

The Athenian Syngrapheis in the Fifth Century B.C.: ad hoc Drafting Committees or Elements of an Integrative Approach? *

by Christian KOCH

*To Friederike
and Julius*

I. INTRODUCTION AND CONCEPT STATEMENT: THE MANIFESTATION AND CONCEPT OF THE SYNGRAPHEIS

Among the indications of a certain continuity in the development of Greek "public" law, several institutional starting points which served the development and maintenance of the legal ordinances of the polis stand out. Although their importance is difficult to judge in detail, the Syngrapheis in fifth century

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Athens possibly assumed just such a role in the development of Athenian law.

On the one hand, well-recognized sources mention their fairly significant function as an advisory constitutional commission in connection with the constitutional revision, or rather, with the attempt to institute a constitutional and political reorganisation in 411 and 410, as well as in 404.

On the other hand, additional references in the second half of the fifth century to the *Syngrapheis* as the proposer of a few but significant and prominent Athenian decrees justify an enquiry into the adequacy of their description as "ad hoc drafting committees", or, whether they had not already exercised a fairly significant legal and social role as a mediator or an integration factor in maintaining or restoring a social consensus, and a constitutional and political consensus as well. Their function as mediators or integration factors was determined by the extent to which the main topics of these decrees gave cause to break apart the conflictual and tense relationships among the political parties and social groups and classes in Athens.

In the relevant inscriptions, two different, somewhat diversified formulas can be found which identify the *Syngrapheis* as originators or authors of the respective text proposals, i.e., γνόμει τῶν συγγραφέων on the one hand (1), and in the form

1) IG I³ 99 (410/9), l. 8; see also below sub III. 4. c).

of τὰδε οἱ χουνγραφεῖς χουνέγραφσαν on the other (2). However, the meaning of the formula χουνγράφσει which is found in other decrees without a specific reference to the Syngrapheis (3), remains unclear. A clarification of the terms on the part of classical authors is missing, as well as a reference to their constitution, composition and functional area in the decrees themselves (4).

Modern attempts at an interpretation of the Syngrapheis are manifold. Most analysts place emphasis on their specialized function (5). *Busolt* characterizes the Syngrapheis as a "special, singular commission beside the Council", constituted and established by elections so that all decrees in which the participation of the Syngrapheis is apparent concerned "new

2) IG I³ 21 (450/49), l. 3 (see below sub III. 3.); IG I³ 78 (c.a. 422), l. 3/4 (see below sub III. 2.).

3) IG I³ 35 (c.a. 448), l. 7/8; Andok. 1 (Myst.) 96: decree proposed by Demophantos in the year 410, concerning the restitution and safeguarding of democracy after 410; cf. C.HIGNETT, *A History of the Athenian Constitution to the End of the Fifth Century B.C.*², Oxford 1958, p.280ff.

4) The lexicographers' leading criteria taken from the speeches of Isokrates (7,58), of Androtion and Philochoros, and the description given by Thukydides; they concern only the constitutional developments up to 411/410: Harpokration 56, s.v.; Suidas 1283, s.v.; Etym.Magn. (ed. Th.Gaisford, Amsterdam 1962) 732, 42, s.v.; BEKKER, *Anecd.Graec.* 301, 13, s.v. Cf. U.KAHRSTEDT, *Untersuchungen zu athenischen Behörden*, Klio 30 (1937), p.10ff.; 31 (1938), p.1ff., here quoted according to E.BERNEKER (ed.), *Zur griechischen Rechtsgeschichte*, Darmstadt 1968, p.196ff., 232 n.100; S.ALESSANDRÌ, *I dieci probuli ad Atene: aspetti giuridico-costituzionali*, in: *Symposion 1988*, ed. G.NENCI AND G.THÜR, Köln-Wien 1990, p.129ff.

5) As the most detailed study concerning the Syngrapheis cf. F.D.SMITH, *Athenian Political Commissioners*. Chicago thesis 1920.

subject matter which was not yet regulated by law (6)". HIGNETT refers to the discussion with HEADLAM and among others, HEADLAM's view that the Syngrapheis could have been "permanent officials (7)". In contrast, HIGNETT states: "They seem to have been appointed ad hoc whenever their services were required". HIGNETT sees the special importance of the Syngrapheis in relation to the pre-Periclean restitution of access to the Council (8).

RHODES emphasizes that in particular cases, the Syngrapheis were "ad hoc drafting committees ... were sometimes appointed to present proposals through the Council"; he classifies them as a committee of the Council and assigns them to the system designed to limit the powers of the Demos (9). OSTWALD stresses the importance of the Syngrapheis with regard to the comprehension and compilation of the facts of a case for presentation for resolution. He understands *συγγραφεῖν* as

6) G.BUSOLT/ H.SWOBODA, *Griechische Staatskunde*³, 1920, p.460. See further U.KAHRSTEDT, *Untersuchungen (op.cit., n.4)*, p.199 with n.98, 99; U.KAHRSTEDT, *Studien zum öffentlichen Recht Athens*, vol. 2: Magistratur, Stuttgart 1936 (reprint Aalen 1969), p.291.

7) J.W.HEADLAM, *Election by Lot at Athens*, 2nd. ed. (D.C. MCGREGOR), Cambridge 1933, p.208f.

