

Deliberation and Discussion in Classical Athens*

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DELIBERATIVE democracy has often been associated with classical Athens. “The idea of deliberative democracy and its practical implementation are as old as democracy itself,” wrote Jon Elster in 1998. “Both came into being in Athens in the fifth century B.C.”¹ Amy Gutmann and Dennis Thompson agree, drawing on Thucydides to suggest that the Athenians “saw discussion ‘not as a stumbling-block in the way of action’ but as an ‘indispensable preliminary to any wise action at all,’” and calling Aristotle “the first major theorist to defend the value of a process in which citizens publicly discuss and justify their laws to one another.”² David Held characterized Athenian public deliberation in Habermasian terms as “free and unrestricted discourse” governed by the “force of the better argument,” while Ryan Balot holds that Athenian democrats aimed at “true democratic deliberation—a public conversation in which ideas are floated freely, objections and dissent are confidently and respectfully aired, further revisions and refinement of different opinions can take place, and a collectively supported decision issues in the end.”³ More recently, Mirko Canevaro has argued that the Athenian assembly employed “deliberative procedures and institutions meant to foster debate, exchange of points of view and ideas, and reasoned arguments, and

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¹Jon Elster, “Introduction,” Jon Elster (ed.), *Deliberative Democracy* (Cambridge: Cambridge University Press, 1998), pp. 1–18, at p. 1. Elster cites Thucydides, *History of the Peloponnesian War*, 2.40—a complicated passage that I discuss further in Daniela Cammack, “Deliberation in ancient Greek assemblies,” *Classical Philology* (forthcoming).

²Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004), p. 8, citing Thucydides, *History*, 2.40 and Aristotle, *Politics*, 1281a–b. Against that interpretation of Aristotle’s argument, see Daniela Cammack, “Aristotle on the virtue of the multitude,” *Political Theory*, 41 (2013), 175–202.

³David Held, *Models of Democracy* (Palo Alto: Stanford University Press, 1996), p. 13; Ryan Balot, *Greek Political Thought* (Oxford: Blackwell, 2006), p. 66.

geared towards reaching, ultimately, consensus.” Such procedures, he claims, “were the key presupposition for the legitimacy of the democratic system.”⁴

These accounts unmistakably evoke deliberation as defined by many political theorists: briefly, a special form of group discussion, often judged essential for democratic legitimacy, in which the give-and-take of arguments concerning a public matter among diverse participants will, it is hoped, lead to a better understanding of the issues involved and thus to a more reasonable outcome.⁵ Yet how far and where such activity appeared in the classical Athenian political system is open to question. The assembly certainly “deliberated,” as represented by *bouleuomai*, rendered “deliberate” since the earliest English versions of ancient Greek texts.⁶ Yet assembly meetings were attended by 6,000 or more citizens, the vast majority of whom listened and voted, but did not speak publicly—a situation unconvincingly described as group discussion.⁷ Athenian *dikastai* (judges/jurors, henceforth “judges”),⁸ who

⁴Mirko Canevaro, “Majority rule versus consensus: the practice of democratic deliberation in the Greek *poleis*,” Mirko Canevaro, Andrew Erskine, Benjamin Gray, and Josiah Ober (eds), *Ancient Greek History and Contemporary Social Science* (Edinburgh: Edinburgh University Press, 2018), pp. 101–56, at p. 125. Cf. Robert Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), p. 18; Nadia Urbinati, “Representation as advocacy: a study of democratic deliberation,” *Political Theory*, 28 (2005), 758–86; Jeremy Waldron, “The wisdom of the multitude: some reflections on book 3, chapter 11 of Aristotle’s *Politics*,” *Political Theory*, 23 (1995), 563–84; Bernard Yack, “Rhetoric and public reasoning: an Aristotelian understanding of political deliberation,” *Political Theory*, 34 (2006), 417–38.

⁵E.g. Seyla Benhabib (ed.), *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton: Princeton University Press, 1996); Joshua Cohen, “Deliberation and democratic legitimacy,” Alan Hamlin and Philip Pettit (eds), *The Good Polity* (Oxford: Blackwell, 1989), pp. 67–92; Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996); Jürgen Habermas, *Between Facts and Norms*, trans. William Rehg (Cambridge, MA: MIT Press, 1996); Hélène Landemore, *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many* (Princeton: Princeton University Press, 2012); Bernard Manin, “On legitimacy and political deliberation,” *Political Theory*, 15 (1987), 338–68. On the diversity of conceptions of deliberative democracy, see André Bächtiger, Simon Niemayer, Michael Neblo, et al., “Disentangling diversity in deliberative democracy,” *Journal of Political Philosophy*, 18 (2010), 32–63.

⁶Thucydides, *History of the Peloponnesian War*, trans. Thomas Hobbes (Chicago: University of Chicago Press, [1629] 1989); Thomas Hobbes, “A brief of the art of rhetoric,” *Aristotle’s Treatise on Rhetoric*, trans. T. A. Buckley (Oxford: Oxford University Press, [1637] 1847), pp. 275–346.

⁷As rightly observed by: Dahl, *Democracy and Its Critics*, pp. 225–31; Elster, “Introduction,” p. 2; James Fishkin, *When the People Speak* (Oxford: Oxford University Press, 2009), p. 12; Mogens Hansen, *The Athenian Ecclesia II* (Copenhagen: Museum Tusulanum Press, 1989), pp. 93–127; Mogens Hansen, *Athenian Democracy in the Age of Demosthenes* (Norman: University of Oklahoma Press, 1999), pp. 142–7; Bernard Manin, “Comment promouvoir la délibération démocratique?,” *Raisons Politiques*, 43 (2011), 83–113; Bernard Manin, “Political deliberation and adversarial principle,” *Daedalus*, 146 (2017), 39–50; Josiah Ober, *Mass and Elite in Democratic Athens* (Princeton: Princeton University Press), pp. 324–5; Josiah Ober, *Democracy and Knowledge* (Princeton: Princeton University Press, 2008), p. 164; Moses Finley, *Democracy Ancient and Modern* (New Brunswick: Rutgers University Press, 1985), p. 56; Christopher Lyle Johnstone, “Greek oratorical settings and the problem of the Pnyx,” Christopher Lyle Johnstone (ed.), *Theory, Text, Context: Issues in Greek Rhetoric and Oratory* (Albany: State University of New York Press, 1996), pp. 97–127, at p. 110; Gary Remer, “Political oratory and conversation,” *Political Theory*, 27 (1999), 39–64; Gary Remer, “Two models of deliberation,” *Journal of Political Philosophy*, 8 (2000), 68–90; Philippe Urfalino, “La délibération n’est pas une conversation,” *Négociations*, 4 (2005), 99–114.

⁸While either “judges” or “jurors” is acceptable, I prefer “judges” since, although like modern jurors (and, much more seldom, modern judges) *dikastai* sat in panels, unlike modern jurors, they did not discuss cases among themselves and, like modern judges, they had authority to decide fact, law, and penalties.

did not “speak together” (*koinolegeomai*), also deliberated (*bouleuomai*) without discussing.⁹ Something more dialogical may have occurred in the council but, intriguingly, Athenians almost always represented its activity by other words: *bouleuo* (“plan,” “advise,” or “perform council activity”) and *probouleuo* (“preconsider,” “preconsult,” or “prepare”).

These observations suggest that, in classical Athens, “deliberation” and discussion were to some extent distinguishable, and the distinction was reflected in political terminology. Ancient Greek deliberative terminology—that is, terminology relating to situations that are often called “deliberative” today—was highly variegated. As well as *bouleuomai*, *bouleuo*, and *probouleuo*, key terms included *symbolleuo* (“advise”), *demegoreo* (“address the *demos*”), and *dialego* (“address” or “converse”). Not all these terms were associated with all contexts or with all personae within those contexts. Establishing what actions were performed by whom both illuminates the Athenian political system and may be useful to those interested in deliberative systems more generally.¹⁰

This article seeks to establish as accurately as the evidence allows the character of the deliberation and/or discussion that took place in five Athenian political arenas: courts, assembly, council, local assemblies, and street.¹¹ This exercise in philology for political theorists suggests, to begin, that the key term *bouleuomai* implied coming to a decision. Next, in democratic Athens, discussion and deliberating/deciding were inversely related.¹² The most decisive arenas (the assembly and the courts) were the least discursive, in the sense of being least marked by the exchange of reasons admired by many contemporary theorists, while the most discursive arenas (the street, perhaps the local assemblies, perhaps the council) were the least authoritative. This finding makes sense. Mass democracy relies ultimately on the vote. Mass settings are not conducive to iterated, back-and-forth, mutually responsive discussion. It does not follow that discussion was unimportant to Athenian democracy; indeed, it seems very likely (though impossible to prove or to disprove) that the decision-making powers of ordinary citizens in the assembly and courts prompted increased discussion of political issues outside those bodies, and that such “everyday talk” affected votes.¹³ But there was significantly little organized political discussion. This point bears

⁹Aristotle, *Politics*, 1268b5–10; Alan Boegehold, *The Lawcourts at Athens* (Princeton: Princeton University Press, 1995), pp. 21–42.

¹⁰Jane Mansbridge, “Everyday talk in the deliberative system,” Stephen Macedo (ed.), *Deliberative Politics: Essays on Democracy and Disagreement* (Oxford: Oxford University Press, 1999), pp. 211–39; John Parkinson and Jane Mansbridge (eds), *Deliberative Systems: Deliberative Democracy at the Large Scale* (Cambridge: Cambridge University Press, 2012).

¹¹A companion article (Cammack, “Deliberation in ancient Greek assemblies”) surveys the meaning of *bouleuomai* across all sources. It shows that it could represent three distinct forms of deliberation, namely internal, dialogical, and what I call audience deliberation, and argues that assembly deliberation was almost always represented as audience deliberation.

¹²Here I translate *bouleuomai* as “deliberate/decide” to make my meaning clear. Henceforth, for ease of reading, in translating *bouleuomai* I normally use “deliberate” or “decide” alone (sometimes “come to a decision” or “make up one’s mind”). But the reader should understand that throughout I mean both “deliberate” and “decide.”

¹³Mansbridge, “Everyday talk.”

emphasizing in a theoretical context where both everyday talk and mass voting have in recent decades received less attention than organized dialogical deliberation and consensus-building.

I. THE COURTS

I begin with Athens's law courts, both because the character of judicial deliberation is widely accepted and relatively easy to establish and because it provides a useful benchmark against which to compare the activities of the assembly and other bodies. Athenian trials lasted no more than a day, and litigants had a fixed amount of time to present their cases to the judges, who were randomly selected every morning from those eligible who wished to serve.¹⁴ A minimum of 201 judges decided private charges (*dikai*), and a minimum of 501 decided public ones (*graphai*), which included all political charges. Larger panels could be created by adding panels together, and the largest panel we know of had 6,000 judges. As soon as the litigants and any co-pleaders had finished speaking, the judges received ballots and voted by dropping them, secretly, into an urn. The ballots were then counted, and a simple majority decided the case.¹⁵

During the proceedings, judges often reacted audibly to speakers.¹⁶ The judges could also engage in private conversations, both during the speeches¹⁷ and when heading down to the voting urns.¹⁸ Nonetheless, Aeschines, defending himself against a charge of false embassy, praised his hearers "exceedingly" for "listening in silence," showing that judges were not required to speak to one another while the litigants were presenting their cases.¹⁹ More significantly, in striking contrast to modern jury practice, there was no formal opportunity for group discussion after the presentation of the case. This seems to have been standard practice across ancient Greece. Aristotle remarks that, unlike arbitrators, who worked in small groups and were expected to discuss cases with one another, judges in most communities were prohibited from "speaking together" (*koinologeomai*, a term that also means "come to an agreement").²⁰

¹⁴Judges had to be over 30 and to have sworn the judicial oath (partly quoted in the Conclusion). Alternative arrangements were made for certain charges, such as homicide: see Daniela Cammack, "Plato and Athenian justice," *History of Political Thought*, 36 (2015), 611–42.

¹⁵Hansen, *Athenian Democracy*, pp. 178–224; Boegehold, *Lawcourts*. Six thousand judges is attested by Andocides 1 (*On the Mysteries*), §17.

¹⁶Sometimes referred to as "dikastic thorybos" ("judicial clamor"); Isocrates 15 (*Antidosis*), §272; Demosthenes 18 (*On the Crown*), §52; Demosthenes 24 (*Against Timocrates*), §19; Lycurgus 1 (*Against Leocrates*), §§52, 127; Victor Bers, "Dikastic thorybos," Paul Cartledge and F. D. Harvey (eds), *CruX: Essays in Greek History* (London: Duckworth, 1985), pp. 1–15; Melissa Schwartzberg, "Shouts, murmurs, and votes," *Journal of Political Philosophy*, 18 (2010), 448–68.

¹⁷Andocides 1 (*On the Mysteries*), §§69–70; Demosthenes 47 (*Against Evergus and Mnesibulus*), §44; Demosthenes 50 (*Against Polycles*), §3.

