

The Athenian Constitution

H THE MID FIFTH CENTURY (Chapters 23-8)

The Athenian Constitution's chapters on the mid fifth century are disappointing: they contain a good deal of politically biased anecdote and comment, and comparatively little solid material, and they do not present a coherent account of the period. Thucydides in reviewing the growth of Athenian power complained that previous writers had neglected this period (I.97), and our author probably found it hard to amass material on it; he seems to have had recourse to a variety of sources, and to have had difficulty in putting together what he found in them.

At the beginning of chapter 23 we read that after the Persian Wars the growth of democracy was halted and the council of the Areopagus played a dominant role; but from the second sentence of section 2 to the end of chapter 24 we encounter Aristides and Themistocles as joint champions of the people, Aristides' organization of the Delian League, the conversion of the League into an empire and the maintenance of large numbers of Athenian citizens on the revenue from the empire: the same awkward combination of an anti-democratic and a democratic sequel to the Persian Wars is to be found in Aristotle's Politics (V. 1304a). 25.1-2 harks back to the dominance of the Areopagus, and then gives an account of Ephialtes' reform of the Areopagus, from the reformer's point of view. This is followed in 25.3-4 by an anecdote of Themistocles' involvement with Ephialtes: the anecdote is chronologically impossible, and there is only one other mention of it in an ancient text (an introduction to Isocrates' Areopagitica); like the 'Constitution of Draco' in chapter 4 (see p. 42), this was probably absent from the original edition of the Athenian Constitution but was subsequently added to the text.

Chapter 26 begins with a belated and unflattering introduction of Cimon, who in fact built up the Delian League in the 470s and 460s, and was ostracized when he opposed Ephialtes; in the remainder of the chapter we have a sober account of three constitutional changes of the 450s, probably (like the similar material in chapters 21-2) derived from an Atthis. Chapter 27 is a rambling and hostile treatment of Pericles: a favourable picture could have been obtained, but was not, from Thucydides (especially II.65).

The Mid Fifth Century (Chapters 23-8)

Chapter 28, opening with the remark that after Pericles' death things became much worse (from an aristocratic point of view), proceeds to give a schematic list of paired aristocratic and democratic leaders to the end of the fifth century, and concludes by praising the last three aristocratic leaders: at various points the list fails to match our author's own narrative, so presumably he did not compile it himself but took it over from an earlier writer. Apart from the comments on some of the later figures in this list, we are given no material at all to bridge the gap between Pericles' death and the oligarchic revolution of 411 (which follows in chapters 29-33).

23

(1) Up to this point there had been a gradual development and increase in the city and in the democracy. After the Persian Wars, however, the council of the Areopagus recovered its strength and administered the city. It acquired its predominance not by any formal decision but through being responsible for the battle of Salamis. When the generals were unable to handle the crisis, and proclaimed that each man should save himself, the Areopagus provided money, gave the men eight drachmae each, and enabled them to embark on the ships. (2) For this reason the Athenians bowed to its authority, and the city was well governed at this time. During this period they trained themselves for war, gained a good reputation among the Greeks, and acquired the leadership at sea despite the opposition of the Spartans. (3) The champions of the people at this time were Aristides son of Lysimachus and Themistocles son of Neocles: Themistocles practised the military arts, while Aristides was skilled in the political arts and was outstanding among his contemporaries for his uprightness, so the Athenians used the first as a general and the second as an adviser. (4) The two men were jointly responsible for the rebuilding of the walls, in spite of being personal opponents; and it was Aristides who saw that the Spartans had gained a bad reputation because of Pausanias and urged the Ionians to break away from the Spartan alliance. (5) For that reason it was he who made the first assessment of tribute for the cities, in the third year after the battle of Salamis, the archonship of

Timosthenes [478/7], and who swore the oaths to the Ionians that they should have the same enemies and friends, to confirm which they sank lumps of iron in the sea.

## 24

(1) After this, now that the city was confident and a large amount of money had been collected, Aristides advised the Athenians to assert their leadership, and to leave the fields and live in the city: there would be maintenance for all, some on campaign, some on guard duty, others attending to public affairs; and by living in this way they would secure their leadership. (2) The Athenians were persuaded. They took control of the empire, and became more domineering in their treatment of the allies, apart from Chios, Lesbos and Samos: these they kept as guardians of the empire, accepting their existing constitutions and allowing them to retain the subjects over whom they ruled. (3) In accordance with Aristides' proposal, they provided ample maintenance for the common people, so that more than twenty thousand men were supported from the tribute, the taxes and the allies. There were 6,000 jurors; 1,600 archers, and also 1,200 cavalry; the council of 500; 500 guards of the dockyards, and also 50 guards on the Acropolis; about 700 internal officials and about 700 overseas. In addition to these, when the Athenians subsequently organized their military affairs, they had 2,500 hoplites; 20 guard ships; other ships sent out for the tribute, carrying 2,000 men appointed by lot; also the town hall; orphans; and guardians of prisoners. All these were financed from public funds.

## 25

(1) That is how maintenance for the people came into being. For about seventeen years after the Persian Wars the constitution in which the Areopagus was dominant persisted, though it gradually declined. As the masses increased, Ephialtes son of Sophonides became champion of the people, a man who appeared to be uncorrupt and upright in political matters. He attacked the council of the Areopagus. (2) First he eliminated many of its members, bringing them to trial for their conduct in office. Then in the archon-

ship of Conon [462/1] he took away from the council all the accretions which gave it its guardianship of the constitution, giving some to the council of five hundred and some to the people and the jury-courts. (3) Themistocles shared in the responsibility for this achievement. He was a member of the Areopagus, and was about to be tried for collaboration with the Persians. Wanting to bring about the downfall of the Areopagus, he said to Ephialtes that the council was about to make away with him, and to the members that he would show them men who were conspiring to overthrow the constitution. He brought some men chosen from the council to the place where Ephialtes was, as if to show them the conspirators assembled, and engaged in earnest conversation with them. Ephialtes on seeing this took fright and, wearing only his undergarment, sat as a suppliant at the altar. (4) Everyone was amazed at what had happened. Afterwards Ephialtes and Themistocles attacked the Areopagus at a meeting of the council of five hundred, and then in the assembly in the same way, and persisted until they had taken away its power. Ephialtes too was removed by assassination not long afterwards, through the agency of Aristodicus of Tanagra.

## 26

(1) In this way the council of the Areopagus was deprived of its responsibility. Afterwards the constitution was further slackened through the men who devoted themselves eagerly to demagogy. At this time it happened that the better sort had no leader, but their champion was Cimon son of Miltiades, a youngish man who had only recently turned to public affairs. In addition, many had been killed in war: at that time military service was based on selective conscription, and the generals who commanded were men lacking in experience of war but honoured because of their forebears' reputations; thus it regularly happened that two or three thousand of the men sent out were killed, and the casualties fell on the better sort of both the ordinary people and the wealthy. (2) In other respects the Athenians in their administration did not abide by the laws as they had done before, but at first they did not interfere with the appointment of the nine archons. However, in the sixth year after Ephialtes' death they decided that the rankers should be admitted

to the short list from which lots were drawn for the nine archons, and Mnesithides was the first of these to hold office [457/6]. Previously all the archons had been from the cavalry and the five-hundred-bushel class, and the rankers had held only the routine offices, except when some stipulation of the law was disregarded. (3) In the fifth year after that, the archonship of Lysicrates [453/2], the thirty justices called deme justices were instituted again. (4) In the third year after that, under Antidotus [451/0], on account of the large number of citizens it was decided on the proposal of Pericles that a man should not be a member of the citizen body unless both his parents were Athenians.

