

## Jury Pay and Aristophanes

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Sometime in the 450s the last great structural change took place to the Athenian democracy with the creation of a daily wage for jurors, known as the *dikastikon*. The Athenian judicial system relied on juries made up of hundreds of citizen volunteers and it was to ensure that poorer citizens would not be excluded from juries by their need to work that jurors were paid 2 obols a day – probably enough to buy a family the bare necessities of life.<sup>1</sup> In 425/4 Kleon raised the *dikastikon* to 3 obols (Ar. *Vesp.*684).

The *dikastikon* was the brainchild of Perikles (Arist. *Ath. Pol.*27.3-4), but far more information survives about the uses the institution was put to by the politicians who inherited it. Here Aristophanes' presentation of pay will be analysed and, specifically, it will be considered whether the poet reveals any consistent attitude toward jury pay itself and whether this attitude is at all critical. Skeptics of this approach, like Heath, doubt that Aristophanes is 'political' in the sense of adopting positions and then using comedy as a tool of persuasion.<sup>2</sup> What is clear is that Aristophanes does not offer a simple carnivalesque inversion of the contemporary world. Aristophanic comedy is a fun-house mirror that distorts its subjects but still undeniably reflects them. Preferable is the view espoused by Henderson, that we should not reject as tongue-in-cheek the poet's multiple references to himself as providing useful advice to the *polis*, and that Athenian audiences expected the comic playwright to offer counsel on contemporary issues.<sup>3</sup> Comedy, in other words, can be both comic and serious at the same time. So, we might have some confidence of a reply when we ask the familiar question of 'how does Aristophanes feel about *x* ?'

The politics of Aristophanes is well-trodden ground, but somewhat overlooked has been the extent to which commentators can refer in passing to there being a 'critical presentation of the court system and of jury pay' in Aristophanes.<sup>4</sup> Aristophanes overflows with unabashed criticism of the contemporary world, including of the very leaders that many of his audience members supported in the assembly. Yet the conservatism of his comedy is also apparent in, among other things, his praise for ancestral Athens, the joys of country life, and his refusal to attack the right of the *demos* to exercise power – or the institutions through which that power was exercised. Many elite Athenians did however, have an especially intense hatred of the jury courts for the malicious lawsuits they generated and resented the *dikastikon* for allowing the lowest, most uneducated and most unworthy citizens to sit in judgment on their social betters. The idea that Aristophanes as a comic playwright could share something of this perspective is nevertheless a strange prospect. This would represent a breach of Aristophanes' self-imposed limitations, but also clash with the dramatic context of civic celebration and the competitive imperative to win – for to win one must not offend one's audience. Just what does Aristophanes say about pay? Do we mean by Aristophanes' 'critical presentation' that he manages, surreptitiously, to cross the line and sugar-coat a critical point of view? To both of these questions one more must be added, namely, what can Aristophanes tell us about the limits of public discourse on jury pay?

The two plays which contain the most material on pay and its politics are *Knights*, produced in 424, and *Wasps* coming two years later. *Knights* uses a domestic allegory to depict the overthrow of Kleon from his position as the favourite politician of the Athenian people. *Wasps* follows the ultimately fruitless attempts of Bdelykleon to break the addiction of his cheeky old father Philokleon to jury service. It is no accident that pay should appear in the two plays which launch Aristophanes' fiercest attacks on Kleon. In them, Kleon is depicted as a contemptible, self-serving character under whose direction the conduct of public affairs has deteriorated dramatically. In particular, Aristophanes claims that Kleon's increase in the *dikastikon* has allowed him to buy the support of old jurors who have come to regard him as their benefactor, and thus turn the court system into an instrument of his own power. Jurors would not have knocked back a pay rise, but we should mistrust the claim that Kleon was able to pull the jurors' strings simply because of the additional obol he had provided them.

Beginning with *Wasps*, it is possible to reconstruct some level of public understanding about the *dikastikon* by paying attention to what Aristophanes assumes the audience does or does not know. Bdelykleon calculates for his father how much jury pay costs Athens each year: 'Our total income from all this is nearly 2,000 talents. Now set aside the annual payment to the jurors... We get, I reckon, a sum of 150 talents' (*Vesp.*660-3). Both these figures have been

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<sup>1</sup> M. M. (III) Markle, 'Jury and Assembly Pay at Athens', in P. A. Cartledge and F. D. Harvey (ed.), *Cruce* (London: Duckworth, 1985), 265-97.

