Popular Sovereignty and the Problem of Equality*

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From antiquity until our own times there have been people who believe that democracy was always the goal of Athenian politics, that Solon had some success in attaining it;[1] that Cleisthenes contributed a little more to implementing it;[2] and that the job was finally completed by Ephialtes in 462 BCE. But it is hard to believe that the development of democracy in Athens — or anywhere else for that matter — followed a pattern predetermined by a clearly articulated ideology. Only after the development had been completed in some intelligible way, which, in Athens, was after the reforms of Ephialtes, could the name 'democracy' be attached to the end product.[3] Our sources confirm this: Herodotus, who was a younger contemporary of Ephialtes, is the earliest extant author to use the term δημοκρατία.

More than any other form of government, democracy is predicated on some kind of equality among its citizens. Democratic equality has many aspects: it involves equality of speech (ἰσηγορία), equality of vote (ἰσοψηφία), equality before the law, and many more.[4] The 'equality' to which we propose to confine ourselves here, the most basic of all and underlying all others, is that which entitles a person to 'participate in the state' (τῆς πολιτείας

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1 Arist. *Ath.Pol.* 41.2; *Pol.* 2.12, 1273b35-1274a3. For modern views, see the list in P.B. Manville, *The Origins of Citizenship in Ancient Athens*, Princeton 1990, 124 n. 1.

2 Hdt. 6.131.1; Isoc. 15.232; Arist. *Ath.Pol.* 29.3.

3 See M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law*, Berkeley 1986, 48-9.

4 See K.A. Raaflaub, 'Equalities and inequalities in Athenian democracy', *Demokratia: A Conversation on Democracies, Ancient and Modern*, J. Ober and C. Hedrick (eds.), Princeton 1996, 139-74.

μετέχειν), to count as a citizen.[5] By what steps was this equality established in Athens? This question is hard and constitutes a perennial problem to be faced in human governance; after all, inequalities among men are much more glaring and obvious to us than equalities: even if a Creator is thought to have endowed all men equally with certain unalienable rights, these are harder to see than the palpable facts that a man is not a woman, a child is not an adult, a poor man is not rich, a stupid person is not intelligent, and so forth. And yet if we are to live together peacefully in society, all these inequalities must, at some point, be reduced to a common denominator of 'equality' which we all share. This equality is less of a reality than a desire, a desire of which we become aware when circumstances arise which make some inequalities so unbearable that they threaten to disrupt or even destroy a given society, unless something radical is done to remove or alleviate them. Such a situation had arisen in Attica in the late seventh century before our era, when gross economic inequalities seemed to doom a large part of the population to servitude under the rich. We know the fact from Solon's poems; the reasons are obscure and matters of conjecture. The measures he took to remove the most harmful inequalities laid the foundations of democracy, but did not establish it.[6]

His cancellation of debts (σεισάχθεια) ensured the restoration of lands and of personal freedom to those who had been deprived of them. It did not and was not meant to bring about economic equality, but paved the way to a greater political equality than had existed before. He confirmed the freedom of all citizens by basing membership in the political community — and thus the right to vote in the Assembly — on the tribe into which a person was born. But that still left him with the problem of how to give equal shares (ἰσομοιρίη) in political matters to the lower as well as to the upper economic classes. What functions could he assign to those who, until recently, had had no say in public affairs? The question was serious, for in the absence of pay for public service, eligibility for office, especially for the higher offices, had to be restricted to those who had an income sufficient to be able to devote themselves to public affairs. Solon solved the problem most ingeniously by introducing four property classes, differentiated from one another on the basis of assets and income. The purpose of their creation was less to define eligibility for office than the extent to which each citizen could be expected to serve the state. High office was not merely an honor, but a service

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5 See my 'Shares and rights: "Citizenship" Greek style and American style', *Demokratia* (n. 4), 49-61.