## 27

(1) After this Pericles took on the leadership of the people; he had first distinguished himself when, as a young man, he prosecuted Cimon in the examination after his generalship. The constitution now became still more democratic: Pericles took away some of the powers of the Areopagus, and above all turned the city in the direction of naval power, so that the common people grew confident and increasingly attracted to themselves complete control of the state. (2) In the forty-ninth year after the battle of Salamis, the archonship of Pythodorus [432/1], the Peloponnesian War broke out. During the war the people were shut up in the city, grew accustomed to earning stipends on campaign, and – partly intentionally, partly not – chose to administer public affairs themselves. (3) Moreover, Pericles was the first man to provide payment for jury service, as a political measure to counter the generosity of Cimon. Cimon was as rich as a tyrant: he performed the public liturgies lavishly; and he maintained many of his fellow-demesmen, for any man of Laciadae who wished could go to him each day and obtain his basic needs, and all his land was unfenced, so that anyone who wished could enjoy the fruit. (4) Pericles' property was insufficient for this kind of service. He was therefore advised by Damonides of Oe (who seems to have been the originator of most of Pericles' measures, and for that reason was subsequently ostracized) that since he was less well supplied with private property he should give the people their own property; and so he devised payment for the jurors. Some

people allege that it was as a result of this that the courts deteriorated, since it was always the ordinary people rather than the better sort who were eager to be picked for jury service. (5) After this judicial corruption began. The way was first shown by Anytus after he had served as general at Pylos: he was brought to trial for losing Pylos, and escaped by bribing the jury.

## 28

(1) While Pericles was champion of the people the constitution was not in too bad a state, but after his death it became much worse. It was then that the people first took a champion who was not of good repute among the better sort, whereas previously it was always men of the better sort who were popular leaders. (2) To begin at the beginning, Solon was the first champion of the people; the second was Pisistratus, while Lycurgus was champion of the well-born and notable; after the overthrow of the tyranny came Cleisthenes, of the Alcmaeonid family, and he had no opponent, since Isagoras's party was expelled. After this Xanthippus was champion of the people and Miltiades of the notables; then Themistocles and Aristides respectively; after them Ephialtes was champion of the people and Cimon son of Miltiades champion of the wealthy; then Pericles was champion of the people and Thucydides, a relative of Cimon, champion of the others. (3) After Pericles' death the distinguished were championed by Nicias, who died in Sicily, and the people by Cleon son of Cleaenetus: Cleon, it seems, more than anyone else corrupted the people by his wild impulses, and was the first man who, when on the platform, shouted, uttered abuse and made speeches with his clothes hitched up, while everyone else spoke in an orderly manner. Next, after them, Theramenes son of Hagnon was champion of the others and Cleophon the lyre-maker champion of the people. Cleophon was the first man to provide the two-obol grant: for a while it continued to be paid, then it was abolished by Callicrates of Paecania, after he had first promised to add another obol to the two. Both Cleophon and Callicrates were subsequently condemned to death by the Athenians: the masses generally come to hate those who have led them on to do anything wrong, particularly if they have deceived them. (4) Since Cleophon there

has been an unending succession of popular leaders whose chief desire has been to be outrageous and to gratify the masses, looking only to considerations of the moment. (5) It appears that the best of the Athenian politicians after the older ones were Nicias, Thucydides and Theramenes. As far as Nicias and Thucydides are concerned, almost everyone agrees that they were not only gentlemen but were public-spirited and behaved like fathers towards the whole city; but the verdict on Theramenes is disputed, because in his time there was constitutional upheaval. However, the judgement of those who are not superficial critics is that he did not destroy all regimes, as his detractors allege, but supported all as long as they did nothing unlawful (since he was able to take part in politics under all regimes, as a good citizen should), but when they broke the law did not acquiesce but incurred their enmity.

#### L REGISTRATION AND TRAINING OF CITIZENS (Chapter 42)

*After summarizing the history of the constitution, our author embarks on an analysis of the constitution in his own day. Chapter 42 is devoted to the registration and training of the citizens at their coming of age, chapters 43–62 to public officials, and chapters 63–9 to the jury-courts: the source of our author's information, and*

*probably of his arrangement of the material, is the Athenian code of laws, revised and systematized at the end of the fifth century.*

*Chapter 42 begins with the scrutiny and registration of citizens at the new year after their eighteenth birthday: probably not only Athenian parentage on both sides but also legitimate birth was required, although this is not stated in the text, and probably both the criterion of freedom and that of age could be considered both by the court and by the council. The latter part of the chapter is devoted to a compulsory two-year period of cadet training which followed registration. Our author does not here contrast current with earlier practice, as he is to do at several later points, but other evidence makes it clear that this compulsory programme was instituted about 335/4, as one of the measures taken to restore Athens' morale and military strength after her defeat by Philip of Macedon at Chaeronea in 338. The scrutiny of young citizens is attested at the end of the fifth century, and the oath sworn by the cadets appears to be an ancient oath. Before 335/4 cadets already existed as a separate category of citizens, and could perform guard duties; then the compulsory programme was introduced; towards the end of the fourth century service was reduced to one year and ceased to be compulsory. Our author implies that the compulsory service was for all citizens, and in chapter 53 he implies that all citizens were required to serve as arbitrators in their forty-second year on the registers; but the cadets' training was hoplite training, and probably both the unfit and the members of the lowest of Solon's four classes (chapter 7) were exempt.*

#### 42

(1) The present form of the constitution is as follows. Men belong to the citizen body if they are of citizen parentage on both sides, and they are registered as members of their demes at the age of eighteen. When they are registered, the deme members take a vote about them on oath, first to decide whether they have reached the age prescribed by the law (if they decide that they have not, the candidates return to the ranks of the boys), and secondly to decide whether they are free men and born as prescribed by the laws. Then, if they reject a man as unfree, he appeals to the jury-court, and

the deme members choose five of their own number as prosecutors: if he is found to have been unjustly registered, the state sells him as a slave; if he wins the case, the deme members are obliged to register him. (2) After this the council scrutinizes those who have been registered, and if anyone is found to be below the age of eighteen it punishes the deme members who have registered him. When the cadets have been scrutinized, their fathers meet by tribes and choose on oath three members of the tribe over forty years old whom they consider the best and most suitable to take charge of the cadets: from these the people elect one man from each tribe as *sophronistes*, and from the citizen body as a whole they elect a single *cosmetes* as supreme commander of the whole force. (3) The cadets assemble under these officers, and first make a tour of the sanctuaries, then proceed to the Piraeus, where some do guard duty at Munichia and some at Acte. The people also elect two trainers for them, and instructors to teach them infantry fighting, archery, javelin-throwing and catapult-firing. For maintenance one drachma each is provided for the *sophronistae* and four obols for the cadets: each *sophronistes* takes the funds of his tribe members, buys a common stock of provisions for all of them (for they eat by tribes), and takes charge of everything else. (4) That is how the first year is spent. The following year there is an assembly in the theatre, at which the cadets display to the people the manoeuvres which they have learned and receive a shield and a spear from the state. Then they patrol the frontiers of the country, and spend their time in the guard-posts. (5) These two years they spend on guard duty, wearing short cloaks. They are free from all obligations; and so that they shall have no reason for absence they are not allowed to appear in lawsuits either as prosecutor or as defendant, except in cases concerning an inheritance or an heiress. Absence is allowed if a man holds a hereditary priesthood. At the end of the two years the cadets join the rest of the citizen body.

