

## THE RATES OF JURY PAY AND ASSEMBLY PAY IN FOURTH-CENTURY ATHENS\*

### ABSTRACT

*During the fourth century, the amount of money Athenians got from the polis for volunteering to sit on a jury and for attending the assembly diverged significantly. Jury pay remained at 3 obols a day, despite inflation, while the pay given for a principal (kyria) assembly eventually rose from 1 obol to 9 obols—outpacing inflation and overcompensating most citizens for their time. What demographic reconstruction of the jury can explain why the real value of jury pay never declined to the point that too few Athenians volunteered? Self-reliant citizens (penêtes) must have dominated the jury pool, and penêtes with young adult children would have volunteered most often. Having an additional source of household labour reduced the opportunity cost of jury service for these Athenians and made their participation more resilient in the face of the declining value of pay. Citizens who faced greater opportunity costs probably participated less over time, meaning that fourth-century juries gradually became less diverse. By contrast, the growth in assembly pay can best be understood in terms of the ‘Lycurgan’ agenda of the 330s and the 320s. Greater pay helped to ensure that the assembly’s newly expanded meeting place on the Pnyx was filled to capacity with citizens from all over Attica. The result was a massive spectacle that celebrated a threatened democracy and stimulated the polis economy. Since the courts lacked the same capacity for spectacle, there was no political motivation to pay jurors more.*

**Keywords:** Athens; fourth century; democracy; jury; assembly; pay; *theôrikon*; Pnyx

Among all the public payments of fourth-century Athens, jury pay is conspicuous for remaining unchanged at 3 obols per diem. Cleon lifted the rate to 3 obols sometime between his return from Pylos in late 425 and the performance of *Knights* in early 424.<sup>1</sup> The rate was unchanged in 414 (Ar. *Av.* 1541) and was still the same in the early 320s (Arist. [*Ath. Pol.*] 62.2, 68.2).<sup>2</sup> This stability is curious considering the evidence for fourth-century wage inflation. Per diem wages of workers on state building projects appear to increase over the same period, from around one drachma for unskilled workers in the Erechtheum accounts of 409/8–408/7 (see *IG I<sup>3</sup>* 475.272–85, 476.124–34) to 1.5 drachmas for unskilled workers and up to 2.5 drachmas for skilled workers in the Eleusis accounts of 329/8 (see *IG II<sup>2</sup>* 1672.26–34).<sup>3</sup> Alongside this small data

\* My thanks to *CQ*’s referee for their helpful comments. The following abbreviations are used throughout: ‘Kroll’ = J.H. Kroll, *Athenian Bronze Allotment Plates* (Cambridge, 1972); ‘Ober (1989)’ = J. Ober, *Mass and Elite in Democratic Athens* (Princeton, 1989); ‘Todd’ = S. Todd, ‘*Lady Chatterley’s Lover* and the Attic orators’, *JHS* 110 (1990), 146–73.

<sup>1</sup> Ar. *Eq.* 51, 255, 800; schol. Ar. *Vesp.* 88a, 300.

<sup>2</sup> The rate did not fluctuate in the intervening decades; juror allotment tokens (*pinakia*) from the first half of the fourth century bear the triobol stamp (Kroll, 51–3, 59–68).

<sup>3</sup> The piece-work pay given to skilled workers in the Erechtheum accounts makes it impossible to determine their per diem wage. The suggestion that 1 drachma per diem was the normal wage for all the Erechtheum workers, regardless of skill, would mean that the accounts tell us little about market rates (W.T. Loomis, *Wages, Welfare Costs and Inflation in Classical Athens* [Ann Arbor, 1998],

sample, we can set the growth in the rate of the *adynatos* dole paid to those who were poor and physically unable to earn a living, which rose from 1 obol at the start of the fourth century (Lys. 24.13, 26) to 2 obols by the 320s ([*Ath. Pol.*] 49.4), as well as the pay of the *prytaneis*, which went from 3 obols to 1 drachma ([*Ath. Pol.*] 29.5, 62.2). This growth of 50–100 per cent indicates an increase in living costs and suggests that jury pay lost much of its real value in the fourth century.<sup>4</sup> M.M. Markle asserts that, because jury pay was only ever enough to serve as a ration payment, not a wage, and because the long-term grain price remained stable over the fourth century, the real value of jury pay did not decline.<sup>5</sup> Setting aside short-term price fluctuations, surviving price data suggest but cannot confirm a single ‘normal’ grain price for the entire fourth century, and it is unlikely that the price of other consumables remained constant.<sup>6</sup> Even if jury pay was enough to act as a ration payment most of the time, this does not mean that most jurors found it necessary to treat it as such and spend it on food.

We are therefore right to ask why the rate of jury pay remained unchanged, and what the implications were for the composition of juries. In the first place, it made financial sense not to overpay jurors. Even at the same rate of pay, one court day cost a fraction of one assembly meeting, meaning that the courts were the most cost-effective way of dealing with legal business.<sup>7</sup> Evidently, inflation never caused any of the problems that would have forced a pay rise: inadequate juror enrolments each year, too few volunteers each morning, or juries so unrepresentative that the reality (or just the perception) of impartial justice and popular sovereignty was undermined.<sup>8</sup> The first challenge is to explain why this was the case: to reconcile the declining real value of jury pay with the inference that jurors remained plentiful and that juries did not change dramatically over

117–19). The evidence for this single wage is not, however, clear-cut and it is difficult to explain why this uniformity would exist: R.H. Randall Jr., ‘The Erechtheum workmen’, *AJA* 57 (1953), 199–210, at 208–9; Loomis (this note), 234–9. C. Feyel, *Les artisans dans les sanctuaires grecs aux époques classique et hellénistique à travers la documentation financière en Grèce* (Athens, 2006), 407–28 highlights a lack of standardization in the way artisans are paid in temple accounts.

<sup>4</sup> On the causes of this inflation, see Loomis (n. 3), 247–8. Price and wage inflation were probably driven by aggregate demand growth after 350 and especially after 338 thanks to peace, which encouraged trade and boosted revenues, and domestic spending. Concomitant labour shortages may also have pushed up wages: B. Akrigg, *Population and Economy in Classical Athens* (Cambridge, 2019), 237–40. Price data from Delos illustrates this link between spending, prosperity and inflation: G. Reger, *Regionalism and Change in the Economy of Independent Delos, 314–167 B.C.* (Berkeley, 1994), 257–64.

<sup>5</sup> M.M. Markle, ‘Jury pay and assembly pay at Athens’, in P.A. Cartledge and F.D. Harvey (edd.), *Cruz: Essays Presented to G.E.M. de Ste. Croix on his 75th Birthday* (Exeter, 1985), 265–97, at 285, 293; likewise Ober (1989), 143.

<sup>6</sup> After 390 no wheat price is attested until the 330s and too few barley prices survive for speculation about its long-term price history. For price data, see D. Rathbone and S. von Reden, ‘Mediterranean grain prices in Classical antiquity’, in R.J. van der Spek et al. (edd.), *A History of Market Performance: From Ancient Babylonia to the Modern World* (London, 2015), 149–235, at 193–4.

<sup>7</sup> One thousand five hundred jurors (see n. 16 below) x 3 obols = 750 drachmas. Six thousand assemblymen (see n. 49 below) x 3 obols = 3,000 drachmas.

<sup>8</sup> Jurors swore to listen (Aeschin. 2.1; Dem. 18.2) and to judge (Dem. 23.96, 57.63) impartially. It was believed that the poor majority should dominate juries (Dem. 21.209–10), and accordingly pay was a cornerstone of the democracy because it reduced the economic cost of participation ([*Ath. Pol.*] 27.4; cf. Arist. *Pol.* 1292b25–9, 1293a1–10). Another explanation, that pay was held at 3 obols because jurors could serve more frequently and so cumulatively earn more pay than assemblymen, is unlikely. Not every juror would be chosen to serve every court day, and by the late fourth century a citizen had to work twice as long in the courts as he would in the assembly to earn 1 drachma (see n. 52 below).

time. The second challenge is to address the political dimension of the problem. For while jury pay effectively went backwards, it is striking that Athens' other payment for mass political participation, assembly pay, rose to the point that it was probably overcompensating most assemblymen for their time. Citizens at principal (*kyria*) assemblies became the highest paid of all those engaged in public service, and jurors the lowest ([*Ath. Pol.*] 62.2–3). The last time questions of jury pay and composition were considered in detail, Stephen Todd argued that jury service involved lower costs for farmers than for other citizens, and consequently that farmers dominated juries and provided them with stability.<sup>9</sup> More tentatively, he suggested that the higher rate of assembly pay was an ideological declaration that Athens remained an 'assembly-based' democracy despite the reduction of the assembly's legislative scope after 403/2.<sup>10</sup> Both arguments simplify a more complicated picture. Farmers alone cannot account for the persistence of the triobol, and a better explanation for the disparity in the rate of pay for jurors and assemblymen can be found when the payments are more fully contextualized in the financial politics of the Lycurgan era.