6 For the following, see A. Andrewes, 'Solon', in *CAH*² III.3 (1982), 375-91.

expected of those who could afford it.[7] Thus, since even citizens with minimal assets were included in the classification, the introduction of property classes, in recognizing the existence of economic inequalities, recognized as equal citizens all those who could attend and vote in the Assembly.

The most consequential steps Solon took toward democratic equalization were in the administration of justice. The publication of a comprehensive written code of laws ensured consistency and access to the law for all citizens. But the juridical process remained largely in the hands of the Areopagus, an old and venerable body, which consisted of all those who had served their year as archons.[8] As archons its members had presided over all private lawsuits as both judge and jury; as members of the Areopagus for life, they judged all crimes against the state.[9] Solon diminished the monopoly in the administration of justice which the upper classes thus enjoyed by the enactment of two measures: he gave any concerned citizen (ὁ βουλόμενος) the right to initiate proceedings in crimes against the state, and he instituted an appeals procedure (ἔφεσις) by which a verdict perceived as unjust could be referred for a new trial before the *heliaia*, the popular Assembly sitting as a court of law.[10] The inequality of having justice in the first instance administered by an organ of the upper classes was now compensated by the introduction of an element of equality in that any citizen, regardless of social or economic status, could initiate proceedings in crimes against the state, and in that the venue for the new appeals procedure was a popular court in which all property classes were represented.

There remained a political prerogative of the Areopagus, which proved to be the greatest obstacle to the development of democracy. From time immemorial the Areopagus had the right to demand an accounting, called *euthyna*, of all officials for their conduct in their public capacity.[11] Originally an *euthyna* could only be initiated by the Areopagus, but it is likely that Solon opened it to any concerned citizen. It could be made at any time during the official's tenure of office or upon its termination. Fines and other penalties could be imposed upon an offender, originally without the possibility of appeal. But even after Solon had made appeals possible, the tribunal which

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7 See my 'Public expense: Whose obligation? Athens 600-454 BCE', *Proceedings of the American Philosophical Society* 139 (1995), 368-79, esp. 374-5; also Manville (n. 1), 144-6.

8 Plutarch, *Solon* 19.1.

9 W.R. Wallace, *The Areopagus Council to 307 B.C.*, Baltimore-London 1989, 48-69.

10 See Ostwald (n. 3), 9-12.

11 Arist. *Ath.Pol.* 3.6, 8.2 and 4.

presided over proceedings remained the Areopagus, the bastion of privilege. In short, although modified by Solon's judicial reforms, it meant that through the *euthyna* the Areopagus controlled the conduct of all officials. The removal of this control, and with it the establishment of popular sovereignty, will occupy the rest of this essay.

In assessing Solon's achievement it would be foolish to accuse him of excluding women, children, and slaves from the political process: even *we* bar children from political decision-making; slaves, being the property of their masters, have never been looked upon as legal persons in any society that tolerates this indignity, including the United States; and women have been recognized as legal persons only since the 1920s in the United States and only since post-World War II in many European countries. We cannot expect from Solon a foresight which has come to us this late as an insight.

The next step in extending popular rights over against those of the upper classes was taken again in response to a concrete political situation and not for ideological motives. Not long after Solon, tyranny had come to Athens in the wake of regional struggles.[12] Prominent aristocratic families had been vying for political power in each of the three economic regions into which Attica was naturally divided; politics became the game played by aristocrats, supported by their own clients and retainers and by alliances with other aristocratic families. Conflict among them threatened to disrupt the state again after the overthrow of the tyranny in 510 BCE. An aristocrat, named Cleisthenes, lacking sufficient aristocratic support for his side, took the revolutionary step of appealing to the common people in the Assembly and put the political life of Athens on a radically new footing. Through the Assembly, which up to that point seems to have had a voice mainly in electing aristocrats to office, he inaugurated a system which wrested political control from the aristocratic families by making residence in the smaller communities (*demes*) scattered all over Attica (and in something approaching city blocks in Athens) the chief prerequisite for active citizenship.[13] This is not the place to go into details; suffice it to say that Cleisthenes grouped smaller settlements in a given area together, gave official status to three regions which had definable differences in their economic interests, and created new tribes, each of which contained grouped settlements from each of the three regions. In this way, the economic differences which had disrupted the aristocratic state and had led to tyranny were now settled on a tribal level. A

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12 See A. Andrewes, 'Solon to Pisistratus', in *CAH*^{2} III.3 (n. 6), 392-8.

