Dēmos and *Dioikēsis*:

Public Finance and Democratic Ideology in Fourth-Century B.C. Athens

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Submitted in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

in the Department of Classics

at Brown University, Providence, Rhode Island.

May, 2011

This dissertation by Christopher Scott Welser is accepted in its present form by the Department of Classics as satisfying the dissertation requirement for the degree of Doctor of Philosophy.

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CURRICULUM VITAE

Christopher Scott Welser was born in Romeo, Michigan in 1971. He attended Roeper City and Country School in Bloomfield Hills, Michigan, and in 1994 he graduated from Swarthmore College, earning an Honors B.A. in Economics (his major) and Biology (his minor). After working for several years at public policy research firms in Pennsylvania and New Jersey, he decided to pursue the study of Classics, an interest of his since childhood. Upon earning an M.A. with Distinction in Latin and Greek from the University of Maryland at College Park in 1999, he enrolled in the Ph.D. program in Classics at Brown University. While working on his Ph.D., he spent two years as Seymour Fellow (2002-2003) and Capps Fellow (2004-2005) at the American School of Classical Studies at Athens and participated in the summer program of the American Academy in Rome (2000). Apart from his teaching fellowships at Brown, he has taught at Haverford College, Bryn Mawr College, Skidmore College, and Trinity University in San Antonio. He has presented papers on various topics and has published two articles on the *Histories* of Herodotus.

PREFACE AND ACKNOWLEDGMENTS

Perhaps even more than most dissertations, this one represents a work in progress, one step in an ongoing process of intellectual inquiry. If it does not do full justice to the wide range of issues with which it deals (or to the vast and growing body of scholarship that relates to each of them) that is partly because it is meant to lay the foundations for a more extensive consideration of the nature of governance in general, and of public finance in particular, in ancient Athens. The reader is encouraged to bear this mind.

In writing this dissertation, I received financial support from the American School of Classical Studies at Athens, who granted me a Capps Fellowship for the year 2004-2005. Much of this year was spent in availing myself of the matchless resources of the Blegen Library. In the following year, 2005-2006, I benefited from a dissertation fellowship provided by the Graduate School of Brown University.

I owe a very great debt to the members of the committee who oversaw this dissertation, Adele Scafuro, David Konstan, and Alan Boegehold. They were willing to read and re-read my chapters out of order under conditions that were often less than ideal, and their acuity and wisdom have made this a better dissertation than it would otherwise be. All of went far beyond what their roles required. Adele Scafuro in particular has given generously of her time and energy, tolerating my stubbornness and hesitations and with exceptional good grace.

It is impossible to catalogue the many other friendships and personal kindnesses that have facilitated the completion of this project over many years. Special mention should, however, be made of Chris Kenedi and Larry Myer, who helped me to preserve my sanity during the most critical phases of the writing process. Above all, I wish to thank Sarah Bolmarcich, ἀριπρεπὴς ἐν γυναιξὶ πάσῃσι, whose love and support have far surpassed any expressions of gratitude I could offer. If not for her, I cannot imagine how this work could have been done.

* * *

Ut peragas mandata, liber, culpabere forsan
ingeniique minor laude ferere mei.
Iudicis officium est ut res, ita tempora rerum
quaerere. Quaesito tempore tutus eris.

-Ovid, *Tristia* 1.1.35-38

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INTRODUCTION: PUBLIC FINANCE AND THE LIMITS OF DEMOCRACY

Throughout history, the Athenian democracy of the fourth century B.C. has been criticized for its conduct of public finance. Indeed, the democracy's handling – or mishandling – of its finances has often been blamed for Athens' defeat by Philip in 338, and thus for the ultimate suppression of democratic government by Macedon in 322. August Boeckh, in his classic work on the public economy of Athens, saw much in the Athenians' financial arrangements that he found worthy of praise, yet he also felt that it was the Athenians' "simple and inartificial" financial system, coupled with "appetite, the lowest of human desires" that was largely responsible for their inability to mount an effective resistance against Macedonian expansionism.[1] Andreas Andreades, who produced the last comprehensive study of Athenian public finance in his *History of Greek Public Finance* (1918, second edition 1928) attributed Athens' fate to the democracy's failure to budget prudently and its consequent alienation of the wealthier citizens though extortionate taxes: the Athenian financial system, he wrote, was "in all probability the real cause of the destruction of the noblest of all states known to history."[2] Such views

[1] Boeckh refers to "extravagance at home, the expenditures occasioned by foreign military expenditures, [and] maladministration in various places." These, according to his view, forced Athens to mistreat her allies for the sake of tribute revenues and thus prevented the democracy from building any viable coalition with other Greek city-states: "Athens, and with it Greece must have been ruined, even if Philip of Macedon had never existed, because some other individual would have become to them a Philip" (1857 [1851], 786). (Note the echo of Demosthenes 4.11: ταχέως ὑμεῖς ἕτερον Φίλιππον ποιήσετε.)

[2] Andreades 1933 [1928], 363.

have not been held by scholars alone: William Gladstone is said to have observed to Jules Ferry that it was bad public finance that was responsible for Athens' fall.[3]

Such grim assessments of Athens' fiscal management are typically not limited to narrow criticisms of particular institutions. Something much bigger is at stake – namely, the question of a democracy's capacity to balance revenues and expenditures in an intelligent way. For Boeckh, Andreades, and other critics, Athens' financial organization might not have proved inadequate if only the Athenian people had not insisted, even when faced by pressing problems of national survival, on receiving costly subsidies from their city's treasury and celebrating, with needless magnificence, the festivals of their gods. According to this point of view, it was because they prioritized *misthoi* and *heortai* above all else that the Athenians found it necessary to oppress their allies, antagonize their upper classes, and sacrifice their military readiness – all of which undermined the viability of their *polis* in the face of external threats.

Why, then, did the Athenians make the choices they did? One possible answer, perhaps, is that there was something amiss in the Athenian character. A far more common diagnosis, however, sees the Athenians' folly and/or greed as something endemic (so to speak) to rule by the many. In this analysis, the weaknesses of Athenian public finance were rooted in the basic limitations of democracy itself. A recent version of this critique has been presented by Loren J. Samons II, who agrees with Boeckh and Andreades that poor fiscal decision-making prevented Athens from making an effective stand against the Macedonian threat:

> The Athenian example suggests…that once people are allowed to vote themselves an income – whether from revenues confiscated from other states (or future generations), from natural or public

[3] Cited by Andreades 1933 [1928], 207.

> resources, or from the property of their fellow citizens – and once they have become inured to the receipt of such funds, it becomes increasingly difficult to reverse the situation via democratic processes….A political orator who told the Athenians that they must either give up their long-established public payments or risk Athens' security and autonomy simply could not acquire a following.[4]

The sort of historical narrative offered by Boeckh, Andreades, and Samons has much to recommend it, grounded as it is in the political oratory of Demosthenes and the anti-democratic critiques of other fourth-century writers like Plato and Aristotle. It also has a certain *au courant* cogency in an era when consensual governments show a penchant for deficit spending driven by personal entitlements, and when proposals to curb public benefits have sparked riots in several European capitals, including Athens. Nevertheless, it is less common now than it once was to indict the Athenians for mishandling their money to the point of national destruction, and scholars seeking to explain Athens' eclipse usually point instead to the military and political strength of Macedon, or to broader trends like the decline of allegiance to the *polis* and the rise of panhellenism.[5]

On the other hand, the idea that the limits of Athenian democracy were revealed by Athens' handling of her finances has retained its currency. A different narrative, not strictly new but newly emphasized, now seems to predominate in the scholarship. According to this narrative, the fourth-century Athenians, bereft of allied tribute and much of the silver mines' former bounty, were compelled to seek greater efficiency in the disposal of their limited revenues. In that quest for efficiency they found it necessary to compromise their democratic principles, reducing the role of the Assembly in fiscal

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[4] Samons 2004, 98-99.

[5] For the idea that Athens could not realistically have hoped to oppose the Macedonians' military power, see, e.g., Sealey 1993, 198 and 219. On the "decline of the *polis*," see the essays collected in Welskopf 1974 (Browning 1976, reviewing Welskopf, characterizes fourth-century Athens as "borne along upon a tide of history which it is powerless to stem or deflect" [261]). On the alleged rise of pacifism and panhellenism among the fourth-century Athenians, see Lévy 1976, 209-252.

decision-making when the sovereign *dēmos* proved unable to reckon with the manifold complexities of revenue and expenditure. Increasingly, in this account, management of public moneys was "automated" through a network of laws and institutions that operated independently of the people's will, or was entrusted to a series of elite experts, typified by Lycurgus, who exercised broad personal authority over how Athens' money was to be raised and spent. In this story, the emphasis is not on how Athens (and Classical Greece) became the victim of democracy's excesses; instead, the focus is on the retreat of democratic ideals in the face of the practical necessities of governing the city-state. Peter Rhodes, for example, has written that "in financial administration we see a clear shift from democracy as the fifth century had practiced it towards a more efficient system in which men of ability were entrusted with considerable power."[6] Barry Strauss has observed that institutional changes in financial practices and the rise of powerful financial experts came "sometimes at the expense of democracy."[7] Even those who view the fourth century as the era of "perfected democracy" make some concessions to the idea that the technicalities of finance imposed limits on popular sovereignty. Josiah Ober, for example, is one of the leading proponents of the view that a pure form of direct democracy was successfully maintained at Athens throughout the fourth century down to 322. Nevertheless, he has acknowledged that "the evolution of the bureaucracy that dealt with state finance" posed "[t]he most serious internal threat to the rule of the people" and that "[p]erhaps in the long run the financial offices truly would have provided an institutional basis for an oligarchy" on the model set forth by the early twentieth-century

[6] Rhodes 1980, 314. Rhodes believes that "fourth century democracy tempered democracy with efficiency" in other areas as well and that "the positive enthusiasm for democracy which we find in the second half of the fifth century had gone" (323).
[7] Strauss 1991, 220-221.

sociologist Robert Michels.[8] Other examples of this viewpoint will be presented in the following chapters.[9]

The two foregoing accounts of Athenian democracy's difficulties with public finance correspond approximately to the two major criteria by which an observer sympathetic to the democratic project might judge its success or failure: First, was democracy conducive in the long run to the power and prosperity of the *polis*? Second, was democracy itself sustainable in its desired form? Since antiquity, the former criterion has usually been emphasized by those few critics of Athenian democracy who were not willing to attack the rule of the people as basically unjust. Thus Isocrates, while styling himself a democrat, asserted in his *Areopagiticus* that the weakness of Athens in the 350s was attributable to the abandonment of a less radically democratic "ancestral constitution" (*patrios politeia*) which, among other virtues, spent money less extravagantly on public festivals.[10] By contrast, recent scholarship in both Classics and political theory has seen a new emphasis on the ways in which the preservation of democracy might be an end in

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[8] Ober 1989, 102. For an overview of Michels's "iron law of oligarchy," which asserts the inevitability of elite control of democratic institutions, see Lipset 1968, 412-435.

[9] Thucydides' account of the Peloponnesian War seems to offer a fifth-century precedent for Athenian willingness to compromise democracy for the sake of the city's finances. In 413, faced with dwindling revenues and an empty treasury, Athens "selected a committee of elders who would, at appropriate times, make proposals concerning the current situation" (Thuc. 8.1.3: ἀρχήν τινα πρεσβυτέρων ἀνδρῶν ἑλέσθαι, οἵτινες περὶ τῶν παρόντων ὡς ἂν καιρὸς ᾖ προβουλεύσουσιν). The appointment of these men seems to have been closely connected to a desire to obtain money and impose fiscal restraint (παρασκευάζεσθαι … χρήματα … τῶν τε κατὰ τὴν πόλιν τι ἐς εὐτέλειαν σωφρονίσαι). On the basis of the verb προβουλεύσουσιν, this committee is usually identified with the ten *probouloi* who by early 411 seem to have exercised rather broad authority (assuming Aristophanes' depiction of the Proboulos in *Lys.* 387-613 reflects reality) and who later that year played a role in ushering in the oligarchy: for details and citations, see *Ath. Pol.* 29.2 with Rhodes 1981, 372-373 *ad loc.* Commenting on the creation of the *probouloi*, Thucydides remarked that "they were ready to put everything in order to confront the fearful present, as is the wont of the *dēmos*" (8.1.4: πάντα τε πρὸς τὸ παραχρῆμα περιδεές, ὅπερ φιλεῖ δῆμος ποιεῖν, ἑτοῖμοι ἦσαν εὐτακτεῖν).

[10] Relative weakness of Athens under the present constitution: Isoc. 7.8-18, 79-82. Former restraint in expenditure upon festivals: Isoc. 7.29-30, 53.

itself.[11] Accordingly, the claim that the Athenians were forced to compromise their democracy in order to administer their finances takes on a new importance. Was the Athenian concept of democracy in retreat even before Antipater forced the Athenians to abandon it in 322?[12]

It is the aim of this dissertation to question the belief that the effort to manage finances more efficiently resulted in the erosion of Athenian democracy. I must acknowledge that this is a problematic endeavor. Many details of fourth-century Athenian finance are obscure, and it is no easy matter to define exactly what "democracy" meant to fourth-century Athenian democrats. I believe it will be seen, however, that the attempt to resolve these two problems in terms of one another, proceeding by turns from ideology to institutions and back again, leads not only to a richer understanding of Athenian democracy but to a number of specific insights concerning the history of Athens' financial administration after 403. Ultimately, I hope to make a credible argument that much of what is held to be undemocratic in fourth-century finance can be explained precisely in terms of a desire to uphold democratic principles and even to strengthen the authority of the *dēmos* over the disposition of state revenues.

I begin my inquiry by considering, in Chapter One, some conventional criticisms of Athenian democracy that might be used to explain the putative inadequacy of that democracy in the sphere of public finance. Was the fourth-century Athenian *dēmos* too ignorant, unsophisticated, foolish, selfish, or cynical to manage the resources of the *polis*

[11] Thus Ober 1994, 151-152 takes issue with Jones 1957 on the grounds that democracy should not be seen in purely instrumental terms: "The Athenian did not engage in political activity solely as a functional means to gain the end of guarding against threats to his property or to his private pursuit of happiness. Rather, the values of equality and freedom that he gained by the possession and exercise of citizenship were substantive, central to his identity, and provided a measure of meaning to his life" (152).
[12] Of course, there would be no inconsistency in supposing that the Athenians attenuated their democracy for the sake of financial efficiency, but still proved so inept at managing their finances that they could not find the resources to defend themselves against Macedonian encroachments.

in a responsible way? In summarizing and evaluating such criticisms, I draw on both ancient evidence and modern scholarship. The salience of these criticisms – or their lack thereof – permits us to assess the *a priori* likelihood that the Athenians might find it necessary or desirable to remove the administration of the treasury from direct popular control. Moreover, I hope to show that ancient criticisms of Athenian democracy can highlight popular anxieties about *polis* governance and thus serve as a window onto democratic ideology itself.

Chapters Two through Four examine specific ways in which the management of public finance in fourth-century Athens is alleged to have become less democratic. In Chapter Two, I consider the possibility that popular sovereignty was compromised as public finance came to be governed more and more by a framework of laws (*nomoi*). On the basis of literary and historical evidence, I argue that the fourth-century Athenians conceived of *nomos* not as something intended to limit the people's freedom of action but rather as a means of subordinating powerful individuals – magistrates and politicians – to the authority of the *dēmos*. This "democratic ideology of Athenian law" is reflected specifically in the laws on public finance, which explicitly reserve broad powers to the Athenian Assembly while severely restraining the opportunities for decision-making by state officials.

Chapter Three narrows the focus of investigation by concentrating on the particular officials and procedures involved in the allocation of state revenues. The important fourth-century financial procedure known as the *merismos* is often seen as having taken spending decisions out of the hands of the Assembly. In fact, the available evidence suggests that a substantial proportion of Athens' annual revenues were not allocated through the *merismos*, and that the Assembly could still decree desired expenditures from the unallocated funds. More importantly, the *merismos* probably served to simplify the complexities of public finance for the average Athenian sitting in the Assembly; it also facilitated the auditing of various officials and thus rendered them more accountable to the *dēmos*.

In Chapter Four, I turn to the role of leadership in Athenian democracy, and to the "financial experts" whose prominence in the fourth century is often cited as evidence that democratic control of public moneys was giving way to domination by a small elite. I conclude that fourth-century Athenian leaders' direct authority over financial matters has often been overstated, and that the policies associated with men like Eubulus and Lycurgus are probably best understood as efforts to enhance, not diminish, the supremacy of the *dēmos* in fiscal affairs.

CHAPTER ONE: CRITICISMS OF ATHENIAN DEMOCRACY IN THE CONTEXT OF PUBLIC FINANCE

1.0 Introduction

With the possible exception of the very recent past, the critics of Athenian democracy have always been more prolific and articulate than its defenders. Though some opponents of the Athenian constitution were merely dismissive – Thucydides had Alcibiades proclaim his city's democracy a ὁμολογουμένη ἀνοία, an "acknowledged folly" (6.89.6) – many critics, in antiquity and afterward, have been more systematic in their attacks, drawing up bills of particulars that detailed the weaknesses of popular government.[1] In this chapter, I propose to consider, one by one, such indictments of Athenian democracy as are most applicable to the question of whether the *dēmos* could have successfully administered public finance without either disaster or recourse to undemocratic expedients. It goes without saying that some criticisms of democracy, both ancient and modern, will not be dealt with here, since they do not obviously imply any clear democratic deficiency in fiscal matters. I will consider only four broad criticisms of the Athenian *dēmos* as they apply to public finance. These are, first, that the *dēmos* lacked the intelligence or knowledge necessary for competent self-government; second,

[1] A large literature on the anti-democratic tradition exists. Useful sources focusing on Athens include Romilly 1975 and Roberts 1994.

that the *dēmos* was too manipulable and gullible to avoid becoming pawns of self-interested individuals or groups; third, that the *dēmos* was too greedy or selfish to conduct its affairs for the long-term benefit of the *polis* as a whole; and fourth, that the suspicion and hostility of the *dēmos* caused them to reject good leadership and in general rendered them unable to pursue policies that required a significant level of trust in their fellow citizens.

These criticisms are, obviously, not entirely distinct from one another – where, for example, does one draw the line between stupidity and gullibility? – but it will be convenient to approach them one by one, considering what can be said about the probability that each was a significant impediment to the Athenians' administration of revenues and expenditures and, thus, the likelihood that democratic principles may have had to be sacrificed for the efficient management of the fisc. Our consideration of these criticisms will also, I believe, help us begin to explore the Athenian people's concept of themselves as a political entity, for there is reason to believe that the average Athenian – the man in the *agora* – did not reject all such criticisms of the *dēmos* of which he was a part.[2] To the extent that the Athenian people saw themselves, collectively, as unintelligent or foolish or selfish or hostile to their leaders, we should expect that negative "self-concept" to be reflected, somehow, in the formulation and application of democratic ideology. For example, it is quite conceivable that the Athenians sought to guard their *polis* and their democracy against what they regarded as their own worst tendencies. (Indeed, this would be one way to explain the putative evolution of Athenian public finance in an undemocratic direction.) Such an attempt at self-restraint may be

[2] By way of comparison, it is not at all uncommon to meet Americans (and citizens of other democracies) who believe that the population to which they belong consists primarily of people who are stupid, or irresponsible, or greedy, or in some other way unfit to constitute an electorate.

implied by the idea that the evolution of fourth-century Athenian public finance was marked by the attenuation of democracy for the sake of efficient administration. But even if most members of the *dēmos* firmly believed in their collective excellence, contemporary denigrations of the Athenians' capacity for democracy may have been well enough known for reactions against them to play a role in the shaping of democratic ideology.

1.1 Citizen Incompetence

I begin with the most frequent criticism of the sovereign *dēmos*, namely that the average Athenian citizen was simply too stupid, too ill-educated, or too unfamiliar with political issues for the Athenian citizenry to be able to debate and decide important questions of policy in a rational way. It is generally taken for granted that a certain minimum level of intellectual competence is requisite for democracy: George Washington in his Farewell Address (1796) observed that "[i]n proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened." Yet Athenian public opinion, from antiquity until very recently, has been characterized as notably – indeed notoriously – *un*enlightened. The belief that Classical Athenians lacked the intellectual wherewithal to govern their state was already well established by the time of late Roman Republic. Here, for example, is Cicero, more than two and a half centuries after the fall of Athenian democracy:

> *Graecorum autem totae res publicae sedentis contionis temeritate administrantur. Itaque, ut hanc Graeciam quae iam diu suis consiliis perculsa et adflicta est omittam, illa vetus quae quondam opibus, imperio, gloria floruit hoc uno malo concidit, libertate immoderata ac licentia contionum. Cum in theatro* ***imperiti homines rerum omnium rudes ignarique*** *consederant, tum bella inutilia*

> *suscipiebant, tum seditiosos homines rei publicae praeficiebant, tum optime meritos civis e civitate eiciebant.* (Cic., *Flac.* 16)

> But all the commonwealths of the Greeks are governed by the rashness of a sitting assembly. And so, to pass over present-day Greece, already long since overthrown and prostrated by its own policies, [let me mention how] ancient Greece, which once flourished in its riches, power, and glory, fell because of that one vice: the immoderate liberty and licentiousness of the assemblies. When **inexperienced men, unskilled and ignorant in all affairs**, sat together in the theater, then they undertook pointless wars; then they placed seditious men in charge of the commonwealth, then they expelled the most deserving citizens from the state.

In the next section of his speech, Cicero makes it unambiguous that he is speaking particularly of the Athenians. It is true that the *Pro Flacco* is a speech full of anti-Greek invective of all kinds, but Cicero's criticisms here presumably reflect the historical understanding of many educated Romans. More to the point, similar characterizations of the Athenian *dēmos* – and democratic states in general – are commonplace among our surviving writers from Classical Greece. In the debate on constitutions in Book Three of Herodotus, Megabyzus, the advocate of oligarchy, declares that it is not even possible for the *dēmos* to know what they are doing – "for how would someone have knowledge who has neither learned nor seen any excellence which is his own, and who drives ahead mindlessly, tumbling upon his affairs like a river in spate?" (Hdt. 3.81.2: τῷ δὲ [δήμῳ] οὐδὲ γινώσκειν ἔνι: κῶς γὰρ ἂν γινώσκοι ὃς οὔτ᾽ ἐδιδάχθη οὔτε εἶδε καλὸν οὐδὲν οἰκήιον, ὠθέει τε ἐμπεσὼν τὰ πρήγματα ἄνευ νόου, χειμάρρῳ ποταμῷ εἴκελος;) Therefore, says Megabyzus, those who wish ill for Persia will favor a democracy there, but "it is likely that the best counsels will be those of the best men" (3.81.3: ἀρίστων δὲ ἀνδρῶν οἰκὸς ἄριστα βουλεύματα γίνεσθαι). In a similar vein, the Old Oligarch repeatedly asserts that it is among the people (ἐν τῷ δήμῳ) that one finds ignorance (ἀμαθία) and lack of education (ἀπαιδευσία) as a result of poverty (δι᾽ ἔνδειαν χρημάτων); this leads, in democracies like Athens, to a bad ordering of the state (κακονομία) but it is, the Old Oligarch believes, essential to democracy as a political system ([Xen.], *Ath. Pol.* 1.5-8).[3]

The belief that the *dēmos*'s cognitive limitations were a serious weakness of democracy reached its fullest development in the political theories of Plato and Aristotle. Plato famously believed the capacity to rule was restricted to a few men (and women) who alone could acquire the skills necessary for good government. In Book Four of the *Republic*, Socrates demonstrates to Adeimantus that a city is governed wisely on the basis of good counsel (*euboulia*); and since good counsel is not ignorance (*amathia*), it must therefore be a kind of knowledge (*epistēmē*). But this knowledge is not like the knowledge of the carpenter or bronze-worker or the farmer; rather, it is limited to the smallest class of people in the state, who in Plato's ideal city are to be called the Guardians (*phylakes*): "therefore a whole city that was established according to nature would be wise … by virtue of the smallest class and portion of itself and the knowledge that this class possesses" (428e-429a: τῷ σμικροτάτῳ ἄρα ἔθνει καὶ μέρει ἑαυτῆς καὶ τῇ ἐν τούτῳ ἐπιστήμῃ … ὅλη σοφὴ ἂν εἴη κατὰ φύσιν οἰκισθεῖσα πόλις). There is a good deal of circular reasoning in the arguments that establish the Guardians' right to rule, but Plato's essential position is clear: not everyone possesses the inherent capacity for governance.[4] Aristotle too believed that few individuals were fully qualified for political

[3] For other (pre-404) examples of the *dēmos* being criticized as ignorant or incompetent, see de Romilly 1975, 20-23.
[4] Many other passages in Plato, some quoted in the next chapter, attest to the same belief. The *Politicus*, for instance, begins from the assumption that the statesman possesses a special kind of knowledge (258b); later, the interlocutors dismiss the possibility that the mass of the people (*to plēthos*) could be capable of acquiring such knowledge.

decision-making, and favored discouraging the mass of the citizenry from participating too actively in government, even in a democracy.[5]

It is reasonable to presume that arguments concerning the *dēmos*'s lack of knowledge and intelligence would apply to public finance. In an amusing passage in Xenophon's *Memorabilia*, Socrates interrogates the young Glaucon (Plato's brother), who wishes to set himself up as a *rhētor*. It quickly becomes clear that Glaucon knows none of the things he needs to know if he is to be ready for his desired role. In particular, his ignorance of Athens' finances seems profound:

> μετὰ δὲ ταῦτα ὁ Σωκράτης, οὐκοῦν, ἔφη, τοῦτο μέν, ὦ Γλαύκων, δῆλον, ὅτι, εἴπερ τιμᾶσθαι βούλει, ὠφελητέα σοι ἡ πόλις ἐστί; πάνυ μὲν οὖν, ἔφη. πρὸς θεῶν, ἔφη, μὴ τοίνυν ἀποκρύψῃ, ἀλλ᾽ εἶπον ἡμῖν ἐκ τίνος ἄρξῃ τὴν πόλιν εὐεργετεῖν. ἐπεὶ δὲ ὁ Γλαύκων διεσιώπησεν, ὡς ἂν τότε σκοπῶν ὁπόθεν ἄρχοιτο, ἆρ᾽, ἔφη ὁ Σωκράτης, ὥσπερ φίλου οἶκον εἰ αὐξῆσαι βούλοιο, πλουσιώτερον αὐτὸν ἐπιχειροίης ἂν ποιεῖν, οὕτω καὶ τὴν πόλιν πειράσῃ πλουσιωτέραν ποιῆσαι; πάνυ μὲν οὖν, ἔφη. οὐκοῦν πλουσιωτέρα γ᾽ ἂν εἴη προσόδων αὐτῇ πλειόνων γενομένων; εἰκὸς γοῦν, ἔφη. λέξον δή, ἔφη, ἐκ τίνων νῦν αἱ πρόσοδοι τῇ πόλει καὶ πόσαι τινές εἰσι; δῆλον γὰρ ὅτι ἔσκεψαι, ἵνα, εἰ μέν τινες αὐτῶν ἐνδεῶς ἔχουσιν, ἐκπληρώσῃς, εἰ δὲ παραλείπονται, προσπορίσῃς. ἀλλὰ μὰ Δί᾽, ἔφη ὁ Γλαύκων, ταῦτά γε οὐκ ἐπέσκεμμαι. ἀλλ᾽ εἰ τοῦτο, ἔφη, παρέλιπες, τάς γε δαπάνας τῆς πόλεως ἡμῖν εἰπέ: δῆλον γὰρ ὅτι καὶ τούτων τὰς περιττὰς ἀφαιρεῖν διανοῇ. ἀλλὰ μὰ τὸν Δί᾽, ἔφη, οὐδὲ πρὸς ταῦτά πω ἐσχόλασα. οὐκοῦν, ἔφη, τὸ μὲν πλουσιωτέραν τὴν πόλιν ποιεῖν ἀναβαλούμεθα: πῶς γὰρ οἷόν τε μὴ εἰδότα γε τὰ ἀναλώματα καὶ τὰς προσόδους ἐπιμεληθῆναι τούτων; (Xen., *Mem.* 3.6.3-6)
>
> Then Socrates said, "Well, Glaucon, it is clear that if you wish to be honored, you must do something for the *polis*."
>
> "Absolutely," said Glaucon.
>
> "Then by the gods, don't keep it hidden, but tell us in what respect you will begin to benefit the city."
>
> Glaucon remained silent, as if considering where he might begin.
>
> "Well now," said Socrates, "just as, if you wished to increase a friend's household, you would endeavor to make it richer, so too would you not try to make the *polis* richer?"

[5] For inequality in the capacity to rule, see, e.g., Arist., *Pol.* 1328b-1329a. For the desirability of discouraging active participation by all citizens, see *Pol.* 1292b-1293a. In contrast to Plato, Aristotle seems to regard social class, rather than native endowment, as the most important reason for differences in men's political capacities. De Romilly 1975, 66-71 also points out that Aristotle, unlike Plato, considers the possibility that the intellectual deficiencies of the average individual citizen might be mitigated or cancelled out entirely in a collective Assembly (see, e.g., *Pol.* 1281a42-1282a41).

> “Absolutely,” said Glaucon.
>
> “And would the *polis* not be richer if greater revenues were available to it?”
>
> “So it would seem.”
>
> “Tell me, then, from what sources are the revenues of the *polis* presently derived, and how great are they? Surely you have looked into this, so that you may fill out any that are insufficient and supply any that are neglected.”
>
> “By Zeus,” said Glaucon, “I have not looked into these matters.”
>
> “Well, if you have neglected that, at least tell us about the expenditures of the *polis*. Clearly you intend to reduce any that are superfluous.”
>
> “By Zeus,” said Glaucon, “I haven’t had time for these things either.”
>
> “Well then, we shall defer the issue of making the *polis* richer: for how is it possible to administer expenditures and revenues if one does not know about them?”

Glaucon is obviously totally unprepared for political leadership, and his repetitive proclamations of ignorance are written for comic effect.[6] But is Glaucon’s lack of knowledge typical of the Athenian citizen? Could the *idiōtēs*, the average man in the street, the marketplace, or the Assembly, have given answers that were any more informative? And, if not, is that as deadly a weakness of Athenian direct democracy as it seems?

Modern scholars have been divided as to the basic competence of the Athenian *dēmos* in matters of public finance: among those who have doubted the aptitude of the Athenian citizenry are Lisa Kallet-Marx and Loren J. Samons II, while those with a more sanguine view have included Christophe Pébarthe and Josiah Ober.[7] In addition, a large number of scholars have made more general arguments for or against the aptitude of the

[6] As his conversation with Socrates proceeds, Glaucon reveals his ignorance of the size of Athens’ land and naval forces, the productivity of the silver mines, and the logistics of the grain supply.

[7] See especially Kallet-Marx 1994 and Samons 2004; Pébarthe 2006a and Ober 2008. Kallet-Marx and Pébarthe focus on fifth-century Athens. but their arguments are applicable, for the most part, to the fourth-century democracy as well. (I regret that I have been unable to consult Pébarthe 2006b.)

Athenians for democratic government.[8] In order to explore with clarity the arguments on either side of the question, I will consider four possible factors which might limit the aptitude of the *dēmos* for intelligent management of public finance. First, I ask whether the average Athenian was simply too unintelligent or generally ill-equipped in terms of basic education to understand financial matters. Second, I consider the likelihood that the average Athenian lacked sufficient experience in anything like public finance. Third, I look at whether the average Athenian may simply not have cared enough to educate himself as to the details of public finance. Fourth and finally, I take up the question of whether the information necessary for sound decision-making may not have been available to the average Athenian.[9]

1.1.1 Intelligence and General Education

The charge that the average Athenian was basically too stupid for self-government – either because of inadequate intelligence or poor education – is one that has often been echoed about other populations, in other contexts, by the opponents of democracy. Certainly it seems to have had a thorough airing with respect to fourth-century Athens. At one point in the *Memorabilia*, Xenophon has his Socrates chastise Plato's uncle Charmides for his fear in speaking before the Assembly, whom Socrates refers to as the most mindless and the weakest of men (3.7.5: ἐν τοῖς ἀφρονεστάτοις τε καὶ ἀσθενεστάτοις). Socrates goes on to tease Charmides, asking him whether he fears

[8] Among the most notable defenses of the competence of the *dēmos* is Finley 1973, 20-23, who makes a succinct and forceful case that the Athenian citizen body was, on the whole, engaged and informed .
[9] Once again, it should be obvious that these categories are not all neatly separable. For example, if adequate information was not available to the average Athenian, then it may have been the case that the *dēmos* did not care enough to ensure the availability of such information.

the fullers, or the cobblers, or the carpenters, or the metal-workers, or the farmers, or the merchants, or the retailers in the *agora* – for these are the sorts of people who populate the Athenian *ekklēsia* (3.7.6). Plato too, as I have mentioned, repeatedly suggests that every large assembly of men is *ipso facto* deficient in knowledge: his Socrates says to Gorgias, "Surely [to speak] before the mob means [to speak] before the ignorant?" (*Gorg.* 459a: οὐκοῦν τὸ ἐν ὄχλῳ τοῦτό ἐστιν, ἐν τοῖς μὴ εἰδόσιν;) Some writers offer specific examples of the ignorance of the *dēmos*: at Thuc. 6.1.1, we are told that most Athenians had no conception of the size or population of Sicily when they voted to invade that island during the Peloponnesian War.

At the same time, of course, there was also some willingness in antiquity to believe that many heads were better than one, and that men were more equal when it came to deliberating about proposals than they were when it came to making them. In Plato's *Protagoras*, the "title character" relates his famous myth in which Zeus endowed each human being with political acumen – *politikē technē* – so that every man possesses a share of knowledge as to how best to govern a city (320d-323a). There is evidence that this myth was seen, even by democracy's critics, as having some foundation in reality.[10] Moreover, the residents of Athena's city tended to think of themselves as uniquely clever and unusually well educated. The orators, at any rate, flattered them by saying that they were: Aeschines refers to his audience as "naturally more astute than other men" (1.178: ἐπιδέξιοι … φύντες ἑτέρων μᾶλλον).[11]

Leaving aside the Athenian conceit of superior native intelligence, we can say something about the basic education of the average Athenian. By the beginning of the

[10] Aristotle offers the best theoretical exposition of this view (see n. 5, above), but it appears also in the orators and in Thucydidean speeches (see Ober 1989, 163-165 for discussion and citations).
[11] For other citations of this sort, see Ober 1989, 157-158.

fourth century, literacy – probably our best proxy for "general education" despite the many ways in which Classical Athens remained an oral society – seems to have become quite common.[12] In Aristophanes' *Knights* (424 B.C.), Demosthenes says that the Sausage-Seller's imperfect literacy (οὐδὲ μουσικὴν ἐπίσταμαι πλὴν γραμμάτων, καὶ ταῦτα μέντοι κακὰ κακῶς) is almost too much education for a demagogue: it is hard to see how this can work as a joke unless most members of the audience thought of themselves as better educated than the Sausage-Seller.[13]

More importantly, something can perhaps be said in defense of the Athenians' personal competence in financial matters. For there is some reason to believe that in their personal lives, an unusually high proportion of the Athenians who played an active role in the conduct of government were experienced in money management. Strikingly, one of the most direct arguments from antiquity for the basic good sense of the *dēmos* in money matters is put by Xenophon into the mouth of Socrates – even though neither of these men seems to have been any great enthusiast for democracy.[14] Speaking with Nicomachides (Xen., *Mem.* 3.4), Socrates makes the case that good judgment is good judgment, whether applied to household management or generalship, and that the difference between private economic affairs and great affairs of state – including, presumably, finance – is only a matter of scale. "Don't despise the man of business, Nicomachides," declares Socrates, "for the conduct of private affairs differs only in magnitude from the affairs of the commonwealth; in other respects, they are much the

[12] For citations, see Sinclair 1988, 194 n. 13. See also the forthcoming work of Anna Missiou, who argues that literacy was widespread and served as the linchpin of Athenian democracy as early as the fifth century (Missiou 2011).
[13] ll. 188-193. The Sausage-Seller is shown reading later in the play (1030-1034).
[14] For the attitude of the historical Socrates toward Athenian democracy, see Roberts 1994, 71-73. For Xenophon, see Seager 2001.

same" (3.4.12: μὴ καταφρόνει, ἔφη, ὦ Νικομαχίδη, τῶν οἰκονομικῶν ἀνδρῶν: ἡ γὰρ τῶν ἰδίων ἐπιμέλεια πλήθει μόνον διαφέρει τῆς τῶν κοινῶν, τὰ δὲ ἄλλα παραπλήσια ἔχει). And the Athenians in the Assembly consisted, by all accounts, mostly of just such *oikonomikoi*; this is implied by the Charmides passage from the *Memorabilia* mentioned above.[15] In Plato's *Politicus*, the younger Socrates suggests that "money-changers, merchants, ship-owners, and peddlers" may lay claim to political wisdom insofar as it relates to commercial matters (289e-290a: τάχ᾽ ἂν ἴσως τῆς γε τῶν ἐμπορευτικῶν). Public finance is not the same as commerce, but both require an understanding of how to manage money. If the average Athenian assembly-goer was perhaps unlikely to meet the high standards of a Plato – he was no Guardian of Kallipolis or philosopher-king – there is relatively little reason to assume that he was exceptionally ignorant.

1.1.2 Citizen Experience in Public Finance

Even more important in assessing the average Athenian's preparation for deliberating on questions of public finance is any personal experience he may have had with the actual financial administration of the *polis*. On the one hand, such experience was probably vastly more valuable in the Assembly than experience with the finances of one's own household or business; it is quite possible that Xenophon's Socrates was exaggerating (or wrong) when he told Nicomachides that competence in one was necessarily transferable to the other. On the other hand, direct experience with the state's

[15] Aristotle, by contrast, speaks of democratic assemblies controlled by what seem to be the less skilled elements of the labor force: τὸ πλῆθος τό τε τῶν βαναύσων καὶ τὸ τῶν ἀγοραίων ἀνθρώπων καὶ τὸ θητικόν (*Pol.* 1319a27-28). Aristotle stresses that these mundane occupations offer little leisure and thus no opportunity for the acquisition of the excellence (*aretē*) that is politically desirable.

revenues and expenditures was probably far more useful, for our purposes, than any sort of general education.[16]

How much direct experience, then, did the average Athenian have with the state's financial affairs? Kallet-Marx has argued that the number of positions in the democracy in which the average citizen could acquire direct knowledge of *polis* finances was relatively small, and some of these were nominally restricted to the higher property classes.[17] While service on the Council certainly would provide a good opportunity to learn about the financial management of the city (given the range of that body's activities), only a fraction of the citizens at any given time would actually have been current or former *bouleutai*. For some of these individuals, their membership on the Council might have occurred many years before and any knowledge they had gained might therefore have been considerably dated. Those under thirty years of age, while they might have made up a substantial fraction of the Assembly, could neither have held any magistracy nor had experience as a member of the Council.[18]

[16] Demosthenes expresses this idea in his forty-fifth exordium: while speaking well, for example, requires specialized practice in rhetoric, only experience implants the crucial faculty of thoughtfulness and good judgment: ὑμεῖς τοίνυν οἱ πολλοί, καὶ μάλισθ᾿ οἱ πρεσβύτατοι, λέγειν μὲν οὐκ ὀφείλεθ᾿ ὁμοίως δύνασθαι τοῖς δεινοτάτοις: τῶν γὰρ εἰθισμένων τοῦτο τὸ πρᾶγμα: νοῦν δ᾿ ἔχειν ὀφείλεθ᾿ ὁμοίως καὶ μᾶλλον τούτων: αἱ γὰρ ἐμπειρίαι καὶ τὸ πόλλ᾿ ἑορακέναι τοῦτ᾿ ἐμποιοῦσι (*Ex.* 45.2).

[17] The Treasurers of Athena, for example, were supposed to come only from the class of the *pentakosiomedimnoi*, though by the late fourth century this requirement was apparently not strictly enforced (*Ath. Pol.* 8.1, 47.1).

[18] Kallet-Marx 1994, 229-230, 232. She estimates that one quarter is the realistic maximum for the proportion of citizens who would have had previous experience on the Council at any given time. She acknowledges, however, that the opportunities for less well-off Athenians to serve the state in financial capacities and on the Council will have been somewhat greater in the fourth century than in the fifth. Her estimate for the total number of adult male Athenians – 40,000 – may also be too high for the fourth century, and it may even be the case that Athenians, on average, served on the Council rather younger and died rather later than she estimates: see Sinclair 1988, 196 including n. 18.

By contrast, Pébarthe argues that, even if not everyone could have served on the Council, attendance at the Assembly would have been an education in and of itself.[19] More compellingly, he points out the availability of opportunities beyond the Council and Assembly for citizens to gain familiarity with Athenian public finance. To begin with, there were deme finances, which the literary and inscriptional evidence both suggest were not rudimentary.[20] Pébarthe also mentions the significant number of secretaries whose existence may have substantially widened the range of financial posts that Athenian citizens would have held.[21] Pébarthe is far from alone in making this sort of argument: Finley and Ober, for example, have both pointed out a number of ways in which normal Athenian civic life might be regarded as a valuable political education.[22] On balance, we certainly cannot assert that lack of citizen experience was an insuperable barrier to the *dēmos*'s understanding of the finances of the Athenian *polis*.

1.1.3 Citizen Interest in Public Finance

But even if any man who wanted a political education could get one merely by making the effort to participate in politics, how often was that effort made? How much did the ordinary Athenian really care to learn? And even if the ordinary Athenian was engaged by exciting and momentous issues like those of war and peace, to what extent did he want to think about a subject as apparently humdrum and technical as public

[19] Pébarthe 2006a, 37-39. He notes, for example, the supervisory role of the Assembly in the Cleinias and Cleonymus decrees (38-39). Of course, it is always possible that such provisions say more about democratic ideals than about the type of education actually provided by attendance at the Assembly.
[20] Pébarthe 2006a, 39-40. Whitehead 1986 also contains a discussion of the political education that the demes may have provided.
[21] Pébarthe 2006a, 37.
[22] See, for example, Finley 1973, 18-20 and 30-31 and Ober 2008 (*passim*).

finance? It is true that at one point in the *Memorabilia* Xenophon makes Socrates say that the Athenians are men who never gave a thought to politics – including, presumably, the politics of revenues and expenditures (3.7.7: τοῖς μηδεπώποτε φροντίσασι τῶν πολιτικῶν).[23] On the other hand, there is relatively little direct evidence for such a proposition. In fact, it seems more likely that the Athenians were, if anything, exceptionally concerned with the city's money and with money's place in politics. Kallet-Marx argues, based on Thucydides, that before the Peloponnesian War the Athenian public had already been conditioned to think of Athens' power and indeed its democratic government as depending first and foremost on the city's financial strength.[24] Certainly this seems plausible if Pericles really was accustomed to discuss Athens' finances before the *dēmos* in such detailed terms as he is described as doing at Thuc. 2.13, where he sets forth the resources of Athens for the coming war, beginning with the city's financial position.[25] More than the speeches in Thucydides' history, however, it is the surprisingly frequent references to public finance in Attic comedy – like Bdelycleon's survey of the Athenian state budget (Ar., *Vesp.* 655-663) or Cleon's threat to burden the Sausage-Seller with *eisphorai* (Ar., *Eq.* 923-926) – that tends to strengthen a case for the Athenian citizen's interest in his government's revenues and expenditures, at least in the

[23] This, in fact, seems to be a major reason why Socrates refers to them as "the most mindless and weakest of men" (Xen., *Mem.* 7.7.5: τοῖς ἀφρονεστάτοις τε καὶ ἀσθενεστάτοις); see §1.1.1, above.
[24] Kallet-Marx, 1994, 238-248.
[25] Thucydides' Pericles also says in the Funeral Oration that the same men may care for their private business and for politics, and that even those who are dedicated to (their own) labors do not lack knowledge of public business (2.40.2). The Athenians, he says, are unique in regarding as useless the man who does not take an interest in state affairs: ἔνι τε τοῖς αὐτοῖς οἰκείων ἅμα καὶ πολιτικῶν ἐπιμέλεια, καὶ ἑτέροις πρὸς ἔργα τετραμμένοις τὰ πολιτικὰ μὴ ἐνδεῶς γνῶναι: μόνοι γὰρ τόν τε μηδὲν τῶνδε μετέχοντα οὐκ ἀπράγμονα, ἀλλ᾽ ἀχρεῖον νομίζομεν.

late fifth and early fourth centuries; presumably Aristophanes was unlikely to risk boring or alienating his audience.[26]

On the other hand, the orators of the fourth century generally seem to delve less deeply into the minutiae of public finance than the Thucydidean Pericles and Bdelycleon's balance of payments in Aristophanes' *Wasps* might lead us to expect. It is a relatively rare thing when Demosthenes quotes actual budget numbers, saying for example that "we have unnecessarily expended more than fifteen hundred talents" (Dem. 3.28) or that "out of the *eisphorai* from the archonship of Nausinikos [378/7] – perhaps three hundred talents or a bit more – there is a shortfall of fourteen talents" (Dem. 22.44). When such statements do occur, the relative or absolute size of the numbers seems more important than the specific sums.[27] One can also make the argument from silence more generally: any student of Athenian public finance knows how very few of the questions we would like to have answered actually *are* answered in detail by our surviving texts. If Athenian *writers* didn't care about the little details of public finance, why should we believe that citizens did?[28]

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[26] Pébarthe 2006a, 40-42 uses such passages to argue that comedy constituted an important source of financial education for the Athenian citizenry; I think this may be carrying things too far. Despite the didactic pretensions of the comic playwrights, it is unclear just how much real knowledge of public finance a spectator at one of Aristophanes' plays would have taken away from the theater. For one thing, lacking detailed confirmation from beyond the texts of Attic comedies, I do not entirely share Pébarthe's confidence in "la connaissance précise d'Aristophane." Pébarthe may also go too far in suggesting that, since "les chiffres ne semblent pas être l'objet du débat," passages like the financial accounts in the *Wasps* necessarily rely on audience familiarity with financial issues (42). More critically for my purposes, perhaps, Middle and New Comedy seem to have been less concerned with the nitty-gritty of politics, and this, according to Pébarthe's way of thinking, would imply a diminished role for comedy in civic education during most of the fourth century.

[27] There are noteworthy exceptions: in the *First Philippic*, Demosthenes goes into great detail about the funds required for his proposed expeditionary force, and specifies the proposed sources for those funds in a document (ΠΟΡΟΥ ΑΠΟΔΕΙΞΙΣ) that was apparently read aloud to the Assembly (Dem. 4.28-29).

[28] For this argument, see Finley 1985. Finley mentions not only ancient writers' unconcern with financial particulars, but also concludes that they were largely ignorant of those particulars, and that many numbers cited in the ancient writers were simply invented.

But how much weight should one place on this sort of impressionistic consideration? How often should we expect texts to provide complex institutional details or discuss at length the city's revenues and expenditures? Perhaps we would do better to judge the degree of citizen interest in public finance based on how financially proficient the *dēmos* expected its leaders to be. Xenophon's Socrates quizzes Glaucon about public finance before any other topic (see §1.1, above), and, in speaking with Nicomachides, almost goes so far as to make financial management the political skill *par excellence* (see §1.1.1, above). Similarly, Aristotle (in a text admittedly written not just for Athenians) places public finance first among the things which the successful *rhētor* must know (*Rhet.* 1359b). Then, too – and perhaps most tellingly – we might wish to consider the extent to which Athenian institutions were designed to ensure that citizens had the opportunity to review their government's financial doings on a regular basis. The obligation of all magistrates to present accounts, for example, would seem to suggest that the citizens' interest in public finance was relatively acute.[29] Thus, this issue of citizen interest is perhaps closely connected to another measure by which we might judge the competence of the *dēmos* to manage their financial situation in a responsible way: how easy was it for the average Athenian to acquire information on the public finance of his *polis*?

1.1.4 Availability and Circulation of Information

The public availability of large numbers of documents relating to financial matters – the publication, for example, of very extensive accounts on stone – does not

[29] Pébarthe 2006a, 37. On p. 39, he argues that amendments to financial decrees would also be a sign of citizen interest.

necessarily imply a wide or assiduous readership of such documents by the Athenian populace. Furthermore, many of the most basic and important facts about public finance – total figures for revenues and expenditures, for instance – appear (to the frustration of modern scholars) never to have been published on stone at all. Worse, there appears to have been little or no systematic organization of the information that *was* published, so that anyone wishing to gain perspective on Athens' financial picture would need to hunt amid "a forest of stelai" even to begin to get anywhere.[30] John Davies has sketched a fairly convincing case against Athenian accounts on stone being used in the service of any kind of financial reckoning: the real financial business of the democracy was done, and the real records were kept, on the whitened boards that our sources call *sanides* or *leukōmata*.[31] But it is very hard to know to what extent these *leukōmata* would have served for consultation by the public.[32] Aristophanes describes the Athenians as birds pecking at *decrees* set out for public display (*Av.* 1286-1289), but it is not easy to imagine that accounts would have been similarly visible on any kind of regular basis.[33]

Pursuing his argument that the Athenian public was relatively engaged in financial matters, Pébarthe suggests that, during the *euthynai* of officials, the panel of

[30] Kallet-Marx 1994, 231.
[31] Davies 1994, 205-207.
[32] Most remarkably, perhaps, Davies notes (211) that only *one* financial account published on stone is mentioned in the orators as a basis for administrative action – [Dem.] 47.22, which refers to a debt preserved as *IG* II^2 1612.314-315. (For the application of Davies' argument to the fifth century, see also Samons 2000, 312-317.) Davies, incidentally, feels that the Attic Stelai give us the clearest idea of what *leukōmata* would actually look like; if such records did actually resemble the Attic Stelai – or worse, something like the diadikasia inscriptions – then the implications for the Athenian public's ability to get much out of them are depressing indeed. Pébarthe 2006a, on the other hand, argues that the whitened boards could and would have been consulted by members of the public for financial information, and that their size and (relative) durability reflected a desire to make them legible and accessible to those who wished to do so (42-43).
[33] Pébarthe 2006a mentions two examples of decrees that do envisage public display of financial information, the Cleonymus Decree (*IG* I^3 68.17-20) and the fifth-century decree on Eleusinian First Fruits (*IG* I^3 78.27-30): "Il suffit de souligner la volonté manifeste que représente cet affichage temporaire" (73).

dikastai would have been expected actually to look at the accounts in question.[34] But, given the huge number of officials subject to *euthynai* and the need to conduct two phases of the *euthynai* for each, it is hard to imagine really intense citizen scrutiny of any particular magistrate's accounts in the normal course of events – barring a definite allegation, that is.[35]

Thus it seems that we should not expect that any substantial number of Athenians were consulting state documents or otherwise familiarizing themselves with public finance in any great detail. It is of course possible that information circulated orally, in an informal way – a point often stressed by enthusiasts for Athenian democracy like Finley and Ober – but it is all too easy to imagine that conversations about politics probably included a large admixture of gossip and attention to superficial detail, like the dialogue between Blepyrus and Chremes in the *Assemblywomen*.[36] It is harder, though not impossible, to imagine idle Athenians adding up their city's accounts in the dust as Plutarch says they once sketched maps of Sicily and the adjacent seas (*Nic.* 12.1). In the end, we can only speculate about the sort of information possessed by the average Athenian concerning *polis* finance, and this is true too, I think, of the larger question about the competence of the *dēmos* in financial matters. The most we can say, probably, is that, on the one hand, we are by no means entitled to assume that the *dēmos* was

[34] Pébarthe 2006a, 49-50. He cites in support Ar. *Vesp.* 960-961, where Philocleon remarks that he wishes the dog Labes were unable to write and thus could not have written out his account "for us" (ἡμῖν); this may be better evidence for Athenian literacy than for the direct, careful examination of accounts by jurors.

[35] On the *euthynai*, see Hansen 1999, 222-224. Hansen and Davies (1994, 203) are both of the opinion that most *euthynai* must have been perfunctory in the extreme. (In general, Davies calls into question the comprehensiveness of the accountability mechanisms of the democracy.) It would be different, of course, in a highly politicized case or a situation where some personal motive encouraged one party to search out another's misdeeds.

[36] Ar., *Eccl.* 372-478. Pébarthe 2006a, 44 n. 83 cites this fictional conversation as evidence for discussion of finance outside formal venues. But there is no doubt that the Athenians talked politics outside of the Assembly; the question is how sophisticated their discussions were. On the oral circulation of information, see also (for example) Finley 1983, 28-29 and 82-83.

incapable of intelligent deliberation concerning finance: that degree of automatic pessimism about Athenian democracy does not seem to be justified. On the other hand, the overwhelming majority of the Athenians in the Assembly were far less well informed than the *rhētor* who (unlike Xenophon's Glaucon) had devoted himself to the study of the city's financial operations, or than the tax farmer or other "insider" whose dealings with the state had endowed him with specialized knowledge.[37] And this undoubted disparity between the average Athenian and the financial expert is something of which the average Athenian will have been aware: certainly he was familiar enough with his city's finances to sense the limits of his own expertise. And this awareness almost certainly made the average Athenian receptive to our second major criticism of the aptitude of the Athenian democracy in the management of public finance – the possible gullibility of the Athenian *dēmos*.

1.2 Gullibility

If there are sometimes assertions or insinuations in Classical Greek sources that the *dēmos* was too unintelligent or undereducated for self-government, one finds far more frequently the belief that the *dēmos* could too often be gulled and led to act against its own interest. This specific indictment of democracy appears in a very wide range of sources, of which I will mention here only a few characteristic examples. In one of these, a famous passage from Euripides' *Suppliants*, a herald from Thebes explains why democracy is inferior to monarchy. The herald does mention the common man's lack of

[37] See Kallet-Marx 1994, 231-232.

education and leisure, but this is only in service of his major point, namely the likelihood that the *dēmos* will listen to bad counsel:

> πόλις γὰρ ἧς ἐγὼ πάρειμ᾽ ἄπο
> ἑνὸς πρὸς ἀνδρός, οὐκ ὄχλῳ κρατύνεται:
> οὐδ᾽ ἔστιν αὐτὴν ὅστις ἐκχαυνῶν λόγοις
> πρὸς κέρδος ἴδιον ἄλλοτ᾽ ἄλλοσε στρέφει,
> τὸ δ᾽ αὐτίχ᾽ ἡδὺς καὶ διδοὺς πολλὴν χάριν,
> ἐσαῦθις ἔβλαψ᾽, εἶτα διαβολαῖς νέαις
> κλέψας τὰ πρόσθε σφάλματ᾽ ἐξέδυ δίκης.
> ἄλλως τε πῶς ἂν μὴ διορθεύων λόγους
> ὀρθῶς δύναιτ᾽ ἂν δῆμος εὐθύνειν πόλιν;
> ὁ γὰρ χρόνος μάθησιν ἀντὶ τοῦ τάχους
> κρείσσω δίδωσι. γαπόνος δ᾽ ἀνὴρ πένης,
> εἰ καὶ γένοιτο μὴ ἀμαθής, ἔργων ὕπο
> οὐκ ἂν δύναιτο πρὸς τὰ κοίν᾽ ἀποβλέπειν.
> ἦ δὴ νοσῶδες τοῦτο τοῖς ἀμείνοσιν,
> ὅταν πονηρὸς ἀξίωμ᾽ ἀνὴρ ἔχῃ
> γλώσσῃ κατασχὼν δῆμον, οὐδὲν ὢν τὸ πρίν. (Eur., *Suppl.* 410-425)

> For the city I come from is ruled by one man, not by a crowd, and no one, flattering it with words, twists it this way and that for his private profit, pleasant and generous with his favor at one instant – and then he has done harm! – and then, with new slanders, he has concealed his former failings and escaped justice! And even if it were otherwise, how could the *dēmos* direct the *polis* if it cannot understand arguments properly? Time, not haste, offers superior understanding. But a man who is a poor farmer, even if he were not uneducated, could not, on account of his own labors, look after the commonwealth. To the better sort it is an unwholesome thing when a vile man has stature, mastering the *dēmos* with his tongue, although he was nothing before.[38]

In the same vein, Herodotus, generally pro-Athenian and pro-democratic, expresses a similar concern about the gullibility of the *dēmos*, albeit more succinctly and obliquely. Referring to the Assembly's decision to send forces to aid the Ionian Revolt – something King Cleomenes of Sparta had wisely (in Herodotus's opinion) refused to do – Herodotus remarks that it seems to be easier to fool many men than to fool one: the Ionian leader Aristagoras could not fool one Spartan, but he *could* fool thirty thousand Athenians (5.97.2: πολλοὺς γὰρ οἶκε εἶναι εὐπετέστερον διαβάλλειν ἢ ἕνα, εἰ Κλεομένεα μὲν τὸν Λακεδαιμόνιον μοῦνον οὐκ οἷός τε ἐγένετο διαβάλλειν, τρεῖς δὲ μυριάδας

[38] Theseus, responding to the herald's critique, focuses on other issues and does not rebut the specific charge of gullibility.

Ἀθηναίων ἐποίησε τοῦτο). In the fourth century, in the Platonic dialogues, the same critique persists: Protagoras, in the dialogue that bears his name, says that the multitude perceive nothing, but only sing whatever tune is propounded to them by the powerful (317a: οἵ γε πολλοὶ ὡς ἔπος εἰπεῖν οὐδὲν αἰσθάνονται, ἀλλ᾽ ἅττ᾽ ἂν οὗτοι [οἱ δυνάμενοι] διαγγέλλωσι, ταῦτα ὑμνοῦσιν). It is quite easy to multiply examples like these.

More remarkable, however, than the presence of this critique in fifth- and fourth-century writings which are not explicitly pro-democratic is its pervasiveness in the fourth-century orators. Earlier, in §1.1.1, I mentioned Aeschines' praise for the cleverness of the Athenians in his speech *Against Timarchus*. In fact, however, Aeschines' ultimate point is to warn the Athenians that, for all their intelligence, they are liable to be led astray by lies and flim-flam:

> ἐπιδέξιοι δ᾽ οἶμαι φύντες ἑτέρων μᾶλλον, εἰκότως καλλίστους νόμους τίθεσθε. ἐν δὲ ταῖς ἐκκλησίαις καὶ τοῖς δικαστηρίοις πολλάκις ἀφέμενοι τῶν εἰς αὐτὸ τὸ πρᾶγμα λόγων, ὑπὸ τῆς ἀπάτης καὶ τῶν ἀλαζονευμάτων ὑπάγεσθε (Aeschin. 1.178)
>
> Being, I suppose, naturally more astute than other men, you predictably make very excellent laws. But in assemblies and law-courts you frequently are seduced by deceit and impostures, losing your grip on the arguments relating to the issue at hand.

