

The Authenticity of the Law about *Nomothesia* inserted in Demosthenes *Against Timokrates* 20–23

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PROBABLY THE MOST IMPORTANT but also the most controversial of the documents inserted in Demosthenes' speech *Against Timokrates* (353 B.C.) is the law that purports to regulate the annual vote in the *ekklesia* about revision of the Athenian corpus of laws (24.20–23), conventionally referred to as “the review law.”¹ Is this document genuine as most contemporary scholars have believed?² Or is it a forgery as recently argued by Mirko Canevaro?³ I still believe that the document is authentic, but before I take issue with Canevaro's specific analysis of the document in its context I shall discuss the method he applies.

¹ The term was coined by D. M. MacDowell, “Law-Making at Athens in the Fourth Century B.C.,” *JHS* 95 (1975) 62–74.

² Recent treatments are: MacDowell, *JHS* 95 (1975) 62–74; M. H. Hansen, “Athenian *Nomothesia* in the Fourth Century B.C. and Demosthenes' Speech against Leptines,” *ClMed* 32 (1980) 87–104, and “Athenian *Nomothesia*,” *GRBS* 26 (1985) 345–371; P. J. Rhodes, “*Nomothesia* in Fourth-Century Athens,” *CQ* 35 (1985) 55–60, “*Nomothesia* in Classical Athens,” *L'educazione giuridica* 5.2 (1987) 5–26, at 15–20, and “Sessions of *Nomothetai* in Fourth-Century Athens,” *CQ* 53 (2003) 124–129; M. Piérart, “Qui étaient les nomothètes à l'époque de Démosthène?” in E. Lévy (ed.), *La codification des lois dans l'antiquité* (Paris 2000) 229–256; C. Kremmydas, *Commentary on Demosthenes Against Leptines* (Oxford 2012) 25 with n.93.

³ M. Canevaro, *The Documents in the Attic Orators. Laws and Decrees in the Public Speeches of the Demosthenic Corpus* (Oxford 2013: cited hereafter by author's name).

Canevaro's method for testing authenticity

Canevaro's analysis of the documents inserted in the *Against Timokrates* forms part of his book about all the documents inserted in the public speeches of the Demosthenic corpus, viz. the documents in *On the Crown* (Dem. 18), *Against Meidias* (21), *Against Aristokrates* (23), *Against Timokrates* (24), and *Against Neaira* (59). A feature shared by these speeches is that in the medieval manuscripts the text is broken up into units of 100 lines, each of ca. 34–38 letters, roughly the equivalent of a Homeric hexameter, in Greek a *στίχος*. After each unit of 100 *stichoi* a letter, A, B, Γ, Δ, etc., marks the beginning of the next unit.⁴ At the end of the speech the total number of lines is indicated in Attic acrophonic numerals. For the speech *Against Timokrates* the number is XX = 2000 lines.⁵ The purpose of the stichometric letters and the totals in acrophonic numerals was presumably to allow the buyer of a literary work to check that the text he bought was the complete version.⁶ The stichometric letters are preserved in the medieval manuscripts but probably go back to an edition of Demosthenes' speeches edited in Athens after his death in 322 by a person who had access to his personal files, and Canevaro (327) surmises that Demosthenes' nephew Demochares of Leukonoe is the obvious candidate for such an undertaking. Canevaro argues that the stichometric edition of the text of Demosthenes must be the first overall edition of the corpus, and—undoubtedly inspired by the nineteenth-century German scholars who started and for long dominated stichometric studies—he has adopted *Urexemplar* as a convenient term for this “first edition” of the Demosthenic corpus.⁷

The stichometric marks have been studied by philologists and editors of Demosthenes' speeches since the mid-nineteenth

⁴ Canevaro 10.

⁵ Canevaro 20.

⁶ J. A. Goldstein, *The Letters of Demosthenes* (New York 1968) 9.

⁷ Canevaro 11, 327–329. For the term *Urexemplar* see E. Drerup, “Über die bei den Attischen Rednern eingelegten Urkunden,” *Njbb* Suppl. 24 (1898) 221–365, at 236.

century.⁸ These studies show that some of the documents inserted in the speeches are included in the stichometric count, but others are not, so that the number of *stichoi* between two letters comes to more than 100, thus showing that these documents must have been inserted later than the stichometric letters, which in all our manuscripts occur at the same place. Canevaro (13) has conducted computer-aided calculations of the stichometry which corroborate in refined form the results of earlier less precise investigations: the investigations demonstrate that the documents in Demosthenes' public speeches form a spectrum ranging from those in *On the Crown* to those in *Against Aristokrates*. Not a single one of the documents in *On the Crown* had been included in the *Urexemplar*; they are all later additions, whereas all the documents in *Against Aristokrates* either indisputably or very likely were part of the *Urexemplar*. The documents in the speech *Against Timokrates* fall between these two extremes. Some were unquestionably part of the *Urexemplar*, others were not, and in some cases it is impossible to decide whether or not these documents were in the *Urexemplar*.⁹

Next, an examination of the language and contents of the documents shows that all the documents in *On the Crown* are late forgeries.¹⁰ In this context it suffices to mention just one piece of information. In all the documents the name of the archon which dates the document is always wrong. In a few cases it is the name of a person who was archon in a different year, in most cases it is the name of a person who was not an archon in any year at all. Conversely, according to Canevaro,

⁸ *Forschungsbericht* in Drerup, *Njbb* Suppl. 24 (1898) 223–234.

⁹ Documents in the *Urexemplar* are the law of Timokrates (§39–40 and 71), Diokles' law (42), law on *adeia* (45). Documents not in the *Urexemplar* are laws on *nomothesia* (20–23 and 33), decree about a session of *nomothetai* on Hekatombaion 12 (27), three penal laws (105), the heliastic oath (149–151). Documents that may or may not have been in the *Urexemplar* are the law on supplication (50), law on *res iudicata* (54), law on validity of verdicts passed under democracy versus verdicts passed during the rule of the Thirty (56), prohibition on νόμοι ἐπ' ἀνδρῶν (59), another law of Timokrates (63).

¹⁰ Canevaro 237–318.

the language and contents of the documents recorded in *Against Aristokrates* indicate that all the documents are authentic. Passages quoted from the Athenian homicide law are—in so far as they can be checked—identical with the passages in the homicide law published on stone in 409/8 (*IG I³ 104*) and with Demosthenes' paraphrase when he comments on the law.¹¹ Canevaro argues that the same pattern applies to the documents in *Against Timokrates*. The language and contents of the documents that can be traced back to the *Urexemplar* corroborate that they are genuine, whereas an examination of the form and substance of the documents that were not included in the *Urexemplar* reveals that they are late forgeries.

Canevaro applies three methodological principles by which the correlation between authenticity and inclusion in the *Urexemplar* can be established, and conversely the correlation between forgery and exclusion from the *Urexemplar*.

First, one must compare the text of a document with the orator's paraphrases and comments which in most cases both precede and follow the document.¹² Such an investigation shows that the documents are often inconsistent with the orator's paraphrases, and which should we believe? Canevaro takes into account that the Athenian orators sometimes misinterpret the laws read out to the jurors, and he provides examples of misrepresentation of the contents of a law.¹³ Also, the evidence shows that the orator sometimes quotes selectively or in the paraphrase adds details that are not in the law.¹⁴ But Canevaro finds that, on the whole, an orator's paraphrase of a document is more reliable than the text of the document itself, in particular if the paraphrase occurs close to the document, and he concludes (32): "It has been established that the documents should not contradict the information found in their close paraphrases, and should contain all the features and provisions there summarized." Second, problems found in the documents must not be removed by

¹¹ Canevaro 37–76.

¹² Canevaro 27–34.

¹³ Canevaro 30, discussing the discrepancy between Dem. 20.18, 26, 27 and *IG I³ 141.29–36*.

¹⁴ Canevaro 30 with n.63.

means of transpositions, emendations, and deletions. Major problems with the text of a document cannot be explained as scribal errors. They must be mistakes made by someone who composed the document after the Classical period and did not understand Athenian law and legal procedure.¹⁵

Third, “documents should conform to the language, style and conventions of Classical Athenian inscriptions of the same type ... The presence in a document of words or expressions never found in similar Attic inscriptions, or in any Attic inscription at all, casts serious doubts on the document’s authenticity” (34–35).

The first principle is well presented and in most cases cautiously applied, in fact more so than in an article about the documents in Andokides’ *On the Mysteries*.¹⁶ But in Canevaro’s book too, whenever the orator’s paraphrase is inconsistent with the document, the a priori view is: trust the paraphrase and reject the document as a forgery. The second principle is sound and applies of course to the orator’s text as well as to the inserted documents. In the relevant section of the Timokrates speech (17–38) there are no serious problems with the text that require transposition, emendation, or deletion.¹⁷ The third principle is in my opinion problematical.

Agreement in language and terminology between documents and inscriptions

Canevaro has tested whether legal and constitutional terms and idioms found in the inserted documents are attested in Attic inscriptions, and in particular in inscriptions of the Clas-

¹⁵ Canevaro 34. But in Timokrates’ law (§39–40 and 71)—which was in the *Urexemplar*—Canevaro accepts two emendations: the transposition of δεκάτης (116–117) and the emendation of a demotic by preferring ἐγ Μυρρινούσσης to the MSS. Μυρρινούσιος (120).

¹⁶ M. Canevaro and E. M. Harris, “The Documents in Andocides’ *On the Mysteries*,” *CQ* 62 (2012) 98–129. Cf. M. H. Hansen, “Is Patrokleides’ Decree (Andoc. 1.77–79) a Genuine Document?” *GRBS* 55 (2015) 884–901, and “Is Teisamenos’ Decree (Andoc. 1.83–84) a Genuine Document?” *GRBS* 56 (2016) 34–48.