¹⁸As argued by Boegehold, *Lawcourts*, p. 39, and possibly implied by Lycurgus 1 (*Against Leocrates*), §127.

¹⁹Aeschines 2 (*On the Embassy*), §24.

²⁰Aristotle, *Politics*, 1268b5–10.

Judges thus arrived at their verdicts more or less by themselves: no doubt informed by the reactions of other judges while the speeches were progressing, but without being accountable to anyone else, without any pressure to justify their reasoning to others or to agree with others in their assessment of the case, and indeed without engaging with anyone at all during the trial unless they wished to do so. They simply made up their minds, rather quickly, which way to vote, and voted. Moreover, the Athenians took the secrecy of judicial voting extremely seriously and repeatedly refined the process to make it more secure.²¹ That fact seems highly significant, given that open voting, by raised hands, was the norm in the assembly, council, and local assemblies.²²

What language represented the judges' activity? The key term is *bouleuomai*, "deliberate." As elaborated by Aristotle and supported by all the available evidence, *to bouleuesthai* ("deliberation") had four features. (1) It implied coming to a decision about an action within one's power. (2) It involved choosing between at least two options (that is, to do or not to do the action). (3) It was typically internal to the decision maker. (4) It had two stages: the run-up to the decision (indicated by the present tense) and the making of the decision (indicated, somewhat puzzlingly to today's reader, by past tenses).²³

The use of *bouleuomai* in judicial contexts reflected these features. (1) The judges' task was to establish a verdict by voting. (2) Each judge had two options: to vote either for the prosecutor or for the defendant. (3) The judges made up their minds which way to vote internally. Each judge, as we have seen, was responsible for his own secret vote, and the litigants' language reflected this, in that they consistently used *bouleuomai* in the plural when referring to their audience, implying that they conceived of their hearers as deliberating severally, not collectively. The contrast with English usage is illuminating. In English, a singular noun and verb is often used to represent the collective (discursive) deliberation of jurors: "the jury is deliberating." The Greeks did have a singular collective noun meaning "jury" or "judicial panel" (*dikasterion*), but it appeared only rarely and is never found as the subject of *bouleuomai*. The subject of *bouleuomai*, in judicial contexts, was typically *andres dikastai*, "gentlemen judges," or *hymas*, "you" (plural). The impression of distributed internal deliberation is, moreover, reinforced by other internally focused verbs used when

²¹For details, see Boegehold, *Lawcourts*, pp. 21–42.

²²An exception was citizenship votes, when a secret ballot was used.

²³Aristotle, *Nicomachean Ethics*, 1112a–b, 1150b. On internal deliberation, see Daniela Cammack, "Aristotle's denial of deliberation about ends," *Polis*, 30 (2013), 228–50; Cammack, "Deliberation in ancient Greek assemblies"; Robert E. Goodin, *Reflective Democracy* (Oxford: Oxford University Press, 2003); Robert E. Goodin, *Innovating Democracy* (Oxford: Oxford University Press, 2008); Manin, "Comment promouvoir"; Jean Nienkamp, *Internal Rhetorics: Toward a History and Theory of Self-Persuasion* (Carbondale and Edwardsville: Southern Illinois University Press, 2001).

addressing judges, such as “consider,” “examine,” “reflect on,” “think,” and “contemplate.”²⁴

Finally, (4) the decision-making process had two phases, both represented by *bouleuomai*. In the first stage, the judges considered the speeches of the litigants. Lycurgus, opening a prosecution for treason, addressed his audience as “You who are now deliberating [*bouleuomenous*, present tense] on behalf of your fathers, wives, children, country and temples,” while Dinarchus, prosecuting Demosthenes, told his listeners to “deliberate [*bouleuesthe*, present tense] carefully,” and asked “will you ... save him? Not if you deliberate [*bouleuesthe*, present tense] well.”²⁵ In these cases, *bouleuomai* implied the consideration involved in the run-up to the decision.

In the second stage, judges cast their ballots, deciding the matter; and in this connection *bouleuomai* appeared in past tenses, particularly the aorist tense (often in the form of an imperative). “Do not discover too late that you have put to death an innocent man,” pleaded a client of Antiphon. “Rather make the right decision [*bouleusasthe*, aorist tense] in the first place.”²⁶ *Bouleuomai* in past tenses did not necessarily imply action in the past, as in English. Rather, in imperatives (as in this example), participles, and infinitives, tense revealed aspect, that is, whether the action referred to was conceived as ongoing (present tense) or complete (usually the aorist tense, sometimes the perfect tense). Aeschines, closing his prosecution of Demosthenes in “On the Crown,” used both tenses in quick succession. He asked his hearers to “deliberate [*bouleuesthe*, present tense] not as though for some foreign city, but for your own ... decide [*bouleusasthe*, aorist tense] not with the help of your ears alone, but with your eyes, looking sharply around you to see who among you may aid Demosthenes.”²⁷ In the first use, the deliberator was represented as still making up his mind: that is, deliberation was ongoing; in the second, the mind was being made up: that is, the deliberation was coming to a close.

²⁴*Skepsasthe*, “consider,” Demosthenes 21 (*Against Meidias*), §73; Demosthenes 25 (*Against Aristogiton I*), §73; Lycurgus 1 (*Against Leocrates*), §1.52. *Skopeite*, “examine,” Demosthenes 20 (*Against Leptines*), §36; Demosthenes 19 (*On the False Embassy*), §105; Dinarchus 1 (*Against Demosthenes*), §111. *Logizesthe*, “reflect on,” Demosthenes 22 (*Against Androtion*), §22. *Enthymeisthe*, “think,” Demosthenes 19 (*On the False Embassy*), §310; Demosthenes 21 (*Against Meidias*), §197. *Theoresate*, “contemplate,” Lycurgus 1 (*Against Leocrates*), §§75, 111; Dinarchus 1 (*Against Demosthenes*), §26, 75.

²⁵Lycurgus 1 (*Against Leocrates*), §2, cf. §§11, 14–15, 83; Dinarchus 1 (*Against Demosthenes*), §26, 98. Cf. Andocides 4, *Against Alcibiades*, §7; Lysias 6 (*Against Andocides*), §8; Lysias 9 (*For the Soldier*), §§15, 19; Lysias 21 (*Defence against a Charge of Taking Bribes*), §13; Lysias 25 (*Defence against a Charge of Subverting the Democracy*), §§21, 23; Lysias 28 (*Against Ergocles*), §16; Isocrates 15 (*Antidosis*), §178; Demosthenes 20 (*Against Leptines*), §§15, 35; Demosthenes 25 (*Against Aristogiton I*), §14; Demosthenes 48 (*Against Olympiodorus*), §52; Demosthenes 53 (*Against Nicostratus*), §29; Aristotle, *Politics*, 1286a25–30, 1287b30–5; Hypereides 5 (*Against Demosthenes*), fr. 3.

²⁶Antiphon 5 (*On the Murder of Herodes*), §71, cf. §§90–1.

²⁷Aeschines 3 (*Against Ctesiphon*), §255.

This distinction of tenses within a single verb is significant, because it implies that speakers of ancient Greek treated the run-up to a decision and the final decision-making moment as two phases of the same continuous action, even when that action took place over several hours and involved listening to and judging lengthy opposing speeches (as was the case in trials). Like the interpretation of deliberation advanced by Gutmann and Thompson, *bouleuomai* implied both considering and deciding.²⁸ Yet in the case of *bouleuomai*, considering and deciding were still more tightly bound, since both parts of the action had to be performed by the same agent. They could not be assigned to different people at different times.²⁹ Accordingly, and especially in light of longstanding disagreement over the significance of decision making to the modern concept “deliberation,” the best translations of *bouleuomai* are probably “come to a decision” or “make up one’s mind,” rather than the more ambiguous “deliberate.”³⁰

The independence of judges and the finality of their decisions made some litigants nervous. Several revealed anxiety about the judges’ lack of accountability, urging that the gods would know how each had voted and that friends and family members were also likely to ask.³¹ But these anxious comments simply underscore the Athenians’ commitment to this form of decision making. It would certainly have been possible to include an element of group discussion in the judicial process, or to make the judges more accountable to one another, and/or to the audience in the courtroom and beyond, by using open voting, either among themselves or in full public view in the courtroom. The fact that the Athenians did not adopt any of these procedures suggests that they valued the privacy of judicial deliberation.

II. THE ASSEMBLY

In many respects, the situation in the Athenian assembly resembled that in the courts. A mass audience, whose members were free to react audibly to speeches and to engage in private conversations if they wished, was addressed by a small number of speakers, prior to voting for one of two options. Differences between the assembly and courts included the size of the assembly audience—typically 6,000 citizens or more;³² the number of assembly speakers—greater than in the

²⁸E.g. Gutmann and Thompson, *Why Deliberative Democracy?*, p. 5: The deliberative process “aims at producing a decision that is binding for some period of time.”

²⁹Cf. *ibid.*: the participants in the deliberative process “intend their discussion to influence a decision the government will make.” The fact that the discussants will not be making the decision themselves means that they could not be called “deliberators” in the ancient Greek sense. The conclusion of this article discusses implications of this argument in relation to the idea of the deliberative system.

³⁰Note that “change one’s mind” is the standard rendering of the related term *metabouleuomai*. On the controversial relationship between deliberation and decision making, see Bächtiger et al., “Disentangling diversity.”

³¹Lysias 12 (*Against Eratosthenes*), §100; Lycurgus 1 (*Against Leocrates*), §146; Aeschines 3 (*Against Ctesiphon*), §247; Demosthenes 59 (*Against Neaera*), §§110–11.

³²Mogens Hansen, *The Athenian Ecclesia* (Copenhagen: Museum Tusulanum Press, 1983), pp. 13–16.

courts, though still relatively small;³³ the substance of assembly votes—to approve or to reject proposals rather than to support a prosecutor or defendant; the manner of voting in the assembly—by show of hands, except when awarding citizenship, when a secret ballot was used; and the number of decisions made in the assembly, which appears to have been an average minimum of nine per meeting.³⁴

Importantly, many decisions were not debated. Meetings opened with a series of votes (*procheirotomia*, “preliminary raising of hands”), and only proposals that were not unanimously approved, or which themselves stipulated that speakers should be heard, resulted in a call for speakers.³⁵ After any debate came another vote (*diacheirotomia*, “double raising of hands”: one call for ayes, another for nays). During debates, amendments—and, in so-called “open” debates, fresh proposals—could also be submitted in writing from the assembly floor, read aloud by the secretary, and immediately put to a vote.³⁶ Many amendments probably passed this way, for instance, the suggestions that a reference to “Skiathos” be corrected to “Old Skiathos,” that certain Samians be given a dinner, or that a third brother be honored alongside two others.³⁷ Altogether, it may have been fairly common for assembly decisions not to receive oral debate.

A key difference between the assembly and courts was the porousness of the line between public speakers and audience at meetings. Unlike speakers in trials, who never acted as judges, assembly speakers sat with the rest of the audience when not speaking, and when called to vote raised their hands along with everybody else. Nonetheless, our sources reveal an important functional distinction between speech-makers and audience. *Bouleuomai*, “deliberate,” frequently appeared in reference to assemblies, yet the subject of the verb, and consequently its meaning, varied significantly. Sometimes both public speakers and listeners were represented as deliberating, as in Diodotus’ speech on the

³³All citizens not under the penalty of partial *atimia* (disenfranchisement) were eligible to address the assembly, a practice known as *isegoria*, “equality of speech.” But how many actually spoke is debatable. Hansen estimates that 700–1400 citizens acted occasionally as *rhetores* (“speakers”) in the years 355–22, in addition to the 10 or 20 citizens who spoke regularly at any given time; Hansen, *Athenian Ecclesia II*, pp. 93–127; Hansen, *Athenian Democracy*, p. 272. But his calculations concern the number of proposers and amenders found in extant decrees, and, as we shall see below, we know—thanks not least to Hansen himself (*Athenian Ecclesia II*, p. 98)—that not all those men spoke in the assembly.

³⁴Pseudo Aristotle, *Constitution of the Athenians*, ch. 43.6; Hansen, *Athenian Ecclesia II*, pp. 98–9.

³⁵Hansen, *Athenian Ecclesia*, pp. 123–30; Canevaro, “Majority rule versus consensus”; Aeschines 1 (*Against Timarchus*), §23; Pseudo Aristotle, *Constitution of the Athenians*, ch. 43.6; Demosthenes 24 (*Against Timocrates*), §11.

³⁶See e.g. Aeschines 2 (*On the Embassy*), §§64, 68, 83–4.

³⁷*Inscriptiones Graecae I: Inscriptiones Atticae Euclidis anno anteriores* (Berlin: Berlin-Brandenburgische Akademie der Wissenschaften, 3rd edn, 1994) (hereafter *IG I³*), §§110, 127; *Inscriptiones Graecae II: Inscriptiones Atticae Euclidis anno posteriores* (Berlin: Berlin-Brandenburgische Akademie der Wissenschaften, 3rd edn, 2012) (hereafter *IG II³*), §212. Pseudo Aristotle, *Constitution of the Athenians*, chs 29, 45; Hansen, *Athenian Ecclesia II*, p. 97; Peter Rhodes, *The Athenian Boule* (Oxford: Oxford University Press, [1972] 1985), pp. 52–87; cf. Peter Rhodes, “Demagogues and demos in Athens,” *Polis*, 33 (2016) 33, 243–64, at pp. 247–8.