### THE JURY

There was evidently plenty of enthusiasm for jury service, despite the declining value of pay. It appears that 6,000 jurors were enrolled every year, that is, around one-third of all eligible citizens (those over 30, [*Ath. Pol.*] 63.3).<sup>11</sup> Jury service, of course, had non-monetary attractions, including socializing, entertainment and the patriotic satisfaction of service (cf. Ar. *Vesp.* 448–630), but the value of pay must have been the key determinant of participation. As Todd acknowledges,<sup>12</sup> what mattered was not so much what jury pay could buy as the opportunity cost of serving as a juror instead of doing something else. If the time spent in court would otherwise have been devoted to earning a living, jury service would mean forgoing some income. Some Athenians would have been willing to make this sacrifice, but only up to a point. In explaining the stagnation of jury pay we must first look to those citizens who would not be particularly concerned about its declining value because jury service involved such low opportunity costs to begin with. Earlier treatments of jury demographics identified groups who stood to make a profit (the elderly, the very poor and the *adynatoi*), or incur no loss (the rich), and assumed they were always over-represented on juries.<sup>13</sup> Indeed, the declining

<sup>9</sup> Todd, 167–70. Similar arguments were coincidentally advanced by Ober (1989), 136–7; M.M. Markle, 'The participation of farmers in Athenian juries and assemblies', *AncSoc* 21 (1990), 149–65, at 164–5; and R. Sallares, *The Ecology of the Ancient Greek World* (London, 1991), 54–7.

<sup>10</sup> Todd, 173.

<sup>11</sup> For 6,000 jurors, see Kroll, 69–86. The regular re-inscription of dastic *pinakia* suggests regular turnover in the juror pool and, as such, competition for places (Kroll, 82). For the estimate of thirty thousand Athenian citizens in the second half of the fourth century, see M.H. Hansen, *Demography and Democracy: The Number of Athenian Citizens in the Fourth Century B.C.* (Herning, 1985), 65–9. Demographic arguments in this paper are derived from the model applied to Athens by Hansen (this note), 9–13, with adjustments by B. Akrigg, 'Demography and Classical Athens', in C. Holleran and A. Pudsey (edd.), *Demography in the Graeco-Roman World* (Cambridge, 2011), 37–59, at 52–7. I convert Akrigg's age bracket estimates from percentages of males to percentages of citizens (18–29 years old: 39.7 per cent of citizens; 30–44: 34.5 per cent; 45–59: 18.7 per cent; 60+: 6.9 per cent).

<sup>12</sup> Todd, 168.

<sup>13</sup> See Todd, 149–53. For Todd, 196, the rate helped preserve a rural majority. Aristotle imagines that pay and fines could be used to shape the demographics of juries, and Athenians were familiar with

value of pay must have led to an increase in the number of Athenians from these groups on juries as other citizens enrolled and volunteered less often. Though Old Comedy clearly exaggerates in depicting all jurors as old and poor, it does show that a popular association between old age, poverty and jury service already existed in the fifth century.<sup>14</sup> If the elderly and the poor, together with the *adynatoi* and the rich, constituted a large portion of the volunteers every court day by the 320s, they would have helped to make up for the declining participation of other jurors and reduced the practical need for a pay rise.

The courts sat 150–200 days each Athenian year and the system of random juror selection described in the [*Ath. Pol.*] (63.2–5), in use from c.378/7, required more jurors to volunteer each morning than were actually needed.<sup>15</sup> Assuming a requirement of 1,500, Mirhady and Schwarz calculate that 2,650 volunteers would be needed to have a 95 per cent chance of empanelling 15 jurors from each of the 10-letter sections in each of the 10 tribes.<sup>16</sup> Let us begin with the 2,000 Athenians who were over 60 years old, and were consequently considered to be old men (*gerontes*).<sup>17</sup> Most of them would have been at least partially reliant on their families for support. How many of them lived close enough to the courts to volunteer every sitting day? Todd follows Hansen in using bouletic quotas to calculate that two-thirds of citizens probably lived no more than three to four hours' walk from town, making it possible to 'walk to Athens, attend an assembly meeting, and return home' all in one day.<sup>18</sup> While we cannot know just how far an Athenian might have been willing to travel for a specific trial, jury service was less reliable and lower paid than the assembly. We can also say that travelling began to entail more significant inconvenience once it took longer than the time between first light (astronomical twilight) and sunrise to reach the courts, because this made it necessary to make some of the journey at night. Travel at night risked mishap or robbery (*Ar. Av.* 496–8, 1491, *Eccl.* 544–6, 666–71), and it was impossible to know when to set out because first light, coinciding with the rooster crow, was the only reliable indicator of the approaching sunrise (*Ar. Eccl.* 740–1; cf. *Andoc.* 1.38).<sup>19</sup> The only option would be to build in a time buffer by setting out much earlier than was strictly required (and so to travel at night), or to stay closer to the courts overnight. In either scenario a citizen had to invest more time than was necessary, all without a guarantee of being selected. The distance that

the operation of short-term inflation (*Pol.* 1294a36–41; cf. 1308a35–b10, *Xen. Vect.* 4.5–10). The jury court was, however, seen as a staunchly democratic institution (see page 129 below), and it is difficult to imagine an ancient, direct democracy using long-term inflation to reshape its juries surreptitiously.

<sup>14</sup> See *Ar. Ach.* 181, 214, 375–6, 676, *Eq.* 255–7, 977–84, *Vesp.* 224, 300–15, 1071–90, *Pax* 348–54, *Plut.* 276–7; cf. *Isoc.* 7.54, 8.130, 15.152. The construction of jurors as rich in fourth-century rhetoric and elite speakers' attacks on opponents for non-elite attributes are rhetorical strategies: Ober (1989), 219–26, 306–11.

<sup>15</sup> M.H. Hansen, 'How often did the Athenian dicasteria meet?', *GRBS* 20 (1979), 243–7. See Kroll, 5–7 on the date and A.L. Boegehold, *The Lawcourts at Athens* (Princeton, 1995), 36–9 for the selection procedure.

<sup>16</sup> D.C. Mirhady and C. Schwarz, 'Dikastic participation', *CQ* 61 (2011), 744–8. One thousand five hundred jurors is a reasonable guess: M.H. Hansen, *The Athenian Democracy in the Age of Demosthenes* (Norman, 1999), 189.

<sup>17</sup> See n. 11 above.

<sup>18</sup> Todd, 163; M.H. Hansen, 'Political activity and the organization of Attica in the fourth century B.C.', *GRBS* 24 (1983), 227–38, at 235–6.