¹⁷ But emendations and transpositions have of course been proposed, in particular by nineteenth-century editors and philologists, and Canevaro too sometimes accepts emendations, see n.15 above.

sical period. If such terms and idioms are unparalleled in the epigraphical evidence he takes it to be an indication that the document cannot be genuine but is a forgery. Analysing the document at Dem. 24.20–23 he adduces the argument four times against its authenticity, questioning ἐπειδὴν εὕξεται ὁ κήρυξ and ἐπιχειροτονίαν ποιεῖν at 20,¹⁸ τὴν τελευταίαν τῶν τριῶν ἐκκλησιῶν at 21,¹⁹ and συναπολογοσησομένους at 23.²⁰

In my opinion, to insist on having parallels in contemporary Attic inscriptions or in any Attic inscription is a dangerous method to use in this case, because the epigraphical evidence at our disposal is both restricted and biased. We have a plethora of honorary decrees and many treaties,²¹ whereas very few *nomoi* are preserved on stone,²² and the few we have mostly regulate a specific matter such as approvers of silver coins, transportation and storage of public grain from the klerouchies to Athens, repairs on the walls of Piraeus, regulation of the Panathenaia.²³ The law of 337/6 against subverting the democracy is the only epigraphically preserved example of a constitutional law passed by the *nomothetai* (*GHI* 79). There is no proper parallel at all for the laws on legislation found in *Against Timokrates* 20–23 and 33. The closest we get to a law about the workings of the political institutions is the fragmentary fifth-century law regulating the powers of the council of five hundred vis-à-vis the Assembly (*IG I³* 105).

A parallel investigation illustrates the shortcomings of the method. In the symbouleutic and forensic speeches (excluding the inserted documents) we have preserved a great variety of legal and constitutional terms and idioms. Many of these terms

¹⁸ Canevaro 97, on ἐπιχειροτονία; see 451 ff. and n.58 below.

¹⁹ Canevaro 99, see 467 below.

²⁰ Canevaro 101–102, see 473–474 below.

²¹ See the survey in M. H. Hansen, *The Athenian Assembly in the Age of Demosthenes* (Oxford 1987) 110–111.

²² Acknowledged by Canevaro at 332.

²³ Rhodes-Osborne, *GHI* 25, 26, *IG II²* 244, 447.

and idioms are unattested in Athenian inscriptions. But in this case we cannot infer that the lack of parallels in the inscriptions casts serious doubt on the authenticity of the speeches. Here in alphabetical order is a list of some of the legal terms attested in the orators but without any parallel in Attic inscriptions: αἰκεία, ἀκούσιος, ἀνδραποδίζειν, ἀνδραποδιστής, ἀντιγραφή,²⁴ ἀντωμοσία, ἀπόφασις,²⁵ ἀπροβούλευτος, βάσανος,²⁶ βούλευσις, δεκασμός, δεσμός,²⁷ ἕξακισχίλιοι, ἐπιχειροτονία,²⁸ ἐπωβελία, ἐφήγεισθαι, ἰκετηρία, κακηγορία, καταχειροτονία, κλοπή, λιποτάξιον, λογογράφος, παραγραφή, παραναγιγνώσκειν, παραπρεσβεία, παράστασις, προβολή, προεισφορά, πρόκλησις, πρόσκλησις,²⁹ προστάτης,³⁰ συκοφάντης, ὕβρις,³¹ ὑπωμοσία, φανερά/ἀφανής οὐσία, ψευδομαρτυρία. I do not doubt that probably twice as many legal and constitutional terms not attested in the inscriptions can be identified.³² Each of these terms can be investigated in detail. In this context I shall adduce two examples.

A law about reprieve for *atimoi* and *opheilontes* is read out to the jurors at 24.45. It stipulates that no proposal about reprieve can be debated unless a quorum of 6000 Athenians in a secret vote have given their permission (ἄδεια). Canevaro's sticho-

²⁴ In the sense of counter-plea.

²⁵ Attested in inscriptions of the Roman period, *IG II² 1051a.18*.

²⁶ In the sense of inquiry by torture.

²⁷ Used in inscriptions, e.g., in the sense of chains of a four-wheeled wagon (*IG II² 1425.383*), but never in a document in the sense of imprisonment, which is the common meaning in documents in the orators.

²⁸ See n.58 below.

²⁹ The verb *προσκαλείσθαι* is attested in inscriptions.

³⁰ In the sense of being *prostates* of a metic.

³¹ The verb *ὕβριζειν* is attested in a *thiasos* decree of the second century A.D. (*IG II² 1368*). The only epigraphical attestation of *ὕβρις* is in the epigram celebrating the Athenian victory over Boiotia and Chalkis in ca. 506 B.C. (Meiggs-Lewis, *GHI* 15).

³² For formulae found in the speeches and in the inserted documents but unattested in Attic inscriptions, see for example *πρόσθεν τῶν ἐπωνύμων* or *ἐπιχειροτονίαν διδόναι*; cf. n.58 below.

metric investigation shows that this document was part of the *Urexemplar*.³³ In language and content it is almost identical with Demosthenes' paraphrase of the law at 46, and Canevaro accepts the law as a genuine document. Looking for parallels in Attic inscriptions we find three attestations of κρύβδην ψηφίζεσθαι,³⁴ but not a single one of the number of voters. The numeral ἑξακισχίλιοι is unattested in Attic inscriptions. Following Canevaro (132) I accept the document as genuine, but I note that we have accepted a document as authentic although there is no parallel in Attic inscriptions for one of the key terms in the law.

My other example is the decree passed on Hekatombaion 11 about having a session of *nomothetai* on the following day to hear and vote on Timokrates' bill about the *dioikesis* of the Panathenaia (§28). That decree was not part of the *Urexemplar*,³⁵ and for a number of reasons Canevaro (112) rejects the document as a late forgery. One of his objections concerns the word αὔριον in the expression καθίσαι νομοθέτας αὔριον: "αὔριον, to mean 'tomorrow', is never found by itself in official language. Out of 177 entries the word is used 174 times after εἰς (or ἐς), and three times in the expression ἢ αὔριον ἡμέρα" (110). But from Demosthenes' comment on the *psephisma*, αὐτὸς ἔγραψεν αὔριον νομοθετεῖν, it follows that "αὔριον by itself" was in the decree which the *grammateus* had just read out to the jurors, and that must have been the authentic decree, not a forged document inserted much later. Must we then emend αὔριον in Demosthenes' comment? That would be in conflict with Canevaro's second methodological principle.

The document at Dem. 24.20–23 (the review law)

After this general introduction about the scope and purpose of Canevaro's book and the method he applies, I return to the

³³ Canevaro 127.

³⁴ *IG II²* 1141.6, decree of a *phyle* (376/5); 1183.18, decree of a deme (post 340); 1237.82, decree of a *phratría* (396/5).

³⁵ Canevaro 105.

law on *nomothesia*, quoted and discussed in *Against Timokrates* 17–32. Demosthenes has the law read out to the jurors at 20–23, and both before (at 17–19) and after (at 24–32) he paraphrases and comments on what the law prescribes and how Timokrates has disregarded all the requirements. Is the document in our manuscripts identical with the law which Demosthenes asked the secretary to read out? Or was it composed much later by “a skilful forger, one who knew the Attic orators and possibly had access to a *lexicon* or a commentary”?³⁶ That is what Canevaro argues, in what now is the most thorough in-depth analysis of the relation between the document and Demosthenes’ comments and between the document and what we know from other sources about legislation by *nomothetai* in fourth-century Athens.

Canevaro’s treatment is in two parts: the first part (80–84) is introduced with a *Forschungsbericht* followed by a brief survey of what can be learned from the epigraphically attested Athenian laws passed by *nomothetai*. Then comes an analysis of the document compared with what Demosthenes says at 17–19 and 24–32 about *nomothesia* and in particular about the Assembly’s role in the initial phase of the procedure that leads to appointment of panels of *nomothetai* who make the authoritative decisions about the revision of the law code. The second part (94–102) is a discussion of the document inserted at 20–23. According to Canevaro, “a closer analysis of the features of the document confirms that it cannot be an authentic Athenian statute” (96).

The law on nomothesia

First I shall reconstruct the *nomothesia* procedure as prescribed in the document inserted at 20–23.³⁷ On the eleventh day of the first prytany, in the Assembly (ἐν τῷ δήμῳ) after the herald has said the prayers there shall be a vote by show of hands about the Athenian law code (ἐπιχειροτονία τῶν νόμων). The laws (*nomoi*) are subdivided into four sections: laws concerning

³⁶ Canevaro 102, cf. 332.

³⁷ For recent treatments see n.2 above.

the *boule*, common laws, laws concerning the nine *archontes*, and laws concerning the other *archai*. For each section the *epicheirotonia* is conducted as a series of votes. First the people are asked to vote whether or not the bouleutic laws in force are sufficient.³⁸ If a majority decides that the laws in force are sufficient, the Assembly moves on to a similar vote about the second section of laws; but if the people vote that the bouleutic laws in force are not sufficient, there must after the general vote have been a debate, in which objectionable individual laws within the section can be identified and attacked by some citizens but defended by others. In consequence of the debate a vote is taken on each of the disputed laws, and each is either approved as satisfactory or voted down,³⁹ which entails that it will be referred to a session of *nomothetai* who make the final decision.⁴⁰ When the *nomoi* concerning the *boule* have been debated and voted on, the three other sections of the law code, one by one, are treated in the same way.

We do not know how many laws were questioned and how many of these were provisionally rejected as insufficient when the vote was taken: in some years perhaps not a single one, in others several. Let us suppose that in a given year four *nomoi* altogether have been debated of which two are rejected when the vote is taken but two upheld as valid. For the laws that are approved that is the end of the matter, and in the law about the *epicheirotonia ton nomon* all further steps focus on the two laws rejected in the second round of the *epicheirotonia*.⁴¹ At this *ekklesia*

³⁸ The alternatives are transposed in Demosthenes' paraphrase at 25.

³⁹ ἐὰν δὲ τινες τῶν νόμων τῶν κειμένων ἀποχειροτονηθῶσιν τοὺς πρυτάνεις ἐφ' ὧν ἂν ἡ ἐπιχειροτονία γένηται ποιεῖν περὶ τῶν ἀποχειροτονηθέντων τὴν τελευταίαν τῶν τριῶν ἐκκλησιῶν (21).

⁴⁰ τοὺς δὲ προέδρους οἱ ἂν τυγχάνωσιν προεδρεύοντες ἐν ταύτῃ τῇ ἐκκλησίᾳ χρηματίζουσιν ἐπάναγκες πρῶτον μετὰ τὰ ἱερά περὶ τῶν νομοθετῶν.

