

1) Conservative views of legislation?

Dem. 20.91-2:

[91] καὶ γὰρ τοι τότε μέν, τέως τὸν τρόπον τοῦτον ἐνομοθέτουν, τοῖς μὲν ὑπάρχουσι νόμοις ἐχρῶντο, καινοὺς δ' οὐκ ἐτίθεσαν· ἐπειδὴ δὲ τῶν πολιτευομένων τινὲς δυνηθέντες, ὡς ἐγὼ πυθάνομαι, κατεσκεύασαν αὐτοῖς ἐξεῖναι νομοθετεῖν, ὅταν τις βούληται καὶ ὃν ἂν τύχη τρόπον, τοσοῦτοι μὲν οἱ ἐναντίοι σφίσιν αὐτοῖς εἰσὶ νόμοι, ὥστε χειροτονεῖθ' ὑμεῖς τοὺς διαλέξοντας τοὺς ἐναντίους ἐπὶ πάμπολυν ἤδη χρόνον, [92] καὶ τὸ πρᾶγμα οὐδὲν μᾶλλον δύναται πέρας ἔχειν· ψηφισμάτων δ' οὐδ' ὅτιοὺν διαφέρουσιν οἱ νόμοι, ἀλλὰ νεώτεροι οἱ νόμοι, καθ' οὓς τὰ ψηφίσματα δεῖ γράφεσθαι, τῶν ψηφισμάτων αὐτῶν ὑμῖν εἰσὶν.

This [that Solon wanted laws to be properly scrutinized] is the reason why they kept to the traditional laws in the past as long as they used this method of legislation and did not enact new ones. But when some influential politicians, as I hear, arranged for themselves to make it possible to pass laws whenever they wanted in any possible way, the number of laws that contradicted each other grew so large that you have been electing men for a long time to straighten out the contradictions. [92] In fact, there is no end in sight for the matter. The laws do not differ one iota from decrees, and the laws to be followed when passing decrees are more recent than the actual decrees themselves. (trans. Harris)

Dem. 24.140-2:

[140] καὶ γὰρ τοι καινοὺς μὲν οὐ τολμῶσι τίθεσθαι, τοῖς δὲ πάλαι κειμένοις ἀκριβῶς χρῶνται. καὶ ἐν πολλοῖς δὲ πάνυ ἔτεσιν, ὧ ἄνδρες δικασταί, εἰς λέγεται παρ' αὐτοῖς νόμος καινὸς τεθῆναι. ὄντος γὰρ αὐτόθι νόμου, ἐάν τις ὀφθαλμὸν ἐκκόψῃ, ἀντεκκόψαι παρὰσχεῖν τὸν ἑαυτοῦ, καὶ οὐ χρημάτων τιμῆσεως οὐδεμᾶς, ἀπειλῆσαι τις λέγεται ἐχθρὸς ἐχθρῷ ἐν' ἔχοντι ὀφθαλμὸν ὅτι αὐτοῦ ἐκκόψει τοῦτον τὸν ἕνα. [141] γενομένης δὲ ταύτης τῆς ἀπειλῆς χαλεπῶς ἐνεγκὼν ὁ ἑτερόφθαλμος, καὶ ἡγούμενος ἀβίωτον αὐτῷ εἶναι τὸν βίον τοῦτο παθόντι, λέγεται τολμῆσαι νόμον εἰσενεγκεῖν, ἐάν τις ἕνα ἔχοντος ὀφθαλμὸν ἐκκόψῃ, ἅμφω ἀντεκκόψαι παρὰσχεῖν, ἵνα τῇ ἴσῃ συμφορᾷ ἀμφοτέρωι χρῶνται. καὶ τοῦτον μόνον λέγονται Λοκροὶ θέσθαι τὸν νόμον ἐν πλείν ἢ διακοσίους ἔτεσιν. [142] οἱ δὲ παρ' ἡμῖν ῥήτορες, ὧ ἄνδρες δικασταί, πρῶτον μὲν ὅσοι μῆνες μικροῦ δέουσι νομοθετεῖν τὰ αὐτοῖς συμφέροντα, ἔπειτ' αὐτοὶ μὲν τοὺς ιδιώτας εἰς τὸ δεσμωτήριον ἄγουσιν ὅταν ἄρχωσιν, ἐφ' ἑαυτοῖς δ' οὐκ οἴονται δεῖν ταῦτ' ἀδικίαν τοῦτ' εἶναι· ἔπειτα τοὺς μὲν τοῦ Σόλωνος νόμους τοὺς πάλαι δεδοκιμασμένους, οὓς οἱ πρόγονοι ἔθεντο, λύουσιν αὐτοί, τοῖς δ' ἑαυτῶν, οὓς ἐπ' ἀδικίᾳ τῆς πόλεως τιθέασιν, χρῆσθαι ὑμᾶς οἴονται δεῖν.

