

Rosalia Hatzilambrou

## Isaeus' Art of Persuasion: the Case of his Third Speech\*

*Summary* – In the present paper I am attempting a fresh reading of the arguments of Isaeus 3 aiming at detecting the tactics by which a fairly doubtful case has been (in all probability) won. I conclude that a series of well-structured arguments of probability combined with good knowledge and manipulation of the Athenian law and the prejudices of the middle Athenians who comprised the ranks of the jury, could prevail and secure success in a legal dispute.

W. Wyse in his monumental edition and commentary of Isaeus wrote that he knew “few examples of Greek oratory that leave on the mind a more disagreeable impression of trickiness and dishonesty”<sup>1</sup> than the third speech (Περὶ τοῦ Πύρρου κλήρου) of Isaeus. Throughout the commentary, Wyse consistently expressed his scepticism about almost every single argument Isaeus advanced. However, there is a strong probability that the client of Isaeus was successful at bringing the action for false witness (δίκη τῶν ψευδομαρτυρίων), on which occasion he delivered the third speech, since he had earlier successfully brought an action of the same type against another witness for the same controversy. Although Athenian jury were not bound by decisions in previous trials, it would have been odd if they had not taken seriously the outcome of a recent trial instituted by the same type of action between the same groups of litigants. A second victory was certainly expected by Isaeus' client, who tactically brought a second action of perjury in order to stop the opponent from reopening, as he had promised, the legal controversy (56). And although there is no indication that Isaeus composed the speech for the first action of perjury, he admittedly adduced much (if not all) of the argumentation put forward at the successful first trial.<sup>2</sup>

To give some credit to Wyse, a careful reading of Περὶ τοῦ Πύρρου κλήρου from the perspective of the advocatus diaboli and an assessment of the strength of the case reveal weaknesses in the arguments of Isaeus, while the opponents'

---

\* I am grateful to Prof. M. Edwards for reading a draft of this paper. I also thank Prof. A. Papatomas for his useful advice, and Prof. N. Conomis, Member of the Academy of Athens, for his constant encouragement.

<sup>1</sup> W. Wyse, *The Speeches of Isaeus*, Cambridge 1904 (repr. Hildesheim 1967), 276. On the contrary, the speech was positively assessed by F. Blass, *Die attische Beredsamkeit II*, Leipzig <sup>2</sup>1892 (repr. Hildesheim 1962), 539.

<sup>2</sup> Cf. 11 – 12, 14, 17, 18.

claim rests on more solid evidence. But this is our impression; that of the primary audience and target of the speech most likely differed. Thus, the aim of this paper is to detect strategies and tactics, by which inconclusive arguments were cleverly presented to the Athenian jury, and in all probability won the case.

But firstly a short synopsis of the prehistory of the legal dispute, made also by Isaeus mainly in the opening paragraphs of the speech (1–6), is essential. Pyrrhus adopted by will Endius, a son of his sister, and brother of the speaker. When Pyrrhus died, Endius succeeded without opposition and, after having held the estate for over twenty years, died without issue. Two days after his death, Xenocles came forward and claimed Pyrrhus' estate on behalf of his wife, Phile, asserting that she was the legitimate daughter of Pyrrhus. He also attempted to take possession of part of Pyrrhus' property (22), but he was opposed by the speaker, who denied Phile's legitimacy and entered a counter-claim on behalf of his mother, Pyrrhus' sister. Xenocles then issued an affirmation supported by evidence (διαμαρτυρία) that his wife was the legitimate daughter of Pyrrhus and of the sister of Nicodemus, but he was successfully prosecuted for false witness by Endius' brother. But this was not the end of the dispute. Xenocles announced his intention to prosecute the witnesses to Pyrrhus' will (56), and in order to forestall this, Endius' brother prosecuted for perjury Xenocles' main witness in the first trial, Nicodemus, who testified that he had given his sister, the mother of Phile, in marriage to Pyrrhus.

### The story

The nature of the case in Isaeus 3 (as in all the extant complete speeches of Isaeus) did not afford the opportunity to the orator to include an extensive narrative account in it. Instead, Isaeus breaks up the narrative of family history into small sections, which gradually provide details of the case, in a manner whereby a concrete story within the realm of Athenian Law is formulated and becomes easily comprehensible to the jury.<sup>3</sup> The story that Isaeus is telling in this speech, is the following: the daughter of a hetaira (Phile) along with her husband and kyrios (Xenocles), and having as main witness her uncle, the brother and pimp of the hetaira (Nicodemus), are attempting by all possible means to seize the substantial estate of an Athenian (Pyrrhus), who once had an affair with her mother and has now been dead for more than twenty years. They claim that Phile, whose paternity is doubtful, is the legitimate daughter of Pyrrhus. They have also managed at some point to secure, for a consideration, the support of three of Pyrrhus' uncles. On the other hand, Endius, Pyrrhus' adopted son and

<sup>3</sup> For the approach of storytelling in Athenian Law, see M. Gagarin, *Telling Stories in Athenian Law*, *TAPhA* 133 (2003), 197–207.

brother of the speaker, who has recently died, cared for the bastard girl. He betrothed her to a citizen and provided her with the right dowry for an illegitimate child. Upon Endius' death, the opponents rushed to get hold of the property.

The opponents of course had another story to tell the court. Their speech is not extant, but they presumably presented Phile as a disinherited orphan, who after the early death of her father was the victim of a family plot to deprive her of her substantial inheritance. Thus, not only had Isaeus (as every speechwriter) to present a plausible story, he also had to tell a more compelling story than the one told by the other side. In the present case, the argumentation of the opponents was mostly known, for this was the second round within the same legal dispute. Given that, Isaeus had the opportunity to support his story, the core of his strategic plan, with effective (mostly) probability arguments (εικότα),<sup>4</sup> which he founded on every possible relevant aspect of human behaviour, namely social conventions, prejudices, statutes, profit and emotion. Isaeus backs his choice by implicitly asserting that probability arguments are more significant than witnesses, who could be bribed.<sup>5</sup> Nevertheless, the employment of the specific kind of arguments (εικότα) in the present case is not disappointing or suspicious. In a society where marital and birth certificates were not issued, these were the expected, if not the only, arguments one would employ to dispute the legitimacy of a girl.

### The arguments

The first half of the speech (up to 39) is dominated by argumentation based on social practices, aiming at showing that the marriage between Pyrrhus and the mother of Phile did not take place. This would result in the condemnation for perjury of Nicodemus. The social conventions the orator is here exploiting are chiefly the gifting of dowry at a betrothal (8/9, 28/29, 35–39), the normal behaviour of a married woman (10–16), and the choice of witnesses (18–27).

