

THE LAW ON THE AGE OF THE SPEAKERS IN THE ATHENIAN ASSEMBLY

The meaning and introduction of ἰσηγορία, the equal right of speech, in the Athenian Assembly has been discussed by previous scholars who seem to agree that its establishment was a gradual procedure¹. One issue which has been discussed only marginally is the law which gave priority to speakers over 50 years old in the debates of the Assembly. Previous studies tend to treat this law as a mere formality, it seems clear, however, that this law if strictly enforced could have an impact upon the format of the Assembly and influence seriously the political proceedings. My purpose here is to concentrate on this law, examine whether it could be compatible with the concept of radical democracy and attempt to date its eventual abolition.

1) See G. T. Griffith, Isegoria in the Assembly at Athens, in: *Ancient Society and Institutions*, Studies presented to V. Ehrenberg on his 75th birthday, Oxford 1966, 115–38; A. G. Woodhead, ἸΣΗΓΟΡΙΑ and the Council of 500, *Historia* 16 (1967) 129–40; J. D. Lewis, Isegoria at Athens: When Did it Begin?, *Historia* 20 (1971) 129–40; M. H. Hansen, *The Athenian Assembly*, Oxford 1987, 91; Y. Nakatewaga, Isegoria in Herodotus, *Historia* 37 (1988) 257–75.

Aeschines in 1,23 summarizes a law, which he ascribes to Solon, according to which the herald opened the debate in the Assembly with the question *τίς ἀγορεύειν βούλεται τῶν ὑπὲρ πεντήκοντα ἔτη γεγονότων*. Afterwards the herald would ask who of the rest of the Athenians wishes to speak (*ἐπειδὴν δὲ οὗτοι πάντες εἶπωσι, τότε ἤδη κελεῖται λέγειν τῶν ἄλλων Ἀθηναίων τὸν βουλόμενον οἷς ἕξεσιν*), cf. also Sch. Aesch. 1,24 (57b, 58 Dilts). The orator adds that it belongs to the laws of Solon dealing with orderly conduct (1,22 “νόμοι” φησὶ “περὶ εὐκοσμίας”). The same law is quoted in Aesch. 3,4 and the information, that this formula is part of Solon’s laws on the orderly conduct of the orators, appears again in 3,2–3. The law is also mentioned in Plut. Mor. 784c–d *καὶ μαρτυροῦσιν οἱ νόμοι διὰ τοῦ κήρυκος ἐν ταῖς ἐκκλησίαις οὐκ Ἀλικιβιάδας οὐδὲ Πυθέας ἀνιστάντες ἐπὶ τὸ βῆμα πρώτους, ἀλλὰ τοὺς ὑπὲρ πεντήκοντα ἔτη γεγονότας λέγειν καὶ συμβουλευεῖν παρακαλοῦντες*.

Aeschines, however, says that by his time this formula was no longer used: 3,3 *τὰ πρότερον ὁμολογημένα καλῶς ἔχειν νυνὶ καταλέλυται*, 3,4 *σεσίγηται μὲν τὸ κάλλιστον καὶ σωφρονέστατον κήρυγμα τῶν ἐν τῇ πόλει “τίς ἀγορεύειν . . . Ἀθηναίων”*, and in 1,27 he quotes the simplified formula which was in use in his time *τίς ἀγορεύειν βούλεται*. The simplified formula appears also in the plays of Aristophanes (Ach. 45; Th. 379; Ec. 130) and in D. 18, 170 and 191. In Alcid. Soph. 11 the formula is *τίς ἀγορεύειν βούλεται τῶν πολιτῶν*, in E. Or. 885 *τίς χρήξει λέγειν*, while Lucian (Deor. Conc. 1) gives an extended formula *τίς ἀγορεύειν βούλεται τῶν τελείων θεῶν οἷς ἕξεσιν*; (the intention being to exclude foreign and metic gods).

Ruschenbusch, Griffith and Wankel express doubt whether the origin of this law is Solonian²; Goodwin³ on the other hand, with good reason, believes that it was a Solonian law. As Rehdantz and Blass⁴ have pointed out, the verb *ἀγορεύειν* is archaic. It is also remarkable that Aeschines is not content with a vague reference to Solon, but categorically refers to the Solonian law *περὶ εὐκοσμίας*. Against these, the only reason for suspicion towards this information is the general tendency of the orators to attribute various

2) E. Ruschenbusch, *Σόλωνος Νόμοι*, Wiesbaden 1966, F. 101–102; Griffith (above, n. 1) 119–20; H. Wankel, *Demosthenes: Rede für Ktesiphon über den Kranz*, Heidelberg 1976, II 856.

3) W. W. Goodwin, *Demosthenes: On the Crown*, Cambridge 1904, 124.

4) C. Rehdantz – F. Blass, *Demosthenes: Ausgewählte Reden*, Leipzig – Berlin 1909, 110.

pieces of legislation to Solon⁵. This is why I believe that the claim of Aeschines that this law was Solonian should be taken seriously on this occasion.

