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# The Council

## SUMMARY

The Council of 500 (ἡ βουλή οἱ πεντακόσιοι) represented the full-time government of Athens. It consisted of 500 citizens, 50 from each of the ten tribes, who served for one year. The Council could issue decrees on its own regarding certain matters, but its main function was to prepare the agenda for meetings of the Assembly. The Council would meet to discuss and vote on “Preliminary decrees” (προβουλεύματα), and any of these that passed the Council’s vote went on for discussion and voting in the Assembly.

## GENERAL PRINCIPLES

The Athenian democracy rested on three institutions: the courts (the People’s Court and the Council of the Areopagus), the Assembly, and the Council (βουλή) (Dem. 20.100). At Athens, the Council was formally called the Council of the 500 (ἡ βουλή οἱ πεντακόσιοι), to distinguish it from

the Council of the Areopagus (see, for example, Dem. 19.179; *SEG* 19 133).

Each member of the Council (βουλή) was a Councilor (βουλευτής, in the plural, βουλευται) (see for example Aeschin. 1.104; Andocides 2.14).

Aristotle lists service the council among those offices chosen by lot (αἱ κληρωτὰ ἄρχαί) (Aristot. *Ath. Pol.* 62.1). He elsewhere says that in a democratic *polis*, the Council was the most important board of magistrates (Aristot. *Pol.* 1322b).

Through most of the 5th and 4th centuries BCE, citizens were paid for their participation in the Council (Aristot. *Ath. Pol.* 62.2), and each citizen could serve on the Council twice in his lifetime (Aristot. *Ath. Pol.* 62.3).

Although participation in the Council was paid, and considered an “office” (ἀρχή), it also seems to have been considered an unexceptional part of a citizen’s life, rather than a part of a political career. In Plato’s *Apology of Socrates* (an account, perhaps largely fictional, of the speech Socrates gave when on trial for impiety), Socrates says that he served on the council (Plat. *Apol.* 32a–b), but also says that he never participated in politics (Plat. *Apol.* 31c–d). So, in Plato’s account, it seems that service on the Council did not indicate political ambition, or even any special interest in politics.

## ELIGIBILITY AND SELECTION

The 500 members of the Council, each one called a βουλευτής, or “Councilor,” were chosen by lot; each of the ten tribes (φυλαί) of Athens contributed 50 Councilors (Aristot. *Ath. Pol.* 43.2).

A citizen had to be 30 years old to serve on the Council (Xen. *Mem.* 1.2.35), an age-limit that may have dated back to the time of Draco (the semi-mythological first lawgiver of Athens) (Aristot. *Ath. Pol.* 4.3). Some Athenians certainly seem to have thought that this age was the traditional limit for service as a Councilor – or thought that making such a claim would sound reasonable – since during the oligarchic coup of 411 BCE, when the democracy was temporarily overthrown, the first act of the oligarchic revolutionaries was to “set up a Council of 400, according to the ways of the ancestors” (βουλεύειν μὲν τετρακοσίους κατὰ τὰ πάτρια) (Aristot. *Ath. Pol.* 31.1; source for date: *OCD*<sup>3</sup>), the oligarchic Council was limited to men over thirty years old (Aristot. *Ath. Pol.* 30.2; Aristot. *Ath. Pol.* 31.1).

Citizens probably had to volunteer to serve on the Council, rather than be appointed or drafted into service; in a speech by Lysias, the speaker says, “What I say is that only those have the right to sit in Council on our concerns who, besides holding the citizenship, have their hearts set upon it” (ἐγὼ γὰρ οὐκ ἄλλους τινὰς φημι δίκαιον εἶναι βουλεύειν περὶ ἡμῶν, ἢ τοὺς πρὸς τῷ εἶναι πολίτας καὶ ἐπιθυμοῦντας τούτου) (Lys. 31.5; see also Lys. 31.32–33; Isoc. 15.149).

Selection by lot (κλήρωσις) involved bronze tablets (χαλκοῦς) (Dem. 39.10). It is not clear whether all 500 Councilors were chosen at once, in a central location, or whether they were chosen in the various demes. Demosthenes refers to “the city selecting [Councilors – *κωβ*] by lot” (ἡ πόλις κληροῖ) (Dem. 39.10), which would suggest a centrally managed process. But Aristotle says this:

“The officials elected by lot were formerly those elected from the whole tribe together with the Nine Archons and those now elected in the Temple of Theseus who used to be divided among the demes; but since the demes began to sell their offices, the latter also are elected by lot from the whole tribe, excepting members of the Council and Guards; these they entrust to the demes” (Aristot. *Ath. Pol.* 62.1).

This might mean that selection for the Council took place in the individual demes. It is more likely to mean that selection took place centrally, in the Theseum, the Temple of Theseus, and that the 500 places on the Council were divided up not only into 50 for each of the ten tribes, but further within each tribe, so that each deme had a certain number of Councilors on the Council.

The “Thesmothetae” conducted the selection in the Theseum (Aeschin. 3.13); “thesmothete” (θεςμοθέτης) was the name given to six of the Nine Archons, with the other three being the “Archon” (ἄρχων), the “King Archon”

(βασιλεύς), and the “Warlord” (πολέμαρχος) (Aristot. *Ath. Pol.* 55.1).

Unlike other political offices in the Athenian democracy, a citizen was not limited to one term of service on the Council, but could serve twice (Aristot. *Ath. Pol.* 62.3).

We also hear of substitute Councilors, chosen in addition to the 500 Councilors. Aeschines says, speaking against Demosthenes: “Now Demosthenes came in as Councilor, not drawn by the lot either as a member of the senate or as a substitute, but through intrigue and bribery” (ἐνταῦθ’ εἰσέρχεται βουλευτῆς Δημοσθένης, οὔτε λαχὼν οὔτ’ ἐπιλαχὼν, ἀλλ’ ἐκ παρασκευῆς πριάμενος) (Aeschin. 3.62). A fragment from a comic play by the comic poet Plato (not Plato the philosopher), suggests that each Councilor chosen by lot (λαχὼν) had a corresponding substitute (ἐπιλαχὼν) assigned to replace him if he proved ineligible for the office:

Speaker A: “...you are lucky, Master.”

Speaker B: “How?”

Speaker A: “You were almost chosen to be a Councilor, but although you were not chosen, nevertheless you were chosen, if you get my meaning.”

Speaker B: “How can I get your meaning?”

Speaker A: “I mean that you were chosen as a substitute for an evil man, a foreigner, who is not even yet a free man.”

Speaker B: “Get out of here! Indeed, I will explain it to you, the audience: I was chosen as a substitute Councilor for Hyperbolus.”

A: ...εὐτυχεῖς, ὦ δέσποτα.

B: τί δ' ἔστι; A: βουλευεῖν ὀλίγου ἴλαχος πάνυ.

ἀτὰρ οὐ λαχὼν ὅμως ἔλαχος, ἦν νοῦν ἔχης.

B: πῶς ἦν ἔχω νοῦν; A: ὅτι πονηρῶ καὶ ξένῳ ἐπέλαχος ἀνδρί, οὐδέπω γὰρ ἐλευθέρῳ.

B: ἄπερρ' ἐγὼ δ' ὑμῖν τὸ πρᾶγμα δὴ φράσω.

Ἵπερβόλῳ βουλῆς γάρ, ἀνδρες, ἐπέλαχον.

(Plato Comicus, *Hyperbolos*, fragments 166–167)

In this fragmentary excerpt from a comic play, an Athenian citizen seems to be having a conversation with his slave (who calls him “master”). According to the slave, the citizen has not been chosen by lot to serve on the Council, but will nevertheless get to serve. The citizen is slow to catch on, but eventually realizes the slave’s meaning: because the citizen has been “chosen as a substitute Councilor” (βουλῆς ἐπέλαχον) for Hyperbolus, he will almost certainly get to serve on the Council after all, because Hyperbolus is such an evil man that he will inevitably get expelled. This passage is obviously a joke at the expense of Hyperbolus, but it probably reflects a reality of the Council: not only were substitute Councilors (ἐπιλαχόντες) chosen, but each one was chosen as a substitute for a specific Councilor. If a Councilor chosen by lot should be expelled

from the body, then the ἐπιλαχών chosen for him would take his seat.

#### SCRUTINY OF COUNCILORS

Before taking their seats on the Council, newly selected Councilors had to undergo “scrutiny” (δοκιμασία), an audit of their fitness to serve (Aristot. *Ath. Pol.* 45.3).

Lysias makes the claim that the “law of scrutiny” was primarily intended to deny political office to men who had participated in one of the short-lived oligarchic coups of the 5th century BCE, or the Tyranny of the Thirty (these events are discussed below) (Lys. 26.9–10). But scrutiny was a broadly important institution in the Athenian democracy, and Lysias’ statement is probably too narrow to reflect strictly historical reality.

The Nine Archons underwent scrutiny before taking office (Aristot. *Ath. Pol.* 55.2), as did the ten generals (Lys. 15.1–2), and priests, advocates, heralds, and ambassadors (Aeschin. 1.19–20). In fact, according to Aeschines, any citizen could call upon any other citizen to undergo scrutiny at any time, to determine whether he deserved the privilege of speaking before the Assembly (Aeschin. 1.32). Furthermore, every young Athenian man underwent a scrutiny before the members of his deme before he was enrolled in the list of citizens (Dem. 44.41; Lys. 26.21).

The scrutiny of newly selected Councilors was managed by the Thesmothetae, the lower six of the nine archons (Aristot. *Ath. Pol.* 59.4), but it was the outgoing Council

that decided whether each of the 500 new Councilors was eligible to take office (Aristot. *Ath. Pol.* 45.3). During this process, other citizens were invited to give testimony, under oath, before the Council (Lys. 31.1–2). Given the large number of Councilors who had to be scrutinized each year, it would be surprising if each candidate were given lengthy consideration, and in fact, a passage from Lysias admits that the scrutiny of a potential Councilor – who was one of 500 men serving for only one year – was usually less strict than scrutiny of a candidate for the Areopagus, who would hold that office for life (Lys. 26.11–12).

This scrutiny took into account almost every aspect of a citizen's life, public and private, and we can learn much about the values of the Athenian democracy from the questions asked during a scrutiny, and grounds for which a candidate could fail his scrutiny.

According to Aristotle, a candidate for the Council was asked, “Who is your father and to what deme does he belong, and who is your father's father, and who is your mother, and who is her father and what is his deme? Then whether he has a Family Apollo and Homestead Zeus, and where these shrines are; then whether he has family tombs and where they are; then whether he treats his parents well, and whether he pays his taxes, and whether he has done his military service” (Aristot. *Ath. Pol.* 55.3–4). According to Xenophon, they were also asked if they honored their family graves (Xen. *Mem.* 2.2.13).



After the candidate was asked the standard questions, the floor was open for any interested citizen to bring accusations against the candidate, and if anyone did so, the candidate could speak in his own defense (Aristot. *Ath. Pol.* 55.4).

In Aeschines' speech against Timarchus, in which the orator accuses Timarchus of having been a prostitute, he gives a long list of crimes and misdeeds that, according to the Law of Scrutiny of Public Speakers (δοκιμασία ῥητόρων), would make a man ineligible to address the Assembly; we can probably assume that the same offenses that would cause a citizen to lose that right would also cause him to lose the right to serve on the Council. Those ineligible to address the Assembly include, according to the orator, anyone "living a shameful life" (αἰσχρῶς βεβιωκότας), anyone who beats his father or mother or who has failed to support and provide a home for them, anyone failing to perform military service or who has thrown away his shield in battle, anyone who has prostituted himself, and anyone who has squandered his inheritance (Aeschin. 1.28–30).

By the early 4th century, the Athenian democracy, barely one hundred years old, had experienced a period in which an oligarchy had taken power away from the People, and another period under the tyranny of the Thirty Tyrants (these events are discussed in the article on the history of the Council). It is not surprising, then, that in the time of Lysias – who lived from around 445 BCE until around

380 BCE – candidates for the Council were scrutinized for any sign that they had supported these anti-democratic governments (source for date: Perseus Encyclopedia, s.v. “Lysias”). Lysias even claims that this was the main purpose of scrutiny: “Reflect also on the fact that the author of the law concerning scrutinies had chiefly in view the magistrates of the oligarchy; for he thought it monstrous that the men responsible for the overthrow of the democracy should regain office under that very constitution, and get control over the laws and over the city of which they had formerly taken charge only to maim her with such shameful and terrible injuries” (Lys. 26.9). The orator continues to note, specifically, that if candidate were found to have served in the cavalry during the Tyranny of the Thirty, “you would reject him even without an accuser” (Lys. 26.10). In a speech that Lysias wrote against an Athenian named Philon, the speaker urges the Council to reject the man, not because he actively supported the Tyranny, but merely because he failed to oppose it actively (Lys. 31.12–14).

Elsewhere in that same speech, we find the assertion that “only those have the right to sit in Council on our concerns who, besides holding the citizenship, have their hearts set upon it” (Lys. 31.5). It is possible that a candidate could fail his scrutiny merely for showing too little enthusiasm for the office, but this passage is probably nothing more than a rhetorical statement intended to show that the speaker holds Athens’ democratic institutions in the highest regard.

After the candidate answered the questions, and any accusers had come forward, the Council voted by show of hands (ἐπιχειροτονία) (Aristot. *Ath. Pol.* 55.4). According to Aristotle, originally the vote of the Council was the last word in a scrutiny, but in his time (the middle of the 4th century BCE) “there is an appeal to the Jury-court, and with this rests the final decision as to qualification” (Aristot. *Ath. Pol.* 55.2).

A passage from a speech by Lysias confirms that a candidate who was rejected by the Council could appeal to a jury, while noting that this appeal could take time, and might result in the year beginning without a full body of magistrates in office (Lys. 26.6).

In addition to the evidence suggesting that Councilors would be rejected for various offenses, including having served in the cavalry during the rule of the Thirty Tyrants, there is evidence that these rules were not hard and fast. In the speech Lysias wrote for Mantitheus, who was defending himself in a scrutiny, he suggests that the Council, or a jury hearing an appeal, could take into account mitigating circumstances: “Besides, gentlemen if I had served [in the cavalry under the Thirty Tyrants – cwb], I should not deny it as though I had done something monstrous: I should merely claim, after showing that no citizen had suffered injury by my act, to pass the scrutiny. And I see that you also take this view, and that many of those who served then in the cavalry are on the Council, while many others have been elected generals and brigadiers” (Lys. 16.8).

The speaker is suggesting that men who were technically ineligible for service on the Council could be, and were, approved if they could show that they had not harmed anyone.

In the speech against Philon, Lysias suggests that crimes in a candidate's past could be balanced by subsequent service to the Athenian democracy. Here he asks his audience to reject Philon's candidacy, because of the man's past crimes, until he has done good deeds sufficient to redeem himself: "What inducement, then, could you have for approving this man? Because he has committed no offence? But he is guilty of the gravest crimes against his country. Or do you think he will reform? Then, I say, let him reform first in his bearing towards the city, and claim a seat on the Council later, when he has done her a service as signal as the wrong that he did her before" (Lys. 31.24).

After the scrutiny was completed, those who had passed were ceremonially sworn into service as Councilors for the year: "And when the matter has been checked in this way, they go to the stone on which are the victims cut up for sacrifice (the one on which Arbitrators also take oath before they issue their decisions, and persons summoned as witnesses swear that they have no evidence to give), and mounting on this stone they swear that they will govern justly and according to the laws, and will not take presents on account of their office, and that if they should take anything they will set up a golden statue. After taking oath they go from the stone to the Acropolis and take the same

oath again there, and after that they enter on their office” (Aristot. *Ath. Pol.* 55.5).

#### THE BOULEUTIC OATH

Upon passing their scrutiny (δοκιμασία), the new Councilors swore the so-called “Bouleutic Oath.” According to Aristotle, this practice dated back to the eighth year after Cleisthenes established the democracy, or 501/500 BCE (Aristot. *Ath. Pol.* 22.2; source for date, Rhodes, *Commentary on the Aristotelian Athenaiion Politeia* [Oxford, 1993] 262).

There is no single literary text or inscription that records the oath that the Councilors (βουλευῆται) swore, but we can reconstruct it from scattered comments and references in different texts and inscriptions. It is important to remember, however, that these sources are from different dates, some from the 5th century (Lysias), some from the early 4th century (Xenophon), and some from the later 4th century BCE (Demosthenes). It is unlikely that the oath remained the same in wording and content over the course of 200 years. Nevertheless, the evidence we have does give us a picture of how the Athenians both empowered, and limited the power of, the Council.

