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### Majority rule vs. consensus

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## **Majority rule vs. consensus: the practice of democratic deliberation in the Greek *poleis***<sup>1</sup>

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Forthcoming in M. Canevaro, A. Erskine, B. Gray and J. Ober, *Ancient Greek History and the Contemporary Social Sciences*. Edinburgh.

*Finora ci siamo divisi, urtati, lacerati nella stessa discussione del testo costituzionale. Ma vi era uno sforzo per raggiungere l'accordo e l'unità. E ora io sono sicuro che nell'approvazione finale il consenso sarà comune ed unanime e dirò che, al di sotto di una superficie di contrasto, vi è una sola anima italiana. L'Italia avrà una Carta costituzionale che sarà sacra per tutti gli italiani.*

22<sup>nd</sup> of December 1947

Meuccio Ruini, Assemblea Costituente<sup>2</sup>

### 1. Introduction

I take as my starting point for this chapter three remarkable recent books, all published in 2013. These volumes should make those of us that study Greek democracy very pleased with the ‘relevance’ of the object of our research and our passion – at least if we espouse Ober’s and Hedrick’s project ‘of applying insights gained from political and social theory to problems of Greek history, and in turn using the Greek historical experience of democracy as a resource for building normative political theory’.<sup>3</sup>

The first of these books is *Counting the Many: The Origins and Limits of Supermajority Rule*, by Melissa Schwartzberg (a political scientist).<sup>4</sup> This monograph

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<sup>1</sup> I want to thank first and foremost Josh Ober for the many wonderful discussions over the months of his stay in Edinburgh, which have formed the basis of much that I discuss here. I also need to thank Edward Harris, Nino Luraghi, Mogens Hansen, Alberto Esu and David Lewis for many insightful suggestions, and audiences in Edinburgh, Torino, Łódź and Cambridge, MA and London for very productive discussions. The idea for the epigraph was suggested to me, over a lovely dinner, by Maurizio and Gabriella Viroli.

<sup>2</sup> ‘Up until now we have been divided, torn in the very discussion of the constitutional text. But there was an effort to reach agreement and unity. And now I am confident that in the final approval the consensus will be shared and unanimous, and I state that, underneath the surface of the disagreements, there is one Italian spirit. Italy will have a Constitution which will be sacred to all Italians.’

The Italian Constitutional Assembly was composed of 556 delegates, elected, with a strictly proportional electoral system, by 89.1% of eligible voters. They were Catholic-democrats, *liberali* (libertarian conservatives, not to be confused with ‘liberals’), republican-*azionisti*, socialists, communists – they came from all sides of the political spectrum. They started their work on the new constitution in June 1946, and approved the final text in December 1947. They, argued, disagreed, advanced proposals and withdrew them, persuaded and were persuaded multiple times, changed the text and then changed it again, and again. When, finally, it came to the vote, on the 22<sup>nd</sup> of December 1947, the *Costituzione della Repubblica Italiana* was approved with 90% of the votes of the delegates.

<sup>3</sup> Ober-Hedrick 1996: 3.

<sup>4</sup> Schwartzberg 2013.

presents a strong and original argument against all forms of modification to simple majority rule, intended as the use of the majority principle in political decision making. It questions in particular supermajority rules, which have become increasingly widespread in modern constitutional democracies as instruments to protect the rights of minorities against the tyranny of the majority. She argues that simple majority is the only voting system, and the only system of decision making, that fulfils the requirements of the principle of equal respect – all modifications to majority decision making towards supermajority automatically give some votes (and therefore some voters) more weight than others, undermining the equality on which democracy should be founded.<sup>5</sup> In her own words, ‘the individual, counted vote – weighed equally through majority rule – recognizes the dignity of citizens as judges of political matters’.<sup>6</sup> Schwartzberg’s argument develops in new directions the key contention of Jeremy Waldron’s *Law and Disagreement*, and of several others of his works: that checks over simple majority rule are incompatible with democracy.<sup>7</sup> What Schwartzberg adds to this position is however a certain historical depth that helps the normative argument, and this depth is achieved through engagement with the Greek *poleis*, and with Athens in particular: her second chapter makes the important distinction between ‘aggregative’ and ‘acclamatory’ systems of decision making, ‘those that sum the distinct and independent judgments of citizens versus those that seek to capture the view of the community as a whole’. In her interpretation, supermajority, although technically aggregative, derives in fact from consensus and sub-consensus systems.<sup>8</sup> The basis of her case is a long discussion of Greek voting systems, in which she argues that ‘aggregative’ systems based on majority rule were originally typical of aristocracies and oligarchies and connected to the aristocrats’ claims to epistemic dignity. They were introduced elsewhere when Athenian democracy affirmed the epistemic dignity of all citizens, and there they coexisted with more acclamatory forms of voting.

Schwartzberg’s target, supermajority, is a meaningful target because simple majority rule has come in recent years under attack from the advocates of ‘consensus democracy’ and ‘consociational democracy’, based on constitutional mechanisms such as executive power-sharing (e.g. grand coalition), minority veto in government, supermajority, proportional representation of all major groups in elected office.<sup>9</sup> And, as some have argued, counter-

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<sup>5</sup> Schwartzberg recognizes that the argument from equal respect is not the only argument in defence of majority rule – among the most prominent arguments we find the argument from maximization (Dahl 1989: 138), the Condorcet Jury Theorem (on which see e.g. Estlund-Waldron 1989 and Copp 1993), and May’s Theorem (May 1952, proving that majority rule is the only threshold satisfying the key conditions of anonymity, decisiveness, neutrality, and positive responsiveness; cf. Ackerman 1980: ch. 9 and Rae and Schickler 1997). For a discussion of various arguments in support of majority rule see Risse 2004. Recently, Dasgupta and Maskin (2008) have argued that simple majority rule is the most ‘robust’ voting rule, satisfying Pareto’s conditions: anonymity, neutrality, independence of irrelevant alternatives, and decisiveness over a larger domain of preferences.

<sup>6</sup> Schwartzberg 2013: 14.

<sup>7</sup> Waldron 1999a; see also e.g. Waldron 1996, Waldron 1999b.

<sup>8</sup> For the opposition between aggregation and deliberation see Knight-Johnson 1994.

<sup>9</sup> See e.g. Hendriks 2010: 66-85. A key text in this respect is Lijphart 1999, who opposes ‘majoritarian democracy’ (in which a legislature elected by a simple majority of the voters governs until it is thrown out of office by another vote) to ‘consensus democracy’ (involving far greater compromise and significant minority rights). See Andeweg 2000 for a good review of consociationalism and its critics, and for the differences between consociationalism

majoritarian and consociational models of decision making, once typical of supranational organs, are displacing majority decision making also at the level of the nation state.

This very concern is at the basis also of the second book that I want to discuss: *Die Mehrheitsentscheidung Entstehung und kulturelle Dynamik* by Egon Flaig (an ancient historian).<sup>10</sup> This book has attracted a lot of attention among historians, political scientists and theorists, cultural and political anthropologists, to the extent that an entire issue of the journal *Erwägen Wissen Ethik* (2014) was dedicated to a critical analysis of its arguments through forty-eight responses by scholars, historians and social scientists – exactly the kind of cross-contamination of ancient Greek history and the social sciences that Ober and Hedrick auspicated, and that this volume aims to foster. Flaig's very long and very complex book has a powerful starting point: because power is at the centre of the political sphere, and power is expressed primarily through decision making procedures, the systems of decision making are the ultimate measure to assess political systems and political cultures. Flaig builds a strong opposition between systems of decision making based on majority rule, and systems based on consensus. According to him (as according to Schwartzberg), majority rule is the only system of decision making that guarantees absolute equality, eliminating the influence of all forms of social power, and therefore securing the independence of the political sphere. Flaig approaches these issues from the vantage point of political anthropology, and discusses several case studies (e.g. the Slavic tribes, the Germanic tribes, the Navajos) to argue that most societies rely on the principle of consensus in making their decisions collectively. Through a review of anthropological studies of these societies Flaig concludes that, because the principle of consensus takes into account the intensity of one's preferences, and allows for veto power, it inevitably gives rise to economic, social and political advantages for intensive minorities. Because of this, it actually produces inequality, and therefore 'consensus democracy' is effectively an oxymoron. He also argues that because consensus decision making is inefficient, societies that rely on it often are incapable of making decisions, and therefore end up relying on force and coercion.<sup>11</sup>

On the other hand, those societies in which we can identify the autonomous emergence of majority decision making (and he singles out Greece from the eighth century BCE, Rome from the fourth century BCE, the Judaism of the Second Temple, the Old Indian Republics from the fourth century BCE, Iceland from the ninth century CE) made better decisions and more efficiently, and therefore were more successful. Flaig touches upon the other case studies, but the core of his case is based on the reality of the Greek *poleis*, and he tries very hard (if not very successfully) to connect a variety of key phenomena of Greek civilisation to the use of majority rule: from the autonomy of the political sphere, through material and technical investment and innovation, all the way up to the development of rational reasoning and science – they were all connected, and were ultimately due to the widespread use of the majority principle.

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and consensus democracy (Lijphart defines his 'consensus democracy' as 'consociationalism plus corporatism'). Cf. Armingeon's (2002) 'negotiation democracy' characterised by consociationalism, corporatism, and counter-majoritarian institutions.

<sup>10</sup> Flaig 2013.

<sup>11</sup> This is an implicit response to the anarchist argument against majority rule and for consensus, developed extensively in Graeber 2013, my next example. See also Dahl 1989: 50-1 for another criticism of this approach.

The third book is *The Democracy Project: A History, a Crisis, a Movement*, by David Graeber, a famed cultural anthropologist, theorist and activist – one of the leaders of the Occupy Wall Street movement.<sup>12</sup> Graeber's starting point is a narrative of the development of the Occupy Wall Street movement. His contention is that the most interesting features of the movement were not the actual demands it made and the message it spread, but rather the method of democratic decision making that it used consistently and successfully over a long period, and involving huge numbers of participants. This was a development of new modes of direct democracy that anti-authoritarians from around the world have been developing in the last forty years (starting with the anti-nuclear and the feminist movements).<sup>13</sup> It aims to secure collective democratic decision making without any need for coercion, through complex procedures aimed at achieving consensus as the expression of improvisation and creativity, while giving voice (and even veto power) to dissenters. The starting point of such efforts was the realisation of the 'tyranny of structurelessness', to use the title of what Graeber describes as 'the single most important essay in this whole activist tradition', a piece written by feminist and activist Jo Freeman. Freeman realised that as soon as non-hierarchical organisations (her case study were early feminist consciousness-raising circles) that avoid all formal procedures and rules-of-order start to grow in number, informal cliques and small groups of friends progressively take control of information, set the agendas and acquire power. In order to counter this development of informal hierarchical power structures and preserve equality and democracy, complex formal structures and procedures are necessary.<sup>14</sup> The solution employed by Occupy Wall Street (and by thousands of other anti-authoritarian and anarchist organisations) is a form of consensus decision making that relies on competent (and powerful) facilitators and on clear process and rules (involving the use of hand signals for which the movement has become famous) that balance the need to recognise disagreement (through blocks: vetoes) and a commitment to actually reaching consensus in view of a common goal. It is not relevant here to go through these procedures.<sup>15</sup> What is interesting is rather that Graeber proceeds to argue, on the basis of his extensive anthropological expertise, that similar democratic forms of consensus decision making have a long history, and have in fact been very widespread for much of human history. His list of examples (as well as the scholarship provided in support) in fact matches Flaig's treatment of consensus decision making, except, of course, that Graeber argues that consensus decision making is superior to majority rule, which is intrinsically authoritarian and violent. According to Graeber, 'majoritarian democracy', and not 'consensus democracy', is an oxymoron. Within such a framework, one should wonder what the place of Greek democracy is.<sup>16</sup> Graeber cannot ignore it, so he chooses to dismiss it out of hand, claiming that the Greeks practiced voting and majority decision making, and that this is always connected to the exercise of violence and coercion – because Greek assemblies were, at least originally, assemblies of men in arms (he claims), it makes sense that the will of the 50% plus one

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<sup>12</sup> Graeber 2013.

<sup>13</sup> For a hugely influential study of these political forms, which amounts to a first case for deliberative democracy (on which see below), see Mansbridge 1980. See also Mansbridge 1986; Polletta 2002.

<sup>14</sup> Freeman 2002; Graeber 2014: 201-2; Mansbridge 2003.

<sup>15</sup> See e.g. Mansbridge 1980; 2003; Ross 2015; Gould-Wartofsky 2015: 47-52.

<sup>16</sup> Cf. e.g. the work of Fishkin (e.g. 1991; 2009; Fishkin-Laslett 2003) and his engagement with Hansen's treatment of Athenian democracy and the Athenian Assembly. Cf. Hansen 2005: 50-6 for Athens as the model for modern ideas about direct democracy.

would prevail, because the 50% plus one had the numbers and the military might to coerce the 50% minus one.<sup>17</sup>

Despite the different approaches and contentions of these three studies, they have two key features in common. The first, which is interesting, in the context of this volume, from a methodological point of view, is that their main concern is with process and procedures – with institutions, studied (in particular by Schwartzberg and Graeber) first of all formally, in their most minute mechanisms and arrangements. The attention to detail, and the concentration on formal mechanisms, cannot help but reminding Greek historians of the famous studies of the Athenian Assembly and Council by Rhodes and Hansen – of that tradition of study on Athenian democracy that, in Hansen’s definition, was concerned with the ‘morphology’, rather than with the ‘syntax’, of the political system. Ober once criticised this tradition of study and argued that Hansen was concerned with ‘narrowly focused and (to the non-specialist) often abstruse constitutional issues’.<sup>18</sup> He maintained that ‘one must ask not only whether his conclusions correctly answer the questions he has posed, but whether he has posed meaningful questions (i.e., questions with heuristic value for readers)’. This debate and disagreement have had special formative importance for historians of Athenian democracy of my generation. What the studies that I have discussed so far show is that we can indeed ask the source material meaningful questions, with strong heuristic value for readers, and answer them through a careful ‘morphological analysis’, and that our answers can have wide implications on a ‘syntactical’ level, to use Hansen’s terminology. But, in order to do this, we need to engage openly and critically with political theory and the political and social sciences – otherwise ideas and tacit assumptions derived from current political and social thought have a way to creep in, and dictate the answers to our historical questions, not just the questions.<sup>19</sup>

And this brings me to the second key feature that the three studies I have discussed have in common, and, finally, to the topic of this chapter: all three scholars, whatever their starting points and their contentions, hold that decision making in the ancient Greek *poleis* by and large happened by majority. This is a belief that is held as self-evident by most Greek historians, and rarely (if ever) discussed. To give only a few authoritative examples, Rhodes states that in the Athenian assembly, when a motion (or more motions) were presented, ‘the final decision was made by a simple majority’. Hansen holds that city-state cultures (including ancient Greece) were characterized by ‘a political decision-making process whereby laws and decrees [...] were often passed by majority votes after a debate in an assembly’. Liddel states that the Athenian way of ‘solving the problem of how the theory of

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<sup>17</sup> Cf. Mansbridge (1980: 13-14), who in a work on modern consensual forms of democracy accepts (as Graeber) that the normal form of decision making in Greek polities was by majority rule, but then (n. 16 pp. 336-7) argues at length that the Athenians may have had an informal preference for unanimity.

<sup>18</sup> Hansen 1989: 263-9. This article was a response to Ober’s critical review of Hansen 1987 (*CPh* 84, 1989, pp. 322-34). See Rhodes 2003: 43-4, 60-1 on this debate. Ober’s more recent work (in particular Ober 2008: 264-72; 2015: 101, 103, 117-19, 232-6) has a stronger focus on the importance of political institutions.