Mytilenaeans in Thucydides: “We [*hemas*] are deliberating [*bouleuesthai*] not about the present but the future ... we are not litigating with the Mytilenaeans but deliberating [*bouleuometha*] about them.”³⁸ Similarly, Aeschines praised Solon for laying down “the proper manner of deliberating [*bouleuesthai*] when we [*hemas*] gather at meetings,” while Demosthenes asked histrionically, alluding to problems that might arise from insufficient taxation, “are we never to meet and make decisions [*bouleusometh*]?”³⁹ *Bouleuomai*, in these cases, was used in a global sense. Everything that took place at assembly meetings counted as deliberation, because everything pertained to the decision-making process; hence everyone present was a deliberator.

Yet *bouleuomai* also appeared in a more limited sense, namely as the special function of the listening audience *as distinct from* those who spoke from the stage. The vast majority of examples of *bouleuomai* referring to assemblies are of this sort.⁴⁰ The Demosthenic *Exordia*, a collection of 56 openings to assembly speeches, is typical. *Bouleuomai* appears 30 times, 26 in the second person plural, indicating the audience—for example, “You have come here today not to pass judgment on wrongdoers but to decide [*bouleusomenoi*] about the current state of affairs”; “As becomes men deliberating [*bouleuomenous*] on behalf of the city, put aside your personal rivalries and consider the common good”; and “It is your duty when deliberating [*bouleuomenous*] on the most important public issues to listen to all your advisers.”⁴¹

What were assembly speakers represented as doing when *bouleuomai* was not used? One verb used was *agoreuo*, literally “speak in the *agora* [public square],” as in the herald’s call for speakers: “Who wishes to speak [*agoreuein*]”.⁴² Another option was *lego*, “speak,” as in Demosthenes’ complaint, “if you are examining [*skopeite*] and deliberating [*bouleuesth*]’, it is wrong to stop those who wish to speak [*legein*]”⁴³ Another was *demegoreo*, “address the assembly” or “speak publicly.” Timotheus “addressed the assembly” [*edemegoresen*], asking, “Are you deliberating [*bouleuesthe*] how you will deal with the Thebans?”. Demosthenes,

³⁸Thucydides, *History*, 3.44.

³⁹Aeschines 1 (*Against Timarchus*), §22; Demosthenes 24 (*Against Timocrates*), §99. Cf. Demosthenes 9 (*Philippic* 3), §7; Demosthenes 17 (*On the Accession of Alexander*), §17; Demosthenes 23 (*Against Aristocrates*), §211; Aeschines 1 (*Against Timarchus*), §33; Aeschines 2 (*On the Embassy*), §62; Aeschines 3 (*Against Ctesiphon*), §68; Isocrates 8 (*On the Peace*), §§15, 52.

⁴⁰E.g. Thucydides, *History*, 1.72, 1.73, 1.78, 1.80, 3.37–8, 4.87, 6.17, 6.36, 6.92, 7.14; Andocides 1 (*On the Mysteries*), §§73, 75; Andocides 2 (*On his Return*), §19; Andocides 3 (*On the Peace with Sparta*), §12, 33; Aeschines 2 (*On the Embassy*), §§50, 60–1, 70, 82, 134; Aeschines 3 (*Against Ctesiphon*), §§69, 120, 150–1, 251–2; Demosthenes 3 (*Olynthiac* 3), §1; Demosthenes 4 (*Philippic* 1), §§1, 33, 41; Demosthenes 5 (*On the Peace*), §§2, 3; Demosthenes 6 (*Philippic* 2), §28; Demosthenes 8 (*On the Chersonese*), §1; Demosthenes 9 (*Philippic* 3), §20; Demosthenes 10 (*Philippic* 4), §§1, 28–30; Demosthenes 13 (*On Organization*), §2; Demosthenes 15 (*On the Liberty of the Rhodians*), §§1–2, 6, 13, 21, 31; Demosthenes 18 (*On the Crown*) §24, 65, 86; Demosthenes 19 (*On the Embassy*), §§5, 13, 34, 96, 206; Demosthenes 23 (*Against Aristocrates*), §§109, 115; Demosthenes 24 (*Against Timocrates*), §32; Dinarchus 1 (*Against Demosthenes*), §14.

⁴¹Demosthenes, *Exordia*, §§11, 12, 26.

⁴²Aeschines 1 (*Against Timarchus*), §27.

⁴³Demosthenes, *Exordia*, §10.

similarly, identified speaking [*demegorein*] before decision makers [*bebouleumenoi*] as his life's only privilege.⁴⁴

Another possible choice was *dialego*, origin of the English “dialogue.” Used without a personal object, *dialego* could imply “discuss” or “converse,” as it often did in Plato's dialogues.⁴⁵ But when used with a personal object, it often implied “speak to” or “address,” as in Aristophanes' *Clouds*: “I would not speak to [*dialechtheien*] the others, even if I met them in the street.”⁴⁶ This verb appears several times with “Athenians” or “assembly” (*demos*) as the object of the verb.⁴⁷ Gorgias “addressed [*dielchthe*] the Athenians about the alliance,” Aeschines drew attention to Solon's bearing “as he used to address [*dielegeto*] the assembly of the Athenians,” and Demosthenes argued that if another politician's intentions had been honest, he would first have asked for an audience before the council and then “addressed [*dialechthenai*] the assembly.”⁴⁸ *Dialego* implying “discuss” or “converse” does not appear in this context.

Most often, the activity of speakers was represented by *symbouleuo*, “advise.”⁴⁹ Speaking of the Athenians in the *Protagoras*, Socrates argues, “When they have to decide [*bouleusasthai*] something to do with ... the city, the man who rises to advise [*symbouleuei*] them ... may equally well be a smith, a shoemaker, a merchant, a naval captain, rich, poor, well-born or otherwise.”⁵⁰ The pseudo-Platonic *Alcibiades I* contains many similar examples, such as “what subject do the Athenians propose to decide [*bouleuesthai*] that you should stand up to advise [*symbouleuson*] them?”⁵¹ Aristotle's *Rhetoric* represented topics considered by assemblies as those “about which all men deliberate [*bouleuesthai*] and those who advise [*hoi symbouleuontes*] speak publicly.”⁵² Lysias described an orator “advising [*synebouleuse*] you while you were deliberating [*bouleuomenois*],” and Aeschines recalled Demosthenes declaring that he was “amazed at both parties, the listeners as well as the ambassadors, for wasting time—the listeners the time for deliberating [*bouleuesthai*], the ambassadors the time for advising [*symbouleuein*].”⁵³ Demosthenes provides many further examples. “If in times past your regular speakers had advised [*synebouleusan*] what was necessary,

⁴⁴Demosthenes 8 (*On the Chersonese*), §74; Demosthenes 18 (*On the Crown*), §236.

⁴⁵Discussed below.

⁴⁶Aristophanes, *Clouds*, ll. 424–5.

⁴⁷On *demos* meaning “assembly,” see Daniela Cammack, “The *dēmos* in *dēmokratia*,” *Classical Quarterly*, 69 (2019), 42–61.

⁴⁸Diodorus Siculus, *Library of History*, 12.53.3; Aeschines 1 (*Against Timarchus*), §1.25; Demosthenes 24 (*Against Timocrates*), §48.

⁴⁹See further Lisa Kallet-Marx, “Money talks: rhetor, demos, and the resources of the Athenian empire,” S. Hornblower and Robin Osborne (eds), *Ritual, Finance, Politics: Athenian Democratic Accounts Presented to David Lewis* (Oxford: Oxford University Press, 1994), pp. 227–52; Ober, *Mass and Elite*, pp. 317–23; Matthew Landauer, *Dangerous Counsel: Accountability and Advice in Ancient Greece* (Chicago: Chicago University Press, 2019).

⁵⁰Plato, *Protagoras*, 319d.

⁵¹Pseudo Plato, *Alcibiades I*, 106c; cf. 107a–e.

⁵²Aristotle, *Rhetoric*, 1359b20.

⁵³Lysias 6 (*Against Andocides*), §54; Aeschines 2 (*On the Embassy*), §49.

there would have been no need for you to deliberate [*bouleuesthai*] today”; “It is your duty when deliberating [*bouleuomenous*] ... to allow freedom of speech to each of your advisers [*ton symbouleuonton*],” and so on.⁵⁴ Perhaps most revealing, the ancient Greeks called assembly speech “advisory rhetoric” (*symbouleutike rhetorike*) or “public rhetoric” (*demegorike rhetorike*).⁵⁵ The English rendering “deliberative rhetoric” is misleading: the equivalent Greek term would be *bouleutike rhetorike*, but that term is unattested.⁵⁶

The frequency with which *symbouleuo* and *bouleuomai* appeared together may be explained by their common etymology. Both terms derived from *bouleuo*, which in archaic and early classical Greek could mean “plan,” “plot,” “advise,” “consult,” “deliberate,” or “decide.” *Bouleuo* was related to *boule*, which in both archaic and classical Greek could imply “plan,” “will,” “counsel,” or “council.” But by the mid-classical era, the meaning of *bouleuo* had narrowed to “be a councilor,” “perform council activity,” and, less often, “advise.” “Advise” had been largely taken over by *symbouleuo*, literally “co-plan” or “co-advise” according to the earlier usage. At the same time, “deliberate” and “decide” had come to be expressed solely by *bouleuomai*, literally “make a plan for oneself” (not, technically, a different verb, but the middle voice of *bouleuo*).⁵⁷

Accordingly, in classical Athens, derivatives of *bouleuo* represented three political roles: *ho bouleutes*, “councilor”; *ho symboulos*, “advisor”; and *ho bouleuomenos*, “deliberator/decider.”⁵⁸ We shall consider the functions of councilors below. Here we may simply elaborate on the complementarity of advising and deliberating/deciding in the assembly, perhaps best suggested in English by the ideas of giving and receiving counsel. At meetings, speakers and audiences were explicitly supposed to do different things. Speakers were meant to

⁵⁴Demosthenes 4 (*Philippic I*), §1; Demosthenes 15 (*On the Liberty of the Rhodians*), §1, rpt *Exordia*, §27. Cf. Thucydides, *History*, 3.38, 3.43; Plato, *Protagoras*, 322d–24c; Plato, *Gorgias*, 455b–6a; Plato, *Alcibiades I*, 106c–7d; Xenophon, *Memorabilia*, 3.6; Xenophon, *Hellenica*, 1.7.16, 1.7.19, 2.2.15, 2.4.40; Andocides 4 (*Against Alcibiades*), §12; Lysias 25 (*Defence against a Charge of Subverting the Democracy*), §27; Lysias 33 (*Olympic Oration*), §3; Isocrates 3 (*Nicocles or the Cyprians*), §§19, 21; Isocrates 4 (*Panegyricus*), §3, 19, 170–1; Isocrates 5 (*To Philip*), §§88; Isocrates 8 (*On the Peace*), §8–13, 27, 52–5; Isocrates 12 (*Panathenaicus*), §170–1; Isocrates 15 (*Antidosis*), §256; Aeschines 1 (*Against Timarchus*), §§26, 64, 110–11, 120, 180, 186; Aeschines 2 (*On the Embassy*), §29, 65, 157, 165; Aeschines 3 (*Against Ctesiphon*), §158; Demosthenes 5 (*On the Peace*), §8; Demosthenes 8 (*On the Chersonese*), §1–3; Demosthenes 10 (*Philippic 4*), §17; Demosthenes 14 (*On the Navy*), §8; Demosthenes 18 (*On the Crown*), §86; Demosthenes, *Exordia* §§1, 3, 6, 11, 20, 26, 30, 33, 35–6, 56; Dinarchus 1 (*Against Demosthenes*), 31, 35–6, 40, 72, 76–8, 81, 93; Dinarchus 2 (*Against Aristogeiton*), §§14, 15; Hypereides 5 (*Against Demosthenes*), col. 28; Pseudo Aristotle, *Constitution of the Athenians*, chs 23–4, 29.

⁵⁵As seen in Aristotle’s *Rhetoric*, 1354b, 1358b.

⁵⁶Discussed further in Cammack, “Deliberation in ancient Greek assemblies.”

⁵⁷The middle voice of a verb was often used to show that the action had some special connection to the agent beyond merely being performed by them. E.g. *bouleuo* (active voice), “plan”; *bouleuomai* (middle voice), “deliberate,” i.e. make a plan for oneself rather than for someone else. See Herbert Weir Smyth, *Greek Grammar* (Cambridge, MA: Harvard University Press, 1956), §1728; Cammack, “Deliberation in ancient Greek assemblies.”

