The Authenticity of the Law about *Nomothesia* inserted in Demosthenes *Against Timokrates* 33

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Among the documents inserted in Demosthenes’ speech *Against Timokrates* two deal with *nomothesia*, the procedure used by the Athenians in the fourth century (403/2–322/1) for passing *nomoi*, i.e. general permanent rules passed by panels of *nomothetai* by contrast with *psephismata* which were individual and/or temporary regulations passed by the Assembly or the Council of Five Hundred.1 The first document (§20–23), conventionally called “the review law,”2 lays down the procedure for an annual revision of the Athenian code of laws, the second (§33), conventionally called “the repeal law,”3 regulates a procedure for having one of the laws in force annulled if it is in conflict with one or more of the other *nomoi* in the law code. Until recently most contemporary scholars believed that both these documents were genuine.4 They were

3 MacDowell, *JHS* 95 (1975) 69.

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copies of the original laws, kept in the public archive (*metroon*). They were read out by the *grammateus* to the jurors who heard and passed sentence in the trial of Timokrates, and later inserted in Demosthenes’ speech when it was ‘published’, viz. when copies of the speech were circulated, perhaps in Demosthenes’ lifetime,⁵ perhaps after his death.⁶

This orthodoxy has recently been questioned by Mirko Canevaro in his seminal and important study *The Documents in the Attic Orators. Laws and Decrees in the Public Speeches of the Demosthenic Corpus* (Oxford 2013). In his chapter about the documents in the speech *Against Timokrates* he argues (80–104) that the documents that purport to be copies of the review law and the repeal law are both late forgeries inserted in the speech presumably in the first century B.C. (335). They reflect a common habit in the Hellenistic rhetorical schools: “in the system of rhetorical education it was standard practice to compose fictitious laws and decrees to form the subject of oratorical exercises … One of the most advanced exercises, the so-called *nomos*, consisted of arguing for and against a law or a decree invented for the purpose by the teacher” (333–334).

I am much impressed by Canevaro’s study but I have to confess that I am not convinced by the arguments he adduces

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against the authenticity of the two laws about nomothesia inserted in the Timokrates speech. I still believe that they are genuine fourth-century laws. I have defended the authenticity of the review law, the document inserted at 20–23.7 In this article I shall dispute Canevaro’s arguments in support of the view that the repeal law quoted at 33 is a late forgery.

Having quoted and debated the review law at 17–31 Demosthenes8 quotes and debates the repeal law at 32–38. It is perhaps another law on legislation,9 or perhaps another part of the law debated at 17–32.10 According to Canevaro (103), Demosthenes’ description in 32 of the law he asks to have read out at 33 and his comments on that law at 34–38 show that the document inserted at 33 is not the law he refers to:

Demosthenes, both in his adjacent summary (§§32–5)11 and in his summary of the law about nomothesia in the Against Leptines (Dem. 20.95–4), clearly states that the statute supposed to be

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8 Demosthenes was logographer for Diodoros who acted as prosecutor and delivered the speech (hypoth. 1.1, 2.5). Like others I ascribe the arguments and the presentation of them to Demosthenes; but see K. J. Dover, Lysias and the Corpus Lysiacum (Berkeley/Los Angeles 1966) 161–163.


10 Asking to have the law read out Demosthenes refers at 32 to τουτονὶ πρῶτον τὸν νόµον. But in forensic speeches νόµος can denote anything from an entire law to a few lines, cf. Hansen, GRBS 26 (1985) 359. There can be no doubt that the text read out to the jurors at 33 is only part of a law. It is introduced with a δέ clause, but not a single νόµος of which the beginning is attested is opened in this way. Thus we must assume that at least one section of the law preceded the quotation at 33, see GRBS 347 with n.7, to which I can now add Rhodes-Osborne, GHI 26. So also Canevaro 91.

11 According to Canevaro 91–92 (with n.47) and 103 Demosthenes' paraphrase of the law at 33 stops with 35, and 36–38 are not comments on the law read out at 33. I disagree. There is no reason to doubt that the provisions discussed in 36–38 were relevant for the law at 33.

