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RESURRECTING DEMOCRACY?
LAW AND INSTITUTIONS IN EARLY ANTIGONID
ATHENS (307-301 BC)

Abstract: In this paper I investigate the legal and institutional reforms or innovations that were introduced in the period 307-301 BC, a period recorded as the restoration of democracy, the rationale behind them and the tensions that developed when royals were involved in the day-to-day administration of public affairs in an independent, autonomous *polis*.

Keywords: Athenian democracy and legislation, Demetrios I Poliorcetes, Stratokles of Diomeia, Demochares of Leukonoe, tribes (*phylai*)

In 2018 a book with the provocative title *How democracies die* made the headlines. Its authors, political scientists Steven Levitsky and Daniel Ziblatt, explore how modern representative democracies can be slowly eroded from within, with the gradual but systematic undermining of the system of checks and balances, enshrined in their constitution and institutional make up. Inspired by the American example in the post-2016 presidential election period, it offers useful insights pertaining to how a militant, nationalistic, and populist rhetoric may dismantle democratic institutions and practices¹. Although not immediately relevant to ancient history, I found it stimulating food for thought. On this occasion I would like to move a step further and examine how, in the best documented case from Greek antiquity, Athenian democrats re-asserted and re-instated their *patrios politeia*, notwithstanding, of course, the experience of 403².

Before embarking on the investigation, two methodological premises are in order: i) the study of post-322 Athens requires a deep knowledge of its pre-322 political and legal system; this does not necessarily imply a sense of continuity but it

¹ Levitsky, Steven & Daniel Ziblatt (2018) *How democracies die*, New York.

² In the history of classical Athenian democracy there were two periods that *dēmokratia* suffered a considerable setback, i) twice in the last decade of the fifth century (411-403), thoroughly investigated by modern scholars, e.g. Wolpert (2002), Shear (2011), Carawan (2013), Teegarden (2014) and Simonton (2017) and ii) twice in the last quarter of the fourth century (c. 325-300) for which see Poddighe (2002), O’Sullivan (2009), Banfi (2010), and Bayliss (2011). It is significant that in both cases regime changes were triggered by Athenian military defeats.

provides vital information to assess the adaptation of the Athenian polity to new realities, and ii) the impact of shifting ‘international’ relations in the Successors’ Mediterranean on the *poleis* was absolutely crucial to understanding changes in their institutional setup; the fluidity of the ‘international’ scene made adjustments indispensable for their survival.

The period from 322 down to 307 in Athenian history was marked by two Macedonian-backed oligarchic regimes, although with a lot of nuances. There was a brief lapse back to democracy in 318-317 BC, but it was due, once more, to Macedonian interference. These regimes (variously described as moderately democratic or oligarchic) focused on limiting citizen participation either by severely restricting the political franchise (322-319)³ or by combining a less severe restriction with the introduction of a magistracy supervising the activity of the Council and the Assembly (*nomophylakes*, 317-307)⁴.

These tumultuous fifteen years ended with the appearance of Demetrios I Poliorketes’ 250 ships-strong fleet in the early summer of 307 (in June or 26th of Thargelion according to Plu. *Demetr.* 8.3-4) in Peiraieus. The imposing view of the fleet took by surprise both Athenians and the Macedonians stationed on the fortified hill of Mounychia⁵. Delegated by his father, Antigonos I Monophthalmos, to establish a bridgehead in mainland Greece and to ‘free’ the Greek cities from Kassandros, Demetrios I was welcomed by the Athenians; at the same time he delivered simultaneously a heavy blow at a soft spot of Kassandros’ realm and opened a second theatre of confrontation, closer to Kassandros’ heartland. Athens remained in the lion’s mouth, especially during the period of the Four-year war (307-304), when Kassandros’ forces twice reached the walls of the *polis*, only to be repelled thanks to the intervention of the Aitolians (306) and Demetrios I (304)⁶.

Having the royal blessing to restore their *patrios politeia*, the Athenians followed a two-pronged policy aiming to i) ensure the punishment of those

³ See Poddighe (2002: 59-74).

⁴ See O’Sullivan (2009: 72-85), Banfi (2010: 136-55), Bayliss (2011: 86-87).

⁵ Plu. *Demetr.* 10 [Fortenbaugh & Schütrumpf 2000: F18 & 29]: Ἐπεὶ δὲ πάλιν ἐπανελθὼν πρὸς τὴν Μουνυχίαν καὶ στρατοπεδεύσας ἐξέκοψε τὴν φρουρὰν καὶ κατέσκαψε τὸ φρούριον, οὕτως ἤδη τῶν Ἀθηναίων δεχομένων καὶ καλούντων παρελθὼν εἰς τὸ ἄστυ καὶ συναγαγὼν τὸν δῆμον ἀπέδωκε τὴν πάτριον πολιτείαν, καὶ προσπέσχετο παρὰ τοῦ πατρὸς αὐτοῖς ἀφίξεσθαι σίτου πεντεκαίδεκα μυριάδας μεδίμων καὶ ζύλων ναυπηγησίμων πλήθος εἰς ἑκατὸν τριήρεις. (Coming back again to Munychia and encamping before it, he drove out the garrison and demolished the fortress, and this accomplished, at last, on the urgent invitation of the Athenians, he made his entry into the upper city, where he assembled the people and gave them back their ancient form of government. He also promised that they should receive from his father a hundred and fifty thousand bushels of grain, and enough ship timber to build a hundred triremes. – transl. Loeb modified). See also Plu. *Demetr.* 8.3-4.

⁶ Historical account in Habicht (1997: 74-77).

responsible for the overthrow of *dēmokratia*, and ii) to strengthen the restored democracy.

I. Shielding the resurrected democracy

According to Plutarch, Demetrios I upon his arrival declared Athens free, removed the garrisons, and restored the laws and the ancestral constitution. Following a negotiated settlement, Demetrios of Phaleron was whisked off to Thebes and then to Egypt, to Ptolemy's court⁷, but his supporters either fled (among them the orator Deinarchos) in exile or remained in Athens to be tried for abolishing democracy. The information for a wave of prosecutions against Demetrios of Phaleron's supporters rests on a fragment from Philochoros' *Atthis*⁸. What is striking in the otherwise reliable pro-democratic Philochorean account is, a) the concerted effort to prosecute by *eisangelia* Demetrios of Phaleron and his supporters, and b) the *en bloc* acquittal of those who were impeached and stood trial. Even if we assume that the term *eisangelthentōn* does not have the technical meaning of introducing a denunciation in the Council or in the assembly, the only means to prosecute someone for overthrowing the democratic regime was *eisangelia*, according to Hyper. 4 (*In defence of Euxenippos*) 7-8. The problem with Philochoros' account is not procedural but one of substance; by virtue of which legal provision were the individuals involved either convicted *in absentia* or exculpated? One possible candidate would be the law of Eukrates (*IG* ii³ (1) (2) 320), passed thirty years earlier (337/6). According to this law, anyone who attempts to install a tyranny or overthrows (or attempts to overthrow) the democratic regime (ll. 7-11) could have been killed with impunity, while the members of the Areios Pagos who take part in deliberations when democracy was abolished would be severely punished (ll. 11-22)⁹. The perpetrators of the abolition of democracy were out of reach, and only by analogy the latter provision could have been applied on those individuals who

⁷ D.S. 20.45; Plu. *Demetr.* 9.

⁸ *FGrHist* 328 (Philochoros) F66 [*apud* D. H. *De Dinarcho* 3.44-5; Dinarchus T1 (Conomis); Wehrli (1968: F56); Fortenbaugh & Schütrumpf (2000: F31)]: τοῦ γὰρ Αναξικράτους ἄρχοντος, εὐθὺ μὲν ἢ τῶν Μεγαρέων πόλις ἐάλω. ὁ δὲ Δημήτριος [ὁ] κατελθὼν ἐκ τῶν Μεγάρων κατεσκευάζετο τὰ πρὸς τὴν Μουνυχίαν καὶ τὰ τεῖχη κατασκάψας ἀπέδωκε τῷ δήμῳ. Ὑστερον δὲ εἰσηγγέλθησαν πολλοὶ <τῶν> πολιτῶν, ἐν οἷς καὶ Δημήτριος ὁ Φαληρεὺς. Τῶν δ' εἰσαγγεληθέντων οὓς μὲν οὐχ ὑπομείναντας τὴν κρίσιν ἐθανάτωσαν τῇ ψήφῳ, οὓς δ' ὑπακούσαντας ἀπέλυσαν. (For right at the beginning of Anaxicrates' archonship, the city of the Megarians was captured; then Demetrios [i.e. Poliorcetes] upon returning from Megara began military preparations against Munychia and, having razed the walls, restored it to the people (*demos*). But later, many of the citizens were impeached, Demetrios of Phalerum also among them. And of the impeached, those who did not await the verdict of a trial they condemned to death by a vote, but those who submitted they acquitted. – transl. Shoemaker (1971: 397)).

⁹ For the provisions of this law see the most recent account in Teegarden (2014: 85-112).

staffed the Athenian administrative mechanism during the pro-Kassandrian regime of Demetrios of Phaleron¹⁰.