<sup>19</sup> One key contention of Ober’s review was that there is no such thing as ‘objective’ scholarship ‘without ideological bias’, as Hansen’s studies seemed to suggest. His criticism was typical of the debates on history during the so-called ‘linguistic turn’. For the formulation that theory should provide the historians with questions but not with answers, see Momigliano 1984.

popular rule might be translated into a legitimate democratic reality' was by 'allowing the people to propose or to make decisions by majority vote'. Balot states that 'political debates in Athens were settled by majority vote, full stop'. Gauthier states that 'la plupart des décisions de l'Assemblée démocratique sont prises à la majorité des voix, qui est désormais de règle'. And even Ober, who has stressed in recent years that Athenian democracy was much more than simple majority rule, still holds that it was also characterised by majority rule.<sup>20</sup>

Thus, everyone seems to agree that the standard mode of decision making in the Greek *poleis*, and in particular in democratic Greek *poleis*, was by majority. The issue among historians and social scientists is rather to identify the correct setting for its emergence. In a much cited article of 1984, Ruzé argued that the Homeric poems still show no trace of majority rule, which is however fully established by the Classical period. Ruzé has been (unconvincingly) criticized in recent years by Maffi and Flaig, who both hold that the assembly of *Odyssey* 24.463ff., with the proposition of Euphithes of avenging the death of the suitors, constitutes the first evidence of the functioning of majority rule.<sup>21</sup> Pitsoulis, an economist, advances in an article of 2011 a hypothesis for the rise of majority decision making in the Greek *polis* that, if correct, would fully support Graeber's grounds for dismissing Greek democracy: majority rule affirmed itself in the seventh century due to the appearance of the new hoplitic form of fighting, which increased participation and made consensus decisions unviable.<sup>22</sup> Engaging more thoughtfully with the ancient material, Schwartzberg argues that the rise of majority decision making must be connected with the emergence of 'counted' and 'aggregated' vote.<sup>23</sup> The 'counted', and therefore 'aggregated', vote must have been designed to assess precisely the preferences of those that possessed a superior faculty of political judgement, and should be connected with aristocratic councils. Counting the votes (as opposed to estimating them or deciding by acclamation) equates to taking seriously the political judgement of each member of a gathering, recognising his epistemic dignity. Therefore, majority rule was introduced in non-aristocratic gatherings only with the rise of democracy, which recognised the epistemic dignity of all citizens. Schwartzberg's analysis in particular appears, at first sight, eminently sensible: the practice of counting votes seems to be self-evidently connected with majority decision making – you count the votes to be able to tell where the majority is.<sup>24</sup>

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<sup>20</sup> Rhodes 2010: 62; Hansen 2006: 2, 15; Liddel 2009: 140; Balot 2006: 55; Ober 2008a: 5 and *passim*; 2008b. Hansen 1983: 207-29, in his comparative study of the Athenian Assembly and the Swiss Landsgemeinde, recognises however how pervasive unanimity must have been.

<sup>21</sup> See Ruzé 1984; Pitsoulis 2011: 91; Maffi 2012; Flaig 2013: 178-80. For a recent treatment of the politics of consensus in the *Iliad* see Elmer 2013. One needs to note that there is no compulsion for those that favour Euphithes' proposal to abandon their project of revenge because a small majority disagrees. The majority simply leaves. That the decision of the majority should be binding for all is one of the basic features of majority rule. What we find in this passage is nothing more than the lack of consensus, which induces (but does not compel) Euphithes and his supporters to abandon their plans.

<sup>22</sup> Pitsoulis 2011.

<sup>23</sup> Schwartzberg 2013: 19-48.

<sup>24</sup> Schwartzberg 2013: 28-34 discusses various explanations that have been offered for the emergence of 'counted' votes in Athens, and the use of the *quorum*, and her criticisms are mostly sensible (cf. Hansen 1991: 130 and Vermeule 2007: ch. 4).

My contention in this chapter is the following: the evidence, if properly scrutinised, shows that the idea that the primary mode of decision-making in Greek political assemblies was majority rule is untenable. All the epigraphical evidence we have for counted votes in political assemblies refers to unanimous (or close to unanimous) decisions.<sup>25</sup> A careful analysis of the workings of the Athenian Assembly shows that the guiding principle was in fact consensus, reached through meaningful deliberation. I distinguish here between unanimity and consensus (and argue for them separately) because, although their logics are technically the same, unanimity simply conjures a rule by which the determined opposition of even one single member of a gathering can prevent collective action. Consensus implies instead a deliberative process by which a final proposal for collective action is put forward only after discussion that has identified the prevailing sentiment.<sup>26</sup> The analysis of voting figures at pp. 000-00 shows how pervasive unanimity was in the Greek *poleis*. The discussion at pp. 000-00 argues, by surveying the procedures in place in Athens to achieve consensus, before a proposal could be put forward, that unanimity was in fact the result of a process of consensus creation that involved significant and institutionalised deliberation.

The evidence I study is not new, and the reason for this misguided consensus must be that historians have simply failed to ask the relevant questions of the evidence. They have been conditioned by a long-standing consensus in political science and political thought that democracy and majority rule are one and the same thing, or at least inextricably linked.<sup>27</sup> This consensus has been questioned since the 80s and the 90s in particular by a hugely influential body of political theory and political science literature concerned with deliberative democracy, but this has hardly had any influence on students of Greek democracy.<sup>28</sup> That a historiographical consensus founded on the tacit acceptance of long-standing ideas from political science should form the basis of new normative statements of the superiority (or inferiority) of majority rule is a clear warning that when historians' engagement with the social sciences is not explicit, critical and reflected, the danger is that of cross-disciplinary circular arguments.

## 2. Why did the Greeks count votes? Voting figures from the Greek *poleis*

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<sup>25</sup> Schwartberg 2013: 31 states that 'later inscriptions from the Greek world provide the actual numbers of votes even when the decision is unanimous or very nearly so'. In fact, in deliberative settings, the inscriptions report only unanimous or close-to-unanimous decisions. The best discussion of this material is Gauthier 2011. See below pp. 000-00.

<sup>26</sup> Mansbridge 1980: 32-3. Mansbridge summarises the difference between the two by pointing out that 'people usually adopt [consensus] when they expect to agree, not when they expect to differ'. For thorough discussions of the advantages and disadvantage of, and of the appropriate contexts for, consensus, see Coy 2003 and Mansbridge 2003.

<sup>27</sup> See for influential examples of these universal views (until recently) Sartori 1987: I, 131-41, 225-7; Bobbio 1999: 383-409; Dahl 1989: 138.

<sup>28</sup> For influential collections of essays on deliberative democracy see Bohman and Rehg 1997; Elster 1998; Gutman-Thompson 2004. For general discussions see Cunningham 2002: ch. 9 and Held 2006: ch. 9, who also survey the deliberative democrats' criticism of majority rule as they key form of decision making in democratic systems. For recent reflections on the development of the study of deliberative democracy, and discussions of current trends, see e.g. Mansbridge et al. 2002; Owen and Smith 2015; Elstub, Ercan and Mendonça 2016. For a discussion of twelve key findings of deliberative democracy research see Nicole Curato et al. 2016. See also section 3 on these approaches.



In a recent contribution on the topic of voting figures in the Greek world Todd lists forty decrees of political assemblies which provide voting figures.<sup>29</sup> Two more can be added from the recent publication of new Iasian decrees: Maddoli 2007: 20B ll. 20-2 (with figures for votes in the Council and in the Assembly); Blümel 2007: 2 ll. 39-41 (again with figures both for the Council and for the Assembly),<sup>30</sup> and one from Halaisa (*SEG* 59.1100).<sup>31</sup> My sample here consists therefore of forty-three enactments of political assemblies which report voting figures.<sup>32</sup>

Only four inscriptions record votes against the proposal: one (*Iasos* 23 l. 23), from Iasos, records 70 votes in favour and only 4 against, but is actually a decree of the *presbyteroi*, and not of the Council or the Assembly; another from Keramos, honouring the son of Draco (*IKeramos* 4 ll. 26-8), records 9[5]1 votes in favour and [1]44 against (both partially restored); an honorary decree from Colophon (*SEG* 39.1244 iii ll. 48-51; 120/119 BCE) records 1326 votes in favour and 16 against; finally, an Athenian decree from the first century BCE (*IG* II<sup>2</sup> 1035 with *SEG* 26.121 a+c l. 3) on the restoration of a sanctuary has 3461 votes in favour and 155 against. Of the other thirty-nine relevant inscriptions, twelve state explicitly either that there was no vote against, or that the vote was unanimous.<sup>33</sup> To these inscriptions one may add further texts from Amphipolis, Aineus, Thrace, Macedonia, Aegean Thrace, the Jews of Berenice in Cyrenaica and a phratry of Neapolis in Italy, Larisa in Thessaly, that fail to record a voting figure but state explicitly that the decision was

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<sup>29</sup> Todd 2012: 41-5. Todd actually reports 41 instances, but his A14 (*SEG* 41.687, which he lists as a Coan decree) and A26 (*IKos* ED132b, which he lists correctly under Halicarnassus) are actually the same inscription. Rhodes with Lewis 1997: 510 also wrongly categorises *SEG* 41.687 as a Coan decree, and misses *SEG* 48.1108 (actually from Cos).

<sup>30</sup> *SEG* 41.931, Maddoli 2007: 23.2 ll. 24-6 and 26 l. 19 have the relevant formulas, but the figures have not survived.

<sup>31</sup> Ed. pr. Scibona 2009: 97-112. See also Manganaro 2009; 2011: 52-60. Prag is preparing a thorough edition, and some of his conclusions are anticipated in *SEG* 59.1100; see also Prag 2014 *passim*. The 825 votes in favour (and none against) recorded in this inscription at ll. 32-4 refer to an *άλία* (assembly; and a *βουλή* – Council – of fifteen members is mentioned at ll. 9-14), qualified as ‘those from the sanctuary of Apollo’. The *halia* and the *boule* seem therefore to belong to τὸ κοινὸν τῶν ἱερέων τοῦ Ἀπόλλωνος (the *koinon* of the priests of Apollo), and therefore their members are apparently priests of Apollo. The problem is that such a high number of voters is unheard of for a cultic association, and that all members are clearly Halaisians (825 Halaisian priests of Apollo, while at ll. 4-5 we find two eponymous priests). Manganaro 2009, 2011 and Prag 2014: 167 n. 8 (and in *SEG* 59.1100) sensibly conclude that the votes must be those of the whole citizen Assembly of Halaisa, although there is disagreement about the capacity in which the Assembly enacted (or ratified) this decree of the *koinon* of the priests of Apollo.

<sup>32</sup> I do not include in the list two much debated inscriptions from Hellenistic Gortyn which report that a law on bronze coinage and a treaty with Cnossus were passed with 300 citizens present, because the context is that of an oligarchic city, and because the scholarly disagreements are too substantial to allow for any firm conclusion. Cf. Gauthier 2011: 447-8 with further bibliography.

<sup>33</sup> *IG* II<sup>2</sup> 1053 c-d ll. 11-13; *Agora* 16.335 ll. 65-7; *IG* II<sup>2</sup> 1343b ll. 44-6; *IG* II<sup>2</sup> 1353 ll. 5-6; *SEG* 23.208 l. 29; *IG* XII/3 249 l. 39; *SEG* 48.1112 ll. 47-8 (none against is restored); *SEG* 41.680 ll. 53-5; *IKos* 384 II ll. 18-20; *SEG* 42.1065 ll. 40-2; *IKnidus* 4 ll. 22-3; *SEG* 59.1100 ll. 32-4.

unanimous.<sup>34</sup> Based on these inscriptions alone, we find a decisive preponderance of unanimous decisions, and the few that are not unanimous are not far off: ca. 94% of the vote in favour in the inscription from Iasos, ca. 85% in that from Keramos (if we trust the restorations); ca. 99% in that from Colophon; ca. 96% in that from Athens. It is worth noting that even the ‘purists’ of the Occupy Wall Street movement in Zuccotti Park, when the movement grew, had to fall back on ‘modified consensus’ with a threshold of 90% (and considered at one point a supermajority of two thirds).<sup>35</sup> All the voting figures considered so far, despite falling short of unanimity, would qualify as appropriate in a system based on consensus decision making. And these are all decisions made by secret ballot, which is why the votes can be precisely counted.<sup>36</sup> Secret ballot obviously gives more latitude for disagreements to appear in the vote, and yet the decision is still consensual, and mostly unanimous.<sup>37</sup>

The remaining twenty-seven inscriptions indicate the number of votes but do not explicitly state that the vote was unanimous or that there were no votes against.<sup>38</sup> And yet in all of them there is no trace of votes against, and in the vast majority (eighteen of them) the stone has no room for votes against, which clearly were not recorded. The question is whether we can assume from the absence of recorded contrary votes that either no contrary votes were cast or that the number of contrary votes cast was negligible.

Five of these inscriptions are from Iasos (*Iasos* 28 ll. 4-5; Maddoli 2007: 20B ll. 20-2; Blümel 2007: 2 ll. 39-41; *SEG* 41.929 ll. 34-5; *SEG* 41.932 ll. 10-14).<sup>39</sup> *Iasos* 28 ll. 4-5 is very fragmentary, and reports a number of votes between 90 and 99, which suggests that the setting is the Council. The formula is ἐψηφισμέν[ον ψήφοις —] ἐνενήκοντα (‘decreed with ninety votes’), which can indicate either that the decree was enacted with a certain number of votes in favour, or with a certain number of votes in either direction. The other inscriptions have fuller formulas, mostly provide votes both for the Council and for the Assembly, and conform to the following model: ἐδόθη [ψ]ήφωι κρυφαίαι· ψήφοι αἱ διδοῦσαι ἐν τῆι βουλῆι ὀγδοήκοντα τρ[εῖς], ἐν δ[ὲ] τῶ[ι] δ[ι]ήμ[ω]ι [ὀκ]τακόσiai πεντήκοντα ὀκτώ[ι] (‘[the honours] were given by secret ballot: 83 votes cast [for them] in the Council; 859 in the Assembly’). First, these voting figures come, as we should expect, from votes by secret ballot – votes in *cheirotoniai*, as Hansen has shown, were not counted.<sup>40</sup> Second, because the subject of ἐδόθη

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<sup>34</sup> From the Hellenistic period see e.g. *SEG* 12.373; 2.375; *IG* V 1 1428 with *BE* 09, 302-3. See in general Rhodes with Lewis 1997: 512.

<sup>35</sup> Graeber 2013: 216, 224-25; Gould-Wartofsky 2015: 47-52. See below pp. 000-00.

<sup>36</sup> On the *psephophoria* as a system of voting see Hansen 2004: 47-50.

<sup>37</sup> See below pp. 000-00.

<sup>38</sup> This is the case in Maddoli 2007: 20B ll. 20-2; Blümel 2007: 2 ll. 39-41; *SEG* 41.929 ll. 34-5; *SEG* 41.932 ll. 10-12; *FD* III.1 294 ll. 2-3; *FD* III.4 371 ll. 32-7; *BCH* 64/65 (1940/1) 90b ll. 1-3; *RO* 1A ll. 21-3; *RPh* 39 (1915) 24-8 ll. 20-1; *SEG* 41.687 ll. 5-6; *IEph* 3111 ll. 11-13; *SEG* 48.1108 ll. 15-17; *BCH* 14 (1890) 95 + *NBeiträge* VI 7-9 l. 4; *IMagnesia* 92a ll. 15-16; *IMagnesia* 92b l. 43; *IMagnesia* 94 ll. 14-15; *IG* XI/4 1054b ll. 21-2; *SEG* 9.354 l. 26; *SEG* 26.1817 l. 80; *Iasos* 81 ll. 7-8; *IPriene* 57 ll. 20-1; *ILampsakos* 33 ll. 39-41; Robert *REA* 65: 307 I and II (both unpublished, see Rhodes with Lewis 1997: 356). *FD* III.1 295 l. 1, *Iasos* 28 ll. 4-5 and *SEG* 27.511 ll. 5-6 have no traces of votes against, but it is not possible to tell whether there is enough room for it to be recorded.

