

# *Nomos ep' andri* in Fourth-Century Athens: On the Law Quoted at Andocides 1.87

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IN CONNECTION with the restoration of the democracy in 403/2 B.C. the Athenians introduced a distinction between laws (*nomoi*) and decrees (*psephismata*).<sup>1</sup> In the fifth century an enactment could be called both a *nomos* (when the emphasis was on its content) and a *psephisma* (when it was the passing of the enactment by the people that mattered).<sup>2</sup> From now on a *nomos* had to be a general rule binding on all Athenians for an indefinite period of time and no law may apply to one or more named persons only. A *psephisma*, on the other hand, was an enactment specific in scope and/or of limited duration. In fourth-century Athens *psephismata* were passed by the Assembly (*demos*) and the Council (*boule*) as they had been in the fifth century, whereas *nomoi* had to be passed by a special board of legislators (*nomothetai*).<sup>3</sup> But foreign affairs were still debated and decided by the *demos*, and all treaties, even peace treaties claiming to be forever, were passed by the Assembly as *psephismata*.<sup>4</sup>

<sup>1</sup> References to my own work are to “*Nomos and Psephisma* in Fourth-Century Athens,” *The Athenian Ecclesia* (Copenhagen 1983) 161–176 = *GRBS* 19 (1978) 315–330; “Did the Athenian *Ecclesia* Legislate after 403/2?” *The Athenian Ecclesia* 179–205 = *GRBS* 20 (1979) 27–53; *The Athenian Assembly* (Oxford 1987); *The Athenian Democracy in the Age of Demosthenes* (Oxford 1991).

<sup>2</sup> Hansen (1983) 162–163, (1991) 161–162.

<sup>3</sup> Hansen (1983) 179 with n.2, where I opposed what was then the orthodox view, viz. that the Athenians in the fourth century whenever it was possible continued to express their will in *psephismata*. See also Hansen (1991) 170–174.

<sup>4</sup> Hansen (1983) 183–184.

We do not know exactly when the reform took place. During 403/2 immediately after the restoration of the democracy some general permanent rules were still passed by the *demos* in *ek-klesia*,<sup>5</sup> but part of the law about the reform is read out to the jurors in Andokides' *On the Mysteries* at 87 and then discussed by Andokides at 89. The law reads: ψήφισμα δὲ μηδὲν μήτε βουλῆς μήτε δήμου νόμου κυριώτερον εἶναι. μηδὲ ἐπ' ἀνδρὶ νόμον ἐξεῖναι θεῖναι ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις, ἐὰν μὴ<sup>6</sup> ἑξακισχιλίοις δόξῃ κρύβδην ψηφίζομένοις. Andokides' own version of the law at 89 is slightly different; three words are missing and have been supplemented by editors on the basis of the text of the document at 87. Furthermore, the last clause is left out, and has recently been rejected as a late forgery by Canevaro and Harris:<sup>7</sup> ψήφισμα δὲ <μηδὲν> μήτε βουλῆς μήτε δήμου <νόμου> κυριώτερον εἶναι, μηδ' ἐπ' ἀνδρὶ νόμον <ἐξεῖναι> τιθέναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις.

Andokides' speech was delivered in 400/399,<sup>8</sup> and down to 322/1, when the democracy was abolished, examples of general norms passed in the form of *psephismata* are extremely rare, and the few that are attested were passed during the wars against Philip of Macedon, one in 347/6 and four in 340–338, when the Athenians may have been obliged to pass some laws as decrees because the ordinary legislative procedure by *nomothesia* was more protracted than a *psephisma* and, in a crisis, would have been too time-consuming.<sup>9</sup> Furthermore, they are

<sup>5</sup> Hansen (1983) 165–167.

<sup>6</sup> For ἐὰν μὴ in two consecutive conditional clauses see Isae. 6.9.

<sup>7</sup> M. Canevaro and E. M. Harris, “The Documents in Andokides' *On the Mysteries*,” *CQ* 62 (2012) 98–129 (hereafter ‘Canevaro and Harris’), at 119; M. Canevaro, *The Documents in the Attic Orators. Laws and Decrees in the Public Speeches of the Demosthenic Corpus* (Oxford 2013, hereafter ‘Canevaro’) 149–150.

