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P.J. RHODES

Ekklesia Kyria and the Schedule of Assemblies in Athens

In Chiron 24, 1994, 135–60,¹ R.M. ERRINGTON argues as follows. (135–9 § I) HANSEN's view that there were three regular assemblies per prytany in Athens in the mid fourth century is «at first sight not wholly implausible, though ... extremely fragile», and any view of a maximum or minimum earlier than that is «wholly speculative». (139–45 § II) The fact that the rubrics *ekklesia* and *ekklesia kyria* first appear in the prescripts of inscribed decrees in 336/5 should be taken seriously, and should lead to the conclusion that the schedule of one *ekklesia kyria* and three other *ekklesiai* in each prytany which we find in Ath. Pol. 43. 4–6 was not long-established but was decided in 337/6 and put into effect at the beginning of 336/5. In the remainder of the paper ERRINGTON proceeds on the assumption that the four-assembly schedule was not preceded by a similar three-assembly schedule but represents an essentially new organisation of the assembly's business.

(146–9 § III) The new schedule «implied a substantial restriction in the freedom of the council and the *prytaneis* to fix the agenda for the *ekklesiai*», in particular a limitation of the opportunities for dealing with *hiera*, *hosia*, *eisangeliai* and *probolai* against sycophants. On the other hand, the provision that each *ekklesia kyria* should include an *epicheirotonia* of the office-holders, and discussion of the food supply and of the defence of the country, ERRINGTON sees as a positive requirement, which would have a particular point in the aftermath of Chaeronea: he compares the anti-tyranny law of 337/6 (SEG 12, 87) and the reorganisation of the *ephebeia* c. 335/4.² (149–51 § IV) The provision for *eisangeliai* at the *ekklesia kyria* he sees as a restriction, forbidding *eisangeliai* at other assemblies; and he suggests that *eisangeliai* to the council may have been limited to charges against of-

¹ I cite this as ERRINGTON. I cite by author's name and short title M.H. HANSEN, Assembly = The Athenian Assembly in the Age of Demosthenes, Oxford 1987; HANSEN, Ecclesia I = The Athenian Ecclesia, Copenhagen 1983; HANSEN, Ecclesia II = The Athenian Ecclesia II, Copenhagen 1989; HANSEN, Eisangelia = Eisangelia, Odense 1975; P.J. RHODES, Boule = The Athenian Boule, Oxford 1972 (revised 1985); RHODES, Commentary = A Commentary on the Aristotelian Athenaion Politeia, Oxford 1981 (revised 1993).

I should like to thank Prof. ERRINGTON and Dr. HANSEN: both read my first draft and helped me to improve on it; Prof. ERRINGTON reacted charitably to my reaction to his article; the opinions expressed here, and any errors, are my own.

² For the date cf. RHODES, Commentary 494–5.

fice-holders (i.e. to the *eisangeliai* specified in Ath. Pol. 45. 2) at the same time. (151–8 § V) There must have been a deliberate decision when this schedule was created to include in it, in the sixth prytany of each year, a preliminary vote on whether to hold an ostracism (Ath. Pol. 43, 5), and that again would have a particular point after Chaeronea. We cannot argue back from this provision to fifth-century practice, but «in the sixth prytany» in Ath. Pol. refers only to the author's own time. (158–60 § VI) There was therefore a major constitutional reform in Athens in 337/6.

Underlying this seems to be the minimalist assumption that what cannot be proved to have happened before a certain date must be assumed not to have happened before that date. If ERRINGTON is right, major revisions of accepted doctrine will be needed; but it appears to me that his own views, if not «wholly speculative», are at any rate «extremely fragile», that there is no good reason to regard the schedule in Ath. Pol. 43 as a total innovation of the 330's, and that accepted doctrines, if not irrefutably correct, still have much to be said for them.

