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<i>La translatio imperii</i> dal mondo greco al mondo romano <i>Franca Landucci</i>	7
L'ostracismo di Santippo, figlio di Arrifrone, «il più colpevole tra i pritani sacrileghi». Alcune riflessioni alla luce di recenti scoperte archeologiche <i>Martina Zerbinati</i>	29
Lysias Interrogating Eratosthenes on the Murder of Polemarchus (Lys. XII 25) <i>Aggelos Kapellos</i>	51
<i>Ex ea nouem liberos tulit</i> : i figli di Agrippina Maggiore e Germanico <i>Alessandra Valentini</i>	65
Le <i>Vitae Horatii</i> di Svetonio, Porfirione e Pseudo-Acrone <i>Chiara Formenti</i>	85

## RECENSIONI

## REVIEWS

<i>Paolo A. Tuci</i> M. Zaccarini <i>The Lame Hegemony. Cimon of Athens and the Failure of Panhellenism, ca. 478-450 BC</i> (2017)	117
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# Lysias Interrogating Eratosthenes on the Murder of Polemarchus (Lys. XII 25)

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**ABSTRACT:** Eratosthenes arrested Polemarchus, following the orders of the Thirty to seize the money of the metics, and then he brought him to the Council, where he was condemned to death without a proper trial. Eratosthenes could not deny that he had arrested Polemarchus but he hoped to be acquitted by distorting the recent past, which the jurors ignored in all its details. An examination of the questions and answers of Lysias and Eratosthenes, and an assessment of their arguments shows that Lysias was right to regard his opponent as guilty, but the latter still had chances to be acquitted.

**KEYWORDS:** Eratosthenes; interrogation; Lysias; metics; Polemarchus; Theramenes; Thirty – Eratostene; interrogatorio; Lisia; meteci; Polemarco; Teramene; Trenta.

Lysias' speech *Against Eratosthenes* took place in 403/2 B.C.<sup>1</sup>. The orator prosecuted Eratosthenes at the *euthynai* offered to former members of the Thirty by the amnesty of 403 B.C., bringing as the nominal charge the killing of Polemarchus and demanding the death penalty<sup>2</sup>. The logographer recounts how Eratosthenes came to their house and arrested his brother, who was then led to prison and forced to drink the hemlock (XII 16-17). Lysias makes a cross-examination of Eratosthenes and reports in his speech the questions he posed to him (Lys. XII 25): (1) the orator starts by asking Eratosthenes if he arrested Polemarchus. Eratosthenes admits that he did, but he claims that he did so only out of fear about the orders of those in power. (2) Lysias then asks Eratosthenes if he was in the Council-chamber when the statements were being made against the metics. Eratosthenes says that he was. (3) Lysias asks him if he spoke in support or in opposition of those who were urging the death sentence. The defendant says that he spoke in opposition. (4) Lysias asks

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<sup>1</sup> For the date of the speech see Bearzot 1997, 42-44, 47-50, 227.

<sup>2</sup> See Phillips 2008, 154-156.

Eratosthenes whether he was against taking the metics' lives or not. He says that he was against taking the lives of the metics. (5) Finally, Lysias asks Eratosthenes if what happened to his brother was just or unjust. The defendant replies that it was unjust.

Krentz doubts that Lysias' questions and Eratosthenes' answers lead naturally to Lysias' conclusion that Eratosthenes convicted himself by admitting that he arrested Polemarchus unjustly. This is so because (Krentz believes) Eratosthenes claimed that Polemarchus plotted against the regime of the Thirty. Moreover, Krentz argues that the Thirty arrested the metics in the Tholos and they were given a fair trial<sup>3</sup>. It is the purpose of this paper to argue that Eratosthenes arrested Polemarchus, although he was not guilty, following the orders of the Thirty to seize the money of the metics, and then he brought him to the Council, where he was condemned to death without a fair trial. Eratosthenes could not deny that he had arrested Polemarchus but he hoped to be acquitted by distorting the recent past, which the jurors ignored in all its details. In order to assess the arguments of Lysias and Eratosthenes we must investigate the historical background of the trial. This will be the first part of this study. Then I will examine the questions and answers of Lysias and Eratosthenes, assessing their arguments<sup>4</sup>. In the end, it will appear that Lysias was right to believe the defendant guilty, but the latter still had chances to be acquitted.