<sup>39</sup> See Fabiani 2015: 118. Gauthier 2011 does not consider Iasos, because most of the relevant inscriptions have been discovered or published after his work.

<sup>40</sup> Hansen 2004.

are the honours assigned (normally, in this group, for foreign judges), the ψῆφοι (votes) appear to have been given (αἱ δίδουσαι) in their favour.<sup>41</sup> This is confirmed by the fact that the decree of the *presbyteroi* that we mentioned before (*Ilasos* 23 l. 23) uses the very same formula for the votes in favour, and follows it with an indication of those against, contrasting αἱ δίδουσαι ('those cast' in favour of the bill) with αἱ οὐ ('those not cast' in favour of the bill). The votes indicated must therefore be in favour, and the lack of indication of votes against strongly suggests that these decisions were unanimous. This is confirmed by the very figures indicated: between 68 and 111 in the Council; between 841 (or 758) and 1022 (or 1102) in the Assembly. Diod. 13.104.7 mentions 800 adult males in Iasus in 405 BCE, and the estimates of scholars have normally been in that region.<sup>42</sup> Even allowing for the necessary fluctuations in citizen numbers, it is remarkable that the lowest figures we find for the votes in the Assembly are in the region of 800 votes. Not only these inscriptions show that these decrees were passed with a wide consensus (probably unanimously), but also that more or less every citizen was present.

Five inscriptions from Delphi (*FD* III.1 294 ll. 2-3; *FD* III.1 295 l. 1; *FD* III.4 371; *BCH* 64/65 (1940/1) 90b ll. 1-3; *RO* 1A ll. 21-3) record quite clearly the votes in favour of the proposals. The formulas conform to this model: ὁδ' ὁ τεθμὸς [ὁ τεθεῖς ἐν] ἀγορᾷ τελείω[ι] ἐπὶ Κάδυος ἄρχοντος [σὺμ ψά]φοις τετρακατί[α]ις πεντήκοντα τετόρε[σαι] ('this enactment, enacted in a valid Assembly under the archonship of Kadys with 454 votes'). The clear implication is that the votes with which the proposal is approved are votes in favour. One of these inscriptions (*RO* 1A ll. 21-3) is the law of a phratry, and records 182 votes in favour (with no space for votes against). *FD* III.1 295 l. 1 is very fragmentary and the figure cannot be read. Of the remaining three inscriptions, one records 454 votes in favour, one 353, and one '400 and more'. This last formulation is best interpreted as a reference to a quorum of 400, but it still shows that the votes recorded were those in favour.<sup>43</sup> The fact that the numbers of votes are quite close in the three decrees, and that we never find any mention of votes against, suggests that in all cases the votes cast were about the same as the votes in favour, and the decisions were unanimous or close-to unanimous.

Five inscriptions from Colophon (*Ilasos* 81 ll. 7-8; *IPriene* 57 ll. 20-1; *ILampsakos* 33 ll. 39-41; Robert *REA* 65: 307 I and II; *SEG* 39.1244 iii ll. 48-51) also record single voting figures: 1023, 1270, 1180, 903, more than 1000 (the stele is damaged), and 1342. *SEG* 39.1244 iii ll. 48-51, also from Colophon, has 1326 in favour and 16 against (see above), which suggests that when votes against existed, these were recorded, and therefore that the single voting figures recorded in these inscriptions were unanimous votes in favour. This is confirmed by the fact that the voting figures are all remarkably close to one another, and that they approach the number of citizens that has been reconstructed by scholars for Colophon.<sup>44</sup>

<sup>41</sup> The relevant parallels are those of *SEG* 48.1112 ll. 47-8, *IKos* 384 II ll. 18-20 and *SEG* 48.1110 ll. 30-2 (where the number is lost): ψᾶφοι στερε[α]ὶ δίδουσαι τὸν στέφανον οἱ ψᾶφοι στερεαὶ ἐπιδίδουσαι[ι] τὸν στέφανον.

<sup>42</sup> Bean-Cook 1957: 101; Ruschenbush 1983: 142; Hansen-Nielsen 2004: 1117.

<sup>43</sup> Roux 1979: 69 reads it as an allusion to a quorum, but he sees the quorum as 400 x 2 = 800, assuming that the vote must always have been heavily split. *Contra* Gauthier 2011: 438-41, who agrees that the figure is an allusion to a quorum, but suggests that the quorum must in fact have been 400. The formulas used make it clear that the votes recorded are those in favour.

<sup>44</sup> Ruschenbusch 1983: 141-2.

Three decrees from Halicarnassus record the votes both in the Council and in the Assembly. One (*SEG* 41.687 ll. 5-6; third century BCE) has 100 votes in the Council and 4000 in the Assembly; another (*SEG* 48.1108 ll. 15-17; third-second century BCE) 113 votes in the Council and 3900 in the Assembly; the third (*BCH* 14 (1890) 95 + *NBeiträge* VI 7-9 ll. 4-6; undated) 92 votes in the Council and 1200 in the Assembly. The formulas (e.g. ψηφοὶ ἐγένον[το ἐν τῇ βουλῇ] λῆτι ἐνε[νήκ]οντα δύο, αἱ δ[ὲ] ἐν τῷ δήμῳ χίλια διακ[ό]σαι; ‘there were 92 votes in the Council, and 1200 in the Assembly’) do not give any clear indication of whether the votes were those generically cast, or those in favour. The figures for the Council (100, 113 and 92) suggest that what we have here must be close to the unanimity of the *bouleutai*. The figures of 3900 and 4000 for the Assembly (obviously rounded up) cannot be far off from the unanimity of those that took part in the Assembly – we cannot imagine significantly higher numbers of attendants, if we consider for instance that the quorum in Athens was 6000. The figure of 1200 in the third inscription is certainly troublesome compared with the others, and the inscription has no date (and the part indicating who the honorand was is lost). The figure for the votes in the Council is close to the others, and it is impossible to tell whether the figure of 1200 indicates a heavily split vote or simply low attendance.<sup>45</sup>

Other inscriptions in this group seem to confirm, or at least do not contradict, what we have concluded for the Iasian ones: *IEph* 3111 ll. 11-13, from the minuscule *polis* of Pygela (fourth century BCE), reports that a grant of citizenship was passed with 350 *psephoi* ‘in the same jar’, that is in favour. No votes against are recorded, but the small size of Pygela makes it unlikely that the Assembly was attended by many more than 350 citizens.<sup>46</sup> Two decrees from Theangela (*IG* XI/4 1054b ll. 21-2. 4-6 and *SEG* 27.511 ll. 5-6) report respectively 620 votes and a number beginning with 1000. The formulas here match closely those of Iasos (and Cos), and suggest that the votes recorded were in favour, and that the votes against were either non-existent or negligible.<sup>47</sup> Two more honorary decrees of the first century BCE come from Cyrenaica (*SEG* 26.1817 l. 80; *SEG* 9.354 l. 26). In both cases only the ‘white’ votes, in favour (λευκαί), are recorded: 53 from a *kome* of Cyrene, 109 from Tauchira (Arsinoe)<sup>48</sup>. Again, although we cannot tell for sure whether in the first two cases there were any unrecorded votes against, we can assume that either there were none, or they were negligible enough to allow for inscriptions that give a sense of unanimity.

Three second-century decrees from Magnesia on the Meander (*IMagnesia* 92a; 92b; 94) report 4678, 2113 and 3580 votes, but the formula used in all three (e.g. τῶμ προέδρωμ [ποιησάντ]ων τῆμ ψηφοφορίαν κατὰ τὸν νόμον ψηφοὶ ἐπηνέχθησαν τετρα[κισχίλια ἐξ]ακόσαι ἐβδομήκοντα ὀκτώ; when the presiding officers called the vote by secret ballot in accordance with the law, 4678 were cast’) does not reveal whether these are the total votes or

<sup>45</sup> See Gauthier 2011: 445-6. One should note that because the formula is the same in all decrees from Halicarnassus, if we interpret the figure of 1200 as evidence a heavily split vote, then this means that all the figures must refer to votes in favour, and omit those against (admittedly close to none in the other two inscriptions). This would still mean that the vote in the first two inscriptions was unanimous or close-to-unanimous (given the huge figures provided), and would still leave us with less than 2400 voters in the third, that is, still, with remarkably low attendance that needs explaining.

<sup>46</sup> See Gauthier 2011: 444-5.

<sup>47</sup> See Gauthier 2011: 445.

<sup>48</sup> Cf. also *SEG* 16.931 of the Jews of Berenike, which states that ‘all’ the votes were ‘whites’.

the votes in favour, and whether there were any votes against. What we can tell is that all three figures are high, because six third-century inscriptions reveal that there existed in Magnesia a quorum of 600.<sup>49</sup> Likewise an inscription from Nikopolis in Epirus (*RPh* 39 (1915) 24-8 ll. 20-1) reports, with a very similar formula, that a decree of the Council was confirmed by the Assembly with [1]156 votes (restored). Again, it is impossible to tell from the formula whether these are the overall votes, or the votes in favour (and therefore whether there were any votes against).

Despite the few dubious cases, the vast majority of the inscriptions reporting voting figures (supplemented by a significant number of inscriptions without voting figures but which state that the vote was unanimous) seems to support the contention that most votes in the Greek *poleis* from the fourth century onwards normally ended with unanimous (or close-to-unanimous) decisions expressing the agreement of the community. Not a single one among the inscriptions recording voting figures is evidence of a decision taken, in a heavily split vote, through the application of strict majority rule. Even in those few cases in which we cannot tell whether those recorded are the votes cast or the votes in favour, we still have no mention of votes against. These inscriptions not only record unanimity, but also choose to underline it. This cannot be simply explained away by appealing to the idiosyncrasies of the epigraphic habit and arguing that the Greeks had a tendency to conceal disagreements once the decisions had been made. The dataset I have gathered is not extensive, granted, but it is difficult to dismiss the results I have drawn by postulating some inherent bias. These forty-three inscriptions (to which one can add those that do not report voting figures, but state that the vote is unanimous) come from a variety of different *poleis*, they are not synchronous, and they concern a variety of different matters.<sup>50</sup> It is hard to assume that the same bias, or a consistent epigraphic habit, could account for the preponderance of unanimous (or close-to-unanimous decision) across such a variety of documents, such a variety of contexts, and such a variety of *poleis*. Unless, that is, we found that Greek inscriptions in general never record disagreement. But this is not the case: first, as we have seen, the few votes against are recorded in four cases. Second, seven inscriptions from around the Greek world that unequivocally record voting figures in judicial proceedings all have both the votes for conviction and those for acquittal clearly indicated (and in one case, only the total votes and those against the winning option).<sup>51</sup>

There is in fact one element of bias that unifies the dataset, but this should make unanimous votes less likely, not more likely. These inscriptions all record decisions made by secret ballot, *psephophoria*. Vote by secret ballot, as shown by Hansen, was not the norm in Greek assemblies. The vast majority of decisions were made by show of hands (*cheirotomia*) and the hands were not counted – the *Ath. Pol.* (44.3) tells us that the officials “made a

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<sup>49</sup> See Gauthier 2011: 442-3. Unless, that is, the quorum had been changed in the meantime, but Gauthier doubts it.

<sup>50</sup> There is higher proportion of honorary decrees, but such a higher proportion matches the higher proportion of honours in decrees overall. In Athens, for instance, Hansen (1987: 110) counts for the period 403-322 BCE 488 decrees on stone, 288 of which are honorary. In any case, the inscriptions in my sample are not all honorary (see below pp. 000-00).

<sup>51</sup> See Todd 2012: 45-6 and below pp. 000-00. This suggests that, while in a deliberative setting unanimity was expected and normally achieved, in a judicial setting it was irrelevant – this is a point to which I shall return towards the end of this chapter.

decision on”, or “assessed” the show of hands (τὰς χειροτονίας κρίνουσι).<sup>52</sup> This is why the dataset is so small: whatever the epigraphic habit – in some *poleis*, like Classical Athens, voting figures were never recorded even in cases of *psephophoriai* – only a small minority of decisions were made by secret ballot, and therefore voting figures could be recorded only in a small minority of cases.<sup>53</sup>

Of course, the fact that *psephophoria* was used only in a minority of cases is evidence that there was something distinctive about it (and about the issues for which it was used, which required a secret ballot and, as we shall see, a quorum). It is therefore necessary now to consider what the effects of the fact that our record is limited to *psephophoriai* may be on our data. The purpose of *psephophoria* in Greek political decision making practice has been the object of some debate among scholars. It is clear that its use cannot be connected to the need to count votes precisely in heavily split votes, as the inscriptions discussed above clearly show. The evidence suggests, and Gauthier has convincingly argued on the basis of a thorough investigation of the evidence for quorums from across the Greek world, that *psephophoria* was normally used in connection to the institution of the *quorum*.<sup>54</sup> The requirement of a quorum is attested in several inscriptions from across the Greek world. Sometimes the way in which voting figures are indicated suggests the need to fulfil a quorum – this seems to be the case in Gortyn (*I.Cret.* IV 162, 181, in which we read that ‘300 were present’) and in a Delphic inscription (*FD* III.4 371, which records a figure of ‘400 and more’). In other cases, the quorum is explicitly indicated with reference either to the actual figure or to the ‘legal number’ of votes (e.g. *SEG* 31.985 A ll. 17-22; *IMagnesia* 4, 5, 9, 10, 11, 13; cf. a number of Delphian inscriptions with the formula: ἐκκλησία τελεία, σὺν ψάφοις ταῖς ἐννόμοις). More generally, Gauthier argues that the general correspondence of recorded voting figures, secret ballot, and quorum allows us to generalize from the presence of the first two to the existence of the third: if secret ballot was used (and we know it was when voting figures are recorded), we should assume that there existed the requirement to fulfil a quorum. The Athenian evidence supports this contention: in Athens secret ballot was used in the fourth century BCE in two circumstances: to ratify, with a *quorum* of 6000, naturalisation decrees enacted by *cheirotomia* in the previous Assembly meeting ([Dem.] 59.89-90);<sup>55</sup> and to allow, again with a quorum of 6000, matters concerning *atimoi* and state-debtors to be discussed and decisions about them to be made in the Assembly (Dem. 24.45).<sup>56</sup>

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<sup>52</sup> See Hansen 2004 and Gauthier 2011. Hansen compellingly shows that the votes were not counted, but because he still assumes that the *cheirotomia* resulted mostly in split votes, he reads κρίνουσι in the sense of assessing the hands, without counting them, to identify the majority. This was probably the case in some instances (see below pp. 000-00), but in most cases (if my reconstruction in this chapter is correct) the *proedroi* would simply assess the hands to decide (κρίνουσι) whether the proposal was approved – they would formally record the consensus expressed in the *cheirotomia*. The expression τὰς χειροτονίας κρίνουσι, read as Hansen does (to exclude counting hands) does not necessarily indicate majority rule, but simply the task of the *proedroi* to assess the *cheirotomia* and formalise the decision it expressed.

<sup>53</sup> Pind. *Nem.* 8.27 reports a mythical instance of decision by secret ballot, on whom to award the arms of Achilles to.

<sup>54</sup> Gauthier 2011; cf. Hansen 2004: 48-50.

<sup>55</sup> On this procedure see Osborne 1983: 161-3. See also Hansen 1983:10-12 and Gauthier 2011: 427-8.