I. *Ekklesia kyria*

I accept it as uncontroversial that the use of the rubrics *ekklesia* and *ekklesia kyria* in the prescripts of decrees begins in 336/5 and is standard, though not invariably present, after that.³ There are in fact not two but four decrees of the last prytany of 337/6 which, like all earlier decrees, lack the rubric.⁴ But here already ERRINGTON's case for an innovation in 336 is fragile. He argues that «a permanent change in the prescript of the decrees always reflects an immediately preceding formal change in the constitutional structure, therefore in constitutional practice» (p. 142). However, the parallels which he quotes concern changes in officials which would be bound to affect what was said in the prescripts of decrees if they rendered what had previously been said incorrect, and even these cases are not in fact entirely straightforward.⁵

The *proedroi* were introduced some time between the 390's and 379;⁶ the new formula «of the *proedroi* N was putting to the vote», τῶν προέδρων ἐπεψήφισεν Δ, could be used only of the *epistates* of the *proedroi*, whereas the old formula «N was *epistates*», Δ ἐπεστώτει, could be used of the *epistates* either of the *prytaneis* or of the *proedroi* (and in fact continued in use alongside the old until the 340's);⁷ until 1972 the earliest known instance of the new formula was in 378/7,

³ And that my «sometimes» in Commentary 523, is too weak.

⁴ IG II² 240, 241, 242 (+ 373), 243.

⁵ Pp. 142–3 n. 31.

⁶ See, e.g., RHODES, Commentary 534.

⁷ Cf. S.B. SMITH, CP 25, 1930, 267. The last instance is perhaps IG II² 225, if correctly restored and dated to 343/2; there are uncontroversial instances in IG II² 212, 213 = Tod GHI 167, 168 (347/6).

and some linked the institution of the *proedroi* with the foundation of the Second Athenian League,⁸ but we now have an instance of the new formula in 379/8 (CSCA 5, 1972, 164–9 no.2), and there is no reason to think that the *proedroi* were instituted immediately before then. The pattern of references to one man and to a plurality *epi tei dioikesei* is not so simple as to justify belief in an alternation between oligarchic periods, when there was a single official, and democratic periods, when there was a board.⁹

The rubrics *ekklesia* and *ekklesia kyria* do not supplant old rubrics which have become incorrect, but give information of a kind that had not previously been given at all. It may be, then, that the decision to include these rubrics does not reflect a change which for the first time made these rubrics possible, but is simply an instance of the tendency with the passage of time to give more information in the prescripts of decrees, and that the relevant parallels are such matters as the change from personal name alone to personal name, patronymic and demotic for the proposers of decrees, and the dating of decrees by the number of the prytany, and the day within the prytany, and the month and day in the archontic calendar, as well as by the name of the tribe in prytany.¹⁰ Another label for particular meetings of the assembly which we sometimes encounter is *ekklesia synkletos*.¹¹ That expression is not found as a rubric in an inscribed decree until 229/8 at the earliest,¹² but it is used by Demosthenes and Aeschines in 343 with reference to 347/6 (Dem. 19. F.L. 123, with the adjective before the noun; Aesch. 2. F.L. 72, with the adjective after the noun). The adoption of a new item of information as a standard item in the prescripts of decrees does not always mean that there has been a constitutional change immediately before, as a result of which that item can now be given whereas previously it could not.

On pp. 143–5 ERRINGTON discusses the attested instances of the expression *kyria ekklesia* earlier than 336/5 – and he stresses that unlike the prescripts of 336/5

⁸ E.g. RHODES, Boule 26–7; abandoned in the revised edition, 306.

⁹ See RHODES, in: *Tria Lustra: Essays and Notes presented to J. Pinsent*, Liverpool 1993, 1–3.

¹⁰ To revert to the institution of the *proedroi*: between 333/2 and the 220's, but not outside that period, many decrees name not only the *epistates* of the *proedroi* but also his *symproedroi* (cf. S. DOW, *Hesperia* 32, 1963, 335–65), but there is nothing to suggest that the beginning or the end of the documentary practice reflects a change in constitutional practice.

¹¹ This is normally assumed to mean an extraordinary meeting, additional to the regular meetings which have to be held (e.g. RHODES, Commentary 521–2). HANSEN has argued that it means a regular assembly summoned in an extraordinary way (GRBS 18, 1977, 46–51 = Ecclesia I, 38–43 + 63; GRBS 20, 1979, 149–56 = Ecclesia I, 73–80 + 80–1; GRBS 23, 1982, 335–7 = Ecclesia I, 87–9; GRBS 28, 1987, 35–50 = Ecclesia II, 177–92 + 193–4); cf. Assembly 28–30; he has been answered by E. M. HARRIS, CQ² 36, 1986, 363–77; AJP 112, 1991, 325–41.