⁵⁸As distinct from *ho bouleuomenos*, “whoever wishes,” meaning whoever volunteered for a given role—another important political persona whose name also derived from *boule* (will), via *bouleuo*, “will” or “wish.”

take a “broad view,” “explore best policy,” discern the trend of events, forecast results, and offer warnings when necessary.⁵⁹ By contrast, “it was your task,” Demosthenes said to the assembly, “first to listen to the situation, next to make your decision [*bouleusasthai*], and finally to carry it out.”⁶⁰ His obligation was “to tell you what I have convinced myself is advantageous,” his audience’s “to listen, to judge, and if it is your pleasure, to adopt.”⁶¹ Scholars have sometimes portrayed non-speaking assembly-goers as relatively passive (or have worried that they may be perceived that way), but contemporaries do not seem to have shared that impression.⁶² To the contrary, speakers emphasized the audience’s agency as the city’s decision-making body, and represented themselves as playing a supporting (albeit indispensable) role. “Who went to help the Byzantines and saved them? Who prevented the entrapment of the Hellespont in that crisis?”, Demosthenes asked. He answered, “You, Athenians, and when I say you I mean the city.” He went on, “Who advised the city, moved resolutions, took action ...? I did.”⁶³

The representation of public speakers as advisors as opposed to deliberators/deciders accords perfectly with Aristotle’s definition of *bouleuomai*, sketched above. *Bouleuomai* implied coming to a decision, that is, in this case, a decision about whether to vote “aye” or “nay” to a given proposal. But those who came forward to address the assembly had invariably already decided which way they would vote. The audience was supposed to have an open mind during meetings: Demosthenes argued specifically that sound judgment meant “not having decided [*bebouleuesthai*] before you have heard that upon which you should base your decision [*bouleusasthai*].”⁶⁴ Yet “that upon which you should base your decision” was the result of speakers’ *prior* deliberation, that is, speakers’ internal considerations and the conclusions they had reached. “The same arguments we use when, in speaking, we persuade others, we employ also when we deliberate [*bouleuomenoi*],” Isocrates explained.⁶⁵ Aeschines attributed both his speeches and his silences to “having come to a decision [*bouleusamenos*],”⁶⁶ while Demosthenes reported that “it is difficult ... not only to say before you what must be done, but even to have found it out by solitary reflection.” Good policies were “rare and hard to discover”; still he wished “to tell you what I have

⁵⁹Dinarchus 1 (*Against Demosthenes*), §35; Demosthenes 16 (*For the Megalopolitans*), §1; Demosthenes 18 (*On the Crown*), §246.

⁶⁰Demosthenes 19 (*On the False Embassy*), §34.

⁶¹Demosthenes, *Exordia*, §33, trans. DeWitt.

⁶²E.g. Hansen, *Athenian Democracy*, p. 268; Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997), p. 16; Rhodes, “Demagogues and demos,” p. 264; Urbinati, “Representation as advocacy,” pp. 762–3.

⁶³Demosthenes 18 (*On the Crown*), §88. Cf. Demosthenes, *Exordia*, §4; Aeschines 2 (*On the Embassy*), §160.

⁶⁴Demosthenes, *Exordia*, §18; cf. §§10, 47, 56.

⁶⁵Isocrates 15 (*Antidosis*), §236.

⁶⁶Aeschines 3 (*Against Ctesiphon*), §128. Cf. Xenophon, *Hellenica*, 1.1.30; Demosthenes 21 (*Against Meidias*), §74.

convinced myself is expedient.”⁶⁷ Demosthenes was proud of his preparations and sometimes even mentioned the notes he had made, but such forethought was not unusual.⁶⁸ Alcidas mocked those who wrote out their speeches in full, yet did not recommend “speaking offhandedly.” Public speakers “ought to prepare carefully, choosing in advance their arguments and overall organization”; only “the actual words should be supplied at the time of speaking.”⁶⁹

Public speech in the Athenian assembly was thus monological (“plebiscitary rhetoric,” to use Chambers’s felicitous term), in that speakers presented a connected argument in defense of a single position—their own.⁷⁰ Moreover, as others have emphasized, speakers sought to persuade the audience, not one another.⁷¹ Clearly, this is a long way from the Habermasian ideal. Nonetheless, there are two other ways that the deliberations of assembly-goers may be interpreted as discursive. Audience reaction in the form of *thorybos*, “clamor,” may be interpreted as a contribution to a conversation, and the semi-private conversations of audience members with one another may also have played a significant role.

Thorybos could certainly affect debate.⁷² Demosthenes, addressing the assembly by letter in 323, regretted that this format did not allow him to respond to the reactions of his audience:

You Athenians have a way of opposing many suggestions without waiting to understand them. In the case of a speaker, of course, it is possible to perceive what you want and easy to correct your misapprehensions; but the written page possesses no such aid against those who raise a clamor [*tous thorybountas*].⁷³

Sometimes *thorybos* could drive speakers from the stage or effect outcomes in other ways, as when the enthusiasm of the crowd resulted in Cleon receiving an

⁶⁷Demosthenes, *Exordia*, §33. Cf. Lysias 14 (*Against Alcibiades*), §45.

⁶⁸Demosthenes 21 (*Against Meidias*), §§130, 191. Cf. Aeschines 2 (*On the Embassy*), §35. Demosthenes may have been an extreme case, however: he became famous for long hours of preparation, and a fellow orator, Pytheas, said that his oral style “smelled of the lamp” Plutarch, *Demosthenes*, 8 (I am indebted to Mogens Hansen for this reference). See further Alfred Dorjahn, “On Demosthenes’ ability to speak extemporaneously,” *Transactions and Proceedings of the American Philological Association*, 78 (1947), 69–76.

⁶⁹Alcidas, *On Sophists*, 2.33, trans. Michael Gagarin and Paul Woodruff, *Early Greek Political Thought from Homer to the Sophists* (Cambridge: Cambridge University Press, 1995).

⁷⁰Simone Chambers, “Rhetoric and the public sphere: has deliberative democracy abandoned mass democracy?,” *Political Theory*, 37 (2009), 323–50.

⁷¹Remer, “Political oratory”; Remer, “Two models”; Elster, “Introduction,” p. 2; Manin, “Political deliberation,” p. 41.

⁷²See e.g. Joseph Roisman, “Speaker–audience interaction in Athens: a power struggle,” Ineke Sluiter and Ralph Rosen (eds), *Free Speech in Classical Antiquity* (Leiden: Brill, 2004), pp. 261–78; Judith Tacon, “Ekklesiastic ‘thorubos,’” *Greece and Rome*, 48 (2001), 173–92; Rosalind Thomas, “Performance, audience participation and the dynamics of the fourth-century assembly and jury-courts of Athens,” Claudia Tiersch (ed.), *Die Athenische Demokratie im 4. Jahrhundert: Zwischen Modernisierung und Tradition* (Stuttgart: Franz Steiner Verlag, 2016), pp. 89–107; Noémie Villacèque, “Chahut et délibération,” *Participations*, 3 (2012), 49–69; Robert Wallace, “The power to speak—and not to listen,” Sluiter and Rosen, *Free Speech in Classical Antiquity*, pp. 221–32.

⁷³Demosthenes, Letter 1.3, trans. DeWitt.

unexpected military commission in 424.⁷⁴ Additionally, as Canevaro has argued, in open debates, where several proposals might be advanced, *thorybos* may have helped to determine which would be put to the vote by the meeting's chairmen ("facilitators," as Canevaro terms them).⁷⁵

It is certainly true that speakers sometimes angled for acclamation and applause from the crowd, showing that audience reaction was an accepted part of the proceedings.⁷⁶ Nonetheless, our sources represent *thorybos* quite differently from either advisory speech or deliberation. While those activities were consistently portrayed as the proper functions of speakers and audience respectively, *thorybos* was typically portrayed as an interruption of the deliberative process, not as part of it. To be sure, that portrayal was normally advanced by the speakers themselves, who we may think were merely defending their own turf. But there is no sign that speakers feared that their audiences might feel offended by the representation of crowd noise as an undesirable interruption—quite the contrary. Demosthenes regularly exhorted his hearers to listen quietly and twice depicted *thorybos* and *to bouleuesthai* as mutually exclusive.⁷⁷ Aeschines liked to use audience reaction against his opponents, as when in a trial speech against Timarchus he made much of the laughter provoked by a series of double entendres at Timarchus' expense at an earlier assembly meeting.⁷⁸ Yet it is significant that at the time, the chairmen had not taken this laughter in their stride but, rather, scolded the audience for seeming to disrespect the speaker.⁷⁹

As Canevaro argues, Dikaiopolis' heckling at the beginning of Aristophanes' *Acharnians* shows that *thorybos* could be regarded as a prerogative of assembly-goers,⁸⁰ but Dikaiopolis himself indicates that his intention in heckling is to shut down the day's deliberations, not to participate in them.⁸¹ Altogether, there are many signs that *thorybos* was regarded as a form of disruption, albeit a frequent and perfectly tolerable one, and few, if any, that it was regarded as an important way of gauging the audience's opinion. The audience's opinion was solicited at the same time as its decision—through its votes.

How significant was dialogue among audience members? This question arises particularly because whereas (as we saw above) judges were always represented

⁷⁴Demosthenes 19 (*On the False Embassy*), §§17–18; Thucydides, *History*, 4.28. Cf. Xenophon, *Hellenica*, 1.7.

⁷⁵Canevaro, "Majority rule versus consensus," p. 128.

⁷⁶As recently discussed by Mogens Hansen, *Aspects of the Athenian Democracy in the Fourth Century BC* (Royal Danish Academy of Sciences: Copenhagen, 2018), p. 33.

⁷⁷Demosthenes 5 (*On the Peace*), §3: "If you will stop the noise [*tou thorybein*] and competition and listen, as is appropriate for those deliberating [*bouleuomenois*] the most important issues on behalf of the polis, I shall be able to speak and advise what best suits the present moment and will redeem the past"; Demosthenes 8 (*On the Chersonese*), §3: "I think the most immediate advantage is gained by completing our deliberations [*bebouleusthai*] and preparations and not being distracted from that by yelling [*tois thorybois*] about other things and making accusations." Cf. Demosthenes 1 (*Olynthiac 1*), §1; Demosthenes 13 (*On Organization*), §3; Demosthenes, *Exordia*, §§5, 21, 26, 56.

⁷⁸Aeschines 1 (*Against Timarchus*), §§82–5. Cf. Thomas, "Performance, audience participation."

⁷⁹Aeschines 1 (*Against Timarchus*), §84.

⁸⁰Canevaro, "Majority rule versus consensus," p. 133.

⁸¹Aristophanes, *Acharnians*, ll. 37–9, 170–1.

as deliberating severally, using the plural, assembly audiences were often represented as deliberating collectively, using the singular. *Bouleuomai* commonly appeared with the singular collective subject *demos*, referring to the listening crowd.⁸² Can intra-audience discussion help to explain that usage? That is, did the Athenians suppose that local conversations among the audience created a single agent, engaged in a single act of collective deliberation? That interpretation is possible, though I do not know of any supporting evidence.

An alternative interpretative strategy is to ask what differences between the courts and assembly may explain the representation of deliberation as distributive in the one case and collective in the other. As we have seen, both judges and assembly-goers heard the same sets of speeches, and both groups were free to heckle and to engage in conversation if they wished. But judges voted by secret ballot, assembly-goers by raising hands, and that, arguably, goes to the heart of the matter. In the final decision-making moment, judges acted independently, dropping their ballots into an urn one by one. But assembly-goers voted en masse, publicly, and often unanimously, certainly at the preliminary vote (*procheirotonia*) and probably at the final *diacheirotonia* too (as Jon Elster has taught us to expect in cases of non-simultaneous public voting).⁸³ Moreover, assembly-goers' votes were not counted individually but estimated en bloc, "clumped" rather than "counted."⁸⁴ Arguably, it was above all in voting that Athenian assembly-goers looked and acted as a collective agent, constructing a common will.

Substantial evidence supports the claim that it was mass public voting, rather than intra-audience discussion or even hearing public speech, that essentially defined "deliberation" in the Athenian assembly. Two sources describe the *demos* as deliberating, using *bouleuomai*, at a meeting in 346 when no speeches took place, only a series of votes—indeed, the *demos* is represented as deliberating (*ebouleueto*) and voting (*epepsephizeto*) at the same time.⁸⁵ *Bouleuomai* in the aorist tense, representing the culmination of deliberation, was especially closely associated with voting. In a decree quoted at Aeschines 2.60, *bouleuomai* in the present tense denoted the ongoing deliberations of the Athenian *demos*, while the aorist denoted the result of the vote. The aorist also appeared throughout the decrees quoted at Aeschines

⁸²E.g. Pseudo Xenophon, *Constitution of the Athenians*, ch. 1.16; Aeschines 2 (*On the Embassy*), §§60, 67, 109–10; Aeschines 3 (*Against Ctesiphon*), §§ 67, 142; Demosthenes 18 (*On the Crown*), §§74, 165; Aristotle, *Politics*, 1298b20–30; Dinarchus 1 (*Against Demosthenes*), 90; Theophrastus, *Characters*, 26.1; IG I³ §34; IG II³ 1 §337. Cf. Demosthenes, Letter 1.2; Aristotle, *Politics*, 1298b15.