The Councilors swore “to advise according to the laws” (κατὰ τοὺς νόμους βουλεύσειν) (Xen. *Mem.* 1.1.18). According to two passages from Lysias, they swore “to advise what was best for the city” (τὰ βέλτιστα βουλεύσειν τῇ πόλει) (Lys. 31.2; Lys. 30.10). Demosthenes mentions Coun-

cilors swearing to advise “what was best for the People” (τὰ βέλτιστα βουλευσιν τῷ δήμῳ Ἀθηαίων) (Dem. 59.4).

According to Demosthenes, the Councilors included this clause in their oath: “Nor will I imprison any Athenian citizen who provides three people to guarantee his debt, guarantors who are in the same tax-bracket, except anyone found guilty of conspiring to betray the city or to subvert the democracy, or anyone who has contracted to collect taxes, or his guarantor, or his collector who is in default” (οὐδὲ δῆσω Ἀθηναίων οὐδένα, ὃς ἂν ἐγγυητὰς τρεῖς καθιστῆ τὸ αὐτὸ τέλος τελοῦντας, πλὴν ἔάν τις ἐπὶ προδοσίᾳ τῆς πόλεως ἢ ἐπὶ καταλύσει τοῦ δήμου συνιῶν ἀλῶ, ἢ τέλος πριάμενος ἢ ἐγγυησάμενος ἢ ἐκλέγων μὴ καταβάλῃ) (Dem. 24.144). This clause would prevent a creditor from having an Athenian citizen arrested for debt, assuming that the citizen could provide three other citizens who would co-sign his debt; the exceptions are traitors, and “tax-farmers,” that is, men who had paid for the privilege of collecting taxes on behalf of the Athenian government. A few sentences later in the same speech, Demosthenes claims that Solon, the law-giver of the 6th century BCE, was responsible for this provision (Dem. 24.148).

A passage from a speech attributed to Andocides claims that the “oath of the People and the Council” (τῷ ὄρκῳ τοῦ δήμου καὶ τῆς βουλῆς) included a promise “not to exile, nor imprison, nor execute anyone without a trial” (μηδένα μήτε ἐξελαῖν μήτε δήσειν μήτε ἀποκτενεῖν ἄκριτον) (Andoc. 4.3).

According to Lysias, Councilors swore an oath, “to let it be known if he knows of anyone who has been selected by lot but is not fit to serve on the Council” (ἀποφανεῖν εἴ τις τινα οἶδε τῶν λαχόντων ἀνεπιτήδειον ὄντα βουλευεῖν) (Lys. 31.2), and “to crown a man as worthy of public office only after scrutinizing him” (δοκιμάσαντες τὸν ἄξιον τῆς ἀρχῆς στεφανώσειν) (Lys. 26.8).

A fragmentary quotation from the ancient historian Philochorus adds to our list of clauses in the Bouleutic Oath: “And the Council at that time began for the first time to sit according to letters; and even now they swear to sit in the letter to which they have been randomly assigned” (καὶ ἡ βουλή κατὰ γράμμα τότε πρῶτον ἐκαθέζετο· καὶ ἔτι νῦν ὀμνῦσιν ἀπ’ ἐκείνου καθεδεῖσθαι ἐν τῷ γράμματι ᾧ ἂν λάχωσιν) (Philoch. 328 F 140; quoted in a scholion, or marginal note, to Aristoph. *Pl.* 972). This “sitting by letters” seems to mean that Councilors were assigned seats for their meetings, and they swore to sit only in their assigned seats. This might have been intended to prevent factions from forming within the Council, as might happen if all of the Councilors from one deme sat together when the whole body met.

An inscription from 448 BCE records an addition to the Bouleutic Oath. The added clause commits the Council to ensuring that only Athenian money be used in the cities that pay tribute to Athens. The text of the inscription has had to be restored by modern scholars (as with virtually all inscriptions), but it has been reconstructed to read:

“And the secretary of the Council is to add a clause to the Oath of the Council, to this effect: Should anyone mint coins of silver in the cities and not use Athenian coins, standard weights, or standard measures, but uses foreign coins, weights, and measures, we will punish him and fine him according to the earlier decree that Clearchus sponsored” (προσγράψαι δὲ πρὸς τὸν ὄρκον τὸν τῆς βολῆς τὸν γραμματέα τὸν τῆς βολῆς ταδί· ἐάν τις κόπτῃ νόμισμα ἀργυρίο ἐν τῆσι πόλεσι καὶ μὴ χρῆται νομίσμασι τοῖς Ἀθηναίων ἢ σταθμοῖς ἢ μέτροις ἀλλὰ ξενικοῖς νομίσμασιν καὶ μέτροις καὶ στάθμοις, τιμωρήσομαι καὶ ζημιώσω κατὰ τὸ πρότερον ψήφισμα ὃ Κλέαρχος εἶπεν) (IG I<sup>3</sup> 1453; source for date: P.J. Rhodes, *The Athenian Boule* [Oxford, 1972] 194).

A speech by Demosthenes quotes portions of a different oath, the one sworn by jurors in the People’s Court. These jurors swore, among other things, that “I am not less than thirty years old” (γέγονα οὐκ ἔλαττον ἢ τριάκοντα ἔτη) (Dem. 24.151). Since Xenophon tells us that Councilors also had to be at least thirty years old (Xen. *Mem.* 1.2.35), it is possible that Councilors likewise swore that they met the age requirement. On the other hand, as P.J. Rhodes has pointed out, such an oath might not have been necessary once each candidate for the Council had undergone scrutiny (see P.J. Rhodes, *The Athenian Boule* [Oxford, 1972] 195).



## “PRESIDENTS” AND “CHAIRMAN”

Five hundred Councilors served on the βουλή for the year, but practical concerns required that they be divided into smaller groups. Accordingly, the legislative year was divided into ten parts, each called a “prytany” (πρυτανεία); for each prytany, the fifty Councilors (βουλευῆται) from one of the ten tribes (φυλαί) served as “presidents,” or prytanes (πρυτάνεις, in the singular, πρύτανις) (Aristot. *Ath. Pol.* 43.2–3; the inscription Agora 15.38 contains a list of tribes and when they held the prytany). The first four prytanies were 36 days long, the last six were 35 days long, “for the year is divided into lunar months” (Aristot. *Ath. Pol.* 43.2).

The order in which the Councilors from each tribe served as presidents was random, determined by lot (Aristot. *Ath. Pol.* 43.2). The random determination seems to have taken place at the end of each prytany (rather than all at once at the beginning of the year), so no one could predict which tribe would serve next. An inscription makes reference to “the presidents, whichever ones might hold that position after the tribe of Oineis” (τοὺς πρυτάνεις οἱ ἂν τυγχάνωσι πρυτανεύοντες μετὰ τὴν Οἰνηΐδα φυλὴν) (*IG II<sup>2</sup>* 553.16–17). When the decree was written, the Councilors from the tribe of Oineis were serving as prytanes, or presidents; the decree needed to refer to the next group of presidents, but that group was clearly not known. So, we can infer from this that the selection must have happened toward the end of a prytany. Obviously, during the ninth prytany of the

year, it would be obvious that whichever tribe had not yet served would hold the presidency for the final prytany.

This elaborate randomization of the presidency was probably intended to limit possibilities for corruption. No one could plan to introduce business to the Council when a particular tribe held the presidency, and no Councilor could know in advance when he would serve as a president.

The presidents ate their meals together in the Tholos, the “Round House.” They planned and organized meetings of the Council and posted an agenda for each meeting beforehand (Aristot. *Ath. Pol.* 43.3; meetings of the Council are discussed below).

Aristotle tells us that “There is a chairman of the presidents, one man, chosen by lot; this man chairs for a night and a day – no longer – and cannot become chairman a second time” (ἔστι δ’ ἐπιστάτης τῶν πρυτάνεων εἷς ὁ λαχών. οὗτος δ’ ἐπιστατεῖ νύκτα καὶ ἡμέραν, καὶ οὐκ ἔστιν οὔτε πλείω χρόνον οὔτε δις τὸν αὐτὸν γενέσθαι) (Aristot. *Ath. Pol.* 44.1). This chairman kept the keys to the treasuries and archives of Athens, as well as the state seal (τὴν δημοσίαν σφραγίδα) (Aristot. *Ath. Pol.* 44.1).

In addition to a daily meeting of all the presidents, the chairman and one third of the presidents were required to be on hand in the Tholos constantly (Aristot. *Ath. Pol.* 44.1); presumably only the chairman was on duty for a full 24 hours, and the other presidents could divide the day into 8 hour shifts. These men, on-call in the Tholos,

represented the whole government of Athens in a time of crisis, at least until the full Council or Assembly could be convened. Heralds and envoys from other states came to the presidents in the Tholos first, as did messenger bearing official letters (Aristot. *Ath. Pol.* 43.6).

Demosthenes describes a dramatic scene, that shows clearly the function of the presidents and the chairman. In 339 BCE, Philip of Macedon marched his army south and captured the city of Elatea, thus threatening Thebes and the Thebans' southern neighbor, Athens (source for date: Raphael Sealey, *Demosthenes and his Time: a study in defeat* [Oxford, 1993] 195). Demosthenes describes what happened when news of this threat came to Athens:

“Evening had already fallen when a messenger arrived bringing to the presiding councillors (πρυτάνεις) the news that Elatea had been taken. They were sitting at supper, but they instantly rose from table, cleared the booths in the marketplace of their occupants, and unfolded the hurdles, while others summoned the commanders and ordered the attendance of the trumpeter. The commotion spread through the whole city. At daybreak on the next day the presidents summoned the Council to the Council House, and the citizens flocked to the place of assembly. Before the Council could introduce the business and prepare the agenda, the whole body of citizens had taken their places on the hill. The Council arrived; the presiding Councilors formally reported the intelli-

gence they had received; and the courier was introduced” (Dem.18.169–170).

So, in a crisis, the safety of Athens lay first in the hands of the presidents and the chairman. It is worth noting that because there were 354 days in the legislative year (Aristot. *Ath. Pol.* 43.2), more than two thirds of all Councilors would serve as chairman for a night and a day in a given year.

There are further implications, if we accept the estimate of two scholars that in 400 BCE there were approximately 22,000 adult male citizens – it is beyond the scope of this article to give evidence and justification for this, but the arguments are presented in Victor Ehrenberg, *The Greek State*, 2nd English Edition (Methuen, 1969) 31, whose estimate is 20,000–25,000, and in A.W. Gomme, *The Population of Athens in the Fifth and Fourth Centuries B.C.* (Blackwell, 1933) 26, whose estimate is 22,000.

A citizen had to be 30 years old to serve as a Councilor (Xen. *Mem.* 1.2.35). For the sake of argument, we might assume that the average citizen would then have an active political life of 30 years, until he was 60. During that time, there would need to be approximately 10,000 chairmen, each controlling the state seal and the treasuries, and presiding over the presidents of the Council for a day and a night (Aristot. *Ath. Pol.* 44.1). Since no one could serve as chairman twice (Aristot. *Ath. Pol.* 44.1), this office would have to go to 10,000 different Athenians. It follows, then,

that approximately one half of all Athenian citizens would, at some point during their lives, have the privilege and responsibility of holding this office, arguably the closest equivalent to a Chief Executive in the Athenian democracy.

#### REWARDS FOR SERVICE

Service on the Council was a privilege, but also a responsibility, a responsibility often difficult for an Athenian citizen to fulfill. The territory of Attica was large, and any Councilor who lived outside of the city of Athens would have faced a long walk before and after every meeting. A passage from Demosthenes confirms what common sense would suggest: that there were always Councilors who were not active participants in the business of the Council, and who did not even attend all of the meetings. In this passage, Demosthenes is asking, rhetorically, whether every member of the Council will suffer if the Assembly fails to award the Councilors a crown in honor of their service. [the business of awarding crown to the Council is described below. – cwb] Demosthenes asks, “If the Council does not receive a crown, does the disgrace fall on the one who is silent, and proposes no decree, and perhaps does not even enter the Council House most of the time? Surely it does not.” (τῷ γάρ ἐστιν ὄνειδος, εἰ σιωπῶντος αὐτοῦ καὶ μηδὲν γράφοντος, ἴσως δ’ οὐδὲ τὰ πόλλ’ εἰς τὸ βουλευτήριον εἰσιόντος, μὴ λάβοι ἢ βουλή τὸν στέφανον; οὐδενὶ δῆπουθεν) (Dem. 22.36).

Demosthenes' rhetorical question would not have been particularly meaningful or effective if his audience did not know that at least some Councilors skipped meetings. So what incentives induced Councilors to attend? We have already seen that the Presidents (πρυτάνεις) – who had daily duty during their month of service – had their meals provided in the Tholos (Aristot. *Ath. Pol.* 43.3). It would make sense that they simply lived in the city of Athens during that month. In Plato's philosophical dialogue, the *Laws*, one of the characters is "the Athenian", and this character says that in a properly organized state the Councilors in general can live in the countryside during the year, but the Presidents of the Council should remain in Athens while they serve their term (Plat. *Laws* 758b–d). This work is not history, but philosophy, and the characters are discussing an ideal state, but it is quite possible that "the Athenian" here is describing actual practice in Athens.

Councilors were paid to attend meetings of the Council. In the 4th century BCE, each Councilor received 5 obols at each meeting of the Council (Aristot. *Ath. Pol.* 62.2), and the Presidents received an extra obol for their meals (Aristot. *Ath. Pol.* 62.2; Aristot. *Ath. Pol.* 43.3; see Thuc. 8.69.4 for evidence that the Councilors received some pay in the 5th century as well).

Councilors were exempt from military service during their year in office (Lyc. 1.37). They also got to wear a crown (στέφανος) to mark their status (Lyc. 1.122). A certain section of seat in the Theater of Dionysus was called

the Council Section (βουλευτικός), which suggests that Councilors enjoyed preferred seating (Aristoph. *Birds* 794; Suda beta,430).

At the end of the year, the Assembly could award the Council an honorary crown (στέφανος) (Aeschin. 1.112); this award is also referred to as an “honorarium” (δωρεά; see Aristot. *Ath. Pol.* 46.1).

It seems that the Council had to request that award, specifically from the Assembly, and put the request on the agenda for a meeting of the Assembly, as the end of the year approached. Aristotle tells us that, if the Council had not fulfilled its responsibilities toward the Athenian navy, it was not eligible to receive its honorarium (Aristot. *Ath. Pol.* 46.1). Demosthenes also mentions the “the law that specifically denies to the Council the right to request an honorarium if they have not built the warships” (τοῦ νόμου τοῦ διαρρήδην οὐκ ἐῶντος ἐξεῖναι μὴ ποιησαμένη τῇ βουλῇ τὰς τριήρεις αἰτῆσαι τὴν δωρεῖάν) (Dem. 22.8). This passage confirms what Aristotle says – that the honorarium was not automatic, but depended on the Council’s fulfilling its responsibilities. It also informs us that, even if the Council did fulfill its responsibilities, it did not have the right to an honorarium, but the right to request one (αἰτῆσαι τὴν δωρεῖάν).

Aeschines mentions one occasion on which the Assembly withheld the honorarium from the Council, due to the Council’s failure to punish two men suspected of

embezzling funds from the treasury of Athene (Aeschin. 1.110–113).

Individual Councilors could be honored for exceptional service as well. An inscription from the 4th century BCE lists the names of Athenians “whom the People judged to have served best as Councilors” (τούσδε ἐστεφάνωσεν ὁ δῆμος κρίνας ἄριστα βεβουλευκέναι) (IG II<sup>2</sup> 2797 A).

So, while we have seen evidence that not all Councilors took an active role, or even attended all the meetings, the Athenian democracy paid every Councilor for his daily service, afforded all Councilors certain privileges, could award the Council as a whole for having done good service, and could single out individual citizens whose service was exceptional.

#### TIMES AND PLACES OF MEETINGS

The Chairman (ἐπιστάτης) and one third of the Presidents (πρυτάνεις) of the Council were always on duty (Aristot. *Ath. Pol.* 44.1). These Presidents convened meetings of the council, “the Council, indeed, meeting every day, unless the day is exempt” (τὴν μὲν οὖν βουλὴν ὅσαι ἡμέραι, πλὴν ἐάν τις ἀφέσιμος ᾖ) (Aristot. *Ath. Pol.* 43.3).