¹² Restored in IG II² 838. Certain and possible instances are collected and discussed by S. V. TRACY, ZPE 75, 1988, 186–8.

and after they give the words in that order.¹³ The epigraphic examples occur not as rubrics in prescripts but in the substance of decrees.¹⁴ In view of that, the fact that they have the definite article while the rubric of 336/5 does not have the article is not significant, and (particularly in the light of the divergence of Demosthenes and Aeschines on *ekklesia* and *synkletos*) the fact that they do not give the two words in the same order as the rubric is probably not significant. One of the texts, IG I³ 49, is most easily reconstructed to state that the first prytany (perhaps the next prytany in office, rather than the first prytany in the year) is to raise a matter in the first of the *kyriai ekklesiai*, first after the sacred business:¹⁵ [τὸς πρυτάνες ἡοὶ ἂν λάχ]οσι πρῶτοι πρυτανεύ[εν — — ἐν τῇ πρώτῃ τῶν] κυρίων ἐκκλησιῶν πρῶτ[ον μετὰ τὰ ἁγιά]. If the restoration is correct,¹⁶ several explanations are possible. One is that the proposer is so concerned to emphasise the urgency of the matter that he is inserting the word *protos*, «first», at every possible point, and has used the word illogically with *kyria ekklesia* even though each prytany has only one *kyria ekklesia*. Another possibility, different in nuance but similar in effect, is that he is ordering the prytany to place the matter on the agenda of «the next» *kyria ekklesia*, without the implication that there is more than one *kyria ekklesia* in a prytany. The explanation which ERRINGTON assumes to be correct is that at the time of this decree there could be more than one *kyria ekklesia* in a prytany and that *kyria ekklesia* here does not mean what it means in and after 336/5.

I should in fact be perfectly happy with ERRINGTON's explanation. Outside Athens, *kyria ekklesia* seems to mean the same as *ennomos* («lawful») *ekklesia* and similar expressions, a regular assembly summoned in the regular way as opposed to an extraordinary assembly or one summoned in an extraordinary way.¹⁷ Like

¹³ No word order for the phrase can be inferred from Ath. Pol. 43. 4: προγράφουσι δὲ καὶ τὰς ἐκκλησίας οὗτοι μίαν μὲν κυρίαν ...

¹⁴ IG I³ 41.37 (446/5 or soon after), 49.8–10 (c. 440–432), 237.13 (410–404). I agree with ERRINGTON that MERITT's speculative reconstruction of 123. 5–6, accepted by WOODHEAD in IG I³, is better left out of account.

¹⁵ For this interpretation of μετὰ τὰ ἁγιά, literally «after the sacred things», cf. below.

¹⁶ HANSEN points out to me that ἐν τῇ πρώτῃ, «in the first», is not normally followed by a genitive plural, and he suggests as an alternative restoration [εἰς τὴν ἐπιοῦσαν τῶν] κυρίων ἐκκλησιῶν, «in the next of the *kyriai ekklesiai*».

¹⁷ In Magnesia on the Maeander the earliest surviving decrees, of the fourth and early third centuries, are enacted in an *ekklesia kyria* (e.g. I.Magnesia 4); the later, from the second half of the third century onwards, in a *nomaia ekklesia* (e.g. I.Magnesia 15); I.Magnesia 5 (second quarter of third century) uses both adjectives. As in Athens, not every decree contains the rubric, but only I.Magnesia 13 (third century?) has a rubric which does not include either adjective: like most of the earlier decrees it states that this was an assembly «of more than 600», and I do not suppose, and I am not aware that anybody has supposed, that this assembly was not *kyria* or *nomaia*. In Colophon AJP 56, 1935, 359–72 no. I, 31–3 (of 311–306), requires a matter to be dealt with in a specified month «in the *kyria ekklesia*». — ERRINGTON, 138 n. 7, is dependent too much on later Athenian practice

many others, I suspect that originally that is what *kyria ekklesia* meant in Athens, that originally *kyriai ekklesiai* were assemblies which the *prytaneis* were required to summon, and that there may have been one regular = *kyria* assembly in each prytany;¹⁸ but that, at the same time as or at some point after the number of regular assemblies had been increased, the Athenians decided to retain the old term with a new meaning, and to make the *kyria ekklesia* the «principal» assembly in each prytany. I should guess that the number of regular assemblies was raised above one per prytany at some time between 462/1 and the end of the fifth century, and I should not be surprised if the adoption of a new meaning for the term *kyria ekklesia* was somewhat later than the increase in the number of regular assemblies, and if there was a time in the second half of the fifth century when there could indeed be more than one *kyria ekklesia* in a prytany.

