

Pericles' Decree Censoring Comedy*

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SUMMARY: The claim that Pericles in 440 sponsored a decree restraining comedy because of the genre's offensiveness should be rejected. The claim depends on the scholium to *Ar. Ach.* 67; this paper argues that the alleged decree was the scholiast's deduction from a victor list that showed three non-performance years in a festival. These are better explained as a suspension in only one of the two dramatic festivals, occasioned not by hostility to freedom of speech but perhaps by limited resources caused by the siege of Samos.

KEYWORDS: Pericles, comedy, Athenian democracy, siege of Samos, free speech

IT HAS LONG BEEN A COMMONPLACE THAT PERICLES IN 440 B.C.E. SPONSORED A decree censoring comedy, prompted by fear of comic license and criticism. An important and often-asked question is at stake: did the Athenian democracy, in fact, suppress free speech?

The ancient testimonia that report such suppressions by the fifth-century government have over the past generation been confronted with growing skepticism. Beginning with an essay of Dover, scholars have called into question various anecdotes to this effect, seen as fabricated at a late date under the influence of Plato's program of state censorship and consonant with the authoritarianism of Roman times.¹ The decree of 440, however, has stood the test of time. Scholars have seen good reason to describe the decree with

* I am grateful to the readers and the editor of *TAPA* for their help.

¹ Dover 1976; subsequently, e.g., Stone 1988: 231–47; Wallace 1996. On schol. *Ar. Ran.* 404 and 153 see already Pickard-Cambridge 1968: 87n2. Contrast, e.g., the confidence of Croiset 1906: 80: "La loi répressive que Périclès avait fait voter en 440."

some vagueness as to substance² or uncertainty as to authorship.³ However, even those who have challenged other evidence about state censorship have admitted this item.⁴ In our on-going assessment of Athenian democracy and *parrhesia*, Pericles' decree, in light of its growing isolation, invites scrutiny.

We have only one testimony, a scholium on Aristophanes' *Acharnians* 67.⁵ In the play, the ambassador states that his team was sent to Persia when Euthymenes was archon (437/6), some twelve years before the staging of *Acharnians* (the Lenaia of 426/5); the point is mockery of such junketing at public expense. The name Euthymenes prompts the scholiast to comment:

ἐπ' Εὐθυμένους ἄρχοντος· οὗτος ὁ ἄρχων ἐφ' οὗ κατελύθη τὸ ψήφισμα τὸ περὶ τοῦ μὴ κωμωδεῖν, γραφὴν ἐπὶ Μορυχίδου. Ἰσχυσε δὲ ἐκεῖνόν τε τὸν ἐνιαυτὸν καὶ δύο τοὺς ἐξῆς ἐπὶ Γλαυκίνου τε καὶ Θεοδώρου, μεθ' οὗς ἐπ' Εὐθυμένους κατελύθη.

"Under the archon Euthymenes": this was the archon under whom was rescinded the decree about not staging comedy, passed under Morychides [440/39]. It was in force during that year and the two following, those of Glaucinus and Theodorus [439/8, 438/7], after whom, under Euthymenes [437/6], it was rescinded.

² Ehrenberg 1943: 19: "It is somewhat surprising that Pericles seems to have been the first to introduce a kind of censorship." Lewis 1957: 180: a "certain and more sinister indication of unrest appears in the restrictions of some mysterious kind on the liberty of comic poets ... the poets had expressed themselves with too little tact on some person or question." Henderson 1990: 289: "a decree in some way limiting comic freedom of criticism." Rusten 2006: 26 (doubly skeptical): "we can perhaps discern Pericles' hostile reaction to political comedy in the decree against it supposedly in effect." Hartwig 2015: 20: it "restricted certain forms of comic humor, perhaps jokes pertaining to the Samian War." Mattingly 1977: 243 urged that the scholiast deduced the decree from the absence of personal attacks in a play that might date to 440/39; Halliwell 1991: 57 judged this "excessively speculative."

³ Geissler 1925: 17 ("vielleicht auf Perikles' Initiative"); Dover 1975: 91; Wallace 1994: 114; Sommerstein 2004a: 211.