[140] In fact, they do not dare to pass new laws, but strictly adhere to the long established laws. For very many years, men of the court, it is said that only one new law has been enacted in their community. There was a law that if someone gouged an eye, he was to have his own eye knocked out in return, and no monetary penalty was permitted. The story goes that a man threatened to gouge eye of his enemy who had just one eye. [141] The one-eyed man, worried by this threat and thinking that life would not be worth living were it carried out, is said to have worked up the courage to introduce a law ordering that if anyone gouged the eye of a person with just one eye, he was to have both his eyes gouged in return so that both men would suffer an equal fate. It is reported that this is the only law the Locrians have passed in more than two hundred years. [142] The politicians in our city, on the other hand, men of the court, first pass laws for their own advantage almost every month, then drag private citizens off to prison when they are in office, but do not believe that the same rule of justice should be applied to them. Finally, the laws of Solon, which your ancestors enacted and which have passed the test of time, they are attempting to abolish while they claim that you should obey their laws, which they are enacting to the city's detriment. (trans. Harris)

Interpretations:

MacDowell 1975: a 'new legislation law'.

Hansen 1979-80 and 1985, and Rhodes 1984: critical description of malpractices; generalized criticism mostly unjustified (cf. Hansen 1978 and 1979).

Hansen 1989, Thomas 1994 (cf. also Wohl 2010): ideological statements marking a conservative ideology of legislation.

2) My reconstruction of fourth-century *nomothesia*

Canevaro 2013:

- 1) In order to introduce a new law, a preliminary vote in the Assembly, at any point of the year, had to be held that would allow new laws to be proposed (Dem. 24.25; *IG* II² 333, *SEG* 12.87, *IG* II² 140); this vote, as all votes in the Assembly, had to be preceded by a *probouleuma* of the Council;
- 2) once new proposals had been authorized by the Assembly, all new proposals had to be posted in front of the monument of the Eponymous Heroes (Dem. 24.25; 20.94), so that anybody could see them;
- 3) the bills had to be read out by the secretary in each Assembly until the appointment of the *nomothetai*, to allow everyone to make up their mind (Dem. 20.94);
- 4) in the third Assembly after the preliminary vote, on the basis of the bills presented, the people had to discuss the appointment (or summon) of *nomothetai* and pass a decree of appointment (or summon; Dem. 24.25; 20.92);
- 5) opposing laws however had to be repealed before the new laws could be enacted by the *nomothetai* (Dem. 24.32, 34–5; Dem. 20.93); Dem. 20.93 (and *passim*) suggests that the correct forum to repeal opposing laws was a lawcourt;
- 6) presumably in the same Assembly that appointed the *nomothetai* expert *synegoroi* were elected to defend those laws whose repeal was necessary in order to enact the new laws (Dem. 24.36; 20.146);
- 7) if the proposer of a new law failed to abide by any of these provisions, anyone could bring him to trial through a *graphe nomon me epitedeion theinai* (Dem. 24.32), and if the case was heard within a year from the enactment of the law, the punishment could be anything from a small fine to *atimia* or death.