Undoubtedly this movement was part of a well-orchestrated political initiative to demonstrate to the Athenians but also to other Greeks and Alexander's successors the return to the pre-322, democratic regime. The employment of *eisangelia* proved the continued strength of the anti-Macedonian faction, despite the physical extinction of its leaders in 322, and its dedication to democratic legitimacy and the rule of law. At the same time, the settlement constituted an interesting example of what is called today "transitional justice" or the employment of law to guarantee the bloodless transition from one regime to another, usually from a form of totalitarian regime to liberal democracy¹¹. Whether the "many citizens" (*polloi tōn politōn*) of the Philochorean passage did include several hundred serving in the various Athenian magistracies or only the members of the Areios Pagos, we cannot know; what is worth noting, however, is that with this process there was no need to grant amnesty and to formulate a clause *me mnesikakein*, as it happened in 403¹². Those who fled could not be put to death (although they may have been killed by any Athenian with impunity), while those who stayed were tried and acquitted. The reported mass acquittals create the impression of a quick fix, but this is largely the result of interpreting the situation with hindsight; probably not all individuals who collaborated with the regime could be held responsible for the overthrow of democracy, and perhaps not everyone was indicted unless he was involved in some sort of legal wrangle or he was seeking appointment to a magistracy.

¹⁰ The only relevant legal provision is included in the law reported in And. 1 (*On the Mysteries*) 96: ἐάν τις δημοκρατίαν καταλύη τὴν Ἀθήνησιν, ἢ ἀρχὴν τινα ἄρχῃ, καταλελυμένης τῆς δημοκρατίας, πολέμιος ἔστω Ἀθηναίων καὶ νηποινεὶ τεθνώτω ... (if anyone overthrows the Athenian *demokratia* or exercises any magistracy while *demokratia* has been suppressed, he shall be considered an enemy of the Athenians and he shall be killed with impunity); but that law was superseded by the law of Eukrates see Teegarden (2014: 15-53). For the question of authenticity see the discussion by Canevaro, M. & E. M. Harris (2012) "The documents in Andocides' *On the Mysteries*" *CQ* 62, 98-129; Sommerstein, A. H. (2014) "The authenticity of the Demophantus decree" *CQ* 64, 49-57 and Harris, E. M. (2015) "The authenticity of the document at Andocides *On the Mysteries* 96-98" *Tekmeria* 12 (2013-2014) 121-53.

¹¹ See Lanni, A. (2010) «Transitional justice in ancient Athens: A case study» *University of Pennsylvania Journal of International Law* 32, 551ff.

¹² It is noteworthy that the imposition of the pro-Kassandrian regime was largely bloodless, in stark contrast to the Thirty tyrants regime, thus removing one of the main reasons to exact revenge. For the clause *mē mnēsikakein* see Carawan, E. M. (2002) "The Athenian amnesty and the 'Scrutiny of Laws'" *JHS* 122, 1-23; Carawan, E. M. (2012) "The meaning of *mē mnēsikakein*" *CQ* 62, 567-81; Carawan (2013), an interpretation rebuked by Joyce, C. J. (2008) "The Athenian amnesty and scrutiny of 403" *CQ* 58, 507-18 and Joyce, C. J. (2014) "*Me mnesikakein* and 'all the laws' (Andocides, *On the mysteries* 81-2)" *Antichthon* 48, 37-54.

Apart from the collaborators, Athenians attacked those they regarded as instigators of the latest oligarchic regime. They issued a law against philosophers moved by Sophoklēs, son of Amphikleidēs of Sounion. Sophoklēs' enactment was introduced, it is assumed, soon after the democratic restoration of 307. Three late sources of the second and third century AD refer to it¹³. Even a cursory reading of these passages makes clear their unequal value to understanding the details of the case; it is also crystal clear the different agenda each author follows, so Athenaeus focuses on the banishment of philosophers, Pollux on the name for the place of instruction and Diogenes Laertios on Theophrastos. Focus in all the three is not Sophoklēs' law *per se*, but it serves as an illustration of banishment, of place of instruction or of Theophrastos. With these caveats, Athenaeus' excerpt owes a great deal to Alexis' passage (see below) but it is the least informative: we are told that sometime after the death of Aristotle and Demosthenes (both in 322), Athenians

¹³ Sophoklēs' law against philosophers: i) Pollux 9.42 (composed before AD 178) in providing synonyms for the places of instruction quotes the term *diatribē*: ἔστι δὲ καὶ νόμος Ἀττικὸς κατὰ τῶν φιλοσοφούντων γραφεῖς, ὃν Σοφοκλῆς Ἀμφικλείδου Σουνιεύς εἶπεν, ἐν ᾧ τινὰ κατὰ αὐτῶν προειπῶν ἐπήγαγε μὴ ἐξεῖναι μηδενὶ τῶν σοφιστῶν διατριβὴν κατασκευάσασθαι. (There is an Attic law (*nomos*) drafted against those indulging in philosophy (*philosophountōn*), moved by Sophocles son of Amphicleides of Sounion, in which, after denouncing them, he brought forward the proposal that no sophist will be allowed to establish a school), ii) Athen. 13.610e-f (Marasco (1984: T5), dated c. AD 200) in the context of his anti-philosophy tirade quotes, after Alexis' passage from Hippeus, καὶ Σοφοκλῆς δὲ τις ψηφίσματι ἐξήλασε πάντας φιλοσόφους τῆς Ἀττικῆς, καθ' οὗ λόγον ἔγραψε Φίλων ὁ Ἀριστοτέλους γνῶριμος, ἀπολογία ὑπὲρ τοῦ Σοφοκλέους Δημοχάρους πεποικῆτος τοῦ Δημοσθένους ἀνεπιού. (And a certain man named Sophocles, passed a decree (*psēphisma*) to banish (*exēlase*) all the philosophers from Attica. And Philo, the friend of Aristotle, wrote a speech against him; and Demochares, on the other hand, who was the nephew of Demosthenes, composed a defence for Sophocles – transl. Loeb modified), and iii) D. L. 5 (*Theophrastos*) 38 (Fortenbaugh et al. (1992: F1), composed in the beginning of the 3rd cent. AD): Τοιοῦτος δ' ὢν, ὅμως ἀπεδήμησε πρὸς ὀλίγον καὶ οὗτος καὶ πάντες οἱ λοιποὶ φιλόσοφοι, Σοφοκλέους τοῦ Ἀμφικλείδου νόμον εἰσενεγκόντος, μηδένα τῶν φιλοσόφων σχολῆς ἀφηγεῖσθαι, ἂν μὴ τῇ βουλῇ καὶ τῷ δήμῳ δόξη: εἰ δὲ μή, θάνατον εἶναι τὴν ζημίαν. ἀλλ' αὐτὸς ἐπανῆλθον εἰς νέωτα, Φίλωνος τὸν Σοφοκλέα γραμμαμένου παρανόμων. ὅτε καὶ τὸν νόμον μὲν ἄκυρον ἐποίησαν Ἀθηναῖοι, τὸν δὲ Σοφοκλέα πέντε ταλάντοις ἐζημίωσαν κάθοδόν τε τοῖς φιλοσόφοις ἐψηφίσαντο, ἵνα καὶ Θεόφραστος κατέλθοι καὶ ἐν τοῖς ὁμοίοις εἴη. (Even though he was of such (repute), he nevertheless went away for a little while, both he and all the other philosophers, after Sophocles, the son of Amphicleides, introduced a law (*nomos*) that none of the philosophers be in charge of a school (*aphēgeisthai*) if it were not approved by the council and the people. Otherwise, death was the penalty. But they returned again the next year after Philon indicted Sophocles for proposing an illegal measure (*paranomōn*). The Athenians rendered the law invalid (*akuron*) and fined Sophocles five talents, and they voted for the return of the philosophers, in order that Theophrastos, too, might come back and be in the same circumstances (as before) – transl. Fortenbaugh et al. (1992: 23)).