The deceivability of the *dēmos* is, in fact, a common trope in Athenian oratory: for example, in his speech *Against Leptines* Demosthenes also admits that it is sometimes easy to deceive the people (Dem. 20.3: τὸ ῥᾳδίως ἐξαπατᾶσθαι τὸν δῆμον) and he even admits that the occasional deception of the *dēmos* is inevitable (καὶ ὅλως ἐν οἶμαι πολλοῖς οἷς πράττετε καὶ τοιοῦτόν τι συμβαίνειν ἀνάγκη).[39] Quite commonly, of course, the possibility of deception is raised as a way to warn the listeners against an opposing speaker (who is often presented as rhetorically more skilled). In any event, the crucial

[39] This passage will be discussed further in §2.3.1, below.

point is that the deceivability of the *dēmos* by apparently better-educated *rhētor*s and experts of various kinds was perhaps less an element of anti-democratic critique in Classical Athens – through it became important in the later anti-democratic tradition – than a staple of the Athenian democracy's self-concept, so that there was in fact, as Hesk has discussed, a "rhetoric of anti-rhetoric" in which democracy is defined against the threat posed by elite deception.[40]

It is difficult to know whether the Athenians were in fact as liable to be deceived as both the democratic and anti-democratic traditions would have us believe. It is even harder to make this determination with respect to a particular sphere of state activity like public finance. Certainly the potential complexity and the technical nature of the subject, combined with the fact that the average Athenian did not have certain kinds of information at his fingertips (see §1.1.4, above) suggest that the *dēmos* did, at least in theory, have something to fear.[41] Probably even more salient in this regard, however, is a

[40] Hesk 2000, 202-298: on the "dangers of rhetoric," see also Ober 1989, 165-177; other relevant recent studies include Roisman 2004 and Wallace 2004. The "rhetoric of anti-rhetoric" is visible already in the speeches reported or invented by Thucydides. In the Mytilene debate, Cleon warns the Athenians that they are easily swayed by sophistical masters of speech-making (Thuc. 3.38); Cleon's critique is actually rather more sophisticated than the warnings about deceivability usually employed in the orators, inasmuch as he attributes the Athenians' weakness to their positive enthusiasm for rhetoric itself. In the orators, it is more common to ascribe the Athenians' occasional victimization to their trusting, guileless nature: a notable passage in Demosthenes refers in quick succession to the citizens' *philanthropia*, *praotēs*, and *euētheia* as characteristics subject to exploitation by cunning speakers (Dem. 24.51-52).

[41] Arguments against the gullibility of the *dēmos* in antiquity seem to have been few. One such argument might be found in the proposition that the Athenians preferred, on the whole, not to pay much attention to orators at all, and were less likely to pay attention the more the orator relied on detailed information that they themselves did not possess (Aristotle observes that debates in a large assembly should concentrate on "the big picture" [*Rhet.* 1414a8-10]). On the other hand, to the extent that this would imply a significant degree of apathy on the part of the *dēmos*, it may be that their willingness to tune out orators would make them no less easy to deceive. But we do not have any reason to believe that the Athenians were predisposed to do whatever a skilled *rhētor* or popular demagogue happened to want. By way of suggesting that the Athenian *dēmos* tended to defer to the will of powerful orators in financial matters, Kallet-Marx 1994, 236 cites a famous story in which the Assembly granted ten – in another version, twenty – talents to Pericles to cover obscure expenses "εἰς τὸ δέον" (Plut., *Per.* 23.1 and a fragment of Ephorus [*FGH* 70 F193]; cf. Ar. *Nub.* 858-859), but the point of the story is surely that Pericles' ascendancy was exceptional (see Pébarthe 2006a, 45).

characteristic of public finance that has nothing much to do with its complexity. The key point, perhaps, is that public finance is about money, and we have good reason to believe that, for the Greeks, money was the corrupter *par excellence* of political virtue.[42] Money was, in fact, the usual reason given to explain why anyone would want to try to exploit the people's gullibility in the first place. It also offered a reason why a deceitful *rhētor* or policy expert who did not have the best interests of the *polis* at heart might nevertheless be able to work his will upon the *dēmos* unopposed by honest *rhētor*s or experts whose opposition would otherwise allow the Athenians to deliberate between real alternatives. The threat posed by money – the ever-present menace of bribery-driven corruption – is taken up in the next section.

1.3 Selfishness and Greed

The more traditional of the two narratives that explain the decline of Athenian democracy in terms of public finance (see the Introduction) hinges on the idea that the *dēmos* was too selfish to behave responsibly. In this account, the people, instead of making sacrifices with an eye to the long-term viability of the *polis*, preferred to spend its money on its own short-term pleasures. The major inspiration for this view is Demosthenes, who, in his early public speeches, seems to be endeavoring desperately to rouse the Athenians to do their duty by their city and their allies instead of being gratified

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[42] One of the plainest statements of this belief may be found early in the fourth century in Aristophanes' *Wealth*: Poverty (Πενία) declares, and Chremylus agrees, that *rhētor*s act justly toward the *polis* and the *dēmos* only so long as they are poor; when they begin to grow rich off public money, they immediately become *adikoi*, plot against the multitude, and wage war upon the *dēmos*:

> σκέψαι τοίνυν ἐν ταῖς πόλεσιν τοὺς ῥήτορας, ὡς ὁπόταν μὲν
> ὦσι πένητες, περὶ τὸν δῆμον καὶ τὴν πόλιν εἰσὶ δίκαιοι,
> πλουτήσαντες δ᾽ ἀπὸ τῶν κοινῶν παραχρῆμ᾽ ἄδικοι γεγένηνται,
> 570ἐπιβουλεύουσί τε τῷ πλήθει καὶ τῷ δήμῳ πολεμοῦσιν (567-571).

by “theoric distributions and a procession at the Boedromia.”[43] Although Demosthenes tries to avoid saying directly that the Athenians have been disgustingly selfish – he prefers, when possible, to say that the Athenians are enervated or indolent and to blame the politicians whom he says have made them that way – the rebuke is nevertheless quite clear.[44] And these implications of selfishness seem to gain in plausibility from the other Classical sources that portray the Athenians (especially those of the fourth century) as more interested in their personal welfare than in any greater good. Aristophanes, to take just one example, has been important in creating an impression of Athenian selfishness. The greedy citizens of the *Assemblywomen*, for instance, are apparently more interested in the three-obol fee for attending the Assembly than in any of the issues that will be discussed there, and when the women take charge of Athens and establish an (admittedly absurd) socialist paradise of share-and-share-alike, one man, unnamed in the play, loudly refuses to do his part for the new economic order (746-876). It is perhaps natural to suppose that such characterizations reflected an underlying reality.[45] It is even more natural when similar portraits of the Athenian citizen and “democratic man” appear in sources like Isocrates and Plato’s *Republic*.[46] Indeed, from Aristophanes down to

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[43] Dem. 3.31: ὑμεῖς δ᾽ ὁ δῆμος, ἐκνενευρισμένοι…ἀγαπῶντες ἐὰν μεταδιδῶσι θεωρικῶν ὑμῖν ἢ Βοηδρόμια πέμψωσιν οὗτοι, καὶ τὸ πάντων ἀνδρειότατον, τῶν ὑμετέρων αὐτῶν χάριν προσοφείλετε.
[44] At Dem. 1.19-20, the orator charges the people with appropriating for their own ends, and especially for festivals, money properly dedicated to military operations (*stratiōtika*). At Dem. 3.17, the people are virtually likened to deserters from battle (cf. 3.36: μὴ παραχωρεῖν, ὦ ἄνδρες Ἀθηναῖοι, τῆς τάξεως). At Dem. 4.7, Demosthenes explains that the Athenians can undo their predicament if each citizen will set aside excuses, offer himself to the *polis* as best he can, and stop expecting that the next man will do everything on his behalf while he himself does nothing (cf. Dem. 8.21-23).
[45] This is how they were generally taken by Ehrenberg 1951: see Christ 2006, 6 for this observation. Of special interest here are Ehrenberg’s chapters on “Money and Property” (219-252), “Economics and the State” (318-336), and “The People and the State” (337-359).
[46] Note especially, in Plato’s description of democracy and “democratic man,” the assertions that the democratic man does just what he pleases (*Rep.* 557e) and that all civic duty is ultimately subordinated to personal pleasure-seeking (*Rep.*562b-564a). Using the analogy of a beehive, Plato’s Socrates likens the ruling class of the democracy to drones who extract honey from the productive members of society for the benefit of the others (*Rep.*564c-565a). In the case of Isocrates, the self-interestedness of the fourth-century

modern times, critics of Athenian democracy have tended to accept that the greed and selfishness of the *dēmos* played a critical role in sapping the strength of the state.[47]

So perhaps the idea that the *dēmos* was selfish is not altogether without credibility, though here, as in the case of the charge that the *dēmos* was gullible, what is most interesting about the criticism is the degree to which pro-democratic Athenians seem to have accepted a version of the critique and incorporated it into their own conception of the functioning of their democracy. For while they seem, on the whole, to have rejected the idea that the *dēmos* was likely to be *collectively* greedy, they were quite ready to believe that individuals could be selfish and that their actions in the public sphere might be motivated by private greed. Thus we find in Classical Athenian literature a long tradition of explaining the political behavior of individuals in terms of a desire to feather their own nests. In particular, when a political enemy's behavior has to be explained, peculation and bribery are the preferred ways of explaining it—and this, of course, has obvious implications for public finance.

I will not attempt to summarize here the long history of this mindset in Athenian sources: Claire Taylor has provided a good overview of bribery accusations, and Matthew Christ has produced a thorough and interesting study of "the self-interested citizen" with special attention to tax evasion.[48] Suffice it to say that the eagerness to perceive financial self-interest behind political action begins quite early in Athenian literature. It is already visible in the tragedians: confronted by the bad news that he *is* the

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Athenians is implied throughout the *Areopagiticus*. Even in the *Panegyricus*, ostensibly a laudatory oration, there seems to be a sustained indictment of the selfishness and greed of Isocrates' contemporaries (Isoc. 4.76-81).

[47] Again, see Samons 2004, 98-99 for a recent summary of the basic critique.

[48] Taylor 2001a and 2001b; Christ 2006 (discussion of tax evasion on 143-204). For the more general idea of greed in Athenian history, see Balot 2001.

killer he seeks, Sophocles' Oedipus leaps to accuse Tiresias of lying for profit (Soph., *OT* 380-403); in *Antigone*, Creon makes a similar accusation against the guard assigned to Polynices' body (280-326).[49] The same belief in the ability of money to corrupt politics is found in the historians, and indeed in Athenian history: Cleon in the Mytilene debate blasts the venality of orators as well as the gullibility of the *dēmos* (Thuc. 3.38.1-3), and the Athenians of the late fifth century were prepared to suspect even Pericles of profiting unjustly at the expense of the state (Plut., *Per.* 32.2-3). By the fourth century, private selfishness becomes a real-world explanation for all sorts of alleged sins with political significance, from the deception of the *dēmos* for pay by *rhētor*s, to abuse of one's office, to defrauding the *polis* as a private citizen, to the acceptance of bribes for not actively opposing such wicked acts.[50]

1.4 Suspicion and Cynicism

In the previous two sections, I have suggested that some accounts of the Athenian democracy's weaknesses might have two aspects – one expressed as a basic critique of democracy and one regarded, by contrast, from the democratic perspective. In this section, I wish to consider another critique of Athenian democracy in this twofold perspective, and, ultimately, to attempt to explain a basic characteristic of Athenian

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[49] Creon's indictment of the threat posed by money to the values of a *polis* is perhaps worth quoting here:

> οὐδὲν γὰρ ἀνθρώποισιν οἷον ἄργυρος
> κακὸν νόμισμ᾽ ἔβλαστε. τοῦτο καὶ πόλεις
> πορθεῖ, τόδ᾽ ἄνδρας ἐξανίστησιν δόμων:
> τόδ᾽ ἐκδιδάσκει καὶ παραλλάσσει φρένας
> χρηστὰς πρὸς αἰσχρὰ πράγματ᾽ ἵστασθαι βροτῶν:
> πανουργίας δ᾽ ἔδειξεν ἀνθρώποις ἔχειν
> καὶ παντὸς ἔργου δυσσέβειαν εἰδέναι (Soph., *Ant.* 295-301).

[50] Taylor 2001a, 58-61 provides a historical list of Athenian bribery allegations from the sixth century down to 322; most of these (nineteen out of thirty-four) are from 403/2 onward.

democratic discourse in terms of the *dēmos*'s perspective on its own limitations. As the rubric of this discussion, I have chosen the interrelated ideas of suspicion and cynicism, but I wish to approach these abstractions, and their significance for public finance, indirectly, by way of yet another common criticism that has been leveled at Athenian democracy both by its contemporaries and by observers across the centuries.

Specifically, it has often been contended that the democracy was vitiated by a prevailing atmosphere of hostility and mistrust, particularly toward the leaders of the *polis*. The frequency with which the *dēmos* turned against its previously popular and successful leaders – ostracizing them, convicting them of charges that carried heavy fines, even executing them – has been much remarked upon, and has been characterized in different ways by different writers.[51] The ease with which leaders at Athens could rise and fall from favor seems to be behind the charge of "turbulence" or "instability" that has often been brought against Athenian democracy, particularly in the early modern period. Educated men of the eighteenth century like America's Founding Fathers were particularly inclined to describe ancient Athens as unstable or turbulent, and to decry the fickleness of the *dēmos* toward its leaders. In *Federalist* 63, whose authorship is uncertain (scholars are divided between James Madison and Alexander Hamilton) we read the following:

> As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind? **What**

[51] On "the hazards of leadership" at Athens, see Sinclair 1988, 136-161. For a more extensive discussion, see Roberts 1982a.

> **bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statues on the next.**

Probably the American Founders were especially heavily influenced by Plutarch's *Lives*, in which the changing fortunes of so many eminent Athenians were described. Plutarch likes to emphasize the Athenian *dēmos*'s sudden savagery toward the eminent men whose careers he narrates, and this passage from the Federalist Papers well reflects one explanation for the famously fraught relationship between the Athenians and their leaders.[52]

Another, related, explanation for the rejection or punishment of prominent men by the *dēmos* is simple envy. The Roman biographer Cornelius Nepos, for example, saw *invidia* (envy, resentment, spite) as a sentiment characteristic of the common people (*vulgus*) in a free state:

> [*Chabrias*] *vivebat laute et indulgebat sibi liberalius quam ut invidiam vulgi posset effugere. Est enim hoc commune vitium in magnis liberisque civitatibus, ut invidia gloriae comes sit; et libenter de iis detrahunt quos eminere videant altius, neque animo aequo pauperes alienam opulentium intuuntur fortunam. Itaque Chabrias, quoad ei licebat, plurimum* [*Athenis*] *aberat. Neque vero solus ille aberat Athenis libenter, sed omnes fere principes fecerunt idem, quod tantum se ab invidia putabant afuturos, quantum a conspectu suorum recesserint.* (Nepos, *Chab.* 3.2-4)

> [Chabrias] lived elegantly, and gratified himself too freely to be able to able to avoid the envy (*invidia*) of the multitude (*vulgus*). This fault is in fact common to great and free states: envy (*invidia*) attends upon glory and they gladly disparage those whom they see rising a little above them. Nor can poor men look with equanimity upon the fortune of rich, in which they do not share. Thus Chabrias often stayed away [from Athens] insofar as he could. And indeed he was not alone in happily absenting himself; nearly all the chief men of the city did likewise, believing that they would be removed from envy (*invidia*) only to the extent that they withdrew from the sight of their fellow citizens.

If the Athenians were as prone to envy as Nepos seems to indicate, this would explain not only the tendency of the *dēmos* to destroy its leaders but also its supposed eagerness to

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[52] On Plutarch's tendentious representation of Athenian democracy, see Roberts 1982a, 135-141 and 1994, 110-117.

impose heavy financial burdens on the city's upper classes. In some of the plays of Aristophanes, too, we find the Athenians portrayed as resentful of the more successful men among them – Philocleon in the *Wasps*, eager to cast his vote as a juror against his betters, is a memorable example.[53]

On the other hand, these perceptions of the *dēmos*'s motives – the madness of crowds, or envy – are largely external to the democratic self-concept as we perceive it in the fourth-century orators, and a different explanation offers itself as soon as we consider how willing the average Athenian was to join the opponents of democracy in believing (a) that the *dēmos* was often deceived and (b) that selfishness and greed were strong enough and pervasive enough in the *polis* to produce, and in abundance, the sorts of violations of the norms of citizenship mentioned at the end of the last section. A third consideration, and in some respects the crucial one, is that, from the perspective of the *dēmos*, the twin threats of deceit and greed came not from their own collectivity but from members of the elites – the rich, the talented, the ambitious, the well-connected. While the anti-democratic tradition focuses on the deceivability of the *dēmos*, the democrats' concept of democracy focused on the powerful men who might deceive them. While the anti-democratic tradition concentrated on the selfishness of the multitude, the democrats were inclined to give their attention to the selfishness of the well-positioned individual.[54]

The attention given in the orators to elite malfeasance can be explained on both pragmatic and ideological grounds. Practically speaking, even if the average Athenian thought that members of the elites and members of the commons were equally prone to

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[53] Plutarch too sometimes specifies envy (*phthonos*) as the reason the *dēmos* turned on one of its leaders: for example, he presents this as the real explanation for the ostracism of Aristides (*Arist.* 7.2: ἐξοστρακίζουσι τὸν Ἀριστείδην, ὄνομα **τῷ φθόνῳ τῆς δόξης** φόβον τυραννίδος θέμενοι; cf. Plut., *Nic.* 6.2, where Nicias must give way before the same phenomenon: **τῷ φθόνῳ τῆς δόξης** ὑφιέμενος).
[54] For a further discussion of this in the context of two speeches by Demosthenes, see §2.3.1, below.

acts of deception and selfishness, members of the elites were, thanks to their elite status, normally capable of doing more harm than members of the commons to the *polis* as a whole. And insofar as someone might be worried about the deceivability of the *dēmos*, it no doubt seemed an easier proposition to attempt to thwart the deceivers – who were relatively few at any given time – than to construct safeguards against the huge numbers of those who were liable to be deceived.

Moreover, the ideology of Athenian democracy seems to have incorporated the idea that members of Athens' elites were, to some extent, actually inclined to be less trustworthy than the average individual who lacked any exceptional status. Warrant for such a belief might be found in the ancient Hellenic assumption, so often repeated throughout the Greek literary tradition, that greatness tempts a person to transgression. We see a fourth-century example of this idea in a monologue of Socrates in Plato's *Gorgias*, where the philosopher observes that the worst punishments in Hades are reserved for "tyrants and kings and potentates and the administrators of cities, for these commit the greatest and most impious sins because they have the opportunity to do so" (525d: οἶμαι δὲ καὶ τοὺς πολλοὺς εἶναι τούτων τῶν παραδειγμάτων ἐκ τυράννων καὶ βασιλέων καὶ δυναστῶν καὶ τὰ τῶν πόλεων πραξάντων γεγονότας: οὗτοι γὰρ διὰ τὴν ἐξουσίαν μέγιστα καὶ ἀνοσιώτατα ἁμαρτήματα ἁμαρτάνουσι; the argument is continued through 526b).[55]

[55] To fourth-century Athenians, recent history may have seemed to offer an even better reason for the ordinary citizen to distrust the great and the good, for Athens had never been worse governed than by the oligarchic regimes of 411 and 404-403, particularly the latter of these. Whatever pretensions to outstanding virtue the aristocracy might have retained down to the end of the fifth century, the dismal tyranny of the Thirty will have sufficed, in the minds of many Athenians of democratic sympathies, to sweep them away. R.K. Balot has discussed how the contrast between the dreadful government led by Critias and the generous policy of the restored democracy became, in the minds of the democrats, a major support for a world view in which the virtue of the *dēmos* was, in fact, superior to that of the elites – who were regarded, *eis ipsis*, as potential oligarchs: see Balot 2001, 179-248, especially 219-233, where Balot discusses the shaping of the

It is in this context, rather than in terms of the deep psychology of envy or mass hysteria, that we can probably best explain the Athenians' readiness to topple their leaders, for any man who had risen to prominence had become a threat. On the other hand, if the suspicions of the *dēmos* were directed primarily toward groups that we would tend to think of as powerful or elite, it is not the case that this was where all their suspicions ended. After all, greedy members of the elite could always attempt to suborn or inveigle a front man in any walk of life to do their bidding.[56] In the end, it is not too much to say that we can detect at Athens from the late fifth century onward a certain generalized atmosphere of suspicion, a hyperawareness concerning the need to protect the *polis* from plots and cabals of various kinds, and a feeling that unusual measures might be required to safeguard the proper working of democracy in the face of designs by unseen enemies. When the herms were mutilated on the eve of the sailing of the Sicilian Expedition in 415, many citizens leapt to the conclusion that the vandalism betokened a anti-democratic conspiracy (Thuc. 6.27.3: ἐδόκει εἶναι καὶ ἐπὶ ξυνωμοσίᾳ ἅμα νεωτέρων πραγμάτων καὶ δήμου καταλύσεως γεγενῆσθαι). Several years before this, Bdelycleon

new democratic ideology as reflected in (the pro-democratic) Lysias and (the anti-democratic) Xenophon. Somewhat unfairly, perhaps, democratic ideology would be shaped for the next three generations by the memory of the Peloponnesian War's aftermath. Of course, the effect can only have been to intensify a tendency that already existed before 403, as the examples in the next paragraph attest.

[56] Thuc. 8.66 presents a vivid picture of Athens on the eve of the oligarchical revolution of 411, when no one could be sure who was or was not in the service of the enemies of the democracy: as a result everyone had to be suspicious of everyone else (8.66.5: ἐδόκει εἶναι καὶ ἐπὶ ξυνωμοσίᾳ ἅμα νεωτέρων πραγμάτων καὶ δήμου καταλύσεως γεγενῆσθαι). But the danger that a seemingly honest and even insignificant man might be influenced by someone richer and more powerful obviously encompassed a whole range of less dramatic possibilities. At [Dem.] 59.72-73, Apollodorus relates how a certain poor man, Theogenes, was assisted by the wealthier Stephanus in passing his *dokimasia* as king-archon and in meeting the expenses attendant upon his office. As a result, Stephanus was able to get himself appointed as Theogenes' *paredros* and even to induce Theogenes to marry his illegitimate daughter by Neaira (thus apparently bolstering Neaira's false claim to Athenian citizenship). David Konstan has called my attention to Xen., *Mem.* 2.9, in which Socrates persuades the wealthy Crito to "keep" (the verb used is τρέφω) a talented poor man, Archedemus, as a "sheepdog" to protect Crito from sycophants. This particular relationship is not portrayed as sinister, but Archedemus does receive compensation (in the form of a share of Crito's agricultural produce), and it is easy to imagine that a rich man might employ similar "dogs" for purposes that were not merely defensive.

and Xanthias in Aristophanes' *Wasps* (422 B.C.) had complained that the Athenians now saw evidence of tyrannical sympathies everywhere – even in people's culinary choices or preferred sexual positions (488-507).

David Lewis once identified as a fundamental principle of Athenian democracy the belief "that absolutely nobody is to be trusted."[57] Lewis was describing the atmosphere of suspicion and defensiveness that might be called, perhaps hyperbolically, "the paranoid style in Athenian politics."[58] It will be seen that this "paranoid style" repeatedly emerges in my investigations, in later chapters, of the idea that the administration of public finance posed a problem for the fourth-century democracy. It is in light of this "paranoid style," therefore, that I wish to offer some final observations concerning the conduct of government in fourth-century Athens. Specifically, I wish to discuss both the possible benefits and the possible dangers of pervasive suspicion in a democratic polity.

The main virtue is the obvious one. A suspicious *dēmos* is, presumably, an alert and engaged *dēmos*, a citizenry on the *qui vive* for those who might wish to injure it or thwart its will. Such a populace will go to substantial lengths to guard itself against being deceived or cheated. It will interest itself in detail. It may institute complex administrative procedures and sophisticated institutional structures for the sole purpose of defending what it regards as its interests. It may be ready to revise or replace those

[57] Cited from memory by Davies 1994, 204. The same expression occurs in Lewis 1997b, 271.
[58] The reference is of course to Richard Hofstadter's famous 1964 essay about the American political scene, but I do not intend to use the word "paranoid" in any clinical sense, nor do I mean it as a term of opprobrium (as Hofstadter did). I merely wish to convey how intensely suspicious the Athenians may seem to have been from the standpoint of modern representative democracy. (For a very different perspective on the idea of "paranoia" as it relates to democracy in general and to ancient Athens in particular, see Sagan 1991. Sagan argues that democracy represents a society's triumph over the paranoid impulse; the democratic ideology of ancient Athens, by contrast, seemed to accept that a certain wide-eyed suspicion was indispensable for the protection of democracy against its enemies.)

procedures on short notice if some weakness in its system of vigilance seems to exist. Much of what I shall say about the structures of public finance in the coming chapters should be seen in light of the Athenians' great eagerness to devise means to protect the people's interests and the people's money. We should be willing to expect that the operations of Athens' public finance could display great sophistication when directed toward this end.

Such a suspicious and vigilant mindset as the one I describe may, however, also have had its disadvantages. A willingness to imagine corruption everywhere might, for example, devolve into a cynicism that would encourage precisely the sort of selfishness. discussed in §1.3, above. If the poor believed that the rich were greedy, or that *rhētor*s and state officials were dishonest, then they could justify all the more readily their own demands for theater subsidies or other forms of public payment – better to give the money to the people in the most direct way possible than to see it stolen by someone else.[59] In this way cynicism born of a generalized mistrust could be connected to the more traditional narrative that explains the fall of Athens in terms of the mismanagement of public finance. Or, from another point of view, great uncertainty about whom to trust might, in the long run, have encouraged the Athenians to rely too heavily on the few men they were willing to believe incorruptible. Thucydides indicates that Pericles' extraordinary influence with the *dēmos* must be ascribed not only to his keen judgment and personal prestige but to the fact that he was χρημάτων διαφανῶς ἀδωρότατος (2.65.8; cf. Plut., *Per.* 15.5: ἀδωροτάτου περιφανῶς … καὶ χρημάτων κρείττονος). In the second

[59] Christ 2006, 32-33 makes the point that the selfishness of the unnamed resister in Aristophanes' *Assemblywomen* (mentioned in §1.3, above) is inseparable from his cynicism: he refuses to sacrifice his self-interest for the sake of the new economic order because he cannot believe that anyone else will make the same sacrifice.

half of the fourth century, the authority of Eubulus and Lycurgus likewise seems to have been due primarily to the people's feeling that these men were especially trustworthy (see, e.g., Aeschin. 3.25 on the people's great trust in Eubulus: τὴν πρὸς Εὔβουλον γενομένην πίστιν ὑμῖν); in this way the Athenians' thoroughgoing mistrust could also be used to explain some elements of the narrative in which the fourth century *dēmos* relinquished their democratic principles when it came to financial matters: what if their motivation was not greater efficiency but greater confidence in their leaders and institutions?

I am not endorsing any particular reading of Athenian history here. For now, my concern is to emphasize the likelihood that the choices made by the Athenians in shaping their financial practices and institutions, for good or ill, could have resulted from a desire to guard against some of the weaknesses that they perceived in their own society and political system.

CHAPTER TWO: THE LEGAL FRAMEWORK OF PUBLIC FINANCE

2.0 Introduction

I noted in the Introduction that some writers see in the fourth century B.C. a movement toward control of public finance by fixed institutional mechanisms, a movement that came at the expense of democratic decision-making – especially, perhaps, according to the terms in which contemporary ideology conceived of democracy. This chapter will consider one aspect of this posited institutionalization of finance, namely the regulation of finance by law.

2.1 Putative Tensions Between the Rule of Law and the Popular Will

It is something of a commonplace in contemporary scholarship that the fourth-century democracy was distinguished from its fifth-century predecessor by its emphasis on the distinction between laws (*nomoi*) and decrees (*psēphismata*), and its corresponding willingness to adhere to the framework provided by the laws, even if this meant that the will of the *dēmos* to take any particular action at any particular moment would be constrained. One conventional way to express this change is by saying that Athens underwent a transition "from popular sovereignty to the sovereignty of law," a formulation immortalized by Ostwald 1986. Ostwald saw the transition as exemplified by the different spirits that animated, on the one hand, the Assembly's decision, amid the controversy that followed the Battle of Arginusai, to try and condemn eight generals by a highly irregular procedure and, on the other, the restraint that characterized the period following the reconciliation agreement and amnesty in 403/2. In the first case, as narrated by Xenophon (*Hell.* 1.7.12), objections that the proposed procedure was unconstitutional (παράνομα) were met by shouts that "it would be terrible if someone should not allow the people do whatever it wants" (τὸ δὲ πλῆθος ἐβόα δεινὸν εἶναι εἰ μή τις ἐάσει τὸν δῆμον πράττειν ὃ ἂν βούληται).[1] In the second case, when Thrasybulus carried a polarizing decree in the Assembly offering citizenship to everyone, including foreigners and slaves, who had returned to Athens from the Piraeus, the decree was successfully thwarted, on procedural grounds, by Archinus's use of the *graphē paranomōn*.[2] Around the same time, the procedure of *paragraphē* was introduced to prevent prosecutions in violation of the provisions of the amnesty.[3] Meanwhile, the entire law code was revised and republished,[4] and it was formally established, as a

[1] Ostwald 1986, 509-510. Ostwald sees *IG* I^3 105 (410/9 B.C.) as another good example of an assertion of popular sovereignty – admittedly vis-à-vis the Council of 500 -- in the aftermath of the oligarchical revolution of 411.

[2] *Ath. Pol.* 40.2, Aeschin. 3.195 with scholia, [Plut.] *X Orat.* 835f-836a. See Ostwald 1986, 503-504: the decree was polarizing in that it would have meant the granting of citizenship to a large number of natural allies of the men from the Piraeus, thus "tipp[ing] the electoral balance against the men of the city." It is worth mentioning that other milestone events in the consolidation of the restored democracy are harder to portray as triumphs for the sovereignty of law. Archinus's use of the *graphē paranomōn* against Thrasybulus is one of the three examples of his conciliatory statesmanship that are given in *Ath. Pol.* 40.1-2; the other two are, first, Archinus's arbitrary decision to move forward the deadline for registrations by those who wished to move to Eleusis – apparently illegal, as Moore 1986, 271 observes, since the terms of the reconciliation had guaranteed ten days in which to register (*Ath. Pol.* 39.4) – and his convincing of the Council to execute without trial (ἄκριτον) a returned exile who was somehow keeping old resentments alive (μνησικακεῖν).

[3] Isoc. 18.2-3.

[4] Andoc. 1.83-85.

principle of the democracy, that no decree (*psēphisma*) of the Council or Assembly should supersede a law (*nomos*).[5]

For Ostwald and others, "popular sovereignty" signifies the absolute supremacy of the *dēmos* as represented by the *ekklēsia*. "Sovereignty of law," by contrast, means that the *dēmos* agrees to bind itself by fixed procedures which can be changed only within the framework of those same procedures. Since the laws represented the Athenian equivalent of our modern idea of a constitution, another way of characterizing the change is by saying that Athens in the fifth century B.C. was governed by "radical democracy" whereas fourth-century Athens exemplified "constitutional democracy" instead.[6]

Scholars differ on the question of whether democracy, *dēmokratia* as it might have been understood by the Athenians themselves, suffered in the course of the transition that Ostwald describes. Many seem to agree, however, that – in the words of an economist writing about Athenian democracy – "decrees and laws constituted a certain restraint on the sovereignty of [the] people."[7] Ostwald had expressed this view in even stronger terms, saying that after 403/2 Athens became "a new kind of democracy, which subordinated the will of the people to the regulating hand of the law."[8] Raphael Sealey, in his revealingly titled *The Athenian Republic: Democracy or the Rule of Law?*, argued that the Athenians were more committed to the rule of law than to the other ideals – like popular sovereignty – that we associate with the Greek word *dēmokratia*.[9] Mogens

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[5] Andoc. 1.87, Dem. 23.87 (cf. 24.30; see also Dem. 20.91, 22.5).
[6] Wolin 1994, 39-40 employs a more nuanced distinction between "democratic constitutionalism" (fifth century) and "constitutional democracy" (fourth century).
[7] Amemiya 2007, 47-48. Amemiya adds, however, that "the laws and institutions … also protected the people against the attempt by ambitious politicians to usurp the rights of the people" – a point I will emphasize below.
[8] Ostwald 1986, xi.
[9] Sealey 1987. Sealey contended that the word *dēmokratia*, insofar as it ceased to be merely pejorative, signified little more to the Athenians than the rule of law (see especially pp. 102-106).

Herman Hansen has written that, "in 403 the Athenians returned to the idea that the laws, not the people must be the highest power[.]"[10]

The notion that after 403 the power of the *dēmos* had been subordinated to the rule of law is somewhat surprising, given that so many of our ancient sources present the fourth-century democracy in terms of the unbridled exercise of the popular will. In the *Ath. Pol.*, for example, we find the democracy of the fourth century – by the *Ath. Pol.*'s count the eleventh constitution under which the Athenians had lived – described in the following way:

> ἑνδεκάτη δ᾽ ἡ μετὰ τὴν ἀπὸ Φυλῆς καὶ ἐκ Πειραιέως κάθοδον, ἀφ᾽ ἧς διαγεγένηται μέχρι τῆς νῦν, ἀεὶ προσεπιλαμβάνουσα τῷ πλήθει τὴν ἐξουσίαν. ἁπάντων γὰρ αὐτὸς αὑτὸν πεποίηκεν ὁ δῆμος κύριον, καὶ πάντα διοικεῖται ψηφίσμασιν καὶ δικαστηρίοις, ἐν οἷς ὁ δῆμός ἐστιν ὁ κρατῶν. καὶ γὰρ αἱ τῆς βουλῆς κρίσεις εἰς τὸν δῆμον ἐληλύθασιν. καὶ τοῦτο δοκοῦσι ποιεῖν ὀρθῶς: εὐδιαφθορώτεροι γὰρ ὀλίγοι τῶν πολλῶν εἰσιν καὶ κέρδει καὶ χάρισιν. (*Ath. Pol.* 41.2)

> And the eleventh [constitution] was after the return from Phyle and the Piraeus, from which time it has continued to exist until the present day, always gathering to itself more power for the multitude [τῷ πλήθει]. For the *dēmos* has made itself sovereign [κύριον] over everything, and administers everything through decrees [ψηφίσμασιν] and the law-courts in which the *dēmos* holds the power. For even the judgments [κρίσεις] of the Council have passed to the *dēmos*, and in this respect they seem to act rightly, for the few are more corruptible than the many by bribery and favors.[11]

This hardly reads as if the author thought the *dēmos* had subordinated themselves to a strict legal or constitutional framework. In fact, this characterization of the fourth-century democracy seems to correspond to Aristotle's description in the *Politics* of a democracy which has ceased to be ruled by law (1292a4-38): in such a state, says Aristotle, the multitude and not the law is sovereign (κύριον δ᾽ εἶναι τὸ πλῆθος καὶ μὴ

[10] Hansen 1999, 174. Hansen has also written that "under the new democracy (403-322 B.C.) the *ekklesia* had no legislative powers in the true sense of the word." (1999, 335). Those scholars who doubt that, in the fourth century, it was the *nomoi* and not the *dēmos* that were sovereign (*kyrioi*) in Athens tend to cite Hansen as the modern originator of this view (e.g., Ober 1989, 299 n. 15 and Stockton 1990, 52 n. 44 and 45).

[11] Certain difficulties beset the translation of this passage, but they do not seem to affect the overall sense: see Rhodes 1981, 487-90. With respect to the concluding observation on the relative incorruptibility of the many, cf. Arist., *Pol.* 1286a31-3.

τὸν νόμον), and this happens whenever decrees take precedence over the law (τοῦτο δὲ γίνεται ὅταν τὰ ψηφίσματα κύρια ᾖ ἀλλὰ μὴ ὁ νόμος). Indeed, more than anything else, Aristotle sees the concentration of power in the Assembly and administration of the state through decrees or votes (*psēphismata*) as evidence that the rule of law does not prevail in a state: these decrees correspond to the injunctions issued by a tyrant (1292a17-20) and the demagogues, analogous to the flatterers at a tyrant's court, make decrees supreme (*kyrios*) over the law by bringing all business before the *dēmos* (1292a20-25); thus the demagogues grow great because the *dēmos* is sovereign (*kyrios*) over everything and the demagogues are sovereigns over the opinion (*doxa*) of the *dēmos* (1292a25-28). Meanwhile, the magistrates refer their judgments to the *dēmos* (1292a28-29: ἔτι δ᾽ οἱ ταῖς ἀρχαῖς ἐγκαλοῦντες τὸν δῆμόν φασι δεῖν κρίνειν, ὁ δὲ ἀσμένως δέχεται τὴν πρόκλησιν; note the correspondence with the reference to the *kriseis* of the Council in the above-quoted passage from the *Ath. Pol.*).[12] Aristotle ends by stressing that such a constitution (*katastasis*) is only *dēmokratia*, an inferior form of rule, and not a "constitutional government" (*politeia*) because here the law does not rule, as it should.[13]

It is this passage from the *Politics* that corresponds most closely to the *Ath. Pol.*'s description of fourth-century Athenian democracy, but throughout the *Politics* Aristotle

[12] Cf. 1286a26-28, which describes how "they now assemble" to judge and deliberate and issue decisions (*kriseis*), all of which decisions relate to individual issues (καὶ γὰρ νῦν συνιόντες δικάζουσι καὶ βουλεύονται καὶ κρίνουσιν, αὗται δ᾽ αἱ κρίσεις εἰσὶ πᾶσαι περὶ τῶν καθ᾽ ἕκαστον). Here again we seem to see all business being done on an *ad hoc* basis by the Assembly without regard for the supremacy of the laws.

[13] 1292a30-38: εὐλόγως δὲ ἂν δόξειεν ἐπιτιμᾶν ὁ φάσκων τὴν τοιαύτην εἶναι δημοκρατίαν οὐ πολιτείαν. ὅπου γὰρ μὴ νόμοι ἄρχουσιν, οὐκ ἔστι πολιτεία. δεῖ γὰρ τὸν μὲν νόμον ἄρχειν πάντων τῶν δὲ καθ᾽ ἕκαστα τὰς ἀρχάς, καὶ ταύτην πολιτείαν κρίνειν. ὥστ᾽ εἴπερ ἐστὶ δημοκρατία μία τῶν πολιτειῶν, φανερὸν ὡς ἡ τοιαύτη κατάστασις, ἐν ᾗ **ψηφίσμασι πάντα διοικεῖται**, οὐδὲ δημοκρατία κυρίως: οὐθὲν γὰρ ἐνδέχεται ψήφισμα εἶναι καθόλου. Note in particular the similarity of the boldfaced phrase to the expression from the *Ath. Pol.* 41.2, πάντα διοικεῖται ψηφίσμασιν, describing the fourth-century democracy.

contrasts the rule of law with the direct administration of affairs by the *dēmos*.[14] For example, in another passage following shortly after the one just discussed (1292b22-1293a10), Aristotle describes a preferred form of popular rule as one in which the farmers and men of moderate means hold power in the state. Having little free time due to their need to work to support themselves, they govern according to laws and assemble (only) when necessary.[15] In large cities, and in those where there is payment for political participation, the multitude (*plēthos*) find the leisure to rule directly and the laws are no longer sovereign (1293a9-10: διὸ γίνεται τὸ τῶν ἀπόρων πλῆθος κύριον τῆς πολιτείας, ἀλλ᾽ οὐχ οἱ νόμοι).[16] Thus, for Aristotle, there is an inverse relationship between popular engagement in democratic government and the rule of law.

Aristotle's emphasis on the distinction between the rule of law and radical democracy reflects his concern with legalism and constitutionalism generally: much of the *Politics* is concerned with elaborating Aristotle's ideas about law's importance and proper role in a well-ordered state.[17] Aristotle, needless to say, had been preceded by Plato, whose ideas about the rule of law are presented with perhaps even greater clarity.[18] Over the course of his life, Plato seems to have moved from a fascination with the idea of the philosopher-king to a conviction that the best achievable *polis* was one characterized

[14] The only clear difference between Aristotle's description of unconstitutional *dēmokratia* in the *Politics* and the description of fourth-century democracy in the *Ath. Pol.* is that the former focuses on the role played by demagogues, who in a sense are – collectively, at least – the real rulers of the debased version of rule by the many.

[15] 1292b25-29: ὅταν μὲν οὖν τὸ γεωργικὸν καὶ τὸ κεκτημένον μετρίαν οὐσίαν κύριον ᾖ τῆς πολιτείας, πολιτεύονται κατὰ νόμους (ἔχουσι γὰρ ἐργαζόμενοι ζῆν, οὐ δύνανται δὲ σχολάζειν, ὥστε τὸν νόμον ἐπιστήσαντες ἐκκλησιάζουσι τὰς ἀναγκαίας ἐκκλησίας).

[16] It is probably worth noting that, immediately after the characterization of fourth-century Athenian democracy at *Ath. Pol.* 41.2, and before turning to a detailed description of ἡ νῦν κατάστασις τῆς πολιτείας, the *Ath. Pol.* offers a brief excursus on the history of payment for attendance at the Assembly. Against the background of the *Politics*, its relevance in this odd position becomes obvious: we are being left with little doubt that fourth-century Athens is, in Aristotelian terms, a *dēmokratia* and not a *politeia*.

[17] See especially the discussion at 3.1286a10-1287b31.

[18] For a concise presentation of the contrast between Aristotle's and Plato's views of the rule of law, see Cohen 1995, 36-51.

by devotion to the rule of law.[19] In the *Politicus* and – somewhat less systematically – in the *Laws*, Plato presented the argument that, since it not realistic to expect a *polis* to be run by a single philosopher-king or a small cadre of enlightened experts,[20] and since the quality of true statesmanship cannot reside in any large collection of people,[21] then the most plausible way to ensure the good functioning of the *polis* is for all the citizens and officials to give absolute allegiance to a body of laws that incorporate the principles of good government in the interest of the whole community. Although the supremacy of the laws should, in Plato's view, arise voluntarily and organically out of the culture of the *polis* and the education of the people (in which the laws will, themselves, play a leading role),[22] it should also be absolute and loyalty to those laws should be unquestioning.[23]

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[19] On the evolution of Plato's political thought toward constitutionalism, and especially on the importance of the *Politicus* in that evolution, see McIlwain 1940, 30-42. (On the *Politicus* as an influence on Aristotle, see Jaeger 1934, 290.) The *Crito*, which contains Socrates' impassioned evocation of the Athenian laws (see discussion in Boegehold 1996, 210-213), is for good reasons usually taken to have been among the earliest of Plato's dialogues; in the terms of the apparent evolution of Plato's ideas on law, however, it almost seems to fit better among his very latest writings.

[20] Plato identifies at least two reasons for this. First, individual rulers are readily subject to corruption (*Laws* 713c-714a) and even if a man existed with the requisite knowledge to become a philosopher-king, he could not hope to acquire unaccountable power without becoming thus corrupted (*Laws* 875a-d). Second, the people are unlikely to trust any one man or small group of men with the power required by philosopher-kings (*Pol.* 301c-e). Since the first reason seems to pervade the discussion in the *Laws* and the second underlies much of the argument in the *Politicus*, it is possible that they illustrate the growing realism and/or pessimism of Plato's political thought; in other words, perhaps Plato first acknowledged (in *Politicus*) that the people would not believe in the possibility of philosopher-kings; later, perhaps, he acknowledged (in *Laws*) that the people were probably right.

[21] *Pol.* 292e-293a, 297b-c, 300e.

[22] Voluntary nature of submission to the rule of law: *Laws* 690c (τὴν τοῦ νόμου ἑκόντων ἀρχὴν ἀλλ᾽ οὐ βίαιον), 698a-701e (especially 700a: οὐκ ἦν, ὦ φίλοι, ἡμῖν ἐπὶ τῶν παλαιῶν νόμων ὁ δῆμός τινων κύριος, ἀλλὰ τρόπον τινὰ ἑκὼν ἐδούλευε τοῖς νόμοις). Relationship between education, culture, and the law: *Pol.* 308d-311b.

[23] See *Pol.* 297e (τὸ παρὰ τοὺς νόμους μηδὲν μηδένα τολμᾶν ποιεῖν τῶν ἐν τῇ πόλει, τὸν τολμῶντα δὲ θανάτῳ ζημιοῦσθαι καὶ πᾶσι τοῖς ἐσχάτοις), 300b-c (διὰ ταῦτα δὴ τοῖς περὶ ὁτουοῦν νόμους καὶ συγγράμματα τιθεμένοις δεύτερος πλοῦς τὸ παρὰ ταῦτα μήτε ἕνα μήτε πλῆθος μηδὲν μηδέποτε ἐᾶν δρᾶν μηδ᾽ ὁτιοῦν.). In Plato's imaginary Magnesia, the laws are to be fixed (ἀκίνητα), and no change in them is to be made except under the force of necessity and with the quite literally unanimous consent – ἐὰν συμφωνῶσι πάντες, οὕτω κινεῖν, ἄλλως δὲ μηδέποτε μηδαμῶς, ἀλλὰ τὸν κωλύοντα ἀεὶ κατὰ νόμον κρατεῖν. – of all the officials (*archai*), the whole *dēmos*, and all the oracles of the gods (*Laws* 772a-d). Note how, in Plato's description of the older version of Attic democracy (*Laws* 698a-701e, cited in the previous note), the people were sovereign over nothing (οὐκ ἦν … ὁ δῆμός τινων κύριος) and were as if slaves to the laws.

Thus, in Plato's conception as in Aristotle's, a tension exists between the supremacy of the law and the day-to-day exercise of the will of the *dēmos*, even if that tension is softened by the fact that the *dēmos* is expected to voluntarily set aside its own impulses out of respect for the law.

Some have contended that legalist/constitutionalist arguments like those of Plato and Aristotle were fashioned in the fourth century as an antidote to radical democracy as it had been or was being practiced in Athens. Sheldon Wolin, for example, has written that:

> Greek theorists developed a critique of democracy and then constructed a conception of how democracy might be domesticated, rendered stable, orderly, and just. Constitutionalism might be defined as the theory of how best to restrain the politics of democracy while ensuring the predominance of the social groups and classes represented by the best men.[24]

In Wolin's view, the idea of the sovereignty of law formed a critical element in such efforts to tame democracy:

> The push toward democracy during the fifth century was not, as it was and still is represented to be, a simple demand for "equality before the law." It was an attempt to redefine the terms of ruling and being ruled by insisting on a share of power. That demand issued not from a leveling impulse but from a realization by the demos that the power of the polis was, in large measure, their power…In response, the theorists of constitutionalism qualified the question of who should rule and how they should rule, by inventing the question of *what* should rule...The essence of the contrast, which became, as well, the essence of constitutionalism, was between depersonalized principles and partisan politics…The principal means for ensuring and representing depersonalization, and for containing the perpetual challenge to established power potentially present in politics, was the law.[25]

There is certainly something to be said for such a viewpoint; Plato and Aristotle sometimes do come very close to setting up an explicit opposition between democracy and law. Nevertheless, it cannot be denied that even in the speeches of the orators,

[24] Wolin 1994, 35. For an elaboration of the opposition between constitutionalism and democracy, see Wolin 1996.
[25] Wolin 1994, 46-47. A perspective very similar to Wolin's may be found in Havelock 1957: see especially pp. 399-402, on the struggle between the democrats and the philosophers to define *nomos* in political terms.

presumably our best source for the political ideology that actually prevailed among the *dēmos*, we find a great deal of evidence for the idea that the *dēmos* ought to defer to the laws. One of the clearest and most interesting formulations of such an idea occurs in Apollodorus's speech *Against Neaira*:

> **ὁ γὰρ δῆμος ὁ Ἀθηναίων κυριώτατος ὢν τῶν ἐν τῇ πόλει ἁπάντων, καὶ ἐξὸν αὐτῷ ποιεῖν ὅ τι ἂν βούληται**, οὕτω καλὸν καὶ σεμνὸν ἡγήσατ᾽ εἶναι δῶρον τὸ Ἀθηναῖον γενέσθαι [the speaker is discussing laws on citizenship], ὥστε **νόμους ἔθετο αὑτῷ καθ᾽ οὓς ποιεῖσθαι δεῖ**... **πρῶτον μὲν γὰρ νόμος ἐστὶ τῷ δήμῳ κείμενος**... ([Dem.] 59.88-89)

> For the Athenian people, being absolute master (*kyriōtatos*) over all things in the *polis* and having the power to do whatever it should wish, judged that the gift of Athenian citizenship was so fine and sacred that it imposed upon itself laws according to which it must act…For in the first place there is a law laid upon the *dēmos*….

A number of other passages in the orators also indicate the belief that the sovereignty of the people and of the law were not incompatible, and that the people should defer to the law. Hyperides, in his speech *In Defense of Euxenippus,* goes so far as to assert that the laws are actually sovereign (*kyrioi*):[26]

> ἐγὼ δὲ οὔτε πρότερον οὐδενὸς ἂν μνησθείην ἢ τούτου [τοῦ εἰσαγγελτικοῦ νόμου], οὔτε πλείους οἶμαι δεῖν λόγους ποιεῖσθαι περὶ ἄλλου τινὸς ἢ ὅπως ἐν δημοκρατίᾳ κύριοι οἱ νόμοι ἔσονται, καὶ αἱ εἰσαγγελίαι καὶ αἱ ἄλλαι κρίσεις κατὰ τοὺς νόμους εἰσίασιν εἰς τὸ δικαστήριον. (Hyp. 4.5)

> And I would neither remember anything other than this [law on impeachment], nor do I suppose that I need to discourse about anything other than how in a democracy the laws shall be sovereign (*kyrioi*) and impeachments and other judgments (*kriseis*) come before the court in compliance with the laws.

Many other passages from the orators with the same general import could be adduced in support of the claim that the Athenians took the constraints of the law very seriously,[27]

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[26] So far as I can discover, this is the only passage in the orators in which the word *kyrios* is actually used to refer to the laws; the word itself does not appear in other passages sometimes cited as proving – e.g. by Hansen 1999, 303 n. 89 – that the fourth-century Athenians regarded the laws as *kyrioi*.

[27] E.g., Lys. 2.18-19, Dem. 21.224-25, Dem. 25.20, Lyc. 1.66 (with discussion of this passage's implications in Boegehold 1996). (This is a very small selection.) Of course, the dikastic oath, in which

and I shall quote some others later in this chapter. I have also mentioned, above, the works of Ostwald and Sealey, in which an extended argument to this effect is made.

It is difficult to say with certainty how new this legalistic element in Athenian democratic ideology may have been or exactly when and how it may have arisen; there are reasons to think its origin was, in fact, very old.[28] In any event, a new reverence for fixed law can be detected in the fourth-century democracy, and this reverence finds its institutional counterpart not only in the above-mentioned distinction between *nomos* and *psēphisma* but also in an increased reliance on *nomoi* to regulate the secular institutions of the *polis*. Nowhere, perhaps, do we see this increased reliance more than in the realm of public finance.

2.2 The Legal Framework of Fourth-Century Public Finance

There can be little doubt that the operations of Athenian public finance in the fourth century were extensively regulated by a framework of *nomoi*. For example, the activities of the *apodektai*, the officials who distributed the revenues of the *polis*, were in some way governed by law from the first appearance of those officials in the latter part of the fifth century B.C.[29] In the Decree of Adrosios (*IG* I^3 84, 418/7), where the *apodektai* appear for the first time, we find them receiving moneys from the lease of the sanctuary of Codrus, Neleus and Basilē in the ninth prytany and then handing them over

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the jurors commit themselves to judge according to the laws, is itself evidence for the importance attached to law at Athens.

[28] Certainly strong statements about the sanctity of the law can be found already in the fifth century, in works as diverse as the tragedians and Thucydides: see, e.g., Boegehold 1996, 209-210. See also Ostwald 1969, *passim*.

[29] The *apodektai* will be discussed at length in the next chapter.

(παραδιδόντον, line 17) to the Treasurers of the Other Gods "in accordance with the law" ([κ]ατὰ τὸν νόμον, line 18). Not only does the presence of this phrase testify to the existence of a system of statutes (it is problematic to speak with full confidence of the difference between a law and a decree at this early date) that regularized certain kinds of financial operations, but the Decree of Adrosios is itself just such a statute, and it contains precise guidelines for the leasing of the sanctuary as well as provisions for the ultimate destination of the money from the lease.[30] It is probably the case that a statutory framework defined many financial activities of the *polis*, especially those handled by priests and other religious officials, as early as the fifth century and perhaps before.[31]

At any rate, we once again see the regulation of the *apodektai*'s activities by law beginning early in the fourth century. We have, for example, the following portion of a decree from early in the fourth century (probably 386 B.C.):[32]

> μερίσαι δὲ τ-
> ὸ ἀργύριον τὸ εἰρημένον τὸς ἀποδε-
> κτας ἐκ τῶν καταβαλλομένων χρημά-
> [τ]ων, ἐπειδὰν τὰ ἐκ τῶν νόμων μερ[ίσω]-
> [σι]. (*IG* II^2 29.18-22)

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[30] The relevant lines of the decree are quoted, and discussed in further detail, in Chapter Three, §3.1.2, below.

[31] A reference in the *Antattikistes* (86.20 Bekker), which tells us that in Solon's *axones* the *Genesia* is referred to as ἑορτὴ δημοτελής, provides support (admittedly slight) for the idea that public financing of festivals may have been regularized at an early date. Perhaps surprisingly, almost none of the laws commonly attributed to Solon are presented as having to do with state revenues or expenditures in any direct way. (The law cited by Plutarch in which Solon arranged for the valuation of sacred offerings and specified the payments to victors at the Olympic and Isthmian games [Plut., *Sol.* 23.3] seems barely worth noting as an exception.) On the other hand, Solon's alleged debasement of the currency (Plut., *Sol.* 15.4; cf. *Ath. Pol.* 10.2) and his division of the citizens into property classes (*Ath. Pol.* 7.3-4, Plut. *Sol.* 18.1-2) can easily be interpreted in terms of public finance.

[32] This inscription is also discussed in Chapter Three, §3.1.4.1, below. We do not have a prescript for this inscription, but the internal historical evidence used to date it (the escape, described by Xenophon, of a Spartan naval force from Athenian blockade during the Corinthian War) seems relatively secure (see discussion in *Tod* 116).

Obviously the *merismos* (the new fourth-century procedure according to which received moneys were distributed to various funds and officials) was controlled in some significant way by a set of laws. More will be said about this in Chapter Three.

Further epigraphic evidence, and evidence from the orators, gives us a more detailed idea of the kinds of laws that governed public finance. Two things emerge immediately from an examination of this evidence. First, a high proportion of the legislation for which we have evidence seems to have concerned the operations of public finance in one way or another. Second, the laws on public finance were often incredibly detailed in their provisions or far-reaching in their importance.

2.2.1 The Surviving Laws

We may begin with the laws that have survived on stone from the fourth century. There are at least nine of these, with the earliest dating from 375/4 and the latest from the 330s; one, the law on the sanctuary of Artemis at Brauron, cannot be dated with certainty but probably belongs late in the fourth century.[33] Of these nine laws, at least four deal extensively with issues of public finance, and all these will be discussed in some detail below.[34] Of the remaining five, one relates tangentially to public finance but remains unpublished,[35] three relate primarily to sacred matters (including some issues of sacred

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[33] For a list of these laws, and other documents that might possibly belong in the category of laws, see Stroud 1998, 15-16.

[34] In this category I would include the Law on Silver Coinage of 375/4 (Stroud 1974 = *SEG* 26.72 = *R-O* 25), The Grain-Tax Law of 374/3 (Stroud 1998 = *R-O* 26), the Law on the Repairs of the Piraeus Fortifications of 338/7 or 337/6 (*IG* II^2 244 = *Schwenk* 3), and the Law on the Little Panathenaia of (*IG* II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81).

[35] This is a law of 354/3 dealing with the operations of the Athenian Mint (Agora inventory no. I 7495).

finance beyond the scope of this essay),[36] and one is the famous Law Against Tyranny with the relief of *Dēmos* being crowned by *Eleutheria*.[37]

It is certainly noteworthy that such a high proportion of our surviving laws on stone deal with finance, and when one reads the financial provisions of the inscribed Athenian laws that we still possess, one is immediately struck by their length and apparent complexity. This is most conspicuous, perhaps, in the case of the Law on the Repairs of the Piraeus Fortifications (*IG* II^2 244 = *Schwenk* 3) and the Law on the Little Panathenaia (*IG* II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81). These laws are quite fragmentary, but between the gaps one glimpses a rather dizzying assortment of sums, names of officials, procedures, and objects of expenditure. It does not seem to be the case that the fragmentary character of these laws makes them appear more complex than they actually are, nor does it seem correct to suppose that their proliferation of details is characteristic only of the "Lycurgan era" of the 330s, when these two laws were published. The Grain-Tax Law of 374/3 is far earlier and nearly complete, but it too is startlingly intricate, with many highly detailed – and sometimes confusing – provisions.[38] Likewise, at least one of two laws which survive from the 350s, an unpublished law concerning the mint, also seems to be quite detailed (though fragmentary).[39] Based on the financial laws that have survived from the fourth century, one gravitates toward two conclusions: (1) that these laws tried to automate and "routinize" as much of financial procedure as was possible, and (2) that understanding – let along formulating – these

[36] These are the Law on the Eleusinian First Fruits of 353/2 (*IG* II^2 140), the Law on Offerings of 335/4 (*IG* II^2 333 = *Schwenk* 21), and the undated Law on the Sanctuary of Brauronian Artemis (*SEG* 35.83).
[37] 337/6 B.C. *SEG* 12.87 = *Schwenk* 6 = *R-O* 79.
[38] Shear 1987, first announcing the law's discovery under the heading "Tax Tangle, Ancient Style," emphasized nothing so much as the intricacy and apparent obscurity of the document.
[39] I wish to thank Dr. Mary Richardson for the opportunity to see her text of part of this law.

laws might require significant expertise. Both of these aspects of the laws on public finance could be seen as obstructing direct, democratic control of revenues and expenditures.

2.2.2 Financial Laws in the Orators

The surviving speeches of the orators also provide us with a sense of the place of public finance in Athenian law and the significance of the law in ordering the financial affairs of the state. In particular, the public speeches of Demosthenes, both deliberative and forensic, often take up questions relating to the legal framework of public finance. Most famous in this vein, perhaps, is the dispute over “the laws on the Theoric Fund” (τοὺς περὶ τῶν θεωρικῶν [νόμους], Dem. 3.11), which Demosthenes in the *Olynthiacs* regarded as hindering the freedom of action of the Assembly and constituting the key obstacle to Athens’ organization of a military force to fight Philip of Macedon.[40] These seem to have had something to do with “the surplus of the *dioikēsis*” spoken of by Theomnestus in the first part of the speech *Against Neaira* written by Apollodorus the son of Pasion, though Theomnestus speaks only about unspecified laws which prescribe a destination *other* than the Theoric Fund ([Dem.] 59.4). At any rate, Theomnestus speaks of an attempt by Apollodorus to redirect “the surplus of the *dioikēsis*” to military purposes; Apollodorus carried his decree in the Assembly but was thwarted by a *graphē paranomōn*.[41]

[40] In the *Third Olynthiac*, Demosthenes also urges the repeal of some the laws on military service (τοὺς περὶ τῶν στρατευομένων [νόμους] ἐνίους, Dem. 3.11).
[41] Though the laws which Apollodorus’s decree had violated apparently had nothing to do with the laws on the Theoric Fund or the surplus of the *dioikēsis* (his prosecutor, Stephanus, alleged that he was indebted to

While the debate over the Theoric Fund is perhaps the most famous historical example that attests the importance of law in Athens' public finances, other speeches in the Demosthenic corpus also reflect significant role for law in the fiscal affairs of the *polis*. We have, for example, the speech *On the Symmories* (Dem. 14) and other individual passages relating to Demosthenes' quest to reform the trierarchy, a prolonged struggle which took the form of an effort to alter existing law – an effort which, when finally successful, was met by the inevitable *graphē paranomōn* in defense of entrenched interests.[42]

Our two best literary sources for the role of law in public finance, however, are Demosthenes' speeches *Against Leptines* (Dem. 20) and *Against Timocrates* (Dem. 24). These speeches, which I shall treat at length in §2.3.1, below, discuss not only the specific financial laws proposed by Leptines and Timocrates, which Demosthenes wants to overturn through the process of *graphē nomon mē epitēdeion theinai*, but also other laws on finance that Demosthenes contends are relevant to the issues in each case. In *Against Timocrates*, for example, Demosthenes discusses a law according to which – he says – Athens' public money is administered (Dem. 24.97: διὰ τοίνυν τοῦ νόμου τούτου διοικεῖται τὰ κοινά; the full discussion is in Dem. 24.96-98). Demosthenes claims that this law will be undermined by Timocrates' law, and thus the whole financial administration of the state, both sacred and civil, will be destroyed (Dem. 24.96: τὴν

the state: [Dem.] 59.6), we see here a possible example of the *nomoi* interfering with a decree approved by the *dēmos*: Apollodorus, according to Theomnestus, believed that the people should be sovereign over their own money ([Dem.] 59.4: κύριον δ᾽ ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὑτοῦ ὅ τι ἂν βούληται πρᾶξαι) but the laws were regulating the destination of the surplus instead. This subject is discussed at more length in Chapters Three (§3.2.2) and Four (§4.2).