3) Enacting a bad law 1: procedure

1. Dem.24.15-19:

[15] ἀνάγκη δὲ πρῶτον ὑπομνήσαι τοὺς χρόνους ὑμᾶς καὶ τὸν καιρὸν ἐν ᾧ τίθησι τὸν νόμον· καὶ γὰρ ὑβριστικῶς προσεκκεχλευακῶς ὑμᾶς φανήσεται. ἦν μὲν γὰρ σκιροφοριῶν μὴν ἐν ᾧ τὰς γραφὰς ἤττηντ' ἐκείνοι τὰς κατὰ τοῦ Εὐκτήμονος· μισθωσάμενοι δὲ τοῦτον καὶ οὐδὲ παρεσκευασμένοι τὰ δίκαια ποιεῖν ὑμῖν κατὰ τὴν ἀγορὰν λογοποιοῦς καθίεσαν ὡς ἀπλᾶ μὲν ἔτοιμοι τὰ χρήματ' ἐκτίνειν, διπλᾶ δ' οὐ δυνήσονται. [16] ἦν δὲ ταῦτ' ἐνέδρα μετὰ χλευασίας καὶ κατασκευασμὸς ὑπὲρ τοῦ λαθεῖν τόνδε τὸν νόμον τεθέντα. μαρτυρεῖ δ' ὅτι ταῦθ' οὕτως ἔχει τοῦργον αὐτό· τῶν μὲν γὰρ χρημάτων ἐκείνοις τοῖς χρόνοις δραχμὴν οὐ κατέθηκαν ὑμῖν, νόμῳ δ' ἐνὶ πλείστοις ὑπάρχοντας ἀκύρους ἐποίησαν, καὶ τούτῳ τῶν πάποτ' ἐν ὑμῖν τεθέντων αἰσχίστῳ καὶ δεινοτάτῳ. [17] βούλομαι δὴ μικρὰ διεξελθὼν περὶ τῶν κειμένων νόμων, καθ' οὓς εἰσιν αἱ τοιαῖδε γραφαί, περὶ αὐτοῦ τοῦ νόμου λέγειν ὃν γέγραμμαι· γενήσεσθε γὰρ εὐμαθέστεροι πρὸς τὰ λοιπὰ ταῦτα προακούσαντες. ἔστιν, ὦ ἄνδρες Ἀθηναῖοι, ἐν τοῖς οὖσι νόμοις ἡμῖν κυρίοις διωρισμέν' ἀκριβῶς καὶ σαφῶς πάνθ' ὅσα δεῖ ποιεῖν περὶ τῶν μελλόντων τεθήσεσθαι νόμων. [18] καὶ πρῶτον μὲν ἀπάντων χρόνος ἐστὶ γεγραμμένος, ἐν ᾧ προσήκει νομοθετεῖν· εἴτ' οὐδὲ τόθ' ὡς ἂν ἐκάστῳ δοκῇ δέδωκε τοῦτο πράττειν, ἀλλὰ προστάττει πρῶτον μὲν ἐκθεῖναι πρόσθεν τῶν ἐπωνύμων γράψαντα σκοπεῖν τῷ βουλομένῳ, μετὰ ταῦτ' ἐπὶ πᾶσι τὸν αὐτὸν νόμον τιθέναι κελεύει, πρὸς τούτοις λύειν τοὺς ἐναντίους, ἄλλα περὶ ὧν οὐδὲν ἴσως ὑμᾶς κατεπεῖγει νῦν ἀκοῦσαι. ἂν δὲ τις τούτων ἐν παραβῇ, τῷ βουλομένῳ δίδωσι γράφεσθαι. [19] εἰ μὲν οὖν μὴ πᾶσιν ἦν ἔνοχος τούτοις Τιμοκράτης, καὶ παρὰ πάντα ταῦτ' εἰσηγησάμενος τὸν νόμον, ἐν ᾧ αὐτοῦ τις ἐποιεῖτο κατηγορήματα, ὅ τι δήποτε τοῦτ' ἦν· νῦν δ' ἀνάγκη καθ' ἕκαστον, χωρὶς περὶ ἐκάστου διελόμενον, λέγειν. πρῶτον μὲν οὖν, ὅπερ ἡδίκησε πρῶτον, τοῦτ' ἐρῶ, ὡς παρὰ πάντας τοὺς νόμους ἐνομοθέτει, εἶτα τῶν ἄλλων ἐξῆς ὅ τι ἂν βουλομένοις ὑμῖν ἀκούειν ἦ. καὶ μοι λαβὲ τουτουσὶ τοὺς νόμους καὶ ἀνάγνωθι· φανήσεται γὰρ τούτων οὐδὲν πεποιηκῶς. προσέχετ', ἄνδρες δικασταί, τὸν νοῦν ἀναγιγνωσκομένοις τοῖς νόμοις.

[15] First, it is necessary to remind you about the dates and circumstances during which he proposed his law. It will be obvious that he has insolently treated you with contempt. To be precise, it was Skirophorion when they lost their case against Euctemon.³⁶ After they hired this man and were not prepared to respect your rights, they sent men to the Agora to start a rumor that they were ready to pay the money owed but would not be able to pay double. [16] This was a ruse filled with contempt, a scheme to pass this law without attracting attention. Their actions prove that this was the case: in all that time they did not pay a drachma of the money, but used one law to abolish all the established laws. This is the most disgraceful and shocking law of all those ever passed in your city. [17] After briefly discussing the laws enacted to permit public accusations like this one, I wish to speak about the actual law that I have indicted. Once you have heard these laws, you will find it easier to understand my other arguments. Men of Athens, the laws now in effect in our city carefully and clearly define everything that must be done for laws to be enacted. [18] First of all, the period when it is permitted to make laws is specified. Second, not even then is it possible for anyone to do this in whatever way he decides. No, the law orders a written copy to be placed in front of the Eponymous Heroes for anyone to see, then orders that the same law apply to all citizens

equally, and also to repeal any laws contrary to it. There are other provisions, but there is perhaps no pressing need for you to hear about them now. If anyone violates any of these rules, it is permitted for anyone who wishes to bring a public action. [19] Now if Timocrates were not subject to prosecution for breaking these rules and had not proposed his law in violation of all of them, one would bring just one charge against him, whatever that might have been. As it is, however, it is necessary to divide them up and discuss each separately. First, then, I will discuss his first offense, that he passed his law in violation of all the laws, then proceed through the remaining charges in whatever order you wish to hear them. Take these laws here for me and read them. It will be obvious that he has done none of these things. Pay attention, men of the court, as the laws are read out.