banished the philosophers by virtue of a decree of a certain Sophoklēs; subsequently Philōn had challenged it and Dēmocharēs defended Sophoklēs. The names of the protagonists suggest that this is not fabricated, but the contours of the whole affair remain vague. On what legal ground(s) were philosophers banished? How was the law challenged? What was the result of the challenge? Was Dēmocharēs successful? Answers to some of the above questions can be found in Pollux's passage. There we have the full name of the mover, the enactment is called a law (*nomos*) and its content is explained, philosophers were not allowed to establish schools. However, even in this account the legal challenge and its outcome is missing. Undoubtedly, the fullest account is provided by Diogenes Laertios and his sources. He provides not only the names of individuals involved in the whole affair but also an account of the content of the enactment and the penalty provided there, of the legal challenge against it, the outcome of the challenge and the penalty imposed on the mover of the law (*nomos*). This passage displays a considerable terminological consistency and betrays at least some knowledge of Athenian law in the late fourth century. For example, the author of an unconstitutional proposal was personally penalized, only if the challenge was launched in the year following the decree's introduction¹⁴. Nevertheless, there is a serious inconsistency, all the more troubling given the awareness of legal technicalities displayed earlier. In particular, in pre-322 Athens, a proposed decree (*psēphisma*) was challenged through a *graphē paranomōn*, while a law (*nomos*) was challenged with a *graphē nomon mē epitēdeion theinai*. In other words, in the passage preserved by Diogenes Laertios there is a confusion of the law and the challenge to it; in pre-322 Athens, there was no way to indict a law with a *graphē paranomōn*. Therefore, either the designation of Sophoklēs action as a law (*nomos*) is wrong or the procedural means to challenge it is misunderstood. It would not have been difficult for a later author with no first-hand experience of the *nomos-psēphisma* distinction and unaware of its importance for the working of Athenian democracy to mix-up the terms¹⁵. Whatever the truth, Athenians were never renowned for their terminological assiduity, therefore one may argue that at the time the distinction between law and decree was rather loose. The same is true for a confusion between the terms *graphē paranomōn* and *graphē nomon mē epitēdeion theinai*. However, in contemporary Athenian practice the distinction between *nomoi* and *psēphismata* is maintained; in the annual catalogues of *prytaneis* we read about

¹⁴ D. 20 (*Against Leptines*) 144 with Kremmydas, Chr. (2012) *Commentary on Demosthenes against Leptines*, Oxford. See also Harrison (1968-71: ii 78), Hansen, M. H. (1974) *The sovereignty of the people's court in Athens in the fourth century B.C. and the publication against unconstitutional proposals*, Odense and Canevaro, M. (2015) "Making and changing laws in ancient Athens" in *The Oxford handbook of ancient Greek law*, Oxford. <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199599257.001.0001/oxfordhb-9780199599257-e-4> with earlier bibliography.

¹⁵ Canevaro (2011: 75-76) contemplates the likelihood of confusion attributed not to antiquarian tradition but to genuine confusion generated by a mismatch between reality and legal rules.

individuals responsible for the laws (*hoi epi tous nomous*) and the decrees (*hoi epi ta psēphismata*)¹⁶.

What was the ban about? This is a vital question since an assessment of the challenge depends on an understanding of the ban. Pollux speaks of *diatribēn kataskeuasasthai*, i.e. to build or organize a place to frequent, while Diogenes Laertios speaks of *scholēs aphēgeisthai*, that is leading or in charge of a school. The semantic variation is very thin to have been perceptible to ordinary Athenians, especially as founders organized the schools and were in charge of them while alive.

The discrepancy is due most probably to a vague, open-ended, original normative text and to the efforts of later authors to interpret it. The core element of the rule introduced by Sophoklēs was that the Athenian *dēmos* aimed to, at least, lay a hand on the operation of both the *Akadēmia* and the *Peripatos*, if not to retain a say on the persons appointed in charge of both of them, thus diluting the exclusive right of the current head to appoint his successor. By 307 both the *Akadēmia* and the *Peripatos* had a long pedigree of philosophical training and their respective founders were dead, therefore the measure could not have turned against founding a school *per se* but rather against running a school without the approval of the council and the assembly. The reaction of the philosophers in voting with their feet against Sophoklēs bill suggests that the *polis*' intervention was intended to affect directly and dramatically their control over the schools; therefore, I would be inclined to give credence to Diogenes Laertios' account of the decree, i.e. as intervention in the everyday running of the schools. Behind that attitude lurks an understandable but not justified process of vilification. The target is more than clear; philosophical schools were the breeding ground of anti-democratic thinking and practice, openly challenging the Athenian *politeia*. That much can be inferred from the fragments of the speech attributed to Dēmocharēs, defending Sophoklēs against Philon. They suggest that a significant part was devoted to the side effects of Platonic (and not only Aristotelian!) instruction for the body politic and openly challenged the utility of similar schools for the upbringing of democratic citizens in Athens¹⁷.

¹⁶ See *Ag.* 15, 58 (305/4), *Ag.* 15, 62: 200-202 and 235-6 (303/2).

¹⁷ *Athen.* 9.508f-509b (= Marasco (1984: F1)): “Εὐαίων δ' ὁ Λαμψακηνός, ὡς φησιν Εὐρύπυλος καὶ Δικαιοκλῆς ὁ Κνίδιος ἐνενηκοστῶ καὶ πρώτῳ Διατριβῶν, ἔτι δὲ Δημοχάρης ὁ ῥήτωρ ἐν τῷ ὑπὲρ Σοφοκλέους πρὸς Φίλωνα, δανείσας τῇ πατρίδι ἀργύριον ἐπὶ ἐνεχῶρ τῇ ἀκροπόλει ἀφυστερήσας τυραννεῖν ἐβουλεύετο, ἕως συνδραμόντες ἐπ' αὐτὸν οἱ Λαμψακηνοὶ καὶ τὰ χρήματα ἀποδόντες ἐξέβαλον. Τίμαιος δ' ὁ Κυζικηνός, ὡς ὁ αὐτὸς Δημοχάρης φησὶν, χρήματα καὶ σίτον ἐπίδους τοῖς πολίταις καὶ διὰ τὰντα πιστευθεῖς εἶναι χρηστὸς παρὰ τοῖς Κυζικηνοῖς, μικρὸν ἐπισχῶν χρόνον ἐπέθετο τῇ πολιτείᾳ δι' Ἀριδαίου. κριθεὶς δὲ καὶ ἄλοος καὶ ἀδοξήσας ἐν μὲν τῇ πόλει ἐπέμενε παλαιὸς καὶ γεγηρακώς, ἀτίμως δὲ διαζῶν. τοιοῦτοι δ' εἰσὶ καὶ νῦν τῶν Ἀκαδημαϊκῶν τινες, ἀνοσίως καὶ ἀδόξως βιοῦντες. χρημάτων γὰρ ἐξ ἀσεβείας καὶ παρὰ φύσιν κυριεύσαντες διὰ γοητείαν νῦν εἰσιν περίβλεπτοι: ὡσπερ καὶ Χαίρων ὁ Πελληνεύς, ὃς οὐ μόνον Πλάτωνι ἐσχόλακεν, ἀλλὰ καὶ Ξενοκράτει. καὶ οὗτος οὖν τῆς πατρίδος, πικρῶς τυραννήσας οὐ μόνον τοὺς

Philosophical schools were represented by Dēmocharēs as a viper’s nest of anti-democratic sentiment and as hotbeds of potential tyrants¹⁸. In this way, Sophoklēs’ piece of legislation cannot be seen as targeting exclusively the Peripatos under Theophrastos’ leadership then. The normative range of it was much wider than originally intended and included any kind of establishment providing philosophical instruction. The ten-year long regime and exile of Demetrios of Phaleron provided a welcome context to introduce it.

In two of the three accounts about Sophoklēs’ enactment we hear of a certain Philōn¹⁹, an Athenian acquaintance of Aristotle, successfully challenging the proposal; what remains unclear is on what grounds the challenge was based. Scholars influenced by the authority of U. von Wilamowitz and his assessment of philosophical schools as *thiasoi Mousōn*, argued that Sophoklēs’ piece of legislation contravened the “Solonian” law on the binding character of the agreements struck among associates (as reported in *Dig.* 47.22.4 = Gaius, *Ad legem duodecim tabularum* 4)²⁰. Despite the crippling criticism of Lynch (1972: 112-6), philosophical schools are still regarded as associations, although they hardly have

ἀρίστους τῶν πολιτῶν ἐξήλασεν, ἀλλὰ καὶ τοῖς τούτων δούλοις τὰ χρήματα τῶν δεσποτῶν χαρισάμενος καὶ τὰς ἐκεῖνων γυναῖκας συνώκισεν πρὸς γάμου κοινωνίαν, ταῦτ’ ὠφεληθεὶς ἐκ τῆς καλῆς Πολιτείας καὶ τῶν παρανόμων Νόμων. (Then there was Euaion of Lampsakos, as recorded by Eurypylos and Dicaiocles of Knidos in the ninety-first book of his *Discourses*, also by the orator Demochares in his speech as advocate in the case of Sophocles versus Philon. He (Euaion) lent money to his native city, taking as security the acropolis, which he retained with the design of becoming tyrant, until the people of Lampsakos combined to resist him, and after paying back his money they threw him out. Then, Timaios of Kyzikos, as Demochares again says, after bestowing a largess of money and grain upon his fellow-citizens, thereby winning confidence among the Kyzikenoi that he was a good man, a little while afterwards attacked their constitution through the agency of Aridaios. He was tried, convicted, and disgraced, and although he remained in the city, old and worn with age, he passed his life in dishonour. Some of the Academic philosophers of to-day are like that, living as they do wickedly and disgracefully. For after gaining possession of a fortune by sacrilege and by unnatural courses through trickery, they are now looked up to with admiration, just like Chairon of Pellene, who attended the lectures not only of Plato but also of Xenocrates. He too, as I was saying, ruled his native city with bitter tyranny and not only drove out its best citizens, but also bestowed upon their slaves the property of their masters, and forced the masters’ wives into wedlock with the slaves; these were the beneficial results he derived from the noble *Republic* and from the lawless *Laws*. – transl. Loeb)

¹⁸ A remote parallel in the late fifth-century context is the ban introduced during the regime of the Thirty tyrants by Kritias and reported by X. *Mem.* i.2.31: ... καὶ ἐν τοῖς νόμοις ἔγραψε λόγων τέχνην μὴ διδάσκειν (He inserted a clause which made it illegal “to teach the art of words”).