8) HIGNETT (*op.cit.*, n.3), p.242f. Cf. ALESSANDRÌ, *probuli (op.cit., n.4)*, p.149; B.SMARCZYK, *Untersuchungen zur Religionspolitik und politischen Propaganda Athens im Delisch-Attischen Seebund*, München 1990, p.167; CHR.KOCH, *Die Herrschaft Athens im Ersten Athenischen Seebund: Rechtsvereinheitlichung im Verwaltungsverfahren*, RIDA 40 (1993), p.139ff.

9) P.J.RHODES, *The Athenian Revolution*, in: D.M.Lewis/ J.BROARDMAN/ J.K.DAVIES/ M.OSTWALD, *The Cambridge Ancient History*², Cambridge 1992, p.62ff., 78.

"composing in writing", "to collect facts and materials from various quarters and then to weld them into a coherent whole in their written report (10)".

All in all, the prevailing opinion is that the Syngrapheis were ad hoc commissions made up of experts appointed to formulate proposals concerning particularly complex subject matter and were exceptions compared to the regular procedures of the Probouleuma. Noteworthy is the view of DE LAIX according to which the Syngrapheis appeared, in particular, during the constitutional crisis of the Polis, "when a definite strain was being placed upon the machinery of government". Therefore, they should be seen as exceptions, "as essentially atypical and not as a part of the normally functioning constitution (11)".

10) M.OSTWALD, *From Popular Sovereignty to the Sovereignty of Law*, Berkeley 1986, p.415f.

11) R.A. DE LAIX, *Probouleusis at Athens. A study of Political Decision Making*, Berkeley-Los Angeles-London 1973, p.30, 33ff. There are further distinctions needed: There are cognate or quite similar officials or functionary boards which have been charged with constitutional advisory tasks, to prepare decision-making, drafting, documentation, e.g., premanently the Probouloi (cf. ALESSANDRÌ, *probuli, op.cit.*, n.4), the Nomothetai (cf. KAHRSTEDT, *Untersuchungen, op.cit.*, n.4, p.232ff.; OSTWALD, *Sovereignty, op.cit.*, n.10, p.405ff., 511f. passim; it is rather doubtful, whether they already appeared within the fifth century: CHR.KOCH, *Volksbeschlüsse in Seebundangelegenheiten. Das Verfahrensrecht Athens im Ersten Attischen Seebund*, Frankfurt am Main-Bern-New York-Paris 1991, p.327ff., regarding the lack of evidence in IG I³ 71, the decree proposed by Thoudippos in 426/5), the Anagrapheis (cf. OSTWALD, *Sovereignty, op.cit.*, n.10, p.379f. with n.156 and 159, p.415ff.).

II. THE SYNGRAPHEIS AS A CONSTITUTIONAL COMMISSION

The picture of the Syngrapheis is ambiguous. The most dependable description is that of their function as an advisory constitutional commission for the constitutional revisions in 411/410 and in 404. As the references in Thucydides and Aristotle show ⁽¹²⁾, the Syngrapheis had a general commission with regard to constitutional reform. The search for the "best possible solution to save the Polis", as their appointment instructions are described ⁽¹³⁾, points to the constitutional and political matter of reconstructing the *Patrios Politeia* ⁽¹⁴⁾ along the particularly problematic road to re-integration into the political and constitutional system.

A. The "Syngrapheis" of 411

In 411, the Oligarchic regime, which had taken over the power during the general military and economic struggles caused by the Sicilian catastrophe, carried out the election of the "Syngrapheis". The proposal of Pythodoros concerning this election referred explicitly to the above-cited formula according to which, the Syngrapheis should make recommendations for

12) Thuk.8,67; Aristot.AP 29,2; 35,1.

13) Xen.Hell.2,3,2.

14) See in extenso OSTWALD, *Sovereignty* (*op.cit.*, n.10), p.370 passim. Cf. P.J.RHODES, *The Athenian Code of Laws 410-399 B.C.*, JHS 111 (1991), p.87ff.

proposals on how to save the polis (15). The peculiar status of this "constitutional commission" is characterized by two elements: commitment by oath and being vested with a comprehensive right to make recommendations free of the bindings of the duration-defensive formulae in the decrees already in force. The sincerity of their task and their legitimization is questionable. As a matter of fact, recommendations by the Syngrapheis initiated the disregard of the duration-defensive decrees and also, with regard to the proposals originated by the Prytaneis concerning public relief, that no action against illegality (*Graphe paranomon*) should be allowed (16).

B. The Engagement of the Syngrapheis in the Restitution of Democracy in 410 and in the following years

In answering questions about the continuity or discontinuity of the Syngrapheis, it could be of some interest to clarify if there are any traces of the Syngrapheis' presence in the following years.

15) Thuk.8,67,1.4; Aristot.AP 29,2.3; 30,1; 32,1. Cf. regarding the function of Syngrapheis in this context BUSOLT/ SWOBODA, *Staatskunde* (*op.cit.*, n.6), p.461f.; KAHRSTEDT, *Untersuchungen* (*op.cit.*, n.4), p.231f.; P.J.RHODES, *The Athenian Boule*², Oxford 1985, p.216f.; DE LAIX, *Probouleusis* (*op.cit.*, n.11), p.33ff.; ALESSANDRÌ (*op.cit.*, n.4), p.131; M.CHAMBERS, *Aristoteles: Staat der Athener*, Berlin 1990, p.277f.