First, we must reconstruct the political events that took part before the present trial. Between the Athenian defeat at Aegospotami and the surrender of the city, the *hetairoi* assigned five ephors to be the conspirators' leaders and to oppose democracy (Lys. XII 43), but Theramenes and Eratosthenes were not included among them<sup>5</sup>. After the defeat of the Athenians at Aegospotami, the aristocrats and the exiles who had returned to Athens wished for oligarchy, while Theramenes might have promised to bring about the collapse of the democratic constitution<sup>6</sup>. However, Lysander sided with the oligarchs, so Theramenes and his group participated in the new regime ([Arist.] *Ath. Pol.* 36, 1). Eratosthenes did the same as one of the Thirty (Xen. *Hell.* II 3, 2). From that moment onwards, there was no quarrel among the Thirty but all of them

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<sup>3</sup> See Krentz, 1984.

<sup>4</sup> Sommerstein, 1984, 370-372 has refuted most of Krentz's arguments, but I aspire to offer new arguments and shed light on the importance of the historical background of the trial for the rhetorical assessment of the interrogation.

<sup>5</sup> See [Arist.] *Ath. Pol.* 34, 3 with Rhodes 1981, 431 and Murphy 1989, 43.

<sup>6</sup> See [Arist.] *Ath. Pol.* 34, 2 with Rhodes 1981, 427.

acted against the sycophants collectively<sup>7</sup>. Then the Thirty became violent even against the aristocrats<sup>8</sup>. This was the reason of disagreement between Theramenes and Critias (Xen. *Hell.* II 1, 15-16)<sup>9</sup>. According to Xenophon, the Thirty seized those whom they considered least likely to accept being pushed aside and kept out of public life and also those who would be able to mobilize large numbers of citizens in opposition to them (Xen. *Hell.* II 3, 14). However, Diodorus reports that the Thirty accused those rich Athenians whom they considered appropriate for their scheme, i.e. that they wanted to revolt against their rule (Diod. XIV 4, 4). The two sources are not incompatible. The Thirty took some measures of precaution but they also used as a pretext that some Athenians would go against them. Violence was a tool of the regime, although no real opposition existed yet<sup>10</sup>. The illegality of the Thirty did not stop here, since they executed their fellow citizens even without a legal trial (Diod. XIV 4, 2-3). Thus, because of the many and unjust deaths, the Athenians wondered about the nature of the regime. Theramenes, who had already expressed his opposition to the killings of the aristocrats, reacted against the illegal executions (Xen. *Hell.* II 3, 17). Out of fear that the citizens would support Theramenes, the Thirty drew up a list of three thousand persons (Xen. *Hell.* II 3, 18; [Arist.] *Ath. Pol.* 36, 1-2). On the basis of the fact that the choice of this number as the upper limit to the franchise was at least a reliable way for oligarchs to define themselves<sup>11</sup>, we can rightly call Eratosthenes a pure oligarch and not 'moderate', if we should ever call him as such<sup>12</sup>. Then the Thirty escalated their violence by deciding that each one of them should seize a metic and then the Thirty collectively would condemn him to death and confiscate his property (Xen. *Hell.* II 3, 21; Diod. XIV 5, 6)<sup>13</sup>. The Thirty kept ordering (ἐκέλευον)<sup>14</sup> Theramenes to choose one himself. He replied that it did not seem good

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<sup>7</sup> See Xen. *Hell.* II 3, 12, Diod. XIV 4, 2 and [Arist.] *Ath. Pol.* 35, 3 respectively. Murphy 1989, 43 rightly argues that we cannot take at face value Lysias' claim that Eratosthenes was one of the ephors.

<sup>8</sup> Xen. *Hell.* II 3, 14; 15; Diod. XIV 5, 6; [Arist.] *Ath. Pol.* 35, 4.

<sup>9</sup> See Adeleye 1976, 12.

<sup>10</sup> For the use of violence by the Thirty see Wolpert 2006, 213-223.

<sup>11</sup> See Brock 1989, 163.

