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# The Council of the Areopagus

## SUMMARY

The Areopagus, or “Hill of Ares” (Ἄρειος πάγος), in Athens was the site of council that served as an important legal institution under the Athenian democracy. This body, called the “Council of the Areopagus,” or simply the “Areopagus,” existed long before the democracy, and its powers and composition changed many times over the centuries. Originally, it was the central governing body of Athens, but under the democracy, it was a primarily the court with jurisdiction over cases of homicide and certain other serious crimes. After an Athenian had served as one of the nine archons, his conduct in office was investigated, and if he passed that investigation he became a member of the Areopagus. Tenure was for life.

## INTRODUCTION

The Areopagus (Ἄρειος πάγος) was a hill in Athens, south of the Agora, to the north-west of the Acropolis (Hdt.

8.52). The term “Areopagus,” however, often refers to the “Council of the Areopagus” (ἡ βουλή ἡ ἐξ Ἀρείου πάγου), a governmental institution that met on that hill (Aeschin. 1.92). This institution was very ancient, existing long before democratic government. Its history, which recedes back into mythological pre-history, follows closely the political history of Athens, and shows the ongoing tension between democratic and anti-democratic forces (see, for example, Isoc. 15.316, in which he complains that as the city grew more democratic, the power of the older institutions, such as the Areopagus, declined). In this article, we will first present the evidence for the composition, procedures, and jurisdiction of the Council of the Areopagus in the 4th century BCE, when it was one of the institutions of the fully developed Athenian democracy. Then we will give the evidence that describes its history. Finally, we will give some evidence for special functions that the Areopagus seemed to perform in the later 4th century.

#### THE 4TH CENTURY

The Council of the Areopagus functioned as a court under the democracy of 4th century Athens, and it had a very high reputation (Dem. 23.65). The orator Lycurgus tells his fellow Athenians that, “you have, in the Council of the Areopagus, the finest model in Greece: a court so superior to others that even the men convicted in it admit that its judgements are just” (Lyc. 1.12). Aeschines speaks of the

Areopagus in similar terms but praises the institution at greater length: “Take the example of the Council of the Areopagus, the most scrupulous tribunal in the city. I myself have before now seen many men convicted before this tribunal, though they spoke most eloquently and presented witnesses; and I know that before now certain men have won their case, although they spoke most feebly, and although no witnesses testified for them. For it is not on the strength of the pleading alone, nor of the testimony alone, that the members of the court give their verdict, but on the strength of their own knowledge and their own investigations. And this is the reason why that tribunal maintains its high repute in the city” (Aeschin. 1.92).

Members of the Areopagus individually and the institution generally were held in high regard and considered to be worthy of respect. Aeschines reports an incident when Autolycus, a member of the Areopagus, unwittingly made a sexual pun; when the people laughed, Pyrrandrus scolded them, asking if they “were not ashamed of themselves for laughing in the presence of the Council of the Areopagus” (Aeschin. 1.84). Aeschines is careful to defend Autolycus, as “a man whose life has been good and pious, and so worthy of that body [i.e. the Areopagus – CWB]” (Aeschin. 1.82).

The principle function of the Areopagus, in the 4th century BCE, was to try cases of homicide. Demosthenes describes this function and the lengths to which the court went to ensure that its proceedings were fair and just; this

passage, addressed to the Athenians, also suggests that the Athenians saw a strong relationship between human and divine justice: “You are all of course aware that in the Areopagus, where the law both permits and enjoins the trial of homicide, first, every man who brings accusation of such a crime must make oath by invoking destruction upon himself, his kindred, and his household; secondly, that he must not treat this oath as an ordinary oath, but as one which no man swears for any other purpose; for he stands over the entrails of a boar, a ram, and a bull, and they must have been slaughtered by the necessary officers and on the days appointed, so that in respect both of the time and of the functionaries every requirement of solemnity has been satisfied. Even then the person who has sworn this tremendous oath does not gain immediate credence; and if any falsehood is brought home to him, he will carry away with him to his children and his kindred the stain of perjury – but gain nothing. If, on the other hand, he is believed to be laying a just charge, and if he proves the accused guilty of murder, even then he has no power over the convicted criminal; only the laws and the appointed officers have power over the man for punishment.” (Dem. 23.67–69).

#### COMPOSITION IN THE 4TH CENTURY

The Areopagus consisted of former archons (Plut. *Sol.* 19.1; Dem. 24.22; Aristot. *Ath. Pol.* 60.3). This meant that all

members of the Areopagus had been thoroughly investigated by officials of the democracy. All archons were subject to “scrutiny” (δοκιμασία) by the Thesmothetae (the lower six of the nine archons) – an investigation into their qualifications to serve – before they assumed their office (Lys. 26.9). So, in a passage from Xenophon, the Areopagus is said to “consist of those who have undergone scrutiny” (ἐκ τῶν δεδοκιμασμένων καθίσταται) (Xen. *Mem.* 3.5.20). At the end of their year of service, each archon was investigated by the “People’s Court;” only those archons who passed this public audit (εὐθυνα) could become members of the Areopagus (Dem. 26.5). An archon could fail this audit (εὐθυνα) by violating any of the laws governing the conduct of his office (Dem. 24.22). For example, the Eponymous Archon was responsible for collecting and holding the olive oil that was given as a prize at the Panathenaic Games; this archon was not allowed to become a member of the Areopagus until he had handed all of the oil over to the treasurers (οἱ ταμίαι) on the Acropolis (Aristot. *Ath. Pol.* 60.3).

Appointment to the Areopagus was for life (Aristot. *Ath. Pol.* 3.6; Lys. 26.11). Nevertheless, members of the Areopagus, the Areopagites, were still subject to audit (εὐθυνα). Aeschines describes this to his fellow Athenians as a democratic measure: “For, first, the Council of the Areopagus is required by the law to file its accounts with the Board of Auditors and to submit to their examination; yes, even those men, who sit with solemn aspect yonder as the court

of highest competence, are brought under your verdict” (Aeschin. 3.20).

When Aristotle says that service on the Areopagus was for life, he describes that service as an “office” (ἀρχή): “It alone of the offices was held for life, as it is even now” (διὸ καὶ μόνη τῶν ἀρχῶν αὕτη μεμένηκε διὰ βίου καὶ νῦν) (Aristot. *Ath. Pol.* 3.6). But it was clearly not like the other offices in that someone could be an Areopagite and hold other offices at the same time. When Athenians were sworn in as jurors in the People’s Court, they swore “not to suffer the same man to hold the same office twice, or two offices in the same year” (Dem. 24.150). But we know from an inscription that a man named Euboulos was one of the Thesmothetae in 370/69, and an Areopagite from 369 on (SEG 19 133; source for date: Hansen, p. 289). But we also know that Euboulos was on the board of the Theoric Fund in the 350s (Aeschin. 3.25; source for date: Hansen, p. 289).