The alleged marriage of Nicodemus' sister without a dowry offers a fully developed probability argument. Nicodemus presumably admitted that he had not betrothed his sister dowerless, but ἄνευ ὁμολογίας προικός (29, 35), that is with a dowry which had not been subject to an official evaluation (ἀτίμητος). Such a

<sup>4</sup> For the function of probability arguments in attic forensic oratory, see T. A. Schmitz, *Probability in Greek Orators*, *AJPh* 121 (2000), 47–77.

<sup>5</sup> This strategy is outlined in *Arist. Rh.* 1, 15, 17 (1376a). Bribery of Nicodemus is explicitly mentioned in 39 (ὅς ἐπ' ὀλίγῳ ἀργυρίῳ, οὐδ' ἐπιθυμῶν λέγει πρὸς ὑμᾶς, σφόδρα βούλεται πονηρὸς εἶναι;), and is implied for the uncles in 33 and for the witnesses to Pyretides' ἐκμαρτυρία in 23. On the use of πονηρὸς for bribe-taking, see F. D. Harvey, *Dona ferentes: Some Aspects of Greek Bribery in Greek Politics*, in: P. A. Cartledge and F. D. Harvey (edd.), *CRUX. Essays in Greek History presented to G. E. M. de Ste. Croix on his 75th birthday*, London 1985, 110.

dowry could not be claimed back in law after Pyrrhus' death.<sup>6</sup> For this reason, Isaeus accuses Nicodemus of lying. According to the orator no dowry was returned after Pyrrhus' death, because there was no marriage. If marriage had taken place, Nicodemus would have negotiated even the agreement upon a fictitious dowry, which would have benefited his sister if Pyrrhus had divorced her, or Nicodemus himself if his sister had died childless (36). Profit is clearly a motive used to establish probability arguments in this speech,<sup>7</sup> as well as emotion. Isaeus admits that Pyrrhus could have married a hetaira against all reason because of passion, δι' ἐπιθυμίαν (17, 28).<sup>8</sup> Thus, if it had led him to marry such a woman, he would also have agreed upon a fictitious dowry for her.<sup>9</sup>

It is noteworthy that Nicodemus wished to convince that he dowered his sister but in an informal agreement, while Isaeus with strong language disputes his justifications,<sup>10</sup> and concludes that in the opponents' 'story' the mother of Phile was married ἄπροικος (29, 38). The reason for the insistence on the issue of the dowry is that the provision of it was normally a significant parameter of the ἐγγύη. Although there is some testimony about women who were legally married dowerless,<sup>11</sup> the setting up of a dowry for sisters and daughters was a social necessity.<sup>12</sup> For this reason, if the kyrios of a woman failed to provide for her dowry because of poverty, wealthy relatives and friends often dowered her at their own expense.<sup>13</sup> In this social context, the absence of a dowry provided a strong indication that there was no ἐγγύη, and that Phile's mother lived with Pyrrhus as παλλακή at the most.<sup>14</sup> Isaeus cleverly raises doubts about even the status of concubine for the mother of Phile, when he compared Nicodemus' alleged failure to reach a formal agreement about a dowry for his sister with the relevant behaviour of those who give their women to be concubines (39).<sup>15</sup> This comparison,

<sup>6</sup> See 35. The particular abstract of the law was probably read in 38.

<sup>7</sup> Also in 39, 50, 65–66. On κέρδος used to found probability arguments, cf. Anaximenes (?), *Rhetorica ad Alexandrum* 7, 6, 8 (1428b).

<sup>8</sup> The word is literally employed for hetairai and boys but not wives, cf. *Lys.* 3, 5, [D.] 40, 51, and see A. Glazebrook, *The Making of a Prostitute: Apollodoros's Portrait of Neaira, Arethusa* 38 (2005), 179.

<sup>9</sup> See also 27, 49, 51/52, 71, 73, for emotion employed as a motive to found εικότα.

<sup>10</sup> See 35: ὅστις γέ φησιν ἄνευ ὁμολογίας προικός τὴν ἀδελφὴν ἐγγυῆσαι, περιφανῶς ἀναίσχυντος ὧν ἐλέγχεται.

<sup>11</sup> Cf. *Is.* 2, 5, *Lys.* 19, 15, [D.] 40, 25, *Ter. Ad.* 729. Cf. also *Pl. Aul.* 238, 255, 480.

<sup>12</sup> Cf. *D.* 30, 12, [D.] 40, 25.

<sup>13</sup> For testimonies of such benefactions, see D.M. Schaps, *Economic Rights of Women in Ancient Greece*, Edinburgh 1979, 78–81.

<sup>14</sup> The absence of dowry is also associated with παλλακία in *Plautus St.* 562 and *Trin.* 612, 688–693.

<sup>15</sup> ἐπεὶ καὶ οἱ ἐπὶ παλλακίᾳ δίδοντες τὰς ἑαυτῶν πάντες πρότερον διομολογοῦνται περὶ τῶν δοθησομένων ταῖς παλλακαῖς Νικόδημος δὲ ἐγγυᾶν μέλλων, (ὡς) φησι, τὴν ἀδελφὴν τὴν αὐτοῦ μόνον τὸ κατὰ τοὺς νόμους ἐγγυῆσαι διεπράξατο;

tactically placed at the end of the first half of the speech, is equally effective in sketching the ethos of Nicodemus, for it strongly implies that he was the procurer for his prostitute sister. And the worst kind of procurer in fact, for he did not look after her interests.

The important probability argument of the absence of dowry is strengthened by the exploitation of another social convention, the expected behaviour of a married woman, which can be concisely expressed by the term *σωφροσύνη*.<sup>16</sup> Phile's mother displayed a totally opposite conduct, which is effectively described as *ἀσέλγεια* (13). She had various lovers, before, but also during her acquaintance with Pyrrhus, and after his death (10). She participated in symposia, and was the subject of battles and serenades, whenever she was present at Pyrrhus' house (13/14). She was never betrothed to any other man (16) and never bore the child of anybody else (15).<sup>17</sup> In short, she was available to everyone who wanted her (repeated in 11, 13, 15, 16). The orator supports this description with extensive evidence, which included depositions by Pyrrhus' neighbours (14). Their testimony, actually gossip,<sup>18</sup> was of great importance, because it was taken for granted that they knew everything about his life.<sup>19</sup> Thus, they could speak from a position of secure knowledge about the woman's conduct, when she was associating with Pyrrhus (10). This fact raises strong suspicions about Phile's paternity, for her mother associated with more than one man at the same period.<sup>20</sup>

More testimony is presented that Phile's mother was a hetaira, this time by people who had relations with her (15). The truth of that evidence is demonstrated by the fact that the opponents never saw fit to contest it (11/12, 14).<sup>21</sup>

<sup>16</sup> On *σωφροσύνη*, see H.F. North, *The Mare, the Vixen, and the Bee: Sophrosyne as the Virtue of Women in Antiquity*, ICS 2 (1977), 35–48; A. Rademaker, *Sophrosyne and the Rhetoric of Self-Restraint*, Leiden 2005 (= *Mnemosyne Supp.* 259), 96/97, 153–161, 225/226 n. 1, 260–264.