⁴¹ But that does not prevent a citizen from bringing a *graphe nomon me epitedeion theinai* later in the year against any law in force, see §§33 and 37, or the *thesmothetai* from having two conflicting laws about the same matter examined and one of them rejected (see 457 below).

the *demos* also elects advocates who before the *nomothetai* are to defend the laws in force which have been provisionally rejected by the Assembly and submitted to the *nomothetai* for a final decision about approval or repeal. After the first *ekklesia*, any Athenian can propose an alternative to laws rejected in the *epicheirotonia*. All alternative bills must be posted before the *eponymoi* and read out to the people in the following *ekklesiai*.⁴² The presumption is that the citizen(s) who raised the matter in the *ekklesia* and succeeded in persuading the *demos* to reject a law will propose—or perhaps even be obliged to propose—an alternative, but in the law that is not stated as a requirement. Conversely, since any Athenian can propose an alternative to a rejected law, several different alternatives to a rejected law can be proposed.⁴³ In the case that one or more *nomoi* have been rejected in the first *ekklesia*, the *prytaneis* must place the rejected laws on the agenda of the third and last meeting of the Assembly held in the first prytany,⁴⁴ and accordingly the *proedroi* of that meeting must provide for a debate about *nomothetai* to take place immediately after the sacred matters,⁴⁵ and decide about which sessions there will have to be, how the *nomothetai* can be paid,⁴⁶ and when the sessions will be held.⁴⁷ The law

⁴² Not mentioned in the document, but referred to by Demosthenes (25) as the purpose of having the bills published before the *eponymoi*: προσέταξαν (οἱ νόμοι) τοῖς βουλομένοις εἰσφέρειν ἐκτιθέναι τοὺς νόμους πρόσθεν τῶν ἐπονύμων, ἵν' ὁ βουλόμενος σκέψηται, κἄν ἀσύμφορον ὑμῖν κατίδη τι, φράση καὶ κατὰ σχολὴν ἀντείπη. Cf. 36.

⁴³ καθεζομένων γὰρ τῶν νομοθετῶν, περὶ μὲν τούτων, τῆς διοικήσεως καὶ τῶν Παναθηναίων, οὔτε χείρων' οὔτε βελτίω νόμον οὐδέν' εἰσήνεγκεν οὐδεὶς (29).

⁴⁴ τὴν τελευταίαν τῶν τριῶν ἐκκλησιῶν (21); τὴν τρίτην ἐκκλησίαν (25). See 467 ff. below.

⁴⁵ πρῶτον μετὰ τὰ ἱερά, see 463–464 below.

⁴⁶ τοὺς δὲ νομοθέτας εἶναι ἐκ τῶν ὁμωμοκότων τὸν ἡλιαστικὸν ὄρκον (21); τοὺς δὲ νομοθέτας εἶναι ἓνα καὶ χιλίους ἐκ τῶν ὁμωμοκότων (27). Both documents are rejected by Canevaro (§20–23 at 80–102, §27 at 104–113) as late forgeries, but that the *nomothetai* were jurors is stated at Dem. 20.92–93. His argument is: the *nomothetai* prescribed by the old law (οἱ πρότερον νομοθέται) = jurors (ἐν τοῖς ὁμωμοκόσιν) = the *dikastai* (παρ' ὑμῖν παρ' οἴσπερ

also lays down that the *nomothetai* are to be selected from among those who have sworn the heliastic oath.⁴⁸

In this description I have omitted §22, a long section that prescribes sanctions against the *prytaneis* and the *proedroi* if they do not discharge their duties imposed by this law and against the *thesmothetai* if they do not see that these sanctions are duly imposed. Nothing in this section arouses Canevaro's suspicion that the law is a late forgery, and similar sanctions against *proedroi* and *prytaneis* are attested in Classical inscriptions.⁴⁹

Demosthenes' paraphrase of the law

In sections 17–19 and 24–32 Demosthenes paraphrases and interprets the law about *nomothesia*. Is his account consistent with the inserted document? Or are there inconsistencies which show that the document is not the law read out to the jurors in 353 but a late forgery?

At 17–19 Demosthenes charges Timokrates (1) with having

καὶ τᾶλλα κυροῦται). Demosthenes' complaint is that Leptines has not had his law passed by the *dikastai* as he should have done according to the old law. The correct statement "Both *dikastai* and *nomothetai* are *omomokotes*" is twisted by Demosthenes into the erroneous statement "The *dikastai* are *nomothetai* since both boards are *omomokotes*" (Hansen, *GRBS* 26 [1985] 364). At Aeschin. 3.39 τοὺς δὲ πρυτάνεις ποιεῖν ἐκκλησίαν ἐπιγράψαντας νομοθέταις, preferring the MS. reading νομοθέτας to Dobree's emendation νομοθέταις, Piérart (in *La codification* 235) infers that sessions of *nomothetai* were special sessions of the Assembly. Rhodes, *CQ* 53 (2003) 126, counters this part of Piérart's argument by pointing out that it is a good idea to keep the MS. reading, but it does not change the meaning of the expression: "the accusative here could well be (just as Dobree's dative has been thought to be) a way of saying 'putting *nomothetai* on the agenda', and there is no reason to think that it must mean 'labelling it (sc. an assembly of) *nomothetai*.'"

⁴⁷ περὶ τῶν νομοθετῶν, καθ' ὅτι καθεδοῦνται, καὶ περὶ τοῦ ἀργυρίου, ὅπουθεν τοῖς νομοθέταις ἔσται (21).

⁴⁸ It is worth noting that to have the *nomothetai* appointed from among the panel of citizens who had taken the heliastic oath is here described as a duty incumbent on the *prytaneis* presiding over the third *ekklesia*. Had there originally been an alternative?

⁴⁹ *IG II³* 452.48–52, cf. Arist. *Ath. Pol.* 60.3, Isoc. 12.154. See P. J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford 1981) 675.

disregarded the time limits for *nomothesia* imposed by the law,⁵⁰ (2) with not having posted his bill before the *eponymoi*,⁵¹ (3) with having disregarded the principle that a *nomos* must apply to all citizens, not to named individuals,⁵² and (4) with not having got opposing laws rescinded.⁵³ In the document: (re 1) the time limits are prescribed at 21 and 23; (re 2) the duty to have a bill posted before the *eponymoi* is imposed at 23; (re 3) the principle that a law must be general and not *ad hominem* is not mentioned in the document and does not belong in a law about the legislative procedure; the law is read out to the jurors at 59 and discussed by Demosthenes at 59–60;⁵⁴ (re 4) the requirement to have opposing laws rescinded is not mentioned in the law at 20–23, but in the law read out at 33⁵⁵ and in Demosthenes' paraphrase of that law at 34. (1) and (2) testify to consistency between the document and Demosthenes' paraphrase. (4) is confirmed by the following law (33) on *nomothesia*.⁵⁶ (3) deserves a further comment, duly stated by Canevaro when he comments on Demosthenes' interpretation of the law at 59–60:⁵⁷

the statute clearly states that a law must be valid for all the Athenians; since the law of Timocrates has been drafted with some specific individuals in mind—namely, Androtion, Glaucetes, and Melanopus—the law should be illegal; even if the real aim of Timocrates is overlooked, the very wording of its law contrasts with the statute, as tax farmers, lessees, and their sureties are explicitly excluded from its range of action. The argument is clearly flawed: the fact that a law must address all the Athenians does not mean that laws cannot regulate, or single

⁵⁰ §18, repeated at 25, 26, 29, 32, 48.

⁵¹ Repeated at 25, 26, 36.

⁵² Repeated at 59–60, 74, 159, 188.

⁵³ Repeated at 32–34, 38–39, 41, 44, 51, 61–62, 64–66, 108–109, 199.

⁵⁴ Canevaro 145–150.

⁵⁵ ἕτερον τιθέντι ἀνθ' ὅτου ἂν λύη.

⁵⁶ Canevaro 90–94, 102–104.

⁵⁷ Canevaro 148, referring to M. H. Hansen, "Did the Athenian *Ecclesia* Legislate after 403/2 B.C.?" *GRBS* 20 (1979) 28–29.

out, specific categories, on the condition that their application is general.

As Canevaro says, Demosthenes' argument is flawed, which shows that he can misinterpret a law when it suits his own purposes.

In his comments at 24–26 after the law has been read out to the jurors, Demosthenes repeats the charges that Timokrates has not had his bill posted before the *eponymoi* and that he did not respect the time limits imposed by the law. Here the two charges are connected: by not publishing his bill in advance Timokrates prevented the citizens from preparing an opposition to the bill, probably at the third meeting of the *ekklesia* when *nomothetai* were once again on the agenda, but presumably also at the second meeting. The key issue in this part of Demosthenes' paraphrase is his interpretation of the *epicheirotonia* conducted by the people at the first *ekklesia* of the year.

Epicheirotonia

The procedure of *epicheirotonia*⁵⁸ is described both in the document and by Demosthenes in his paraphrase. The document lays down ἐπιχειροτονίαν ποιεῖν τῶν νόμων, πρῶτον μὲν περὶ τῶν βουλευτικῶν, δεύτερον δὲ τῶν κοινῶν, εἶτα οἱ κείνται τοῖς

⁵⁸ By contrast with the terms διαχειροτονία and διαχειροτονεῖν which are well attested in inscriptions, neither ἐπιχειροτονία nor ἐπιχειροτονεῖν is attested in Attic inscriptions of the Classical period. In inscriptions after ca. 300 B.C. there are two attestations, one of them restored. *SEG XXI* 528.3 is a decree passed by some *orgeones* that 10(?) persons be elected (ἐπιχειροτονῆσαι δέκα ἄνδρας) to take care of some offerings. *SEG XLI* 51.9 is a decree concerning ephebes which prescribes an ἐπιχειροτονίαν τῶι δήμῳ τῶν πρ[—, cf. Canevaro 137. Thus, in inscriptions there is no proper parallel to the forms of *epicheirotonia* attested in our fourth-century literary sources and documents, see 443 ff. above and 458 ff. below. Note that διαχειροτονία/-εῖν (attested in both literary and epigraphical sources) and ἐπιχειροτονία/-εῖν (attested in literary sources only) are often used synonymously, as at Dem. 24.25–26. In this context both denote a show of hands in which the people have a choice between two options instead of voting yes or no to a proposal.