Members of the Areopagus seem to have received a free portion of the meat from certain sacrifices, an added benefit of service (Din. 1.56)

#### MEETING PLACES IN THE 4TH CENTURY

The Council of the Areopagus met generally on the Areopagus, the Hill of Ares (Dem. 23.65–66; Isoc. 7.38). Demosthenes mentions the body also meeting in the Stoa Basileus in the Agora, which was roped off for the occasion, so the court would not be disturbed (Dem. 25.23).

But the Hill of Ares was its proper meeting place, and that location was rich in symbolic importance. A 4th century inscription records a law that seems aimed at preventing the overthrow of the Athenian democracy. It says that, “If the People or the democracy at Athens are overthrown, no member of the Council of the Areopagus shall go up to the Areopagus or meet in the Council or discuss any single thing” (*SEG* 12 87). This suggests two things. First, the site of the Hill of Ares lent legitimacy to whatever went on there – and so the authors of this law wanted to deny that meeting place to any government that followed the overthrow of the democracy. Second, the law suggests that the members of the Council of the Areopagus were assumed to be people of great authority – and so the authors of this law wanted to prevent them from exercising that authority after the overthrow of the democracy. Aristotle says that, at least when the Areopagus was acting in its role as a murder court, it met “in the sacred precinct, in the open air” (ἐν ἱερῷ καὶ ὑπαίθριοι) (*Aristot. Ath. Pol.* 57.4).

#### PROCEDURE IN THE 4TH CENTURY

The Areopagus, functioning as a court of law during the 4th century, had a reputation for following unimpeachable procedures. In his speech against Aristocrates, Demosthenes describes this procedure at some length, and begins his description with the claim that “no convicted defendant and no defeated prosecutor has ever made good any

complaint against the justice of the verdict given.” (Dem. 23.66). Anyone who brought an accusation of homicide before the court had to swear an oath “invoking destruction upon himself, his kindred, and his household” (πρῶτον μὲν διομεῖται κατ’ ἐξωλείας αὐτοῦ καὶ γένους καὶ οἰκίας ὃ τιν’ αἰτιώμενος εἰργάσθαι τι τοιοῦτον) (Dem. 23.67). The swearing of this oath was unique: a boar, a ram, and a bull were to be sacrificed by certain people and on certain days (Demosthenes does not say which people or which days), “so that in respect both of the time and of the functionaries every requirement of solemnity has been satisfied” (ὥστε καὶ ἐκ τοῦ χρόνου καὶ ἐκ τῶν μεταχειριζομένων ἅπαν, ὅσον ἔςθ’ ὅσιον, πεπρᾶχθαι); the accuser then stood over the entrails of the sacrificed animals and swore his oath. Demosthenes is careful to add that, even with this “tremendous oath” (τὸν τοιοῦτον ὄρκον), the accuser was not automatically believed, and that if he should be proved to have lied, not only would he bear “the stain of perjury” (τὴν ἐπιορκίαν) himself, but his children and relatives would as well (Dem. 23.68).

In this speech and elsewhere, Demosthenes emphasizes the extent to which the rights of the accused were protected by law and procedure. If the accuser won his case, and the accused was convicted, the accuser had no power of punishment: “only the laws and the appointed officer have power over the man for punishment. The prosecutor is permitted to see him suffering the penalty awarded by law, and that is all.” (Dem. 23.69). If the Areopagus found



a defendant guilty in a case of homicide, the court seems to have had the authority to hand him straight over to the executioner (Din. 1.62; although this passage refers to powers given to the Areopagus by a particular decree in the late 4th century). In other matters, though the Areopagus' power of punishment was not unlimited. Speaking of a case of impiety, Demosthenes says that the court "does not have the power to punish any of the Athenians as they see fit." (Dem. 59.80).

Defendants swore the same oath as accusers, but Demosthenes says that they had an important additional right: "it is permitted to them to depart after giving his first speech, and neither the prosecutor, nor the jurors, nor any other man is authorized to prevent it" (τὸν πρότερον δ' ἔξεστιν εἰπόντα λόγον μεταστῆναι, καὶ οὔθ' ὁ διώκων οὔθ' οἱ δικάζοντες οὔτ' ἄλλος ἀνθρώπων οὐδεις κύριος κωλύσαι) (Dem. 23.69). We may suppose (although Demosthenes does not make this clear) that the defendant would have to leave Athens after withdrawing from the trial.

The trial would proceed with each side giving one or more speeches (see Din. 1.1, where he says that he does not have to give all the details of the case because a fellow-prosecutor, Stratocles, has already given his speech). Aeschines, speaking in praise of the Areopagus, says that this court was different from the other courts of Athens in that Areopagites were less likely than other jurors to be swayed by skillful speaking alone: "I myself have before now seen many men convicted before this tribunal, though they spoke most el-

oquently, and presented witnesses; and I know that before now certain men have won their case, although they spoke most feebly, and although no witnesses testified for them. For it is not on the strength of the pleading alone, nor of the testimony alone, that the members of the court give their verdict, but on the strength of their own knowledge and their own investigations. And this is the reason why that tribunal maintains its high repute in the city.” (πολλοὺς γὰρ ἤδη ἔγωγε τεθεώρηκα ἐν τῷ βουλευτηρίῳ τούτῳ εὖ πάνυ εἰπόντας καὶ μάρτυρας πορισμένους ἀλόντας· ἤδη δέ τινας κακῶς πάνυ διαλεχθέντας καὶ πρᾶγμα ἀμάρτυρον ἔχοντας οἶδα νικήσαντας. οὐ γὰρ ἐκ τοῦ λόγου μόνον οὐδ’ ἐκ τῶν μαρτυριῶν, ἀλλ’ ἐξ ὧν αὐτοὶ συνίσασι καὶ ἐξητάκασι, τὴν ψῆφον φέρουσι. τοιγάρτοι διατελεῖ τοῦτο τὸ συνέδριον εὐδοκιμοῦν ἐν τῇ πόλει.) (Aeschin. 1.92).