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read out here [at 33] by the grammateus ordered that those who proposed new laws according to the procedure previously described had to propose the repeal of any contradictory law. If they failed to do so, they were liable to a γραφὴ νόµον μὴ ἐπιτήδειον θείναι. This document [33] instead provides a procedure for repealing existing laws to which Demosthenes never refers, and orders that those who repeal a law have to propose a new law in its place. This reverses the order of the procedure’s steps in Demosthenes’ paraphrase.

But that is not quite what Demosthenes says. At 32 his introduction of the law to be read out is: ἀνάγνωσθι δὲ μοι λοιπὸν τούτοις πρώτον τὸν νόµον, ὡς διαρρήθην ὦκ ἐὰν νόµον οὐδὲν ἕναντίον εἰσφέρειν, ἐὰν δὲ τις εἰσφέρῃ, γράφεσθαι κελεύει. And his comment at 34 is: ὦκ ἐὰν τοῖς ὑπάρχοντας νόµοις ἕναντίον εἰσφέρειν, ἐὰν μὴ λύσῃ τὸν πρότερον κείµενον. The law to be read out is not primarily about proposing a new law, it is more specifically a ban on proposing a law that is in conflict with other laws in force, and if a person nevertheless does propose and carry\textsuperscript{12} such a bill, the law allows\textsuperscript{13} to bring a public action against him. Both according to Demosthenes’ comments and according to the inserted document the principal scope of the law is to avoid having conflicting laws and how to repeal a new law which conflicts with the laws in force. That is acknowledged by Canevaro (93): “Demosthenes also states that opposing laws must be repealed when enacting a new law. This provision is recalled at Dem. 24.32 and 34 as the main topic of the law read out at §33.” And it is in fact the main topic of the document at 33:

\textsuperscript{12} In the document at 33, note the aorists in the phrases ἔτερον ἅντιθη μὴ ἐπιτήδειον and ἐὰν τις μὴ ἐπιτήδειον θῇ νόµον. It shows that the nomothetai in such a case erroneously passed the bill.

\textsuperscript{13} γράφεσθαι κελεύει, 32. As argued by MacDowell, Demosthenes 46–47, ὁ νόµος κελεύει often means “the law allows” or “permits.” In some contexts it does mean ”the law commands” or ”orders” (e.g. Dem. 26.9 and 58.21), but ἔστιν at 37 shows that here the meaning is ”allows” or ”permits.”
The document describes the full procedure, starting with the nomothetai as the competent institution if a law in force must be repealed and replaced, and proceeding to the graphe nomon me epitedeion theinai in case the nomothesia procedure fails by leading to the acceptance of a new law that is unsuitable or in conflict with a law in force. Demosthenes focuses first (32) on the graphe nomon me epitedeion theinai (the case to hand)—and then (36) proceeds to describe various reasons why the nomothesia procedure may fail (as it did in this case). Here he puts the blame on various individuals (the elected synegoroi, the negligence of citizens who did not study the bill published before the eponymoi). He carefully avoids blaming the nomothetai, and they are not explicitly mentioned. (Demosthenes does not want to offend his audience of whom presumably many had been among the nomothetai who passed Timokrates’ law on Hekatombaion 12). In this situation the graphe nomon me epitedeion theinai is the only remedy left to avoid having conflicting laws. And here Demosthenes declares his faith in the wisdom of the many (hoi polloi), i.e. the dikastai hearing the case, not the nomothetai who erroneously passed Timokrates’ law.

The document and Demosthenes’ comments do not contradict, but rather supplement one another, and in my opinion it is unproblematic to combine what the document prescribes at 33 with Demosthenes’ interpretation of it at 32 and 34–38.

According to Demosthenes (32, quoted 597 above) the law (to be read out at 33) does not allow anybody to propose a new law that is in conflict with the laws in force, unless he has had the conflicting law repealed (34, quoted 597). According to the document at 33 that is done by submitting to a session of nomothetai an alternative nomos to the law proposed to be repealed (33, quoted 598).

The emphasis is different. In Demosthenes’ paraphrase it is on the ban to introduce a law that is in conflict with the laws in force. In the document it is a ban on having a law repealed by...
any other institution than the nomothetai. But the changed emphasis does not “reverse the order of the procedure’s steps” as Canevaro holds. In both cases the procedure is to propose an alternative law to a conflicting law in force that will be repealed if the nomothetai vote for the proposal.