<sup>12</sup> Cf. Whitehead 1982-1983, who stresses that instead of talking about 'moderate and 'extreme oligarchs', we should better make a distinction between those of the principals who saw little or no reason to hide what they were doing, and those who preferred the façade of a legitimate and constitutional oligarchy.

<sup>13</sup> Cf. Lys. XII 18, which states that *the Thirty* ordered Polemarchus to drink hemlock.

<sup>14</sup> As the imperfect tense of the verb κεύω denotes.

to him for people who claim to be the best to behave more unjustly than the sycophants. Theramenes believed that the sycophants at least allowed their victims, from whom they extorted money, to remain alive, whereas the Thirty would kill men who had done nothing wrong in order to take their money. For him this was more unjust than what the sycophants did (Xen. *Hell.* II 3, 21-22). Theramenes implied that his collaborators would not only grab the metics' money and do them injustice deliberately by bringing false charges<sup>15</sup> but also they would not bring them to court to face a trial, even a fake one. It is evident that through the pejorative word 'sycophant' Theramenes indicated his strong disapproval of the decision of the Thirty to eliminate the metics<sup>16</sup>. After this *all* the Thirty considered Theramenes' conduct detrimental to their rule and secured his condemnation and execution by accusing him in the Council (Xen. *Hell.* II 3, 23; [Arist.] *Ath. Pol.* 37, 1)<sup>17</sup>. Critias urged the Councillors 'to get out of the way one of the demagogues' (Xen. *Hell.* II 3, 27). Obviously, Critias and the Thirty wanted to play down in the Council the issue of the arrest of the metics. This happened because Critias and the Thirty knew that the metics had not opposed their regime and because they wanted to hide that their real motive behind this arrest was greed for money<sup>18</sup>. Theramenes replied by reminding his audience that he had spoken against the decision of the Thirty that each one of them should seize a metic, because it was obvious that if they destroyed these men, all metics would become enemies of the government (Xen. *Hell.* II 3, 41)<sup>19</sup>. Theramenes is not clear about the time when the Thirty decided to arrest the metics, but he talks in a way which gives the impression that he is narrating the deeds of the Thirty in chronological order: Leon of Salamis, Niceratus and, at the end, the metics (Xen. *Hell.* II 3, 39-41). Considering that Leon's execution must have taken place late in the reign of the

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<sup>15</sup> For money-grubbing, lack of justice and deliberately bringing false charges as characteristics of sycophants see Harvey 1990, 107, 110-113.

<sup>16</sup> For the use of the word sycophant by a man who disapproved of the subject to which he was referring to see Harvey 1990, 107. Harvey's analysis definitely applies to Theramenes' argument.

<sup>17</sup> Németh 2006, 13-39, analyzing the structure of the regime of the Thirty, accepts from [Arist.] *Ath. Pol.* that Theramenes was isolated by the rest of the Thirty. Bearzot 2009, 139-140 thinks that such a position is excessive, but the text presents Theramenes as the only one to react to the violence of his colleagues.

<sup>18</sup> Schenkeveld 1999, 381.

<sup>19</sup> Theramenes does not explain if those who were arrested are all dead or if one or more managed to escape. This was an issue that nobody was bothered to discuss at this moment.

Thirty<sup>20</sup>, the decision of the Thirty to kill the metics inevitably took place some time afterwards.

The number of the metics mentioned in the sources seems to be a problem. Krentz remarks that Lysias mentions ten metics and believes that this number has been exaggerated to thirty in Xenophon and sixty in Diodorus<sup>21</sup>. Bearzot considers it probable that the Thirty altered their plan and reduced the number of the metics from thirty to ten<sup>22</sup>. I agree. Xenophon says that the Thirty decided that each one of them should arrest a metic, so in total they should kill thirty people (*Hell.* II 3, 21). Theramenes refused to follow their scheme, but he was the only one to do so (*Hell.* II 3, 22-23). Thus, the plan of the Thirty had to change and be completed by one member less. Lysias says that the Thirty decided to arrest ten metics, two of them poor in order to divert the impression of the Athenians from their real purposes (XII 7). This specification about the wealthy metics finds some support in Xenophon's account. Theramenes says that he opposed the arrest of Niceratus, who was rich, of Antiphon who had been a trierarch, that is a wealthy man, and of the thirty metics (*Hell.* II 3, 39-41). Theramenes does not explicitly say that these metics were rich, but he takes it for granted that they were well known for this reason. His point was that if the Thirty took the property of the wealthiest aliens of Athens, all the rest would fear and become hostile to the regime. Evidently the Thirty realized the point of Theramenes and arrested two poor metics in order to avoid provoking the reaction of all the others, as we read in Lysias. Someone might expect to read in the orator that the Thirty changed their plan. This means that Lysias should admit that Theramenes, who had been punished justly under the oligarchy (XII 72), forced his collaborators to alter their scheme about the metics<sup>23</sup>. But if he did so, he would have weakened his argumentation.