[42] The principal law that Demosthenes was trying to replace was apparently known as the "Law of Periander" ([Dem.] 47.21). For Demosthenes's own naval law of ca. 340, see Dem. 18.102-108. For comprehensive discussion, see Gabrielsen 1994, 173-217. I do not discuss liturgical finance in this work, but it seems worthwhile to mention our many references to laws that regulated this particular liturgy.

διοίκησιν ἀναιρεῖ, τήν θ᾽ ἱερὰν καὶ τὴν ὁσίαν).[43] Even if we posit that Demosthenes is engaging in hyperbole here, it seems fair to see this passage as evidence for the importance of the legal structures that underlay Athenian finance. Moreover, Demosthenes says that the effect of the law in question (not Timocrates' but the preexisting law on finance) is to allow the Council to employ other laws – the laws on tax-farming, the *nomoi telōnikoi* – to collect money that is owed to the *polis* and has not been paid at the Bouleuterion as required.[44] Evidently even the most fundamental operations of the Athenian financial system might rely on the interrelationships among a small constellation of laws.

In general, then, what we read in the orators about the laws on public finance not only tends to confirm the impression we get from the laws that survive on stone – i.e., that individual laws might be quite detailed and complex – but also adds the suggestion that this complexity was compounded by the possibility that many laws might apply to any given situation. Moreover, the obstacles to replacing, overriding or getting around an inconvenient law seem to have been significant. Here again the laws on finance can be plausibly characterized as presenting stumbling blocks to the sovereignty of the *dēmos*: the people, individually or collectively, may have found it difficult to understand the fiscal mechanisms of the *polis* or, to the extent that they did understand them, they may have found it hard to know how to revise them to produce a desired outcome.

[43] The expression "the *dioikēsis* both sacred and civil" here is interesting, insofar as it sometimes alleged that the term *dioikēsis* does not, as a rule, apply to sacred finances. (See the discussion of the term *dioikēsis* in Chapter Three, §3.2.1 , below.)

[44] These laws are mentioned again at Dem. 24.101. On the *nomoi telōnikoi*, see Schwann's 1936 article in *RE* 33. If *nomoi telōnikoi* refers to the total body of laws regulating taxation, then it would seem that both the Grain Tax-Law and the Law on the Little Panathenaia, surviving inscriptions on stone, represent examples of *nomoi telōnikoi.*

2.2.3 *Prosnomothesia* in Fourth-Century Public Finance

We also have a third set of evidence, smaller than either of the two just discussed but nevertheless significant for our understanding of the institutional operation of the laws on Athenian finance. I am speaking of those few inscribed decrees that require the revision of the law code in order to accommodate some relatively minor individual expenditure mandated by the Assembly. The revision of the law code in such circumstances seems to have been referred to as *prosnomothesia*.

I do not propose to deal here with all the complexities and controversies surrounding the process of *nomothesia*, of which *prosnomothesia* was a variant.[45] Suffice it to say that what distinguished a law from a decree in the fourth century was its approval by the *nomothetai*, a body of citizens chosen from among the potential jurors, in theory six thousand in number, who had sworn the Heliastic Oath in a given year.[46] The *nomothetai* would deliberate, apparently under the supervision of *proedroi* and at least sometimes with the assistance of the Council, and five persons would be selected to speak against the proposed change to the law code (Dem. 24.23). Then the *nomothetai* would vote, with a majority needed for the approval of the change to the existing code of laws. Of course, approval of the law might not be the end of the story: the law's proposer might face a charge of proposing an improper law (*graphē nomon mē epitēdeion theinai*),

[45] Our major pieces of evidence for the procedure, which do not seem to be entirely consistent with one another on all points, are Dem. 24 (*Against Timocrates*), Dem. 20 (*Against Leptines*), and Aeschin. 3 (*Against Ctesiphon*); other peripheral evidence comes from other sources, including inscriptions. A concise and readable treatment of the whole topic can be found in Hansen 1999, 161-177.

[46] This information comes from the text of an inserted law at Dem. 24.21. In *Against Timocrates*, the panel of *nomothetai* selected for deliberating upon Timocrates' law was to number 1,001 persons (Dem. 24.27) but the number of *nomothetai* (and their compensation) was apparently at the discretion of the Assembly (Dem. 24.21).

which, if successfully prosecuted before an Athenian jury, would result in the annulment of the law as well as the punishment of its proposer.

As in the case of the laws generally, a preponderance of our evidence for the operation of *nomothesia* comes from the sphere of public finance. Our most detailed treatments of the procedure come from the two speeches of Demosthenes already mentioned in the preceding section – *Against Leptines* (20) and *Against Timocrates* (24), which were delivered for *nomon mē epitēdeion theinai* cases brought against laws on public finance. As I have said, I will discuss these two speeches in more detail below. For now, let us turn to those three decrees that mandate *prosnomosthesia* in connection with some seemingly ordinary item of expenditure. [47]

In *IG* II^2 222, a decree honoring Pisithides of Delos which is traditionally dated (on the basis of letter-forms and rather weak historical evidence) to the mid-340s,[48] two particular expenditures are mentioned. First, the Treasurer of the *Dēmos* is to provide 30 drachmas for the inscription of the decree (ll. 29-31). This is a standard procedure in fourth-century decrees, and we encounter the Treasurer of the *Dēmos* mainly in provisions of decrees where he is charged with making just such payments.[49] Additionally, in order that Pisithides may not lack upkeep (*trophē*) until such time as he returns to his home on Delos, the same Treasurer (here modified by the expression [τὸν ἀεὶ τ]αμ[ι]εύοντα to indicate that the decree is referring to whoever happens to be holding the office rather than to the current treasurer only) is to pay Pisithides a drachma a day ἐκ

[47] For earlier summaries of the decrees I am about to discuss, see Kahrstedt 1938, 4-5 and Rhodes 1972, 101 including n. 4.
[48] On a redating of *IG* II^2 222 to the 330s by Osborne, see Schwenk 1985, 102 and 172.
[49] For other officials involved in paying for inscribing costs, see Chapter Three, §3.1.4.1 (including the sources cited in n. 41), below.

τῶ[ν κατὰ ψηφί]σματα ἀναλισκομένων [τῶι δήμωι] (ll. 35-41).[50] The expression τὰ κατὰ ψηφίσματα ἀναλισκόμενα τῶι δήμωι (with the implied noun χρήματα) is also standard; it refers to a fund controlled by the Treasurer of the *Dēmos* from which he is expected to meet expenses enjoined by the Assembly in its decrees.[51]

The provision for this second expenditure, the public stipend for Pisithides, is followed by special instructions for the *epistatēs* and the nine *proedroi* of the Council[52] to involve the *nomothetai* in seeing to it that the *apodektai* will distribute (μερίζειν: this is the verb normally associated with distributions by the *apodektai*) the appropriate money for Pisithides' stipend to the Treasurer of the *Dēmos* each year:

> ἐν δὲ τοῖς νομοθέται[ς] τ[ο]-
> [ὺς προέδρ]ους οἵ ἂν προεδρεύωσιν
> [καὶ τὸν ἐ]π[ισ]τάτην προσνομοθετῆ-
> [σαι τὸ ἀρ]γύριον τ[ο]ῦτο μερίζειν τ-
> [οὺς ἀποδ]έκτας τῶι ταμίαι τοῦ δήμ-
> [ου εἰς τὸ]ν ἐνιαυτὸν ἕκαστον. (*IG* II^2 222. 41-6)

The verb προσνομοθετέω, found in an Athenian context only here and in the two other inscriptions to be discussed below, apparently means something like "ordain by law besides" (the definition given by *LSJ*) or "add to the existing law code." It seems that the *nomothetai* must have a special meeting to embed somewhere within the Athenian code of laws the provision that "the *apodektai* are to allocate this money (i.e., the money for Pisithides' *trophē*) to the Treasurer of the *Dēmos* for each year" ([τὸ ἀρ]γύριον τ[ο]ῦτο μερίζειν τ-|[οὺς ἀποδ]έκτας τῶι ταμίαι τοῦ δήμ-|[ου εἰς τὸ]ν ἐνιαυτὸν ἕκαστον).

[50] Later in the decree it is specified that the Treasurer of the *Dēmos* is not actually expected to hand over a drachma to Pisithides every single day; rather he is to disburse the stipend in a lump sum once in each prytany: ὁ δὲ τ-|[αμίας ἀπ]οδότω Πει[σι]θείδει κατὰ|[τὴν πρυτ]ανείαν ἑκάστην (ll. 45-47).
[51] The first datable attestation of this fund is in 368/7 (*IG* II^2 106.18-19). Its exact designation varies slightly; for example, see below for the alternate designation τα κατὰ ψηφίσματα μεριζόμενα τῶι δήμωι. Rhodes 1972, 101(including n. 3) and 108-110 refers to it as "the ecclesia's expense-account"; I prefer to call it by the more awkward name of "Psephismatic Fund.."
[52] On these officials, see Rhodes 1972, 16-30.

The obvious question is why the disbursement of the money for the inscription of the decree is treated as a routine matter while the expenditure of the money for Pisithides' upkeep requires an alteration of the laws. While it is perhaps possible that this distinction has something to do with the nature of the expenses involved, it seems more plausible that the crucial difference is that the inscribing of the decree is a small, one-time expense while the maintenance of Pisithides requires the steady expenditure over an indefinite time of a much larger sum – up to 360 drachmas in an ordinary year, perhaps for several years, until Pisithides takes himself back to Delos.[53] The contrasting nature of the expenses are indicated by the tenses of the verbs in the inscription: the aorist δότω (line 30) is used for the expenditure of 30 drachmas for the inscription, but the ongoing payment of the daily drachma to Pisithides by the Treasurer, and the allocation of the money to the Treasurer by the *apodektai*, are both expressed in the present tense: διδόναι (line 38), μερίζειν (line 44).[54] The reference to [τὸν ἀεὶ τ]αμ[ι]εύοντα also emphasizes the indefinite period over which the distributions to Pisithides may take place.

It thus seems reasonable to expect that what is happening here is an increase in the annual "budget" of the Treasurer of the *Dēmos* so that he can have adequate resources on hand to provide for Pisithides' *trophē* on an ongoing basis. Thus, the *apodektai*, the chief handlers of public moneys (see Chapter Three, §3.1, below), are to give more money to the Treasurer each year to cover the increased cost. And to do this requires convening the *nomothetai* and altering the law code: a simple decree of the Assembly is

[53] See Kirchner: "τροφή Pisithidi decreta non continebatur pecuniis illis, quae τὰ κατὰ ψηφίσματα ἀναλισκομένα vocantur, ex quibus scilicet quidnam persolvendum esset, accurate lege constitutum erat; epistata igitur et proedri nomothetarum (cf. Dem. XXIV 33) iubentur additamento legi adiecto sancire, ut apodectae quotannis quaestori populi pecuniam Pisithidi decretam expendant."
[54] Compare the aorists μερίσαι and μερ[ίσω|σι] for one-time allocations by the *apodektai* in *IG* II^2 29 (see §2.2, above). In the decree for Pisithides, [ἀπ]οδότω (line 47; see above n. 50) seems to be in the aorist to emphasize that only one lump sum will be disbursed to Pisithides in each prytany. I would like to thank Alan Boegehold for reminding me of the significance of verbal aspect in Athenian financial documents.

not sufficient to allow the *apodektai* to increase the resources available to the Treasurer of the Dēmos by 360 drachmas per year. This argues that the annual allocation of the public revenues to the Treasurer of the *Dēmos* was specified by law, probably right down to the individual drachma.[55]

A second example of *prosnomothesia*, slightly harder to explain, may be found in an honorary decree (*IG* II^2 330 = *Schwenk* 18) from 335 B.C.:

> καὶ στεφαν[ῶσαι χρυσῶι στεφάνωι ἀπὸ Χ δραχμῶν · τὸ δὲ ἀ]-
> [ρ]γύριον τὸ εἰ[ς τὸ]ν στέφ[ανον προδανεῖσαι τὸν ταμίαν τοῦ]
> [δ]ήμου ἐκ τῶν [εἰς τ]ὰ κατὰ ψηφ[ίσματα ἀναλισκομένων τῶι δή]-
> [μ]ωι · ὅπως δ' ἂν ὁ τ[α]μίας ἀπολάβ[ηι τὸ ἀργύριον τὸ εἰρημένον]
> [τ]οὺς προέδρους, οἳ ἂν λάχωσι[ν πρῶτον προεδρεύειν εἰς το]-
> [ὺ]ς νομοθέτας προσνομοθετῆ[σαι περὶ τοῦ ἀναλώματος] (ll. 15-20)

A general similarity with the earlier decree is clear. Once again we are dealing with the Treasurer of the *Dēmos* and his "Psephismatic Fund" (see n. 51, above, for this terminology). Here again the *proedroi* are to bring a significant expenditure desired by the *dēmos* – in this case a 1000-drachma crown[56] – before the *nomothetai*. There are, however, two important differences between the last decree and this one. First, whereas the decree for Pisithides envisioned a recurrent expense, the decree for Phyleus indicates an (admittedly larger) one-time expense. Second, this decree is also explicit – assuming that the reconstruction προδανεῖσαι in line 16 is correct – that the Treasurer of the *Dēmos* is to advance the money for the crown *before* receiving it back (ἀπολάβ[ηι), presumably from the *apodektai*, as a result of the *nomothetai*'s operations.

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[55] Another possibility, perhaps, is that a decree would be sufficient to instruct the *apodektai* to increase the Treasurer's allocation, and the main purpose of the *prosnomothesia* is to register the change in the Treasurer's budget so that he will be held accountable at his *euthynai* for the proper management of the full amount that he has received. I find this explanation less plausible than one that focuses on the change in the legal obligations of the *apodektai*.

[56] The restorations in line 15 are extensive but do not seem objectionable.

We learn from this decree that the *nomothetai* might be involved in revising the laws on public finance to accommodate one-time expenditures as well as recurrent ones. If this is correct, it represents a rather striking fact, since *nomoi* are usually thought of as relating to recurrent situations, not to unique events. Whatever was the nature of the laws governing public finance, it appears at first glance that they might not permit the Assembly to decree even a one-time expenditure of a thousand drachmas by a particular official, at least not in this particular case.[57]

A third and final example of *prosnomothesia* is found in an inscription of 329 B.C.[58] from Oropos (*IG* VII 4254 = *Schwenk* 50). This latest inscription – incidentally, the last mention of *nomothesia* in the Athenian epigraphic record – tests our ingenuity in conceptualizing the regulation of Athenian finance by law. This inscription is also an honorary decree, this time for the ten men (listed in ll. 22-31) elected to oversee the festival of Amphiaraus. In addition to receiving praise for their *dikaiosunē* and *philotimia*, the men are also to be collectively crowned and given a stipend "for sacrificing and making a dedication"; they are also, apparently, to receive a small reward for *eutaxia* prescribed in the law on the festival:

> καὶ στεφανῶσαι αὐτοὺς χρυσῶι σ-
> τεφάνωι ἀπὸ : X : δραχμῶν, δοῦναι δὲ α-
> ὐτοῖς καὶ εἰς θυσίαν καὶ ἀνάθημα
> H : δραχμάς, τὸ δὲ ἀργύριον τ[ὸ] εἰς τὴ-
> ν θυσίαν προδανεῖσαι τὸν ταμίαν
> τοῦ δήμου, ἐν δὲ τοῖς πρώτοις νομο-
> θέταις προσνομοθετῆσαι τῶι ταμ-
> [ί]αι, δοῦναι δὲ καὶ τὰς τριάκοντα δ-
> [ρ]αχμὰς τὸν ταμίαν τοῦ δήμου τοῖς
> [α]ἱρεθεῖσιν ἐπὶ τὸν ἀγῶνα, ἃς εἴρη-

[57] It will become clear in Chapter Three that I do not endorse this interpretation with any enthusiasm; certainly we have several examples of substantial one-time expenditures which did not require *nomothesia*. Schwenk 1985, 102 may be correct when she supposes (on the basis of ll. 20-21 of the decree) that the annual allocation for the Treasurer of the *Dēmos* is to be permanently increased.

[58] Specifically, on the 33rd day of third prytany of 329/8, the 16th day of Pyanopsion.

ται διδόναι ἐν τῶι νόμωι τῶι αἱρε-
θέντι ἐπὶ τὴν εὐταξίαν (ll. 34-45)

What is interesting about this inscription is that of the various expenditures enumerated – the thousand drachmas for the crown, the hundred drachmas for *thusia* and *anathēma*, the thirty drachmas for *eutaxia* prescribed in the law – only the hundred drachmas for *thusia* and *anathēma* seem to require action by the *nomothetai*. This is somewhat mysterious, since the immediate source for all three expenditures is presumably the Treasurer of the *Dēmos*. This is not made explicit in the case of the 1000 drachmas for the crown, but the treasurer is normally the source of money for crowns (as in the previous decree for Phyleus) and it *is* made explicit in the case of the other two expenditures indicated in the lines quoted above. The thirty drachmas for the inscription of the decree are also to be paid by the Treasurer of the *Dēmos* from τα κατὰ ψηφίσματα μεριζόμενα τῶι δήμωι, and this also does not seem to require any special action by the *nomothetai* (ll. 45-53).[59]

Why is the Treasurer of the *Dēmos* described as "advancing" the hundred drachmas for the *thusia* and *anathēma* and not the much larger expenditure for the crown? If the Treasurer's funds, somewhat depleted by the expenses in this decree, are to be filled up again, why should this only be done to the tune of 100 drachmas? Why does the Treasurer not also "advance" the much larger expense for the crown, and have that made up to him as a result of action by the *nomothetai*? An answer seems almost impossible. All we can do is to consider possibilities:

(1) Perhaps the 100 drachma. expense was seen, somehow, as a more irregular expense for the Treasurer of the *Dēmos* than the money to be paid for the crown?

[59] See Schwenk 1985, 247 on the problematic nature of the financial provisions in this decree.

(2) Perhaps it was felt, either by the Treasurer of the Dēmos himself or by someone else, that the 100 dr. expense for the *thusia* and *anathēma* would be harder to justify at his *euthynai* than the payment for the crown, and the Assembly therefore found it desirable for there to be a record of it in the laws that directed the *apodektai* (actually not mentioned in this decree) to allocate money?

(3) Perhaps one of my assumptions about where the money is to come from is incorrect, for there is much that is not made explicit in the decree. Perhaps the funds for the crown were to come not from the Treasurer of the *Dēmos*, but from some other source. Or perhaps the *prosnomothesia* would result in the treasurer being reimbursed not by the *apodektai* but from some other, sacred, source of money that would be more appropriate for *thusia* and *anathēma*.

I doubt we can be sure which of these, if any, is the correct answer. We do not know why *prosnomothesia* was required for certain very particular expenses in these three decrees. But it appears that it *was* required, and that the authors of the decrees and the Athenian Assembly were expected to know and reckon with the fact that it was required. Here, we see the legal framework impinge – apparently – upon the will of the sovereign *dēmos* even in the case of a one-time expense of a hundred drachmas.

2.2.4 Legal Regulation of Finance in the Context of Democracy

At the end of §2.1, above, I discussed a small portion of the abundant evidence in favor of Athenian democracy's devotion to the sanctity of the law. On the basis of that evidence, it seems clear that, while some modern scholars and ancient critics of democracy have seen a tension between democratic ideals and the rule of law, the ordinary Athenian did not. In fact, in the speeches of the orators we are prone to find the rule of the law equated to democracy in a very direct way, as, for example, in this passage from Aeschines:

> διοικοῦνται δ᾽ αἱ μὲν τυραννίδες καὶ ὀλιγαρχίαι τοῖς τρόποις τῶν ἐφεστηκότων, αἱ δὲ πόλεις αἱ δημοκρατούμεναι τοῖς νόμοις τοῖς κειμένοις. μηδεὶς οὖν ὑμῶν τοῦτ᾽ ἀγνοείτω, ἀλλὰ σαφῶς ἕκαστος ἐπιστάσθω, ὅτι ὅταν εἰσίῃ εἰς δικαστήριον γραφὴν παρανόμων δικάσων, ἐν ταύτῃ τῇ ἡμέρα μέλλει τὴν ψῆφον φέρειν περὶ τῆς ἑαυτοῦ παρρησίας. διόπερ καὶ ὁ νομοθέτης τοῦτο πρῶτον ἔταξεν ἐν τῷ τῶν δικαστῶν ὅρκῳ, "ψηφιοῦμαι κατὰ τοὺς νόμους," ἐκεῖνό γε εὖ εἰδώς, ὅτι ἂν διατηρηθῶσιν οἱ νόμοι τῇ πόλει, σῴζεται καὶ ἡ δημοκρατία. (Aeschin. 3.6)

> Tyrannies and oligarchies are administered (*dioikountai*) according to the characters of those in charge, but cities where the people rule are administered according to the established laws. Let no one among you neglect the following, but let each man understand it clearly: that whenever he enters the *dikastērion* to give judgment in a case of *graphē paranomōn*, on that day he will cast a vote concerning his own freedom of political participation (*parrhēsia*). Therefore did the law-giver place this first in the Dikastic Oath: "I will vote according to the laws." He knew well that if the laws are maintained in the *polis*, democracy too is kept safe.

Obviously one must not ignore the fact that the speaker of such a passage is interested in winning his case, and formulates a version of democratic ideology adapted to gaining that end: Aeschines was trying to pit respect for the law against the political popularity of Demosthenes. Famously, he failed to secure even one-fifth of the jury's votes. But Aeschines' claims about the virtual identity of democracy and respect for the law nevertheless do not seem to depart from any deeply-rooted self-concept of the Athenian *dēmos*.[60] It has often been pointed out, reasonably, that the ideology of committed Athenian democrats – people less interested in categorizing and logic-chopping than

[60] E.g., Dem. 21.223-24. (See also [Dem.] 42.15.)

philosophers or scholars – was ample enough to include two ideas at once: both the supremacy of popular will *and* deep reverence for the established law.[61] Ober has remarked that

> …modern discussions of the relative sovereignty of law and demos in Athens, while interesting in terms of abstract legal theory, misrepresent the Athenian reality: most Athenians were not interested in resolving the contradiction. We have seen that the Athenian masses were perfectly capable of maintaining two philosophically contradictory concepts when they felt that each was valid and useful. And nothing prevented them from embedding contradictory concepts in the state 'constitution.'[62]

This is entirely sensible when we descend from the heights of politico-philosophical speculation to the history of ordinary political discourse. But what I hope the preceding discussion of the legal framework of public finance has suggested is that the tension between law and democracy seems to re-emerge again when one descends yet further, from ideological discourse to the nuts and bolts of administrative reality. Contemplating the array of laws involved in the administration of public finance, laws that seem to have been simultaneously far-reaching and minute, one does begin to question whether the complexity of the legal machinery was not in fact an obstacle to meaningful democratic decision-making.

Thus Strauss writes that the fourth-century democracy evinced "important restrictions on that sovereignty of the people to which Aristotle refers, restrictions that demonstrate respect for law and constitutional procedure" and that "in the long run, [these restrictions] protected democracy." He sees the most significant of these changes as occurring in the financial sphere, where the new legal framework meant that "the

[61] See, for instance, the excellent discussion by Jones 1957, 50-54.
[62] Ober 1989, 299-300; see the whole discussion on pp. 299-304.

government became more efficient by loosening the reins [held by] the Assembly."[63] Atkinson speaks of a transition from "consensus politics" in the fifth century to "management politics" in the fourth and notes that in the fourth century "some Athenians struggled to achieve the right balance between democratic structures and effective technical systems" while "the trend was toward greater use of laws to govern the disbursement of public funds."[64] Even Ober seems to acknowledge that greater articulation of the law code in the fourth century tended, on balance, to privilege the elites and experts over the mass of the citizens; the response of the democracy was to attempt to keep laws "general rather than specific" so that the "collective wisdom" of ordinary citizens could take precedence over special education and expertise. But the laws on public finance seem to have been nothing if not specific.[65]

In the rest of this chapter, I seek to explore the ideology of Athenian democracy directly, as it interfaces with institutions, especially the institutions of public finance. In so doing, I will try to highlight the linkages between the jealous safeguarding of popular sovereignty, democratic reverence for the law, and the effort to embody both of these principles in administrative practice. More concretely, I will attempt to argue that much of the legal and institutional framework of public finance was in fact designed with an eye to keeping control of the state's money in the hands of the *dēmos*. That argument will be continued in Chapter Three.

2.3 Further Consideration of the Relationship Between Democratic Ideology and Athenian Law

[63] Strauss 1991, 219-221.
[64] Atkinson 2003, 24, 28 and 42.
[65] Ober 1989, 303.

2.3.1 Democratic Ideology and Athenian Law in the Speeches *Against Leptines* and *Against Timocrates* (Dem. 20 and 24)

I turn now to a close reading of the two speeches of Demosthenes which I mentioned in §2.2.2, above – the speech *Against Leptines*, delivered (by the orator himself) in 355/4 B.C., and that *Against Timocrates*, delivered (by Diodorus) about two years later in 353/2.[66] As I have pointed out, these are both speeches written for court cases in which the proposers of new laws on public finance were indicted on the charge called *graphē nomon mē epitēdeion theinai*, the proposing of an "inappropriate" law.[67] These speeches are, I believe, the best place to seek for an understanding of the way in which democratic ideology conceived of the relationship between democracy and the law in practical, institutional terms – and particularly with respect to the operation of public finance. It is in speeches such as these that we should expect to see how democratic ideology expressed itself when confronted by practical problems of *polis* governance.[68]

It is somewhat unfortunate for our purposes that both these orations were composed by the same man: even though Demosthenes was constrained by the need to

[66] The dates are given by Dion. Hal. *Amm.* 1.4 and are generally accepted. For an argument that *Against Timocrates* was delivered in 354/3, see Lewis 1954, 32.
[67] For this charge, see Hansen 1974, 44-48. As Hansen notes, not everyone agrees that this charge is the one under which these cases were brought. Badian, for instance, believes that both trials involved the more common charge of *graphē paranomōn* (2000, 23 with n. 40 on pp. 41-42 for *Timocrates* and p. 27 of the same essay for *Leptines*). But Badian's position is hard to understand: several passages in each speech – e.g., Dem. 20.83, 88, 95, 153 and Dem. 24.1, 33, 48, 61, 68, 109, 138, 212 – seem to suggest that the crucial issue was whether or not the indicted law was *epitēdeios*. It is worth noting that, by the time the speech *Against Leptines* was delivered in court, Leptines himself faced no personal penalty and only the validity of his law was at issue (Dem. 20.144).
[68] Jacqueline de Romilly demonstrated that the speeches in the Demosthenic corpus contained profound and revealing meditations on the nature of law and its relationship to democracy. My reading of *Leptines* and *Timocrates* should ideally be considered in conjunction with her readings of *Meidias* (Dem. 21) (Romilly 1971, 139-154) and the two speeches Against Aristogeiton ([Dem.] 25 and 26) (Romilly 1971, 155-178).

appeal to the instincts of Athenian juries, his views may nevertheless contain some personal element that might have manifested itself in both speeches.[69] On the other hand, the perspective which emerges from these speeches holds up quite well when considered in light of the speeches of other orators and, indeed, in light of the epigraphic record.

Against Leptines and *Against Timocrates* are concerned with different facets of Athenian public finance. Leptines' law cancelled all pre-existing grants of immunity from liturgies (*ateleia*), except for the descendants of the Tyrannicides, and prohibited any such grants in the future. Timocrates' law, on the other hand, allowed state debtors to avoid incarceration until the ninth prytany so long as they provided the *polis* with sureties for their debt.[70] But despite the very different character of the two laws, I hope to show that the speeches favoring their annulment exhibit a remarkable unanimity concerning the role of law in the context of Athenian democracy.

The opening of the speech *Against Leptines* might at first be read as implying an antithesis between the constraints of law and democratic power, for Demosthenes opposes Leptines' law to the rights of the sovereign *dēmos* in a straightforward way: the new law takes away the people's right to grant immunity from liturgies. But Demosthenes feigns incredulity: surely Leptines cannot mean that the people are unworthy to be sovereign over the granting of *ateleia* to whomever they wish (Dem. 20.2:

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[69] Against this possibility may be set the fact that Demosthenes prevailed in his fight against Leptines' law, as Dio Chrysostom tells us (31.138) and as the immunity granted to the sons of Leucon by a surviving decree from 346 seems to confirm (*IG* II^2 212 = *R-O* 64; see Chapter 3, §3.2.3.2 below); this suggests that the ideological coloring of *Against Leptines* at least did not alienate the jury. *Against Leptines* has also been noted since antiquity as being one of the most plainly and lucidly written of Demosthenes' speeches, extraordinarily free of both rhetorical artifice and *ad hominem* arguments – this, presumably, would make it harder to disguise any ideological idiosyncrasies: for discussion, see Harris 2008, 20-21.

[70] In *Against Leptines*, Demosthenes argues that the liturgies affected by the law have nothing to do with the "revenues and surpluses" of the public treasury (οὐ γὰρ κοινωνεῖ ταῖς δημοσίαις προσόδοις καὶ περιουσίαις ταῦτα τἀναλώματ᾽ οὐδέν) and that Leptines' law thus will not solve the problem of the current shortfall in state revenues (20.24-25). In *Against Timocrates*, Demosthenes contends that the direct consequences of the law for Athens' financial administration will be quite severe (24.92-101).

οὐ γὰρ ἐκεῖνό γ᾽ ἔνεστιν εἰπεῖν ὡς … καὶ τὸν δῆμον ἀνάξιον ἡγεῖτο κύριον εἶναι τοῦ δοῦναι, ἐάν τῳ βούληται). Demosthenes goes on to say that perhaps Leptines has tried to pass his law because the people are so readily deceived (Dem. 20.3: διὰ τὸ ῥᾳδίως ἐξαπατᾶσθαι τὸν δῆμον), but he at once points out that this might as easily be an excuse for abolishing the whole democratic constitution, for there is no sort of matter with respect to which the *dēmos* has not been or will not be deceived; deception of the *dēmos* from time to time is inevitable.[71] Instead of making a law to deprive us of our sovereignty, says Demosthenes, we ought to make a law to punish the one who deceives us:

> οὐ γάρ ἐσμεν ἀφαιρεθῆναι δίκαιοι περὶ ὧν ἂν ἐξαπατηθῶμεν, ἀλλὰ διδαχθῆναι πῶς τοῦτο μὴ πεισόμεθα, καὶ **θέσθαι νόμον οὐχ ὃς ἀφαιρήσεται τὸ κυρίους ἡμᾶς εἶναι, ἀλλὰ δι᾽ οὗ τὸν ἐξαπατῶντα τιμωρησόμεθα** (Dem. 20.4).

In this proposed alternative, we have the glimmer of a principle by which a democratic ideology might have judged its laws – namely, do they act in restraint of the sovereign people – which is unjust – or do they act to punish those who would do the people harm?[72]

The opening passages of *Against Timocrates* are even richer in ideological implications. Here, Demosthenes (via Diodorus) presents Timocrates' law as a sort of "anti-law," a law utterly at odds with all the existing laws that preserve and defend the democracy:

> τῶν γὰρ ὄντων ἀγαθῶν τῇ πόλει καὶ τοῦ δημοκρατουμένην καὶ ἐλευθέραν εἶναι ὡς ἄλλο τι τῶν νόμων αἰτιώτερόν ἐστιν, οὐδ᾽ ἂν ἕν᾽ εἰπεῖν οἶμαι. περὶ τοίνυν αὐτοῦ τούτου νῦν ὑμῖν ἐστιν, πότερον δεῖ τοὺς μὲν ἄλλους νόμους, οὓς ἐπὶ τοῖς ἀδικοῦσι τὴν πόλιν ὑμεῖς ἀνεγράψατε, ἀκύρους εἶναι, τόνδε δὲ κύριον, ἢ τοὐναντίον τοῦτον μὲν λῦσαι, κατὰ χώραν δὲ μένειν τοὺς ἄλλους ἐᾶν. τὸ

[71] See Chapter 1, §1.2, above.
[72] This principle has been anticipated in Chapter 1, §1.4, above.

μὲν οὖν πρᾶγμα περὶ οὗ δεῖ νῦν ὑμᾶς γνῶναι, ὡς ἐν κεφαλαίῳ τις ἂν εἴποι, τοῦτ᾽ ἐστίν (Dem. 24.5).

I do not suppose that anyone would say that anything other than the laws is responsible both for the good things which the *polis* has and for its being democratic and free. So you now face the following question: whether the other laws, which you have written against those who do harm to the *polis,* are to be invalid (*akyroi*), and this one sovereign (*kyrios*), or whether on the other hand you should cancel this law and allow the others to endure in this land. This, therefore – to put it briefly – is the issue upon which you now must render an opinion.

Demosthenes' terse insistence on the harmony between democracy and law is as emphatic as anything quoted or cited in the previous sections (see especially the quotation from Aeschines in §2.2.4, above, and the additional citations in n. 60). And Demosthenes specifically identifies the good laws that preserve the democracy (and which are invalidated by the law of Timocrates) as "the laws which you have written against those who do harm to the *polis.*"[73] Thus, Demosthenes here characterizes good, pro-democratic *nomoi* just as he did in the prooemium of *Against Leptines*: they are directed against those who would deceive (Dem. 20.4: τὸν ἐξαπατῶντα) or injure (Dem. 24.5: τοῖς ἀδικοῦσι) the Athenians. Furthermore, the law of Timocrates, which renders all these laws nugatory, does so by weakening the power of the *dēmos* – specifically by undermining the people's votes and destroying the sovereignty of the *dikastēria*:

τὴν γὰρ ὑμετέραν ψῆφον, ἣν ὀμωμοκότες περὶ πάντων φέρετε, λύει καὶ ποιεῖ τοῦ μηδενὸς ἀξίαν ὁ τουτουὶ νόμος, οὐχ ἵνα κοινῇ τι τὴν πόλιν ὠφελήσῃ (πῶς γάρ; ὅς γε, ἃ δοκεῖ συνέχειν τὴν πολιτείαν, τὰ δικαστήρια, ταῦτ᾽ ἄκυρα ποιεῖ τῶν προστιμημάτων τῶν ἐπὶ τοῖς ἀδικήμασιν ἐκ τῶν νόμων ὡρισμένων) (Dem. 24.2)

For this man's law abolishes and renders worthless your vote (*psēphos*), which you, having sworn an oath, give concerning all things. It does this not in order to assist the community – and how could it, when it deprives the courts, which ought to sustain the constitution (*politeia*), of their

[73] Elsewhere in the speech, Demosthenes will again argue that the passage of Timocrates's law made most of the existing laws *akyroi*: νόμῳ δ᾽ ἑνὶ πλείστους ὑπάρχοντας ἀκύρους ἐποίησαν (Dem. 24.16). At Dem. 24.155-157, Demosthenes claims that Timocrates has deliberately used the name of *nomos* to disguise his attack on the spirit of the *nomoi*: νόμον ἔθετ᾽ ὄνομα τοῖς αὑτοῦ κακουργήμασιν (157). See also Dem. 24.199 (νόμους εἰσφέρει πᾶσιν [τοῖς νόμοις] ἐναντίους).

sovereignty over the additional penalties (*prostimēmata*) delineated in the laws for the punishment of injustices (*adikēmasin*)?

In other words, Timocrates' law not only attacks the people's sovereignty but in so doing deprives them of the protection of the existing laws, the laws that were written by the people against those who do injustices (Dem. 24.5: νόμους, οὓς ἐπὶ τοῖς ἀδικοῦσι τὴν πόλιν ὑμεῖς ἀνεγράψατε) and which therefore outline special penalties (*prostimēmata*) for those injustices. There is an implication here that the sovereignty of the *dēmos* and the sovereignty of the *nomoi* are not merely in accord with one another but mutually sustaining. Plainly, Demosthenes sees the sovereignty of the *dēmos* in the *dikastēria* as required to enforce the provisions of the laws.[74] Furthermore, it is easy to imagine the laws not only as not threatening the people's sovereignty but as *guaranteeing* it, insofar as those who "do injustices" can be regarded as representing a direct threat to the supremacy of the *dēmos*. Actually, the prooemium of *Against Timocrates* makes it clear that this is how the doers of injustices punished by the laws probably *should* be regarded. For Demosthenes represents Timocrates' assault on the existing laws as the sinister maneuver of a powerful cabal intent upon usurping the people's rights for the sake of stealing their money. Indeed, Timocrates' law was proposed specifically "so that some of those who have long reaped your fruits and plundered much that is yours shall not

[74] M.H. Hansen has often noted that the sovereignty of the laws in Athens was closely connected with the sovereignty of the people's courts, and that the ideology of the fourth-century democracy saw no inconsistency in asserting that both *nomoi* and *dikastēria* were *kyria*. On the other hand, Hansen denies that the *dēmos*, which he identifies exclusively with the Assembly (e.g., Hansen 1983b and Hansen 1989b , was seen as sovereign in the same way as the laws and the law courts, e.g.: "[T]he *dicasteria* in our sources are superior to the *demos* and control the *demos*" (Hansen 1983b, 160); "[T]he step from the supreme *demos* to the supreme *demos*-in-the-*ekklesia* is conspicuously absent from all fourth-century sources….The People's Court is set off against the People's Assembly and is sometimes singled out, at the expense of the *ekklesia*, as the supreme body of government" (Hansen 1999, 303). On the subordination of the *dēmos* to the laws in Hansen's thinking, see §2.1 including n. 10 above. Hansen's position that the *dikastēria* were radically separate from the *dēmos* has not achieved general acceptance, and I incline to the majority view according to which the Assembly and the law courts were seen by Athenian democrats as alternative expressions of the popular will.

even pay to you those things which they were openly caught stealing" (ἀλλ᾽ ἵνα τῶν πολὺν χρόνον ὑμᾶς τινες ἐκκεκαρπωμένων καὶ πολλὰ τῶν ὑμετέρων διηρπακότων μηδ᾽ ἃ κλέπτοντες φανερῶς ἐλήφθησαν καταθῶσιν, Dem. 24.2). It was in exchange for payments from members of this cabal, says Demosthenes, that Timocrates proposed his law. Throughout the speech the orator recurs again and again to the threat posed by these men to the people and their treasury.[75]

The notion that law exists as an instrument to protect the *dēmos* against those powerful individuals who would undermine or circumvent it is one which recurs throughout the speeches *Against Leptines* and *Against Timocrates*. Some passages from these two speeches develop this idea in great detail. At *Against Leptines* 88-101, Demosthenes discusses a law being proposed by Apsephion – the bringer of the *graphē nomon mē epitēdeion theinai* whose suit Demosthenes is supporting – which is intended to replace Leptines' law.[76] In conformity with the principle that "we ought to make a law not to deprive us of our sovereignty but rather to punish the one who deceives us" (Dem. 20.4), Apsephion's proposed law will *not* abolish existing grants of *ateleia* or make it impossible for the *dēmos* to decree new ones; instead, it will institute a procedure that

[75] Other references to the conspiracy behind the law: 24.26-27 (διαπραξάμενος μετὰ τῶν ὑμῖν ἐπιβουλευόντων), 59-60 (δι᾽ οὓς μὲν τοίνυν οὗτος εἰσέφερεν, ὑμεῖς οὐδὲν ἐμοῦ χεῖρον γιγνώσκετε), 66-67 (ὑπὲρ μεγάλ᾽ ἠδικηκότων ὑμᾶς), 110-112 (τινες πρέσβεις αἱρεθέντες ὑπὸ τοῦ δήμου, πλούσιοι ὄντες, ὑφείλοντο χρήματα πολλά, τὰ μὲν ἱερά, τὰ δ᾽ ὅσια, καὶ εἶχον χρόνον πολύν), 120-122 (τοῖς δ᾽ ὑφαιρουμένοις τὰ τῆς πόλεως καὶ ἱεροσυλοῦσι τὰ τῆς θεοῦ τὸν δεσμὸν ἀφεῖλεν), 174 (τούτων μὲν μετέχουσιν ὧν ἀδικοῦσιν ὑμᾶς τινες, ἀπὸ δὲ τῶν εἰσπραττομένων ὑφαιροῦνται), 205 (τοῖς ὑμᾶς βουλομένοις ἀδικεῖν). Names are named and personal histories discussed at 24.125-130 (Androtion, Glaucetes, and Melanopus) and at 159-186 (where the focus is on Androtion). Occasionally there are references to Timocrates' having introduced his law for private interst without any explicit mention of the cabal behind him: e.g., Dem. 24.200-203 (κολακεύει δὲ καὶ μισθοῦ γράφει καὶ πολιτεύεται), 211 (οἶδα δὲ Τιμοκράτην, ὅτι τὸν νόμον εἰσενήνοχε τοῦτον οὐχ ἥκισθ᾽ ὑπὲρ αὑτοῦ).

[76] In this section of the speech, Demosthenes seems to create some ambiguity about whether the annulment of Leptines' law will automatically result in the enactment of the law proposed by Apsephion. First he strongly implies that it will (Dem. 20.88-97); then he solemnly promises that, if it does not, Apsephion and his friends will introduce their new law for consideration by the people (98-100); finally, he challenges Leptines to bring forward the new law himself if Apsephion and Demosthenes should fail to do so (101). For an attempt to make sense of the apparent uncertainties here, see Hansen 1985, 350-352.

will enable the *dēmos* to revoke grants of *ateleia* that it feels were wrongly conferred or which the recipients no longer deserve.[77] This will preserve the principle that the *dēmos* should be free to do as it wishes – a principle that Demosthenes says is embodied in the sovereign laws (Dem. 20.96-97: τοῦτο μέν ἐστιν ἐν τοῖς οὖσι νόμοις κυρίοις ὑπάρχον καλόν, ὦ ἄνδρες Ἀθηναῖοι, καὶ σαφές, 'τὰς δωρειὰς ὅσας ὁ δῆμος ἔδωκε κυρίας εἶναι': δίκαιον, ὦ γῆ καὶ θεοί). For the future, Apsephion's law will place all authority in the hands of the people, as is just (Dem. 20.98: καὶ τὸ λοιπὸν ἐφ' ὑμῖν εἶναι πάνθ', ὥσπερ ἐστὶ δίκαιον, καὶ δοῦναι καὶ μή). Here again, we see the principle that the sovereignty of the laws must not impinge upon the sovereignty of the people.

More importantly, Demosthenes' discussion of Apsephion's proposed alternative elucidates the conception of the role of the existing laws in the preservation of democracy and popular sovereignty. They serve, Demosthenes explains, not only to punish wrongdoers – who might or might not be regarded as threats to the *dēmos per se* – but also to regulate political activity in general. Demosthenes complains that Leptines enacted his law without observing the procedures – mandated, says Demosthenes, by a law of Solon – that allow the people to thoroughly scrutinize they law they are adopting:[78]

[77] At Dem. 20.97, Demosthenes explains that Apsephion's law will include "a just grounds for you to prevent from keeping their grants [of *ateleia*] those whom you believe have cheated you or have subsequently done you an injustice or are wholly unworthy" (πρόφασις δικαία κατὰ τῶν ἢ παρακρουσαμένων ἢ μετὰ ταῦτ' ἀδικούντων ἢ ὅλως ἀναξίων, δι' ἣν ὃν ἂν ὑμῖν δοκῇ κωλύσετ' ἔχειν τὴν δωρειάν). Thus, it will be possible for those who are deserving to keep their grants but for those who are judged undeserving to be deprived of them "if they should receive something unjustly" (ἐνταῦθ' ἔνι καὶ τοὺς ἀξίους ἔχειν τὰ δοθέντα καὶ τοὺς μὴ τοιούτους κριθέντας, ἐὰν ἀδίκως τι λάβωσιν, ἀφαιρεθῆναι, Dem. 20.98).

[78] It is not entirely clear that Leptines actually did anything wrong, and there is reason to believe that Demosthenes' arguments in this portion of the speech are mostly for show. But that does not invalidate his portrayal of democratic ideology here; in fact, one would expect an orator to trumpet widely accepted democratic beliefs all the louder in situations where he found himself without the facts on his side.

> οὐ γὰρ ᾤετο δεῖν ὁ Σόλων, ὁ τοῦτον τὸν τρόπον προστάξας νομοθετεῖν, τοὺς μὲν θεσμοθέτας τοὺς ἐπὶ τοὺς νόμους κληρουμένους δὶς δοκιμασθέντας ἄρχειν, ἔν τε τῇ βουλῇ καὶ παρ᾽ ὑμῖν ἐν τῷ δικαστηρίῳ, **τοὺς δὲ νόμους αὐτούς, καθ᾽ οὓς καὶ τούτοις [θεσμοθέταις] ἄρχειν καὶ πᾶσι τοῖς ἄλλοις πολιτεύεσθαι προσήκει**, ἐπὶ καιροῦ τεθέντας, ὅπως ἔτυχον, μὴ δοκιμασθέντας κυρίους εἶναι (Dem. 20.90)

> For Solon, who established this manner of legislating, did not think it fit that on the one hand the *thesmothetai*, who are chosen by lot to supervise the laws, should hold office (*archein*) only after having twice undergone *dokimasia*, once in the Council and one before you in a law court, while on the other hand **the laws themselves, in accordance with which these *thesmothetai* ought to perform their official duties (*archein*) and in accordance with which all others ought to conduct themselves when taking part in governance (*politeuesthai*)**[79], should become authoritative (*kyrioi*) without having been scrutinized (*mē dokimasthentas*).

It is perhaps not surprising to read that the laws of Athens regulate political activity and the conduct of officials. But things become more interesting when Demosthenes goes on to describe how some of those "taking part in governance" (*hoi politeuomenoi*) have chafed under the regulation of the laws and have begun to undermine them. Having grown powerful, they made it possible for themselves to legislate whenever and however they wished: τῶν πολιτευομένων τινὲς δυνηθέντες, ὡς ἐγὼ πυνθάνομαι, κατεσκεύασαν αὑτοῖς ἐξεῖναι νομοθετεῖν, ὅταν τις βούληται καὶ ὃν ἂν τύχῃ τρόπον (Dem. 20.91). The result was that new laws were enacted even though older laws that contradicted them had not been repealed; the contradictions have now become so severe, says Demosthenes, that "the laws are no different from decrees." (Dem. 20.92: ψηφισμάτων δ᾽ οὐδ᾽ ὁτιοῦν διαφέρουσιν οἱ νόμοι).[80] And this has, in effect, weakened democracy because it has widened the gulf between ordinary Athenians and professional politicians. "Solon" had intended that there should be only one law on each subject and that those laws should be easy to read and understand; this was so that the average citizen should not be at a

[79] The middle voice of πολιτεύεσθαι makes it unlikely that the verb here can mean simply "live in the *polis*" or "be a citizen." At any rate, the usage of this same verb in the other passages that I shall cite makes it nearly certain that Demosthenes is speaking here primarily of active politicians or of those holding office.

[80] Note here a democratic explanation for the situation to which Aristotle objects (see §2.1, above).

disadvantage relative to the legal expert (Dem. 20.93: ἵν᾽ εἷς ᾖ περὶ τῶν ὄντων ἑκάστου νόμος, καὶ μὴ τοὺς ἰδιώτας αὐτὸ τοῦτο ταράττῃ καὶ ποιῇ τῶν ἅπαντας εἰδότων τοὺς νόμους ἔλαττον ἔχειν, ἀλλὰ πᾶσιν ᾖ ταὔτ᾽ ἀναγνῶναι καὶ μαθεῖν ἁπλᾶ καὶ σαφῆ τὰ δίκαια). Moreover, the lawgiver sought to facilitate genuinely popular debate concerning proposals for enactment of new laws (Dem. 20.94: ἵν᾽ ἕκαστος ὑμῶν ἀκούσας πολλάκις καὶ κατὰ σχολὴν σκεψάμενος, ἃν ᾖ καὶ δίκαια καὶ συμφέροντα); he therefore insisted on a lengthy period during which each such proposal should be made available to the people both in writing, before the statues of the eponymous heroes in the *agora*, and orally, being read aloud before each meeting of the assembly (Dem. 20.94). It was by ignoring this and other stipulations of the existing laws that Leptines was able to pass his (fundamentally undemocratic) legislation.[81]

In general, therefore, (and specifically in the case of the laws' regulation of legislation) the object of the laws is to safeguard democracy and the *dēmos* by constraining the activities of officials and politicians.[82] Where powerful politicians manage to undermine or transgress the laws, democracy in the Athenian sense of the word is weakened as elites (like οἱ ἅπαντας τοὺς νόμους εἰδότες) gain in power relative to the *dēmos.*

The idea that the law exists mainly to constrain officials and politicians and thus protect democracy from the encroachments of the powerful also emerges in a discussion of the laws near the end of *Against Timocrates* (Dem. 24.192-193) in which Demosthenes postulates two categories of laws that exist in every *polis*. There are, first, the laws that

[81] Dem. 20.94: οὐδὲ γὰρ ἂν ὑμεῖς ποτ᾽ ἐπείσθητε, ὡς ἐγὼ νομίζω, θέσθαι τὸν νόμον.
[82] This idea is stated with exceptional clarity in the opening passages of the second speech *Against Aristogeiton* ([Dem.] 26). I do not discuss these at length in this essay both because of the possibility that the oration is spurious and from considerations of space.

regulate private intercourse and deal with how men should live with respect to one another; second, there are the laws that govern how each man is to conduct himself toward the commonality of the *polis* if he should wish to take part in political life:

> ἔστιν, ὦ ἄνδρες Ἀθηναῖοι, δύ᾽ εἴδη περὶ ὧν εἰσιν οἱ νόμοι κατὰ πάσας τὰς πόλεις: ὧν τὸ μέν ἐστιν, δι᾽ ὧν χρώμεθ᾽ ἀλλήλοις καὶ συναλλάττομεν καὶ περὶ τῶν ἰδίων ἃ χρὴ ποιεῖν διωρίσμεθα καὶ ζῶμεν ὅλως τὰ πρὸς ἡμᾶς αὐτούς, **τὸ δέ, ὃν τρόπον δεῖ τῷ κοινῷ τῆς πόλεως ἕν᾽ ἕκαστον ἡμῶν χρῆσθαι, ἂν πολιτεύεσθαι βούληται καὶ φῇ κήδεσθαι τῆς πόλεως** (Dem. 24.192).

It is interesting to observe that neither of these categories of laws seems to encompass the relations of private citizens to the state; the citizen's relationship to the government becomes important only insofar as he becomes politically active by choice (ἂν πολιτεύεσθαι βούληται καὶ φῇ κήδεσθαι τῆς πόλεως). Certainly there is no hint that laws are enacted to protect the *dēmos* from itself. Instead, Demosthenes regards "constitutional" laws – laws that define the politics and governance the *polis* – as enacted primarily for the regulation of politicians: πολιτεύεσθαι not only echoes its use in Dem. 20.90 (above) but also evokes the *politeuomenoi* who are attacked throughout both speeches as a threat to democracy.[83] Demosthenes goes on to explain that it is in the interest of the jurors (also identified as "the many") that the laws on private matters should be gentle and humane, whereas the laws that define relations to the state (*dēmosion*) should be forceful and harsh; for in this way politicians (οἱ πολιτευόμενοι) will be least apt to do injustices to "you, the many" (τοὺς πολλοὺς ὑμᾶς):

[83] E.g., Dem. 24.157: οὐ γὰρ ἁπλῶς, οὐδ᾽ ὅπως ἔτυχον, ποιοῦσι κακῶς ὑμᾶς, ἀλλ᾽ ἐσκεμμένως καὶ τοῦτ᾽ αὐτὸ πράττοντες, οὐχ οὗτοι μόνον, ἀλλὰ **πολλοὶ τῶν πολιτευομένων**. Up to this point, I have been speaking of "the laws" generally without making Demosthenes' distinction between private and public or "constitutional" laws. I ask my reader to accept that I am concerned in this essay exclusively with the latter and do not mean to imply that the laws on murder or adoption, for example, were intended *primarily* for the regulation of politicians or officials – though of course they *did* regulate how officials could employ their powers in dealing with such offenses.

> ἐκείνους μὲν τοίνυν τοὺς νόμους τοὺς περὶ τῶν ἰδίων ἠπίως κεῖσθαι καὶ φιλανθρώπως ὑπὲρ τῶν πολλῶν ἐστιν: τούσδε δὲ τοὺς περὶ τῶν πρὸς τὸ δημόσιον τοὐναντίον ἰσχυρῶς καὶ χαλεπῶς ἔχειν ὑπὲρ ὑμῶν ἐστιν: **οὕτω γὰρ ἂν ἥκισθ᾽ οἱ πολιτευόμενοι τοὺς πολλοὺς ὑμᾶς ἀδικοῖεν** (Dem. 24.193).

The same themes recur again and again throughout both these speeches. The law exists not to regulate the activities of the *dēmos* but to secure its sovereignty, i.e., its right to govern as it wishes.[84] The authority of the laws and that of the courts are repeatedly identified with one another – so much so that Demosthenes can even assert, without fear of absurdity, that "the sovereign laws make these men [the jurors] sovereign" (οἱ μὲν ὄντες ἡμῖν κύριοι νόμοι τουτουσὶ ποιοῦσι κυρίους ἁπάντων, Dem. 24.118).[85] On the one hand, the laws are the guardians of the sovereignty of the *dēmos*; on the other hand, the *dēmos* must act as guardian of the laws.[86] Both the laws and the courts exist primarily to protect the *polis*, the *dēmos*, and the democratic constitution.[87] Specifically, they protect

[84] In the context of *Against Leptines*, this is usually expressed in terms of the people's right to give whatever gifts it wishes: e.g., Dem. 20.102-103, 148. In *Against Timocrates*, Timocrates' law is a bad law – and contrary to all the other laws (see n. 73, above) – because it interferes with democratic sovereignty. Note especially Dem. 24.57-58 (οὑτοσὶ τοίνυν τὴν αὐτὴν κατέγνω παρανομίαν τῶν ἐπὶ τῆς δημοκρατίας πεπραγμένων ἥνπερ τῶν ἐπ᾽ ἐκείνων ὑμεῖς: ὁμοίως γοῦν ἄκυρα ποιεῖ) and Dem. 24.152 (ἡ γὰρ πόλις ἡμῶν, ὦ ἄνδρες δικασταί, νόμοις καὶ ψηφίσμασιν διοικεῖται. εἰ δή τις τὰ ψήφῳ κεκριμένα νόμῳ καινῷ λύσει, τί πέρας ἔσται; ἢ πῶς τοῦτον δίκαιόν ἐστι νόμον προσαγορεύειν, ἀλλ᾽ οὐκ ἀνομίαν;). At Dem. 20.105-108 Demosthenes makes an almost Aristotelian argument that, while Spartan laws might be appropriate for an oligarchy, the Athenians require good laws for a *politeia* in which the people rule.

[85] It is clear that τουτουσὶ refers to the jurors; the speaker, Diodorus, is addressing Timocrates and gesturing (no doubt dramatically) in their direction. At Dem. 24.152 (quoted in the previous note) Demosthenes claims that a law which overrides the votes of juries – or even, perhaps the *psēphismata* of the assembly: note the slippage between ψηφίσμασιν and ψήφῳ -- is not *nomos* but *anomia*.

[86] Laws as protecting the sovereignty of the *dēmos*: Dem. 20.107: παρὰ δ᾽ ἡμῖν ταύτης [τῆς πολιτείας] μὲν ὁ δῆμος κύριος, καὶ ἀραὶ καὶ νόμοι καὶ φυλακαὶ ὅπως μηδεὶς ἄλλος κύριος γενήσεται. *Dēmos* as guardians of the law: Dem. 20.154: ἔστι γάρ, ὦ ἄνδρες Ἀθηναῖοι, πάντας μὲν τοὺς νόμους ὑμῖν, ὡς ἐγὼ νομίζω, σπουδαστέον ὡς κάλλιστ᾽ ἔχειν. Even more strikingingly, note Dem. 24.34-39 where the mutual guardianship between *dēmos* and *nomoi* is very clearly expressed. Hansen would argue that it is not the *dēmos* but only the *dikastai* who serve as guardians of the laws (see n. 74, above), but I find it incredible that a statement like τίς οὖν μόνη φυλακὴ καὶ δικαία καὶ βέβαιος τῶν νόμων; ὑμεῖς οἱ πολλοί (Dem. 24.37) does not refer to the *dēmos* as a whole: it seems to me that the phrase τοὺς πολλοὺς ὑμᾶς *must* refer to the totality of the *dēmos* at Dem. 24.193.

[87] Demosthenes remarks at 24.154 that in the past the destruction of democracy has begun with the undermining of the sovereignty of the courts (ἀκούω δ᾽ ἔγωγε καὶ τὸ πρότερον οὕτω καταλυθῆναι τὴν δημοκρατίαν, παρανόμων πρῶτον γραφῶν καταλυθεισῶν καὶ τῶν δικαστηρίων ἀκύρων γενομένων: a clear reference to the events of 411). At 24.206, Demosthenes hints that Timocrates' law is a knowing attempt to set this same process in motion again.

democracy and the *dēmos* from possible injustices wrought by those who hold extraordinary power by reason of wealth, elite status, or official position. [88] In short, it was the conviction of popular democratic ideology that the laws of Athens existed not to impose any serious limits on the willfulness of the *dēmos* but rather to constrain as completely as possible those persons best able to thwart the popular will or to injure the people's interests.[89]

2.3.2 The Democratic Ideology of Law, Law's Origin, and the Character of Athenian Politics

In the previous chapter (see especially §1.4), I discussed at some length the extent to which distrust of the powerful was a defining feature of Athenian democracy. Given this, it should not be surprising to find in these two speeches an ideology according to which the laws – those περὶ τῶν πρὸς τὸ δημόσιον, at any rate – serve primarily to act as

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[88] In Athenian oratory, these suspect elites seem to be identified by many names, including *rhētor*s, *hoi politeuomenoi*, and *hoi legontes*. It seems clear that the general category of powerful and dangerous men encompassed also those holding official position: although the three variations on the phrase *archontes kai politeuomenoi* in the prooemium to [Dem.] 26 (τοὺς ἐν ταῖς ἀρχαῖς ὄντας καὶ τοὺς πολιτευομένους, [Dem.] 26.1; τῶν ἀρχόντων καὶ πολιτευομένων, [Dem.] 26.3; πάσας καὶ τὰς ἀρχὰς καὶ τοὺς πολιτευομένους, [Dem.] 26.4) may represent a formal distinction between those who exercise political influence in and out of office (see Hansen 1974, 22-23), certainly the intention is to set both types of men against the *dēmos* or, alternatively, the private individual (*idiōtēs*). And of course *rhētor*s and *hoi politeuomenoi* sometimes held office: see, for example, Dem. 24.142-143 on the evils that politicians do: **οἱ δὲ παρ᾽ ἡμῖν ῥήτορες**, ὦ ἄνδρες δικασταί, πρῶτον μὲν ὅσοι μῆνες μικροῦ δέουσι νομοθετεῖν τὰ αὑτοῖς συμφέροντα, ἔπειτ᾽ αὐτοὶ μὲν τοὺς ἰδιώτας εἰς τὸ δεσμωτήριον ἄγουσιν **ὅταν ἄρχωσιν**, ἐφ᾽ ἑαυτοῖς δ᾽ οὐκ οἴονται δεῖν ταὐτὸ δίκαιον τοῦτ᾽ εἶναι: ἔπειτα τοὺς μὲν τοῦ Σόλωνος νόμους τοὺς πάλαι δεδοκιμασμένους, οὓς οἱ πρόγονοι ἔθεντο, λύουσιν αὐτοί, τοῖς δ᾽ ἑαυτῶν, οὓς ἐπ᾽ ἀδικίᾳ τῆς πόλεως τιθέασιν, χρῆσθαι ὑμᾶς οἴονται δεῖν. εἰ οὖν μὴ τιμωρήσεσθε τούτους, οὐκ ἂν φθάνοι τὸ πλῆθος τούτοις τοῖς θηρίοις δουλεῦον. I have quoted this passage at length because it exemplifies nicely the feeling that dishonest elites and would-be oligarchs were an ever-present threat to the laws and the democracy.