Before the session of nomothetai, the Assembly appoints advocates to defend the law in force (36: τοὺς συνηγόρους ὁ ἔχειρονεῖτε), the alternative bill must be published before the eponomoi (36: ἐκτιθέναι κέλευε), and the proposer must have it read out to the Assembly alongside the law in force (38: παραναγνοῦς).

At the session of the nomothetai the issue is decided by a diacheirotonia, and if a majority of the nomothetai vote that the alternative bill is “suitable” for the Athenian people (epitedeios) it becomes valid law (kyrios), 33: διαχειροτονίαν δὲ ποιεῖν τοὺς προέδρους περὶ τούτων τῶν νόμων, πρῶτον μὲν περὶ τοῦ κειμένου, εἰ δοκεῖ ἐπιτήδειος εἶναι τῷ δήμῳ τῷ Ἀθηναίον ἢ οὔ, ἐπεὶ τῆς τοῦ τιθέουν. ὁπότερον δὲ ἂν χειροτονήσωσιν οἱ νομοθέται, τοῦτον κύριον εἶναι. 14

It may happen that the synegoroi are persuaded to keep silent,

14 The diacheirotonia was probably conducted as set out in Hansen, *GRBS* 26 (1985) 365–366: ὁπότερον shows that the nomothetai had to make a simple choice between a law in force and an alternative bill. The words ἢ οὔ are probably a reference to those who do not raise their hands in a cheirotonia. Accordingly, the vote was conducted in the following way: the proedros proclaims: “Anyone who finds that the law in force is satisfactory shall raise his hand” (of, e.g., 1000 nomothetai some 250 raise their hands, 750 do not). Then the proedros proclaims: “Anyone who finds that the bill is satisfactory shall raise his hand” (some 500 raise their hands, ca. 500 remain passive). All our evidence of voting by show of hands indicates that the number of abstentions in a cheirotonia was never assessed. Thus the two important figures are ca. 250 (who voted for the law in force in the first phase) versus ca. 500 (who voted for the alternative bill in the second phase), and the outcome of the diacheirotonia is, in this case, that the alternative bill is passed. The difference between a cheirotonia and a diacheirotonia is that in a cheirotonia the proedros asks first: "who vote for the proposal?” And second: "who vote against the proposal?” In a diacheirotonia he proclaims first: "who vote for proposal a?” and then: "who vote for proposal b?"
or that citizens who would have opposed the bill do not notice the earlier-published version of it, 36: τοὺς συνηγόρους, οἷς χειροτονεῖτε, δύναιτ’ ἂν πείσαι τις σιωπᾶν. ἐκτιθέναι κελεύει τὸ διαχειροτονήμα τὸ προειδέναι πάντας. τάχ’ ἂν, εἰ τύχοι, τοὺς μὲν ἀντειπόντας ἂν ἐν [μὴ] προσίσθωιντο, λάθοι, οἱ δὲ οὐδὲν προσέχοντες ἀναγνώσαν ἂν—or, let me add, that the person who proposes the alternative law has omitted to have it published and read out to the people.

The result will be that the nomothetai in the diacheirotonia erroneously vote for the alternative bill. This step is not spelled out here but at 38 where Demosthenes emphasises that all that is precisely what has happened in connection with Timokrates’ law: ταῦτα πάντα Τιμοκράτης, οὕτω καλῶς καὶ δικαίως κείμενα, ἡράντισεν, ἔξηλεισεν, ὅσον ἦν ἐπὶ τοῦτο, καὶ νόμον εἰσήγησεν ἀπασίν ἑκατοντίν, ὡς ἔπος εἰπεῖν, τοῖς ὧσιν, οὐ παραναγνοῦς, οὐ λύσας, οὐ δοὺς αἵρεσιν, ὡς ἄλλο ποιήσας οὐδὲν τῶν προσηκόντων. Timokrates’ bill was in conflict with so to speak all the laws in force, he did not have his bill read out (to the people in the ekklesia held on Hekatombaion 11) alongside the law he allegedly wanted to have repealed or changed (one of the laws about the Panathenaia), he did not have any of the laws in force repealed (by the nomothetai, although that was a requirement explicitly stated in the document read out at 33), and he did not provide the nomothetai with a choice i.e. a diacheirotonia between his own bill and the law in force as prescribed in the document read out at 33. (When the nomothetai met on 12 Hekatombaion, there was no proposal about the Panathenaia, 29, although Timokrates the day before had persuaded the demos in the ekklesia, that a new law about the financing of the Panathenaia was urgently needed, 28.)