From this analysis it is evident that the aim of the Thirty was to take the money of the metics<sup>24</sup>. There is no doubt that Lysias' emphasis on the greed of the Thirty is a big part of his strategy in order to have Eratosthenes condemned<sup>25</sup>. Nevertheless, not only the historians but also

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<sup>20</sup> See Rhodes 1981, 446 and now Phillips 2008, 139, n. 15.

<sup>21</sup> Krentz 1982, 80-81.

<sup>22</sup> See Bearzot 1997, 107-108.

<sup>23</sup> Thus, I disagree with Meriani 2006, 152-153 who argues that it is inexplicable why Lysias does not explain why the Thirty changed their minds about the metics.

<sup>24</sup> Thus, I disagree with Krentz 1984, 30 who believes that not only Lysias but also Xenophon does not tell the truth that the Thirty wanted to take the money of the metics.

<sup>25</sup> For this issue see Usher 1985, 236.

several litigants (of Lysias) argue about the greed of the Thirty<sup>26</sup>. If this was not true, the speakers would not make such an exaggeration. Consequently, the Thirty were motivated both by the need for money and by the desire to rid themselves of actual or potential opponents<sup>27</sup>. Eratosthenes was an associate of Theramenes in the beginning of the regime, but their friendship stopped very soon.

On the other hand, this does not mean that the Athenians could know if the relations between the Thirty changed during their government. The meeting between Theramenes and Critias was a private one; so if anyone learned about this, he must have been one of the other Thirty (Xen. *Hell.* II 3, 15-18). Moreover, when Critias and Theramenes spoke against each other in the Council, what was said there could be known only to the Councillors (Xen. *Hell.* II 3, 23)<sup>28</sup>. Given that the Three Thousand deposed the Thirty (Xen. *Hell.* II 4, 23), few would remember that Eratosthenes had not supported Theramenes. In fact, the men of the city established their loyalty to democracy by dissociating themselves from the Thirty and their crimes<sup>29</sup>. This means that they had every reason not to remember what Eratosthenes had done. Last, Theramenes had suffered the death of a martyr at the instigation of Critias (Xen. *Hell.* II 3, 50-56)<sup>30</sup>. The old impression of the Athenians that Eratosthenes was a friend of Theramenes could allow the former to claim that he had remained as such to the end, although this was a lie<sup>31</sup>. Thus, what should be considered a *fact* could be a matter of controversy. For this reason, the interpretation of the reasons of the arrest and the execution of Polemarchus could also be interpreted in a different way by the plaintiff and the defendant. Lysias chose to overcome this difficulty by confronting Eratosthenes in direct examination. This was most probably rare<sup>32</sup>. Nevertheless, Lysias hoped that it would help him prove that Eratosthenes was guilty, because the person questioned was bound

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<sup>26</sup> See Balot 2002, 223, 227-233.

<sup>27</sup> See [Arist.] *Ath. Pol.* 35, 4 with Rhodes 1981, 446.

<sup>28</sup> Note that Lysias supposedly recalls to the jurors' memory what Theramenes said to the Council (XII 77), but what he says is a fabrication (see Todd 2000, 132, n. 43).

<sup>29</sup> See Wolpert 2002, 111-118. Cf. also Lys. 26, 19, where the speaker claims that the men of the city chose to concert a government with the restored exiles rather than enslavement to the Lacedaimonians with the Thirty.

<sup>30</sup> See Harding 1974, 104-108.

<sup>31</sup> The concept of friendship was so strong to the Athenians that one litigant of Lysias claimed that Alcibiades and Adeimantus had remained friends and that they betrayed the Athenian fleet to the Spartans at Aegospotami, although this claim was far from the truth. See Kappellos 2009, 257-266, especially 263.