2. Dem. 24.24-6:

[24] οὗτοι πάντες οἱ νόμοι κεῖνται πολὺν ἤδη χρόνον, ὧ ἄνδρες δικασταί, καὶ πείραν αὐτῶν πολλάκις δεδώκασ' ὅτι συμφέροντες ὑμῖν εἰσιν, καὶ οὐδεὶς πώποτ' ἀντείπεν μὴ οὐ καλῶς ἔχειν αὐτούς. εἰκότως· οὐδὲν γὰρ ὠμὸν οὐδὲ βίαιον οὐδ' ὀλιγαρχικὸν προστάττουσιν, ἀλλὰ τούναντίον πάντα φιλανθρωπῶς καὶ δημοτικῶς φράζουσι πράττειν. [25] καὶ πρῶτον μὲν ἐφ' ὑμῖν ἐποίησαν διαχειροτονίαν, πότερον εἰσοιστέος ἐστὶ νόμος καινὸς ἢ δοκοῦσιν ἀρκεῖν οἱ κείμενοι· μετὰ ταῦτα δέ, ἂν χειροτονήτ' εἰσφέρειν, οὐκ εὐθὺς τιθέναι προσέταξαν, ἀλλὰ τὴν τρίτην ἀπέδειξαν ἐκκλησίαν, καὶ οὐδ' ἐν ταύτῃ τιθέναι δεδώκασιν, ἀλλὰ σκέψασθαι καθ' ὃ τι τοὺς νομοθέτας καθιεῖτε. ἐν δὲ τῷ μεταξὺ χρόνῳ τούτῳ προσέταξαν τοῖς βουλομένοις εἰσφέρειν ἐκτιθέναι τοὺς νόμους πρόσθεν τῶν ἐπωνύμων, ἵν' ὁ βουλούμενος σκέψηται, κὰν ἀσύμφορον ὑμῖν κατίδῃ τι, φράσῃ καὶ κατὰ σχολὴν ἀντείπῃ. [26] τούτων μέντοι τοσοῦτων ὄντων οὐδὲν πεποίηκε Τιμοκράτης οὕτως· οὔτε γὰρ ἐξέθηκε τὸν νόμον, οὔτ' ἔδωκεν εἴ τις ἐβούλετ' ἀναγνοὺς ἀντειπεῖν, οὔτ' ἀνέμεινε οὐδένα τῶν τεταγμένων χρόνων ἐν τοῖς νόμοις, ἀλλὰ τῆς ἐκκλησίας, ἐν ἧ τὸς νόμους ἐπεχειροτονήσατε, οὔσης ἐνδεκάτῃ τοῦ ἑκατομβαιῶνος μηνός, δωδεκάτῃ τὸν νόμον εἰσήνεγκεν, εὐθὺς τῇ ὑστεραίᾳ, καὶ ταῦτ' ὄντων Κρονίων καὶ διὰ ταῦτ' ἀφειμένης τῆς βουλῆς, διαπραξάμενος μετὰ τῶν ὑμῖν ἐπιβουλευόντων καθέζεσθαι νομοθέτας διὰ ψηφίσματος ἐπὶ τῇ τῶν Παναθηναίων προφάσει.

[24] All these laws have already been in effect for a long time, men of the court, and have often proved themselves beneficial for you. No one would deny that they are good, and rightly so. They do not order anything harsh, violent or oligarchic, but quite the opposite: they command us to act in a generous and democratic way. [25] First, they place in your hands the power to vote whether a new law should be introduced or the existing laws seem adequate. Next, if you vote to introduce a new law, they order not to enact it straightaway but assign the third meeting of the Assembly and do not allow you to pass it even then, but to consider on what terms you will appoint *nomothetai*. During the intervening period they order those wishing to introduce laws to display them before the Eponymous Heroes so that whoever wishes may examine them, and, if he notices anything contrary to your interests, may point it out and make an objection at his convenience. [26] This man here, Timocrates, did not do any of these things: he did not display the law, did not allow anyone to lodge an objection if he read it and wanted to, and did not wait for the time appointed by law. The meeting of the Assembly during which you voted about the laws took place on 11 Hekatombaion. He immediately proposed his law on the next day when the Kronia was held and the Council was in recess. He was acting in concert with men plotting against you to have the *nomothetai* sit by decree on the pretext of the Panathenaea.

3. Dem. 20.94:

καὶ πρὸ τούτων γ' ἐπέταξεν ἐκθεῖναι πρόσθε τῶν ἐπωνύμων καὶ τῷ γραμματεῖ παραδοῦναι, τοῦτον δ' ἐν ταῖς ἐκκλησίαις ἀναγιγνώσκειν, ἵν' ἕκαστος ὑμῶν ἀκούσας πολλάκις καὶ κατὰ σχολὴν σκεψάμενος, ἂν ἢ καὶ δίκαια καὶ συμφέροντα, ταῦτα νομοθετῇ.

[94] Even before this stage, Solon ordered that the laws be placed in front of the Eponymous Heroes and handed over to the secretary for him to read at meetings of the Assembly. The aim was for each of you to hear the laws many times and have a chance to study them at leisure and then enact those that were just and in the public interest.