<sup>8</sup> Delivered in Boedromion 400: D. M. MacDowell, *Andokides On the Mysteries* (Oxford 1962) 204–205.

<sup>9</sup> Hansen (1983) 189–191, (1991) 173.

related to foreign affairs which as before were within the sphere of authority of the *ekklesia* and regulated by *psephismata*.

So apart from the few attested examples of emergency measures, both the inscriptions and the literary evidence show that in fourth-century Athens general permanent rules were passed as *nomoi* by the *nomothetai* and not as *psephismata* by the *demos*. But are there examples of the reverse phenomenon: that norms related to individual matters and/or to named individuals sometimes were submitted to the *nomothetai*? Among the fourth-century *psephismata* preserved on stone there are three examples of honorary decrees for individuals passed by the Assembly but afterwards submitted to the *nomothetai* who had to approve the money required to pay for the honours. The three are *IG II<sup>3</sup>* 327, 452, and 355.

*IG II<sup>3</sup>* 327 is a stele inscribed with three honorary decrees, all for Phyleus son of Pausanias of Oion, who had been secretary of the *boule* and the *demos* in the archonship of Pythodelos (336/5).

The first is a decree of the *boule* moved by Agasias and passed on the second day of the ninth prytany of 336/5 (lines 29–31). The *boule* votes to honour Phyleus with a golden crown worth 1000 drachmas, when he has passed his *euthynai* (32–42). Next, in order that further honours for Phyleus can be bestowed by the *demos*, the *boule* passes a *probouleuma* instructing the *proedroi* presiding over the next *ekklesia* to place his case on the agenda of the meeting (42–46).

The second is a *probouleumatic* decree of the *demos* moved by Hippochares and passed on the thirty-seventh day of the tenth prytany of 336/5 (47–49). The *demos* confirms the honours bestowed on Phyleus by the *boule* as well as further honours bestowed on two other magistrates (*archai*) who in some way have been Phyleus' colleagues. Like Phyleus, they are each<sup>10</sup> awarded a golden crown worth 1000 drachmas (49–65).

<sup>10</sup> At 61 Tsountas' conjecture ἀμφοτέρους makes sense. It fills the lacuna to perfection, but the attested idiom in other decrees is ἕκαστον αὐτῶν (*IG II<sup>3</sup>* 416.21) or ἑκάτερον αὐτῶν (304.7).

The third is a decree of the *demos* passed on the seventeenth day of, probably, the third prytany of 335/4 (1–4). The *demos* confirms the honours bestowed on Phyleus (4–15). The *tamias tou demou* is instructed to lay out the money for the golden crown, to be taken from the annual allowance assigned to the *demos* (ἐκ τῶν εἰς τὰ κατὰ ψηφίσματα ἀναλισκομένων τῷ δήμῳ, 15–18). In order that the *tamias* can recover the outlay, the *proedroi* of the *nomothetai* are instructed to submit to the *nomothetai* to pass a supplementary law about the expenditure, so that other secretaries of the *boule* and the *demos* may show their zeal to administer in accordance with the laws and be of use to the *demos* (18–23). Finally, the decree shall be inscribed on a stele together with the two previous decrees: the decree of the *boule* moved by Agasias and the probouleumatic decree of the *demos* moved by Hippochares (23–28).

The time gap between the three decrees is worth noting. The decree of the *boule* prescribes that the matter be put on the agenda of the next *ekklesia*, but the probouleumatic decree is not passed until the last *ekklesia* of the year. The reason for the delay may have been the proposal to honour Phyleus' two colleagues as well. The reason for the gap of several prytanies between the second and third *psephismata* is undoubtedly that Phyleus had to pass his *euthynai*, and the audit of the members of the council of five hundred as well as some seven hundred other *archai* must have been a time-consuming affair. Note that the third decree, like the first, is for Phyleus alone; his two colleagues have dropped out, but since the third decree prescribes that both the first and the second decree be published, the two colleagues were probably honoured too but in other decrees, now lost.

In this context the crucial passage is ὅπως δ' ἂν ὁ τ[α]μίας ἀπολάβ[η] τὸ ἀργύριον τὸ εἰρημένον, τοὺς π[ρ]οέδρους οἱ ἂν λάχῳσι[ν] προεδρεύειν — —<sup>9</sup> — — τοῦ]ς νομοθέτας προσνομοθετῆ[σαι περὶ τοῦ ἀναλώματος] (18–20).