It should be noted, incidentally, that there were further changes after the number of Athenian tribes was increased in the hellenistic period; and there seem to have been two *ekklesiai kyriai* in the twelfth and last prytany of 303/2¹⁹ – perhaps an exceptional measure to provide an extra *ekklesia kyria* in the last few days of the year.

I shall look at Aristophanes' use of the term *kyria ekklesia* below. At this stage in the discussion I accept that there were *ekklesiai kyriai* or *kyriai ekklesiai* in the fifth century; I do not think the order of the words matters; and, though I do not think it is as certain as ERRINGTON claims, I am happy to accept that the term may not have had the same significance then as it had in and after 336/5.

II. Schedules of business

Next we need to ask how much of a novelty the schedule of assemblies in Ath. Pol. 43 is. The law about *nomothesia* quoted in Dem. 24. Tim. 20–3 cf. 25 is inter-

when he claims that «the adjective only makes sense when there was regularly more than one meeting in each prytany, from which the *ekklesia kyria* is to be distinguished.»

¹⁸ Cf., e.g., G. BUSOLT – H. SWOBODA, *Griechische Staatskunde* 2, München 1926, 987; HANSEN, *Assembly 22*. ERRINGTON, 138, seems to me to carry scepticism too far when he writes, «No evidence suggests that before [the mid fourth century] there was any restriction, either a maximum or a minimum, on the number of *ekklesiai* in a prytany; no source suggests that every group of *prytaneis* was obliged to call even one *ekklesia*.» – Most of what he denies cannot, indeed, be conclusively proved, but the material which I present in § II proves that in some sense there was a maximum before the time of the Ath. Pol. and suggests that there were schedules of regular business before Ath. Pol.; and it seems to me more likely that there was a minimum number of assemblies which had to be summoned before Ath. Pol. than that there was not. Where proof is impossible, we have to resort to conjecture; ERRINGTON's disbelief is no less conjectural than my belief, and we must leave it to readers to judge which conjectures are more likely to be right.

¹⁹ IG II² 498 with addenda; 493, 494. See HANSEN, *GRBS* 28, 1987, 47 n. 33 = *Ecclesia* II, 189 n. 33; also *GRBS* 20, 1979, 156 n. 29 = *Ecclesia* I, 80 n. 29.

puted by HANSEN to mean that at that time (in the 350's)²⁰ there were three regular *ekklesiai* in each prytany, «the three assemblies» including the assembly on the 11th day of the first prytany, at which the *epicheirotomia ton nomon* took place;²¹ by me and by most earlier writers to mean that at that time, as in the time of Ath. Pol., there were four regular *ekklesiai* in each prytany, «the three assemblies» not including the assembly on the 11th day of the first prytany.²² (The fact that the expression *ekklesia kyria* does not appear in this law does not guarantee that at that time *ekklesiai kyriai* of the post-336 kind did not yet exist, since when the expression did denote the «principal» assembly that was not necessarily any particular one in the sequence of a prytany's assemblies.) ERRINGTON in his minimalistic spirit insists that the passage «is concerned with one particular legal procedure ... and with only one prytany», and he supposes that the reference is not to a regular schedule of assemblies but «to procedural rules already mentioned in a part of the law not cited by Demosthenes, which had already mentioned three *ekklesiai*» (136 n. 4).

However, Demosthenes says in 19. F.L. 154 (of 343, referring to 347/6) «since there was no longer any assembly left, because they had all been used up previously», ἐπεὶ δὲ γὰρ ἐκκλησία μὲν οὐκέτ' ἦν ὑπόλοιπος οὐδεμία, διὰ τὸ προκατακεχρησθαι, which makes it clear that there was already in some sense a fixed or a maximum number of assemblies.²³ In § 185 of the same speech he claims that in the Athenian democracy, as opposed to an oligarchy or a tyranny, foreign policy cannot be discussed at a moment's notice, but only after prior consideration by the council, and at the time laid down for heralds and embassies, ὅταν ἡ κήρυξι καὶ πρεσβείας προεγγραμμένον. In that clause he is referring to the council's consideration, but he goes on to say that the assembly must be convened «when (the time) from the laws has come», ὅταν ἐκ τῶν νόμων καθήκη. This passage suggests that there was already a schedule of particular times for particular business, for the council and for the assembly, which specified heralds and embassies among the

²⁰ ERRINGTON, 136 n. 4 and 147 n. 49, dislikes HANSEN's use of the minimalist assumption that what cannot be proved to have happened before a certain date must be assumed not to have happened before that date, to date the introduction of three regular assemblies per prytany to the mid 350's.

