

that the problem as they conceived it was not to gain a man his rights but to insure him the place to which he was entitled. Somewhat differently stated, it meant that, in the eyes of Greek thinkers, the political problem was to discover what place each kind or class of men merited in a wholesome society so constituted that all the significant sorts of social work could go on.

POLITICAL INSTITUTIONS

The institutions by which this body of citizen-members undertook to transact its political business can be illustrated by taking Athens as the best-known type of the democratic constitution.¹ The whole body of male citizens formed the Assembly or Ecclesia, a town-meeting which every Athenian was entitled to attend after he had reached the age of twenty years. The Assembly met regularly ten times in the year and in extraordinary sessions at the call of the Council. The acts of this town-meeting corresponded, as nearly as anything in the system did, to modern enactments in which the whole public authority of the body-politic is embodied. This is not to say, however, that the formation of policies and the effective discussion of measures took place, or was intended to take place, in this body. Direct democracy conducted by the whole people assembled is rather a political myth than a form of government. Moreover, all forms of Greek government (except extra-legal dictatorship), whether aristocratic or democratic, included some sort of assembly of the people, even though its share in government might actually be small.

The interesting thing about Athenian government is therefore not the Assembly of the whole people but the political means which had been designed to make the magistrates and officials responsible to the citizen-body and answerable to its control.² The device by which this was effected was a species of representation, though it differed in important ways from modern ideas of representation.

¹ The constitution of Cleisthenes, whose reforms were adopted in 507 B.C. Minor changes were made from time to time, largely in the direction of increasing the number of magistrates chosen by election and lot and also the number of paid services, both devices of popular government, but the reforms of Cleisthenes established the constitution of Athens as it was during the period of Athens' greatest power and as it remained. There was a brief oligarchic reaction at the close of the Peloponnesian war but the old forms were restored in 403.

What was aimed at was the selection of a body sufficiently large to form a sort of cross-section or sample of the whole body of citizens, which was permitted in a given case or for a short term to act in the name of the people. The terms were short, there was usually a provision against re-election, and thus the way was open for other citizens to have a turn at the management of public affairs. In line with this policy, the magistracies were held as a rule not by individuals but by boards of ten, one chosen from each of the tribes into which the citizens were divided. The magistrates, however, had for the most part little power. The two bodies which formed the keys to popular control of government in Athens were the Council of Five Hundred and the courts with their large popular juries.

The manner in which the members of these governing bodies were chosen explains the sense in which they could be said to represent the whole people. For purposes of local government the Athenians were divided into about a hundred demes, or, as they might be called, wards or parishes or townships. (These demes were the units of local government. There was one respect, however, in which they were not comparable strictly to local units, membership in them was hereditary, and even though an Athenian moved from one locality to another, he remained a member of the same deme. Accordingly, though the deme was a locality, the system was not purely one of local representation.) The demes had, however, some measure of local autonomy and (certain local police-duties of rather trifling importance). They were, moreover, the door by which the Athenian entered into citizenship, for they kept the register of their members and (every Athenian boy was enrolled at the age of eighteen. But their really important function was the presentation of candidates to fill the various bodies by which the central government was carried on. The system was a combination of election and lot. (The demes elected candidates, roughly in proportion to their size, and the actual holders of office were chosen by lot from the panel thus formed by election.) To the Greek understanding this mode of filling offices by lot was the distinctively democratic form of rule, since it equalized everyone's chances to hold office.

(There was, however, one important body of Athenian officials which remained outside this scheme of choice by lot) and which

retained a much larger measure of independence than the others. These were the ten generals who were chosen by direct election and were, moreover, eligible to repeated re-elections. The generals were, of course, in theory purely military officers but especially in imperial days they actually exercised not only important powers in foreign parts of the Athenian Empire but also very great influence over the decisions of the Council and the Assembly at home. The office therefore was not really a military post but in certain cases a political office of the highest importance. It was as general that Pericles acted year after year as the leader of Athenian policy, and his position with reference to the Council and Assembly was much more like that of prime minister in a modern government than that of a mere commander of troops. But his power lay in the fact that he could carry the Assembly with him; a failure to do so would have disposed of him as effectively as an adverse vote disposes of a responsible minister.