But that is not the end of the matter. If the new alternative nomos is not suitable for the Athenian people and/or in conflict with other laws in force (than the one it has replaced), anyone (hekastos) can bring a public action (graphesthai, i.e. bring a graphe nomon me epitedeion theinai) against the person who proposed and carried the alternative nomos, which is now valid law. If in this trial the defendant is acquitted the polis stands deceived: 33, ἐὰν

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δὲ τις λύσας τινά τῶν νόμων τῶν κειμένων ēτερον ἀντιθῆ μὴ ἐπιτήδειον τῷ δήμῳ τῷ Ἀθηναίον ἢ ἐναντίον τῶν κειμένων τῷ, τάς γραφὰς εἶναι κατ’ αὐτοῦ κατὰ τὸν νόμον ὃς κεῖται ἕαν τις μὴ ἐπιτήδειον θῇ νόμον ... 37, ἀλλὰ γράψασθαι νὴ Δί’ ἐκαστὸν ἔστιν, ὁ κἀγὼ νυνὶ πεποίηκα. κἀνταῦθα, ἂν ἀπαλλάξῃ τις τὸν ἐπιστάντα, ἡ πόλις παρακέκρουσαι. The dikastai are the only just and reliable bulwark of the laws, and will certainly not prefer the inferior law to the better (37):

Thus, if the dikastai acquit the defendant, in casu Timokrates, that is the end of the matter. His nomos will remain in force. If the dikastai vote for the prosecutor, in casu Diodoros, and pass sentence upon the defendant, we must infer that Timokrates’ law will be quashed.

In sum, I believe that the provisions stipulated by the law (viz. the document read out at 33) and Demosthenes’ comments at 32 and 34–38 fit together.

In addition to his general observations on the relation between the inserted document and Demosthenes’ paraphrase of it Canevaro adduces three specific arguments against the authenticity of the document: (1) The document contradicts itself. (2) The expression διαχειροτονίαν ποιεῖν τοὺς προέδρους is unparalleled in our sources. (3) At 32 Demosthenes asks the grammateus to read out a law that lays down the procedure for a graphe nomon me epitedeion theinai. But instead of describing the proper procedure, the document refers to a further law: τὸν νόμον ὃς κεῖται ἕαν τις μὴ ἐπιτήδειον θῇ νόμον.

Re 1: “The document contradicts itself; in its first sentence it states that ‘it is prohibited to repeal any existing law except at a session of nomothetai’, but in its last sentence it provides a different way to do it, through a γραφὴ νόμον μὴ ἐπιτήδειον θέναι, which had to be heard by judges, not nomothetai” (103). According to my interpretation the document describes consis-
tently two successive steps in a protracted legislative procedure. (a) The replacement of a *nomos* in force by an alternative *nomos* has to be enacted by the *nomothetai*, and when passed by them it becomes *kyrios*,\(^\text{15}\) while the *nomos* it replaces is abolished. (b) In case it turns out that the alternative law passed by the *nomothetai* is in conflict with one or more of the laws in force, the legal remedy is to bring a γραφὴ νόμων μὴ ἐπιτήδειον θείναι against the proposer of the alternative [to be heard by a *dikasterion*]. If the *dikastai* vote for the defendant, the alternative *nomos* remains *kyrios*. If the *dikastai* vote for the prosecution, the consequence must be that the original law is restored, the alternative abolished and its proposer punished. There is no new session of *nomothetai*. That is explicitly admitted by Demosthenes in his comments on the law (37): κάνταυθα, ἃν ἀπαλλάξῃ τις τὸν ἐπιστάντα, ἢ πόλις παρακέκρουσται. Thus in this second round the *dikastai* are entitled to overrule a decision made by the *nomothetai*.