<sup>17</sup> The *ἄτεκνία* or the birth of not many children was a feature of the life of a hetaira, in opposition to that of a married woman, see C.B. Patterson, *Those Athenian Bastards*, *ClAnt* 9 (1990), 71; D. Ogden, *Greek Bastardy in the Classical and the Hellenistic Periods*, Oxford 1996, 100/101.

<sup>18</sup> Defined as such by V.J. Hunter, *Gossip and the Politics of Reputation in Classical Athens*, *Phoenix* 44 (1990), 319 (= *eiusdem*, *Policing Athens*, Princeton 1994, 113).

<sup>19</sup> See *Lys.* 7, 18. For parallels on the evidence by neighbours in attic oratory, see S.C. Humphreys, *Social Relations on Stage: Witnesses in Classical Athens*, *History and Anthropology* 1 (1985), 313–316.

<sup>20</sup> A tactic of Isaeus in this speech is noteworthy. Although he only has to demonstrate Phile's illegitimacy, he also expresses doubts on her paternity by Pyrrhus (cf. 30, 34) and even on the fact that she was the daughter of Pyrrhus' mistress (cf. 15, 52, 73, 79).

<sup>21</sup> This argument is strongly condemned by Wyse 1904 (see n. 1), 297. However, I think that it effectively supports the impression of the truthfulness of the evidence provided. Moreover, the employment of this argument at only this point in the speech (and in the

Besides that, Pyrrhus had another strong reason for not marrying Nicodemus' sister. Nicodemus was prosecuted for non-citizenship<sup>22</sup> by a member of the phratry he said he belonged to,<sup>23</sup> and was acquitted by only four votes (37).<sup>24</sup> This is not a plain argument of *diabole* against Nicodemus.<sup>25</sup> Given the severe penalty prescribed by the law against a family, if there was proof that an Athenian citizen was legally married to an alien woman,<sup>26</sup> Pyrrhus, like every sensible man, would never have risked marrying a woman who was suspected of being *ξένη*.

The first half of the speech ends by leaving the impression that it is very unlikely that Pyrrhus married Nikodemus' sister. Different *εἰκόσ*-arguments lead to the same end, without however being conclusive. What seems to be conclusive is that Nicodemus' sister was a *hetaira*, which is itself a first rank probability argument,<sup>27</sup> and strongly suggests that Nicodemus acted as her procurer. Isaeus ironically states in 10 that Nicodemus τὸν αὐτὸν τρόπον ... ἄπασι τοῖς πλησιάζουσιν ἐκδέδωκεν,<sup>28</sup> and implied, as I have stated, Nicodemus' profession in 39.

---

extant works of Isaeus) is indicative of how important it was for the success of the case to be established that Nicodemus' sister was a *hetaira*.

- <sup>22</sup> On the γραφή ξενίας, see K. A. Kapparis, *Immigration and Citizenship Procedures in Athenian Law*, RIDA 52 (2005), 71–113.
- <sup>23</sup> For the importance of the evidence of members of the phratry in cases of disputed citizenship, cf. Is. 12, 8, [D.] 57, 43, 67, and see Humphreys 1985 (see n. 19), 342/343, S. D. Lambert, *The Phratries of Attica*, Ann Arbor<sup>2</sup>1998, 25–57.
- <sup>24</sup> Wyse 1904 (see n. 1), 317, has observed the effective use of the aorist μετέσχευεν, which implies that Nicodemus' status of a citizen had been created by the verdict, and not inherited from his parents.
- <sup>25</sup> On *diabole* in general, see more recently C. Carey, *The Rhetoric of Diabole*, available at <http://eprints.ucl.ac.uk/3281/> passim. On the particular topos of *diabole*, cf. W. Voegelin, *Die Diabole bei Lysias*, Basel 1943, 111–116. Prosecution for ξενία was shameful for an Athenian citizen, even if acquitted, cf. Is. 8, 44. The fact, however, that Nicodemus' sister was a *hetaira* strengthens the suspicions upon the civic status of Nicodemus and his sister, for *hetairai* were usually foreign women, freedwomen or slaves.
- <sup>26</sup> The law is quoted in [D.] 59, 16 and 52, and was introduced between 403–340. K. A. Kapparis, *Apollodoros Against Neaira* [D. 59], Berlin - New York 1999, 198–202 opts for the 380's. The argument of Isaeus would sound more effective, if the aforementioned strict law was in force at the time Isaeus 3. was delivered. This thought should perhaps be taken into account, when the dating of the trial, at which the present speech was delivered, is discussed. On the dating of the speech, which is considered among the early works of Isaeus, see R. F. Wevers, *Isaeus: Chronology, Prosopography, and Social History*, The Hague 1969, 21; D. M. MacDowell, *Dating by Rhythms*, CR 21 (1971), 24–26.
- <sup>27</sup> The importance of this argument is evident from the main question of the case, the τέλος of this speech, as expressed by Isaeus πότερον ἐξ ἐγγυητῆς ἢ ἐξ ἐταίρας ἢ ἀμφισβητοῦσα τοῦ κλήρου τῷ θεῖῳ γυναικὸς εἶη (6, repeated in 24), and the answer offered by him in 11: καίτοι ὅπου κοινὴν αὐτοὶ ὠμολογήκασι εἶναι τοῦ βουλομένου τὴν γυναικα, πῶς ἂν εἰκότως ἢ αὐτῇ γυνὴ ἐγγυητῆ δόξειεν εἶναι;
- <sup>28</sup> The use of the ambiguous ἐκδέδωκεν (give in marriage and hire out for mercenary purposes), which is an emendation by Reiske for the MS ἐδεδώκει, adds to the irony of the

Such a character was stereotypically portrayed to be avaricious, immoral and capable of base actions in order to gain some money.<sup>29</sup> This is specifically expressed, when Nicodemus is accused that ἐπ' ὀλίγῳ ἀργυρίῳ, οὗ ἐπιθυμῶν λέγει πρὸς ὑμᾶς (i. e. τοὺς δικαστάς) σφόδρα βούλεται πονηρὸς εἶναι (39). This is actually the closing period of the first half of the speech, which the jury had in their ears before listening to the legal arguments, adduced in the second half of it.<sup>30</sup>