*IG II<sup>3</sup> 452* is an honorary decree of ca. 334 for Peisitheides son of Peisitheides of Delos. He is awarded hereditary Athenian citizenship to be ratified at the following assembly (*ekklesia*) (16–31), and anyone who kills Peisitheides is declared an enemy of

the Athenians (*polemios*) (31–35). Peisitheides lives in exile and until he can return to Delos the treasurer of the people (*ho tamias tou demou*) shall pay him one drachma a day to be taken from the annual appropriation for expenditures on decrees (ἐκ τῶν κατὰ ψηφίσματα ἀναλισκομένων τῶι δήμῳ, 35–41). The decree anticipates that Peisitheides' exile may last several years. The *proedroi* of the *nomothetai* and their *epistates* are instructed to pass an additional law that the *apodektai* every year shall pay the money to the treasurer of the people (ὁ ταμίαις τοῦ δήμου), who then pays Peisitheides every prytany. If the *proedroi* and their *epistates* do not put this motion to the vote, each of them shall pay a fine of 1000 drachmas to Athena (39–52): ἐν δὲ τοῖς νομοθέταις τ[οὺς προέδ]ρους, οἳ ἂν προεδρεύωσιν, [καὶ τὸν ἐ]πιστάτην προσνομοθετή[σαι τὸ ἀρ]γύριον τοῦτο μερίζειν τ[οὺς ἀποδ]έκτας τῶι ταμίαι τοῦ δήμ[ου εἰς τὸ]ν ἐνιαυτὸν ἕκαστον, ὁ δὲ τ[αμίαις ἀπ]οδότωι Πεισιθείδει [κατὰ τὴν πρυ-]τανείαν ἑκάστην· εἰὰν δὲ μ[ὴ ἐπιψηφ]ίσωσιν οἱ πρόεδροι καὶ ὁ [ἐπιστά]της τῶν νομοθετῶν, ὀφειλέ[τω ἕκασ]τος αὐτῶν Χ δραχμάς ἱεράς [τῆι Ἀθη]νῶι. This supplementary law is a general norm in that it is valid for an unknown number of years, but it is a *nomos ep' andri* in referring to the recipient by name. It specifies that the money be paid out to the *tamias* by the year but that the *tamias* shall pay Peisitheides by the prytany.

*IG II<sup>3</sup> 355* is a decree of the *demos* passed in the third prytany of 329/8 honouring a popularly elected commission of ten citizens who have been in charge of an agonistic festival for Amphiaraios. The names of the commission members are listed and they include Lykourgos of Boutadai and Demades of Paiania. The members are awarded a golden crown worth 1000 drachmas, and in addition 100 drachmas for a votive offering probably in connection with setting up the crown in the sanctuary of Amphiaraios. The *tamias tou demou* is instructed to pay out the money for the votive offering. Next it is decreed that in the next session of *nomothetai* an additional law be passed about repaying the *tamias*: στεφανῶσαι αὐτοὺς χρυσῶι στεφάνῳ ἀπὸ Χ δραχμῶν· δοῦναι δὲ αὐτοῖς καὶ εἰς θυσίαν καὶ ἀνάθημα Η δραχμάς· τὸ δὲ ἀργύριον <τ>ὸ εἰς τὴν θυσίαν προδανεῖσαι τὸν ταμίαν τοῦ δήμου· ἐν δὲ τοῖς πρώτοις νομοθέταις προσνομο-

θετῆσαι τῶι ταμίῳ· δοῦναι δὲ καὶ τὰς τριάκοντα δ[ρ]αχμὰς τὸν ταμίαν τοῦ δήμου τοῖς αἰρεθεῖσιν ἐπὶ τὸν ἀγῶνα, ὡς εἴρηται διδόναι ἐν τῶι νόμῳ τῶι αἰρεθέντι ἐπὶ τὴν εὐταξίαν (34–45). Finally, to have the *psephisma* published in the sanctuary of Amphiaraios the *tamias* is instructed to pay 30 drachmas to be taken from the fund for publishing decrees of the *demos*: ΔΔΔ δραχμὰς ἐκ τῶν κατὰ ψηφίσματα μεριζομένων τῶι δήμῳ (50–52). As the text stands the bill to be submitted to the *nomothetai* concerns the 100 drachmas for the sacrifice. But the presumption is that the 1000 drachmas for the golden crown were also paid by the *tamias* from the appropriation reserved for expenditures on decrees and that he was reimbursed 1000 drachmas too in consequence of the supplementary *nomos* as stipulated in the other two decrees.