**M OFFICIALS, APPOINTED BY LOT AND BY ELECTION:  
THE COUNCIL (Chapters 43–9)**

*The longest section of the second part of the Athenian Constitution is devoted to a survey of public officials, within which there are major sub-sections on the council (43.2–49) and the nine archons (55–9). 43.1 consists of an introductory note dividing officials into those appointed by lot and those appointed by election. Most civilian offices were felt to require loyalty rather than skill, and allotment was used as an appropriate method for distributing appointments fairly among men considered equally eligible; military offices required ability and the confidence of the men serving under the officers, and so these were filled by election. When our author turns in chapter 61 to elected officials he deals with the military officers only, and the elected civilian officials are forgotten.*

*Discussion of the council begins with its organization (43.2–44): what is said about meetings both of the council and of the assembly is fitted in here; there is no separate treatment of the assembly, and no mention at all of the separate body of legislators (nomothetae) which in the fourth century enacted ‘laws’ as opposed to ‘decrees’. The following chapters are devoted to the various powers of the council: limitations on its jurisdiction (45.1–3); preparation of business for the assembly (45.4); its duties in connection with the navy (46.1), and with public works (46.2); its supervision of financial officials (47–8); and the scrutinies which it conducts (49).*

43

(1) That is what happens with the registration of the citizens, and with the cadets. All the officials concerned with civilian administration are appointed by lot, apart from the treasurer of the army fund, the men in charge of the festival fund and the curator of the water supply: these are elected, and hold office from one Panathenaea to the next. All the military officers are elected also.

(2) There is a council of five hundred appointed by lot, fifty members from each tribe. Each tribe’s members in turn, as determined by lot, form the prytany, the first four for thirty-six days each and the remaining six for thirty-five days each (the year is a

lunar year). (3) First the members of the prytany eat together in the Round House, at the state's expense. Then they convene meetings both of the council and of the people: the council every day, except when there is a day of exemption, the people four times in each prytany. They prescribe what business the council is to deal with, what business on each particular day, and where it is to meet. (4) Likewise they prescribe the meetings of the assembly. One in each prytany is the Principal Assembly, at which there is a vote of confidence to decide whether the officials are doing their duty satisfactorily, and the food supply and the defence of the country are discussed. On these occasions anyone who wishes may make a denunciation; and lists of confiscated property, and claims to inheritances and to heiresses, are read out, so that nothing shall escape anyone's notice and go unclaimed. (5) In the sixth prytany, in addition to the business mentioned above, the *prytanes* take a vote as to whether an ostracism should be held or not; and they invite complaints against malicious prosecutors, three against Athenians and three against metics, and complaints against anyone who has made a promise to the people and failed to keep it. (6) The second assembly of the prytany is devoted to supplications: anyone who wishes may supplicate on whatever matter he wishes, private or public, and address the people. The remaining two are devoted to other business, and for them the laws prescribe that three religious matters should be dealt with, three concerning heralds and embassies, and three secular. Sometimes business is taken without a preliminary vote. Heralds and envoys go to the *prytanes* first, and bearers of letters deliver them to the *prytanes*.

44

(1) There is a single chairman of the *prytanes*, appointed by lot: he is in charge for a night and a day, and the same man is not allowed to serve longer than that or on a second occasion. This man keeps the keys of the sanctuaries in which the state's funds and records are stored, and the public seal, and he and a third of the *prytanes* designated by him are obliged to remain on duty in the Round House. (2) Whenever the *prytanes* convene a meeting of the council or the people, this man picks by lot a presiding

committee of nine, one councillor from each tribe except the tribe in prytany, and again picks one of the nine to be chairman, and he hands the list of agenda to them. (3) They take over the agenda, are responsible for good order, put forward the subjects to be dealt with, determine the results of the voting, are in charge of all other arrangements and have the power to close the meeting. A man may not be chairman more than once in the year, but may serve on the committee once in each prytany. (4) The election of generals, cavalry commanders and the other military officers is held in the assembly, in whatever way the people see fit: this election is held by the first prytany after the sixth in whose term of office there are good omens. A preliminary resolution of the council is necessary for this business too.

45

(1) Formerly the council had full power to impose fines, to imprison and to put to death. When it had taken Lysimachus to the executioner, and he was sitting waiting for the death sentence to be carried out, Eumelides of Alopecce took him away, saying that no citizen ought to be put to death except by the sentence of a jury-court. A trial was held in court: Lysimachus was acquitted, and came to be known as the man who returned from the garotte. The people then took away from the council the right to execute, imprison and fine, and enacted a law that, if the council convicted a man of wrongdoing or wanted to punish him, its convictions and punishments should be brought before the jury-court by the *thesmothetae*, and whatever the jurors voted should be final. (2) The council has jurisdiction over most officials, especially those who handle money: its judgement is not final but referable to the jury-court. It is possible also for private citizens to make a denunciation against any official whom they wish, on a charge of not complying with the laws: here too there is reference to the jury-court if the council convicts. (3) The council holds a scrutiny of those who are to serve in the council for the following year and of the nine archons. Formerly it had final power to reject any of them, but now there is reference to the jury-court in these cases. (4) In those matters the council does not have final power. It presents preliminary resolutions to the people,

and the people are not permitted to decide anything which is not the subject of a preliminary resolution and placed on the agenda by the *prytanes*: on this count the man who carried the motion is liable to a prosecution for illegal proposal.

46

(1) The council is responsible for the triremes that have already been built, and for the equipment and the ship-sheds; and it has new triremes or quadriremes built, whichever the people decide, and equipment and ship-sheds for them. The people elect designers for the ships. If the council does not hand over this work complete to the next year's council, it is not entitled to receive its award (the award is made under the next year's council). It sees to the building of the triremes by electing ten of its own members as trireme-builders. (2) Also the council inspects all public buildings; and if it judges anyone guilty it reports him to the people, convicts him and hands him over to a jury-court.

47

(1) In general the council cooperates in the administrative work of the other officials. First there are ten treasurers of Athena, one appointed by lot from each tribe, from the five-hundred-bushel class in accordance with Solon's law (this law is still in force): the men who are appointed hold office even if they are quite poor. These take over from their predecessors the statue of Athena, the Victories, the other equipment and the money, in the presence of the council. (2) Next there are ten sellers, one appointed by lot from each tribe. They are responsible for all leases, and let out the contracts for the mines and the taxes, in conjunction with the treasurer of the army fund and the men elected to take charge of the festival fund, in the presence of the council; they ratify the award, to whoever the council makes it, of the leases for active mines, which are let for three years, and for abandoned mines, which are let for seven years. They sell the confiscated property of men who have gone into exile after a trial before the Areopagus and of other convicted men, and the sale is ratified by the nine archons. In the case of taxes leased

for the year they write on whitewashed tablets the name of the lessee and the price of the lease, and hand these over to the council. (3) They keep separate records of those who have to make a payment every prytany, with ten tablets for each, those who have to make a payment three times in the year, with a tablet for each payment, and those who have to pay in the ninth prytany of the year. They keep records also of the lands and the houses which have been inventoried and ordered to be sold by the jury-court (the sellers sell these too). The price of houses has to be paid in five years, and the price of land in ten: these payments are made in the ninth prytany. (4) The *basileus* introduces the leases of sacred lands, recording them on whitewashed tablets. These too are let for ten years, and the payment is made in the ninth prytany: so most of the money is collected in this prytany. (5) The tablets, written out according to the times of payment, are brought in to the council and kept by the public slave. When there is a payment of money he hands these same tablets to the receivers, taking down from the racks those relating to the men who have to pay money and have their records deleted on the day in question. The other tablets are kept separately so that they shall not be deleted prematurely.