ἐννέα ἄρχουσιν, εἶτα τῶν ἄλλων ἀρχῶν (21).⁵⁹ Demosthenes refers at 26 to τῆς ἐκκλησίας ἐν ἧ τοὺς νόμους ἐπεχειροτονήσετε. Both the document and Demosthenes specify the *epi-cheirotomia* as a *diacheirotomia*, i.e. a choice between two options. Demosthenes uses the term, the document distinguishes between the first and the second phase of a *cheirotomia*. The text of the document is ἡ δὲ χειροτονία ἔστω ἢ προτέρα, ὅτω δοκοῦσιν ἀρκεῖν οἱ νόμοι οἱ βουλευτικοί, ἢ δὲ ὑστέρα, ὅτω μὴ δοκοῦσιν, “The first show of hands shall be for whom the bouleutic laws seem to suffice, the second for whom they do not.” Demosthenes’ paraphrase is ἐφ’ ὑμῖν ἐποίησαν (οἱ νόμοι) διαχειροτονίαν, πότερον εἰσοιστέος ἐστὶ νόμος καινός ἢ δοκοῦσιν ἀρκεῖν οἱ κείμενοι, “The laws entrusted you with a *diacheirotomia* whether a new law must be introduced or whether the laws in force suffice.”

Do the two different formulations match one another or are they essentially different? In both accounts one option is to keep the laws unchanged. According to the document, the other option is that the laws in force are insufficient, which implies that at least one law must be revised or a new law introduced. According to Demosthenes, it is that a new law must be introduced. Furthermore, the sequence of the two parts of the *diacheirotomia* is reversed. The reason for Demosthenes’ use of the singular νόμος καινός as well as for giving priority to this part of the *diacheirotomia* is presumably that he adapts his paraphrase of the law to the present case, the law proposed and carried by Timokrates, and it is only in his account of what happened after the *ekklesia* held on Hekatombaion 11 that he switches to the plural and states that several bills can be posted before the *eponymoi*.

On the basis of Demosthenes’ use of the plural Canevaro interprets πότερον εἰσοιστέος ἐστὶ νόμος καινός as a permission to propose new laws.⁶⁰ But the verbal adjective in -τέος is a

⁵⁹ On the infinitive ποιεῖν and on the four categories of laws see 464 ff. below.

⁶⁰ Canevaro 86: “That the preliminary vote must have been a general

much stronger expression; it denotes necessity,⁶¹ and the meaning is “whether a new law must be introduced.” To vote for that view is the same as a vote of no confidence: the code of laws is not satisfactory. Canevaro argues that the preliminary vote, if positive, would allow to propose laws in general. He might as well have argued that the preliminary vote, if negative, would allow to propose laws in general. The ancient Greeks’ view on laws and legislation was that stable laws were best and the fewer changes of law, the better, cf. Demosthenes’ story later in the speech (139–143) about the Lokrians, who in more than two hundred years had changed just one law, and his devastating criticism in the Leptines speech (20.91–92) of how the many badly drafted new laws have led to contradictions between several of the laws in force. That view lies behind the document’s sequence of the two votes in the *diacheirotomia*: ἡ δὲ χειροτονία ἔστω ἢ προτέρα, ὅτῳ δοκοῦσιν ἀρκεῖν οἱ νόμοι οἱ βουλευτικοί, ἢ δ’ ὑστέρα, ὅτῳ μὴ δοκοῦσιν. In Demosthenes’ paraphrase the emphasis is on the question whether a new law is necessary, in the document it is on whether the laws in force suffice. But basically the two sources agree on what the *epicheirotomia* is about.

Canevaro argues that there is nothing in Demosthenes’ description of what happened to support the view that, at the *ekklesia* held on Hekatombaion 11, an obligatory item on the agenda was a vote about the entire code of laws, a vote of confidence or no confidence in the laws in force.⁶² The crucial

vote, allowing, if positive, to propose laws in general, is clear from the clause τοῖς βουλομένοις εἰσφέρειν ἐκτιθέναι τοὺς νόμους ... the preliminary vote, if positive, would have allowed several proposals to be made, and was, therefore, a general invitation to submit proposals”; 89: “The obvious reading of ἐν ἧ τοὺς νόμους ἐπεχειροτονήσατε at §26 is therefore ‘at which you voted on the laws’ (plural), meaning ‘on whether laws can be proposed’”; 96: “The procedure described by Demosthenes is one for enacting new laws ... Demosthenes describes a preliminary vote to allow new proposals (plural) to be made.”

⁶¹ H. W. Smyth, *Greek Grammar* §358.2.

⁶² 89: “This need have nothing to do with a vote of approval of the ‘code’

passage is Demosthenes' description of the *epicheirotonia* (26): τῆς ἐκκλησίας, ἐν ἧ τοὺς νόμους ἐπεχειροτονήσατε, οὐσης ἑνδεκάτη τοῦ ἑκατομβαιῶνος μηνός. According to Canevaro, “the obvious reading of ἐν ἧ τοὺς νόμους ἐπεχειροτονήσατε at §26 is therefore ‘at which you voted on the laws’ (plural), meaning ‘on whether laws can be proposed’” (89). But here τοὺς νόμους must be all laws, viz. οἱ κείμενοι [νόμοι], not just laws in general; furthermore Canevaro argues persuasively (87–88) that the basic meaning of the verb ἐπιχειροτονεῖν is “to put to the vote.” That is undoubtedly the meaning here and the proper translation is: “in which you put the laws (i.e. all laws) to the vote.” That is confirmed by Demosthenes' own description of the *diacheirotonia*, at 25: the alternative to voting that a new law must be passed is that the laws in force appear to be sufficient: δοκοῦσιν ἀρκεῖν οἱ κείμενοι (sc. νόμοι). The same formulation appears in the document: ὅτω δοκοῦσιν ἀρκεῖν οἱ νόμοι οἱ βουλευτικοί. I can see no reason to deny that if a majority votes for that, it amounts to a vote of confidence.

So the *epicheirotonia*—held in this case on Hekatombaion 11—was a *diacheirotonia* about all laws. But was it an obligatory item on the agenda for this *ekklesia*? or a vote held whenever the Athenians had to legislate on any matter? Later in the speech (48) Demosthenes tells the jurors what Timokrates ought to have done: he should have approached the *boule* which then would have placed the matter on the agenda of the next meeting of the Assembly = the first *ekklesia* held in the year 353/2.⁶³ Here the debate on the issue would have been opened with an *epicheirotonia*,⁶⁴ and if the *demos* voted that a new law must be

of laws ... The verb ἐπεχειροτονήσατε is only a brief way of describing the entire process described at §24, and does not refer to a general vote of confidence on the ‘code’ of laws”; 90, quoted 455 below.

⁶³ The events that led to Timokrates' proposal of a new law took place in Skirophorion 354/3 so that the first opportunity to propose a change of the laws was at the first *ekklesia* of 353/2, see 472 below and J. D. Mikalson, *The Sacred and Civil Calendar of the Athenian Year* (Princeton 1975) 26–27.

⁶⁴ Not mentioned by Demosthenes in this context, but presumed by Canevaro 94: “a preliminary vote in the Assembly, at any point of the year,

passed, Timokrates should have addressed the *demos*; the debate would have ended with a another vote, and if a majority of the people had been persuaded by Timokrates,⁶⁵ he could have proceeded with his proposal and posted his bill before the *eponymoi* (25). Then there would be a new debate about *nomothetai* in the third *ekklesia*,⁶⁶ whereafter his bill would have been referred to a panel of *nomothetai*. What happened was that neither Timokrates nor anybody else had approached the *boule* about a new law concerning the Panathenaia to be debated at the *ekklesia*.⁶⁷ The *epicheirotonia* on Hekatombaion 11 cannot have been held in consequence of Timokrates' wish to have the law on the Panathenaia changed, and the presumption is that it was an obligatory item on the agenda for the first meeting of the year, and that Timokrates made use of the opportunity to propose his law when the *demos* in the *epicheirotonia* had voted that the laws in force did not suffice and that a new law was needed. We cannot of course preclude the possibility that the *epicheirotonia* was caused by a proposal about a completely different matter, duly submitted in advance to the *boule* by another citizen, and that it was this proposal that led to the *epicheirotonia*, but I am inclined here to apply Occam's razor.

According to Canevaro, an annual obligatory vote on the corpus of laws is in conflict both with the epigraphical evidence and with Demosthenes' account:⁶⁸

Demosthenes never states nor implies that there was a requirement to hold a vote about the laws on 11 Hekatombaion. If there was to be such a vote, he would have listed it with the other provisions at §25. Nothing in Demosthenes' account of *nomothesia* in this section is inconsistent with the epigraphic evi-

had to be held in order to allow new laws to be proposed (Dem 24.25)."

⁶⁵ εἰ πᾶσιν Ἀθηναίοις ἐδόκει (48).

⁶⁶ καὶ τότε τοὺς χρόνους ἀναμείναντα τοὺς ἐκ τῶν νόμων (48).

⁶⁷ 29; quoted n.43 above.

⁶⁸ Canevaro 90; cf. 94, and 84 n.31, "IG II³ 445 is enacted on Skirophorion 8, IG II³ 320 in the ninth prytany, IG II² 140 in the fifth, the seventh, or the tenth prytany."

dence, which shows that one could initiate the *nomothesia* procedure at any time of the year.

But for Demosthenes there was no reason in this context to mention that the *epicheirotonia* about the laws conducted on Hekatombaion 11 was an annual and obligatory *diacheirotonia*.⁶⁹ On that occasion Timokrates constitutionally addressed the *demos* in connection with the *epicheirotonia* and argued that it was necessary to have a new law about the Panathenaia. Demosthenes would not waste time on the constitutional aspects of Timokrates' behaviour, but focus on the unconstitutional, viz., the subsequent *psephisma*, the neglect of the time limits and all the other requirements prescribed by the law about *nomothesia* whereby he succeeded in having the matter referred to a panel of *nomothetai* convened on the following day to hear and vote on his proposal to amend the law on the Panathenaia. As for the epigraphic evidence, Canevaro is right that the preserved *nomoi* show that the *nomothetai* passed laws as late as the ninth and tenth prytanies; but the provision about an obligatory *epicheirotonia ton nomon* on Hekatombaion 11 was not the only part of the law about *nomothesia* read out at 20–23⁷⁰ and not the only law about *nomothesia*.⁷¹ Also, in my opinion it is unlikely that every proposal for a law had to be initiated with an *epicheirotonia* about whether the laws in force were sufficient or a new law was needed (see §21 and 25).

The next issue to discuss is when and how often did an *epicheirotonia* take place? The epigraphic evidence “shows that one could initiate the *nomothesia* procedure at any time of the year,”⁷² and “A preliminary vote in the Assembly, at any point

⁶⁹ For a defence of the view that it was an annual and obligatory *epicheirotonia* see 458 below.