4. Dem. 20.90:

οὐ γὰρ ᾤετο δεῖν ὁ Σόλων, ὁ τοῦτον τὸν τρόπον προστάξας νομοθετεῖν, τοὺς μὲν θεσμοθέτας τοὺς ἐπὶ τοὺς νόμους κληρουμένους δις δοκιμασθέντας ἄρχειν, ἔν τε τῇ βουλῇ καὶ παρ' ὑμῖν ἐν τῷ δικαστηρίῳ, τοὺς δὲ νόμους αὐτούς, καθ' οὓς καὶ τούτοις ἄρχειν καὶ πᾶσι τοῖς ἄλλοις πολιτεύεσθαι προσήκει, ἐπὶ καιροῦ τεθέντας, ὅπως ἔτυχον, μὴ δοκιμασθέντας κυρίους εἶναι.

Solon was the man who created this method of enacting laws. He did not think it right for the Thesmothetae, who are chosen by lot to administer the laws, to take office after having been examined twice, once in the Council and once before you in court, but for the laws themselves, which these men and all citizens are obliged to follow in their public actions, to be passed haphazardly and go into effect without having been examined.

4) Enacting a bad law 2: consistency among the laws

1. Dem. 24.34-5:

[34] ἤκούσατε μὲν τοῦ νόμου· πολλῶν δὲ καλῶς κειμένων νόμων τῇ πόλει οὐδενὸς ἦττον ἡγοῦμαι καὶ τοῦτον ἀξίως ἐπαίνου γεγράφθαι. σκέψασθε γὰρ ὡς δικαίως καὶ σφόδρ' ὑπὲρ τοῦ δήμου κεῖται. οὐκ ἔα τοῖς ὑπάρχουσι νόμοις ἐναντίον εἰσφέρειν, ἐὰν μὴ λύσῃ τὸν πρότερον κείμενον. τίνος εἵνεκα; πρῶτον μὲν ἵν' ὑμῖν ἐξῇ τὰ δίκαια ψηφίζεσθαι μετ' εὐσεβείας. [35] εἰ γὰρ εἴησαν δύο ἐναντίοι νόμοι, καὶ τινες ἀντίδικοι παρ' ὑμῖν ἀγωνίζοιντο ἢ περὶ δημοσίων ἢ περὶ ιδίων πραγμάτων, ἀξιοίη δ' ἕκαστος νικᾶν μὴ τὸν αὐτὸν δεικνύων νόμον, οὔτ' ἀμφοτέροις ἐνὶ δήπου ψηφίσασθαι· πῶς γάρ; οὔτε θατέρῳ ψηφιζομένους εὐορκεῖν· παρὰ γὰρ τὸν ἐναντίον, ὄντα δ' ὁμοίως κύριον, ἢ γνώσις συμβαίνει.

[34] You have heard the law. The city has enacted many excellent laws, but there is none better or more deserving of praise than this one. Look at how just it is and how well it protects the people's interests. It prohibits proposing a law contrary to the existing ones unless one rescinds the one already in effect. What is the aim? First, to give you the power to cast a just vote with respect for the gods. [35] Imagine if there should be two laws contradicting each other, and two litigants should be in court about some private or public matter, with each one demanding to win his case not by citing the same law. It would certainly be impossible for the judges to vote for both litigants. How could they? They could not vote for either litigant and abide by their oath for their verdict would go against the other law, which was equally valid.

2. Dem. 20.93:

ἔπειτα λύοντα τοὺς ἐναντίους, ἵν' εἷς ἦ περὶ τῶν ὄντων ἕκαστου νόμος, καὶ μὴ τοὺς ιδιώτας αὐτὸ τοῦτο ταράττῃ καὶ ποιῇ τῶν ἅπαντας εἰδόντων τοὺς νόμους ἔλαττον ἔχειν, ἀλλὰ πᾶσιν ἦ ταῦτ' ἀναγνῶναι καὶ μαθεῖν ἀπλᾶ καὶ σαφῇ τὰ δίκαια.

Next, opposing laws are repealed so that there is one law for each subject. This avoids confusion for private individuals, who would be at a disadvantage in comparison to people who are familiar with all the laws. The aim is to make points of law the same for all to read as well as simple and clear to understand.

3. The law of Timocrates contradicts all the laws of the city:

Dem. 24.1: χρημάτων γὰρ οὐκ ὀλίγων ἀποστερήσαι βουλόμενος τὴν πόλιν, παρὰ πάντας τοὺς νόμους νόμον εἰσήνεγκεν οὔτ' ἐπιτήδειον οὔτε δίκαιον...

With the intention of stealing a large amount of money from the city, men of the court, he introduced a law that violates all the laws and is neither expedient nor just...