¹⁹ For what little is known see *Athenian Onomasticon* s.v. (35) (<http://www.seangb.org/Phi-Omega.html> last consulted 18/1/2020).

²⁰ von Wilamowitz-Moellendorff, U. (1881) *Antigonos von Karystos*, 263-91, Berlin.

any of the features usually attributed to associations²¹. Philosophical schools as an organization were neither a *koinon* nor an aggregate of individuals but rather occupied an ambiguous middle ground with some sort of basic structure. That ambiguity may have led Sophoklēs to attack them, given the portent climate of rampant anti-Macedonianism running through the Athenian society. This atmosphere provided the context for settling old grudges and taking revenge for the previous two decades of imposed oligarchic rule.

Therefore, the argument against Sophoklēs' law could not have included an assumed violation of 'corporate' freedom. Other crucial features of the Athenian democratic regime are undermined by such a piece of legislation. One of them was its presumably retroactive character, since the schools already had an individual in charge; was he to be removed and replaced? The concerted reaction and departure of philosophers implies clearly this eventuality. In addition, the law comes dangerously close to *ad hominem* legislation since there were only two philosophical schools at the time. Finally, it is not far-fetched to argue that the law imposed an implicit restriction on the freedom of expression and more importantly that it curtailed the freedom of people to dispose of their property as they saw fit. Of course, the counter argument would have been that these restrictions are justified in the name of the polis' safety and integrity (*raison d'état*). However, the democratic principle of the rule of law prevailed.

II. Increasing the stakes for democracy, retaining its distinct features

The leaders of the pro-Antigonid faction in order to express their gratitude to Demetrios I, prompted the Athenians to interfere with the constitutional make-up of the *polis*. For the first time after Kleisthenes and with no divine consultation, they decided to increase the number of the *phylai* (tribes) and to reform the size of the Council. Two new *phylai* were created, Antigonis and Demetrias, and put at the head of the official enumeration²². The idea of reforming the number of tribes was definitely home grown (apparently that was a proposal moved by Stratoklēs son of

²¹ See lately Harland, Ph. A. (2019) "The most sacred society (*thiasos*) of the Pythagoreans: philosophers forming associations" *Journal of Ancient History* 7, 207-32 who argues that "there are clear signs that some gatherings of philosophers might be better understood in relation to the analytical category of "associations" as defined here, which encompasses the specific ancient designation "societies".

²² *AthPol* 21 with Rhodes (1981: 251-60). See the latest account in Weber, G. (2018) «200 Jahre Phylenreform des Kleisthenes' – die Neuorganisation von Athen und Attika (307/06 v. Chr.). Kontext, Umsetzung, und Folgen» *Klio* 100, 125-52. New *phylai* order in an ephebic decree: *IG* ii² 478 (305/4) col. I 32-34: [Ἀντ]ιγονίδο[ς]/ [σω(φρονιστῆς) Ἀρκ]εσίλας Φίλωνος – – – and col. II 32-34: [Δημητ]ριάδος/ [σω(φρονιστῆς) Φιλ]αῖος Φίλωνος Ἐυπε/. For the Athenian *ephebeia* see now Friend, J. L. (2019) *The Athenian ephebeia in the fourth century BCE*, Leiden.

Euthydēmos of Diomeia²³) although we cannot be sure about the rationale. Did it aim to flatter in an unprecedented way the Antigonids, liberators and saviours, or to counter the consolidation (i.e. reduction) of magistracies and magistrates, especially during the pro-Antipatran regime (322-319) by increasing the pool of potential citizen candidates? The number of councilors increased to 600 (12x50 *bouleutai*). The mechanics of this exercise have been explored and explained by Traill (1975: 26-28) who concluded that the new *phylai* were created by taking away on average three demes out of the existing *phylai* with the exception of Aiantis (smaller) compensated by Aigeis and Leontis (largest) who contributed more than three demes. The impact on the *quota* of councilors seem to have been marginal²⁴; most *phylai* provided a number of councilors roughly proportional to their population.

That reform had an enormous impact on the everyday working of the Athenian democracy, usually underestimated in modern accounts, in favour of its religious undertones. To illustrate the point, let me enumerate the major and minor magistrates appointed on a tribal affiliation according to *AthPol*: *bouleutai* (43.2), *tamiai Athēnas* (47.1), *polētai* (47.2), *apodektai* (48.1), *euthynoi* (48.3), *katalogeis* (49.2), *episkeuastai hierōn* (50.1), *eisagogeis* (52.2), Forty (53), *epimelētai tōn Dionysiōn* (56.4), members of *Hēliaia* (59.7); military officers (*taxiarchoi*, *phylarchoi*, *hipparchoi*, 61.3-5) and perhaps all the ten-member strong colleges of officials (like *agoranomoi*, *metronomoi*, *sitophylakes*, *epimelētai emporiou* 51; *logistai*, 54.1; *hieropoioi*, 54.6). Allowing for merging or abolishing some of these magistracies, it remains still a significant number of appointments to be made. I do not claim that there was a linear correlation between the increased number of tribes and appointments, but I do argue for an increased likelihood for the average Athenian to exercise a *polis*-function at some point in his lifetime. The increased number of tribes led to an increased number of magistracies to be filled, thus augmenting the chances of male Athenian over thirty years of age, to be allotted to one of them.

This point is illustrated by the Forty; it was thought that this body was abolished in the period 322-307, since we do not hear anything about these *dikastai* after *AthPol*. 53.1-2²⁵. They were formed by panels of four *dikastai* for each tribe (other than their own), allotted from among the members of the *phylē*. Each *dikastēs* heard

²³ For this prolific personality see Paschidis, P. (2008) *Between city and king. Prosopographical studies on the intermediaries between the cities of the Greek mainland and the Aegean and the royal courts in the Hellenistic period (322-190 BC)*, Athens, 78 no. A19 and 80 for a list of the decrees moved by him.

²⁴ Bouleutic quota, Traill (1975: 31-33 & 58-60).

²⁵ See Rhodes (1981: 587-8). For the lists of *diatētai* see Liddel, P. (2007) *Civic obligation and individual liberty in ancient Athens*, 196, Oxford, Zanaga, Cl. (2017) "Alcune considerazioni in merito di cataloghi arbitrali ateniesi" *Historika* 7, 83-117, and Berti, Irene & P. Kató (2017) "Listen im öffentlichen Raum hellenistischer Städte" in Berti, Irene, Bolle, Katharine, Opdenhoff, Fanny & F. Stroth (eds) *Writing matters. Presenting and perceiving monumental inscriptions in Antiquity and Middle Ages*, 91-94, Berlin.

disputes worth less than ten drachmas individually (otherwise the dispute was referred to a public arbitrator). The defendant's tribe determined which *dikastēs* heard the case. Given that the property census had been lifted and the number of tribes increased, there would have been increased demand for tribal *dikastai*, as they rose from Forty (4x10) to Forty-eight (4x12).

In adjudication still, some scholars have argued that public arbitrators (*diaitētai*) did not survive the constitutional reform of 322. Apart from *AthPol* 53.4-6, we hear of *diaitētai* erecting a dedication on completing their annual duty and honoured by the Athenian *dēmos*²⁶. However, a tentative reference to the *diaitētai* occurs in the accounts of the treasurers of Athena *IG* ii² 1472A, 21 (after 319/8), *IG* ii² 1487A, II, 47-49 (306/5) and *IG* ii² 1489, 15-16; these cannot be private arbitrators as it may be the case with *diaitētēs* in the *defixio* Audollent, *DT*, 49, 16-22 (dated in c. 300)²⁷. The disappearance of dedications from the epigraphic record should not necessarily imply the abolition of the office; it could be lack of a collegial spirit, of funds, or drop in their number, especially in the periods of an imposed property census (322-319 and 317-307), something that made the financial burden of a dedication difficult to carry.

It was also claimed that *polētai* are not attested after 307/6²⁸; inscriptions *Ag*. 19, P41-42 and P50-51 dated in the closing years of the fourth or in the early years of the third century, although in a poor fragmentary condition, contain, nevertheless, key terms and collocations like, τὰδ' ἐπράθη ἐδά[φη ---], [--- μέ]ταλλα, [--- εἰσ]ήνεγκε μέταλλον ---], καινοτομίαν, suggesting that the exploitation of mines continued in the same way as in the pre-322 period, unaffected by political upheavals. Therefore, we have to assume that the whole system of administering public revenues including the auction of confiscated properties, leases of public lands and mines remained largely unaffected from the successive waves of reforms²⁹.

²⁶ The first such dedication dates in 371/70 [*IG* ii³ (4) (1) 24] and their last in 325/4 [*IG* ii³ (4) (1) 35].