The Archon Basileus served as the “introducing official” (εἰσάγουσα ἀρχή), but it seems that he did not actually participate in deciding the case; only the actual members of the Areopagus voted (Aristot. *Ath. Pol.* 57.4). Because members of the Areopagus had all served as archons (Plut. *Sol.* 19.1; Dem. 24.22; Aristot. *Ath. Pol.* 60.3), and because, as archons, they would each have had experience presiding over the various courts of Athens (Aristot. *Ath. Pol.* 56.6–7, Aristot. *Ath. Pol.* 57.2–4, Aristot. *Ath. Pol.* 58.2, Aristot. *Ath. Pol.* 59.2–6), and because they served on the Areopagus for life (Aristot. *Ath. Pol.* 3.6; Lys. 26.11), they must have had much more experience than the juries of the other courts.

According to Aristotle, the Areopagus did not allow speakers, either defendants or prosecutors, to introduce irrelevant information into their speeches; in this, he says, the Areopagus is different from the other courts at Athens (Aristot. *Rh.* 1354a 20).

If a speaker were to be accused of perjury (ψευδομαρτυρία) before the Areopagus, he would not be prosecuted by the Areopagus itself, but by the Thesmothetae (Aristot. *Ath. Pol.* 59.6).

#### THE 4TH C.: INTENTIONAL HOMICIDE

In the 4th century BCE, the Areopagus was responsible for trying cases of the most serious crimes. Aristotle says: “Trials for deliberate murder and wounding are held in the Areopagus, and for causing death by poison, and for arson” (Aristot. *Ath. Pol.* 57.3; *Dem.* 23.22). Other kinds of murder – involuntary homicide, conspiracy to murder, murder of a slave, resident alien, or foreign – were tried at the Palladium (Aristot. *Ath. Pol.* 57.3). Still other kinds of murder – when the accused claimed that the killing was legal, as a matter of self-defense or in a case of adultery, or if someone accidentally killed a fellow citizen in war or during an athletic competition – were tried at the Delphinium (Aristot. *Ath. Pol.* 57.3). In the case of adultery, the orator Lysias says that “the Court of the Areopagus itself, to which has been assigned, in our own as in our fathers’ time, the trial of suits for murder, has expressly stated that whoever

takes this vengeance on an adulterer caught in the act with his spouse shall not be convicted of murder” (Lys. 1.30).

But, as Demosthenes says, the Areopagus was the “guard” (φύλαξ) against “vengeful murder” (οἱ περὶ ἀλλήλους φόνοι) (Dem. 20.157).

Elsewhere, Demosthenes describes the mythological origins of this function of the Court of the Areopagus, claiming that once upon a time the god Ares was put on trial for the murder of Halirrothius, the son of Poseidon; the hill was named after this event – the “Hill of Ares” – and the council that met on that hill enjoyed jurisdiction over homicide ever since (Dem. 23.66; see below for more sources for the mythological history of the Areopagus).

The Areopagus also heard cases of assault and wounding (τραῦμα) (Dem. 40.32; Dem. 23.22; Aeschin. 2.93; Aristot. *Ath. Pol.* 57.3). The Areopagus did not merely punish the assailants themselves, but also had the power to punish accessories. Demosthenes mentions a case of assault where the Areopagus exiled a man for encouraging the assailant; the defendant in this case was the father of the priestess of Artemis at Brauron, and therefore an important Athenian, but punished as an accessory nevertheless (Dem. 54.25).

According to Demosthenes, not only did the Areopagus permit (δίδωσεν) Athenians to bring cases of homicide before it for judgement, but actually required it (κελεύει) (Dem. 23.67). Demosthenes himself was fined by the Areopagus, according to Aeschines, for failing to pursue a charge of assault (τραῦμα) against his cousin Demomeles

(Aeschin. 2.93). Aeschines goes on to claim that Demosthenes had actually wounded himself and falsely accused his cousin (Aeschin. 3.15; Aeschin. 2.93), but regardless of that complication, Aeschines' comment suggests that once there was an accusation of a crime over which the Areopagus had jurisdiction, the accuser was obliged to bring the matter to court. Demosthenes also describes how a certain Theocrines, whose brother was murdered, threatened to bring the case before the Areopagus, but dropped the matter when the murderer paid him money (Dem. 58.29) – the fact that Theocrines did this proves, according to Demosthenes, that he is a “wretch and false accuser” (πονερός καὶ συκοφάντης) (Dem. 58.27).

The members of the Areopagus, the Areopagites, also seem to have investigated murders and assaults personally. In a speech prosecuting Conon, Demosthenes says that it was possible for members of the Areopagus to come to the bedside of a victim of assault, because if the victim should eventually die, they would have to try the case of his murder (Dem. 54.28).

It was a very serious matter to be charged with a crime before the Areopagus. In a speech written by Demosthenes for a client the speaker describes how his enemies plotted against him: “When they have thus openly laid a plot, and got up a charge against me before the Areopagus, do you suppose there is any poisoning or any other such villainy from which they would abstain?” (Dem. 40.57). This passage compares being charged before the Areopagus with

being poisoned, and gives us an idea of how serious such a charge was. Elsewhere in that same speech, the speaker explains that his enemies hoped that by charging him before the Areopagus, he would go into exile rather than risk conviction (Dem. 40.32).

According to the rules of procedure, a defendant charged before the Areopagus had the option of leaving the city rather than see the trial to its conclusion (Aristot. *Ath. Pol.* 23.69). If the defendant left, then his property was sold off by the “Venders” (οἱ πωληταί), after the Nine Archons gave their approval for the sale (Aristot. *Ath. Pol.* 47.2).

#### THE 4TH C.: IMPIETY AND OLIVES

Among the serious crimes that fell to the Areopagus were certain kinds of sacrilege. One example we know of had to do with a woman who had served as a priestess for the festival of Athensteria, in honor of the god Dionysus (Dem. 59.78). In this case, the woman was married to an Athenian named Theogenes, and it became known that she was not herself properly an Athenian citizen (Dem. 59.81). The matter was investigated by the Areopagus, “which in other matters also is of high worth to the city in what pertains to piety” (Dem. 59.80). According to Demosthenes, the Areopagus was initially inclined to impose “the highest fine in its power” (ἐζημίου ὅσα κυρία ἐστίν) on Theogenes for allowing his wife to serve as priestess under false pretenses (Dem. 59.81), but they relented because Theogenes

convinced them that he had been deceived, and meant no harm (Theogenes immediately expelled his wife from his house) (Dem. 59.83).

An inscription from 352 or 351 BCE records that the Assembly gave the Areopagus certain authority over the religious sanctuaries of Attica (*IG II<sup>2</sup> 204.16–33*; source for date, Hansen, p.291).