Dem. 24.5: περὶ τοίνυν αὐτοῦ τούτου νῦν ὑμῖν ἐστίν, πότερον δεῖ τοὺς μὲν ἄλλους νόμους, οὓς ἐπὶ τοῖς ἀδικοῦσι τὴν πόλιν ὑμεῖς ἀνεγράψατε, ἀκύρους εἶναι, τόνδε δὲ κύριον, ἢ τοῦναντίον τοῦτον μὲν λῦσαι, κατὰ χώραν δὲ μένειν τοὺς ἄλλους ἔαν.

Indeed, this is the very issue before you now: whether the rest of the laws you have enacted against men who harm the state are to be repealed while this one is to remain in force, or this one is to be repealed while the others are to remain in place.

Dem. 24.38: ταῦτα πάντα Τιμοκράτης, οὕτω καλῶς καὶ δικαίως κείμενα, ἠφάνισεν, ἐξήλειπεν, ὅσον ἦν ἐπὶ τούτῳ, καὶ νόμον εἰσήνεγκεν ἅπασιν ἐναντίον, ὥς ἔπος εἰπεῖν, τοῖς οὓσιν, οὐ παραναγνούς, οὐ λύσας, οὐ δούς αἵρεσιν, οὐκ ἄλλο ποιήσας οὐδὲν τῶν προσηκόντων.

All these safeguards, which have been well and justly established, Timocrates has to the best of his ability destroyed and wiped out. He has introduced a law contrary, one might say, to all those now in effect. He did not read out anything, repeal anything, give you any choice or follow any of the correct procedures.

Dem. 24.66: ὅτι μὲν τοίνυν καὶ παρὰ τούτους τοὺς νόμους καὶ παρὰ τοὺς προειρημένους, καὶ μικροῦ δέω παρὰ πάντας εἰπεῖν τοὺς ὄντας ἐν τῇ πόλει, τέθηκε τὸν νόμον, οἶμαι δῆλον ἅπασιν ὑμῖν εἶναι.

I think that it is obvious to all of you that he has enacted his law in violation both of these laws and those mentioned earlier, in fact, I could almost say in violation of all the laws in the city.

4. Dem. 20.13-14:

[13] Τὸ μὲν τοίνυν τῆς πόλεως ἥθος, ὃ ἄνδρες Ἀθηναῖοι, καὶ ἐπ' ἄλλων πολλῶν καὶ ἐφ' ὧν εἶπον ἴδοι τις ἂν τοιοῦτον, ἀψευδὲς καὶ χρηστόν, οὐ τὸ λυσιτελέστατον πρὸς ἀργύριον σκοποῦν, ἀλλὰ τί καὶ καλὸν πρᾶξαι. τὸ δὲ τοῦ θέντος τὸν νόμον, τὰ μὲν ἄλλ' ἔγωγε οὐκ οἶδα, οὐδὲ λέγω φλαυρον οὐδὲν οὐδὲ σύνοιδα, ἐκ δὲ τοῦ νόμου σκοπῶν εὐρίσκω πολὺ τούτου κεχωρισμένον. [14] φημὶ τοίνυν ἐγὼ κάλλιον εἶναι τοῦτον ὑμῖν ἀκολουθεῖν περὶ τοῦ λῦσαι τὸν νόμον ἢ ὑμᾶς τούτῳ περὶ τοῦ θέσθαι, καὶ λυσιτελέστερον εἶναι καὶ ὑμῖν καὶ τούτῳ τὴν πόλιν πεπεικέναι. Λεπτίνην ὁμοίον αὐτῇ γενέσθαι δοκεῖν ἢ αὐτὴν ὑπὸ τούτου πεπεισθαι ὁμοίαν εἶναι τούτῳ· οὐδὲ γὰρ εἰ πάνυ χρηστός ἐσθ', ὥς ἐμοῦ γ' ἔνεκα ἔστω, βελτίων ἐστὶ τῆς πόλεως τὸ ἥθος.

[13] One might observe the city's character both in this case that I have just described and in many others: it is honest and virtuous, concerned not with what is most profitable in terms of money, but what is the really honorable thing to do. As for the character of the man who wrote this law, I know nothing about it in other respects—I have nothing derogatory to say, nor am I aware of anything. But when I look at this law, I find that it is far removed from the city's character. [14] So I say that it is better for him to follow you in annulling the law than for you to follow him in enacting it and that it is more advantageous both to you and to Leptines for the city to persuade him to adopt its ways than for it to be persuaded by this man to adopt his ways. Even if he is a thoroughly good person—as far as I am concerned, let us assume that he is—he is not morally superior to the city.