⁷⁰ The law read out at 33 may have been part of the same law, see Canevaro 91.

⁷¹ E.g. the law at Aeschin. 3.38–40 (to be discussed in my future article about the authenticity of the document at Dem. 24.33).

⁷² Canevaro 90. Rhodes believes that during the first decades of the fourth century *nomothesia* was limited to the procedure begun on Hekatom-

of the year, had to be held in order to allow new laws to be proposed (Dem. 24.25)⁷³ Yes, but there is no evidence that the preliminary vote taken by the *demos* had to be an *epicheirotonia* on whether a new law was needed or the laws in force were sufficient. If that had been the case, any bill could have been stopped immediately the first time it was presented to the Assembly even before it could be debated, namely if the *demos* in the preliminary *epicheirotonia* had voted that the laws in force were sufficient. Our sources show that a bill was read out to the people repeatedly, and was debated in the *ekklesia*,⁷⁴ and the vote which the *demos* had to take about every proposal for a new law is unlikely to have been an *epicheirotonia*; it was probably like that taken at the third *ekklesia* held in Hekatombaion about appointing *nomothetai* to hear the case and decide the issue. Also, Demosthenes' explanation to the jurors of how an *epicheirotonia* was conducted (25) makes more sense if it was a procedure used once or twice every year and not a standard procedure repeated whenever a new law was proposed. If that had been the case, the jurors might have found Demosthenes' explanation superfluous.

Another law about *nomothesia* supports the view that the *epicheirotonia* about the code of laws conducted on Hekatombaion 11 was a specific event. In the speech *Against Ktesiphon* Aischines paraphrases a law that requires the *thesmothetai* to keep an eye on the laws of Athens: if they find invalid laws in the corpus, or inconsistent laws, or more than one law on the same point, the relevant laws are to be put before the people, who will set up a board of *nomothetai* to settle the matter. This inspection of the corpus of laws must be undertaken once every year. The *prytaneis* are requested to summon an *ekklesia* where *nomothetai* are an obligatory item on the agenda, and, as in the *ekklesia* held on Hekatombaion 11, the procedure is introduced by a *diacheiro-*

baion 11: *CQ* 35 (1985) 57, *L'educazione giuridica* 5.2 (1987) 17, 19.

⁷³ Canevaro 94.

⁷⁴ Dem. 24.25, 36; Dem. 20.94; Aeschin. 3.39; Din. 1.42.

tonia.⁷⁵ To have an annual inspection of the laws in force in order to eliminate invalid laws and conflicting laws is parallel to having an annual inspection of the laws in order to decide whether new laws are needed.

My conclusion is that the *epicheirotonia* about the laws—i.e. whether a new law must be introduced or the laws in force were sufficient—was an annual event and not the first step whenever a proposal for a new law was on the agenda of the assembly.

Three types of epicheirotonia

In connection with an analysis of the *epicheirotonia* about the laws we must study other forms of *epicheirotonia* practised by the Athenians. In the *ekklesia* the Athenians conducted three kinds of *epicheirotonia*: one about ostracism, one about suspension of magistrates, and one about their corpus of laws.⁷⁶ Of the first two:

The ἐπιχειροτονία about ostracism took place at the *ekklesia kyria* held in the sixth prytany.⁷⁷ It was a general vote whether or not to have an ὄστρακοφορία that year, and apparently, if the *demos* voted to have an ostracism, no further steps were taken during that meeting of the Assembly. As far as we know there was no naming of candidates at the meeting, and when the *ostrakophoria* was held any Athenian could inscribe his *ostrakon* with the name of any other Athenian.

The ἐπιχειροτονία τῶν ἀρχῶν took place every prytany at the *ekklesia kyria*.⁷⁸ It was a general vote whether or not the *archai* were performing their duties to the people's satisfaction. A general vote of no confidence was followed by a second round in which any citizen could

⁷⁵ Aeschin. 3.38–40; Theophr. *Nomoi* fr.1 (ed. Szegedy-Maszak). M. H. Hansen, *The Athenian Democracy in the Age of Demosthenes* (Oxford 1991) 166.

⁷⁶ A fourth form took place in connection with the *dokimasia* of the nine *archontes* (Arist. *Ath.Pol.* 55.4). It was conducted in the *boule*, not in the *ekklesia*, and is not relevant in this context.

⁷⁷ Arist. *Ath.Pol.* 43.5: ἐπὶ δὲ τῆς ἕκτης πρυτανείας πρὸς τοῖς εἰρημένοις καὶ περὶ τῆς ὄστρακοφορίας ἐπιχειροτονίαν δίδουσιν εἰ δοκεῖ ποιεῖν ἢ μή.

⁷⁸ Arist. *Ath.Pol.* 43.4: προγράφουσι δὲ καὶ τὰς ἐκκλησίας οὗτοι μίαν μὲν κυρίαν ἐν ἧ δεῖ τὰς ἀρχὰς ἐπιχειροτονεῖν εἰ δοκοῦσι καλῶς ἄρχειν. See M. H. Hansen, *Eisangelia* (Odense 1975) 41–44.

charge any magistrate or board of magistrates with misconduct in office. In each case a new vote of confidence was taken and a vote of no confidence resulted in suspension of the magistrate or the board of magistrates in question,⁷⁹ whereafter the case was referred to a *dikasterion*.⁸⁰ If the magistrate was acquitted by the court he was reinstated in his former position;⁸¹ if he was convicted the penalty he incurred could be anything from a minor fine to capital punishment (Dem. 23.167).

Was the ἐπιχειροτονία τῶν νόμων conducted like the ἐπιχειροτονία about an *ostrakophoria*, or like an ἐπιχειροτονία τῶν ἀρχῶν?

According to Canevaro the proper parallel is the *epicheirotomia* about ostracism.⁸² He emphasises repeatedly that the *epicheirotomia* is a preliminary and general vote about the laws.⁸³ There is no second round in which particular laws can be singled out and exposed to a specific vote of confidence which, if negative, will entail that the law in question will be referred to a session of *nomothetai* who will decide whether the *nomos* be vindicated or, alternatively, stricken from the corpus of Athenian laws and replaced with an alternative law.

The document inserted at 20–23, on the other hand, lays

⁷⁹ Dem. 58.27: οὐ μόνον αὐτὸς ἀπεχειροτονήθη τῶν ἐπιχειροτονιῶν οὐσῶν, ἀλλὰ καὶ τὴν ἀρχὴν ἅπασαν ἐποίησεν.

⁸⁰ Arist. *Ath. Pol.* 61.2: ἐπιχειροτονία δ' αὐτῶν (the *strategoí*) ἐστὶ κατὰ τὴν πρυτανείαν ἐκάστην, εἰ δοκοῦσιν καλῶς ἄρχειν. κἂν τινα ἀποχειροτονήσωσιν, κρίνουσιν ἐν τῷ δικαστηρίῳ, κἂν μὲν ἀλφ, τιμῶσιν ὅ τι χρὴ παθεῖν ἢ ἀποτεῖσαι, ἂν δ' ἀποφύγη, πάλιν ἄρχει.

⁸¹ Dem. 58.27: καὶ πάλιν ἀπέδοτε τοὺς στεφάνους αὐτοῖς.

⁸² Canevaro 89 (quoted n.60 above), adding “Basically the same concept (in a different context) is expressed at [Arist.] *Ath. Pol.* 43.5 with *περὶ τῆς ὀστρακοφορίας ἐπιχειροτονίαν διδῶσιν, εἰ δοκεῖ ποιεῖν ἢ μή ...* This meaning is found in our sources only in connection with the ἐπιχειροτονία τῶν ἀρχῶν, and even in that case it is subordinated to the primary, generic meaning of ‘putting the conduct of the magistrates to the vote’. Here again Demosthenes refers only to a preliminary vote about whether to allow proposals of new laws.”

⁸³ Canevaro 86, 89, 94.

down a procedure that resembles the *epicheirotonia ton archon*. The law prescribes that if some laws have been voted down during the first *ekklesia* held on Hekatombaion 11, the third *ekklesia* of the first prytany will be devoted to a debate and decision on these laws. It is also apparent that, according to this law, only laws rejected at the first *ekklesia* can be referred to the *nomothetai*.⁸⁴

After my analysis of the *epicheirotonia* I return to Demosthenes' comments at 24–31 on the law read out at 20–23 and Timokrates' unconstitutional behaviour on Hekatombaion 11–12.

At the *ekklesia* held on the eleventh day of the first prytany = Hekatombaion 11 when the *epicheirotonia* took place,⁸⁵ the people voted that the laws in force were not sufficient and that a new law must be passed.⁸⁶ Thereafter Timokrates addressed the Assembly and argued that the law (or laws) about the Panathenaia were insufficient and he persuaded the people that the administration of the coming Panathenaia demanded an immediate change of the law(s).⁸⁷ If we accept the document at 20–23 as authentic, that debate must have been followed by a further *cheirotonia* resulting in an *apocheirotonia* of the law—or one of the laws—about the Panathenaia.⁸⁸ In his account of what happened Demosthenes has no complaint about the debate that followed the *epicheirotonia*, and no mention at all of any *cheirotonia* after the debate, probably, if we accept the document as genuine, because both were constitutional elements of the

⁸⁴ §21, quoted n.39 above.

⁸⁵ τῆς ἐκκλησίας ἐν ἣ τούτους νόμους ἐπεχειροτονήσατε, οὔσης ἐνδεκάτη τοῦ ἑκατομβαιῶνος μηνός (26).

⁸⁶ §25: inference from ἂν χειροτονήσητε εἰσφέρειν.

⁸⁷ ἐπὶ τῇ τῶν Παναθηναίων προφάσει (26); ἵν' ὡς κάλλιστα γένοιτό τι τῶν περὶ τὴν ἑορτήν (28); περὶ μὲν τούτων, τῆς διοικήσεως καὶ τῶν Παναθηναίων οὔτε χεῖρον' οὔτε βελτίω νόμον οὐδέν' εἰσήνεγκεν οὐδεὶς (29).

