

The Theoric Fund and the *graphe paranomon* against Apollodorus

Mogens Herman Hansen

ONE OF THE MOST IMPORTANT sources for the history of the Theoric Fund is the first part of the speech *Against Neaera* (Dem. 59.3–8). The plaintiff Theomnestus gives an account of how Stephanus of Eroadae in the spring of 348 B.C. indicted Apollodorus of Acharnae for having made an unconstitutional proposal concerning the Theoric Fund. Since antiquity historians have been puzzled about some important details in Theomnestus' account of Apollodorus' proposal, because his information seems to be at variance with what Demosthenes tells us about the Theoric Fund in the *Olynthiacs* (Dem. 1.19ff; 3.10ff, 31ff) and with the law paraphrased by Libanius in the hypothesis to the *First Olynthiac* (Dem. 1 hyp.5). The discrepancy between these sources, however, is only superficial, and accordingly I shall argue in this paper that we should accept the data both of the *Olynthiacs* and of the speech *Against Neaera* instead of rejecting one of the sources, as some scholars have done, or reversing the chronology of the events, as other scholars formerly preferred to do. Through such a combination of the sources it should be possible to obtain a clearer view of how the Athenians provided capital for the Theoric Fund. By way of introduction I will outline how this problem has been dealt with during the last decades.¹

It is generally accepted that from the beginning of the fourth century B.C., or possibly from 378,² there existed in Athens a special military

¹ H. Francotte, "Études sur Démosthène: Démosthène et le théorique," *MusB* 17 (1913) 69ff. U. Kahrstedt, "Demosthenes und die Theorika," *GöttNachr* 1929, 156–63. G. Glotz, "Démosthène et les finances athéniennes de 346 à 339," *RHist* 170 (1932) 385–97. J. van Ooteghem s.j., "Démosthène et le Théorikon," *EtCl* 1 (1932) 388–407. W. Schwan, "Theorikon," *RE* 5A (1934) 2233–37. A. H. M. Jones, *Athenian Democracy* (Oxford 1957) 33–35. J. J. Buchanan, *Theorika* (New York 1962), rev. G. E. M. de Ste Croix in *CR* 14 (1964) 190–92. G. L. Cawkwell, "Demosthenes and the Stratiotic Fund," *Mnemosyne* 15 (1962) 377–83; *idem*, "Eubulus," *JHS* 83 (1963) 47–67, esp. 58–61. P. J. Rhodes, *The Athenian Boule* (Oxford 1972) 235–40. For Stephanus' *graphe paranomon* against Apollodorus cf. M. H. Hansen, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Public Action against Unconstitutional Proposals* (Odense 1974) cat. no.18.

² Cawkwell, *JHS* (*supra* n.1) 61.

fund, τὰ στρατιωτικά,³ through which the Athenians defrayed the expenses of their military expeditions. But of the Theoric Fund we begin to get information in the sources only from the middle of the century. The Theoric Fund was possibly founded by Agyrrhius in the beginning of the fourth century,⁴ but it did not gain in importance until the period when Eubulus was at the head of the Athenian financial administration.⁵ The Fund was managed by a board, οἱ ἐπὶ τὸ θεωρικόν, elected by the Assembly (Arist. *Ath. Pol.* 43.1). The board served for one year, ἐκ Παναθηναίων εἰς Παναθήναια,⁶ and the Fund was financed through the surpluses of the administration.⁷ Some of this money was distributed among the Athenians at the great festivals, originally in the form of payment for tickets to the dramatic performances;⁸ later the money from the Fund was used for public works as well (Aeschin. 3.25). After the conclusion of the Social War (355) the entire surplus of the administration was handed over to the Board each and every year, and during the next fifteen years the Board succeeded in amassing considerable sums.⁹

This financial policy was protected by a special law that on pain of death forbade any Athenian to move a proposal that money be transferred from the Theoric Fund to the Stratiotic Fund. The law is expressly referred to in Libanius' hypothesis to the *First Olynthiac*, and Libanius' statement is confirmed by Demosthenes, who neither in the *First* nor in the *Third Olynthiac* ventures to propose directly a diversion of the money distributed as θεωρικά.¹⁰ Apollodorus, on the

³ Dem. 49.12, 16 (373 B.C.); 50.10 (362 B.C.). *IG II²* 207 (348 B.C.). Cf. Cawkwell, *Mnemosyne* (*supra* n.1).