⁴ The reported laws are surveyed by Storey 1977: 45–85 (concluding that this is the "only plausibly documented law on comedy," 78; cf. 63–65 on schol. Ar. *Ach.* 1150); by Halliwell 1991: 49–54; and by Sommerstein 2004a: 208 ("It cannot seriously be doubted that there was indeed a decree ... that placed some kind of restriction on comedy"). Halliwell 1984: 87, while skeptical of other decrees alleged in the scholia, feels that this one, "in view of the archon dates attached to it, may reasonably be regarded as genuine." On a scholiast's assertion of a later decree banning κωμωδεῖσθαι ὀνομαστί τινα, see Sommerstein 1986.

⁵ N. Wilson, in W. Koster, *Scholia in Aristophanem* Ib p. 17.

This is the whole evidence for Pericles' decree censoring comedy.⁶ We see first the absence of Pericles; his role here is a modern addition. Second, not “censoring” as we normally use that term (selective editing of an existing text), but cancellation of the genre.

Pericles' name was first introduced by Cobet in 1840, whose argument was, in essence, Who else? One might offer a facile response: 440/39 is one of the few years in which we know where Pericles was—for much of that year, and certainly from spring 440 onward, not in Athens but conducting the siege of Samos.⁷

As to cancellation of the genre, scholars have had compelling grounds for hedging their interpretation of the scholium, or for adding to its text. For from the start, it was known that comedy was not abolished. The Torlonia inscription listing victories of comic playwrights, published in 1777, includes a victory in the City Dionysia in the year of Morychides and another in the year of Theodorus.⁸ An anonymous tract on comedy has, since Dobree, been emended to name Pherecrates as a victor in the year of Theodorus.⁹ These testimonia contradict the scholiast's statement. Cobet already judged that the scholiast exaggerated and the decree must actually have been more specific, banning criticism of individuals—in effect, he would emend by positing some complement for the verb, a law to “not mock <the *demos* or the politicians, or by name>.”¹⁰ But this makes the scholiast mean the opposite of what he

⁶ The received text is certified by the abridgement in *Suda* E 3509: ἐφ' οὗ κατελύθη τὸ ψήφισμα τὸ περὶ τοῦ μὴ κωμωδεῖν, γραφὲν ἐπὶ Μορυχίδου.

⁷ In fact, the revolt of Samos has loomed large in explanations of the decree (see below). Thus Müller-Strübing 1880: 43 suggested that Pericles, faced with the revolt of Samos, wanted to prevent Athens' other allies from being offended by comic criticism. Similarly Halliwell 1991: 57–59 (sensitivity because foreigners attended the Dionysia). Müller-Strübing was disputing Schmidt 1874: 109–13, who had urged that the religious party (“Priesterpartei”), hostile to comedy, passed the law while Pericles was away for the Samian war, and he got it repealed in 437.

⁸ L. Moretti, *IGUrbRomae* I 216: ἐν ἄ[σται – – ἐ]πὶ Θεοδώρου and [ἐν ἄσ]ται ἐπὶ Μορυχίδου (the authors' names are lost).

⁹ Anon. III.29 (Koster, *Scholia in Aristophanem* I A p. 8): Φερεκράτης Ἀθηναῖος· νικᾷ ἐπὶ Θεοδώρου (ms. ἐπὶ θεάτρου). Hence the restoration Φερ[εκράτης – –] in the Dionysia list *IG* II² 2325.56 = Millis and Olson 2012 [hereafter M./O.]: 163 line 22. Pherecrates also won in the Lenaia in a year before the early 420s (quoted below).

¹⁰ Cobet 1840: 9–12: because comedies were staged in these years (citing the Torlonia inscription), the scholiast must have meant κωμωδεῖν τινα/ ὄνομαστί; widely followed: e.g., Müller-Strübing 1880: 43 (the claim of a total ban was certainly inexact, “sicher ungenau”); Körte 1921: 1234; Geissler 1925: 17 (“nämlich Personen, staatseinrichtungen usw.”); Schwarze 1971: 178 (“der Komödienspott, vor allem über Personen, verboten

says: no comedy becomes comedy with limitations. If he had in mind slander or abuse, there were terms available to him to say so, λοιδορεῖν etc. Similarly, the unspecific term that has become frequent concerning this episode, “censorship.” This too implies the opposite of what is said: strictly speaking, one cannot “censor” plays that do not exist. And a decree that simply ordered “Do not mock” would be preposterous.¹¹