⁸⁸ ἐὰν δέ τινες τῶν νόμων τῶν κειμένων ἀποχειροτονηθῶσι (21). See 447 above.

nomothesia procedure.⁸⁹ Thereafter Timokrates or one of his associates proposed and carried a *psephisma* that a session of *nomothetai* be held on the following day,⁹⁰ in spite of the fact that Hekatombaion 12 was an annual festival day devoted to the Kronia⁹¹ and no meeting of the *boule* could normally be held because of the festival.⁹² Nevertheless a session of the *nomothetai* took place on Hekatombaion 12,⁹³ and here Timokrates proposed and carried his law.⁹⁴ Demosthenes (26) focuses on the decree passed in the *ekklesia* on Hekatombaion 11 and the law passed by the *nomothetai* on Hekatombaion 12, both described as breaches both of the law about celebration of the Kronia and the law about *nomothesia*.

At 27–32 Demosthenes quotes and comments on Epikrates' *psephisma* to have a session of *nomothetai* on Hekatombaion 12, where Timokrates proposed and carried his bill, allegedly a revision of a law about the Panathenaia, but in fact a bill allowing most debtors to the treasury to avoid imprisonment by providing guarantors for the debt.⁹⁵ The *psephisma* is read out at 27 and most of Demosthenes' paraphrase and comments at 28–32 concern the *psephisma*, not the *nomos* quoted at 20–23. Canevaro argues that the *psephisma* must be a late forgery.⁹⁶ In this case he

⁸⁹ I agree with Canevaro 85: Demosthenes is “likely to have selected only those provisions relevant to his case and placed them in an order determined by the sequence of his arguments.”

⁹⁰ §27; ἄρριον, see 445 above.

⁹¹ Mikalson, *The Sacred and Civil Calendar* 203. Canevaro 111 seems to believe that Hekatombaion 12 was a monthly festival day.

⁹² ὄντων Κρονίων καὶ διὰ ταῦτ' ἀφειμένης τῆς βουλῆς (26, cf. 29, 31, 32, 47).

⁹³ δωδεκάτη τὸν νόμον εἰσήνεγκεν, εὐθὺς τῇ ὑστεραίᾳ ... διαπραξάμενος μετὰ τῶν ὑμῖν ἐπιβουλευόντων καθέζεσθαι νομοθέτας διὰ ψηφίσματος (26).

⁹⁴ βούλομαι δ' ὑμῖν τὸ ψηφισμ' αὐτ' ἀναγνῶναι τὸ νικῆσαν (27).

⁹⁵ Timokrates' law on debtors is read out at 39–40 and 71 and analysed by Canevaro 113–121. It was inserted in the *Urexemplar* of the speech and—with reservations—Canevaro accepts it as a genuine document.

⁹⁶ Canevaro 104–113, following Piérart, in *La codification* 245–250.

may be right, but there are problems (cf. 445); and in any case whether or not the decree is authentic does not affect the authenticity of the document at 20-23.

Canevaro concludes this section of his analysis by pointing out four major differences between the document and Demosthenes which together with a detailed analysis of the text inserted at 20–23 show that the document “cannot be an authentic Athenian statute” (96). In my opinion, his four points are not a precise summary of what the sources say. I quote the entire passage, adding in angle-brackets what is missing according to my reading of the text:

There are major differences between the document and Demosthenes’ accounts in this speech [*Against Timokrates*] and in the *Against Leptines*. (1) The procedure described by Demosthenes is one for enacting new laws <or accepting the laws as they are>, whereas the document provides for an annual vote of approval <or disapproval> of the entire ‘code’ of laws and <in the latter case> for the rejection of some <that then must be replaced by revised versions or new laws>. (2) Demosthenes describes a preliminary vote to allow new proposals (plural) to be made <and does not mention that the vote was taken section by section>, whereas the document describes a vote of approval for <or disapproval of> the existing laws section by section. (3) The document sets this vote of approval <or disapproval> in the 11th day of the first prytany of every year and provides, in case some laws are not approved, for the appointment of the *nomothetai* following a discussion in “the last of the three Assemblies.” <There is no mention of the other laws about *nomothesia* which laid down the procedures for having laws changed or added later in the year>. Demosthenes, on the other hand, supported by the epigraphical evidence, shows that the *nomothetai* could be appointed at any point of the year. (4) The document provides for the election of five *synegoroi* in the same Assembly on the 11th of the first prytany. Demosthenes, on the other hand, <has nothing to say about when the *synegoroi* were elected but may imply> that they were appointed later after the proposals for new laws had been presented.

On the arguments that the document is a late forgery

In the second part of the chapter Canevaro presents his case

against the authenticity of the document in eight numbered sections; I address each of the issues in the same order.

(1) “The expression ‘after the herald has said the prayers’ (ἐπειδὴν εὔξεται ὁ κήρυξ) to indicate that a matter must be the first item on the agenda of an Assembly meeting, just after the sacrifices, is unparalleled in Athenian inscriptions” (97). Yes, and there is in fact no mention at all in classical inscriptions of the rituals performed before the opening of the session. They are, on the other hand, described in several literary sources of which the most important in this context is Aeschin. 1.23: ἐπειδὴν τὸ καθάρσιον περιενεχθῆ καὶ ὁ κήρυξ τὰς πατρίους εὐχὰς εὔξεται, προχειροτονεῖν κελεύει τοὺς προέδρους περὶ ἱερῶν τῶν πατρίων καὶ κήρυξι καὶ πρεσβείαις καὶ ὀσίων. This passage testifies to the distinction between the rituals (τὸ καθάρσιον, τὰς πατρίους εὐχὰς, and ἡ ἀρά)⁹⁷ and the sacred matters (ἱερῶν τῶν πατρίων), which were the first to be voted on in the *procheirotomia*, followed by the *procheirotomia* about matters concerning heralds, ambassadors, and secular business.⁹⁸ Following Harris,⁹⁹ Canevaro argues that “the customary expression, in Athens and elsewhere, was μετὰ τὰ ἱερά, “after the sacrifices” (97). According to Harris we must distinguish between τὰ ἱερά with the article (referring to the sacrifices at the opening of the *ekklesia*) and ἱερά without the article (referring to the sacred matters on the agenda). But the distinction breaks down in the face of *IG II² 74.9*: [πρώτῳ μ]εθ’ ἱερά.¹⁰⁰ Harris’

⁹⁷ The *ekklesia* was opened with a purification. A piglet was killed and its corpse was carried round the circumference of the auditorium by officials called *peristiarchoi*. Then the herald read out a prayer (Aeschin. 1.23; Din. 2.14; Ar. *Thesm.* 295 ff.) and a curse (Dem. 23.97; Din. 2.16; Ar. *Thesm.* 335 ff.).

⁹⁸ Cf. Canevaro 213: “All meetings of the Assembly began with a discussion of religious matters (Aeschin. 1.23; [Arist.] *Ath. Pol.* 43.6).”

⁹⁹ E. M. Harris, *Democracy and the Rule of Law in Classical Athens* (Cambridge 2006) 91–92.

¹⁰⁰ M. H. Hansen, *The Athenian Ecclesia II* (Copenhagen 1989) 184–185. For non-Athenian examples see *IG IX.2 1230.25*; *XII.9 220.16*, 898.6.

interpretation of μετὰ τὰ ἱερά is also disproved by the frequent occurrence in Hellenistic documents of μετὰ τὰ ἱερά καὶ τὰ βασιλικά:¹⁰¹ the juxtaposition strongly indicates that τὰ ἱερά refers to sacred business, not to sacrifices.

(2) In the phrase ἐπιχειροτονίαν ποιεῖν τῶν νόμων (20) there is no subject for the infinitive ποιεῖν, whereas in Demosthenes' paraphrase of the law, ἐφ' ὑμῖν ἐποίησαν διαχειροτονίαν (25), the subject is indisputably οἱ νόμοι, cf. προστάττουσιν and φράζουσι in 24. Canevaro argues that "the forger took it from this context and misunderstood it" (97). But two fourth-century Athenian laws are in fact opened with an imperative-infinitive without a subject. In the law on approvers of silver coinage the principal provision is τὸ ἀργύριον δέχεσθαι τὸ Ἀττικόν, and in the law taxing Lemnos, Imbros, and Scyros it is τὴν δωδεκάτην πωλεῖν τὴν ἐν Λήμνῳ καὶ Ἰμβρῳ καὶ Σκύρῳ καὶ τὴν πεντακοστὴν σίτο.¹⁰² So it is perfectly possible that Demosthenes' paraphrase of the law on *nomothesia* is a reflection of the document inserted in the text.

(3) Canevaro (98–99) has three objections to the description of the *epicheitotonia* and its subdivision into four separate votes, each about a category of laws.

"First, the grammar of the clause does not work: the clause ἐπιχειροτονίαν ποιεῖν τῶν νόμων requires a genitive of category, and περὶ τῶν βουλευτικῶν ('make a vote of confirmation about the laws about the bouletic [sc. laws]') as it stands does not make any sense."¹⁰³ I cannot find fault with having an objective genitive (τῶν νόμων) specified by a prepositional group where the genitive is governed by περί, nor do I find it impossible to have περί governing the following genitive τῶν κοινῶν.

¹⁰¹ E.g. *IG XII.6* 95.32–33, transl. M. Austin, *The Hellenistic World from Alexander to the Roman Conquest* (Cambridge 2006) no. 155, "after religious matters and matters concerning the kings." Accordingly, I uphold the traditional interpretation of μετὰ τὰ ἱερά advocated by Peter Rhodes, *A Commentary* 529.

¹⁰² Rhodes-Osborne, *GHI* 25.3 and 26.6–7.

¹⁰³ Schöll's deletion of περί is unnecessary and has not been accepted by any of the editors of *Dem.* 24.

I admit however that it is odd—but not impossible—to have the naked genitive τῶν ἄλλων ἀρχῶν instead of ταῖς ἄλλαις ἀρχαῖς (agreeing with οἱ κεῖνται τοῖς ἐννέα ἄρχουσιν) or περὶ τῶν ἄλλων ἀρχῶν (agreeing with περὶ τῶν βουλευτικῶν).

Second, “the document spells out the procedure of approval, but stops with the ‘common laws’ and does not say anything about the two last categories.” But the law states that the *epi-cheirotomia* about the laws in the second category is like the first (εἶτα τῶν κοινῶν κατὰ ταύτά). The person(s) who drew up the law found it superfluous to repeat that for the two last categories.

Third, “later in the document we read that, ἐὰν δέ τινες τῶν νόμων τῶν κειμένων ἀποχειροτονηθῶσι (‘if some existing laws are rejected’), a later Assembly must discuss the appointment of the *nomothetai* περὶ τῶν ἀποχειροτονηθέντων.” On this issue I refer to the discussion at 446–449 above.