48

(1) There are ten receivers, appointed tribally by lot: they take over the tablets and delete the sums paid, in the presence of the council in the council-house, and give back the tablets to the public slave again. If anyone misses his payment, he is recorded there, and is obliged to pay double the missing sum or go to prison: the council has full power to exact these sums and to imprison in accordance with the laws. (2) On the first day the receivers receive all the payments and allocate them to the officials. On the next day they introduce the allocation: they write it on a tablet, read it out in the council-house, and put it forward for debate in the council, in case anyone is aware that any official or private individual has committed an offence with regard to the allocation. If it does appear that anyone has committed an offence, proposals are put to the vote. (3) The councillors appoint by lot ten auditors from their own number to check the officials' accounts each prytany. (4) They also



appoint examiners by lot, one from each tribe, and two assistants for each of the examiners. These men are obliged to sit in market hours by the statue of the hero of each tribe: if anyone wishes to make any charge, private or public, against an official who has presented his accounts in the jury-court, within thirty days of his doing so, he writes on a whitewashed tablet his own name, the defendant's name and the offence of which he accuses him, adds whatever assessment he thinks right, and gives it to the examiner. (5) The examiner takes it and reads it, and if he decides there is a case to answer he hands private accusations to the deme justices who give verdicts for the tribe in question, and reports public accusations to the *thesmothetae*. The *thesmothetae*, when they receive an accusation, introduce this examination into the jury-court again, and whatever the jurors decide has final validity.

49

(1) The council holds a scrutiny of the cavalry's horses, and if it finds that any man has a good horse but is not maintaining it well it punishes him by withholding the fodder grant. Horses which are unable to keep up, or are unwilling to stay in line and are unmanageable, it brands on the jaw with the sign of a wheel, and any horse which has been branded is rejected. It also holds a scrutiny of the *prodromi*, to see which men appear capable of serving, and if it rejects anyone his service is at an end. Likewise it holds a scrutiny of the *hamippi*, and if it rejects anyone that is the end of his paid service. (2) The cavalymen are registered by the registrars, ten men elected by the people: they give the names of the men whom they propose to register to the cavalry commanders and squadron commanders. These officers take over the register and bring it in to the council. They then open the sealed tablet containing the names of those who are currently cavalymen, delete any men already listed who declare on oath that they are physically incapable of serving, and call up those newly registered. If any of the latter declares on oath that he is physically or financially unable to serve, they let him go; if not, the councillors vote as to whether or not he is fit to serve in the cavalry; if they elect him, they enter him on the tablet, but if not, they let him go too. (3) The council used to judge the

plans for the robe; but this is now done by a jury-court picked by lot, for the councillors appeared to be giving their decision as a favour. The council shares with the treasurer of the army fund the responsibility for the making of Victories, and for prizes for the Panathenaea. (4) The council also scrutinizes the invalids: there is a law which prescribes that men who possess less than three minas and are so maimed in their bodies that they cannot do any work are to be scrutinized by the council and given a public maintenance grant of two obols a day each. The councillors have a treasurer appointed by lot. (5) In general, one might say, the council cooperates in the administrative work of the other officials.

N OFFICIALS APPOINTED ANNUALLY BY LOT  
(Chapters 50–54)

*Between the council and the nine archons our author includes in his survey of officials appointed annually by lot a catalogue of miscellaneous officials. He begins with those concerned with city facilities (50–51); then passes to those concerned with the administration of justice (52–3). In the course of chapter 53 he is led from the Forty to the public arbitrators (who served for a year but were not appointed by lot), and from the use of the forty-two year-classes in the appointment of the arbitrators to the use of the year-classes in the army. In chapter 54 he returns to annual officials. He mentions first the roadbuilders (section 1), who might have been mentioned in 50–51; then the annual auditors (section 2), whom he treats separately from the examining officials of 48.3–5 because those were members of the council but these were not; then three secretaries (sections 3–5), the last of whom was believed to require special skill and was therefore elected; then two boards of religious officials called hieropoei (sections 6–7); and finally he is led from the hieropoei to two other officials whose duties included the organization of festivals (section 8).*

*At any rate with the secretaries and the hieropoei, our author has been selective: altogether six state secretaries are found in contemporary documents, and there were several boards of hieropoei. On the other hand, the detailed account of the forty-two year-classes*



*is not necessary here: probably the Athenians were proud of this elaborate scheme, as they were proud of the elaborate scheme by which they sought to secure fairness in the running of the jury-courts (63–9), and the Athenian Constitution's detailed treatment reflects this pride.*

50

(1) That is the work handled by the council. There are appointed by lot repairers of temples, a board of ten men, who are given thirty minas by the receivers and repair the temples which are most in need of attention. (2) Also there are ten city magistrates, of whom five hold office in the Piraeus and five in the city. These see that the girls who play the pipes, the harp and the lyre are not hired for more than two drachmae, and if several men are eager to secure the same girl they draw lots and hire her out to the winner. They see that none of the dung-collectors deposits dung within ten stades of the city wall. They prevent buildings which encroach on the streets, balconies which extend over the streets, overhead drainpipes which discharge into the street, and window-shutters which open into the street. Using public slaves for the purpose, they remove for burial the bodies of those who die in the streets.

51

(1) Likewise there are appointed by lot ten market magistrates, five for the Piraeus and five for the city. These are required by the laws to take responsibility for all goods that are on sale, to ensure that what is sold is in good condition and genuine. (2) Also ten measures magistrates are appointed by lot, five for the city and five for the Piraeus. They are responsible for all measures and weights, to ensure that the salesmen use honest standards. (3) There used to be ten corn-guardians appointed by lot, five for the Piraeus and five for the city, but now there are twenty for the city and fifteen for the Piraeus. They are responsible for seeing, first, that the unground corn is sold honestly in the market, and then that the millers sell the meal in accordance with the price which they paid for the barley-corn, and that the bread-sellers sell the loaves in accordance with

the price which they paid for the wheat and that their loaves are of the prescribed weight (the law requires these magistrates to prescribe the weight of loaves). (4) Ten overseers of the exchange are appointed by lot: they are bidden to take responsibility for the exchanges, and to compel the dealers to convey to the city two thirds of the corn which is brought into the corn market.