Re 2: “The sentence ‘the chairmen shall take a vote by show of hands about those laws’ (διαχειροτονίαν δὲ ποιεῖν τοὺς προέδρους περὶ τούτων τῶν νόμων) is unparalleled. In all our sources the *proedroi* always give (διδόναι) a διαχειροτονίαν. This expression derives, again, from §25 (καὶ πρῶτον μὲν ἐφ ὑμῖν ἐποίησαν διαχειροτονίαν: ‘and first the laws set a vote among you’), where the subject was however the laws on *nomothesia*” (104). In the literary sources there are five attestations of διαχειροτονίαν or ἐπιχειροτονίαν διδόναι with the *prytaneis* or *proedroi* as subject:\(^\text{16}\) Dem. 22.9; Aeschin. 3.39; Arist. *Ath.Pol*. 43.5, 55.4, and Dem. 24.50 (a *nomos* perhaps inserted in the *Urexemplar*).\(^\text{17}\) On the other hand, we have: ἐφ’ ὑμῖν ἐποίησαν διαχειροτονίαν οἱ νόμοι at Dem. 24.25 and καταχειροτονίαν ὁ

\(^{15}\) I retract my view at *GRBS* 26 (1985) 350 that the law did not become *kyrios* in the proper sense until the year had passed during which the proposer was personally responsible, cf. Canavaro 103 n.75.

\(^{16}\) Canavarro 97 n.57.

\(^{17}\) Canavarro 133.
δήμος ἐποιήσατο at 21.6, in addition to ἐπιχειροτονίαν ποιεῖν τῶν νόμων in the document at 24.20 and διαχειροτονίαν ποιεῖν τοὺς προέδρους in the document at 24.33. I am not persuaded by Canevaro’s attempt to get rid of καταχειροτονίαν ὁ δήμος ἐποιήσατο at 21.6 and ἐποίησαν διαχειροτονίαν at 24.25; and I note that neither διαχειροτονίαν διδόναι nor διαχειροτονίαν ποιεῖν is attested in inscriptions.19

Re 3: “At §32 Demosthenes states that the law is about to be read by the grammateus, in case someone enacts a law in contrast with existing statutes, γράφεσθαι κελεύει. This expression means that the law permits anyone to bring a public action and lays down the procedure for it. The document, on the other hand, does not lay down any procedure … Instead of describing the proper procedure, the document refers to a further law: τὸν νόμον ὃς κεῖται ἐὰν τις μὴ ἐπιτήδειον θῇ νόμον” (104). But the document at 33 is not the place to lay down the procedure for a γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι. This law is about how only the nomothetai are entitled to repeal a law in force and replace it with an alternative law, whereafter it is added that if the procedure involving the nomothetai fails by ratifying a new nomos which is in conflict with one or more of the laws in force, the remedy is a public action heard by the dikastai, and here the document duly refers to the law that lays down the procedure for such a γραφὴ νόμον μὴ ἐπιτήδειον θεῖναι.

The basis of Canevaro’s investigation is the stichometric analysis20 which shows that some of the documents inserted in the medieval manuscripts of Demosthenes’ public speeches

18 Canevaro (97 n.57) argues that this expression is not a relevant parallel: “καταχειροτονία in this case does not mean simply to vote; it means a vote of censure in a probole, although without legal effects (Harris 2008: 79). The expression, therefore, does not mean as in all the other cases ‘to put a matter to the vote’, but ‘to condemn’.”


20 Canevaro 10–27.
were included in the *Urexemplar* of the corpus, whereas others must have been inserted later. Applying his methodological principles\(^{21}\) to all the inserted documents, he finds that the documents that were included in the *Urexemplar* are probably genuine\(^{22}\) while the documents that are incompatible with the stichometric counts are forgeries inserted in the late Hellenistic period.\(^{23}\) For some of the speeches the method works. All the documents in *On the Crown* are forgeries, none was inserted in the *Urexemplar*.\(^{24}\) Conversely, some of the documents in *Against Aristokrates* were certainly included in the *Urexemplar*, others may have been, all are probably genuine.\(^{25}\) In *Against Timokrates* some were included in the *Urexemplar*, some may have been, but some were not.\(^{26}\)

Regarding the documents in *On the Crown* and *Against Aristokrates*, I agree with Canevaro. But I disagree about the authenticity of the documents at Dem. 24.20–23 and 33 and uphold my former view that both documents are genuine laws. They are internally consistent, they do not contradict the information provided by Demosthenes in his summaries, or by related laws and decrees in other sources. They sometimes show language and formulas that are unattested in Athenian inscriptions, but so does Demosthenes in his comments on the documents, and epigraphically unattested terms are also found

\(^{21}\) Canevaro 27–36.