The scholiast’s Greek is unambiguous, and readily paralleled. In the mid-second century C.E., Aelius Aristides in an oration to the people of Smyrna urged them to ban comedy from the Dionysia and any other festival: “let there be an end to staging comedy,” παυστέον τοῦ κωμωδεῖν, 25, whence the title that was at some date attached to the speech, (Συμβουλευτικός) περὶ τοῦ μὴ δεῖν κωμωδεῖν.¹² The substance of Aristides’ advice makes his use of κωμωδεῖν at 25 unmistakable: do not stage comedy.¹³ Thus he advises, “Do away with this ... have neither poets of these things nor competitors” (τοῦτ’ ἐκποδῶν ἀνελεῖν ... μῆτε ποιητὰς εἶναι τούτων μῆτε ἀγωνιστὰς, 4); “better to be abolished once and for all by you” (βέλτιον εἰσάπαξ ὑφ’ ὑμῶν κωλυθῆναι, 26). Athens, otherwise admirable, was dishonored by comedy (27). He wants to invoke supportive parallels (ἴνα δὲ εἰδῆτε ὅτι οὐδὲν καινὸν λέγω, 9), but can cite only inaugural prayers that demand decent speech. He knows nothing about an Athenian law cancelling comedy, which he would have cited as good ancient precedent if he had found it in his readings. His admiration and knowledge of classical Athenian culture are on display in his *Panathenaios*.¹⁴

It was common enough for a Greek city to suspend some festival usage in times of military or fiscal difficulty.¹⁵ Thus, to restrict the matter to comedy

wurde”); Mattingly 1977: 243 (seeking which plays may have offended which politicians); Sommerstein 2004b: 156–57 (μὴ κωμωδεῖν “Meaning presumably that the comedies ... were subject to restrictions”).

¹¹ Cf. Csapo 2012: 19, on comedy’s “most distinctive feature, namely comic abuse (*loidoria*)”; thus Dio Chrys. 2.5, γέλωτος ἔνεκεν ἢ λοιδορίας πεποιημένα, cf. Isoc. 8.14. Halliwell 1991: 55 translates τὸ ψήφισμα τὸ περὶ τοῦ μὴ κωμωδεῖν as “the decree prohibiting comic ridicule.”

¹² Or. 29 Keil, with the discussion of Peterson 2016.

¹³ The verb used absolutely: in Imperial times, e.g., Artem. *Onir.* 1.56 τὸ κωμωδεῖν “do/act a comedy.” Cf. absolute τραγωδεῖν (LSJ s.v. 1 “act a tragedy,” citing Ar. *Nub.* 1091; cf. Plut. *Eum.* 2.1, Artem. 1.56) and ποιεῖν “compose poetry” (Ar. *Thesm.* 174 of Euripides, Pl. *Ion* 534B).

¹⁴ He specifically praises Attic tragedy and comedy: πᾶσα μὲν ποιήσις ἢ παρ’ ὑμῶν ἀρίστη καὶ τελεωτάτη, καὶ ὄση σεμνότητος καὶ ὄση χαρίτων προέστηκεν (228, with Oliver 1968: 141–42).

¹⁵ See recently the careful study of Shear 2010: e.g., 145 “External circumstances might force the reduction of different elements of a festival.” So too suspension of trials: Dem. 45.4 (διὰ τὸν πόλεμον).

and Athens, it has been argued (and denied) that the number of comedies in the Dionysia was reduced from five to three during the Peloponnesian War.¹⁶ By contrast, the explanation usually urged for the decree of 440 is that a politician or the *demos* judged comedy to be offensive or subversive.

Hence a simple question. When our scholiast wanted to have something to say about the archon Euthymenes, he pulled a book from his shelf. What kind of book was it? In all probability, it was not a narrative history of classical Athens that mentioned a decree eliminating comedy. Both in the authors¹⁷ and officially on stone,¹⁸ laws and decrees were normally identified by the name of their proposer—Pericles' citizenship law, the peace of Callias, etc. That the scholiast attaches no name and no circumstances to this decree suggests that he was not reading about an event in a historical narrative.