5. Dem. 20.102-4:

[102] ἐμοὶ δ', ὦ ἄνδρες Ἀθηναῖοι, δοκεῖ Λεπτίνης (καὶ μοι μηδὲν ὀργισθῆς· οὐδὲν γὰρ φλαῦρον ἐρῶ σε) ἢ οὐκ ἀνεγνωκέναι τοὺς Σόλωνος νόμους ἢ οὐ συνιέναι. εἰ γὰρ ὁ μὲν Σόλων ἔθηκεν νόμον ἐξεῖναι δοῦναι τὰ ἑαυτοῦ ᾧ ἂν τις βούληται, ἐὰν μὴ παῖδες ὦσι γνήσιοι, οὐχ ἵν' ἀποστερήσῃ τοὺς ἐγγυτάτω γένει τῆς ἀγχιστείας, ἀλλ' ἵν' εἰς τὸ μέσον καταθεῖς τὴν ὠφέλειαν ἐφάμλλον ποιήσῃ τὸ ποιεῖν ἀλλήλους εὖ, [103] σὺ δὲ τοῦναντίον εἰσενήνοχας μὴ ἐξεῖναι τῷ δήμῳ τῶν αὐτοῦ δοῦναι μηδενὶ μηδὲν, πῶς σέ τις φήσῃ τοὺς Σόλωνος ἀνεγνωκέναι νόμους ἢ συνιέναι; ὃς ἔρημον ποιεῖς τὸν δῆμον τῶν φιλοτιμησομένων, προλέγων καὶ δεικνύς ὅτι τοῖς ἀγαθόν τι ποιοῦσιν οὐδ' ὅτι οὖν ἔσται πλεόν. [104] καὶ μὴν κακείνος τῶν καλῶς δοκούντων ἔχειν νόμων Σόλωνός ἐστι, μὴ λέγειν κακῶς τὸν τεθνεῶτα, μηδ' ἂν ὑπὸ τῶν ἐκείνου τις ἀκούῃ παίδων αὐτός· σὺ δὲ ποιεῖς, οὐ <μόνον> λέγεις κακῶς τοὺς τετελευτηκότας τῶν εὐεργετῶν, τῷ δεῖνι μεμφόμενος καὶ τὸν δεῖν' ἀνάξιον εἶναι φάσκων, ὧν οὐδὲν ἐκείνοις προσήκεν. ἄρ' οὐ πολὺ τοῦ Σόλωνος ἀποστατεῖς τῇ γνώμῃ;

[102] This is what I think, men of Athens. Leptines, do not, by Zeus, be angry with me; I am not about to disparage you. This man either has not read the laws of Solon or does not understand them. Solon established a law granting the right to give one's property to whomever one wishes, provided that one has no legitimate children. His aim was not to deprive the closest relative of the right to inherit but to encourage people to compete in doing good for each other by making this benefit open to all. [103] Your proposal is the very opposite, to take away the people's right to give away its own property to anyone. How is anyone going to say that you have either read or understood the laws of Solon? You are depriving the people of the help given by men who will seek its honors because you are warning them and showing that they will not gain anything by doing good. [104] Indeed, there is among the excellent laws of Solon one that prohibits slandering the dead, even if it is done by one of his children. But are you not doing this? Are you not slandering our dead benefactors by criticizing this one or saying that one was unworthy, when none of this has anything to do with them? Is not this far removed from the spirit of Solon?

5) Enacting good laws

1. Dem. 24.144:

ἵνα δὲ καὶ περὶ ἐκείνου εἴπω τοῦ νόμου, ὦ ἄνδρες δικασταί, ᾧ ἀκούω μέλλειν παραδείγματι χρῆσθαι τοῦτον καὶ φήσῃν ἀκόλουθον αὐτῷ τεθῆναι, ἐν ᾧ ἔνι 'οὐδὲ δήσω Ἀθηναίων οὐδένα, ὃς ἂν ἐγγυητὰς τρεῖς καθιστῇ τὸ αὐτὸ τέλος τελούντας, πλὴν ἐάν τις ἐπὶ προδοσίᾳ τῆς πόλεως ἢ ἐπὶ καταλύσει τοῦ δήμου συνιῶν ἀλφ', ἢ τέλος πριάμενος ἢ ἐγγυησάμενος ἢ ἐκλέγων μὴ καταβάλλῃ,' ἀκούσατέ μου καὶ περὶ τούτου.

I also have to speak to you, judges, about the law that I hear he will use as a precedent and claim that his law was passed in conformity with it. This law contains the clause: "I will not put any Athenian in prison who provides three sureties paying the same tax-rate except if he has been caught in an act of treason against the city, meeting for the purpose of overthrowing the democracy, or having bought the right to collect a tax or promised to be a surety or collecting a tax does not make payments." Listen to what I have to say about this.

