

would be transferred to a jury, which would be sworn to consider the legality of the proposal. If an existing psephisma were found to be in conflict with a new nomos, or a new psephisma with an existing nomos, then the psephisma was repealed. The jury had to agree that the proposal was not contrary to the laws.⁶⁶ Thus, the written laws —the nomoi —became the authority against which the decrees of the Assembly were measured, and such a written standard provided a check against attempts to manipulate the decisions of the Assembly using emotional appeals.

To further protect the nomoi, the Athenians also had a way for any citizen to challenge proposed changes to the nomoi. This was expressed in the descriptive phrase *graphe nomon me epitedeion theinai*, a charge (*graphe*) that an unfit written law (*nomos*) had been proposed.⁶⁸ The ability of any citizen to charge that a speaker had proposed an unfit *nomos* was similar to the *graphe paranomon* for a psephisma. Procedurally, however, a psephisma was turned over to legal review only if challenged; a proposed *nomos* required a legal review in every case. The standard by which the sworn jury considered the fitness of the proposed *nomos* was the existing written laws, as well as the general fitness and consistency with accepted standards that a law must possess.

The procedure to change a law worked something like this: at the start of the year the people in Assembly would consider whether they wished to permit the introduction of new laws that year. If they agreed, then a citizen could propose to change a *nomos*, which required the introduction of a new *nomos* to take its place. No *nomos* could be repealed without a new *nomos* to replace it. If such proposals came forth, they were posted in public. A board was appointed, along with a commission of jurymen, to conduct a trial of the proposal. The commission indicted the law, and a jury heard arguments for and against it in the light of existing laws, which were defended by chosen advocates. The point is that the legality of the law had to be examined and cleared before the Assembly could even consider whether the law was desirable. The legal question was to be largely separated from the political question —and the *nomos* was off-limits to changes by the Assembly without legal review.

Orators who argued cases before Athenian juries were not legalistic as in a modern courtroom; their citations of laws and of earlier lawgivers (especially Solon) were often intended to smear their opponents morally. Epichares is “one most debased of all” (*ponerotatos panton*), said Andocides of an opponent, “and desiring to be that way.” But a city is like a man, thought Demosthenes, who said that “debased laws” (*hoi poneroi nomoi*) injure a community. This again suggests the strong connection between moral values and laws. The standardization of the laws, and their inscription in a central place in the polis, amounted to a rejection of the sophistic approach to moral standards, as applied to the rhetorical approaches of public speakers. This rejection was not complete, of course; there was still great latitude for argument, and speeches preserved from the next century are full of obfuscations and rhetorical ambiguities. But the Assembly did not again take the city over the cliff as it had during the war with Sparta—and the sophists did not regain the kind of intellectual or political strength they had held in the late fifth century.

Ultimately, the integrity of the fundamental laws—the anchors for Athenian political life—depended upon the commitment of individual Athenian citizens to those laws, and their willingness to take self-

motivated, self-generated action to challenge attempts to violate those laws. The beauty of the system was that it took a jury review as well as a majority vote in the Assembly to pass a proposal,