The most difficult issue Isaeus had to tackle in this speech was the presentation of witnesses by the opponents. They brought forward an absentee deposition (ἐκμαρτυρία) by Pyretides, according to which he was present at the ἐγγύη of Nicodemus' sister with Pyrrhus. The ἐκμαρτυρία was confirmed by two Athenians. Moreover, three uncles of Pyrrhus (and of the mother of the speaker) testified in support of Xenocles and Phile. It certainly gave the impression that Nicodemus was supported by both relatives (the three uncles) and non-relatives (Pyretides and the witnesses of the latter's absentee deposition), and that the uncles were against their niece (the mother of the speaker) and backed up the claims of Phile. Isaeus places his counter-arguments on this issue just after the effective argumentation that Phile's mother was a hetaira. He also chooses a relatively early point in the speech for disputing the testimony of the opponent's witnesses. What follows in the second part of the speech is more persuasive and could carry a retrospective force.

The evidence of Pyretides was, in my opinion, more difficult to be overturned. At the beginning of this section Isaeus emphatically states that Pyretides has disavowed his deposition and that he does not even admit that he has ever given one (18).<sup>31</sup> However, Isaeus cannot provide concrete proof to support this assertion, e. g. an ἐξωμοσία by Pyretides,<sup>32</sup> thus he uses an argument of probability, which is intentionally long-winded (19–27). Nicodemus claimed<sup>33</sup> that he

---

period, see S. Usher, *Greek Oratory. Tradition and Originality*, Oxford 1999, 164 n. 112. The effective ambiguity of ἐκδιδόναι is a further reason for accepting Reiske's emendation.

<sup>29</sup> See Kapparis 1999 (n. 26), 229 for references.

<sup>30</sup> It is noteworthy that a strong negative remark on Nicodemus' character (ἀνασχυντότατος) introduces the legal arguments in 40. In the first part of the speech, where the orator clearly aims at establishing the ethos of the opponent, apart from πονηρός, Nicodemus is explicitly referred to as ἀνασχυντότατος (4), τολμηρός (4), ἀναιδής (18), περιφανῶς ἀνάσχυντος (35).

<sup>31</sup> ἦν Πυρετίδης οὐκ ἀναδέδεκται αὐτοῖς, οὐδὲ ὁμολογεῖ μαρτυρήσαι οὐδὲ εἰδέναι τούτων ἀληθές ἂν οὐδέν.

<sup>32</sup> On ἐξωμοσία, see C. Carey, *The Witness's Exomosis in the Athenian Courts*, CQ 45 (1995), 114–119.

<sup>33</sup> The use of the aorist προσεποιήσατο (18, 26) instead of the present προσποιεῖται, cf. e. g. φάσι in 26, adds, in my opinion, to the persuasiveness of the argument. It gives the



invited only a single witness, Pyretides,<sup>34</sup> to a family event of such significance (and open to social suspicion because of the ‘profession’ of his sister) as the betrothal of his poor (and prostitute) sister to a rich Athenian, although more witnesses would have been expected. Pyretides is not referred to as a kin to Nicodemus.<sup>35</sup> The same also holds for Dionysius of Erchia and Aristolochus of Aethalidae, the reported witnesses of Pyretides’ absentee deposition (23). The latter are emphatically defined as totally untrustworthy, but again no proof is offered to support this comment. Instead, Isaeus manages to advance a clever probability argument. Common practice dictates that ἐκμαρτυρίαί, which are prearranged events, are taken in front of many and reputable citizens. It is suspicious that the opponents against social convention invited two dishonest people to witness the absentee deposition by Pyretides within the city, although other conduct displayed by them suggests that they also observed the common practice. To the eviction at Pyrrhus’ factory at the mine works in Besa, a place about 34 miles out from the city-centre, the opponents called as witnesses many Athenians, apparently friends of Xenocles, among which the three named, Diophantus of Sphettus (PA 4438 and 4439, LGPN II s. v. 54),<sup>36</sup> Dorotheus of Eleusis (PA/APF 4610, LGPN II s. v. 52) and his brother Philochares (PA/APF 14773, LGPN II s. v. 18) were all well-known (22). Since Xenocles had used such people as witnesses in the past, why did he not summon the same ones or others of the same social status and number to confirm the deposition about the event that lay at the heart of this legal dispute, the betrothal of his wife’s mother? Because, according to the speaker, Pyretides never testified.

In this trial the orator also had the task of attacking evidence given unanimously by three of Pyrrhus’ uncles, the presentation of which was the most successful strategy of the opponents. According to the latter, they had been invited to Pyrrhus’ betrothal to the dowerless sister of Nicodemus (26), and to

---

impression that Nicodemus himself has now given up his allegations regarding the presence of Pyretides at the betrothal.

<sup>34</sup> It is perhaps noteworthy that Pyretides (PA 12491, LGPN II, s. v. 1) is introduced with no patronymic or demotic, while the latter is mentioned for Dionysius and Aristolochus (23), the witnesses to Pyretides’ ἐκμαρτυρία. The orator perhaps wishes to imply that a certain, unknown Pyretides was reported to be invited to the betrothal of Phile’s mother. It is of course possible that Pyretides, who bore a rare name (an hapax to the best of my knowledge), did not need to be identified with further cognomina.

<sup>35</sup> On the practice of calling kin as witnesses in Athenian courts, especially in cases relevant to legitimacy and inheritance, see Humphreys 1985 (see n. 19), 346/347; and: Kinship Patterns in the Athenian Courts, GRBS 27 (1986), 57–91.