The Areopagus had authority over the sacred olive trees of Attica as well. If anyone was accused of cutting down a sacred olive tree, he was tried before the Areopagus (Lys. 7.22). Aristotle explains that the city of Athens collected the fruit from the olive trees and pressed it into oil, which would then be stored on the Acropolis or sold; if anyone dug up or cut down one of the trees, he would be tried by the Areopagus, and if he were found guilty, the penalty used to be death (Aristot. *Ath. Pol.* 60.1–2). But, Aristotle continues, in his own time (the middle of the 4th century), “while the law still exists, such a trial has fallen out of use” (ὁ μὲν νόμος ἔστιν, ἡ δὲ κρίσις καταλέλυται) (Aristot. *Ath. Pol.* 60.2). Even in the early 4th century, it seems that the penalty was not death, but exile and confiscation of property (Lys. 7.2; Lys. 7.32; Lys. 7.41).

#### THE 4TH C.: OTHER POWERS

In the latter part of the 4th century, the Areopagus exercised other powers beyond its traditional role as a court. The Areopagus could be called on, by the Council or the

Assembly, to investigate certain public matters and issue a report to the People. In one case that we hear of, Timarchus passed a motion in the Assembly to have the Areopagus investigate and report on some dwellings that had been erected on the hill of the Pnyx (Aeschin. 1.81). A member of the Areopagus, Autolycus, gave the body's report to the Assembly, and in doing so reminded the assembled people that "We Areopagites do not, men of Athens, either accuse or defend, for that is not our tradition" (ἡμεῖς μέντοι, ὧ ἄνδρες Ἀθηναῖοι, οἱ Ἄρεοπαγῖται οὔτε κατηγοροῦμεν οὔτε ἀπολογοῦμεθα, οὐ γὰρ ἡμῖν πάτριόν ἐστίν) (Aeschin. 1.83).

In the 340s BCE and later, during a series of crises between Athens and Macedonia, the Areopagus seems to have been given additional powers. Mogens Herman Hansen points out a pattern in the ancient evidence for the powers of the Areopagus: in times of crisis the Areopagus gained more authority over Athenian governance (Hansen, p.295). We find the Areopagus gaining influence in 508 BCE during the first Persian invasion (Hdt. 5.72), in 480 during the second Persian invasion (Aristot. *Ath. Pol.* 23.1), in 405 after a brief oligarchic coup and near the end of the Peloponnesian War (Lys. 12.69), in 404 when the Spartans defeated Athens (Aristot. *Ath. Pol.* 35.2), and in 338 when Philip of Macedon defeated the Athenians and their allies at the Battle of Chaeronea (Lyc. 1.52) (Source for dates: Hansen, p. 295).

So to understand the role that the Areopagus played in the development of Athenian democracy, we should look



at the sources for the history of the Areopagus from the mythology surrounding its earliest functions to the late 4th century BCE.

After surveying those historical sources, we will return to look at evidence for the Areopagus' powers after 338.

#### HISTORY: MYTH

Demosthenes says: “Concerning that Court of the Areopagus I could relate a greater number of noble stories, in part traditional and legendary, in part certified by our own personal testimony, than could be told of any other tribunal. It is worth your while to listen to one or two of them by way of illustration. First, then, in ancient times, as we are told by tradition, in this court alone the gods condescended both to render and to demand satisfaction for homicide, and to sit in judgement upon contending litigants – Poseidon, according to the legend, deigning to demand justice from Ares on behalf of his son Halirrothius, and the Twelve Gods to adjudicate between the Eumenides and Orestes” (Dem. 23.65–66). Pausanias says that the Areopagus, “Hill of Ares,” was so named because of the trial of the god Ares – he also mentions the trial of Orestes (Paus. 1.28.5). Orestes had killed his mother, Clytemnestra, and so was pursued by the Furies (also called the Erinyes, the “awful goddesses,” or the Eumenides); according to myth, the matter ended with a trial, held on the Areopagus and presided over by the goddess Athene. This

story forms the basis for Aeschylus' tragedy, *The Eumenides* (Aesch. *Eum.*). In addition to the trials of Ares and Orestes, Pausanias says that – at least in his day, during the 2nd century CE – there was an altar to Athene Areia, “Warlike Athene,” on the Hill of the Areopagus, that was said to have been dedicated by Orestes upon his acquittal (Paus. 1.28.5).

This mythological background helped give the Areopagus, and the court that met there, its authority. Aristotle reports that when Autocles was arguing that a certain man was obliged to let his case be heard by the court, he made this argument: “If the awful goddesses were content to stand trial before the Areopagus, should not Mixidemides?” (Aristot. *Rh.* 1398b 25).

#### HISTORY: BEFORE THE 5TH C.

According to Aristotle, under the “government of Draco” (a figure for whom there is little good historical evidence, and whom we should probably assume to be largely mythical), “the Council of the Areopagus was guardian of the laws, and kept a watch on the magistrates to make them govern in accordance with the laws” (Aristot. *Ath. Pol.* 4.4). According to Plutarch, “most writers” [meaning, of course, most of the writers available to Plutarch in the 2nd century CE – CWB] attribute the founding of the Areopagus to Solon, the Athenian reformer of the 6th century BCE (Plut. *Sol.* 19.2). But Plutarch reports a law, supposedly written by

Solon, that mentions people condemned by the Areopagus earlier (Plut. *Sol.* 19.3). “This surely proves to the contrary that the council of the Areopagus was in existence before the archonship and legislation of Solon. For how could men have been condemned in the Areopagus before the time of Solon, if Solon was the first to give the council of the Areopagus its jurisdiction?” (Plut. *Sol.* 19.4). Of course, Plutarch’s evidence does not “prove” anything, since there is no guarantee that the law he quotes is authentic.

It seems that the Areopagus in the 6th century had broad authority. Aristotle mentions that during the reign of the tyrant Pisistratus (c. 546–528 BCE [source: *OHCW* – *CWB*]), the tyrant himself was summoned before the Areopagus on a charge of murder (he presented himself for trial, but his accuser failed to show up) (Aristot. *Ath. Pol.* 16.8). Aristotle also says that Solon, “appointed the Council of the Areopagus to the duty of guarding the laws, just as it had existed even before as overseer of the constitution, and it was this council that kept watch over the greatest and the most important of the affairs of state, in particular correcting offenders with sovereign powers both to fine and punish, and making returns of its expenditure to the Acropolis without adding a statement of the reason for the outlay, and trying persons that conspired to put down the democracy, Solon having laid down a law of impeachment in regard to them” (Aristot. *Ath. Pol.* 8.4).