<sup>56</sup> On this document, which is reliable, and the procedure of *adeia* see Canevaro 2013: 127-32. Hansen 1983: 10-12, 1987: 15-16, Gauthier 2011: 427-8 add to these two cases the

But the exact connection between secret ballot and *quorum* is not straightforward. The reason for the use of secret ballot cannot have been simply the need to count the votes precisely to ensure that the *quorum* had been reached. In Athens, when the citizens arrived at the Assembly place, each citizen was given a token that they had to hand back in exchange for the pay after the Assembly.<sup>57</sup> The *syllogeis tou demou* who handed out the tokens would know that the *quorum* had been reached when 6000 tokens had been handed out. A subsequent *psephohoria* would be superfluous if checking that the quorum was present was the sole purpose.<sup>58</sup> Hansen correctly points out that the reason for the vote by secret ballot cannot be to guarantee the secrecy of the vote in decisions that regard individuals either. In Athens, in both the instances in which the vote by secret ballot was used, it was not the only one: in naturalisation decisions it was only a vote of ratification, but the initial approval had been reached by *cheirotomia*, which allows for no secrecy; and in the case of *adeia* the vote was only on whether the debate should take place, but the actual vote on whatever measure was enacted was held by *cheirotomia*, so, again, without any secrecy.

Gauthier sensibly concludes from the evidence that the purpose of the quorum was to stress the unity of the *polis* by giving the strong impression that the totality of the citizens was present. The secret ballot not only allowed to check that the quorum had actually been achieved, but provided an actual record of the wide agreement on the particular measure approved. The need for this must have been particularly strong in the case of sensitive decisions, or decisions on matters that were institutionally singled out as of particular concern for the *polis*. That the figures required for the quorum often do not match the actual number of citizens does not undermine this interpretation: there is evidence that these figures were traditional and had a strong symbolic meaning, and remained unchanged over long periods of time. For instance, the quorum of 6000 found in Athens in the fourth century BCE is the same that was required in the fifth for the *ostrakophoria* (Plut. *Arist.* 7.6),<sup>59</sup> and corresponds to the total number of citizens that could be fitted in the Pnyx in the fifth century (and for most of the fourth).<sup>60</sup> So quorum and secret ballot were instruments used by the Greek *poleis* to prevent a certain kind of arguments against the decisions of an Assembly, one that is reported quite eloquently in a famous passage of Ps.-Xenophon about the trustworthiness of the decisions of democracies vis-à-vis oligarchies (*Ath. Pol.* 2.17): ‘whatever agreements the populace makes can be repudiated by referring the blame to the one who spoke or took the vote, while the others declare that they were absent or did not approve of the agreement made in the full assembly’. This is of course an extreme case, and Ps.-Xenophon is not known to be terribly objective when it comes to Athenian democracy, but the question of whether a decision of the Assembly is binding on those who were not present or on those who were against it is (at least theoretically) a significant one. The institution of the quorum was meant to remedy, for particular decisions, the very possibility of such arguments: it symbolized the

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requirement of a quorum of 6000 to enact a *nomos ep'andri*, but the only evidence for this third case comes from two unreliable (and contradictory) documents found at Dem. 24.59 and Andoc. 1.87, which are however forgeries (see Canevaro 2013: 145-51).

<sup>57</sup> Hansen 1991: 142 with n. 181.

<sup>58</sup> I owe this point to a fruitful email exchange with M. H. Hansen.

<sup>59</sup> See Thomsen 1972: 66 n. 23 and Rhodes 1981: 270-1.

<sup>60</sup> The second-phase Pnyx (from 400 to 340 BCE) could host 6500. See Hansen 1983: 212-13 with further bibliography.

participation of the whole citizen body, and recorded through the secret ballot the agreement around the proposal adopted.<sup>61</sup>

But how was this agreement achieved? Gauthier correctly argues that the recurrence of unanimity should not be interpreted as a sign of political apathy.<sup>62</sup> He then states, however, that ‘certes, [...], la plupart des décisions de l’Assemblée démocratique sont prises à la majorité des voix, qui est désormais de règle’.<sup>63</sup> In his reading, therefore, unanimity and consensus are typical of, and more or less limited to, the kind of decisions that were made by secret ballot and with a quorum – most other measures were approved by majority decision with *cheirotoniai*. Yet his actual argument only explains why the quorum was needed (and what the role was of secret ballot within the institution of the quorum). It has no bearing on the kind of decisions made in *cheirotoniai*. It does not show that what was distinctive about decisions made with a quorum was unanimity, only that a stronger need was felt to *record* this unanimity. Nor does it show that *cheirotoniai* were characterised by majority rule. The only reason for which he states that *cheirotoniai* involved majority rule is that this is normally assumed by scholars to be the case. Rhodes also agrees that ‘unanimity or near-unanimity is not a sign that the assembly was not taking its decision-making duties seriously’, but then proceeds to argue that on the occasions in which the secret ballot was used and unanimity is found ‘the decision was often not controversial’ – occasions ‘such as the honouring of a major benefactor’.<sup>64</sup> This explanation is however not convincing for several reasons.

First, it is far from clear why honouring a major benefactor should constitute an uncontroversial decision. This is certainly not the impression we get from Athenian fourth-century sources. Liddel, in an important contribution, stresses that the Athenians show considerable moral and practical anxiety with the conferment of honours, and that ‘the evidence of lawcourt oratory suggests the view that the proposal of honours at the assembly was frequently an exercise with significant political implications; consequently, their proposal was often viewed as controversial and provoked sustained opposition’.<sup>65</sup> To give only a couple of examples, Aeschines (3.180) exhorts the Athenians to think of themselves as *agonothetai* of political virtue, and warns them of the dangers of awarding honours to those who seek them. Aeschines then proceeds to compare his contemporaries’ proclivity to award honours with the restraint of the Athenians of old. This is an argument used also at the end of Dem. 23, and must have been so successful that it was used again in [Dem.] 13.<sup>66</sup> Demosthenes’ *Against Leptines* is a protracted defence of the honour system against an attack that had effectively attempted to make the very possibility of awarding a particular honour (*ateleia*) illegal.<sup>67</sup> One should also note that the majority of cases of *graphe paranomon*

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<sup>61</sup> Thus, its purpose was not simply to avoid that important decisions may be taken by a minority due to low attendance – this is the role of quorum discussed for modern democracies by Vermeule 2007: 119, 128-30.

<sup>62</sup> See below pp. 000-00 on the issue of unanimity as a sign of political apathy.

<sup>63</sup> Gauthier 2011: 453. Cf. also Flaig 2013: 300-12.

<sup>64</sup> Rhodes with Lewis 1997: 511.

<sup>65</sup> Liddel 2016. See also Canevaro 2016: 77-97 and *passim*; Hansen 1987: 115; 1991: 314.

<sup>66</sup> The two speeches have significant overlaps (Dem. 23.196-202 and [Dem.] 13.21-5). Usher 1999: 215 n. 158 suggests that whoever wrote [Dem.] 13 had Dem. 23 as his source. MacDowell 2009: 226 more convincingly suggests that the author of [Dem.] 13 was not just copying but revising the previous argument of Dem 23.

<sup>67</sup> See on this speech Canevaro 2016.



mentioned in Athenian sources are brought against honorary decrees. Hansen lists 39 cases: in 6 cases we cannot even guess the contents of the decree; in 15 cases the decree indicted is not honorary; in 18 cases it is honorary (these include all the cases for which a full speech is preserved).<sup>68</sup> This is strong evidence that honorary decrees were far from uncontroversial.

Second, although the majority of inscribed decrees that preserve voting figures are honorary decrees, this is not the case for all of them: *IG II<sup>2</sup> 1035* concerns the restoration of sanctuaries; *IG II<sup>2</sup> 1053* and *Agora 16.335* concern the Lemnian cleruchy; *FD III.1 294 ll. 2-3* is a law on interest payments; *BCH 64/65 (1940/1) 90b ll. 1-3* is a law on obligations to parents; *RO 1A ll. 21-3* is a law of the phratry of Labyadai in Delphi on receipt of sacred offerings by officials (several others are too lacunose for us to guess the topic).

Third, it would be perverse for the Greeks to reserve (as Gauthier suggests) voting by secret ballot to those very matters they deemed to require a unanimous vote showing widespread agreement, while matters for which wide agreement was not necessary and which were decided by a simple majority vote went through *cheirotomia*. As Brennan and Pettit have argued, secret voting provides minimum incentive for voters to vote responsibly and consensually: because, when they vote by secret ballot, they have no need to vote in a discursively defensible manner, there is no force to counter ‘pressures that make for ill-considered or symbolically motivated voting’, to suppress prejudice or whim, and to induce the voter to take the public good into account.<sup>69</sup> However strong the ideological, political and social pressures may be in favour of a unanimous vote expressing the agreement of the community on a given matter, the vote by secret ballot has the power to suppress them by making the voter unaccountable. In such a context, achieving unanimity or close-to-unanimity is particularly difficult, because any kind of reason may induce a certain number of voters to vote against a proposal – in the case of honorary decrees, even just personal antipathy or envy. The only force that may help the community to achieve an agreement wide and strong enough to secure a unanimous secret vote, in the absence of coercion, would be abundant and thorough debate to prepare the vote right before it is cast, and yet the Athenian evidence (the only evidence that illustrates the mechanics of *psephophoria*) shows that *psephophoriai* (when a quorum, and therefore widespread agreement, were required) were not preceded by debates. Both in cases of naturalisation and in cases of *adeia* the secret votes were cast before the Assembly had even started, when the citizens were first entering the Pnyx, with no preparatory debate. In the case of naturalisation decrees, the debate took place several days before, at the previous Assembly meeting, and it preceded a vote by *cheirotomia* that approved the measure ([Dem. 59.89-90]).<sup>70</sup> The *psephophoria* before the next Assembly meeting did nothing more than ratifying the decree approved at the previous meeting.

It is unlikely that the Athenians (and the other Greeks in analogous cases) could be consistently relied upon to approve unanimously (or close-to-unanimously) in secret votes decrees that had been approved by simple majority voting with *cheirotomia* by heavily split

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<sup>68</sup> Hansen 1974.

<sup>69</sup> Brennan-Pettit 1990: 327; see also Elster 1997: 11-13; 2007; Engelen-Nys 2013. Already John Stuart Mill, in his *Considerations on Representative Government* (ch. 10), had noted that open voting promotes the common good, whereas secret voting promotes individual interests.

<sup>70</sup> Hansen 1983: 10-13, 117 n. 33, 194-5; 1987: 16-17; cf. Gauthier 2011: 429-30.

assemblies.<sup>71</sup> The opposite is more likely: that a decree approved apparently unanimously in a *cheirotonia* should be rejected, or meet with a very split vote, in a *psephophoria*. If the Greeks, as seems to be the case, prized widespread agreement and unanimity to the extent that they relied on them even in votes by secret ballot, then, *a fortiori*, the roots of such an agreement must be found in the Assembly debates and in the agreement achieved in regular *cheirotoniai*. It is hard, on the one hand, to believe that unanimity was a feature of votes by secret ballot cast when a quorum was necessary, and, on the other, to hold that in normal *cheirotoniai* majority decision and split votes were the rule.<sup>72</sup>

### 3. The process of consensus creation: deliberation and voting in the Athenian Assembly

The evidence of counted votes from Greek political assemblies shows that unanimity or close to unanimity was the rule, rather than the exception. Because vote by secret ballot (*psephophoria*) is eminently ill-suited to achieving unanimity, the mechanisms that produced such a wide spread appearance of unanimity must be found in the processes that led to the *psephophoriai*, and in particular in the procedures that led to normal votes by show of hands (*cheirotoniai*) in political Assemblies. We need to assume that these procedures were capable of producing consensus, which was expressed in the *cheirotoniai*, and was then preserved in the *psephophoriai*. Because the evidence for such procedures is particularly extensive for Athens, Athens will constitute the test case in this section. I shall analyse the deliberative procedures that governed debate and decision making by vote (*cheirotonia*) in the Athenian Assembly, to show that it is possible to identify an institutional concern with extensive and open deliberation and consensus creation. I shall then discuss briefly some of the evidence for the amount of support that measures enacted by the Assembly after debate usually achieved.

But before delving into these matters, and in order not to prejudge the analysis by simply assuming, on the force of my dataset for *psephophoriai* from around the Greek world, that unanimity was also practiced (and central) in Classical Athens, I shall briefly discuss one important mechanism that shows the pervasiveness of unanimity: the *procheirotonia*. Once the Athenians were seated in the Assembly, after the ritual purifications, the prayers, the

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<sup>71</sup> This would be theoretically possible in some particularly high-stake votes, where, whatever the initial disagreement, after the initial decision by majority rule in the *cheirotonia*, because the cost of disunity is very high, strategic behaviour would be perceived as potentially very costly also for the individual specifically. Yet the range of topics covered by our record of unanimous (or close-to-unanimous) *psephophoriai* is too diverse to postulate that this condition applied across the board, and that the stakes were uniformly so high.

<sup>72</sup> My last objection, as observed to me *per litteras* by Josiah Ober, would lose part of its strength if the decision to require a quorum and secret ballot (because a recorded expression of unity was seen as essential) could be reserved to specific cases in which officials and the *demos* were in fact confident that unanimity would be expressed. Yet it is worth stressing that officials (and the *demos* itself) did not have discretion on whether (and when) to require a quorum and use secret ballot, and therefore did not have the ability to reserve these for specific cases. The need for a quorum and secret ballot (as shown by the Athenian case) was mandated by the laws for particular kinds of enactments, and for these enactments quorum and secret ballot could not be avoided. In the interpretation I question here, the Greeks would have devised an arrangement which reserves (and mandates), for those very matters that are deemed to require a unanimous vote, the voting system less suited to producing unanimity. This would indeed be perverse. On the other hand, in my reconstruction, the relevant officials and the *demos* could indeed be confident that unanimity would be expressed, because it had already been expressed in the previous *cheirotonia*.

curses and the offerings, and before the debate started, the *proedroi* (presiding officers, see below pp. 000-00) proceeded to a *procheirotomia* (a preliminary vote).<sup>73</sup> No matter could be debated (and no vote could be cast on a matter) on which the Council had not previously deliberated, and about which a preliminary decree of the Council (*probouleuma*) had not been passed.<sup>74</sup> The Council, after discussion, enacted two kinds of *probouleumata*: open *probouleumata*, that introduced a matter for the consideration of the Assembly without making an actual proposal on what should be enacted; and closed *probouleumata*, fully worked out decrees to be submitted to the Assembly for approval.<sup>75</sup> Closed *probouleumata* that were approved at the *procheirotomia* were simply enacted without debate, whereas those that were rejected were brought up again during the debate for new and amended proposals to be made. The strongest argument in favour of this reconstruction is the sheer number of measures that must have been enacted by the Assembly, which makes it impossible that all of them (or even most of them) could have been debated with multiple speeches and proposals.

Hansen convincingly argues that the *procheirotomia* provided an expeditious way to approve closed *probouleumata* that commanded universal agreement, expressed through a unanimous vote, whereas whenever even one hand was raised against the *probouleuma*, the matter had to move to the debate stage of the Assembly, and discussion and proposals would eventually result in a non-*probouleumatic* decree.<sup>76</sup> On the one hand, the use of *procheirotomia* is first-hand evidence of the importance of unanimity in Athenian decision making, which matches the evidence for unanimous or close-to-unanimous votes (by *psephophoria*) in the rest of the Greek world. On the other hand, in this procedure the Assembly seems to rely on, and ratify, decisions based on deliberation performed previously in the Council, without further debate and deliberation of its own (in a way that resembles *psephophoriai* that ratify without further debate decisions made after deliberation at a previous Assembly meeting).