²¹ HANSEN, GRBS 23, 1982, 331, 349–50 = Ecclesia I, 83, 101–2; SO 59, 1984, 13–19 = Ecclesia II, 167–75 (with F. W. MITCHEL); Ecclesia II 174 cites the support of D. M. LEWIS; cf. Assembly 23 with 145 n. 156. Some others have favoured an inclusive count, e.g. U. KAHRSTEDT, Klio 31, 1938, 1.

²² RHODES, CQ² 35, 1985, 55 n. 4. This interpretation was first advanced by R. SCHOELL, Sb. München 1886, 100–1, and those who have accepted it include BUSOLT – SWOBODA (above, n. 18), 987 n. 4; D. M. MACDOWELL, JHS 95, 1975, 68 («perhaps»).

²³ HANSEN points out to me that ERRINGTON can only obtain his suggested five rather than four in a prytany (137 n. 6, 159 with n. 86) by combining acceptance of HANSEN's view of *ekklesiai synkletoi* with rejection of HANSEN's view of 18–19 Elaphebolion 346 as a single meeting spread over two days.

business of certain meetings, whether the schedule for the assembly was identical with the schedule of Ath. Pol. 43 or not.²⁴

Aeschines states in 1. Tim. 23, of 345, that after the opening prayers in the assembly the law «orders the *proedroi* to hold a *procheirotomia* about the traditional sacred matters and for heralds and embassies and about secular matters», προχειροτονεῖν κελεύει τοὺς προέδρους περὶ ἱερῶν τῶν πατρίων καὶ κήρυξι καὶ πρεσβείαις καὶ ὁσίων. Aeschines does not say (and for his purposes does not need to say) whether the part of the law which he is quoting refers to all regular assemblies or only to some, but the correspondence between this passage and Ath. Pol. 43. 6, even in the sequence genitive – dative – genitive, is striking, and likewise suggests that Ath. Pol.'s schedule or an ancestor of it existed in the 340's.²⁵ And we can go back further still. Almost the same expression, but with «heralds» and «embassies» clearly distinguished as separate items, and with «the others» instead of «secular», is to be found in the «future» constitution of 411, in Ath. Pol. 30. 5: πρῶτον μὲν ἱερῶν, δεύτερον δὲ κήρυξιν, τρίτον πρεσβείαις, τέταρτον τῶν ἄλλων. Whether differences between this formulation and that of 43. 6 are due to differences between 411 and the 330's or to mistranscription does not matter here. I believe that the constitutions in chs. 30 and 31 were in some sense issued by the Four Hundred, and most of those who do not believe this do still believe that they were drawn up in the late fifth century;²⁶ and if that is right there was an ancestor of the schedule of Ath. Pol. 43 as early as the late fifth century. There are also traces of a schedule of this kind in the fragmentary inscription republishing at the end of the fifth century old laws about the council and the assembly: «[--- first sacre]d, second embassy, third publ[ic ---], [--- πρῶτον μὲν ἱερῶν], δεύτερον πρεσβείαν, τρίτον δεμόσια ---] (IG I³ 105, 47–8).²⁷ The precise schedule of Ath. Pol. 43 may have been introduced in the 330's, as ERRINGTON believes, or in the 340's, as HANSEN believes, but there are good grounds for thinking that there was a schedule of some kind much earlier.

III. A restrictive schedule?

In the opening scene of Aristophanes' *Acharnians* there is a *kyria ekklesia* (19) at which envoys are introduced (43–173), and ERRINGTON stresses that in the schedule of Ath. Pol. 43 envoys are mentioned in connection not with the *kyria ekklesia*

²⁴ Cf. HANSEN, *Ecclesia* I, 63. ERRINGTON, 159 n. 87, does not do justice to this passage (he has perhaps not seen the addenda printed with HANSEN's articles in *Ecclesia* I and *Ecclesia* II).

²⁵ Cf. HANSEN, *Ecclesia* I, 123.

²⁶ See RHODES, *Commentary* 385–9, and works cited there.