⁸³Jon Elster, "The night of August 4, 1789: a study of social interaction in collective decision-making," *Revue Européenne des Sciences Sociales*, 45 (2007), 71–94. Cf. Melissa Schwartzberg, *Counting the Many: The Origins and Limits of Supermajority Rule* (Cambridge: Cambridge University Press, 2013).

⁸⁴Hansen, *Athenian Ecclesia*, pp. 103–21; Schwartzberg, "Shouts, murmurs and votes"; Schwartzberg, *Counting the Many*.

⁸⁵Compare Aeschines 2 (*On the Embassy*), §67, with Demosthenes 19 (*On the False Embassy*), §13. Speeches had been made the previous day, but this meeting was reserved for voting only.

3.67–9, which concerned Demosthenes' attempt to hurry the Athenians into a decision on peace and an alliance (not hurriedly to begin deliberating about them). An inscribed decree, *IG II³ 1 337*, which records a decision of the Athenian council in 333/2, is especially illuminating. A group of Kitians had asked for permission to found a sanctuary of Aphrodite on Athenian territory, and the council agreed “that the assembly, having heard the Kitians ... and any other Athenian who wishes, shall come to a decision [*bouleusasthai*, aorist tense] as seems to it best.” Coming to a decision was to take place *after* hearing speeches: *bouleusasthai*, here, can only refer to a vote.⁸⁶

Further support appears in Aristotle. *Politics* 1281b, the defense of rule by the many sometimes known as the “doctrine of the wisdom of the multitude,” has often been cited in support of a discursive interpretation of assembly deliberation.⁸⁷ Yet the only example of such activity Aristotle mentions is elections, which seem not to have involved speeches.⁸⁸ Another significant line, later in the same text, is, “They will deliberate/decide [*bouleusontai*] better when all deliberate/decide [*bouleuomenoi*] together, the *demos* with the notables and they when with the masses.”⁸⁹ Evidently Aristotle envisaged a joint meeting of *demos* and notables, in which all heard the same speeches and considered the same proposals (as distinct from two separate meetings, as in the UK's House of Commons and House of Lords). Yet why should a decision made jointly by *demos* and notables be “better”? Context supplies a clue.

Aristotle was discussing how to improve *to bouleuesthai* in communities where the *demos* was maximally powerful, and to this end he proposed several possible strategies: increasing the number of elite citizens on the deliberative body; fining elite citizens for non-attendance—the immediate prompt for the line (quoted above) about deciding better when all deliberate together; electing deliberators or choosing them equally by lot from each class; giving payment for attendance to no more than the number of non-elite citizens needed to balance those in the political class; and eliminating by lot any excess of the former over the latter.⁹⁰ In every case, the goal was to balance the *number* of non-elite and notable citizens who would take part in deliberation, which implies that Aristotle hoped to influence the outcome of votes.

⁸⁶Cf. *IG I³ §§40, 127*, and Thucydides, *History* 6.39: “The many, having listened, judge (*krinai*) the best.”

⁸⁷Most famously by Waldron, “Wisdom of the multitude.” Cf. Cammack, “Virtue of the multitude”; Cammack, “Deliberation in ancient Greek assemblies”; Melissa Lane, “Aristotle on claims to rule,” Marguerite Deslauriers and Pierre Destrée (eds), *The Cambridge Companion to Aristotle's Politics* (Cambridge: Cambridge University Press, 2013), pp. 247–74.

⁸⁸Hansen, *Athenian Ecclesia*, pp. 119–21; Marcel Piérart, “A propos de l'élection des stratèges athéniens,” *Bulletin de correspondance hellénique*, 98 (1974), 125–46; Peter Rhodes, “Notes on voting in Athens,” *Greek, Roman and Byzantine Studies*, 22 (1981), 129–32.

⁸⁹Aristotle, *Politics*, 1298b20.

⁹⁰Ibid., 1298b10–28.

III. THE COUNCIL

The absence of group discussion in the courts and assembly has led several scholars to represent Athens's council (*boule*) as the city's most dialogical venue.⁹¹ This body of 500 citizens was the city's administrative centerpiece, responsible for overseeing all public officials, receiving foreign visitors and military reports, and preparing the agenda for assembly meetings. Like a judicial panel, it was selected by sortition from among those eligible and willing to serve; unlike a judicial panel, it was constituted not for a single day but for a whole year, meeting most days. Unlike either the assembly or courts, it was a geographical microcosm of the polis, in that seats were allotted to every deme (village-level administrative unit) in proportion to its size.⁹² Each deme also belonged to one of Athens's ten tribes, among which headship of the council rotated, so that every *prytany* (council month of 35 or 36 days) a new group of 50 councilors took over the presidency, a third of whom, at any one time, would dine and sleep together in a dedicated building called the *prytaneum*.⁹³ Also unlike either the assembly or courts, stints on the council were limited to twice in a lifetime, thus inhibiting the development of a professional councilor class.

What terms represented the activity of councilors (*bouleutai*)? Strikingly, *bouleuomai* was very seldom used. In classical Athenian sources, that word is associated with councils only eight times.⁹⁴ In three cases the council was acting as a court, as it occasionally did.⁹⁵ In two, the subject was the "council of the future" designed by oligarchical conspirators in 411 but never realized.⁹⁶ Two more cases appear in Lycurgus, in reference to one of fourth-century Athens's greatest crises, its defeat by Philip of Macedon at Chaeronea in 338.⁹⁷ Only Pseudo Xenophon's claim that "the council has to deliberate [*bouleuesthai*] many issues ... war, revenues, law making, things do with the polis, allies, tribute, care of dockyards and shrines," uses *bouleuomai* to denote the normal activity of the democratic council, and it must be observed that that text is notorious for its sloppy writing.⁹⁸

Why does *bouleuomai* appear so few times in reference to the council? The explanation seems to lie in the term's association with decision making. When

⁹¹Fishkin, *When the People Speak*, pp. 11, 82; Ober, *Mass and Elite*, pp. 142–51; Josiah Ober, "Democracy's wisdom: an Aristotelian middle way for collective judgment," *American Political Science Review*, 107 (2013), 104–22; Françoise Ruzé, *Délibération et Pouvoir dans la Cité Grecque* (Paris: Éditions de la Sorbonne, 1997), pp. 437–543.

⁹²Pseudo Aristotle, *Constitution of the Athenians*, ch. 43.3; Rhodes, *Boule*, p. 30; Hansen, *Athenian Democracy*, pp. 250–1.

⁹³Rhodes, *Boule*, p. 16.

⁹⁴IG I³ 34 is another possible case, but the subject of the verb is unclear.

⁹⁵Lysias 26 (*On the Scrutiny of Evandros*), §§21, 24; Demosthenes 51 (*On the Trierarchic Crown*), §9. Cf. Xenophon, *Hellenica*, 2.3.12; Rhodes, *Boule*, pp. 38–9.

⁹⁶Pseudo Aristotle, *Constitution of the Athenians*, ch. 30.4.

⁹⁷Lycurgus 1 (*Against Leocrates*), §§37, 126.

⁹⁸Pseudo Xenophon, *Constitution of the Athenians*, ch. 3.2; J. L. Marr and Peter Rhodes, *The "Old Oligarch": The Constitution of the Athenians* (Oxford: Aris & Phillips/Oxbow, 2008), p. 8.

acting as judges, councilors did make final decisions, justifying Lysias' and Demosthenes' uses of *bouleuomai* with respect to councilors' judicial activity.⁹⁹ Equally, oligarchical councils made decisions for the polis—that was a defining feature of oligarchy.¹⁰⁰ So did democratic councils in emergencies of the kind described in Lycurgus' speech. But, in normal circumstances, the votes of the Athenian council were not final. Nearly all its determinations were subject to scrutiny, revision, or rejection by either the assembly or the courts. It had a preparatory and provisional role.

That role was represented by two verbs: *bouleuo* (“plan,” “advise,” or “perform council activity”) and *probouleuo* (“preconsult,” “preconsider,” or “prepare”). Both *bouleuo* and *probouleuo* could be used in a general sense, to suggest planning/advising,¹⁰¹ or giving a matter forethought, respectively.¹⁰² But both also had special political meanings. When used of single men, *bouleuo* implied “serve on the council,”¹⁰³ and when used with the collective subject *boule*, “council,” it implied “sit/act/plan as the council.”¹⁰⁴ In one case, referring to the 411 oligarchical coup, *bouleuo* was even used to imply that the *assembly* had acted as an advisory council. Power being at that point in the hands of the oligarchs, Thucydides used *bouleuo*, not *bouleuomai*, to represent the activity of both the assembly and the regular (non-oligarchical) council.¹⁰⁵

Probouleuo developed the special meaning “frame or pass a *probouleuma*,” that is, prepare, in writing, a preliminary or provisional decree—a proposal—that would go to the assembly for final approbation or rejection. The author of the Aristotelian *Constitution of the Athenians* wrote that the council “prepares resolutions [*probouleuei*] to go to the assembly, and it's not possible for anything that hasn't been thus prepared or that the presidents haven't published in writing

⁹⁹Pseudo Aristotle, *Constitution of the Athenians*, ch. 44.

¹⁰⁰Aristotle, *Politics*, 1298b.

¹⁰¹Xenophon, *Hellenica*, 1.1.31; Antiphon 6 (*On the Choreutes*), §18.

¹⁰²Herodotus, *Histories*, 1.133; Thucydides, *History*, 3.82; Aristophanes, *Knights*, 1.1342; Xenophon, *Cyropaedia*, 4.3.17.

¹⁰³Pseudo Xenophon, *Constitution of the Athenians*, ch. 1, §§6, 9; Aristophanes, *Assemblywomen*, 1.444; Aristophanes, *Knights*, 1.774; Andocides 1 (*On the Mysteries*), §§75, 95; Antiphon 6 (*On the Choreutes*), §45; Lysias 16 (*For Mantitheus*), §8; Lysias 25 (*Defence against a Charge of Subverting the Democracy*), 14; Lysias 26 (*On the Scrutiny of Evandros*), §§10–11; Lysias 30 (*Against Nicomachus*), §§10, 23; Lysias 31 (*Against Philon*), passim; Plato, *Apology*, 32b; Plato, *Gorgias*, 473e; Aeschines 1 (*Against Timarchus*), §§80, 110; Aeschines 3 (*Against Ctesiphon*), §76; Demosthenes 18 (*On the Crown*), §§25, 28; Demosthenes 19 (*On the False Embassy*), §§154, 286; Demosthenes 21 (*Against Meidias*), §111; Demosthenes 22 (*Against Androtion*), §§5, 9, 12, 16, 36, 40; Demosthenes 47 (*Against Evergus and Mnesibulus*) §44; Demosthenes 57 (*Against Eubulides*), §8; Demosthenes 59 (*Against Neaera*), §§3, 4; Aristotle, *Politics*, 1282a32, 1306b6; Pseudo Aristotle, *Constitution of the Athenians*, chs 30–1, 45, 62.

¹⁰⁴Andocides, *On the Mysteries*, §90; Lysias 13 (*Against Agoratus*), §19, 20, 74; Lysias 30 (*Against Nicomachus*), §22; Demosthenes 22 (*Against Androtion*), §36.

¹⁰⁵Thucydides, *History*, 8.66. Similarly, the Athenians used a cognate of *probouleuo*, namely *probote*, to name a vote of the assembly that was purely advisory; Peter Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford: Oxford University Press, 1992), p. 527.

in advance of the meeting to be voted [*psephizasthai*] by the assembly.”¹⁰⁶ This two-stage process, known to historians as *probouleusis*, was the norm in all ancient Greek democracies, not only in Athens.¹⁰⁷ As Aristotle emphasized, “A council is a popular [*demotikos*] body, for there is bound to be some institution of this sort to prepare resolutions [*probouleuein*] on behalf of the assembly, in order for the assembly to do its business.”¹⁰⁸ Strikingly, *probouleuo* in the sense “prepare a resolution” does not appear to have been used of individual councilors, but only of the council as a whole, implying that adopting a proposal was necessarily a collective action.¹⁰⁹ If a councilor wanted to say that he personally had drafted or submitted a proposal, the conventional locution seems to have been *grapho bouleuon*, literally “write [a proposal] as councilor.”¹¹⁰ The final decision to put a proposal on the assembly’s agenda was made in the same way as decisions in the courts and assembly: by majority vote, in this case by show of hands.¹¹¹

How dialogical was the process of generating proposals? We know relatively little about council meetings, in part because, while some court and assembly speeches were preserved for the purpose of teaching rhetoric, nothing similar exists for the council.¹¹² That in itself may imply that something more improvised and dialogical took place there, and that may be right. The size and acoustics of the Athenian council-chamber (after reconstruction in the late fifth century) would certainly have allowed for conversations across the floor, and Antiphon represents “voicing [*legon*] ... opinions” as part of a councilor’s role.¹¹³ Also, Andocides notes that councilors, unlike assembly-goers, had the opportunity to consider [*skepsasthai*] issues “at leisure,” which suggests ample time for discussion.¹¹⁴

On the other hand, a group of 500 seems too large for genuine (that is, Habermasian-style) group discussion, and other aspects of proceedings suggest something closer to the oratorical model pursued in the assembly and courts. Meetings followed an agenda set by the tribe “in *prytany*” (that is, acting as presidents), and speakers spoke one after another from a central platform.¹¹⁵

¹⁰⁶Pseudo Aristotle, *Constitution of the Athenians*, ch. 45.4; cf. Demosthenes 22 (*Against Androtion*), §5. See also Hansen, *Athenian Democracy*, p. 138: “The rule *meden aprobouleuton*, nothing without a *probouleuma*, seems to have been a fundamental principle of Athenian democracy.”