The concept of respect for seniority was traditional. In Hdt. 7,142 the seniors have the right to speak first. In Aesch. 2,25 we read: ἐπειδὴ γὰρ οἱ πρεσβύτεροι ταῖς ἡλικίας ὑπὲρ τῆς πρεσβείας εἰρήκεσαν, καὶ καθῆκεν εἰς ἡμᾶς ὁ λόγος . . . (cf. 2,47). That happens in 347/6. Demosthenes (4,1) at the beginning of his first speech against Philip apologizes for opening the debate (352/1 B.C.) because of his young age (cf. Sch. D. on or. 4: 1,b.d.h.i; 3b.c; 4 Dilts). Cf. also the beginning of Isocr. 6 (placed in Sparta): Ἵσως τινὲς ὑμῶν θαυμάζουσιν ὅτι τὸν ἄλλον χρόνον ἐμμεμενηκῶς τοῖς τῆς πόλεως νομίμοις . . . τοσαύτην πεποιήμαι τὴν μεταβολήν, ὥστε περὶ ὧν ὀκνοῦσιν οἱ πρεσβύτεροι λέγειν, περὶ τούτων νεώτερος ὢν παρελήλυθα συμβουλεύσω, while Plutarch (Mor. 804b) mentions that when Pytheas the orator objected to the honours conferred to Alexander he was rebuked with a reference to his young age: οὕτως σὺ νέος ὢν περὶ πραγμάτων τολμᾶς λέγειν τηλικούτων; The philosophy of the law which gave priority to senior citizens is described by Aeschines in 1,24: οὐκ ἠγνόει οἶμαι ὁ νομοθέτης, ὅτι οἱ πρεσβύτεροι τῷ μὲν εὖ φρονεῖν ἀκμάζουσιν, ἢ δὲ τόλμα ἤδη αὐτοὺς ἄρχεται ἐπιλείπειν διὰ τὴν ἐμπειρίαν τῶν πραγμάτων . . . ἅμα δὲ καὶ τοὺς νεωτέρους διδάσκει αἰσχύνεσθαι τοὺς πρεσβυτέρους, καὶ πάνθ' ὑστεροῦς πράττειν. In 3,2 he says τοὺς νόμους . . . περὶ τῆς τῶν ῥητόρων εὐκοσμίας ἰσχύειν, ἵνα ἐξῆν πρώτον μὲν τῷ πρεσβυτάτῳ τῶν πολιτῶν . . . σωφρόνως ἐπὶ τὸ βῆμα παρελθόντι ἄνευ θορύβου καὶ ταραχῆς⁶ ἐξ ἐμπειρίας τὰ βέλτιστα τῇ πόλει συμβουλεύειν, δεύτερον δ' ἤδη καὶ τῶν ἄλλων πολιτῶν τὸν βουλόμενον An extensive account of the advantages of age and the reasons for which respect and precedence is due to seniority is given by Plutarch in his work *Εἰ πρεσβυτέρῳ πολιτευτέον*⁷.

Nevertheless, some of the above mentioned passages indicate that an order of seniority was not rigorously observed in the fourth century and that a young person could brush aside such formalities with a few apologetic words, probably carrying no

5) About the unfounded attribution of various laws to Solon by the Attic orators see Ruschenbusch (above, n. 2) p. 53–6.

6) Blass deleted ἄνευ θορύβου καὶ ταραχῆς, presumably because he thought that with σωφρόνως preceding they are pleonastic, but R. B. Richardson, *Aeschines against Ctesiphon*, Boston–London 1889, comm. ad loc., and Ruschenbusch (above, n. 2) F. 101 believe that it belongs to the original text, probably correctly.

7) See also K. J. Dover, *Greek Popular Morality*, Oxford 1974, 102–6.

more weight than a commonplace. The evidence of Aristophanes, suggesting that the simplified formula was in use in the second half of the fifth century, too, is not conclusive⁸, but still, the fact that there is no trace of the older format, could be taken as an indication that it was no longer observed. It seems clear that a rigid format, excluding speakers under 50 until all older speakers had finished, could push aside younger politicians and create resentment and discontent. The obstacles which it would impose are unlikely to have been tolerated by politicians like Cleon or Alkibiades, or even Pericles or Ephialtes (who, considering the short span of his political career, was probably under 50 when he passed his revolutionary reforms).

The existing evidence suggests that probably this law was not enforced throughout the classical period and every likelihood suggests that it was not strictly observed even as early as 462. It is difficult to tell whether a law reform or simply practice produced this change. Weidner⁹ first suggested that *σεσίγηται* of Aeschines implies that the law was never abolished through a constitutional reform but simply fell into disuse. Although the evidence for this is not strong, it seems possible that the law was never repealed, but side-stepped in practice and the herald simply cut down to one question for all citizens. Griffith regards it even as a possibility that the establishment of *ἰσηγορία* in its entirety was a matter of practice rather than specific legislation.

The picture which emerges is this: Solon, apparently in accordance with a long-standing tradition which gave priority to senior citizens, included in his laws *περὶ εὐκοσμίας* the provision according to which senior citizens should speak first and such a format might serve well the Assembly of his time. In later years, however, as the Assembly moved away from the practices of the aristocratic state and closer to the ideals and practices of the radical democracy, such proceedings lost their significance and were ignored. When exactly the simplified formula *τίς ἀγορεύειν βούλεται* replaced the older, full form cannot be exactly specified, but it seems clear that 462 is the latest probable date of this change, while it is not unlikely that this law had ceased to be strictly enforced even before that date. Aeschines refers not to a law which was still in practice only shortly before his time, but to a very old Solonian

8) According to R.J. Bonner (*Aspects of the Athenian Democracy*, New York 1933, 74) Aristophanes' plays suggest that only the short formula was in use in the second half of the fifth century; but cf. Wankel (above, n. 2) II 856.

9) A. Weidner, *Aeschines. Oratio in Ctesiphontem*, Leipzig 1872, ad loc.

text, which had been out of use for over a century. In the Assembly at the time of Pericles and in later years any citizen wishing to step to the tribune would do so whenever he could or whenever he thought that it was best, not hindered by considerations such as his age. The abandonment of the stricter format set by this law signalled the removal of an obstacle for younger and perhaps more innovative politicians to dominate the Assembly and marked the shift towards a new style of a more energetic, impulsive and ambitious leader of the demos, the figure known to us from the texts of the classical period.

University of Glasgow

K. Kapparis