<sup>2</sup> Malcolm Heath, *Political Comedy in Aristophanes* (Göttingen: Vandenhoeck & Ruprecht, 1987).

<sup>3</sup> Jeffrey Henderson, 'The *Dêmos* and the Comic Competition', in John J. Winkler, and Froma I. Zeitlin (ed.), *Nothing to Do with Dionysos?* (Princeton: Princeton University Press, 1990), 271-313. All translation of Aristophanes are taken from his 1998 Loeb editions.

<sup>4</sup> For the strongest statement of Aristophanes' supposed hostility to the *dikastikon*, see G. E. M. de Ste Croix, *The Origins of the Peloponnesian War* (London: Duckworth, 1972) 357-8.

tweaked. 150 talents is an impossibly large sum because it assumes that the courts worked at full capacity, with 6,000 jurors sitting 300 days a year. 2,000 talents is also a shade optimistic in light of the evidence for Athenian imperial finance. According to Thucydides (2.13.3-5), total Athenian revenue in 431 was 1,000 talents. Even though an ambitious increase in the tribute assessments of the allies was enacted in 425/4 (*IG* i<sup>3</sup> 71), the additional revenue raised fell short of expectations and total revenue at the time of *Wasps* was probably around 1,400 talents.<sup>5</sup> The inflation of this far more reasonable figure to 2,000 talents is meant to stress that the cost of pay, while vast in isolation, is still a relatively small expenditure overall. But what makes this exaggeration noteworthy among the many exaggerations of Bdelykleon is that this final figure for jury pay, which Philokleon exclaims ‘doesn’t even amount to a tenth of the revenue’ (664), is precisely 7.5% of Athens’ revenue. A modern calculation for the cost of pay in 424 assumes 6,000 jurors receiving 3 obols per diem for at most, 200 days of work, producing a figure of 100 talents or about 7% of Athens’ yearly revenue.<sup>6</sup> It would appear that Aristophanes has merely increased the figures for pay and revenue by about one third. It seems unlikely that his reason for doing so was to engineer the dismissal of the passage by the audience as sheer fantasy. Were this the case there would be no reason to increase the numbers by so little or to keep them in proportion to one another. Commentators recognise the presence of exaggeration but overlook its peculiar restraint. That Aristophanes felt comfortable with this tactful manipulation in itself would indicate that most of the audience did not have a precise idea of just how much revenue Athens enjoyed, let alone how much was spent on jury pay, otherwise the credibility of the argument would be undermined. By increasing revenue by around one third, Aristophanes achieves a substantial figure that was still within the realms of possibility – plausible enough for Alan Sommerstein to hazard a defence of 2,000 talents as accurate.<sup>7</sup> This reading of the passage is strengthened by the fact that there is nothing inherently funny about these dry calculations. The amusement of the passage taken as a whole resides in the way it turns the confident financial rhetoric associated with Kleon against him, undermining whatever public praise he gave to the increased *dikastikon* by showing that it actually amounted to little in real terms. That Aristophanes sought to put the alleged munificence of one more obol in perspective suggests that it was not gratuitous to point out the extent of the gap between rhetoric and reality.

Again, by looking for what is assumed about the funding of jury pay, one discovers that Aristophanes can also reflect rather than shape politically-influenced popular understandings. He refers to two sources of funding for jury pay. Kleon declares that he caters for the jurors by initiating prosecutions. In its narrowest sense what Kleon means is that he provides jurors with opportunities to receive pay by increasing the workload of the juries. His words also encompass the revenue that new trials generated through the requirement that litigants put down deposits before going to court (*Eq.* 256, 800, 1018-9, 1359-60, *Vesp.* 1113) and the revenue that could potentially come from fines and confiscations. The ‘Old Oligarch’ ([Xen.] *Ath. Pol.* 1.16) in fact refers to Athens’ jurors as being completely paid out of these legal deposits.