16) *Graphe paranomon*: See H.J.WOLFF, "*Normenkontrolle*" und *Gesetzesbegriff in der attischen Demokratie*, Heidelberg 1970, p.9, n.6; cf. M.H.HANSEN, *The Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Public Action against Unconstitutional Proposals*, Odense 1974; cf. also R.W.HARRISON, *The Law of Athens*, vol. II: Procedure, Oxford 1971, p.172ff.

1. The Decree Proposed by Demophantos

Evidence that the Syngrapheis were also influential in helping the polis out of the disorder of the years 411/410 could possibly be seen in the public resolution proposed by Demophantos where it reads in the resolution formula: τὰδε Δημόφαντος συνέγραψεν (17). The subject of this "Nomos" which was inserted into the religious speech by Andocides concerns, on one hand, the typical threat of punishment of those who work to undermine or do away with the rule by the people. On the other hand, it is related to the decree directed to all Athenians - phylai and demes - to take a sacred oath to kill those who transgress against the democratic city-state in the above-mentioned manner. The wording of the oath is set down in the text of the resolution, with a variety of typical factual variations and differentiated wordings.

The assumption that Demophantos presented the proposal as a member of the Syngrapheis council is by no means conclusive. Rather, the wording of the previously mentioned formula allows the interpretation that the petitioner has inserted the elements of the catalogue of sanctions and the formula for the oath into his (written) proposal. It is less than certain that in the strikingly detailed version of the preamble, in which the composition and election of the boule by lot is especially mentioned, references can be found to a revised resolution formula which was subsequently inserted into the speech. Even though the

17) Andok. 1 (Myst.) 96; see above n.3.

explanatory additions to the resolution formula indicate that the formula had been revised for the drafting of the court speech, on the other hand, it could also be the case that in the resolution formula of this decree, a deliberate reference to the restitution of the radical-democratic style of the boule was appropriate.

2. *The Syngrapheis between 410/409 and 405/404*

Just as the continuity of the function of the Syngrapheis as a constitutional commission established through a public resolution based on Demophantos' proposal cannot be proven beyond a doubt, evidence of the continued existence of the Syngrapheis council during the following years is totally absent. The public resolution of 410/409 concerning the repayment of certain sums of money owed to the temple of Athena remains an exception and does not adequately support the contradictory interpretation⁽¹⁸⁾. Furthermore, the supposition that the public resolution which established certain areas of competence for the boule and distributed competence between the boule and the demos (IG I³ 105, around 409)⁽¹⁹⁾ was initiated by the Syngrapheis must stand as unproven. Neither the inscription itself nor its context contains any reference to this.

18) See in particular III. 4. c).

19) Cf. RHODES, *Boule* (*op.cit.*, n.15), p.115f. Cf. DE LAIX, *Probouleusis* (*op.cit.*, n.11), p.37; OSTWALD, *Sovereignty* (*op.cit.*, n.10), p.419.

3. The "Syngrapheis" of 404

In observance of a decree of 404 proposed by Pythodoros(?), the Assembly commissioned thirty Athenian citizens to re-edit and publish the constitutional laws. The Assembly instituted in the form of the Probouloi a further supporting commission, vested with considerable authorities but bound on the proviso that the Assembly might decide itself (20). This decree too allowed proposals without any considerations for the legal validity of decrees already in force.

III. THE FUNCTION OF THE SYNGRAPHEIS IN THE DELIAN SEA LEAGUE

In contrast to the previously mentioned developments, the function of those committees described as Syngrapheis in some decrees of the Athenian Demos in the heyday of the Delian Sea League remains obscure(21)

20) See ALESSANDRÌ, *probuli* (*op.cit.*, n.4). Cf. RHODES, *Boule* (*op.cit.*, n.15), p.217. Sources to see how the events come to pass cf. Thuk. 8,97; Ps.Xen. Ath.Pol. 3,2; Xen. Hell. 2,3,2.11; Andok. 1 (Myst.), 84; Lys. 7,9; Demosth. 24 (in Timocr.), 27; Diod. 12,75,4.

21) ALESSANDRÌ, *probuli* (*op.cit.*, n.4), p.143 sees only small differences to the Syngrapheis of 411, at least "sul piano giuridico".

A. The Continuing Development of Laws ("Rechtsfortbildung") and the Legalization Process, the Strengthening of the Legality of Power in the Delian League ("Verrechtlichung")

The increase in tasks to which Athens exposed herself with her concept of imperial power-politics required careful dealings with the law. This was systematically expanded to an administration and a power instrument. The control through laws became - if the impression which is especially conveyed in the decrees for collecting tribute is not deceiving - the standard form of intervention in dealing with allies and to which the hegemon forthwith returned even after the military recapture and suppression of the hostile tendencies toward Athens or the Demos (22). In this area of strengthening the legality of power through laws (23), which Athens began to take up in the second

22) In reference to this, a comprehensive systematic extension and consolidation of law in this context cf. G.E.M. DE STE CROIX, *Notes on Jurisdiction in the Athenian Empire*, part I, CQ 11 (1961), p.94-112; part II, p.268-280; W.SCHULLER, *Die Herrschaft der Athener im Ersten attischen Seebund*, Berlin-New York 1974; KOCH, *Rechtsvereinheitlichung (op.cit., n.8)*, p.139ff. An impressive example of a stabilized companionship ruled by law are the relations between Athens and Samos within the last decade of the fifth century, cf. CHR.KOCH, *Integration unter Vorbehalt. Der athenische Volksbeschluß über die Samier von 404*, Tyche 8 (1993), p.63ff.