His source, I suggest, is betrayed by the form and the content of what he offers. What led him to write these particular sentences, with details unrelated to the context in Aristophanes and explaining nothing about it? The names of the two intervening archons are immaterial. When, for example, the author of the *Ath. Pol.* wanted to skip years, he wrote like a sensible person: when A was archon, X happened; in the third year after this when B was archon, Y happened.¹⁹ He did not give the names of intervening archons, irrelevant and distracting. What our scholiast knows is not someone's decree and a historical setting for it but the names of four archons in a row. My inference is that he was reading down a list, and copying each name as he saw it.

That is: his source was a list of annual comic competitors, as we might expect in the library of a commentator on Aristophanes—a list in which for these three years no competitors were named. I propose that the decree abolishing comedy is nothing more than his deduction from that silence. If this is so, then there is no question of the scholiast misinterpreting the text or abridging the substance of a decree or of some historical anecdote: he did not know such an account, but only a list that named some archons without the accompanying dramatic performers.

¹⁶ Luppe 1972 (contra reduction); Mastromarco 1975 (partial reduction).

¹⁷ E.g., Andoc. 1.73 εἶπε τὴν γνώμην Πατροκλείδης = 76 τὸ ψήφισμα τὸ Πατροκλείδου, 2.23 τὸ ψήφισμα ὃ Μενίππου εἰπόντος ἐψηφίσασθε; Dem. 23.172 ψήφισμα Γλαύκωνος εἰπόντος; Aeschin. 3.25 τὸν Ἠγήμωνος νόμον; Philoch. *FGrHist* 328 F 155 κατὰ ψήφισμα Φιλοκράτους.

¹⁸ E.g., *IG* I³ 1453.G.10 from the 440s, τὸ πρότερον ψήφισμα ὃ Κλέαρχ[ος εἶπεν; *II*² 182.5 from the fourth century, τὸ πρότερον ψήφι[σ]μα ὃ Φιλοκρά[της εἶπεν].

¹⁹ See for examples *Ath. Pol.* 21–22 (thus 22.7: ἔτει δὲ τρίτῳ μετὰ ταῦτα Νικοδήμου ἄρχοντος).

An inscription in Athens suggests what such a list would look like. Claims in ancient authors about the dates of Attic plays before Aristotle are thought to go back to Aristotle's *Didaskaliai*, directly or indirectly.²⁰ Scholarship in antiquity was repackaged in various ways in the Hellenistic period and later, anthologized and recycled by writers with different agendas. We know from lists inscribed on stone (above all the didascalical lists in the theater of Dionysus at Athens)²¹ and from various scholia in the manuscripts that this happened to Aristotle's *Didaskaliai*—the information was reorganized and selectively anthologized to produce different types of lists.

The most comprehensive of Athens' didascalical inscriptions, of the late second century B.C.E., gives, archon by archon, the competitors in the Dionysia and the Lenaia. One surviving portion of it, presumably about the Dionysia,²² spans the years 217 to the 130s for comedy (with many gaps between the extant fragments). The form is: archon / restaged classic / five poets, with titles and protagonists, in order of success / the one actor voted his own prize. But under some archons' names, this information on plays and authors is absent, replaced by a simple statement that no comedy was staged: οὐκ ἐγένετο. For example (*IG II² 2323.230–244 = M./O. 101 lines 507–21*):

ἐπὶ Ἀνθεστηρίου· οὐκ ἐγένε[το]. (157/6)

ἐπὶ Καλλιστράτου· οὐκ ἐγένε[το]. (156/5)

ἐπὶ Μνησιθέου· παλαιαί (155/4)

Δάμων Φιλαθηναίω Φιλίππιδου·

πο(ιητής) Φιλοκλῆς Τραυματία

ὑπε(κρίνετο) Καλλικράτης·

Χαιρίων Αὐτοῦ καταψευδομέ[νω]

ὑπε(κρίνετο) Δάμων·

Βίोटτος Ἀγνοοῦντι

ὑπε(κρίνετο) Δάμων·

Τιμόξενος Συνκρύπτον[τι]

ὑπε(κρίνετο) Καλλικράτης·

Ἀγαθοκλῆς Ὀμονοία[ι]

[ὑπε(κρίνετο) Νικ[ό]λαος·

[ὑπο(κριτής) – – ἐνίκα].