<sup>36</sup> On Diophantus, see also M. Hansen, *The Athenian Ecclesia II*, a collection of articles 1983–1989, 44; D.M. MacDowell, *Demosthenes On the False Embassy* (Oration 19), Oxford 2000, 244.



the δεκάτη of his daughter (30). Additionally, they reported that before dying Pyrrhus had solemnly charged them to take care of his daughter (71). Isaeus employs various tactics against their evidence. Firstly, the relation of the uncles to the speaker's mother is carefully kept in the background. Lysimenes, Chairon and Pylades are consistently defined only as Pyrrhus' uncles.<sup>37</sup> In this way, the relation of the speaker himself to them is never mentioned.<sup>38</sup> Legal dispute within a family aroused negative feelings in the jury,<sup>39</sup> which could be mostly directed towards the younger litigant, who in this case could be the speaker, Isaeus' client.<sup>40</sup> An argument of probability is again called for. Given that Phile's mother was hetaira, it is highly unlikely that Pyrrhus would have invited relatives to attend an event so shameful for the family (27). Isaeus also takes advantage of the inconsistency regarding the name of the girl, in order to argue against the presence of the uncles at the naming ceremony (30–34).<sup>41</sup> Namely, the uncles asserted that they had attended the δεκάτη of Pyrrhus' daughter, when Pyrrhus had given her the name of his mother, Kleitarete, although on the formal claim of Pyrrhus' estate the name of the girl is stated to be Phile.<sup>42</sup> Finally, as promised (end of 34), the uncles' credibility is attacked further along in the

<sup>37</sup> Perhaps some intention is to be traced in the way the three uncles are introduced in 26 Λυσιμένης καὶ οἱ ἀδελφοὶ αὐτοῦ, Χαίρων καὶ Πυλάδης. It may be implied that in fact the evidence of the three uncles should be evaluated as one piece of evidence, given by one uncle, who was followed by his brothers. Cf. also in 70 the address ὦ ἀγαθέ, which could, however, refer to more than one person, see Kühner - Gerth 1, 85 (§ 371, 4β).

<sup>38</sup> On the contrary, the close relation between the speaker, Endius, their mother and Pyrrhus is stressed from the beginning of the speech through the emphatic use of the possessive pronouns as adjectives, see 1 (ὁ ἀδελφός τῆς μητρὸς τῆς ἐμῆς, τὸν ἀδελφὸν τὸν ἐμὸν), 3 (τῆς μητρὸς τῆς ἡμετέρας), 4 (τῷ θείῳ τῷ ἡμετέρῳ).

<sup>39</sup> On the litigation between relatives, see Wyse 1904 (see n. 1), 186/187; C. Carey, Rhetorical Means of Persuasion, in: I. Worthington (ed.), Persuasion. Greek Rhetoric in Action, London - New York 1994, 28.

<sup>40</sup> Cf. for instance another prejudice of the jury against young people, that is the display by them of excessive legal expertise or ambition, on which see Carey 1994 (see n. 39), 28/29.

<sup>41</sup> Examining inconsistencies, which frequently happens in this speech, consists of a *topos* of the enthymemes of Aristotle, see Arist. Rh. 2, 23, 23 (1400a), namely τὸ τὰ ἀνομολογούμενα σκοπεῖν ἐκ πάντων καὶ χρόνων καὶ πράξεων καὶ λόγων. Cf. also Anaximenes (?) Rhetorica ad Alexandrum 5, 1–4 (1427b), 9, 1–10, 3 (1430a).

<sup>42</sup> This argument is not as superficial as Wyse (1904 [see n. 1], 309/310) thought. I do not believe that change of name of a woman, and indeed of an aristocratic one which connected her to the paternal οἶκος, was usual, hence Isaeus' insistence upon this argument. It is *eikós* that Xenocles would have mentioned it upon the formal claim of the paternal estate. Apart from undermining the uncles' credibility, this argument has a second goal. The fact that change of name for women is attested for hetairai and for daughters of hetairai, strengthens the suspicions about Phile's illegitimacy. See C. A. Cox, Household Interests. Property, Marriage Strategies and Family Dynamics in Ancient Athens, Princeton 1998, 176/177.

speech (63–71) through their earlier behaviour towards Phile, which implies their participation for a consideration in the plot organised by Xenocles and Nicodemus, in order to seize Pyrrhus' estate.

Isaeus' most effective tactic, used in almost the entire second half of the speech, is to check the conduct of his opponents towards Phile in the context of the law on wills (περὶ τῶν διαθηκῶν),<sup>43</sup> and especially against the stipulation which deals with the daughters of the testator. He aims at demonstrating that the opponents themselves, assuming that they acted in accordance with the law, treated Phile over a long period as illegitimate. The law on wills is referred to in 42, is subsequently read by the clerk and is quoted by the speaker again in 68. The repetition of the law is not pleonastic. Isaeus tactically mentions it, firstly when he checks the misconduct of Nicodemus (his opponent in this legal dispute) and then, yet again, that of Pyrrhus' uncles (the opponent's main witnesses) towards Phile. The particular stipulation of the law appears to be accurately quoted by the speaker in 68,<sup>44</sup> where immediately after the quotation, Isaeus offers his interpretation (οὐκοῦν μετὰ τῶν θυγατέρων ... οὐδὲν τῶν ἑαυτοῦ). In 42 the interpretation alone is given by the speaker, presumably because the law is then officially read by the clerk.

Isaeus manages to base the strongest argument of this speech on two words of the law on wills, namely on the σὺν ταύταις. He exploits the concise and general tone of the law, or in other words its open texture,<sup>45</sup> in order to prove the deceit of the opponents. Specifically, Isaeus argues that the law obliged fathers with a daughter, when adopting a son, to stipulate that the latter marry the daughter, otherwise the adoption is invalid. The orator leaves no doubt about the correctness of his interpretation. The διαρρήδην which introduces the law in 68, adds a tone of finality to the whole argument. The content of the semi-period that follows the quotation of the law (οὐκοῦν μετὰ τῶν θυγατέρων ἔστι δοῦναι καὶ διαθέσθαι τὰ αὐτοῦ), sounds totally acceptable, for it appears to be a mere repetition of the stipulation supplemented appropriately, in order to build an independent and comprehensible clause. However, the subsequent negative semi-period is not an exact synonym, although presented by Isaeus as such, for it emphatically (notice the sequence of negatives) conveys a more absolute interpretation of the law (ἄνευ δὲ τῶν γνησίων θυγατέρων οὐχ οἷόν τε οὔτε ποιή-

<sup>43</sup> See I. Arnaoutoglou, *Ancient Greek Laws. A Sourcebook*, London - New York 1998, 1/2, for the attestations of the law and select bibliography.

<sup>44</sup> ὁ γὰρ νόμος διαρρήδην λέγει ἐξείναι διαθέσθαι ὅπως ἂν ἐθέλη τις τὰ αὐτοῦ, ἐὰν μὴ παῖδας γνησίους καταλίπη ἄρρενας· ἐὰν δὲ θηλείας καταλίπη, σὺν ταύταις.

<sup>45</sup> Coined as such by H. L. A. Hart, *The Concept of Law*, Oxford 1961, 124–132. For examples of the way litigants in Athens approached issues posed by the open texture of the law, see E. M. Harris, *Open Texture in Athenian Law*, *Dike* 3 (2000), 27–79.

σασθαι οὔτε δοῦναι οὐδενὶ οὐδὲν τῶν ἑαυτοῦ). The latter intentionally replaces in the argumentation of Isaeus the actual stipulation of the law, and is actually introduced instead of it in 42.