Rhodes's study of *probouleumatic* formulas reached the conclusion that, across the fourth-century as a whole, around half of all the decrees enacted by the Athenian Assembly were *probouleumatic*, and were therefore probably enacted unanimously at the *procheirotomia* without debate (that is, on the force and on the authority of the debate that had been carried out in the Council, run with procedures very similar to those found in the Assembly).<sup>77</sup> This alone makes the notion that the Assembly passed its enactments by majority rule partial at best. In an important recent contribution Lambert reviews the evidence for the period from 352/1 to 322/1, and finds that the balance of *probouleumatic*

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<sup>73</sup> See Hansen 1987: 90-1.

<sup>74</sup> The Council of Five Hundred, selected by lot every year from the whole Athenian citizenship, according to deme quotas, met more or less every day, and discussed in detail all matters that were then passed on to the Assembly, and some that were not. See in general Rhodes 1972.

<sup>75</sup> [Arist.] *Ath. Pol.* 45.4; Dem. 22.5; Dem. 24 *hypoth.* 1 with Rhodes 1972: 52-82. See also de Laix 1973 and, synthetically, Hansen 1991: 208-211.

<sup>76</sup> This interpretation is advanced in Hansen 1983: 123-30, supported now by most scholars. For other interpretations (all convincingly rejected by Hansen) see Wilamowitz 1893: II p. 253; Lipsius 1896; Rhodes 1981: 530. The main sources for *procheirotomia* are Aeschin. 1.23, [Arist.] *Ath. Pol.* 43.6; Dem. 24.11 and Harp. *s.v. procheirotomia*.

<sup>77</sup> Rhodes 1972: 68-81. See below pp. 000-00 on Aeschin. 3.2-6, who discusses together Assembly and Council in connection with deliberative procedures and the role of the *proedroi*.

decrees (enacted in a unanimous *procheirotonia*) vis-à-vis non-probouleumatic ones (enacted after extensive debate and deliberation in the Assembly) is in this period much more skewed in favour of the latter (27 probouleumatic decrees; 64-73 non-probouleumatic ones, plus, possibly, another 10; 11 non probouleumatic riders).<sup>78</sup> The evidence of these studies affords us two preliminary conclusions: first, that unanimity was in fact valued and practiced in fourth century Athens, as it was, throughout the Hellenistic period, in the cities discussed in the previous section; second, that the Assembly valued first-hand deliberation and debate and practiced it extensively, without leaving it primarily to the Council or to other institutions.

If unanimity or close-to-unanimity was valued and common in Greek political assemblies, the question is, of course, how this was achieved. Possible answers are that it was the result of direct coercion (and debate and deliberation were a fiction), of widespread inequality in political power, of the absence of true discussion or of multiple proposals because of an apathetic political membership, or of the unquestioned power and authority of a superimposed body (in this instance, the Council) or elite.<sup>79</sup> In this section, I argue that it was for the most part the result of deliberative procedures and institutions meant to foster debate, exchange of points of view and ideas, reasoned arguments, and geared towards reaching, ultimately, consensus. These procedures were the key presupposition for the legitimacy of the democratic system.

The mechanisms and procedures that I shall outline are in fact remarkably compatible with democratic deliberation as has been defined, studied and tested in the last thirty years by deliberative democrats,<sup>80</sup> on a scale however (and at a level of pervasiveness) that makes even the experiments with big crowds of Occupy Wall Street pale in comparison. My purpose is not to test Athenian democracy and Assembly procedure against some normative account of deliberative democracy (and there is much disagreement about what such an account should look like). I rather intend to analyse the workings of the Athenian Assembly, as a historian, with an eye to its deliberative features, to the problems they entailed and to the solutions that were devised. For the political scientist, historical analysis here takes the place of direct observation, and can contribute to the definition of the issues identified by deliberative democracy literature, as well as to providing, inductively, insights on how deliberative democratic procedures do or do not work, at a scale and with levels of political participation much higher than the contexts normally studied by political scientists.<sup>81</sup> For the historian, the set of questions and findings of deliberative democracy studies, side-by-side

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<sup>78</sup> Lambert (forthcoming), ch. 9.

<sup>79</sup> None of these options can really be the case for Athens, whose state institutions were ‘popular’ through and through, and where the power was unquestioningly in the hands of the *demos*. See Canevaro (2016c: 000-00) for a discussion of the alignment of Athenian political institutions with the ‘popular’ element of the *polis* (and for abundant reference to scholarly discussions).

<sup>80</sup> See pp. 000-00 n. 28 for some basic bibliography.

<sup>81</sup> Cf. e.g. Steiner 2012 for an account of what empirical research can contribute to the study of deliberative democracy. See Mansbridge et al. 2006 for an inductive approach to deliberative democracy.

with the reflections of anthropologists, activists and practitioners on consensus deliberation,<sup>82</sup> can help look at the workings of the Athenian Assembly with fresh eyes.<sup>83</sup>

One remarkable passage that illuminates, at the level of the actual political practice, the Athenian approach to democratic deliberation and to its consequences for the health of democracy is the opening of Aeschines' *Against Ctesiphon* (3.2-6). This passage shows a remarkable concern with procedure that parallels that expressed by much deliberative democracy literature, as well as by activists and practitioners of consensus deliberation.<sup>84</sup> Harris has stressed that in this passage, as in many others, the main safeguard against the dissolution of democracy are the laws of the city.<sup>85</sup> The dissolution of the city that the laws are meant to ward off is remarkable in that it is described as a breakdown of orderly democratic deliberation. Aeschines wishes that the meetings of the Council and of the Assembly were properly run by the *proedroi* in charge of them, and that the laws on the conduct of public speakers were properly enforced. The crisis of democracy is described as the breakdown of the clear deliberative process that is necessary to successful deliberation, and this is due to the *proedroi* (whose role, as we shall see, is akin to that of the facilitators in modern forms of consensus deliberation) not running the meetings according to the rules, and to the speakers behaving illegally and not being sanctioned for it.<sup>86</sup> As a result of this, for

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<sup>82</sup> Summarised for instance in Graeber 2013 (and studied extensively e.g. in Mansbridge 1980; 2003; Coy 2003).

<sup>83</sup> Hansen 1983: 207-29 attempted to do just that when he used the meetings of the Swiss Landsgemeinde as a comparative model to understand the workings and procedures of the Assembly. The Landsgemeinde provide us however with a rather partial perspective, because, although their direct democracy credentials are unassailable, their deliberative credentials are less clear, and majority rule is there institutionalised. There is no doubt that their decisions are made by majority rule, which is the result of a conscious development – this rule was actually introduced at a particular point in time. In Glarus, it was decided that the minority should follow the majority on the 11<sup>th</sup> of March 1387, a date that Flaig (2013: 524 n. 56) marks as the return of real democracy (i.e. pure majority rule) in Europe (cf. Kopp 1959: 8; 13-36).

<sup>84</sup> E.g. Habermas 1997 and Cohen 1997; cf. Gutmann and Thomson 2004: ch. 3 for criticism of procedural conceptions of deliberative democracy. Of course, Aeschines' approach works at a very different level of generalisation and theoretical awareness, but the implication of the passage is that good deliberation and good decision making equates to adherence to the correct procedures. The same approach is found elsewhere in the orators, for instance in Dem. 24.17-33 and Dem. 20.87-102, about *nomothesia*, where the procedural infractions of Timocrates and Leptines are understood and presented as the key evidence that their laws are inappropriate and unacceptable (see Canevaro 2013b; 2016a: 71-6; 2016b; forthcoming). If a law manages to be approved through the correct procedures, this is by itself evidence that it is substantively a good law. For a similar concern for procedure found empirically in consensus deliberation see Graeber 2013 *passim* (cf. Mansbridge 1980 and Mansbridge et al. 2006).

<sup>85</sup> Harris 2013a: 4 on Aeschin. 3.6 (which repeats Aeschin. 1.4).

<sup>86</sup> Speakers' access to the *bema* was regulated by the law, and their interventions, if illegal, could be sanctioned: the relevant procedures were the *dokimasia rhetoron* (on which see MacDowell 2005) against individuals that spoke despite the fact that they did not have a right to; the action for *apate tou demou* against those that lied to the people ([Dem.] 49.67, Xen. *Hell.* 1.7, 35 e [Arist.] *Ath. Pol.* 43.5 with Rhodes 1981: 527; Christ 1992; Hesk 2000: 51-63); the *graphe paranomon* against those that made an illegal proposal (that contradicted the laws; see Wolff 1970; Hansen 1974; Canevaro 2015).

instance, the oldest citizens cannot come first to the *bema* as the laws prescribe. The correct procedures are in general disregarded, and people draft illegal proposals, the *proedroi* put them to the vote when they should not (and they themselves have not been selected correctly by lot, but have manoeuvred to secure their place), and the occasional honest *proedroi* are prevented from announcing the *cheirotoniai* correctly. It is significant that Aeschines' description of the breakdown of correct decision making is not limited to condemning voting irregularities. This is only the last step of a much more complex process that needs to be followed for decisions to be made correctly and in the interest of the community, and whose aim seems to be to secure correct democratic deliberation. Conversely, procedural irregularities lead to bad deliberation.

In his account of the breakdown of regular Assembly procedure, Aeschines pays particular attention to the role of the *proedroi*. Nine *proedroi* selected from the nine tribes that were not currently providing the *prytaneis* (those that set the agenda for the Council and the Assembly) were in the fourth century in charge of the running of the Council and the Assembly (in the fifth century the *prytaneis* had this role). One of these was selected by lot as *epistates ton proedron*.<sup>87</sup> The *proedroi* had extensive powers in the Assembly – their prerogatives resemble those of modern facilitators in various forms of consensus deliberation, but adapted for the setting of a Council of five-hundred, and of an Assembly of at least 6000 – which gave them the ability to encourage deliberation and stir it towards consensus.<sup>88</sup> The *epistates ton proedron* received from the *epistates* of the *prytaneis* the agenda, and the *proedroi* were in charge of its implementation. They read out all the *probouleumata* in advance of the *procheirotonia* as well as before the debate on each item started. Any amendment or proposal introduced during the Assembly had to be handed over to them in writing (Aeschin. 2.68). They decided when to close the debate and what proposal(s) should be put to the vote (Aeschin. 2.84). Dem. 22.5 and 9 show that the *proedroi* had ample discretion as to what proposals should be put to the vote, to the extent that in 355/4 they put to the vote a crown for the Council (proposed by Androtion) despite the fact that the Council had not been able to pass a *probouleuma* about it, because the law explicitly forbade it from requesting an award if it had not had the legal number of triremes built. Many decrees have formulas such as τῶν προέδρων ἐπεψήφ[ιζε Καλλιστογε]ῖτων [Φ]η[γ]α[εὐ]ς, which identify on the initiative of which *proedros* a proposal had been put to the vote. This was due to the fact that there existed clear rules as to what the *proedroi* were allowed to put to the vote, and if somebody wanted to accuse a *proedros* of putting a proposal to the vote against the laws, the decree identified the *proedros* responsible. For instance, the law at Dem. 24.50 on supplication states that 'if one of the *proedroi* puts the matter to the vote either for the convicted himself or for another on his behalf before he has paid, he will be disenfranchised'.<sup>89</sup> Aeschin. 2.84 is evidence that the *proedroi* had even the power to refuse to put a proposal to the vote, a prerogative that Demosthenes attempted to use against a proposal to add Chersobleptes to the allies of Athens signing the peace with Philip. Finally, they also had the power to assess the vote,<sup>90</sup> and that of forcing a speaker to leave the *bema*. Misuse of these prerogatives of course happened (as Aeschin. 3.2-6 makes clear), but as public officials the *proedroi* were liable to punishment at their *euthynai* (public accounts) or

<sup>87</sup> Hansen 1987: 37-9.

<sup>88</sup> See e.g. Mansbridge 2006; Graeber 2013: 220-23. Cf. Susskind, McKernan and Thomas-Larmer 1999: 199-240 and *passim* for rules of effective facilitation.

<sup>89</sup> This is a reliable document, on which see Canevaro 2013: 132-8. See also *IG II*<sup>2</sup> 43.51-3 and Hyp. *Phil.* 4-6.

<sup>90</sup> See below pp. 000-00.

through an *eisangelia* (indictment) to the Council in the case of extreme abuse, and a special *graphe proedrike* is attested ([Arist.] *Ath. Pol.* 59.2). Despite Aeschines' complaints, the high level of accountability of public officials and the various procedures available against them must have helped to secure the trust and openness necessary for deliberation.

These extensive powers had the aim of allowing them to lead the debate in such a way as to reach a shared solution through deliberation. Whenever a vote was taken, as we shall see, this was always taken in the form of a *diacheirotomia*. The majority of *diacheirotomiai* involved first the assessment of the ayes, and then of the nays, and concerned only one proposal. There was no alternative proposal on the table. Several speakers spoke on any given matter, and many different ideas must have been voiced. There was no limit to the number of speakers that could address the Assembly on any given issue, and a speaker could speak more than once.<sup>91</sup> And there was no limit to the number of proposals that could be presented, as long as they were written down and handed over the *proedroi*.<sup>92</sup> And yet the *proedroi* decided which proposal would get a *cheirotomia*, and read it out before the vote started. The very process through which a complex debate with multiple speeches and proposals was reduced to one proposal or to two options was one of consensus creation. The *proedroi*'s job must have been that of observing which speakers received more widespread support, and which proposals were likely to command wide consensus. Their powers to decide how long the debate should last, when a vote should be held, and on what proposal(s), were key in allowing them to interpret the debate and bring it to a close. And conversely, they had the faculty of refusing to put a proposal to the vote, even when requested, if they believed that it was unlikely to win widespread support, or that it was divisive. Refusing to put to the vote proposals that were not met with support during the debate (through cheering and shouts of approval, as well as through the explicit endorsement of several speakers)<sup>93</sup> must have been a key instrument for making the reduction of the debate to one option possible. These dynamics and the powers of the *proedroi* also had an effect on the behaviour of the speakers and on the nature of their interventions. For instance, we have evidence that speakers often drafted proposals to hand to the *proedroi* during the debate, when they realised that the support for their position or another's was growing (Aeschin. 2.18 tells us that Philocrates drafted a proposal during the debate). And Demosthenes often in his Assembly speeches suggests that if the people agree with the policy he is advocating, then he will draft a proposal and ask the *proedroi* to put it to the vote (Dem. 9.70; 14.14). On other occasions, when they realised that their written proposals were unlikely to win support, or even to be brought to the vote by the *proedroi*, they may decide not to hand them over (e.g. at Aeschin. 2.64-8 Demosthenes shows a draft decree to Amyntor but chooses not to pass it to the *proedroi*). But what is clear is that speaking in the Assembly was not primarily about making a proposal. There were during the debate many more speeches than proposals, and the proposal that would be finally approved was not necessarily made by the same man that had delivered the strongest speech in support of the relevant policy.<sup>94</sup> Speaking in the Assembly was about giving advice, contributing to the debate, reacting to other people's positions, disagreeing vehemently but at the same time moving (slowly), through persuasion, reasoned discussion, but also through emotional appeals, shouts and voiced opposition, towards a solution on

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<sup>91</sup> Thuc. 1.139.4; 3.36.6; 6.15.1; Xen. *Hell.* 1.7.12 with Hansen 1987: 91.

<sup>92</sup> Aeschin. 2.64-8; 83.4; 3.100.

<sup>93</sup> See Hansen 1987: 69-72.