Far more common in Aristophanes is the other source cited for jury pay – the tribute Athens received from the cities that were in theory its allies but in fact its subjects. These two sources of pay appear together, somewhat uneasily, in the first parabasis of *Wasps*. The jurors brag that ‘we’re resourceful in making a living, too: we sting everybody and so provide our daily pay’ (πάντα γὰρ κεντοῦμεν ἄνδρα κάκπορίζομεν βίον) (1113). This implies court-based sources of revenue such as fines and confiscations. The problem appears further on when the jurors then link pay with tribute in a way that seems to exclude any other source of funding:

There are drones sitting among us who have no stingers, who stay at home and feed off the fruits of the tribute without toiling for it. And we’re nettled if some draft dodger gulps down our pay, when in defence of this country he’s never raised an oar, a lance, or a blister. No, I think that from now on any citizen, bar none, who doesn’t have a stinger should not be paid three obols.

ἀλλὰ γὰρ κηφήνες ἡμῖν εἰσιν ἐγκαθήμενοι  
οὐκ ἔχοντες κέντρον, οἳ μένοντες ἡμῶν τοῦ φόρου  
τὸν γόνον κατεσθίουσιν οὐ ταλαιπωροῦμενοι.  
τοῦτο δ’ ἔστ’ ἀλγιστον ἡμῖν, ἦν τις ἀστράτευτος ὦν  
ἐκροφή τὸν μισθὸν ἡμῶν, τῆσδε τῆς χώρας ὑπερ  
μήτε κώπην μήτε λόγχην μήτε φλύκταιναν λαβῶν.  
ἀλλὰ μοι δοκεῖ τὸ λοιπὸν τῶν πολιτῶν ἔμβραχυν  
ὅστις ἂν μὴ ἔχη τὸ κέντρον μὴ φέρειν τριώβολον. (*Vesp.* 1114-21)

The assumption in this passage is that jury pay is made possible because of Athens’ empire – it is, quite literally, the ‘fruits of the tribute’. The contradiction cannot be resolved by stretching the meaning of the verb ἐκπορίζω in line 1113

<sup>5</sup> Benjamin Dean Meritt, H. T. Wade-Gery, and Malcolm Francis McGregor (eds.), *The Athenian Tribute Lists iii* (Princeton: American School at Athens, 1950) 345; Russell Meiggs, *The Athenian Empire* (Oxford: Clarendon Press, 1975) 332.

<sup>6</sup> For the figure of 200 days, see Mogens Herman Hansen, ‘How Often did the Athenian *Dicasteria* Meet?’, *GRBS*, 20/3 (1979), 243-6.

<sup>7</sup> Alan H. Sommerstein, *Aristophanes: ‘Wasps’* (Warminster: Aris & Phillips, 1983) 265.