⁴ Harp. s.v. θεωρικά. Cf. Buchanan, *op.cit.* (*supra* n.1) 48–53.

⁵ Aeschin.3.25. Cf. Cawkwell, *JHS* (*supra* n.1) 54–58.

⁶ *Ibidem.* Cf. de Ste Croix, *op.cit.* (*supra* n.1) 191, and Rhodes, *loc.cit.* (*supra* n.1).

⁷ Inference from Dem. 59.4. The speech *Against Neaera* is presumably the source for Harpocration's description: θεωρικά ἦν τινὰ ἐν κοινῷ χρήματα, ἀπὸ τῶν τῆς πόλεως προσόδων συναγόμενα· ταῦτα δὲ πρότερον μὲν εἰς τὰς τοῦ πολέμου χρείας ἐφυλάττετο καὶ ἐκαλεῖτο στρατιωτικά, ὕστερον δὲ κατετίθετο εἰς τε τὰς δημοσίας κατασκευὰς καὶ διανομάς, ὧν πρῶτος ἦρξάτο Ἀγύρριος ὁ δημαγωγός.

⁸ Harp., Hsch., Phot., *Suda* s.v. θεωρικά. Schol. *ad* Dem. 1.1. Dem. 1 hyp.4. Cf. Dem. 3.31; 44.37. Hyp. 1.26. Din. 1.56.

⁹ Cf. Cawkwell, *JHS* (*supra* n.1) 56, "there is no reason to suppose that the Commission controlled no more than it distributed." De Ste Croix, *op.cit.* (*supra* n.1) 191, "But there is not the least reason to assume that all τὰ περιόντα χρήματα τῆς διοικήσεως, which went into the fund from (presumably) the late 350's, were distributed each year at festivals: indeed, since the fund was also used for public works, they cannot have been."

¹⁰ The authenticity of the law paraphrased by Libanius is usually defended by referring to Demosthenes' fear of proposing a decree concerning the Theoric Fund (Dem. 1.19ff;

other hand, made an abortive attempt to carry Demosthenes' plan into effect: he proposed in the Assembly that the people take a vote on whether the surplus of the administration be used as *θεωρικά* or as *στρατιωτικά*. The proposal was carried, and when the decisive vote was taken in the Assembly nobody opposed the use of the surplus for military purposes.¹¹ The Assembly's decree, however, was blocked by Stephanus' *graphe paranomon* against Apollodorus, which resulted in the proposal being overruled by the court and Apollodorus being fined one talent. Only some ten years later did Demosthenes succeed with a proposal that all money be transferred to the Stratiotic Fund and used for the war against Philip.¹²

On this interpretation the law paraphrased by Libanius and referred to by Demosthenes in the *First* and the *Third Olynthiac* cannot be reconciled with the information we obtain from the speech *Against Neaera*, and this problem is normally solved by rejecting the information given in the speech *Against Neaera* on all the points where it seems to be at variance with the law paraphrased by Libanius. In my opinion we should rather attempt to interpret the sources without rejecting any of the evidence. First I shall quote the two main sources under discussion:

DEM. 1 HYP.5 . . . And concerning the Theoric money they (the Athenians) passed a law forbidding anyone on pain of death to pro-

3.10ff, 31ff). Demosthenes' cautious statements, however, can easily be explained even if we reject Libanius' law as a baseless phantasy invented by a scholiast in order to explain the Demosthenic passages in question. The Theoric Fund was regulated by a law (*nomos*), or rather by several *nomoi*, undoubtedly passed by the *nomothetai* (cf. Dem. 3.10–13). If Demosthenes in the Assembly had proposed a decree (*psephisma*) amending or abolishing these laws, he would automatically be liable to prosecution through a *graphe paranomon* which might entail a heavy fine, perhaps even capital punishment (cf. Hansen, *op.cit.* [supra n.1] 53). Accordingly, we need not assume the existence of any special law prescribing capital punishment for reversing the Theoric Laws. On the other hand, we have several examples of laws especially protected by such penalty clauses (Dem. 20.156, 23.62, 24.50; Meiggs and Lewis, *GHI* nos.45, 49, 69; *IG* I² 71, II² 43, etc.), and I am inclined to accept the law paraphrased by Libanius as genuine even though I admit that the argument usually put forward in its defense is invalid.