<sup>19</sup> See T. Shimmura and T. Yoshimura, 'Circadian clock determines the timing of rooster crowing', *Current Biology* 23 (2013), 231–3, at 232. The demesmen of Halimus left a deme assembly in the *asty* early to avoid travelling in the dark (*Dem.* 57.9–10).

could be covered between first light and sunrise can then serve as a rough approximation of the catchment area in which jurors who volunteered constantly or frequently would have lived. Assuming a moderate pace of 5 kilometres per hour and using modern astronomical data for Athens, a juror could live around eight kilometres (an hour and a half) away from the courts as the crow flies—the distance to the Piraeus—and still reach the courts in winter, and around nine and a half kilometres (almost two hours) away in summer.<sup>20</sup> The distance of 9.6 kilometres (5.9 miles) takes in almost all the city demes, including the large deme of Halimus, but easily excludes the nearest, largest rural demes of Acharnae and Aexone. The dicastic *pinakia* indicate that bouleutic quotas dictated how many jurors could be enrolled from each *trittys* in each tribe, and accordingly that 26 per cent of jurors (1,560) were registered in demes in city *trittyes*.<sup>21</sup> A group of 1,560 jurors would only be enough to provide a majority of the daily requirement of volunteers if almost all of them volunteered every court day. The actual percentage of jurors living in this area must, however, have been higher, let us say one-third, since internal migration to the *asty* meant that some Athenians resided in city demes while being registered elsewhere.<sup>22</sup> Assuming that the number of *gerontes* who were registered in city demes but were too frail to reach the courts was offset by additional *gerontes* who were non-registered residents of city demes, a guess of about five hundred *gerontes* volunteering each morning is realistic. Some jurors certainly served out of poverty (Dem. 24.123). It is difficult to estimate how many able-bodied Athenians earned 3 obols or fewer per day, but there could not have been many. A sum of 2–3 obols per diem is attested as the minimum adult daily income in the second half of the fourth century, and surviving wage data (see page 119 above) suggests that the great majority of citizens earned far more than this.<sup>23</sup> It is therefore hard to see how jury pay could

<sup>20</sup> Summer solstice: 116 minutes between astronomical twilight and sunrise; winter solstice: 95 minutes.

<sup>21</sup> There is a close correspondence between the *trittys* distributions within the juror pool (23 per cent city, 42 per cent coast, 35 per cent inland) and the distributions in the *boulê* (26 per cent city, 39 per cent coast, 35 per cent inland). The use of bouleutic quotas was presumably meant to ensure geographic distribution and fair access to pay: Hansen (n. 18), 229. E. Carawan, 'Court reform, *klêrotêria*, and comic testimony', *CJ* 111 (2016), 385–416, at 404–12 argued that in the first half of the fourth century the 10-letter sections were assigned not only to different *trittyes* within each tribe but also to demes within each *trittys* (six *bouleutai* = one-section letter). He conceded (409) that this may not have been true in the second half of the century, and the *pinakia* suggest it was not: three tokens belonging to Phalerum demesmen show at least three-section letters (Kroll, tokens 36b, 120a, 133c), not the two that would be expected based on its bouleutic quota. On section letters and the different classes of *pinakia*, see Kroll, 36–50, 96–7.

<sup>22</sup> Most *pinakia* of known provenance were recovered from the environs of the *asty*, Hansen (n. 18), 234; Kroll, 9–11, 21. While the reality of migration to Athens is clear, establishing its scale is difficult: R. Osborne, 'The potential mobility of human populations', *OJA* 10 (1991), 231–51; N.F. Jones, *The Associations of Classical Athens* (New York, 1999), 86–94. On non-permanent migration within Attica, see C. Taylor, 'Migration and the demes of Attica', in C. Holleran and A. Pudsey (edd.), *Demography and the Graeco-Roman World: New Insights and Approaches* (Cambridge, 2011), 117–34.

<sup>23</sup> Xenophon (*Vect.* 4.33; cf. 3.9–10) in the 350s refers to 3 obols per diem for each citizen as 'sufficient maintenance' (ἰκανὴν τροφήν); in 329/8 public slaves received *trophê* of 3 obols per diem (*IG* II<sup>2</sup> 1672 col. i.4–5, col. ii.141–2); and the *adynatos* dole was 2 obols per diem (*[Ath. Pol.]* 49.9). Demosthenes (4.28–9) in the 340s calculates a minimum *trophê* for servicemen of 2 obols per diem. J. Ober, 'Wealthy Hellas', *TAPhA* 140 (2010), 241–86, at 280 (cf. at 264) guesses that between five thousand and ten thousand citizens earned 1 drachma or less (a category he labels 'subsistence'), but does not estimate the income distribution within this group. See C. Taylor, *Poverty, Wealth, and Well-Being: Experiencing Penia in Democratic Athens* (Oxford, 2017), 69–113, 249–58 on measures and models of economic inequality.

offer profit, or even remuneration, for many save the *adynatoi*, for whom it was an easy way to supplement their dole. If we estimate that five per cent of citizens were physically unable to earn a living, and then exclude those who lived too far away, were too young, too old, or owned too much property, we are left with about one hundred and thirty *adynatoi*.<sup>24</sup> As for the wealthy, at least one liturgist juror is attested,<sup>25</sup> and the state debtor who sat on a jury was probably another wealthy man (Dem. 21.182). The leisured rich and those affluent enough to work only irregularly consisted of 1,200–2,000 *eisphora* payers, worth at least 1 talent.<sup>26</sup> Many probably spent a great deal of time in town, but it is also true that the wealthy had many leisure options and the politically engaged among them typically preferred roles that offered scope for individual distinction. The elderly, poor and *adynatoi* of the city-demes, by contrast, may well have volunteered constantly (150–200 days a year), since jury service held additional value as an opportunity for politically significant participation and as a means of resisting social marginalization.<sup>27</sup> Altogether, the jurors who faced the lowest-opportunity cost could not have provided more than a thousand of the approximately two thousand six hundred and fifty volunteers needed on a typical court day, but their constant presence would be a major contribution towards shielding juries from the most disruptive effects of inflation.

Most of the remaining 1,650 volunteers each morning, who came from the other 5,000 citizens in the jury pool, were *penêtes*—Athenians who had to work for a living.<sup>28</sup> Each one would have to volunteer one court day in every three. This meant journeying to the courts 50–67 days a year and, assuming that an average of 1,500 jurors were chosen out of 2,650 volunteers, spending 28–38 days a year sitting on a jury. A time commitment of this size needs explanation. Every time a *penês* volunteered, he accepted the possibility that he would lose the better part of that day in court, especially in winter.<sup>29</sup> If he was not selected, he could watch proceedings or complete errands, though important tasks would always require a dedicated trip into town. The relationship between time spent and money earned was not as direct for all Athenians as it was for those who were paid by the day and who, as a result, may not have had enough control over their work to make anything other than irregular jury service feasible. The cumulative financial effect of spending too much time in court would still, however, be felt by everyone earning more than 3 obols per diem, and in deciding how much time was too much a citizen had the yardstick of his own past experience and that of his peers. Some jurors were no doubt prepared to count the days they spent in court as paid leisure. Yet it is a fair assumption that most leisure time was taken during the approximately seventy-five

<sup>24</sup> For comparison, Hansen (n. 11), 18–20 estimates that at least twenty per cent of eligible citizens were unfit for hoplite service. The monthly payment of the dole (Aeschin. 1.104) probably meant that many *adynatoi* lived in city demes, I assume fifty per cent. Approximately forty-seven per cent were under 30 or over 60, and I estimate that two-thirds were worth more than 300 drachmas (see [Ath. Pol.] 49.4), the value of a small dwelling (cf. Isae. 2.35; Dem. 59.39).

<sup>25</sup> Kroll, token 83b.

<sup>26</sup> Smaller estates would not provide significant leisure time: J.K. Davies, *Wealth and the Power of Wealth in Classical Athens* (New York, 1981), 28–9, 34–5.

<sup>27</sup> On poor Athenians' self-fashioning and negotiation of their own well-being, see Taylor (n. 23), 195–233.

<sup>28</sup> Even though the elderly, the very poor and the *adynatoi* living in non-city demes still stood to lose less income than the *penêtes*, the expenses of accommodation in Athens and, for the infirm, the physical difficulty of long-distance travel make it unlikely that they were over-represented among morning volunteers relative to their numbers in the jury pool.

<sup>29</sup> See I. Worthington, 'The length of an Athenian public trial: a reply to Professor MacDowell', *Hermes* 131 (2013), 364–71, at 365 n. 4.

days of annual festivals, during which the courts did not sit.<sup>30</sup> Commitments closer to home, to one's extended family or fellow demesmen, also had a claim on non-working time. For a *penês*, therefore, jury service typically meant forgoing the opportunity to make more money doing something else.