<sup>94</sup> See Hansen 1987: 56-61 on the identity of speakers and proposers, and on proposers that drafted decrees in accordance with the policies expounded by famous *rhetoires*.

which the *demos* would agree.<sup>95</sup> It is significant (but not surprising)<sup>96</sup> that of all of Demosthenes' Assembly speeches only the *First Philippic* appears to have been delivered in support of a specific proposal. All his other speeches were contributions to the debate, but a *rhetor* would restrain from formulating a proposal until he felt that consensus was being reached, because his proposal would be rejected and, in any case, he knew that the *proedroi* would not put his proposal to the vote unless they were confident that there was a significant amount of consensus about it.

The procedure that regulated the debate and the formulation of proposals, and the powers attributed to the *proedroi*, all facilitated the formation of consensus through deliberation, and were designed to give anyone the possibility to voice a point of view and persuade his fellow citizens of its merits, towards a shared resolution. Despite the strong disagreements that we find represented in our sources, the kind of Assembly debates that they describe, and that were encouraged by the institutional setting, are ones in which speakers and Assembly-goers are not meant to enter the debate with absolutely fixed preferences for specific policies, but need to be willing to reformulate their positions, at least to some extent, as a result of deliberation, mutual persuasion, and the reasons and arguments advanced during the deliberation (and Thucydides' accounts of Assembly debates show plenty of examples of the *demos*, as a whole, changing its mind, see below pp. 000-00).<sup>97</sup> This is reflected also in the extant speeches meant to be delivered in political assemblies (*demegoriai*), which exhibit an 'integrative' rather than 'aggregative' kind of rhetoric, and whose arguments are invariably cast in terms of what is *sympheron* (useful) for the city as a whole, regardless of class division and sectional interests, and of common good, and never overtly attempt to

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<sup>95</sup> A short fourth-century treatise *On Writers of Written Speeches or On Sophists* by Alcidamas of Elaea (a contemporary of Isocrates who spent many years in Athens, see Edwards 2007), to which a recent book by Livingstone (2016: 71-99) has drawn attention, is an illuminating reflection on the kind of improvised, reactive and deliberative speeches appropriate for democratic deliberation.<sup>95</sup> Alcidamas stresses (3) the importance of being able 'To speak on the spur of the moment about any given subject competently, and deploy a rapid facility in thought and vocabulary, and show good judgement in keeping pace with the demands of the moment and the wishes of the audience and speak as these demand' (tr. Livingstone). He adds (11): 'Wouldn't it be ridiculous, when the herald gives the invitation 'Which of the citizens wishes to address the assembly?', or when the waterclock in the courts has already started, if the speaker went off to his desk to compose and learn a speech?'; and (22): 'improvisers can attend to the wishes of their audience better than deliverers of written speeches'. Alcidamas concludes (34) that improvisation is fundamental for 'anyone who wants to become a skilled speaker, rather than an adequate composer of speeches; who is more interested in responding well to the occasion than in using words precisely; who would rather have the goodwill of the audience supporting him than their suspicion as his opponent'. See Livingstone 2016: 71-99 for a discussion of this treatise, and Edwards 2007 for an account of Alcidamas' career.

<sup>96</sup> Pace Hansen 1988: 283-60.

<sup>97</sup> Gutmann and Thomson 1996: ch. 2 stress the 'reciprocity' built into a truly deliberative system (cf. Offe and Preuss 1991: 170). Cf. for classic accounts of the differences between deliberation and various forms of aggregation and bargaining Habermas 1989: 45; Owen and Smith 2015: 228-30 talk of a 'deliberative stance', 'a relation to others as equals engaged in the mutual exchange of reasons oriented *as if* to reaching a shared practical judgment'. Cf. Thompson 2008 for a review of theoretic and empirical approaches.



exploit particular interests and divisions within the citizen body and elicit partisan support.<sup>98</sup> In Demosthenes' words (normative language meant to justify appropriate Assembly behaviour) it is disastrous when the Athenians are divided and conduct politics in small groups – 'all should join together in deliberating, speaking and taking action for the common good' (Dem. 2.29–30).<sup>99</sup>

On the other hand, the institutional drive towards consensus through deliberation also had problematic effects on the proceedings, which could condition the outcome of the decision-making process and make it occasionally far from optimal. These problematic effects, however, are of the kind which has also been observed and investigated by modern critics and supporters of deliberative democracy – they in fact strengthen, rather than undermine, my contention that Athenian Assembly decision making was institutionally designed to foster deliberative aims and values.<sup>100</sup> In particular, all the shouting and heckling that was allowed in the deliberative forum of the Assembly (*thorybos*),<sup>101</sup> while necessary for *proedroi* and speakers to develop a sense of whether consensus was being reached, and for the consensus itself to express itself and solidify, could also discourage deliberators from voicing different or unpopular views, and therefore create conformity – people, as has been observed particularly by Sunstein, sometimes follow others to protect their reputation, not to upset people they care about, or when they lack enough information (in which case there is the added danger of informational cascades).<sup>102</sup> Plato (*Resp.* 492b-c) describes the paralyzing effects of *thorybos* on young and inexperienced speakers:

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<sup>98</sup> See e.g. Pericles in Thuc. 2.60 and Nicias in Thuc. 6. 12-13, 18. See March and Olsen 1989: 118 for 'integrative' vs. 'aggregative' rhetoric, and Harris 2014 and Epstein 2011 on Athenian political rhetoric and the kind of arguments that were used. See also Harris 2013b on the etiquette in the Athenian Assembly.

<sup>99</sup> Democratic deliberation is understood by many theorists to be concerned with the common good, and with fostering attention to the common good as opposed to individual interests. See Young 1996: 120-1 (who cites previous discussions): 'Democratic processes are oriented around discussing [the] common good rather than competing for the promotion of the private good of each.'. Cohen 1997: 75 states that deliberation 'carries with it a commitment to advance the common good and to respect individual autonomy' (cf. Elster 1997). For more problematic accounts of what the common good actually entails, and of the aims of deliberation when the common good is not easily identifiable, see e.g. Mansbridge 1998; Gutmann and Thomson 1996; 2004; Milot 2010. For a model that reconciles self-interest with deliberation see Mansbridge et al. 2010.

<sup>100</sup> For a nuanced account of much of the criticism levied against deliberative democracy, and for an assessment of its merits, see the synthesis of Chappell 2012. For further treatments of deliberative pathologies, see e.g. Gigone and Hastie 1993; Sunstein, 2002, 2003, 2005; Mutz and Martin 2001; Mendelberg 2002; Ryfe 2005; Stasavage 2007. It will be clear from my argument that I am rather sympathetic to the claims of deliberative democrats. Yet my argument in this chapter does not depend on deliberative democracy being an entirely viable (in its purest form) or desirable ideal. The similarities between the Athenian model and modern deliberative democratic models (whether from normative accounts or from real-world observation) are found both in the desirable and in the more problematic features.

<sup>101</sup> For a recent discussion of disruption of Assembly (and judicial) procedure through heckling, shouting (*thorybos*), see Thomas 2016, as well as e.g. Hansen 1991: 146; Ober 1989: 138 and particularly Bers 1987 (on judicial *thorybos*) and Tacon 2001 (on *thorybos* in the Assembly).

<sup>102</sup> Sunstein 2002, 2003, 2005. See also Chappell 2012: 63 and ch. 3 more generally, and 104.

‘When they meet together, and the world sits down at an assembly, or in a court of law, or a theatre, or a camp, or in any other popular resort, and there is a great uproar, and they praise some things which are being said or done, and blame other things, equally exaggerating both, shouting and clapping their hands, and the echo of the rocks and the place in which they are assembled redoubles the sound of the praise or blame --at such a time will not a young man's heart, as they say, leap within him? Will any private training enable him to stand firm against the overwhelming flood of popular opinion? or will he be carried away by the stream? Will he not have the notions of good and evil which the public in general have – he will do as they do, and as they are, such will he be?’ (Pl. *Resp.* 492b-c, trans. Reeve)

Plato’s account is probably exaggerated – Plato was no friend of Athenian democracy – but Dicaeopolis, the main character of Aristophanes’ *Acharnians*, confirms that *thorybos* was considered the prerogative of the *demos* (37-9) – a perfectly legitimate (and intimidating) instrument to voice their displeasure – and we have in fact evidence that speakers were occasionally forced, through *thorybos*, to leave the *bema* (e.g. Dem. 19.17-18). But, against any simple dismissal of Athenian Assembly procedure because it discouraged through *thorybos* the voicing of multiple positions and of dissent, the evidence of the actual political speeches of the Demosthenic *corpus* (and of the *prooimia* in the *corpus*) paints a more complex picture. While Demosthenes often (in fact, all the time) makes a point of expressing his worry that the *demos* will not listen to him and will shout him down for voicing unpopular positions, the frequency of his pleas to be heard, and the stress put on the uniqueness and unpopularity of his advice, suggest a more nuanced scenario, in which presenting oneself as an unorthodox speaker in danger of being ignored or forced to stand down for his ideas was in fact a very effective rhetorical strategy. There is a pride in Demosthenes’ claims that his advice is unorthodox that seems incompatible with a culture of debate that is averse to voicing genuine dissent. And this cannot be explained away as something unique to Demosthenes, a byproduct of his fame and popularity, because at the time of most of the extant political speeches, Demosthenes was a young orator, and not a famous politician.

A further procedural feature to take into account is the vote. According to many modern theorists and practitioners, democratic deliberation and consensus do not involve a vote. A vote is in fact taken only when consensus cannot be reached through the deliberative process.<sup>103</sup> Such an approach, however, would not have been viable in the Athenian Assembly, composed by more than 6000 citizens, in which whatever consensus the *proedroi* thought had been reached on a proposal needed to be tested through a vote that registered beyond doubt that consensus. Their position at the *euthynai* (public accounts) would have been otherwise very fragile. And yet even the voting procedure with which decrees were enacted, the *cheirotomia*, shows features that could help to create and preserve consensus, by

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<sup>103</sup> See e.g. Mansbridge 1980: 32-3. Cf. Graeber 2013: 212-16, 224-5. On the other hand, more recent discussions have argued for the compatibility of democratic deliberation and even consensus with vote taking, within ‘deliberative systems’ that, overall, fulfil certain deliberative conditions (see e.g. Mansbridge et al. 2002; Owen and Smith 2015; Elstub, Ercan and Mendonça 2016; Neblo 2015). Curato et al. (forthcoming) note that ‘Decision making in deliberative democracy can involve voting, negotiation, or workable agreements that entail agreement on a course of action – but not on the reasons for it. All of these benefit from deliberation, which can involve clarification of the sources of disagreement, and understanding the reasons of others’.

encouraging some conformity (with the problems that can ensue) but also by reinforcing the need for all citizens to choose positions that were argumentatively defensible – fulfilling therefore even with their votes one of the basic conditions of deliberation.<sup>104</sup> The *cheirotomia* was a vote by show of hands. The vote was assessed by the *proedroi* through a survey of the Assembly, as made clear by Xen. *Hell.* 1.7.7, who informs us that the first Assembly meeting about the trial of the generals after the Arginousae was adjourned because it was too dark to see the hands. The *cheirotomia* took the form of a *diacheirotomia*, a vote between two alternatives. Normally the vote was held on only one proposal (e.g. Dem. 7.19; Aeschin. 2.84), and therefore first the ayes and then the nays were called to show their hands (Dem. 22.5, 9; [Dem.] 59.4-5; Aeschin. 3.39; *IG II<sup>2</sup>* 211 ll. 5-9). Sometimes the vote involved two clear alternatives (we do not have any evidence for more than two), and the Assembly was called to vote first for the first, then for the second.<sup>105</sup> Lys. 12.75 shows that a citizen could abstain, but because the evidence mentions only two stages in a *cheirotomia*, it is clear that abstentions were not assessed. [Arist.] *Ath. Pol.* 44.3 states that the *proedroi* ‘made a decision on’ or ‘assessed’ (*krinousin*) the *cheirotomia*, which has been compellingly interpreted by Hansen to mean that the votes were never precisely counted.<sup>106</sup>

First of all, as we noted, the very fact that the debate on any given matter resulted in a simple vote on one proposal (or between two straight alternatives formulated in one proposal) is evidence that most other ideas, points of view and proposals were dealt with during the debate through a process of synthesis and persuasion.<sup>107</sup> It is clear therefore that the voting system presupposed that a significant amount of consensus had already been reached, otherwise at each vote several proposers would have been arbitrarily excluded.

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<sup>104</sup> See e.g. Enegelen and Nys 2013 for how open voting fosters deliberation and upholds some of the same ideals. For the issue of conformity, see above pp. 000-00.

<sup>105</sup> Hansen (1987: 41-2; 2011: 41) states that if the choice was between two proposals, the *epistates* of the *proedroi* asked first who supported the first option and next who supported the other. This may be correct, but the only evidence for a *diacheirotomia* between two clearly different options, resulting from two different proposals, is Xen. *Hell.* 1.7.34, which however presents a very syncopated account of the proceedings of the Assembly when it decided to convict the generals to death. *IG II<sup>2</sup>* 28 ll. 14-16, like [Dem.] 59.3-5, refers to two options, but they seem two genuine and exclusive alternatives, and therefore probably part of the same proposal. Hansen 1979-80: 94 n. 5 shows that the *diacheirotomia* was always conducted in two stages (and therefore between a maximum of two options), with plenty more evidence: Dem. 22.5, 9; Dem. 24.20, 25; Dem. 47.43; [Dem.] 59.4-5; Aeschin. 3.39; [Arist.] *Ath. Pol.* 49.2; *IG I<sup>3</sup>* 61 l. 5; *IG II<sup>2</sup>* 211.5-10.

<sup>106</sup> Hansen 2011: 40-61; 1987: 41-4. Hansen 2011: 50-1 adduces Xen. *Hell.* 1.7.34 as evidence that the assessment of the *proedroi* (or, in the fifth century, of the *prytaneis*) could be challenged through a sworn demurrer, and another vote was then held. But in this passage the *hypomosia* by Meneclēs must be the initial step of a *graphe paranomon* against the proposal of Euriptolemus, see p. 000-00 n. 104. As noted above, p. 000-00 n. 52, Hansen reads κρίνουσι in the sense of assessing the hands, without counting them, to identify the majority. But, if my reconstruction is correct, in most cases the *proedroi* would simply decide (κρίνουσι) whether the proposal was approved, formally recording the consensus expressed in the *cheirotomia*. τὰς χειροτονίας κρίνουσι does not have to imply majority rule, just the task to assess the *cheirotomia* and formalise its decision.

<sup>107</sup> See above n. 67.