Isaeus is our unique source of the specific part of the law,<sup>46</sup> therefore it cannot be checked whether his interpretation was the standard one.<sup>47</sup> My feeling is that it was, urged by social practice, hence the air of confidence in Isaeus' argumentation. However, there is some indication that in the case of the adoption *inter vivos*, the adopted was not obliged to marry the daughter of the adopter, on the condition that she is somehow included in the depositions, for instance through provision for her dowry, and indeed a generous one, cf. *Men. Dysc.* 738, and see L. Rubinstein, *Adoption in IV. Century Athens*, Copenhagen 1993, 95/96, who assumes that "it would be left to the People's Court to decide, in each case of doubt, what could be accepted as due heed to the daughter's claim." If this also held for the testamentary adoption,<sup>48</sup> Phile would not be *epikleros/epidikos* after the adoption of Endius, thus she and her *kyrios* could only have appealed to the court to dispute the size of the dowry provided. But this is not an argument Isaeus would put forward. He argues strongly that according to the story of the opponents, Phile is an *epikleros*-daughter, whose maltreatment by her father's adopted son was, most suspiciously, never contested in law by any of her relatives who now stand in opposition to Isaeus' client.

This argument is strengthened through the discussion of the particulars of the specific suit for the maltreatment (*κάκωσιν*) of the *epikleros*, set by the laws τοὺς τῶν ἐπικλήρων.<sup>49</sup> Their provisions with respect to this suit are firstly mentioned and explained by Isaeus in 46/47, while the actual laws are read in 53, at the end of the examination of Nicodemus' behaviour towards Phile. The suit, as described by Isaeus, is tried by the procedure of impeachment (*εἰσαγγελία*) before the Archon, is open to "anyone who wishes," is free of cost and risk for the prosecutor but could bring the severest punishment to the convicted.<sup>50</sup> However,

<sup>46</sup> Also in *Is.* 10, 13: καὶ τῷ μὲν πατρὶ αὐτῆς, εἰ παῖδες ἄρρενες μὴ ἐγένοντο, οὐκ ἂν ἐξῆν ἄνευ ταύτης διαθέσθαι· κελεύει γὰρ ὁ νόμος σὺν ταύταις κύριον εἶναι δοῦναι, ἔαν τῷ βούληται, τὰ ἑαυτοῦ.

<sup>47</sup> On the question of the validity of Isaeus' speeches as a source for Athenian law, see M. J. Edwards, *Isaeus and the Athenian Inheritance Laws*, in: E. Harris and G. Thür (edd.), *Symposium 2007*, Wien 2009, 41–54.

<sup>48</sup> A. Maffi 1991, *Adozione e strategie successorie a Gortina e ad Atene*, in: M. Gagarin (ed.), *Symposium 1990* (Köln-Weimar-Wien), 218, believed that in a testamentary adoption there was no such option. The adopted had to marry the daughter of his adopter.

<sup>49</sup> Attested in *D.* 37, 45.

<sup>50</sup> It is controversial which actions were available for the prosecution of maltreatment of the *epikleros*. On this topic, see more recently I. Avotins, *Athenaion Politeia* 56, 6 and the protection of the Weak, *CQ* 54 (2004), 461–469.

the opponents/relatives of Phile did not take advantage of this legal procedure, so favourable to the prosecutor, in order to protect the interests of the epikleros.

A clever tactic by Isaeus is to keep in the background as much as possible the key role of Endius in the betrothal and dowering of Phile. Attention to the acts of Endius could turn out to be dangerous, for it could reveal inconsistencies, which would create sympathy for the opponents. On the other hand, an omission of any particular reference to him would be suspicious, for Endius as *kyrios* of Pyrrhus' οἶκος for more than twenty years had administered all its matters, including Phile's marriage. The orator, who checks the behaviour of all parties involved in the case (Nicodemus, Xenocles, the uncles of Pyrrhus, Pyrrhus himself), could not pass over his role in silence. For this reason, Isaeus compresses a brief discussion of Endius' relevant acts into the section on the misconduct of Nicodemus towards Phile (50/51). Endius is never said there to have acted illegally, not even in a rhetorical hypothesis, which would shortly be refuted. He would have been naïve and negligent of the laws on epikleroi (but not unlawful), if he had not himself married the legitimate daughter of his adopter, because he would have had to hand over the valuable property he had inherited to the children born of her.<sup>51</sup> The worst remark Isaeus expresses about Endius is placed in a rhetorical question, which is equivalent to a strong negation. Endius would not have been such a shameless or brazen adopted son (again unlawful is not employed), as to give a legitimate daughter in marriage with a dowry amounting to not even a tenth of her patrimony. The blame for the alleged maltreatment of Phile is immediately shifted onto Nicodemus. Isaeus amply comments (51–54part) that it is Nicodemus who transgressed the laws of the city (read at 53) regarding the protection of the epikleros, if Phile, as Nicodemus has testified, is the legitimate daughter of Pyrrhus.

Isaeus' next target is Xenocles' acts regarding the claim of Pyrrhus' estate, which in the light of the Athenian law appear contradictory (54part–62). These inconsistencies were probably heard at the trial against Xenocles. Although Xenocles claimed that Phile was Pyrrhus' legitimate daughter and formally denied the testamentary adoption of Endius by Pyrrhus, he did not claim the estate of Pyrrhus from Endius while the latter was still alive, especially once Xenocles had children by Phile, who stood to inherit Pyrrhus' estate upon maturity. The existence of children in Xenocles' family would likely avert the danger of ἀφάρεσις of his wife, Phile, from him and her adjudication to her

<sup>51</sup> Cf. R. V. Cudjoe, The Purpose of the «Epidikasia» for an «Epikleros», *Dike* 8 (2006), 72, who cites evidence that a rich epikleros was considered a prize and «suitors flocked around her», and observes that «the situation in which a next-of-kin did not marry a rich epikleros, appears non-existent in the sources.»

next-of-kin, Endius.<sup>52</sup> On the contrary, Xenocles and Phile let Endius enjoy Pyrrhus' property undisputed for many years, but rushed to claim it immediately (εὐθέως) after Endius' death, although the law allowed five years' time after the heir's death for claims of property.<sup>53</sup> Additionally, although Phile, if legitimate, had the right to enter directly into possession of the paternal estate, she preferred to claim it by adjudication, that is through the procedure one had to follow when claiming the estate of a brother. So, in fact, did the mother of the speaker who claimed in this 'normal' way the estate of her brother, Pyrrhus. To those who would object that Xenocles did attempt to enter into part (the most valuable?) of the estate (cf. 22), Isaeus has the answer ready. If Phile and her kyrios believed that they had been illegally hindered from entering into Pyrrhus' estate, they could have applied to the law and have the wrongdoer prosecuted (e. g. with δίκη ἐξούλης) who would then have been subject to the most severe punishment.