\(^{22}\) Canevaro 329–330: “This survey has shown that, while the documents that were part of the *Urexemplar* of the speeches are usually reliable, the documents that have been inserted at a later date are generally inconsistent with the summaries provided by Demosthenes and with evidence about the same laws, decrees, and procedures found in independent sources. Moreover, they often show language and formulas that are unparalleled in Athenian official documents preserved on stone, and betray a later date of composition.”

\(^{23}\) Canevaro 335.

\(^{24}\) Canevaro 237–318.

\(^{25}\) Canevaro 37–76.

in two of three documents in Against Timokrates which were part of the Urexemplar and are accepted by Canovaro as genuine. The three documents in question are Timokrates’ law (39–40 and 71), Diokles’ law about when a nomos becomes kyrios (42), and the law about adeia for atimoi and opheilontes (45).

In Timokrates’ law (39–40 and 71) Canovaro accepts the transposition of δεκάτης and the emendation of Μυρρινούσιος to ἐγ Μυρρινούττης. Both these ‘anomalies’ are duly discussed, but others are not. The term δεσμός in the sense of imprisonment, used twice in the law, is found in literary sources but is unattested in Attic documents on stone. The adjective μισθώσιμος is never found in inscriptions, and the only proper parallels to the formula τοὺς προέδρους ἐπιχειροτονεῖν or ἐπιχειροτονίαν διδόναι are in the Aristotelian Athenaiion Politeia. I agree with Canovaro that Timokrates’ law is probably a genuine document, but if we apply Canovaro’s methodological principles we should reject it as a forgery, or at least be highly suspicious of its authenticity.

There are problems too with the law about atimoi and opheilontes at 45. The formula ἄφεσις τοῦ ὀφλήματος is unattested in inscriptions, and so is the important numeral ἑξακισχίλιοι. The transposition of δεκάτης is a minor change, but the change of the demotic is a major emendation and is crucial for the issue whether the proedroi of the nomothetai were the same as those of the boule. Referring to IG II² 452 Rhodes believes that the nomothetai must have had their own proedroi: P. J. Rhodes, The Athenian Boule (Oxford 1972) 28. I first believed that the nomothetai used the proedroi of the boule, see M. H. Hansen, ZPE 30 (1978) 156–157, but later—pointing out the problem of the demotic of the proedros—I accepted Rhodes’ view, see ClMed 32 (1980) 103 n.17.

Apart from the two attestations in Timokrates’ law there are 29 occurrences in Against Timokrates.

27 Canovaro 116–120. At 120 he explains both problems “as minor corruptions and solved by minor emendations.” The transposition of δεκάτης is a minor change, but the change of the demotic is a major emendation and is crucial for the issue whether the proedroi of the nomothetai were the same as those of the boule. Referring to IG II² 452 Rhodes believes that the nomothetai must have had their own proedroi: P. J. Rhodes, The Athenian Boule (Oxford 1972) 28. I first believed that the nomothetai used the proedroi of the boule, see M. H. Hansen, ZPE 30 (1978) 156–157, but later—pointing out the problem of the demotic of the proedros—I accepted Rhodes’ view, see ClMed 32 (1980) 103 n.17.

28 Apart from the two attestations in Timokrates’ law there are 29 occurrences in Against Timokrates.


30 39 and 84 (Timokrates’ law).

31 50 (law on supplication, perhaps in the Urexemplar).