¹⁰⁷A. Andrewes, *Probouleusis: Sparta’s Contribution to the Technique of Government* (Oxford: Oxford University Press, 1954). However, the noun *probouleusis* is not actually attested until very late (the 4th century AD).

¹⁰⁸Aristotle, *Politics*, 1299b33. A less democratic option was to give power to *probouloi*, or “preliminary councilors.” See Thucydides, *History*, 8.1; Aristotle, *Politics*, 1298b30, 1299b30, 1322b16.

¹⁰⁹Xenophon, *Hellenica*, 1.7.7, 7.1.2, 7.1.11; Demosthenes 18 (*On the Crown*), §53, 169; Demosthenes 19 (*On the False Embassy*), §§34, 185; Demosthenes 20 (*Against Leptines*), 4; Demosthenes 21 (*Against Meidias*), §162; Aeschines 2 (*On the Embassy*), §58.

¹¹⁰Demosthenes 18 (*On the Crown*), §25; Demosthenes 19 (*On the False Embassy*), §§154, 286.

¹¹¹Pseudo Aristotle, *Constitution of the Athenians*, ch. 44.3.

¹¹²For this reason, the accounts in Ober, *Democracy and Knowledge*, pp. 142–51, and Ober, “Democracy’s wisdom,” are necessarily speculative.

¹¹³Johnstone, “Greek oratorical settings,” pp. 105–6; Christopher Lyle Johnstone and Richard J. Graff, “Situating deliberative rhetoric in Ancient Greece: the *Bouleutêrion* as a venue for oratorical performance,” *Advances in the History of Rhetoric*, 21 (2018), 2–88, esp. p. 56; Antiphon 6 (*On the Choreutes*), §45.

¹¹⁴Andocides 2 (*On his Return*), §19.

¹¹⁵Rhodes, *Boule*, pp. 20, 30, 37–8, 80; Johnstone, “Greek oratorical settings,” p. 105.

Additionally, both Demosthenes and Aeschines distinguished the small number of “talkers” (*legontes*) or “orators” (*rhetores*) on the council from the rest,¹¹⁶ while audience reaction often took the form of *thorybos*.¹¹⁷

Most significantly, there is no evidence that proposals *had* to be discussed or debated by the council before being voted onto the assembly’s agenda. Some discussion or debate is normally assumed,¹¹⁸ but it is remarkably difficult to confirm, and the alternative—that at least some items could be entered on the agenda, read aloud by the secretary, and voted up or down without formal debate—is not, in principle, impossible. The council is not attested as the subject of any verb unambiguously suggesting discussion or debate. *Dialego* does appear once, but the context is a conversation between two men standing on the stage, not a conversation among the council as a whole: “Philocrates here himself joined me on the tribune and conversed [*dielegeto*] with me, his hand on my arm, addressing me by my name as I addressed him by his.”¹¹⁹ Perhaps most surprising, the one source where the council’s functions are spelled out in detail, the Aristotelian *Constitution of the Athenians*, fails to specify the discussion of proposals as part of its role, though it describes a great many other responsibilities, both secular and religious.¹²⁰

We do know that every motion considered by either the council or the assembly was attributed to a named proposer, who could later be indicted for having made an illegal proposal.¹²¹ In “open” assembly debates, any citizen who wished could submit a proposal, while any proposal that emerged from the council was attributed to the councilor who originally submitted it.¹²² The Athenians also distinguished between decrees passed by the assembly alone (those headed *edoxe to demo*, “it seemed [good] to the assembly,” about half of the extant decrees) and those passed by both the council and assembly (headed *edoxe te boule kai to demo*, “it seemed [good] to the council and assembly”).¹²³ In both cases, however, proposals were submitted in writing. As noted above, *grapho*, “propose,” literally meant “write,” and the council retained a secretary to read proposals and other documents aloud and to assist councilors in drafting when necessary.¹²⁴

¹¹⁶Demosthenes 22 (*Against Androtion*), §§36–8. Cf. Plato, *Laws*, 758b; Rhodes, *Boule*, p. 39.

¹¹⁷Andocides 1 (*On the Mysteries*), §§43–5; Andocides 2 (*On his Return*), §15; Xenophon, *Hellenica*, 2.3.50; Aeschines 3 (*Against Ctesiphon*), §9.

¹¹⁸E.g. Hansen, *Athenian Democracy*, p. 140.

¹¹⁹Antiphon 6 (*On the Choreutes*), §40.

¹²⁰Pseudo Aristotle, *Constitution of the Athenians*, chs 43–50. Antiphon 6 (*On the Choreutes*), §45, also focuses on religion.

¹²¹Mogens Hansen, *The Sovereignty of the People’s Court in Athens in the Fourth Century BC* (Odense: Odense University Press, 1974); Hansen, *Athenian Ecclesia II*, pp. 271–81.

¹²²Pseudo Aristotle, *Constitution of the Athenians*, ch. 43.2–4. Cf. Aristotle, *Politics*, 1299b30; Rhodes, *Boule*, pp. 42–3, 52–87.

¹²³This locution and its implications are discussed in Daniela Cammack, “Were the ancient Greeks epistemic democrats?,” Clifford Ando and William Sullivan (eds), *The Discovery of the Fact* (Ann Arbor: University of Michigan Press, 2020), pp. 9–38.

¹²⁴Demosthenes, *On the Crown*, §25; Demosthenes, *On the False Embassy*, §154; Aristophanes, *Thesmophoriazousae* ll. 375, 431–2; Rhodes, *Boule*, pp. 134–41. Cf. Pseudo Aristotle, *Constitution of the Athenians*, ch. 43.3.

Did a councilor who wrote a proposal have to defend it orally before either the council or, later, the assembly? Perhaps: in the decrees published after an assembly decision, proposers are always identified by *eipe*, “spoke.” Yet that usage may have been a legacy from the days before proposals were submitted in writing and read aloud by the assembly secretary, and to the extent that having to make a speech before hundreds or thousands of one’s fellow citizens can be expected to have put some people off, any such requirement may have been regarded as anti-democratic. Hyperides argued that there was “nothing more demotic” (that is, advantageous to ordinary citizens) than the practice of allowing co-pleaders to speak on behalf of inexperienced litigants in court, and a similar consideration may have applied to the making of proposals in the council and assembly.¹²⁵ We do know that on one famous occasion he who drafted an important proposal was not he who defended it publicly: in 411, when the oligarchs overthrew the democracy and set up the government of the Four Hundred, “Melobius speaking on behalf of the decree, Pythodorus of Anaphlystus having drafted the motion.”¹²⁶ Other evidence shows that some men paid or persuaded others to sponsor proposals on their behalf.¹²⁷ Altogether, we cannot be sure that all or even most men identified as the proposer of a decree actually made a speech defending it.

The council may even have had a procedure analogous to the assembly’s preliminary vote (*procheirotomia*), through which the council could, if it wished, vote an item directly onto the assembly’s agenda without hearing speeches for and against it. We know of nothing against that possibility, and we know that the assembly had a large number of standing items on its agenda, such as receiving ambassadors and petitioners, which seem unlikely to have been contentious.¹²⁸ Were at least *some* proposals withdrawn or reworded as a result of discussion in the council? We must assume so. Nonetheless, it seems significant that the council did not take collective responsibility for proposals, even though it was, presumably, regarded as having validated them by its vote (as the collective usage of *probouleuo* implies).¹²⁹ Legal responsibility lay with the proposer alone, and the penalty for “making an illegal proposal” was significant: a fine, or on the third conviction, disenfranchisement.

The situation is further illuminated by a comparison with the oligarchical regime that ruled Athens in 404 (the “Thirty Tyrants,” as they were later called). Our sources suggest that dialogical deliberation was the norm at their meetings. Xenophon reports on a series of exchanges between Theramenes and Critias using the verbs

¹²⁵Hyperides 4 (*In Defence of Euxenippus*), §11.

¹²⁶Pseudo Aristotle, *Constitution of the Athenians*, ch. 29.

¹²⁷Demosthenes 20 (*Against Leptines*), §132; Demosthenes 23 (*Against Aristocrates*), §§146–7, 201; Demosthenes 24 (*Against Timocrates*), §66, 201–3; Demosthenes 25 (*Against Aristogeiton*), §§40–1; Demosthenes 59 (*Against Neaera*), §43; Aeschines 3 (*Against Ctesiphon*), §§125, 159, 242. Cf. Hansen, *Athenian Ecclesia II*, p. 97.

¹²⁸Pseudo Aristotle, *Constitution of the Athenians* ch. 43.4–6.

¹²⁹This was not because of any discomfort with the idea of collective responsibility or expected difficulty in enforcing it. As Demosthenes 22 (*Against Androtion*) shows, the entire Council could be held collectively responsible for its failure to see that adequate ships were provided for the city.

lego, “speak,” and *antelego*, “reply.”¹³⁰ Lysias, too, used those verbs when interrogating Eratosthenes, another member of the Thirty, on the subject of his contributions to the Thirty’s meetings.¹³¹ Dialogue is naturally easier to pull off in a group of this size, but the nature of the regime prevents it from being a model for democrats.¹³²

However much council meetings did or did not involve group discussion, councilors surely discussed political issues outside formal meetings, especially the 50 councilors “in *prytany*,” a third of whom lived and dined together at any one time. One imagines proposals being drafted over dinner, ready for presentation to the full council the following morning. Many of the benefits of group discussion could have been brought into the political process this way, and this may even have been a factor in having the *prytaneis* live together. Yet if so, such discussion seems not to have played a significant role in Athenian political ideology, since we find no mention of it.

IV. DEME ASSEMBLIES

There were some 139 demes (*demoi*) in classical Athens, each of which held its own meetings separate from the primary assembly.¹³³ These meetings were the closest thing the Athenians had to a New England town meeting today and at first glance look well suited to Habermasian-style deliberation.¹³⁴ The number of attendees seems to have been relatively low—the only source mentions 73 voters—and all or almost all demesmen can be expected to have known one another.¹³⁵ Indeed, the main responsibility of the demes was to establish the citizenship status of its members, through personal testimony and witnesses followed by a secret ballot under oath.¹³⁶ Other powers included selecting councilors and other officials, organizing festivals, making dedications, and passing decrees, especially honorific and financial decrees.¹³⁷

How discursive were these assemblies? On the one hand, verbs of discussion and dialogue are not found in this context. The only source that depicts a deme meeting in any detail, a court speech from a defendant appealing his fellow

¹³⁰Xenophon, *Hellenica*, 2.3.15–49.

¹³¹Lysias 12 (*Against Eratosthenes*), §§25, 49, 50.

¹³²Cf. Cristina Lafont, “Deliberation, participation, and democratic legitimacy: should deliberative mini-publics shape public policy?,” *Journal of Political Philosophy*, 23 (2015), 40–63.

¹³³John Traill, *The Political Organization of Attica* (Princeton: Princeton University Press, 1975), pp. 73–103; Rhodes, *Commentary*, pp. 493–505; Nicholas Jones, *Public Organization in Ancient Greece: A Documentary Study* (Philadelphia: American Philosophical Society, 1987), pp. 61–5, 87–9; Robin Osborne, *Demos: The Discovery of Classical Attika* (Cambridge: Cambridge University Press, 1985), pp. 66–92; David Whitehead, *The Demes of Attica* (Princeton: Princeton University Press, 1987), pp. 96–120.

¹³⁴On New England town meetings, see Jane Mansbridge, *Beyond Adversary Democracy* (Chicago: Chicago University Press, 1983).

¹³⁵Demosthenes 57 (*Against Eubulides*), §9. On the deme concerned in this speech, Halimous, see Mogens Hansen, *Demography and Democracy* (Herning: Systime, 1986), pp. 62–4.

¹³⁶Pseudo Aristotle, *Constitution of the Athenians*, ch. 42.1; Isaeus 12 (*Euphiletus*); Demosthenes 57 (*Against Eubulides*), §62.