[89] Anticipating his discussion at 24.192-193, Demosthenes says at 24.170-171 that the "spirit of the *polis*" (τὸ τῆς πόλεως ἦθος) is τοὺς ἀσθενεῖς ἐλεεῖν, τοῖς ἰσχυροῖς καὶ δυναμένοις μὴ ἐπιτρέπειν ὑβρίζειν, οὐ τοὺς μὲν πολλοὺς ὠμῶς μεταχειρίζεσθαι, κολακεύειν δὲ τὸν ἀεί τι δύνασθαι δοκοῦντα. In a notable passage, Demosthenes cites examples of well-intentioned politicians who submitted to the chastisement of the laws (24.134-136).

a check on orators, politicians, officials and powerful individuals generally. If it is surprising, that is perhaps because the more systematic ideology of law that we find in writers like Plato and Aristotle can appear so different. Aristotle, for instance, sometimes seems to identify law, and even democratic law, with "rule" (*archē*) and even with the authority of officials (*archai*).[90]

Nevertheless, such a conception as the one outlined above makes sense in light of much that we know or suspect about the origins of *nomos*; there is reason to believe that laws were first written down and codified specifically in order to limit the freedom of the powerful to impose their personal will on the many.[91] Some ancient accounts even suggest that one of Solon's purposes in setting down his laws was to maximize the power of the *dikastēria* relative to other sources of authority.[92] Even Plato in his *Statesman*

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[90] Aristotle says that (radical) democracy makes the "many" sovereign while stripping the *archai* of their power: e.g., *Pol.* 4.1292a28-30 (ἔτι δ᾽ οἱ ταῖς ἀρχαῖς ἐγκαλοῦντες τὸν δῆμόν φασι δεῖν κρίνειν, ὁ δὲ ἀσμένως δέχεται τὴν πρόκλησιν: ὥστε **καταλύονται πᾶσαι αἱ ἀρχαί**) and 6.1217b25-30 (τὸ δικάζειν πάντας καὶ ἐκ πάντων, καὶ περὶ πάντων, ἢ περὶ τῶν πλείστων καὶ τῶν μεγίστων καὶ τῶν κυριωτάτων, οἷον περὶ εὐθυνῶν καὶ πολιτείας καὶ τῶν ἰδίων συναλλαγμάτων, **τὸ τὴν ἐκκλησίαν κυρίαν εἶναι πάντων ἢ τῶν μεγίστων, ἀρχὴν δὲ μηδεμίαν μηθενὸς ἢ ὅτι ὀλιγίστων κυρίαν**). For further discussion and citations, see Cohen 1995, 39-41.

[91] Ostwald 1969 argued that the word νόμος began to be applied to written law when the Athenians established their democracy and rejected the idea that laws should be imposed from above. Some of our earliest Greek written laws seem to me to reflect a desire to protect popular interests against the encroachments of the powerful. The earliest extant Greek law, from Dreros on Crete (*M-L* 2), imposes limitations on a particular magistrate's term of office. An early written law from Elis contains the remarkable assertion that no individual (such as a magistrate) may overlook a written law by the voice of the people (*IvO* 7.3-4). On the other hand, some have argued in recent years that written law was generally the creation of elites and was intended to secure their authority: for an excellent discussion, see Gagarin 2008, especially 67-92. (Gagarin argues that written laws probably did not serve a faction or class interest but rather "helped strengthen the whole community's sense of itself as a single political entity" [89].)

[92] According to Plutarch (*Sol.* 5.2-3), there was a story that Anacharsis had laughed at Solon for thinking he could curb injustice (*adikia*) and greed (*pleonexia*) with written laws; these, said Anacharsis, were like cobwebs: they would catch the weak but be torn to pieces by the rich and powerful (ὑπὸ δὲ τῶν δυνατῶν καὶ πλουσίων διαρραγήσεσθαι). According to this story, events justified Anacharsis. On the other hand, Plutarch also reports an opinion that Solon drafted his laws so that they would be unclear and self-contradictory (τοὺς νόμους ἀσαφέστερον γράψας καὶ πολλὰς ἀντιλήψεις ἔχοντας), with the intention of maximizing the power of the *dikastēria* (*Sol.* 18.3). Since the jurors would have substantial latitude to interpret the laws' meaning, they would be in a certain respect sovereign over the laws (τρόπον τινὰ τῶν νόμων κυρίους). The same opinion is discussed in the *Ath. Pol.*, where Aristotle rejects the idea that it was Solon's original intention to enhance the power of the courts in this way (*Ath. Pol.* 9).

seems to give some such account of the origin of law.[93] There is also ample reason to believe that the development of democratic ideology in the fifth century was characterized by an intensifying interest in holding officials to account.[94] And certainly the Decree of Teisamenos (Andoc. 1.83-84), which authorized republication of the law code after the restoration of democracy in 403/2, reveals a special concern with making sure that officials would adhere to the laws.[95] Against this background, then, there is no practical inconsistency in the absolute identification of the sovereign *nomoi* with the sovereign *dēmos* – κύριοι νόμοι τουτουσὶ ποιοῦσι κυρίους ἁπάντων – or in the conceptualization of law as the means by which the *dēmos* not only thwarts its enemies but imposes its will upon those who are to be made to serve it.[96]

2.3.3 Some Additional Literary Evidence

This perspective on the place of law in the Athenian democracy does not appear only in the two speeches I have been discussing (though for reasons discussed above it assumes special prominence there); it can also be detected throughout the orators in most passages where law and democracy are discussed. For reasons of space, I will confine

[93] Plat. *Pol.* 297e-299e presents an analogy (*schēma*) according to which law arises from of the multitude's fear of being harmed by those who possess expertise or hold an official position. At 298e-299a, Plato lays particular stress on the power of courts to compel officials to conform to the laws. Cf. 301b-d, where it is asserted that people will assume that any sole ruler (*archōn*) threatens them with harm if he rules according to his own expertise and not in accordance with the established laws.

[94] See Roberts 1994, 36-37 for the likelihood that *hypeuthynos* ("accountable") was a catchword of fifth-century democracy. Ostwald 1986, 3-83 sees the origin and fifth-century growth of democracy in similar terms.

[95] The decree emphasizes that new laws are to be made available to magistrates (Andoc. 1.83) and enjoins, ἐπιμελείσθω ἡ βουλὴ ἡ ἐξ Ἀρείου πάγου τῶν νόμων, **ὅπως ἂν αἱ ἀρχαὶ τοῖς κειμένοις νόμοις χρῶνται** (1.84). Andocides also mentions that one of the first new laws of the restored democracy forbade the *archai* to employ an unwritten law (1.85).

[96] More explicit justifications for this last assertion will be presented below.

myself here to only a few of the more famous passages, those which I have already cited above.

In §2.1, above, I quoted portions of a passage from *Against Neaira* ([Dem.] 59.88-89) as examples of the "constitutional" thinking according to which law serves as a restraint upon the *dēmos*. Although this passage can be read as speaking of a law "imposed upon the people" (νόμος ἐστὶ τῷ δήμῳ κείμενος) that limits the conditions under which they can confer citizenship, the subsequent sections of that same speech describe this law in more detail and present it in terms far more amenable to the idea of law that we find in *Leptines* and *Timocrates*.[97] For example, we are told that the law commands (κελεύει) the *prytaneis* to conduct citizenship votes in such a way as to guarantee the individual citizen the maximum possible freedom from interference with his own judgment:

> **τοὺς δὲ πρυτάνεις κελεύει** τιθέναι τοὺς καδίσκους **ὁ νόμος** καὶ τὴν ψῆφον διδόναι προσιόντι τῷ δήμῳ πρὶν τοὺς ξένους εἰσιέναι, καὶ τὰ γέρρα ἀναιρεῖν, **ἵνα κύριος ὢν αὐτὸς αὑτοῦ ἕκαστος σκοπῆται πρὸς αὑτὸν ὅντινα μέλλει πολίτην ποιήσεσθαι...** ([Dem.] 59.90)

In this passage the law is seen as *ensuring*, not limiting, the sovereignty of the *dēmos* by *commanding* the *prytaneis* – the occupants of *archai* who otherwise might be in a position to exercise an undesirable degree of influence over the votes of the people in citizenship proceedings – to take measures guaranteeing that the citizens can think for

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[97] The extent to which these passages should be seen as implying the limitation of the *dēmos*'s sovereignty by law is closely connected with the question of how one should translate certain participles (ὢν and ἐξὸν) in [Dem.] 59.88. The original passage (with the relevant participles highlighted) is: ὁ γὰρ δῆμος ὁ Ἀθηναίων κυριώτατος **ὢν** τῶν ἐν τῇ πόλει ἁπάντων, καὶ **ἐξὸν** αὐτῷ ποιεῖν ὅ τι ἂν βούληται, οὕτω καλὸν καὶ σεμνὸν ἡγήσατ᾽ εἶναι δῶρον τὸ Ἀθηναῖον γενέσθαι, ὥστε νόμους ἔθετο αὑτῷ καθ᾽ οὓς ποιεῖσθαι δεῖ, ἐάν τινα βούλωνται, πολίτην. DeWitt's Loeb translation (1949) takes the participles concessively and renders this passage as "For the civic body of Athens, **although** it has supreme authority over all things in the state, and it is in its power to do whatsoever it pleases, **yet** regarded the gift of Athenian citizenship as so honorable and so sacred a thing that it enacted in its own restraint laws to which it must conform, when it wishes to create a citizen." By contrast, Bers in his 2003 translation does not assume that these participles are to be taken concessively and the implied degree of constraint upon the *dēmos* seems much less.

themselves about how to vote. It may be that the *prytaneis* are to be regarded as the real objects of this law's compulsion. Moreover, the law also permits any citizen (τῷ βουλομένῳ Ἀθηναίων) to challenge the outcome of the vote and bring it before a court. Apollodorus stresses the fact that the intent is to protect the citizen body from being deceived as to the worthiness of the candidate for citizenship:

> ἔπειτα μετὰ ταῦτα παρανόμων γραφὴν ἐποίησε κατ᾽ αὐτοῦ τῷ βουλομένῳ Ἀθηναίων, καὶ **ἔστιν εἰσελθόντα εἰς τὸ δικαστήριον ἐξελέγξαι ὡς οὐκ ἄξιός ἐστι τῆς δωρεᾶς, ἀλλὰ παρὰ τοὺς νόμους Ἀθηναῖος γέγονεν**. καὶ ἤδη τισὶ τοῦ δήμου δόντος τὴν δωρεάν, **λόγῳ ἐξαπατηθέντος** ὑπὸ τῶν αἰτούντων, παρανόμων γραφῆς γενομένης καὶ εἰσελθούσης εἰς τὸ δικαστήριον, ἐξελεγχθῆναι συνέβη τὸν εἰληφότα τὴν δωρεὰν μὴ ἄξιον εἶναι αὐτῆς, καὶ ἀφείλετο τὸ δικαστήριον ([Dem.] 59.90-91).

It appears that a major objective of the law discussed here by Apollodorus, in addition to regulating the activity of *prytaneis* in conducting citizenship votes, was to create a grounds of action in the event that a candidate for citizenship misrepresented himself to the *dēmos*: this is why the first provision of the law mentioned by Apollodorus was that the people could not grant citizenship to anyone unworthy ([Dem.] 59.89: πρῶτον μὲν γὰρ νόμος ἐστὶ τῷ δήμῳ κείμενος μὴ ἐξεῖναι ποιήσασθαι Ἀθηναῖον, ὃν ἂν μὴ δι᾽ ἀνδραγαθίαν εἰς τὸν δῆμον τὸν Ἀθηναίων ἄξιον ᾖ γενέσθαι πολίτην). The "imposition" upon the *dēmos* here is really the creation of a special opportunity to challenge a grant of citizenship before a court.[98]

Apollodorus then goes on to speak of another "most sovereign law" (κυριώτατος νόμος) debarring new-made citizens from certain magistracies. This, says Apollodorus,

[98] The other provision of this law mentioned by Apollodorus, namely that all citizenship grants must be confirmed by secret ballot of at least 6,000 citizens at the next Assembly (ἐπειδὰν πεισθῇ ὁ δῆμος καὶ δῷ τὴν δωρεάν, οὐκ ἐᾷ κυρίαν γενέσθαι τὴν ποίησιν, ἐὰν μὴ τῇ ψήφῳ εἰς τὴν ἐπιοῦσαν ἐκκλησίαν ὑπερεξακισχίλιοι Ἀθηναίων ψηφίσωνται κρύβδην ψηφιζόμενοι, [Dem.] 59.89) likewise seems less a constraint on the ability of the *dēmos* to enforce its will than an opportunity for it to revisit a decision regarded as important. In general, the Athenians seem to have believed that the will of the people would be more truly expressed the longer the people had to consider their conclusions: see, for example, the words of Diodotus in the Mytilene debate at Thuc. 3.42.1.

illustrates the foresight (*pronoia*) which the *dēmos* has exercised in its own and the gods' behalf (ἕτερός ἐστιν ἐφ᾽ ἅπασι τούτοις κυριώτατος νόμος κείμενος: οὕτω πολλὴν ὁ δῆμος πρόνοιαν ἐποιεῖτο ὑπὲρ αὑτοῦ καὶ τῶν θεῶν… [Dem.] 59.92). Although this law is described as "most sovereign" (κυριώτατος), it is also described as the product of the people's foresight, a defense of itself and its own interests. It seems that the laws on the making of citizens, as set forth by Apollodorus, are much less about restricting the freedom of the *dēmos* than they are about maximizing it – by limiting the power of others (officials and foreigners who request citizenship) in relation to it.

The other quotation that I mentioned in §2.2 as an example of Athenian orators advocating deference to the rule of law was a passage from Hyperides' *In Defense of Euxenippus*. This too assumes a new complexion when considered in light of the perspective on *nomos* outlined in §2.3.1, for Hyperides can easily be read as saying that the nature of law in a democracy is to refer all decisions to the popular courts (ἐν δημοκρατίᾳ κύριοι οἱ νόμοι ἔσονται, καὶ αἱ εἰσαγγελίαι καὶ αἱ ἄλλαι κρίσεις κατὰ τοὺς νόμους εἰσίασιν εἰς τὸ δικαστήριον (Hyp. 4.5). But the most striking feature of this passage, which is often cited as straightfoward evidence of "the sovereignty of law"at Athens,[99] is that, when considered in its context, it asserts the sovereignty of the laws for the sake of arguing that part of the law in question, the *eisangeltikos nomos*, does not apply to someone who is not a politician.[100] Consider the sentences immediately preceding those which I quoted earlier:

> καίτοι, ὦ ἄνδρες δικασταί, ἐπὶ τῶν δημοσίων ἀγώνων οὐ χρὴ τοὺς δικαστὰς πρότερον τὰ καθ᾽ ἕκαστα τῆς κατηγορίας ὑπομένειν ἀκούειν, πρὶν <ἂν> αὐτὸ τὸ κεφάλαιον τοῦ ἀγῶνος καὶ τὴν ἀντιγραφὴν ἐξετάσωσιν εἰ ἔστιν ἐκ τῶν νόμων ἢ μή: οὐ μὰ Δία οὐχ ὥσπερ ἐν τῇ κατηγορίᾳ

[99] See, e.g., Jones 1957, 53 and 146 n. 61and Hansen, 1999, 303 including n. 89.
[100] On the *eisangeltikos nomos*, see Hansen 1975, Rhodes 1979, and Hansen 1980b. A good summary treatment may be found in Todd 1993, 113-115.

> Πολύευκτος ἔλεγεν, οὐ φάσκων δεῖν τοὺς ἀπολογουμένους ἰσχυρίζεσθαι **τῷ εἰσαγγελτικῷ νόμῳ, ὃς κελεύει κατὰ τῶν ῥητόρων αὐτῶν τὰς εἰσαγγελίας εἶναι περὶ τοῦ λέγειν μὴ ⟦οὐ⟧ τὰ ἄριστα τῷ δήμῳ, οὐ κατὰ πάντων** (Hyp. 4.4)
>
> And yet, men of the jury, in public trials the jurors ought not to submit to hearing every detail of the charge before they have looked into whether or not the chief issue of the trial is in accordance with the law or not. By Zeus, things are not as Polyeuktos said in his accusation when he claimed that those who defend themselves should not rely on **the impeachment law (*eisangeltikos nomos*), which bids that impeachments are to be for the *rhētores* themselves when they fail to give the best advice to the *dēmos*, and not for everyone.**

In other words, Hyperides' invocation of the sovereign laws subserves an argument which comports perfectly with the democratic ideology of law as I have been presenting it. We have here a clear distinction between the private citizen – Euxenippos was only a man asked by the Assembly to incubate in a temple and report his dreams – and the sorts of powerful individuals against whom, I have argued, the laws were primarily directed. By contrast, the relevant *eisangelia* law in question was intended to constrain and punish those powerful individuals who might pose a threat to the *dēmos*.[101] Later in his speech, Hyperides insists that Polyeuktos should instead prosecute some *rhētor* who acts unjustly, or some general who does not do what is right, for with these are the sorts of men with whom the power to harm the *polis* lies.[102]

Finally, it is worth returning to the passage of *Against Ctesiphon* in which Aeschines equates law with democracy and opposes it to oligarchy (Aeschin. 3.6: διοικοῦνται δ᾽ αἱ μὲν τυραννίδες καὶ ὀλιγαρχίαι τοῖς τρόποις τῶν ἐφεστηκότων, αἱ δὲ πόλεις αἱ δημοκρατούμεναι τοῖς νόμοις τοῖς κειμένοις at the beginning of §2.2.4 above).

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101 For discussion of this argument, see Whitehead 2000, 158 and 182-183 *ad loc.*

102 καίτοι **σε ἐχρῆν**, ἐπείπερ προῄρησαι πολιτεύεσθαι, καὶ νὴ Δία καὶ δύνασαι, **μὴ τοὺς ἰδιώτας κρίνειν μηδ᾽ εἰς τούτους νεανιεύεσθαι, ἀλλὰ τῶν ῥητόρων ἐάν τις ἀδικῇ, τοῦτον κρίνειν, στρατηγὸς ἐάν τις μὴ τὰ δίκαια πράττῃ, τοῦτον εἰσαγγέλλειν: παρὰ γὰρ τούτοις ἐστὶ καὶ τὸ δύνασθαι βλάπτειν τὴν πόλιν**, ὅσοι ἂν αὐτῶν προαιρῶνται, οὐ παρ᾽ Εὐξενίππῳ οὐδὲ τῶν δικαστῶν τούτων οὐδενί (Hyp. 4.27).

This passage is all the more notable since it echoes very closely an important passage of the *Against Timocrates* which I have not yet mentioned:

> καὶ μὴν κἀκεῖθεν ἴδοι τις ἂν ὡς δεινὸν πεποίηκεν [ὁ Τιμοκράτης] τὸ θεῖναι περὶ τῶν παρεληλυθότων τὸν νόμον, εἰ λογίσαιτο παρ᾽ αὑτῷ τί ποτ᾽ ἐστὶν ᾧ νόμος ὀλιγαρχίας διαφέρει....εὕροι γὰρ ἂν ὡς ἀληθῶς τοῦτο προχειρότατον, ὅτι τῶν μὲν ἐν ταῖς ὀλιγαρχίαις ἕκαστος καὶ τὰ πεπραγμένα λῦσαι καὶ περὶ τῶν μελλόντων ἂν αὑτῷ δοκῇ προστάξαι κύριός ἐστιν, οἱ δὲ νόμοι περὶ τῶν μελλόντων ἃ χρὴ γίγνεσθαι φράζουσιν, μετὰ τοῦ πεῖσαι τεθέντες ὡς συνοίσουσι τοῖς χρωμένοις. Τιμοκράτης τοίνυν ἐν δημοκρατουμένῃ τῇ πόλει νομοθετῶν τὴν ἐκ τῆς ὀλιγαρχίας ἀδικίαν εἰς τὸν αὑτοῦ νόμον μετήνεγκεν, καὶ περὶ τῶν παρεληλυθότων αὑτὸν κυριώτερον τῶν καταγνόντων δικαστῶν ἠξίωσε ποιῆσαι. (Dem. 24.75-76)

> And indeed one may thus see what an extraordinary thing [Timocrates] has done by passing a law concerning things that have already taken place, if one considers how law differs from oligarchy….For one will find that, truly, an answer is plain to see: for in oligarchies each man has the authority (κύριός ἐστιν) to undo the things that have been done and to issue injunctions (προστάξαι) for the future if that seems best to himself. But laws pronounce concerning what must be done in the future after the men instituting them have been persuaded that they will be beneficial to those who employ them. Timocrates, then, when legislating in a democratic *polis* has incorporated in his law the injustice of oligarchy (τὴν ἐκ τῆς ὀλιγαρχίας ἀδικίαν), and concerning what has already been done he has judged himself more sovereign (κυριώτερον) than the jurors' sentences.

Some scholars have dismissed as mere rhetoric Aeschines' and Demosthenes' claims that only democracies are ruled by law.[103] And of, course, oligarchies like Sparta did live under a system of laws, as Demosthenes elsewhere admits (e.g., Dem. 20.105-108, where Demosthenes merely explains that oligarchical laws are not suitable to a democratic constitution; see n. 83 above). But the crucial point in these passages, rightly understood, is that in an oligarchy or a tyranny the people are not protected by law from the injustice (*adikia*) of the powerful. Law's "proper" purpose, the restraint of those who might impose their will upon the *dēmos*, is merely parodied or perverted in oligarchic law, for the men who make up the oligarchy (τῶν μὲν ἐν ταῖς ὀλιγαρχίαις ἕκαστος) can order matters according to their own inclinations (Aeschin. 3.6: διοικοῦνται δ᾽ αἱ μὲν

[103] E.g., Finley 1983, 136 n. 39. Jones 1957, 53 suggests that the orators are "naturally thinking of the worst specimens of the opposite party." Sealey 1987, 105-106 explains these passages in terms of his claim that by the mid-fourth century the word *dēmokratia* was virtually a synonym for the rule of law.

τυραννίδες καὶ ὀλιγαρχίαι τοῖς τρόποις τῶν ἐφεστηκότων). According to democratic ideology as I have been arguing we should understand it, *nomos* that is not aligned with the sovereignty and liberty of the *dēmos* is not "real" law.

2.3.4 Some Evidence from Laws and Institutions

Additional confirmation for this conception of the democratic ideology of law emerges from consideration of laws and institutions that we know to have existed in fourth-century Athens. In discussing the speech *Against Timocrates*, I have not yet mentioned an inserted law in that speech which contains some of the most striking evidence. This document is generally referred to as the "Review Law" but in the manuscripts it is titled Ἐπιχειροτονία Νόμων (Dem. 24.20-23); recent scholars of Athenian law have assumed that it is authentic.[104] As its ancient and modern names suggest, it describes a procedure for passing in review the laws of Athens and submitting them to a vote. The procedure can be summarized briefly as follows. Each year, in an assembly on the eleventh day of the first prytany (11 Hekatombaion), the people are to vote on whether or not they are satisfied with the laws in each of four categories: the laws on the Council, the laws of general application, the laws imposed upon the nine archons, and the laws on the other *archai* (Dem. 24.20: πρῶτον μὲν περὶ τῶν βουλευτικῶν, δεύτερον δὲ τῶν κοινῶν, εἶτα οἳ κεῖνται τοῖς ἐννέα ἄρχουσιν, εἶτα τῶν ἄλλων ἀρχῶν). If any group of laws is rejected by a vote (ἀποχειροτονηθῶσι), the *prytaneis* are to appoint

[104] See, for instance, MacDowell 1975, Hansen 1980a and 1985, and Rhodes 1985.

the last assembly of the prytany for the consideration of those laws.[105] Meanwhile, any citizen wishing to propose a new law shall write it out on a whitened board and exhibit it before the statues of the Eponymous Heroes in the *agora*. When the last assembly of the prytany arrives, the people are to arrange for meetings of the *nomothetai* to deliberate and vote concerning the new laws.[106]

One notable implication of the Review Law is that the Athenians felt it desirable to subject the laws to regular reconsideration by the *dēmos*, thus encouraging the people to think about whether or not they were content with the laws they had. This suggests that an interest in shaping the laws of the *polis* to accord with the will of the people.[107] We do not know how often the laws in one or more of the four categories were actually rejected (though in general our fourth century sources give us the impression that the Athenians were anything but shy about revising their laws[108]) but the mere insistence that the laws should be confirmed annually by the *dēmos* seems to me to reflect something

[105] In addition, according to the final provision of the law, the Assembly is immediately to elect five men to speak in defense of the existing laws when the *nomothetai* meet. The placement of this provision at the very end of the law, after several provisions relating to subsequent events, has occasioned some puzzlement. MacDowell 1975, 67 suggests that it may be a later addition.

[106] Interestingly, these arrangements include a decision on the source of payment for the *nomothetai* (Dem. 24.21: περὶ τοῦ ἀργυρίου, ὁπόθεν τοῖς νομοθέταις ἔσται). To anticipate slightly my argument in the next section, we have here an instance of a law explicitly reserving to the *dēmos* the right to make a small but important decision in a matter of public finance.

[107] The view I offer here should be modified if the Review Law was originally intended to forestall new legislation unless some category of laws had failed its annual review; this possibility is implied by Dem. 24. 32-38 and is endorsed by Rhodes 1985, 57 (*per contra*, see Hansen 1985, 352-360). An abundance of other evidence, however, makes it clear that any such intention behind the Review Law had utterly failed of its application long before Demosthenes wrote *Against Timocrates* for Diodorus (for discussion, see the sources cited in n. 99 above).

[108] A passage from the Platonic dialogue *Minos* (whose alternate title is περὶ νόμου) is perhaps the strongest statement of this view: οὐδὲν παυόμεθα ἄνω κάτω μετατιθέμενοι τοὺς νόμους (316c1-2; the dialogue is generally believed to be a product of the mid-fourth-century Academy, even if Plato himself was not the author). That this remark refers to the Athenians cannot be doubted, since other passages in the speech (e.g. 321a) make the Athenian context unambiguous. It is also noteworthy that the *hetairos* in this dialogue starts by defining law as τὰ δόματα ταῦτα καὶ ψηφίσματα or δόγμα πόλεως (314b10-c1). If this was a relatively common view, it would certainly tend to subordinate the laws to the popular will. On the other hand, [Dem.] 25 (*Aristogeiton* I) 16 apparently envisions no contradiction in seeing every law as, simultaneously, a divine gift, the consensus of the wise, and a common agreement by the city: πᾶς ἐστι νόμος εὕρημα μὲν καὶ δῶρον θεῶν, δόγμα δ' ἀνθρώπων φρονίμων...πόλεως δὲ συνθήκη κοινή.

important. (As an aside, another very important piece of institutional evidence that the laws were intended to be modified in accordance with the will of the *dēmos* is the mere existence of prosecutions under the charge of *graphē nomon mē epitēdeion theinai*.)

Even more interesting, perhaps, is the division of the laws of the *polis* into the four categories mentioned above. To the modern mind, it may be surprising that the laws of Athens were organized for consideration not by the branch of public policy with which they are concerned – thus our civil and criminal law, our laws on contracts, laws on torts, probate law, etc. – but *by the officials of the Athenian state whose activities they regulated*. MacDowell has called attention to the significance of this fact: "[T]he arrangement is according to the officials responsible for seeing that the various laws are obeyed. The code of laws is the magistrates' rule-book."[109] I would go even further: democratic ideology conceived of the laws as having been written *for* the magistrates, in order to make sure that their power was not exercised arbitrarily and that they did no more or less than the *dēmos* wished them to do. The most powerful *archai*, the *bouleutai* and the archons, had their own categories of laws, each of which was put to a vote individually on the eleventh day of Hekatombaion – a referendum, in effect, on whether these *archai* were functioning according to the people's wishes.[110] But we also have reason to believe that specific laws were written to govern the actions of other *archai*,

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[109] MacDowell 1975, 66-67. MacDowell and other scholars have thought it likely that the four groups of laws "correspond to the order in which the official texts of the laws are arranged (as inscribed on stone at the Stoa Basileios, or as written on papyrus in the state archives in the Metroon, or both) ." One suggestive piece of evidence is the apparent arrangement of the latter part of the *Ath. Pol.* according to the laws on various officials: on this, see Sickinger 1999, 149-150 with notes on pp. 246-247. It is even possible that each office-holder was entrusted with papyrus copies of the current laws relating to his particular magistracy (Boegehold 1996, 206). Glotz 1929 [1928], 137-139 discusses this apparent categorization of Athenian laws by *archai* and offers evidence of magistrate-specific laws in other Greek states.

[110] That membership in the Council was seen as an *archē* comparable to those of various magistrates is demonstrated by Hansen 1985, 352-353.

even rather “minor” ones.[111] We also know too that there were laws written specifically to govern the actions of *rhētor*s.[112]

2.4 Law, Public Finance, and the Rights and Powers of the *Dēmos*

It now remains to consider, in this next section, to what extent the actual laws on public finance conformed to the conception just presented of the place of *nomos* in Athenian democratic ideology. Is our evidence for the role of *nomoi* in fourth-century finance, including that presented in §2.2, amenable to such a conception? Or should we accept the view that the increasing application of law to public finance over the course of the fourth century meant a contraction of democratic control over revenues and expenditures?

2.4.1 The Inscribed Laws: A Reconsideration

Reexamining the inscribed laws on public finance in light of the foregoing discussion, we do in fact find evidence that many of the provisions of these laws were drafted in such a way as to make secure the absolute authority of the *dēmos* in financial matters and to restrict the arbitrary authority of officials. In the Grain-Tax Law of 374/3 B.C. (Stroud 1998 = *R-O* 26), for example, the *dēmos* is explicitly made responsible not

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[111] See Sickinger 1999, 150 and 246 n. 57.

[112] There was, for example, the law that authorized citizens to bring the *dokimasia rhētorōn* charge that forms the basis for Aeschines’ speech *Against Timarchus* (see especially Aeschin. 1.27-32). See also the above discussion on Hyp. 4.5 concerning the *eisangeltikos nomos*. It is also interesting to note that, according to Harpokration, the *graphē paranomōn* was also known as *rhētorikē graphē* (s.v.), a strong indication (if any were needed) that this charge was devised for politicians as well.

only for electing officials to oversee the sale of collected grain (ll. 36-40) but also for deciding when the grain is to be sold (ll. 40-42) and at what price (ll. 44-46). The overseers are to report to the *dēmos* on the quantity of grain collected and the receipt of money from the grain's sale (ll. 51-54). Although it has been supposed that the law gave the *dēmos* no choice about where the money from the sale of the grain would go, it is quite likely (as I will argue in the next chapter) that at this period in Athenian history it may have been precisely the *stratiōtika* – the fund to which the money was ultimately directed – over which the *dēmos* had maximum control.[113] Meanwhile, those provisions of the law which do not explicitly assign rights and powers to the *dēmos* are clearly concerned with precisely regulating the behavior of the *polētai*, who presumably will sell the taxes mentioned in the law (ll. 6-10); the buyers of the tax, who are to transport the grain to Athens (ll. 10-15, 16-19, 21-31, 46-48); the Council, which is to approve the guarantors offered by the buyers (ll. 29-31); the ten elected overseers of the grain, who are to make sure the grain is delivered by Maimakterion and take charge of the grain once it has reached the city (ll. 21-27, 40-42, 48-54), and the *apodektai*, who are to handle the money received from the sale of the grain (ll. 54-61).[114] The single direct constraint which seems to be imposed on the people in the Grain-Tax Law is the provision forbidding the *dēmos* to make arrangements for selling the grain earlier than the month of Anthesterion (ll. 42-44); the intention here seems to have been to prevent the release of

[113] I thus disagree somewhat with Stroud 1998, 78: "Although Agyrrhios left to the *ekklesia* the election of the ten men and the decision as to when and at what price they were to sell the people's grain, he preempted any possible debate on the disposition of the fund produced by that sale."
[114] The *apodektai* may also be the officials charged with collecting the sales taxes (*epōnia*) and herald's fees (*kērukeia*) of 20 drachmas per portion (*meris*) specified in ll. 27-29, though other officials may also be the ones responsible here. It is unclear which officials are to be responsible for making the Aiakeion ready to receive the grain, as specified in ll. 15-16. The identity of the officials who are to pursue the buyers of the law if they fail to deliver the grain (ll. 33-36) is likewise undefined. In both of these last two provisions, the tasks are assigned to "the city" (*polis*); presumably the officials responsible for these sorts of jobs will have been specified in other laws.

the grain onto the Athenian market before that period of the year when supplies were lowest and the price was at its peak (Anthesterion = February/March, i.e. the final weeks of winter).[115]

While the extraordinary degree of detail that we find in the Grain-Tax Law could be presented as taking decision-making out of the hands of the *dēmos* by creating a highly complex and automated procedure about which the average Athenian might understand very little, it is probably more reasonable to understand the law as reserving to the Assembly whatever decisions the Assembly can make while tightly restricting officials' freedom of action in performing those duties – like weighing out the grain or selling it in the marketplace – that the *dēmos* as a whole could not possibly hope to perform.[116] To put it another way, the law constrains only those decisions that in any event could not be taken by the *dēmos*. In accordance with the democratic ideology of law as outlined in earlier sections, this law does not remove any real authority from the *dēmos*; it only narrows the admissible range of action of those whom the *dēmos* must of necessity delegate to act on its behalf.

We can explain similarly, I believe, the detail and complexity that we observe in almost all the surviving inscribed laws relating to some aspect of public finance. The numerous precise provisions reflect a desire to define, as narrowly as possible, the sphere of action of various *archai*. And even in quite fragmentary inscribed laws we still find evidence of certain prerogatives reserved explicitly for the *dēmos*. Thus, in the Law on

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[115] For discussion, see Stroud 1998, 72-73 *ad loc*. Probably this provision was motivated mainly by fear of grain speculators' persuading the *dēmos* to sell the grain early, thus minimizing competition from the *polis* during those days when they could hope to realize the greatest profits.

[116] It is perhaps theoretically possible that the selling of taxes of the disbursement of money to various *archai* could have been conducted in the presence of the *dēmos* as a whole, but obviously the practical obstacles to such a procedure would have been very great.

the Repairs of the Piraeus Fortifications (*IG* II^2 244 = *Schwenk* 3.28-29), it seems certain that we have at least a minimum of discretion left to the *dēmos* (ll. 28-29: [χειροτονῆσαι δὲ τὸν δῆμον αὐτίκα μάλα ἐπιστάτας δύο]/[ἄνδ]ρας ἐξ Ἀθηναίων ἁπάντων, οἵτινες ἐπιμελήσονται τῶν ἔργων) and it seems even more likely that a provision of the Law on Offerings from 335/4 (*IG* II^2 333 = *Schwenk* 21) means that some prerogative of the *dēmos* is being safeguarded (fr. a-b.3: ...το]ῦ δημοσίου ὅπως ἂν ὁ δῆμος...). Particularly striking in terms of the relationship between *nomos* and *dēmos* is the Law on the Eleusinian First Fruits from 353/2 (*IG* II^2 140), for the law seems to exist mainly for the purpose of safeguarding the decision-making power of the Assembly in the matter of offerings. It appears to be a revision of an earlier law (that of Chairemonides, mentioned in ll. 9-10); given the relatively small numbers of laws preserved for us on stone, this in itself seems to me to be significant evidence for the willingness of the *dēmos* to revise the laws when it saw fit. Most importantly, the new law ratifies the sovereignty of the *dēmos* to assign by decree the first fruits for Demeter and Persephone (ll. 10-13; note especially ll. 10-11, κύριο[ν δ’ εἶναι τὸν δῆμ]-/ον ψηφίζεσθαι); the Council is to oversee the first fruits and sacrifices in accordance with what the *dēmos* has decreed (ll. 13-18). Moreover, the *dēmos* is given power to decree other types of sacrifices for the goddesses, except for the *pelanos*, which is left to the judgment of the Eumolpidai (ll. 18-25). Even if the extensive restorations to this inscription are incorrect in some places, that can hardly change the fact that the law is clearly intended to give the *dēmos* more control over sacrifices and to affirm its rights to govern in religious affairs connected with the cult at Eleusis.

In none of these laws is it easy to detect an intention to impose limits on the authority of the *dēmos* by removing large-scale decisions from its control. Where procedures are rigidly defined, they tend to be small-scale provisions that minutely regulate what various *archai* are to do. Quite often, as I have noted, they explicitly reserve certain decisions to the *dēmos*. If anyone's power is restricted by these laws, it is not that of the *dēmos* but that of the *archai* – or, perhaps, that of the knowledgeable elites whom they might consult in making their decisions.

2.4.2 *Prosnomothesia* Revisited

If we reconsider the three *prosnomothesia* decrees discussed in §2.2.3, above, we also find that they are not as suggestive of a departure from democratic principles as they might at first appear. In fact, what is perhaps most conspicuous about these three decrees is that none of them seems to make any provision for the possibility that the *nomothetai* might *not* revise the laws in accordance with the Assembly's wishes. The assumption is that the *nomothetai* will do exactly what the Assembly wants – will serve, in fact, as little more than a rubber stamp. In two of these decrees, in fact, we find the Treasurer of the *Dēmos* being told to "advance" (προδανεῖσαι) money on the assumption that he will later receive it back from the *apodektai* as a result of the *nomothetai*'s compliance with the Assembly's wishes.[117] In fact, the only recognized obstacle to the realization of the

[117] *IG* II^2 330 (= *Schwenk* 18) 17-20 and *IG* VII 4254 (= *Schwenk* 50) 37-41. Note that in the former of these decrees the procedure of *prosnomothesia* is explicitly described as being conducted "so that the Treasurer can get the money back" (ll. 18-20: ὅπως δ' ἂν ὁ τ[α]μίας ἀπολάβ[ηι τὸ ἀργύριον τὸ εἰρημένον]|[τ]οὺς προέδρους, οἳ ἂν λάχωσι[ν πρῶτον προεδρεύειν εἰς το]|[ὺ]ς νομοθέτας προσνομοθετῆ[σαι περὶ τοῦ ἀναλώματος]); there is no hint that the Treasurer might *not* get the money back because the *nomothetai* might decide not to alter the laws. In the latter decree, *prosnomothesia* is invoked quite tersely (ἐν δὲ τοῖς πρώτοις νομο|θέταις προσνομοθετῆσαι τῶι ταμ|[ί]αι, ll. 39-41), suggesting that by 329/8 the procedure – the revision of the laws for the sake of a one-time transfer of 100 drachmas – was not seen as anything very remarkable.

Assembly's wishes in these decrees is not the need to revise the law code but rather the possibility that officials will fail to carry out their duties. The honorary decree for Pisithides (*IG* II^2 222) includes an enforcement clause binding upon the *proedroi* and the *epistatēs* of the *nomothetai*; they will each owe 1000 drachmas to Athena if they should fail to put the measure to a vote (ll. 48-52).[118] Certainly the mention of a vote implies that the Assembly's intentions in this matter might be thwarted if the *nomothetai* rejected the proposal, but these decrees treat that possibility as entirely theoretical.[119]

It is important to point out once again that these are the only three inscriptions we have in which *prosnomothesia* is mentioned, and thus the only cases in which the Assembly felt the need to have the *nomothetai* ratify a financial decision. They all date from rather late in the fourth century – the earliest, the decree for Pisithides, is from the mid-340s at the earliest.[120] We have many more examples of decrees in which the Assembly simply mandates, without further ado, some *ad hoc* transfer of funds by the *apodektai*. We saw an example of this in the decree for Phanocritus of Parium (*IG* II^2 29 = *Tod* 116 = *R-O* 19), quoted near the beginning of §2.2, above. Although it is clear in that decree that laws are already governing the normal allocations of funds by the *apodektai*, there seems to be no problem in the Assembly's telling them to make an additional one-time allocation (μερίσαι) "whenever they should allocate the money from the laws" (ll. 21-22: ἐπειδὰν τὰ ἐκ τῶν νόμων μερ[ίσω]|[σι]). In another decree (*IG* II^2 212 = *R-O* 64), the *apodektai* are simply instructed to give money to the *athlothetai* from

[118] The language of the decree is εἰὰν δὲ μ|[ὴ ἐπιψηφ]ίσωσιν οἱ [πρ]όεδροι καὶ [ὁ]|[ἐπιστά]της τῶν νομοθετῶν, ὀφειλέ|[τω ἕκαστ]ος αὐτῶν Χ δραχμὰς ἱερὰς|[τῆι Ἀθην]ᾶι.
[119] Rhodes 1980, 306 characterized these decrees as showing "the distinction between *nomoi* and *psēphismata* observed in letter if not in spirit." My argument here implies that the Athenian public may have understood the spirit of that distinction differently from ancient and modern theorists.
[120] Osborne has proposed redating it to the 330s: see n. 48 above.

the Stratiotic Fund (*stratiōtika*) (ll. 42-44). These decrees and others like them will be discussed further in the next chapter. For now I only wish to make the point that, for much of the fourth century, one-time transfers of money like the ones described in two of the three *prosnomothesia* decrees do not seem to have required *prosnomothesia* at all.

There were of course occasions on which the Athenians found it necessary and desirable to revise their laws on public finance even before the advent of the *prosnomothesia* procedure. Our evidence suggests that, given popular support, there were few if any obstacles to rewriting the law. The most important historical evidence here comes from (once again) Demosthenes' speech *Against Timocrates*, in which the orator describes the underhanded means by which Timocrates has managed to enact his legislation (Dem. 24.18-31). The crucial point, for our purposes, is that Timocrates persuaded the Assembly that legislation was needed to ensure adequate funding for the approaching Panathenaic Festival (Dem. 24.27: ὅπως ἂν τὰ ἱερὰ θύηται καὶ ἡ διοίκησις ἱκανὴ γένηται καὶ εἴ τινος ἐνδεῖ πρὸς τὰ Παναθήναια διοικηθῇ); thus he carried a decree which convened the *nomothetai* to hear his proposals on the very next day (Dem. 24.27: τοὺς πρυτάνεις τοὺς τῆς Πανδιονίδος καθίσαι νομοθέτας αὔριον). Demosthenes insists (a) that there was in fact no difficulty with the funding for the Panathenaic Festival, (b) that Timocrates never really intended to propose legislation relevant to the Panathenaia, and (c) that Timocrates' hasty empanelling of the *nomothetai* and his bringing before them a law which had not yet been published or publicly debated were both wholly illegal (Dem. 24.28-36). All this may well be true (though Demosthenes' implication that there was only one legal way to pass new legislation was probably wrong). Nevertheless, it was apparently possible to change the laws on public finance quite quickly and without much fuss. The Athenians seem to have taken it for granted that the will of the *dēmos* should not encounter much resistance from the laws where the financial administration was concerned.

2.4.3 Other Historical Situations

The background of *Against Leptines* (Dem. 20) also provides us with interesting evidence on the power of the will of the *dēmos* vis-à-vis the laws. Leptines' law was a law eliminating exemptions from liturgies that had been granted from time to time by the Assembly. Presumably there were laws governing the assignment of liturgies but, before Leptines got his law passed, a simple decree of the *dēmos* was sufficient to override them. We do not know whether the laws on liturgies *explicitly* granted the Assembly the power to decree exemptions, but one suspects that Demosthenes would have contrived to mention it if they had, given that a sizable part of the speech is devoted to the charge that Leptines, in passing his law, had failed to repeal laws with contrary stipulations. Therefore, although we know that even before Leptines' law there were some laws restricting the power of the Assembly to grant exemptions – for example, it does not seem to have been able to grant exemptions from the *eisphora* and the trierarchy (Dem. 20.26) – it seems that in other cases the *dēmos* was able, by mere decree, to render back what was "its own" (Dem. 20.102-103).

But what about the paradigmatic example of the *dēmos* binding itself with excessively strict and even self-defeating laws, namely the laws governing the Theoric Fund, which I mentioned in §2.2.2, above? Demosthenes certainly regarded these laws as imposing an unhealthy constraint on the Assembly's freedom of action (see Dem. 3.10-13). According to Libanius's hypothesis on the *First Olynthiac* (Dem. 1. *Hypoth*. 5; cf. schol. *ad* Dem. 1.1 [Dilts 1.1-2]), one such law even punished with death anyone who proposed using the money in the fund for military purposes, and, according to a popular understanding of fourth-century history, these laws thus prevented Athens from organizing a proper resistance to Philip of Macedon until it was too late (see the Introduction). If one accepts this narrative, it becomes almost petty to point out that here too, the law technically restricts the freedom of *rhētor*s rather than that of the *dēmos* itself. For in this case the law would restrict the freedom of those *rhētor*s so severely as to deprive the *dēmos* of any real, practical opportunity to rethink its position on the Theoric Fund. The hesitation of Athens to devote the surplus of *dioikēsis* to military purposes sooner than it did is part of the conventional brief against fourth-century democracy.

A consideration of the place of the Theoric Fund in Athenian public finance will have to wait for the next two chapters – see particularly §4.2 in Chapter Four for a complete discussion which can only be adumbrated here – but I wish to note a few crucial points. First, one ought to doubt whether the laws on the Theoric Fund actually did impose death on those proposing to reallocate theoric moneys. In fact, there is reason to doubt that they imposed any sort of penalty for such proposals.[121] We know that Apollodorus, in 349/8 B.C., carried a *probouleuma* in the Council which provided that the Assembly should have the right to determine whether the surplus funds of the

[121] When Demosthenes says in the *Third Olynthiac* that no one can transgress the laws on the Theoric Fund with impunity (Dem. 3.13: μηδέν᾽ ἀξιοῦτε τηλικοῦτον εἶναι παρ᾽ ὑμῖν ὥστε τοὺς νόμους τούτους παραβάντα μὴ δοῦναι δίκην), he is most likely referring to the political cost involved. Likewise, the claim that until the laws on the Theoric Fund have been repealed anyone giving the Athenians good advice can expect to "perish" at their hands (Dem. 3.12: μὴ σκοπεῖτε τίς εἰπὼν τὰ βέλτισθ᾽ ὑπὲρ ὑμῶν ὑφ᾽ ὑμῶν ἀπολέσθαι βουλήσεται) is probably hyperbole or metaphor. See discussion in §4.2 of Chapter Four and especially n. 54.

dioikēsis – see §3.2.1 in the next chapter for a discussion of this word – would become "theoric" or "stratiotic" ([Dem.] 59.4). This *probouleuma* was apparently passed as a decree by the Assembly, which then voted to make the surplus of the *dioikēsis* stratiotic; subsequently, however, a man named Stephanos indicted and convicted (εἶλε) Apollodorus's decree on a *graphē paranomōn* charge. According to Theomnestus, the first speaker in the pseudo-Demosthenic speech *Against Neaira*, Stephanus's claim that Apollodorus's decree was illegal rested mainly on the allegation that Apollodorus himself was indebted to the state ([Dem.] 59.5). There is much uncertainty in this reconstruction of events, and it seems quite likely that Theomnestus is shading the truth, but we do receive the strong impression from Theomnestus's account that the laws were not regarded either by Apollodorus or by most Athenians as a serious constraint on the exercise of the popular will in public finance.[122] Even if Apollodorus's decree did not conflict directly with the "laws on the Theoric Fund" about which Demosthenes speaks in the *Third Olynthiac* (and we cannot say with absolute confidence that it did, since we are ignorant of the details of both the laws and the decree), there is still in Theomnestus's own account an implication that the *dēmos* is being offered the option of disregarding a law:

> ἔγραψε ψήφισμα ἐν τῇ βουλῇ Ἀπολλόδωρος βουλεύων καὶ ἐξήνεγκε προβούλευμα εἰς τὸν δῆμον, λέγον διαχειροτονῆσαι τὸν δῆμον εἴτε δοκεῖ τὰ περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι εἴτε θεωρικά, **κελευόντων μὲν τῶν νόμων, ὅταν πόλεμος ᾖ, τὰ περιόντα χρήματα τῆς**

[122] One element of Theomnestus's account that is almost certainly untrue is the claim that the Assembly voted *unanimously* to make the money stratiotic (οὐδεὶς ἀντεχειροτόνησεν ὡς οὐ δεῖ τοῖς χρήμασι τούτοις στρατιωτικοῖς χρῆσθαι, [Dem.] 59.5). There is also some obscurity about what Apollodorus's *probouleuma* actually said: it may have proposed to let the *dēmos* vote on whether to make the surplus stratiotic, in which case there were two votes in the Assembly (one on the proposed decree and one on what to do with the money); alternatively, it may have simply proposed that the surplus be made stratiotic (in which case there was only vote in the Assembly, that on the proposed decree itself). The former version of events is more closely in keeping with Theomnestus's description of what happened; the latter version seems to me more inherently likely. Rhodes 1972, 58 also prefers the latter version. A resolution of this question would be helpful for our purposes, but it is not crucial.

διοικήσεως στρατιωτικὰ εἶναι, κύριον δ᾽ ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὑτοῦ ὅ τι ἂν βούληται πρᾶξαι ([Dem.] 59.4)

Apodollodorus while a member of the Council wrote a decree in the Council and brought it as a *probouleuma* to the *dēmos*. It said that the *dēmos* was to vote on whether the surplus moneys of the *dioikēsis* should be stratiotic or theoric. **The laws commanded that, whenever there was war, the surplus moneys should be stratiotic, but he judged that the *dēmos* ought to have the authority (κύριον δ᾽ ἡγούμενος δεῖν τὸν δῆμον εἶναι) to do whatever it wished concerning its own affairs.**[123]

Even though it seems to have been Apollodorus's intention that the people should devote the money to the military, an opposition between the laws' commands and Apollodorus's judgment that the *dēmos* should be able to do whatever it might wish (ὅ τι ἂν βούληται) is implied by the μὲν...δὲ... construction here. So whether or not Apollodorus was defying the laws on the Theoric Fund, Theomnestus implies that he regarded the free choice of the *dēmos* as more important than the laws which provided that the surplus of the *dioikēsis* should be stratiotic in wartime. And, if Theomnestus is to be believed, Stephanos's indictment of Apollodorus's decree was not based upon any laws on public finance that Apollodorus may have defied. It is not even clear that all the practical effects of the decree will have been reversed by Apollodorus's conviction, since it is a bit hard to imagine that money already directed by the decree to the Stratiotic Fund was thereupon re-allocated to the Theoric Fund. Of course, it is possible that the decree was indicted by Stephanos so quickly that it never went into effect. At any rate, the events surrounding Apollodorus's decree do not seem to reflect any rigorous adherence to restrictive laws on public finance. Likewise, it seems that it only took a decree of

[123] An alternate, and in some ways preferable translation of περὶ τῶν αὑτοῦ might be "concerning its own money." Bers 2003 translates "its own resources."

Demosthenes in 339/8 to devote *all* of Athens' moneys – including, presumably, those in the Theoric Fund – to military purposes.[124]

2.5 Conclusion

Obviously there are many pitfalls involved in attempting to delineate a "democratic ideology of law" or even in trying to assess the degree to which the Athenians' laws on finance were compatible with more general ideas of democracy. I hope, however, that I have made a reasonably convincing case that we cannot say the management of public finance became less democratic simply because there were more laws, and more detailed laws, through which revenues and expenditures were organized. On the contrary: the laws on finance (and other laws as well) should probably be seen as a means of more effectively subjecting the complexities of finance to control by the *dēmos*. In the next chapter, I will show how this seems to have been true of specific institutions and practices according to which the revenues of the *polis* were managed.

[124] *FGH* 328 F 56. It is of course possible that by 339/8 the "laws on the Theoric Fund" mentioned in the *Third Olynthiac* had already been overturned – perhaps by the "Law of Hegemon" mentioned at Aeschin. 3.25 (which evidently made some alteration in the operations of the Theoric Fund).

CHAPTER THREE: THE OPERATION OF ATHENIAN FINANCIAL INSTITUTIONS

3.0 Introduction

In this chapter, I turn from the general character of the laws regulating Athenian finance to the specific institutions relating to Athenian revenues and expenditures. These institutions underwent significant change in the decades between 403 and 322 B.C., but the evidence suggests that a basic underlying structure was maintained throughout the period. What follows is an attempt to make sense of that underlying structure and to examine it in light of the ideology of Athenian democracy.

Scrutiny of particular institutions is obviously valuable for any attempt to understand the political spirit or ideology that animates a state. This is especially true in the case of ancient Athens, where an extraordinarily high proportion of political activity was conducted in and through state institutions.[1] It is also true, of course, that institutions are unlikely to be a *perfect* reflection of whatever sentiments currently prevail: inertia or reverence for tradition may preserve them unchanged even though they no longer reflect the beliefs of the society they regulate.[2]

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[1] See discussion in Hansen, 1989c.

[2] In the case of Athens, this is mitigated by the fact that the institutions of the democracy underwent a wholesale re-examination and revision in 403/2. With the exception of the sacred treasuries, few of the fourth-century democracy's financial institutions were of great antiquity. See also Rhodes 1980 (especially

It is not uncommon to assert that Athenian public finance in the fourth century was characterized by a progress toward centralization in the interests of greater efficiency; this supposedly entailed a sacrifice of the tenets of Athenian democracy as they were generally understood.[3] While the Athenians surely did seek – and achieve – greater administrative efficiency in handling revenues and expenditures, it will be the thesis of this chapter that the stable outlines of Athens' fourth-century fiscal institutions reflected another motive – namely, the desire to hold officials accountable to the *dēmos* and keep major policy decisions in the Assembly's hands. Just as I argued in the last chapter that the laws regulating finance were generally seen not as a constraint upon the *dēmos* but rather as an instrument of its will, so in this chapter I hope to demonstrate that the Athenians, in establishing and preserving the basic mechanisms of their fiscal administration, did not lose sight of, nor intend to compromise, the principle of popular sovereignty.[4]

3.1 *Merismos*

I begin by considering the overall structure of the Athenian system of public finance as it existed after the restoration of democracy in 403 B.C. Our only

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his remarks on p. 305) for the argument that there were significant changes in the ways the Athenian state functioned over the course of the fourth century, including with regard to finance.

[3] See, for example, Schuler 2005, 388-389. Schuler mentions the *apodektai* and *merismos*, which are the focus of this chapter, as embodying "die Tendenz zur Zentralisierung und Professionalisierung im Finanzwesen" (388). Rhodes 1980, 309-314 also believes that Athens needed to step back from democratic values to achieve long-term fiscal solvency, although in his view the break with democracy did not occur until the 350s; Schuler sees the departure from democracy as having begun much earlier, in the late fifth century.

[4] It is perhaps natural to confound three distinct ideas: centralization, professionalization, and increased sophistication. While the third phenomenon is clearly visible in the Athenian state in the fourth century – especially in finance – the extent to which the first two phenomena were characteristic of that period may be more debatable.

comprehensive picture of this structure is provided relatively late in the fourth century by Aristotle's *Constitution of the Athenians* (*Ath. Pol.*), but we have every reason to believe that certain general outlines of that picture apply to earlier decades as well.

Chapters 47 and 48 of the *Ath. Pol.* inform us that revenues to the state – from tax farmers, purchasers of confiscated properties, holders of leases on the silver mines, and so forth – passed through the hands of a committee of ten officials chosen annually by lot.[5] These officials were called, appropriately enough, the *apodektai* ("receivers").[6] The *Ath. Pol.* describes in surprising detail the procedure by which the *apodektai* received and processed money owed to the state. A crucial element in this procedure was a set of whitewashed tablets (*grammateia*), drawn up by the officials responsible for the

[5] It is true that other regular or irregular officials also seem to have collected money for the state. We hear, although not in the *Ath. Pol.*, of a board of ten *praktores* who exacted money from state debtors: see Andoc. 1.77-79 (an inserted decree from the last year of the Peloponnesian War), [Dem.] 43.71 (an inserted law of uncertain date and authenticity), and Aeschin. 1.35 (another inserted law, also of uncertain date and authenticity); the *praktores* are also attested in various Attic inscriptions of which only *IG* II^2 45 (378/7) and *Agora* 16.56 (early to mid-fourth century) seem to offer useful information about their fourth-century activities. In addition to these officials, we know that particular individuals were occasionally empowered to collect monies owed to the public fisc: Androtion, for example, received authority to recover arrears in *eisphora* payments (Dem. 22.42-68; cf. Dem. 24.160-175); there is a possibility that he may have gotten himself appointed in place of one or all of the *praktores* (Dem. 22.48 and Dem. 24.160: καταλύσας ψηφίσματι κληρωτὴν ἀρχὴν ἐπὶ τῇ προφάσει ταύτῃ, ἐπὶ τὴν εἴσπραξιν παρέδυ). There is no reason to believe, however, that the *praktores* did not simply pass on whatever sums they collected to the *apodektai*: I think this may, in fact, be implied by *IG* II^2 45.7-8, where the *praktores* seem to be instructed to hand over something – money, surely – to someone else in the presence of the Council: οἱ δὲ πράκτορες παρ[αδιδόντων — — — ἐναντί]|ον τῆς βολῆς. See §3.1.3, below, for a discussion of other cases in which money may have been collected by officials who were not the *apodektai*.

[6] *Apodektai* are mentioned in Aristotle's *Politics* as one of the necessary types of officials in a state; they are characterized there as an alternative to treasurers. There is (says Aristotle) an *archē* to which public revenues are delivered, by whom they are guarded and distributed (μερίζονται) to each *dioikēsis*. These officers are called *apodektai* or *tamiai* (6.1321b). At Athens, the *apodektai* were also in charge of suits against or initiated by tax-collectors, and had sole jurisdiction for sums up to ten drachmas; suits for greater sums would be introduced as monthly suits to the jury-courts (*Ath. Pol.* 52.3).

