The history of the Areopagos Council from its origins to Ephialtes

Amber L. Irwin

Master of Arts

Department of History and Classical Studies
Faculty of Arts

McGill University
Montreal, Quebec, Canada

October 18 2010

A thesis submitted to McGill University in partial fulfillment of the requirements of the degree of Master of Arts in History.

DEDICATION

To all my teachers.

ACKNOWLEDGEMENTS

I would like to begin by thanking my parents without whose love and support my adventures into academia would not have been possible. A debt of gratitude is also owed to by thesis advisor Prof. Hans Beck whose encouragement and always constructive criticism have been invaluable throughout my academic career at McGill University. Also, thank you to my external reviewer Prof. Michael Fronda for his time and helpful comments on this paper and many others. I am very grateful to my dutiful editors Catherine McPherson, Paul Vadan, Brahm Kleinman, François Gauthier, and Brock Stephenson. Thank you for your support, expertise, comma policing skills, translation services, and encouragement, respectively.

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ABSTRACT

The Areopagos Council was one of Athens' most archaic and respected institutions. Despite the efforts of historians in antiquity and today its origin, importance, and functions remain ambiguous. Most scholarship on the Areopagos focuses on isolated events in the council's history or the particularities of its powers. This has produced a series of specific studies, which in isolation do not help historians understand the Areopagos' greater role in Athens' political culture. This investigation will re-examine ancient literary accounts and epigraphic evidence in order to reassess the early history of the Areopagos from Athens' monarchical period to the reforms of Ephialtes. It will be demonstrated that the Areopagos originated as an informal council of elders during Athens' monarchical period and evolved into a powerful governing body whose importance waned only after Ephialtes' reforms. Assessing the changing role of the Areopagos over time will allow scholars to better understand the development of this institution and the changing nature of Athenian government.

ABRÉGÉ

Le conseil de l'Aréopage était une des institutions les plus anciennes et les plus respectées d'Athènes. Son origine, son importance et ses fonctions demeurent ambigües en dépit des efforts des historiens anciens et modernes. La plupart des travaux modernes sur l'Aréopages se concentrent sur des événements isolés dans l'histoire de ce conseil ou sur les particularités de ses pouvoirs. Cela a donné lieu à une série d'études spécifiques qui, lorsqu'on les considère individuellement, ne sont pas d'un grand secours aux historiens pour apprécier le rôle d'ensemble de l'Aréopage dans la culture politique d'Athènes. Cette enquête réexaminera les sources littéraires et épigraphiques pour tenter de réévaluer l'histoire de l'Aréopage de la période monarchique jusqu'aux réformes d'Éphialtès. Il sera démontré que l'Aréopage avait ses origines dans un conseil de vieillards qui existait a l'époque monarchique d'Athènes et qui évolua jusqu'a devenir un puissant organe de gouvernement dont l'importance déclina seulement après les réformes d'Éphialtès. Examiner l'évolution du rôle de l'Aréopage à travers le temps permettra aux historiens de mieux comprendre le développement de cette institution et la nature changeante du gouvernement athénien.

INTRODUCTION

The Areopagos was one of Athens most archaic and respected institutions. Despite the efforts of historians, in antiquity and today, its origin, importance, and functions remain ambiguous. The aim of this investigation is to reassess the early history of the Areopagos by looking at its role in governance from Athens' monarchical period to the reforms of Ephialtes. Few scholars have endeavoured to study the Areopagos' evolution during this period and most scholarship focuses on isolated events in the council's history or the particularities of its powers. This has produced a series of fragmented studies, which in isolation do not inform scholars about the Areopagos' greater role in Athens' political culture. This study will examine literary accounts in conjunction with epigraphic and comparative evidence in an attempt to chart the evolution of the Areopagos.

Currently there are two competing models which describe the development of the early Areopagos. The first model emphasizes the organic nature of the council's growth. It connects isolated nodes of scholarship in order to create a continuous narrative of the nascent Areopagos. According to this model, the Areopagos originated as an advisory council that was institutionalized and, over time, evolved into a powerful body with judicial responsibilities. The second approach is unorthodox and not widely accepted within the scholarly community. This second model was proposed by Robert Wallace in his comprehensive work on the Areopagos. In this study, Wallace re-examined both heavily referenced and

often forgotten pieces of evidence in an attempt to reassess traditional theories. His radical skepticism and unusual data set resulted in a study that charts an inverted course for the Areopagos; he argues that the Areopagos began as a site for law courts and only became a council during the reforms of Solon. The conclusions reached by Wallace are controversial but they highlight the benefits of challenging traditional scholarship and utilizing neglected evidence.

This investigation will set out to test both of these models by examining a wide array of primary source evidence in light of competing scholarship. The sources for the Areopagos are diverse and treacherous. They include historical narratives, biographies, laws, lexicons, and poetry. Each of these genres presents its own methodological challenges and these will be discussed as this investigation progresses. Difficult and anachronistic sources, like the *Athenaion Politeia* and Plutarch's biographies, will be critically examined in an attempt to glean the historical developments that underlie their fantastic accounts. All of these sources will be approached with careful optimism. A thorough examination of the available evidence will show that the Areopagos originated as an advisory council to the king of Athens and its reputation only waned with the reforms of Ephialtes. At points, this conclusion deviates from traditional scholarship on the Areopagos, which will now be discussed.

The Areopagos has been a topic of scholarly interest for over a century and it was a particularly attractive topic for constitutional historians of the nineteenth

century.[1] However, since then it has been largely understudied. The majority of scholarship on the Areopagos Council is composed of passing references in articles and books. Consequently, the historiography of the Areopagos has to be examined through greater trends in scholarship. In fact, only two comprehensive studies have ever been undertaken. The first was Philippi's *Der Areopag und die Epheten* (1874).[2] However, this study did not occupy an authoritative position for long as less than two decades later an ancient text was rediscovered that changed the way scholars studied the Areopagos.