Second, the vote by show of hands was open, not secret, and this came with significant advantages for consensus creation, which have been highlighted by recent scholarship on open voting. Public show of hands, as argued by Elster, is not strictly simultaneous – there is time for individual voters to pause before raising their hands and get a sense of the general mood, or of how, for instance, particularly respectable and knowledgeable citizens (or, in a darker scenario, particularly powerful citizens), as well as friends and kin, were voting. Individual voters had thus time for hesitation, and could alter their votes in light of others’ views, having causal effect on one another.<sup>108</sup> Because of this, only genuinely strong disagreements with a forming consensus would be expressed – disagreements of the kind, however, that one would be expected to voice already during the previous debate. And these disagreements must have been ‘discursively defensible’, to use Brennan’s and Pettit’s terminology: the individual voter needed to be able to justify publicly his vote in terms of the common good, and ward off accusations of voting selfishly or irresponsibly.<sup>109</sup> Thus, voting by *cheirotonia* was capable of enlisting shame in the service of consensus creation – shame was sometimes a ‘negative’ force, inimical to voicing one’s own opinion when consensus was forming, and driving towards conformity, but also a positive force towards responsible behaviour in the Assembly, fostering concern for the common good and abidance by a communally accepted honour code.<sup>110</sup>

All the procedural features of the Athenian Assembly that I have discussed are typical of deliberative democracy and of systems of decision making striving to achieve consensus. They are typical of such systems both in the positive effects they aim to achieve, and in the problematic effects that can occasionally be observed in practice. Their aim is to resolve disagreement and achieve, through sustained debate, deliberation and significant redrafting, a final proposal that commands as close to universal support as possible. The very voting system in Athens is designed to make sure that whatever consensus the debate has succeeded in creating is not disrupted by irresponsible or selfish voting, and that everyone’s position is justifiable and defensible, not only in the debate but also at the vote.<sup>111</sup> In the presence of complex and sophisticated deliberative procedures such as these, a deliberative system striving to achieve decisions made by consensus and through democratic deliberation does not require a unanimity rule, and the occasional failure to achieve perfect consensus does not alter its fundamental nature. In Cohen’s words, ‘even under ideal conditions there is no promise that consensual reasons will be forthcoming’, but engaging meaningfully with the deliberative process will alter the behavior of the voters nevertheless: ‘the results of voting

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<sup>108</sup> Elster 2007 and Schwartzberg 2013: 37. This kind of vote had therefore epistemic advantages of the kind discussed in Ober 2008 and 2012. On the other hand, it can also favour the occurrence of ‘informational cascades’, when people come to endorse incorrect beliefs because other authoritative individuals have the same beliefs (and regardless of their correctness). See in particular Sunstein 2002: 21, 2003, 2005 as well as Chappell 2012: 66-7, 104.

<sup>109</sup> Brennan-Pettit 1990. See also Elster 1997: 11-13; 2007; Schwartzberg 2013: 38.

<sup>110</sup> Engelen-Nys 2013 stress the positive role of shame in open voting. I refer here to the work, e.g. of Cairns 1992; 2011 in Classics; and of Appiah 2011 outside Classics.

<sup>111</sup> Of course, in attempting to secure this effect, it can also, as observed above (pp. 000-00), occasionally suppress dissent and create conformity and informational cascades, impacting on the quality of the decisions made. These are problems that have been described as typical of deliberative systems – they do not set Athenian Assembly procedures apart.

among those who are committed to finding reasons that are persuasive to all are likely to differ from the results of an aggregation that proceeds in the absence of this commitment'.<sup>112</sup>

It is impossible to test how successful these procedures actually were in fostering informed deliberation and actual consensus, and in creating unanimity. It is clear that the consensus expected when a quorum was required was founded on the consensus that had been achieved previously through debate and *cheirotomia*. And scholars have observed that the very formulas of Athenian decrees are designed to give an 'impression' of consensus. An 'impression', that is, because scholars have always assumed that these formulas conceal the reality of heavily split votes. And yet in later inscriptions we do find clearly unanimous votes by show of hands: a few Athenian Hellenistic and Roman decrees provide a rather more elaborate record of *diacheirotoniai* than Classical inscriptions do, but the procedure they describe is the same we can reconstruct from Classical sources. They state explicitly that the votes were all ayes, and there were no nays (*IG II<sup>2</sup>* 1368 ll. 21-4; *SEG* 30.82 ll. 21-2; *SEG* 21.506 ll. 31-2).

But, apart from these, the only relevant evidence is in scattered allusions to votes of the Assembly in the literary sources. These usually refer to particularly contentious issues – mostly war and peace, and connected matters – characterised by heated debates, and we should expect to find heavily split votes. And yet this is not what we find. The only uncontroversial case of a heavily split vote is the vote that follows the Mytilenean debate at Thuc. 3.49.1. There we read: 'and in the show of hands they were very close, but the opinion of Diodotus prevailed'.<sup>113</sup> What we should observe however is that this vote followed and

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<sup>112</sup> Cohen 1997: 75. Cf. Graeber 2013: 216, who explains why 'modified consensus' of 90%, or even a supermajority of two thirds, is not equivalent to majority rule when meaningful consensus deliberation has preceded it. See also Curato et al. (forthcoming): 'voting' can 'benefit from deliberation, which can involve clarification of the sources of disagreement, and understanding the reasons of others'.

<sup>113</sup> On the debate see Harris 2013b. Hansen also mentions Dem. 18.149, where we read that Aeschines 'was nominated as *pylagoros* and when three or four men had raised their hands he was declared elected'. Hansen 2004: 48 reads this to mean that Aeschines had been elected by three or four votes, but the implications is rather that the *proedroi* irregularly proclaimed Aeschines *pylagoros* when only three or four hands had gone up, without allowing for the vote to be concluded. The other examples, in Hansen's interpretation, are the two *diacheirotoniai* of Xen. *Hell.* 1.7.34. We are told that, for the trial of the generals after the Arginousae, the proposal of the Council was to try them together, whereas that of Euryptolemus was to try them separately, and that when a *diacheirotomia* was held first the proposal of Euryptolemus prevailed, but after it was attacked through a *hypomosia* by Meneclis, the Council's proposal prevailed. Hansen (2011: 50-1) has interpreted this as a split vote (see above pp. 000-00) that was assessed in one sense and then in the other (following an *hypomosia* contesting the first assessment), but the subject of ἔκριναν here cannot be the officials assessing the vote; it must be the Athenians, that first chose one proposal, and then the other. Therefore this very elliptic passage does not need to be read as a reference to two split votes. It can as well refer to one consensual vote in one direction, followed by another in the other direction once Euryptolemus' proposal was out of the table (cf. Harris 2013a: 241-3, 341-2). It is in fact more economical to read the *hypomosia* as one preceding a *graphe paranomon* (as Hansen 1974: 29 did; cf. Bleckmann 1998: 568), as this kind of *hypomosia* is attested, whereas the kind postulated by Hansen 2004: 48 is not. If this

reversed a vote on the previous day by which the Athenians had decided in anger to slaughter all the Mytilenean men and sell all women and children into slavery. This first vote is clearly represented by Thucydides as a consensual vote, one however not resulting from rational deliberation, but rather cast by an angry Assembly influenced by Cleon, a powerful and violent speaker. What happened during the night can be read as the breakdown of whatever consensus had formed, and the next day a heavily divided Assembly showed with a split vote that the consensus was no longer there. There is no doubt that the second decision was made by majority, and this is not in itself problematic for my reconstruction, because consensus-based decision making does not always reach unanimity – it does not have to. But the context is important, and the decision here was one to revisit a previous consensual decree, which was revoked by a majority vote that showed lack of consensus intervened on the previous decision. Apart from this case, most references to votes in the Assembly, whether in Thucydides or in the orators, give the very strong impression that when a decision was made, it was made by all the Athenians, who had all been convinced to vote for a particular proposal (e.g. Thuc. 1.146; 2.14.1; 2.59.1-2; 2.65.1-2).<sup>114</sup> These formulations may perhaps be considered unreliable, and give us little information as to how the vote actually went, but they are complemented by plenty of explicit examples in the sources of unanimous decisions of the Assembly, which suggest that we should take generic references to ‘the Athenians’ voting in one direction more seriously. To give a few examples of explicit mentions of unanimous votes, in the realm of myth, we find the unanimous votes of the Argives (a proxy for the Athenian Assembly) to help the Danaids (Aesch. *Supp.* 605-7, 621); at Thuc. 6.26.1 the implication is that the vote for the Sicilian expedition, which followed a heavily polarised debate, was unanimous; at Xen. *Hell.* 3.5.16 the alliance of Athens with Boeotia that started the Corinthian War in 395 was voted unanimously; at [Dem.] 59.3-5 the final vote on Apollodorus’ proposal to pay the surplus into the military fund was unanimous; so, at Aeschin. 2.13, was the vote on Philocrates’ decree to allow Philip to send a herald and envoys to speak of peace; and the vote in the *proboule* in the Assembly against Meidias (Dem. 21.2) was also unanimous; and so was that in the *proboule* against Ctesicles (Dem. 21.8). I can offer no statistics here, and I admit that my sample is limited and scarcely representative. But if we can get anything out of it, it is that split votes by majority rule were not the norm in Athenian Assemblies. Unanimous votes were common (it would appear, in fact, more common) even on big issues such as war, peace and alliances. The Assembly procedures were designed to facilitate deliberation and the creation of consensus, and the little evidence we have suggest that they may have succeeded most of the time.

### Conclusions

I have argued that in political assemblies the norm was not simple majority rule, but the pursuit of consensus, fostered through sustained and institutionally facilitated deliberation. I should stress that this is true only in political assemblies. The evidence both from Athens and from other *poleis* shows not only that in the lawcourts the votes were precisely counted, but also that the rule (and the norm) was a split vote governed by majority rule. No debate and

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was the case, then the first proposal would be taken off the table, and a vote on the other proposal would follow.

<sup>114</sup> See Budelmann (forthcoming) for a discussion of the tendency of Athenian sources to represent the Athenians, when they make decisions, as unitary and unanimous. The material that he discusses, however faithfully it represents reality, shows that at the level of conceptualisation there was, in the language itself, an expectation of consensus and unanimity.

deliberation was involved, and therefore there was no expectation of consensus.<sup>115</sup> To give only a few examples, the Athenians convicted Socrates by a majority of sixty votes (one of less than three fifths; they later condemned him to death by a majority of 140 votes; Pl. *Ap.* 36a-b; Diog. Laert. 2.42); Aeschines was acquitted in the trial for the false embassy by a majority of thirty votes (Plut. *Mor.* 840c). Dem. 23.167 informs us that Cephisodotus once escaped capital punishment by three votes, Hyp. 3.28 that Aristophon of Azenia was once acquitted by two, and Aeschin. 3.252 that Leocrates (accused by Lycurgus in the famous speech) was saved by a tie.<sup>116</sup> One fourth-century inscription preserved in two copies (a Delian one and an Athenian one) about the Delian Amphiktyonic accounts also preserves the number of votes in an Athenian trial: 100 for conviction, 399 for acquittal.<sup>117</sup> Already in the first, mythical trial of the Areopagus, as represented in Aeschylus' *Eumenides*, the decision is taken by simple majority (and with the determinant intervention of Athena), to mark the close association of majority rule with the judicial sphere.<sup>118</sup>

Outside Athens, not a single inscription recording voting figures for a trial is evidence of unanimous decisions, although several show very strong majorities. The record of an arbitration decision by Aigion on the ongoing territorial dispute between Messene and Megalopolis has 147 votes, 7 for Megalopolis and Kaliai, 140 for Messene.<sup>119</sup> Another inscription, from Olympia, records the decision by a Milesian tribunal on another territorial dispute, with 584 votes for the Messenians, and only 16 for Sparta (*SIG*<sup>3</sup> 683 ll. 66-70). A third, from Thessaly, reports the results of the Thessalian Council's arbitration in an interstate dispute: 298 votes for Kierion, 31 for Metropolis, and 5 *akyroi* (*IG* IX/2 261 ll. 5-6, 13-15, 20-2). A decision by the Amphiktyonic Council on the right to appoint a representative has 59 votes for the accused Thronion, and 2 for the defendant Skarphai (*FD* III.4 38 ll. 1-3); the trial in Eresus on Lesbus of the tyrant Agonippus was decided by 883 votes, only 7 of which were for acquittal (RO 83 γ §ii ll. 30-2). The closest vote recorded in inscriptions is that of an arbitration by Cnidus in a loan dispute between two citizens of Cos and the city of Calymna: 78 votes for conviction, and 126 for acquittal (*IK* 41 no. 221b ll. 31-3).

This evidence strongly contrasts with that for the decision of political assemblies that, as we have seen, is always characterised by unanimity or close-to-unanimity – evidence of (almost) perfect consensus – and involves significant deliberation. It also shows that it is not the case that inscriptions normally avoid recording negligible numbers of contrary votes: even for the conviction of the tyrant Agonippus on Eresus, where we would expect a definite will to show unanimity, the seven votes for acquittal are still judiciously recorded. The evidence suggests that in a judicial context a split decision was not considered to be problematic – it was the norm. In a recent important article Harris has shown, through a thorough analysis of the speeches of Cleon and Diodotus in the Mytilenean debate, that the

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<sup>115</sup> Carugati and Weingast in this volume explore the consequences of these procedural constraints, arguing that in the lawcourts the *litigants* had incentives to move towards, but not to converge on, the position of the 'median juror'.

<sup>116</sup> See Hansen 2004: 48.

<sup>117</sup> Chankowsky 2008: nos. 29-30 = *IG* II<sup>2</sup> 1641b. *IG* II<sup>2</sup> 1646 has been interpreted as a further case, but the traces better fit a penalty, cf. Stumpf 1987: 14-15 with Chankowsky 2008: no. 54 and Todd 2012: 45.

<sup>118</sup> On the vote of Athena in the trial see Sommerstein 1989: 221-6, and on the trial of the *Eumenides* in general see Sommerstein 2010.

<sup>119</sup> Themelis 2008, ll. 55-61. For this inscription and the dispute see also Arnaoutoglou 2009/10, Luraghi-Magnetto 2012 and Thür 2012.

Athenians had a strong sense of what it is appropriate or not to say in particular institutional contexts, and therefore came to an assembly or to a lawcourt with very different expectations (whether these were always fulfilled, and whatever the consequences when they were not).<sup>120</sup> It appears that this was the case not only with what it was appropriate to say, but also with what kind of decision was to be expected: in a political setting the expectation was that consensus should be reached through democratic deliberation, whereas there was no such expectation in a judicial setting, where simple majority was considered enough, and was achieved after an adversarial procedure (on which see Carugati and Weingast in this volume).<sup>121</sup>

Another, longer, essay would be needed to explain why this was the case.<sup>122</sup> But the interesting point in the context of the present discussion is, therefore, not that the Athenians did not know and practice majority rule. They obviously did – this was the standard and preferred mode of decision making in the lawcourts and in elections, and was probably always at least a possibility in political decision making.<sup>123</sup> But unlike in much modern democratic thought, in the formal arenas of modern politics, for the Athenians, majority rule was only one of many available systems for making collective decisions, and not necessarily their preferred one, or the one considered most typical and compatible with democracy. Elections certainly were not the standard mode for selecting magistrates, and lottery (which avoided majority decisions) was much more widely practiced. And the whole procedural and institutional apparatus for making decisions in political settings (assemblies and councils) seems, as I have argued, to have attempted by all possible means (vote by show of hands, extensive deliberation, wide powers to the *proedroi*) to avoid split decisions governed by majority rule, and to produce consensus.<sup>124</sup> Xenophon (*Mem.* 4.4.16) even mentions an obligation to reach *homonoia* ('same-mindedness', 'consensus'): 'everywhere in Greece there is a law that the citizens shall promise under oath to agree (ὁμονοῆσαι), and everywhere they take this oath'.<sup>125</sup>

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<sup>120</sup> Harris 2013b.

<sup>121</sup> It is interesting to notice that even as late the second century CE, in the 'constitution' of the Iobacchoi (*IG II<sup>2</sup>* 1368, 175/6 CE), we find *cheirotomia* for accepting the new rule (the acclamation for Herodes Atticus), and *phrophoria* in more 'judicial' decisions such as the scrutiny of new members and votes on misconduct of members.

Criminal procedure is also adversarial in US jurisdiction, but the procedural requirement (unlike in Athens) is unanimity by jurors, and jurors are allowed (and required) to deliberate among themselves, whereas deliberation among *dikastai* is forbidden in Athenian lawcourts.

<sup>122</sup> In such an explanation, the concept of deliberative system, which fulfils in the whole deliberative ideals but that in determinate contexts uses other models and forms of decision making, *prima facie* incompatible with deliberation, but within the system contributing to it, would be a powerful explanatory concept. See e.g. Mansbridge et al. 2002; Owen and Smith 2015; Elstub, Ercan and Mendonça 2016; Neblo 2015.

<sup>123</sup> For the voting procedure in Athenian elections see Hansen 1987: 44-6.