23) To the strengthening of the rule of law in modern public administration cf., e.g., the contributions in: R.VOIGT (ed.), *Verrechtlichung. Analysen zu Funktion und Wirkung von Parlamentarisierung, Bürokratisierung und Justizialisierung sozialer, politischer und ökonomischer Prozesse*, Königstein/ Taunus 1980, and in: R.VOIGT (ed.), *Limits of Legal Regulation - Grenzen rechtlicher Steuerung*, Pfaffenweiler 1989.

half of the fifth century, a distinctly tangible institutionalization (and instrumentalization) was found in the outward appearance of the Syngrapheis, especially in relation to the empirically-oriented legal competence.

B. The Syngrapheis in the Area of Tension between Religious and State Duties

The most reliable and best contextual reference to the Syngrapheis is found in the Athenian decree of (presumably) 422, which covers the offering of the first-fruits to the Eleusinian temple, IG I³ 78, in lines 3/4 (24): "The Syngrapheis have compiled the following in writing ...". In Lampon's additional proposal hereto, it is stated in line 48: "Agreement with the Syngrapheis in all points with reference to the Aparche ... (25)".

1. The Subject of the Decree

The subject of the decree, whose wording is the result of the work of the Syngrapheis, deals with the offerings to the Eleusinian temple. It deserves to be mentioned that the invitation

24) The Greek text runs as follows: τὰδε οἱ χουγγραφεῖς χουῖνέ(γρᾶφσαν. See also R.MEIGGS/ D.LEWIS, *A Selection of Greek Historical Inscriptions to the End of the Fifth Century B.C.*, Oxford 1969, no.73. A new German translation is given by K.BRODERSEN/ W.GÜNTHER/ H.H.SCHMITT, *Historische griechische Inschriften in Übersetzung, vol. 1: Die archaische und klassische Zeit*, Darmstadt 1992, no.123, p.98ff. Cf. further SMARCZYK, *Untersuchungen (op.cit., n.8)*, p.167ff.

25) The Greek text: [Λ]λάμπων εἶπε· τὰ μὲν ἄλλα κατάπερ αἱ χουγγραφαὶ τῆς ἀπαρχῆς ...

to take part in the contribution of the first-fruits (Aparchai ⁽²⁶⁾) was specifically extended to all Greek Poleis over and beyond the Symmachoi circle. Whereas the Symmachoi were required by the Athenian Demos to hand over the fruits of the field as an outright supplement to their duty to pay tribute and to participate in the ceremonies, the invitation to the rest of the Poleis to take part was, following an examination by the Council, absolutely voluntary ⁽²⁷⁾. Several times in this text the Syngrapheis relate to a Delphinian oracle; the context of these quotations shows that the Manteion had the function to ensure the Panhellenic orientation ⁽²⁸⁾.

The decree regulated not only the process of offering the first fruits. Above all, it also emphasized the claim of the Polis to use the cult for a definite political purpose, in particular, in relation to the Delian League, as well as in relation to the non-member Greek states. The Eleusinian cult was intended to create a sense of identity and was easily employed as an instrument of the Athenian claim to imperial power. The revival of the old cults in

26) To the Aparchai cf. MEIGGS/ LEWIS (*op.cit.*, n.24), p.220.

27) The text runs as follows (l. 30-36; translated by C.W.FORNARA, *Archaic Times to the end of the Peloponnesian War*², Cambridge 1983, no. 139, p.161): "The Boule shall also send a proclamation to the other cities, the Hellenic cities in their entirety, wherever it seems to the boule to be feasible, telling them the principles on which the Athenians and their allies are offering first-fruits, and not ordering them but urging them to offer first-fruits, if they so desire, in accordance with the ancestral custom and the oracular response from Delphi. The acceptance of any (grain) that anyone may bring from these cities as well shall be the duty of the Hieropoioi according to the same procedure."

28) See l. 5, 26 and l. 34.

the second half of the fifth century - most prominently the cult of the Delian Apoll - for the purpose of promoting a basic pan-hellenic religious-ideological orientation stands in close correlation to the ever-growing hegemonic claim on the part of Athens to leadership in the Sea League (29).

This decree, with the support of the Syngrapheis vote, could possibly have provided the tentative formula for a balance between the autonomy of the temple with its originally Panhellenic and thereby, its non-Sea League orientation (30), on the one hand, and on the other, with a stronger radical-democratic emphasis on its function.

2. The Function of the Syngrapheis in the Area of Tension between the Autonomy of the Eleusinian Temple and the Policy-Making Reservation on the part of the Polis to Organization

In this conflictual zone between the temple's area of autonomy, on the one hand, and the interest of the Polis in power, territory and finance, on the other, it is conceivable to place the Syngrapheis in the role of mediator along with the participation of temple representatives (i.e., representatives from the leading religious families and not only the sacral civil servants of the state (31)) in order to formulate a proposal. Evidence for

29) Cf. SMARCZYK, *Untersuchungen* (op.cit., n.8), p.169, 253ff.