13 M. Ostwald, 'The reform of the Athenian state by Cleisthenes', in *Cambridge Ancient History*^{2} IV (1988), 309-21.

Council of Five Hundred, in which each small settlement was represented, had to draft all legislation and make all political decisions, and had to submit them for final approval to the popular Assembly as a whole.[14] Major legislation was no longer the prerogative of aristocratic cliques, but was formulated by a popular organ and validated by the people as a whole. One more inequality had been removed.

Although no less an authority than Herodotus credits Cleisthenes with the establishment of democracy at Athens (6.131.1), Cleisthenes' contemporaries called his achievement *isonomia*, that is, giving equal political status to upper and lower classes. Accordingly, genuine questions remain whether it is historically accurate to credit Cleisthenes with establishing democracy. There is no doubt that his *isonomia* gave the people the right to legislate. But what good is that right, if the implementation of what has been voted remains the prerogative of wealthy and highly-born executive officials? We know from our own experience with our legislative bodies that the approval of a budget serves no useful purpose, if it is not followed up by appropriating the funds budgeted for their particular purpose. Their tenure of high office might enable the upper classes to sabotage measures authorized by a popular vote. Moreover, Cleisthenes seems to have done nothing to curtail the powers of the Areopagus beyond what they had been under Solon.[15] Even if it no longer had a monopoly on taking the initiative in prosecuting crimes against the state and on calling magistrates to account, and even if its verdicts were subject to appeal before the *heliaia*, it did in fact remain the tribunal charged with handling crimes against the state and *euthynai*. Cleisthenes may have made the government of Athens more democratic than it had been, but too many inequalities were left to credit him with the establishment of 'democracy' *tout court*.

A further step toward equalizing the power of the people as a whole with that of the upper classes seems to have been taken within a decade following the Cleisthenic reforms. Our evidence is rather circumstantial, but it seems to me to be strong enough to deserve credence. We hear during the period 493/2 to 462 BCE of six major political trials for crimes against the state.[16]

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14 P.J. Rhodes, *The Athenian Boule*, Oxford 1972, 1-48; J.S. Traill, *The Political Organization of Attica* (*Hesperia* Suppl. XIV) (1975), 35-55.

15 Wallace (n. 9), 72-3.

16 The six trials are: (1) the playwright Phrynichus ca. 493/2 BCE (Hdt. 6.21.2); (2) Miltiades for tyranny in the Thracian Chersonese (Hdt. 6.104.2; Marcellin. *Vit. Thuc.* 13); (3) Miltiades in 489 BCE for his Parian Expedition (Hdt. 6.136); (4) Hipparchus son of Charmus, after 480 BCE for treason (Lyc. *Leocr.* 117); (5) Themistocles ca. 471/0 BCE for treason (Thuc. 1.135.2-3, Craterus *FGH*

One of these ended in acquittal; in two of them heavy fines were imposed; one resulted in exile and confiscation of property; and the remaining two respectively in the imposition of and the demand for the death penalty. In short, all six trials were of a kind that we should expect to have been tried before the Areopagus. But in fact the Areopagus is not mentioned in connection with any of them as the court that passed the final verdict. In some instances the verdict is attributed to 'the people' (δῆμος); in others to 'the Athenians'; in others again to 'the lawcourt' (δικαστήριον) or to 'the judges' (δικασταί). All these are vague expressions and some of them are preserved by authors who wrote centuries after the events they describe. Still, it remains disturbing that no reference is made to the Areopagus in any one of them. How can we explain this discrepancy in our sources? Are we to declare the testimony on these six trials too vague and therefore worthless? Or must we assume that some change, that took place between the time of Solon and the early fifth century, went unrecorded?