²⁷ *IG* ii² 1472A, 10-22: [τὰ]/[δε π]ροσπαρέδοσαν [ταμίαι οἱ ἐπὶ X]/[ρέμη]τος ταμίαις τοῖς ἐπὶ Ἀντικλέ]/[ους· φι]άλιον ἀργυροῦ[ν --- ἀνέθ]/[ηκεν Ν]ικ[α]γόρα Φιλισ[τίδου Παιαν]/[ιέως] γυνή· [τ]άδε παρέδοσ[αν ταμίαι]/ [οἱ ἐπὶ] Φιλοκλέους ταμί[αις τοῖς ἐ]/[πὶ Ἀρχ]ίππου· ὀφίδιον μι[κρόν ...]/ [... π]ρὸς τῇ παραστά[δι ---]/ ...α χρυσῆ πρὸς τῇ[ι ---]/... μεγάλη [ἀ]ργυρ[ᾶ ---]/ [οἱ] διαιτηταὶ [οἱ] ἐπὶ Ἀπολλοδώρο]/[υ?] ἄρχοντος ἀνέθ[εσαν ---].

IG ii² 1487 A II, 47-49: πρὸς [τῇ παραστά]/δι τῇ[ι δ]εξιῶ[ς] εἰσιόν[τι ..5.. φι]/άλη ἀργ[υρ]ᾶ ἐπίχρυσος ἦν οἱ διαιτ[?]ηταὶ [ἀνέθεσαν ---].

fig. b. face B. col. II. 50: [---]Θ[---] / [---]HM[---] / [---]ΙΣΗΓΟ[---] / ἐπ' Ἀναξικρ[άτους ἄρχοντος --- Γ]—

Audollent, *DT*, 49, 16-19 (= *IG* iii (3) 10): τούτους ἅπαντας/ καταδῶ ἀφανίζω κατορύττω καταπαττα/λεύω καὶ ἐπὶ δικαστηρίου καὶ παρὰ/ διατητεῖ ...

²⁸ Canevaro (2011: 79).

²⁹ *Ag*. 19, P42: [τ]άδ' ἐπράθη ἐδά[φη ---]/ ἀτίμητα ὄντα [---]/ Ξενοκλέους Ἀντιγένους Σημ[αχίδου ---]/ Πολυκλέους Τεισίππου Εὐω[νυμέως ---]/

The restoration of pre-322-democracy is usually interpreted as abolition of some, at least, of Phalereus' reforms and return to the pre-317 and pre-322-regime. That would mean that the *nomophylakes* and *gynaikonomoi* were abolished (explicitly or tacitly by not filling the posts) and the *graphē paranomōn* was reactivated. However, the sumptuary legislation was preserved, as far as archeological evidence testifies, and liturgies such as *chorēgia* and *triērarchia* were not re-instated. We also observe a flurry of epigraphically attested activity of the council and the assembly voting mainly honorary decrees; the main agent of the new order and prime mover was Stratoklēs.

Some scholars think that the whole process was not an uncoordinated affair of piecemeal abolition and/or reform of legal rules. Instead, they argue that there is convincing evidence of a revision and republication of laws by a body of *nomothetai*. Most prominent among them William Scott Ferguson (1911a: 103-4) who was the first, to my knowledge, to suggest it and subsequently it became the new orthodoxy; Mirko Canevaro's article published in 2011 is the latest, most comprehensive and well-argued sample of this tendency and moves along the same broad lines. Ferguson probably thought that the existence of *nomothetai* inferred from Plb. 12.13.7-14.1, the fragment from Alexis' comedy *Hippeus*, and *IG ii² 487* was an eloquent proof of his thesis and it did not require any further argumentation.

The acephalous decree *IG ii² 487³⁰* is usually dated in 304/3 due to the reference to the archonship of Pherekles in l. 7, therefore we have to assume that the decree was issued either in the last months of the archon year 304/3 or early in 303/2. What is, however, more important is that the Council honours Eucharēs, son of Euarchos of Konthylē for his benevolence (*eunoia*) towards the Council and the people of Athens. In particular, Eucharēs was praised because "he took care of inscribing the laws, so that all those passed during Phereklēs' archonship will be displayed, in order to be available for close scrutiny by anyone wishing to do so and nobody will claim to ignore the laws of the city". The passage reports both an initiative and the rationale guiding it; the decree taking care to inscribe the laws (at least, two or more), passed in 304/3 was dictated by the need for the citizens to consult them (to read or to have read to them). This is not an unusual designation of the legislator's intention. However, this testimony is usually considered as adequate evidence for a

Λυσιστράτου Ἀλαίε[φος -- -]/ Θεοδώρου Λυσανίου Λουσι[έως -- -]/ Κλεοχάρου Κλεοστράτου Α[-- -]/ [Α]ρχεστράτου Ξανθιππί[δου -- -]/ Τιμαρχίδου Φ[-- -]/ [Ο]φέλου [-- -]/ [..]Τ[-- -]

³⁰ *IG ii² 487*, 4-10: [έπε]/μελήθη δὲ καὶ τῆς [ἀναγ]ραφῆς τῶν ν[όμων] ὅπως ἂν ἔκτε[θῶσι] πά[ντες] οἱ ν[όμοι] <εν>/ομο[[μο]]θητημένοι [ἐπὶ] Φερε[κλέους]/ ἄρχοντος σκοπεῖν [τῶ]ι βουλο[μένῳ]/ι καὶ μηδὲ εἰς ἀγν[ο]εῖν τοὺς τῆς [πό]λεως νόμους· (he took care of inscribing the laws, so that all those passed during Pherekles' archonship will be displayed, in order to be available for close scrutiny by anyone wishing to do so and nobody will claim to ignore the laws of the city). See also *IG ii³ (1) (2) 469*, 13-15 (c. 330): ἐπειδὴ ὁ ἀναγραφεὺς Καλλικρατίδης καλῶς καὶ δικαίως ἐπιμεμέληται τῆς ἀναγραφῆς τῶν γραμμάτων ...

wholesale re-inscription of Athenian legislation. The argument rests on the use of the present perfect participle *nenomothetēmenoi* of the verb *nomothetoumai*, implying that a board of *nomothetai* was in place. One can object to this assumption on three grounds, a) it is not at all certain that the legislative intervention of Demetrios of Phaleron was as extensive and all-encompassing to require a wholesale reform; from what we know it looked like a piece-meal introduction of amendments, b) *nomothetai* as a *terminus technicus* in the fourth-century Athenian democracy is never used in a massive codification or legal reform program, but designates the officials involved in the process of scrutinizing the introduction of a new law, c) the participle *nenomothetēmenoi* does not necessarily suggest a wholesale reform or codification. The initiative of an individual to propose a new enactment and steer it successfully through the necessary channels, was described with the same verb, *nomothetō* (νομοθετῶ), or a similar collocation like *eispherō* (εἰσφέρω) or *tithēmi nomon* (τίθημι νόμον). Therefore, I consider the information of *IG* ii² 487 at this point insufficient to sustain any theory of a major legislative shake-up.

The text of the inscription quite clearly refers to the laws introduced in the year of the archon Phereklēs (304/3) and only to them. Given the propensity in pre-322 Athens to issue only a few laws, it is more likely that only a handful of new laws were introduced to counter these reforms of Demetrios of Phaleron that could not have been neutralized otherwise (e.g. to fall in disuse). The specific initiative for which Eucharēs was honoured was the erection of copies of laws, for consultation by the citizens³¹. Therefore, we may assume with a certain degree of probability that Eucharēs' post included that responsibility and therefore, he was delegated to oversee that job. But what was exactly the position of Eucharēs in the Athenian administration at this juncture? There are three possible answers (not mutually exclusive), i) he was a member of the Council of that year, exercising a minor office like *anagrapheus* or *antigraphus*, ii) he was a member of a hypothetical board of *nomothetai* for that year, iii) he was appointed by lot as *grammateus kata prytaneian*; obviously not true since Epicharinos son of Dēmocharēs of Gargettos is attested as secretary³². In order to answer the above question, we have first to answer another one, perhaps more crucial; why the Council decided to honour him for the performance of such ordinary even, one may say, trivial duties? To my mind, it is a powerful hint at the democratic nature (and credentials) of Eucharēs' initiative. Eucharēs practiced the democratic process of consultation in cases a new law or laws were introduced. Implicitly, the decree suggests that not all previous office-holders (including those after the democratic restoration of 307!) bothered to have the laws inscribed on perishable material for consultation by the citizenry. Two

³¹ See Hedrick, Ch. W. Jr. (2001) "For anyone who wishes to see" *AncWorld* 31, 127-35 and most recently Lasagni, Chiara (2018) «"For anyone who wishes to read up close..." A few thoughts revolving around the formula σκοπεῖν τῷ βουλευμένῳ in Attic inscriptions» *RFIC* 146, 334-80.