<sup>32</sup> See Todd 2002, 155.



to answer such questions<sup>33</sup> and did not in practice have a choice in his response<sup>34</sup>. Therefore, this interrogation could function as the formal 'evidence' on Eratosthenes' role in the murders<sup>35</sup> and aimed to lead the defendant from his own statements into an absurdity<sup>36</sup>.

Lysias poses five questions to Eratosthenes (XII 25).

*Question 1.* Lysias: «Did you arrest Polemarchus or not?». Eratosthenes: «I was acting on the orders of those in power out of fear» (Ἀπὴ γὰ γες Πολέμαρχον ἢ οὐ; Τὰ ὑπὸ τῶν ἀρχόντων προσταχθέντα δεδιὼς ἐποίουν). Eratosthenes tries to divorce himself from the decision of the Thirty to arrest the metics, although he was one of them. Fear is a cognitive response. It depends on the knowledge or understanding that a person is dangerous and can harm us<sup>37</sup>. Krentz (who bases his interpretation on [Arist.] *Ath. Pol.* 37, 1, where it is said that the occupation of Phyle by Thrasybulus happened early<sup>38</sup>) believes that Eratosthenes replies to Lysias not that he feared the Thirty, who had ordered him to take part in the arrest of the metics, but Polemarchus and Lysias, who could have supported the rebel Thrasybulus with money. If the resistance of Theramenes had started early, the Thirty could fear that the metics would help the rebels. Thus, Lysias and Polemarchus could have helped the rebels secretly before the attempt of the Thirty to arrest them. Moreover, Krentz believes that the Thirty had the right to consider the metics traitors on democratic terms. However, such an argument is not right. It is better to accept Xenophon's testimony that Thrasybulus had not occupied Phyle yet<sup>39</sup>. In addition, the characterization of the metics as traitors is wrong. Critias, speaking on behalf of the Thirty, said that their regime was an oligarchy supported by Sparta, that they were against democracy and that they considered Theramenes a traitor because he turned against them (Xen. *Hell.* II 3, 24-26; 29-33). Therefore, it is not right to say that the Thirty defined the metics as men who attempted to overthrow the government by means of foreign aid or that they betrayed the city to an enemy. Thrasybulus and his rebels were not a foreign aid and not an enemy of Athens, but enemies of the Thirty themselves<sup>40</sup>.

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<sup>33</sup> See Todd 2002, 152.

<sup>34</sup> See Lavency 2007, 19 (citing Lys. XII) and Todd 2002, 163.

<sup>35</sup> Carawan 2013, 385.

<sup>36</sup> See Usher 1985, 245.

<sup>37</sup> See Konstan 2006, 129-155.

<sup>38</sup> See Krentz 1984, 28.

<sup>39</sup> See Rhodes 1981, 451.

<sup>40</sup> As Krentz 1982, 81 says, Lysias' actions were treacherous from the Thirty's point of view.

Moreover, the argument that Lysias and Polemarchus were in contact with Thrasybulus at this early stage of the resistance to the oligarchic regime is not right for the following reasons. First, it is not supported by the historical sources. As I said earlier, Theramenes' speech allows us to infer that the Thirty's decision to kill the metics took place in the last months of their government.<sup>41</sup> When Thrasybulus went to Phyle he had only seventy men, while the Thirty sent against him the Three Thousand along with the cavalry (Xen. *Hell.* II 4, 2). Evidently, the Thirty moved very fast against the rebels, believing that they would crush them easily. This would have happened because of their numerical superiority; so it is improbable that the Thirty feared them, but, on the contrary, they felt confidence<sup>42</sup>. Some time must have elapsed when Thrasybulus decided to move down the hill of Phyle and attack the army of the oligarchs' again, because his men were now seven hundred (Xen. *Hell.* II 4, 5).<sup>43</sup> It was exactly at this moment and not during his stay at Athens that Lysias helped the rebels<sup>44</sup>. In Lysias' *On Hippotherses* it is said that the orator hired mercenaries and gave money to the rebel democrats (fr. 1 Gernet/Bizos). This passage resembles very closely Ps-Plutarch's biography of Lysias<sup>45</sup> and although we do not know where it was mentioned that the orator joined the democrats when Thrasybulus attacked the oligarchs from Phyle, such an argument should not be doubted on the basis of Ps-Plutarch's testimony. This means that Lysias himself would mention to his jury that he joined Thrasybulus when he had fled from Athens and not when he was still there.