Usually these non-performance years are isolated, but we find several times two in a row as here (but not three); no pattern is evident in these omissions.

²⁰ Citation is frequent in the Aristophanes scholia, Ἀριστοτέλης ἐν ταῖς Διδασκαλίαις or αἱ διδασκαλῖαι φέρουσι, etc.

²¹ Millis and Olson 2012; cf. Millis 2014.

²² "Presumably," Millis and Olson 2012: 76, on the grounds of the restaged plays, a practice not attested of the Lenaia.

Across the span of ca. 80 years, 14 of those that are extant are labeled οὐκ ἐγένετο, and so much text is lost within the 80 years that non-performance years certainly occupied an even greater fraction; the reconstruction argued meticulously by Millis and Olson reckons 30 such.

I suggest that our scholiast's source was such a list: what he saw after three archons' names was οὐκ ἐγένετο, and that is all he knew. From this he deduced a decree cancelling the genre of comedy. He did not take into account that he was reading about only one of the two festivals.

The Torlonia inscription, which shows us that comedy was staged in the period 440/39–438/7, mentions expressly the City Dionysia (see n8 above). It follows that the scholiast's putative didascalical list concerned the Lenaia. Now, an inscribed list concerning the earliest Lenaia presents us with one sort of winnowing of Aristotle's data: chronological but not annual, it places in sequence the first victory of each poet and marks the number of his life-time victories; other years are omitted. It begins (*IG* 2325.116–26 = *M./O.* 183 lines 1–11):

[Ληναϊκ]α[ἰ ποη]τῶν
 [κωμικῶν]
 [Ξ]ενόφιλος |
 [Τ]ηλεκλείδης |
 Ἀριστομένης ||
 Κρατῖνος |||
 Φερεκράτης ||
 Ἑρμῖππος ||||
 Φρύνιχος ||
 Μυρτίλος |
 [Εὔ]πολις |||

Jeffrey Rusten has argued cogently that comedy was first added to the Lenaia in the second half of the 440s, in one of the years 445/4 to 441/0.²³ This inscription lists eight winning poets before Eupolis, whose first victory fell in one of the years 430/29 to 427/6.²⁴ The winners in the years not mentioned in the inscription were some combination of these eight playwrights. At its narrowest, the period encompassed by these lines would span 441/0 to 430/29, twelve years, at its widest 445/4 to 427/6, nineteen years. Whatever the span, it encompassed enough years to accommodate, beyond the nine winners named, three non-performance years. That is, this inscription does not confirm three non-performance years in the early Lenaia, but it does allow the possibility.

²³ Rusten 2006; cf. Millis and Olson 2012: 178.

²⁴ Biles 2009 has argued for dating Phrynichus's first victory to 430/29.

Comedy omitted at one festival: at whose discretion, the *basileus* or the *demos*? In fifth-century Athens, and perhaps too later, it would be surprising for a mere magistrate to make a decision of this magnitude. And his decision in 440 would have to be seen as repeated by the *basileis* of the two following years. Thus, a public vote seems more probable, a decree of the *demos* suspending comedy at the Lenaia, and reversed in the course of the third non-performance year. The suspension would likely be voted before the start of the new year in mid-summer 440, for the magistrates decided the slate of *choregoi* for the dramatic festivals in the opening days of each year.²⁵

The siege of Samos can now be seen as relevant, but not in terms of comedy's offensiveness. Davies (1971: xxi–iv) estimated the number of wealthy Athenians subject to liturgies at about 400. During these three years, how many rich citizens were available to serve as *choregoi*, and how many others as chorus-members? Pericles' first expedition against Samos, in the early summer of 440, included 40 triremes; the second, perhaps still in the year 441/0, had 60. In Morychides' year 440/39, another 40 triremes were soon sent east, and then yet another 40 (Thuc. 1.115–17). Thus, a great many liturgists, recruited as trierarchs, suddenly came to be unavailable for other service; rowers (200 per trireme) and troops numbered in the thousands. The trierarchs of each year were exempt from liturgies in the following year. All earlier *choregoi* were permanently exempt from repeat service as *choregoi*.²⁶ The Dionysia alone required 28 *choregoi* each year.²⁷ The chorus-members needed for the dithyrambs, tragedies, and comedies numbered in the hundreds.²⁸ And for other state functions, further liturgists were needed each year in large numbers.²⁹