If we have not seriously underestimated the amount of leisure time enjoyed by the majority of Athenians, we must assume that a minority of *penêtes* volunteered more frequently than others, that is, more than the 50–67-day average. Todd argues that a pay rise was not necessary because 'the vast majority' (160) of Athenians, and consequently of jurors, were farmers, and farmers valued pay so much that its declining value did not affect their participation.<sup>31</sup> Rather than a majority, however, only one-third of citizens could have made their living entirely off the land.<sup>32</sup> Nor was constant or frequent attendance automatically easier for farmers. While it is true that a sizeable number of farmers must have lived in the city demes, these communities also contained the highest concentration of non-farmers in Attica. It is therefore likely that non-farmers were over-represented on juries, while the majority of farmers, living in the coastal and inland *trittyes*, were too far away for above-average attendance to be feasible.<sup>33</sup> Some men in their twenties from distant demes must have lived in Athens and the Piraeus for extended periods to earn a wage, but they were too young to enrol as jurors. Other arguments for a heavy agrarian presence in the courts are also open to challenge. Todd claims that the seasonal nature of agriculture generally provided farmers with stretches of quiet time outside the grain harvest that could be spent in the courts at virtually no cost.<sup>34</sup> The assessment and tolerance of risk will differ from individual to individual, but it is important not to underestimate the challenges of highly variable rainfall, pests and disease to the survival of farming households, and the extent to which Athenian farmers responded by investing more time in their land.<sup>35</sup> The strategy of

<sup>30</sup> Hansen (n. 15), 244.

<sup>31</sup> Todd, 158–67 also sees the consensus values of rhetoric as evidence of an agrarian majority on the grounds that farmers self-identified as landowners, not as rich or poor, and so grouped themselves with the very rich, but this is unnecessary. Ober (1989), 311–14 offers a stronger historical/functionalist explanation for the emergence of the set of values seen in fourth-century rhetoric.

<sup>32</sup> Nine thousand citizens were worth at least 2,000 drachmas in 322 (Diod. 18.18.4–5). Of these 9,000, at least 1,200 *eisphora*-payers were only nominally 'farmers' as members of the leisure class. Two thousand drachmas was the approximate value of 40 *plethra* (3.6 ha)—enough to support a household: T.W. Gallant, *Risk and Survival in Ancient Greece* (Cambridge, 1991), 82–7. For S. Hodkinson, *Property and Wealth in Classical Sparta* (London, 2000), 390–2, an estate of 30 *plethra* could also be viable. The number of additional farmers with 30–40 *plethra* must be less than the 4,500 who served as hoplites but were worth less than 2,000 drachmas, because a 30-*plethron* estate would be worth about one thousand and five hundred drachmas: H. van Wees, 'Demetrius and Draco: Athens' property classes and population in and before 317 B.C.', *JHS* 131 (2011), 95–114, at 99–100. Removing 1,200 landowners and adding, say, two thousand small farmers gives around ten thousand small to 'middling' farmers. We can only guess the size of the average holding within this group.

<sup>33</sup> The fifth-century domination of the *stratêgia* and the *ostrakophoriai* by Athenians registered in city demes (49 per cent and 56 per cent of names, respectively) reflects the advantage of proximity, since it was easier for their fellow demesmen to journey into the *asty* to vote: C. Taylor, 'From the whole citizen body? The sociology of election and lot in the Athenian democracy', *Hesperia* 76 (2007), 323–45, at 335–9, and id., 'A new political world', in R. Osborne (ed.), *Debating the Athenian Cultural Revolution* (Cambridge, 2007), 72–90, at 84–9. City over-representation in the *stratêgia* weakened in the fourth century, probably owing to a mixture of migration to the city and post-war wealth redistribution: Taylor (n. 23), 96–111.

<sup>34</sup> Todd, 168–9.

<sup>35</sup> See M. Jameson, 'Agriculture and slavery in Classical Athens', *CJ* 73 (1977), 122–45, at 124–31; P. Halstead and G.G. Jones, 'Agrarian ecology in the Greek islands: time stress, scale and risk',

crop diversification added a variety of seasonal time-sensitive tasks and so ensured that labour was not overwhelmingly concentrated in a few months of the year. Subsequent research has strengthened the case for two other hypothesized features of Athenian agriculture that Todd rejects: intensification and significant market participation.<sup>36</sup> Productivity was improved using more intensive methods, whether weeding, hand-tilling and terracing in a biennial fallow system, or interplanting, integrated animal husbandry and market gardening in a regime of rotating cereals with pulses. Exact agricultural practice was almost certainly highly variable,<sup>37</sup> but intensification is associated with population pressure in densely settled regions like Attica. The need to invest more time and energy, and perhaps to supplement yields through craft or off-farm labour, was greatest for the significant minority with fewer than 40 *plethra*.<sup>38</sup> The time demanded by diversification and intensification was further increased by the tendency of some farmers to have fragmented land holdings, in part as another safeguard against crop failure. Only wealthy farmers, freed from the need to work their land personally, could have thought that journeying into Athens 50–67 days a year involved no economic cost or, more accurately, did not elevate risk. I do not mean to suggest that Aristotle is accurate in claiming that farmers were always kept busy on their farms because they had little property (*Pol.* 1318b9–17),<sup>39</sup> merely that farmers did not have significantly more time to participate than other Athenians. Todd's farmers would also be drawn to the courts because, being almost but not totally self-sufficient, they would welcome ready cash for occasional purchases.<sup>40</sup> Once deemed peripheral, markets and the cash economy are increasingly recognized as playing a key role in Greek, and especially Athenian, agriculture.<sup>41</sup> While not forgetting that *ad hoc* needs could be satisfied through barter and borrowing, markets could be a critical way of managing risk because they offered a way to redress imbalances between crop yields, to survive crop failure, and to rely on cash-cropping when there was too little land to be self-sufficient. Despite Dicaeopolis' well-known statement that he had never heard the word 'buy' in the country (*Ar. Ach.* 33–6), it bears repeating that the first thing he does upon returning home is to set up a market (719–28). Of all the farmers of

*JHS* 109 (1989), 41–55; Gallant (n. 32), 34–59; V.D. Hanson, *The Other Greeks* (London, 1995), 63–82, 155–67. Todd, 169, using early modern Europe for comparison, estimates that a farmer would need to work no more than two hundred days a year. The detailed modelling of Gallant ([n. 32], 107–12) shows that 175–200 days would be insufficient to keep production above subsistence level: it is likely that a citizen (alongside his family) would have to spend something like forty per cent more time working on the farm, some two hundred and forty-five to two hundred and eighty man-days a year.

<sup>36</sup> Todd, 160, 168 n. 195.

<sup>37</sup> M. McHugh, *The Ancient Greek Farmstead* (Oxford, 2017), 21–7.

<sup>38</sup> See n. 32 above. On smallholder farming, see A. Burford, *Land and Labor in the Greek World* (Baltimore, 1993), 66–8, 80–1, 136–7.

<sup>39</sup> Cf. *Pol.* 1292b25–9, 1319a30–b1. The busy farmer was a topos (e.g. Hes. *Op.* 299–319; Eur. *Supp.* 420–2; Xen. *Oec.* 20.16–20; Pl. *Resp.* 565a), and I doubt the image of farmers in Old Comedy as disinclined to participate in government (e.g. *Ar. Ach.* 32–6, *Pax* 348–51). See D. Rosenbloom, 'From *ponēros* to *pharmakos*: theater, social drama, and revolution in Athens, 428–404 B.C.E.', *ClAnt* 21 (2002), 283–346, at 318–29.

<sup>40</sup> Todd, 160, 168–9.

<sup>41</sup> See A. Bresson (transl. S. Rendall), *The Making of the Ancient Greek Economy* (Princeton, 2016), 170–4, 199–203; E.M. Harris and D.M. Lewis, 'Introduction: markets in Classical and Hellenistic Greece', in E.M. Harris et al. (edd.), *The Ancient Greek Economy: Markets, Households and City-States* (Cambridge, 2016), 1–40; McHugh (n. 37), 132–52.