We do not have good evidence for the origin of the office of *apodektai* in Athens. Harpokration says that Androtion, "in the second book" (of his *Atthis*, presumably) wrote that they were established by Kleisthenes in place of the *kōlakretai* (*FGH* 324 F5). Strictly speaking, this cannot be true, since the *kōlakretai* are well attested in the later fifth century, with their last datable occurrence in the very same document in which the *apodektai* appear for the first time (*IG* I^3 84, 418/7 B.C.). For evidence concerning the *kōlakretai*, see Samons 2000, esp. pp. 57-59 and 241.The *apodektai* appear in our ancient sources for the last time in documents of 323/2 (*IG* II^2 365 b.6 and *IG* II^2 1631.324-5): presumably they were abolished along with the democracy.

making of state contracts. These tablets listed payments due to the state in each prytany.[7] When the date arrived on which a payment or payments were to be made, the state slave (*dēmosios*) who acted as a record-keeper for the Council would take the relevant tablets from the racks (*epistylia*) where they were kept and present them to the *apodektai* (*Ath. Pol.* 47.5).[8] The entries on these tablets would then be cancelled by the *apodektai* as they received the money being paid in; the receipt of payments and the cancellation of the entries on the tablets would both take place in the Bouleuterion in the presence of the Council.[9] At the end of the day, any entries not cancelled would be written up as an

[7] *Ath. Pol.* 47.2-4. The key officials here were the *polētai*. At the time the *Ath. Pol.* was written, they sold mining rights and tax farming contracts in the presence of the Council, the Treasurer of the Stratiotic Fund, and the Superintendents of the Theoric Fund (πωλοῦσι … μετὰ τοῦ ταμίου τῶν στρατιωτικῶν καὶ τῶν ἐπὶ τὸ θεωρικὸν ᾑρημένων ἐναντίον τῆς βουλῆς); it seems that the Council had the final decision on the assignment of the contracts (*Ath. Pol.* 47.2 with Rhodes 1981 *ad loc.*). The property of those exiled by the Areopagus was sold by the *polētai* in the presence of the Council and the sale was confirmed by the nine archons. Other properties confiscated by the courts also seem to have been sold by the *polētai* (*Ath. Pol.* 47.3); Aristotle's text does not make it perfectly clear whether anyone besides the *polētai* themselves was involved in the sale of such properties, which are described as τἀπογραφέντα καὶ πραθέντα ἐν τῷ δικαστηρίῳ. On the other hand, it seems that the *polētai* were not involved at all in the leases of sacred properties (*temenē*); records of these leases were brought in by the Archon Basileus (*Ath. Pol.* 47.4). One might speculate that there was some connection between the individuals in charge of arranging for a source of revenue and the ends to which that revenue was to be directed, but we seem to have little evidence on which to ground any such conclusion.

[8] It is not clear whether more than one day per prytany could be scheduled for the receipt of payments. It is quite clear, however, that most of Athens' revenues were collected in the ninth prytany (*Ath. Pol.* 47.4, Dem. 24.98), and that this could sometimes prove inconvenient: the reason why this system was maintained is anybody's guess (I offer some tentative suggestions below). Rhodes 1981, 557 *ad* 47.5 suggests (on the basis of *Ath. Pol.* 43.3) that each set of *prytaneis* would name a day in their prytany when payments could be made. It seems to me, however, that greater regularity in the due dates for payments would be desirable. Presumably the records of payments due were kept in the Old Bouleuterion (eventually known as the Metroön), which was used as a record office once a new Bouleuterion had been constructed soon after the Peloponnesian War. On the nature of the *epistylia* (which I have somewhat idiosyncratically translated as "racks"), see Sickinger 1999, 148 and 246 n. 50.

[9] The *Ath. Pol.* is not, perhaps, perfectly unambiguous that the money would actually be handed to the *apodektai* in the presence of the Council. The relevant sentence – παραλαβόντες τὰ γραμματεῖα ἀπαλείφουσι τὰ καταβαλλόμενα χρήματα ἐναντίον τῆς βουλῆς ἐν τῷ βουλευτηρίῳ (48.1) – could perhaps be taken to mean only that the cancellations of the entries took place before the Council, since the prepositional phrases might modify only the indicative verb ἀπαλείφουσι and not the participle καταβαλλόμενα. It is reasonable to suppose, however, that no very long time separated the actual payment of money from the cancellation of the entries on the tablets. Furthermore, we have inscriptional evidence that payments to the state (in the persons of the *apodektai*) were in fact made in the Bouleuterion: see Rhodes 1981, 558 *ad loc.*

unpaid debt to the state, the debtor becoming subject to penalties and imprisonment (*Ath. Pol.* 48.1).

On the same day that payments were received, they would be allocated (μερίζουσι) to various public officials (*archai*). On the following day, a summary of the allocation (*merismos*), written upon a board (ἐν σανίδι), would be read out to the Council in case someone might know of any malfeasance in connection with the *merismos* (48.2).[10] The *Ath. Pol.* does not explicitly say that the actual allocation of the funds received took place in the presence of the Council, though it seems natural to assume that it did. On the other hand, one might object that conducting the *merismos* in the presence of the Council would render redundant the reading-out of the *merismos* in the Bouleuterion upon the following day. Most probably, the summary on the board was intended as an official record of the previous day's transactions that needed to be checked in the most public way possible before being placed in the archives. Obviously, debtors to the state would have certain incentives to attempt to tamper with these documents.[11]

Unfortunately, Aristotle says almost nothing about the process of the *merismos* itself. How did the *apodektai* decide *to whom* they ought to distribute the money they received on a particular day? How did they know *how much* to distribute? Aristotle's silence suggests that a detailed description of the *merismos* was either not possible or not

[10] In the conext of Athenian public finance before 322, the verb μερίζω is not securely attested for any officials other than the *apodektai*. In the fourth century, it has occasionally been associated, via restorations, with the Treasurer of the *Dēmos* (*IG* II^2 301.5 and *IG* II^2 520. 8-9) or the Treasurers of the Goddess (*Addenda et Corrigenda* for *IG* II^2 40.21-22 and II^2 244 [= *Schwenk* 3] 39). Such restorations have not commanded general assent: Rhodes 1972, 101 n. 2 approves the doubts of Johnson 1914, 424-425 and 428 concerning *IG* II^2 301 and *IG* II^2 520 (although in both these cases not to connect μερίσαι with the Treasurer involves a violation of the stoichedon arrangement). Henry 1982, 106 likewise doubts the use of μερίσαι with the sacred treasurers in *IG* II^2 40. In principle, however, the verb might be used wherever a share or shares of some larger sum were being dispensed. In a later period (after 322), the verb commonly refers to payments by the officials in charge of the *dioikēsis* and the Treasurers of the Stratiotic Fund.
[11] For an example of tampering with material in the state archives (by Alcibiades), see Athen. 9.407b.

necessary (or both). Perhaps the details of the process were too complicated or too *ad hoc* to characterize succinctly.[12] On the other hand, perhaps the procedure seemed so straightforward to the author of the *Ath. Pol.* that he could see no point in saying anything about it. The crucial question, for our purposes, is how much discretion the *archai* concerned with finance had in allocating funds. Did the *apodektai* or the Council, for example, exercise significant discretion over the destinations of revenues? If so, this would seem to represent a departure from the precepts of Athenian democracy, which normally sought to limit the arbitrary authority of officials. If not, then we are left with the question of how exactly decisions about the allocation of funds were made. In the previous chapter, I discussed our evidence for the regulation of the *merismos* by law, but to say that there were laws that regulated the *merismos* still does not fully answer the question of how much discretion these laws left to the *apodektai*, or to the Council which supervised their activities. Was the distribution of public moneys in the fourth century largely a matter to be decided by state officials, or did a jealous *dēmos* impose strong constraints on those officials and thus render the distribution of moneys more or less automatic?

One possibility which can probably be dismissed is the existence of a comprehensive and pre-existing set of instructions which directed the *apodektai* to distribute specific funds to particular *archai* on a prytany-by-prytany basis. We have no real evidence for an Athenian budget in the literal sense, let alone for one which provided a calendar of disbursements. We *do* seem to have clear indications of comprehensive budgeting in other Greek states during the Hellenistic Age: inscriptions from Smyrna and

[12] This would provide another possible explanation for the reading-out of the *merismos* on the day after the allocations had been made, since in this case it might not be easy to understand the process as it was actually taking place.

Erythrae, for example, contain references to an annual budget process. In Smyrna, a decree ὑπὲρ τοῦ πορ[ι]σμοῦ (which included a line-item for dedications) was passed every year in the month of Laodiceon (*I Smyrna* 578.31-34). At Erythrae, the generals were responsible for submitting a ψήφισμα περὶ τῆς διοικήσεως to the Assembly once each year.[13] Elias Zengelis, on the basis of a Cnidian inscription referring to οἰκονομία ἐνιαυτοῦ, and the appearance of the phrase ἐγκύκλιος διοίκησις at *Ath. Pol.* 43.1, concluded that classical Athens did indeed possess a formal annual budget.[14] Other evidence, however, is lacking and the argument from silence seems in this case especially strong: though our sources include examples of attempts to estimate public revenues and expenditures, none of these refer to anything like a formal budget.[15]

3.1.1 *Individualizierung* as an Organizing Principle

In the absence of a comprehensive budget, another possibility is that revenues were pre-assigned to particular types of expenditure, so that money which came into the hands of the *apodektai* from a particular source had to be allocated to a particular *archē* or fund. This possibility was described and endorsed by Andreades in his *History of Greek Public Finance*:

[13] Schuler 2005, 394-396, with additional discussion of Hellenistic budgeting elsewhere in the article; see also Rhodes 2007, 357-358, responding to Schuler.

[14] Zengelis 1902. Andreades 1933 [1928], 365-366 n. 7 refers to the inscription from Cnidus on which Zengelis relied; this is McCabe, *Halikarnassos* 26, which contains a reference to οἰκονομία ἑκάστου ἐνιαυτοῦ (line 14). Although the phrase ἐγκύκλιος διοίκησις probably could be used to describe periodic budgeting, at *Ath. Pol.* 43.1 it most likely simply refers to the "routine administration" of the *polis*: see Rhodes 1981, 513. ἐγκύκλ[ιον διοίκησιν] is plausibly restored (though without any useful context) at *IG* II^2 233 b.9 (340/<u>39</u> B.C.).

[15] Famous estimates of total revenues may be found, for example, at Ar. *Vesp.*, 656-663 (a fifth-century source) and [Dem.] 10.37-38. (Despite suspicion as to the authenticity of the *Fourth Philippic*, its estimate of Athenian revenues seems to be validated by a quotation from Aristophon in a fragment of Theopompus: *FGH* 115 F166.)

> The people voted upon certain categories of expenditure, for *each of which* it allocated a prescribed revenue. The specification among several budgets, then, of the revenues and expenditures, their *Individualizierung*, as the Germans call it (one of the characteristics which most clearly distinguishes ancient from modern finance) was thus brought about.[16]

Individualizierung would mean that the matching of revenues to expenditures would require no very great discretion on the part of either the *apodektai* or the Council. Every source of income would be directed automatically to a particular end; in practice, this would mean that the *apodektai*'s role in the *merismos* was limited to cancelling the entries on the *grammateia*; they would need to do no more than make sure obligations had been paid in full before they handed over the money they had received to the appropriate *archai*. In effect, according to this understanding of the *merismos*, the Athenians will have used a variant of their system of liturgies for state revenues and expenditures. Just as each liturgist paid for a particular tragedy or the operations of a particular trireme, so too each tax farmer or public leaseholder was financing the outlays of a particular *archē*. Andreades' belief that *Individualizierung* was the organizing principle behind the *merismos* was based in part on *a priori* likelihood and comparanda from the financial systems of other pre-modern states (about which he knew a great deal). Most crucially, however, we do have some evidence for the practice of *Individualizierung* in Classical Athens.[17]

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[16] Andreades 1933 [1928], 366. For want of a better term, I will retain the word "*Individualizierung*" (spelled as it is in Andreades) throughout this chapter.

[17] Andreades cites as examples of this process "those [moneys] 'that were paid by decree to the people' or 'to the Boule' or 'the ten talents.'" (1933 [1928], 366). Andreades was willing to believe that a single document, the *diataxis*, would have specified all sources of revenue and the corresponding uses to which moneys were to be put. Henri Francotte also believed that Athenian public finance was likely to have been regulated by a *diataxis* (1909, 133-156). The word *diataxis* does appear in a number of Athenian inscriptions of the Hellenistic period, and in these inscriptions it does have the sense assigned to it by Francotte and Andreades (a sense virtually equivalent to *merismos*), but it is not attested for the fourth century.

3.1.2 Evidence for Fourth-Century *Individualizierung* and the Importance of Accountability

For example, a fifth-century document, a law or decree of Adrosios relating to the leasing of the sanctuary of Neleus and Codrus (*IG* I^3 84, 418/7 B.C.), directs the lessee to make the lease payments to the *apodektai* in the ninth prytany; the *apodektai* – mentioned in this document for the very first time – are then to turn over the money to the Treasurers of the Other Gods:[18]

> ὁπ-
> [ό]σεν δ' ἂν ἄλφει μίσ[θ]οσιν τὸ τέμενος κατὰ τὸν ἐνιαυτὸν ἕκαστον, κ-
> αταβαλλέτο τὸ ἀργύριον ἐπὶ τε͂ς ἐνάτες πρυτανείας τοῖς ἀποδέκ-
> ται[ς], οἱ δὲ ἀποδέκται τοῖς ταμίαισι το͂ν ἄλλον θεο͂ν παραδιδόντον
> [κ]ατὰ τὸν νόμον (*IG* I^3 84.14-18)

The decree on the sanctuary of Neleus and Codrus is from the fifth century, hence before the start of the period with which we are directly concerned. At best, it can only be strongly suggestive of the prevalence of *Individualizierung* in fourth-century Athens. There is, however, some evidence relating directly to our period. Perhaps the best single piece of evidence is the Law and Decree on the Little Panathenaia (*IG* II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81), probably from the mid-330s.[19] This inscription consists of two non-joining fragments, of which the first is very badly damaged. Nevertheless, it is clear that the law partially preserved on the first fragment requires the leasing of particular lands (ἡ Νέα) and the selling of a tax contract for those lands in order that the

[18] For the *apodektai* and *kōlakretai* in this document, see n. 6, above. This inscription has also been discussed in Chapter 2, §2.2.
[19] For the date, see Schwenk 1985, 90-91 and Rhodes and Osborne 2003, 399-400.

sacrifices at the Little Panathenaia may be adequately funded.[20] The relevant portion of the first fragment – which includes everything but the prescript – reads as follows:

…[ὅπως ἂν τῆι] Ἀθηνᾶι ἡ θυσία ὡς καλλίστ[η ἦι Πανα]-
[θηναίοις τοῖς μ]ικροῖς καὶ πρόσοδος ὡς πλε̣ί[στη γέν]
[ηται ἱεροποιο]ῖς, δεδόχθαι τοῖς νομοθέτ[α]ι[ς· τὴν μὲν]
[Νέαν μισθούτω]σαν δέκα ἡμέραις πρότερον ν̣[- - - 7 - - -]
[οἱ πωληταὶ δέκ]<α> ἔτη κατὰ δικληρίαν τῶι τὸ π[λεῖστον]
[διδόντι τῶι πρ]οτέρωι ἔτει ἢ ὧι ἂν ἡ ΔΑ.ΑṆΤΙ[- - - 7 - - -]
[- - - - 10 - - - - μι]σθωταῖς ἐγγυητὰς λαμβάνου̣[σι. τοὺς δ]-
[ὲ πωλητὰς τὴ]ν πεντηκοστὴν πωλεῖν τὴν ἐν τῆ[ι Νέαι χω]-
[ρὶς τῶν ἄλλω]ν. τοὺς δὲ πρυτάνεις προγράφει[ν βουλῆς]
[ἕδραν εἰς τὴ]ν μίσθωσιν τῆς Νέας διαρρήδην [καὶ τῆς π]-
[εντηκοστῆς] τὴν πρᾶσιν τῆς ἐν τῆι Νέαι χωρὶ[ς - - 6 - - -]
[- - 6 - - - ἡ πρό]σοδος γένηται δυοῖν ταλάντο[ιν κατὰ ἐν]-
[ιαυτὸν ἀπὸ τ]ῶν κτημάτων τῶν ἐν τῆι Νέα[ι] κ[- - - - 9 - - - -]
[- - - -10 - - - -]ρχειν τῆι Ἀθηνᾶι τουτο[- - - - - 13 - - - - -]
[- - - 7 - - - Παν]αθηναίων τῶν μικρῶν τ[- - - - 9 - - - - · οἱ δὲ ἀ]-
[ποδέκται με]ριζόντων αὐτὸ εἰς ταῦ[τα τοῖς ἱεροποιο]-
[ῖς· - - - - 9 - - - -]ον δ’ εἶναι καὶ τὸμ̣ προ[- - - - - -14 - - - - - -]
[- - - - 11 - - - - -]αι μισθοῦν καθὸ ¯ˆ[- - - - - - - 16 - - - - - - -]
[- - - - 11 - - - - -]ι· τὸν δὲ ταμίαν [- - - - - - - - 19 - - - - - - - -]
[- - - - - 12 - - - - -]ΟΝΤΑΣΤΗΣ [.]ˆ [- - - - - - - - - 20 - - - - - - - - -]
(*R-O* 81.5-24)[21]

A second fragment, longer and better preserved, confirms the earlier fragment by specifying that “the 41 minas from the lease of ἡ Νέα” are to be used for the purchase of cows for sacrifice to Athena Polias and Athena Nike (lines 16-17 and 22-24).[22] Despite

[20] The lands in question are referred to as ἡ Νέα, “the new territory.” The general consensus is that this refers to some portion of the territory around Oropos, which was transferred from Boeotia to the Athenians by Philip of Macedon in the year after the Battle of Chaeronea. Another view holds that it refers to the small North Aegean island of Νέα, now submerged by the sea.

[21] It seems as if it should be possible to restore the missing letters at the end of line 15 and the start of line 16. A reconstruction like

...χωρὶ[ς τῶν ἄλλ]-
[ων ὅπως ἡ πρό]σοδος...

would seem consistent with the other restorations here, and the *dēmos* may have hoped to guarantee a minimum combined revenue from the leases and the one-fiftieth tax. The use of ὅπως without ἂν in a final clause would be unusual in a Classical Attic inscription, but there are some fourth-century parallels: e.g., *IG* II^2 226.42-45, and perhaps *IG* II^2 207 b-d.20.

[22] Rhodes and Osborne 2003, 401 point out that forty-one minae could have been expected to purchase somewhere in the neighborhood of 50 cows, yielding between 5,000 and 6,000 kg of meat. Although the decree specifies rules for the distribution of “shares” or “portions” (μερίδες) of meat, we do not know how much meat would have constituted a portion. The significance of the forty-one minae will be discussed further in §3.2.2, below.

uncertainties, however, it is clear that the Athenians dedicated a definite sum from a particular source of revenue to a particular object: money from the lease of ἡ Νέα was to be used for expenses related to the Little Panathenaia. Thus, although the *merismos* clause in lines 19-21 of the first fragment ([οἱ δὲ ἀ|ποδέκται με]ριζόντων αὐτὸ εἰς ταῦ[τα τοῖς ἱεροποιο|ῖς]) lacks context and depends heavily upon restorations, we can be sure that the *apodektai* had very definite instructions to turn over a precise portion of the Νέα lease income to the *hieropoioi* of the Little Panathenaia.

Another law that deserves to be mentioned as evidence for *Individualizierung* in fourth-century Athens is the law on the repair of the Piraeus fortifications (*IG* II^2 244 = *Schwenk* 3), which is probably to be dated to 337, when Athens attempted to shore up her defenses in the wake of the defeat at Chaeronea.[23] Large parts of this document are missing, but the indications that special funds are being raised for the wall repair effort seem unmistakable. At line 12, we have a purpose clause expressing the desire to raise money (ὅπως δ’ ἂν καὶ χρήματα εἰς τ̣ὰ̣ [ἔργα]); at line 19, we have an allocation to be made, probably by the *apodektai*, in the event that a sum of money falls short of ten talents (ἐλλείπηι εἰς τὰ δέκα τάλαντα, μερίζειν τοὺ[ς]); later, we can infer from lines 20 and 25 that Athenian metics were expected to contribute one-sixth of the money that was required or realized for the work on the walls (εἰσφέρειν δὲ καὶ τοὺς μετοίκους τὸ ἕκτον μέ[ρος] and [λε]λογισμένων τῶγ χρημάτων εἰδότες καταβάλλουσιν ο[ἱ μέτοικοι], respectively). We also have, on lines 21-22, a provision for three different payments, apparently in three different prytanies and presumably all from the same source.[24]

[23] There is considerable debate as to whether the Attic year to which the law belongs is 338/7 or 337/6. See Schwenk 1985, 24-26.

[24] One wonders whether the (partially restored) payment schedule in lines 21-22 is standard for those types of expenditures for which the *merismos* occurs three times per year (*Ath. Pol.* 47.3).

Perhaps most importantly, on line 21 we appear to have the declaration that the moneys raised by this law are to be dedicated to the wall-repair effort (̣τὰ ὑπάρχοντα χρήματα ἐν τῶιδε τῶι νόμωι τειχ[οποικὰ]). In other words, we have here, as in the Law on the Little Panathenaia, specific sources of revenue being matched to a particular object of expenditure.

3.1.3 Problematic or Ambiguous Cases of *Individualizierung* / *Individualizierung* Outside the *Merismos*

Other similar examples could be mentioned (and will be mentioned below), but I now wish to address the possibility that some significant revenues may have been directed from their sources to particular objects of expenditure without having first passed through the hands of the *apodektai*.[25] This is sometimes suggested, for example, with respect to the fees exacted and the fines imposed by the Athenian law courts. We are told that they were used to pay the salaries of Athenian dicasts,[26] but some of the passages said to support this assertion do not in fact support it – at least not in any unambiguous way. For example, the Old Oligarch writes that the Athenians took *misthos* for the year from the *prytaneia* ([Xen.] *Ath. Pol.*1.16: ἀπὸ τῶν πρυτανείων τὸν μισθὸν δι᾽

[25] In n. 5, above, I pointed out that officials other than the *apodektai* seem to have collected money for the state but noted that the *praktores* (for example) simply may have handed over to the *apodektai* whatever funds they collected. In the cases discussed here, moneys are alleged to have been received and disbursed without undergoing *merismos* in the presence of the Council.

[26] Various types of court fees were imposed: see Rhodes 1981, 661 *ad Ath. Pol.* 59.3 for one explanation of the difference among *prytaneia*, *parastaseis*, and *parakatabolai*. Fines consisted not only of penalties imposed in public cases but also, for example, of those fines paid by prosecutors who abandoned a public case or who failed to secure one-fifth of the votes cast. Certainly *prytaneia* were the most common and best known of these types of fees, and they are referred to by Aristophanes in a list of Athens' major revenue sources in the late fifth century (*Vesp.* 659). At Thuc. 6.91.7, Alciabiades tells the Spartans that the fortification of Decelea will deprive the Athenians of revenues from the courts.

ἐνιαυτοῦ λαμβάνειν). Since pay for assembly attendance had not yet been introduced at the time when the Old Oligarch was writing (mid- to late fifth century), *misthos* here is generally assumed to refer to jury-pay, though technically it might also refer to other sorts of emoluments from the state. In a similar vein, Pollux tells us in his discussion of the *prytaneia* (8.38) that ἐλάμβανον δὲ αὐτὸ οἱ δικασταί; this seems to refer to private suits. Later, apparently discussing public cases, he writes that οἱ δὲ οἴονται πρυτανεῖα εἶναι τὸ επιδέκατον τοῦ τιμήματος; κατατίθεσθαι δ' ἀυτὸ τοὺς γραψαμένους ἐπὶ μισθοδοσίᾳ τῶν δικαστῶν. Some supporting testimony comes from other sources.[27]

While it is certainly not impossible that the funds received from legal fees were earmarked for the payment of jurors, we certainly should not assume that the money reached the jurors in any direct way.[28] The *dikastikon misthos* appears to have been paid to the jurors by the *kōlakretai* in the fifth century, when these officials existed.[29] In the fourth-century democracy, the official or officials responsible for the payment are unknown to us, though we get the impression that the dispensing of the payments to the

[27] The Suda glosses Πρυτανεῖα (Π 2998) as πρόσοδος εἰς τὰ δημόσια κατατασσομένη, ἣν οἱ δικασάμενοί τισι καὶ ἡττηθέντες κατέβαλλον, ὡρισμένην ζημίαν κατατιθέντες ἕκαστος. This same gloss appears in Photius's *Lexicon* under "πρυτανεία" (467). Under its entry for Ἀντωμοσία (A 2760), the Suda relates that πρυτανεῖα δὲ τῷ ταμίᾳ καταβάλλει ἕκαστος, ὅπως εἰσαχθῇ ἡ δίκη. (It seems at least possible that this mention of the legal fees in connection with the oaths is inspired by Ar., *Nub*. 1135-6, where Strepsiades says that each of his creditors takes an oath, pays *prytaneia*, and then threatens him with destruction [πᾶς γάρ τις ὀμνὺς οἷς ὀφείλων τυγχάνω, | θείς μοι πρυτανεῖ᾽ ἀπολεῖν μέ φησι κἀξολεῖν]; these lines are quoted in the Suda entry under Πρυτανεῖον (Π 2999), just before the assertion that the *prytaneia* are τὰ παρὰ Ῥωμαίοις καλούμενα σπόρτουλα. τὰς γὰρ δεκάτας τοῦ χρέους καταβάλλοντες τοῖς πρυτάνεσιν εἰσῆγον τοὺς χρεώστας. This is a very slight rewording – really little more than a transposition of sentences – of a scholium on Ar., *Nub.* 1136.)

Lys. 27.1-2 and 30.22 are sometimes cited in support of the idea that jurors were paid directly out of fees and fines arising from legal cases, but neither passage actually says this: the latter passage says only that the Council (which was responsible for maximizing the state's revenues) is more liable to accept *eisangeliai* and confiscate citizens' property when the available funds run short. The former passage is slightly more suggestive, but may indicate no more than that the jurors' pay depended on the totality of the *polis* revenues, which in turn relied to some extent upon monetary penalties imposed by the courts.

[28] Boeckh recognized this: "[The *prytaneia*], as often happens at the present day, fell to the state, and the latter paid the judges instead of allowing them to receive the prytaneia." (1857 [1851], 470). It is for this reason, as Boeckh indicates, that the *prytaneia* are classed among the revenues of the state.

[29] This can be inferred from the references to them in Ar., *Vesp.* 695 and 724 (and the scholia thereto).

jurors at the court day's end was directed by the *prytanis*.[30] But the funds from the *prytaneia* were surely too limited to pay all the jurors, even if we assume a much lower total for expenses on jurors than the 150T mentioned in Aristophanes (*Vesp.* 661-663). Indeed, for any particular case or session there could be no guarantee that the fees and fines would be sufficient to pay the jury; some sort of central fund or treasury would need to be involved.[31] There is really no very good reason, then, to assume that the money in question did not pass through the hands of the *apodektai*.

Another possible example of *Individualizierung* outside the *merismos*, and one which was emphasized by Andreades, comes from a decree dating to shortly after the fall of the democracy (*IG* II^2 380: 320/19 B.C.):

> ὅπως ἂ-
> ν ἡ ἀγορὰ ἡ ἐ[μ] Πειραε[ῖ] κ[α]τασ[κε]υασθ[εῖ] κ-
> αὶ ὁμαλισθεῖ ὡς κάλλιστα κ[α]ὶ τὰ ἐν τῶι
> ἀγορανο[μ]ίωι ἐπι[σ]κευασθεῖ ὅσων προσ-
> δεῖται ἅπαν[τ]α, ἀγαθῆ[ι τ]ύχηι δεδό[χ]θαι
> τῶι δήμωι τοὺς ἀγορανό[μ]ους τοὺς ἐμ Π[ε]-
> ιραιεῖ ἐπι[μ]εληθῆν[α]ι ἁπάντων τούτων, τ-
> **ὸ δὲ ἀνάλωμα εἶναι εἰς ταῦτα [ἐκ] τοῦ ἀργ-**
> **υρίου οὗ οἱ ἀγορανόμοι διαχειρίζουσ-**
> **ιν**· ἐπειδὴ δὲ καὶ ἡ τῶν ἀστυνόμων ἐπιμέ-
> λεια προστέτακται τοῖς ἀγορ[α]νόμοις,

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[30] This seems implied by a scholium on Ar., *Plut.* 277: ἐδίδου δὲ ὁ κῆρυξ αὐτοῖς καθ' ἑσπέραν ἀποδιδοὺς τῷ πρυτάνει τὴν ῥάβδον τριώβολον λαμβάνῃ μισθὸν τῆς δικάσεως. A decree of Cephisophon of Cholargos inserted in *IG* II^2 1629 (= *R-O* 100, a naval list from 325/4) requires that the pay for two specially impaneled *dikastēria* come from the Treasurers of the Goddess "according to the law" (κατὰ τὸν | [νό]μον) (lines 213-217). It is difficult to know how to interpret this: the reference to law suggests some standing procedure, but the courts mentioned in the decree are clearly not ordinary courts. It is hard to imagine that the Treasurers of the Goddess dispensed the *dikastikon* to each individual juror: perhaps they paid it to the man designated as being in charge of the courts, the general elected over the symmories (τῶι | [στ]ρατηγῶι ἐπὶ τὰς συμ|[μ]ορίας ἡιρημένωι)?

[31] See Boeckh 1857 [1851], 471. Moore 1986, 50-51 *ad* [Xen.] *Ath. Pol.* 1.16 makes the point that to raise even 60 talents "would require 12,000 cases with at least 1,000 drachmae at stake in each case." This is assuming that the jurors were paid only out of the *prytaneia*, which would only reach their maximum value of 30 drachmas if the case concerned a sum equal to or greater than 1,000 drachmas (Pollux 8.38). Hansen 1999, 189 estimates that the annual cost of jury-pay in the fourth century was between 22 and 37 talents. But even given such a low estimate, it is hard to see how the jury system could have run on *prytaneia* alone. In an unpublished essay ("The Economy of Risk: Prosecutor and Legal Procedure in Classical Athens"), Adele Scafuro concludes that "[a]ncient reports that suggest the *prytaneia* was directly paid to dikasts or that the fee equaled the cost of the case cannot be considered accurate. It is more reasonable to suppose that the *prytaneia* was added to other revenues."

> ἐπιμεληθῆναι τοὺς ἀγορανόμους τῶν ὁ-
> δῶν τῶν πλατειῶ[ν], ἧι ἡ πομπὴ πορεύεται
> τῶι Διὶ τῶι Σωτῆ[ρι κα]ὶ τῶι Διονύσωι, ὅπ-
> ως ἂν ὁμαλισθῶσιν καὶ κατασ[κ]ευασθῶσ-
> ιν ὡς βέλτιστα, **τ[ὰ] δὲ ἀν[αλ]ώματα εἶν[α]ι ε-**
> **ἰς ταῦτα ἐ[κ] το[ῦ] ἀργυρ[ίο]υ οὗ ο[ἱ ἀ]γορανό-**
> **μοι διαχειρίζουσιν**. (lines 8-25)

Andreades, relying heavily on previous scholars, believed that the money used by the *agoranomoi* "for the maintenance of buildings in the market" came from the *xenika*, a tax on aliens doing business in the marketplace which is referred to by Apollodorus in [Dem.] 57.34.[32] A great many inferences are involved here. We do have reason to believe that the *agoranomoi* may have collected market duties of some kind, but the fourth century evidence is weak.[33] The law quoted above probably represents not long-established Athenian practice but the changes in administration following the destruction of democracy, including the abolition of the *apodektai*. The nature and extent of these changes are illustrated by lines 17-18, where we read that the duties formerly assigned to the *astynomoi* (see *Ath. Pol.* 50.2) are now adjoined to those of the *agoranomoi*, the former officials apparently having been abolished too, in the process of oligarchic reorganization.

On the whole, then, we find no strong evidence that any regular Athenian revenues did *not* pass through the hands of the *apodektai* during the period of the fourth-

[32] Andreades 1933 [1928], 279 n. 5.

[33] At Ar., *Ach.* 896, Dicaeopolis claims an eel from a Boeotian trader as an ἀγορᾶς τέλος, and a scholion on this line informs us that "it was the custom of old, as it is even unto the present, for those selling in the marketplace to pay a tax to the *logistai*." Another scholion on line 723 of the same play tells us those officials once called *agoranomoi* are now called *logistai*. Probably the strongest evidence for the *agoranomoi*'s having collected a tax is the lead tokens that bear the name of their office; these may have been receipts for payment of market dues: for references to these see Rhodes 1981, 576 *ad Ath.Pol.*51.1. But these tokens probably date to the Hellenistic period, not to the time of the fourth century democracy: see Lang and Crosby 1964, 79-82 and 101-102.

On the duties of the Athenian *agoranomoi* generally, see *Ath. Pol.* 51.1, which mentions only the inspection of merchandise; none of the market officials mentioned in *Ath. Pol.* 51 are described by the *Ath. Pol.* as collecting taxes). On the other hand, there is evidence that the fourth-century *agoranomoi* had the power to impose fines: see Xen., *Sym.* 2.20.

century democracy. Certainly we have every reason to believe that the majority of the money received by the Athenian state was handled according to the procedure set forth in the *Ath. Pol.*, and that, although *Individualizierung* was the organizing principle of the *merismos*, it was not normally carried so far that officials other than the *apodektai* might both receive and spend public funds on any significant scale.[34]

The advantages of *Individualizierung* for democracy are obvious. Understanding and regulating a series of individual relationships between sources and destinations of revenue was surely much easier for the assembled *dēmos* than devising a comprehensive budget would have been. On the other hand, many scholars who have believed that Athenian public finance rested on a system of *Individualizierung* have also believed that the system must have been a severe handicap to the state. Humfrey Michell, for example, wrote in his *Economics of Ancient Greece* that *Individualizierung* "led to extravagance along certain lines. If a surplus were found in one of the treasuries . . . the temptation to dissipate the balance on some perhaps frivolous object was very great." Michell was not alone in his belief that a great accomplishment of financial administrators like Eubulus and Lycurgus was to centralize funds so that surpluses in individual accounts were not liable to being "severally dissipated."[35]

3.1.4 Evidence Against *Individualizierung* and Its Significance

[34] At Dem. 22.63, we meet an ἐπιμελητὴς τῶν νεωρίων named Satyrus who collected thirty-four talents from four individuals and used the money to equip triremes, but this seems to refer not to regular revenues but rather to the recovery of funds owed as the result of a failure to meet trierarchic obligations: see Gabrielsen 1994, 146-169 (including references to this particular passage on pp. 156 and 162).

[35] Michell 1957, 356. For Eubulus, Michell cites Motzki 1903 (but without page numbers). Andreades held a similar view of the "tendency toward extravagance" produced by the practice of *Individualizierung* (1933 [1928], 367). David Lewis, by contrast, saw exploitation of *Individualizierung*'s potential as an innovative feature of Lycurgan finance: commenting on the Law on the Little Panathenaia, he wrote that "[t]he concept of making sure that there are specific funds for a specific purpose seems quite new in Athenian public finance" (1997c, 261).

Our evidence that the *merismos* worked by a process of *Individualizierung* is reasonably strong. However, we also have other pieces of evidence that seem to argue against a comprehensive matching between sources of revenue and objects of expenditure. Some inscriptions imply that not all distributions by the *apodektai* had to come from particular sources, and we also have at least one fourth-century document which seems to indicate that not all revenue received by the *apodektai* had to be earmarked for a particular purpose. Much of the rest of this chapter will attempt to understand this evidence, and to use it to build up a picture of the broad outlines of Athenian public finance.

3.1.4.1 Cases in Which the a Source for an Expenditure is Not Specified

In the Law on Silver Coinage of 375/4 B.C. (Stroud 1974 = *SEG* 26.72 = *R-O* 25), the *apodektai* are instructed to allocate funds ([μερίζοντ]|ων) for the purchase of a slave who will sit by the stele of Poseidon in the Piraeus and serve as the state's inspector of coinage (*dokimastēs*); this is in case no slave already owned by the *polis* is available for the job and the Council decides to buy a new one (ll. 36-41). But, in an apparent contravention of the principles of *Individualizierung*, the source of the money for the slave is not defined, nor does the law specify how much is to be paid for him. Later in the same law, we find (ll. 49-53) that in the current archonship the *apodektai* are to allocate to the new inspector "from the time of his appointment" a salary (*misthophoria*) equal to that of “the *dokimastēs* in the city,” another inspector of coinage who had already existed before the passage of the law:

> …τ[ὴν δὲ μ]-
> ισθοφορίαν εἶναι τῶι δοκιμαστῆι τῶι ἐν τῶι [ἐμπ]-
> ορίωι ἐπὶ μὲν Ἱππδάμαντος ἄρχοντος ἀφ’ οῦ̣ [ἂν κα]-
> τασταθῆι, μεριζόντων οἱ <ἀ>ποδέκται ὅσομπερ τ̣[ῶι]
> ἐν ἄστει δοκιμαστῆι.   (*R-O* 25.49-53)

Just as we are not told where the money to buy the new inspector is to come from, so too no mention is made of the source from which the inspector’s salary will be paid in the current year. Since his salary is to be equal to that of the inspector in the city, should we assume that it is also to come from the same source? That seems possible but by no means certain, since the law makes it explicit that in the future – i.e., after the current archonship – the new inspector will be paid from the source that funds the salaries of the workers at the public mint (ll. 53-55: ἐς δὲ τὸν λοιπὸγ χρόν[ον εἶνα]|ι αὐτῶι τὴμ μισθοφορίαν ὅθεμπερ τοῖς ἀργυ[ροκό]|ποις.).[36] At any rate, the fact that this law twice declines to specify the sources of money for expenditures (and once refuses even to name an amount!) raises the possibility that decisions on these matters were to be taken by the *apodektai*, the Council, or other officials. Such discretion by officials, if pervasive in Athenian public finance, would run contrary to the “democratic ideology of Athenian law” that I tried to define in the last chapter. But without either a comprehensive budget or *Individualizierung* to impose order on Athens’ *merismos*, it is hard to see how such pervasive discretion could be avoided.

[36] It is interesting to see that a source might be *specified* without being *named* (and this may happen again in the Grain-Tax Law of 374/3 [Stroud 1998 = *R-O* 26]: see §3.2.3.4, below). Stroud 1974, 184 suggests a reason why the new inspector cannot be paid from the source that funds the mint-workers’ *misthophoriai* in the current archonship: “Presumably he [the *dokimastēs*] could not be paid from this fund for the rest of the year because the allocation which had already been made to the *argyrokopoi* covered only existing personnel.”

We also have other documents in which the *apodektai* are instructed to make allocations of money without any source for that money being specified. In at least two and possibly as many as five inscriptions, all dating to the earliest part of the fourth century, the *apodektai* are charged with providing money for the publication of the decree on stone.[37] In only one of these inscriptions is a source for the money indicated, and it is indicated only in what seem to be the vaguest possible terms: ἐκ τῶν καταβαλλομένων χρημά|[τ]ων.[38]

These inscriptions have figured in a long if sporadic debate among students of Greek epigraphy. From shortly after the foundation of Athens' Second Confederacy down almost to the end of the fourth century (303 B.C.), the standard official responsible for disbursing money to pay for the publication of decrees was the Treasurer of the *Dēmos*. From 404 B.C. to ca. 376 B.C., however, several different *archai* appear in decrees as the ones responsible for paying to have the decrees inscribed.[39] In 1914, A.C. Johnson attempted to impose order on relative chaos by setting forth a speculative chronology in which the Treasurers of Athena and the Other Gods paid for inscribing costs in the decade from 404 to ca. 394, the Treasurer of the *Dēmos* paid for inscribing costs from ca. 394 to 387, the *apodektai* paid for inscribing costs from 387 to ca. 384, and the Treasurers of Athena paid for inscribing costs from ca. 384 until 377; in 377, payment

[37] The inscriptions that certainly belong in this category are *IG* II^2 29 and 31. In *IG* II^2 33, 40, and 81, the restoration of the relevant portion of the publication clause is disputed. Henry 1982, 105 believes that the relevant portion of *IG* II^2 29 (ll. 18-22) refers not to funds for publication (mentioned in ll. 7-13) but to "a gift of money mentioned somewhere in the missing portion of the decree." But this does not matter much for my purposes, since either way a source for the money is not specified.
[38] *IG* II^2 29.20-21.
[39] For overviews of payment provisions in Attic inscriptions, see Nolan 1981 and Loomis 1998, 121-165 (though the focus of both these studies is the costs of inscribing rather than the officials responsible for making the payments).

for inscriptions once again became the province of the Treasurer of the *Dēmos*, who "continued to discharge [that duty] until the close of the century."[40]

Johnson's chronology was open to question; of the five inscriptions in which Johnson believed payment was assigned to the *apodektai*, only one could be dated with certainty; dates for the others were based on inference or speculation.[41] Almost twenty years later, W.B. Dinsmoor proposed a new, simplified schema in which, among other revisions, all the decrees in which the Treasurer of the *Dēmos* paid for inscription costs were moved to 376 or later. Dinsmoor also compressed the inscriptions in which the *apodektai* are made responsible for payment into the single Attic year 386/5, believing that the *apodektai* must have been responsible for the payment of inscription costs only during the period of reorganization in which the Treasurers (and treasuries) of Athena were separated from those of the Other Gods.[42]

The question was taken up again by A.S. Henry after an interval of five decades. Henry believed that Johnson's and Dinsmoor's sequences were both unworkable. The crux of the issue was *IG* II^2 40: Henry thought it impossible either to reject Kirchner's dating of this inscription to 37<u>8</u>/7 (as Johnson had done), or to reject his restoration of the *apodektai* as the officials who pay for the publication of the decree (as Dinsmoor had done). If Henry is correct, then it is simply not possible to conclude that the *apodektai*

[40] Johnson 1914, 417-421. Johnson wished to date *IG* II^2 29, 31, and 40 to 386/5 and *IG* II^2 33 and 81 to the following year. Johnson, incidentally, seems to have believed that different procedures are implied by the different verbs μερίσαι and δοῦναι as applied to the *apodektai* in different inscriptions (419); this seems to me implausible.

[41] *IG* II^2 31 can be securely dated to 386/5 B.C. A date of 387/<u>6</u> for II^2 29 seems reasonable, based on the apparent correspondence between ll. 11-13 of that inscription and Xen., *Hell.* 5.1.25-26. Johnson rejected Kirchner's speculative date of 37<u>8</u>/7 for *IG* II^2 40. It is not possible to date *IG* II^2 33 and 81 with any precision.

[42] Dinsmoor 1932, 158-160. Dinsmoor, following Wilhelm (in the *IG Addenda et Corrigenda*), rejected the restoration of the *apodektai* in *IG* II^2 40, which allowed him to retain Kirchner's date of 37<u>8</u>/7.

paid for inscribing costs only during a short period centered on 386/5.[43] In fact, Henry concluded that the *apodektai* could be called upon to make direct allocations for decrees at any time.[44]

I have summarized the history of this question here in order to set the stage for a new perspective on it later in this chapter. For the present, it is important only to puzzle over the fact that, except for the reference to τῶν καταβαλλομένων χρημά[τ]ων already mentioned, we are not told where the *apodektai* are getting the money to pay for the inscriptions. If *Individualizierung* was the principle of the Athenian democracy's finances, then why do these decrees not specify the revenue sources from which the stonecutters are ultimately being paid?

3.1.4.2 A Case in Which the Destination of Revenue Seems to Be Unspecified

If the Law on Silver Coinage and early fourth-century publication clauses are instances where the source of a payment by the *apodektai* is unspecified, another law from the early part of the fourth century seems to present us with the opposite situation – a situation in which we know the source of moneys but are given no clear idea on what they will be spent. The Grain-Tax Law of 374/3 (Stroud 1998 = *R-O* 25) deals with two taxes which are to be paid, rather surprisingly, in bushels of grain; eventually, the *polis* will sell this grain for cash. In the current year only (τὸ μὲν νῦν), the law sets aside a

[43] Henry 1982, 106-107. Henry rejected Johnson's restoration of the *apodektai* in *IG* II^2 33 and 81, arguing that the verb μερίσαι is proper for the *apodektai* while δοῦναι (which appears in both these inscriptions) must apply to treasurers. I am not entirely convinced of this – the verb παραδοῦναι is used of the *apodektai* at *IG* II^2 212.43-44 – but again a definite resolution of this issue is not essential to the present discussion.
[44] Henry, 1982, 118 n. 111. This conclusion was anticipated, though in less detail, by Rhodes 1972, 103 n. 7.

portion of the revenues from the sale of the grain and apparently dedicates it, via *merismos* by the *apodektai*, to the *dioikēsis* (εἰς τὴν διοίκησι[ν]) (lines 54-61).[45] This seems rather vague. Of the various definitions of the word *dioikēsis* offered by *LSJ*, the only ones that seem applicable are "internal administration" (as in the phrase διοίκησις τῆς πόλεως), "financial administration," and (in the Supplement to *LSJ*) "provision, funds."[46] Stroud, in his *editio princeps* of the law, chose the second of these options: "For the present it [the money] is to belong to the financial administration."[47] But this very sensible interpretation also presents us with problems: why bother to define and sequester, one time only, this sum of money which is apparently to be directed to nothing more specific than "the financial administration"? More puzzling still, the money from the sale of the grain that is *not* set aside by the law *does* seem to have a specific destination: the Stratiotic Fund (ll. 54-55: καὶ ἔστω στρατι[ω]|τικ<ὰ> τὰ ἐκ τοῦ σίτο γενόμενα).

What, then, are we to make of these apparent violations of the principle of *Individualizierung*? Do they reflect an undercurrent of disorder running through the Athenian financial system? Can they be understood only with reference to constitutional or legislative nuances of which we are largely or wholly ignorant? I do not think so. Rather, I wish to suggest that the likeliest explanation for these phenomena is a simple

[45] The money to be set aside εἰς τὴν διοίκησι[ν] is defined as being "the down payment from the islands and as much of the one-fiftieth tax as accrued last year from the two tenths" (ll. 55-59). The provisions concerning the temporary allocation of this share of the revenues are one of the Grain-Tax Law's most problematic features: see Stroud 1998, 77-84 and Rhodes and Osborne 2003, 126. These provisions will be quoted in §3.2.2 and discussed further in §3.2.3.4, below.
[46] Διοίκησις is, needless to say, related the verb διοικέω and is the source of the English word "diocese." Διοίκηση still means "administration" in modern Greek.
[47] Stroud, 1998, 9. Stroud comments: "Διοίκησις here presumably has its specific technical meaning, designating a general fund in the financial administration of the *polis*, which was not otherwise targeted for individual use" (81); in this connection he cites Lys. 30.22 and Dem. 24.96-102. I argue below that the use of διοίκησι[ν] here is specific and technical, but perhaps not in the exact sense that Stroud suggests.

one. But some preliminaries are in order if the solution is to be both understandable and credible. And unfortunately, those preliminaries do not arise organically from our discussion thus far. Instead, it seems best to approach them from a new direction.

3.2 Surplus

As a first step to interpreting correctly the word *dioikēsis* in line 59 of the Grain-Tax Law (εἰς τὴν διοίκησι[ν]), I wish to draw the reader's attention to the debate which occurred in the 340s B.C. over the "surplus of the *dioikēsis*" (τὰ περιόντα χρήματα τῆς διοικήσεως, [Dem.] 59.4). This debate has already been discussed in Chapter Two, §§2.2.2 and 2.4.3, above; and it will be be discussed again in Chapter Four, §4.2, below. Now, I noted in the last section (§3.1.4.2) that the conventional definitions of *dioikēsis* most applicable to a public finance context like the Grain-Tax Law are "internal administration," "financial administration," and "provision" or "funds." Thus, "the surplus of the *dioikēsis*" was presumably the money left over from the regular expenses of running the Athenian state. In fact, I wish to argue that the surplus of the *dioikēsis* can be understood in an even more technical sense as the excess of the *merismos*, and I wish to offer a theory of how and when that surplus was probably calculated and what then happened to it.[48] Eventually, the elaboration of this theory will lead us back to an explanation of the apparent violations of *Individualizierung* that I have been discussing. It also will lead, I hope, to a deeper appreciation of how the system of Athenian public

[48] Rhodes 2007, 352 has already shown that the "surplus of the *dioikēsis*" was equivalent to "the moneys left over after the prescribed *merismos* to spending authorities had been made" (352): see the following note .

finance was devised with democracy in mind. For the present, however, I turn to a short survey of the evidence concerning the denotation of the word *dioikēsis* itself.

3.2.1 *Dioikēsis*[49]

The word *dioikēsis* appears often in ancient literary texts on public finance, although rarely in Attic inscriptions before the fall of the democracy in 322 B.C.[50] It refers, as we have noticed, to the financial administration of a state – though it can often refer to the government of a commonwealth more generally.[51] It is sometimes asserted that it refers particularly to the secular as opposed to the sacred finances, but I am an agnostic on this point.[52] What is not stressed sufficiently in the scholarly literature is that in fourth-century Athens it refers particularly to *expenditures*, or provision for

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[49] My procedure and conclusions in this section approximate closely to those of Peter Rhodes in his 2007 article on "διοίκησις," an article whose existence I discovered only when this dissertation was essentially complete. There are also some points of contact between my reconstruction of the structure of Athenian public finance and Rhodes's description of that same structure in the first pages of his article. I must therefore stress that my conclusions were arrived at independently, and that much of my argument here was outlined in a talk ("The Athenian 'Budget' in the Fourth Century B.C.") which I gave at the American School of Classical Studies at Athens in May, 2005. It goes without saying, however, that I have been influenced throughout the writing of this dissertation by many of the other works that Professor Rhodes has published over the last forty years, and I do not wish to understate my very great debt to his profound scholarship.

[50] Apart from the Grain-Tax Law, the word appears only in *IG* II² 223 B.11 and C.11 (343/2 B.C.), and, as a fairly likely restoration, in *IG* II² 233 b.9 (340/39 B.C.). Beginning in 307/6 B.C. (with several occurrences in *IG* II² 463), the word occurs quite frequently in the title ὁ ἐπὶ τῆι διοικήσει or the plural οἱ ἐπὶ τῆι διοικήσει. On these officials, see Henry 1984 and 1988.

[51] The latter, broader connotation is usual in Isocrates (e.g., 1.37; 4.41; 7.11 and 58; 9.46, and 69; 12.128, 130, 153, and 239; 15.232) and Plato (e.g.: *Plt.* 296e; *Resp.* 449a, 455b, 599c; *Leg.* 768d and 809c; *Prt.* 319d; *Min.* 317a). The word may also refer very naturally to the management of a household or to private affairs; this is made quite clear by passages like Plat., *Chrm.* 172d (διοικήσεως καὶ οἰκίας καὶ πόλεως) and *Leg.* 807e (τῶν κατ᾽ οἰκίαν διοικήσεων) and 790b (τῆς ἰδίας διοικήσεως).

[52] For the rather limited evidence, see the article by Brandis in *RE* s.v. διοίκησις, The relevant texts from the Classical Era are Xen., *Hell.* 6.1.2 and Dem. 24 .96, neither of which I find decisive. Brandis emphasizes constructions like *dioikēsis tēs poleōs* and believes it must be implicitly contrasted with something like *dioikēsis tōn hierōn*, but the potential application of the word to the management of private or household affairs (see the previous note) seems to me an adequate explanation for such qualifying phrases.

expenditures as opposed to *revenues* – or as opposed to any standing fund (which the term may have designated in other Greek cities at other periods).

The association between the word *dioikēsis* and expenditure may be seen with particular clarity in passages that use the word for domestic (i.e., household) expenditures. In the pseudo-Demosthenic speech *Against Polycles*, for example, Apollodorus says he gave something to his sailors to leave behind for the *dioikēsis* of their households ([Dem.] 50.12: τοῖς δὲ παραμείνασι τῶν ἀρχαίων ναυτῶν ἔδωκά τι εἰς διοίκησιν τῶν οἰκείων καταλιπεῖν). Clearly, *dioikēsis* here refers to upkeep or necessary expenses. Likewise, in another speech of Apollodorus, we read that the property of Stephanos and Neaira was inadequate to enable them to sustain their daily expenses ([Dem.] 59.42: οὐσία μὲν γὰρ οὐχ ὑπῆρχεν Στεφάνῳ οὐδὲ Νεαίρᾳ, ὥστε τὰ καθ᾽ ἡμέραν ἀναλώματα δύνασθαι ὑποφέρειν), and this is explained by the fact that their *dioikēsis* was quite substantial (ἡ δὲ διοίκησις συχνή) as a result of their large household establishment and the lifestyle to which Neaira had become accustomed.

Examples from public finance also substantiate the connection between *dioikēsis* and necessary outlays. For example, in Lysias 30.22, we read that the Council does not go wrong in the administration of justice whenever the monies for the *dioikēsis* are sufficient:

> εἰδὼς δὲ ὅτι ἡ βουλὴ ἡ <ἀεὶ> βουλεύουσα, **ὅταν μὲν ἔχῃ ἱκανὰ χρήματα εἰς διοίκησιν, οὐδὲν ἐξαμαρτάνει**, ὅταν δὲ εἰς ἀπορίαν καταστῇ, ἀναγκάζεται εἰσαγγελίας δέχεσθαι καὶ δημεύειν τὰ τῶν πολιτῶν καὶ τῶν ῥητόρων τοῖς <τὰ> πονηρότατα λέγουσι πείθεσθαι.

This means simply that the Council is not motivated to confiscate people’s property unjustly when it has enough money to cover its needful expenditures. Similarly, Xen. *Hell.* 6.1.3 – the passage most commonly cited as supporting a distinction between the (secular) *dioikēsis* and sacred moneys – says that the Pharsalians entrusted Polydamas with revenues to spend "for sacred things and for the rest of the *dioikēsis* insofar as it had been written in the laws" (οἱ Φαρσάλιοι παρακατέθεντο αὐτῷ τὴν ἀκρόπολιν καὶ τὰς προσόδους ἐπέτρεψαν λαμβάνοντι, ὅσα ἐγέγραπτο ἐν τοῖς νόμοις, εἴς τε τὰ ἱερὰ ἀναλίσκειν καὶ εἰς τὴν ἄλλην διοίκησιν). Here, *dioikēsis* clearly refers to objects of expenditure. Yet another example of the association of the *dioikēsis* with expenses comes from Demosthenes' oration *Against Timocrates*: the *nomothetai* by whom Timocrates' law was passed were convened to ensure that the *dioikēsis* for the upcoming Panathenaic Festival would be sufficient (Dem. 24.27-28).[53] The question here cannot be one of *revenues*: there would hardly have been time to find these anyway, since the beginning of the festival was imminent. The issue was one of financial provision – of making sure that a way to pay the costs of the festival had been arranged.

Given the association of *dioikēsis* with provision for expenses, it seems quite reasonable – indeed inevitable – to understand the "surplus of the *dioikēsis*" as the money left over after the state's required expenditures have been provided for. And since the provision for those expenditures was made through the *merismos*, it further seems inevitable to suppose that the "surplus of the *dioikēsis*" corresponded to the excess of money left over once the requirements of the *merismos* had been met.

3.2.2 Calculating the Surplus

[53] Demosthenes assures his listeners that this was a ruse: nothing was ἀδιοίκητον and no law relating to financing for the festival was in fact introduced (24.28-29).

But if we conclude that the "surplus of the *dioikēsis*" is the excess of the money paid in to the *apodektai* and distributed through the *merismos*, a problem immediately arises: when exactly did money that had been received by the *apodektai* and had passed through the *merismos* into the hands of various *archai* become *surplus* money? When and how did the "surplus of the *dioikēsis*" come into existence? At [Dem.] 59.4, we read that the surplus was supposed to become "stratiotic" (στρατιωτικά) in time of war; Apollodorus wished to offer the people a choice between making it "stratiotic" (i.e., paying in into the Stratiotic Fund) and making it "theoric" (i.e., depositing it in the Theoric Fund). But when and how did the *dēmos* and its officials know that public funds were *surplus* funds? At what point was it determined that the money was not needed and was available for some other use?

One possibility is that at some point in the civic calendar the *archai* who regularly received state funds were obliged to hand back to the *apodektai* or hand over to other officials whatever they had not yet spent. If we choose to pursue this possibility, two points in the calendar immediately suggest themselves: (1) the end of the calendar year, when most officials would lay down their offices, and (2) the beginning of ninth prytany, in which, as we know from both Aristotle and Demosthenes, the most substantial chunk of the state's revenues was paid in and distributed through the *merismos*.[54]

We can, I think, immediately dispense with the first possibility. If officials were expected to return unspent funds at the close of the calendar year instead of handing them on to their successors, it is not clear what the incoming officials would do for funds before they received their first allocation under the *merismos*. In some cases, this might occur in the very first prytany of the new calendar year, but the evidence of *Ath. Pol.* 47-

[54] See n. 8, above for references.

48 (especially 47.3) suggests that in other cases it might not happen until the ninth.[55] So it is very likely, *prima facie*, that officials were expected to pass some unspent funds along to their successors.[56]

This seems to be confirmed by a document that is, to the best of my knowledge, the only clear evidence for the prytany-by-prytany operation of the fourth-century *merismos*. This document is the accounts of the *epistatai* of Eleusis and the Treasurers of Two Goddesses for the for the Attic year 329/8 (*IG* II[2] 1672 = Clinton [2005] 177). The inscription is not complete and raises at least as many questions as it answers, but it does tell us, first of all, that nothing which can be identified as a regular allocation to the *epistatai* from the *apodektai* and the *merismos* occurred in either the first or second prytany of 329/8. (A large irregular "advance" [προσδανεισθέν, line 39] from various sources, including the *apodektai*, is recorded for the second prytany. The third prytany and most of the fourth are missing in this document, and we have what seem to be more or less standard allocations, though in different amounts, in prytanies five and six.) Furthermore, we see that in the first prytany the *epistatai* are in possession of a "surplus" ([περ]ιόν) of 25 drachmas which must have been carried over from the previous year.[57] There is no reason to believe that this does not represent a typical situation.

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[55] Cf. also Dem. 24.98.

[56] It is worth mentioning the possibility that, while revenues were received only in particular prytanies, the *apodektai* may have conducted a *merismos* in each prytany beginning with the first. In fact, such a possibility fits rather well with my theory, outlined below, that the laws specified a precise sum to be paid to each *archē*: such a sum could easily have been divided by ten with one-tenth being provided by the *apodektai* in every prytany. However, such evidence as we have tells against the existence of such a system. *IG* II[2] 1672, which I am about to discuss, does not show a distribution from the *apodektai* to the Eleusinian *epistatai* before the fifth prytany.

[57] Though restoration is required both for the word [περ]ιόν and for the sum of 25 dr., these restorations are amply justified by information elsewhere in the text. περιόν is used in the accounts as the standard designation for funds left over from the previous prytany (e.g., line 38). Obviously it is not to be confused with the "surplus of the *dioikēsis*" found in other ancient sources.

Thus we should reject the supposition that the "surplus of the *dioikēsis*" was calculated and collected at the end of the calendar year. What about at the beginning of the ninth prytany? On the assumption of *Individualizierung*, there is reason to believe that every *archē* received some sort of allocation in this prytany, and we know that it was in this prytany that the Athenian state received the bulk of its funding. It is thus conceivable that, just prior to the *merismos* in the ninth prytany, the various *archai* were expected to turn over whatever funds they had on hand to either the Stratiotic or Theoric Funds – the θεωρικά and στρατιωτικά mentioned in [Dem.] 59.4 – depending on the laws operative at the time.[58] The disposition of the surplus just before the *apodektai* conducted the *merismos* in this prytany would probably not be very disruptive to the financial administration of the state. Of all the points in the year that might be chosen for the dedication of the surplus to the Stratiotic or Theoric Fund, this one would be least likely to create a situation in which an official or board could not provide for necessary expenditures.

