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***Graphê Paranomôn* and the Limits of Court Control**

"The author of a law **or decree** is immune after a year." (hypothesis to Dem. 20)

The Athenian "suit for illegality" was the linchpin of authority in the ancient democracy. In the fourth century *graphê paranomôn* functioned as a control on legislation -- *Normenkontrolle*, as H.J. Wolff titled his seminal study (1970). Whether that was its recognized function in the fifth century remains uncertain. Two rules are often adduced with that implication: (1) limitless recourse against the decree--any measure could be overturned at any time, as the orators seem to imply; (2) limited liability for the mover--the author of a bill was immune after one year, as hyp. Dem. 20 supposes. By the first rule, the court oversees all decisions of the dêmos. The second rule suggests that the *graphê* was designed specifically for that function, as a check on legislation itself; punishing the author was secondary and therefore limited. But the record of known cases suggests just the reverse: there was no statutory limit on the mover's liability; the ordinary court could only quash a decree by convicting the mover, before the decree was carried out.

The limit on liability (rule 2) goes back to an ancient confusion. Rhetoricians and scholiasts seem unaware that Dem. 20 and 24 were prosecuted by the suit against improper law, *nomon mê epitêdeion theinai*, **not** *paranomôn*. And so most modern scholars have supposed that the two suits followed the same procedure; the limitation that shielded Leptines, when his law was prosecuted (Dem.20), also applied to suits against decrees. But Kahrstedt argued (*Klio* 1938), and Wolff conceded, this limit on liability probably does not apply to suits against decrees. After all, when a bill was suspended before enactment and then brought to trial a year or more later--when the measure was time-barred--the mover remained liable (Dem. 23.91-2).

Limitless recourse against the decree (rule 1) is inferred from orators' pronouncements (e.g. Lyc. Leoc.7) but unsupported by the record of actual cases. *Graphai paranomôn* were ordinarily initiated by challenge-under-oath, *hypomosia*. The known cases suggest that the challenge must be immediate if the suit is to block implementation of the decree: the challenge was lodged either against the council's (preliminary) decree or immediately after vote of the assembly; the decree is thus suspended until the court decides. This mechanism triggered by *hypomosia* was the original means of stopping a decree, by attacking the mover. It remained the ordinary method. We have no clear case where a decree was over-turned by the court a year after the decree was carried out. In key cases of the early restoration, such as Thrasybulus' citizenship decree, immediate challenge is most probable.

Indeed, the earliest cases suggest that *graphê paranomôn* originated as a purely adversarial remedy against those who would use decrees to victimize their rivals. Its value as a defense of the legal system was recognized in the constitutional crises of 411-403, which led to further constraints under the restored democracy.

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