We cannot examine all of the evidence regarding the Athenian calendar, to develop a full picture of what days during the year were “exempt” (ἀφέσιμος) from meetings of the Council – Jon D. Mikalson, *The Sacred and Civil Calendar of the Athenian Year* (Princeton, 1975) is the most complete presentation of that evidence. But we can see a



few examples of occasions on which the Council did not meet.

Demosthenes, for example, accuses a certain Timocrates of having taken unjust advantage of an “exempt” day: “The assembly at which your vote was taken fell on the eleventh of Hecatombaeon, and he introduced his law on the twelfth, the very next day, although it was a feast of Cronus and the Council therefore stood adjourned.” (ἀλλὰ τῆς ἐκκλησίας, ἐν ἣ τὸς νόμους ἐπεχειροτονήσατε, οὔσης ἐνδεκάτη τοῦ ἑκατομβαιῶνος μηνός, δωδεκάτη τὸν νόμον εἰσήνεγκεν, εὐθὺς τῆ ὑστεραία, καὶ ταῦτ’ ὄντων Κρονίων καὶ διὰ ταῦτ’ ἀφειμένης τῆς βουλῆς) (Dem. 24.26).

According to Demosthenes, Timocrates conspired with a certain Epicrates to have a decree passed in the Council; the text of the decree (ψήφισμα) is reported in Demosthenes’ speech as follows:

“During the first presidency, namely, that of the Tribe Pandionis, and on the eleventh day of that presidency, it was moved by Epicrates that, in order that the sacrifices may be offered, that provision may be adequate, and that any lack of funds for the Panathenian Festival may be made good, the Presidents of the Tribe Pandionis do tomorrow set up a Legislative Committee, and that such Legislative Committee do consist of one thousand and one citizens who have taken the oath, and that the Council co-operate therewith in legislative business.” (Dem. 24.27).

Since “tomorrow” was the feast of Cronus, a day on which the Council did not meet (Dem. 24.26), this decree

created a board of Nomothetae without the consent of the full Council (for the Nomothetae, see the article on Legislation).

Athenaeus mentions a decree that gives the Council a holiday for the festival of the Apaturia: “So that the Council might celebrate the Apaturia with the rest of the Athenians, according to the traditional ways, it has been decreed by the Council that the Councilors be dismissed for those days that the other offices have off, that is, five days starting from the day on which the Protenthae celebrate the opening feast of the Apaturia” (ὅπως ἂν ἡ βουλὴ ἄγῃ τὰ Ἀπατούρια μετὰ τῶν ἄλλων Ἀθηναίων κατὰ τὰ πάτρια, ἐψηφίσθαι τῇ βουλῇ ἀφείσθαι τοὺς βουλευτὰς τὰς ἡμέρας ἄσπερ καὶ αἱ ἄλλαι ἀρχαὶ αἱ ἀφεται ἀπὸ τῆς ἡμέρας ἧς οἱ προτένθαι ἄγουσι πέντε ἡμέρας) (Athen. 4.171e).

An exchange between two characters in Aristophanes’ comedy, the *Thesmophoriazousae*, suggests that the Council did not meet during the Thesmophoria: “Euripides: This day will decide whether it is all over with Euripides or not. Mnesilochus: But how? Neither the tribunals nor the Council are sitting, for it is the third day of the Thesmophoria.” (Εὐριπίδης· τῆδε θῆμέρα κριθήσεται εἴτ’ ἔστ’ ἔτι ζῶν εἴτ’ ἀπόλωλ’ Εὐριπίδης. Μνησίλοχος· καὶ πῶς; ἐπεὶ νῦν γ’ οὔτε τὰ δικαστήρια μέλλει δικάζειν οὔτε βουλῆς ἐσθ’ ἔδρα, ἐπεὶ τρίτη ἔστι Θεσμοφορίων ἡ μέση.) (Aristoph. *Thes.* 77–81).

And Plutarch’s biography of Alcibiades describes the festival of the Plynteria, saying that “the Athenians regard

this days as the unluckiest of all days for business of any sort” (ὄθεν ἐν ταῖς μάλιστα τῶν ἀποφράδων τὴν ἡμέραν ταύτην ἄπρακτον Ἀθηναῖοι νομίζουσιν) (Plut. *Alc.* 34.1).

So, without going into the complexities of the Athenian civic and religious calendar, we can get an idea of the occasions on which the Council would not meet.

In addition to regular meetings of the Council, called by the Presidents every day except for “exempt days”, the Council seems to have met after each meeting of the Assembly. An anecdote from Aeschines suggests this. At a meeting of the Assembly, a man named Pamphilus, of the deme Acherdous, accused two men, Hegesandrus and Timarchus, of embezzling one thousand drachmas from the treasury of Athene (Aeschin. 1.110). Pamphillus then suggested that the matter be placed in the hands of the Council, but that should the Council fail to deal with the two men, the Assembly should consider withholding the Council’s honorarium (δωρεά) at the end of their year of service (Aeschin. 1.111). The account continues, “After this, when the Council had returned to the Council House, they expelled him on the preliminary ballot, but took him back on the final vote” (Aeschin. 1.112). The matter-of-fact way in which Aeschines reports this post-Assembly meeting of the Council suggests that it was not an extraordinary event, but a regular one.

The Council could meet in various locations. Inscriptional evidence shows that the Council might meet near the naval docks in Piraeus, or by the harbor wall if it was

discussing naval matters (*IG I<sup>3</sup>* 61.53); *IG II<sup>2</sup>* 1629.248). Andocides says that he and Cephisius were summoned to appear before the Council in the Temple of Demeter at Eleusis, the Eleusinium, “as it was there that the Council was to sit in conformity with a law of Solon’s, which lays down that a sitting shall be held in the Eleusinium on the day after the Mysteries” (*Andoc.* 1.111). Xenophon mentions one occasion on which, “The Council of the Athenians happened to be meeting on the Acropolis” (τῶν δὲ Ἀθηναίων ἡ βουλὴ ἐτύγχανεν ἐν ἀκροπόλει καθημένη) (*Xen. Hell.* 6.4.20).

But normally the Council met in the Council House, the Bouleuterion (βουλευτήριον), in the Agora (*Dem.* 25.23; *Aristot. Ath. Pol.* 48.1; *IG II<sup>2</sup>* 330.30–31).

Inside the Council House the Councilors were seated on benches, with special benches for the Presidents (*Lys.* 13.37). There was a raised platform for speakers, the “bema” (βῆμα) (*Antiph.* 6.40). Antiphon also says that, “In that very Council House was a shrine to Zeus the Councilor [Zeus Boulaios – *σωβ*] and Athene the Councilor [Athene Boulaia – *σωβ*]” (ἐν αὐτῷ τῷ βουλευτηρίῳ Διὸς βουλαίου καὶ Ἀθηνᾶς βουλαίας ἱερόν ἐστι) (*Antiph.* 6.45).

There was also a hearth (ἑστία) sacred to Hestia of the Council, or Hestia Boulaia. We hear of Demosthenes affirming his praise for a returning embassy by swearing to this goddess in the Council House (*Aeschin.* 2.45). But the sacred hearth was more broadly useful. As an altar to a god, it provided protection to whomever stood on it.

Andocides describes one instance of this. The context is a speech related to a scandal in Athens in 415 BCE (source for date: *OCD* 3); a number of Athenians, the general Alcibiades most prominent among them, were accused of performing a parody of the Eleusynian Mysteries in a private residence (the scandal and subsequent legal actions are described at: Thuc. 6.28; Thuc. 6.53; Plut. *Alc.* 18.3). The scandal provoked a crisis so great that the Council was granted special authority to conduct the investigation – Andocides says, of the Council at this time, “it had full powers” (ἦν γὰρ αὐτοκράτωρ) (Andoc. 1.15). During the investigation, Andocides tells us, a certain Diocles gave to the Council a list of forty-two Athenians whom he had seen at this mock ceremony: “and at the head of the forty-two appeared Mantitheus and Apsephion who were members of the Council and present at that very meeting. Peisander hereupon rose and moved that the decree passed in the archonship of Scamandrius be suspended and all whose names were on the list sent to the torture wheel, to ensure the discovery of everyone concerned before nightfall. The Council broke into shouts of approval. At that Mantitheus and Apsephion took sanctuary on the hearth, and appealed to be allowed to furnish guarantees and stand trial, instead of being tortured. They finally managed to gain their request; but no sooner had they provided their guarantees than they leapt on horseback and deserted to the enemy” (Andoc. 1.43–44). These two members of the Council invoked the protection of Hestia, to prevent their fellow Councilors from forcing

them to submit to torture – the fact that the “all powerful” Council was willing to suspend the decree that prohibited torturing Athenian citizens shows how seriously they took this crisis. And the protection of Hestia worked, although Mantitheus and Apsephion did not live up to their promise to stand trial but fled the city.

The Hearth in the Council-chamber saved the life of the speaker in another speech by Andocides, during a turbulent meeting of the Council: “I saw the uproar into which the meeting was breaking, and knew that I was lost; so I sprang at once to the hearth and laid hold of the sacred emblems. That act, and that alone, was my salvation at the time; for although I stood disgraced in the eyes of the gods, they, it seems, had more pity on me than did men; when men were desirous of putting to death, it was the gods who saved my life” (Andoc. 2.15).

Xenophon records how, during the Tyranny of the Thirty, Theramenes tried to invoke this protection in the Council House. Critias, one of the Thirty Tyrants, had moved to strike Theramenes from the roll of those enjoying citizen rights under the tyranny; Theramenes stood on the hearth in the Council House and called on the Councilors to protect his rights. He invoked the sanctity of the hearth to highlight the impiety of the tyrants: “To be sure, I know that this hearth will not help me, but I want to show that these Thirty are not only unjust toward men, but I want to show that they are most impious toward the gods” (Xen. *Hell.* 2.3.53). As Theramenes predicted, the Thirty did

not honor Hestia's shrine, and Critias ordered that he be arrested: "When Critias had spoken these words, Satyrus dragged Theramenes away from the altar, and his servants lent their aid. And Theramenes, as was natural, called upon gods and men to witness what was going on. But the Councilors kept quiet..." (Xen. *Hell.* 2.3.55). Xenophon uses the tyrants' failure to honor the sanctity of the Hearth to illustrate the depravity of the tyranny. Thus, even this negative example of the role played by Hestia Boulaia shows us the importance of the goddess and her Hearth for the functioning of the democratic Council.

This anecdote shows both the impiety of the Thirty Tyrants and the extent to which they had cowed the Council into submission, but also illustrates an important function of the Hestia Boulaia.

#### AGENDA FOR MEETINGS

The Presidents were responsible for summoning the Council to meet (Dem. 18.169; *IG II<sup>2</sup>* 1629.247–251). They were also responsible for setting the agenda (τὸ πρόγραμμα) for the meeting (Aristot. *Ath. Pol.* 44.2).

In the early years of the Athenian democracy, the Presidents (πρυτάνεις) and their Chairman (ἐπιστάτης) presided over the conduct of Council meetings (Aristoph. *Kn.* 674; *IG II<sup>2</sup>* 50; *IG I<sup>3</sup>* 196). But in the 4th century, meetings were run by a different panel of officials. The Chairman would select by lot (κληροῖ) a board of nine Proedroi (προέδροι ἐννέα), one Councilor from each of the nine tribes of Ath-

ens (φυλαί), omitting the tribe whose Councilors were currently serving as Presidents (Aristot. *Ath. Pol.* 44.2). The Chairman would also select, from the nine Proedroi, one man to be Chairman of the Proedroi (ἐπιστάτης τῶν προέδρων), and would hand over the agenda to these men (Aristot. *Ath. Pol.* 44.2).

The agenda naturally varied greatly from meeting to meeting, but there were certainly regularly recurring items. For example, people owing money to the Athenian state, on certain kinds of contracts – taxes, mining leases, etc. (see Aristot. *Ath. Pol.* 47.1) – were supposed to make regular payments to the state, payable once in each Prytany (Aristot. *Ath. Pol.* 47.3). So, the agenda for the first two meetings of the Council in each prytany included, as an item of business, the report of the “ten Receivers” (ἀποδέκται δέκα), who would read their records of who had and had not made his payment (Aristot. *Ath. Pol.* 48.1–2).

Also, an inscription from the 4th century records a decree stipulating that once in each Prytany, the Council must meet to discuss what work was necessary to keep the harbor and walls in good repair, and how to pay for the work: “...the Council is to confer, on one meeting day during each Prytany, concerning wall-building” (τὴν δὲ βουλήν τὴν αἰεὶ βουλευούσαν ἐν μίαν ἡμέραν τῆς πρυτανείας ἐκάστης βουλῆς ἔδραν περὶ τῶν τειχοποικῶν) (*IG II<sup>2</sup> 244*).

Matters of foreign policy, which were not predictable, were often the subject of special meetings of the Council,



with only one issue on the agenda (see for example Dem. 19.185).

#### PROCEDURE FOR MEETINGS

The Presidents summoned the Council into session, then handed the conduct of the meeting over to the nine Proedroi, chosen at random (Aristot. *Ath. Pol.* 44.2). The Proedroi received the agenda (πρόγραμμα) from the Chairman, and as Aristotle says, “they, having received the agenda, ensure good order, put forward matters of business to be discussed, count the hands for any vote, manage all other things, and they are empowered to dismiss the meeting” (οἱ δὲ παραλαμβάνοντες τῆς τ’ εὐκοσμίας ἐπιμελοῦνται, καὶ ὑπὲρ ὧν δεῖ χρηματίζειν προτιθέασιν, καὶ τὰς χειροτονίας κρίνουσιν, καὶ τὰ ἄλλα πάντα διοικοῦσιν, καὶ τοῦ τ’ ἀφεῖναι κύριοί εἰσιν) (Aristot. *Ath. Pol.* 44.3).

During the two meetings in each prytany when the finances of Athens were on the agenda, it seems that the “Receivers” (ἀποδέκται), rather than the Proedroi, were in charge of the meeting (Aristot. *Ath. Pol.* 48.2). On other occasions, the Councilors were joined by other officials, such as the Board of the Theoric Fund, the Treasurer of the Military Fund, the Auctions Board (πωληταί), or the nine Archons (Aristot. *Ath. Pol.* 47.2–48.1).

Any Councilor could introduce a motion, but if the motion were later found to be illegal, that Councilor would be personally liable to indictment on a charge of “Illegal Proposal” (γραφὴ παρανόμων) (Aristot. *Ath. Pol.* 45.4; Dem.

47:34; for a discussion of the charge of “Illegal Proposal”, see Legislation).

Citizens who were not serving as Councilors could speak, with permission of the Presidents or the Proedroi (Aristoph. *Peace* 907; *IG I<sup>3</sup>* 46.35–39). A citizen could not introduce a motion into the meeting without arranging for a Councilor to sponsor the motion under his own name (Aeschin. 3.125; *IG II<sup>2</sup>* 243.6–8). Aeschines, in his speech against Ctesiphon, accuses Demosthenes of taking advantage of an inexperienced Councilor to have a motion of dubious legality introduced – the Councilor, after all, and not Demosthenes, would be liable to prosecution if the motion proved to be illegal (Aeschin. 3.125).

At least in the 5th century, the Generals had the right to make motions in their own names, without having a Councilor sponsor the motion (*SEG* 10 86.47; *IG II<sup>2</sup>* 27).

Demosthenes mentions the Council House, on an occasion when important news was being delivered to the Council, being “full of private citizens” (τὸ γὰρ βουλευτήριον μεστὸν ἦν ἰδιωτῶν), which shows that citizens could sometimes attend meetings as spectators (Dem. 19.17; see also Aeschin. 3.125).

Foreigners could also attend meetings of the Council, but only with special permission. The inscription describing this privilege of “access” (πρόσοδον) is from the 5th century, so it specifies that permission must come from the Presidents; presumably, in the 4th century, permission would have come from the Proedroi (*IG I<sup>3</sup>* 65.17–20). Xeno-

phon tells, however, of an occasion when the Council refused to admit a herald from Thebes into their presence, so permission was by no means automatic (Xen. *Hell.* 6.4.20).

Spectators were separated from the Councilors by a railing, and they probably had to stand, while the Councilors sat (Aristoph. *Kn.* 675; Xen. *Hell.* 2.3.50).

