστόκριτος [Μ]εγακλέος, Λυγκ-
αεὺς Λύωνος, Δαμόκριτος [Ἐ]χεδάμου, Ἐρα-
τοκλῆς Ἀντιλαΐδα, Ἁλικρανείας Ἀμφιά-
νακτος, Ἀρχέας Δαμοκρίτου. Τάδε ἐδίκα-
σαν τοὶ Τριά[κ]άτιοι Ἐπιδαυροῖ, ἀπὸ τοῦ
βωμοῦ τὰν ψ[ᾶφο]ν φέροντες τοῦ Ἀσκλαπι-
οῦ, διαδικα[σά]μενοι παρέντος Πασιτέλ-
[ε]υς, π[ρο]σδε[χθέ]ντος καὶ ἐλενχομένου· ὅ-
ρκον δ[ιδό]ναι το[ῖς] θεοῖς μὲν κ[αὶ βω]μοῖ-
[ς] Ἐπιδαυρίων ἐκείν[οις], οὕς κα αὐτὸς ἕλ-
ηται. ἐγδεδρακὼς τὸ δικ[α]στήριον, ἐν ὧι
οὐδ᾽ ἔδω[κ]ε[ν] ἐνγύαν μηδ᾽ ἔθηκεν πρυτανε-
ῖα, φυγο[δ]ικήσας, τάδε ἐδικάσθη ὑπὸ τῶν
Τριακατίων, ἀπὸ τοῦ βωμοῦ τὰν ψᾶφον φέ-
ροντες τοῦ Ἀσ[κ]λαπιοῦ· ἐπιγράψαι ἔνο[χ]-
ον [τοῦτ]ον τᾶς κλοπᾶς τοῦ ἐλέφαντος [κα]-

35 [ἰ] ἀναγρά[ψ]α[ι] τῶν παρέργων ὧν ἔλετο ὁ ἐ[ρ]-
γώνας [δρ]αχμὰς [Ⅎ, σ]ὺν ζαμίαις ταῖς λυθ[η]-
[σ]ομ[έ]να[ις] γίνεται χίλιαι δραχμαί. Κατ-
εδίκασσεν τὰν τ[ῶ]ν ἐόντων δαμοπρασία-
[ν ἀ]πὸ τοῦ βωμοῦ τὰν ψᾶφον φέροντες ἁ [Τρ]-
40 ια[κ]ατία· ἐπισ[τ]ά[τ]αι Σωκράτης Ἰσύλλου,
[. . .]άνωρ Δ[. . . .]άδα, Λῦσις Εὐκράτευς, Ἀρ-
ιστοκλῆς κὰι [Ἀνδ]ροτέλης Τείσιο[ς], Φαν-
[οτ]έλης Θιοφείδευς, Μεγακλῆς Εὐφαίνο-
[υ], Πολύκριτος Ἀλκιμήδευς, Καλλικλῆς Δ-
45 ειγοκράτεος, Σώαρχος Θιοπόμπου, Σωκ-
ράτ[η]ς Ἀκρα[τήτο]υ, Δαμοτέλης Δαμοκλεῦ-
[ς], Ἐπιδαύριο[ι]. πὰρ τῶμ πριαμένων τὰ Πασ-
[ι]τέλευς τᾶς καταδίκας XX *vacat*
vacat 0.015 m
Φειδόλας ὀφείλει τὰν τύρσιν ἑλόμενο`ς′ stoich. 31
50 τοῦ ψεύδευς ⊟⊟⊏⊏⊏—⁝⁝⁝·IIIT
vacat 0.015 m
ca. 355 Κατεδίκασε ἁ πόλις Περίλλου ἀρχιτέκτονος, non-stoich.
ἀπὸ τοῦ βωμοῦ τὰν ψᾶφον φέροντες, ἐπὶ τὰν
κράναν X⊏⊏— ^{v} σὺν τῶι ἡμιελίωι το(ῦ)το ἔγεντο,
ἐπὶ τὰν πρόστασιν τοῦ ἐνκοιματηρίου X⊟— vacat
55 σὺν τῶι ἡμιελίωι τοῦτο ἔγεντο. vacat
vacat 0.015 m
(*Bauurkunden* 13)
ca. 338/7 θεᾶς Ἥρας ⁝ XXΓ⊢⊟⊟⊙⊏⊏— καὶ Διὸς ⊟⊙⁚ θυτῶν. Θευκύ-
[δ]α[ς] ὑποζάμιος ἐπὶ τὰν Κλισίαν, τὸγ κέρ[α]μον
[ἐγ]δεξάμενος ⁝ XΗΗ ⁝ ἀρτύνα ἐπὶ τὰν Κλισίαν *vacat*
Εὐελπίας Φολυγάδας, Καρνειάς. *vacat*
60 Λυκίσκο[υ] ⁝ ἱαρὰ ⁝ ⊙ ⁝ δαμό*hι*α ⁝ ⁝⁝⊏⊏ ⁝ ἱαρὰ ⁝ MXΓ⊢Γ⊙⊙⊙⊙⁝⁝⁝
ζαμιῶν χρήστας ⁝ Καλλίκριτος ⁝ ἀρήτευε ⊏ ⊏
[Κ]λεόστρατος Μελινίς ⁝ ἀδικήματος *vacat*
ὅτι τὸν *h*ελέφαντα ἔκλεπτε. *vacat*

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