¹¹ It is important to distinguish between the vote taken on Apollodorus' proposal and the vote prescribed by that proposal. Apollodorus proposed that the people in the Assembly vote on how the surplus was to be spent. This proposal must have been passed by the Assembly, since we are told (Dem. 59.5) that the people subsequently (perhaps only in the next Assembly) did not vote against using the money for the war. This means that Stephanus' indictment was brought only after Apollodorus' decree had been passed and carried out.

¹² Philochorus, *FGrHist* 328 F 56a. Cf. Sopotar in Walz, *Rhet.Gr.* V p.181.

pose a return to the old system so that this money would be transferred to the Stratiotic Fund.

DEM. 59.4–8. You were at that time on the point of sending your entire force to Euboea and Olynthus, and Apollodorus, being one of its members, brought forward in the Council a bill, and carried it as a *probouleuma* to the assembly, proposing that the people should decide whether the surpluses of the administration should be used for military purposes or as *theorica*. For the laws prescribed that, when there was war, the surpluses of the administration should be devoted to military purposes, and Apollodorus believed that the people ought to have power to do what they pleased with their own; and he had sworn that, as member of the Council, he would act for the best interests of the Athenian people, as you all bore witness at that crisis. For when the vote was taken there was not a man who voted against the use of these funds for military purposes; and even now, if the matter is anywhere spoken of, it is acknowledged by all that Apollodorus gave the best advice and was unjustly treated. It is, therefore, upon the one who by his arguments deceived the jurors that your wrath should fall, not upon those who were deceived.

This fellow Stephanus indicted the decree as unconstitutional and came before a court. He produced false witnesses to substantiate the calumnious charge that Apollodorus had been a debtor to the treasury for twenty-five years, and by making all sorts of accusations that were foreign to the indictment won a verdict against the decree.

So far as this is concerned, if he saw fit to follow this course, we do not take it ill; but when the jurors were casting their votes to fix the penalty, although we begged him to make concessions, he would not listen to us but fixed the fine at fifteen talents . . . To the jurors, therefore, who at that time decided the matter I am deeply grateful for this at least, that they did not suffer Apollodorus to be utterly ruined, but fixed the amount of the fine at one talent . . .¹³

On the traditional interpretation we are forced to admit the following three contradictions between these sources:

(1) The law referred to in Dem. 1 hyp.5 forbids anyone on pain of death to propose that money be transferred from the Theoric Fund to the Stratiotic Fund, whereas Apollodorus justifies his proposal with a reference to a law which prescribes that the surpluses of the administration in time of war be transferred to the Stratiotic Fund. Since

¹³ Translated by A. T. Murray (LCL) with minor corrections in order to bring the translation nearer to the Greek.

there can be no doubt that the Athenians were at war when Apollodorus proposed and carried his decree,¹⁴ the two sources are apparently irreconcilable.

(2) Furthermore, Stephanus has not, as far as we know, charged Apollodorus with moving a proposal unconstitutional in substance. According to Theonnestus' account of the indictment Apollodorus' proposal was overruled primarily because it had been proposed by a debtor to the state.

(3) Although the law paraphrased by Libanius prescribes capital punishment, Apollodorus is only fined in the amount of one talent, and the death penalty has not even been mentioned during the fixing of the sentence. The plaintiff has proposed only a fine of fifteen talents instead of the fine of one talent proposed by Apollodorus and voted by the jurors.