to ‘earn’ rather than ‘generate, procure’ and translate as ‘we sting everyone and so earn our daily pay’ – the reason of course being that jurors got paid regardless of whether they chose to convict or acquit. The confusion is heightened by the way the image of the wasps’ sting is presented as an attribute of jurors, but then only as an attribute of jurors who have served in Athens’ armed forces. That such inconsistency, for whatever reason, is possible in the same passage indicates that alternative explanations for the funding of pay co-existed. All other references in Aristophanes to the subject leave little doubt that the majority of audiences did believe that pay was almost completely or exclusively provided by the allies (*Vesp.* 684-5, 1098-100, *cf.* implicit at *Eq.* 797-9). Some perspective on the problem is gained when we revisit the debate that Plutarch in his *Life of Pericles* (12.1-4, 14.1) says occurred in the 440s, when some denounced Pericles’ decision to help pay for the beautification of Athens with tribute. Thus, in the space of 20 years it appears that Athenians had come to accept that it was perfectly legitimate to use tribute meant for defence purposes on purely domestic projects (*Vesp.* 684-5, 700-1, 707-11, 1091-100). The intriguing aspect of the connection between pay and tribute is its lack of basis in reality. The *dikastikon* was paid for by the *kolakretai* (*Vesp.* 695, 724, *Aves* 1541) out of domestic revenue and not tribute. Lisa Kallet notices this artificial association and ascribes both it and the conceptual shift in Athenian attitudes towards the use of tribute to the efforts of political leaders like Kleon.<sup>8</sup> The reputation of Kleon as an aggressive imperialist is on show in Aristophanes and like many other features of his comic persona, this was probably inspired by his own public rhetoric. Kleon in particular may have disseminated the idea that the empire footed the bill for the *dikastikon* because this claim would work to maintain consensus and support for the aggressive prosecution of the war against an enemy who wished to ‘liberate’ the allies from Athens. The idea in the ‘Old Oligarch’ that the courts were totally self-sufficient (and which still lingers in the parabasis of *Wasps* considered earlier), was perhaps dropped in favour of a totally parasitic system. Kallet’s argument can be extended further with reference to Aristophanes. The spectacular promises of Kleon’s alter ego, Paphlagon, in *Knights* suggest this propaganda also had a positive aspect: that just as defeat or revolt would threaten pay, so victory and conquest would eventually see the *demos* judge cases in Arcadia on 5 obols a day (*Eq.* 790). This was doubtless the lesson Kleon sought to impart by announcing after the Athenian victory at Pylos that jury pay would rise by one obol. Indeed, the timing of the increase after Pylos seems less an opportunistic conflation of financial and military policy and more like a gesture meant to prove the hitherto abstract link between military success and the provision of pay. Aristophanes himself takes the link between tribute and pay for granted, not the least because it was difficult to disprove. The fact that tribute preceded the introduction of pay left open the question as to whether Athens could afford to pay jurors without its empire.

While it has so far been possible to gain insights about popular understandings of the *dikastikon* by reading between the lines, it is harder to infer how far the audience agreed with Aristophanes’ own presentation of the institution. What is clear is that his treatment of jury pay requires more scrutiny than it has so far received. In *Knights*, the food and favours Paphlagon provides to Demos are interchangeable with pay, Paphlagon telling him ‘here’s something to nibble, wolf down, savour: a three-obol piece’ (51, *cf.* 715-8, 789, 904-5). The metaphor of food for money identifies Paphlagon as a gluttonous parasite who caters to the short-term, physical gratifications of the Athenians. The Athenians, as a result, are rendered politically impotent. The metaphoric linkages between food, pay, and power are most explicit in another passage from *Knights*, in which Kleon’s enemy threatens that ‘if Demos ever returns to his peaceful life on the farm, and regains his spirit by eating porridge and chewing the fat with some pressed olives, he’ll realise the many benefits you beat him out of with your state pay’ (805-7). Addiction to pay is a danger which, like oriental luxuries, saps the strength and vitality of the *demos* (*Eq.* 716-8). It is moreover, a hallmark of the strange, unnatural world of the city in which the *demos* is imprisoned – an environment dominated by money and greed rather than self-sufficiency and plenty (*Ach.* 33-6). Aristophanes also notices the unwelcome dependency Kleon has engendered in jurors through the provision of pay. The old jurors of *Wasps* are presented as veterans of the Persian Wars, and their morning journey to court is presented as the march of a battalion (*Vesp.* 242-7). This not only produces a comic blurring of roles, but also connects the identity of the jurors as soldiers with their status as paid adherents of Kleon. Aristophanes refers to Kleon’s power as being tyrant-like (*Eq.* 852-4, 1044 *cf.* 445-9). It has not been noticed that the jurors of *Wasps* – armed men ready to pick off the enemies of their paymaster – appear as a latter-day incarnation of the tyrannic bodyguard. The characterisation of jurors as hired retainers (*cf.* *Vesp.* 712) is a particularly effective means of highlighting that, far from realising a *demos tyrannos* over the state, pay has given a single man a stranglehold on power. For their part, the old jurors are as much oblivious to this inversion as they are to their own deception and exploitation. Jury pay, in a sense, is a means by which Aristophanes explains his characterisation of the wartime *demos* as a shadow of its ideal self: no longer made up of rugged, self-reliant farmers but coddled, weak-willed dependants.