32 Ath. Pol. 43.4, 43.5, 55.4, and perhaps 37.1.
the formula μὴ ἔλαττον ἑξακισχιλίων οἷς ἀν δόξη κρύβοιν
ψηφιζομένοις.\textsuperscript{33} It is mentioned at Dem. 59.89 in connection
with ratification of citizenship decrees, but is not found in any
of the numerous citizenship decrees preserved on stone.\textsuperscript{34}

Diokles’ law at 42 is in fact the only document in the
\textit{Urexemplar} that does not offend against any of Canevaro’s
methodological principles.

So let us take a closer look at what we know about the \textit{Ur-
exemplar}. I am convinced that Canevaro is basically right about
its origin and the identification of the compiler as Demos-
thenes’ nephew Demochares: “Our survey has shown that the
person responsible for the first edition of the corpus must have
been in Athens and with access to the personal files of
Demosthenes after his death, so that he could retrieve working
tools like the \textit{Prooemia} and mistakenly include among Demos-
thenes’ works some speeches by other orators that happened to
be among Demosthenes’ papers” (327).

The Demosthenic corpus, however, as we have it in the
medieval manuscripts is based on other sources than the
\textit{Urexemplar}. A number of forged documents, for example, were
added to the speech \textit{On the Crown} and to other speeches as well.
Is it unthinkable that some genuine documents were added
later to the speech \textit{Against Timokrates}?\textsuperscript{35} Canevaro admits that


\textsuperscript{34} See M. J. Osborne, \textit{Naturalization in Athens IV} (Brussels 1983) 161–164.

\textsuperscript{35} Canevaro (340 n.73) “does not exclude the possibility that they [the editors of Dem. 24 who later inserted the documents] might occasionally have found the right document.” One example of that is the section of Drako’s homicide law (\textit{IG I} 104) inserted as a document in Dem. 43.57. Apart from the transposition of one section, the omission of lines 14–16, and a few minor changes, the text of the document is identical with lines 13–22 of the inscription and has been the basis for the convincing restoration of those lines. Stichometric analysis shows that the document at 43.57–58 was not part of the \textit{Urexemplar} and must have been inserted later (Canevaro 30 n.63). In addition to the section of the homicide law the document also includes a law concerning the burial of deceased persons. The document must stem from another version of the speech than the one

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the “forger” of the document at §20–23 “shows a shrewd understanding of the working of the Athenian Assembly and a remarkable knowledge of Attic official language” (332). In my opinion the “errors” Canevaro has found in the documents inserted at §20–23 and 33 are not errors but trustworthy pieces of information about Athenian laws and legislative procedures, based on either existing copies of the laws or on copies of Demosthenes’ speech that included other documents than those in the Urexemplar. We know next to nothing about the publication—or rather circulation—of courtroom speeches in fourth-century Athens. We can neither prove nor disprove that copies of Demosthenes’ courtroom speeches were circulated in Athens in his lifetime, and that some of the copies may have included other documents than those attested in the Urexemplar. In my opinion there is no reason to doubt that, in addition to Demosthenes’ own copy of the speech—probably the one used for the Urexemplar—at least one more copy of the speech Against Timokrates existed in Demosthenes’ lifetime. The graphe nomon me epiteleon theinai against Timokrates was brought by Diodoros, who addressed the court with the speech written by Demosthenes. In this case Demosthenes was neither kategoros nor synegoros, but logographos. In his early years Demosthenes earned a living as teacher of rhetoric and logographer. Canevaro (329) suggests that after the trial Demosthenes’ original was filed with his other speeches and that in preparing

used for the Urexemplar. The speech was written by a logographer, probably Demosthenes, and delivered by Sositheos who opposed Makartatos in a diadikasia. The speech was written in the late 340s when Demosthenes had established his reputation as a speechwriter and it may have been circulated in his lifetime.