It seems possible, then, that *archai* were expected to surrender their remaining funds at the beginning in the ninth prytany or at the very end of the eighth. On the other hand, there is no specific evidence in favor of this hypothesis and there is at least one consideration that tells against it. The obligation to return surplus funds before the ninth-prytany *merismos* might well encourage an orgy of spending in the period immediately preceding the turnover as officials sought reasons to spend money they would otherwise have to surrender. There is a well-known bureaucratic incentive – indeed, perhaps, a very human incentive – for officials and boards to spend as much of the money they are

[58] Much of the argument here may be clarified, for those unfamiliar with the debate over the Theoric Fund, by a reading of §4.2 of Chapter Four.

entrusted with as they possibly can. In the case of Athens, this tendency is on display in the aforementioned accounts of the Eleusinian *epistatai*. These officials seem to have been quite adept at finding a ways to spend nearly every last obol of the public money that they received. For example, at the end of the second prytany of 329/8, in which they received a special advance or loan of 2 talents, 1771 drachmas, four and three-quarters obols, there remained in their hands only one and five-eighths obols. It is of course possible that the size of advance was based upon some statement of projected expenditure for the ongoing construction work at Eleusis – the advance is specifically defined as being εἰς τὸ διατείχισμα τὸ Ἐλ|ευσῖνι (ll. 39-40) – but we see a similar pattern of total expenditure in other prytanies as well. The *epistatai* of Eleusis began the fifth prytany of 329/8 with (again) one and five-eighths obols, received an allocation (*merismos*) of 800 drachmas from the *apodektai*, and contrived to finish the prytany with no money at all. In the following prytany (the sixth), they received another special allocation from the *apodektai* of 5700 drachmas, but by the end of the prytany they had on hand a mere nine drachmas and four obols. If other officials were as ingenious at spending money as the Eleusinian *epistatai*, we might conclude that the sort of system we have been discussing – a system in which the leftover funds of the *archai* were to be converted into "the surplus of the *dioikēsis"* just before the prytany in which the largest influx of revenues occurred – would have the unintended effect of minimizing the surplus.

But this is all speculation. The crucial consideration here is that acceptance of such a hypothesis as I have been entertaining would only complicate those mysteries which I set out to explain. We would be no closer to an answer to the question of where money disbursed by the *apodektai* comes from when its source is left unspecified – or where money received by the *apodektai* goes when it appears to have no specific destination. A different model of the *merismos* is needed, and it is such a model that I now wish to propose. I ask the reader to consider the following paragraph carefully, for much of my subsequent argument will depend upon it.

It would be reasonable to suppose, *a priori*, that the laws defining the *merismos* did not always ordain that *all* revenue from a particular source should be dedicated to an individual *archē* or fund. It is quite possible that, instead, only a designated fraction of incoming revenue was to be allocated. That fraction might, in theory be specified either as a proportion of the total revenue or, more straightforwardly, as a specific sum that was considered adequate for the needs of the *archē* to which it was being allocated. If this was how things were done, then whatever was *not* allocated, whatever remained in the hands of the *apodektai*, would constitute the "surplus of the *dioikēsis*." This surplus would remain with the *apodektai* for a time, and would thus be available for emergency expenditures – perhaps to cover unexpected shortfalls in the anticipated allocations to various funds and *archai*, or perhaps to meet other needs that fell outside the normal framework of the laws regulating public finance. Of course, the surplus would still have to become "stratiotic" or "theoric" at some point: it would have to pass from the *apodektai* to the administrators of the Stratiotic or Theoric Fund – whichever of these the laws required at that time. Probably this *did* happen just before the receipt of funds and the *merismos* in the ninth prytany, for the reasons which I offered above in connection with the (now rejected) hypothesis in which the surplus consisted of the unspent money from the individual *archai*.

A rough diagram of Athenian financial flows in our new proposed model is provided at the end of this chapter (Figure 3.1). A number of indications from the fourth century evidence tend to confirm this model. First and foremost, we have evidence that, under the *merismos*, some *archai* did receive specified sums of money and not all the revenue that came in from a particular source. The clearest example of this is a statement at *Ath. Pol.* 50.1 that the ten Superintendents of Sanctuaries (ἱερῶν ἐπισκευασταί) received 30 minas from the *apodektai* – obviously via the *merismos*.[59] Whatever source of revenue paid for these Superintendents, it may in any given year have exceeded 30 minas, perhaps by a great deal, and that excess will have become part of the "surplus of the *dioikēsis*."[60]

There is other evidence as well. In the Law on the Little Panathenaia (this is the top fragment of the stone: for the relevant portion of the text, see above, section 3.1.2), the *polētai* seem to be instructed to lease the land in Nea to the highest bidder (τῶι τὸ π[λεῖστον | διδόντι], A.9-10), but we also find what seems to be a provision that the annual income from Nea, apparently from both the leases and the one-fiftieth tax (*pentēkostē*), is to amount to two talents ([ἡ πρό]σοδος γένηται δυοῖν ταλάντο[ιν] κατὰ ἐν|ιαυτὸν ἀπὸ τ]ῶν κτημάτων τῶν ἐν τῆι Νέα[ι], A.16-17). If it is reasonable to expect the income to amount to two talents, then surely it is also reasonable to expect that the income may amount to *more than* two talents, especially if the *polētai* (presumably under the supervision of the Council) are enjoined to award the contracts for the leases to the

[59] See Rhodes 1981, 573 *ad loc.* Rhodes think the 30 minas was an annual allocation, which "would cover only the most elementary repairs." But given the upswing in support for the Athenian state religion in the period when the *Ath. Pol.* was written, even 30 minas per prytany – five talents per year – does not seem to me impossible.
[60] It is conceivable, of course, that the same source of revenue that provided the 30 minae for the Superintendents of Sanctuaries also provided funds for some other *archē*. We should not expect that the Athenians practiced *Individualizierung* in the most literal sense of that word.

highest bidder. The most likely explanation of the “two talents” is that it represents the amount of money seen as sufficient for the specific purposes for which the revenue from Nea is being raised. But if the revenue should happen to be more than sufficient(i.e., more than two talents), what then? It is increasingly hard to make sense of the fragmentary lines that follow the requirement that the income is to amount to two talents, but the surviving text makes it evident that they contained instructions to officials – probably including the *apodektai* (A.19-20) – regarding the destination of the income. These instructions seem to take up at least six lines. Almost certainly, the law did not simply instruct the *apodektai* to pass the revenues on to the *hieropoioi* in one lump sum.

These speculations gain in plausibility as a result of provisions in the other fragment from the same stone, which contains part of a decree regarding the specific conduct of the Little Panathenaia by the *hieropoioi*. Using the definite article, the decree refers to “the forty-one minae from the rent from the Nea” (B.16-17) and again to “the forty-one minae” (B.23). These are to be used to buy cows for sacrifice on the altar of Athena Polias (with the exception of the most beautiful cow, which is to be sacrificed on the altar of Athena Nike); after the sacrifice, the meat is to be distributed to the Athenian people in the Kerameikos. It is not clear whether the entire forty-one minae are to be used for the purchase of cattle (another expenditure of fifty drachmas is required of the *hieropoioi* at B. 31), nor is it clear whether the forty-one minae represents the entire rent from the Nea or only a specified part of it. But if the forty-one minae represents the entire rent currently being earned by the state from the land in Nea, then presumably this decree could not be valid beyond the current term of the rent, even though the language of the decree suggests it is to be valid for an indefinite period.[61] The phrase κατ' ἐνιαυτὸν appears at B.2, and the (partially restored) phrase [καθ' ἕκαστο]ν τὸν ἐνιαυτὸν at B.4; at B.6-7 the restoration εἰς | [τὸν ἀεὶ χρόνον] does not seem implausible. It seems to me that the parsimonious explanation is that "the forty-one minae" represent a fixed portion of the total lease income which is to be allocated to the *hieropoioi* for the festival. Anything in excess of that sum would probably belong to "the surplus of the *dioikēsis*."

Another interesting indication is provided by a document which represents an earlier period of fourth-history than the *Ath. Pol.* or the Law and Decree on the Little Panathenaia. The Grain-Tax Law of 374/3 contains provisions – mentioned above in §3.1.4.2 – that have puzzled commentators since the *editio princeps* of the law appeared a dozen years ago. I give them here, together with the translation by Stroud 1998:

> ἔστω στρατι[ω]-
> τικ<ὰ> τὰ ἐκ το σίτο γενόμενα ·τὴν δὲ προ[κ]-
> αταβολὴν τὴν ἐκ τῶν νήσων μερίσαι το[ὺ]-
> ς ἀποδέκτας καὶ τῆς πεντηκοστῆς, ὅσο[ν]-
> περ πέρυσιν <η>ὗρεν ἐκ τοῖν δυοῖν δεκάτ[.]-
> ιν, τὸ μὲν νῦν εἶναι εἰς τὴν διοίκησι[ν κ]-
> αὶ τὸ λοιπὸν μὴ <ἀ>φαιρεῖν τὼ δύο δεκάτ[.]
> ἐκ τῶν κατ<α>βαλλομένων χρημάτων. (ll. 54-61)

> [L]et the amount that is realized from the (sale of the) grain be assigned to the military fund (*stratiotika*) Let the Receivers (*apodektai*) allocate the down payment from the islands and of the 2% tax (*pentekoste*) exactly as much as was fetched last year from the two tenths (*dekatai*/*oi*/*a*). For the present it is to belong to the financial administration (*dioikesis*), and in the future let them not take the two tenths (*dekatai*/*oi*/*a*) away from the money that is being paid in.

These provisions pose a number of problems, including, for example, the nature of the "two tenths" and (as I noted above) how it can be that the *apodektai* are instructed to

[61] A restoration to the text on the first fragment of the stone (i.e., the Law) makes the leases on the Nea property run for ten years, but the number ten in this restoration is entirely speculative ([δέκ]<α> ἔτη, A.9), especially since many stoichoi are unaccounted for in the restorations that immediately precede the specification of the length of the lease.

allocate to the *dioikēsis* as a whole and not to a specific fund. I will begin to address these problems here, and to offer a satisfactory solution to them in the next section, but first I feel I should provide some background information concerning this remarkable law.

The most basic provision of the Grain-Tax Law is that the contracts for two taxes, a one-twelfth tax on grain from the islands Lemnos, Imbros, and Skyros (ἡ δωδεκάτη τοῦ σίτου τῶν νήσων) and an unspecified one-fiftieth tax (πεντηκοστή), are to be paid for not in cash but in grain. Specifically, the tax farmers awarded the contracts for these two taxes are obliged to deliver to Athens a certain number of "shares" (*merides*) containing fixed proportions of wheat and barley. Much of the text of the law explains in detail the conditions for the awarding of tax contracts, the regulations for the delivery of the grain by the tax farmers, and the procedures for the state's receipt, storage, and sale of the grain. (See Chapter Two, §2.4.1 for a discussion of these details' significance.) Only at the very end of the law, in the lines quoted above, does the law concern itself with the destination of the money that is to be realized from the eventual sale of the grain by the state.

At first, we are told only that the money is to be destined for the Stratiotic Fund (στρατι[ω]-|τικ<ὰ>); that seems straightforward enough. The Stratiotic Fund was the military fund, supervised, at least later on, by a special treasurer; at the time of the *Ath. Pol.* this treasurer was one of Athens' few elected officials.[62] An inventory from 344/3 (*IG* II^2 1443), which mentions the Treasurer for the Stratiotic Fund for the first time in the epigraphic record, gives us an idea of the vast wealth that had been amassed as *stratiōtika* by that time; unfortunately a precise monetary value cannot be derived from

[62] *Ath. Pol.* 43.1. The only other non-military elected officials at the time of the *Ath. Pol.* were the Superintendents of the Theoric Fund and the Superintendent of Springs.

the huge quantities of uncoined metal listed in that inscription, since the text is not complete and contains lacunas and other interpretative obstacles.[63]

We know that the Stratiotic Fund was, for at least a substantial part of the fourth century, the automatic destination for the "surplus of the *dioikēsis*" in time of war. Theomnestus, one of the two speakers of the pseudo-Demosthenic oration *Against Neaira* ([Dem.] 59), insists upon this. In the late 340s, he says, when the aggression of Philip II had led to war between Athens and Macedon, and the Athenians were about to dispatch expeditions to Euboea and Olynthus, his co-pleader and brother-in-law Apollodorus was a member of the Council. At that time, apparently, the Eubulan requirement that the surplus of the *dioikēsis* should go to the Theoric Fund was still in force (see Chapter Four, §4.2), but Theomnestus tells us that Apollodorus carried in the Council and brought before the Assembly a *probouleuma* according to which the *dēmos* should vote on whether the surplus of the *dioikēsis* should be Stratiotic or Theoric – "for the laws prescribed that, when there was war, the funds remaining over from state expenditures should be devoted to military purposes, and Apollodorus believed that the people ought to have power to do what they pleased with their own":[64]

> …ἐξήνεγκε προβούλευμα εἰς τὸν δῆμον, λέγον διαχειροτονῆσαι τὸν δῆμον εἴτε δοκεῖ τὰ περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι εἴτε θεωρικά, **κελευόντων μὲν τῶν νόμων, ὅταν πόλεμος ᾖ, τὰ περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι**, κύριον δ᾽ ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὑτοῦ ὅ τι ἂν βούληται πρᾶξαι ([Dem.] 59.4)

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[63] The first column of *IG* II^2 1443 organizes the uncoined silver by *rhythmoi*, each of which holds five *stathmoi* of different weights. (One *rhythmos*, placed at the end of the first of at least two lists that seem to enumerate the holdings of the Stratiotic Fund, holds only two *stathmoi* [ll. 70-72].) The individual *stathmoi* in the document range in weight between 1183 dr. (l. 75) and 1210 dr. (l. 51) so that each full *rhythmos* seems to weigh, on average, about a talent. On this basis, and using a 1:12 ratio between uncoined weight and value in coin, Kirchner, in his commentary on this inscription in *IG*, estimated that the twenty-eight *rhythmoi* listed in the extant part of the document were worth about 336 talents of coined silver.

[64] The translation here from Murray 1939.

The boldfaced portion of the quotation is unambiguous in what it asserts: it was once the case that the surplus of the *dioikēsis* automatically became part of the Stratiotic Fund whenever Athens was at war (which was quite often in the course of the fourth century). There is really no reason to doubt Theomnestus's basic assertion, and, if we carefully consider the provisions for the destination of the funds from the Grain-Tax Law, we can see that they provide a striking confirmation of Theomnestus's claim.[65] For the provisions of the Grain-Tax Law to which I have called attention clearly identify the money to be allocated by the *apodektai* with the *dioikēsis*; they also oppose both of these categories to the *stratiōtika*. In general, the provisions say, the money from the sale of the grain is to be Stratiotic – but the *apodektai* are to allocate through the *merismos* (μερίσαι) a portion of each of the two taxes: "the down payment [from the one-twelfth tax] from the islands"[66] and "of the 2% tax (*pentēkostē*) exactly as much as was fetched last year from the two tenths (*dekatai*/*oi*/*a*)." For the present (τὸ μὲν νῦν), this – either the portion of the one-fiftieth tax equal to last year's "two tenths" or the combined total of this and the down payment from the one twelfth tax on the islands' grain – is to be for the *dioikēsis*, but in the future (τὸ λοιπὸν) the two tenths are not to be taken away from the money paid in (μὴ <ἀ>φαιρεῖν τὼ δύο δεκάτ[.] | ἐκ τῶν κατ<α>βαλλομένων χρημάτων). "Take away" here can only mean "exclude from allocation through the

[65] It is worth mentioning that it is already widely understood that the discovery of the Grain-Tax Law has demolished the various theories that asserted mid-fourth century origin for the Stratiotic Fund. The most famous of these is probably that of Glotz 1932, who believed that Demosthenes had been responsible for the creation of the Stratiotic Fund in the 340s, but even Brun 1983, who produced evidence against Glotz, thought that in the early years of the Second Confederacy the *stratiōtika* were not really a proper fund but only an "appellation générale" (175). Obviously, however, the fund was already in existence in 374/3. Twenty years before Brun, a clear view of the matter had been taken by Cawkwell 1962: "It is no outrage to good sense if we suppose that from an early date there was both the Stratiotic Fund and its ταμίας" (383).
[66] What this might mean is unclear. How can there be a down payment in grain – especially when such a thing seems to be envisioned anywhere else in the Law? This is one of the mysteries of the Grain-Tax Law that I do not claim to have unraveled, though I present some speculations in an unpublished paper. I shall have more to say about the "two tenths" below.

merismos and thus devote to the Stratiotic Fund." In other words, that portion of the money from the sale of grain which is allocated through the *merismos* is for the *dioikēsis* and is, accordingly, not στρατιωτικά, and that portion of the money which is στρατιωτικά is not allocated and does not belong to the *dioikēsis.* In the logic of the Grain-Tax Law, the Stratiotic Fund is what is not allocated through the *merismos.* It *is* the surplus of the *dioikēsis*.[67]

Once we have grasped this, we can begin to suggest reasons for why the money which the law says is to be allocated τὸ μὲν νῦν (i.e., in the current year) should be specified as it is and not, for example, in terms of a fixed sum – or, more reasonably, sums, since the designated portions of the two taxes are presumably to be allocated separately. The most likely answer is that other laws on the *merimos* that had existed prior to the Grain Tax Law had specified the allocation of funds in precisely these terms: it must have been the down payment on the tax contract for the one-twelfth tax on grain in Lemnos, Imbros, and Skyros that was traditionally allocated to some *archē* or fund. Meanwhile the "two-tenths" (whatever they may have been) were allocated to some other *archē* or fund. For the present (τὸ μὲν νῦν), the equivalent allocations are being preserved under the Grain-Tax Law. Here again then, we have a bit of evidence that the fourth-century *merismos* did not involve a simple funneling of money from a revenue source to an *archē* or fund, such as we seem to see in the fifth century with the decree on the sanctuary of Neleus and Codrus (see above, §3.1.2). The fourth-century *merismos*

[67] Cawkwell 1962 deserves credit for remarking that "if ever it was the case that [the surpluses of the *dioikēsis*] were in time of war used for war…it was probably in the very early days of the Second Athenian Confederacy" when *eisphorai* do not seem to have been heavy and before *syntaxis* contributions from the allies were being fully exploited as a source of revenue (380). In other words, Cawkwell realized that the mid-370s were precisely the period in which we would expect a rather fuzzy distinction between the surplus of the *dioikēsis* and the Stratiotic Fund. I will argue, however, that this distinction remained somewhat fuzzy even later (see below, §3.2.3.2).

was designed to produce the surplus about which we hear such vigorous debate in the 340s. Very probably that surplus was a substantial one.

3.2.3 Explaining Apparent Departures from *Individualizierung*

Let me set forth here the understanding of the fourth-century *merismos* that should have emerged from the preceding sections. The laws specified that, for each source of revenue, some portion – and perhaps the whole in some cases – was to be allocated to a particular *archē* or fund. Whatever the laws did not require the *apodektai* to allocate, however, remained in their hands until such time as it would pass into the hands of some other official who was charged with taking over the surplus funds – probably the end of the eighth prytany or the beginning of the ninth. In wartime – and probably at other times as well, before the surplus was placed under the control of the Theoric Superintendents – this will have been the Treasurer of the Stratiotic Fund.

If this model is correct, it means that throughout most of the year the *apodektai* were in possession of a substantial amount of money – at least, this will have been true in years in which tax revenues were relatively high (we do have ample evidence that fourth-century Athens sometimes faced straitened revenues). And we have every reason to suppose, *a priori,* that this substantial balance, awaiting final disposition, would be subject to control by the sovereign *dēmos*, via decree. And this is how I propose to explain the cases discussed in §3.1.4.1, above, where the *apodektai* are instructed to allocate money without an apparent source for the money being specified.

3.2.3.1 Inscriptions Where the *Apodektai* Pay for Inscribing Costs

Most obviously, the supposition that the *apodektai* were in possession of a surplus that the *dēmos* could draw upon at need allows us to explain those clauses of early fourth-century inscriptions in which the *apodektai* are directed to pay for the costs of inscribing. As Henry suggested, these clauses probably reflect occasions when other officials or other funds did not have money left to pay for the costs of a particular inscription. In that case, the natural course for the *dēmos* will have been to instruct the *apodektai* to defray the costs from the unallocated monies.

This is not to say that there could not have been a period in Athenian history when most or all inscribing costs were paid by the *apodektai* – indeed, it may be the case, as Dinsmoor suggested, that the *apodektai* were responsible for all inscribing costs during the period when the treasury of Athena was once again being separated from the treasury of the Other Gods. But any particular inscription in which inscribing costs are "allocated" by the *apodektai* is, likely as not, the result of a shortfall in the accounts of some other *archē* .[68]

[68] Even under the schemata of Johnson and Dinsmoor – and thus under the assumption that for some period of Athenian history the *apodektai* were the only officials who paid for inscribing costs – the *apodektai*'s ability to pay for inscriptions testifies to the existence of a significant sum of unallocated money in their hands from relatively early in the fourth century. We should not necessarily assume that the money for the inscribing was redirected from some *archē* or fund for which it was earmarked under the laws – in the absence of authorization from the *dēmos* (for which we have no evidence in the relevant inscriptions), the legal and constitutional problems created by such a procedure would have been serious: for how could the *archē* from whom the money was taken be sure of convincing a *euthynai* jury that it had, in fact, received less than it was supposed to receive under the laws? It is perhaps significant that, in the one inscription in which the *apodektai* are instructed to pay for inscribing costs that actually specifies a source for the money, that source is described as τῶν καταβαλλομένων χρημάτων (*IG* II^2 29.20-21). This is the exact phrase we find at the end of the Grain-Tax Law (see above) to refer to the total sum of money received from the sale of the grain, some of which is to be allocated by the *apodektai* and some of which is to be left as surplus/*stratiōtika*. It is not unreasonable to suppose that τὰ καταβαλλόμενα χρήματα was a standard phrase describing total revenues to the state, both those that were to be allocated and those that were not (see Figure 3.1 at the end of this chapter).

3.2.3.2 *IG* II^2 212: Crowns for the Sons of Leucon

At this point, I wish to consider another inscription in which (as in the case of the inscriptions dealt with in the preceding section) the *apodektai* are expected to provide money for a specific purpose for which someone else would normally dispense funds. The inscription in question is an honorary decree from 347/6, which provides for the regular crowning at the Great Panathenaia of two of the sons of Leucon, ruler of a kingdom on the Cimmerian Bosporus. The money for the crowns is normally to be given to the *athlothetai* of the festival by the Treasurer of the *Dēmos* from what I am inclined to call the Psephismatic Fund,[69] and the decree specifies that this will be the case in the future; for now, however, the money is to come from the *apodektai*. Surprisingly, a source for the money the *apodektai* are to provide is specified, and it is not, as in *IG* II^2 29, τὰ καταβαλλόμενα χρήματα (see n. 72, above). Rather, the money is to come from τὰ στρατιωτικά χρήματα. What follows is the text and translation as given by Rhodes and Osborne 2003:

> τὸ δὲ ἀργύριον διδόναι το-
> ῖς ἀθλοθέταις εἰς τοὺς στεφάνους τὸν τοῦ
> δήμου ταμίαν ἐκ τῶν εἰς τὰ κατὰ ψηφίσματα
> τῶι δήμωι με[ρι]ζομένων· τὸ δὲ νῦ[ν] εἶναι παρ-
> αδοῦναι τοὺς ἀποδέκτας τὸ εἰς [τ]οὺς στεφ[ά]-
> νους ἐκ τῶν στ[ρ]ατιωτικῶν χρ[η]μάτων. (ll. 39-44)

[69] This was a fund and usually referred to with the phrase τὰ κατὰ ψηφίσματα ἀναλισκόμενα τῶι δήμωι (e.g., *IG* II^2 222.39-41) or by some recognizably equivalent formula – here for example, we have μεριζόμενα in place of ἀναλισκόμενα, clearly indicating that the fund received its money by way of the *merismos*. The "Psephismatic Fund" is.always associated with the Treasurer of the *Dēmos*, and he is the official who makes payments from this fund.

> The money shall be given to the *athlothetai* for the crowns by the treasurer of the people from the allocation to the people for decrees; but for now the *apodektai* shall hand over the cost of the crowns from the stratiotic fund. (*R-O* 64; trans. Rhodes and Osborne 2003, 321)

It is not difficult to explain the need for a temporary expedient to provide crowns for Leucon's sons (Spartocus and Paerisides by name) at the upcoming Great Panathenaia, which would be held in a matter of months.[70] The decree was passed in the eighth prytany (ll. 4-5), a point in the Attic calendar where, as I have remarked and as ancient literary evidence suggests, the funds of various *archai* were likely to be running low.[71] Since the decree specifies that each of the two crowns to be dedicated was to be worth 1000 drachmas, it is possible that money to pay for them simply wasn't available in the Psephismatic Fund.[72] In the future, the situation with respect to the crowns would presumably be avoided in one of two ways: either the Treasurer of the *Dēmos* (and the *dēmos* itself, which authorized many of the disbursements from the Psephismatic Fund) will be able to plan for the quadrennial provision of crowns, or a separate decree will instruct the *nomothetai* to make some appropriate change to the laws regarding the *merismos*.[73]

What requires explanation here, however, is the source from which the *apodektai* are to take the 2000 drachmas for the crowns. Were they actually empowered to make

[70] The decree was published in the eighth prytany (Elaphobolion/Munychion) of 347/6 (ll. 3-5). A Great Panathenaia was held in the first prytany (Hecatombaion/Metageitnion) of 346/5.

[71] Dem. 24.98.

[72] In the next section of this decree (lines 44-49), the Treasurer of the *Dēmos* is instructed to provide 30 drachmas for inscribing costs, but this sum is quite a bit less than the 2000 drachmas required for the crowns.

[73] On this possibility, see Rhodes 1985, 101 and Rhodes and Osborne 2003, 323. It is not even totally inconceivable that there existed some law or policy according to which the *nomothetai* were expected to automatically adjust the laws on the *merismos* to accommodate decrees such as this. Indeed, the operation of such a policy may have been a special feature of the Psephismatic Fund, which was explicitly (as its name suggests) designed to meet particular expenses enjoined in decrees passed by the Assembly. See Chapter Two for more discussion of this issue.

withdrawals from the Stratiotic Fund, as was the case with generals?[74] Only a very few years after this decree, we have the first attestation (*IG* II^2 1443.13, 344/3 B.C.) of the Treasurer of the Stratiotic Fund, the official who eventually presided over τὰ στρατιωτικά. Did he not yet exist in 346? Even if this is the case, it would still be unprecedented for the *apodektai*, rather than a general, to be responsible for taking money out of the Stratiotic Fund. The usual explanation of this anomalous situation is that the *apodektai* were to spend money that was *destined* for the Stratiotic Fund. Rhodes and Osborne 2003 express this view as follows: "[T]he money is to be provided at least in the first instance by the receiving officers, the *apodektai*…from <what they would otherwise allocate to> the stratiotic fund…." But even this explanation, as stated, presents an anomalous situation, for we know of no other situation in which a decree simply instructs the *apodektai* to override the laws on the *merismos*. If that was done in this case with the Stratiotic Fund, I would suggest it can only be because the Stratiotic Fund was special – deriving most of its income from, and thus was easily confused with, the Surplus of the *Dioikēsis*, which (as I have already suggested and will argue more fully below) was viewed as being basically under democratic control. Since the people could draw from the Surplus at need, why could they not also draw from the fund in which most of that surplus had ended up? In fact, however, I would contend that another explanation, one which may at first sight appear more radical, is actually more likely. The same haziness of the distinction between Surplus and *Stratiōtika* which might have allowed the *apodektai* to draw money from the Stratiotic Fund could just have easily meant that the

[74] At [Dem.] 49.12 and 16, Apollodorus says that Timotheus submitted accounts claiming withdrawals from τὰ στρατιωτικά for specific military expenditures; this will have been in 373/2. (In fact, says Apollodorus, Timotheus got the money in question by taking out personal loans; if this was true, then presumably Timotheus used the money withdrawn from the *stratiōtika* for some other, less obviously acceptable purpose?)

Surplus itself could be referred to – through a kind of anticipatory designation – as "*Stratiōtika*." Before the passing of the "Laws on the Theoric Fund" in the late 350s, there was probably no other destination for the Surplus and it would be only natural if the Athenians began to regard the surplus monies as "stratiotic" even before they had actually passed into that fund. Indeed, we have a famous instance of such a transference of nomenclature – albeit a conscious one, with a political purpose – even after the Laws on the Theoric Fund had been established. In the *Third Olynthiac*, Demosthenes complained that those laws "distribute the *Stratiōtika* as *Theōrika* to those who remain at home" (Dem. 3.11: οἱ μὲν [νόμοι] τὰ στρατιωτικὰ τοῖς οἴκοι μένουσι διανέμουσι θεωρικά). Logically, there are really only two possibilities: either the Stratiotic Fund itself is being plundered for Theoric monies, or Demosthenes is exploiting a conventional way of referring to the Surplus.[75] The latter possibility fits much better with the rest of our evidence.[76] Is it more likely, in any given case, that the Athenians would be imprecise in their terminology, or careless about their constitutional procedures? I would suggest that, in both the *Third Olynthiac* (349 B.C.) and the decree for the sons of Leucon (346 B.C.) we see στρατιωτικά being used to refer to the Surplus.[77]

3.2.3.3 The Silver Coinage Law

[75] Harris 2002 argues that the "Laws on the Theoric Fund" mentioned in Demosthenes' *Third Olynthiac* (Dem. 3.11) actually allowed the diversion of money from the Stratiotic to the Theoric Fund.
[76] See Chapter Four, §4.2.
[77] It is worth mentioning that we have another case, which I have not yet mentioned, of the *apodektai* being instructed by decree simply to allocate money for crowns without a source being specified: at *IG* II^2 1629 (*R-O* 100] the *apodektai* are to allocate a total of 1000 drachmas for three crowns. Since this decree is from 325/4, it offers proof (if any more were needed) that allocation of money by the *apodektai* without a specified source is not a phenomenon strictly of the early fourth century. There is really no reason to think that the source for the money for the three crowns in the later decree is coming from a source different than the one that provides the money for the crowns for the sons of Leucon.

I noted above (section 3.1.4.1) the case in which the *apodektai* are instructed by the Silver Coinage Law to allocate money for the purchase of a state slave to serve as an inspector in the Piraeus and to provide the salary (*misthos*) for that slave in the current year. Obviously, I would suggest that the money for both these expenses is simply to come from the Surplus that the *apodektai* have on hand. In the future, the law envisions a change to the *merismos*, when it specifies that the salary for the state slave is to come from the same source used to pay the Mint Workers. No doubt the *apodektai* will be expected to increase the amount from that source that they allocate to specific purposes – an indication that not all of that revenue stream – whatever it might have been was committed (and thus an additional proof of the general model of Athenian finance that I am proposing).[78]

3.2.3.4 The "Two Tenths" in the Grain-Tax Law

I would also like to offer here a final observation concerning the "two tenths" (τὼ δύο δεκάτ[.]) mentioned in the allocation clauses of the Grain-Tax Law of 374/3. To reiterate, those clauses instruct the *apodektai* to allocate "the down payment from the islands and "of the one-fiftieth tax exactly as much as was fetched last year from the two tenths." Above (§3.2.2), I argued that the Grain-Tax Law sought to preserve, at least for the coming fiscal year (τὸ μὲν νῦν) the preexisting allocations for particular *archai* or

[78] Why does the Law on Silver Coinage not actually name the source from which the mint workers are being paid? I see two possibilities here, the latter of which anticipates what I will say in the next section about the Grain-Tax Law. One possibility is that this particular revenue source is more easily and concisely named with the terse phrase αὐτῶι...ὅθεμπερ τοῖς ἀργυ[ροκό]ποις (ll. 54-55) than in some other way. The other possibility is that the law is intended to allow for some future change in the source of monies for both mint-workers and for the new inspector. The 370s were a time of major financial reorganization at Athens (see below, section 3.2.3.4), and the author of the law, Nicophon, may have been sensitive to the need for flexibility.

funds and that the phrase εἰς τὴν διοίκησι[ν] in line 59 of the Law would have been recognized as referring to the specific *archai* or funds to which the two tenths had previously been allocated. I should now point out that, after the current period, when all the money from the one-fiftieth tax becomes Stratiotic, one of two things will have to happen: either new sources of revenue will have to be found to make up for the two tenths, or the destinations for those *archai*/funds will have to cease to receive any allocation in the *merismos*. This is not implausible given the sweeping fiscal reorganization that seems to have been underway in the 370s. We know, for instance, that it was in 378/7 that an assessment was made of all property holdings in Attic for the purpose of organizing the symmories for the collection of the *eisphora* – surely a major step. We have some reason to believe that the Treasurer of the *Dēmos* and the Psephismatic Fund were introduced in or around 376. The Grain-Tax Law itself – and the Silver Coinage Law, which dates to the previous year (375/4) – constitutes strong evidence for dramatic changes in the fiscal organization of Athens.

3.2.4 Democracy and the Surplus

The foregoing sections have been intended to reveal the two major elements of the Athenian financial system for most of the fourth century. One of these, it is generally acknowledged, was the *merismos*. The *merismos* was regulated by law, and parceled out revenues to particular funds and *archai*, whence they would be spent. The advantages of the *merismos* for a democratic polity (in the ancient Athenian sense) have been mentioned above (§3.1.3), as have some of the ways in which the *merismos* system has been alleged to be undemocratic. But alongside the money allocated each year through the *merismos* there existed a substantial sum of unallocated money in the hands of the *apodektai*, the Surplus of the *Dioikēsis*, which could probably be dispensed only on the authority of the *dēmos*. The significance of this Surplus (sometimes referred to as *Stratiōtika* by association with the fund to which its balance was conventionally transferred) was that it mitigated some of the undemocratic features of the *merismos*, preserving, to a degree not usually appreciated, the *dēmos*-dominated financial structure of the fifth century. It also alleviated some of the fiscal disadvantages that might attach to the *merismos* system; these have been alluded to above (§3.1.3). The next two sections describe how the juxtaposition of the *merismos* and the Surplus acted to preserve democratic values and allow for better financial management.[79]

3.2.4.1 Democracy

The democratic advantage of the *merismos* system was twofold: it facilitated decision-making by the average Athenian in the Assembly and it made it far easier to hold officials accountable. Decision-making was made easier because the Assembly, instead of having to balance competing needs in a comprehensive budget, could instead deliberate about the appropriate level and source of funding for individual needs; the latter procedure would obviously require far less in the way of expertise. Accountability was facilitated because the regulation of *merismos* by law removed discretion as to

[79] The significance of the Surplus is attested not only by the debate over its ultimate use in the 340s but by other evidence as well. For example, an interesting passage in Demosthenes' speech *Against Leptines* refers to the non-liturgical secular finances of the state in terms of "revenues and surpluses" (ταῖς δημοσιαις προσόδοις καὶ περιουσίαις, Dem. 20.25). The context allows the inference that these are the two things the *dēmos* will wish to see maximized if Athens' discretionary income is to be as great as possible.

expenditures from all but the lowest levels of officials, each of whom had to submit prytany-by-prytany accounts and undergo the *euthynai* (which included a submission of accounts) at the end of their term in office.[80] If the Council oversaw the activities of the *apodektai* and approved the *merismos*, it will have been in order to insure that the laws were enforced, not in order to decide on the allocation of the moneys paid in.

But the existence of a substantial Surplus meant that the *dēmos* could maintain control over any expenditures that were even slightly irregular. The authority of individual officials was restricted because not all money flowed into their hands. If they wanted to spend any really large sum, or anything they worried might reflect badly on their administration, they would probably have to present their case before the Assembly and ask for a special allocation from the Surplus. Through these debates, the Assembly would be informed about the aspects of the financial administration that most required its attention. (The *dēmos* would also acquire such information through the process of audit.)

The existence of the Surplus also meant that the Assembly could tinker with the "budget" in a piecemeal way. It could, for example, decide to raise the allocation for a particular *archē* without needing to cut back somewhere else. It could redirect funds at need – even shifting them from *archē* to *archē* – without having to worry that by doing so it was throwing the whole financial system into imbalance or confusion. The Surplus provided that cushion, and at any given time it could be stated, for the convenience of the Athenian People, as a single sum.

[80] For this obligation, see *Ath. Pol.* 48.3, 54.2 and Aeschin. 3.22. Andreades 1933, 366 seems to say that the apparent advantages of such a system for the process of auditing are illusory, but he does not actually argue against the system's usefulness in facilitating audits of particular officials. He does contend (366-367) that the system he describes "rendered impossible any general view" and created a "tendency toward extravagance."

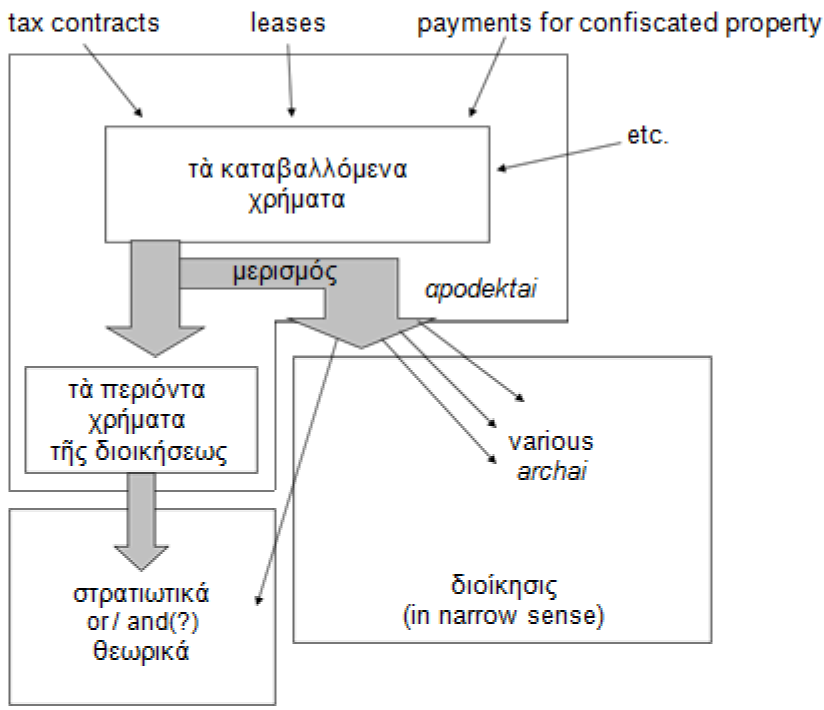
3.2.4.2 Financial Efficiency

The retention of a substantial portion of Athenian revenues in the form of the Surplus also contributed to financial efficiency. As I noted above, a common charge brought against the *merismos* is that it tended to encourage overspending.[81] But that charge has always been based on the assumption that there was no real incentive for keeping the allocations to the various *archai* at a minimum. Once it is clearly appreciated that only a portion of each revenue stream was directed to a particular *archē* or fund, with the rest being retained in the Surplus, the threat of "extravagance" diminishes. The regular expenditures regarded as absolutely necessary were dedicated to the various *archai* via the *merismos*; the rest was retained in the Surplus, which was subject to democratic control. If there was a danger of extravagance, it lay not in the structure of the *merismos* but in the decisions that the *dēmos* made with respect to the Surplus. And it has indeed been asserted – even since Demosthenes – that the *dēmos* handled the Surplus badly. But even the dedication of the Surplus to the Theoric Fund was, I shall argue, motivated in large part by a desire to preserve the values that underlay Athenian democracy.

[81] See Andreades in n. 84, above. Consider also Rhodes 1980, 310-311, who warns of the danger of tying up money too specifically in one *archē* when it is in fact needed for other purposes. He also suggests that serious imbalances in *merismos* (one fund over-funded, another under-funded) "might never be noticed" (311). These criticisms, which echo those of Michell 1957 (see above, section 3.1.3), are especially odd given Rhodes's recognition that "spending authorities were in fact given very little room for manoeuvre" (310).

Figure 3.1

Model of Athenian Public Finance



CHAPTER FOUR: POPULAR LEADERS AND THE HISTORICAL EVOLUTION OF ATHENIAN FINANCE

4.0 Introduction

Whereas the previous two chapters have treated Athenian public finance in its legal and institutional context with only a limited emphasis on historical change, this chapter will concern itself to a greater extent with specific historical moments in the fiscal history of Athens. The particular focus of this chapter will be the politicians who are believed to have dominated Athenian public finance to an increasing degree over the course of the fourth century. Special attention will be given to the two most famous and consequential of these men, Eubulus the son of Spintharos and Lycurgus the son of Lycophron.

There is an enormous literature on the role of politicians in the fourth-century Athenian democracy. Many of the issues tackled by this body of scholarship will not concern us here or will concern us only indirectly. For example, I do not intend to explore in any detail the causes and nature of political combinations or the ideological impact of politicians' class backgrounds. Nor do I intend to discuss the role that politicians played in the shaping of foreign policy. My focus will be the role of major politicians in Athenian finance and whether and to what extent their growing prominence represents a violation of democratic norms. But a few general comments about the position of politicians in the fourth-century democracy are in order.

It almost goes without saying that politicians were recognized as a necessary part of the Athenian political process. Their special role was openly acknowledged. While it has sometimes been implied that the mere existence of prominent leaders tended to undermine democracy, it is hard to imagine a political system in which unusually talented, ambitious, or esteemed people do not end up playing a prominent role.[1] The question is whether their influence can be limited and directed to the common good, and the fourth-century Athenians do seem to have endeavored to place constraints upon their politicians. In addition to well-known mechanisms like the *graphē paranomōn,* we hear also of more obscure institutions like *rhētorikē graphē*, *dokimasia rhētorōn,* and *eisangeltikos nomos*.[2] There is also ample evidence to suggest that the leading politicians of Athens operated of necessity within the ideological framework of democratic ideology.[3]

Nevertheless, it is often asserted that changes in politicians' roles during the fourth century represent the erosion, in principle and practice, of basic democratic values. One of the most notable and unambiguous differences between the politicians of the fourth century and those of the fifth is that the outstanding fifth-century politician tended to be a general whereas the outstanding fourth-century politician (with one or two major exceptions, like Timotheus and Phocion) did not.[4] This separation, or "specialization,"

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[1] Thucydides famously wrote that the ascendancy of Pericles made Athens a democracy in name but not in fact (2.65.9).
[2] Unfortunately, we have relatively little information on any one of these. For discussion and citations, see Perlman 1963, 354, including nn. 149-151.
[3] For comprehensive discussion, see Ober 1989.
[4] Even in the fourth century, there is no shortage of lesser men holding the *stratēgia* yet wielding considerable influence in the Assembly and even becoming known for their acumen specifically in financial matters. Kallistratos, often seen as a precursor to Eubulus and Lycurgus in the financial realm, was general at least twice during the 370s (378/7 and 373/2).

has sometimes been depicted as insidious for democracy, despite the clear supremacy throughout the fourth century of civil over military leadership. The standard version of the critique asserts that the complexities of policy making had become so great that the *dēmos* could do little more than place its trust in the experts, who, in the latter part of the fourth century, became almost unchallenged masters of the state, raising and disposing of revenues without deference to normal democratic practice.

There is something curious about the notion that political specialization is *ipso facto* anti-democratic. After all, if it is democratic to multiply officials and divide their functions as much as possible, why should it not also be democratic for various politicians to operate within separate spheres? Was it ever really the case that the leaders among οἱ πολιευόμενοι did not need to be better informed than the average citizen? And if we are to suppose that the fifth-century predominance of generals as political leaders meant that they exercised no eminence in domestic affairs comparable to their supremacy in the realms of war and foreign policy, then we must disregard a great deal of evidence to the contrary. Thucydides believed that Pericles' successors, the first generation of statesmen to trade military leadership for dominance in the Assembly, had became more deferential to the will of the *dēmos*, not less.[5] Or do we suppose that Pericles was an aberration and that, before the ostracism of Thucydides son of Melesias, in an era underrepresented by direct historical evidence, prominent politicians like Themistocles

[5] Thuc. 2.65.8-11. On this generation and the transformation of Athenian politicians in the latter phases of the Peloponnesian War, see Connor 1971. Connor accepts the idea that later politicians were required to become more familiar with financial and administrative technicalities, though he regards the process as having begun early in the fifth century, i.e., within a generation or two after the establishment of the democracy itself (122-127).

and Conon enjoyed no special influence over the Athenian people comparable to that of Eubulus and Lycurgus?[6] Subjected to scrutiny, this idea appears little short of bizarre.[7]

The prevalent critique of the "specialization" of fourth-century democracy acquires coherence only insofar as the role of the politician seems to combine with, or supplant, that of the regular "official" or magistrate. As long as the politician's sphere of action is entirely public – as long as he operates before the Assembly or in the Courts – there is nothing exceptional in his role. But to the extent that he is entrusted with executive authority, he becomes a magistrate as well as a *rhētor*, and thus acquires a special degree of influence. His direct experience of state activity as holder of an *archē* confers upon him extraordinary authority with which to sway the decisions of the *dēmos*, and his popularity with the *dēmos* insulates him, to some extent, from normal scrutiny in his activities as an official. This undemocratic, or even anti-democratic, dynamic had always been present in the case of the generalship, and the divorce between *rhētor* and *stratēgos* in the fourth century should thus be seen as, in itself, a fundamentally democratic trend. But when the leading politician ceased to be a general, did he acquire another executive or quasi-executive role – a financial one? And was this new role perhaps more subversive of Athenian democracy than the *stratēgia* because it lay closer to the heart of the state?[8]

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[6] We have striking evidence of the extraordinary authority wielded by early fifth-century statesmen in military matters. In the 480s, Miltiades supposedly was able to convince the Athenians to give him "seventy ships and an army and money" for an expedition whose object he refused to reveal (Hdt. 6.132), and there is reason to believe that Themistocles enjoyed at times a similarly free hand (e.g., Hdt. 8.110.1: πάντως ἕτοιμοι ἦσαν λέγοντι πείθεσθαι).

[7] Certainly the ancients seem to have believed that the separation between orators and military commanders was a good thing for democracy. Aristotle, writing in the *Politics*, saw it as a crucial safeguard against revolution and tyranny: ἐπὶ δὲ τῶν ἀρχαίων, ὅτε γένοιτο ὁ αὐτὸς δημαγωγὸς καὶ στρατηγός, εἰς τυραννίδα μετέβαλλον…νῦν δὲ… (5.1305a).

[8] This is my own attempt to express the critique, which I hope is clearer and more compelling than the forms in which it normally appears. Mossé, who I think is not untypical, begins by appearing to stress the

We do know of a number of cases in which leading Athenian politicians seem to have been entrusted with special financial or administrative duties – or even a multiplicity of such duties. Demosthenes accused Androtion of having been at one and the same time "politician, melter of public gold, treasurer and comptroller" (αὐτὸς ῥήτωρ, χρυσοχόος, ταμίας, ἀντιγραφεὺς γέγονεν, Dem. 22.70 = 24.178). Demosthenes himself was in 339/8 simultaneously Superintendent of the Theoric Fund and holder of an *archē* that put him in charge of rebuilding the city's walls (Aeschin. 3.24: ἄρχων μὲν τὴν ἐπὶ τὸ θεωρικὸν ἀρχὴν, ἄρχων δὲ τὴν τῶν τειχοποιῶν,; cf. Dem. 18.113 for confirmation); in the following year (338/7) he was elected *sitōnēs* or purchaser of public grain (Dem. 18.248; cf. [Plut.] *X Orat.* 845f). In 340/39, when he reformed the trierarchy, he allegedly had been or became "Fleet Commissioner" (ἐπιστάτην…τοῦ ναυτικοῦ, Aeschin. 3.222).[9] Demosthenes was thus entrusted, in the space of three years, with as many as four different important-sounding *archai*. The debate over whether he was entitled to receive a crown from the Assembly, even if triggered by Aeschines' personal enmity, perhaps

growing power of "magistrates" but ultimately emphasizes the creation or appropriation of executive powers by leading politicians (1973, 25-29). In formulating the critique as I do, I leave aside another critique of fourth-century democracy which reaches the same conclusions in a diametrically opposed way: this older critique holds that Athenian democracy's fourth-century decadence is revealed by the fact that politicians no longer hold offices like the *stratēgia* for the mismanagement of which they could be impeached; thus the leaders of the *dēmos* ceased to be accountable. For documentation of this view and an attempt to answer it, see Roberts 1982b. I reject the older critique less because of Roberts's demonstration that most Athenian politicians after Pericles did in fact hold official positions from time to time (usually the generalship or membership in an embassy) but because (a) we do know of mechanisms that seem to have been effective in holding accountable *rhētor*s qua *rhētor*s (see above) and (b) the point of view that the older critique reflects now seems to me much less prevalent than the newer critique according to which the Athenian people were no longer really responsible for the actions of their own government. The difference between the critiques reflects a basic difference in what one wishes to identify as the central principle of Athenian democracy: was the keystone of *dēmokratia* accountability or was it collective policy making? It is noteworthy, and perhaps revealing, that scholars can detect a degeneration of Athenian democracy in the fourth century regardless of what they take "democracy" to mean.

[9] I use "allegedly" in connection with the position apparently ascribed to Demosthenes by Aeschines and described as ἐπιστάτης τοῦ ναυτικοῦ. It is not, so far as I know, confirmed by other writers who mention Demosthenes' naval law – and it might well have been mentioned by, e.g. Din. 1.42 or even by Demosthenes himself in his defense of the law (18.102-108). Perhaps Aeschines only meant that Demosthenes, by persuading the Assembly to reorganize the trierarchy, had assumed authority (*epistateia*) over the fleet?

reflects very reasonable concerns about what such a substantial overlap between politician and official could mean for democracy.

Demosthenes, however, is seldom mentioned as one of the financial experts whose rise instantiated the compromises of fourth-century democracy. Four other names are usually cited as emblematic – those of Agyrrhios, Kallistratos, Eubulus, and Lycurgus. It is primarily with these four men – and especially with the latter two – that this chapter will be concerned. The first two, Agyrrhios and Kallistratos, will be considered mainly with an eye to whether they can legitimately be seen as preparing the ground for the suprademocratic powers ascribed to the latter two figures.

4.1 Politicians Active in Finance Before Eubulus

4.1.1 Agyrrhios

The first fourth-century politician worthy of our consideration as being in the league of – or at least a forerunner to – Eubulus and Lycurgus is Agyrrhios of Kollytos, whose activity is attested between before 405 B.C., when Aristophanes apparently alluded to him in the *Frogs*, and 374/3 B.C., when he appears as the mover of the Grain-Tax Law.[10] He was certainly one of the leading politicians of his era, being worthy of attack by Aristophanes, especially in the *Ecclesiazusae*, where we find it said of him that

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[10] Ar., *Ran.* 367-8, with scholia. Agyrrhios is not actually named in the *Frogs*, only in the scholia, where he is paired with Archinos as having been ridiculed in Plato's *Skeuai* and Sannyrion's *Danae* and as having reduced, apparently by way of retaliation, the wages paid to comic playwrights. A scholion on Ar., *Eccl.* 102 also refers to Agyrrhios as having "cut the poets' *misthos*." An excellent summary discussion of our evidence for Agyrrhios's career, with citations from both original sources and relevant scholarship, can be found in Stroud 1998, 16-25. For basic prosopography, see Kirchner, *PA* no. 179, Davies *APF* no. 8157, I-II, and Traill 1994, no. 107660.

"he handles the greatest affairs in the city" (πράττει τὰ μέγιστ᾽ ἐν τῇ πόλει, 102).[11] The most significant activity of his that we know of with any certainty were his proposals first to institute assembly-pay (*misthos ekklēsiastikon*) and, later, to raise it to the level of three obols.[12] He is also credited with establishing the theoric distributions that would later become so important in the time of Eubulus, though this idea remains controversial.[13] It seems to be the case that Agyrrhios was active not only in politics but also in business – specifically banking and tax-farming – and in legal disputes arising, perhaps, from those same business activities.[14] Not only was he active in the Assembly and the Courts, but he served as general at least once during the Corinthian War (389 B.C., replacing the dead Thrasybulus) and is attested as having been Secretary of the Council κατὰ πρυτανείαν (Pandionis, 403/2 B.C.).[15]

Perhaps most interestingly for our purposes, one scholiast (on *Ran.* 367-68) identifies him as having been, along with Archinos, in charge of a "public bank":

[11] The fact that this phrase may also be a euphemism for sexual intercourse (see Sommerstein 1998, 147-148 *ad loc.*) does not, I think, render it meaningless as a testament to Agyrrhios's influence. The *Suda* characterizes Agyrrhios (*s.v.*) with the litotic expression δημαγωγὸς Ἀθηναίων οὐκ ἀφανής. An unpublished Princeton dissertation (Hess 1963) has made the case that virtually the entire *Ecclesiazusae* is a critique of Agyrrhios's policies; subsequent scholars (e.g., Rothwell 1990, 5-6) have not accepted the argument.

[12] Arist., *Ath. Pol.* 41.3; Ar., *Eccl.* 186-88, and 289-311 and scholia on 102 and 392.

[13] Harp., *s.v.* θεωρικά; cf. Philochorus, *FGH* 328 F 33. Stroud 1998, 21 n. 24 gives bibliography on either side of the controversy.

[14] For his tax-farming activities, see Andoc. 1.133-134, where Andocides alleges that he is being prosecuted, at least in part, because he has thwarted a cartel, headed by Agyrrhios, which sought to control the sale of the 2% tax (*pentēkostē*) for its own profit. For his associations with bankers, including that prince of Athenian bankers Pasion, see Isoc. 17.31-32. See below for the question of his purported oversight of a "public bank."

[15] For this generalship, see Xen., *Hell.* 4.8.31 and Diod. Sic. 14.99.5. The scholia on Ar., *Eccl.* 102 and *Plut.* 276 say he served as general in Lesbos (ἐν Λέσβῳ); the *Suda* (s.v. Ἀγύρριος) has the variant ἐν Λήμνῳ. It is not clear whether these sources refer to the "suffect" generalship of 389 B.C., or whether he held another generalship. It is also uncertain whether a fragment from Plato Comicus quoted in Plutarch (see below) really deserves to be taken as evidence for Agyrrhios's military career. For his position as secretary of the Council, see *IG* II^2 1.41-42. (His name has also been restored, not with any great certainty, in *IG* II^2 2.1 and the memorial to the heroes of Phyle discussed in Raubitschek 1941.) Obviously, his selection as secretary for his tribe in the first Council of the restored democracy attests to his importance, since according to the *Ath. Pol.* such officials were once chosen by a vote of the counselors, and "they used to elect the most reputable and trusted men" (54.3: τοὺς ἐνδοξοτάτους καὶ πιστοτάτους ἐχειροτόνουν). See Rhodes 1981 *ad loc.*

προιστάμενοι τῆς δημοσίας τραπέζης, in connection with which these men supposedly took their revenge on the whole tribe of comic poets by reducing the *misthos* paid to them when they presented their plays for the festivals. But there is absolutely no evidence for the existence of a state bank at Athens before the era of Lycurgus – the first reasonably likely attestation comes from 329 B.C. – so it difficult to know what to make of this information: does it refer to another office relating to public finance or is it simply a mistake, perhaps based on Agyrrhios's documented interests in the world of private banking?[16] The latter seems most probable, but if some real position lies behind this scholium, it is likely that the office in question was eliminated before the restoration of the democracy. Thus we cannot say of Agyrrhios, as one might of Eubulus and Lycurgus (or even Demosthenes), that he combined the roles of *rhētor* and magistrate and in this double role oversaw the finances of Athens.

Nor was he continuously ascendant, politically speaking. In fact, according to Demosthenes, Agyrrhios was imprisoned as a state debtor for many years (πολλὰ ἔτη).[17] Since Demosthenes is merely listing Agyrrhios as one among several examples of famous men in similar situations, his reference to the time span of Agyrrhios's incarceration seems superfluous and therefore unlikely to be subject to dramatic exaggeration. It is reasonable to suppose that the imprisoned Agyrrhios was, politically, *hors de combat*. Furthermore, Sealey has called attention to the fact that he is not mentioned by the author of the *Hellenica Oxyrrhynchia* as among the two parties that defined Athenian politics on

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[16] Possible evidence for a state bank in 329 B.C.: *IG* II^2 1672.39-40 (mentioned in Chapter Three, §3.2.2); see Bogaert 1968, 88-89. Dem. 19.293 does mention the indictment of Kephisophon on a charge of (mishandling) sacred moneys when he was three days late depositing seven minae "in the bank." It is difficult to know what to make of this.

[17] Dem. 24.134-35.

the eve of the Corinthian War (fr. 9.2-3 Chambers).[18] Since Agyrrhios's imprisonment is likely to have followed, not preceded, Aristophanes' attack on him in the *Ecclesiazusae*, it is perhaps possible to distinguish at least two significant periods when Agyrrhios was alive but his star was not shining especially brightly – one in the mid-390s and one, probably beginning with or at least including his imprisonment, lasting for part of the 380s and on into the 370s.[19]

On the other hand, his influence must have been great and, like most notable fourth-century *rhētor*s, that influence was apparently in the sphere of domestic administration rather than military matters.[20] Upon what basis did his influence rest? Reflection allows us to identify four factors that may have recommended a man to the *dēmos* as someone worth listening to: unusual expertise, extensive personal connections, a reputation for probity, or simple political skill in making speeches and offering proposals that met with popular approval.[21] And in Agyrrhios's case, all of these advantages are attested except a reputation for probity – indeed, such sources as we have suggest that Agyrrhios was probably distrusted to some extent by a substantial segment

[18] Sealey 1956, 181. Sealey speculates (182-184) that a temporary alliance of those two factions around the time of Andocides' trial drove a third faction, that of Agyrrhios, into temporary political eclipse, and that Agyrrhios only recovered popularity by attaching himself to Conon after the latter's triumphant return to Athens in 393 B.C.

[19] There are at least two good reasons to believe that Agyrrhios occupied the *desmōtērion* at some time after Aristophanes wrote the *Ecclesiazusae*. First, it is hard to believe that Aristophanes would not contrive to mention such a juicy disgrace. Second, Demosthenes asserts that Agyrrhios's nephew Kallistratos (see below) was already powerful (δυνάμενος) at the time of his uncle's imprisonment. An interesting question which we probably cannot hope to answer is whether Agyrrhios was imprisoned before or after his authorship of the Grain-Tax Law. A date after 374/3 would mean that the imprisonment occurred in his old age, which does not seem especially likely. Probably his imprisonment occurred during some part of the period between 388 and 374.

[20] The one generalship which he is known for certain to have held (see n. 15, above) may have involved little more than taking command of a dead general's fleet and returning with it to Athens.