¹³⁷E.g. Aeschines 3 (*Against Ctesiphon*), §§41, 44, 45; *Supplementum Epigraphicum Graecum* 46.154, 59.142; IG II², 1177; IG I³, 258.

demesmen's vote to exclude him from citizenship, represents the actions of speakers (of whom only two are mentioned) by *demegoreo*, "speak publicly" or "address the *demos*," *grapho*, "propose," and *blasphemo*, "speak against" or "vilify," while the actions of the audience (initially 73 demesmen, but only 30 by the end of the meeting) are represented only by (*dia*)*psephizo*, "vote." Moreover, the meeting is portrayed as heavily dominated by the demarch ("mayor"), who had called it. This man is said to have "wasted the entire day making speeches [*demegoron*] and proposals [*graphon*]," and then to have rigged the vote against the defendant both by taking the citizenship votes late in the day, when many demesmen had gone home, and by distributing extra ballots to his associates.¹³⁸

On the other hand, we have only one source, and must be doubly cautious given that it suited this defendant's case to portray the meeting as dominated by his personal enemy. The defendant also makes it clear that had he had friends or relatives in the audience, he would have expected them to act as witnesses in his support, although whether that would have meant making a speech or simply swearing to his testimony is not indicated.¹³⁹

Aside from the voting irregularities, this deme meeting seems to have resembled both the courts and the assembly, with speeches offered by very few attendees—in this case, one current and one former demarch—and voting as the primary, if not only, way that the other citizens made their views known. Might other deme functions have given rise to more discussion? Selecting councilors and other officials was determined by sortition from among those willing and almost certainly did not involve speech making, but deciding whom to honor and making financial decisions could well have been a more discursive process. Deme meetings could also have provided an opportunity to discuss issues coming up in the primary assembly, courts, or council, although studies of deme activity have found little overlap between local and "national" politics.¹⁴⁰ The demarch in the case just described was also, in fact, a councilor, and yet there is no sign that he represented either the views of the council to the deme or those of the deme to the council.¹⁴¹

V. THE STREET

Finally, we turn to what Alex Gottesman has recently termed "the Street": Athens's public squares, shops, gymnasia, and private homes—something close to Habermas's public sphere.¹⁴² We have more evidence of extra-institutional

¹³⁸Demosthenes 57 (*Against Eubulides*), §§8–16.

¹³⁹*Ibid.*, §12.

¹⁴⁰Osborne, *Demos*; Whitehead, *Demes of Attica*. The evidence available is, however, very thin.

¹⁴¹Demosthenes 57 (*Against Eubulides*), §8.

¹⁴²Antiphon 6 (*On the Choroetes*), §§39, 40; Isocrates 18 (*Against Callimachus*), §9; Demosthenes 19 (*On the False Embassy*), §122; Demosthenes 21 (*Against Meidias*), §4; Aeschines 1 (*Against Timarchus*), §94; Aeschines 3 (*Against Ctesiphon*), §1; Dinarchus 1 (*Against Demosthenes*), §32; Alex Gottesman, *Politics and the Street in Democratic Athens* (Cambridge: Cambridge University Press, 2014); Jürgen Habermas, *The Structural Transformation of the Public Sphere*, trans. Thomas Burger (Cambridge, MA: MIT Press, 1989). Cf. Kostas Vlassopoulos, "Free spaces: identity, experience and democracy in Classical Athens," *Classical Quarterly*, 57 (2007), 33–52.

conversations on political issues than one might expect, including court speeches, the plays of Aristophanes, and Socratic dialogues by both Plato and Xenophon. How were these exchanges represented?

Two verbs frequently found in descriptions of extra-institutional conversations are *dialego*, “converse” or “speak with,” and *anakoinoo*, “communicate,” “confer” or “consult with.” Both Xenophon and Plato used *dialego* and *anakoinoo* to represent discussions with Socrates on political and other topics,¹⁴³ as did Isocrates in reference to his political writings, portraying them as a kind of a discussion with readers.¹⁴⁴ In Aristophanes’ *Clouds*, the promise of political glory held out to Strepsiades included not only getting proposals passed in the assembly, but also “always having many seated at your gates, wishing to communicate with you [*anakoinousthai*] and have a conference with you.”¹⁴⁵ The Aristotelian *Constitution of the Athenians* used *dialego* to represent conversations among people gathered outside the house of Ephialtes, the popular politician, while Xenophon portrayed Hermocrates, the Syracusan politician, as telling (*anekoinouto*) his associates about what he planned to say and do and soliciting their opinions in return.¹⁴⁶

An especially revealing source is a Socratic dialogue written by Xenophon, featuring Plato’s uncle Charmides, later one of the Thirty Tyrants.¹⁴⁷ “Seeing that Glaucon’s son, Charmides, was a worthy man and much more capable than those who were then practicing politics, but nevertheless shrank from coming before the assembly,” Socrates takes Charmides to task, suggesting that he is a coward for not making better use of his powers as revealed in his conversations with public men. “Whenever they consult [*anakoinontai*] with you, I find that you give excellent advice [*symbouleuonta*], and whenever they make a mistake, your criticism is sound.” Charmides objects, directly contrasting dialogue with public speaking: “A private conversation [*idia te dialegesthai*] is not the same thing as a debate before the masses [*en to plethei agonizesthai*].” Socrates responds that Charmides need not be bashful in front of the “idiots and weaklings ... the fullers or the cobblers or the builders or the smiths or the farmers or the merchants, or the traffickers in the market-place ... who make up assembly meetings,” and continues:

You talk [*dialegomenos*] easily with the leading men in the state, some of whom despise you, and you are a much better talker [*dialegesthai*] than the usual politicians; yet you are shy of speaking [*legein*] to men who never gave a thought to public affairs and haven't learnt to despise you—all because you fear ridicule!

¹⁴³Xenophon, *Memorabilia*, 2.6.16.2; Xenophon, *Oeconomia*, 6.4.1; Xenophon, *Cyropaedia*, 1.6.34.6; Plato, *Meno*, 99e; Plato, *Theaetetus*, 158c, 181d; Plato, *Lysis*, 206c, 207a; Plato, *Sophist*, 251d; Plato, *Republic*, 328a, 558d, 588b; Plato, *Cratylus*, 383a; Plato, *Laws*, 686d, 722c, 732e.

¹⁴⁴Isocrates 8 (*On the Peace*), §18.3; Isocrates 9 (*Evagoras*), §34.8.

¹⁴⁵Aristophanes, *Clouds*, ll. 432, 470.

¹⁴⁶Pseudo Aristotle, *Constitution of the Athenians*, ch. 35; Xenophon, *Hellenica*, 1.1.30.

¹⁴⁷Xenophon, *Memorabilia*, 3.7.

Although the thrust of Socrates' argument is that Charmides' skill in political conversation (*dialego, anakoinoo*) could and should translate into skill in public debate (*agonizo, lego*), the distinction between the two types of speech is clear.

The difference between performative speech aimed at persuading large audiences and smaller-scale, less combative dialogue also pervaded Plato's works. The latter is portrayed positively in the opening pages of the *Protagoras*, as Socrates and his companion arrive at the house where Protagoras is staying.

When we got to the threshold, we stood discussing [*dielegometha*] some issue that had occurred to us on the way; and so as not to leave it unfinished, but to get it settled before we went in, we stood there and discussed [*dielegometha*] in front of the door, until we had come to an agreement with each other [*synomologesan allelois*].¹⁴⁸

Such discussion is implicitly contrasted with the more antagonistic monologues that constitute Socrates's later interactions with Protagoras.¹⁴⁹ The same contrast appears in the *Gorgias*, where "our present way of discussion [*dialegometha*], by alternate question and answer" is explicitly preferred to "that lengthy style of speech of Polus."¹⁵⁰ Altogether, *dialego* was (at least in post-Socratic philosophy) strongly associated with non-agonistic discussion, including the extra-institutional discussion of political issues.

Was the word *bouleuomai*, "deliberate," ever used to represent street-level political conversation? I have not found such an example. The only case that comes near appears at the beginning of Aristophanes' *Lysistrata*. Standing before the Propylaea at the entrance to the Acropolis, the eponymous heroine complains that though the women have been "summoned to consider [*bouleusomenaisin*] the most important matters," still they stay at home, snuggling in bed.¹⁵¹ But although the women are not here being summoned to the assembly, they are being called to a political meeting, where they will consider and arrive at a joint decision on how to get their husbands to end the war with Sparta. The reason that this meeting takes place in the street is, of course, simply that the women lack a regular political meeting-place. *Bouleuomai* also appeared in street-level conversations about politics when referring to individuals' internal consideration of the way they would vote, as when in *Lysistrata* a woman, Myrrhine, says to her husband Kinesias, "But remember that you're going to vote [*psephiein*] for peace," and he replies "I'll deliberate on it [*bouleusomai*]," meaning he will think about it and decide.¹⁵² But *bouleuomai* was not used to represent the kind of conversation about political issues that might, eventually, influence a vote.

¹⁴⁸Plato, *Protagoras*, 314c, trans. Lamb, modified. See further Joel Schlosser, *What Would Socrates Do?* (Cambridge: Cambridge University Press, 2014).

¹⁴⁹Plato, *Protagoras*, 349a.

¹⁵⁰Plato, *Gorgias*, 449b. Cf. 458b–c, 517c.

¹⁵¹Aristophanes, *Lysistrata*, ll. 13–15.

¹⁵²*Ibid.*, ll. 951–2. Cf. Aristophanes, *Assemblywomen*, ll. 779–80.

It does not follow that street-level (or "everyday") talk had no impact on decision making in Athens's political institutions. A powerful example appears in Thucydides: having voted for mass execution of the Mytilenaeans after their rebellion against Athenian hegemony, the Athenians apparently changed their minds following overnight discussions and a second debate in the assembly. Particularly strikingly, Thucydides implies that the second meeting was called specifically in response to widespread conversations, registered by the council presidents, revealing a change of heart (along with some lobbying by the Mytilenaeans then in Athens, and by those Athenians who supported them—presumably including Diodotus, who had argued against mass executions at the first meeting and who spoke again, against Cleon, at the second).¹⁵³ According to Xenophon, Alcibiades, the controversial politician, was also the subject of widespread public discussion, and it is beyond belief that such discussion did not affect votes, especially when it was proposed to reinstate him as general. As Xenophon notes, "nobody spoke against him because the assembly would not have accepted it."¹⁵⁴ Additionally, Aristophanes' *Wasps* represents judges gloating, on their way to a trial, about their intentions to vote down the defendant, who was known to them—although it should be noted that the Athenians later transitioned to choosing judges at random on the morning of trials, which put a stop to that kind of partial prior collusion.

Other authors confirm the existence of extra-institutional conversation but question its connection to voting outcomes. Isocrates wrote, mockingly:

We are so irrational that we do not hold the same views about the same question on the same day; on the contrary, what we condemn before we go up to the assembly, we vote for when we are assembled ... and a little later, when we go home, we disapprove of the resolutions we made there.¹⁵⁵

Demosthenes, too, remarked on the gulf between informal conversation and organized debates:

Before we come up to meetings, any one of you is ready to say how the present state of affairs may be improved, and then again, the minute you leave, each man is just as ready to say what we ought to do. But when we are actually gathered together and considering these problems ... you hear nothing of this from certain speakers.¹⁵⁶

These passages suggest not only that the Athenians used different terminology to represent extra-institutional talk and institutional political activity, but also that at least some citizens believed that the imminence of decision making could make

¹⁵³Thucydides, *History*, 3.36.

¹⁵⁴Xenophon, *Hellenica*, 1.4.13–21.

¹⁵⁵Isocrates 8 (*On the Peace*), §52.

¹⁵⁶Demosthenes, *Exordia*, §14.

a substantive difference to the way that assembly-goers thought about political issues.

The significance of the difference between non-consequential discussion and consequential deliberation—culminating in a binding vote—is brought home in another way in our texts. We have quite a lot of evidence that political activity was widely discussed after meetings. For example, Blepkyrus and Chremes, in Aristophanes' *Assemblywomen*, admit that they “go around babbling incessantly about whatever happens at the council,” while Theophrastus characterized a boor as one who “distrusts his friends and relatives, but talks [*anakoinousthai*] confidentially to his own slaves on the most important matters; and recounts all the news from assembly meetings to the hired labourers working on his land.”¹⁵⁷ Some of the most interesting of these passages feature dialogue between citizen men and women. Aristophanes has Lysistrata say:

Many a time we'd hear in our homes about a bad decision [*bouleusamenos*] you'd made on some great issue of state. Then, masking the pain in our hearts, we'd put on smile and ask you, “How did the assembly go today? Any decision [*bebouleutai*] about a rider to the peace treaty?” And the husband would say, “What's it to you?”¹⁵⁸

Another significant passage appears in Apollodorus' speech, *Against Neaera*:

And when each one of you [judges] goes home, what will he find to say to his own wife or his daughter or his mother, if he has acquitted this woman?—when the question is asked you, “Where were you?” and you answer, “We sat as jury.” “Trying whom?” it will at once be asked, “Neaera,” you will say, of course, will you not? “because she, an alien woman, is living as wife with an Athenian contrary to law, and because she gave her daughter, who had lived as a harlot, in marriage to Theogenes, the king, and this daughter performed on the city's behalf the rites that none may name, and was given as wife to Dionysus.” And you will narrate all the other details of the charge, showing how well and accurately and in a manner not easily forgotten the accusation covered each point. And the women, when they have heard, will say, “Well, what did you do?” And you will say, “We acquitted her.” At this point the most virtuous of the women will be angry at you for having deemed it right that this woman should share in like manner with themselves in the public ceremonials and religious rites; and to those who are not women of discretion you point out clearly that they may do as they please, for they have nothing to fear from you or the laws.¹⁵⁹

These male writers represented non-voting women citizens as being interested in public affairs. Yet the association of women with extra-institutional political talk, but not decision making, also highlights the difference between discussion

¹⁵⁷Aristophanes, *Assemblywomen*, ll. 442–4, trans. O'Neill, modified; Theophrastus, *Characters*, §4.6.