In this context Canevaro takes issue with the more general question whether the procedural or the substantive aspect of the laws was the essential one for the Athenians. He refers to an important article by Harris¹⁰⁴ who persuasively emphasised the substantive aspect of Athenian laws against a number of scholars (including myself)¹⁰⁵ who have stressed the procedural aspect and underestimated the substantive.¹⁰⁶ Harris also argued (14 n.28) that the document (24.20–23) groups the laws by the parts of the Athenian polis (the Council, public laws, the nine archons, other magistrates), not by procedures. That is basically correct. The Athenians had a law about βλάβη, another about αἰκία, a third about ὕβρις, they did not have a law about the δίκη βλάβης, another about the δίκη αἰκίας,

¹⁰⁴ E. M. Harris, “What are the Laws of Athens about? Substance and Procedure in Athenian Statutes,” *Dike* 12–13 (2009–2010) 5–67.

¹⁰⁵ Harris, *Dike* 12–13 (2009–2010) 14 with n.28, cf. Hansen, *The Athenian Democracy* 9–10. But Harris’ first sentence in n.28 is misleading: “Hansen (1991) claims that the document at Dem. 24.20–23 shows that the Athenians grouped their laws by procedure.” No, at 165 I claim that they grouped their laws not by types of action but by the competent magistrate.

¹⁰⁶ J. H. Lipsius, *Das attische Recht und Rechtsverfahren* II (Leipzig 1915) 237–785.

and a third about the γραφή ὑβρεως (Dem. 21.35). The only law in which the type of action to be used is the essential criterion is the εἰσαγγελτικὸς νόμος.¹⁰⁷ But I take the subdivision of laws according to the magistrate responsible for having a matter brought before the Assembly or a *dikasterion* or the *nomothetai* to be a procedural criterion, and also point out that “since each magistrate had, up to a point, a competence determined on a material basis, the formal division of the laws did correspond roughly with a material order; thus family and inheritance laws all came under the archon, much of the law about religion came under the king archon, and the polemarch must have had the whole law relating to metics and other non-Athenians.”¹⁰⁸ The grouping of laws according to the magistrate responsible for the matter in question is emphasised in two passages in forensic speeches, Hypereides *For Euxenippos* (3.5–6) and Demosthenes *Against Lakritos* (35.37–38.), both cited and discussed by Harris.¹⁰⁹ Even more importantly: it is the principle applied in the second part of the Aristotelian *Athenaion Politeia*.¹¹⁰

(4) “The document reports the statute about the ἐπιχειροτονία τῶν νόμων, and it lays down the procedure for approval. Thus there is no point in specifying that the vote of approval is given κατὰ τοὺς νόμους τοὺς κείμενους ... The rule therefore makes no sense” (99). The document does lay down the procedure for approval in this particular case; but many important details are left unmentioned. They were regulated in other laws, hence the reference to οἱ νόμοι οἱ κείμενοι. Let me refer to just one such detail. At some time between 403/2 and 379/8 the presidency of the Assembly was changed. Instead of the *prytaneis* a board of nine *proedroi* headed by an *epistates* became responsible for putting all motions to the vote and for assessing

¹⁰⁷ Dem. 24.63, accepted as genuine by Canevaro 157; cf. Hansen, *Eisangelia* 12–20.

¹⁰⁸ Hansen, *The Athenian Democracy* 165, referring to *Ath. Pol.* 56 and 58.

¹⁰⁹ Harris, *Dike* 12–13 (2009–2010) 11–12.

¹¹⁰ Which, however, is not mentioned by Harris.

all the *cheirotoniai*.¹¹¹ Did the nine *proedroi* have to agree about the outcome of the vote? Or was the decision left to a majority of five or six? We do not know, but that would be one detail that was regulated in οἱ κείμενοι νόμοι and did not have to be repeated in the law about the ἐπιχειροτονία τῶν νόμων. The reference to the laws in force ensured that the law about *epi-cheirotonia ton nomon* did not involve other innovations than those actually mentioned in the law.

(5) According to the document, the debate over the laws rejected in the *ekklesia* held on the eleventh day of the first prytany was scheduled for the last of the three *ekklesiai* (τὴν τελευταίαν τῶν τριῶν ἐκκλησιῶν), i.e. the last of the three *ekklesiai* held during the first prytany (20–21). In his paraphrase of the law (25) Demosthenes says that the laws scheduled the third *ekklesia* as the meeting in which to debate the appointment of *nomothetai*: τὴν τρίτην ἀπέδειξαν (οἱ νόμοι) ἐκκλησίαν, καὶ οὐδ' ἐν ταύτῃ τιθέναι δεδώκασιν, ἀλλὰ σκέψασθαι καθ' ὅτι τοὺς νομοθέτας καθιεῖτε. Apparently, there is no disagreement between the document and Demosthenes' paraphrase of the law the secretary had read out to the jurors. But problems tower up when we compare the references to the third *ekklesia* at 21 and 25 with what we know from the Aristotelian *Ath.Pol.* 43.3, viz., that the Athenians every prytany summoned four *ekklesiai*, not three. Consequently the last *ekklesia* of the first prytany must be the fourth and not the third.

Following Schöll, Canevaro argues that “in Athenian inscriptions εἰς τὴν πρώτην ἐκκλησίαν always refers to the following Assembly (e.g. *IG II²* 103.14) and therefore τὴν τρίτην ... ἐκκλησίαν must refer to the third Assembly after the first one,” i.e. the fourth.¹¹² Such an interpretation—based on the analogy with εἰς τὴν πρώτην ἐκκλησίαν—would make sense if Demosthenes had said τὴν τρίτην ἀπέδειξαν ἐκκλησίαν μετ' ἐκείνην¹¹³ or ἀπ' ἐκείνης.¹¹⁴ As the text stands, Demosthenes

¹¹¹ Hansen, *The Athenian Democracy* 140–141

¹¹² Canevaro 99, cf. 100 “the third Assembly’ after the original one.”

¹¹³ Cf. Arist. *Metaph.* 1081a29–32: ἔτι ἐπειδὴ ἔστι πρῶτον μὲν αὐτὸ τὸ ἔν,

refers to the third *ekklesia* of the first prytany. There is nothing in the Greek to support Canevaro's addendum "after the first one." If nevertheless, for the sake of argument, we accept that Demosthenes at 25 refers to the third *ekklesia* "after the first one" we can just as well assume that in the document at 21 the reference is to "the last of the three following *ekklesiai*." So concerning "the third *ekklesia*" there is no discrepancy between the document at 21 and the paraphrase at 25. But a passage from the speech *Against Leptines* is adduced by Canevaro as an additional argument in support of the view that the *ekklesia* cannot be the third (and last) of the first prytany: "at Dem. 20.94 we read that the bills had to be read many times (πολλάκις) in the Assembly. One could not call one meeting of the Assembly, or even two 'many times'. It would require at least three meetings" (100). No matter whether it is the third¹¹⁵ or the fourth¹¹⁶ *ekklesia* of the year in which *nomothesia* is once more on the agenda of the Assembly, it is in any case the last held in the first prytany. Consequently the sessions of *nomothetai* must take place during the second or perhaps a following prytany, which means that bills could be read out to the *demos* not only at the second and the third *ekklesia* of the first prytany, but also on some or perhaps all the *ekklesiai* held during the second prytany until the scheduled meetings of the *nomothetai* could take place.

But what about the document's statement that the third meeting was the last one, i.e., the last *ekklesia* of the prytany? That is indisputably in conflict with the four ordinary meetings per prytany described at *Ath.Pol.* 43.3. The date of the *Ath.Pol.*

ἔπειτα τῶν ἄλλων ἔστι τι πρῶτον ἐν δεύτερον δὲ μετ' ἐκεῖνο, καὶ πάλιν τρίτον τὸ δεύτερον μὲν μετὰ τὸ δεύτερον τρίτον δὲ μετὰ τὸ πρῶτον ἔν.

¹¹⁴ Cf. Dion. Hal. *Rhet.* 10.35.4.2: ἔπειτα ταῖς ἐξῆς ἡμέραις τὴν τρίτην ἀπ' ἐκείνης ἐσομένην ἀγορὰν προειπόντες, ἐν ἧ τὸν δῆμον συνάξουσι ... διέλυσαν τὴν ἐκκλησίαν.

¹¹⁵ My interpretation of Demosthenes 21 and 25.

¹¹⁶ Canevaro's interpretation of 25, rejecting 21 as a late forgery.

is ca. 330,¹¹⁷ but, like most historians, Canevaro believes that the regulation to have four obligatory meetings of the Assembly per prytany goes a long way back and in any case was in force in 353/2 when *Against Timokrates* was written.¹¹⁸ But apart from Dem. 24.21 and 25 we have only two sources that shed light on the number of *ekklesiai* held in a prytany: (a) In 431 Perikles avoided summoning an *ekklesia* during the period when the Peloponnesian army invaded Attica.¹¹⁹ That would have been unconstitutional if the Aristotelian system had been in operation. (b) In Demosthenes 18–19 and Aischines 2–3 we hear about—probably—all the *ekklesiai* held during the eighth prytany of 347/6, when the Athenians negotiated and concluded peace with Philip.¹²⁰ There can be no doubt that by then the Athenians must have held four ordinary *ekklesiai* as described in the *Athenaion Politeia*. The sources, as we have them, indicate the following reconstruction of the number of *ekklesiai*. In the fifth century the Athenians had only ten fixed assembly meetings a year, i.e. an *ekklesia kyria* in each prytany, and in addition called extra meetings *ad libitum*. At some point in the early fourth century and in any case before 353/2 the number of *ekklesiai* was fixed at three per prytany;¹²¹ but three *ekklesiai* per prytany =

¹¹⁷ Rhodes, *A Commentary* 56.

¹¹⁸ Canevaro 99–100; see Rhodes, *A Commentary* 521.

¹¹⁹ Thuc. 2.22.1; see J. Christensen and M. H. Hansen, "What is *Syllogos* at Thukydides 2.22.1?" in *The Athenian Ecclesia II* 195–211.

¹²⁰ M. H. Hansen, "*Ekklesia Synkletos* in Classical Athens and the *Ekklesiai* Held in the Eighth Prytany of 347/6," *GRBS* 47 (2007) 271–306, at 273–290.