These contradictions between the sources have been recognized since antiquity, and a scholiast on Demosthenes tried to solve the problem by reversing the chronology of the events, *viz.*, capital punishment for a proposal that money be transferred from the Theoric to the Stratiotic Fund was introduced by Eubulus only after Apollodorus' proposal and Stephanus' indictment against Apollodorus: "But when a certain Apollodorus made an attempt to transfer this money back to the Stratiotic Fund, . . . Eubulus . . . proposed and carried a law which forbade anyone on pain of death to propose that *θεωρικά* be changed into *στρατιωτικά*" (schol. *ad* Dem. 1.1, Dind. p.33.11).

To the best of my knowledge no scholar any longer believes in this too simple solution of the problem.¹⁵ In the speech *Against Neaera* it is unambiguously stated that Apollodorus has proposed and carried his decree while the fighting on Euboea was still going on, whereas Demosthenes' *Olynthiacs* must have been delivered before the outbreak of that war.¹⁶ Admittedly the law is only paraphrased in the hypothesis to the *First Olynthiac*, but Demosthenes' allusions to the law in the *First* and the *Third Olynthiac* prove that the law must have been in force when Demosthenes addressed the Assembly.

Instead of tampering with the chronology most scholars are nowa-

¹⁴ Cawkwell, *JHS* (*supra* n.1) 60, and Rhodes, *op.cit.* (*supra* n.1) 105.

¹⁵ The position of Glotz (p.392), Schwan (col.2235) and Buchanan (p.62), *opp.cit.* (*supra* n.1).

¹⁶ Cawkwell, *JHS* (*supra* n.1) 60. J. M. Carter, "Athens, Euboea and Olynthus," *Historia* 20 (1971) 418-29.

days inclined to reject the account given in the speech *Against Neaera* as an unreliable source. They hold that (1) Apollodorus' reference to the law prescribing that any surplus be transferred to the Stratiotic Fund is either false or a reference to an obsolete law;¹⁷ (2) furthermore, the speaker's account that Apollodorus was sentenced on the pretext of being a debtor to the state is only a clumsy attempt to conceal the real grounds adduced in support of the indictment: that such a proposal was illegal in substance;¹⁸ and (3) Apollodorus should have been sentenced to death and not fined—a problem which, however, is usually passed over in silence.

This offhand rejection of one of the sources seems to me quite as unsatisfactory as the attempt to reverse the chronology. Instead, I will interpret the sources on the assumption that they do not contradict each other. My starting point is Demosthenes' statement in the *Third Olynthiac* (3.10) that the Athenians had several laws regulating the management of the Theoric Fund.

In the speech *Against Neaera* Apollodorus refers to a law prescribing that the surplus of the administration in times of war shall be paid out as *στρατιωτικά*, whereas all the other sources, including the law paraphrased by Libanius, concern the transference of money from the Theoric Fund to the Stratiotic Fund.¹⁹ The sources contradict each other only on the assumption that the Theoric Fund was financed exclusively through the annual surplus of the administration. The speech *Against Neaera* is in fact the only source from which we know that *τὰ περιόντα χρήματα τῆς διοικήσεως* might be transferred to the *Theoric Fund*,²⁰ and it is quite unwarranted for all scholars to assume that *all* money used as *θεωρικά* stemmed from *τὰ περιόντα χρήματα τῆς διοικήσεως*. It is an argument *e silentio* which in my opinion can be refuted by a closer inspection of the sources.

¹⁷ Francotte, *op.cit.* (*supra* n.1) 74ff. Cawkwell, *JHS* (*supra* n.1) 60–61.

¹⁸ Cawkwell, *JHS* (*supra* n.1) 58. On the assumption that Apollodorus does refer to a valid law, his proposal is in fact unconstitutional in substance but for the opposite reason of that usually adduced by modern scholars. When the law prescribes that the surplus of the administration in times of war be transferred to the Stratiotic Fund, it is admittedly unconstitutional to propose that the decision rest with the Assembly. Cf. Hansen, *op.cit.* (*supra* n.1) cat. no.18.

¹⁹ Dem. 1.19, 3.11, 19.291. Philochorus, *FGrHist* 328 F 56a.