Attica, those living in the city demes—closest to the courts—had the largest permanent market in the Greek world on their doorstep, and some farmers appear to have been regular market participants.<sup>42</sup> Nor were markets unique to the *asty*, for *agorai* are attested in over a dozen demes throughout Attica, and these may well have served as venues for periodic local markets.<sup>43</sup> Agriculturalists' ongoing need for pottery, fuel and tools, especially in more populous demes, mandated the presence of non-farmers in rural settings (for example Ar. *Pax* 1198–202, Pl. *Resp.* 369d–370d, 371b) and so fuelled a local cash economy. In sum, the economics of agriculture, especially near the *asty*, did not mean that farmers were significantly more likely to participate in the courts than non-farmers.

Who were the most numerous *penêtes* on juries if not farmers? We can start by observing that the availability of leisure was not fixed across time by class or profession. While the degree to which slave and family labour freed up citizens' time for democratic participation is uncertain,<sup>44</sup> T.W. Gallant's reconstruction of the life cycle of a farming household allows us to see that a householder's opportunity for leisure was greatest when the supply of labour was at its greatest and the opportunity existed for it to be invested productively.<sup>45</sup> This was most likely to occur when a citizen could call on the labour of adolescent or adult children. Gallant's model assumes that additional labour could be directed into more intensive cultivation, although the need to dower a daughter, for example, could mean the loss of land and hence spare capacity. Yet a young adult was still an asset, especially a son since he could go outside the household and contribute an additional income as a labourer or rower. It was even easier for non-farmers to redeploy the surplus labour of a son and so gain additional income and leisure; non-farmers were more likely to live close to the year-round labour market of the *asty*, and for them a dowry was less likely to reduce their productive means. Thus I suspect that fathers in their late forties and fifties were the most likely group of *penêtes* to volunteer at the courts, being primarily motivated by the non-monetary attractions of service. There were around five thousand six hundred men aged between 45 and 60 and even after subtracting the few jurors (*c.*200) who were *adynatoi*, very poor or rich, around one thousand six hundred would have been living in the city demes alone. The vast majority of these Athenians must have been fathers to at least one son. If they attended frequently, say one in every two court days (800 each day), then together with 1,000 constant volunteers and a number of infrequent jurors (volunteering

<sup>42</sup> See Ar. *Pax* 563–4, *Eccl.* 816–22; Theophr. *Char.* 4.15; cf. agricultural retailers in Pl. *Resp.* 2.371c–d. Ἀττικὴ οἰκονομία is defined as selling, rather than storing, produce (Arist. [*Oec.*] 16.2–3; cf. Plut. *Per.* 16.3–4). By allocating a greater portion of their time to the cultivation of cash crops, farmers may have won back some of the stretches of quiet time that Todd assumes all farmers enjoyed, albeit with increased risk. Many Athenian farmers do seem to have specialized for the market (A. Moreno, *Feeding the Democracy* [Oxford, 2007], 57–72), but the extent of cash cropping throughout Attica is unclear: H. Lohmann, 'Agriculture and country life in Classical Attica', in B. Wells (ed.), *Agriculture in Ancient Greece* (Stockholm, 1992), 29–60, with the criticisms of L. Foxhall, *Olive Cultivation in Ancient Greece* (Oxford, 2007), 61–8, 77–82, 199–200.

<sup>43</sup> Harris and Lewis (n. 41), 12–13, 19–28.

<sup>44</sup> Though the smallest farms probably lacked slaves (Burford [n. 38], 182–3), agricultural slaveholding is typically seen as widespread: Jameson (n. 35); id., 'Agricultural labor in ancient Greece', in B. Wells (ed.), *Agriculture in Ancient Greece* (Stockholm, 1992), 135–46, at 142–6; Y. Garlan, *Slavery in Ancient Greece* (Cambridge, 1988), 60–5; Hanson (n. 35), 63–70.

<sup>45</sup> Gallant (n. 32), 73–112, especially from 87. In Gallant's model the father dies at 40, and this downplays the length of time in which a household could maximize its productivity with a labour surplus. A household might also produce well above its needs at the beginning of its existence, but this was dependent on securing outside labour (89, 104–7).

about one court day in four, 38–50 days a year, serving 22–8 days), the courts would have an adequate average morning attendance.

This reconstruction of a demographically complex jury, rather than one dominated by a single group, provides a more plausible explanation for why inflation never compelled an increase in pay. Though necessarily speculative, the broad parameters and underlying assumptions are unlikely to be wrong. The slow decline in the value of pay reduced participation by some Athenians, but it also reduced the competition faced by those who could serve constantly or frequently, and so allowed them to grow as a proportion both of the pool and of juries. Work and pay became less widely distributed, geographically and demographically. The courts therefore followed a different trajectory to the broadening of fourth-century political participation that can be observed in the deme affiliations of *stratēgoi* and inferred from the growth of assembly pay.<sup>46</sup> This gradual decline in diversity was possible because the number of enrolments each year was still sufficient, and the juries assembled each morning still contained Athenians from a range of occupations and classes.<sup>47</sup> The most discernible change would have been an increase in the average age of jurors, but if this was noticed it was probably not much cause for complaint. The main criterion Athenians consistently used to discriminate between citizens was, after all, age.<sup>48</sup>

### THE ASSEMBLY

The contrasting history of assembly pay means that we also require a political explanation for the unvarying rate of jury pay. Assembly pay arose as a practical necessity. Significant citizen losses in the Peloponnesian War and post-war economic hardship made it difficult to achieve a quorum of 6,000 (*[Ath. Pol.]* 41.3; cf. *Ar. Eccl.* 184–9).<sup>49</sup> Sometime in the 390s, in what was most likely an attempt to find the minimum pay necessary to achieve a reliable quorum, pay was introduced at 1 obol per assembly before rising to 2 obols and then to 3 obols by c.391.<sup>50</sup> Then, after decades of silence, we encounter assembly pay again in the 320s (*[Ath. Pol.]* 62.2), when the rate was 1 drachma for an ordinary assembly and 1.5 drachmas for a lengthier *kyria* assembly. Economic recovery and growth in citizen numbers make it unlikely that the difficulties of the 390s persisted and kept driving up the rate. At the same time,

<sup>46</sup> See n. 33 above.

<sup>47</sup> Likewise, it is because present-day Western democracies can reliably empanel juries of requisite size and tolerable diversity (albeit owing to the compulsory nature of jury service) that they can afford to undercompensate jurors by paying the minimum wage or less. Until 2018, pay for US federal jurors had remained unchanged for 28 years.

<sup>48</sup> Age could command respect in deliberative settings (Aeschin. 1.23–4, 2.108, 3.2, 3.4; *Dem. Ex.* 45.2) and arbitrators were always selected from men in their sixtieth year (*[Ath. Pol.]* 53.4–7).

<sup>49</sup> See M.H. Hansen, 'Reflections on the number of citizens accommodated in the assembly place on the Pnyx', in B. Forsén and G. Stanton (edd.), *The Pnyx in the History of Athens* (Helsinki, 1996), 23–34, at 29–33. On the post-war economy, see B. Strauss, *Athens after the Peloponnesian War: Class, Faction and Policy, 403–386 B.C.* (London, 1986), 43–86. On the quorum, see M.H. Hansen, 'How many Athenians attended the *ecclesia*?', *GRBS* 17 (1976), 115–34, at 121–30; id., 'The Athenian *ecclesia* and the assembly-place on the Pnyx', *GRBS* 23 (1982), 241–9, at 241–2. Pay may only have been given to the first 6,000 attendees: Hansen (this note [1976]), 133 n. 70.