[21] Plainly, a politician might exploit one of these advantages so as to acquire or enhance another: for example, a man might initially be relied upon because of his apparent command of salient facts, and then might gain the confidence of the people once his advice had proven valuable.

of the *dēmos*. Aristophanes takes it for granted that he is seen as a bit of a scoundrel – or ought to be:

> ἐκκλησίαισιν ἦν ὅτ᾽ οὐκ ἐχρώμεθα
> οὐδὲν τὸ παράπαν: ἀλλὰ τόν γ᾽ Ἀγύρριον
> πονηρὸν ἡγούμεσθα: νῦν δὲ χρωμένων
> ὁ μὲν λαβὼν ἀργύριον ὑπερεπῄνεσεν,
> ὁ δ᾽ οὐ λαβὼν εἶναι θανάτου φήσ᾽ ἀξίους
> τοὺς μισθοφορεῖν ζητοῦντας ἐν τἠκκλησίᾳ (*Ekkl.* 183-188)

> "There was a time when we weren't interested in Assemblies[22]
> At all, but Agyrrhios
> We knew to be worthless: now we *are* interested
> And the man taking money [ἀργύριον] offers high praise
> While the man who doesn't take it says they are worthy of death,
> The ones who look for wages in the assembly."

Any such sentiments will only have been strengthened in the popular mind once Agyrrhios had done his stint in jail as a state debtor. Nor is it entirely clear that Agyrrhios, on balance, gained any great influence with the people, at least initially, as a result of his personal connections: in 399, Andocides thought that presenting himself as one who had foiled Agyrrhios's tax contract-fixing schemes would win him sympathy from an Athenian jury (1.133-134). Andocides is sure the jury will believe that Agyrrhios's friends are bad apples: οὗτοι πάντες οἱ παρασυλλεγέντες ὑπὸ τὴν λεύκην, οὓς ὑμεῖς ἴστε οἷοί εἰσιν (1.133).[23]

It is of course possible that Agyrrhios was influential in part because of his personal adeptness in financial matters: he did, after all, author the strikingly complex provisions of the Grain-Tax Law, and various popular traditions – those concerning

[22] The Greek here almost certainly does not refer to a time when assemblies were not held; that could only mean the rule of the Thirty, which, as Sommestein points out, "appears to have been too painful to ever be mentioned in comedy" (1998, 154 *ad loc.*). Sommerstein suggests it refers to an era before the introduction of the *ekklēsiastikon* when the when the *prytaneis* had difficulty achieving a quorum (cf. *Ath. Pol.* 41.3).
[23] Andocides' reference to Ἀγύρριος…οὑτοσί, ὁ καλὸς κἀγαθός (1.133) is rather heavy irony. On the other hand, the speaker of Isocrates' *Trapeziticus* (late 390s B.C.) does not hesitate to call Agyrrhios a friend or to call him as a witness, admittedly without fanfare (Isoc. 17.31-32).

Themistocles, for instance – suggest that Athenians admired a certain quality of Odyssean cunning. But on the basis of the available evidence we are forced to conclude that, more than anything else, it was the specific policies that Agyrrhios proposed that had made him popular. He was remembered above all a popular or populist leader, notable more than anything else for advocating the people's cause. Demosthenes in the late 350s expected the jurors in the *graphē paranomōn* case against Timocrates to remember Agyrrhios as an ἄνδρα χρηστὸν καὶ δημοτικὸν καὶ περὶ τὸ πλῆθος τὸ ὑμέτερον πολλὰ σπουδάσαντα (24.134).

Overall, it is difficult to see the career of Agyrrhios as portending any great transformation of Athenian democracy, except insofar as one might regard the *ekklēsiastikon* as a step on the road to a decadent *misthophoros polis* in which a greedy populace stood ready to acclaim any politician who offered them silver from the public purse (and this does not seem quite convincing, since the adoption of assembly-pay, was, according to *Ath. Pol*. 41.3, a desperation move prompted by a crisis in assembly attendance). The people were willing to vote for Agyrrhios's proposals when they favored them; they were also willing to see him jailed. His public career does not seem ever to have flourished over any long stretch of time, but appears to have been conducted by fits and starts. He was trusted by some, publicly attacked by others, and he was never to our knowledge entrusted with any very powerful office under the restored democracy. On the whole, it is rather hard to make the case that an age of undemocratic financial experts begins with Agyrrhios.

4.1.2 Kallistratos

Kallistratos of Aphidna was the even more famous nephew of Agyrrhios.[24] He was active in Athenian politics between 392/1, when he passed a decree exiling the members of an embassy that had attempted to make peace with Sparta, and around 360, when he was himself exiled and sentenced to death *in absentia*.[25] He is often identified as one of those politicians who became prominent through their mastery of fiscal affairs, but we have much more evidence for the role he played in foreign policy. I will not discuss his extensive activities in that field;[26] in fact, little will be said here even about his fiscal activities. There can be no doubt but that Kallistratos was important and popular – Dem. 19.297 mentions him most prominently among those who, "in their seasons," became strong among the people (παρ᾽ ὑμῖν ἐπὶ καιρῶν γεγόνασιν ἰσχυροί), and there are many other testimonies to his political influence in general and to his skill as an orator in particular.[27] But the direct evidence for his mastery of finances turns out to be remarkably weak.

Unlike Agyrrhios, for whom we have at least a (dubious) claim that he held a public financial post before the end of the Peloponnesian War, we do not hear of

[24] The relationship is known only from Dem. 24.135.
[25] For the exile of the ambassadors, see Philochorus, *FGH* 328 F 149. For Kallistratos's exile and sentencing, his eventual return to Athens, and his execution, see Lyc. 1.93. The circumstances of his exile are examined by Sealey 1956, 197-202.
[26] For detailed discussions, see Cloché 1923 and Sealey 1956.
[27] Kallistratos also heads a similar but not identical list of great politicians at Dem. 18.219. Theopompus wrote that, although he was incontinent in his private life, he was conscientious when it came to public affairs (τῶν δὲ πολιτικῶν πραγμάτων ἐπιμελής, *FGH* 115 F 97). Above all, he was a great speechmaker: it was, famously, the hearing of a speech by Kallistratos that inspired Demosthenes with the desire to become a *rhētor* (see schol. *ad* Dem. 24.135; Plut., *Dem.* 5.1-3 and elsewhere, the fullest and most charming version of the story being given by Hermippus Smyrnaeus as reported in Aul. Gell. 3.13). Aeschines seems to make Kallistratos a paradigm of oratorical excellence (2.124). In a scholium on Dem. 19.297, we read ὁ Καλλίστρατος τῶν πάνυ δεινῶν ἦν ῥητόρων. See also Nepos *Epam.* 6.1 (*eloquentia omnes eo praestabat tempore*), and Philodemus, *Rhet.*, where Kallistratos is classed with Pericles, Demosthenes, and Lycurgus.

Kallistratos *ever* having occupied any special office concerned with fiscal affairs.[28] By contrast, he held the generalship in at least two crucial years – 378/7 and 373/2 – and served on any number of embassies.[29] His claim to fame as a financial expert rests mainly on his presumed activities around the time of the foundation of the Second Athenian Confederacy in 378/7. The key source is Theopompus, who is quoted by Harpkration (s.v. σύνταξις) as reporting that Kallistratos called the new system of tribute for Athenian allies *syntaxis* because they bore with difficulty the name of *phoros*.[30] We also read, in the pseudo-Aristotelian *Oikinomikos*, that a Kallistratos (2.23 [1350a]) was able, by reforming the conditions under which a certain harbor tax in Macedonia was sold, to double the revenue accruing to the state from twenty to forty talents.[31] Finally, we find in the *Rhetoric* mention of Kallistratos's prosecution of Melanopus over a matter of three consecrated half-obols (!) withheld from the *naopoioi* (1.14.1). From these three unpromising bits of evidence – to which a generous soul might add the fact that Kallistratos, like his uncle, seems to have been an associate (ἐπιτήδειος) of Pasion (as attested by Pasion's son Apollodoros, [Dem.] 49.47) and thus connected to the Athenian banking community – a minor myth seems to have arisen.[32]

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[28] He was responsible for the sale of publicly confiscated goods of Antimachus, Timotheus's treasurer ([Dem.] 49.47).
[29] He may have been general in 372/1 as well, but this is more controversial. See *CAH*^{2} VI, 573. Other generalships assigned to him by other scholars (e.g., 367/6: see Krause 1914, 18 and 52) are purely speculative.
[30] *FGH* 115 F 98.
[31] The word Ἀθηναῖος is often restored after Καλλίστρατος in texts of the *Oikonomikos*; this is not unreasonable, especially since the following anecdote in the text concerns Kallistratos's contemporary Timotheus. The usual supposition is that Kallistratos accomplished this contribution to the Macedonian fisc while in exile (M.M. Austin in *CAH*^{2} VI, 545 specifies a date of 361/0; see [Dem.] 50.48 for Methone as Kallistratos's place of exile), though it is not entirely easy to imagine under what authority the exiled Kallistratos was able simply to decree (προεκήρυξεν) a change in the procedures for selling a tax.
[32] Sealey, for instance, is willing to expand the information from Theopompus into a conclusion that "Callistratos seems to have busied himself in organizing the federal finances" (1956, 188). Mossé 1973 is more explicit, grouping Kallistratos with Eubulus as one of the two men who tried to solve Athens' financial problems before Chaeronea, and boldly concluding that he was the driving force behind the

But upon close inspection of this evidence, the portrait of Kallistratos the *Finanzmann* simply evanesces. Can we even trust the story that Kallistratos haled Melanopus into court over three half-obols? And if not, is it safe to consider it as a legend providing evidence for Kallistratos's ἐπιμέλεια specifically in financial affairs? More crucially, is the testimony of Theopompus truly evidence for Kallistratos's organization of the financial affairs of the Second Athenian Confederacy? Is it not just as likely to reflect his profound involvement in diplomatic affairs, for which we have such an abundance of evidence? After all, the need to avoid the odium attached to the word *phoros* was a diplomatic problem at least as much as a financial one. If Kallistratos was the financial mastermind of Athens during the 370s and 360s, why is his name never connected with institutions like the *eisphora* (reformed in 378/7) or the trierarchy? Can we assume that Agyrrhios's sporadic involvement in fiscal administration is sufficient to prove that his nephew followed in his footsteps?

The reform of the Macedonian harbor-tax in the *Oikonomikos* is really our only clear evidence for Kallistratos's financial acumen. According to Aristotle, his method of increasing tax revenue was by reducing the value of the sureties that the purchasers of the tax were obliged to provide, so that a wider range of bidders could compete for the contract. Whether this reflects an especially high level of financial acumen can be debated, but the question *is* debatable. In §1.1, above, I suggested that economic competence was more broadly diffused among the Athenians than we might imagine; this will have been especially true of those, like Kallistratos, who came from wealth and were familiar with the worlds of banking and finance. A number of Athenian politicians

comprehensive reform of the *eisphora*-system in 378/7 (27-28). Such assumptions are typical of scholarship on Kallistratos.

whom we do not think of as financial experts are recorded as having played a role in reforming or otherwise influencing the sale of taxes; a notable example has been mentioned in the previous section: the intervention of Andocides to break up Agyrrhios's tax farming cartel.[33] Moreover, a number of Athenians whom scholars do not usually regard as financial experts are listed in the second book of the *Oikonomikos* as having been responsible for financial maneuvers as clever as the one ascribed to Kallistratos. Three such anecdotes are given for Timotheus (1350a-b) and one each for Iphicrates (1351a) and Chabrias (1353a), to name only those Athenians who flourished in the fourth century B.C. These three men were, of course, all generals, most notable for their role in military and foreign affairs. Perhaps one ought to think of Kallistratos himself in the same way?

Brun 1983, a study of Athenian military finances during the fourth century B.C. with an emphasis on the period of Kallistratos's ascendancy, barely mentions him except to cite the fragment of Theopompus which associates him with the word *syntaxis* and to endorse, halfheartedly, the conventional proposition that Kallistratos probably established the system of contributions himself.[34] Brun observes, however, that perhaps the history of the evolution of Athenian institutions is not so dominated by individual figures as we are apt to believe:

> La tendance est insistante, chez nombre d'auteurs actuels, à priviléger quelques moments décisifs dans le [quatrième] siècle: périodes de Thrasybule, de Callistratos, d'Eubule, de Démosthene, de Lycurgue, de Démétrios, cette demarche aboutissant à regarder les intervalles comme des époques de pause. Il n'est pas possible de réduire l'histoire athénienne à la seule influence d'une poignée

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[33] Andoc. 1.133-134 (see §4.1.1, above). Alcibiades is said to have urged a metic to outbid the under-capitalized purchasers of leases on public lands, thus forcing the cartel to offer the metic a "piece of the action" (Plut., *Alc.* 5).

[34] "[O]n peut, sans trop forcer les texts, penser qu'un decret, voté sur proposition de Callistratos, contresigné par les allies des Athéniens, institua les contributions de la Ligue" (93; cf. 84 and 137).

> d’hommes, quel que soit leur prestige. Pourquoi ne pas admettre qu’un citoyen obscure ait trouvé ce que les Athéniens considérèrent comme la panacée à leurs avatars fiscaux?[35]

If we cannot be sure whether Kallistratos did, in fact, dominate Athenian finance in the ways that he is usually asserted to have done, and if, as I argued in the previous section, his uncle Agyrrhios’s influence on Athenian financial institutions has also been overestimated, then it is hard to detect, based strictly on the evidence from the period before the 350s, any centralizing or “undemocratic” trend in the development of Athenian public finance. If a real case for the financial dominance of Agyrrhios or Kallistratos or any other figure from the first half of the fourth century is to be made, it really can only be made by looking at that era in retrospect, “running the film backward” from the more plausible claims made for the fiscal supremacies of Eubulus and Lycurgus. But, as I hope to show in the following sections, even the important roles played by these figures, and in particular the extent to which they supposedly gathered power over revenues and expenditures into their own hands, are often misunderstood.

4.2 Eubulus and the Struggle Over the Theoric Fund

We turn now to a figure who unquestionably exemplifies, in the minds of many scholars, the abdication of the democracy in favor of the financial expert. Eubulus of Probalinthos seems to have dominated Athenian politics from the mid-350s until the late

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[35] P. 39: Brun is discussing the origin of the *proeisphora*. See also Brun’s remarks on p.106: “Mais trop d’historiens cèdent à la tentation de focaliser sur un personage les difficultés ou la réussite d’un moment: Callistratos serait le fondateur de la puissance renouvelée d’Athènes au IV^{e} siècle, Charès son fossoyeur.” One has the strong sense that Brun feels the role of Kallistratos in the formation of institutions is hugely overstated, but that he has little interest in picking this particular fight.

340s, but we know surprisingly little about him.[36] For example, it is not entirely clear when he first became prominent; Diogenes Laertius quotes the hard-to-credit claim of Istrus (Diog. Laert. 2.59, *FGH* 334 F 32) that Eubulus was responsible for both the exile and the recall of Xenophon.[37] The Demosthenic scholia tell us (*ad* 3.28, 132b) that Eubulus, διοικῶν τὰ πράγματα, was responsible (*aitios*) for the peace that ended the Social War in 355. We hear also from various sources of a number of prosecutions supposedly conducted by Eubulus, and it is not unreasonable to suppose that he, like so many others, may have first attained notoriety in this way.[38]

At any rate, we know that by the 340s, and perhaps earlier, he had become the single most influential politician in Athens. Theopompus apparently called him δημαγωγὸς . . . ἐπιφανέστατος, ἐπιμελής τε καὶ φιλόπονος (*FGH* 115 F 99). Beginning with his contemporaries, there has been a school of thought holding that his ascendancy was inimical to the Athenian democracy. Criticism of Eubulus's baleful influence takes two main forms. One of these can be seen in the allegations that his distributions of money corrupted the Athenians, sapping their vigor and rendering them unfit to defend

[36] There is some uncertainty as to his demotic; Προβαλίσιος appears in [Plut.], *Vit. X Orat.* 840c and [Dem.] 49.48. In an inserted document at Dem. 18.29 and in Plut. *Mor.* 812f we find Ἀναφλύστιος. The choice does not matter for my purposes.

[37] Neither of these events can be securely dated. The exile seems to have occurred quite early in the fourth century, perhaps after Xenophon fought for Agesilaus at the battle of Coronea in 394 B.C. The recall might be placed after Athens' rearrangement of her foreign policy in the wake of Leuctra, or after the death of Xenophon's son Gryllus while fighting for the Athenians at Mantineia in 362. At any rate, Xenophon is not known ever to have returned to Athens.

[38] Prosecution of Aristophon: Schol. Dem. *ad* 21.218; as *phorologos*, Aristophon retained for himself the goddess's tenths, from which he was supposed to make crowns and dedicate them to Athena; anticipating an accusation brought against him by Eubulus in the Assembly, he dedicated the crowns and forestalled the *probolē* (this must have been before 351/0, the date of Demosthenes' speech against Meidias in which the event is referred to). We read in the speech on the embassy that Eubulus prosecuted a man named Moirokles for extorting twenty drachmas each from the holders of leases on silver mines, and prosecuted Kepishophon in a matter of sacred funds (19.293). We also hear (Dem. 19.191) of Eubulus's denunciation of two associates (συσσεσιτηκώς tells us only that he had taken meals with them), named Tharrex and Smikythus. Prosecution of Chares (date uncertain): Arist. *Rhet.* 1.15.15. It is noteworthy that Eubulus supported Meidias but did not speak up for him at the *probolē* (Dem. 21.206-207); similarly, Eubulus apparently refused to vigorously defend his cousin Hegesilaus and a man called Thrasybulus (Dem. 19.290); the latter event, at least, must have happened in the 340s.

their city. Theopompus, having paid Eubulus the compliments cited above, goes on to say that "obtaining a great deal of money, he distributed it to the Athenians, on account of which it happened that, under his regime [ἐπὶ τῆς τούτου πολιτείας], the city also became most unmanly and enervated [ἀνανδροτάτην καὶ ῥαιθυμοτάτην]." A closely related charge, also leveled by Theopompus, was that Eubulus encouraged the Athenians to squander their resources (*FGH* 115 F100: Εὔβουλόν φησι . . . ἄσωτον γενέσθαι . . . . «. . . καὶ [ὁ δῆμος ὁ τῶν Ἀθηναίων] τὰς προσόδους καταμισθοφορῶν διατέλεκε.»).[39]

The other main criticism of Eubulus is that his personal authority became so great as to be, in itself, an affront to democratic politics. In 351/0, Demosthenes hinted at length that he thought Eubulus had perhaps grown too influential for the integrity of democracy (Dem. 21.205-207); The same insinuation occurs in the summer of 343 during the debate over the embassy to Philip (Dem. 19.296-7).[40] Such hints might be dismissed as mere rhetoric; then again, presumably they would only be worth making given the chance that some jurors would be receptive to them.[41]

Both types of criticism actually involve a double indictment: Eubulus himself is censured, and so too, implicitly, is the Athenian *dēmos* for having allowed him to achieve supremacy and to institute his unwholesome policies.[42] The critiques of Eubulus thus are relevant to the question I discussed broadly in Chapter One: to what extent, and in what ways, can Athenian democracy be said to have failed in its handling of its finances?

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[39] Both critiques are apparent in a striking passage from Justin's epitome of Pompeius Trogus (6.9), but Jacoby in his commentary in *FGH* is probably right that this passage too ultimately is derived from Book 10 of Theopompus on the *dēmagogoi*.

[40] The ostensible object of the attack is Aeschines, but this is only clear at the end of these meditations on democracy.

[41] Of course, any such judgment is complicated by the fact that the speech *Against Medias* was apparently never actually delivered. Do these passages suggest that Demosthenes' break with Eubulus came about while the case against Meidias was proceeding?

[42] For a (relatively) modern version of the anti-Eubulus critiques, see Motzki 1903. Scholarly opinion with respect to Eubulus has softened considerably in recent years.

For our purposes, the most important thing about Eubulus and his role in the development of Athenian democracy is, of course, is his association with the Theoric Fund (τὸ θεωρικόν).[43] The title ὁ ἐπὶ τὸ θεωρικόν (which I will translate as "Superintendent of the Theoric Fund") is attested in inscriptions, in speeches, and in the *Ath. Pol.*, and, although we have no direct evidence that Eubulus himself occupied this office, such a supposition seems reasonable enough, since it was, according to Aeschines, the people's trust in Eubulus that allowed that office to assume a position of great importance.[44]

But for how long, and under what conditions, did Eubulus oversee the Theoric Fund? We do not know. There is some uncertainty as to whether there was a single superintendent or an entire board: the *Ath. Pol.* seems to speak of plural Superintendents,[45] but our one piece of inscriptional evidence for the office, from 342 B.C., records only a single name (that of Cephisophon) as ἐπὶ τὸ θεωρικόν.[46] In my opinion, the evidence supports the view that the position was unitary, at least until around the time of Chaeronea: perhaps at some point a single office was changed into a board.[47]

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[43] Eubulus is, of course, also identified as the leader of a putative "peace party," and his importance vis-à-vis public finance is sometimes seen as secondary or even ancillary to his role in foreign policy. For purposes of this discussion, I focus entirely on the financial side of Eubulus's career.
[44] Aeschin. 3.25; see below, p. 177, for complete quotation. See also in this connection Theopompus (*FGH* 115 F 99).
[45] 43.1.
[46] *IG* II^2 223C.5-6.
[47] At Aeschin. 3.25, "superintendents" are spoken of in the plural, but there is no reason to suppose that Aeschines is not thinking of several men who held the office at different times, the way we might speak of "American presidents." This reading is supported by Aeschines' reference in the same speech to Demosthenes as ἄρχων μὲν τὴν ἐπὶ τὸ θεωρικὸν ἀρχὴν (3.24). I am not sure we can even be certain that the *Ath. Pol.* is not similarly envisioning a succession of officials, though I admit the position of τῶν ἐπὶ τὸ θεωρικὸν between the singular ταμίου στρατιωτικῶν and τοῦ τῶν κρηνων ἐπιμελητοῦ makes this unlikely. In the absence of further evidence, a change in the nature of the office from individual to collegial is perhaps most plausible: see Rhodes 1972, 235-240 and 1981, 515. For other views, see Cawkwell 1963, 47, incl. n. 4. One possibility that ought to be mentioned is that perhaps one individual, having been elected, oversaw the accumulation of the Theoric money, while a board of ten, chosen by lot, distributed the funds for the festivals. Lucian refers (*Timon* 49), to an orator to whom it has fallen (ἔλαχε) to distribute theoric money to the tribe Erechtheis; admittedly, Lucian is rather remote in time from our period to be

At first glance, a single person in charge of something as important as the Theoric Fund is said to have been *does* seem rather incompatible with the Athenians' notions of democracy.

There is another difficulty: how long did Eubulus hold office? The *Ath. Pol.* speaks of elected civil – as opposed to military – officials as holding office "from Panathenaia to Panathenaia" (ἐκ Παναθηναίων εἰς Παναθήναια, 43.1), and it is unclear whether the Panathenaic festivals are annual or whether the phrase refers (as some older scholars would have it) only to the quadrennial Greater Panathenaia. In the latter case, the Superintendent of the Theoric Fund would have occupied his position continuously for four years. But the balance of the evidence tilts rather heavily toward an annual office.[48] Still, this does not solve our problem, for it is conceivable that, at least during the time of Eubulus's ascendancy, the superintendents of the Theoric Fund might be reelected year after year.[49]

Thus we know rather little about how long Eubulus might have held his official position. Nor do we know much with certainty about the Theoric Fund itself. Its origin is attributed variously to Pericles, to Agyrrhios – some imagine its creation under Pericles and resurrection by Agyrrhios – and to Eubulus himself.[50] It was created, we are told, to provide the poor with the option of attending theatrical performances, but its duties evidently expanded, and there is an excellent case to be made that it was Eubulus or his

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taken as firm evidence for anything, but scholars believe the middle comic playwright Antiphanes was a major source in the composition of *Timon*.

[48] For discussion and references see Rhodes 1981, 517. Develin 1984 defends the view that "from Panathenaia to Panathenaia" refers to a four-year period.

[49] Rhodes 1981, 515 thinks the later example of Lycurgus means financial officials could be reelected.

[50] A Periclean origin: Plut., *Per*. 9.1 and *Arist.* 24. Agyrrhios: Harp., *s.v.* θεωρικά and Philochorus, *FGH* 328 F 33 (see §4.1.1, above). Ruschenbusch 1979 lists and discusses the relevant evidence; see also Buchanan 1962, 29-53. The name of Diophantus of Sphettos also occurs, along with Eubulus, in close connection with the theoric distributions, in the scholia on Aeschines (*ad* 3.24). See also Hesychios *s.v.* δραχμὴ χαλαζῶσα, quoting Zenobius 3.27.

party that gave the fund its name and made it responsible not just for small distributions sufficient to subsidize theater attendance but for larger outlays facilitating universal attendance at sacrifices "so that all might participate in the festival" (ἵνα πάντες ἑορτάζουσι).[51] Additional activities of the *Theōrikon* are discussed below. The logical period in which to situate any important new financial practice of this kind would be in the years immediately following the end of the Social War in 355.[52]

Having noted some of the major evidence in the course of documenting our uncertainties, we can proceed to the main issue. What makes the Theoric Fund, and therefore Eubulus, so significant in Athenian history is the apparent importance of the fund in Demosthenes' struggle to mobilize Athens against Macedonian expansionism during the very late 350s and most of the 340s. In orations such as the *Olynthiacs* (Dem. 1-3) and *On the Syntaxis* ([Dem.] 13), Demosthenes urged that the resources being dedicated to the Theoric Fund ought to be redirected to military purposes.[53]

We may take the debate over the fund as having begun in earnest in 349, the year in which the people of Olynthus appealed to Athens for aid against Philip. In the *First Olynthiac*, Demosthenes remarks that the Athenians possess "more "stratiotic" money than anyone else among men" but that they take these funds for themselves as they pleased and spent them on festivals (εἰς τὰς ἑορτάς). Demosthenes hastens to stress, however, that he is not actually *proposing* that the money in question should be stratiotic (Dem. 1.19-20).

[51] See Cawkwell 1963, 55. The key piece of evidence is the fourth-century orator Philinus as cited by Harpokration *s.v.* Θεωρικά.
[52] Such a supposition is facilitated by a passage in Justin's epitome of Pompeius Trogus (6.9.1-2) that assigns the "corruptions" of the Theoric Fund to the period after the second battle of Mantineia in 362.
[53] I will concentrate on the *Olynthiacs*, since they are undoubtedly genuine and there is much suspicion that *On the Syntaxis* is merely a pastiche of Demosthenes undertaken as a rhetorical exercise. On the question of its genuineness, see Aidonis 1995, 27-32. For our purposes, there is nothing of relevance in *On the Syntaxis* that does not also appear in other Demosthenic speeches, especially in the *Third Olynthiac*.

In the *Third Olynthiac,* delivered several months later, Demosthenes is clearer and more blunt: he recommends that the Assembly appoint *nomothetai* to repeal "the laws on the Theoric Fund," which distribute the "stratiotic" money as "theoric" money to the men in the city. Until that is done, he says, no politician will dare to propose salutary measures. Really, Demosthenes, says, it would best if the men who made the relevant laws – he does not name them – were to be responsible for repealing them (Dem. 3.10.-13).

Libanius's hypotheses on the *Olynthiacs* attempt to clarify the situation, but in fact offer us little besides an engaging account of how the theoric distributions began (Hypoth. Dem 1.4). The widely-repeated claim that the Athenians passed a law imposing death on anyone who proposed making the theoric money stratiotic does not seem credible to me; most likely, it is merely an inference from Demosthenes' use of the word ἀπολέσθαι at Dem. 3.12 to describe what happens to a *rhētor* who offers the people good advice. But the use of this word is almost certainly figurative.[54]

The crucial information that the money for the Theoric Fund was coming from the surplus of the *dioikēsis* is found in the oration *Against Neaira*. It is here that we are informed that, in or around 349 B.C. (i.e., around the time of the *Olynthiacs*) Apollodorus got the Council to bring before the Assembly a *probouleuma* permitting the people to decide whether the surplus of the *dioikēsis* should be "stratiotic or theoric" (εἴτε δοκεῖ τὰ

[54] This has been recognized among scholars for a very long time: see, for instance Holm 1907 [1894], 224. But the idea that it was a capital crime to reallocate the theoric money simply refuses to die. Buchanan 1962, 62 n. 3 thought Libanius could not have made such a foolish mistake, since, in Buchanan's view, Dem. 3.12 refers to Apollodorus (see below) and we know that Apollodorus merely paid a fine when he proposed redirecting the surplus of the *dioikēsis* to stratiotic uses. On this whole question, see Harris 2002. It is worth noting that other supposedly explanatory portions of Libanius's hypotheses are clearly no more than reworkings of what is already in Demosthenes. For example, his description of the effect of the theoric distributions on the Athenians (Hypoth. Dem 1.5) is only a rather unsophisticated rehash of Demosthenes' complaints about the Athenians' failure to fight for their city and the fact that citizens who stayed home received money that would have been better spent on the soldiers.

περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι εἴτε θεωρικά, [Dem.] 59.4). The speech goes on to explain that the laws used to mandate that the surplus would be "stratiotic" in wartime, and that Apollodorus had felt that the people should be free to do what they wished with the money that was theirs (κελευόντων μὲν τῶν νόμων, ὅταν πόλεμος ᾖ, τὰ περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι, κύριον δ᾽ ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὑτοῦ ὅ τι ἂν βούληται πρᾶξαι, [Dem.] 59.4). It is clear from the speech that Apollodorus's intent in bringing forward his proposal was to make it possible for the surplus to become "stratiotic."[55] We are thus justified in the presumptions (a) that the bulk of the "theoric" money at this time – the money to which Demosthenes refers in the *Olynthiacs* – was coming from the surplus of the *dioikēsis*, and (b) that what Demosthenes means when he says that the laws on the Theoric Fund "distribute the stratiotic money as theoric" is that, traditionally, that surplus had been stratiotic in wartime.[56] Demosthenes regarded the surplus of the *dioikēsis* as properly stratiotic.[57] Philochorus tells us that, eventually, in 339/8, on the eve of the final clash with Philip, Demosthenes persuaded the people to make all their money (presumably

[55] This is clear especially in [Dem.] 59.5.

[56] Note that this interpretation is strongly supported by the evidence of the allocation clauses in the Grain Tax Law, which presume an opposition between *dioikēsis* and *stratiōtika* (see above, Chapter Three, §3.2.2). It is also fully consistent with Harpokration's generalization that θεωρικὰ ἦν τινὰ ἐν κοινῷ χρήματα, ἀπὸ τῶν τῆς πόλεως προσόδων συναγόμενα [note how this suggests collection from a variety of revenue sources, as with the surplus] · ταῦτα δὲ πρότερον μὲν εἰς τὰς τοῦ πολέμου χρείας ἐφυλάττετο καὶ ἐκαλεῖτο στρατιωτικὰ, ὕστερον δὲ κατετίθετο εἴς τε τὰς δημοσίας κατασκευὰς καὶ διανομάς (s.v. θεωρικά). It should be noted that Harpokration's subsequent attempt to trace a history of the Theoric Fund seems to confuse the fund's formal establishment – which probably dates to the 350s – with the beginning of theatrical distributions (which seem to have begun much earlier).

[57] For a different interpretation, see Harris 2002, esp. 121-134. Harris focuses on Demosthenes' statement (at Dem. 3.11) that the "Laws on the Theoric Fund" distribute the statiotic money as theoric, and concludes that Demosthenes was never really objecting to the Theoric Fund as such but only to expenditures from the Stratiotic Fund on non-military matters. This interesting thesis presents several problems, the most intractable of which is that it does not explain Demosthenes' phrasing when he protests, in the *First Olynthiac*, that he does not actually mean to propose that the money about which he is speaking should *be* stratiotic: 'τί οὖν;' ἄν τις εἴποι, 'σὺ γράφεις ταῦτ᾽ εἶναι στρατιωτικά;' μὰ Δί᾽ οὐκ ἔγωγε (Dem. 3.19). Surely this suggests that the money is currently, in some meaningful sense, *not* stratiotic, and Harris's explanation – namely, that Demosthenes is only refusing to propose making the money stratiotic because such a proposal would be superfluous (2002, 128) – does not seem persuasive to me.

including not only the current surplus of the *dioikēsis* but also whatever remained in the Theoric Fund) stratiotic.[58]

We do not hear of the Theoric Fund or its superintendents or the laws concerning it before the 340s, but we do hear about stratiotic money as early as the 370s.[59] The most likely way to understand this disparity, especially when coupled with the citations linking Eubulus to the creation – or, at the very least, the naming – of the Theoric Fund, is to presume that from the financial reorganization of 378/7 or perhaps earlier the standard practice was to treat uncommitted revenues as reserved for the Stratiotic Fund.[60] After the fracturing of the Second Athenian Confederacy and the end of the Social War in 355, such a dedication of surplus moneys probably seemed unnecessary, and it is easy to believe that the war-weary Athenians were interested in redirecting some of their income from military expeditions to more enjoyable domestic activities, like festival distributions.[61] At that time, laws were passed that changed the destination of the surplus moneys, earmarking them for the Theoric Fund. The name Theoric Fund and the office of ὁ ἐπὶ τὸ θεωρικόν were probably heard then for the first time.

I would like to suggest, however, that the Athenians' establishment of the Theoric Fund and their exaltation of the officials in charge of it probably owed as much to a

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[58] *FGH* 328 F 56: τὰ δὲ χρήματα ἐψηφίσαντο πάντ' εἶναι στρατιωτικά, Δημοσθένους γράψαντος. If my inferences in Chapter Three, especially §3.2.2, are accepted, the reader should expect that some part of the surplus of the *dioikēsis* was still being held from prytany to prytany by the *apodektai* . An accumulation of money from the surplus of previous years, meanwhile, was in the hands of the superintendent of the Theoric Fund.

[59] The earliest citation is the Grain-Tax Law of 374/3.

[60] For additional evidence of this, see the discussion in Chapter Three, §3.2.2, above.

[61] It is possible that the original laws which explicitly designated the surplus money as "stratiotic" were intended to assure the allies that the Athens of 370s was fully committed to the war-effort against Sparta; it had not been forgotten that, during the Peloponnesian War, the Athenians had continued to build their splendid temples on the Acropolis while presenting "allied" cities with new demands for *phoros*-money, and the states whose names are inscribed on the Stele of Aristoteles will not have wanted their payments of *syntaxis* to enable Athenian domestic largesse. If this speculation concerning the Stratiotic Fund's origin is correct, then prior to 378/7 the surplus of the *dioikēsis* may have gone to the sacred treasurers to hold in trust for the *dēmos*.

desire to see their finances well managed as it did to their appetite for handouts. But probably we should not think of the demands of efficiency as entirely incompatible with the *democratic* management of finance. Indeed, it is possible to understand much of our evidence concerning the Theoric Fund in terms of an attempt to increase, not diminish, popular control over the handling of revenues. In light of the Athenian financial system as described in the previous two chapters, stray bits of historical evidence that seem to attest the financial supremacy of Eubulus can be seen, equally easily, as reflecting the Assembly's eagerness to thwart corruption or negligence on the part of state officials.

I begin by attending more closely to the wide range of activities with which the Theoric Fund and its officials were associated. The most crucial passage in this respect, because it seems to set forth the significance of the fund in the greatest detail and at the greatest length, comes from Aeschines' speech *Against Ctesiphon*:

> πρότερον μὲν τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, ἀντιγραφεὺς ἦν χειροτονητὸς τῇ πόλει, ὃς καθ᾽ ἑκάστην πρυτανείαν ἀπελογίζετο τὰς προσόδους τῷ δήμῳ: διὰ δὲ τὴν πρὸς Εὔβουλον γενομένην πίστιν ὑμῖν οἱ ἐπὶ τὸ θεωρικὸν κεχειροτονημένοι ἦρχον μέν, πρὶν ἢ τὸν Ἡγήμονος νόμον γενέσθαι, τὴν τοῦ ἀντιγραφέως ἀρχήν, ἦρχον δὲ τὴν τῶν ἀποδεκτῶν, καὶ νεωρίων ἦρχον, καὶ σκευοθήκην ᾠκοδόμουν, ἦσαν δὲ καὶ ὁδοποιοί, καὶ σχεδὸν τὴν ὅλην διοίκησιν εἶχον τῆς πόλεως. (Aeschin. 3.25)

> Previously, men of Athens, the *polis* elected a comptroller (*antigrapheus*), who in each prytany made a report of the revenues to the *dēmos*. But because of trust for Eubulus that developed among you, the elected Superintendents of the Theoric Fund exercised, before the Law of Hegemon was passed, the office of *antigrapheus*, and they oversaw the office of the *apodektai*, and controlled the dockyards, and the arsenal (*skeuothēkē*) that was being constructed, and they were builders of roads, and possessed almost the whole *dioikēsis* of the *polis*.

In this passage, Aeschines is concerned to magnify the powers of the Superintendents of the Theoric Fund as they were constituted before the Law of Hegemon (see below); this is because he wants to claim that Demosthenes, who was elected Superintendent of the Theoric Fund shortly before Chaeronea, was "holding all the official posts at Athens at once” when Ctesiphon proposed to present him with a crown (Aeschin. 3.26: Κτησιφῶν δὲ Δημοσθένην τὸν συλλήβδην ἁπάσας τὰς Ἀθήνησιν ἀρχὰς ἄρχοντα οὐκ ὤκνησε γράψαι στεφανῶσαι). It is clear, of course, that Aeschines is exaggerating. Demosthenes did not literally hold all the offices at Athens at once, and we can be fairly sure that the Superintendents of the Theoric Fund did not supplant the *apodektai*, who continue to appear in the inscriptional record through the 340s. Furthermore, when Aeschines says that the Superintendents of the Theoric Fund were in charge of the dockyards and the arsenal, and were builders of roads, he appears to mean that money was being spent from the Theoric Fund for these purposes.[62] We know from the fragment of Philochorus mentioned above (*FGH* 328 F56) that, when Demosthenes finally carried a proposal to make all of Athens’ money stratiotic, work on drydocks and on the arsenal had to be suspended (τὰ μὲν ἔργα τὰ περὶ τοὺς νεωσοίκους καὶ τὴν σκευοθήκην ἀνεβάλοντο). We have indications that the construction of drydocks was associated with Eubulus (Din. 1.96). We also have the assertion of Harpokration (s.v. θεωρικά) that the Theoric Fund was used for public works (δημοσίας κατασκευὰς) in addition to distributions to citizens (διανομὰς); indeed, Harpokration mentions the public works *before* he mentions the distributions.[63]

In addition, we have evidence from Demosthenes, who complains in the *Third Olynthiac* about Athens’ failures abroad and imagines an objector who points out the improved condition of domestic affairs (Dem. 3.29: τά γ᾽ ἐν αὐτῇ τῇ πόλει). And in what, asks Demosthenes, does the improved condition of domestic affairs consist? “In the walls we are coating? And the roads we are paving? And the fountains? And the

[62] A Superintendent of the Dockyards did exist, and one man who held this office is mentioned by name (Satyrus) at Dem. 22.63.
[63] For the complete quotation, see n. 56, above.

nonsense?" The Greek reads: καὶ τί ἂν εἰπεῖν τις ἔχοι; τὰς ἐπάλξεις ἃς κονιῶμεν, καὶ τὰς ὁδοὺς ἃς ἐπισκευάζομεν, καὶ κρήνας, καὶ λήρους; The scholia note that Demosthenes is referring here to the administrative policies (*politeumata*) of Eubulus. The mention of paved roads tallies with Aeschines' later assertion (in the passage quoted above) that the Superintendents of the Theoric Fund were *hodopoioi*. The context of Demosthenes' remarks, the *Third Olynthiac* with all its concerns about how the public moneys are being spent via the Theoric Fund, might well lead us to imagine, even in the absence of these indications, that the statesman was talking here about θεωρικά.

Dockyards, an arsenal, roads, walls, fountains – who knows what else? It seems clear that money was spent from the Theoric Fund for any number of public purposes. Perhaps it was even spent on other objects with which Eubulus was associated, like triremes.[64] In any event, the diversity of the fund's activities should not be surprising. The Theoric Fund represented the accumulated surplus of the *dioikēsis*, which, as I argued at length in the last chapter, was used by the Athenians for all sorts of non-standard expenditures, i.e., expenditures that for whatever reason could not conveniently be handled through the *merismos*. Once the surplus of the *dioikēsis* had become theoric, it was natural enough for the Theoric Fund to become the major source of these extraordinary expenditures.

Are we then to conclude, with Cawkwell, that "the Theoric Commission was the instrument created by Eubulus for the financial administration of Athens"[65]? That depends on the role played by the elected Superintendents of the Theoric Fund. Specifically, could they disburse moneys at will without having specific authorization

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[64] Din. 1.96; cf. *IG* II^2 1627.352-354 (though it is also plausible that the lumber referred to here as having been purchased by Eubulus refers to some sort of liturgy or gift to the city).
[65] Cawkwell 1963, 56.

either in law or through a decree of the *dēmos*? If so, then Athenian finance did indeed become significantly less subject to democratic control in the 350s and 340s. We can reach the same conclusion if we find reason to believe that the Superintendents gathered to themselves the duties previously performed by a variety of other financial officials, as alleged by Aeschines. And not only by Aeschines: Pollux, in his discussion of the *polētai* (8.99), lets drop the assertion that they sold tax contracts μετὰ τῶν ἐπὶ τὸ θεωρικὸν ᾑρημένων; this suggests, at a minimum, that the Superintendents of the Theoric Fund were present when tax contracts were sold.[66]

But it must be stressed that we have no evidence either that the Theoric Superintendents could spend money at will or that they concentrated in themselves formal powers that had previously been dispersed. We have absolutely no reason to believe that the dockyards and the arsenal, all the paved roads and whitewashed walls and fountains and "nonsense" did not represent spending decisions taken by the Assembly. Furthermore, once we see through Aeschines' statements about the Superintendents running the dockyards and being road builders, we are left with only three sorts of official on whose turf the Superintendents are supposed to have encroached: the *antigrapheus* and the *apodektai* (mentioned by Aeschines) and the *polētai* (mentioned by Pollux). Of these three types of official, only one – the *antigrapheus* – seems to have diminished in importance or disappeared around the time of the establishment of the Theoric Fund. It is also on the supplanting of the *antigrapheus* that Aeschines concentrates when he

[66] Some are inclined to read Aeschines' praise of his brother Aphobetus in his speech *On the Embassy* (2.149), as evidence of the power of the Superintendents of the Theoric Fund. Aeschines says that Aphobetus "oversaw your revenues well and justly when you chose him ἐπὶ τὴν κοινὴν διοίκησιν." I too am inclined to believe that ἐπὶ τὴν κοινὴν διοίκησιν refers to the Superintendent of the Theoric Fund, for reasons that I hope will be made clear below. It should also become clear, however, that I do not regard the phrase ἐπὶ τὴν κοινὴν διοίκησιν as implying anything approaching *arbitrary* control of revenues or expenditures.

discusses the supposedly extensive power of the Theoric Superintendents. Beginning from the relationship between the Superintendents and the *antigrapheus*, I hope to illuminate the roles that Eubulus, the Theoric Fund, and its Superintendents played in the financial administration of the Athenian *polis*.

Aeschines, in the passage from *Against Ctesiphon* that discusses the power of the Superintendents of the Theoric Fund, indicates that the official called the *antigrapheus*, once an elected official, had *actually disappeared* in favor of the Theoric Superintendents. There is evidence for this: although the *antigrapheus* is attested as late as 356/5 B.C. in Demosthenes' *Against Androtion* (22.38), where he appears (22.38) to be a fairly prominent official,[67] he is not mentioned in the *Ath. Pol.* as one of the elected civil officials of the Athenian state (indeed, he is apparently not important enough to be mentioned at all). Even though he is attested inscriptionally in the 330s, including in one inscription specifically datable to 335/4, we have no sense that he is anyone terribly important.[68] We can even assert, albeit somewhat tentatively, that in the 340s he is absent from inscriptions and speeches where we would expect him to be mentioned.[69] Pollux in the *Onomasticon* tells us that that the *antigrapheus* was at first elected and later chosen by lot (8.98 *s.v.* περὶ ἀντιγραφέως); though of course it is possible he is only inferring this transformation based on Aeschines, a more natural inference from Aeschines – and the *Ath. Pol.* – would be that the *antigrapheus* did not exist in 330, and this is a mistake that Pollux does *not* make. The evidence is best explained by the

[67] We also have inscriptional attestation of the *antigrapheus* from quite early in the fourth century, e.g. *IG* II^2 1740 (= *Agora* 15.12) 55-56, where an [ἀντι]γραφεὺς named [Ἀρισ?]τίων Ἀριστωνύμο Παλληνεύ[ς] appears at the end of a list of officials, just after the [γραμ]ματεὺς τῆι βουλῆι καὶ τῶι δήμωι.
[68] *IG* II^2 244.23 (early 330s, probably 337/6) and *IG* II^2 1700.217 (335/4).
[69] E.g., *IG* II^2 223 (343/2), where we would expect an *antigrapheus*, if he existed, among the administrative officials of the Council on face C of the stone, lines 1-9. The Superintendent of the Theoric Fund, Cephisophon son of Cephalion, *does* appear on this list (ll. 5-6).

hypothesis that the *antigrapheus* existed as an elected official until sometime in the mid- to late 350s, ceased for a while to exist, and then reappeared as a less significant official chosen by lot by the 330s (335/4 at the latest). Given the testimony of Aeschines, then, the disappearance of the elected *antigrapheus* is our best clue to the constitutional position of the Theoric Superintendents.

This leads us to the question of what we know about the activities of the *antigrapheus*. Pollux says that his role was to sit in the Council and write everything down (καὶ πάντα ἀντεγράφετο παρακαθήμενος τῇ βουλῇ). Harpokration *s.v.* ἀντιγραφεύς (= *FGH* 328 F198) is a bit more specific, writing that ὁ καθιστάμενος ἐπὶ τῶν καταβαλλόντων τινὰ τῆι πόλει χρήματα ὥστε ἀντιγράφεσθαι ταῦτα . . . διττοὶ δὲ ἦσαν ἀντιγραφεῖς, ὁ μὲν διοικήσεως, ὥ φησι Φιλόχορος, ὁ δὲ τῆς βουλῆς, ὡς Ἀριστοτέλης ἐν ᾽Αθηναίων πολιτείαι. Actually, as I noted above, Aristotle does *not* mention an *antigrapheus*: the closest he comes is his discussion of the γραμματεὺς κατὰ πρυτανείαν, who Aristotle does say once was elected and whose role was to be present in the Council and keep track of documents including decrees and τἄλλα πάντα ἀντιγράφεται (*Ath. Pol.* 54.3). Aristotle adds that the γραμματεὺς κατὰ πρυτανείαν was once an elected position, to which were chosen the most illustrious and trusted men, and that the name of this official was being recorded on stelai dealing with alliances, proxeny decrees and grants of citizenship. It seems likely that the author of the *Ath. Pol.* is confusing the γραμματεὺς κατὰ πρυτανείαν with the older version of the *antigrapheus*, who was apparently seen as having similar duties.[70]

[70] See Rhodes 1981, 601. Harpokration's mistake γραμματεὺς κατὰ πρυτανείαν is less easy to understand, and I do not think we can explain it by postulating a simple variant reading in the *Ath. Pol.*, since Harpokration elsewhere quotes the *Ath. Pol.*'s description of the duties of the γραμματεὺς κατὰ πρυτανείαν exactly as we have them (*s.v.* γραμματεὺς).

Our best evidence for what the old, elected *antigrapheus* did, though, is probably the word ἀντιγραφεύς itself. When ἀντιγράφω does not refer to the writing of a formal response to another document – a rescript, for example – it normally refers to the making of copies, particularly for the purpose of exercising a check on the accuracy of the originals. *Antigrapheis* were particularly associated with keeping checks on accounts. Polybius, for example, by way of celebrating the financial probity of the Romans, sourly remarks that those who handle public money among the Greeks, even if they are entrusted only with a single talent, cannot manage to keep faith "though they have ten *antigrapheis* and as many seals and twice as many witnesses."[71] Since *antigrapheis* were expected to keep a record of every financial transaction, one against which other accounts could be checked, they might find themselves participants in virtually every receipt and expenditure of funds.[72] At least as far back as Boeckh, it has been understood that the role of the *antigrapheus* must have been as a sort of comptroller, serving as a check on other officials' accounts and keeping the financial administration honest.[73] Thus the presence of the *antigrapheus* in the Council, where revenues were received and apportioned. We would imagine the *antigrapheus* was present also at the activities of the *apodektai*, when they performed their duties of receiving and allocating funds, and with the *polētai*, when they sold taxes and other state contracts. If Aeschines and Pollux are

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[71] 6.56.13: οἱ τὰ κοινὰ χειρίζοντες παρὰ μὲν τοῖς Ἕλλησιν, ἐὰν ταλάντου μόνον πιστευθῶσιν, ἀντιγραφεῖς ἔχοντες δέκα καὶ σφραγῖδας τοσαύτας καὶ μάρτυρας διπλασίους οὐ δύνανται τηρεῖν τὴν πίστιν.

[72] A Myrrhinousian deme decree from the mid-fourth century instructs not one but two men to allocate (μερίσα[ι]) 30 drachmas in publication costs from the deme's revenues (ἀπὸ τῆς προ[σ]όδου); one of the men is simply named as Pheidippos, who presumably was deme treasurer. The other man is "Meixias the *antigrapheus*" (*IG* II^2 1182.21-25).

[73] Boeckh 1857 [1851], 250-276 covers the accounting officers who were meant to prevent fiscal corruption at Athens; the *antigrapheis* specifically are treated on pp. 259-260. Boeckh's discussion of *antigrapheis* is vitiated by his acceptance of Harpokration's two *antigrapheis*, but Boeckh had little choice in this matter: lacking the full text of the *Ath. Pol.*, he had no reason to doubt the lexicographer's accuracy. Needless to say, I reject Boeckh's conclusion that "it is inconceivable that the duties of the office of controller [*antigrapheus*] of the council could be performed by the superintendents of the theorica" (260).

correct about the involvement of the Theoric Superintendents in the activities of the *apodektai* and *polētai*, that is no more than to repeat, in different and tendentious words, Aeschines' claim that they had taken over the role of *antigrapheus*. As I mentioned above, the office of *antigrapheus* seems to have been a longstanding Athenian institution by the 350s. The fact that he was elected attests to his special importance. Why, then, would the Athenians remove him and replace him with the person or persons in charge of the Theoric Fund? What were they trying to achieve?

Aeschines says that the crucial issue was trust, that the change which made the Theoric Fund so powerful came about διὰ . . . τὴν πρὸς Εὔβουλον γενομένην πίστιν ὑμῖν. Other ancient sources which speak of Eubulus also speak to the fact that his authority derived primarily from the extent to which he was trusted. But is it reasonable to suppose that trust in one man would result in a dramatic reorganization of the financial administration (including the redirection of the surplus of the *dioikēsis* from the Stratiotic to the Theoric Fund), especially when Eubulus, even if he was sole Superintendent of the Fund, will not have held that office for more than four years – and probably only for one?

Though trust was a perennial issue in Athenian politics – indeed, as I argued in Chapter One, §1.4, it was perhaps *the* issue – it is unlikely that the Athenians would have made any such significant change in the financial administration unless some real dissatisfaction was felt or some real improvement was in view. From the point of view of a traditional narrative concerning the Theoric Fund, one could postulate that the "improvement" was simply a desire for distributions of public money to the citizens, and this would account for the channeling of the surplus to the *theōrikon*. But it would not account for the replacement of the *antigrapheus*. Indeed, if surplus moneys were meant to flow into the Theoric Fund whence they would rain down upon a greedy citizenry, the Athenians would have been all the more interested in making sure that the moneys for the distributions were maximized. And maximizing those moneys will have meant maximizing revenues, keeping the *merismos* as lean as possible, and preventing corruption. The office of *antigrapheus* was designed specifically to prevent corruption. Again, why replace it?

This knotty question is most easily answered if we consider the situation in the mid- to late 350s B.C., when we know the relevant changes to the Athenian financial administration were made. Prosecutions for financial maladministration were a longstanding feature of Athenian life, but the 350s seem to have been marked by some especially outrageous examples of corruption. Some of our best evidence of this comes from the speeches of Demosthenes, and *Against Androtion*, is of particular note here.

The speech was composed in 355. Androtion, an Athenian politician of some note, had proposed the customary crown for the Council of the previous year, 356/5. The prosecution of Androtion (a *graphē paranomōn*) was based on his failure to comply with constitutional provisions relating to this proposal, but much of Demosthenes' speech is devoted to the corruption on the Council itself. Most of the early part of the speech, for example, is devoted to the Council's failure to build the legally mandated number of triremes during its tenure in office (Dem. 22.8-20). Part of the problem, apparently, was that the Treasurer of the *Triēropoioi* had fled the city with two and a half talents in stolen funds (Dem. 22.17), but Demosthenes is not prepared to let the Council off so easily: it was the Council, says Demosthenes, who illegally elected this treasurer themselves, instead, presumably, of allowing him to be chosen by the Assembly or by lot (Dem.

22.20: ἀνελοῦσα γὰρ ἡ βουλὴ τὸν νόμον, τοῦτον ἐχειροτόνησεν αὐτή). Of course, it is always hard to be sure whether an orator is representing the law accurately. But even if the election of the Treasurer of the *Triēropoioi* by the Council was totally legitimate, it is noteworthy that Demosthenes expects the *dikastai* to accept that his selection involved some funny business on the part of the Council.

As the speech proceeds, Demosthenes broadens his attack on the Council, painting a picture of a decent institution whose integrity has been undermined by a small group of politically active good-for-nothings (Dem. 22.35-41). Condemnation of Androtion for his proposal, says Demosthenes, is necessary to prevent the private men on the Council from being ruled by the speakers and the *rhētor*s:

> οὐ μὴν ἀλλ᾽ εἰ καὶ τὰ μάλιστα πάσης ἔσθ᾽ ἁγὼν τῆς βουλῆς, ὅσῳ συμφέρει μᾶλλον ὑμῖν καταγνοῦσιν ἢ μὴ θεάσασθε. εἰ μὲν ἀπογνώσεσθε, ἐπὶ τοῖς λέγουσι τὸ βουλευτήριον ἔσται, ἐὰν δὲ καταγνῶτε, ἐπὶ τοῖς ἰδιώταις: ἑορακότες γὰρ οἱ πολλοὶ διὰ τὴν τῶν λεγόντων πονηρίαν τήνδ᾽ ἀφῃρημένην τὴν βουλὴν τὸν στέφανον, οὐχὶ προήσονται τούτοις τὰς πράξεις, ἀλλὰ τὰ βέλτιστ᾽ ἐροῦσιν αὐτοί. εἰ δὲ γενήσεται τοῦτο καὶ τῶν ἠθάδων καὶ συνεστηκότων ῥητόρων ἀπαλλαγήσεσθε, ὄψεσθ᾽, ὦ ἄνδρες Ἀθηναῖοι, πάνθ᾽ ἃ προσήκει γιγνόμενα. ὥστ᾽ εἰ μηδενὸς ἄλλου ἕνεκα, διὰ ταῦτα καταψηφιστέον. (Dem 22.37)

> But indeed even if this is in the highest degree a trial concerning the entire Council, consider how much more advantageous it is for you to convict. If you acquit, the *bouleutērion* will belong to the speakers; but if you should convict, it will belong to the ordinary citizens. For the multitude, seeing the Council deprived of its crown through the wickedness of the speakers, will not entrust these matters to them but will themselves offer the best counsels. And if this happens, and if you are freed from the usual clique of *rhētor*s, you will see, men of Athens, all things turning out for the best. For this reason, if for no other, you must convict.

The case against Androtion, then, is not only a case against Androtion: Demosthenes expects the jury to be receptive to the argument that through Androtion they can strike at the influence of the entrenched log-rolling politicians (τῶν ἠθάδων καὶ συνεστηκότων ῥητόρων) who control the Council. As I noted in Chapter One, §1.4, such suspicion of elite influence was a perennial sentiment at Athens, but it seems to have had a greater than usual cogency in 355, a year not only apparently blemished by political scandal, but by the decimation of the Second Athenian Confederacy, which surely made the failure of the last Council to build triremes seem especially grave.

But there may be those, says Demosthenes, who will come forward to defend the Council: these are the men who have conspired with Androtion to control the Council and who are responsible for the present evils (Dem. 22.38: οἵπερ ἐκεῖ δι᾽ ἑαυτῶν εἶχον μετὰ τούτου τὸ βουλευτήριον καὶ τούτων τῶν κακῶν εἰσιν αἴτιοι); he goes on to say that these men will not be defending the Council but looking to their own interests, in particular their need to pass their pending *euthynai*. There are two of these men who Demosthenes mentions by name: Philippos and Antigenes. But there is also a third man whom Demosthenes does not mention by name but only by title, the *antigrapheus*; remarkably, he too is grouped with those who sought to hold the Bouleuterion δι᾽ ἑαυτῶν and who are responsible for these ills.[74]

The fact that the *antigrapheus* is not identified by name in this passage, while other potential defenders of the Council are named, suggests that his influence would have derived primarily from his position. Furthermore, the fact that the *antigrapheus* would be in a position to defend the Council with respect to the construction of new triremes or the election (possibly illegal) of a Treasurer of the *Triēropoioi*, provides us with evidence that his function in practice might go beyond merely writing down a list of revenues and expenditures. Most interesting, however, is the fact that Demosthenes thinks it reasonable to ask the jurors to believe that the comptroller – the man charged

[74] At Dem. 22.40, Demosthenes deals in more detail with another man, Archias of Cholargos, who may rise to defend the acts of the Council. He is obviously a more popular figure, who must be handled more carefully and in greater detail, with a sophistic dilemma. Philippos, Antigenes, and the *antigrapheus* are obviously either so obscure that they can be tarred with a standard complaint about political elites – in which case the identification of the *antigrapheus* by his title is all the more remarkable – or they were, in fact, less reputable men than Archias.

with maintaining the state's financial integrity – is in league with the sinister clique of politicians who are running things in the Council. If the credit of this office had fallen so low by 355, it is understandable that there would be support for replacing it.

Through most of the rest of the speech *Against Androtion*, Demosthenes concentrates on the misdeeds of Androtion himself (Dem. 22.47-78), and these include financial corruption – Androtion has taken bribes, skimmed revenue (Dem. 22.67), and filched the sacred gold of crowns dedicated to Athena (Dem 22.69-71).[75] But this speech is far from being the only evidence that the 350s were marked by strong concerns about corruption in Athens' financial management. Demosthenes himself repeated many of the same themes in the speech *Against Aristocrates* just three years later (352 B.C.): again we see the contrast between untrustworthy politicians or "experts" and plain men who have the state's interest at heart;[76] again financial difficulties are mentioned as a specific result of government corruption.[77]

Meanwhile the financial difficulties faced by the Athenians at the end of the Social War lent plausibility to charges like those of Demosthenes. We know that the mid-350s were also characterized by widespread concern among politically engaged Athenians about the levels of revenues and the fiscal solvency of the *polis*. This is

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[75] The business of the crowns, however, seems to have taken place about a decade before Demosthenes' speech: see *IG* II^2 61 with Lewis 1954: 39-49. Androtion had gotten himself elected by the *dēmos* to melt down the crowns and recast them into processional and liturgical vessels, but no one was appointed to keep an eye on him: he was, Demosthenes complains, his own *antigrapheus* in addition to everything else (Dem. 22.70: ἀλλ᾽ αὐτὸς ῥήτωρ, χρυσοχόος, ταμίας, ἀντιγραφεὺς γέγονεν).

[76] E.g., Dem. 23.4-5: λέγειν μὲν ἴσως οὐ δεινοῖς, βελτίοσι δ᾽ ἀνθρώποις τῶν δεινῶν; Dem. 23.146-7: politicians are πονηρότατοι; Dem. 23.201: διὰ τὴν τῶν καταράτων καὶ θεοῖς ἐχθρῶν ῥητόρων, τῶν τὰ τοιαῦτα γραφόντων ἑτοίμως, πονηρίαν, οἳ τοσαύτην ὑπερβολὴν πεποίηνται τῆς αὐτῶν αἰσχροκερδείας, etc.)