The Areopagus seems to have consisted of former archons from the earliest times (Aristot. *Ath. Pol.* 3.6), but

the process of selecting archons each year changed, which necessarily changed the nature of the Areopagus. Aristotle says that before Solon – in the early 6th century (source: *OHCW*) – the Areopagus itself chose the nine archons each year (Aristot. *Ath. Pol.* 8.2). Since by choosing archons it was also choosing its own future members, the Areopagus would have been a very exclusive, and almost certainly aristocratic body. Solon’s reforms, according to Aristotle, included a change in the selection of archons. Each tribe (φυλή) would nominate (προκρίνειε) ten candidates, and the nine archons would then be chosen by random lot from these (Aristot. *Ath. Pol.* 8.2). This procedure would have made the Areopagus somewhat more democratic.

The evidence we have, however, is not consistent. For example, in the *Politics* Aristotle says that Solon “seemed to to avoid destroying the previously existing institutions, particularly the Council and the selection of archons, but to establish democracy by instituting jury-courts from all the citizens” (ἔοικε δὲ Σόλων ἐκεῖνα μὲν ὑπάρχοντα πρότερον οὐ καταλῦσαι, τὴν τε βουλήν καὶ τὴν τῶν ἀρχῶν αἵρεσιν, τὸν δὲ δῆμον καταστήσαι, τὰ δικαστήρια ποιήσας ἐκ πάντων) (Aristot. *Pol.* 1273b–1274a). This seems to say that Solon did not change the way archons were selected. The question remains open, but since *Aristot. Ath. Pol.* 8.2 gives specific details, while *Aristot. Pol.* 1273b–1274a speaks in very general terms, most historians accept the former, and conclude that Solon did, in fact, change how archons were selected.

Aristotle also says that “in the archonship of Telesinus (487/6 BCE; source: Rhodes, 272), they elected the Nine Archons by lot, tribe by tribe, from a preliminary list of five hundred chosen by the demes: this was the date of the first election on these lines after the tyranny, the previous Archons having all been elected by vote” (Aristot. *Ath. Pol.* 22.5). This passage suggests that the tyrant Pisistratus (c. 546–528 BCE, source: *OHCW*) changed the method for selecting archons from random selection to some method over which he could exert control.

Plutarch reports another ancient historian, Idomeneus (whose works do not survive) as saying that Aristides was chosen to be archon by election, not by random lot, in 489/8 BCE (Plut. *Arist.* 1.8; source for date: Rhodes, 273).

Here too, however, there is some evidence that would seem to contradict this statement. When the historian Herodotus narrates the battle of Marathon, which happened in 490 BCE (three years before the archonship of Telesinus in 487/6; source: *OHCW*), he says that Callimachus of Aphidnae was polemarch (i.e. one of the nine archons), “chosen by lot [literally, ‘by bean’ – *cwb*] to be polemarch of the Athenians” (ὁ τῷ κῶμῳ λαχὼν Ἀθηναίων πολεμαρξέειν) (Hdt. 6.109.2). This, then, might be an example of an archon being chosen by lot, rather than by election, three years earlier than Aristot. *Ath. Pol.* 22.5 would have us believe. The historian N.G.L. Hammond has made an argument that would bring these two seemingly conflicting pieces of evidence together. He has

suggested that before between the tyranny and 487/6, nine Athenians were elected to be archons, but were assigned to individual functions by lot (N.G.L. Hammond, *JHS* 88 (1968) 50, with n. 145). So, we would then read Hdt. 6.109.2 as meaning that Callimachus of Aphidnae had been elected to be one of the nine archons, but had been assigned to be polemarch by lot.

Despite these problems of contradictory evidence, it seems clear that by the early years of the 5th century, the nine archons were chosen by lot, rather than by election.

#### HISTORY: REFORMS OF THE EARLY 5TH C.

For the first good evidence for the Areopagus as a political institution in Athens, we must wait until the 5th century BCE, when the Council of the Areopagus became one focus of attention as pro- and anti-democratic factions worked to shape the government of Athens. The most important historical figures for this stage of the Areopagus' history are Themistocles, Cimon, Ephialtes, and Pericles. Cimon and Ephialtes were at the focus of the most significant reform of the Council of the Areopagus.

Aristotle describes the history of the early development of the Athenian democracy in terms of historical figures who held positions of leadership among the Athenian people. Wherever possible, he groups these into pairs, with one person representing the movement toward increasing democracy, and one representing the opposition to democra-

cy: “For Solon was the first and original head of the People, and the second was Pisistratus, who was one of the men of nobility and note. After the tyranny had been put down, Cleisthenes, a member of the family of the Alcmaeonidae, was head of the People, and he had no opponent, since the party of Isagoras was banished; but after this Xanthippus held the headship of the People, and Miltiades of the notables; and then Themistocles and Aristides; and after them Ephialtes held the headship of the People, and Cimon son of Miltiades of the wealthy; and then Pericles of the People and Thucydides of the others, he being a relation of Cimon” (Aristot. *Ath. Pol.* 28.2). Elsewhere in the “*Constitution of the Athenians*,” Aristotle returns to this schematic outline of Athenian history, this time identifying important reforms to the government of Athens and associating those reforms with prominent historical figures. The first three he mentions are more-or-less mythical – Ion’s settlement of Attica, Theseus’ kingship, Draco’s original code of laws. Then followed Solon’s legislation, the tyranny of Pisistratus, and Cleisthenes’ democratic reforms. “Sixth the reform after the Persian War, under the superintendence of the Council of the Areopagus. Seventh followed the reform outlined by Aristides but completed by Ephialtes when he put down the Council of the Areopagus.” (Aristot. *Ath. Pol.* 41.2; the subsequent reforms were the oligarchy of the late 5th century, its overthrow, the Tyranny of the Thirty, and the subsequent restoration of democracy).

For our immediate purposes, the most interesting of these is the one Aristotle mentions as being sixth after the settlement of Attica, the reforms of Ephialtes.

During the Persian Wars, and particularly the Persians' invasion of Athens in 480 BCE (source for date: *OHCW*), the Areopagus took a leading role in organizing, and paying for, the evacuation of all Athenians from the Attica to Salamis and the Peloponnese; this public service from the ancient institution raised the prestige of the Areopagus (which had suffered some once archons were elected randomly, rather than by election) (Aristot. *Ath. Pol.* 23.1). Aristotle goes on to say that the Areopagus enjoyed pre-eminence in Athens for almost two decades, until the time when Conon was archon, and Ephialtes brought about his reforms in 462 BCE (Aristot. *Ath. Pol.* 25.1; source for date: *OCD*<sup>3</sup> s.v. "Demosthenes").