30) This could have been motivated the Syngrapheis to refer to the *Manteion* intensively.

31) Sacral civil servants are on the other hand the Hieropoioi: They were chosen from the members of the Boule, cf. RHODES, *Boule* (op.cit., n.15),

this could be seen in the person of the petitioner Lampon. He was presumably a member of one of the two leading religious families (32). For this reason, it is very likely that his additional proposal did contain a careful attempt to protect the further development of the temple from possible radical tendencies and interests in the Assembly.

If one were to go further and identify Lampon with one of the Syngrapheis, the picture could be a different one: The old elites, who descended from family and clan relationships, may have been able to maintain a part of their forming influence and thereby, may have contributed to the protection of a certain autonomy and economic independence for the temple without actually wishing to withdraw completely from power-conscious Sea League politics. It could be assumed that the Syngrapheis might have represented a kind of counterpart to the radical-democratic tendencies and constitutional concepts within the second half of the fifth century B.C. This assumption would demonstrate some similarities to the constitutional functions of these Syngrapheis established in 411 and 404. Although their task was to establish guidelines leading out of the constitutional crisis of the oligarchic system, they even represented this social group on which the regimes of 412 and 404 were based.

p.127f. Cf. furthermore K.CLINTON, *Sacred Officials of the Eleusinian Mysteries*, TAPS 64, 3, Philadelphia 1974; R.S.J.GARLAND, *Religious Authority in Archaic and Classical Athens*, ABSA 79 (1984), p.75-123, 110.

32) Within this meaning runs a supposition based on Aristot. Rhet.1419 a 2. Cf. SMARCZYK, *Untersuchungen (op.cit., n.8)*, p.217 n.177.

C. The Decree Concerning the Reintegration of the Miletos into the Sea League

Due to coincidental information in the sources, the decree concerning the re-integration of Miletos into the Delian League (33) affords a further aspect to the assessment of Syngrapheis' function in the Athenian decrees of the fifth century. In this decree, according to a reliable reconstruction the title reads, "Compilation for the Milesians" and in the proposal itself, "The Syngrapheis have compiled the following for the Milesians ...". The decree contains a number of regulations, which show that Miletos should again take up the typical functions of an ally. Accordingly, the election of five Athenian archons for Miletos was proposed and decided, auxiliary military obligations were confirmed, duties of restitution were determined (and limited) and detailed regulations concerned the arrangements of organizational pre-conditions and the procedures for certain Dikai between Athenians and Milesians, as far as the Dikai related to questions concerning restitution. Besides these limited subjects, general commercial cases were also included by extension.

33) The text of the title: [Μι]λεσί[οις] χσσυ]γραφ[αι] and of 1.3: ...]ορ έπεστάτε, [τάδε τοῖς Μιλεσίοις ηοι χ]σσυγγρα[φές] χσσυέγραφσαν·

See also the versions given by S.CATALDI, *Symbola e relazioni tra le città Greche nel V secolo a.C.*, Pisa 1983, p.183-186, and J.H.OLIVER, *The Athenian Decree Concerning Miletus in 450/49 B.C.*, TAPhA 66 (1935), p.177-198; cf. furthermore KOCH, *Volksbeschlüsse (op.cit., n.11)*, p.86ff. (T 3).

The text is preserved in a very fragmentary form and has been the object of various attempts at reconstruction with varying degrees of intensity and with deviating results in detail. Even the findings on the preserved fragments show a striking accumulation of legal and especially procedural terms which do not occur in this density in any of the preserved decrees of the fifth century ⁽³⁴⁾.

1. Reorganization of Bilateral Assistance in Legal Relations

At the same time, this observation contains the first contextual starting-point for the activities of Syngrapheis, i.e., they could have had the function to re-direct bilateral assistance in legal and court relations into the right channels, and last but not least, in a legal-technical manner. Accordingly, the Syngrapheis proposed the reinstatement of those Symbolai, which had been valid before the secession from Athens (l. 40-44). They combined them with some modifications and additions which refer to guarantees regarding access to the law court for Milesians in Athens (l. 28-40), the levying and distribution of court fees (l. 29-31), the limitation period for legal actions (l. 31-33), the judicial restitution procedure (l. 51-61), the decision-making power, and penal authority of the five Athenian archons in

34) Probably one exception could be the decree about the Athenian Apoikoi in Hestiaia, IG I³ 41, which contains a lot of terms concerning the institutionalization and organization of the local courts; but the stone is heavily damaged. For the rest the noticeable structure of the regulations in this decree seems to be much more simple. Cf. KOCH, *Volksbeschlüsse* (*op.cit.*, n.11), p.135ff. (T 4).

Miletos (l. 74-77, 61/62). This required legally trained experts to prepare the suitable decree proposals.

In connection with the reintegration into the Sea League, one could also conceive an arbitral function for the Syngrapheis; they could have been a committee made up of representatives from Miletos and Athens - and perhaps representatives of a third polis. (This bold assumption will not be treated further here.)