The three decrees are alike. In all three cases it is the *tamias tou demou* who has to pay out the money in question, and he has to take the money from the appropriation reserved for expenditures on decrees (ἐκ τῶν κατὰ ψηφίσματα ἀναλισκομένων τῶι δήμῳ). But he will be reimbursed through the supplementary *nomos* passed by the *nomothetai*. One of the decrees states explicitly that it is the *apodektai* who every year shall allot (μερίζειν) the money to the *tamias* (452.44–46); and in another decree the term μεριζομένων is used instead of ἀναλισκομένων in reference to the appropriation reserved for expenditure on decrees (355.51). The verb μερίζειν suggests that the *apodektai* assign the money to the *tamias* in connection with the annual *merismos*, for which see the succinct description by Rhodes: “Whereas previously [in the fifth century], so far as we can tell, every payment from the public treasury was earmarked for a particular purpose, various ἀρχαί were now given an annual allowance for their ordinary expenses, which presumably was theirs to spend without further interference, so long as they could satisfy the boards of logistae in the check made every prytany, and in the financial examination after their year in office. A few of the allocations are known: in 357/6 Midias as treasurer of the Paralus had 12 talents to spend; in the 320s the ἱερῶν ἐπισκευασταί received ½ talent a year and the epimeletae of the

Great Dionysia 1½ talents.”<sup>11</sup> Although the *merismos* was undoubtedly subject to frequent revisions, it was by nature a *nomos*, i.e. a general permanent rule that could not be changed by a *psephisma* but only by a *nomos*.<sup>12</sup>

Honorary decrees passed by the *demos* or the *boule* were all *psephismata* and they constitute the majority of all decrees preserved on stone and a considerable part of those known from literary sources.<sup>13</sup> To stimulate political participation by bestowing honours on individual citizens or boards of officials was a costly undertaking, and so was the use of gifts of golden crowns in diplomatic relations with other *poleis*. Regular publication of decrees honouring Athenians began in the 340s, and a careful survey and analysis of the epigraphical evidence was published in 2004.<sup>14</sup> On the basis of this study David Pritchard surmises “that the annual cost of gold crowns for magistrates, politicians and foreign benefactors was less than 2 t. in the 330s.”<sup>15</sup> The problem is that we do not know the percentage of honorary decrees still preserved, but Pritchard is undoubtedly right in his conviction that my estimate of 10–20 talents per year<sup>16</sup> was much too high.

Any session of the *nomothetai* had to be warranted by a *psephisma* passed by the *demos*,<sup>17</sup> but in these three cases the decree is not just a decision to appoint *nomothetai* but also an instruction to the *nomothetai* to vote on an amendment to the law on

<sup>11</sup> P. J. Rhodes, *The Athenian Boule* (Oxford 1972) 103; cf. “The Organization of Athenian Public Finance,” *G&R* 40 (2013) 203–231, at 216–219.

<sup>12</sup> Rhodes-Osborne, *GHI* 19.18–22: μερίσαι δὲ τὸ ἀργύριον τὸ εἰρημένον τὸς ἀποδέκτας ἐκ τῶν καταβαλλομένων χρημάτων, ἐπειδὴν τὰ ἐκ τῶν νόμων μερ[ίσωσι].

<sup>13</sup> Hansen (1987) 110–111.

<sup>14</sup> S. D. Lambert, “Athenian State Laws and Decrees 352/1–322/1 I. Decrees Honouring Athenians,” *ZPE* 150 (2004) 85–120.

<sup>15</sup> D. M. Pritchard, *Public Spending and Democracy in Classical Athens* (Austin 2015) 87–88.

<sup>16</sup> Hansen (1987) 115, (1991) 316.