52

(1) The Eleven are appointed by lot. Their task is to take charge of men in the gaol. When thieves, kidnappers and highwaymen are delivered before them, if they admit their guilt, the Eleven put them to death; if they dispute the charge, they bring them before the jury-court: then, if they are acquitted, they let them go, and if not, they put them to death. When land and houses are registered for confiscation, the Eleven bring these before the jury-court, and those which are judged to be forfeit to the state they hand over to the sellers. They also bring indications before the court: these are among the cases introduced by the Eleven, but some of the indications are introduced by the *thesmothetae*. (2) Five men are appointed by lot as introducers, to introduce the monthly suits, each man acting for two tribes. The monthly suits are: for a dowry, when a man owes a dowry and fails to hand it over; if a man borrows at a rate of 1 per cent per month and defaults; if a man wishes to ply his trade in the Agora, borrows capital from someone and defaults; also suits for battery; suits concerning friendly loans; concerning associations; for slaves and yoke-animals; concerning trierarchies; and concerning banking. (3) The introducers are responsible for these, and introduce them as monthly suits. Likewise the receivers handle suits initiated by and suits against tax-collectors: in matters up to ten drachmae they have the final right of decision, the others they introduce to the jury-court as monthly suits.

53

(1) The Forty, four appointed by lot from each tribe, are the officials from whom plaintiffs obtain a hearing in the other private suits. Earlier they were thirty in number, and used to go round the

demes trying cases, but since the oligarchy of the Thirty there have been forty of them. (2) Cases up to ten drachmae they have absolute authority to decide, cases above this assessment they hand over to the arbitrators. The arbitrators take the cases over, and if they are unable to bring about a settlement they give a verdict. If both parties are satisfied with the verdict and abide by it, the case is at an end. If either of the litigants appeals to the jury-court, the litigants place the testimonies, challenges and laws in jars, those of the plaintiff and those of the defendant separately; the jars are sealed, with the verdict of the arbitrator, written on a tablet, fastened to them, and handed over to the four members of the Forty who act for the tribe of the defendant. (3) These men take over the case and introduce it into the jury-court, those up to 1,000 drachmae into a court of two hundred and one, and those over 1,000 drachmae into a court of four hundred and one; no laws, challenges or testimonies may be used except those which were cited before the arbitrator and placed in the jars. (4) The arbitrators are men in their sixtieth year: this is clear from the archons and the eponymous heroes (there are ten heroes of the tribes, and forty-two heroes of the year-classes). The cadets on their enrolment used to be listed on white-washed tablets, together with the name of the archon in whose year they were enrolled and the hero of the year-class which had provided the arbitrators of the previous year; now they are inscribed on a bronze pillar, and the pillar is set up in front of the council-house, near the statues of the tribal heroes. (5) The Forty take as arbitrators the men in the last year-class, assign their tribal responsibilities to them, and draw lots for the cases which each is to take: it is obligatory for each man to complete the arbitration of the cases which fall to him. The law prescribes that if a man refuses to serve as arbitrator when his age has come he is to be deprived of his civic rights, unless he is holding office that year or is away from Athens: only those men are exempt. (6) If any litigant is wronged by the arbitrator, it is open to him to make a denunciation to the board of arbitrators, and if they convict, the laws prescribe that the offender is to be deprived of his civic rights. Here too there is a right of appeal to the jury-court. (7) The forty-two heroes are used for military campaigns also: when an age-group is sent out, it is announced

that those from a certain archon and a certain hero to a certain other archon and a certain other hero are required to serve.

54

(1) The following officials are appointed by lot also. Five road-builders, who have public slaves to work for them and whose duty is to repair the roads. (2) Also ten auditors, and ten advocates for them, with whom all men who have held office are required to deposit their accounts. These are the men who check the accounts of those subject to examination, and who introduce the examination into the jury-court. If they prove that a man is an embezzler, the jurors convict him of embezzlement and the sum determined is repaid tenfold; if they prove that a man has taken bribes and the jurors convict him, an assessment for bribery is made and this sum also is repaid tenfold; if a man is convicted of misdemeanour, an assessment for misdemeanour is made, and here the simple amount is repaid if a man discharges the debt before the ninth prytany of the year, or if he fails to do that it is doubled. Tenfold payments are not doubled. (3) The secretary called the prytany secretary is appointed by lot: he is in charge of documents, keeps the texts of decrees that are enacted, checks all other records and attends meetings of the council. Previously this was an elected office, and the most distinguished and the most trusted men were elected to it (for on the pillars on which texts were inscribed this secretary is named in connection with alliances, appointments of *proxeni* and grants of citizenship); but now it is filled by lot. (4) Another secretary is appointed by lot, the one in charge of laws: he attends meetings of the council and checks the recording of all laws. (5) The assembly elects a secretary to read documents to itself and to the council, and he has no responsibility other than reading. (6) Ten *hieropoei* are appointed by lot, those entitled the *hieropoei* in charge of expiatory sacrifices, who make the sacrifices ordered by oracles and when necessary cooperate with the soothsayers to seek good omens. (7) There are another ten appointed by lot, entitled the annual *hieropoei*, who perform certain sacrifices and administer all the quadrennial festivals except the Panathenaea. The quadrennial

festivals are: first the pilgrimage to Delos (there is also a sexennial festival there), secondly the Brauronia, thirdly the Heraclea, fourthly the Eleusinia, fifthly the Panathenaea. None of the four occurs in the same year. Now, in the archonship of Cephisophon [329/8], the Hephaestia has been added. (8) A governor for Salamis and a demarch for the Piraeus are appointed by lot also: these hold the Dionysia in each place and appoint the *choregi*. In Salamis the name of the governor is published.

# O THE NINE ARCHONS (Chapters 55–9)

*The survey of officials appointed annually by lot concludes with the nine archons. Our author begins with their appointment and scrutiny (55–56.1), reviews in turn the religious and the judicial duties of the archon (56.2–7), the basileus (57), the polemarch (58) and (judicial duties only) the thesmothetae (59.1–6), and ends with a duty shared by the whole college, the allocation of jurors to courts (59.7, treated in more detail in 63–5).*

## 55

(1) Those officials are appointed by lot, and are responsible for all the matters mentioned. As for the so-called nine archons, the manner of their appointment from the beginning has been stated above; now six *thesmothetae* and their secretary, the archon, the *basileus* and the polemarch are appointed by lot from each tribe in turn. (2) They are scrutinized first in the council of five hundred (apart from the secretary, who is scrutinized in a jury-court only, like the other officials: all officials appointed by lot or by election have to undergo a scrutiny before entering office), the nine archons being scrutinized in the council and again in a jury-court. Previously, no one whom the council rejected could hold office, but now there is reference to the jury-court, and the court has the final right of decision in the scrutiny. (3) When the archons are scrutinized, they are asked first, ‘Who is your father, and from which deme? Who is your father’s father? Who is your mother? Who is your mother’s father, and from which deme?’ Then the archons are asked whether they have a cult

of Apollo of Ancestry and Zeus of the Courtyard, and where the sanctuaries of these are; whether they have family tombs, and where these are; whether they treat their parents well; whether they pay their taxes; whether they have performed their military service. After asking these questions, the presiding magistrate says, ‘Call witnesses to these things.’ (4) When witnesses have been produced, he asks, ‘Does anyone wish to accuse this man?’ If there is an accuser, the magistrate allows accusation and reply, and then puts the question to the vote, by show of hands in the council, by ballot in the court. If there is no accuser, he puts it to the vote immediately: in these cases, previously, one man would cast a token vote, but now it is obligatory for all the jurors to vote on the candidates, so that, if a crooked man has disposed of his accusers, it will be possible for the jurors to reject him. (5) After undergoing this scrutiny, the archons proceed to the stone, on which the sliced victims have been placed (on this same stone the arbitrators take an oath before giving their arbitration, and witnesses swear when denying evidence attributed to them). They climb on to the stone, and swear that they will exercise their office justly and in accordance with the laws, and will not take bribes on account of their office or, if they do so, will dedicate a golden statue. After taking the oath they proceed from there to the Acropolis, and take the same oath again there. They then enter on their office.