To find some solution to this problem, we have to jump ahead some nine decades. In addition to the suffering brought about by the Peloponnesian War, the Athenians had just overthrown an oligarchical regime, which had dissolved the old Cleisthenic Council of the Five Hundred and had vested autocratic powers in a new Council of Four Hundred.[17] They were now trying to get back on their feet again. In line with that, two commissions were entrusted with the job of revising the old laws and drafting some new legislation. Of their activities, a very fragmentary inscription has survived containing a law which limits the powers of the Council — understandably so, since the oligarchs had exercised their power through a Council of Four Hundred. The inscription contains at least eight references to a 'full meeting of the Athenian people', usually in the form ἄνευ τοῦ δήμου τοῦ Ἀθηναίων πληθύοντος, stipulating certain measures which must not be decided 'without a full meeting of the Athenian people'. Its mutilated remains permit us to identify only three such measures: (1) without the δῆμος πληθύων 'no war can be started or brought to an end'; (2) 'no death penalty can be inflicted'; and (3) 'no θωά (fine) can be imposed on any Athenian'.[18]

Linguistic considerations, into which we cannot go here, suggest that this measure, though enacted about 410 BCE, incorporates earlier legislation, which may well go back to the beginning of the fifth century, that is, to ap-

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342F11a-b); (6) Cimon in early spring of 462 BCE for bribery (Arist. *Ath.Pol.* 27.1; Plut. *Cim.* 14.3-4, 15.1; *Per.* 10.6). For a fuller treatment, see Ostwald (n. 3), 28-40.

17 See ibid. 31-5.

18 *IG* I^{3}105. 34-5, 36, 40-1, with Rhodes (n. 14), 183-4.

proximately the time in which our six problematic trials were conducted. This suspicion is strengthened by two further points. At no time in Athenian history that we know of did the Council of the Five Hundred impose the death penalty:[19] why, then, does this piece of legislation so emphatically exclude it from the right to impose the death penalty and reserve it for a 'full meeting of the Athenian people'? What point is the law trying to make?

A possible answer emerges from a further consideration. The text of the inscription refers to the Council, whose powers *vis-à-vis* the people this law regulates, sometimes as ἡ βουλή (the Council) and at other times as οἱ πεντακόσιοι (the Five Hundred). Now, if the law incorporates an archaic original, it is not too wild a guess to assume that the original legislation may have been aimed at restricting not the powers of the βουλή of the Five Hundred but of the Areopagus, which was also called a 'Council' (βουλή).[20] Even if it is only a guess, on no other assumption are we able to explain why the right to inflict the death penalty is assigned to the people in such strong terms. We know that the Areopagus did have the power to impose it before and after Solon, and that it had lost that right in crimes against the state later in the fifth century. If this is right, we are justified in believing that at some point before the first of our six trials, i.e. before 493/2 BCE, a law deprived the Areopagus of the power to impose the death penalty and presumably also of the power to impose a penalty in excess of five hundred drachmas, which is attested for the Council of the Five Hundred in the inscription.

Where does that leave us as far as the evidence for the tribunals in our six trials is concerned? That the Areopagus is named in none of them has already been mentioned. But are the tribunals that *are* mentioned — the people, the Athenians and the judges — covered by the expression 'a full meeting of the Athenian people'? On this point we get some help from the wording of the inscription: the fact that it contains injunctions against the imposition of the death penalty and heavy fines '*without* a full meeting of the Athenian people' merely means that the voice of the people must be heard before such severe punishments can be decreed; it does not mean that the people's voice is to be the only voice. In other words, it does not preclude the possibility that an initial hearing took place before another tribunal, and if that tribunal decided on the death penalty or heavy fines, referral of the case to 'a full meeting of the Athenian people' for a second and final hearing became mandatory. Moreover, the only body competent to hear cases of

19 Rhodes (n. 14), 179-207.
20 Ibid. 206-7.

crimes against the state before 493/2 BCE can have been the Areopagus. What we are faced with is an introduction of *isonomia* into judicial affairs.