³² *IG* ii² 483, 3-4 (304/3).

further facts re-enforces the above impression, i) the stele with the honorary decree is to be erected outside the Council house (l. 20) and ii) the recipient of Eucharēs' virtue and fairness was the Council (l. 17). So, we have to see the Council as the original source of new legislation in this period, put in the form of *probouleuma* (recommendation) to the assembly for discussion and approval. Eucharēs was most probably an *anagrapheus* or an *antigraphus*, like the *anagrapheus* Kallikratidēs son of Kallikratēs of Steiris honoured in c. 330 for taking care to have the documents properly and lawfully inscribed³³.

The comic fragment from Alexis' *Hippeus*³⁴ does not contain a specific reference to the pre-322 system of *nomothesia*, *in extenso* treated by Mirko Canevaro³⁵, and hence to *nomothetai* or to a special board of *nomothetai* instituted to manage the transition from Phalereus' regime to 'democracy'³⁶. Canevaro's main point relies on this passage, itself severed of its original context, thus bypassing the fact that the use of the term *nomothetai* may not be technical, but an ordinary utterance of an ordinary person, a *paidagōgos* or father, mixing the purpose of the ordinance with its result, the political sovereign (Demetrios) and the organ (*nomothetai*). What is praised in the passage is not the law, but its end-result, the removal of the philosophers from Attic soil. But from what we know this was never the intention of the proponent, desertion of Athens was the reaction of the philosophers. However, Alexis credits Demetrios and the *nomothetai* with their expulsion, as a deliberate policy, re-interpreting the legislative initiative to suit his play's dramatic needs. These *nomothetai*, therefore may be a general, abstract term

³³ IG ii³ (1) (2) 469.

³⁴ PCG ii Alexis (*Hippeus*) F99 (K-A) (*apud* Athen. 13.610d-f; Marasco (1984: T5)): ὁ Μυρτίλος ἔφη: εἴτ' οὐκ ἐγὼ δικαίως πάντας ὑμᾶς τοὺς φιλοσόφους μισῶ μισοφιλολόγους ὄντας; οὓς οὐ μόνον Λυσίμαχος ὁ βασιλεὺς ἐξεκήρυξε τῆς ἰδίας βασιλείας ἀπελαύνων, ὡς ὁ Καρύστιός φησιν ἐν Ἱστορικοῖς Ὑπομνήμασιν, ἀλλὰ καὶ Ἀθηναῖοι. Ἄλεξις γοῦν ἐν Ἰππεῖ φησὶν
τοῦτ' ἔστιν Ἀκαδήμεια, τοῦτο Ξενοκράτης;
πόλλ' ἀγαθὰ δοῖεν οἱ θεοὶ Δημητρίῳ
καὶ τοῖς νομοθέταις, διότι τοὺς τὰς τῶν λόγων,
ὡς φασι, δυνάμεις παραδιδόντας τοῖς νέοις
ἐς κόρακας ἐρρίψασιν ἐκ τῆς Ἀττικῆς.

(and Myrtilos said: then, do I unjustifiably hate all of you philosophers who hate the philologists? Philosophers who not only the king Lysimachos denounced and expelled from his kingdom, as Karystios says in his *Historika Hypomnemata* but also the Athenians. Alexis in *Hippeus* says "Is this Akademia, is this Xenokrates? May the gods provide many goods to Demetrios and the legislators, since, as it is said, they have sent to crows (i.e. sent to hell) those who hand over to the youngsters the power of speech" – transl. Loeb).

³⁵ Similarly noted by Canevaro (2011: 72 n.58). See also Canevaro, M. (2013) "Nomothesia in classical Athens: what sources should we believe?" *CQ* 63, 139-60 and Canevaro (2016).

³⁶ For a non-technical use of the term *nomothetai* see among others, Aeschin. 1 (*Against Timarchos*) 16, Din. 2 (*Against Aristogeiton*) 16 and Aristot. *EN* 1103b, 1128a, 1155a.

for those individuals proposing new laws as members of the Council and in the assembly. Therefore, I am not inclined to accept Alexis' *testimonium* as a reliable testimony for the existence and operation of a special constituted board of magistrates called *nomothetai*. It would have been more economical to consider *nomothetai* as referring to individuals putting forward bills of laws and decrees, with no official capacity.

Another change to be associated with a possible concerted introduction of reforms in 304/3 is one concerning the *polis*' honorary discourse³⁷, and in particular a change in the wording referring to awarded crowns. Up to 304/3 the value of an awarded crown was expressed in monetary terms, the expression χρυσῶι στεφάνωι ἀπὸ : (e.g. πεντακοσίων) : δραχμῶν is attested in decrees of the *polis* or its subdivisions³⁸. In *IG* ii² 488, 2-3 (304/3) there is a linguistic shift, the honorary crown is awarded according to the law (στεφάνωι κατὰ τὸν νόμον) and the same expression occurs in the honorary decree *SEG* 36.164 passed in the twelfth prytany of the year 304/3; so the introduction of the reform should be dated either earlier in the same year or even in the previous year. But does the expression *kata ton nomon* refer to the value of the crown or to the procedure awarding the crown or perhaps include both the value of the crown and the proper award procedure? Should one associate this change with the laws introduced in the year of the archon Phereklē̄s? On top of that, Harris (2017), in the context of clarifying the legal basis of the dispute between Aischines and Demosthenes in 330s, has suggested one more alteration in the mode of awarding of golden crowns, which he also dates in 304/3. In particular, before 304 the award of a golden crown to a serving magistrate was always conditional on the successful completion of rendering his accounts (ἐπειδὴν τὰς εὐθύνας δῶι). After 304, the award of a golden crown to a serving magistrate takes place after his term in office was scrutinized (εὐθύνας ἔδωκε/ δεδώκασιν)³⁹.

³⁷ To what extent that required legislative initiative is not clear; see *IG* ii² 466, 27-32 (307/6): γνώμην δ[ὲ] ξυμβάλλ/λεσθαι τῆς βουλῆς εἰς τὸν δῆμον ὅτι δο[κεῖ τῆ]/ι βο[υ]λῆι ἐπαινέσαι τὸν δῆμον τὸν Τηνίων [καί]/ στεφανῶ[σ]αι χρυσ[ῶ]ι στεφάνωι ἀπὸ :X: δραχμῶν/ν ἀρετῆς ἕνεκα καὶ εὐνοίας τῆς εἰς τὸν δῆμον/ τὸν Ἀθηναίων· (and the Council shall bring a recommendation to the assembly that the Council proposes to commend the people of Tenos and to grant a golden crown (worth) 1000 drachmas because of the virtue and the benevolence towards the people of Athens) with *IG* ii² 488, 2-5 (304/3): [καί] στεφανῶσαι ἕκα[σ]τον αὐτῶν χρυσ[ῶ]ι στ[ε]φανῶνι [κατ]ὰ [τ]ὸν [ν]όμον, ἐπειδὴ δι[κ]αίω[ς] ἄρξαντες [τ]ὰ[ς] εὐ[θ]ύ[ν]ας δεδώκασ[τ]ιν κατ[ὰ] τὸν νόμον ... (and crown each of them with a gold crown according to the law, since having fulfilled their office justly, they have rendered their accounts according to the law).

³⁸ *Polis* decrees: *IG* ii² 466, 29-31 (307/6), 467, 27-28 (306/5), 553 (c. 307), 555 (post 307); *polis* subdivisions: *IEleusis* 99 (319/8?).

³⁹ Compare *IG* ii³ (1) (2) 469 II, 23-28 (c. 330 BC): γνώμην δὲ ἔ/[υ]μβάλλεσθ[αι] τῆς βουλῆς εἰς τὸν δῆμ[ο]ν/[ν], ὅτι δοκεῖ τῆ βουλῆι ἐπαινέσαι Καλλικρατίδην Καλλικράτους Στειρία/ [ἀρετῆς ἕ]νεκα καὶ δικαιοσύνης τῆς εἰ/[ς] τὴμ βο[υ]λῆν [κ]αὶ τὸν δῆμον καὶ στεφαν[ῶ]σαι αὐ[τ]ὸν χ[ρ]υσῶι στεφάνωι ἀπὸ : (500):/ [δραχμῶ]ν, ἐπει[τ]ὴν τὰς εὐθύνας δῶι... (and the Council shall bring a recommendation to the

That shift would have sent a signal of a tightened *polis*-control over the award of honours and the enforcement of the official scrutiny of officials, a feature of a democratic regime.

There is further evidence for the existence and operation of popular courts in the honorary decree for the Tenian ambassadors⁴⁰. The validity of the judicial agreement (*synbola*) between Athens and Tenos depended upon its ratification by the *thesmothetai* when they fill the courts “for the first time”. It remains, nevertheless, unclear whether the expression means the first session of the courts for the year or, what I believe more likely, the very next sitting of popular courts. The same courts were endowed, possibly in 318 for the first time, with the scrutiny of proposed awards of *politeia*⁴¹.