## 56

(1) The archon, the *basileus* and the polemarch each have two assistants, men of their own choice: these men are scrutinized in the jury-court before entering office, and submit to an examination after leaving office.

(2) The archon, as soon as he has entered on his office, first makes a proclamation, that whatever each man possessed before his entry into office he shall possess and control until the end of it. (3) Next he appoints *choregi* for the tragedies, the three richest men of all the Athenians; formerly he also appointed five *choregi* for the comedies, but these are now supplied by the tribes. The tribes supply *choregi* for the Dionysia (for men’s choruses, boys’ choruses and comedies) and for the Thargelia (for men’s choruses and boys’

choruses): for choruses at the Dionysia *choregi* are appointed by individual tribes, for those at the Thargelia one is appointed for two tribes and the individual tribes supply them in turn. The archon receives the names of the tribally appointed *choregi*. Then he holds challenges to an exchange, and introduces into court claims for exemption, when a man claims that he has performed this liturgy before, or is exempt because he has performed another liturgy and his period of exemption is not yet over, or has not reached the required age (*choregi* for boys' choruses must be over forty years old). He also appoints *choregi* for Delos, and a pilgrimage-leader for the thirty-oared ship which takes the young men. (4) He is responsible for processions: that for Asclepius, when the initiates stay indoors; and that at the Great Dionysia, in conjunction with the overseers. There are ten overseers of the Dionysia: formerly they were elected by the people and bore the expenses of the procession themselves, but now one is appointed by lot from each tribe and they are given one hundred minas for their equipment. (5) The archon is responsible also for the procession at the Thargelia and the procession for Zeus the Saviour. Those are the festivals for which he is responsible. (6) The following public and private lawsuits fall to him, and he holds the preliminary inquiry and introduces them into the jury-court: maltreatment of parents (on this charge anyone who wishes may prosecute without risk of penalty); maltreatment of orphans (where the suit is against the guardians); maltreatment of an heiress (where the suit is against the guardians or the husband); maltreatment of an orphan's estate (against the guardians again); insanity, when a man is accused of squandering his property through insanity; for the appointment of distributors, if anyone objects to the administration of property in common; for the appointment of a guardian; for the adjudication of a guardianship; for displaying to public view; for having oneself appointed guardian; adjudications of estates and of heiresses. (7) He has the oversight of orphans, heiresses and women who at the death of their husband claim to be pregnant; and he has full power to impose a summary fine on the offenders or to bring them before the jury-court. He lets out the estates of orphans, and of heiresses until they reach the age of fourteen, and receives the valuations of the security offered by the lessees; and if guardians do not give the children their maintenance he exacts it.

(1) Those are the responsibilities of the archon. The *basileus* is first responsible for the Mysteries, in conjunction with the overseers elected by the people (two from all Athenians, one from the Eumolpidae, one from the Heralds). Next for the Dionysia at the Lenaeum: this involves a procession and a contest; the procession is the joint responsibility of the *basileus* and the overseers, the contest is organized by the *basileus*. He also organizes all the torch-races; and one might say that he administers all the traditional sacrifices. (2) Public lawsuits fall to him on charges of impiety, and when a man is involved in a dispute with someone else over a priesthood. He holds the adjudications for clans and for priests in all their disputes on religious matters. Also all private suits for homicide fall to him, and it is he who makes the proclamation that the killer is excluded from the things specified by law. (3) The following are the suits for homicide and wounding. Trials are held at the Areopagus, when anyone intentionally kills or wounds; for poisoning, when anyone kills by this means; and for arson: these are the only charges tried by the council of the Areopagus. For unintentional homicide, for planning homicide, and for killing a slave, metic or foreigner, the court at the Palladium is used. When someone admits to killing, but claims to have done so in accordance with the laws (for instance, if he has caught an adulterer, killed in ignorance in war, or killed as a competitor in the games), the trial is held at the Delphinium. If anyone is accused of killing or wounding somebody while in exile on a charge for which reconciliation is possible, the trial is held at the sanctuary of Phreatus; (4) the accused makes his defence from a boat moored offshore. Apart from the cases tried by the Areopagus, these are tried by fifty-one men appointed by lot; the *basileus* is the introducer, the case is tried out of doors in a sanctuary, and the *basileus* when presiding at the trial takes off his crown. For the rest of the time the accused is excluded from the sanctuaries, and the law does not allow him to set foot in the Agora, but on this occasion he enters the sanctuary to make his defence. When the killer is unknown, a suit is entered against 'the doer of the deed'. The *basileus* and the tribal heads try charges against inanimate objects and animals also.

58

(1) The polemarch performs the sacrifices to Artemis of the Wild and to Enyalios, organizes the funeral contest for those who died in war, and performs the heroes' rites to Harmodius and Aristogiton. (2) Only private lawsuits fall to him, those involving metics, men of equal obligations and *proxeni*. His duty is to take these suits, divide them in ten and assign to each tribe its allotted share; the justices acting for each tribe pass them to the arbitrators. (3) The polemarch himself introduces the suits for desertion of patron and for having no patron, and, in the case of metics, for inheritance and for heiresses; and the other things which the archon does for citizens the polemarch does for metics.

59

(1) The *thesmothetae* have the power, first, to prescribe the days on which the jury-courts are to sit, and next, to assign them to the officials; the officials abide by their assignment of the courts. (2) They act as introducers for all denunciations made to the people, condemnations and complaints, and for the public suits for illegal proposal and for enacting an inexpedient law, for charges against the presiding committee, charges against chairmen and generals' examinations. (3) There fall also to them the public suits in which a prosecutor's deposit is levied: for being a foreigner; for bribery by a foreigner, when someone is acquitted through bribery on a charge of being a foreigner; for malicious prosecution; for bribery; for falsely registering a man as a debtor; for falsely appearing as witness to a judicial summons; for failure to delete a discharged debtor; for failure to register a debtor; for adultery. (4) They introduce the scrutinies for all officials; claims to citizenship rejected by the deme members; and convictions forwarded from the council. (5) They also introduce the following private suits: commercial suits; mining suits; and suits against slaves, when a slave maligns a free man. They allot courts to the officials for private and public suits. (6) They ratify judicial agreements with other cities, and introduce suits based on judicial agreements. They introduce charges of perjury committed before the Areopagus.

(7) The allotment of jurors is carried out by all the nine archons, with the secretary to the *thesmothetae* making a tenth: each acts for his own tribe.