36 3 and 64; hypoth. 1.1, 2.5.
37 MacDowell, Demosthenes 185.
38 For Demosthenes as logographer see Dem. 32.32; Aesch. 1.94, 2.165, 3.173; Din. 1.111. For the logographer in general see Lycurg. 1.138; Lavency, Aspects 26–30, 41–45 and passim.
39 MacDowell, Demosthenes 59–60.
the *Urexemplar* “Demochares added to the speeches those documents that he found among Demosthenes’ papers.” But what happened to Diodoros’ copy which may have included some of the documents not found in the *Urexemplar*? Diodoros probably had to pay Demosthenes for giving advice and for writing the speech. In addition to the speech which Diodoros now had to rehearse, Demosthenes may have provided him with copies of the documents to be read out to the jurors. Later when Demosthenes had become a leading figure in Athens and had established his fame as an orator Diodoros may have circulated his copy either for political reasons or to recover what he had paid for the speech. Alternatively, Demosthenes may himself have ‘published’ the speech. I agree with MacDowell and Canevaro that Demosthenes “had no reason to insert the documents in his drafts and that the normal practice was not to include them. He had rather to provide separate copies for them to be read out by the secretary.” But if after the trial he had copies of his speeches circulated either for political or commercial reasons, he may have preferred to have the documents or at least some of them inserted.

This view can be extended to cover all the Athenian logographers. We have preserved a total of close to one hundred courtroom speeches delivered in public or private actions in the course of the period ca. 420 to 322. Of these no less than 76 were written by logographers and delivered by their clients acting as prosecutors or defendants or synegoroi for prosecutors or defendants. The authors of these logographic speeches are Antiphon, Isokrates, Lysias, Isaios, Demosthenes, Hypereides,

40 Aeschin. 2.165; Din. 1.111.
41 In *Lysias and the Corpus Lysiacum* (Berkeley/Los Angeles 1968) 161–163, K. J. Dover suggested that “Demosthenes and Diodoros worked closely together and Diodoros made significant contributions to the argument and wording of both speeches.” The other speech is 22 Against Androtion, where Diodoros appeared as synegoras for the prosecutor, Euktemon.
and Deinarchos. Lykourgos is known to have written speeches for others, but none is preserved. Still extant speeches written by these orators and delivered by themselves add up to fourteen, nine in private and five in public actions. There is no evidence that Andokides, Aischines, and Apollodoros acted as logographers.43

The heavy preponderance of logographic speeches among the speeches we have preserved suggests that logographers had their speeches ‘published’ to a far larger extent than courtroom speeches composed and delivered by others, and apparently in the logographers’ own lifetime. According to Eusebios, Hypercides borrowed arguments and passages from Demosthenes’ speeches and vice versa.44 And a passage in Lysias is obviously copied from an almost identical passage in Andokides’ speech On the Mysteries.45 A possible but less obvious reason for the similarity is that in both cases the argument was based on a topos taken from a rhetorical handbook. Much of this is hypothetical, but in my opinion less so than Canevaro’s view that no version of Against Timocrates or Demosthenes’ other speeches was accessible to the public until after Democharis had produced the Urexemplar.

Another source which deserves to be mentioned in this context is from Plutarch and pertains to Demosthenes’ deliberative speeches. In the Life of Demosthenes he quotes Hermippos for the story that Demosthenes’ contemporary, the rhetor Aision, was asked about the difference between former and contemporary orators. He answered that one would have admired former orators’ graceful and magnificent deliberative speeches to the people and that was different from reading

45 Lys. 19.3–4; Andoc. 1.6-7. For these examples and striking similarities between Dem. 54 and Isoc. 20 see Rubinstein, in Oxford Handbook 508–509.
Demosthenes' well-prepared and powerful speeches. Hermippos has a reputation for not always being trustworthy, but is he necessarily wrong?

My conclusion is that I disagree with Canevaro about the authenticity of the documents at §20-23 and 33. But in spite of my disagreement I would like to add that Canevaro’s book is a highly professional and valuable contribution to the debate and will be required reading for all who study Athenian law and political institutions as well as all who investigate the history and origin of the Demosthenic corpus. Unless a marble copy of one of the laws quoted in the speech turns up in future, or a papyrus fragment of Against Timokrates from the early Hellenistic period with the text of one of the documents, there can be no definitive answer to the question: which of the documents inserted in Against Timokrates are genuine and which are “late forgeries”?

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46 Plut. Dem. 11.4 (Hermip. fr.74 Wehrli). For Aision see LGPN II 14c.
47 E. Drerup, Demosthenes im Urteile des Altertums (Paderborn 1923) 71–72.
48 For helpful suggestions I would like to thank Prof. Peter Rhodes and Prof. Jeremy Trevert.

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