<sup>124</sup> Which does not mean that majority decisions were not practiced on occasion in deliberative settings. The second Assembly of the Mytilenean debate shows that in certain particular circumstances majority decision was indeed the only option (see above pp. 000-00), and Arist. *Pol.* 1294a is evidence that it was practiced and recognised in all kinds of regime.

<sup>125</sup> Hansen 2016 reads this oath restrictively, and because Xenophon states that the purpose of the oath is to ensure that the people obey the law, he assumes that obeying the laws must be what they are supposed to agree upon. But the passage has wider implications: the argument



This is consistent with the focus in our sources on *homonoia*, and the omnipresent fear of *stasis*, originated by irreconcilable differences among citizens that undermine and ultimately dissolve the unity of the city. As Cartledge puts it, at the time of Classical Athens ‘every vote on a major policy issue threatened the outbreak of *stasis*’,<sup>126</sup> and with every decision to be made the *polis* had to walk the dangerous line between *stasis* and stability.<sup>127</sup> Sometimes the verb used by the Greeks to indicate a vote is *diaphora*, which has however a much wider semantic range and is never neutral – it marks a disagreement, a division that threatens the integrity of the *polis*, and as such needs to be resolved.<sup>128</sup> To give only one example, in the reconciliation inscription from Nacone, *diaphora* needs to be resolved by *dialysis*, to be performed in the chief deliberative forum, the Assembly.<sup>129</sup> The constant danger of *stasis* makes division in two disturbing, even when it materialises in a peaceful political forum. And the victory of one opinion over another, when both opinions command similar amounts of support, is not the end to which decision making should aspire.<sup>130</sup> To quote Cartledge again, ‘it was because of this inherent danger of the division of a split vote turning into the division of civil war that the governing political ideal on both main sides of the political divide was always *homonoia*: not merely consensus, or passive acquiescence in the will or power of the minority or majority, but literally “same-mindedness”, absolute unanimity among the publicly active and politically decisive citizenry’.<sup>131</sup>

And yet scholars have normally assumed that the omnipresent appeals to *homonoia* in ancient political philosophy, which are matched by corresponding concerns in the ‘lower’ political thought of inscriptions,<sup>132</sup> and in oratory, is entirely aspirational, and masks the reality of stern ideological divisions that materialized in (and were normally, if imperfectly, diffused by) the omnipresence of majority rule.<sup>133</sup> What I have tried to show in this chapter

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here is that a certain degree of *homonoia* in general, and in decision making in particular, is needed for citizens to buy consistently into the laws. If the city is divided on all issues, a part of the city will end up believing that the procedures and institutions (that is, the laws that create them) are set against them, and *stasis* will follow. The language in this passage is of course normative and probably does not reflect any actual specific oath. But it does reflect a widespread aspiration which, as we have seen, had an effect in institutional design.

<sup>126</sup> Cartledge 2001: 166.

<sup>127</sup> To quote the title of Gray 2015.

<sup>128</sup> See Loraux 1990. Cf. Mansbridge 1980: 9-10, who notes, about majority rule as opposed to consensus, that ‘Voting symbolizes, reinforces and institutionalizes division’.

<sup>129</sup> Gray 2015: 36-41. Cf. also Loraux 2002: 96, 215-21. Mansbridge 2003: 235 notes that the benefits of consensus are high when ‘Past traumas or experiences with oppression make it important for each individual to give explicit consent to each policy’. More generally, most of the conditions isolated by Mansbridge 2003: 234-7 that increase the benefits of consensus seem to me to apply to the case of the Greek *poleis*. See also below pp. 000-00 n. 136 on deliberation in divided societies.

<sup>130</sup> Cf. Mansbridge 1980: 10 ‘Voting produces a result that excludes the minority, [...] while a decision by consensus includes everyone, reinforcing the unity of the group’.

<sup>131</sup> Cartledge 2005: 19-20. Cf. Loraux 2001: 101. On *homonoia* see also Bonazzi 2006. *Homonoia* is, again, a normative ideal, but, as I have argued, one with consequences on institutional design that can be thoroughly appreciated – see also below.

<sup>132</sup> See on this [Gray in this volume](#).

<sup>133</sup> See above pp. 000-00 nn. 20-21. Flaig 1994: 30–31 explains away the omnipresence of *homonoia* in political reflection in exactly this way: it was the frequency of paralysis and

is that this was not necessarily the case. Divisions existed, and were indeed the reason behind the concern for *homonoia*. But *homonoia* did not have a place only in the realm of aspirational and normative political reflection and rhetoric. It stood behind actual institutional design, and was pursued on a daily basis through complex and sophisticated institutional means – mechanisms and procedures (backed by strong ideological tenets) that left room for heavily polarized debate and deliberation,<sup>134</sup> but at the same time expected that citizens would engage with one another's opinions, strive to achieve the common good, and ultimately come to a joint decision – not one that would leave half of the city disgruntled, but one that all can embrace.<sup>135</sup> Recent studies have in fact argued that deliberation is not only possible but beneficial in divided societies, because deliberation can promote recognition and mutual understanding.<sup>136</sup> When we find in an inscription such as that from Cos in honour of Theugenes, a *dikastogogos*, that it was approved unanimously in a vote by secret scrutiny (*SEG* 48.1112 ll. 47-8), we should not read in it, as many have done, the Hellenistic deterioration of civic politics into mindless and almost 'apolitical' unanimity.<sup>137</sup> At the same time, we should not simply assume that consensus is impossible, and therefore the figures in the inscription conceal strong disagreement and the consensus they express is spurious. This is a false alternative. We should entertain instead the possibility that strong disagreements and a pluralism of positions existed and were expressed during debate and deliberation, and that debate and deliberation, institutionally directed and facilitated, could produce ultimately

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division that made consensus so interesting to Greek political thought. Likewise Loraux 2002: 30 states that 'the egalitarian *polis* of consensus... exists because actual cities are divided'. Hölkeskamp 2000, esp. pp. 35–40, contends instead that consensus played more of a positive role, and was an actual value, in the *Iliad* and in early Greek laws. Conversely, several passages that speak of majority have been often quoted as evidence that the Greeks were fully committed to majority rule (e.g. by Maffi 2012: 23-4), whereas in fact they have very little to do with it. When Pericles at Thuc. 2.37.1 states that Athens is a democracy because the power is in the hands of the majority and not of the few, he is not referring to majority rule – the decision of the 50% plus one is binding for all – but to the participation of the majority in deliberation. The polemical target here is Sparta as an oligarchy, and what distinguishes Sparta from Athens is not that in Sparta the decision of the 50% minus one is binding (that would be absurd), but rather that only a minority has access to deliberation (on the interpretation of this passage see Harris 2006: 29-41 and Hansen 2008, with the proviso that the reference here is to deliberation by the majority, not to majority rule). The same is true of several passages in Arist. *Pol.* (e.g. 1279a; 1291b 37-8). Cf. Bobbio 1999: 384: 'Quando nella tripartizione classica delle forme di governo la democrazia viene definita come governo della maggioranza in contrapposto alla oligarchia e alla monarchia, si vuol dire che il potere politico è nelle mani dei più e dei molti in contrapposizione al potere di uno solo o di pochi; non si vuol affatto dire che il potere politico venga esercitato mediante l'applicazione della regola della maggioranza'.

<sup>134</sup> See Sunstein 2003 and 2007 on deliberation and polarisation.

<sup>135</sup> Note that when Arist. *EN* 1167a 26-8 defines a city which *homonein*, the following examples of *homonoia* include very practical instances of political decision making: decisions on how offices should be selected and on alliances with other cities.

<sup>136</sup> O'Flynn 2007 and Luskin et al. 2014.

<sup>137</sup> See e.g. Moretti 1967/8. Cf. the more nuanced considerations of Grieb 2014 in his response to Flaig's work. For a more detailed discussion of this inscription see Gray in this volume, pp. 000-00.

some form of strong or weak consensus (or compromise).<sup>138</sup> This is certainly what the procedures and institutional mechanisms I have discussed in this chapter were meant to achieve. They may not have achieved it all the time, but it is not impossible that they may have achieved consensus or ‘modified’ consensus<sup>139</sup> some (or even most) of the time. And there is a difference between, on the one hand, starting deliberation and debate from different positions but eventually being convinced by another’s arguments to abandon the original position for the opposite one, or for whatever shade of compromise or synthesis between the two, and, on the other hand, simply being outvoted and bound to follow an option you disagree with. If I dared to propose a small, tentative modification to standard definitions of Greek citizenship as political participation in political decision making, one that does justice to the centrality of rhetoric, I would add to the (normative) attributes of the citizen in a political assembly the right to be convinced, together with the duty to remain open to being convinced. The ideological and institutional tenet that a synthesis between differing positions is desirable is in itself a powerful drive towards achieving consensus.<sup>140</sup> Despite the very real problems of conformity and informational cascades, it does also encourage meaningful engagement with others’ positions, critical self-reflection on one’s own positions, within the framework of an overarching concern for the common good (which is indeed central in Greek deliberative rhetoric), because it is deemed desirable that the option that will eventually win is embraced in some form by the entire community.

If the level of social, political and ideological cohesion that such procedures and expectations, such a model of decision making, seem to rely upon appears to be extreme and unrealistic for the scale of a *polis* of 30,000 citizens and ca. 250,000 inhabitants (let alone for modern polities),<sup>141</sup> one should reflect on a few facts: first, more extreme forms of consensus decision making were pursued recently by the Occupy World Street movement, with a much more diverse deliberative basis than any Greek *polis*, and, what is more, without the expectation of joint action at all costs – anyone could call himself out at any point. The resilience of a movement that pressed upon itself such high expectations should make us wary of predicating at least the inevitability of majority rule in complex societies and political systems, when very high numbers of people are involved. Second, the requirements of social, cultural and ideological cohesion necessary to successful majority rule should not be underestimated either. It takes a very cohesive community to split repeatedly on major policy decisions and yet never to question its own unity and integrity. Unless, that is, what

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<sup>138</sup> Note that deliberative theorists entertain now less demanding definitions of the consensus that is the result of deliberation, which can accommodate pluralism: from forms of ‘meta-consensus’ to a ‘set’ interpretation of consensus, see e.g. Dryzek and Niemeyer 2006 and Neblo 2015: ch. 4.

<sup>139</sup> See Graeber 2013: 216 on the need, even for the Occupy World Street movement, to revert to ‘modified’ consensus with a 90% threshold when the participants in the assemblies became too numerous. On the other hand, it is reasonable to assume that the ideological and political coherence of a Greek assembly must have been significantly higher than the heterogeneous concentration of individuals and groups that occupied Zuccotti Park. For the compatibility of voting with deliberative forms see above p. 000-00 n. 103.

<sup>140</sup> Thus, explaining consensus decision making exclusively in terms of a disposition to yield and of the principle of deferred political compensation (see e.g. Flaig 1994: 15-17 and Sartori 1975: 144-45) tells only part of the story.

<sup>141</sup> See e.g. Dahl 1989: 50 on the impossibility of continuous consensus, and Mueller 1999 on the deliberative ideal being utopian. *Contra* see Curato et al. (forthcoming), who at point 1 refer to a variety of studies that show how deliberative democratic forms have proven viable.

keeps it together is not (or no longer) a shared will to be a community which underpins whatever level of state coercion, but rather sheer and illegitimate coercion – the possibility of the enforcement of majority decisions by violent means, without the legitimacy to back it. And here we go back to the beginning of my chapter, to Graeber’s anarchist criticism of majority rule, and to his claim that it is incompatible with democracy. Wherever one stands on this, and whether ultimately one agrees with Graeber or not, this criticism needs to be taken seriously and kept in mind as a control parameter when we judge the health of a democracy – indeed, of our own democracies. Significantly, even while he was strongly rejecting anarchist criticism of democracy, Robert Dahl remarked that such criticism, for those that do not share it, should still be useful as ‘a *moral* doctrine which holds that societies may be judged relatively good or bad according to the extent to which they maximize consent and minimize coercion’.<sup>142</sup> How much energy in institutional design do modern democracies spend towards consensus creation, and how much towards exercising (rather than legitimising) coercion? Coercion was certainly part of the equation also in ancient democracies, as Hansen and Harris have shown,<sup>143</sup> but so was consensus and sustained deliberation, which served to legitimise coercion when it was practiced. One in fact suspects that the institutional balance between the two must have been quite different, and that the level of deliberation and institutional effort towards consensus creation must have helped to enhance the legitimacy of whatever form of coercion that was practiced.<sup>144</sup>

This, the issue of institutional design, leads me to my last point. It goes beyond the aims and ambitions of this chapter to find out how effective all this actually was in making decisions in Athens.<sup>145</sup> Nor is it my aim to argue that consensus decision making is the only way to make choices that advance the interests shared by the members of a community – in fact, I do not even argue that the Athenians and the other Greeks always and invariably achieved consensual decisions, let alone that their decisions were generally and absolutely good decisions. Majority rule can advance shared interests under certain circumstances, and various models, such as Ober’s ‘Relevant Expertise Aggregation’ model, have been proposed

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<sup>142</sup> Dahl 1989: 50-1. Note that Dahl is talking here of coercion as a need that arises because of the lack of unanimity, and of consent (as unreachable) as continuous consent, both of those that enacted the laws and of those that are subject to them. The argument, therefore, is not limited here to consensus about obeying the laws, but also to consensus in making them.

<sup>143</sup> Hansen 1998; 2002; Harris 2013: 21-60.

<sup>144</sup> Cf. Alcibiades’ statement in Xen. *Mem.* 1.2.43-5 that coercion without persuasion does not create real laws, to which Pericles assents. Legitimacy is stressed as the main product of deliberative democracy by many (mostly procedural) accounts. See e.g. Cohen 1997, Manin 1987: 360, Benhabib 1996: 68, Dryzek 2001: 651. For a discussion of legitimacy and deliberative democracy (and their problems) in the real world, see Parkinson 2006.

<sup>145</sup> I confess however that I am unimpressed by arguments such as those of Flaig (2013: 173-218 and 2014: 373; see the criticism of Kierstead 2014), who claims in favour of majority rule that Greek assemblies from the Archaic period on could pass about seven to ten times more resolutions than those of other societies – surely what makes the difference is the quality of the decisions, and their consequences for the community. But even if we were to agree that majority rule is more efficient and produces absolutely better decisions, if the method used to make them can ultimately lead to the dissolution of the community, then what we have is not a good decision. And if the method used involves considerable reliance and investment in coercion with little attempt to legitimise it, then that may be a very good reason to endorse relatively less efficient methods of decision making.

to modify it and enhance its epistemic effectiveness.<sup>146</sup> But if, as has been argued, one of the reasons of the success of the ancient *polis* was the ability, through institutions that were both democratic and epistemic, to mobilise (and distil) diffused knowledge into good policy choices that advanced the shared interests of the citizens,<sup>147</sup> then I suspect that the substantial institutional investment in deliberation and towards consensus when making political decisions played a part. It must be relevant that the very institutions that governed political decision making (in accordance with widely shared ideological tenets and concerns) actively promoted (and expected) meaningful and reflected engagement with others' ideas, expertise and opinions, towards the formation of shared interests and choices. If we believe (as many are arguing in recent years) that Athens can provide a case study of a (relatively) successful epistemic democracy, then the energies spent by the Athenians (and by the other Greeks) towards designing deliberative institutions that promoted consensus must be taken into account, even when they make the Athenian assembly look a bit more like the 'occupied' Zuccotti Park, or like the Iroquois Confederacy Grand Council or the Quakers' assemblies, and a bit less like our respectable and 'viable' majoritarian democratic systems.

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<sup>146</sup> See e.g. Ober 2013.

<sup>147</sup> See Ober 2008a; 2015.

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