[77] E.g. Dem. 23.209: νῦν δ᾽ οἱ μὲν τὰ κοινὰ διοικοῦντες ἐκ πτωχῶν εὔποροι καὶ πολλοῦ χρόνου τροφὴν ἄφθονόν εἰσιν ἡτοιμασμένοι: ὑμῖν δ᾽ οὐδὲ μιᾶς ἡμέρας ἐφόδι᾽ ἐστὶν ἐν τῷ κοινῷ, ἀλλ᾽ ἅμα δεῖ τι ποιεῖν, καὶ πόθεν οὐκ ἔχετε. This passage in particular suggests that Demosthenes' complaints are meant to respond less to the situation in 352 than to conditions two or three years earlier, when the state the was indeed desperate for cash.

illustrated not only by the publication around this time of Xenophon's *Poroi* but by various measures which, in the words of Sealey, "reflect an outlook of fiscal anxiety": the decree that authorized Androtion to compel payments from men who had failed pay *eisphorai* in full, Aristophon's proposal to set up a commission of inquiry to identify those who owed money to the state, and Leptines' law forbidding exemptions from liturgies.[78] All in all, there is ample evidence – ample by the standards of ancient historiography, at least – that the mid-350s saw the intersection in Athenian politics of a fiscal crisis and a major crisis of trust.

In this crisis, the Athenians turned to Eubulus – because he was trusted, as Aeschines' speech *Against Ctesiphon* attests. Even Demosthenes acknowledged the people's trust in Eubulus when he referred to him with the phrase τῶν ὑφ' ὑμῶν πεπιστευμένων (Dem. 19.289) as late as 343 B.C., when his influence seems to have been already on the wane. The original source of that trust, especially in fiscal matters, is perhaps not far to seek: Eubulus's several prosecutions of men engaged in financial corruption reveal him as a sort of crusader against graft and fraud. Some of his prosecutions can be safely dated to the mid-350s.[79] No surprise then, that he was apparently the first man entrusted with the post of Theoric Superintendent.

But we must return to the question of what, in practical terms, the Theoric Superintendents and the Theoric Fund were meant to accomplish. What did the Athenians expect to accomplish by replacing the failed office of *antigrapheus* with a man or men in charge of a special fund to which the surplus of the *dioikēsis* was now to be

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[78] Sealey 1993, 113. If I do not discuss Xenophon's *Poroi* at length, it is only because it is so well known. For the three measures mentioned, the main relevant ancient sources are, respectively, Dem. 22.42-68 and Dem. 24.160-175; Dem. 24.11; and Dem. 20 (*passim*).
[79] See n. 38, above.

directed? The answer, I think, is rather simple. The Athenians thought in terms of incentives. One of the problems with the office of the *antigrapheus* was that, lacking any power or status other than the power deriving from his possession of certain information – which others also possessed, albeit collectively rather than individually – his only personal stake in doing his job especially well was fear of prosecution. In terms of the old Greek ethic of agonistic self-promotion, the office of *antigrapheus* did not offer much opportunity to achieve popular acclaim; in fact, it is easy to imagine, as Demosthenes does in *Against Androtion*, that an *antigrapheus* might, in the long run, have more to gain by playing ball with a corrupt clique than by standing up to them. And even if an *antigrapheus* were to be prosecuted, or simply to run into some sort of trouble at his *euthynai*, his accountability was probably limited by the fact that he had not himself had personal control of public funds.

In contrast, once the surpluses of the *dioikēsis* were redirected to the *theōrikon*, the Superintendents of that fund will have had a direct interest in making sure those surpluses were maximized, in order that they personally might be responsible for the disposition of the greatest possible sums, and thus might acquire the reputation that would result from spending those funds on popular projects. Maximizing the surpluses of the *dioikēsis* – and thus their own power – will have meant keeping an eagle eye on all matters of state finance that were handled in the Council, including the receipt and allocation of revenues by the *apodektai*. If the *apodektai* did not receive the full amount owed to them by tax contractors, holders of silver mine leases, and others who had obligations to the state, or if the *apodektai* were not scrupulous in following the laws that regulated the *merismos*, then the Theoric Fund would be cheated of some of its income.

Thus Aeschines can claim, with some justification, that the Theoric Superintendents ἦρχον δὲ τὴν τῶν ἀποδεκτῶν [ἀρχήν]. We cannot be absolutely certain that the Theoric Superintendents were constitutionally charged with scrutinizing the *apodektai*'s activities (though they probably were; at any rate, they clearly had the right to be present at all times in the Bouleuterion) but they had what to the savvy and cynical Athenians was probably an even better guarantee: they had a personal incentive.

A desire to maximize the revenues of the Theoric Fund would also have encouraged the Theoric Superintendents to take a personal interest in maximizing the income from the various sources of state revenue – especially if, as I argued in the last chapter, the allocated revenue which did not become part of the surplus was normally defined as a fixed sum or a proportion of the total income from each revenue source. Thus, the Theoric Superintendents will have been encouraged to play a role in overseeing the letting of state contracts by the *polētai* under the supervision of the Council. And this may explain the statement of Pollux that the *polētai* sold tax contracts μετὰ τῶν ἐπὶ τὸ θεωρικὸν ᾑρημένων. It is important to note, however, that the personal incentives for the Theoric Superintendents to police the *polētai* are really operative only in the event that the Theoric Superintendents would be seen as responsible for at least some of the revenue from the tax contracts, the sale of which happened on their watch. This would be true if (a) the Theoric Superintendents could be re-elected, which may well have been true for some portion of the history of the office (see below); (b) the Theoric Superintendents served a four-year term, which is possible but not especially likely (see above).[80] But

[80] Of course, the tenure of the Theoric Superintendents ἐκ Παναθηναίων εἰς Παναθήναια (i.e., entering and leaving office at the end of Hekatombaion) could have meant that a Superintendent or board of Superintendents were present at the receipt of funds in the first prytany (which included all of Hekatombaion [=July-August] and the first part of Metageitnion [=August-September]) whose amount had

even if neither of these conditions applied, there was absolutely nothing to stop a Theoric Superintendent who had recently left office from standing up before the Assembly and proposing the expenditure (or distribution) of theoric moneys from the fund which was now being looked after by someone else. If this *rhētor* could announce to the *dēmos* that the Theoric Fund was awash in drachmas because of his personal diligence in the Bouleuterion – so much the better.

It must be emphasized again that the Theoric Superintendents probably had very little actual discretion; the Assembly would have the final word on what was to be done with the fund's money. But the Theoric Superintendent was the authority who could be counted on to talk about how much money was in the fund, how much money was likely to come in to the fund (either through the transfer of surpluses temporarily held by the *apodektai* or as a result of revenues in future years), and whether or not any particular expenditure from the fund was justified. Mastery of information was the essence of his influence.[81] And that influence was intended to be exercised for the good of the people, who had felt threatened by the fiscal shenanigans of shadowy groups of politicians. The Athenian democracy had traditionally operated by attempting to disperse power. Unfortunately, the dispersal of *power* had also dispersed the combination of *knowledge*

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been determined, presumably, by state contracts sold late in the previous year. But the surplus revenues of the first prytany were probably not especially large – the big surpluses will have come in the ninth prytany – and in any case it is unlikely that the surplus revenues immediately became theoric (see Chapter Three, §3.2.2, for discussion of when surpluses may have been assigned to a particular fund).

[81] Rhodes has written that the Theoric Superintendents "became important in two ways: (a) their fund contained whatever surplus money there might be in Athens, on which the state would have to depend for any non-routine expenditure; and (b) by being involved in the work of other financial boards…they even more than the boule…were able to acquire a comprehensive knowledge of Athens' financial affairs" (1993: 515). If I have added anything to this argument, it is to suggest that (b) was the real point of the Theoric Fund's creation and (a) was primarily a means to that end and a way to keep the Theoric Superintendents honest once that end had been achieved. (I would also, perhaps, quibble with the statement the Theoric Fund contained " whatever surplus money there might be in Athens." I have argued in Chapter Three, §3.2.3.2, that I interpret *IG* II^2 212.39-44 as indicating that surplus funds remained, for a time, in the keeping of the *apodektai*.)

and *accountability* that had made it possible for the *dēmos* to feel its affairs were being handled in accordance with its interests.[82] The Theoric Fund with its Superintendents meant that there would be counterweight to the cabals, real or imagined.

One might object that, if the Athenians were chiefly interested in endowing the overseer of surplus revenues with authority to scrutinize the financial operations of the Council, the *apodektai*, and the *polētai*, then there was no need to create an entirely new fund: the Stratiotic Fund, which had existed at least as far back as mid-370s, already received (as I have argued) the surplus of the *dioikēsis*. Why was Eubulus or some other trusted politician not simply given the same powers as supervisor of τὰ στρατιωτικά?

One item of information relevant to answering this question is that we do not know when the single Treasurer of the Stratiotic Fund, about whom we have our first evidence in 344/3 B.C. and who appears consistently in the literary and epigraphic record thereafter, actually came into existence. It is quite possible that he was relatively new when we first find his title in an inventory of the Treasurers of Athena for that year.[83] If so, then before this office was created the Stratiotic Fund may have been under the care of one or more of the generals, of some of the sacred treasurers – assuming the fund was stored in the opisthodomos of the Parthenon – of some other official or board of officials of whom we know nothing.

This does not necessarily answer our question, however, since even if the Treasurere of the Stratiotic Fund did not yet exist he could have been created and there still would have been no need to direct the surplus revenues to an entirely new fund.[84]

[82] On the general issue of knowledge in the Athenian democracy, see Ober 2008.
[83] *IG* II^2 1443, 12-13.
[84] I should clarify what I mean by saying that, strictly speaking, the Theoric Fund was probably not new: a modest fund for theatrical and/or festival distributions had existed for quite some time (see above). I only

More directly apposite, I believe, are one possibility and one near-certainty. The possibility is that Eubulus was already in office as Superintendent of the Theoric Fund when the Assembly and, probably, the *nomothētai*, arranged for the diversion of the surplus. In this case, Aeschines' statement about the people's trust in Eubulus being responsible for the growth in the activities of the Theoric Superintendents will have been quite literally true. But even if this was not the case, we can at least be sure – sure by the standards of ancient historiography – that the Stratiotic Fund, to which the surplus had traditionally been directed, was coming to be seen as less and less desirable a respository for the people's discretionary funds. This is because the Stratiotic Fund was, essentially, a military fund, even if, as we know, the money in it was sometimes spent on non-military purposes. And, since it was a military fund, it appears that Athenian commanders above a certain rank had the right to withdraw sums from the fund for military purposes.[85] It is possible that commanders inferior to the rank of *stratēgos* required the authorization of a general in order to do this; it is even quite reasonable to suppose that they needed a go-ahead from the Council. But it is much harder to imagine that the Assembly could be consulted, even in peacetime, every time some commander desired to draw cash from the fund. In other words, it is very probable that the Stratiotic Fund was liable to being spent without the consent of the *dēmos*.

Furthermore, the people's confidence that the funds in question were being spent well had clearly diminished by the 350s. Some of the most notable charges of corruption during the early and mid-350s involved military commanders. In 360/59, the general Kephisodotos was recalled from his command (probably as a result of an *eisangelia*),

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intend to acknowledge the possibility that it assumed an entirely new role and importance in the 350s when it began to receive the surplus of the *dioikēsis*.

[85] [Dem.] 49.12 and 16.

tried, and fined five talents.[86] After the disastrous Battle of Embata (356/5), the generals Iphikrates, his son Menestheus, and Menestheus's father-in-law Timotheus were all put on trial. Timotheus was eventually fined a substantial sum of money, as much as 100 talents.[87] In the speech *Against Androtion,* Demosthenes seems to say – quite gratuitously, from the point of view of the point he is making – that generals may have been even more corrupt than politicians: Dem 22.66, ἐν τούτῳ τῷ χρόνῳ πολλῶν μὲν στρατηγῶν ἠδικηκότων τὴν πόλιν, πολλῶν δὲ ῥητόρων.[88] Apollodorus even implies that Timotheus made withdrawals from the Stratiotic Fund that were not used for their intended purposes.[89] Furthermore, it is reasonable to suppose that the 1500 talents that Demosthenes complained in the *Third Olynthiac* had been wasted to no purpose represented military expenditures from the Stratiotic Fund. It is easy to see, then, that the Athenians' putative eagerness for festival distributions (which I do not mean to deny entirely) is not the only plausible motive for their redirection of the surplus.

I have attempted to sketch here a portrait of the Theoric Fund that calls attention to its compatibility with Athenian democratic ideology as conventionally understood and that sees the rise of the Theoric Supervisors as part of an effort to make fiscal policy in the *polis* more accountable to the *dēmos*, not less. If this account is found to have some plausibility, then the next question to ask is: was this effort successful?

[86] *FGH* 324 (Androtion) F 19; Aeschin. 3.51 with scholium; Dem. 23.163.
[87] Isoc., *Antid.* 129; Nep. *Tim.* 3.5; Diod. Sic. 16.21.4; Din. 1.14; *FGH* 328 (Philochorus) F 152.
[88] We see the same precedence of military leaders over "civilian" politicians in corrupt dealings at Dem. 23.184: καὶ τοῖς στρατηγοῖς καὶ τοῖς ῥήτορσιν (though this passage does refer to affairs in Thrace, where generals would have been more directly concerned).
[89] [Dem.] 49.12 and 16. At any rate, he says that expenses Timotheus claimed were made out of withdrawals from the Stratiotic Fund were, in fact, financed by other means. Since it is hard to believe Timotheus would pretend to have withdrawn money from the Stratiotic Fund when in fact he had not, it follows that Timotheus's allegation implies some misappropriation of money from the Stratiotic Fund.

Eubulus in particular certainly won praise for his financial administration, even twenty years after he had ceased to be a political force. In broader constitutional terms, however, the Athenians seem to have remained dissatisfied. It proved necessary or desirable to adjust the legal status of the Theoric Superintendents, and at some point the so-called “Law of Hegemon” was adopted, which Aeschines implies substantially reduced the powers of οἱ ἐπὶ τὸ θεωρικὸν; after all, it is only to the period before the Law of Hegemon that Aeschines refers the seemingly unlimited authority of the Theoric Superintendents.

Unfortunately, we do not know much more about the Law of Hegemon than we read in Aeschines. It is the speech of Aeschines itself that provides its *terminus ante quem*, 330 B.C.[90] But whether we can trust Aeschines’ implication that the Law of Hegemon had not yet been passed when Ctesiphon offered a crown to Demosthenes in 336 is highly uncertain. The specific provisions are even less certain. Rhodes’ belief that it was the Law of Hegemon that converted a single Theoric Superintendent into a collegiate office is obviously attractive.[91] Another possibility (not incompatible with the one just mentioned) is that the law prevented the Theoric Superintendents from repeating in office.

The Fund, at any rate, persisted and remained important. It seems to have disappeared only with the death of democracy in 322, and it seems likely that from the time of Eubulus onward it was never used exclusively for public distributions. For if that

[90] The law is mentioned in a naval record from 326/5 (*IG* II[2] 1628 B 296-300), which not only does not help much with dating but which tells us surprisingly little about the general significance of the law itself. The document reports that the Council gave back (ἀπέ[δοτο]) a sum of money (restored as 210 drachmas and 4 obols) κατὰ νόμον Ἡγήμονος. Probably a number of reforms of Athens’s financial system were contained in this one law.

[91] Rhodes 1972, 235-240. Rhodes believes the law was a move by the partisans of Eubulus to weaken an office that already passed into the hands of the faction led by Demosthenes.

were the case, what could one make of Hypereides' assertion that Demosthenes claimed he had borrowed money from Harpalus, interest-free, on the people's behalf for the Theoric Fund?[92]

I hope to have shown here, with some plausibility, that the Theoric Fund and its Superintendents may be understood less as representing a concentration of power because the *dēmos* proved incompetent or uninterested in managing its affairs than as betokening an attempt to counterbalance, with unified knowledge and accountability, what the Athenians saw as threats to the integrity of the democratic process. I believe such a perspective gains in plausibility and nuance once we consider the evidence for the last and most important name among those often identified as all-powerful fourth-century financial experts: Lycurgus.

4.3 Lycurgus

We come, finally, to Lycurgus the son of Lycophron, the paradigm of the financial expert in fourth-century Athens. Indeed, it is quite likely that it is because of Lycurgus that historians have imagined, retrospectively, a process of political evolution in which control of public finance passed more and more into the hands of powerful individuals. Because Lycurgus's position seems so exceptional, it seems necessary for there to have been, as it were, other Lycurgoi *avant la lettre*. In the preceding sections, I wished to argue that the conventional image of the growing power of financial experts does not necessarily fit comfortably with the facts. In this section, I attempt to show that even Lycurgus was not a fiscal dictator, and that the wide range of his activities as

[92] *Against Demosthenes* fr. 3 col. 13.

attested in the epigraphic record are not incompatible with the vigorous persistence of democratic ideology among the Athenians of the late fourth century.

Our only real narrative source for Lycurgus's career is the account of him given in the *Lives of the Ten Orators*, which emphasizes his financial management. The narrative seems to rely heavily on an honorary decree for Lycurgus from the year 307/6, proposed by Stratocles of Diomeia and included with the text of the *Lives* (851F-852E); the survival on stone of two portions of the original decree (*IG* II^2 457) confirms the basic authenticity of the document, though the version in the *Lives* is a rough paraphrase rather than an actual transcription.[93] Unfortunately for our purposes, the piece of the original Decree of Stratocles dealing specifically with Lycurgus's administration of state finances has not been recovered, so for this information we must rely entirely on the text transmitted with the *Lives*. There we read that Lycurgus was "treasurer of city's public revenue" for three terms of four years (852B: τῆς κοινῆς προσόδου ταμίας τῇ πόλει ἐπὶ τρεῖς πενταετηρίδας) and that during that time he distributed eighteen thousand nine hundred talents from the public revenue. He also received a total of six hundred and fifty talents in trust from private persons which he lent out at crucial moments.[94]

Though the decree for Lycurgus (and the narrative of the *Lives*) mention many other public accomplishments – such as the making of good laws and the holding of two other elected positions involving, respectively, the provision of gold and silver sacred

[93] Kirchner summarizes the verdict of Kumanudes, "ibi [in *Vitis X Oratorum*] decretum in brevius redactum esse nec adcurate redditum esse," which a casual comparison of the two texts confirms. Osborne 1981, 172-174 suggests that *IG* II^2 513 might be part of another copy of the same decree; see Oikonomides 1986. Tracy 2003, 70-72, has shown that this is unlikely.

[94] The Greek text is: καὶ γενόμενος τῆς κοινῆς προσόδου ταμίας τῇ πόλει ἐπὶ τρεῖς πενταετηρίδας καὶ διανείμας ἐκ τῆς κοινῆς προσόδου μύρια καὶ ὀκτακισχίλια καὶ ἐνακόσια τάλαντα: πολλὰ δὲ τῶν ἰδιωτῶν διὰ πίστεως λαβὼν καὶ προδανείσας καὶ εἰς τοὺς τῆς πόλεως καιροὺς καὶ τοῦ δήμου τὰ πάντα ἑξακόσια καὶ πεντήκοντα τάλαντα: δόξας δὲ ἅπαντα ταῦτα δικαίως διῳκηκέναι πολλάκις ἐστεφανώθη ὑπὸ τῆς πόλεως.

objects and war preparations[95] – it is obviously the twelve-year tenure of a powerful-sounding financial office that must command our chief attention, as such extensive authority may indeed suggest a diminution of Athens' democratic spirit. This impression is only slightly mitigated by the information in the *Lives* that Lycurgus personally held office only for the first of the three four-year terms, exercising the position afterward through proxies (literally "friends," *philoi*), because a law forbade anyone to be elected ἐπὶ τὰ δημόσια χρήματα for more than four years (841C).[96] Diodorus too tells us that Lycurgus administered the city's revenues for twelve years (οὗτος γὰρ τῶν τότε ῥητόρων μέγιστον ἔχων ἀξίωμα καὶ δώδεκα μὲν ἔτη τὰς προσόδους τῆς πόλεως διοικήσας ἐπαινουμένως 16.88), and Hyperides mentions that Lycurgus was placed in charge of the administration of moneys and discovered new sources of revenue (fr. 118 Jensen: ταχθεὶς δὲ ἐπὶ τῇ διοικήσει τῶν χρημάτων εὗρε πόρους).

The different formulations used for Lycurgus's position in our sources mean that the title he held has long been in dispute. For much of the nineteenth century, it was widely assumed that his title was ὁ ἐπὶ τῇ διοικήσει, a position attested in the epigraphic record – sometimes as a single official, sometimes as a plural board (οἱ ἐπὶ τῇ διοικήσει) – from around the end of the fourth century.[97] The title seemed general enough to cover the absolute ascendancy over finances imputed to Lycurgus – Pollux mentions an official

[95] Actually it is possible that the first of these elected positions corresponds to his first four-year term as ταμίας τῆς κοινῆς προσόδου , the one to which he was personally elected (see below).

[96] Some scholars identify this law with the Law of Hegemon mentioned in Aeschin. 3.25 (see above, §4.2). It is fairly clear that the author of the *Life of Lycurgus* had access to some source for Lycurgus's financial career other than the honorary decree, since he mentions an alternative figure – fourteen thousand talents – for the total amount of money handled by Lycurgus during his tenure in office (841B).

[97] The first unambiguous attestation for this official is in 307/6, where the office is held by Lycurgus's son Habron (*IG* II^2 463.36). On ὁ/οἱ ἐπὶ τῇ διοικήσει in the Hellenistic Era, see Henry 1984 and 1988. Boeckh believed that there was no difference between the office of ὁ ἐπὶ τῇ διοικήσει and that of ταμίας τῆς κοινῆς προσόδου which seems to be applied to Lycurgus by the Decree of Stratocles as quoted in the *Lives of the Ten Orators* (852B): see Boeckh 1857 [1851], 223-232, especially p. 227: "As a disbursing officer the superintendent of the public revenues was called also superintendent of the administration (ὁ ἐπὶ τῆς δισοικήσεως, or ὁ ἐπὶ τῇ διοικήσει). The office was the same however."

ὁ ἐπὶ τῇ διοικήσει who is in charge of revenues and expenditures (8.113: ὁ ἐπὶ τῆς δισοικήσεως αἱρετὸς ἦν ἐπὶ τῶν προσιόντων καὶ ἀναλισκομένων) – and Hyperides' phrase ταχθεὶς δὲ ἐπὶ τῇ διοικήσει τῶν χρημάτων seemed sufficient to justify the inference.[98] But this view was shaken by the publication of the *Athēnaiōn Politeia*, in which no such office appears: the only outstanding offices related to finance are ὁ ἐπὶ τὸ θεωρικόν and the ταμίας τῶν στρατιωτικῶν (43.1).[99] Accordingly, it began to be widely supposed that Lycurgus had either held one of these two offices, or that his power was exercised too informally to find its way into Aristotle's treatise.[100]

Then, in 1960, Benjamin Meritt published an inscription, an honorary decree of the *genos* Kerykes for Xenocles of Sphettus, that seemed, perhaps, to confirm the existence of an official ἐπὶ τῇ διοικήσει in the last decades of the democracy:

….δε-
[δόχθαι Κήρυ]ξιν· ἐπειδ-
[ὴ Ξενοκλῆς Ξ]είνιδος Σ-
[φήττιος ἀνή]ρ ἐσ[τ]ιν ἀ[γ]-
[αθὸς περὶ τὸ] γέν[ος] τ[ὸ Κ]-
[ηρύκων ποιῶ]ν̣ [ἀεὶ ὅ]τ̣[ι ἂ]-
[ν δύνηται ἀ]γ̣αθόν, **κ<α>τ̣[α]-**
[σταθεὶς δ' ἐ]πὶ τῆι διοι-
[κήσει τῆς π]όλεως καλῶ-
[ς καὶ εὐσεβ]ῶς ἐμέρισε-
[ν τὰ εἰς τὸ ἱ]ερὰ θῦσαι [τ]-
[ὸ γένος τὸ Κ]ηρύκων ὑπ[έ]-
[ρ τε τοῦ δήμ]ου τοῦ Ἀθην-
[αίων καὶ ὑπ]ὲρ τοῦ γέν[ο]-

[98] We also find Lycurgus associated with "the *dioikēsis*" in [Dem.] Epist. 3.2 (ἐκεῖνος γὰρ αὑτὸν ἐν τῷ περὶ τὴν διοίκησιν μέρει τάξας τῆς πολιτείας). The text of the *Lives* refers to Lycurgus as πιστευσάμενος τὴν διοίκησιν τῶν χρημάτων (841B). We may also find a similar association in Hyperides' speech *Against Demosthenes* (see n. 106 below). Finally, we know that among the lost speeches of Lycurgus was a περὶ τῆς διοικήσεως, the subject matter of which is unknown and from which only a handful of not very informative fragments survive.

[99] One way to deal with this was to imagine that Lycurgus's position was discussed in a missing chapter dealing with four-year elective magistracies: on the possibility that such a chapter was originally part of the *Ath. Pol.*, see Rhodes 1981, 677.

[100] For a discussion of scholarly opinions in the decades after the publication of the *Ath. Pol.*, see Andreades 1933 [1928], 372-378.

[ς τοῦ Κηρύκ]ων…. (ll. 1-15)[101]

As a result of this inscription, some scholars have been willing to assert that Xenocles, an eminent man known from other sources, was one of those friendly successors through whom Lycurgus exercised his authority after the expiration of his first four-year term.[102] This is, however, a questionable conclusion. Even more questionable is the idea that Lycurgus held some comprehensive official position corresponding to the later office of ὁ ἐπὶ τῇ διοικήσει.

To begin with, despite the proximity in time (less than twenty years) between Lycurgus's death and the first appearance of ὁ ἐπὶ τῇ διοικήσει, the mere association of Lycurgus with authority over the *dioikēsis* should not be taken to imply a comprehensive authority over all the financial operations of the state. Certainly, Lycurgus was not the first person to be characterized in our sources as having had authority over "the *dioikēsis*": in 343 B.C., Aeschines described his younger brother Aphobetus as having been put in charge of the "the *dioikēsis* of the commonwealth" (2.149: καλῶς δὲ καὶ δικαίως τῶν ὑμετέρων προσόδων ἐπιμεληθείς, ὅτε αὐτὸν **ἐπὶ τὴν κοινὴν διοίκησιν** εἵλεσθε) and two inserted decrees in Demosthenes' speech *On the Crown* refer to a general ἐπὶ τῆς διοικήσεως, apparently a sort of paymaster (Dem. 18.38, 115).[103] (It is true that in

[101] Meritt 1960, #3 (pp. 2-4) = *Agora* 16.77. The inscription cannot be securely dated, and Merritt was forced to rely on letter-forms and the general appearance of the stone: "[T]he present text is too well cut to fit comfortably into the last years of the century. Its writing and the elaborate ornamentation of the stele on which it was inscribed belong rather to the years before the hegemony of Demetrius of Phaleron. Judged on the basis of writing alone the date of this inscription ought to be close to 330 B.C., the date to which the lower fragment was tentatively assigned in its first publication."
[102] Thus, for example, Mitchel 1970, 190-191; Faraguna 1992, 197-199; and Rhodes 1981, 515-516.
[103] At Dem. 18.115, Nausicles is crowned because, when Philon, "the one in charge of the *dioikēsis*," was not able to arrive at Imbros with pay for the Athenian hoplites there, Nausicles paid them out of his own pocket without making a claim to reimbursement from the *dēmos* (Ἀθηναίων ὁπλιτῶν δισχιλίων ὄντων ἐν Ἴμβρῳ καὶ βοηθούντων τοῖς κατοικοῦσιν Ἀθηναίων τὴν νῆσον, οὐ δυναμένου Φίλωνος τοῦ ἐπὶ τῆς διοικήσεως κεχειροτονημένου διὰ τοὺς χειμῶνας πλεῦσαι καὶ μισθοδοτῆσαι τοὺς ὁπλίτας, ἐκ τῆς ἰδίας οὐσίας ἔδωκε καὶ οὐκ εἰσέπραξε τὸν δῆμον). Note, incidentally, that this usage tends to confirm the special

neither of these examples is διοίκησις in the dative after ἐπί, but this distinction should not be regarded as significant.[104]) Ultimately, it is not clear why descriptions of Lycurgus's powers that include the word *dioikēsis* should be interpreted as giving us any clearer idea of his office than expressions like τῆς κοινῆς προσόδου ταμίας τῇ πόλει in the version of the Decree of Stratocles transmitted with the *Lives* (852B).[105] Once we seriously consider the possibility that references to Lycurgus as ἐπὶ τῇ διοικήσει may represent a general characterization rather than a formal title, the significance of the Xenocles inscription becomes more equivocal: it is possible that, instead of being assimilated as evidence for a particular conception of Lycurgus's office, it should instead be seen as suggesting that anyone having a significant financial role in the city could be seen as having been in charge of over the *dioikēsis*.[106]

association of the word *dioikēsis* with the making of provision for necessary expenditures (see §3.2.1, above).

[104] Even in inscriptions from long after the first appearance of the official position(s) ὁ/οἱ ἐπὶ τῇ διοικήσει, one occasionally finds the genitive used to designate the office, e.g., *IG* II[2] 677.17-18 ([τὸν ἐπὶ] τῆς διοικήσε|[ως]) and *IG* II[2] 710.22 ([τοὺς ἐπὶ τῆ]ς διοικήσεῳ[ς]). (Both of these third-century inscriptions are stoichedon, making the restorations almost certain.) Note also that Pollux s.v. οἱ εἴκοσι refers to ὁ ἐπὶ τῆς δισοικήσεως (8.113).

[105] Cf. ταμίας γὰρ ἐγένετο ([Plut.], *Vit. X Orat.* 841B) and τὰς προσόδους τῆς πόλεως διοικήσας (Diod.Sic. 16.88). Boeckh resolved the diversity of titles by assuming that a single office was called both ὁ ἐπὶ τῇ διοικήσει and ταμίας τῆς κοινῆς προσόδου (see n. 97 above).

[106] An even better example of evidence which is in fact equivocal being assimilated to a particular view of Lycurgus is a fragment of Hyperides' speech *Against Demosthenes* which refers to a person (whose name is lost) being elected as "treasurer of the whole *dioikēsis*" (fr. 7: [ἐ]πὶ τὴν δι[οίκησιν τῶ]ν αὑτοῦ ἅπασαν [ταμ]ίαν ἐχειροτόνησ[εν]). It has usually been assumed that this passage refers to Lycurgus, but David Lewis, in a paper widely circulated and eventually published posthumously, made a strong case that it instead refers to Demosthenes' supervision of the Theoric Fund in 337/6 (Lewis 1997, 222-224); see Whitehead 2000, 448-450 for full discussion of this passage. If [ἐ]πὶ τὴν δι[οίκησιν τῶ]ν αὑτοῦ ἅπασαν [ταμ]ίαν ἐχειροτόνησ[εν] can refer, somewhat unexpectedly, to Demosthenes' supervision of the Theōrikon, then we should also be cautious about drawing conclusions based on passages which tell us that Lycurgus was in charge of the *dioikēsis*. Lewis was inclined to accept Xenocles as Lycurgus's successor in office, in part because he thought the verb ἐμέρισεν, which is used in Agora 16.77.10-11 of the decree quoted above to describe Xenocles' allocation of fund to the Kerykes, had to reflect the *merismos* normally performed by the *apodektai* (1997b, 228; Rhodes 2007, 353-354 basically agrees). But it is conceivable that the verb μερίζω might refer to disbursements of funds – besides those made through the official procedure called *merismos*, and this verb has been restored, sometimes plausibly, in fourth-century inscriptions in connection with other officials.

Thus, we should not necessarily conclude that Lycurgus possessed extensive formal powers comparable those held by the leading financial officials in the period after the suppression of the democracy. That he held some sort of special formal office seems indisputable: we must accept the evidence of the *Life* that he presided in some capacity over finance for at least one four-year term (*pentaetēris*) and possibly for as many as three.[107] We also should accept, I think, that he was in this capacity responsible for a cumulatively large sum of money.[108] But we should also be careful to recognize the ways in which Lycurgus's powers seem to have been democratically circumscribed. We have very little real evidence, for example, of Lycurgus doing anything on his own discretion without the authorization of the Assembly.[109] We know that whatever office

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[107] It would be beyond my purposes here to enter into the controversy over the dates of Lycurgus's three *pentaetērides* and the related question of whether Lycurgus personally held office in one, two, or all three of these terms. In the twentieth century, most scholars have supposed that the three terms ran from 338 to 334, 334 to 330, and 330 to 326. Lewis 1997b, 221-224 proposed instead that the terms ran from 336 to 332, 332 to 328, and 328 to 324, with the last of these terms being interrupted by Lycurgus's death (which would make sense of the story told at [Plut.], *X Orat.* 842F). In which of these terms did Lycurgus hold office personally? It is only the text of the *Life of Lycurgus* and not any version of the Stratocles Decree that asserts that the law required Lycurgus to wield power through proxies because repeated tenure in office was forbidden (841C); possibly we should trust the evidence of the decree rather than the life to which it is attached. On the other hand, perhaps Lycurgus really was only allowed to hold office for one term and he exercised power through *philoi* in both the subsequent four-year periods. A third possibility is that the law that restricted tenure only forbade *consecutive* repetition in office and that only the second of Lycurgus's three *pentaetērides* was assigned to a *philos*. For an extended discussion of the various possibilities, see Faraguna 1992, 199-206.

[108] We should not, however, ignore the likelihood that the Decree of Stratocles – apparently the major source for Pseudo-Plutarch as well as the modern scholar – was intended to magnify Lycurgus's greatness as way of celebrating the "restored democracy" in which his son Habron – also honored by the decree – was already playing such a prominent role (see n. 97, above).

[109] There is one exception to this – one piece of evidence that suggests Lycurgus could exercise personal discretion in the administration of finances. In the accounts of the Eleusinian *epistatai* (*IG* II^2 1672 = Clinton 2005, 177, discussed in Chapter Three, §3.2.2, above). In this document, under expenditures for the first prytany of 329/8, we find a line item for a 72-drachma fee for an architect (whose name, Athenodoros, Clinton can just barely read). Due to the limitations of typography, I cannot reproduce the entire entry here, but the relevant portion reads ἀρχιτέκτονι, ὃ προέλαβεν Λυκούργου κελεύσαντος, τῆς προτ|ανέας μισθὸς (ll. 11-12). Lewis 1997b, 226 read this to mean that Lycurgus told the *epistatai* to pay Athenodoros in advance. This hardly seems a very great exercise of authority, and may not tell us much about Lycurgus's larger role in Athenian finance. If we are to take seriously the idea that Lycurgus was forced to govern through a proxy in at least the second of his four-year terms (see n.107, above), then Lycurgus may be exercising his authority "unofficially" (because under Lewis's dating of Lycurgus's terms in office, someone else was his front man during 329/8) or he may be holding some special office concerned with the construction work going on at Eleusis. If we accept the latter possibility, then it is

Lycurgus held probably never became a formal part of the Athenian constitutional structure during his lifetime (and thus it never appeared in the *Ath. Pol*)..[110] It appears that Lycurgus was obliged to present his accounts like other officials, and was restricted, at least notionally, by laws limiting tenure in offices concerned with public funds: he was accountable, and liable to prosecution.[111] In other words, Lycurgus's office seems to have been essentially democratic despite his personal political influence, great as that seems to have been.[112] And to the extent that his influence rendered him more powerful than any one man ideally would be under a democracy, this seems to have been the effect of his reputation for good faith as much as from his financial expertise or any tendency

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hardly surprising that Lycurgus should be in a position to instruct the *epistatai* to pay their architect in advance.

One might object that the discussion of Lycurgus's activities in the *Lives* offers many other more striking examples of the personal exercise of discretion. But most of the accomplishments ascribed to Lycurgus in that text are some particular grant of authority other than his quadrennial financial office (e.g., he was elected ἐπὶ τὴν τοῦ πολέμου παρασκευὴν [841C]) or are described in such a way as to suggest the possibility that some such special authority had been granted to him (thus, for example, the word ἐπιστατῶν in 841D implies that he may have had some special commission to complete the Theater of Dionysus). In one or two cases where we can compare the account of Pseudo-Plutarch with other evidence, Lycurgus's activities in the *Lives* seem to have been overstated: for example, epigraphic evidence does not tend to confirm his role in the provision of golden *Nikai* (841D): see Brun 2005, 196. In many cases, it is easy to imagine that an accomplishment of Lycurgus as described by Pseudo-Plutarch mainly involved his authorship of a decree or law authorizing the activity in question.

[110] See Rhodes 1972, 108 n.4 and 1981, 515-516 for the suggestion that Lycurgus's fiscal authority was granted by a decree of the *dēmos*. But if the powers conferred by such a decree allowed Lycurgus to supplant or override the existing financial officials, would a *graphē paranomōn* not have been inevitable? (By way of comparison, the Superintendents of the Theoric Fund derived their authority, presumably, from the laws on the *Theōrikon* to which Demosthenes refers in the *Olynthiacs*.)

[111] [Plut.], *X Orat.* 841C for legal restraints on tenure, 842F for submission of accounts.

[112] Although I really do not doubt that Lycurgus's influence was tremendous, I also feel fairly certain that it is exaggerated in most accounts of the period. Floating pieces of evidence from the period 338-324 are quite easily drawn into the orbit of "Lycurgus's policies" or "the Lycurgan program," even when a particular bit of evidence cannot, *eo ipso*, be associated with Lycurgus. The more such "evidence" that one accepts, the easier it becomes for each new datum to be plausibly integrated into an accepted consensus. But sometimes, surely, we are led into error by our eagerness to add pieces to a puzzle whose picture we think we already see. A good example of this is the Law on the Little Panathenaia (*IG* II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81), which was once generally thought to be a law of Lycurgus but which we now know was proposed by Aristonikos of Marathon (ll. 3-4). Patrice Brun points out that some scholars have responded to this new information not by revising their estimate of the extent of Lycurgus's activities, but by deciding that Aristonikos was a supporter of Lycurgus (Brun 2005, 190-191). Brun's essay makes a distressingly persuasive case that Lycurgus's role in the "Lycurgan era" may be largely an artifact of historiography, based originally on pro-democratic propaganda – including the Stratocles Decree itself – promulgated in the wake of the expulsion of Demetrius of Phaleron in 307.

toward oligarchy inherent in fiscal affairs. In fact, much of what we know of the outlines of public finance in the "Lycurgan Era" – i.e., the period between Chaeronea and the Lamian War – suggests an intensification of democratic trends.

In Chapter Two (especially §2.4), I argued that the laws on public finance were mainly written with a democratic intent, to safeguard the prerogatives of the Assembly and allow the least possible discretion on the part of officials (*archai*) and other politically powerful figures. If one accepts my perspective on the role of law in democratic Athens, then it is surely significant that the last sixteen years of the democracy are marked by an intensified regulation of public finance by law. Of the nine laws known to us from fourth-century Athens, four date to the period between 338 and 322 and three of these are heavily concerned with the details of public finance; one of these, the Law on Offerings of 335/4 (*IG* II^2 333 = *Schwenk* 21) was proposed by Lycurgus himself and, as Cynthia Schwenk has suggested, probably reflects the general character of his policies – or, at any rate, the policies of his age – as well as any other document from the period.[113] Although the text is too fragmentary to allow thorough discussion, it seems that there is an emphasis on restricting even the activities of low-level officials concerned with apparently trivial matters – the "fifty goat-skins" in line 11 on frs. c and e-f at seems especially illustrative of this – and also on compelling different groups of officials to police one another's control of *polis* assets: thus on line 14 of frs. c and e-f a group of officials is to act in conjunction with the *epistatai* (τοὺς αὐτοὺς μετὰ τῶν ἐπι[στατῶν]) when performing some (unknown) function involving sacred moneys

[113] Schwenk 1985, 125 calls it "perhaps the epitome of his overall program." The other three laws from this period are the Law on the Repairs of the Piraeus Fortifications of 338/7 or 337/6 (*IG* II^2 244 = *Schwenk* 3), the Law on the Little Panathenaia of ca. 335 (*IG* II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81), and the Law Against Tyranny of 337/6 (*SEG* 12.87 = *Schwenk* 6 = *R-O* 79). The first two of these concern themselves heavily with details of public finance and the regulation of officials' activities.

([ἐκ τῶν ἱερῶν χ]ρημάτων τοῖν θεοῖ[ν]); on lines 19-20 of the same fragments, the Treasurers of the Sacred Moneys are to work with the *epistatai* of the sanctuary of Good Fortune when making an ornament for the goddess: (π]ο[ή]σασθαι δὲ καὶ τῆι Ἀγαθῆι Τύχηι [κόσμον τοὺς ταμίας τῶν ἱερῶν χρημάτ]ων τῆς Ἀγαθῆς Τύχης με|[τὰ τῶν ἐπι]στατῶν τοῦ ἱεροῦ τῆς Ἀγαθῆς Τύ[χ]ης). Schwenk observes that “[t]he two sets of officials required in each case in which payment comes ἐκ τῶν ἱερῶν χρημάτων would be one way to assure that appropriations go where they are intended, and any money coming in, as from the sale of hides (line 23 [of frs. c and e-f]) is also carefully watched.”[114]

We see the same attention to detail and the same concern with the strict regulation of particular officials in the practice of *prosnomothesia*, which I have also discussed in Chapter Two (§§2.2.3 and 2.4.2). Two of the three *prosnomothesia* inscriptions can be securely dated to the Lycurgan Era, and the third, which cannot be dated securely, may belong to this period as well (see in Chapter Two, n. 49). Since, as I noted in §2.4.2, above, the *prosnomothesia* decrees do not seem to envision the possibility that the *nomothetai* would fail to implement the desired changes to the law, the effect of *prosnomothesia* is really to allow the *dēmos* to impose its will more efficiently on those officials who need to take action in order for the wishes of the *dēmos* to be realized: *nomos*, probably is a more secure way of constraining officials than *psēphisma*, if for no other reason than that the officials in question cannot plausibly claim (as they might in the case of a decree) that what they were instructed to do somehow conflicted with their obligations as defined in the relevant *nomoi*. By writing even certain relatively minor one-time transfers of funds into the law code, *prosnomothesia* creates a more efficient

[114] From Schwenk’s comments (1985, 125) on the same inscription: “Pseudo-Plutarch tells *what* Lycurgus did, [but the Law on Offerings] shows in part *how* he did it, i.e., by making sure, by means of a law, that the sacred moneys…are accounted for and used correctly” (1985, 120).

mechanism for keeping the *archai* under the control of the *dēmos*. The concern here, as in the laws of the Lycurgan Era, is with one of the fundamentals of democracy as the Athenians understood it: the need to keep officials as accountable to the people as possible.

Another traditional practice of the democracy, which we have already seen reflected in Lycurgus's Law on Offerings, was the multiplication of officials and their enforced collaboration so that opportunities for any individual *archē* to injure the *dēmos* might be minimized, and so that officials could be encouraged to keep an eye on one another. We can detect, in the 330s and 320s B.C., a multiplication in Athens of minor financial officials, especially those whose job it is to keep tabs on other officials. Consider, for example, those inscriptions in which we find lists of officials who are associated with the activities of the Council. One such inscription is on side C of the stone whose various related inscriptions are published as *IG* II^2 223 (343/2 B.C.). This honorary decree begins with a list of five officials connected with the Council (ll. 1-9): these are the Secretary of the Prytany ([γραμματ]ε[ὺ]ς κατὰ π[ρυτα]νείαν), the Secretary for Decrees (ἐπὶ τὰ ψηφίσματα), the Superintendent of the Theoric Fund (ἐπὶ τὸ θεωρικόν), and two Treasurers of the Council (βουλῆς ταμίαι). All these officials functioned not only to assist in the activities of the Council but to keep the Council (and each other) honest – two treasurers were no doubt safer than one, and certainly safer than letting members of the Council handle the Council's funds.[115] Only one of these five

[115] I take the presence of the Theoric Superintendent on this list as a small bit of evidence for my argument in the previous section that this official was originally introduced as a way of keeping watch on the Council to ensure the maximization of revenues when taxes and other concessions were sold.

officials, the Secretary of the Prytany, is likely to have been a member of the Council himself.[116]

Only eight years later, the number of officials attached to the Council seems to have multiplied, as we see from *IG* II[2] 1700 (335/4 B.C.), an inscription listing members of the Council by tribes. Now we have, in addition to two secretaries (the γραμματεὺς κατὰ πρυτανείαν and the ἐπὶ τὰ ψηφίσματα) and two treasurers (a ταμίας τῆι βουλῆι and a ταμίας τῶν εἰς τὸ ἀνάθημα), three recording officials: the ἀντιγραφεὺς (making a reappearance after his eclipse by the Theoric Superintendents; see the discussion in the previous section), an ἀναγραφεὺς, and a new γραμματεὺς τῶι δήμωι.[117] Record-keeping, obviously, is important as a way of holding officials to account, and here we have a profusion of record keepers. Multiplication of related officials was one of the oldest methods by which the Athenian democracy sought to keep its servants honest; there is at least some evidence that this practice was resumed with vigor in the last decades of the democracy.[118]

Evidence of more (and more detailed) laws, an enhanced ability to modify the laws through *prosnomothesia*, and new officials to serve as watchdogs of the Council do not align comfortably with any conception of the Lycurgan Era that implies the control of revenues and expenditures through *diktat* by a single financial mastermind. I should stress that I do not wish to deny that Lycurgus was the most influential Athenian politician of his era, probably the single most influential Athenian politician of the fourth

[116] See Rhodes 1972, 135 including n. 2. Rhodes 1972, 134-143 has a general discussion of the Council's "secretaries and attendants" (including a brief discussion of treasurers associated with the Council).
[117] These officials are listed on ll. 213-219. At the end of the list, on line 20, the herald (κῆρυξ) also appears.
[118] Glancing in the other direction, chronologically speaking, an equivalent inscription from early in the fourth century, *IG* II[2] 1740 (= *Agora* 15.12), lists only a [γραμ]ματεὺς τῆι βουλῆι καὶ τῶι δήμωι and an [ἀντι]γραφεὺς.

century and possibly the greatest popular leader in Athens after Pericles.[119] Nor do I wish to deny that much of what he accomplished was accomplished on the basis of his great financial expertise. I only wish to emphasize that, as with Eubulus, Lycurgus's ascendancy seems more closely connected with a desire to safeguard democratic control of public finance than with any willingness to sacrifice it in the name of financial efficiency. If Lycurgus was such a successful politician, it was probably because he worked along democratic lines, advocating the supremacy of the Assembly and the law-courts, pressing for the division of power within the government, and encouraging the strict accountability of public officials. Lycurgus probably did not, in general, issue commands, whatever regular or irregular offices he may have held. Instead, he wrote decrees and laws that safeguarded the power of the *dēmos* and limited that of officials.[120] Apart from Lycurgus himself, the period between 338 and 322 may well have been characterized by the *dilution* of financial decision-making power outside the Assembly.[121]

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[119] I would suggest, nevertheless, that the personal authority and official power of Lycurgus were probably less than those of Pericles during what is often supposed to be the heyday of Athenian democracy.

[120] If the accounts of the *epistatai* of Eleusis for 329/8 contain the one piece of direct evidence that Lycurgus was capable of issuing commands (*IG* II^2 1672 = Clinton 2005, 177; see n. 109 above), we also see, in contrast to Λυκούργου κελεύσαντος, two occasions when a decision is taken on the basis of a decree of the Council or the Assembly which Lycurgus had authored: κατὰ ψήφισμα βουλῆς, ὃ Λυκοῦργος εἶπεν (line 302) and κατὰ ψήφισμα δήμου, ὃ Λυκοῦργος εἶπεν (line 303).

[121] This should not surprise us, since the Lycurgan Era is, in general, notable for the vigor of its democratic sentiment. It is in this period, for instance, that we find the Law Against Tyranny (see n. 113 above), the establishment of the cult of the goddess *Dēmokratia*, the refurbishment and expansion of the Pnyx, and a whole host of other changes apparently meant to celebrate Athens and her system of government: for a good overview (which nonetheless still regards "Lycurgan democracy" as "conservative democracy"), see Mitchel 1970, 190-214.

CONCLUSION

In the preceding chapters, I have presented a case that the Athenians of the fourth century B.C. showed both persistence and ingenuity in seeking to manage their public finances in a way that accorded with what they regarded as the basic principles of their democracy. First and foremost, they were concerned to prevent any individual or group of individuals from injuring the *dēmos* or thwarting its collective will. It is primarily by this criterion that we should judge the laws, institutions, and leaders of democratic Athens.

I would not wish to claim that the Athenians achieved total success in their struggle to reconcile their democratic principles with their natural desire to see the machinery of their government function well. The purity of the democratic ideal is sullied as soon as it comes into contact with mundane necessities like taxation and spending, budgeting and accounts. For the people, the *dēmos*, cannot in any real sense collect taxes; that must be done by tax collectors. The people cannot watch over hoards of silver coins or ritual vessels of gold; that must be done by treasurers. The people cannot, collectively, pay soldiers and shipwrights and stonecutters and priests; instead, some person, or small group of persons, must draw up the relevant contracts, ensure that the proper work is done, and hand over the appropriate fee. But tax collectors, treasurers, and paymasters are only human – power-hungry, greedy, and corruptible. There is an irony, and perhaps even a sort of paradox, in the fact that a form of government created to safeguard individual freedom of action should come under threat every time an individual must act on behalf of the many. As soon as any person steps out from the collectivity of the *dēmos* and assumes a political identity of his own, he is in a position to set his own self-interest against the corporate interest of the *dēmos*, which is the preservation of itself and its members from the danger of being ruled. This may seem an odd way to think about democracy, but I believe it expresses (though perhaps too plainly) what many Athenians of the fourth century inchoately felt.

The proliferating laws and institutions of the fourth-century democracy have often been seen as marking an attenuation of the democratic spirit and reflecting a desire for efficiency at the expense of the popular will. When we consider some of those laws and institutions closely, however, we can discern, at least in the sphere of public finance, ways in which these laws and institutions performed the more important task of limiting the power of the individuals on whom the *dēmos* was forced to rely. I hope I have demonstrated that the laws and institutions of the Athenians relating to public finance were designed with men as well as money in mind; in what are apparently the most unremarkable features of Athenian financial organization we can perceive the conscious effort to safeguard democracy as the Athenians understood it. Just as importantly, I hope that I have illustrated the value of looking at even the most mundane of institutions from the perspective of democratic ideology, in the expectation that the *merismos*, for example – or the practice of *prosnomothesia*, or the Theoric Fund – can be understood more fully if we see them, at least in part, as attempts to solve the basic problem of democracy, minimizing the chance that individual agents can gratify their own selfishness at the expense of the *dēmos*.

From this perspective, leadership is of course a special problem. It was indeed a serious weakness in Athenian democracy if, as many have suggested, the Athenians ultimately had no choice but to place their entire financial apparatus in the hands of powerful experts. I have tried to show, however, that the role of individual leaders in the evolution of Athenian financial institutions has probably been overstated. Moreover, those leaders who can truly be said to have attained a commanding position in fiscal affairs – Eubulus and Lycurgus – seem to have thrived not by seizing the reins of government autocratically but by making themselves into perfect servants of the *dēmos*: operating as much as possible through the Assembly and the courts, opposing the substantial and therefore problematic powers that were concentrated in the Council and the *stratēgia*, and seeking to perfect, insofar as they could, the subordination of *archai* to the Assembly through the further elaboration and refinement of laws and institutions.

I must stress that the foregoing treatment has in many ways only scratched the surface – or, more optimistically, two surfaces. There is much that I have left unsaid about Athenian democracy, even as it can be studied within the comparatively restricted ambit of public finance. There is even more that remains to be said about Athenian public finance *sub specie* δημοκρατίας. For example, I have not begun to do justice to the exceptional position of the Council, nor have I reckoned with the gigantic importance of liturgies, or the even more gigantic importance of ἱερὰ χρήματα. These omissions, although inevitable, nevertheless render provisional many of my broader conclusions. Still, I hope I have at least established the value of further investigation along these lines.

ABBREVIATIONS

The following abbreviations for modern sources appear in the text of this dissertation, and/or in the Summary of Cited Inscriptions (pp. 216-219).

Agora	*The Athenian Agora: Results of Excavations Conducted by the American School of Classical Studies at Athens*. Princeton, 1953-.
APF	J. K. Davies, *Athenian Propertied Families 600-300 B. C.* Oxford, 1971.
CAH^2	*The Cambridge Ancient History*, 2nd edition. Cambridge, 1982-.
FGH	F. Jacoby, ed. *Die Fragmente der griechischen Historiker*. Berlin, 1923-1958.
Halikarnassos	D. F. McCabe. *Halikarnassos Inscriptions* (The Princeton Project on the Inscriptions of Anatolia at The Institute for Advanced Study, Princeton). Packard Humanities Institute CD #6, 1991.
IG	*Inscriptiones Graecae*. Berlin, 1873-.
I Smyrna	G. Petzl. *Die Inschriften von Smyrna*. Bonn, 1982.
IvO	W. Dittenberger, et al. *Die Inschriften von Olympia*. Berlin, 1896.
LSJ	H. G. Liddell, R. Scott, and H. S. Jones, eds. *A Greek-English Lexicon.* 9th edition with suppl. Oxford, 1968.
M-L	R. Meiggs and D. Lewis, eds. *A Selection of Greek Historical Inscriptions to the End of the Fifth Century BC*. Oxford, 1969.
PA	J. Kirchner. *Prosopographia Attica*. 2nd edition. 2 vols. Berlin, 1966.
RE	A. Pauly, G. Wissowa, and W. Kroll, eds. *Real-Encyclopädie der klassischen Altertumswissenschaft*. Stuttgart, 1894-.
R-O	Rhodes and Osborne 2003 (see Bibliography)

Schwenk	Schwenk 1985 (see Bibliography)
SEG	*Supplementum Epigraphicum Graecum.* Leiden, 1923-.
Tod	Tod 1948 (see Bibliography)

SUMMARY OF CITED INSCRIPTIONS

The following list identifies all inscriptions cited in the dissertation. All dates are B. C. The numbers in the third column identify the chapter or chapters in which the inscription is mentioned.

Inscriptions with *IG* Numbers

IG I^3 68 (426/5)	Decree of Cleonymus	1
IG I^3 78 (ca. 422?)	Decree on Eleusinian First Fruits	1
IG I^3 84 (418/7)	Decree of Adrosios on the Sanctuary of Neleus and Codrus	2, 3
IG I^3 105 (ca. 409)	Part of the Athenian Law Code	2
IG II^2 1 (40$\underline{5}$/4)	Honors for the Samians	4
IG II^2 2 (403/2)	Honors for a Boeotian	4
IG II^2 29 = *Tod* 116 = *R-O* 19 (387/$\underline{6}$)	Honors for Phanocritus of Paros	2, 3
IG II^2 31 (386/5)	Honors for King Hebryzelmis	3
IG II^2 33 (early 4th c.)	Honors for the Thasian Exiles	3
IG II^2 40 (37$\underline{8}$/7)	Treaty with the Thebans and the Mytilenaeans	3
IG II^2 45 (378/7)	Fragmentary Law (?) on State Debtors	3
IG II^2 61 (early 4th c.)	Honors for a Sicilian	4
IG II^2 81 (early 4th c.)	Honors for a Megarian	3

IG II^2 106 (368/7)	Proxeny Decree for Coroebus the Spartan	2
IG II^2 140 (353/2)	Law on Eleusinian First Fruits	2
IG II^2 207 (349/8)	Honors for Orontes	3
IG II^2 212 = *R-O* 64 (347/6)	Honors for the Sons of Leucon	2, 3, 4
IG II^2 222 (mid-340s or mid-330s)	Honors for Pisithides of Delos	2, 3
IG II^2 223 (343/2)	Base for Dedication by the Boule	3, 4
IG II^2 226 (ca. 343/2)	Asylum Decree for King Arybbas	3
IG II^2 233 (340/39)	Honors for Tenedos	3
IG II^2 244 = *Schwenk* 3 (338/7 or 337/6)	Law on Repairs of the Piraeus Fortifications	2, 3, 4
IG II^2 301 (before 336/5)	Fragmentary Decree with Publication Clause	3
IG II^2 330 = *Schwenk* 18 (335)	Honors for Phyleus	2
IG II^2 333 = *Schwenk* 21 (335/4)	Lycurgus's Law on Offerings	2, 4
IG II^2 334 + *SEG* 18.13 = *Schwenk* 17 = *R-O* 81 (mid-330s)	Law on the Little Panathenaia	2, 3, 4
IG II^2 365 (323/2)	Honors for Lapyris of Cleonae	3
IG II^2 380 (320/19)	Decree on the Duties of the *Agoranomoi*	3
IG II^2 457 (307/6)	Stratocles Decree Honoring Lycurgus	4
IG II^2 463 (307/6)	Law on the Walls	3, 4
IG II^2 513 (ca. 305)	Honorary Decree	3, 4
IG II^2 520 (end of 4th c.)	Fragmentary Publication Clause	3
IG II^2 677 (3rd c.)	Honors for Heraclitus of Athmonia	4
IG II^2 710 (3rd c.)	Citizenship for Alexander of Beroia	4

IG II^2 1182 (mid 4th c.)	Deme Decree of Myrrhinous	4
IG II^2 1443 (344/3)	Inventory of the Treasurers of Athena	3, 4
IG II^2 1612 (356/5)	Naval Accounts	1
IG II^2 1627 (330/29)	Naval List	4
IG II^2 1628 (326/5)	Naval List	4
IG II^2 1629.165-271 = *R-O* 100 (325/4)	Decree of Cephisophon of Cholargus Inserted in Naval List	3
IG II^2 1631 (323/2)	Naval List	3
IG II^2 1672 = Clinton (2005) 177 (329/8)	Accounts of the Eleusinian *Epistatai*	3, 4
IG II^2 1700 (335/4)	List of Council Members by Tribe	4
IG II^2 1740 (=*Agora* 15.12) (before 388/7)	Prytany List	4
IG VII 4254 = *Schwenk* 50 (329/8)	Honors for Supervisors of the Festival for Amphiaraus	2

Other Inscriptions

Agora I-7495 (354/3)	Law on the Mint (unpublished)	2
Agora 16.56 (early to mid-4th c.)	Decree on the Mysteries	3
Agora 16.77 = Meritt (1960) #3 (ca. 330)	Decree for Xenocles of Sphettos	4
McCabe, *Halikarnassos* 26 (3rd c.)	Decree Listing Public Benefactors	3
M-L 2 (650-600)	Law of Dreros	2
IvO 7 (before 500-450)	Elean *Rhētra*	2
Raubitschek 1941 (403/2)	Archinos Decree/Heroes of Phyle	4

R-O 25 = Stroud 1974 = *SEG* 26.72 (375/4)	Law on Silver Coinage	2, 3
R-O 26 = Stroud 1998 (374/3)	Grain-Tax Law	2, 3, 4
R-O 79 = *Schwenk* 6 = *SEG* 12.87 (337/6)	Law Against Tyranny	2, 4
SEG 35.83 (undated)	Law on the Sanctuary of Artemis	2
I Smyrna 578 (3rd or 2nd c.)	Honorary Decree for Judges	3

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