<sup>17</sup> Dem. 24.21, 27; Dem. 3.10–13; Aeschin. 3.39.

the budget prompted by expenditure for honours for named persons. The three *psephismata* convey the impression that the *nomothetai* are expected to ratify the change. And the published decrees show that they did so in the three cases we know about. But it is unbelievable that the *nomothetai* did not have any say in the matter but had to rubberstamp *psephismata* passed by the Assembly. Supplementary legislation of such a type would run counter to the fundamental constitutional principles of legislation established in connection with the restoration of the democracy in 403, viz. that no *psephisma* may override a *nomos* but must accord with the *nomoi*,<sup>18</sup> whereas *psephismata* that were in conflict with a *nomos* were null and void and had to be deleted.<sup>19</sup>

In my opinion there can be no doubt that the *nomothetai* had the power to vote down a change they found unnecessary or detrimental to the interests of the Athenian people. In the decree for Peisitheides the *demos* orders the *proedroi* of the *nomothetai* and their *epistates* to put the change of the *merismos* to the vote, and each of them will incur a fine of 1000 dr. if they do not comply with the order. But there is no instruction that the *nomothetai* must pass the supplementary law.

On what grounds would the *nomothetai* vote for or against a change of the *merismos*? They would of course have to know the reason for the change. The decree by which they were instructed to ratify the change must have been read out at the session and/or it had been published in advance like all other bills submitted to the *nomothetai*,<sup>20</sup> and in the three cases in question we know that the reason for the change was to provide money for honours bestowed on individual persons, identified by name. Thus, the decision to be made by the *nomothetai* was both about a general matter in that it was a change of the *merismos*, and about an individual matter in that it financed

<sup>18</sup> Andoc. 1.87, 89; Dem. 23.87, 24.30.

<sup>19</sup> Rhodes-Osborne, *GHI* 25.55–56.

<sup>20</sup> Dem. 20.94; Dem. 24.23, 36; Aeschin. 3.39.

an honorary decree for a named person. It was a borderline case between *nomos* and *psephisma*, and it was acknowledged as a borderline case by the exemption clause added to the law about legislation, that a *nomos ep' andri* was forbidden unless it had been allowed by (the majority of) 6000 citizens who vote secretly.<sup>21</sup>

Rhodes, followed by Harris and Canevaro, disputes my interpretation of the three honorary decrees: “what the *nomothetai* are asked in the three decrees to do is not to ratify the decree but simply revise the *merismos*, and I see no reason to believe that these revisions would count as νόμοι ἐπ’ ἀνδρί.”<sup>22</sup> “In fact, in each decree the *nomothetai* are asked to legislate about a sum of money, not about a person. They do not confirm the honours granted to an individual. Furthermore none of the three decrees cited by Hansen mentions a quorum of 6,000 or a secret ballot. *Pace* Hansen, these inscriptions do not provide examples of νόμοι ἐπ’ ἀνδρί.”<sup>23</sup>

My response is that in the honorary decree for Phyleus the purpose of the supplementary law to be passed by the *nomothetai* is explicitly stated: honouring Phyleus with a golden crown aims to encourage future secretaries to administer in accordance with the laws and to be of use to the Athenian people (18–21). By voting for the supplementary *nomos* the *nomothetai* endorse the proposed change of the *merismos*. But if the *nomothetai* had rejected the supplementary *nomos* the result would probably have been that the people’s decision to honour Phyleus with a golden crown lapsed.

The reason for referring specific honorary decrees to a session of *nomothetai* who did not normally treat *psephismata* must have been that the sum set aside by the *merismos* for that purpose was insufficient, so that the *tamias tou demou* was short of

<sup>21</sup> I.e. by ballot like the jurors in the court: Andoc. 1.87, Dem. 24.59 (see below).

<sup>22</sup> P. J. Rhodes, “*Nomothesia* in Fourth-Century Athens,” *CQ* 35 (1985) 59.

<sup>23</sup> Canevaro and Harris 119; cf. Canevaro 149–150.

money; and the reason for that was, that to honour a person with a golden crown instead of one of olive branches had become a habit from ca. 340,<sup>24</sup> so that expenses for honorary decrees had risen sharply in the 330s and 320s, precisely during the period all these three decrees were passed.<sup>25</sup>

Again, in the citizenship decree for Peisitheides the *demos* asks the future *proedroi* of the *nomothetai* and their *epistates* to have a supplementary law passed (*prosnomothetesai*), and the content of that *nomos* is specified in the text: to order the *apodektai* every year to transfer the money in question to the *tamias tou demou* and to order the *tamias* to pay out the money to Peisitheides by the prytany. If the *proedroi* and their *epistates* do not put such a supplementary law to the vote, each will be fined 1000 dr. to be paid to Athena. The reference to the *apodektai*, the *tamias*, and the *proedroi* of the *nomothetai* are general aspects of the *nomos*. But the supplementary law is a *nomos ep' andri* in so far as Peisitheides is singled out by name as the beneficiary of the supplementary *nomos*.