²⁷ IG I³ after WADE-GERY, *BSA* 33, 1932/3, 113–22, restores δεμόσια χρήματα ---, «public money», to echo τὰ χρήματα τὰ δε[μόσια ---] in line 44, but it seems better to see in δεμόσια, «public», here another equivalent of ὅσια, «secular», in the fourth-century texts.

but with the two meetings which are available for «other business».²⁸ He assumes that the schedule of Ath. Pol. 43 is restrictive, and that items of business can be introduced only at assemblies for which they are specified, and in the quantity which is specified. If, as I suspect, originally any regular assembly in Athens was a *kyria ekklesia* and the expression was still used in that way in the second half of the fifth century, no problem need arise from the Acharnians even if his assumption is right.

However, I do not think his assumption is right. Not only is Ath. Pol.'s list of specified items not complete,²⁹ but the evidence of inscriptions (of 336/5 and later) shows that matters not among those specified for an *ekklesia kyria* could be discussed and decided at an *ekklesia kyria*, while at any rate one decree which was given the label «for the defence of the country», εἰς φυλακὴν τῆς χώρας, and which was literally concerned with the defence of the country, has the rubric *ekklesia* and not *ekklesia kyria* (IG II² 791, revised SEG 32, 118).³⁰ For Ath. Pol.'s second assembly only supplications are specified, but it seems to me very unlikely that supplications to the assembly were so frequent that it was thought desirable that one of the four regular assemblies in each prytany should not merely contain a guaranteed opportunity for supplications but should be reserved exclusively for supplications.³¹ Ath. Pol.'s third and fourth assemblies contain three items of sacred business, three for heralds and embassies and three of secular business. Men who are honoured are regularly promised access to the council and people «first after the sacred business», πρῶτοις μετὰ τὰ ἱερά. As ERRINGTON remarks (146 n. 46), «it would be absurd to restrict such a privilege ... to two *ekklesiai* in each prytany»: he avoids that conclusion by supposing with E.M.HARRIS that the refer-

²⁸ Cf. the editions of W.J.M.STARKIE, London 1909, 13; B.B.ROGERS, London 1910, xxvi–xxix.

²⁹ Cf. RHODES, Commentary 523.

³⁰ «Other business» at a *kyria ekklesia*: HANSEN, Assembly 27 with 146–7 n. 183. IG II² 791 not at a *kyria ekklesia*: noted by A.REUSCH, De Diebus Contionum Ordinarium apud Athenienses, in: Dissertationes Philologicae Argentorates Selectae 3, Strassburg 1880, 1–138, at 72 (this is the inscription which ERRINGTON, 147 n. 51, after RHODES, Boule, cites as Hesperia 11, 1942, no. 56; it is probably to be dated 244/3, with CH.HABICHT, Studien zur Geschichte Athens in hellenistischer Zeit, Göttingen 1982, 26–33). – Whatever schedules there may or may not have been before the 330's, I note that Athenian envoys reported on their missions at two separate assemblies in the seventh prytany of 368/7 (IG II² 106, 107 = Tod GHI 135, 131), as remarked by P.FOUCAUT, RPh² 18, 1894, 245. In the eighth prytany of 347/6 there were assemblies which dealt with embassies at any rate on the 4th day (this is the assembly which enacted IG II² 212, 213 = Tod GHI 167, 168), on the 14th and the 15th (= 18 and 19 Elaphebolion: my inclination is to regard these as two meetings), and on the 21st (Aesch. 2 F.L. 82–6, etc.). See D.M.LEWIS, BSA 50, 1955, 25–6; HANSEN, Ecclesia I, 69.

³¹ HANSEN, Assembly 27, writes: «There were probably not enough supplications to fill a session of the people and I assume that the *prytaneis* were empowered, in collaboration with the *boule*, to place other items in the agenda for this meeting.»

ence is not to sacred business but to the religious rites at the beginning of each assembly;³² but HANSEN is certainly right to interpret τὰ ἱερά as sacred business, and there is evidence that despite Ath. Pol. 43 sacred business could be raised at an *ekklesia kyria*.³³