<sup>50</sup> *[Ath. Pol.]* 41.3; *Ar. Eccl.* 293–4, 300–10; and cf. *Ar. Plut.* 329–30.

the doubling in assembly pay from 3 obols to 1 drachma for an ordinary meeting probably outpaced wage inflation, and this is certainly true of the pay of *kyria* assemblies once the decision was taken to pay an additional 3 obols sometime after 390.<sup>51</sup> Since most assemblies lasted half a day,<sup>52</sup> most assemblymen in the 320s were actually being overcompensated for their time. We are left to conclude that the divergence between jury pay and assembly pay was a political phenomenon. Most of the pay gap probably opened up late in the fourth century. Near-constant campaigning in the first half of the century must have left little capacity for taking on large, recurrent expenditures. The courts themselves were temporarily shut at least twice owing to lack of funds (Dem. 39.17, 45.4). In 341, Demosthenes says that annual revenues had once fallen to just 130 talents (Dem. 10.38), probably during the Social War (357/5–355/4), and had since recovered to 400 talents, which was the approximate level of domestic revenues in 431 (Thuc. 2.13.3; Xen. *An.* 7.1.27). By contrast, in the third quarter of the century revenues allegedly climbed to 1,200 talents a year ([Plut.] *Mor.* 842F) under Lycurgus' financial stewardship (c.336/5–326/5). It would therefore be difficult to take on much of the minimum 25 extra talents that assembly pay cost each year in the early 320s relative to 390, any time before 336.<sup>53</sup>

Todd tentatively suggests that a much higher rate was paid for the assembly in order to make an ideological declaration that the Athenian democracy was an assembly-based democracy despite the constitutional changes made at the end of the fifth century.<sup>54</sup> There is little reason, however, to suspect that fourth-century Athenians were aware that the process of *nomothesia* and the reassignment of *eisangelia* cases to the courts were relatively recent innovations and that these had diminished the power of the assembly relative to the courts. *nomothesia*, like all laws in force, was attributed to Solon (for example Dem. 20.89–90, Hyp. 5.22). Even if this change was common knowledge, it is unlikely to have been a source of anxiety. The courts were seen as a bulwark of the democracy (for example Lyc. 1.3–4, 79, Aeschin. 3.3–8), and however their exact relationship with the assembly and the *dēmos* was conceived,<sup>55</sup> there was no sense that the division of responsibilities between court and assembly was a zero-sum game. An additional factor at work for Todd was 'the Athenian attitude to public finance', that is, to distribute money whenever possible.<sup>56</sup> An increased rate of pay would inevitably have been popular and the assembly was a more effective vehicle for distribution than the courts since all citizens could attend. Yet any desire to distribute surplus cash could be more effectively satisfied via one-off distributions, since these did not commit the

<sup>51</sup> On wage inflation, see pages 119–20 above. The *kyria* assembly already existed in the 390s (*IG* I<sup>3</sup> 41.37) but paid no more than an ordinary assembly.

<sup>52</sup> M.H. Hansen, 'The duration of a meeting of the Athenian *ecclesia*', *CPh* 74 (1979), 43–9, at 48–9.

<sup>53</sup> In 390: (6,000 assemblymen x 3 obols) x 40 meetings ([*Ath. Pol.*] 43.3) = 20 talents. In the 320s: [(6,000 x 6 obols) x 30 meetings] + [(6,000 x 9 obols) x 10 meetings] = 45 talents. Recovery may have led to a small increase in assembly pay in the 340s: Dem. *Ex.* 53.4 talks of orators controlling the *dēmos* 'with the drachma, the *chous* and the four obols'. The *chous* (of grain) suggests that, like a distribution, the two other payments were available to many Athenians. The drachma is, accordingly, best identified as the *theōrikon*, and the 4 obols as assembly pay.

<sup>54</sup> Todd, 173.

<sup>55</sup> On this debate, see A.J.L. Blanshard, 'What counts as *dēmos*? Some notes on the relationship between the jury and "the people" in Classical Athens', *Phoenix* 58 (2004), 28–48; M.H. Hansen, 'The concepts of *dēmos*, *ekklesia*, and *dikasterion* in Classical Athens', *GRBS* 50 (2010), 499–536.

<sup>56</sup> Todd, 173; likewise, Ober (1989), 143 and E.M. Burke, 'The habit of subsidization in Classical Athens: towards a thetic ideology', *C&M* 56 (2005), 5–47 and 'Finances and the operation of the Athenian democracy in the "Lycurgan era"', *AJPh* 131 (2010), 393–423, at 402–5, 410–11.

*polis* to fresh, ongoing expenditures, and the entire fiscal approach of Lycurgus is at odds with the impulse to distribute surplus wealth on a continuing basis as an end unto itself. Lycurgus' apparent control over financial policy was instead based on his ability to enrich and embellish Athens through meticulous and innovative financial management.<sup>57</sup> Even less convincing is the notion that leaders from Eubulus onwards exploited a desire for pay and used it to induce the *dēmos* to abandon an imperialistic foreign policy.<sup>58</sup> It is true that pay is depicted in terms of distribution and patronage. Pericles invented jury pay to overcome Cimon's personal largesse,<sup>59</sup> Cleon won the blind loyalty of jurors by increasing their pay,<sup>60</sup> Cleophon bought the masses with the *diōbelia* and Callicrates tried to do the same ([*Ath. Pol.*] 28.3–4), while the early-rate rises of assembly pay are associated with political one-upmanship ([*Ath. Pol.*] 41.3; cf. Ar. *Eccl.* 102–4, 184–8). Demosthenes later attacks opponents by claiming, in strikingly similar language to Aristophanes, that politicians are controlling the *dēmos* with theoric payments.<sup>61</sup> Clientelism was not absent from Athens,<sup>62</sup> but pay for political participation was different in key respects to typical client-patronage exchange, not least because the money already belonged to the *dēmos*. Our texts in fact exaggerate the power of pay: the sources of [*Ath. Pol.*] and Plutarch do so out of anti-democratic prejudice, whereas Aristophanes and Demosthenes articulate a topos of dysfunctional government to attack contemporary politics. To take such claims at face value is to accept an improbable view of the fourth-century *dēmos* as entirely venal and short-sighted.

The problem of the divergence between jury pay and assembly pay must instead be understood in relation to the Lycurgan expansion of the Pnyx. Beginning c.340, the Pnyx was enlarged from c.3,200 m<sup>2</sup> (Pnyx II) to 5,600 m<sup>2</sup> (Pnyx III) and so grew in capacity from approximately eight thousand to thirteen thousand and four hundred people.<sup>63</sup> Todd cannot be correct in assuming an unplanned relationship between the increase in capacity and the increase in pay.<sup>64</sup> The expansion must have been motivated by a desire to host larger assembly meetings, for there seems little point in expanding the Pnyx without the intention of making regular use of the increased space. The larger Theatre of Dionysius could, after all, have served for irregular mass meetings. Though some Athenians would doubtless have attended without pay, experience taught

<sup>57</sup> The lack of additional money for jurors (and jurors sitting as *nomothetai*) evidently did not affect Lycurgus' effectiveness as prosecutor and legislator. On the Lycurgan 'programme' and its goals, see M. Faraguna, *Atene nell'età di Alessandro: problemi politici, economici, finanziari* (Roma, 1992), 257–85; Burke (n. 56 [2010]), 411–13. On Lycurgus' financial strategies, see E.M. Burke, 'Lycurgan finances', *GRBS* 26 (1985), 251–64; Faraguna (this note), 289–396; S. Lambert, *Rationes Centesimarum: Sales of Public Land in Lykourgan Athens* (Amsterdam, 1997), 280–91.

<sup>58</sup> e.g. E. Badian, 'The ghost of empire: reflections on Athenian foreign policy in the fourth century B.C.', in W. Eder (ed.), *Die athenische Demokratie im 4. Jahrhundert v. Chr.* (Stuttgart, 1995), 79–106, at 100–3; P. Hunt, *War, Peace, and Alliance in Demosthenes' Athens* (Cambridge, 2010), 49.

<sup>59</sup> [*Ath. Pol.*] 27.3–4; Plut. *Per.* 9.1–3, *Cim.* 10.1–3.

<sup>60</sup> Ar. *Eq.* 255, 797–800, 904–5, *Vesp.* 242–4, 408–14, 698–712, *Pax* 632–48.

<sup>61</sup> Dem. 3.31–3; cf. 23.208–9, *Ex.* 53.4; [*Dem.*] 13.30–1.

<sup>62</sup> See R. Zelnick-Abramovitz, 'Did patronage exist in Classical Athens?', *AC* 65 (2000), 65–80; I.B. Maehle, 'The economy of gratitude in democratic Athens', *Hesperia* 87 (2018), 55–90.

<sup>63</sup> Hansen (n. 49 [1976]), 130–1 and id. (n. 49 [1996]), 25–9. For the dating, see S.I. Rotroff and J.M. Camp, 'The date of the third period of the Pnyx', *Hesperia* 65 (1996), 263–94, at 273–8; S.I. Rotroff, 'Pnyx III: pottery and stratigraphy', in B. Forsén and G. Stanton (edd.), *The Pnyx in the History of Athens* (Helsinki, 1996), 35–40, at 39–40.