²⁰ Demosthenes' phrase *ταῖς περιουσίαις ταῖς οἴκοι ταύταις* (3.33) may be a reference to the annual surplus of the administration, but *pace* van Ooteghem, *op.cit.* (*supra* n.1) 401, I do not believe that Demosthenes' statement is a simple circumlocution for the technical term *τὰ περιόντα χρήματα τῆς διοικήσεως*. Harpocration's cryptic description (*supra* n.7)

If the expenses of the theoric distributions were defrayed exclusively through τὰ περιόντα, then a decree by which τὰ περιόντα were transferred to the Stratiotic Fund would imply that not a single obol could be paid out as θεωρικά. When the Assembly took a vote, as proposed by Apollodorus, on how τὰ περιόντα were to be used, however, nobody opposed τὰ περιόντα being used for military purposes. Even taking rhetorical exaggeration into account, we must draw the conclusion that the decree was passed by an overwhelming majority. Considering the fact that after Stephanus' indictment against Apollodorus Demosthenes had to wait some ten years before he could persuade the Athenians to use τὰ θεωρικά as στρατιωτικά, it is most improbable that the Assembly in 348 unanimously should have passed a decree actually abolishing the theoric distributions. It is much more reasonable to assume that some part of the money distributed as θεωρικά was, like other expenditures, provided for by an annual appropriation which might be supplemented by any surplus of the administration. On this theory the vote taken in 348 on Apollodorus' proposal concerned only a part, perhaps even a small part, of the money used as θεωρικά.

Concerning τὰ περιόντα one point must be made clear: we have no evidence that some of the surpluses were saved from year to year and that considerable sums were amassed. The distinction between money spent on theoric distributions and the Theoric Fund proper is an invention of modern scholars and quite unwarranted by the reliable sources.²¹ It is apparent from the *Olynthiacs* (Dem. 1.19–20; 3.11, 19, 33) and the speech *On Organization* (Dem. 13) that the theoric distributions necessarily would stop if the theoric money was used for military purposes, and that is the reason why Demosthenes cunningly proposes, not to stop the distributions, but to transform them into some form of payment for military service (Dem. 1.19–20; 3.34; 13.4). If the Theoric Board had had considerable sums at its disposal, Demosthenes could easily have appeased the Athenians by suggesting the continuation of the theoric distributions on the same scale but also the use of some of the saving in the war against Philip.

cannot in my opinion be adduced in support of the theory that θεωρικά were financed through τὰ περιόντα. Even if we assume that Harpocration does refer to the annual surplus, his information may be derived from the speech *Against Neaera*, in which case his note is not an independent source.

²¹ Harpocration's description (*supra* n.7) is the only source that may be interpreted so as to support this distinction.

When Demosthenes' only alternative to an *εἰσφορά* is to dispense with the distributions (Dem. 1.20), we are forced to admit that *οἱ ἐπὶ τὸ θεωρικόν* disposed of such sums only as were actually distributed as *θεωρικά* or used for public work. *τὰ θεωρικά* were presumably managed just like Athenian finances in general: on a cash basis from year to year without any carryover.

At this point it is expedient to review briefly the principles of Athenian financial administration. All revenue and expenditures were controlled by the Council of Five Hundred assisted by various boards of magistrates, of which the *πωληταί* and the *ἀποδέκται* were the most important (Arist. *Ath.Pol.* 47–48). At the very beginning of every prytany all the revenues were collected centrally by the *ἀποδέκται* and on the next day paid out to all the *ταμίαι* or boards of *ταμίαι* who had to defray the various expenses (Arist. *Ath.Pol.* 48.1–2). The most important financial magistrates were *ὁ ταμίαις τῶν στρατιωτικῶν* and *οἱ ἐπὶ τὸ θεωρικόν*.²² Probably every *ταμίαις* or board of *ταμίαι* got a fixed appropriation for the year,²³ and *τὰ περιόντα χρήματα τῆς διοικήσεως* must accordingly have equalled the excess of the revenue over the appropriations paid out to the magistrates. This description derives from Aristotle, who was writing *ca* 325. We learn from Aeschines that *οἱ ἐπὶ τὸ θεωρικόν* in the middle of the century exercised the powers held by the *ἀποδέκται* at the time Aristotle wrote the *Athenaion Politeia*. Accordingly the Theoric Board was at the same time the board in control of the distribution of the revenue in collaboration with the Council and one of the boards that received some of the revenue. The board must have had a fair chance of securing for itself the lion's share of the appropriations and possibly supplementing this share by any surplus.