It is true that in many states which required a two-stage procedure for the award of major honours the first-stage decree stipulated that the second stage was to follow «at the lawful time», ἐν τοῖς ἐννόμοις χρόνοις (e.g. IK. Iasos 19) or (less often) the second-stage decree declared that the lawful time had come, τῶν ἐννόμων ἑόντων χρόνων (e.g. IK. Kyme 19); and we have seen that Demosthenes says that in the Athenian democracy foreign policy cannot be discussed at a moment's notice, but only at the time laid down for heralds and embassies (Dem. 19. F.L. 185). We must accept that a Greek state could have rules which allowed certain kinds of business to be transacted only at a certain time or at a certain kind of meeting, and that at any rate on one occasion it suited Demosthenes to interpret Athens' provision for heralds and embassies in that way. In general, however, I am sure HANSEN is right to see in the schedule of Ath. Pol. 43 an insistence that certain matters must be raised at certain times, not a ban on their being raised at other times.³⁴ The numbers of items for the third and fourth assemblies in Ath. Pol. 43. 6 may be connected with the mysterious institution of *procheirotomia*,³⁵ and we know from Aesch. 1. Tim. 23 (quoted above) that that institution already existed in 345.

IV. Innovations in 336?

ERRINGTON claims as innovations in 336: in every *ekklesia kyria* the *epicheirotomia* of the officials, and discussion of the food supply and of the protection of the country (147–8); provision for *eisangeliai* in the *kyria ekklesia* only, so that they could not be brought forward at other assemblies (149–51); and a revival of the institution of ostracism, by the inclusion in the *kyria ekklesia* of the sixth prytany of a vote on whether an ostracism should be held in the current year (151–8).

³² E.M. HARRIS, CQ² 36, 1986, 370 with n. 23. ERRINGTON calls this the standard interpretation: it ought not to be, and I do not think it is. Cf. next note.

³³ For Athens the crucial text is IG II² 772 (250's), which shows a matter raised «in the sacred business», ἐν ἱεροῖς, at an *ekklesia kyria*; cf. also the 1224, ab, 17–18 (160's: restored). For elsewhere notice Diod. Sic. 17.113.3; and texts from many states in the hellenistic and Roman periods couple «royal», βασιλικά, or «Romans», Ῥωμαῖοι, with sacred business (e.g. SIG³ 333, Samos; IG XII 8, 640 = SIG³ 587, Peparethus). See HANSEN, GRBS 28, 1987, 42–3 = Ecclesia II, 184–5; the point was made long ago by A. JOUBIN – A. WILHELM, BCH 16, 1892, 101–2 with 101 n. 3.

³⁴ HANSEN, Assembly, 25–8.

³⁵ For different views see RHODES, Commentary 529–31; HANSEN, Ecclesia I, 123–30, cf. Assembly 91.

Certainly deposition of officials during their terms of office was possible before 336, as Pericles was deposed from his generalship in 430 (Diod. Sic. 12. 45. 4, Plut. Per. 35. 4: not stated by Thucydides, but regularly and I am sure rightly believed). Normally we cannot tell whether the deposition occurred as a result of an *epicheirotonia* like that of Ath. Pol. 43. 4, but the *epicheirotonia* is specifically mentioned in [Dem.] 58. Theocr. 27, of 341 or 340.³⁶ It cannot be proved that the food supply and the protection of the country were «agenda-items to be discussed with systematic regularity» (ERRINGTON, 147), but both were matters of long-standing concern to Athens, and there were many earlier occasions which were just as appropriate as the aftermath of Chaeronea for a decision that these items should appear regularly on the assembly's agenda.

Again, the aftermath of Chaeronea was not the first time when it would have made sense to state in the *nomos eisangeltikos* that *eisangeliai* were available against «those who conspired for the overthrow of the demos»: the revision of the laws at the end of the fifth century, after the democracy had been overthrown in 411 and 404, would have been an eminently suitable occasion.³⁷ For the trial of *eisangeliai* HANSEN has established that there was a change in practice, and perhaps an explicit reform, about 360: after that, although cases could be initiated in the assembly, the actual trial never took place in the assembly.³⁸ ERRINGTON guesses that before 336 *eisangeliai* could be initiated in any meeting of the assembly, but afterwards they could be initiated in *ekklesiai kyriai* (as stated in Ath. Pol. 43. 4) and not in other *ekklesiai*. I have indicated above that, in general, I do not believe that the schedule of Ath. Pol. 43 was a restrictive schedule; HANSEN and I have both suggested that the provision for *eisangeliai* at an *ekklesia kyria* may have enabled charges to be laid directly before the assembly without first being submitted to the council, but that *eisangeliai* could be laid before any meeting of the assembly if they had first been submitted to the council.³⁹ There is no evidence to indicate conclusively whether ERRINGTON is right in his restrictive interpretation of what is stated in Ath. Pol., but he himself notes that c. 329 Hyperides was still able to complain of the triviality of recent *eisangeliai*.⁴⁰

HANSEN and I have argued as to whether we should think in terms of *eisangeliai* either to the council (in the case of officials) or to the assembly for major offences, or else of *eisangeliai* to the council and the assembly for major offences, and additionally to the council on a charge of unlawful conduct (μὴ χρῆσθαι τοῖς νόμοις)

³⁶ Date: L. GERNET, Budé ed. of Demosthenes' Plaidoyers Civils 4, Paris 1960, 40–1. I grant that this does not prove that in the 340's there was an *epicheirotonia* every prytany.