Ephialtes was the son of Sophonides (Diod. 11.77.6). Aelian includes him in a list of important public figures who were not rich (Ael. VH 2.43; Ael. VH 11.9), which we might contrast to the famous wealth of his political rival Cimon (Hdt. 6.136.3; Plut. *Cim.* 4.4; Aristot. *Ath. Pol.* 27.2–3; Plut. *Cim.* 10.1–2; Dem. 13.29). Aelian also calls Ephialtes a "philosopher", but what that is supposed to mean is not clear (Ael. VH 3.17).

Ephialtes seems to have held the position of strategos (στρατηγός), or General, at Athens, since we hear of him commanding an Athenian fleet in the Aegean, shortly



after Cimon's victories over Persia in 467 (Plut. *Cim.* 13.5; source for date, *OCD*<sup>3</sup>).

Apart from these few details, most of what we know about Ephialtes has to do with his greatest political triumph, the reform of the Areopagus. Diodorus Siculus, who is critical of the reform, summarizes the event and adds a "moral," saying that Ephialtes "persuaded the Assembly to vote to curtail the power of the Council of the Areopagus and to destroy the renowned customs which their fathers had followed. Nevertheless, he did not escape the punishment for attempting such lawlessness, but he was done to death by night and none ever knew how he lost his life" (Diod. 11.77.6).

The ancient sources are not consistent regarding who was responsible for the reform of the Areopagus. Aristotle's *Constitution of the Athenians*, for example, mentions Ephialtes alone at one point (Aristot. *Ath. Pol.* 25.1), Ephialtes and Themistocles elsewhere (Aristot. *Ath. Pol.* 25.3–4), and Pericles elsewhere (Aristot. *Ath. Pol.* 27.1). Plutarch also gives credit to Pericles (Plut. *Per.* 9.3), but his description of events helps straighten out the confusion and point to Ephialtes as the man responsible for the reforms themselves: "For this reason all the more did Pericles, strong in the affections of the people, lead a successful party against the Council of the Areopagus. *Not only was the Council robbed of most of its jurisdiction by Ephialtes, but Cimon also, on the charge of being a lover of Sparta and a hater of the people, was ostracized*" (Plut. *Per.* 9.4) [emphasis

added – CWB]. Elsewhere in his biography of Pericles, Plutarch refers to Ephialtes as the one “who broke down the power of the Council of the Areopagus” (Plut. *Per.* 7.6). According to Plutarch, then, Pericles may have been an important influence behind the events, but it was Ephialtes who actually brought about the reforms (see also Aristot. *Pol.* 1274a, which seems to agree with Plutarch’s version, and Diod. 11.77.6, which mentions Ephialtes only).

#### HISTORY: CIMON AND THEMISTOCLES

In the years following the Persian Wars, which ended in 479 BCE (source: *OCD*<sup>3</sup>), the principle advocate of a less democratic, more restricted government was Cimon, the son of Miltiades (Plut. *Cim.* 4.1; Plut. *Cim.* 10.7). Themistocles was a leading advocate of democratic reforms, and Ephialtes seems to have been his successor in this role, after Themistocles was ostracized in 472 BCE (Plut. *Them.* 22.2; Plut. *Cim.* 10.6–8; source for date: *OCD*<sup>3</sup>).

In the years before Ephialtes enacted his reforms, both Cimon and Themistocles stood trial before the Court of the Areopagus, and these trials provide an interesting background to Ephialtes’ reforms.

By 467 BCE, while the Persians had been mostly driven from the Aegean sea, they remained in the Chersonese, a peninsula in the northern Aegean, and allied themselves with some of the people of Thrace; the Athenians dispatched Cimon to wage war against them (Plut. *Cim.* 14.1;

source for date: *OCD*<sup>3</sup>). Cimon won a victory in Thrace, which would have allowed him, had he wished to, to invade Macedonia. When he failed to do this, he was brought to trial in Athens, accused of accepting bribes to leave Macedonia alone; one of the prosecutors at his trial was Pericles (Plut. *Cim.* 14.2–3). Cimon spoke well in his own defense (Plut. *Cim.* 14.3) and was acquitted, but this trial, at least as Plutarch narrates Cimon’s career, marked the beginning of a period of confrontation between him and the democratic reformers (Plut. *Cim.* 15.1–2; Plut. *Cim.* 10.7).

Themistocles was himself a member of the Court of the Areopagus, but was ostracized at the end of the 470s BCE (Plut. *Them.* 22.1; Thuc. 1.135). While he was in exile, the Court of the Areopagus tried him for treason – the charge was “Medism,” or conspiring with Persia – and condemned him to death, although he was absent (Thuc. 1.138; Plut. *Them.* 22.1; Aristot. *Ath. Pol.* 25.3). According to Aristotle, Themistocles encouraged Ephialtes to limit the powers of the Court of the Areopagus in order to forestall his own prosecution (Aristot. *Ath. Pol.* 25.3–4). This directly contradicts all other sources, who make it clear that Themistocles was not, in fact, in Athens at the time of his trial (Thuc. 1.135–138; Plut. *Them.* 22.1), but it might suggest that the trial of Themistocles, a famous advocate of democratic reform, influenced Ephialtes.

Cause and effect in history, ancient or modern, are difficult to establish, but we can say this: when Ephialtes enacted his reforms that limited the powers of the Court

of the Areopagus, thus making Athens more democratic (Aristot. *Ath. Pol.* 41.1; Aristot. *Ath. Pol.* 27.1; Plut. *Per.* 7.6), that court had recently acquitted a famous opponent of democracy and had condemned a famous proponent of democracy.

In the year 462, Cimon led an Athenian army to the Peloponnese to help Sparta put down a rebellion, a mission that Ephialtes had opposed (Plut. *Cim.* 16.8). Ephialtes seems to have taken advantage of his absence to enact democratic reforms, especially a reform in the powers and authority of the Court of the Areopagus (Plut. *Cim.* 15.1–2; for a full discussion of the circumstances of Cimon’s absence, and the timing of Ephialtes’ reforms, see the article on Cimon). Upon Cimon’s return, he was ostracized for ten years (Plut. *Cim.* 17.2; Plut. *Per.* 9.4).