There was a fence (κιγκλῖς) around the Council House, and when the Council was discussing any secret matter all spectators were kept outside the fence. Because of the fence, Demosthenes, says, the Council “is master of all their secrets, and no private citizens may enter” (τῶν ἀπορρήτων κυρίαν εἶναι, καὶ μὴ τοὺς ἰδιώτας ἐπεισιέναι) (Dem. 25.23; Aeschin. 3.125).

The Council voted on matters by show of hands (χειροτονία), with the Proedroi judging the outcome (κρίνουσι) (Aristot. *Ath. Pol.* 44.3). When the business of the meeting was complete, the meeting was brought to a close by the Presidents (in the 5th century : Aristoph. *Kn.* 674), or by the Proedroi (in the 4th century: Aristot. *Ath. Pol.* 44.3).

Any motion that passed became a decree, and these Council decrees (ψηφίσματα τῆς βουλῆς) are the subject of the next sections.

## COUNCIL DECREES

The Council and the Assembly could both issue decrees (ψηφίσματα, in the plural; ψήφισμα in the singular). Lysias refers to “decrees of the Council and of the People” (τὰ

ψηφίσματα τὰ ἐκ τῆς βουλῆς καὶ τοῦ δήμου) to refer to both kinds of decrees collectively (Lys. 13.50). Demosthenes refers to “the decrees of the People and of the Council of 500” (τὰ ψηφίσματα τὰ τοῦ δήμου καὶ τῆς βουλῆς τῶν πεντακοσίων) (Dem. 19.179). Many decrees were the work of both the Council and the “People” (that is, the Assembly); the texts of these would begin with the phrase, “It seemed best to the Council and the People...” (ἔδοξε τῇ βουλῇ καὶ τῷ δήμῳ) (see, for example, Andoc. 1.96).

When Athenian citizens were selected to serve as jurors, before taking their places in the court, they swore an oath to abide by “the laws and decrees of the People of Athens and of the Council of 500” (ψηφιοῦμαι κατὰ τοὺς νόμους καὶ τὰ ψηφίσματα τοῦ δήμου τοῦ Ἀθηναίων καὶ τῆς βουλῆς τῶν πεντακοσίων) (Dem. 24.149). But it is important to note that decrees, whether of the People in the Assembly or of the Council, were not the same as laws. The orators make frequent reference to the legal principle that “no decree, either of the Council or of the Assembly, shall have authority superior to a law” (Dem. 23.87; see also Andoc. 1.87, Andoc. 1.89, where the principle is repeated almost word-for-word).

The process by which the Athenian democracy made laws is discussed in the article on Legislation, and the Council’s role in that process is discussed below, in the section on “The Council and the Nomothetae.” But while the laws (νόμοι) had authority over decrees (ψηφίσματα),

much of the business of the Athenian democracy was conducted by means of decrees.

#### INDEPENDENT ACTION

In some circumstances, the Council could pass decrees that went into effect directly, without the participation of the Assembly. For example, a speech by Demosthenes deals with the case of a man named Theophemus, who had served as trierarch (τριήραρχος), an official responsible for the upkeep of a warship. At the end of Theophemus' term, the speaker alleges, he failed to return some of the equipment that belonged to the ship. The speaker says that he brought this problem to the Council. He then approached Theophemus and demanded the equipment, "since now this decree had passed in the Council, and no one had charged it with illegality, and it had gone into effect" (γενομένου τοίνυν τοῦ ψηφίσματος τούτου ἐν τῇ βουλῇ, καὶ οὐδενὸς γραφομένου παρανόμων, ἀλλὰ κυρίου ὄντος) (Dem. 47.33–34). So in this case, the regulation of trierarchs, the Council's decrees were immediately valid.

Inscriptions use special language to indicate that a decree came from the Council, as in the case of an inscription recording a Council decree establishing a special relationship between certain foreigners and the Athenian state: "It seemed best to the Council, when the tribe of Oineis held the Presidency, and Dexippus was secretary, and Democles was Chairman, and Monippides made the motion..." (ἔδοξεν τῇ βουλῇ· Οἰνηϊς ἐπρυτάνευε, Δεξιθεος

ἐγραμμάτευε, Δημοκλῆς ἐπεστάτε· Μονιπίδης εἶπε·) (IG II<sup>2</sup> 6). Because the inscription does say “It seemed best to the Council,” as opposed to “...to the Council and the People”, we can conclude that this was another matter on which the Council could act independently.

A speech by the orator Isaeus refers to decrees passed by the Council concerning an individual woman, who (according to the speaker) was not allowed to participate in certain religious rites because of reputation for scandalous behavior (Isaeus 6.49–50).

A passage in Athenaeus suggests that the Council could give itself a vacation by means of a Council decree: “So that the Council might celebrate the Apaturia with the rest of the Athenians, according to the traditional ways, it has been decreed by the Council that the Councilors be dismissed for those days that the other offices have off, that is, five days starting from the day on which the Protenthae celebrate the opening feast of the Apaturia” (ὅπως ἂν ἡ βουλή ἄγῃ τὰ Ἀπατούρια μετὰ τῶν ἄλλων Ἀθηναίων κατὰ τὰ πάτρια, ἐψηφίσθαι τῇ βουλῇ ἀφεῖσθαι τοὺς βουλευτὰς τὰς ἡμέρας ἄσπερ καὶ αἱ ἄλλαι ἀρχαὶ αἱ ἀφεται ἀπὸ τῆς ἡμέρας ἧς οἱ προτένθαι ἄγουσι πέντε ἡμέρας) (Athen. 4.171e).

The Council could issue decrees regarding official embassies from Athens to other states. The orator Aeschines describes an embassy of which he was a member, and how its departure from Athens was delayed, and cites a decree of the Council as evidence supporting his assertion: “As

witness of this I will present the Council, for there is a decree of theirs which commands the ambassadors to set out in order to receive the oaths. Please read the decree of the Council” (καὶ τούτου τὴν βουλὴν μάρτυρα ὑμῖν παρέξομαι· ἔστι γὰρ αὐτῆς ψήφισμα, ὃ κελεύει ἀπιέναι τοὺς πρέσβεις ἐπὶ τοὺς ὄρκους. καὶ μοι λέγε τὸ τῆς βουλῆς ψήφισμα.) (Aeschin. 2.91).

There is some evidence for more substantial decisions made by the Council alone. An inscription recording a “treaty of military alliance between the Eretrians and the Athenians” (Ἐρετριέων συμμαχία καὶ Ἀθηναίων) begins with the phrase “It seemed best to the Council” (ἔδοξεν τῇ βουλῇ) (*IG II<sup>2</sup> 16*). Had the Assembly been involved in this treaty, we would expect to see the phrase “It seemed best to the Council and the People.” Likewise, another inscription having to do with relationships between Athens and Dionysius, tyrant of Syracuse, also begins “It seemed best to the Council” (ἔδοξεν τῇ βουλῇ) (*IG II<sup>2</sup> 18*).

Nevertheless, the Assembly of all Athenian citizens was the definitive institution of the democracy, and the democracy carefully guarded against giving the Council of 500 too much authority. Early in the 4th century BCE, the orator Lysias expresses lingering suspicion about the Council and its role in the oligarchic coup of 411 BCE and the Tyranny imposed by the Spartans in 404 BCE (these events are described more fully in the article on the history of the Council): “The Council which held session before the time of the Thirty had been corrupted, and its appe-

tite for oligarchy, as you know, was very keen. For proof of it you have the fact that the majority of that Council had seats in the subsequent Council under the Thirty. And what is my reason for making these remarks to you? That you may know that the decrees issued by that Council were all designed, not in loyalty to you, but for the subversion of your democracy, and that you may study them as thus exposed” (Lys. 13.19–20). According to Lysias, even in the period between the oligarchy and the tyranny, when Athens was democratic, the Council was dominated by Athenians who favored oligarchy.

It is not surprising, then, that the Council under the democracy had only limited authority to pass resolutions on its own, without the approval or cooperation of the Assembly. We have an inscription that lists various kinds of decisions that the Council was not allowed to make without getting the approval of the Assembly; these include matters of war and peace, death sentences, especially large fines, stripping an Athenian of citizenship, and perhaps (the inscription’s fragmentary state makes this uncertain) the administration of public finances and foreign policy (IG I<sup>3</sup> 105).

Often, it seems, the Assembly would pass a broad decree, and leave management of the details to the Council. So, a decree of the Council and the Assembly (ἔδοξε τῆι βουλῆι καὶ τῶι δήμῳ), recorded on an inscription dating to around 356 BCE, includes the provision that, “If this decree should omit anything, the Council is authorized to



act” (ἐὰν δέ του προσδεήηι τόδε τὸ ψήφισμα, τὴν βουλὴν κυρίαν εἶναι) (*IG II<sup>2</sup> 127.34–35* = Tod 157; source for date: M.N. Tod, *A Selection of Greek Historical Inscriptions*, vol. 2 [Oxford, 1948] 168). This decree, establishing an alliance between Athens and the kings of Thrace, Illyria, and Paeonia, is also mentioned at Dem. 19.86.

Another inscription also gives the Council the right to manage details by decree, but with more cautious language. The decree of the Assembly, in 325 or 324 BCE, has to do with the Athenian fleet and a colony that the Athenians were sending out to the Adriatic sea (περὶ τῆς εἰς τὸν Ἀδριακὸν ἀποικίας). Here, the decree grants the Council limited powers to manage details, but only within the terms established by the Assembly: “Should this decree regarding the expedition omit anything, the Council is authorized to issued decrees, as long as it does not violate any of the decrees passed by the People” (ἐὰν δέ τοῦ προσδέει τόδε τὸ ψήφισμα τῶν περὶ τὸν ἀπόστολον, τὴν βουλὴν κυρίαν εἶναι ψηφίζεσθαι μὴ λύουσιν μηθὲν τῶν ἐψηφισμένων τῶι δήμῳ) (*IG II<sup>2</sup> 1629.264–9* = Tod 200; source for date: M.N. Tod, *A Selection of Greek Historical Inscriptions*, vol. 2 [Oxford, 1948] 284).

Demosthenes notes another, special, circumstance in which the Council could act without involving the Assembly. He describes an instance when all of the regularly scheduled meetings of the Assembly in one month had passed, but there was still a need for a decree authorizing an embassy to depart from Athens to meet with Philip

of Macedon: “Finding that you had got to the end of the regular Assemblies, and that there was no meeting left, and observing that the envoys were still wasting time at Athens instead of starting at once, I proposed a decree as a member of the Council, to which the Assembly had given authority, directing the envoys to sail immediately, and the general Proxenus to convey them to any place in which he should ascertain that Philip was to be found. I drafted it, as I now read it, in those express terms” (Dem. 19.154). So if there were pressing business, and the Assembly could not meet, the Council could act on its own.

#### INTRODUCTION TO PROBOULEUMATA

More important than any other function of the Council was its role in preparing the agenda for meetings of the Assembly, where all Athenian citizens gathered to discuss and vote on decrees.

Plutarch describes the historical foundations of this role, which he says dates back to the time of Solon, who established a body of laws for Athens in the 6th century BCE, before the classical Democracy was in place (see Plut. *Sol.*). Regarding Solon’s version of the Council, Plutarch says: “After he had established the Council of the Areopagus, consisting of those who had been archons year by year (and he himself was a member of this body since he had been archon), he observed that the common people were uneasy and bold in consequence of their release from debt, and therefore established another council besides, con-

sisting of four hundred men, one hundred chosen from each of the four tribes. These were to deliberate on public matters before the people did, and were not to allow any matter to come before the popular assembly without such previous deliberation.” (συστησάμενος δὲ τὴν ἐν Ἀρείῳ πάγῳ βουλήν ἐκ τῶν κατ’ ἐνιαυτὸν ἀρχόντων, ἧς διὰ τὸ ἄρξαι καὶ αὐτὸς μετεῖχεν, ἔτι δ’ ὁρῶν τὸν δῆμον οἰδοῦντα καὶ θρασυνόμενον τῇ τῶν χρεῶν ἀφέσει, δευτέραν προσκατένειμε βουλήν, ἀπὸ φυλῆς ἐκάστης, τεττάρων οὐσῶν, ἑκατὸν ἄνδρας ἐπιλεξάμενος, οὓς προβουλεύειν ἔταξε τοῦ δήμου καὶ μηδὲν ἔαν ἀπροβούλευτον εἰς ἐκκλησίαν εἰσφέρεισθαι.) (Plut. *Sol.* 19.1).

So Solon’s Council was intended to reduce the “uneasiness” and “boldness” of the Athenian people, by introducing an institution that mediated between the People and the decrees they might chose to pass. This was the role that the Council of the 500 played in the democracy as well.

Aristotle says that the Council originally had sovereign power over many aspects of the democracy (Aristot. *Ath. Pol.* 45.1–3), but after the Council condemned a man named Lysimachus to death, without the benefit of a trial by jury, the Athenian people rescued the man and limited most of the powers of the Council. “In these matters therefore the Council is not sovereign, but it prepares resolutions for the People, and the People cannot pass any measures that have not been prepared by the Council and published in writing in advance by the Presidents; for the proposer who carries such a measure is automatically liable to penalty by indict-

ment for Illegal Proposal” (τούτων μὲν οὖν ἄκυρός ἐστιν ἡ βουλή· προβουλεύει δ’ εἰς τὸν δῆμον, καὶ οὐκ ἔξεστιν οὐδὲν ἀπροβούλευτον οὐδ’ ὅ τι ἂν μὴ προγράψωσιν οἱ πρυτάνεις ψηφίσασθαι τῷ δήμῳ. κατ’ αὐτὰ γὰρ ταῦτα ἔνοχός ἐστιν ὁ νικήσας γραφῆ παρανόμων) (Aristot. *Ath. Pol.* 45.4; for discussion of indictment for “Illegal Procedure”, see Legislation).

The Council would vote on “preliminary decrees” (προβουλεύματα, or in the singular, προβούλευμα) (Dem. 23.92). According to the 10th century CE lexicon of the Greek language, the *Suda*, a “probouleuma” was “What has been voted on by the Council before being presented to the People” (Suda pi,2349). A passage from the orator Demosthenes’ speech against Neaira illustrates how a probouleuma worked:

“You were at that time on the point of sending your entire force to Euboea and Olynthus, and Apollodorus, being one of its members, brought forward in the Council a motion, and carried it as a preliminary decree (προβούλευμα) to the Assembly, proposing that the people should decide whether the funds remaining over from the state’s expenditure should be used for military purposes or for public spectacles. For the laws prescribed that, when there was war, the funds remaining over from state expenditures should be devoted to military purposes, and Apollodorus believed that the people ought to have power to do what they pleased with their own; and he had sworn that, as member of the Council, he would act for the best interests

of the Athenian people, as you all bore witness at that crisis” (Dem. 59.4).

In this case, an existing law required that any surplus funds in the treasury of Athens should be used for military purposes. But despite this law, Apollodorus wanted the Assembly to discuss how to spend the funds. So Apollodorus brought the matter to the Council, which voted to create a preliminary decree. The council approved the preliminary decree. This preliminary decree allowed the Assembly to discuss how to spend the money. Demosthenes goes on to say that the Assembly voted, unanimously, to spend the money on the military (Dem. 59.5).

So, after this lengthy procedure, the Athenian democracy did with its money precisely what an existing law required. But the mechanism of the Council, its *probouleuma*, and the Assembly allowed all of the citizens to deliberate, in an orderly manner, on the extent to which the existing law was appropriate under these circumstances, a war in Euboea and around Olynthus.

On this one inscription we see the whole legislative process. In the first prytany of the year, Antidotos, a councillor, made a motion before the Council regarding this request by the Citians. One of the Proedroi in charge of running the meeting of the Council put the matter to a vote. The Council voted to send the matter along to the Assembly without making any recommendation to the Assembly for or against the Citians’ patron goddess, where natives of Cyprus could worship while they were visiting or living in

Athens (*IG II<sup>2</sup> 337*; source for date, M.N. Tod, *A Selection of Greek Historical Inscriptions*, vol. 2 [Oxford, 1948] 250).

It is important to note that the text and translation given here omit any indication of how the inscription actually looked, and the extent to which modern editors have filled in missing sections; what appears here is considerably cleaned up. It can serve to illustrate the workings of the Council, but should not be taken as indicative of the proper way to present and read an inscription.