Furthermore, we know that one of the three decrees must have been ratified in the Assembly by the required quorum of 6000 voting by ballot, namely the honorary decree for Peisitheides, since the honour he was awarded was not just the daily allowance of one drachma for an unknown number of years to be confirmed by the revision of the *merismos*, but also Athenian citizenship. As we know from the speech *Against Neaira* 89–90, a citizenship decree passed by the *demos* had in the next assembly to be ratified by (the majority of) the quorum of 6000 voting by ballot. The citizenship decree for Peisitheides which had to be ratified in the following *ekklesia* would be the one we have still preserved, i.e. the one that included the instruction to have the change of the *merismos* submitted to the *nomothetai*, so in this case

<sup>24</sup> A habit criticised by, e.g., Aischines (3.187) and Lykourgos (fr.58 *Conomis*): see P. Liddel, "The Honorific Decrees of Fourth-Century Athens: Trends, Perceptions, Controversies," in C. Tiersch (ed.), *Die Athenische Demokratie im 4. Jahrhundert* (Stuttgart 2016) 335–357, at 350–352.

<sup>25</sup> *IG II<sup>3</sup>* 327 (335/4), 452 (ca. 334), 355 (329/8).

we know that the supplementary law to be passed by the *nomothetai* had been approved by the majority of 6000 citizens voting by ballot.

Finally, it is true that none of the three decrees specifies that the decision to refer the case to the *nomothetai* must be approved by the majority of a quorum of 6000 citizens, as prescribed in the law quoted in Andokides; but similarly the provision that a citizenship decree must be ratified by a majority of a quorum of 6000 is not mentioned in any of the citizenship decrees preserved on stone, and is referred to only once in a literary source, the speech *Against Neaira* (Dem. 59.89).

The provision that a *nomos ep' andri* may be passed if allowed by the majority of a quorum of 6000, attested in the document at Andoc. 1.87, is perhaps also in the corrupted version of a document quoted by Demosthenes in *Against Timokrates* (24.59): μηδὲ νόμον ἐξεῖναι ἐπ' ἀνδρὶ θεῖναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις [τιθῆ], <ἐὰν μὴ> ψηφισαμένων μὴ ἔλαττον ἐξακισχιλίων οἷς ἂν δόξη κρύβδην ψηφίζομενοις.<sup>26</sup> Canevaro rightly notes that as the text stands the law must mean that “the laws must apply to all citizens alike and be voted by secret ballot with a quorum of 6,000. Such a clause does not make any sense when compared with what we know about Athenian legislation” (146). So we have a choice between emending the text or rejecting it as corrupt: there is no reason to discuss it as it is. Comparing this law with that quoted at Andoc. 1.87 Samuel Petit suggested inserting ἐὰν μὴ before ψηφισαμένων.<sup>27</sup> With that emendation the law makes sense, but what is the relation between Andokides’ *On the Mysteries* and Demosthenes’ *Against Timokrates*? According to Petit the exemption clause in the document at Dem. 24.59 can be emended on the basis of the document at Andoc. 1.87.

Canevaro and Harris in their article (118) and Canevaro in

<sup>26</sup> The stichometric count does not allow us to decide whether or not this document was part of the *Urexemplar* (see Canevaro 150).

<sup>27</sup> S. Petit, *Leges Atticae* (Leiden 1742 [1635]) 188; cf. H. Weil, *Les plaidoiries politiques de Démosthène II* (Paris 1886) 100.

his book (146) believe that in both documents the provision about a vote taken by 6000 Athenians is a forgery inserted much later.