#### HISTORY: AREOPAGUS AND THE DEMOS

According to Aristotle, Ephialtes brought about a reform of the Court of the Areopagus by denouncing the Court before the Council (τῆς βουλῆς τῶν πεντακοσίων) and the Assembly (ἐν ᾧ δήμῳ) (Aristot. *Ath. Pol.* 25.4). So the reform was not, finally, the work of Ephialtes alone, but an act of legislation by two of the more democratic institutions in Athens. Aristotle connects this event to a newfound feeling of power among the common people of Athens following the Persian Wars, when the less wealthy citizens by serving in the navy had saved the city. He makes the

connection between naval victories and the reform of the Court of the Areopagus explicitly in his *Politics* (Aristot. *Pol.* 1274a), and the *Constitution of the Athenians* strongly suggests the connection as well: “For he took away some of the functions of the Areopagus, and he urged the state very strongly in the direction of naval power, which resulted in emboldening the multitude, who brought all the government more into their own hands.” (Aristot. *Ath. Pol.* 27.1; note that “he” in this quotation is Pericles, but as we have seen this work attributes these reforms to Ephialtes and Pericles, as does the *Politics*; see Aristot. *Pol.* 1274a).

By 462 BCE, when Ephialtes made his reforms, the archons (the future members of the Court of the Areopagus) were chosen by lot, not by vote (Aristot. *Ath. Pol.* 22.5). It is possible that this change made the institution seem less prestigious, and thus worthy of holding fewer powers [This interesting suggestion is from P.J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford, 1993) – CWB].

#### HISTORY: EPHIALTES’ REFORMS

By means of Ephialtes’ reforms, according to Aristotle, “the Council of the Areopagus was deprived of the superintendence of affairs. After this there came about an increased relaxation of the constitution” (Aristot. *Ath. Pol.* 26.1). A fragment from Philochorus, who was a historian writing in the 3rd century BCE, offers a little more detail.

In his description of the nomophylakes, or “guardians of the laws” (νομοφύλακες), he says: “There were seven of them, and they were established when Ephialtes left to the Council of the Areopagus only those cases pertaining to the body” (ἑπτὰ δὲ ἦσαν καὶ κατέστησαν, ὡς Φιλόχορος, ὅτε Ἐφιάλτης μόνα κατέλιπε τῇ ἐξ Ἀρείου πάγου βουλῇ τὰ ὑπὲρ τοῦ σώματος) (Philoch. fr. 64).

To understand what Aristotle means by “deprived of superintendence of affairs”, or what Philochorus means by “only those cases pertaining to the body” we can only look at comments in the sources about the Court of the Areopagus’ role after Ephialtes’ reforms. Aristotle, describing the Court of the Areopagus and its functions in the middle of the 4th century BCE (over a century after Ephialtes’ reforms), says that this court had authority over trials of murder, wounding, death by poison, and arson, but that other similar crimes – involuntary manslaughter, murder of slaves or foreigners, accidental killings, or killings in self-defense – come before other courts, the Court of the Palladium or the Court of the Delphinium (Aristot. *Ath. Pol.* 57.3). A law quoted in a speech by Demosthenes agrees (Dem. 23.22); but it is important to remember that laws quoted in speeches may have been added to the manuscript later, sometime centuries later.

If Ephialtes’ reforms took many crimes out of the jurisdiction of the Court of the Areopagus and assigned them to other courts, with juries of citizens, then there would have been a greater need for citizens to serve on ju-

ries. And, in fact, several of the accounts of Ephialtes and Pericles reforming the Court of the Areopagus also mention the institution of pay for jury service, an innovation that may have aimed at meeting this new need. Aristotle relates the two reforms very closely, and relates them both to an increasingly democratic government: “Ephialtes and Pericles docked the power of the Council on the Areopagus, while Pericles instituted payment for serving in the law-courts, and in this manner finally the successive leaders of the people led them on by growing stages to the present democracy” (Aristot. *Pol.* 1274a; also Plut. *Per.* 9.3; Aristot. *Ath. Pol.* 27.2–3).

#### HISTORY: THE LATER 5TH C.

The next watershed in the history of the Areopagus was the period of the Thirty Tyrants. In 404 BCE, when Athens had been defeated by Sparta after twenty seven years of war, the democracy at Athens was temporarily overthrown and a new, oligarchic government took its place (Xen. *Hell.* 2.3.1). This government was to last only a year (Xen. *Hell.* 2.4.39), but marks an important break in the development of the Athenian democracy. According to Xenophon, the government was to consist of Thirty Tyrants, “who would collect the ancestral laws and govern according to them” (οἱ τοὺς πατρίους νόμους συγγράψουσι, καθ’ οὓς πολιτεύσουσι) (Xen. *Hell.* 2.3.1). This had an immediate effect on the institution of the Areopagus: “At first they were moderate

towards the citizens and pretended to be administering the ancestral form of constitution, and they removed from the Areopagus the laws of Ephialtes and Archestratus about the Areopagites” (Aristot. *Ath. Pol.* 35.2; we should note that this Archestratus is not mentioned by any other source). With the reforms of the early 5th century annulled, the Areopagus would presumably return to being the powerful and aristocratic body it has once been.

The tyranny of the Thirty was overthrown in the next year (Xen. *Hell.* 2.4.39), and the democracy was restored. It is interesting to note, however, that the prestige of the Areopagus was undiminished, despite the body’s having been one focus of the tyrants’ government. The orator Andocides describes how the tyranny was overthrown and how the Athenians drew up a temporary constitution to govern the city during the time of confusion (Andoc. 1). Included in this speech is a decree, supposedly passed by the Assembly in 403. In this decree, it is obvious how intently the Athenians were returning to democratic principles, and it is also obvious that they still regarded the Areopagus as a vital part of their government; the decree lists various laws and provisions, and concludes: “The laws thus handed over, however, shall be submitted beforehand to the scrutiny of the Council and the five hundred Nomothetae elected by the Demes, when they have taken their oath. Further, any private citizen who so desires may come before the Council and suggest improvements in the laws. When the laws have been ratified, they shall be



placed under the guardianship of the Council of the Areopagus, to the end that only such laws as have been ratified may be applied by magistrates” (Andoc. 1.84; source for date, *OCD*<sup>3</sup>). According to this decree, the People (in the form of the Council, the Nomothetae, and the Demes) enacted laws, and any private citizen individually could suggest emendations, but the Areopagus was to guard the laws. Notice also, that the decree is careful to note that the “magistrates” (αἱ ἀρχαί) can enact only those laws that have been approved by this democratic process.