Here is the inscription, *IG II<sup>2</sup> 337*:

“Gods. When Nikokratos was archon, in the first prytany (that of the tribe Aegeis): Theophilos from the deme Phegous, one of the Proedroi, put this matter to the vote: The Council decided (after Antidotos, son of Apollodoros, from the deme Sypalettos made the motion): Concerning the things that the Citians say about the foundation of the temple to Aphrodite, it has been voted by the Council that the Proedroi, the ones to be chosen by lot to serve as Proedroi at the first Assembly, should introduce the Citians and allow them to have an audience, and to share with the People the opinion of the Council, that the People, having heard from the Citians concerning the foundation of the temple, and from any other Athenian who wants to speak, decide to do whatever seems best. When Nikokrates was archon, in the second Prytany (that of the tribe Pandionis): Phanostratos from the deme Philaidai, one of the Proedroi, put this mat-

ter to the vote: The People decided (after Lycurgus, son of Lycophron, of the deme Boutadai made the motion): Concerning the things for which the Citian merchants resolved to petition, lawfully, asking the People for the use of a plot of land on which they might build a temple of Aphrodite, it has seemed best to the People to give to the merchants of the Citians the use of a plot of land on which they might build a temple of Aphrodite, just as also the Egyptians built the temple of Isis.”

θεοί. ἐπὶ Νικοκράτους ἄρχοντος ἐπὶ τῆς Αἰγιίδος πρώτης πρυτανείας· τῶν προέδρων ἐπεψήφισεν Θεόφιλος Φηγούσιος· ἔδοξεν τῇ βουλῇ· Ἀντίδοτος Ἀπολλοδώρου Συπαλήττιος εἶπεν· περὶ ὧν λέγουσιν οἱ Κιτιεῖς περὶ τῆς ιδρύσειως τῇ Ἀφροδίτῃ τοῦ ἱεροῦ, ἐψηφίσθαι τεῖ βουλῇ τοὺς προέδρους οἱ ἂν λάχωσι προεδρεύειν εἰς τὴν πρώτην ἐκκλησίαν προσαγαγεῖν αὐτοὺς καὶ χρηματίσαι, γνώμην δὲ ξυνβάλλεσθαι τῆς βουλῆς εἰς τὸν δῆμον ὅτι δοκεῖ τῇ βουλῇ ἀκούσαντα τὸν δῆμον τῶν Κιτιείων περὶ τῆς ιδρύσειως τοῦ ἱεροῦ καὶ ἄλλου Ἀθηναίων τοῦ βουλομένου βουλευσασθαι ὅτι ἂν αὐτῷ δοκεῖ ἄριστον εἶναι. ἐπὶ Νικοκράτους ἄρχοντος ἐπὶ τῆς Πανδιονίδος δευτέρας πρυτανείας· τῶν προέδρων ἐπεψήφισεν Φανόστρατος Φιλαίδης· ἔδοξεν τῷ δήμῳ· Λυκοῦργος Λυκόφρονος Βουτάδης εἶπεν· περὶ ὧν οἱ ἔμποροι οἱ Κιτιεῖς ἔδοξαν ἔννομα ἰκετεύειν αἰτοῦντες τὸν δῆμον χωρίου ἐνκτησιν ἐν ᾧ ιδρύσονται ἱερὸν Ἀφροδίτης, δεδόχθαι τῷ δήμῳ δοῦναι τοῖς ἐμπόροις

τῶν Κιτιέων ἔγκτησιν χωρίου ἐν ᾧ ἰδρῦσονται τὸ ἱερὸν  
τῆς Ἀφροδίτης καθάπερ καὶ οἱ Αἰγύπτιοι τὸ τῆς Ἴσιδος  
ἱερὸν ἰδρυνται. (IG II<sup>2</sup> 337)

On this one inscription we see the whole legislative process. In the first prytany of the year, Antidotos, a councillor, made a motion before the Council regarding this request by the Citians. One of the Proedroi in charge of running the meeting of the Council put the matter to a vote. The Council voted to send the matter along to the Assembly without making any recommendation to the Assembly for or against the Citians' request. Then, in the second Prytany, Lykourgos, made a motion in the Assembly. The motion was in favor of the Citians' request, and it was put to the vote by Phanostratos, a Councilor serving as one of the Proedroi who were in charge of running the meeting of the Assembly. The People voted on the matter, and the Citians were allowed to build their temple, just as (evidently) some Egyptians had been allowed to build a temple to Isis.

#### EXCEPTIONAL DECREES

In one of Demosthenes' speeches, we can see that there could be disagreement over the absolute necessity of a preliminary decree from the Council, before any business could be discussed in the Assembly. The issue at Dem. 22.5 was whether the Assembly could vote a gift of thanks to the members of the Council at the end of their year of service. Demosthenes claims that a certain Androtion has



defended the practice of voting for such an award, in the Assembly, without first getting a Preliminary Decree on the matter from the Council. It is not hard to see why this would seem reasonable – it would surely be awkward to ask the Council to pass a decree awarding a gift of thanks to itself. But, Demosthenes argues, that is precisely what *should* happen: “There is one plea which he thinks a clever defence of the omission of the Preliminary Decree. There is a law, he says, that if the Council by its performance of its duties seems to deserve a reward, that reward shall be presented by the People [i.e. the Assembly – CWB]. That question, he says, the chairman of the Assembly put, the People voted, and it was carried. In this case, he says, there is no need of a Preliminary Decree, because what was done was in accordance with law. But I take the exactly contrary view – and I think you will agree with me – that the Preliminary Decrees should only be proposed concerning matters prescribed by the laws, because, where no laws are laid down, surely no proposal whatever is admissible” (Dem. 22.5).

So, if there was already a law (νόμος) allowing the Assembly to do something, did the Assembly nevertheless need a Preliminary Decree? Demosthenes says so, and it does make sense. The law might make it legal for the Assembly to award the Council a gift of thanks from time to time, but it remained to be decided whether such a gift was appropriate in any given year. That decision could only be made through discussion in the Assembly, and such dis-

cussion could probably not take place without a Preliminary Decree from the Council.

Demosthenes goes on to note that in previous years the Assembly had voted awards to the Council without a preliminary decree (Dem. 22.6), but condemns that historical precedent as being illegal. It is very likely that Demosthenes is correct – that such an action in the Assembly was unconstitutional – but that no member of the Council would be so churlish as to object to the Assembly’s voting them a gift of thanks, even without a *Probouleuma*.

When Aristotle describes meetings of the Assembly, he mentions certain regular pieces of business that were to be conducted at each *κυρία ἐκκλησία*, that is, each of the four regular meetings that took place during each prytany (Aristot. *Ath. Pol.* 43.4); this business included votes of confidence in officials, matters of the food supply and security, a public invitation for any citizen to make certain kinds of accusations, and various public announcements (Aristot. *Ath. Pol.* 43.5–6 also specifies other regular business that was supposed to take place only once a year).

We do not know whether this business was an exception to the rule that “nothing is permitted [to happen in the Assembly – *CWB*] without a Preliminary Decree from the Council” (οὐκ ἔξεστιν οὐδὲν ἀπροβούλευτον) (Aristot. *Ath. Pol.* 45.4). Perhaps these were exceptions to that rule that allowed ordinary citizens to participate, in certain ways, in the Assembly without needing the intervention of the Council. Or, perhaps the Council automatically in-

cluded these orders of business when it drew up the agendas for those regular meetings of the Assembly.

Since Aristotle mentions these regularly occurring pieces of business for the Assembly (Aristot. *Ath. Pol.* 43.4–5) immediately after describing how the Council’s job was to prepare the agenda for meetings of the Assembly (Aristot. *Ath. Pol.* 43.4), it seems more likely that the Council automatically put that business on the Assembly’s agenda.

Two of these regular items of business that Aristotle mentions are particularly important for the democratic governance of Athens. First, he mentions that, at one meeting of the Assembly during each prytany, there was supposed to be the opportunity “on that day for whoever wished to make public accusations” (τὰς εἰσαγγελίας ἐν ταύτῃ τῇ ἡμέρᾳ τοὺς βουλευομένους ποιεῖσθαι) (Aristot. *Ath. Pol.* 43.4). And in the sixth prytany, at one of the meetings of the Assembly, there was supposed to be an opportunity for people to bring “accusations against people, either Athenians or resident foreigners, informing on others maliciously (not more than three accusations against Athenians and three against foreigners), and against anyone who promised to do something for the People but did not do it” (καὶ συκοφαντῶν προβολὰς τῶν Ἀθηναίων καὶ τῶν μετοίκων μέχρι τριῶν ἑκατέρων, κἂν τις ὑποσχόμενος τι μὴ ποιήσῃ τῷ δήμῳ) (Aristot. *Ath. Pol.* 43.5). And at one meeting (Aristotle does not say which one) there was the opportunity “for supplications, in which whoever wants to may place a suppliant-branch [ἰκετηρίαν] and make a

request of the People regarding whatever he wishes, either public business or private business” (ταῖς ἰκετηρίαις, ἐν ἧ̃ θεις ὁ βουλόμενος ἰκετηρίαν, ὑπὲρ ὧν ἂν βούληται καὶ ἰδίων καὶ δημοσίων, διαλέξεται πρὸς τὸν δῆμον) (Aristot. *Ath. Pol.* 43.6). [The business of supplication is discussed at greater length in the article on the Assembly. – CWB]

By having these as regular orders of business at pre-determined points in the year, the Athenian democracy allowed its citizens to make public complaints about citizens acting illegally or failing to live up to their responsibilities, to lodge complaints against citizens or foreigners misusing the court system, or simply make a request of the democratic government. But while most business had to go to the Council before appearing before the Assembly, in at least these matters citizens had guaranteed access to the Assembly, without having to seek special permission from the Council.

#### PROBOULEUMATA VOTED DOWN

Because, in other matters, the Council could, and did, occasionally refuse to approve a *probouleuma*, it was important to guarantee citizens’ access to the Assembly, so they could make accusations against those abusing or wrongly manipulating the system.

Herodotus describes one such occasion, from the early 5th century, that was particularly dramatic. In 479 BCE, the Persians invaded Greece and occupied Athens; the Athenians had evacuated the city and had taken refuge on the

island of Salamis (Hdt. 9.3.2; source for date: *OCD*<sup>3</sup>). The Persian general Mardonius sent an envoy to the Council of the Athenians, which was still conducting business on the island. This envoy, a man named Murychides from the Hellespont, asked if the Athenians would surrender to Persia now that their city was occupied (Hdt. 9.5.1). Herodotus describes what happened when the Councilors heard the Persian proposal:

“Then Lycidas, one of the Councilors, said that it seemed best to him to receive the offer brought to them by Murychides and lay it before the People [that is, the Assembly – *CWB*]. This was the opinion which he declared, either because he had been bribed by Mardonius, or because the plan pleased him. The Athenians in the Council were, however, very angry; so too were those outside when they heard of it. They made a ring round Lycidas and stoned him to death. Murychides the Hellespontian, however, they permitted to depart unharmed. There was much noise at Salamis over the business of Lycidas; and when the Athenian women learned what was afoot, one calling to another and bidding her follow, they went on their own impetus to the house of Lycidas and stoned to death his wife and his children” (Hdt. 9.5.1–3).

This story shows us several interesting things. First, that even under these extraordinary circumstances – the city occupied and in flames, the Athenians as refugees on a small island – the mechanisms of the Athenian democracy

continued to function in a (more-or-less) orderly fashion. The envoy came to the Council, which was normal (the Council's role in foreign policy is described below). A Councilor proposed a Preliminary Decree which would allow the Assembly to discuss the proposal. The Council rejected the proposed *probouleuma*. At this point, the normal functioning of the democracy broke down, no doubt because of the difficult circumstances and high emotions. The Councilors, and others, were not merely satisfied with voting down Lycidas' motion, but stoned the man to death – a violent equivalent to a prosecution for “illegal motion”.

It is worth mentioning that the orator Lycurgus, when describing these events, is careful to note that the Councilors removed the wreaths from their heads before stoning Lycidas to death (Lyc. 1.122). If this is true, then the Councilors were being very careful to separate their actions as an angry mob from their duties as representatives of the democracy – even if this is an embellishment to the story, it shows that later Athenians wanted to emphasize that killing a Councilor for moving an unpopular *probouleuma* was *not* a legitimate course of action.

One other thing emerges from this story. Herodotus says that “The Athenians in the Council were, however, very angry; so too were those outside when they heard of it” (Hdt. 9.5.2). Since citizens (and sometimes non-citizens) could often come to meetings of the Council as spectators, the Athenians generally would often know which mat-

ters of business were proposed as probouleumata, which were passed on to the Assembly, and which ones were not. So while the Council could prevent the Assembly from discussing some problem or issue by failing to approve a preliminary decree, they could not usually, prevent their fellow citizens from knowing of that issue's existence.

The historian Xenophon describes a similar incident, one slightly less extreme, from the last days of the Peloponnesian War, at the end of the 5th century. Then, when the Spartans has beseiged Athens from land and sea, “when Archestratus said in the Council that it was best to make peace with the Lacedaemonians [that is, the Spartans – CWB] on the terms they offered – and the terms were that they should tear down a portion ten stadia long [slightly more than one mile – CWB] of each of the two Long Walls – he was thrown into prison, and a decree was passed forbidding the making of a proposal of this sort” (Xen. *Hell.* 2.2.15). Since a step as momentous as surrendering and tearing down the walls would surely have required the approval of the Assembly, Archestratus must have proposed that the Council approve a probouleuma on this issue. Not only did this proposal fail, but the Council made it illegal for anyone even to make such a proposal.

#### “OPEN” AND “CLOSED” PROBOULEUMATA

Sometimes the Council would make a Preliminary Decree, a probouleuma, that gave the Assembly a real choice between several courses of action, an “open” probouleuma.

At other times, the Council would make a specific recommendation to the Assembly, a “concrete” probouleuma.

For an example of an open probouleuma, in a speech to an Athenian jury, Demosthenes describes this Preliminary Decree that came before the Assembly: “You were at that time on the point of sending your entire army to Euboea and Olynthus, and Apollodorus, being a member of the Council, brought forward in the Council a bill, and carried it as a Preliminary Decree to the Assembly; the Preliminary Decree proposed that the People should decide whether the funds remaining over from the state’s expenditure should be used for military purposes or for public spectacles. For the laws prescribed that, when there was war, the funds remaining over from state expenditures should be devoted to military purposes, and Apollodorus believed that the people ought to have power to do what they pleased with their own.” (Dem. 59.4). Here the Council presented the Assembly with two choices, but did not recommend which choice the People should make.

An even more dramatic example comes from 339 BCE, when Philip of Macedon had captured the city of Elatea. Demosthenes describes what happened: “Evening had already fallen when a messenger arrived bringing to the presiding Councilors the news that Elatea had been taken. They were sitting at supper, but they instantly rose from their meal, cleared the booths in the marketplace of their occupants, and unfolded the hurdles, while others summoned the generals and ordered the trumpeter to



come. The commotion spread through the whole city. At daybreak on the next day the Prytanes summoned the Council to the Council House, and the citizens flocked to the place of assembly. Before the Council could introduce the business and prepare the agenda, the whole body of citizens had taken their places on the hill. The Council arrived, the presiding Councilors formally reported the intelligence they had received, and the courier was introduced. As soon as he had told his tale, the marshal put the question, Who wishes to speak? No one came forward.” (Dem. 18.169–170).

On the morning that Demosthenes describes, then, the Council met quickly to pass a probouleuma. The orator does not tell us of its contents, but it certainly seems that the Council did not make any specific recommendations. Instead, it seems most likely that the probouleuma merely put the military crisis on the agenda of the special meeting of the Assembly, and that any citizen was welcomed to make a specific proposal (which none was ready to do, evidently).

A very clear example of a “concrete” Preliminary Decree comes from a speech by Aeschines *about* Demosthenes. According to Aeschines, Demosthenes moved a probouleuma in the Council, which was then sent along to the Assembly, that made a very specific recommendation: ““The hieromnemon [an official envoy sent on embassies of a religious nature – CWB] of the Athenians,’ it says, ‘and the pylagori [another religious envoy – CWB] who are at

the time in office, shall go to Thermopylae and Delphi at the times appointed by our fathers” (Aeschin. 3.126). This was a specific proposal, for the Assembly either to accept or to reject. Other “concrete” probouleumata appear in the sources. Demosthenes mentions one that put the matter of selling naval equipment to Philip of Macedon; the probouleuma invited the Assembly either to make doing so a capital offense, or not (Dem. 19.286).