It is possible to see the ease with which these attacks on the *manipulation* of pay have been misinterpreted as broadsides against pay itself. Scrutiny of the plays however, unearth no explicit claim that jury pay is *inherently* unwise or illegitimate and should be abolished. Jury pay escapes, for instance, the direct criticism Aristophanes levels at pay for ambassadors and generals (*Ach.* 65-90, 138-9, 598-619, *cf.* *Eq.* 573-6) as excessive and undeserved. Yet jury pay is equally conspicuous in not receiving the sort of clear endorsement Aristophanes gives to the pay of military personnel.

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<sup>8</sup>Lisa Kallet-Marx, ‘Money Talks: Rhetor, Demos, and the Resources of the Athenian Empire’, in Robin Osborne and Simon Hornblower (ed.), *Ritual, Finance, Politics: Athenian democratic accounts presented to David Lewis* (Oxford: Clarendon Press, 1994), 227-252 at 246-8.

Jury pay and military pay prove to be closely linked in Aristophanes on those rare occasions when jury pay is discussed in the context of reform. The first is the parabasis of *Wasps*, in which the chorus calls for jury pay to be restricted to veterans as a sort of war pension. Comparison with the advice of other choruses suggests the advice is not meant to be taken seriously: in *Acharnians* angry old men also allege that they are poorly treated by the younger, ungrateful generation and claim that to be treated fairly in court they should only be prosecuted by other old men rather than sharp-witted youths (676-91). It is typical that Aristophanes to spur the *demos* to action rather than to provide detailed proposals of his own (cf. *Vesp.* 650-1). The impracticalities of the jurors' advice should not distract from the basic point that the fruits of the empire should be spent with an eye to safeguarding that empire. In this case, this means taking care of those who won it.

The idea of jury pay being tied to military spending is not limited to *Wasps* and receives its second and clearer expression in the last scene of *Knights*. Here a Sausage-Seller emerges triumphant over Paphlagon and introduces to the audience a rejuvenated Demos as the embodiment of the traditional, better Athens of the past. The now young Demos is ashamed of his former conduct, and is told that 'if two politicians were making proposals, one to build long ships and the other to spend the same sum on state pay, the pay man would walk over the trireme man' (1350-3). It is attractive to see this hypothetical situation as drawing a comparison between Athens' contemporary priorities and the far-sighted decision back in 483/2 not to distribute the silver from Laureion but to spend the money on the fleet (Hdt. 7.144). The decision in 425 to increase pay may even be adduced as the implied contemporary counterpart to the 483/2 decision since the Athenians, engaged in a war that was still being fought at the time of *Wasps*, were in need of money but chose to distribute more of its wealth rather than spend it on the fleet. The implication is that the *demos* easily succumbs to the temptation of voting itself a pay rise when there are more important demands on the public purse. A question of the Sausage-Seller, the very first he asks in fact, interestingly implies that jurors will nevertheless continue to be paid under the new (that is, old) order 'if some tomfool advocate says "there's no grain for you jurymen unless you convict in this case" what will you do to that advocate, eh?' (1358-61). Here the criticism is of a different order: that the Athenians also accept out of fear and self-interest the 'spin' pay is subjected to by politicians.

Some consistency of opinion is therefore detectable between *Knights* and *Wasps*. The existence of jury pay is beyond question even to the point that it is anachronistically incorporated into the ideal Athens of the 470s and 460s. On the other hand, spending on military pay and military considerations should be given priority and dictate how funds are spent on jury pay. In the plays the *demos* is at fault in the qualified sense that it has failed to live up to its better self embodied in the Athens of old because it has given in to private temptation and the fear bred by politicians. Pay must be handled responsibly, for in the current political situation it not only corrupts but can harm the vital interests and sovereignty of the *demos*. It is Aristophanes' desire not to obscure this message, rather than any personal animus towards the *dikastikon*, which explains why he does not temper his criticism of jury pay with direct praise.