#### HISTORY: AFTER THE THIRTY TYRANTS

The first part of this article on the Areopagus describes its composition, procedures, and powers in the period following the overthrow of the Thirty Tyrants. It is for this period, the first two-thirds of the 4th century BCE, for which we have the best evidence, both the body of Oratory, and the Aristotelian *Constitution of the Athenians* (Aristot. *Ath. Pol.*). The sections that follow describe some special functions that seem to have fallen under the control of the Areopagus during the 4th century, functions apart from its role as a court for homicide and impiety.

#### A ROCK IN TIMES OF TROUBLE

We have already seen that the Areopagus played an important role in evacuating Athens during the Persian Invasion at the beginning of the 5th century BCE, both by using

its authority to organize the evacuation, and by using its members' wealth to help pay for the evacuation (Aristot. *Ath. Pol.* 23.1). In the 4th century, we see the Areopagus acting decisively in another time of national crisis. In 338 BCE, the Athenians and the Thebans, with some other allied states, tried to oppose Philip of Macedon's growing power; the climactic battle was fought at Chaeronea in Boeotia, and was a terrible defeat for Athens (the battle is narrated by Diodorus Siculus, beginning at Diod. 16.84; source for date, *OHCW*). The orators Aeschines and Lycurgus describe how, in the aftermath of that battle, the Areopagus prosecuted people for fleeing Athens during this crisis. Aeschines says, "There came – it pains me to call it to mind repeatedly – there came a certain disaster to the city. At that time a certain private citizen who merely undertook to sail to Samos was on the same day punished with death by the Council of the Areopagus, as a traitor to his country. Another private citizen, who sailed away to Rhodes, was only the other day prosecuted, because he was a coward in the face of danger." (Aeschin. 3.252). When Lycurgus mentions these events in his prosecution of Leocrates, he pauses to assure his audience that he means no criticism of the Areopagus; in this passage, the orator is arguing that since some other Athenians were punished for fleeing the city, Leocrates ought to be punished as well: "You should bear in mind, gentlemen, that it is not even in your power, unless you go beyond your rights, to acquit this man Leocrates, since his offence has had judgement

passed upon it and a vote of condemnation too. For the council of the Areopagus – No one need interrupt me. That council was, in my opinion, the greatest bulwark of the city at the time – seized and executed men who then had fled from their country and abandoned it to the enemy. You must not think, gentlemen, that these councillors who are so scrupulous in trying other men for homicide would themselves have taken the life of any citizen unlawfully. Moreover you condemned Autolycus and punished him because, though he himself had faced the dangers, he was charged with secretly sending his wife and sons away. Yet if you punished him when his only crime was that he had sent away persons useless for war, what should your verdict be on one who, though a man, did not pay his country the price of his nurture? The people also, who looked with horror upon what was taking place, decreed that those who were evading the danger which their country's defence involved were liable for treason, meriting in their belief the extreme penalty" (Lyc. 1.52–53; for the trial of Autolycus, see Lyc. Fr. 9).

As it did when the Persians invaded, it seems that after the defeat at Chaeronea, the Areopagus was acting to preserve the strength of Athens in a time of crisis. And so Lycurgus calls the Areopagus "the greatest salvation of the city at the time" (μεγίστην τότε γενέσθαι τῇ πόλει σωτηρίαν) (Lyc. 1.52).

## A CHECK ON THE ASSEMBLY IN THE 4TH C.

After the battle of Chaeronea, 338 BCE (source for date: *OHCW*), we find some evidence for the Areopagus overriding certain decisions made by the Assembly. Plutarch says that after Chaeronea, when the Assembly elected Charidemus to be one of the ten Generals, the Areopagus overruled that decision and appointed Phocion in his place; this passage shows Plutarch's anti-democratic bias: "When the defeat [at Chaeronea – CWB] had happened, and when the rabble-rousers and radicals in the city had dragged Charidemus up to the platform and pronounced him worthy of being General, the upper-classes (οἱ βέλτιστοι) grew afraid, and since the Council of the Areopagus was in the Assembly, by begging and weeping they persuaded the Areopagus to put the city into the hands of Phocion" (γενομένης δὲ τῆς ἥττης, καὶ τῶν θορυβοποιῶν καὶ νεωτεριστῶν ἐν ἄστει τὸν Χαρίδημον ἐλκόντων ἐπὶ τὸ βῆμα καὶ στρατηγεῖν ἀξιούντων, ἐφοβήθησαν οἱ βέλτιστοι, καὶ τὴν ἐξ Ἀρείου πάγου βουλήν ἔχοντες ἐν τῷ δήμῳ, δεόμενοι καὶ δακρύνοντες μόλις ἔπεισαν ἐπιτρέψαι τῷ Φωκίῳ τὴν πόλιν.) (Plut. *Phoc.* 16.4).

Demosthenes also recounts a series of events in which the Areopagus seems to intervene twice in matters already decided by the People. The orator describes how Antiphon, who had been in exile from Athens, was caught in the city, but Aeschines defended him before the people (presumably in the People's Court) and won acquittal (Dem. 18.132).

Demosthenes goes on to say that, “Had not the Council of the Areopagus, becoming aware of the facts, and seeing that you had made a most inopportune blunder, started further inquiries, arrested the man, and brought him into court a second time, the vile traitor would have slipped out of your hands and eluded justice, being smuggled out of the city by our bombastic phrase-monger” (Dem. 18.133). The “bombastic phrase-monger” (σεμνολόγου τουτουί) to whom Demosthenes refers is his opponent Aeschines. Demosthenes then goes on to say that after this event, in which the Areopagus overturned a verdict from the People’s Court, they overturned a decision by the Assembly, which had chosen Aeschines to serve as an Athenian ambassador for a special mission; the Areopagus “promptly rejected him as a traitor, and gave the mission to Hyperides” (Dem. 18.134).

#### INVESTIGATIONS

In the 4th century we also find evidence for the Areopagus conducting special investigations. For example, Aeschines mentions the Areopagus appearing before the Assembly to report on some dwelling houses on the Pnyx (Aeschin. 1.81). This may have been a function of the Council of the Areopagus for some time, since according to a speech by Dinarchus (delivered in 323 BCE), Demosthenes had requested that the Areopagus investigate a matter of bribery “as was its traditional right” (ὡς αὐτῇ πάτριόν ἐστι) (Din.

1.4; source for date: Hansen, p. 292). But after the 340s BCE, the evidence starts to refer to a specific kind of investigation, one that involved the Assembly, the Areopagus, and the People's Court; evidence for this kind of investigation, known as "apophasis" (ἀπόφασις; for example at Din. 1.62) is described in a separate article (see Apophasis; source for date: Hansen, p.292).



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