It may have been that even under a “concrete” Preliminary Decree, once the business was on the floor of the Assembly, citizens could propose alternative solutions to those suggested by the Council in the original probouleuma. A passage from a speech by Aeschines suggests this (the details of the historical situation are not important here):

“Amyntor in support of Aeschines testifies that when the people were deliberating on the subject of the alliance with Philip, according to the decree of Demosthenes, in the second meeting of the Assembly, when no opportunity was given to address the people, but when the decrees concerning the peace and alliance were being put to vote, at that meeting Demosthenes was sitting by the side of the witness, and showed him a decree, over which the name of Demosthenes stood written; and that he consulted him as to whether he should hand it to the presiding officers to put to vote; this decree contained the terms on which Demosthenes moved that peace

and alliance he made, and these terms were identical with the terms which Philocrates had moved.” (Aeschin. 2.167–168)

Here is what seems to be happening in this passage. There was a meeting of the Assembly. One item on the agenda (thus having been the subject of a Preliminary Decree from the Council) was a peace treaty with Philip of Macedon. Because Aeschines says that no one had the opportunity to address the People (that is, the Assembly), we can assume that this was a concrete *probouleuma*, one making a specific recommendation for the People either to approve or reject. But Demosthenes had already written *another* decree (a ψήφισμα, “something to be voted on by the Assembly”, not a *probouleuma* from the Council) and was debating whether to introduce it.

From this, it would seem that once a piece of business got to Assembly, the Athenian people could debate and vote on related suggestions made on the spot, not merely the course of action recommended by the Council.

#### EXPIRATION OF PROBOULEUMATA

Demosthenes mentions a law that set an expiration-date of one year for any *probouleuma* that was not voted on by the Assembly (Dem. 23.92). The circumstances of this piece of evidence, however, and the way Demosthenes mentions it, are confusing. A man named Aristocrates, while serving as Councilor, had moved a *probouleuma* in the Council,

awarding honors on a man named Charidemus (Dem. 23.90). Later, Demosthenes wrote a speech prosecuting Euthycles on a charge of γραφή παρανόμων, or “illegal proposal” (Dem. 23.100). In his speech, Demosthenes anticipates the kinds of arguments Aristocrates might use to defend himself. At one point, Demosthenes says: “I imagine that he will use the following argument, and that he will try very hard to mislead you on this point. The decree, he will urge, is invalid because it is merely a Preliminary Decree (προβούλευμα) and the law provides that votes of the Council shall be in force for one year only; therefore, if you acquit him today, the commonwealth can take no harm in respect of his decree.” (Dem. 23.92). In other words, Aristocrates will try to argue that he cannot be prosecuted for making an illegal motion, since the motion he made more than a year ago is no longer in force.

If we can take this as evidence, then it seems that under certain circumstances a probouleuma would fail to come up for discussion for more than a year after the Council passed it, and it would then expire.

## LEGISLATION

The Council played an important role in the process of legislation, or “nomothesia” (νομοθεσία). This is a complex subject, and this discussion of the Athenian Council is not the place to describe legislation in detail (for a more complete description, based on the ancient sources, see the article on Legislation). But a short summary of the process

will help, as we look at how the Council participated in making laws for the Athenian Democracy.

Athenians in the 4th century were governed by laws (νόμοι, or νόμος in the singular) and decrees (ψήφισματα, or ψήφισμα in the singular). Decrees were passed by a vote of the Assembly, of the Council, or both. Laws came into being by a more complicated process. Laws took precedence over Decrees. Demosthenes says, “No decree, either of the Council or the Assembly shall have more authority than a law” (ψήφισμα δὲ μηδὲν μήτε βουλῆς μήτε δήμου νόμου κυριώτερον εἶναι) (Dem. 23.87). Anyone who proposed a decree in the Assembly that contradicted an existing law was subject to prosecution on a charge of “Illegal Proposal” (γραφὴ παρανόμων). Laws were passed through a process called “nomothesia” (νομοθεσία) or “legislation”. Each year the Assembly met to discuss the current body of laws. Any citizen could propose a change in the laws, but could only propose the repeal of a law if he suggested another law to replace the repealed law. If the Assembly decided to change the laws, a board of “Nomothetai” (νομοθέται) or “legislators” was selected to review and revise the laws.

When inscribed on stone for the permanent record, decrees begin with the formula, “it was decided by the People,” or, “It was decided by the Council and the People” (*IG II<sup>2</sup> 206 4–5*, *IG II<sup>2</sup> 206 28–30*; *IG II<sup>2</sup> 237.5*, *IG II<sup>2</sup> 237 31*); a law began with the formula, “It was decided by the Nomothetae” (*SEG 12 87.607*).

So, the Council was not responsible for actually making laws, but it was responsible for initiating the process by which laws were made. At the first meeting of the Assembly for the year, in the month of Hekatombaion, the Athenians held votes on the whole body of laws (Dem. 24.20; see Dem. 24.23 where the month of Hekatombaion, or Ἐκατομαίῳν is specified). This is how Demosthenes describes the process, which begins with an annual review of the existing laws:

“In the first presidency and on the eleventh day thereof, in the Assembly, the Herald having read prayers, a vote shall be taken on the laws, to wit, first upon laws respecting the Council, and secondly upon general statutes, and then upon statutes enacted for the nine Archons, and then upon laws affecting other authorities. Those who are content with the laws respecting the Council shall hold up their hands first, and then those who are not content; and in like manner in respect of general statutes. All voting upon laws shall be in accordance with laws already in force” (Dem. 24.20).

Demosthenes continues his description of the annual review: “If any law already in force be rejected on show of hands, the Prytaneis of the Council (τοὺς πρυτάνεις) in whose term of office the voting takes place shall appoint the last of the three meetings of the Assembly for the consideration of laws so rejected. The Proedroi (τοὺς προέδρους) who preside by lot at the Assembly are required, immediately after religious observances, to put the

question respecting the sessions of the Nomothetae (τῶν νομοθετῶν), and respecting the fund from which their fees are to be paid. The Nomothetae shall consist of persons who have taken the judicial oath” (Dem. 24.21). The “judicial oath” was the oath that jurors swore before entering a courtroom (Dem. 24.27; a passage in Demosthenes, Dem. 24.149–151, purports to be the text of that oath).

The Prytaneis of the Council were charged with creating a Preliminary Decree that would allow the Assembly to begin the review of the laws. There were severe penalties for Councilors who failed to fulfill this duty: “If the Prytaneis do not convene the Assembly according to the written regulations, or if the Proedroi do not put the question, each Prytanis shall forfeit one thousand drachmas of sacred money to Athene, and each Proedros shall forfeit forty drachmas of sacred money to Athene” (Dem. 24.22).

The Council’s role was not complete, however, with the selection of legislators. Dem. 24.27 contains a decree that orders “the Council to cooperate in the legislative process” (συννομοθετεῖν δὲ καὶ τὴν βουλήν) in the matter of convening the Nomothetae, which may mean only that the Council was to ensure that the business appeared on the agenda for the Assembly. The Council did, however, also have a special “legislative secretary” (γραμματεὺς ἐπὶ τοῦς νόμους), who made copies of all laws, and attended all meetings of the Council; this suggests that the Council discussed proposals for legislation before sending them on to the Assembly (Aristot. *Ath. Pol.* 54.4; Agora 15.62.235–6).

## JURISDICTION

According to Aristotle, in the early history of the Athenian Democracy, the Council had the power to impose fines, imprison people, and even order them executed; but, Aristotle goes on to say, after the Council had condemned a certain Lysimachus to death, the Athenians saved his life, and the Assembly decreed that only a law-court would have the power to execute (Aristot. *Ath. Pol.* 45.1). While in the 4th century it seems clear that the Council did not have complete power of life-and-death over Athenians, there is no particularly good evidence that it ever did. So, either Aristotle knew of some evidence that no longer survives, or his description of the early powers of the Council is inaccurate.

A law survives from the beginning of the 4th century that lists limits to the Council's authority (*IG I<sup>3</sup> 105*): in matters of war and peace, death sentences, large fines, disenfranchisement (that is, loss of citizenship), the administration of public finances, and foreign policy, the Council could not act without the approval of the Assembly (although the surviving fragments of the law are not clear regarding these last two).

Nevertheless, the Council did play an important role in maintaining the health of the democracy, apart from its management of the agendas for meetings of the Assembly. Its job was to watch over the more important public officials of Athens, to ensure that they were fit for their office



and that they conducted their duties properly (Aristot. *Ath. Pol.* 45.2).

The main process by which the Council watched over the officials of the Athenian democracy was “Scrutiny”, or δοκιμασία (see Aristot. *Ath. Pol.* 59.4 for use of the noun). Aristotle describes the Scrutiny of the Nine Archons (the six “Lawgivers”, or θεσμοθέται, plus “The Archon”, or ἄρχων, the “King Archon”, or ἄρχων βασιλεύς, and the “Warlord”, or πολέμαρχος), who were the most important officials of the democracy (Aristot. *Ath. Pol.* 55.1–4):

“As to the officials designated the Nine Archons, the mode of their appointment that was originally in force has been stated before; but now the six Lawgivers and their clerk are elected by lot, and also the Archon, King Archon and Warlord, from each tribe in turn. The qualifications of these are first checked in the Council of Five Hundred, except the Clerk, but he is checked only in a Jury-court, as are the other officials (for all of them, both those elected by lot and those elected by show of hands, have their qualifications checked before they hold office), while the Nine Archons are checked in the Council and also again in a Jury-court. Formerly any official not passed by the Council did not hold office, but now there is an appeal to the Jury-court, and with this rests the final decision as to qualification. The questions put in examining qualifications are, first, ‘Who is your father and to what deme does he belong, and who is your father’s fa-

ther, and who is your mother, and who is her father and what is his deme?’ Then whether he has a Family Apollo and Homestead Zeus, and where these shrines are; then whether he has family tombs and where they are; then whether he treats his parents well, and whether he pays his taxes, and whether he has done his military service. And after putting these questions the officer says, Call your witnesses to these statements. And when he has produced his witnesses, the officer further asks, ‘Does anybody wish to bring a charge against this man?’ And if any accuser is forthcoming, he is given a hearing and the man on trial an opportunity of defence, and then the official puts the question to a show of hands in the Council or to a vote by ballot in the Jury-court; but if nobody wishes to bring a charge against him, he puts the vote at once; formerly one person used to throw in his ballot-peg, but now all are compelled to vote one way or the other about them, in order that if anyone being a rascal has got rid of his accusers, it may rest with the jurymen to disqualify him.” (Aristot. *Ath. Pol.* 55.1–4)

This passage shows the role of the Council, and the limits of its authority. The Council conducted the Scrutiny of potential officials, but could not, by itself, deny them their office. If the Council disapproves a candidate, he had recourse to an appeal before a jury. This sentence needs some explanation: “Formerly one person used to throw in his ballot-peg, but now all are compelled to vote one way

or the other about them, in order that if anyone being a rascal has got rid of his accusers, it may rest with the jury-men to disqualify him” (Aristot. *Ath. Pol.* 55.4). Evidently, at one time, if a candidate came up for approval, and no one spoke out against him, the Council (or jury, as the case may have been), conducted a symbolic vote, a mere formality, with one person only placing one vote in favor. Later, according to Aristotle, this was changed to require a serious vote, with all members participating; this would ensure that people could vote against a candidate secretly, in case they were afraid to speak out openly.

Perhaps more important even than the Scrutiny of officials was the Council’s Scrutiny of Young Men, the δοκιμασία τῶν ἐφήβων. Young men could become citizens when they turned eighteen, if they were the legitimate sons of two Athenian citizens (Aristot. *Ath. Pol.* 42.1). Young men would be inspected in their villages, initially, and added to the roles as new citizens if their fellow demesmen found that they met the requirements, but the final inspection of citizen-roles was the business of the Council, which conducted a Scrutiny of them to make sure that each was actually eighteen years old (Aristot. *Ath. Pol.* 42.2). If the Councilors found that any candidates for citizenship were too young, they would fine the members of the candidate’s deme who put him on the list (Aristot. *Ath. Pol.* 42.2). After this Scrutiny, all these new candidates were sent off for two years of military training at the hands of selected instructors (Aristot. *Ath. Pol.* 42.3–4).

Similarly, the Council conducted a “Scrutiny of the Horses”, a δοκιμασία τῶν ἵππων (Aristot. *Ath. Pol.* 49.1). Athenians who were to serve as cavalry in wartime were listed on a roll (Aristot. *Ath. Pol.* 49.1), and the state paid them a salary and pay for their horses’ feed. If the Councilors found that a horse was not in good condition, or that it was improperly trained, they could fine its owner to recover the cost of its feed and deny him his cavalry pay (Aristot. *Ath. Pol.* 49.1–2).

The Council also conducted a “Scrutiny of the Helpless”, a δοκιμασία τῶν ἀδυνάτων (Aristot. *Ath. Pol.* 49.4): “The Council also inspects the Helpless; for there is a law enacting that persons possessing less than 3 minae and incapacitated by bodily infirmity from doing any work are to be inspected by the Council, which is to give them a grant for food at the public expense at the rate of 2 obols a day each.” This function of the Council is well-attested. The orator Lysias wrote a speech for a man defending his right to receive the pension due to the Helpless; the speech begins with an address, not to a jury (as so many speeches begin), but “O Council” (ὦ βουλή) (Lys. 24.1).

The Council’s role in this “Scrutiny of the Helpless” helps the orator Aeschines make an ironic point in his speech against Timarchus (Aeschin. 1). Among Timarchus’ many personal failings (the orator claims), he abandoned his own uncle to poverty. According to Aeschines, Arignotus was Aeschines’ uncle, an old blind man. Arignotus had always received financial support from his brother, Ti-

marchus' father, a wealthy man. But after the father died, and Timarchus came to control the estate, "he thrust aside this old and unfortunate man, his own uncle, and made way with the estate. He gave nothing to Arignotus for his support, but was content to see him, fallen from such wealth, now receiving the alms that the city gives to disabled paupers. Finally, and most shameful of all, when the old man's name had been omitted at a revision of the list of pauper-pensioners, and he had laid a petition before the Council to have his dole restored, the defendant, who was a member of the Council, and one of the presiding officers that day (βουλευτῆς ὢν καὶ προεδρεύων), did not deign to speak for him, but let him lose his monthly pension" (Aeschin. 1.103–104).

Aeschines' accusation against Timarchus certainly seems damning: Not only did Timarchus fail to perform his duty as the nephew to an old and infirm man, but he failed to perform his duty as a member of the Council by ensuring that one of the "Helpless" citizens, the ἀδυνάτοι, received support from the State.

This orator's case against Timarchus shows us another area of the Council's jurisdiction. The Council could discipline its own members and expel them if they failed to act properly. According to Aeschines, Timarchus was accused of corruption during his year as a Councilor. "After this, when the Council had gone into the Council House, they expelled him with the test-vote, but they excused him with the real vote. And it pains me to tell you, though I must

say it [Aeschines tells his audience – *cwb*], that because the Council did not hand him over to the law-court, nor did they expel him from the Council House, you did not give them their end-of-year bonus (*δωρεᾶς*)” (Aeschin. 1.110–112).

So here, the Council deliberated expelling a member, but failed to do so, and if Aeschines can be believed, that failure cost them their bonus from the Assembly. This passage offers one other interesting insight into the working of the Council. Aeschines says that the council, first, *ἐξεφυλλοφόρησε μὲν αὐτόν*, “voted him out with leaves,” but later, *ἐν δὲ τῇ ψήφῳ κατεδέξατο*, “excused him during the pebble-vote” (Aeschin. 1.112). So, it seems, that the Councilors would take test votes using leaves for ballots, but would use pebbles for the official vote. (Demosthenes also mentions the Council voting with pebbles, that is, a secret ballot, rather than by show of hands when it was acting like a jury: Dem. 47.42). Note, too, that Aeschines’ account suggests that Timarchus would have had to go before a jury, if the Council had convicted him.