This leaves us with the question, what specifically constitutes a 'full meeting of the Athenian people'. If we bear in mind that the expression covers not only a meeting of the popular Assembly for political purposes, but that Solon had given the Assembly also the judicial function of sitting under the name of *heliaia* as the court of appeal, we have the explanation we need for the forum in which the six verdicts were passed. The scenario then is this: the cases were initially heard before the Areopagus in a way similar to our institution of presenting a major case to a grand jury for presentment for trial before another court; if the Areopagus found that conviction would lead to the death penalty or a hefty fine (probably a fine in excess of five hundred drachmas), referral to the *heliaia* for final disposition would be mandatory. Since none of the sources for our six trials is interested in the finer points of Athenian judicial procedure, their preoccupation with the verdict makes them neglect mention of earlier stages in the proceedings.[21]

This means that the legislative powers Cleisthenes had given the people were soon enhanced at the expense of the Areopagus by bringing popular power also into the administration of justice in crimes against the state. The loss of its absolute jurisdiction over crimes against the state will also have affected the jurisdiction of the Areopagus in crimes uncovered in connection with the accounting (εὔθυνα) to which it could subject high officials, because in them the state was by definition the injured party. The appeals procedure (ἔφεσις), which Solon had established as a *possible* recourse, now became *mandatory* in cases in which the defendant, if convicted, would incur heavy penalties.[22] What had been a one-stage procedure before an aristocratic body became a two-stage procedure, in which the people as a whole had the decisive voice.

This is a tentative reconstruction, not solid fact. Yet in the absence of firm evidence, without this kind of guesswork we preclude an understanding of the developments that followed. The historical setting of further equalization is clear. The growth of the Athenian navy during the Persian Wars created a social revolution in its demand for a steady supply of oarsmen. Until that time, military service was confined to those citizens who were sufficiently well off to supply their own heavy armour. Now even this modest amount of wealth was no longer required: any person of military age strong

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21 See Ostwald (n. 3), 34-6.

22 D.M. MacDowell, *The Law in Ancient Athens,* London 1978, 30-2; P.J. Rhodes, *A Commentary on the Aristotelian* Athenaion Politeia, Oxford 1981, 160-2.

enough to pull an oar was expected to serve his country in the field (or more correctly: on the water). From the American experience during the Vietnamese war we know the political argument to which this sort of thing leads: 'If I am old enough to be drafted into the military, I am also old enough to vote'. And just as this argument resulted in the extension of the franchise to 18-year olds, so the lower classes in Athens demanded wider participation in the political process: 'If we are good enough to man your ships, we are also good enough to contribute to determining public policy'. That these were demands for further equalization goes without saying.

They came to a head about 462 BCE. By that time Athens had gained an empire thanks to her navy, manned by the lower classes, who, naturally enough, favored expansion, since it gave them work and income. Consequently, service in the land army became increasingly the province of the upper classes, who were loath to jeopardize the close relations with Sparta forged in the Persian Wars. Cimon, a general from an old aristocratic family, was the main spokesman for those who feared that the pursuit of empire might spoil good relations with Sparta. His is the latest of the six trials we discussed earlier. It resulted from the accounting (εὔθυνα) to which he was subjected after his campaign against the island of Thasos; the charge against him was that he had been bribed to refrain from carrying the campaign into Macedonia; Pericles was 'appointed by the people' to lead the prosecution; the penalty upon conviction would have been death; but the 'judges' were so impressed by Cimon's defense that they acquitted him.[23]

What can we infer from these facts? The information that the trial arose from Cimon's εὔθυνα makes it virtually certain that a hearing took place before the Areopagus. But since the penalty upon conviction would have been death, the Areopagus must have referred the case for a final decision to the people, that is, to the *heliaia*. This inference is confirmed by the information that Pericles was 'appointed by the people' as prosecutor, and that the 'judges' are credited with Cimon's acquittal. This acquittal also attests Cimon's personal popularity, which is further confirmed by his re-election as general for the following year, 462/1 BCE.