In short, the suspicious inconsistency observed in the behaviour of Xenocles and Phile is the following. Although they claimed they had an exclusive legal right to inherit the paternal estate of Pyrrhus because of Phile's legitimacy and the invalidity of Endius' adoption, the time and the procedure they chose to make their claim suggest that they applied for a brother's property. This contradiction is rhetorically enhanced through the presentation of two alternatives regarding the time and procedure available to Phile. Namely, she could either claim the estate of Pyrrhus while Endius was still alive, or she could make a claim to her adopted brother's estate after the latter's death. I do not believe that Isaeus seriously means that Phile now had to claim the property of Endius as his sister. He was too competent a speechwriter and too much of an expert on the inheritance law to advance an argument which lacked legal weight<sup>54</sup> and under-

<sup>52</sup> It is still a matter of controversy whether the relatives could compel the divorce of a married woman, who had become an epikleros in consequence of her father's death, if there were children in the marriage. I am persuaded by the arguments in E. Karabélias, *L' épiklérat attique*, Athènes 2002, 145–158 (where there is discussion of the matter and bibliography) that they could not. Cf. also A. Maffi, *È esistita l' aferesi dell' epikleros?*, in: G. Nenci and G. Thür (edd.), *Symposion 1988, Köln-Wien 1990*, 21–36, who believed that the ἀφαίρεσις ἐπικλήρου did not exist at all, together with the remarks by L. Lepri Sorge, *Per una riprova storica dell' ἀφαίρεσις τῆς ἐπικλήρου*, in: Nenci and Thür, *op. cit.*, 37–39.

<sup>53</sup> According to the speaker, Xenocles and Phile officially claimed the estate on the second day after Endius' death, that is at a time when the ἐκφορά of Endius was still in progress or had just ended. Such improper behaviour is not, however, stressed by Isaeus, as for instance in 6, 39; 9, 3; 32, cf. additionally [D.] 44, 32; 48, 6, probably because his own clients were also occupied with the property at the same time instead of mourning, since presumably the ἐξαγωγή (22) took place before Xenocles' formal claim at the Archon.

<sup>54</sup> The law which prohibited the adopted to dispose of the property of the adopter is attested in [D.] 44, 67/68.

mined his clients' interests, who also claim Pyrrhus' estate (and not Endius').<sup>55</sup> By this argument I understand that Isaeus just wishes to point to inconsistencies on the part of the opponents, which silently suggest that there was no truth in their allegations. Irony is often at home in this speech,<sup>56</sup> as here at the justification of the second alternative: Phile should have claimed by adjudication the estate of Endius ἄλλως τε καὶ εἰ, ὡς φασιν οὗτοι, ἠγγυήκει αὐτὴν τῷ Ξενοκλεῖ ὡς γνησίαν ἀδελφὴν οὐσαν αὐτοῦ (58). In the context of the information that Endius had dowered Phile with less than one tenth of the paternal estate (51),<sup>57</sup> which (coincidentally?) was equal to the biggest possible amount given as νοθεία (49),<sup>58</sup> and in juxtaposition to the constant repetition that Phile was married, as if she were the child of a hetaira,<sup>59</sup> it certainly conveys irony to hear that the opponents believed that Endius had betrothed Phile as if she were his legitimate sister.

Isaeus' criticism of Pyrrhus' three uncles regarding their lack of reaction to the maltreatment of Phile has been treated above, together with the similar conduct of Nicodemus. Additionally, Isaeus argues that the uncles, to the benefit of their interests, would have claimed the epikleros along with the large estate of Pyrrhus by right of kinship, when they realised that neither Endius nor his brother(s) intended to marry her (63–66). The particular stipulation of the law *περὶ τῶν ἐπικλήρων* on the ἀφαίρεσις ἐπικλήρου allowed them to have claimed her even after her marriage to Xenocles, a man totally out of the ἀγχιστεία.<sup>60</sup> The law prescribes that even women given in marriage by their father, necessarily (διὰ τὸν νόμον ἐξ ἀνάγκης) become adjudicable to their next-of-kin, when they acquire the status of epikleros after their father's death. To the objection of the uncles that Phile was not epidikos because of the adoption of Endius, Isaeus calls again upon the law on wills, which in his interpretation leaves no doubt (ἐκ τῶν νόμων σαφέστατα μαθεῖν) that Phile became epidikos, when Endius succeeded to Pyrrhus' property without her. In order to injure the credibility of the uncles even more extensively, Isaeus holds them co-responsible for the inconsistencies observed in the acts of Xenocles (66/67). The orator pushes this

<sup>55</sup> Cf. 3, 5.

<sup>56</sup> Also in 8, 10, 11, 13, 24, 27, 31, 32, 37, 39, 66, 73.

<sup>57</sup> On the relationship between a father's wealth and dowries given to daughters, see Schaps 1979 (see n. 18), 78. Phile's dowry appears to be among the smallest ones attested by the orators, see Schaps 1979 (see n. 18), 99. Dowry amounting to 1000 drachmas is also mentioned in Is. 8, 8, where an extensive justification for the small amount is offered, and in [D.] 59, 70; but this was the dowry given to a woman by her former lover.

<sup>58</sup> See Harp. N18 (ed. Keaney): νοθεία, τὰ τοῖς νόθοις ἐκ τῶν πατρῶων διδόμενα οὕτω καλεῖται, ἦν δὲ μέχρι χιλίων δραχμῶν. Λυσίας ἐν τῷ πρὸς Καλλιφάνη ξενίας, εἰ γνήσιος. Ἰσαῖος πρὸς Λυσίβιον περὶ ἐπικλήρου. Cf. also Σ Ar. Av. 1656.

<sup>59</sup> Explicit in 45, 48, 52, 55, 70, 71.

<sup>60</sup> Emphatically stated in 63: Ξενοκλέα, τὸν μηδαμόθεν μηδὲν γένει προσήκοντα Πύρρῳ.

rhetorical tactic further, aiming at pathopoeia and ethopoeia,<sup>61</sup> for this time he describes such conduct not only as contradictory, hence suspicious, but as defiant to the law (*παρὰ τὸν νόμον*).