In addition to conducting Scrutiny of officials as they enter office, and of future citizens as they reach their eighteenth year, the Council could hear accusations that someone should be removed from office, or have his citizenship revoked. In a speech written by Lysias, the defendant has been accused of holding citizenship under false pretenses. He addresses himself to “Gentlemen of the Council,” *ὦ ἄνδρες βουλευταί*, and notes that he has

already “been found, on Scrutiny, to be of legal age” (ἀνὴρ εἶναι ἔδοκιμάσθην) (Lys. 26.21). Extra Scrutinies, beyond the regular ones, could be initiated at any time, either by a member of the Council calling for an investigation of an official (Antiph. 6.49–50), or by any Athenian citizen denouncing someone by means of an “accusation to the Council” (εἰσαγγελία εἰς τὴν βουλήν) (Aristot. *Ath. Pol.* 45.2; Dem. 24.63; Dem. 47.42–44). When someone brought such a charge to the Council, it would act like a jury-court, hearing arguments on both sides and voting with secret ballots (Dem. 47.42–44). In such cases, the Council’s decision was merely a preliminary verdict (κατάγνωσις), and the accused person could appeal to a law-court (Aristot. *Ath. Pol.* 45.2).

#### POWERS TO PUNISH

Under a few select circumstances the Council had the authority to punish Athenians, or at least to order them held in prison until a trial before a jury. For example, the Athenian democracy “out-sourced” the collection of taxes to *τελωνικοί*, or “tax-farmers”, men who paid for the right to collect taxes on behalf of the Athenians. Demosthenes suggests that the Council had special authority over these men, and over others who owed money to the Athenian democracy:

“You have a law in operation, as good a law as ever was enacted, that holders of sacred or civil moneys shall pay the money in to the Council House, and that, failing such

payment, the Council shall recover the money by enforcing the statutes applicable to tax-farmers; and on that law the administration of the treasury depends” (Dem. 24.95).

Demosthenes goes on to hint, at least, that it was in the power of the Council to imprison public debtors like the ones he mentioned above: “It follows that the whole business of the State must go to rack and ruin when, the payments on account of taxation being insufficient, there is a large deficiency, when that deficiency cannot be made up until towards the end of the year, and when, as regards the supplementary payments, neither the Council nor the law-courts have authority to imprison defaulters” (Dem. 24.98). This passage does not come out and say that the Council could imprison public debtors, but this ironic statement would certainly be more effective if that were the case.

From earlier in the 4th century BCE, a passage from the orator Andocides gives more firm evidence that the Council had the power to imprison public debtors. Andocides tells the story of a certain Cephisius thus:

“Cephisius here purchased from the state the right to collect certain public rents, and obtained thereby a return of ninety minae from the farmers occupying the lands concerned. He then defaulted; and since he would have been placed in prison had he appeared in Athens, since it was laid down by law that any defaulting tax farmer may be so punished by the Council, he retired into exile” (Andoc. 1.93).



It seems, though, that while the Council could imprison public debtors, that imprisonment was not actually their punishment, but a way to keep them in town until they could be tried before a jury. Demosthenes quotes a law that makes this clear:

“Law: Moved by Timocrates: if any Athenian citizens are now in jail or shall hereafter be imprisoned on impeachment by the Council, if the judgement against such prisoners be not delivered to the Judges by the Secretary of the Presidency in pursuance of the law of impeachment, be it enacted that the Eleven shall bring them before the Court within thirty days of the day on which they receive them into custody, unless prevented by public business, and, if so prevented, as soon as possible. Any Athenian qualified as a prosecutor may prosecute. If the culprit be convicted, the Court of Heliaea shall assess such penalty, pecuniary or otherwise, as he appears to deserve. If the penalty assessed be pecuniary, he shall be imprisoned until he has paid the full amount of the fine inflicted” (Dem. 24.63).

This law, if it is authentic (and it is important to remember that the laws quoted in Athenian orations are not always authentic), begins by assuming that some citizens have been imprisoned by the Council, and that some might be in the future. It goes on to limit the term of their imprisonment by setting time-limits for their trial before a jury. Their final punishment is up to the court of the Heliaea.

Such a law would be in keeping with the nature of the Council of the 500 under the Athenian democracy. This institution was very powerful, and so was potentially dangerous. In this matter, as in others that we have seen, the Athenians seem to have been very careful to limit the Council's power.

Further evidence of both the Council's authority to imprison people under certain circumstances, and the careful limits that the Athenians placed on the Council's power, comes from Demosthenes' speech against Timocrates. In this speech, we can see that the Council had the authority to imprison people accused of treason against Athens. Demosthenes begins by quoting from the legal language of the Athenian democracy, without (at first) stating clearly what he is quoting:

Demosthenes quotes, "Nor will I imprison any Athenian citizen who offers three sureties taxed in the same class as himself, except any person found guilty of conspiring to betray the city or to subvert popular government, or any tax-farmer or his surety or collector being in default" (Dem. 24.144).

So that is the fragment of legal language. But where does it come from? Demosthenes keeps his audience in suspense for a few more sentences, pausing to explain what it means:

"This statute, gentlemen of the Jury, is not intended for the protection of people who have stood their trial and

argued their case, but for those who are still untried and its purpose is that they shall not plead at a disadvantage, or even without any preparation at all, because they have been sent to jail” (Dem. 24.145).

So the rule that Demosthenes quoted is merely intended to allow citizens who have been accused, but not tried, to get out on bail, as it were. Finally, Demosthenes tells his audience where this phrase comes from, and why it is important:

Demosthenes says that, “the formula, ‘I will not imprison any Athenian citizen,’ is not in itself a statute; it is merely a phrase in the written oath taken by the Council, to prevent politicians who are in the Council from caballing to commit any citizen to prison. Solon therefore, wishing to deprive the Council of authority to imprison, included this formula in the Councilors’ oath; but he did not include it in the judicial oath. He thought it right that a Court of Justice should have unlimited authority, and that the convicted criminal should submit to any punishment ordered by the court” (Dem. 24.146).

So, according to this orator at least, Solon himself, in the 6th century BCE, wrote this oath to limit the authority of the Council of 500; the Council could not hold people without bail, since only a (more democratic) jury-court should have that kind of power.

For our understanding of the Council’s authority, however, it is significant that this fragment of the Councilor’s

Oath contains one exception: the Councilors swear not to imprison anyone without setting bail, “except any person found guilty of conspiring to betray the city or to subvert popular government” (Dem. 24.144). So accused traitors could be held in confinement, by order of the Council, until their trial.

Finally, could the Council, on its own authority, put people to death without a trial? Two pieces of evidence suggest so, but they need to be read and considered carefully.

The first is from a speech written by Isocrates; the speaker is a man who is suing a banker, Pasion, claiming that the banker defrauded him of all his money. At one point in the speech, the speaker claims that he had invested in a trading expedition, but that someone had made the accusation that the cargo of the ship was illegal merchandise. He says, “When I disputed this claim and demanded that the ship put to sea, those who make a business of blackmail so influenced the Council that at first I almost was put to death without a trial; finally, however, they were persuaded to allow someone to post bail for me” (Isoc. 17.42).

This is the kind of evidence that makes the business of ancient history difficult. The speech, written by a resident of 4th century Athens, delivered by a resident of Athens to an Athenian jury, says very clearly that he, the defendant, was in danger of having the Council put him to death without a trial. But was the speaker *really* in such danger, or is this merely a rhetorical device to build sympathy for himself? We should note that he was *not* in fact, put to

death, but posted bail and was released. (Perhaps we can conclude that having something to do with a contraband cargo put this man in the same category as the public debtors, and so the Council had the authority to hold him until we was tried by a jury, unless he posted bail.)

And along with the problem of the speaker's sincerity, there is the problem of consistency: given the many checks on the authority of the Council, does it seem likely that it would have the power to execute someone, without trial, on the matter of a ship's cargo?

Different conclusions are possible, but most students of Athenian democracy would probably take the nature of the specific evidence (an offhand, rhetorical comment about what "almost happened") and the majority of other evidence (which suggests that the Council's authority to take final action, without the more democratic institutions of the Assembly or the lawcourts) and decide not to jump to any conclusions.

One other piece of evidence is more direct. Aristotle describes how, after the Tyranny of the Thirty had come to an end in the winter of 403–402 BCE, the Athenians went about restoring their democracy and trying to bring an end to the (inevitable) bitterness that threatened to divide the population. (The historical development of the Council, including its role in these events, is discussed in another article; for the Tyranny of the Thirty generally, see Xen. *Hell.* 2.3–4; Diod. 14.3–6; Diod. 14.32–33; source for this date: *OCD*<sup>3</sup>). During this critical time, Aristotle says, a

certain Archinus acted skillfully to bring the population of Athens back together; for example, he discouraged many of those who had supported the Thirty Tyrants from emigrating from the city, keeping them in Athens until they saw that they were not to be persecuted (Aristot. *Ath. Pol.* 40.1). Aristotle continues, “This seems to have been a statesmanlike act of Archinus; as was also later his indicting as unconstitutional the decree of Thrasybulus admitting to citizenship all those who had come back together from Piraeus, some of whom were clearly slaves, and his third act of statesmanship was that when somebody began to stir up grudges against the returned citizens, he arraigned him before the Council and persuaded it to execute him without trial, saying that this was the moment for them to show if they wished to save the democracy and keep their oaths; for by letting this man off they would incite the others too, but if they put him out of the way they would make him an example to everybody” (Aristot. *Ath. Pol.* 40.2).

So these were the acts of Archinus to preserve the Athenian people: he prevented mass emigration of a portion of the citizens; he prevented the wholesale enfranchisements, that is, the indiscriminate granting of citizenship to anyone who had opposed the tyranny; and he persuaded the Council to execute, without trial, someone who was stirring up grudges against the supporters of the deposed Tyrants. In short, Archinus’ policy seems to have been to do whatever he could to erase the divisions among the people that had arisen from the Tyranny. Citizens were citizens,

and slaves were slaves, regardless of which side anyone had supported in previous days.

This is direct and positive evidence for the Council executing someone without trial. But, as with the evidence from Isocrates, this evidence requires careful consideration. Was execution-without-trial a normal privilege of the Council, or was it an extreme measure, technically illegal but (arguably) justified in this one extraordinary circumstance, when the city was trying to restore the rule of law after overthrowing a brutal tyranny? Again, the mass of evidence that we have, which shows how careful the Athenians limited the authority of the Council, would probably lead to the conclusion that, Aristotle's account notwithstanding, the Council could not normally execute Athenian citizens without sending them to a democratic jury for a trial.

#### ADMINISTRATION OF ATTICA

Because the Council represented the largest institution of the Athenian democracy that existed on a full-time basis, with groups of fifty Councilors serving for an "administrative month," or "prytany," at a time, it made sense for this body to play a large role in the administration of Athens. The Council was responsible for making the city work properly.

We have already seen that the Council was responsible for inspecting members of the cavalry and their horses (Aristot. *Ath. Pol.* 49.1–2). The Council had additional re-

sponsibilities toward the military defenses of Attica as well. Demosthenes mentions a law that required the Council to oversee the building of new warships; the law specified that the Councilors would not get their end-of-year bonus (δωρειά) if they failed in this duty (Dem. 22.8).

A decree of the Assembly survives on an inscription that is very specific about the Council's responsibility toward the outfitting of the naval fleet. The decree orders certain individual citizens to take charge of the outfitting and dispatch of the fleet – these citizens were called “Trierarchs” (τριήραρχος) – but goes on to make the Council responsible for seeing that the job gets done (*IG II<sup>2</sup> 1629.233–266*; much of this is echoed at Aristot. *Ath. Pol.* 46.1):

“Should anyone, whether he be an official or a private citizen, not do any of the things he has been assigned by this Decree, let him owe ten thousand drachmas to the Treasury of Athene, and let the Auditor and the Assessor mark down this obligation, or owe the fine themselves. And it is necessary for the Council to punish those of the Trierarchs who were responsible for the fleet but who shirked their duty. And the Prytaneis must make a session of the Council concerning the fleet, and it should meet continuously until the fleet is ready. And the People will choose ten men out of all the Athenians to be Naval Constructors, to take responsibility for the fleet, according to the instructions of the Council. And if the Council and the Prytaneis are responsible for the fleet, they will



be crowned by the People from the [some text missing – cwb] drachmas. And if this Decree has left anything out concerning the fleet, the Council has the authority to make other decrees, as long as it does not undo any of the Decrees of the People.” (*IG II<sup>2</sup> 1629.233–266*)

ἐὰν δέ τις μὴ ποιήσει, οἷς ἕκαστα προστέτακται, ἢ ἄρχων ἢ ἰδιώτης, κατὰ τόδε τὸ ψήφισμα, ὀφειλέτω ὁ μὴ ποιήσας μυρίας δραχμὰς ἱεράς τῇ Ἀθηνᾷ, καὶ ὁ εὐθυνος καὶ οἱ πάρεδροι ἐπάναγκες αὐτῶν καταγιγνωσκόντων ἢ αὐτοὶ ὀφειλόντων. τὴν δὲ βουλήν τοὺς ἐπιμελεῖσθαι τοῦ ἀποστόλου κολάζουσιν τοὺς ἀτακτοῦντας τῶν τριηράρχων κατὰ τοὺς νόμους· τοὺς δὲ πρυτάνεις ποεῖν βουλῆς ἔδραν ἐπὶ χώματι περὶ τοῦ ἀποστόλου συνεχῶς, ἕως ἂν ὁ ἀπόστολος γένηται. ἐλέσθαι δὲ καὶ ἀποστολέας τὸν δῆμον δέκα ἄνδρας ἐξ Ἀθηναίων ἀπάντων, τοὺς δὲ αἰρεθέντας ἐπιμελεῖσθαι τοῦ ἀποστόλου, καθάπερ τῇ βουλεῖ προστέτακται. εἶναι δὲ τῇ βουλεῖ καὶ τοῖς πρυτάνεσιν ἐπιμεληθεῖσιν τοῦ ἀποστόλου στεφανωθῆναι ὑπὸ τοῦ δήμου χρυσῶι στεφάνωι ἀπὸ ... δραχμῶν. ἐὰν δὲ τοῦ προσδέει τόδε τὸ ψήφισμα τῶν περὶ τὸν ἀπόστολον, τὴν βουλήν κυρίαν εἶναι ψηφίζεσθαι μὴ λύουσιν μηθὲν τῶν ἐψηφισμένων τῶι δήμωι. (*IG II<sup>2</sup> 1629.233–266*)

This law not only shows the Council’s authority over the construction and dispatch of Athens’ navy, but also illustrates, again, the separation of powers under the Athenian Democracy: the Assembly here delegates authority to the

Council, but in the end it is the Assembly of the People that have the final word.

The Council was also responsible for keeping the harbor and naval yards in good repair (Aristot. *Ath. Pol.* 46.1), and indeed for all of the defenses of the Piraeus (the harbor), the Long Walls (that connected the harbor to the city), and “all the rest of the stone walls” (τὰ ἔλλοιπα τῶν λιθίνων τειχῶν) (*IG II<sup>2</sup>* 244.36–37).

Beyond the administration of military matters, the Council had to inspect all public buildings (Aristot. *Ath. Pol.* 49.3), and it controlled the religious sanctuaries in the city of Athens and the whole territory of Attica (*IG II<sup>2</sup>* 244).

In short, as Aristotle says, “The Council shares in, if I may say so, the administration of the greatest number of the duties” (συνδιοικεῖ δὲ καὶ ταῖς ἄλλαις ἀρχαῖς τὰ πλεῖσθ’ ὡς ἔπος εἰπεῖν) (Aristot. *Ath. Pol.* 49.3).

#### PUBLIC FINANCE

The Council was fully involved in almost every aspect of public finance under the Athenian democracy, from overseeing the collection of money, to managing its distribution where needed, to punishing those who failed to pay to the city what they owed or who misspent what they received from the city. Because the subject of public finance is so complicated, it deserves its own treatment as an aspect of Athenian Democracy, but in this discussion of the Council generally, it will be enough to suggest,

through the primary sources, how the Council financed its own activities.