# P THE ATHLOTHETAE (Chapter 60)

*Having completed his survey of officials appointed annually by lot our author turns to officials of other kinds, in this chapter a board which was appointed by lot but for four years, the athlothetae. They were responsible for one of the major festivals, the Panathenaea (cf. 54.7), and he digresses from them to deal with the sacred olive oil, and with the prizes awarded for the various contests at the Panathenaea.*

60

(1) That is the position with regard to the nine archons. Ten men are appointed by lot as *athlothetae*, one from each tribe. After being scrutinized they hold office for four years: they administer the procession at the Panathenaea, and the musical contests, the athletic contests and the horse race; they are responsible for the making of the robe, and together with the council for the making of the vases, and they present the olive oil to the winning athletes. (2) The oil is collected from the sacred olives. The archon exacts it from the owners of land on which sacred olives grow,  $1\frac{1}{2}$  cups from each tree. Formerly the state let out the contract for collecting the crop, and if anyone dug up or cut down a sacred olive he was tried by the council of the Areopagus and, if convicted, sentenced to death. Nowadays, however, the oil is levied from the owners of the land, and the law remains but trials are no longer held: the state now obtains the oil simply from the property, not specifically from the sacred trees. (3) The archon collects the oil produced in his year of office, and hands it over to the treasurers of Athena on the Acropolis: he is not allowed to take his place in the council of the Areopagus until he has handed all the oil to the treasurers. The treasurers keep the oil on the Acropolis for the meantime, and then at the Panathenaea they measure it out to the *athlothetae* and the

*athlothetae* give it to the victorious contestants. The prizes are money and gold for winners of the musical contests, shields for the contest in manliness, and olive oil for the athletic contests and the horse race.

#### Q ELECTED MILITARY OFFICERS (Chapter 61)

*The last officials to be dealt with are the military, who held office for one year but were elected. This contrast between the military and the civilian officials was noted in the introduction to the survey of officials (43.1): there some elected civilian officials were mentioned, and we learn from chapter 54 that there was one, and had previously been another, elected secretary, but these are not mentioned again here.*

#### 61

(1) All the military officers are elected. The ten generals were formerly one from each tribe, but now are appointed from the whole citizen body. Specific duties are voted for the following: one in command of the hoplites, who commands the hoplites if they go out of Attica; one in command of the country, who guards it, and is the general who commands if there is war inside the country; two in command of the Piraeus, one for Munichia and one for Acte, who are responsible for guarding the equipment kept at the Piraeus; and one in charge of the symmories, who registers the trierarchs, conducts their challenges to exchange and introduces into court their adjudications. The other five are sent out on current business. (2) There is a vote of confidence in the generals each prytany, to decide whether they are performing their duties well. If a man is deposed, he is tried in the jury-court; and if he is convicted an assessment is made of what he should suffer or pay, while if he is acquitted he is reinstated in his office. When in command the generals have full power to arrest a disobedient man, to cashier and to impose a summary fine; but they do not normally impose fines. (3) Ten regimental commanders are elected, one from each tribe: each of these commands his tribal regiment and appoints the company com-

manders. (4) Two cavalry commanders are elected from the whole citizen body: these command the cavalry, taking five tribes each. They have the same powers as the generals have in respect of the hoplites; and they too are subject to a vote of confidence. (5) Ten squadron commanders are elected, one from each tribe, to command the cavalry as the regimental commanders command the hoplites. (6) Also a cavalry commander for Lemnos is elected, to take responsibility for the cavalry on Lemnos. (7) There is a treasurer elected for the *Paralus*, and a separate one for the ship named after Ammon.

#### R CONCLUDING NOTE ON OFFICIALS (Chapter 62)

*The Athenian Constitution's survey of officials ends with notes on the method of allotment used for appointments made by lot, on stipends paid to civilian officials and on repetition of office. The assembling of the material in this chapter is probably the author's own work: section 1 reflects a change in the law but is not couched in the language of the law; the stipends to be paid to officials will have been laid down by the laws, but it is unlikely that there was a single law which listed all the stipends to be paid.*

#### 62

(1) Formerly some of the officials appointed by lot were taken from the whole tribe, along with the nine archons, while others were distributed among the demes in accordance with an allotment made in the Theseum. However, since the demes used to sell their appointments, the second category also are now appointed by lot from the whole tribe, with the exception of the councillors and the guards, who are still assigned to the demes. (2) Stipends are paid first to the people, at the rate of one drachma for other assemblies, nine obols for the Principal Assembly. Next the jury-courts, three obols. Then the council, five obols; and the members of the prytany are given a further one obol for maintenance. The nine archons receive four obols each for maintenance, and support a herald and a piper. The governor of Salamis is given one drachma a day. The *athlothetae* dine in the town hall in the month Hecatombaeon, the month of



the Panathenaea, from the 4th onwards. The amphictyons sent to Delos receive one drachma a day from Delos. The officials sent to Samos, Scyros, Lemnos and Imbros receive money for maintenance. (3) A man may hold the military offices several times; but none of the others, except that he may serve in the council twice.

## S JURY-COURTS (Chapters 63–9)

*The final section of the Athenian Constitution deals with certain aspects of the working of the jury-courts: the complicated procedure by which jurors were assigned to particular courts on particular days (63–5), the assignment of magistrates to courts (66.1), the appointment of some of the jurors as courtroom officials (66.2–3), the timing of speeches (67), the size of juries in public suits (68.1: the size of juries in private suits has already been mentioned, in 53.3), the voting procedure (68.2–69.1), the provision for a second vote in suits requiring an assessment, and the payment of the jurors (69.2). This is far from being a complete account of the trial of the major lawsuits: our author concentrates on the elaborate organization which the Athenians had developed by the second half of the fourth century, giving a detailed account of an achievement in which they took some pride (as in chapter 53 he gave a detailed account of the forty-two year-classes).*

*Here as in the preceding chapters his account is presumably based on the body of laws which regulated the constitution; and it probably owes something to observation, since he could have witnessed most of the procedure which he describes even if he was a non-citizen or under thirty years old, and if he was a citizen over thirty he could have taken part in it. It is difficult to describe an elaborate procedure with which one is familiar in such a way that it will be readily understood by a reader who is not familiar with it, and the author has not always succeeded: sometimes he makes a statement that cannot be understood on the basis of the information already provided, and has to digress to add the further information which the reader needs; sometimes he fails to provide all the information which the reader needs; and the original text was not accompanied by the illustrations which accompany the notes to this translation.*

*From chapter 64 to the end the Greek text is incomplete and, where it survives, hard to read. For the most part the meaning is clear, if the actual words used to express it are not. The most difficult passage is 67.4–68.1: here the meaning is not certain; only two scholars have attempted to reconstruct a complete text; I translate the more recent reconstruction, by H. Hommel, and, to warn readers, print this passage in italics. At the end of chapter 69 the Greek text ends, with an elaborate flourish. It is an abrupt ending to the text; but the author was not always careful to mark the ends of sections (see pp. 29–30), and the payment of the jurors at the end of the day is a suitable topic with which to end the treatment of the jury-courts. There is no need to suppose that the conclusion of the Athenian Constitution, like the beginning, has been lost.*

## 63

- (1) The jury-courts are allotted by the nine archons according to tribes, the secretary to the *thesmothetae* acting for the tenth tribe. (2) There are ten entrances to the jury-courts, one for each tribe; twenty allotment-machines, two for each tribe; a hundred boxes, ten for each tribe; further boxes, in which the tickets of the men picked as jurors are placed; and two water-pots. Staves are placed by each entrance, as many in number as there are to be jurors; acorns are placed in the water-pot, the same number as the staves; and on the acorns are inscribed letters (beginning with the eleventh, *lambda*), as many in number as there are courts to be manned. (3) Jury service is open to men over thirty years old, as long as they are not in debt to the state or deprived of their civic rights. If anyone serves who is not entitled to do so, he is made the subject of an indication and is brought before the jury-court; if he is convicted the jurors assess what he deserves to suffer or pay; and, if the assessment is a money payment, the man must be placed under arrest until he has paid both the original debt which gave rise to the indication and the further sum assessed by the court. (4) Each juror has his boxwood ticket, inscribed with his name, his father's name and his deme, and with one of the letters up to *kappa*: the jurors are divided into ten sections within their tribes, approximately equal numbers to each letter. (5) When the *thesmothes* has drawn lots



for the letters which are to be assigned to the courts, the attendant takes them and fixes its allotted letter to each courtroom.