Second, the argument that Eratosthenes feared Lysias and Polemarchus does not take into account the limits of public speech in the lawcourts of Athens<sup>46</sup>. At least in the extant speeches, speakers who

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<sup>41</sup> See above, pp. 54-55.

<sup>42</sup> Thus, it is not surprising that when some of the young supporters of the Thirty's men attacked the rebels, they failed to conquer Phyle and got wounded (Xen. *Hell.* II 4, 2).

<sup>43</sup> Note that in this passage Xenophon uses the adverb ἤδη. Wolpert 2002, 25 says that 'perhaps these reinforcements arrived within a month of Thrasybulus' seizure of Phyle'.

<sup>44</sup> Cf. Xen. *Hell.* II 4, 5 (ὁ δὲ Θρασύβουλος, ἤδη συνειλεγμένων εἰς τὴν Φυλὴν περὶ ἐπτακοσίους, λαβὼν αὐτοὺς καταβαίνει τῆς νυκτός) with Plut. *Mor.* 835f, who first mentions that Lysias escaped at Megara, then says: ἐπιθεμένων δὲ τῶν ἀπὸ Φυλῆς τῇ καθόδῳ; Plutarch also explains that the orator proved very useful to the rebels because he gave them money, shields, hired mercenaries and convinced his *xenos* Thrasydaeus from Elis to give two talents.

<sup>45</sup> Krentz 1982, 73 n. 11 has noted the resemblance between the texts and has rightly remarked that the text of Lysias must have been the source of Ps-Plutarch (see previous n.).

<sup>46</sup> If this analysis is right, I may add one more aspect to Carey's limits in public speech in Athens (1997, 29-49).

fought on the side of the democrats in the Peiraeus offered only scanty details about their services<sup>47</sup>. Thus, Lysias the prosecutor would violate the norms if he mentioned his supposed anti-oligarchic action. However, let us say that not all the jurors remembered the recent historical past well. Lysias is clever because he anticipates the suspicion of some jurors that he might have been very eager to support Thrasybulus. Thus, after he says that the arrest of the metics was only a pretext for the Thirty (XII 6), he mentions his father Cephalus, he says that he and his brother lived under the democracy in such a way that they neither offended nor were offended against (XII 4), and emphasizes their fortune (XII 9) and the money they had spent for Athens (XII 20). Therefore, if Lysias believed that some jurors would not believe that he was telling the truth about his stance and Polemarchus' stance towards the Thirty, he would have given detailed information about how he helped the rebels as to elicit sympathy at this very point.

Third, it would be a wrong tactic for Eratosthenes to say «*I feared Polemarchus*» instead of saying «*we, the Thirty, feared Polemarchus*». In this way, Eratosthenes would isolate himself from the other Thirty and take full responsibility for the execution of a man who was not guilty, as he says immediately afterwards. Thus, we must believe that the former oligarch argues that he feared the other Thirty. This means that he knew that his colleagues were dangerous and unjust, and so they could have done him harm. Given the Thirty's determination to kill Theramenes, we can infer that Eratosthenes implied that he could have the same fate. The argument of a member of the Thirty fearing the others is interesting because it gives the impression that even Theramenes had agreed to the arrest of the metics. However, this is a lie, as I showed earlier<sup>48</sup>.

*Question 2.* Lysias: «Were you in the Council-chamber when the statements were being made about us?». Eratosthenes: «I was» (Ἦσθα δ' ἐν τῷ βουλευτηρίῳ, ὅτε οἱ λόγοι ἐγίνοντο περὶ ἡμῶν; Ἦν). Krentz says that we know very little about where the Thirty were accustomed to meet and argues that the Thirty decided to arrest the metics not in the *bouleuterion* but in the Tholos<sup>49</sup>. I disagree. The word *bouleuterion* should mean the *bouleuterion* of the council of five hundred except in a context where a different meeting-place (such as the Areopagus) is made clear. Moreover, we must note that Lysias says that the Athenians and the metics like him-

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<sup>47</sup> See Wolpert 2002, 101-102.