A writer in the 4th century BCE wrote a tract about the Athenian democracy. This text was originally attributed to the writer Xenophon, but since scholars no longer think that Xenophon actually wrote it, the author is called “Pseudo-Xenophon,” or the “False Xenophon” – because the tract is quite critical of the democracy at Athens, this author is sometimes called the “Old Oligarch.” One of the points of criticism he raises is the perceived inefficiency of the Athenian government, how long it can take for the Council or the Assembly to get around to hearing about any new business:

“I notice also that objections are raised against the Athenians because it is sometimes not possible for a person, though he sit about for a year, to negotiate with the Council or the Assembly. This happens at Athens for no other reason than that – owing to the quantity of business – they are not able to deal with all persons before sending them away. For how could they do this? First of all they have to hold more festivals than any other Greek city (and when these are going on it is even less possible for any of the city’s affairs to be transacted), next they have to preside over private and public trials and investigations into the conduct of magistrates to a degree beyond that of all other men, and the Council has to consider many issues involving war, revenues, law-making,

local problems as they occur, also many issues on behalf of the allies, receipt of tribute, the care of dockyards and shrines. Is there accordingly any cause for surprise if with so much business they are unable to negotiate with all persons?” (Ps. Xen. *Const. Ath.* 3.1–2).

Pseudo-Xenophon’s condensed list of the Council’s duties – “war, revenues, law-making, local problems as they occur, also many issues on behalf of the allies, receipt of tribute, the care of dockyards and shrines” (Ps. Xen. *Const. Ath.* 3.2) – can suggest how and why the Council was, inevitably, deeply involved in matters of public finance, both the acquiring and the spending of public money.

Under normal circumstances, the Council had its own money, a share of the public money, that was apportioned for the Council’s use by the Treasurers (οἱ ταμίαι). So, for example, if the Council needed to arrange for a public stele, a stone with a decree inscribed on it, they could use their own budget to pay the inscriber, as this preserved decree shows: “[The Council and the People decreed that] the Treasurers of the Council give 30 talants to the inscriber of this stele, from the funds apportioned to the Council” (ἐς δὲ τὴν ἀναγραφὴν τῆς στήλης δοῦναι τοὺς ταμίας τῆς βουλῆς 30 δραχμὰς ἐκ τῶν κατὰ ψηφίσματα ἀναλισκομένων τῆι βουλῆι) (*IG II<sup>2</sup>* 120.20–22).

Another example is this decree, preserved on an inscription, in which the Council has voted to honor a certain Eudodoxos with a gold crown, costing 500 drachmas. The

inscription specifies that, “the Treasurers will give the silver [for the crown] from the money apportioned, according to the decrees, for the Council” (τοὺς δὲ ταμίας δοῦναι τὸ ἀργύριον ἐκ τῶν κατὰ ψηφίσματα ἀναλισκομένων τῆ βουλῆι) (*IG II<sup>2</sup> 223*).

Funds were not always sufficient, and this could lead to trouble. The orator Lysias says, in one of his speeches, that “the Council, whenever it deliberates, as long as it has enough money for its administration, never goes wrong; but whenever it gets into financial difficulties, it is forced to accept impeachments, to confiscate the property of citizens, and to be persuaded by the arguments of the worst sort of orator” (ἡ βουλή ἢ ἀεὶ βουλευούσα, ὅταν μὲν ἔχη ἱκανὰ χρήματα εἰς διοίκησιν, οὐδὲν ἐξαμαρτάνει, ὅταν δὲ εἰς ἀπορίαν καταστῆ, ἀναγκάζεται εἰσαγγελίας δέχεσθαι καὶ δημεύειν τὰ τῶν πολιτῶν καὶ τῶν ῥητόρων τοῖς τὰ πονηρότατα λέγουσι πείθεσθαι) (*Lys. 30.22*).

Since the Council had so much power and handled so much money, the Athenians were careful to ensure that it dealt honestly and openly. Aristotle describes the elaborate system of public accounting and accountability that accompanied the Council’s job of receiving and distributing funds.

For example, when an Athenian citizen held a lease on some public land, he made his payments to the Council once a year, in the ninth prytany (*Aristot. Ath. Pol. 47.4*). The actual money was not collected by the Councilors, however, but by the ten “Sellers” (οἱ πωληταί), who were

randomly chosen by lot (κληροῦται) (Aristot. *Ath. Pol.* 47.2). These received the money and recorded the payment on tablets (καταβολαί), which were brought to the Council by the Secretary (γραμματεὺς) (Aristot. *Ath. Pol.* 47.5). In the Council House, the Secretary handed the tablets over to the ten Receivers (ἀποδέκται), who were also chosen by lot (κεκληρωμένοι) (Aristot. *Ath. Pol.* 48.1). These Receivers reviewed the receipts for payments in the presence of the Council, and recorded the names of everyone who had paid on their leases, and the amount they paid; then they gave the receipts back to the Secretary (Aristot. *Ath. Pol.* 48.1). The Receivers then decide how to distribute (μερίζουσι) the collected funds to the various officials, including (presumably) the Council itself. They write out this budget (μερισμός, literally “distribution”) on another tablet; once they have read out the budget publically, the Council could debate its merits (Aristot. *Ath. Pol.* 48.2). According to Aristotle, the specific concern in this debate was that some official or private citizen might have tried to influence the budget for his own advantage (Aristot. *Ath. Pol.* 48.2), but it seems reasonable that other issues would be topics of debate as well, such as how much money each arm of the government should receive.

After the funds were apportioned, the Council appointed two groups of auditors to ensure that no one misused funds. One group was the ten Auditors (λογισταί), whom the Council chose by lot (κληροῦσι) from their own members (Aristot. *Ath. Pol.* 48.4). The other group was the

ten Examiners (εὔθυνοι), whom the Council chose by lot (κληροῦσι) from the population as a whole (Aristot. *Ath. Pol.* 48.4). The Auditors checked the records of each official at the end of each prytany (Aristot. *Ath. Pol.* 48.4). The Examiners sat in public, by the Statues of the Eponymous Heroes, and any citizen could come to them and lodge a complaint about how any official had handled public funds (Aristot. *Ath. Pol.* 48.4). If an Examiner received a complaint, the matter did not go to the Council, but to the Thesmothetae, the Archons, who would hand the matter over to a jury (Aristot. *Ath. Pol.* 48.5).

So while the Council was at the center of the business of receiving and disbursing public money, the process was carefully designed to prevent corruption. The Councilors did not actually receive the money, nor did they actually keep the accounts, nor did they actually draw up the budget. They witnessed that process, approved the budget, and selected auditors. Even in the selection of auditors, the Council's power was limited. Selection was by random lot, and in addition to the auditors chosen from among the members of the Council, there was an additional body of Examiners who were not Councilors. If this latter group found evidence of corruption, they did not report to the Council but to the Archons and the jury-courts.

Even though there were 500 Councilors each year, the Athenians treated this institution carefully. It was not as democratic as the Assembly or the Lawcourts, and while it was a necessary part of the government of the city, the

Athenians were careful to keep its business open to scrutiny and its power in check.

#### FOREIGN POLICY

The most momentous decisions of Athenian foreign policy, matters of war and peace, were ultimately in the hands of the Assembly. Nevertheless, the Council, the institution of government that was “open” day and night, all year ’round, played an important role in how Athens interacted with the rest of the world. The Council often represented the People of Athens in an official capacity, receiving ambassadors from foreign states, selecting Athenians to represent the city abroad, and taking advantage of its ability to discuss matters in confidence, apart from non-Athenian ears.

As we have already seen, the Assembly could not even debate a matter unless the Council had put it on the agenda by passing a *probouleuma*, or Preliminary Decree; this fact alone gave the Council a certain authority over matters of foreign policy. Aeschines notes this at Aeschin. 2.60–61, when he accuses Demosthenes of manipulating the Council in such a way that the Assembly was forced to discuss a matter of foreign policy *before* some Athenian ambassadors had returned from a mission.

The division of authority could go both ways, however. While the Assembly could not act without a Preliminary Decree from the Council, the Assembly could also empower the Council to take over business for which the Assembly itself was not well suited. An inscription bearing



a decree of the Assembly on the matter of the Athenian navy demonstrates this; the Assembly set the outfitting of the fleet in motion, but it was up to the Council to see the business through. The Athenian navy, of course, was the most active and palpable instrument of Athenian foreign policy:

“If anything is lacking from the present decree regarding the fleet,” the Decree of the Assembly says, “the Council is authorized to make new resolutions, as long as it does not undo any of the decrees of the People” (ἐὰν δέ τοῦ προσδέει τόδε τὸ ψήφισμα τῶν περὶ τὸν ἀπόστολον, τὴν βουλήν κυρίαν εἶναι ψηφίζεσθαι μὴ λύουσιν μηθὲν τῶν ἐψηφισμένων τῷ δήμῳ) (*IG II<sup>2</sup> 1629.264–269*).

We can see the Council acting as the institution that represents Athens officially in a decree, preserved on an inscription, having to do with a treaty between the Athenian people and Dionysius, the tyrant of Syracuse in Sicily. Here, it seems that the Council, along with the Generals, Cavalry Commanders, and Commanders of Archers were to swear oaths committing Athens to a treaty of mutual military support (ἡ συμμαχία): “It is decreed that the ambassadors who have come from Dionysius will carry the oath concerning the treaty of mutual military assistance, and it will be sworn by the Council, the Generals, the Cavalry Commanders, and the Commanders of Archers” (λαβεῖν δὲ τὸν ὄρκον τὸμ περὶ τῆς συμμαχίας τοὺς πρέσβεις τοὺς παρὰ Διονυσίου ἤκοντας, ὁμόσαι δὲ τὴν τε βουλήν καὶ τὸς

στρατηγούς καὶ τοὺς ἰππάρχους καὶ τοὺς ταξιάρχους) (IG II<sup>2</sup> 105.32–34 = Tod 136).

We have already seen that the “Prytaneis” were the fifty Councilors who served, on a day-in and day-out basis, for one-tenth of the Athenian year. It was to these men that messengers from abroad and envoys from foreign states came first, bearing news to the Athenians. Demosthenes describes a dramatic moment when messengers from the north of Greece came to Athens bearing news that Philip of Macedon had captured Elatea; the messengers came directly to the Prytaneis of the Council: “Evening had already fallen when a messenger arrived bringing to the Prytaneis the news that Elatea had been taken. They were sitting at supper, but they instantly rose from table, cleared the booths in the marketplace of their occupants, and unfolded the hurdles, while others summoned the commanders and ordered the attendance of the trumpeter. The commotion spread through the whole city. At daybreak on the morrow the presidents summoned the Council to the Council House, and the citizens flocked to the place of assembly. Before the Council could introduce the business and prepare the agenda, the whole body of citizens had taken their places on the hill.” (Dem. 18.169). This passage shows clearly *why* it was appropriate for the Council to receive foreign visitors: any action in response to news from abroad, even if that action were the responsibility of the Assembly, would require the Council to, first, call an as-

sembly, and second, put the matter at hand on the agenda of the Assembly by means of a Preliminary Decree.

Aeschines says that it was usual for the Council to allow foreign ambassadors to address the Assembly (Aeschin. 2.58). The Council could also award visitors certain benefits, such as a meal at public expense (Dem. 19.235), or special seats in the Theater (Aeschin. 2.55). But the Council could also treat ambassadors more curtly. Xenophon describes how, after the battle of Leuctra, the Thebans sent messengers to ask Athens for an alliance against the Spartans: “As for the Thebans, immediately after the battle they sent to Athens a garlanded messenger, and while telling of the greatness of their victory, they at the same time urged the Athenians to come to their aid, saying that now it was possible to take vengeance upon the Lacedaemonians for all the harm they had done to them. Now the Council of the Athenians chanced to be holding its meeting on the Acropolis. And when they heard what had taken place, it was made clear to everyone that they were greatly distressed; for they did not invite the herald to partake of hospitality and about the matter of aid they gave him no answer. So the herald departed from Athens without having received a reply.” (Xen. *Hell.* 6.4.20).

Athenian ambassadors, too, when returning from a mission abroad, came to report first to the Council, before going to the Assembly. Aeschines describes one such scene, when Demosthenes, serving as Councilor, moved that the Council award the ambassadors (including Aeschines

himself) a crown and invite them to a meal at public expense: “On our return, then, after we had rendered to the Council a brief report of our mission and had delivered the letter from Philip, Demosthenes praised us to his colleagues in the Council, and he swore by Hestia, goddess of the Council, that he congratulated the city on having sent such men on the embassy, men who in honesty and eloquence were worthy of the state. In referring to me he said something like this: that I had not disappointed the hopes of those who elected me to the embassy. And to cap it all he moved that each of us be crowned with a garland of wild olive because of our loyalty to the People, and that we be invited to dine on the morrow in the Prytaneum.” (Aeschin. 2.45–46)

While the Assembly was responsible for selecting Athenians to serve as ambassadors to other states, it could delegate that authority to the Council. One decree, passed by both the Council and the People (*IG II<sup>2</sup> 117*; it begins “It seemed best to the Council and the People...,” ἔδοξεν τῆι βουλῆι καὶ τῶι δήμῳ) contains the following provision: “[it is decreed] for the Council to select, at once, ten men as ambassadors, five from the Council and five from among the private citizens, who will receive the oaths from the people of Eretria” (ἐλέσθαι δὲ πρέσβες αὐτίκα μάλα τὴν βουλήν δέκα ἄνδρας, πέντε μὲν ἐκ τῆς βουλῆς, πέντε δὲ ἐξ ἰδιωτῶν, οἵτινες ἀπολήψονται τοὺς ὄρκους παρὰ Ἐρετριέων) (*IG II<sup>2</sup> 117.19–21*).

Foreign policy often requires planning and acting in secret, and for this reason the Council was better suited than the Assembly for discussing sensitive issues. Unlike the Assembly, whose proceedings took place out of doors, for all to hear, the Council could meet privately. Demosthenes says, “The Council of the Five Hundred, thanks to this barrier [the wooden fence that prevented anyone from trespassing on the proceedings – CWB], frail as it is, is master of its own secrets, and no private citizen can enter it” (τὸ τὴν βουλήν τοὺς πεντακοσίου ἀπὸ τῆς [ἀσθενοῦς] τοιαυτησὶ κιγκλίδος τῶν ἀπορρήτων κυρίαν εἶναι, καὶ μὴ τοὺς ἰδιώτας ἐπεισιέναι) (Dem. 25.23).

Aeschines at one point accuses Demosthenes of taking advantage of the Council’s ability to exclude private citizens from its meetings: “Now when we had reported this decree to our Council, and then to the Assembly, and when the people had approved our acts, and the whole city was ready to choose the righteous course, and when Demosthenes had spoken in opposition – he was earning his retaining-fee from Amphissa – and when I had clearly convicted him in your presence, thereupon the fellow, unable to frustrate the city by open means, goes into the senate chamber, expels all listeners, and from the secret session brings out a bill to the Assembly, taking advantage of the inexperience of the man who made the motion” (Aeschin. 3.125–127).

Aeschines’ accusations aside, there were clearly times when the Council needed to act secretly, such as when

the Athenians were laying plans to oppose Alexander the Great: “Ultimately they chose as supreme commander the Athenian Leosthenes, who was a man of unusually brilliant mind, and thoroughly opposed to the cause of Alexander. He conferred secretly with the Council at Athens and was granted fifty talents to pay the troops and a stock of weapons sufficient to meet pressing needs” (Diod. 17.111.3).

Between the Council and the Assembly, the Athenians had a system whereby the whole body of citizens had a say in how Athens interacted with the rest of the world, while still providing for around-the-clock responses to crises, formal and orderly reception of foreign dignitaries, and (most important) the ability to debate and decide matters secretly. Ironically, Athens’ attempt to oppose Macedonian power, which is the subject of the quotation from Diodorus above, led to the end of the city’s independence as a free democracy. Having happened upon the end of classical Athenian democracy, in this discussion of the Council, it is worthwhile to back up and look at how the institution developed from the earliest days until its most fully developed form in the 4th century BCE. A discussion of that history and the sources for our knowledge of it appear in a separate Demos article (see “Council: its history”).

#### SECONDARY WORKS CITED

John Boardman, Jasper Griffin, Oswyn Murray, *Oxford History of the Classical World* (Oxford, 1986) [OHCW].  
G. Crane, ed., *Perseus Encyclopedia*, s.v. “Lysias”.

Victor Ehrenberg, *The Greek State*, 2nd English Edition (Methuen, 1969).

A.W. Gomme, *The Population of Athens in the Fifth and Fourth Centuries B.C.* (Blackwell, 1933).

S. Hornblower and A. Spawforth edd., *The Oxford Classical Dictionary*, 3rd Edition (Oxford, 1996) [OCD<sup>3</sup>].

P.J. Rhodes, *The Athenian Boule* (Oxford, 1972).

P.J. Rhodes, *Commentary on the Aristotelian Athenaion Politeia* (Oxford, 1993).



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