As was said above, the really essential governing bodies at Athens were the Council of Five Hundred and the courts with their large popularly chosen juries. Some sort of council was a characteristic part of all forms of the Greek city-state but in the aristocratic states, as at Sparta, the council was a senate composed of elders chosen for life and without responsibility to the assembly. Membership in such a council would normally be the prerogative of a well-born governing class and hence quite different from the popularly chosen Council at Athens. The Council of the Areopagus was the remnant of an aristocratic senate which had been shorn of its powers by the rising democracy. In substance the Council of Five Hundred was an executive and steering committee for the Assembly.

¶The actual work of government was really centered in this committee. ¶But five hundred was still far too large for the transaction of business and it was reduced to a working size by the favorite device of rotation in office. <Each of the ten tribes into which the Athenians were divided furnished fifty of the members and the fifty members from a single tribe were active for one-tenth of the yearly term of office.> This committee of fifty, augmented by one councilman from each of the nine tribes not in office, was in actual control and transacted business in the name of the entire Council. A president was chosen by lot from the fifty for a single day and no

Athenian could hold this honor for more than one day in his entire life. The Council was charged with the very important duty of proposing measures for the consideration of the general Assembly of the citizens, which only acted upon matters coming to it through the Council. At the time when the Athenian constitution was at its best, it would appear that the Council rather than the Assembly was the body which effectively formulated measures. At a later date it seems to have confined itself rather to the duty of drafting measures to be debated in the Assembly. In addition to these legislative duties the Council was also the central executive body in the government. Foreign embassies had access to the people only through the Council. The magistrates were largely subject to its control. It could imprison citizens and even condemn them to death, acting itself as a court or committing offenders to one of the ordinary courts. It had entire control of finances, the management of public property, and taxation. The fleet and its arsenals were directly controlled by it, and a multitude of commissions and administrative bodies or servants were attached more or less closely to it.

The great powers of the Council, however, were always dependent upon the good will of the Assembly. It passed upon matters which the Council presented to it, enacting, amending, or rejecting them as it saw fit. A proposal originating in the Assembly might be referred to the Council, or the latter body might present a proposal to the Assembly without recommendation. (All major matters, such as declarations of war, the concluding of peace, the forming of alliances, the voting of direct taxes, or general legislative enactments, were expected to go before the Assembly for popular approval, but it was apparently not expected, at least in the best days of Athenian politics, that the Council should be a mere drafting body. At all events decrees were passed in the name of the Council *and* the people.

It was through the courts, however, that popular control both of magistrates and of the law itself was consummated. (The Athenian courts were undoubtedly the keystone of the whole democratic system.) They occupied a position not comparable to that held by the courts in any modern government. Their duty, like that of any other court, was of course to render judicial decisions in particular cases either civil or criminal; but in addi-

tion they had powers vastly beyond this, which to modern ideas were clearly of an executive or legislative rather than of a judicial nature

The members of these courts, or jurymen, were nominated by the demes, a panel of six thousand being elected each year, and were then told off by lot to sit in particular courts and upon particular cases. Any Athenian citizen thirty years old might be chosen for this duty. The court was a very large body, scarcely ever less than 201, commonly as many as 501, and sometimes much larger. These citizens were indifferently judge and jury, for the Athenian court had none of the machinery that goes with a technically developed form of law. Parties in litigation were obliged to present their cases in person. The court simply voted, first upon the question of guilt, and then, if the verdict had been guilty, upon the penalty to be assessed, after each party had proposed a punishment which he deemed just. A decision by a court was final, for there was no system of appeals. This was indeed perfectly logical, for it was the theory of the Athenian courts that the court acted and decided in the name of the whole people. The court was not merely a judicial organ, it was conceived to be literally the Athenian people for the purpose in hand. A decision in one court was therefore in no way binding upon any other court. In fact, a court was in some respects coordinate with the Assembly itself. Both the Assembly and the court were the people. Hence the courts were utilized to secure a popular control both over officials and over the law itself.

< The control of the courts over magistrates was secured in three main ways. In the first place, there was a power of examination before a candidate could take office. An action might be brought on the ground that a given candidate was not a fit person to hold office and the court could disqualify him. This process made the choice of magistrates by lot less a matter of chance than it might at first appear to be. In the second place, an official could be made subject at the conclusion of his term of office to a review of all the acts performed by him, and this review also took place before a court. Finally, there was a special auditing of accounts and a review of the handling of public money for every magistrate at the end of his term. The Athenian magistrate, ineligible as he was to reelection and subject to examination before and after his term by a court composed of five hundred or more of his fellow