<sup>48</sup> See above, pp. 53-54.

<sup>49</sup> See Krentz 1984, 26-27.

self were restricted from attending the meetings of the Thirty (XII 33), but he takes for granted that everybody knew the regular place where the Thirty met, which seems to have been only one. In his speech *Against Agoratus* Lysias describes the procedure by which the Thirty tried the traitors whom Agoratus denounced and says that the Thirty occupied the presidential benches in the *boule*, where the prytaneis normally sat<sup>50</sup>. Evidently, the Thirty used the Council as a tribunal. Thus, when Lysias asks Eratosthenes whether he was present in the Council-chamber when the Thirty discussed about the fate of the metics, he has in mind only the *bouleuterion* of the council of the five hundred. Therefore, there is no reason to believe that the oligarchs took the decision to arrest the metics in the Tholos<sup>51</sup>.

Moreover, Krentz argues on the basis of Lys. XIII 54, who mentions the trial of two metics by the Council, that Polemarchus must have been given a trial<sup>52</sup>. However, this is wrong for the following reasons. First, it conflates the historical events. The speaker of the aforementioned speech refers to trials that took place at a time when the democratic regime had not yet been subverted<sup>53</sup>. The Thirty were indifferent to the metics at this time; when some metics opposed them, the Thirty moved them out of their way, while they did not harm Agoratus because he served their plans. Thus, the comparison between these metics and Polemarchus is wrong. Second, Sommerstein has shown that: (a) there was no capacity in which Eratosthenes could have spoken if there was a formal trial and (b) Lysias is included in the group of metics in defence of which Eratosthenes supposedly spoke<sup>54</sup>. I may add that the verb ἀντέλεγον, which is used by both Lysias and Eratosthenes, denotes in all its uses a meeting but not a trial<sup>55</sup>. On the basis of the evidence I cited above, it is rather certain that Eratosthenes led Polemarchus to the Thirty in the *bouleuterion*, where he was sentenced to death and was ordered to drink the hemlock<sup>56</sup>.

<sup>50</sup> See Rhodes 1972, 26 and 33.

<sup>51</sup> This of course does not mean that the Thirty could not use the Tholos when they were on their own. The Thirty wanted to be certain that those who remained in the city were loyal to them, so they tried to implicate Socrates (Pl. *Ap.* 32 c8) by ordering him to arrest Leon, in the Tholos (Pl. *Ap.* 32 c5-6, d5-7).

<sup>52</sup> Krentz 1984, 30.

<sup>53</sup> See Lys. XIII 5.

<sup>54</sup> See Sommerstein 1984, 371.

<sup>55</sup> See Lys. VIII 11; Isoc. XII 89; [Dem.] LXXVII 29; [Dem.] LXXXVIII 44; Xen. *Hell.* II 2, 19; III 3, 1; VI 5, 2; *An.* II 5, 29.

<sup>56</sup> Cf. Lys. XIII 38, where the speaker defines the *bouleuterion* as the place tried those whom they wanted to convict to death.

*Question 3.* Lysias: «Did you speak in support or in opposition of those who were urging the death sentence?». Eratosthenes: «In opposition» (Πότερον συνηγόρευες τοῖς κελεύουσιν ἀποκτεῖναι ἢ ἀντέλεγες;). Krentz remarks that Lysias asks Eratosthenes how he spoke but not how he voted. For this reason he suggests that the *boule* met after the arrests of the metics and voted for their death, while Eratosthenes did not<sup>57</sup>. Phillips says that the cross-examination of Polemarchus shows that the Council was at least complicit in Polemarchus' execution<sup>58</sup>. I believe that this is right. In Lys. XIII 54 we read that the metics Hippias of Thasos and Xenophon of Koureion were sentenced to death by the Council. Whether the Thirty gave no explanation as to the reason Polemarchus was executed, as Lysias claims (XII 17), is uncertain<sup>59</sup>. Given that Eratosthenes had agreed with the extermination of the metics<sup>60</sup>, it is certain that he lies by saying that he voted against the death sentence. Nonetheless, by claiming that he had opposed the metics' extermination, he could hope for the sympathy of the jurors, since none of the jurors was present<sup>61</sup>.