¹²¹ M. H. Hansen and F. Mitchel, "The Number of *Ecclesiai* in Fourth-Century Athens," *SymbOslo* 59 (1984) 13–19; republished with addenda in *The Athenian Ecclesia II* 167–175, at 174. D. M. Lewis addressed the problem in "M. H. Hansen and the Athenian *Ecclesia*," unpublished paper read at The Norman Baynes Annual Meeting of UK Ancient Historians on 25 September 1984. He agrees with Mitchel and me on the interpretation of Dem. 24.21 and 25: both passages show that in the first prytany, only three *ekklesiai* were convened, not four. He objects, however, that it is unwarranted to generalise and assume, as we do, that only three *ekklesiai* were held

thirty per year were probably too few and the number was raised to four per prytany = forty per year. That reform must have taken place before 347/6 when the Aristotelian system had been introduced.

(6) “The date at the beginning of the document is given according to the bouleutic calendar, whereas at the end we find ‘on the eleventh of the month Hekatombaion’, which follows the festival calendar. However, in the fourth century we never find the date expressed according to the festival calendar in inscriptions before 341/0.”¹²² It is true that no decree (or law) is dated by the festival calendar before 341/0. But the date given at the beginning and at the end of the document is not the date of the law. It is in the first and the last provision.¹²³ Before ἐπὶ δὲ τῆς πρώτης πρυτανείας the law had a prescript irrelevant in this context and therefore left out in the document read out by the *grammateus*. That prescript included information about the date of the law: in which year it was passed, in which prytany and (sometimes) on which day of the prytany.¹²⁴

in all ten prytanies. Hekatombaion was, according to Lewis, a month with extraordinarily many festival days, and thus the first prytany was probably exceptional by having only three *ekklesiai* instead of four. But the number of festival days in Hekatombaion was above average only if the Panathenaia included all the days from the 23rd to the 29th and 30th, cf. Mikalson, *The Sacred and Civil Calendar* 34. Admittedly, there are few attestations of *ekklesiai* held in Hekatombaion, cf. Hansen, *The Athenian Ecclesia* (Copenhagen 1983) 136 n.4, and so far no meetings on Hekatombaion 29 or 30 are attested; but it would be strange to have fewer meetings than usual during the first prytany of the year in which extra business, e.g. *nomothesia*, had to be transacted.

¹²² Canevaro 101, cf. A. S. Henry, *The Prescripts of Athenian decrees* (Leiden 1977) 37; M. H. Hansen, “Was the Athenian Ekklesia Convened According to the Festival Calendar or the Bouleutic Calendar?” *AJP* 114 (1993) 99–113, at 101–102.

¹²³ Or, rather, as indicated by δέ, the first of the provisions read out by the *grammateus*. In addition to the prescript there may have been one or more initial provisions that have been omitted.

¹²⁴ *Nomoi* are less meticulous than *psephismata* about recording dates. In some cases information about the prytany is left out (e.g. in Rhodes-Osborne, *GHI* 25), in others information about the day of the prytany (e.g.

Within a decree, however, even before 341/0 it was unproblematic to refer to an *ekklesia* by the festival calendar date. One example is the meetings held in 347/6 about the peace to be concluded with Philip of Macedon. In Demosthenes' decree about these meetings they are to be held on the 18th and 19th of Elaphebolion 347/6, cf. Aeschin. 2.61: παρανάγνωθι δὴ μοι καὶ τὸ τοῦ Δημοσθένους ψήφισμα, ἐν ᾧ κελεύει τοὺς πρυτάνεις μετὰ τὰ Διονύσια τὰ ἐν ἄστει καὶ τὴν ἐν Διονύσου ἐκκλησίαν προγράψαι δύο ἐκκλησίας, τὴν μὲν τῇ ὀγδόῃ ἐπὶ δέκα, τὴν δὲ τῇ ἐνάτῃ ἐπὶ δέκα. But why the change from the bouleutic calendar at 20 to the festival at 23? Well, the first provision comes immediately after the prescript (left out in the document at 20–23) and repeats the official date. The evidence we possess suggests that in any year after the reform of the bouleutic calendar towards the end of the fifth century the first *ekklesia* of the year was held on the eleventh of Hekatombaion = the eleventh day of the first prytany.¹²⁵ The citizen who proposed and carried the law may have wanted to stress the coincidence between the bouleutic and the festival calendar and therefore at the end of the law gave the now equivalent and better known festival calendar date.¹²⁶

(7) Taking the *epicheirotonia* on ostracism to be the proper parallel to the *epicheirotonia* of the laws, Canevaro assumes that

GHI 79) and in some both types of information (e.g. *GHI* 25 and 26).

¹²⁵ Mikalson, *The Sacred and Civil Calendar* 27–28. The bouleutic year and the festival year became coextensive and coterminous perhaps in 406/5, see P. J. Rhodes, *The Athenian Boule* (Oxford 1972) 224, or perhaps in 403/2, see S. D. Lambert, “Accounts of Payments from the Treasury of Athena,” *AIO Papers* 5 (2014: www.atticinscriptions.com/papers/aio-papers-5/) 3 n.5.

¹²⁶ Hansen, *AJP* 114 (1993) 109: “The festival calendar was the one with which every citizen was familiar, whereas the bouleutic calendar was an innovation, created either in 507 or in 461,” reformed in the late fifth century, (see previous note), and “used exclusively for the running of the *boule* and the *ekklesia*. Thus whereas everyone would have an idea of when it was the 16th of Pyanopsion, nobody (except the *prytaneis* themselves) would offhand recognize the 33rd day of the 3rd prytany.” Cf. Mikalson, *The Sacred and Civil Calendar* 74.

after the general *epicheirotonia* had taken place at the first *ekklesia* and the majority had voted for having a new law instead of accepting the laws as they were, any citizen could come forward and propose an alternative *nomos* to any law. He had after the *ekklesia* to post his alternative law before the *eponymoi* and, probably, to hand it over to the authorities so that it could be read out to the people by the *grammateus* at the subsequent *ekklesiai*. Therefore the provision that the people elect five advocates to defend the laws in force could not have taken place at the first *ekklesia* as stated in the last provision of document before it was known which alternative laws had been proposed. It must have taken place at the third subsequent *ekklesia*,¹²⁷ i.e. at the fourth and final *ekklesia* held in the first prytany.

But the document shows that the proper parallel is the *epicheirotonia ton archon*. The general *epicheirotonia* was followed by a debate on individual *nomoi* put forward for revision, and in each case a vote was taken on this individual law. As soon as this second round had been completed it would be known precisely which *nomoi* the *demos* had provisionally rejected. I can imagine that in some years there was not a single law to refer to the *nomothetai*, in others there might have been several; and since only *nomoi* rejected in the first *ekklesia* could be referred to the *nomothetai*, it made good sense already in the first *ekklesia* to elect the five advocates who before the *nomothetai* would have to defend the rejected *nomoi*.

(8) “Demosthenes at §36 calls the advocates of the law *συνηγόρους*. At Dem. 20.146 he calls them *σύνδικοι*. Both these terms are attested in contemporary Athenian inscriptions. Instead, the participle *συναπολογησομένους* or any other form of the verb *συναπολογέομαι* are unattested in Attic inscriptions. The two words employed by Demosthenes are technical terms, yet the participle in the document, where we should expect official language, is not” (101–102). Apart from the occurrence at Dem. 24.23, the verb *synapologeisthai* is attested

¹²⁷ Canevaro 93.

eleven times in literary texts,¹²⁸ six in fourth-century Athenian forensic speeches,¹²⁹ three in late sources,¹³⁰ and twice in scholia on the Timokrates speech.¹³¹ The participle is used synonymously with *synegoros* about advocates speaking for the defendant.¹³² The verb is invariably used in a juridic context, and in particular the two occurrences in Hypereides' speech *For Lykophron* indicate that, like *synegoros*, it was a technical term. It is true that it is unattested in Attic inscriptions, but so are dozens of other words which are attested as legal terms in literary sources, and unquestionably were used in Athenian laws.

These are Canevaro's specific objections to the authenticity of the document at §20–23. Further objections are raised against the authenticity of Epikrates' *psephisma* at §27 about having a session of *nomothetai* on Hekatombaion 12. They have no bearing on the issue whether the law at §20–23 is a genuine document or a late forgery (see 462 above).

Conclusion

In my opinion, there are no serious discrepancies between the document at §20–23 and Demosthenes' paraphrase at §17–19 and 24–31 of the law he has asked to have read out to the jurors, only in some cases a change of emphasis. The information provided by the document is not self-contradictory and not in conflict with what we know from other sources about *nomothesia* at Athens in the age of Demosthenes.¹³³ There is no

¹²⁸ The texts included in *TLG*.

¹²⁹ Dem. 24.157, 159, 25.56; Hyp. 2.10, fr.3.15–16; Lycurg. 1.138.

¹³⁰ Dion. Hal. *Ant.Rom.* 7.54.3; Lib. *Decl.* 49.1.5, *Prog.* 13.1.18.

¹³¹ *Ad* 24.66 and 319.

¹³² L. Rubinstein, *Litigation and Cooperation* (Stuttgart 2000) 44.

¹³³ The only controversial piece of information is the one about the third meeting of the Assembly, but the problem whether it was the third meeting of the first prytany or the third meeting after the first pertains both to the document (20) and to Demosthenes' paraphrase (25) and is therefore of no consequence for the issue whether the document is genuine or a forgery, see 467 ff. above.

reason to emend the text of the document, and an investigation of agreements or disagreements in terminology and style between the document and epigraphically attested *nomoi* is inconclusive, because we do not have other constitutional *nomoi* preserved on stone. Canevaro acknowledges that “the person who composed the document at Dem. 24.20–23 was a skilful forger, one who knew the Attic orators and possibly had access to a *lexicon* or commentary” (102), and later he states that the person who “composed the document at Dem. 24.20–23, a long document that, in spite of the mistakes that give away its spuriousness, shows a shrewd understanding of the workings of the Athenian Assembly and a remarkable knowledge of Attic official language” (332).

One problem remains: the document at 20–23 was not part of the *Urexemplar* and to accept it as a genuine *nomos* goes against Canevaro’s principle applied to all the public speeches of the Demosthenic corpus, that all documents found in the *Urexemplar* are genuine, whereas all that were not part of it are late forgeries. That is an issue I shall address in a separate study of Dem. 24.33.

My conclusion is that I disagree with Canevaro about the authenticity of the document at 20–23. 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. It will be required reading for all who study Athenian law and political institutions and indispensable for all who investigate the history and origin of the Demosthenic corpus.¹³⁴

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