2. The Syngrapheis as Mediator between the People's Party (Demos) in Athens and the Oligarchic Regime in Miletos

Certainly, a further possible reason for the involvement of the Syngrapheis could have been the constitutional political situation in Miletos at the time of the presentation of this decree. Despite the secession from Athens, the continued existence of the oligarchic system in Miletos was evidently possible in this exceptional case, even after the reintegration into the Delian League. Indeed, a shift in power to the government of the people's party had also taken place in Miletos; however, it is not feasible to synchronize this constitutional power shift with the possible dates for the Miletos Decree ⁽³⁵⁾.

35) The survive of the former oligarchic system in Miletos beyond Stasis is thinkable, cf. MEIGGS/ LEWIS (*op.cit.*, n.24), no. 43, decree about political expulsions from Miletos (between 470 and 440 B.C.), p.106f.: a small evidence is given by the tribute lists, where Miletos does not appear in the years after 450/49, but first in 442. Moreover, there might have been concessions be made to Miletos by Athens, caused in the stronger persian influences on the old colonial poleis situated in Asia Minor. Cf. also P.HERRMANN, *Zu den Beziehungen zwischen Athen und Milet im 5. Jahrhundert*, *Klio* 52 (1970), p.163ff., 172f., and H.-J.GEHRKE, *Zur*

The Miletos Decree provides added support to the hypothesis of a definitely close membership in a particular social group among the Syngrapheis: If one follows the references to a continuation of the Oligarchic system in Miletos beyond the time of reintegration into the Sea League, one could find true Athenian friends of Miletos among the Syngrapheis, members of Miletos' influential families who lived in Athens, and Athenians who maintained hospitable contacts with Miletos, who had taken obligations upon themselves, and who had, at that stage, worked out a concept to save Miletos and, with the support of the Council, had presented it to the Assembly (36).

Moreover, it is conceivable that an emerging reorganization of the Milesian constitution (whose implementation in Miletos was entrusted to the five Athenian archons) was accompanied by Syngrapheis as a "constitutional council" in Athens, which, in contrast to the other reintegration decrees, drafted the more cautious directives of the Miletos Decree (37). This was possibly a

Geschichte Milets in der Mitte des 5. Jahrhunderts v. Chr., *Historia* 29 (1980), p.17-31, in particular p.24f., 27ff.

36) In so far a certain contradiction to the view of a growing isolation within the Greek Aristocracy and - caused by this phenomenon - her loss of bindings to the Polis and its institutions is visible, cf. E.STEIN-HÖLKESKAMP, *Adelskultur und Polisgesellschaft*, Stuttgart 1989.

37) Cf. in particular IG I³ 21, l. 78-80 (translated by FORNARA, *op.cit.*, n.33, no. 92, p.93). In my version (Volksbeschlüsse, T 3, l. 77-81, p.94), in so far following to CATALDI, *Symbolai* (*op.cit.*, n.33), no. 7, p.186, the text runs:

; ἡ δὲ οἱ χσυνγραφῆς χσυν]-ε[γραφσαν ἐσφ] ἐρεσ-τ̄ [αι ε]ς τὸν δῆμον ὑμο τῶ[ν πρυτάνεον·εἰ δέ τι δέοι Μιλε]-[σίοις. ἐφσεφ]ίσται αὐ[το] ἴς ἔτι. εἴτε ἄλλο τι δ[οκῆι εἴτε μέ. περι τὸν δέοντα][ι ηοι

part of a comprehensive reorganization concept. An indication for this could also be the references to further decrees concerning Miletos (38).

D. Further References to Syngrapheis in Athenian Decrees

There are references to Syngrapheis in other Athenian Decrees as well, but these only give more evidence about the functions of Syngrapheis.

1. The Establishment of a Constitution for Erythrai - Task of the Syngrapheis?

The Athenian decree concerning a constitution for Erythrai, proposed probably between 453 and 445 - IG I³ 14 (39), contains

πρεσβεύοντες Μ[ιλέ]σιοι· ἐὰν δὲ σοφρονῶντες διατελῶσι αὐτοὶ
τυγχά- [νόντων ἧδ' ἂν]· δέοντ[αι];

The translation then runs as follows: "What the Syngrapheis wrote together shall be brought before the People by the Prytaneis. If there is any (further) need for the Milesioi it shall be decreed for them - either because of some other things seem to be needed in extension to that the delegation of the Milesians asked for, either not. If they are moderate, they should get what they asked for."

38) See the mention of Arnasos, l. 81, and the reference to the archonship of Euthynos, l. 86, probably in the context of another decree concerning Miletos.

39) Cf. S.CATALDI, *Le disposizioni Ateniesi per Eritre e le prime manifestazioni dell'imperialismo Ateniese*. Miscellanea di Studi Storici. Dipartimento di Storia dell'Universita della Calabria 1 (1981), p.17-50; KOCH, *Volksbeschlüsse* (op.cit., n.11), p.61ff. (T 2).

a hint at Syngrapheis only according to the textual restoration by MERITT: Λ[υσι]κ[ράτες] ἔρχε· γνόμε τῶν χσυγγραφέων.⁽⁴⁰⁾ MEIGGS and LEWIS only consider this hint when referring to the more detailed Syngrapheis-formula in the Miletos decree: "It would be a little surprising to find the shortened formula so early" ⁽⁴¹⁾. But also in substance there is no convincing reason to see Syngrapheis as the authors of the proposal to this decree. However, the doubts must be more fundamental and taken together, the transmission is more or less obscure ⁽⁴²⁾.