The council of the Areopagos continued to operate retaining its jurisdiction and it was encumbered with some sort of supervisory duties over sacred property as *IG* ii² 1492 B testifies. In lines 124-131 there is probably a reference to five of its members (among them Xenophilos of Alopeke (l. 94, ll. 129-30) and Eupolemos of Hermos (l. 93, ll. 128-9)) who in 305/4, according to a decree moved by Dēmocharēs of Leukonoe, together with *tamias stratiōtikōn* Philippos of Acharnai handed over several talents to the treasury of Athena⁴².

assembly that the Council proposes to commend Kallikratides son of Kallikrates of Steiris, because of his virtue and fairness towards the Council and to the people and crown him with a golden crown (worth) of 500 drachmas, when his terms in office is successfully scrutinized ...) with *IG* ii² 488, 1-5 (304/3): [- - -]κων τῶν ἐπὶ Φ[ερ]ε[κλέ]ου[ς] ἄρχοντο[ς] καὶ στεφανῶσαι ἕκα[σ]τον αὐτῶν χρυσ[ῶ]ι στ]εφάναι [κατ]ὰ [τ]ὸν [ν]όμον, ἐπειδὴ δι/[καί]ω[ς] ἄρξαντες [τ]ὰ[ς] εὐ[θύ]ν[α]ς δεδώκασ/[ιν κατ]ὰ τὸν νόμον... (of the --- in the archonship of Pherekles (304/3) and crown each of them with a gold crown according to the law, since having fulfilled their office justly, they have rendered their accounts according to the law (followed by names of eleven individuals not in a strict tribal order) – transl. AIO). Note that in *IG* ii³ 884 II, 35 (280/79 Bc), an honorary decree for the hipparch *Komeas*, the pre-304/3 formula survives.

⁴⁰ *IG* ii² 466, 32-35: ὅπως δ' [ἄν κα]ὶ τὰ σύνβολα κύρια ἦ/ι τὰ πρὸς Τηνίους κα[ὶ Ἀθην]αίους, τοὺς θεσμοθ/έτας ἐπικυρῶσαι τὰ [σύνβ]ολα, ὅταν πρῶτον δικ/ασ[τήρι]α πλ[η]ρῶσιν· (so that the judicial agreement between the Tenians and the Athenians shall be valid, the *thesmothetai* shall certify the agreement when they next convene the lawcourts).

⁴¹ Osborne (1981-83) and *IG* ii² 398b. See *IG* ii² 496, 27-32 (303/2): δοῦναι δὲ καὶ τὴν ψήφον περὶ [α]/ὐτοῦ τοὺς πρυτάνεις εἰς τὴν πρώτην/ἐκκλησίαν καὶ τοὺς θεσμοθέτας [τ]/οὺς ἐπὶ Νικοκλέους ἄρχοντος προ[γ]/ράψαι αὐτῶι τὴν δοκιμασίαν ἐν τῶ[ι]/Μεταγειτινῶνι μηνί, (and the presiding councilors shall put to vote the recommendation about him in the next assembly and the *thesmothetai* in the archonship of Nikoklēs shall write first the scrutiny (of his award) in the month of Metageitniōn (August/September).

⁴² *IG* ii² 1492 B, 124-131 (305/4): ἐπ' Εὐξενίππου ἄ[ρχ]οντος ἐπὶ τῆς [Α]ντι[γο]/[νίδ]ος πρώτης πρυτανείας [τε]τράδι ἐπὶ δ[έ]κα χρήμ[ι]/[ατα ἀ]νεκόμισεν κατὰ ψήφισμα δῆμ[ου], δ] ἔγ[ραψε Δη]/[μοχ]άρης Λευκονοεύς, Α[ρ]ε[ο]παγ[ι]τ[ῶ]ν οἶδε· Γ -- -/[....

While the transition from the idiosyncratic oligarchic rule of Demetrios of Phaleron to the revived pre-322 democracy involved several interventions in the political and legal fabric of Athens, in areas regulated by private law there was hardly any change. The usual terminology of private law continued to be employed in leases, in contracting out the rebuilding of the Long walls⁴³, and the exploitation of the mines of Laurion and the leasing out of public property⁴⁴ continued as before. Three securely dated *horoi* inscriptions on properties testify to the continued use of *apotimēma* to secure dowries and property of orphans⁴⁵.

III. New international context, new challenges

The joy and contentment of the Athenians with the ousting of Demetrios of Phaleron did not last. The everyday presence of Demetrios I and his entourage in Athens and particularly in the Parthenon (when he was not on any expedition to enlarge the Antigonid zone of influence in mainland Greece) brought about discontent and disagreements among the members of the ruling democratic, pro-Antigonid faction. The culmination was reached with the incident of Kleainetos, son of Kleomedon reported in Plu. *Demetr.* 24.3⁴⁶. This not only reflects Plutarch's interest in

Κολλυτεύς, Φιλοκίδης Ἀ[χα]ρνεύ[ς], Ε[ὐ]πόλ[ε]μος [Ἐ]ρ[μ]ειος, Σωσίστρατος Μυρ[ρι]νού[σ]ιο[ς], Ξεν[ό]φι[λο]ς Ἀλωπε[κ]/[ἦ]θεν κα[ὶ] ὁ ταμίαις τῶν στ[ρα]τιωτ[ικ]ῶν Φ[ί]λιπ[πο]ς Ἀ[χα]ρ[ν]εύ[ς]/ ἄργυρίου Ἀττικοῦ τάλαντα (15 and 4000 dr.) κα[ὶ] χρυσού[ς] ... (When Euxenippos was archon, in the first prytany, that of Antigonis, on the fourteenth day; these members of the Areopagos have brought back money according to a decree of the people moved by Demochares of Leukonoe: G--- of Kollytos, Philokedes of Acharnai, Eupolemos of Hermos, Sosistratos of Myrrhinous, Xenophilos of Alopeke and the treasurer of the stratiotic fund Philippos of Acharnai, 15 talents and 4000 drachmas and golden ---). For the jurisdiction of Areopagos see Wallace, R. W. (1989) *The Areopagos council to 307 B.C.*, Baltimore and de Bruyn, O. (1995) *La compétence de l'Aréopage en matière de procès publics. Dès origines de la polis athénienne à la conquête romaine de la Grèce (vers 700-146 avant J.-C.)*, Stuttgart.

⁴³ *IG* ii² 463+Ag. 16, 109+Walbank, *Fragmentary decrees* no. 30.

⁴⁴ Ag. 19, L14-15 and possibly Ag. 19, LA 5-8.

⁴⁵ Finley (1951: no. 162) [*RIJG* I (8) 16; *IG* ii² 2678; *SEG* 32.226; 43.54] (305/4): ὄρος οἰκί[α]ς/ ἀποτιμήμ[α]/[τ]ο[ς] ἐπ' [Ε]ὐξεν[ί]που :XX. Finley (1951: no. 132) [*RIJG* I (8) 17; *Syll*³ 1187; Michel 1367; *IG* ii² 2679; *SEG* 43.54] (305/4): ἐπὶ Εὐξενίου ἄρχ[ο]ντος ὄρος χωρίων/ καὶ οἰκιῶν ἀποτιμημάτων προικὸς Ξεναρ[φ]ί[σ]τει Πυθοδώρου Γαρ/γηττίου θυγατρί. τ[ὸ] κατὰ τὸ ἥμισυ καὶ τ[ὸ] ἐκ τούτου γινόμενον αὐτεῖ εἰς Λεώσ/τρατον ἄρχοντα (303/2)/ (2700 dr). Finley (1951: no. 116) [*RIJG* I (8) 5; *Syll*³ 1186; Michel 1365; *IG* ii² 2657; *SEG* 43.54] (302/1): [ἐ]πὶ Νικοκλέου/ς ἄρχοντος ὄρο[ς] χωρίων καὶ οἰκ[ι]ῶν καὶ τοῦ ὕδα[τ]ο[ς] τοῦ προσόν[τ]ο[ς] τοῖς Χαρί[ο]υ ἰσοτελοῦς Χ[α]ρ[ί]π[ω]ι καὶ Χ[α]ρ[ί]αι.