³⁷ Cf. T. THALHEIM, Hermes 37, 1902, 342–4; Hermes 41, 1906, 304–9; HANSEN, *Eisangelia* 17.

³⁸ HANSEN, *Eisangelia* 51–5, accepted at any rate for the practice by RHODES, Commentary 525.

³⁹ Cf. RHODES, Boulé 55; Commentary 525; HANSEN, Assembly 188 n. 749.

⁴⁰ Hyp. 4. Eux. 1–9, cited by ERRINGTON, 149–50 n. 57.

against officials, as mentioned in Ath. Pol. 45. 2.⁴¹ ERRINGTON, 146, suggests that *eisangeliai* to the council against officials may represent a new restriction of *eisangeliai* to the council, likewise introduced in 336.⁴² I cannot see the point of such a restriction: *eisangeliai* to the council which were clearly unjustified could presumably be rejected outright by the council, and, if the Athenians were worried about excessive and trivial uses of *eisangeliai*, I cannot see why they should limit those *eisangeliai* which were first considered by a body which met frequently and had less pressure on its time than the assembly.

Ostracism by 336 had not been used for about eighty years. The political wrangling of the years immediately before and after Chaeronea is fairly well documented, but there is no sign in our sources that at that time an ostracism was held or that anybody proposed that one ought to be held. It does not seem inherently likely that in the years before 336 there had not been a requirement to take an annual vote on whether to hold an ostracism, but in 336 a requirement was newly instituted.

On pp. 153–4 ERRINGTON mentions as a parallel the anti-tyranny law of 337/6 (SEG 12, 87): surely the purpose of that law was to add threats against the Areopagus to the existing laws against the overthrow of the democracy, and there was indeed a particular point in that in 337/6, because since the mid 340's the Areopagus had attained a new prominence in Athenian affairs and had been using its prominence to support Demosthenes against his opponents.

On pp. 156–7 ERRINGTON seizes on the difference between «in the sixth prytany» in Ath. Pol. 43. 5 and «before the eighth prytany» in Philoch. 328 F 30, claiming that «the fact that the AP does not lay down the date of the final vote must ... mean that in his time it was not fixed by law», and that Philochorus «wished to draw attention to the fact that the conditions which he as a contemporary knew in his youth were not the historical conditions of the ostracism as it had been introduced and practised in the fifth century», because «he knew that the fixation of the preliminary vote to the *ekklesia kyria* of the sixth prytany ... was a new rule introduced by the reformers in 337/6». This line of argument is very unreliable. The actual ostracism did not take place in an ordinary assembly, and did not take place at all unless an ordinary assembly had first decided that it should take place, and so the absence of the actual ostracism from Ath. Pol. 43. 4 does not mean that in the author's time the point in the year at which it was to be held was not fixed by law. It is entirely possible that the fifth-century law stipulated both a date for the preliminary vote and a date for the actual ostracism, and that

⁴¹ RHODES, Boule 162–71; JHS 99, 1979, 106–14; cf. RHODES, Commentary 525, 541; HANSEN, *Eisangelia* 21–8; JHS 100, 1980, 89–95.

⁴² Despite ERRINGTON, 150 n. 59, HANSEN believes that *eisangeliai* to the council were limited to officials, as long as the term may be taken to cover «citizens performing a public charge» (*Eisangelia* 27).

Philochorus, concentrating on the working of the actual ostracism, did not think it necessary to give the date of the preliminary vote. There is no need to suppose that the two texts are reporting, without omissions, the rules which were in force at two different times.⁴³

There were indeed important changes in Athens in the years after Chaeronea, but neither ERRINGTON's operations on *ekklesia kyria* nor his arguments for particular changes persuade me that he has succeeded in adding to the list.

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⁴³ I have no more desire than ERRINGTON to follow JACOBY in supposing that Philochorus must in fact have given both dates.