We can only guess at how this surplus was calculated, but presumably we have the choice between two possibilities: (a) at the beginning of the year a budget was drawn up, and the difference between the revenue expected and the expenditure estimated was transferred to one or more of the *tamiai* to be used during the year; or (b) the actual surplus was calculated at the end of the year and handed over to one or more of the *tamiai* to be used the next year. On the theory that the

²² They are the only *elected* civilian financial magistrates (Arist. *Ath.Pol.* 43.1). Furthermore, it is *ὁ ταμίαις τῶν στρατιωτικῶν* and *οἱ ἐπὶ τὸ θεωρικόν* who attend the leasing of the public revenues by the *πωληταί* (*Ath.Pol.* 47.2).

²³ Cf. Rhodes, *op.cit.* (*supra* n.1) 103ff.

Theoric Fund was exclusively financed through the surplus and that some of the money was saved from year to year (a) is to be preferred,²⁴ but Aristotle's description of the Athenian financial administration points towards (b). Most of the revenues were paid into the treasury at the beginning of the ninth prytany (Arist. *Ath. Pol.* 47.4; Dem. 24.96–101). We know that the Athenians were very often short of money, and as the perpetual wars made a detailed budget an impossibility, the most probable solution must be that τὰ περιόντα were calculated at the end of the year and that the Athenians did not know until the ninth prytany whether there would be any surplus at all that year. Undoubtedly the surplus very often was nonexistent. If the theoric distributions were financed exclusively through τὰ περιόντα, that would have meant that the Athenians would have to dispense with θεωρικά the following year. In all likelihood the Theoric Fund got its money from an annual appropriation which in times of peace could be supplemented by any surplus. Accordingly, the dole paid out to the citizens might have fluctuated considerably, but in no year were the Athenians entirely without this supplement to their earnings.

We may now offer a new interpretation of two difficult passages in Demosthenes' *First* and *Third Olynthiac*:

DEM. 1.19. With regard to the supply of money, you *have* money, men of Athens; you have more than any other nation has for military purposes (στρατιωτικά).²⁵ But you appropriate it yourselves to suit your own pleasure. Now if you will spend it on the campaign, you have no need of a further supply; if not, you have—or rather, you have no supply at all. “What!” someone will cry, “do you actually move to use this money for military purposes?” Of course I do not. . . .

DEM. 3.11. Appoint *nomothetai*. Do not use them to frame new laws—you have laws enough for your purpose—but repeal those which hamper us in the present crisis. In plain language I mean the laws for administering the Theoric Fund, and also some of the service regulations. The former distribute τὰ στρατιωτικά as θεωρικά among those who remain in the city; the latter give impunity to deserters and in consequence discourage those willing to serve. When you have repealed these laws and made the way safe for wise counsel,

²⁴ Cf. Buchanan, *op.cit.* (*supra* n.1) 88–90.

²⁵ στρατιωτικά *codd.*: *secl.* Madvig, Cobet. The scholiast has rightly emphasized that ἀποδώσετε means ‘to give back’. Whether or not we print the word στρατιωτικά, Demosthenes must mean that this money properly belongs to the Stratiotic Fund.

then look round for someone who will propose what you all know to be salutary measures. (Transl. J. H. Vince; see n.13.)