⁴⁶ Plu. *Demetr.* 24.2-4: τὰ μὲν οὖν ἄλλα σαφῶς ἀπαγγέλλειν οὐ πρέπει διὰ τὴν πόλιν, τὴν δὲ Δημοκλέου/ς ἀρετὴν καὶ σωφροσύνην ἀξιόν ἐστι μὴ παρελθεῖν. ἐκεῖνος γὰρ ἦν ἔτι παῖς ἀνήβος, οὐκ ἔλαθε δὲ τὸν Δημήτριον ἔχων τῆς εὐμορφίας τὴν ἐπωνυμίαν κατήγορον: ἐκαλεῖτο γὰρ Δημοκλῆς ὁ καλός. ὡς δὲ πολλὰ πειρώντων καὶ διδόντων

moralizing stories. The erotic element underlies the narrative, contrasting the virtuous Dēmoklēs who preferred to die to the shameless Kleainetos. What is important are the methods employed to cancel the hefty fine of fifty talents Kleomedon was sentenced to pay, which meant that he was subsequently declared a public debtor. His son, Kleainetos brought a letter from Demetrios I to release the detained public debtor; that gesture led Athenians to decree that no letter from any king in the future would interfere in the dispensation of justice. If the story is accurately reported by Plutarch and his source, Demetrios' letter constitutes *prima facie* intervention and violation of the Athenian system of justice. It also reveals that tensions may arise between king and *polis*, a useful precedent for later Hellenistic developments. But the incident was not a novelty in early Hellenistic Athens; with

καὶ φοβούντων ὑπ' οὐδενὸς ἠλίσκετο, τέλος δὲ φεύγων τὰς παλαιίστρας καὶ τὸ γυμνάσιον εἰς τι βαλανεῖον ἰδιωτικὸν ἐφοῖτα λουσόμενος, ἐπιτηρήσας τὸν καιρὸν ὁ Δημήτριος ἐπεισῆλθεν αὐτῷ μόνῳ. καὶ ὁ παῖς, ὡς συνείδε τὴν περὶ αὐτὸν ἐρημίαν καὶ τὴν ἀνάγκην, ἀφελὼν τὸ πῶμα τοῦ χαλκώματος εἰς ζέον ὕδωρ ἐνήλατο καὶ διέφθειρεν αὐτόν, ἀνάξια μὲν παθὼν, ἄξια δὲ τῆς πατρίδος καὶ τοῦ κάλλους προνήσας, οὐχ ὡς Κλεαίνετος ὁ Κλεομέδοντος, ὃς ὠφληκότε τῷ πατρὶ δίκην πενήκοντα ταλάντων ἀφεθῆναι διαπραξάμενος καὶ γράμματα παρὰ Δημητρίου κομίσας πρὸς τὸν δῆμον οὐ μόνον ἑαυτὸν κατήσχυεν, ἀλλὰ καὶ τὴν πόλιν συνετάραξε τὸν μὲν γὰρ Κλεομέδοντα τῆς δίκης ἀφήκαν, ἐγράφη δὲ ψήφισμα μηδένα τῶν πολιτῶν ἐπιστολὴν παρὰ Δημητρίου κομίζειν. ἐπεὶ δὲ ἀκούσας ἐκεῖνος οὐκ ἤνεγκε μετρίως, ἀλλ' ἠγανάκτησε, δείσαντες αὐθις οὐ μόνον τὸ ψήφισμα καθεῖλον, ἀλλὰ καὶ τῶν εἰσηγησαμένων καὶ συνειπόντων τοὺς μὲν ἀπέκτειναν, τοὺς δὲ ἐφυγάδευσαν, ἔτι δὲ προσεψηφίσαντο δεδόχθαι τῷ δήμῳ τῶν Ἀθηναίων πᾶν, ὅτι ἂν ὁ βασιλεὺς Δημήτριος κελεύσῃ, τοῦτο καὶ πρὸς θεοὺς ὅσιον καὶ πρὸς ἀνθρώπους εἶναι δίκαιον. (Now, to give all the particulars plainly would disgrace the fair fame of the city, but I may not pass over the modesty and virtue of Democles. He was still a young boy, and it did not escape the notice of Demetrius that he had a surname which indicated his comeliness; for he was called Democles the Beautiful. But he yielded to none of the many who sought to win him by prayers or gifts or threats, and finally, shunning the palaestras and the gymnasium, used to go for his bath to a private bathing-room. Here Demetrius, who had watched his opportunity, came upon him when he was alone. And the boy, when he saw that he was quite alone and in dire straits, took off the lid of the cauldron and jumped into the boiling water, thus destroying himself, and suffering a fate that was unworthy of him, but showing a spirit that was worthy of his country and of his beauty. Not so Cleaenetus the son of Cleomedon, who, in order to obtain a letter from Demetrius to the people and therewith to secure the remission of a fine of fifty talents which had been imposed upon his father, not only disgraced himself, but also got the city into trouble. For the people released Cleomedon from his sentence, but they passed an edict that no citizen should bring a letter from Demetrius before the assembly. However, when Demetrius heard of it and was beyond measure incensed thereat, they took fright again, and not only rescinded the decree, but actually put to death some of those who had introduced and spoken in favour of it, and drove others into exile; furthermore, they voted besides that it was the pleasure of the Athenian people that whatsoever King Demetrius should ordain in future, this should be held righteous towards the gods and just towards men. – transl. Loeb).

or without a letter several individuals were honoured at the implicit or explicit request of Antipatros, Polyperchon and Kassandros⁴⁷. The whole agenda of honouring is revealed by the political affiliations of those honoured by the regime; they are all associated, closely or not so closely, with Demetrios I. I think that such developments brought about a rift between the leading figures of the faction, Stratoklēs and Dēmocharēs, something that led the latter to exile. We cannot say whether it was a self-imposed exile or the result of a prosecution for a grave offence; *asebeia* perhaps, since challenging the *dictum* of a god (i.e. Demetrios I) may have been construed as impiety. However, even if Dēmocharēs' exile was imposed by a democratic regime in a legally impeccable manner (though I cannot find any piece of evidence for that), the shadow of Demetrios I and his man Stratoklēs may have been the ultimate cause of Dēmocharēs' exile⁴⁸.

Resurrecting democracy was not an easy task especially in the world of Alexander's successors. It was fraught with unintended and unexpected complications. But, in the end, Athenians restored most of their *patrios politeia* and strengthened citizen participation by increasing their chances to participate in the running of the *polis*. They also improved certain aspects of the highly symbolic system of honours, clearing out inconsistencies. The institutional arrangements and reforms introduced by the faction supporting Demetrios I turned out to be not so comprehensive or radical; it remains unclear whether they had a clear impact on Athenians or served only as window-dressing for the pro-Antigonid faction. In certain respects, the rules of the pre-322-democracy were re-invigorated, but not to the absolute extent that Dēmocharēs of Leukonoē would wish. What is more important is that the scenario of a difficult cohabitation between polis and king was confirmed once more, even if the king was not cruelly interventionist as Antipatros and Kassandros were. Rules regulating private relations and commerce were left untouched and most of the energy was devoted to reversing some of Demetrios of Phaleron innovations.

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BIBLIOGRAPHY

- Banfi, A. M. (2010) *Sovranità della legge: la legislazione di Demetrio del Falero ad Atene (317-307 a. C.)*, Milano.
- Bayliss, A. J. (2011) *After Demosthenes. The politics of early Hellenistic Athens*, London.

⁴⁷ See for example *IG ii² 387* (319/8) and *IG ii² 486* (304/3).

⁴⁸ A possibility envisaged even by Bayliss (2011: 176).

- Canevaro, M. (2011) "The twilight of *nomothesia*: Legislation in early-Hellenistic Athens (322-301)" *Dike* 14, 55-85.
- Carawan, E. M. (2013) *The Athenian amnesty and reconstructing the law*, Oxford.
- Ferguson, W. S. (1911) *Hellenistic Athens. An historical essay*, New York.
- Finley, M. I. (1951) *Studies in land and credit in ancient Athens, 500-200 B.C. The horos inscriptions*, New Brunswick.
- Fortenbaugh, W. W. & E. Schütrumpf (eds) (2000) *Demetrius of Phalerum. Texts, translation and discussion*, New Brunswick.
- Fortenbaugh, W. W. et als (eds) (1992) *Theophrastus of Eresus. Sources for his life, writings, thought and influence*, 2 vols, Leiden.
- Harris, E. M. (2017) "Applying the law about the award of crowns to magistrates (Aeschin. 3.9-31; Dem. 18.113-117): Epigraphic evidence for the legal arguments at the trial of Ctesiphon" *ZPE* 202, 105-17.
- Harrison, A. R. W. (1968-1971) *The law of Athens*, 2 vols, Oxford.
- Lynch, J. P. (1972) *Aristotle's school. A study of a Greek educational institution*, Berkeley.
- Marasco, G. (1984) *Democare di Leuconoe. Politica e cultura in Atene fra IV e III sec. a.C.*, Firenze.
- O'Sullivan, Lara (2009) *The regime of Demetrius of Phalerum in Athens, 317-307 BCE. A philosopher in politics*, Leiden.
- Osborne, M. J. (2012) *Athens in the third century B.C.*, Athens.
- Osborne, M. J. (1981-83) *Naturalization in Athens*, 3 in 4 vols, Brussels.
- Poddighe, Elisabetta (2002) *Nel segno di Antipatro. L'ecclissi della democrazia ateniese dal 323/2 al 319/8 a.C.*, Roma.
- Rhodes, P. J. (1981) *A commentary on the Aristotelian Athenaion Politeia*, Oxford.
- Shoemaker, Gladys (1971) "Dionysius of Halicarnassus, *On Dinarchus*" *GRBS* 12, 393-409.
- Simonton, M. (2017) *Classical Greek oligarchy. A political history*, Princeton.
- Teegarden, D. A. (2014) *Death to the tyrants! Ancient Greek democracy and the struggle against tyranny*, Princeton.
- Trail, J. S. (1975) *The political organization of Attica. A study of demes, trittyes, and phylai and their representatives in the Athenian council*, Princeton. (Hesp. Suppl. 14)
- Wehrli, F. (1968) *Die Schule des Aristoteles 4. Demetrios von Phaleron*, Basel.