Aristophanes' criticism that jury pay is being managed inappropriately by the *demos* and its politicians is nuanced, and guarded. There were no doubt those who conceded that Athenians had been wrong to increase pay in wartime. There were also many ordinary Athenians in the armed forces for whom the idea of rescinding the increase in jury pay, if it meant receiving their own pay in full and on time more consistently, would be attractive. Despite being framed in the popular terms of 'sailors and soldiers first', Aristophanes' comments are nevertheless unparalleled for an important democratic institution. Dover, overlooking the exception of the *dikastikon*, suggests that attacks on the constitution are off-limits for Aristophanes because the democracy was a sacred inheritance from the ancestors.<sup>9</sup> This certainly is true of something like the assembly, but public pay was a comparatively young part of the constitution and many would still be alive in the 420s who could recall its creation. This idea cannot suffice as an explanation. An attractive, alternative explanation would be that Aristophanes felt some dispensation on the subject of pay, as with the problem of sycophancy, because public sentiment had already led the way. It is ultimately impossible to know to what extent ordinary Athenians agreed with Aristophanes, but his focus on the abuse of the *dikastikon* raises the possibility that on pay the playwright was not speaking from the fringes of opinion.

## Bibliography

- DOVER, K. J. , *Aristophanic Comedy* (London: B. T. Batsford Ltd., 1972).
- EDMUNDS, LOWELL, *Cleon, 'Knights', and Aristophanes' Politics* (Lanham, MD.: University Press of America, 1987).
- HANSEN, MOGENS HERMAN, 'How Often did the Athenian *Dicasteria* Meet? ', *GRBS*, 20/3 (1979), 243-6.
- HEATH, MALCOLM, 'Aristophanes and the Discourse of Politics', in Gregory W. Dobrov (ed.), *The City as Comedy: Society and Representation in Athenian Drama* (Chapel Hill: University of North Carolina Press, 1997), 230-49.
- HEATH, MALCOLM, *Political Comedy in Aristophanes* (Göttingen: Vandenhoeck & Ruprecht, 1987).
- HENDERSON, JEFFREY, 'The *Dêmos* and the Comic Competition', in John J. Winkler, and Froma I. Zeitlin (ed.), *Nothing to Do with Dionysos?* (Princeton: Princeton University Press, 1990), 271-313.

<sup>9</sup> K. J. Dover, *Aristophanic Comedy* (London: B. T. Batsford Ltd., 1972) 33.

- KALLET-MARX, LISA, 'Money Talks: Rhetor, Demos, and the Resources of the Athenian Empire', in Robin Osborne and Simon Hornblower (ed.), *Ritual, Finance, Politics: Athenian democratic accounts presented to David Lewis* (Oxford: Clarendon Press, 1994), 227-252.
- KONSTAN, DAVID, 'The Politics of Aristophanes' "Wasps"', *TAPA*, 115 (1985), 27-46.
- MACDOWELL, DOUGLAS M., *Aristophanes and Athens* (Oxford: OUP, 1995).
- MACDOWELL, DOUGLAS M., *Aristophanes: Wasps* (Oxford: OUP, 1971).
- MARKLE, M. M. (III), 'Jury and Assembly Pay at Athens', in P. A. Cartledge and F. D. Harvey (ed.), *Crux* (London: Duckworth, 1985), 265-97.
- MEIGGS, RUSSELL, *The Athenian Empire* (Oxford: Clarendon Press, 1975).
- MERRITT, BENJAMIN DEAN, H. T. WADE-GERY, AND MALCOLM FRANCIS MCGREGOR (eds.), *The Athenian Tribute Lists, iii* (Princeton: American School at Athens, 1950).
- OLSON, S. DOUGLAS, 'Politics and Poetry in Aristophanes' "Wasps"', *TAPA*, 126 (1996), 129-50.
- OSTWALD, MARTIN, *From Popular Sovereignty to the Sovereignty of Law* (Berkeley: University of California Press, 1986).
- PAPAGEORGIOU, NIKOLAOS, 'Rhetoric and arithmetic in Aristophanes', *Maia*, 56/3 (2004), 525-35.
- RECKFORD, KENNETH J., *Aristophanes' Old-and-New Comedy* (Chapel Hill: University of North Carolina Press, 1987).
- SILK, M. S., *Aristophanes and the Definition of Comedy* (Oxford: OUP, 2000).
- SOMMERSTEIN, ALAN H., *Aristophanes: 'Wasps'* (Warminster: Aris & Phillips, 1983).
- STE CROIX, G. E. M. DE, *The Origins of the Peloponnesian War* (London: Duckworth, 1972).