Isaeus leaves to the end the examination of the acts of Pyrrhus (72–76), who cared for his legitimate daughter and named her after his mother according to the uncles' testimony (71). However, his own deeds indicate that Phile was not legitimate. The conclusions drawn from his conduct are effectively equal to an *ἐκμαρτυρία* of the dead father. His testimony is superior to the absentee deposition by Pyretides, whose truth was of course disputed by Isaeus, and to the testimony of the uncles. Isaeus argues that Pyrrhus would have had no reason to adopt Endius if he had had a legitimate daughter, for Endius in any case had the right of kinship to claim the *epikleros* and the estate. Additionally, Pyrrhus did not introduce his daughter to his phratry, although it had such a rule (defined as *νόμος* in 76).<sup>62</sup> Pyrrhus also failed to offer the usual wedding feast to his phratry (76) and to perform the regular marital celebrations in his deme (80). In between these two probability arguments, which are supported by evidence, Isaeus places the recapitulation of the probability arguments expressed in the first half of the speech (8–10, 15). In the light of the legal argumentation and of the two last social arguments regarding the non-performance of marital celebrations by Pyrrhus in phratry and deme, these first arguments now gain much in credibility.

#### Isaeus' skill

By strictly legal standards, both ancient and modern, Isaeus' argumentation in this speech is inconclusive. Wyse and other scholars have expressed reasonable counter arguments.<sup>63</sup> An account of the most significant is indicative. To begin with, even if Nicodemus' sister was a hetaira, this fact does not preclude her marriage to Pyrrhus. The absence of dowry was not proof that a marriage did not take place. The opponents did present witnesses to the betrothal of Pyrrhus with the sister of Nicodemus and to the naming ceremony of Phile. Nicodemus may have had no reason to oppose the succession of Endius upon Pyrrhus' death, if the latter had included in his will the condition that the adopted Endius had to marry Phile, when she came of age. As for the absence of reaction by Nicodemus to the marriage of Phile to Xenocles, one could perhaps argue that

<sup>61</sup> Explicit at 67 *ταῦτα πρὸς τὴν ἀναίδειαν αὐτῶν πυνθάνεσθε*.

<sup>62</sup> For the introduction of daughters in the phratries of their father, see M. Golden, *Donatus and Athenian Phratries*, CQ 35 (1985), 9–13; Lambert <sup>2</sup>1998 (see n. 23), 178–181.

<sup>63</sup> See for instance C. Carey, *Trials from Classical Athens*, London-New York 1997, 124–127; M. J. Edwards, *Isaeus*, Austin 2007, 44–46.



the law did not strictly oblige the adopted son to marry the legitimate daughter of his adoptive father. Or, in fact, Endius may have come to an arrangement with Nicodemus, that because of his age and also for the benefit of the girl and the oikos of Pyrrhus, he would not marry the girl himself but somebody who could provide an heir. Phile would, however, be able to claim her father's estate, which would remain intact, after Endius' death. Even if Nicodemus is presented as having neglected the interest of his niece for all sorts of reasons, he is shown to have been a bad uncle, but not proved to be a perjurer. Xenocles may also have explained his long inactivity regarding the estate of Pyrrhus by his fear of losing his wife to Endius by right of kinship. Or Xenocles may also have been bound by an agreement between Endius and Nicodemus. Such a deal would perhaps also justify the behaviour of the uncles. Additionally, the age of Phile or their own family life could give reasons for the uncles' decision not to have claimed Phile themselves by right of kinship. The age of Phile or the condition of Pyrrhus' health might be blamed for the non-introduction of Phile to her father's phratry. One could argue that Pyrrhus' care for his legitimate baby-daughter had urged him to adopt Endius, in order to secure for her a protector. Finally, the omission of holding wedding feasts does not establish proof that there was no marriage between Pyrrhus and Phile's mother.

However, as far as plausibility is concerned, the argumentation of the opponents did present weaknesses, traced by the competent orator and emphatically demonstrated to the jury. The most serious of them appears to be the absence of convincing justification for the long inactivity of the opponents regarding the succession of Endius to Pyrrhus' estate without marrying Phile, and her betrothal by Endius to the out of the ἀγχιστεία Xenocles along with a small dowry. Their behaviour calls for an explanation, especially since Xenocles disputed the validity of Endius' adoption, and is demonstrated as contradictory through the authoritative interpretation of the laws on wills and on epikleroi. A possible deal between Nicodemus and Endius would explain the inconsistencies, but could not be presented in court. Isaeus would be fully aware of it. Thus, the discrepancies remained, are emphatically demonstrated, and certainly undermined the opponents' story.

On the other hand, Isaeus competently manages to present plausible, entirely relevant and well-structured argumentation, from which a reasonable story clearly emerges. His arguments are mostly εἰκότα. Before launching them the orator prepares his audience. He proves that Phile's mother was a hetaira and strongly indicates that her brother, the defendant in this case, was her pimp. This invokes certain social expectations about the behaviour of such a person, certainly negative, and serves as an implicit ethos-argument. Additionally, the fact that Nicodemus' sister was a hetaira consists of a first rank probability argu-

ment: is it likely that Pyrrhus married such a woman? However for the sake of argument, Isaeus acknowledges that Pyrrhus could have married a hetaira because of passion, and he starts checking the validity of this working hypothesis against his εικότα, relevant, as we have seen, to many aspects of human behaviour, custom, law, profit and emotion. The weakest among them are placed fairly early in the speech (i. e. the dispute of the evidence presented by the opponents) and are preceded and followed by stronger or the strongest ones in the speech (i. e. the legal arguments). The arguments advanced by Isaeus refer to the behaviour of all people involved in the case, namely Nicodemus, Xenocles, Endius, Pyrrhus' uncles and most importantly Pyrrhus himself. In the end, Isaeus succeeds in presenting a speech rich in sufficiently justified probability arguments coming from all different angles, which all lead to the same conclusion, the one that favours his client. And this is pretty effective.

In this paper, I have attempted to demonstrate by examining mostly the εὔρεσις (inventio) and τάξις (dispositio),<sup>64</sup> that the third speech of Isaeus displays qualities which rendered it persuasive to its primary audience, the Athenian jury, and probably secured success for the client of the orator in the ἄγών. This aspect should prevail upon evaluating the quality of this piece (as every piece) of oratory.

Rosalia Hatzilambrou  
Academy of Athens (K.E.E.L.G.)  
rosahatz@academyofathens.gr

---

<sup>64</sup> The λέξις (lectio) of the third speech is systematically treated in my forthcoming edition and commentary of Isaeus 3, to be published by the Academy of Athens. See also C. A. Robertson, Tropes and Figures in Isaeus, Princeton 1901, passim; W. W. Baden, The Principal Figures of Language and Figures of Thought in Isaeus 1906, passim; Usher 1999 (see n. 28), 163–167.