But then trouble began. The Spartans requested Athenian help to put down a revolt of their subjects in Messenia. Opinion in Athens was divided over whether or not such help should be given in view of the support which the Spartans had promised to give to the now-vanquished opponents of Athens in Thasos. Cimon, abetted by the aristocratic establishment, favored giving the desired aid and led a contingent of four thousand hoplites into

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23 Arist. *Ath.Pol.* 27.1; Plutarch, *Cimon* 14.3-4, *Pericles* 10.6.

Messenia for that purpose. However, the Spartans, suspicious that the Athenians might make common cause with the insurgents, abruptly dismissed them. Cimon's absence with a large number of hoplites and, in the absence of any significant naval activity at this time, the presence in Athens of large numbers from the lower classes was exploited by Ephialtes, the main spokesman for opposition to Sparta, to strike a body-blow against the aristocratic establishment.[24] A man of complete integrity and incorruptibility, he successfully sponsored legislation which, in the words of Aristotle, 'deprived the Areopagus of all its accumulated powers by virtue of which it exercised guardianship of the state, and distributed them among the Five Hundred, the people and the lawcourts'.[25]

This is the sum total of what ancient sources tell us about one of the most decisive reforms in Athenian history. Since the powers at stake are those through which the Areopagus had exercised 'guardianship of the laws', they must have been its political powers, particularly jurisdiction in crimes against the state and in the conduct of the εὔθυναι of public officials. In both radical procedural changes were introduced by Ephialtes.

The procedure for bringing to justice offences against the state was always called εἰσαγγελία.[26] At the time of Solon, as we saw, both the initiative and the actual conduct of such trials were the exclusive prerogative of the Areopagus. Solon made the first dent in its power by giving any interested citizen the right to bring to court offenses of this kind, and perhaps also by enabling a person who felt himself unjustly condemned to appeal to the *heliaia*. A second dent was made by the legislation of the beginning of the fifth century, which made referral to the people in the form of the *heliaia* mandatory for all cases in which the verdict would be death or a heavy fine, so that henceforth εἰσαγγελία became a two-stage procedure for all major crimes against the state. The third and final step, taken by Ephialtes, retained the two-stage procedure, but completely eliminated the Areopagus from the first stage and assigned its functions to the Council of the Five Hundred. If the Councillors found that the seriousness of the case exceeded their competence to pass the verdict, they had to refer it for final disposition to a jury court or in some cases to the Assembly. This meant that the last vestige of

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24 See Ostwald (n. 3), 179-80.

25 Arist. *Ath.Pol.* 25.2: ἔπειτα τῆς βουλῆς ἐπὶ Κόνωνος ἄρχοντος ἅπαντα περιεῖλε τὰ ἐπίθετα δι' ὧν ἦν ἡ τῆς πολιτείας φυλακή, καὶ τὰ μὲν τοῖς πεντακοσίοις, τὰ δὲ τῷ δήμῳ καὶ τοῖς δικαστηρίοις ἀπέδωκεν.

26 For a general account, see M.H. Hansen, *Eisangelia: The Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Impeachment of Generals and Politicians*, Odense 1975, 1-65.

aristocratic control was removed from the initial judgement whether or not an alleged crime was actionable, and that that control was now vested in a body which included representatives from every community, every region, and all social classes. A social equality now dominated the procedure of dealing with crimes against the state. The control over the final verdict, which the legislation of the early fifth century had given to the *heliaia*, remained in the hands of the people through organs which had meanwhile replaced it.