2. Proposal for Installation of a Building-Planning and Control Commission

A decree concerning the temple of Athena-Nike from about 448 - IG I³ 35 ⁽⁴³⁾ - contains a proposal of Hestiaios to establish probably a board of Syngrapheis (lines 15-17). Being proposed by Glaukos, the Assembly had decided to rebuild a temple in accordance with the designs of the Architekton Kallikrates. In an additional proposal, Hestiaios laid down the procedure how to place the contract. This procedure stipulated that three members of the Council should be elected who first should aid and assist

40) M.F.MCGREGOR/ B.D.MERITT/ H.T.WADE-GERY, *The Athenian Tribute Lists* (ATL) II, D 10, l. 2. Cf. in so far without textual reconstruction MEIGGS/ LEWIS (*op.cit.*, n.24), no. 40, l. 2, and IG I³ 14, l. 2.

41) MEIGGS/ LEWIS (*op.cit.*, n.24), p.91.

42) Cf. KOCH, *Volksbeschlüsse* (*op.cit.*, n.11), p.63.

43) See also MEIGGS/ LEWIS (*op.cit.*, n.24), no. 44; cf. for German translation BRODERSEN/ GÜNTHER/ SCHMITT (*op.cit.*, n.24), no. 75, p.52.

Kallikrates to work out the plans and then they should formulate a written recommendation on how to place and carry out the contract. Nevertheless, it is dubious whether this commission composed of three Bouleutes could be Syngrapheis in the before-mentioned sense. In the text of this decree only the verb as participle is used, i.e., *χουγγράφσαντας* in line 17, and in line 12 the relevant meaning is shown, i.e., the drafting of an architects' plan (44). In any case, even this decree shows that at least within the Council specialized commissions were established whose members had to fulfill definite tasks and so, had been elected therefore.

3. Syngrapheis Safeguarding the Title of a Creditor against the Polis

A decree from 410/409 concerning the repayment of certain loans given by the temple of Athena - IG I³ 99 (45) -, runs (in line 8) *γνώμ]ε τῶν συγγραφέων* and contains therewith a reliable reference to the Syngrapheis. However, the inscription is badly

44) A parallel regulation is given in the decree concerning the building of a bridge across the river Rheitos and the via sacra to Eleusis, from 422/1, IG I³ 79, l. 16: there most likely in the meaning of "contract for services as an Architekton" (who is the building control commissioner of the polis), cf. BRODERSEN/ GÜNTHER/ SCHMITT (*op.cit.*, n.24), no. 124, p.101. Similar is the decree concerning a building-order addressed to the Architekton Kallikrates, from about 445, IG I³ 45, l. 6-10. OSTWALD, *Sovereignty* (*op.cit.*, n.10), p.416 notes with regard to the decree IG I³ 99, l. 3: "What other activity is ascribed to them concerns religious matters, such as drafting proposals for the repayment of sacred monies to Athena and another sacred regulation, the exact nature of which remains obscure."

45) See also OSTWALD, *Sovereignty* (*op.cit.*, n.10), p.419f.

damaged and the text breaks off entirely with line 12 ⁽⁴⁶⁾. Therefore, there is no basis for further considerations. To some extent it is only possible to reconstruct the order that the repayment should be effected by installments which are as high as possible (line 9) and that these amounts should be deposited as they were paid within the temple of Athena on the Acropolis (line 11).

If one would try to connect the engagement of the Syngrapheis with the content of this decree, it should be pointed out that the fairly complicated subject matter - *res sacrae* -, and the probably very urgent demand of repayment made the proposal of this decree a very delicate one and this might have justified delegating the task to Syngrapheis.

E. Consequences resulting from the Findings in the Decrees with Regard to the Syngrapheis

As varied as the dates of the individual decrees are, the proven temporal dispersion of the references to the Syngrapheis, which have been passed on in the decrees, do not permit their assignment to the constitutional upheaval of 411 or 404.

46) To the textual reconstruction of this inscription cf. ATL II D 9, and W.E.THOMPSON, *Class. et Mediaev.* 28 (1967, 1970), p.228f.

1. The Weakness of Evidence

The small number of decrees in which the cooperation of the Syngrapheis can be proven obviously justifies doubts about the validity of any evaluation of the findings. However, it still remains a fact that among the preserved decrees, only a few show a participation on the part of the Syngrapheis and thereby reveal that this was an exception to the principle of individual proposal. The proven references to the Syngrapheis show that they participated in formulating those decrees which can be assigned to certain typical areas of reference as Sea League problems (Miletos) and *res sacrae* (Eleusis), but apart from that, they are outside the typical context. For example, the Miletos Decree is noted for its very distinctive regulations concerning jurisdiction through the re-establishment of the formerly valid legal assistance contracts. The Eleusis resolution combines the protective duty of the Polis toward the Eleusis temple with the Sea League and, in addition to that, with a pan-hellenic attitude, and therefore reaches far beyond the typical contents of a decree.

The fact that the existence of the Syngrapheis can only be proven in a very few cases does not, in consideration of the subject-matter of the decrees, in any way indicate that this institution was insignificant. On the contrary, the political explosiveness of the intention of a regulation could be reason enough to establish Syngrapheis and to entrust them with the formulation of the text proposal. This could be even more imperative when the intention of a decree exposed the proposer to

the reproach of "traditionalistic" or "oligarchic" and therefore, Sparta-friendly activities.