Demosthenes' statements are perfectly clear, and no emendation of the text is necessary if we suppose that a fixed sum of money (*τὰ στρατιωτικά*) was earmarked for military purposes by the annual *μερισμός* and placed at the disposal of *ὁ ταμίαις τῶν στρατιωτικῶν* and, similarly, that a fixed sum was reserved for distributions at the festivals, public work etc. and placed at the disposal of *οἱ ἐπὶ τὸ θεωρικόν*. By a new law passed some time in the late fifties, Eubulus may have managed to increase the appropriation to the Theoric Board by cutting down the money set aside for military purposes. Furthermore, this law was presumably safeguarded against any reversal by the clause which forbade on pain of death to transfer money from the Theoric Fund to the Stratiotic Fund. On this theory, what Demosthenes says in the *Olynthiacs* is that much of the money which a few years ago was paid out to *ὁ ταμίαις τῶν στρατιωτικῶν* is now, through a revision of the annual *μερισμός*, handed over to *οἱ ἐπὶ τὸ θεωρικόν*, and Demosthenes does not venture to propose an amendment because of the penalty clause.

By accepting this interpretation of the sources it seems possible to avoid any contradiction between Apollodorus' decree and the law paraphrased by Libanius. The law cited at Demosthenes 1 hyp.5 concerns the annual appropriation and forbids on pain of death the transference of money from the Theoric Fund to the Stratiotic Fund. Apollodorus' decree deals only with the surplus of the administration and has nothing to do with the law that forbids the use of theoric money for military purposes.²⁶ Apollodorus was a member of the Council of Five Hundred in 349/8 (Dem. 59.5), and it was probably the Council that at the end of the year had to calculate any surplus and in times of war transfer the money to the Stratiotic Fund as warranted by the law quoted by Apollodorus. It is not inconceivable that the Council of Five Hundred, influenced by the Theoric Board in spite of the law, transferred the surplus to the Theoric Fund because of the relatively peaceful conditions after 355; but it is also possible that the law was maintained during the years between 355 and 348,

²⁶ Kahrstedt, *op.cit.* (*supra* n.1) 161, seems to have arrived at the same conclusion. His sound argumentation on this point is overshadowed, however, by his strange views in the remaining part of the article, and since van Oorteghem's refutation of most of his theories (*supra* n.1) his article has almost been consigned to oblivion.

or rather, was of no importance whatsoever because no surplus existed. We may infer, however, that Apollodorus in the spring of 348 feared that the Council would infringe the law and use the money for theoric distributions. This might have been his motive for proposing that the decision rest with the Assembly. The surplus cannot have amounted to much since the Athenians in the spring of 348 did not have money enough to pay the jurors (Dem. 39.17), and accordingly the Assembly was willing by the vote taken to corroborate the law that any surplus be transferred to the Stratiotic Fund.²⁷

Apollodorus' proposal does not mean that the Athenians were totally deprived of theoric distributions. Apollodorus was indicted, found guilty and fined for his proposal, but we are not justified in drawing the conclusion that any surplus that year was transferred to the Theoric Fund. The only effect of his conviction was to cancel the decision made by the Assembly. The Council afterwards, when distributing the surplus, might have voted like the Assembly and decreed that the money be transferred to the military fund. We do not know.

Apollodorus' proposal was just one move in the very important political game concerning Athenian financial policy, but according to the interpretation proposed in this article the proposal was not very important in itself. The important question was the annual appropriation to the Theoric Fund. It is those appropriations which Demosthenes attacks in the *First* and the *Third Olynthiac* and which some ten years later were transferred to the Stratiotic Fund.

Summing up, we may say that our interpretation of the first paragraphs of the speech *Against Neaera* leads to the following two conclusions:

(1) There never was a Theoric Fund in the proper sense of the word 'Fund,' viz., a considerable stock of money to be drawn upon. The term τὰ θεωρικά means the money handled by οἱ ἐπὶ τὸ θεωρικόν, but this money was used year by year for various purposes. There is no indication in the sources that the Board amassed considerable sums during the period 355–340. Quite the contrary.

(2) The theoric payments were not defrayed exclusively through

²⁷ The way the vote was taken is one more indication in favour of the view that the Assembly by its decision only confirmed a law in force. It is not said (Dem. 59.5) that the people voted for, but on the contrary that nobody voted against the money being used for military purposes.

the annual surplus of the administration but presumably through an annual appropriation, which might be supplemented by any surplus.²⁸

COPENHAGEN UNIVERSITY

May, 1976

²⁸ I should like to express my thanks to Professor T. V. Buttrey and Mr G. T. Griffith for discussing a first draft of this article with me.