2. Dem. 20.88:

ἵνα τοίνυν εἰδῆτε, ὦ ἄνδρες Ἀθηναῖοι, ὅτι ὡς ἀληθῶς ἐπὶ πᾶσι δικαίοις ποιούμεθα τοὺς λόγους πάντας οὓς λέγομεν πρὸς ὑμᾶς, καὶ οὐδὲν ἔσθ' ὅ τι τοῦ παρακρούσασθαι καὶ φενακίσαι λέγεται παρ' ἡμῶν εἵνεκα, ἀναγνώσεται τὸν νόμον ὑμῖν ὃν παρεισφύρομεν γράψαντες ἀντὶ τοῦδε, ὃν οὐκ ἐπιτήδειον εἶναι φαμεν. γνώσεσθε γὰρ ἐκ τούτου πρόνοιάν τινα ἔχοντας ἡμᾶς καὶ ὅπως ὑμεῖς μηδὲν αἰσχροὺν ποιῆσαι δόξετε, καὶ ὅπως, εἴ τινα τις καταμέμφεται τῶν εὐρημένων τὰς δωρεάς, ἂν δίκαιον ἦ, κρίνας παρ' ὑμῖν ἀφαιρήσεται, καὶ ὅπως, οὓς οὐδεὶς ἂν ἀντείποι μὴ οὐ δεῖν ἔχειν, ἔξουσιν τὰ δοθέντα.

So that you may know that all the arguments that we are presenting are truly based on all the principles of justice and that there is nothing in them designed to mislead or deceive you, the clerk will read out to you the law that we

propose to substitute in place of this one that we argue is inexpedient. You will realize from this that we have taken care to achieve three aims: that you avoid the appearance of doing anything shameful; that if someone finds fault with anyone who has received an award, he can take it away if you so decide; and finally that those whose awards meet with no objections can keep what they have been given.

3. Aeschin. 1.177-8:

[177...] διὰ τί οἴεσθε, ὦ ἄνδρες Ἀθηναῖοι, τοὺς νόμους μὲν καλῶς κεῖσθαι, τὰ δὲ ψηφίσματα εἶναι τὰ¹ τῆς πόλεως καταδεέστερα, καὶ τὰς κρίσεις ἐνίοτε τὰς ἐν τοῖς δικαστηρίοις ἔχειν ἐπιπλήξεις; [178] ἐγὼ τὰς τούτων αἰτίας ἐπιδείξω. ὅτι τοὺς μὲν νόμους τίθεσθε ἐπὶ πᾶσι δίκαιοις,¹ οὔτε κέρδους ἕνεκ' ἀδίκου, οὔτε χάριτος οὔτ' ἔχθρας, ἀλλὰ πρὸς αὐτὸ μόνον τὸ δίκαιον καὶ τὸ συμφέρον ἀποβλέποντες· ἐπιδέξιοι δ' οἶμαι φύντες ἐτέρων μᾶλλον, εἰκότως καλλίστους νόμους τίθεσθε. ἐν δὲ ταῖς ἐκκλησίαις καὶ τοῖς δικαστηρίοις πολλάκις ἀφήμενοι τῶν εἰς αὐτὸ τὸ πρᾶγμα λόγων, ὑπὸ τῆς ἀπάτης καὶ τῶν ἀλαζονευμάτων ὑπάγεσθε, καὶ πάντων ἀδικώτατον ἔθος εἰς τοὺς ἀγῶνας παραδέχεσθε· ἔατε γὰρ τοὺς ἀπολογουμένους ἀντικατηγορεῖν τῶν κατηγορούντων.

[177...] Why do you think, men of Athens, that the laws are fine but the city's decrees are inferior and the judgments reached in court sometimes excite amazement? I shall explain the reasons for this. [178] It is because in making the laws you take account of all the principles of justice. You do not act for dishonest profit or favor or enmity, but consider only justice and the public good. And being naturally more intelligent, I think, than other men, as one would expect, you make the best laws. But in the Assembly and the courts you often lose sight of the arguments relating to the main issue; you are misled by deceit and posturing and admit the most unjust practice into your trials. You allow the defendants to bring counteraccusations against their accusers. (trans. Carey)

4. Aeschin. 1.6:

προσήκειν δὲ ἔγωγε νομίζω, ὅταν μὲν νομοθετῶμεν, τοῦθ' ἡμᾶς σκοπεῖν, ὅπως καλῶς ἔχοντας καὶ συμφέροντας νόμους τῇ πολιτείᾳ θησόμεθα, ἐπειδὴν δὲ νομοθετήσωμεν, τοῖς νόμοις τοῖς κειμένοις πείθεσθαι, τοὺς δὲ μὴ πειθομένους κολάζειν, εἰ δεῖ τὰ τῆς πόλεως καλῶς ἔχειν.

σκέψασθε γάρ, ὦ ἄνδρες Ἀθηναῖοι, ὅσῃν πρόνοίαν περὶ σωφροσύνης ἐποιήσατο ὁ Σόλων ἐκεῖνος, ὁ παλαιὸς νομοθέτης, καὶ ὁ Δράκων καὶ οἱ κατὰ τοὺς χρόνους ἐκείνους νομοθέται.

My own belief is that whenever we pass laws, our concern should be how to make laws that are good and advantageous for our constitution, and once we have passed them, we should obey the laws in existence and punish those who disobey, if the city is to flourish.

Consider, men of Athens, how great a concern for decency was shown by that ancient legislator Solon, and Draco, and the other legislators of that period.

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