2. Syngrapheis and the Integration of Old and New Elites into the Government

The aforementioned considerations allow the conclusion that the make-up of the Syngrapheis-committees could be attributed to tradition-bound and family roots. In this way, one could plausibly bring together those items which at first sight appear as different as the decree concerning Eleusis and the one concerning Miletos.

However, on the whole, the calling-in of the Syngrapheis as an integrative measure must remain, unproven. Considerations about the possible integrative functions of the Syngrapheis committees within the struggle for power respective to the competence conflict between the Council and the Demos (47) can be based on the presumption that the Syngrapheis committees were not composed as selected miniature copies of the Council (48), but also represented "external" interests and "external" expertise.

47) To this conflict concerning the participation in initiating or decision-making between Council and Assembly cf. M.H.HANSEN, *Initiative und Entscheidung. Überlegungen über die Gewaltenteilung im Athen des 4. Jahrhunderts. Studien zum Attischen Seebund*, Xenia 6, Konstanz 1983.

48) But so is the situation in the decrees concerning the building commissions, IG I³ 35 (c.a. 448), l. 7/8.13.17; 45 (c.a. 445), l. 6-10; 79 (442/1), l. 16/17.

3. *The Syngrapheis and their Functional Relationship to the Council and the Demos.*

In addition, due to the constitutional development in Athens, the overlapping and intertwining functions of the Syngrapheis could have allowed them to play a specific part in the new understanding of the roles of the Council and the Demos. In the discussion concerning the relationship between Council and Demos, the warning about the dangers of a "constitutional law trap (49)" were justified. Already in the first half of the fifth century, it was increasingly difficult to assign Council and Demos to a certain social context. The Council was no longer suitable as an institutional framework for the self-presentation, or at least an influencing control of the political-social elite.

To that extent, it lacked the necessary "corporate identity". Ober is right when he characterizes the constitutional reforms from 487/6 as "a significant long-term impact on the ability of the elite to control the institutional apparatus of the state (50)". At the same time, Ober refers to the consequence of this development, which is also significant to our context: "Officeholders could no longer automatically call on a cadre of politically-experienced

49) J.OBER, *Mass and Elite in Democratic Athens: Rhetoric, Ideology, and the Power of the People*², Princeton 1990, p.21f., against DE LAIX, *Probouleusis* (*op.cit.*, n.11), p.139ff., 189ff.

50) OBER, *Mass and Elite* (*op.cit.*, n.49), p.76 with n.55 (concerning Prokrisis).

friends and kinsmen for help in making and carrying out decisions (51)".

The beginning of professionalization and an altered composition of the elite is seen here. As is shown in the appointment decree, the overburdened institutions of Council and Demos, which were also handicapped by their permanent personnel changes, entrusted matters to "external" expertise and, in this way, each gave themselves the opportunity of imposing purposeful duties on the educational and influential elite. To each of these two elite groups, they gave the possibility of taking an active and creative part in politics, despite the ever-fewer remaining electoral positions and the coincidences created by the drawing of lots for the functions. However, there was still the risk that a proposal of the Syngrapheis could fail in the Council or in the Assembly.

IV. SUMMARY

First of all, it is acknowledged that the Syngrapheis are not the center of attention with regard to the constitutional development in ancient Athens. However, they form an institution or at least a formalized framework of action for certain more extensive or complicated constitutional proposals (52).

51) OBER, *Mass and Elite* (*op.cit.*, n.49), p.77.

52) Cf. as a modern access to the functions of a constitutional commission R.SCHOLZ, *Aufgaben und Grenzen einer Reform des Grundgesetzes*, in: P.BADURA/ R.SCHOLZ (ed.), *Wege und Verfahren des Verfassungslebens*, *Festschrift für Peter Lerche*, München 1993, p.69ff.

The Syngrapheis probably represented, on the one hand, a specific familiar and religious tradition (especially in the decree about first-fruits), or they provided the chance to integrate or intermediate within oligarchic and radical democratic systems (as it might have been in the case of Miletus and probably, but quite unlikely, in that of Erythrai). They could have been both an *ad hoc* working commission as well as a mediation committee, re-integrating not only some of the Athenian or Peloponnesian oligarchy-orientated political powers, but other traditional elements of the Athenian society, as well.

The Miletos Decree proves the initial assumption that the Syngrapheis could have been a specific institutional form of a specialized legal expertise. More evident are the indications in the Eleusis decree of left-over structures of an institutionalized political controlling-influence by the Oligarchic party, and by the families who supported it. If one follows the few traces of the activities of the Syngrapheis, the impression is that here the professional expertise of the traditionally-orientated elites and the modern elites, who shared a common education and a common sense of political practise (educational and influential elites: "Bildungs- und Einflußeliten"), had been integrated into the radical democratic controlling process.

Through the usurpation of such an institutional concept by a generation which operated in a power-orientated manner and which was trained in a "sophistic"-rationalistic way of dealing with institutions, it is possible that, out of this mixture - as the

events of 411 and 404 show -, considerable political explosive potential can built up against the radical rule of the people.

Out of the combination of the "expertise principle" and a traditionally-formed elite-consciousness grew a "conservative"-revolutionary dynamic to the disadvantage of the susceptible radical-democratic constitutional consensus.