There is no need to discuss the passage at Dem. 24.59 further, but why reject the provision quoted in the document at Andoc. 1.87? Canevaro's principal reason is that it offends against one of his methodological principles concerning the authenticity of documents inserted in forensic speeches: "the documents should not contradict the information found in their close paraphrases, and should contain all the features there summarized. Sometimes, however, the documents also contain details and provisions absent from their summary. This is often understood as automatic evidence for their authenticity" (32). But "The presence in a document of details and provisions that are not mentioned by the orator in his paraphrase are not automatically evidence of authenticity. They could be and often are the product of the forger's imagination" (146). Andokides' omission in his paraphrase at 89 of the exemption clause in the document at 87 about passing a *nomos ep' andri* if allowed by a quorum of 6000 is an example of a provision in a document not mentioned by the orator in his summary of the content of a document he has had read out to the jurors, and accordingly Canevaro rejects the exemption clause as a late forgery (146).

But Canevaro's methodological principle does not always apply, cf. e.g. Diokles' law inserted as a document in Dem. 24.42 and summarised by Demosthenes in 43–44. The document was part of the *Urexemplar* of the speech and is accepted by Canevaro (121–127) as a genuine law, but the long final provision about the duties of the secretary of the *boule* is passed over in silence by Demosthenes in his summary, because it is irrelevant to the point he wants to make.

In the document at Andoc. 1.87 the exemption from the prohibition of a *nomos ep' andri* is irrelevant to the case at hand and is therefore omitted from Andokides' summary of the law. In my opinion there is no cogent reason to suspect the authenticity of the document. On the contrary, the three honorary decrees described above indicate that there were borderline

cases where provisions in *psephismata* that concerned individual named persons nevertheless had to be submitted to a session of the *nomothetai* because these provisions necessitated the change of a *nomos*, and a *nomos* could not be changed by a *psephisma* but only by a new *nomos* to be passed by the *nomothetai*.<sup>28</sup>

To sum up. A vote by ballot taken by the *demos* in an *ekklesia* is attested in three different situations:

- (1) A citizenship decree passed by the *demos* in an *ekklesia* must be ratified in the subsequent *ekklesia* by (the majority of) a quorum of 6000 citizens voting by ballot.
- (2) Permission to *atimoi* and *opheilontes* to bring a supplication in the *ekklesia* about reprieve must be granted by (the majority of) a quorum of 6000 citizens voting by ballot.
- (3) Permission to propose a *nomos ep' andri* must be granted (in an *ekklesia*) by (the majority of) a quorum of 6000 citizens voting by ballot, whereafter the proposal is referred to a forthcoming session of *nomothetai*.

For all three situations, the provision that a quorum of 6000 must vote by ballot is attested in one source only.

The required ratification of a citizenship decree in the subsequent *ekklesia* was introduced between ca. 380 and 369/8,<sup>29</sup> and in the period between 369/8 and 323/2 it is attested in ten grants of citizenship.<sup>30</sup> But the requirement that the ratification had to be passed by (the majority of) a quorum of 6000 is not attested in any of the decrees, but is found in one source only, Dem. 59.89–90.

A permission (*adeia*) issued by the *demos* to do something otherwise forbidden is attested in several sources,<sup>31</sup> but the only source that informs us that it had to be granted with the quorum of 6000 is the document at Dem.24.45.<sup>32</sup>

<sup>28</sup> M. H. Hansen, "Athenian *Nomothesia*," *GRBS* 26 (1985) 345–371, at 360–362.

<sup>29</sup> M. J. Osborne, *Naturalization in Athens III/IV* (Brussels 1983) 161.

<sup>30</sup> Osborne, *Naturalization* nos. 10–13, 18–20, 22–23, 25.

<sup>31</sup> E.g. *IG I<sup>3</sup>* 52.B.16, 18; Lysias 6.23.

<sup>32</sup> Accepted by Canevaro 132–138 as a genuine document.

The provision that all laws had to apply to all Athenians and not to a named individual is attested in several documents<sup>33</sup> and passages in the speeches,<sup>34</sup> whereas the provision that a *nomos ep' andri* might exceptionally be passed is attested in the document at Andoc. 1.87 and in no other source unless one accepts Petit's emendation of the document at Dem. 24.59. Canevaro rejects both documents as late forgeries, but on the basis of the three honorary decrees discussed above I suggest that we accept the document at Andokides 1.87 as genuine and consider the possibility that the document at Dem. 24.59 may be a corrupted version of the same provision.

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<sup>33</sup> Dem. 23.86, 46.12.

<sup>34</sup> Dem. 24.18, 116, 159, 188.