The Samians surrendered sometime in the first half of 439; their oath of allegiance to Athens seems to date to the archon year 439/8,³⁰ probably later than the opening days of the year in mid-summer when the magistrates recruited *choregoi* for that year. On this theory, both that summer and the summer of 438 passed without reinstating the Lenaian *choregia*, and then at some point in 438/7 the demographic pressure of the Samian war was felt to be sufficiently reduced and restoration of comedy at the Lenaia was voted, so as to return in the following year 437/6.

²⁵ *Ath. Pol.* 56.3, with Wilson 2000: 51–57.

²⁶ *Ath. Pol.* 56.3, with Rhodes 1992: 625.

²⁷ Wilson 2000: 22.

²⁸ In the fourth century, choristers were exempt from military service, but how early this began is unknown: Dem. 14.15, 39.16; MacDowell 1985: 70–72.

²⁹ Wilson 2000: 11–46.

³⁰ See Osborne and Rhodes 2017: 226.

The burden of the Samian war would have been lightened as regards the Lenaia if at this early date foreigners were allowed to be its *choregoi* and chorus-members.³¹ So caution about a motive for suspension is in order. But we can recognize that Samos imposed on the liturgical system a pressure that was unanticipated and urgent (cf. Thuc. 8.76.4, Samos “came near to wresting away the Athenians’ rule of the sea”). For all we know, there may have been reductions of other liturgical services as well.

Comedy came to be the lead feature of the Lenaia, but in 440 it was a recent innovation, not earlier than 445/4. Faced with the threat of scant numbers of both the wealthy for *choregoi* and the rest for choristers, the assembly may well have felt that comedy was sufficiently served by the Dionysia, as was traditional, and that this novelty in the Lenaia could for a time be dispensed with.

Concerning the οὐκ ἐγένετο years in the second century B.C.E., Millis and Olson (76) made the reasonable suggestion that comedy occasionally alternated between the Dionysia and the Lenaia, in some years performed in one but not the other. If that is so, the practice reflects not an ideological objection to the content of comedy but more likely economizing in difficult circumstances, which Greece in the second century suffered in abundance. My proposal about the fifth century is consonant with this: comedy in the Lenaia was temporarily suspended in 440 not for ideological reasons, but perhaps in the face of sudden logistical constraints.

The consequence of this interpretation is not flattering to the scholiast. His putative list for the Lenaia began with a few victors, then showed three οὐκ ἐγένετο years, then resumed with victors. In deducing a cancellation of the entire genre of comedy, he did not read further down the list and discover similar blank years. But these may have been rare before their abundant appearance in the second century B.C.E.—and perhaps his list did not extend so late, or as a commentator on Aristophanes he had no occasion to read so far. More important: he did not think to look at a list for the Dionysia, where we know he would have seen comedy performed in precisely these years. If this picture is right, he was both ignorant and incurious. But we do not have high expectations of scholiasts.³²

³¹ A scholiast (on Ar. *Plut.* 953; cf. MacDowell 1985: 68) says that metics could be *choregoi* in the Lenaia but not in the Dionysia. If that is true, we do not know how early it was so. The report that in the fourth century the law forbade a *choregos* from having a foreigner in his chorus (Plut. *Phoc.* 30.6) contradicts this, or else applies only to the Dionysia (so Pickard-Cambridge 1968: 41).

³² Syme 1964: 115: “When they attempt to elucidate, the scholiasts are all too often shown ignorant, inept, unscrupulous.” Csapo 2012: 27: “ancient scholarship was frequently ignorant, fanciful, arbitrary and irresponsible.”

Temporary suspension of comedy in the Lenaia but not in the Dionysia: whatever we judge to have been the reason that persuaded the *demos*, we should conclude that this decision was not motivated by the Athenian democracy's fear of free speech.

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