<sup>64</sup> Todd, 173.

that increasing capacity would not, in itself, result in correspondingly larger audiences. Filling the new Pnyx would require almost half of all citizens to attend. To encourage attendance from distant demes it would be necessary not only to increase the rate of pay but also to extend it to all attendees, or at least to the nominal capacity of the Pnyx.<sup>65</sup>

The question is why the Athenians were prepared to invest so much in increasing the average size of assemblies. The Pnyx has been seen, along with the rest of the Lycurgan construction programme, as a demonstration of power and an attempt to strengthen the democratic life of the *polis*.<sup>66</sup> A near-contemporary parallel suggests that space and pay were increased with an additional set of benefits in mind. In the rebuilding of the Theatre of Dionysus and the regularization of the *theôrikon*, just a few years before Pnyx III, we find the same combination of monumentalization and subsidization. Recent work has recovered the political and economic agenda behind the theatre, and has made it possible to recognize the Pnyx as a comparable project. Begun under Eubulus, the theatre was rebuilt in stone and its capacity expanded from 8,000 to as much as 17,000.<sup>67</sup> New spending made the Great Dionysia as magnificent as possible in a bid to enhance its international prestige (Ar. *Ach.* 501–8; Aeschin. 3.34).<sup>68</sup> These measures asserted Athens' ownership over fifth-century tragedy in the face of emerging counterclaims.<sup>69</sup> In economic terms, they allowed Athens' dramatic heritage and festival to become the basis of a lucrative 'cultural industry'.<sup>70</sup> The economic benefit to the city's traders of thousands of visitors from all over Attica and Greece must have been immense, and from 335/4 the *polis* directly profited by selling the hides of sacrificial animals (*JG* II<sup>2</sup> 1496.68–92). Eric Csapo has offered a reappraisal of the *theôrikon* as another way in which the *polis* was able to profit. Prior to the rebuilding, the *polis* had contracted private leasees to build temporary wooden seating and allowed them to profit by charging entrance fees.<sup>71</sup> The *theôrikon* was probably the name given to irregular subsidies for these entrance fees, and these appear to have been regularized around the time the new theatre was begun. For Csapo the *theôrikon* was regularized to compensate theatre-goers after the decision had been taken to keep charging entrance fees even though wooden seating was being phased out. The fees collected by the *polis* helped to finance the reconstruction.<sup>72</sup>

This interpretation is problematic and obscures the affinity between the *theôrikon* and assembly pay as payments primarily intended to maximize participation. Even if

<sup>65</sup> A scenario initially accepted by Hansen (n. 49 [1982]), 248–9. If all attendees were paid and if the Pnyx was completely filled at every meeting, it would more than double the cost of pay from 45 talents (see n. 53 above) to 100.5 talents. Pay for all attendees, however, may only have been given at *kyria* assemblies.

<sup>66</sup> Faraguna (n. 57), 269, 273; B. Hintzen-Bohlen, *Die Kulturpolitik des Eubulus und des Lykurg: Die Denkmäler- und Bauprojekte in Athen zwischen 355 und 322 v. Chr.* (Berlin, 1997), 103–4, 130.

<sup>67</sup> A. Pickard-Cambridge, *The Dramatic Festivals of Athens*, rev. J. Gould and D.M. Lewis (Oxford, 1988<sup>2</sup>), 263.

<sup>68</sup> See E. Csapo and P. Wilson, 'The finance and organisation of the Athenian theatre in the time of Eubulus and Lycurgus', in E. Csapo et al. (edd.), *Greek Theatre in the Fourth Century B.C.* (Berlin, 2014), 393–424, at 409–23.

<sup>69</sup> J. Hanink, *Lycurgan Athens and the Making of Classical Tragedy* (Cambridge, 2011), 18–22, 68–74.

<sup>70</sup> Hanink (n. 69), 92–125; Csapo and Wilson (n. 68).

<sup>71</sup> See E. Csapo, 'The men who built the theatres: *theatropolai*, *theatronai*, and *arkhitektones*', in P. Wilson (ed.), *The Greek Theatre and Festivals* (Oxford, 2007), 87–115.

<sup>72</sup> Csapo (n. 71), 114; P. Wilson, 'Costing the Dionysia', in M. Revermann and P. Wilson (edd.), *Performance, Iconography, Reception* (Oxford, 2008), 88–127, at 91–6; Csapo and Wilson (n. 68), 395–7.

the *polis* was charging fees to fund the construction, it would still have to share much of the takings with leasees for some years because the need for wooden seating did not suddenly cease with the start of the project. The highest seats in the *theatron* do not seem to have been completed until c.320/19.<sup>73</sup> It is also difficult to see how the *theōrikon* could constitute effective compensation: in order for the *polis* to profit, the full cost of attendance could not be paid to everyone. Most importantly, Athenian fiscal practice makes it implausible that the *polis* itself would charge fees. The fees of the leasees were an economic barrier to participation in an important civic and religious event, but they were the unavoidable cost of a system that gave the *polis* a cost-effective way of securing the seating that allowed as many as possible to attend. It is likelier (and consistent with the entire system of public pay) that, by instituting the *theōrikon*, the *polis* was trying to ameliorate this barrier while it still existed, rather than helping to perpetuate it.<sup>74</sup> One of the original arguments in favour of reconstructing the theatre was, surely, that the investment would eventually eliminate the need for fees. In this way, for the Dionysia the newly regularized *theōrikon* would transition over time from an entrance-fee subsidy to a distribution designed to tackle the wider obstacles of time and travel that made participating in the festival harder for some Athenians.<sup>75</sup> This becomes even more likely in light of the increasing value of the *theōrikon* over time. Seats cost 2 obols (Dem. 18.28) and citizens initially received a lump-sum payment of 1 drachma—the partial cost of five days of performances at the Dionysia.<sup>76</sup> Both Hyperides and Dinarchus in 323 refer to incidents where someone illegally claimed ‘the five drachmas’ on behalf of someone who was absent.<sup>77</sup> Hyperides identifies this money as the *theōrikon*, and the fact that Dinarchus can refer to it as ‘the five drachmas’ without further explanation suggests that this was the well-known value of the *theōrikon* at the time. It therefore appears that the *theōrikon* went from 2 obols a day to 1 drachma a day. If the *theōrikon* was being paid as compensation for the ongoing collection of entrance fees, the *polis* would gain nothing by raising the *theōrikon* in line with rising fees.<sup>78</sup> Rather than a device to allow the *polis* to enjoy the profits that had once belonged

<sup>73</sup> The reference to ‘two-obol seats’ (Dem. 18.28) in 346 could refer to the persistence of wooden seating farther back in the theatre, or it was simply a holdover expression for an ‘ordinary’ seat. See C. Papastamati-von Moock, ‘The Theatre of Dionysus Eleuthereus in Athens: new data and observations on its “Lycurgan” phase’, in E. Csapo et al. (edd.), *Greek Theatre in the Fourth Century B.C.* (Berlin, 2014), 15–76, at 33–4, 72–4 for the chronology of construction.

<sup>74</sup> Participation rather than profit seems to have been the reason the *theōrikon* was also distributed for the Panathenaea ([Dem.] 44.37; Hsch. δ 2351 Latte), most likely before the Panathenaic stadium was begun under Lycurgus (*IG II<sup>3</sup>* 1 352; [Plut.] *Mor.* 841D).

<sup>75</sup> The orator Philinus, a contemporary of Lycurgus, suggests that the *theōrikon* was meant to widen general festival participation from the beginning: ‘when the Dionysia was approaching, Eubulus distributed it for the sacrifice so that everyone could celebrate the festival and no citizen would be deprived of the festival (τῆς θεορίας) because of their lack of private means’ (Harp. *Lex.* I 154.3–7 Dindorf = Phot. *Bibl.* θ 151 Theodoridis; *Suda* θ 219 Adler).