*Question 4.* Lysias: «You were against taking our lives?». Eratosthenes: «Against taking your lives» (Ἰνα ἀποθάνωμεν <ἢ μὴ ἀποθάνωμεν>; Ἰνα μὴ ἀποθάνητε). Lysias makes the fourth question to emphasize that the Thirty were ready to kill innocent men. The orator wants to hear from Eratosthenes not only that he spoke in opposition to those recommending death but also that they should not die. For him this specification is necessary because Eratosthenes could have argued that the metics should be put aside in another way, e.g. by only confiscating their property and forcing them to leave Attica<sup>62</sup>.

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<sup>57</sup> See Krentz 1984, 27-28.

<sup>58</sup> Phillips 2008, 139.

<sup>59</sup> The trials conducted by the Thirty and their supporters were not established democratic procedures (see Krentz 1984, 31, n. 13; Phillips 2008, 139, n. 15). Critias accused Theramenes as a traitor before being forced to drink the hemlock (Xen. *Hell.* II 3, 56). On the other hand, Andocides says that many Athenians died by drinking the hemlock, but he does not specify if specific accusations were made against them (III 10). Regarding the metics, the issue is ambivalent again. Lys. XIII 53 says that the metics Hippias of Thasos and Xenophon of Koureion ἐπὶ τῇ αὐτῇ αἰτίᾳ were sentenced to death. This implies that the Thirty charged the two men for specific things, but these are not mentioned in the jury.

<sup>60</sup> See above, p. 53.

<sup>61</sup> Cf. above, p. 54 regarding the confrontation between Critias and Theramenes in the Council.

<sup>62</sup> Note that after Theramenes' death forced many Athenians to flee to Megara and Thebes (Xen. *Hell.* II 4, 1). Note also that Lysias himself fled to Megara (XII 17).

*Question 5.* Lysias: «In the belief that our fate was unjust or just?». Eratosthenes: «That it was unjust' unjust» ('Ηγούμενος ἡμᾶς ἄδικοι πάσχειν ἢ δίκαια; ἤδικοι). Through the use of the adverbs δικάως and ἀδίκως Lysias implies that the Thirty argued that it was just to execute the metics. At the same time he uses these adverbs so that the jurors can hear if Eratosthenes had approved or disapproved the decision of the Thirty to arrest the metics. This could help him argue that since Eratosthenes disapproved the elimination of the metics, he should have proved it by not arresting Polemarchus<sup>63</sup>. For Lysias Eratosthenes did not differ from the others who wanted to take the metics' money<sup>64</sup>. On the other hand, the defendant was clever. By saying that Polemarchus was to be executed unjustly, Eratosthenes confirmed that he had not suffered under any private wrong himself and that the dead metic had not acted against the state<sup>65</sup>. He still clung to his first answer that he feared the rest of the Thirty. Evidently, Eratosthenes had in mind Theramenes who had said that the metics μηδὲν ἀδικοῦντας (Xen. *Hell.* II 3, 23). In this way he posed as a follower of his former associate.

In conclusion, Lysias was right when he argued that the elimination of Polemarchus was a premeditated murder<sup>66</sup>. Eratosthenes was responsible for the collective decision of the Thirty to arrest Polemarchus and for the execution of the unjust arrest itself<sup>67</sup>. Lysias has proved that the Thirty were συνάρχοντες of Eratosthenes, so his claim that the jurors should punish him for this reason is right<sup>68</sup>. However, it is probable that one of the reasons why the jurors could acquit Eratosthenes was that they did not know everything that the Thirty said or did in their meetings.

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<sup>63</sup> Cf. Lys. XII 26.

<sup>64</sup> See above, pp. 55-56.

<sup>65</sup> Cf. above, p. 59 that Lysias and Polemarchus could not have cooperated with Thrasylbulus in the beginning of the rule of the Thirty.

<sup>66</sup> See Bearzot 1997, 112.

<sup>67</sup> Bearzot 1997, 121. See above, p. 53.

<sup>68</sup> Lysias uses this word in XII 52 and in XII 79, where he calls the jurors to punish Eratosthenes.

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