64

(1) The ten boxes inscribed with the letters up to *kappa* are placed in front of each tribe's entrance. The jurors drop their tickets into the box which bears the same letter as is on their ticket, and then the attendant shakes the boxes and the *thesmothetes* draws one ticket from each. (2) The man whose ticket is drawn is called the inserter, and he inserts the tickets from his box in the column on the allotment-machine which bears the same letter as the box: he is drawn by lot so that the inserting shall not always be done by the same man and provide scope for dishonesty. There are five columns on each of the machines. (3) The archon, when he has inserted the cubes, draws lots on the machine for the tribe. There are bronze cubes, some black and some white: according to the number of jurors to be picked, white cubes are inserted to such a number that there shall be one cube for five tickets; and the black are added on the same principle. When the archon draws out the cubes, the herald calls the men who have thereby been picked. The inserter is included in the number of men picked as jurors. (4) The juror responds to the call, draws an acorn from the water-pot, and displays it with the letter upwards, showing it first to the archon in charge. On seeing it, the archon places the juror's ticket in the box which bears the same letter as the acorn, so that the juror shall go to the court to which he has been assigned by lot and not to whichever court he wishes, and no one shall be able to assemble men of his own choice in a court. (5) Beside the archon stand as many boxes as there are courts to be filled, each bearing the letter which has been allotted to one of the courts.

65

(1) The juror shows his acorn again to the attendant, and then goes inside the barrier. The attendant gives him a staff of the same colour as the court which bears the letter on his acorn, so that he is obliged to go into the court to which he has been assigned: for if he goes

into another he is exposed by the colour of his staff. (2) Each of the courtrooms has a colour painted on the lintel of the entrance. The juror takes his staff and proceeds to the court which is of the same colour as his staff and has the same letter as is on his acorn. When he goes in, he is given an official token by the man who has been appointed by lot to that office. (3) After entering in this way the jurors retain their acorn and staff and take their seats in the court. The inserters give back the tickets of the men who have been rejected in the allotment. (4) The public attendants from each tribe bring the boxes, one to each court, containing the tickets which bear the names of the men from that tribe who are serving in each court. They hand over the boxes to the men, five in number, appointed by lot to return the tickets to the jurors in each court, to enable them to use the tickets to call up the jurors and pay them their stipend.

66

(1) When all the courts have been filled, there are placed in the first court two allotment-machines, bronze cubes on which are painted the colours of the courts, and further cubes on which are inscribed the names of the presiding officials. Two of the *thesmothetae* picked by lot drop in the cubes: one drops the cubes with the colours into one machine, and the other drops the cubes with the officials' names into the other. Whichever official is drawn first, the herald announces that he is to have the court which is drawn first, and the second official is to have the second court, and so on, so that no one shall know in advance which of the courts he is to have but each shall have the one allotted to him. (2) When the jurors have gone in and have been distributed among all the courts, the official presiding in each court draws one ticket from each box, so as to obtain ten, one from each tribe. He drops these tickets into another empty box, and draws out five of them, one for the water-clock and four others for the ballots, so that no one shall arrange who is to be in charge of the water or the ballots and there shall be no dishonesty in these matters. (3) The five who are not drawn take charge of the instructions which specify how the jurors are to receive their stipend and where each tribe is to stand when they have given their verdict: the

intention is that the jurors shall be separated and receive their pay in small groups, rather than many men being enclosed in the same space and getting in one another's way.

## 67

(1) After these arrangements have been made, the trials are called: when private matters are being decided, private suits are called, four in number, one from each of the categories prescribed by law (and the opposing litigants swear to keep to the point at issue); when public matters are being decided, public suits, and each court tries one suit only. (2) There are water-clocks with tubes as outlets: water is poured into these, and speeches in trials must keep to the time thus measured. There is an allowance of ten measures in suits for more than 5,000 drachmae, and three measures for the second speech; seven measures and two measures respectively for suits up to 5,000 drachmae; five measures and two measures for suits up to 2,000 drachmae; six measures for adjudications, when there is no second speech. (3) The man appointed by lot to take charge of the water-clock closes the tube whenever the secretary is about to read out a law or testimony or the like. However, when a trial is being timed by the measured-out day, he does not stop the tube for the secretary, but there is simply an equal allowance of water for the plaintiff and for the defendant. (4) *This day is measured out according to the length of days in Posideon, since this allowance can be applied to the days of the other months. Eleven jars are used, and are distributed in fixed proportions: the juror in charge of the clock sets aside three jars for the voting, and the opposing litigants take equal shares of the remainder. Previously plaintiffs used to be eager to compress the defence into a very small share of the time, so that the defendants had to make do with whatever water was left; but now there are two separate containers, one for the plaintiffs and one for the defendants.* (5) *In earlier times the juror in charge used to take out some of the water as an allowance for the second vote. The full measure of the day is used for those public suits where there is an additional penalty of imprisonment, death, exile, loss of civic rights or confiscation of property, or an assessment has to be made of what the offender should suffer or pay.*

## 68

(1) *Juries for public suits consist of five hundred and one men, and these try the lesser suits; when a court of a thousand is needed for the greater suits, two panels are combined in the heliaea; for the greatest suits, three panels are combined to make fifteen hundred.* (2) There are bronze ballots, with an axle through the middle, half of them hollow and half solid. When the speeches have been made, the men appointed by lot to take charge of the ballots give each juror two ballots, one hollow and one solid, in full view of the litigants so that no one shall take two solid or two hollow. Then the man appointed by lot for this task takes the staves, in exchange for which each juror when he votes is given a bronze token with the three-obol design (when he gives this up he is paid three obols). The purpose of this is that all shall vote: no one can be given a token unless he casts his vote. (3) There are two jars in the court, one of bronze and one of wood, capable of being dismantled so that no one may secretly insert ballots. The jurors cast their votes in these: the bronze jar counts and the wooden does not; the bronze one has a pierced attachment through which only one ballot can pass, so that one man cannot cast two votes. (4) When the jurors are ready to vote, the herald first makes a proclamation, to ask whether the litigants object to the testimonies; objections are not allowed once the voting has begun. Then he makes another proclamation: 'The hollow ballot is for the litigant who spoke first, the solid for the one who spoke afterwards.' The juror takes his ballots together from the stand, gripping the axle of the ballot and not showing the contestants which is the hollow and which is the solid, and drops the one that is to count into the bronze jar and the one that is not into the wooden.

## 69

(1) When all the jurors have voted, the attendants take the jar that is to count, and empty it on to a board which has as many holes as there are ballots, so that the votes that matter may be laid out for easy counting, both the hollow and the solid. The men in charge of the ballots count them on the board, the solid and the hollow

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separately; and the herald proclaims the numbers of the votes, the hollow for the plaintiff and the solid for the defendant. Whoever has the greater number wins; if they are equal the defendant wins. (2) Then the assessment is made if one is needed. The vote is taken in the same way; the jurors give back their three-obol token and take back their staff; for speeches on the assessment each litigant has a half measure of water. When the jurors have completed the trials prescribed by the laws, they receive their stipend, each in the division to which he is assigned by lot.