<sup>76</sup> The pre-festival distribution perhaps occurred at deme assemblies ([Dem.] 44.37–8). A fragment of fourth-century comedy, likely referencing Eubulus’ ally Diophantus, indicates that the *theōrikon* was 1 drachma (Zen. 3.27 = Com. Adesp. fr. 950 K.–A.; Hsch. δ 2351 Latte; *Suda* δ 1491 Adler). This, together with the two-obol seat cost and the dire financial circumstances of the 350s, makes it unlikely that the *theōrikon* was initially 1 drachma per diem. The statement of Philochorus (*FGrHist* 328 F 33 = Harp. *Lex.* I 154.1–3 Dindorf; Phot. *Bibl.* θ 151 Theodoridis; *Suda* θ 219 Adler) that the *theōrikon* was at first 1 drachma τῆς θέας must then refer to the cost of a seat over multiple days. The drachma in Dem. *Ex.* 53.4 is probably the *theōrikon* (see n. 53 above).

<sup>77</sup> Hyp. 1 fr. 6, 10 (*Against Arcestratides*) fr. 47 Jensen; cf. Din. 1.56; *Suda* θ 219 Adler.

<sup>78</sup> *Contra* D.K. Roselli, *Theater of the People: Spectators and Society in Ancient Athens* (Austin, 2009), 98 n. 60; and Csapo and Wilson (n. 68), 395 n. 13, 396, 419.

to leasees, and one which only increased participation as a beneficial side-effect, the primary purpose of the *theôrikon* was to raise attendance. Its impact grew as the capacity of the theatre and the health of public finances increased, eventually maximizing the size of the audience and its attendant benefits of greater festal splendour and greater economic activity.

The expansion of the Pnyx and the increase in assembly pay was another use of monumentalization and subsidization to orchestrate massive public spectacles that did more than project a sense of power and democratic vigour. Like the theatre, 1 drachma per diem was eventually paid to ensure that as much of the *dêmos* as possible was unified through the shared experience of exercising ownership over a fundamental institution facing external threat. In the theatre it was the fifth-century tragic canon. In the Pnyx it was democratic self-determination, now staged as another treasured possession, at a time when Athens was effectively under Macedonian suzerainty.<sup>79</sup> The attraction of greater numbers of rural citizens in particular may have been part of the reason for lifting assembly pay. In the absence of empire the countryside (*chôra*) assumed new economic and military importance, and it received new cultural emphasis in the third quarter of the century. As part of the formalization of the *ephêbeia* c.336/5, young Athenians came to know Attica through their tour of sacred sites and subsequent duties of patrolling the countryside and serving as garrisons ([*Ath. Pol.*] 42.3–5).<sup>80</sup> In *Against Leocrates* Lycurgus binds Athenians together by appealing to the city and to the countryside as dual objects of civic devotion.<sup>81</sup> By more closely integrating *asty* and *chôra* the growth in assembly pay narrowed the gap between the reality of partial attendance and the theory of the assembly as a gathering of the entire citizenry, allowing the *dêmos* to gaze on its corporate self.<sup>82</sup> While the number of Athenians from non-city demes on fourth-century juries probably fell, the assembly became more rural than ever before.

Lycurgus could not have failed to recognize that with larger assemblies, as with larger festival crowds, came greater economic opportunities. The enlarged Pnyx made it possible to organize gatherings of citizens at regular intervals throughout the year that approached the scale of the annual Dionysia. This, in turn, meant significant injections of capital into the *asty*, in addition to that given out as pay, as more citizens visited more frequently. Much of the pay may have been spent in the agora, just a short walk downhill, soon after each meeting. Part of the plan of Pnyx III may in fact have been to bring the agora to the assembly: the two impressive stoas just to the south, had they been completed, would probably have hosted shops.<sup>83</sup> A greater rate of assembly pay also profited

<sup>79</sup> Cf. Democracy receiving sacrifices and a new statue in the 330s (*IG* II<sup>2</sup> 1496.11–12, 140–1; *IG* II<sup>2</sup> 2791). It was presumably the strong attachment to the Pnyx as the locus of democracy (cf. *Ar. Eq.* 42) and the demonstration of wealth made by creating not one but two great sites for public assembly that explains why the assembly initially did not just relocate to the theatre.

<sup>80</sup> For the origins of the *ephêbeia* and the role of ephebes in defending the *chôra*, see J.L. Friend, 'The Athenian *ephebeia* in the Lycurgan period: 334/3–322/1 B.C.' (Diss., University of Texas at Austin, 2009), 65–98, with 147–83 on the *ephêbeia* in the Lycurgan 'programme'.

<sup>81</sup> *Lyc.* 1.1, 47, 113, 145, 150. He also recites the ephebic oath with its invocation of the crops of Attica (1.77).

<sup>82</sup> On the assembly as the *dêmos*, see Hansen (n. 55), 499–515. In more practical terms, the presence of many rural citizens would be beneficial for debates on the defence of the *chôra*—an item on the agenda of every *kyria* assembly ([*Ath. Pol.*] 43.3; cf. *Xen. Mem.* 3.6.10–11).

<sup>83</sup> H.A. Thompson and R.L. Scranton, 'Stoas and city walls on the Pnyx', *Hesperia* 12 (1943), 269–383, at 297. The economic benefits of increasing visitor traffic to the *asty* were well known: *Xen. [Ath. pol.]* 1.17; *Vect.* 3.5, 12–13, 4.49–50.

the *polis* by enhancing its capacity to attract the benefaction that was becoming increasingly vital to its welfare. Just over half of all known assembly decrees from the period 352/1–322/1 deal with honours,<sup>84</sup> and some show that the building programme itself was the beneficiary of largesse (*IG II<sup>3</sup> 1 352, 470*). One drachma in assembly pay encouraged all those citizens who had journeyed to Athens for the Dionysia, thanks in part to the 1 drachma per diem *theôrikon*, to stay on and attend the special assembly in the theatre at the end of the festival.<sup>85</sup> By ensuring the largest possible attendance, assembly pay, alongside the *theôrikon*, enhanced the Dionysian assembly's power to incentivize benefaction as the most prestigious venue for the proclamation of honours.<sup>86</sup> At the same time, by the 330s the Pnyx had been firmly incorporated into the honorific machinery of the *polis* as the normal venue for the proclamation of honours for citizens.<sup>87</sup> This created another reason to increase the magnificence of the assembly as a spectacle, since to do so 'upgraded' the second engine of Athens' burgeoning honour-economy. In comparison, increased jury pay and the monumentalization of the courts would have achieved little. The limited number of jurors required most days meant that the courts, for all their importance and drama, did not have the same potential as mass spectacle. As a result, at the same time as jurors received no additional pay, no effort was made under Lycurgus to add to or redesign court venues.<sup>88</sup> So long as there were enough jurors willing to try their luck each morning, there was no need to pay them more.

Cambridge

ROBERT SING  
robjsing@gmail.com

<sup>84</sup> S. Lambert, *Inscribed Athenian Laws and Decrees 352/1–322/1 B.C.* (Leiden, 2008), 343–4.

<sup>85</sup> Demades' famous description of the *theôrikon* as 'the glue of the democracy' ([Plut.] *Mor.* 1011b) may, in part, refer to its power to orchestrate community-building mass spectacle, not just to redistribute wealth (cf. Dem. 10.39–42).

<sup>86</sup> e.g. *IG II<sup>3</sup> 345*. On these honorary decrees, see Hanink (n. 69), 103–12; Csapo and Wilson (n. 68), 414–20.

<sup>87</sup> Aeschin. 3.34; cf. Aeschin. 3.41–5 with Dem. 18.120–2 on the proclamation of honours in the theatre. See further W.E. Gwatkin Jr., 'The legal arguments in Aischines' *Against Ktesiphon* and Demosthenes' *On the Crown*', *Hesperia* 26 (1957), 129–41. On the appearance of inscribed honours for citizens for financial or political services in office, see M.D. Gyax, *Benefaction and Rewards in the Ancient Greek City* (Cambridge, 2016), 218–50.

<sup>88</sup> See R.F. Townsend, *The East Side of the Agora: The Remains Beneath the Stoa of Attalos (The Athenian Agora 27)* (Princeton, 1995), 34–6, with 90 on the 'Square Peristyle'; Boegehold (n. 15), 15.