There had always been a close relation between the proceedings in crimes against the state and in the conduct of εὔθυναι, since any offence uncovered in the course of the accounting to which an outgoing official would be subjected would necessarily be a crime against the state. The Solonian Areopagus had been entrusted with the conduct of both, and remained in sole charge of the conduct of εὔθυναι right down to the reforms of Ephialtes. But Ephialtes removed this task, too, from the Areopagus, and, like the jurisdiction in crimes against the state, transferred it to officers chosen from among the Council of the Five Hundred. At the hearings they conducted, any interested citizen could lodge a complaint, and the officers had the power to convict, but had to refer all complaints entailing a severe penalty to a jury court for final disposition.

There is one further innovation in the conduct of εὔθυναι that may be credited to Ephialtes, the mandatory accounting of *all* officials, however humble, on a regular annual basis. Before Ephialtes, when the Areopagus was still in charge of the accounting procedures, it seems that only some officials (presumably the higher ones) were accountable, and that εὔθυναι were conducted only sporadically, that is, whenever a complaint against a magistrate had been registered.

The assumption that it was Ephialtes who regularized and systematized the accounting procedure would also explain another institution which is reliably attested as functioning only from the second half of the fifth century on. I am thinking of the jury courts (δικαστήρια), to which I have had to refer repeatedly earlier without explanation.[27] We learn from Aristotle (*Ath.Pol.* 24.3) that in the heyday of empire Athens had seven hundred officials for internal administration and another seven hundred serving abroad, a total of 1,400, and recent scholarship has shown that it is credible.[28] It is

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27 See Ostwald (n. 3), 66-77.

28 M.H. Hansen, 'Seven hundred *archai* in classical Athens', *GRBS* 21 (1980), 151-73.

difficult to imagine what it would have meant administratively to subject all these officials, whose term expired at the same time about July 1, to εὔθυνα. Under the old dispensation with the Areopagus in charge and appeal or referral to the *heliaia* possible or mandatory, this would have meant that a 'full meeting of the Athenian people' would have been fully occupied for more than a year just with handling the load of εὔθυνα cases, even if in most cases only a rubber-stamp clearance would be required. A division of the *heliaia* into a large number of smaller panels, each acting as representative of the people as a whole, was the very sensible answer. For in this way, many hearings could be conducted concurrently and the load could be disposed of in just a few weeks.

There was one inequality which these measures of Ephialtes did not remove: none opened the high executive offices of state to the common people. Only members of the highest property-classes remained eligible to be generals or treasurers. Are we justified in calling such a system a true 'democracy'?

Ephialtes' removal of the εὔθυναι from the Areopagus meant that henceforth all magistrates were answerable for their conduct in office not to a small group drawn from the upper classes, but to those to whom they owed their election to office and those who were ultimately most affected by their political acts, the people as a whole. Because the εὔθυνα was henceforth regular and not selective, no magistrate was exempt, and control by the people was established over all. That this could lead to excesses, injustice, and plain inefficiency is evident especially from the ease with which generals could be recalled from the middle of a campaign and subjected to a εὔθυνα, and the price paid is dramatized in Thucydides' description of Nicias' indecision, bred by fear of an εὔθυνα during the Sicilian campaign. But there is no question that it gave even the humblest citizen the sense that he had the power to air even the smallest grievance against official misconduct at a magistrate's εὔθυνα, ensuring a kind of popular control in political affairs that the world has not seen since.

If we consider that the only control citizens of the United States have over their Senators and Representatives in Congress is not to vote for them again; if we realize that, once in office, misconduct on their part can be censured and punished only by action of their congressional colleagues, and that it takes the cumbersome impeachment procedure, over which we ordinary citizens have no control, to bring to justice the misconduct of a President or a federal judge, we see how 'democratic' the Athenian system was, warts

and all. And if the lower classes remained ineligible to high office, the fact that the people as a whole held the high and mighty answerable for their conduct created an equality among the citizens, which made Athens a cradle to nurture something new and great for later generations.

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