¹⁵⁸Aristophanes, *Lysistrata*, ll. 507–14, trans. Henderson.

¹⁵⁹Demosthenes 59 (*Against Neaera*), §§110–11, trans. DeWitt.

and deliberation/decision in classical Athens. Women's influence on politics was limited to discussion, to moral suasion, often after the event. Dialogue, in this setting, was a tool of the excluded, that is, those who could at most influence political decisions, rather than participate directly in making them. What Lysistrata would not have preferred to be able to vote herself? Why did Praxagora and her associates, in *Assemblywomen*, take over an assembly meeting, if not to swing a vote on the future of the polis? Again, the balance of our evidence suggests that although talk was important to Athenian politics, decision making, in this context through voting, was the crucial feature of the action denoted by *bouleuomai*.

VI. CONCLUSION

As defined by Jane Mansbridge and others, a deliberative system is “one that encompasses a talk-based approach to political conflict and problem-solving—through arguing, demonstrating, expressing and persuading.”¹⁶⁰ Did classical Athens have a deliberative system of that sort?

The answer to that question depends, of course, on what we mean by “talk-based.” Talk certainly played a role in all parts of the political system: oratory in the courts and assembly, oratory mixed, perhaps, with some dialogue in the council and deme assemblies, and everyday talk in the street (which, as interpreted above, included the home). From the extant sources we can derive a relatively clear sketch of these parts and their functions. Judges (*dikastai*) heard cases and produced a decision through voting (*bouleuomai*). Public speakers (*rhetores*) addressed the assembly (*demegoreo*) and offered advice (*symbolleuo*), while the audience (*demos*) listened—perhaps with some difficulty—and produced a decision through voting (*bouleuomai*). Councilors (*bouleutai*) drafted resolutions, presumably discussed many if not all of them, and passed them on to the assembly through voting (*probouleuo*). Demesmen (*demotai*) voted resolutions, presumably after some discussion, though evidence is lacking. Dialogue (*dialego*), which resembles the back and forth mutual questioning and responding that is today often associated with the English word “deliberation,” was chiefly associated with extra-institutional settings, although it could be practiced in the interstices of the entire political system.

However, if “talk-based” implies that talk was the principal means through which Athenian citizens took part in the political process, then it is less clear that the Athenians had a “deliberative system” in the above-defined sense. “Political conflict and problem-solving” was managed, above all, by voting, both secret and public, in every formal political venue—council, assembly, courts, and deme assemblies. The distinctive feature of Athenian democracy was that citizens

¹⁶⁰Jane Mansbridge, James Bohman, Simone Chambers, et al., “A systemic approach to deliberative democracy,” Parkinson and Mansbridge, *Deliberative Systems*, pp. 1–26, at p. 5.

gathered in large numbers to decide actions by the result of votes, not that they took part in discussions or debates on a grand scale. Group discussion was not represented as an integral part of the decision-making system in either the courts or the assembly (the supreme political bodies), while debates involved relatively few people and aimed at influencing votes, either immediately following or soon thereafter.¹⁶¹ Moreover, had Athens's mass audiences not been empowered decision makers, those debates would not have taken place; or, rather, they would have occurred not before those audiences, but before or among whatever smaller group was in power (as happened in 404). In that respect, public debate was itself a direct effect of mass voting.

More fundamentally, to the extent that a deliberative system presupposes "distributed deliberation,"¹⁶² that is, the decoupling of considering issues from deciding them and the distribution of these functions among a variety of institutions, and to the extent that *bouleuomai* is the closest ancient Greek equivalent to "deliberate," it is not clear that the ancient Greeks would have understood either the concept or its goals. As noted above, *bouleuomai* is probably best rendered "come to a decision" or "make up one's mind." Both considering and deciding were performed by the subject of the verb; to consider a matter without having the power to decide it was, on the ancient Greek conception, not to "deliberate" at all. Accordingly, decision-making power could not have been transferred to another agent without the one who merely considered or discussed the action ceasing to be a "deliberator," that is, the agent in whose power the considered action actually lay. In short, the Athenians would have had a ready answer to Mansbridge's question: "In what sense can we say that whole societies, *demoi*, peoples or even different communities deliberate together?"¹⁶³ People deliberate (*bouleuomai*) together when they decide together, whether or not they share their reasoning with one another.

What about legitimacy? A key theme in the literature on deliberative democracy is that, as Mansbridge puts it, "the legitimacy of a democracy depends in part on the quality of [discursive] deliberation that informs citizens and their representatives."¹⁶⁴ It is not clear that the Athenians thought this. Discursive deliberation was certainly not required in political decision-making processes, as revealed by both judicial practice and the preliminary votes in the assembly. That is not to suggest that the Athenians were oblivious to the quality of the arguments that informed citizens' decisions (here thinking about both internal deliberation and the speeches made by litigants and assembly speakers). There were, in fact,

¹⁶¹As Mogens Hansen has pointed out to me (personal communication), out of all Demosthenes' extant assembly speeches, only one (*Philippic 1*) actually includes a proposal to put to a vote, while the rest appear to be contributions to a more general debate (cf. Hansen, *Athenian Ecclesia* II, pp. 283–97). Yet Demosthenes' contributions are unmistakably advisory (as Hansen entirely agrees), i.e. made to those who *would* be making relevant decisions some time soon.

¹⁶²Robert E. Goodin, "Sequencing deliberative moments," *Acta Politica*, 40 (2005), 182–96.

¹⁶³Mansbridge et al., "Systemic approach," p. 2.

¹⁶⁴*Ibid.*, p. 1. Cf. Cohen, "Deliberation and democratic legitimacy"; Habermas, *Between Facts and Norms*, p. 179; Manin, "Legitimacy and political deliberation."

no limits on what litigants could argue,¹⁶⁵ although they might be accused of slander by an opponent if they went too far. But there were guidelines for the judges' internal deliberations, in that they swore to judge "in accordance with the laws and votes of the *demos* of the Athenians and the council of Five Hundred, and concerning matters about which there are no laws, by the most just understanding."¹⁶⁶ On the other hand, it was up to the judges, individually, to determine what arguments they found most relevant to their judgments, and as we have seen, they were neither required nor expected to share their reasoning with anyone else.¹⁶⁷

Argumentation in the assembly and council was subject to stricter controls: for instance, speakers could be prosecuted for "lying to the *demos*," while the proposers of decrees could be prosecuted for "making an illegal proposal." But, again, it was up to individual assembly-goers to determine what arguments they deemed most relevant to their judgments. More crucially, there is no sign that the transgressions of speakers in any political arena were regarded as affecting the legitimacy of democracy. To the contrary, it was a trope of democratic ideology that the *demos* was always right and that any faults or errors of judgment lay exclusively with the speakers who had misled them.¹⁶⁸

As far as we can tell, the Athenians believed that the legitimacy of their democracy lay elsewhere, namely in the persons and procedures that defined the decision-making process. Decision makers had to be eligible citizens of the appropriate age, as verified by the deme assemblies; items voted on by the assembly had to have been entered onto its agenda in the proper way by the council, and so on. At each stage, the currency of legitimation was not the quality of deliberation (on either the ancient Greek or modern conception), but votes performed by the right people at the right time.

Most important among those procedures was the commitment to simple majority rule. Majoritarianism was not exclusive to democracies. As Aristotle argued, "one ought not to define democracy ... merely as that system in which the majority [*plethos*] is authoritative, for even in oligarchies and everywhere the greater part [*to pleon meros*] [of the decision-making group] is authoritative."¹⁶⁹ But majoritarianism was particularly significant to democrats, since it provided an attractive way of drawing consensus, even unanimity, out of large-scale public disagreements. *Homonoia*, same-mindedness or concord, was (as Mirko Canevaro has recently reiterated) extremely important to the Athenians and other ancient

¹⁶⁵Homicide trials were a significant exception; see Cammack, "Plato and Athenian justice."

¹⁶⁶Max Fränkel, "Der Attische Heliasteneid," *Hermes*, 13 (1878), 452–66, at p. 464, trans. in David Mirhady, "The dikasts' oath and the question of fact," Alan Sommerstein and Judith Fletcher (eds.), *Horkos: The Oath in Greek Society* (Bristol: Phoenix Press, 2007), pp. 48–59, at p. 49.

¹⁶⁷The classic treatment of iterated prosecutions is Robin Osborne, "Law in action in classical Athens," *Journal of Hellenic Studies*, 105 (1985), 40–58.

¹⁶⁸Pseudo Xenophon, *Constitution of the Athenians*, ch. 2.17; Thucydides, *History*, 2.59 (although cf. 2.60), 8.1; Xenophon, *Hellenica*, 1.7.35; Demosthenes 20 (*Against Leptines*), §3–4, 23.97; Pseudo Aristotle, *Constitution of the Athenians*, ch. 28.3.

¹⁶⁹Aristotle, *Politics*, 1290a30–4. See further Schwartzberg, *Counting the Many*.

Greeks.¹⁷⁰ But such concord was not necessarily first-order, that is, the concord constituted by sharing a policy or judicial opinion. In many cases, the Athenians relied on second-order concord, namely, a shared willingness to abide by the decision procedure they had adopted, in this case the decision of the majority as revealed by a vote.¹⁷¹ This commitment to majoritarianism was publicly valorized. Demosthenes sharply criticized Athenian speakers who failed to get behind decisions once they had been made. The Spartans, he argued, had the right idea about collective decision making, “for they say, men of Athens, that among them each man airs any opinion he may have until the question is put, but when the decision is ratified, they all approve it and work together, even those who opposed it.”¹⁷² It was this, Demosthenes argued, that had enabled Sparta’s past successes and, *mutatis mutandis*, those of Athens too.

Once again, it does not follow that discussion was irrelevant to Athenian politics. Decision making and discussion were mutually supportive, albeit largely distinct in space and time. In an important article of 1999, Jane Mansbridge argued that

Everyday talk was once revered as the prime locus of the foundation of public judgment ... It is time to broaden our descriptive and analytic horizons again and give adequate credit, as a critical component of democracy, to the entire deliberative system, including its centerpiece, the citizen’s everyday talk.¹⁷³

The discursive habits of the classical Athenians support this, with one qualification. Plausibly, it was the prospect of upcoming votes—including the possibility of as yet unscheduled votes—that stimulated high levels of everyday talk about politics in Athens. For obvious reasons, that hypothesis can neither be proved nor disproved. Yet if the ancient polis truly was, as Hannah Arendt suggested, “the most talkative of all bodies politic,” the likely reason is not that discussion was deliberately fostered within political institutions, but that the widespread right to

¹⁷⁰Canevaro, “Majority rule versus consensus.” Cf. Paul Cartledge, “Greek political thought: the historical context,” Christopher Rowe and Malcolm Schofield (eds), *The Cambridge History of Greek and Roman Political Thought* (Cambridge: Cambridge University Press, 2000), pp. 7–22; Peter Funke, *Homónoia und Arché: Athen und die griechische Staatenwelt vom Ende des Peloponnesischen Krieges bis zum Königsfrieden (404/3–387/6 v. Chr)* (Wiesbaden: F. Steiner, 1980); Mansbridge, *Beyond Adversary Democracy*, pp. 14, 336–8.

¹⁷¹Canevaro, “Majority rule versus consensus,” argues against this claim. But while he convincingly shows that narrow votes were the exception rather than the norm in classical and (especially) Hellenistic Greek assemblies, he does not show what his argument requires, namely that large majorities, consensus, or near-unanimity were *necessary* for legitimate decision making. I find it perfectly plausible that many proposals commanded very large majorities, even unanimity, as in the *procheirotomia*. But it does not follow that the Athenians or others did not rely on the principle of majority rule—a view that is supported by considerable evidence, including much that Canevaro has not yet discussed.

¹⁷²Demosthenes, *Exordia*, §35.3.

¹⁷³Mansbridge, “Everyday talk,” p. 228.

take part in making political decisions prompted conversations about politics in all corners of Athenian society.¹⁷⁴ While the legitimacy of Athenian democracy was secured by the participation of huge numbers of citizens in voting, both en masse and in smaller groups, one effect of that system may have been to encourage a great deal of meaningful dialogue about political issues—deliberation in the modern sense, if not the ancient Greek.

¹⁷⁴Hannah Arendt, *The Human Condition* (Chicago: Chicago University Press, [1958] 1998), p. 26.