In 1891, the complete text of the *Athenaion Politeia* (*A.P.*) was published. The *A.P.* gave scholars new insight into the evolution of Athenian government. It is has become one of the most important and fulsome sources for Areopagos, the reforms of Kleisthenes, and other events in Athenian history. Its lengthy description of constitutional developments in stood in contrast to the scanty evidence historians had drawn on previously. Scholars have tended to separate this earlier data set from the *A.P.,* especially as these two sets of evidence are often contradictory. Some scholars have chosen to use one set of evidence over the other and their choice is often influenced by trends in scholarship at the time. Consequently, at times scholars have favoured the narrative accounts and, at others, the fragmentary evidence. Both of these approaches have advantages; the narrative accounts are fuller while the fragmentary evidence is often seen as being "more authentic". In the second major study of the Areopagos, Wallace chose to

[1] Robert W. Wallace, *The Areopagos Council, to 307 B.C.* (Baltimore: Johns Hopkins University Press, 1989), xi.
[2] Adolf Philippi, *Der areopag und die epheten* (Berlin: Weidmann, 1874).

work with the fragmentary data and because of this Philippi's work is once again attracting attention. Consequently, both of the major studies on the Areopagos chart the evolution of the Areopagos using fragmentary evidence. As such, it is clear that its usefulness of the *A.P.* and other narrative sources need to be reevaluated.

The *A.P.* was written in the mid- fourth century BC. Initially, it was thought to be one of the 158 constitutional studies written by Aristotle.[3] Indeed, the author's stated intent is to look at the changes in the Athenian constitution.[4] However, discrepancies between the *A.P.* and other works directly attributed to Aristotle have led some scholars to conclude that the *A.P.* was written by one of Aristotle's students, usually referred to as pseudo-Aristotle (denoted as [Aristotle]). Some scholars, like Rhodes, adopted this view but others continue to attribute the work to Aristotle.[5]

The *A.P.* is divided into two parts: the first part charts the development of democracy from its beginnings to 403 and the second part looks at the state of Athens' constitution in the author's day.[6] This study will draw on the first section. Written accounts of this early period were not produced until much later and the first part of the *A.P.* is particularly difficult. [Aristotle] would have been dependent on oral traditions and later historical accounts when writing about

[3] Hereafter all dates in BC unless other wise noted. John J. Keaney, *The composition of Aristotle's Athenaion politeia: observation and explanation* (New York: Oxford University Press, 1992), 5.
[4] [Arist].*Ath.Pol.*41.
[5] Keaney, 6. Keaney argues that the ancient attribution of this work to Aristotle is correct.
[6] Keaney, 9. Two papyri fragments containing this text were discovered and published, one in Berlin in 1881 and the other longer fragment in London in 1891.

archaic Athens. As a result, some modern scholars doubt that there was sufficient information about early Athens available to fourth century writers.[7] Despite these concerns, it is clear that the account was not fabricated. It is known that the works of Herodotus and Thucydides were used to flesh out certain episodes and the author may have had access to the works of Xenophon and the "Old Oligarch". [Aristotle] may have also used Athens' local histories. In fact, it appears that the *A.P.*'s chronological framework was adopted from them.[8] In addition, historical narratives were not the only sources the author used to reconstruct Athens' early constitutions, he also quotes Solon's poetry. It is conceivable that [Aristotle] had access to a wide range of literature and although it is impossible to discover all of the author's sources it is apparent that there was enough material to create an account of Athens' political history. Nevertheless, this account was written centuries after episodes like Drakon's reforms. Athens' early history would have been subject to mythologizing, rewriting, and interpretation over time. Due to these processes, the *A.P.* and many other later sources are considered anachronistic. These factors make it a difficult text but regardless of these challenges, the *A.P.* is an important source for the early Areopagos.

The discovery of the *A.P.* caused a flurry of scholarly activity but as historians began to study the text it became apparent that this account was inconsistent with other evidence. Scholars, like Wilamowitz, attempted to

[7] Lara O'Sullivan, "Philochorus, Pollux and the Nomophulakes of Demetrius of Phalerum*" The Journal of Hellenic Studies* 121 (2001): 54.
[8] Keaney, 9.

reconcile these differences but they came to no clear resolution.[9] As a result, scholars abandoned efforts to reconcile disparate narratives. Some historians, like Bonner and Smith, favoured the narrative of the *A.P.* to the other fragmentary sources.[10] However, over time the authority of the *A.P.* diminished as scholars became increasingly skeptical of the historicity and reliability of fourth century accounts. During the 1950s and 1960s, influential historians like Sealey, Hignett, and Ruschenbusch rejected the use of later narratives *en masse*. Consequently, while these theories continue to be influential it is important to remember that they are based on a limited, fragmentary data set and do not reflect the greater body of source material. Excluding sources like the *A.P.* is problematic as it can lead scholars to replace the opinions of ancient authors with their own and it is dangerous to assume that the conclusions of modern historians are more valid than those of ancient writers. While the works of scholars, like those mentioned above continue, to be prominent the way fourth century sources are approached and studied has changed. In the 1970s and 1980s scholars began to draw on later accounts more optimistically. For examples in his commentary on the *A.P.,* which has become a standard reference text, Rhodes' lends the work much more credibility that it had been afforded by earlier scholars.

Many studies have contributed to the scholarly dialogue on the Areopagos and the history of Athenian government but the most important continues to be Wallace's *The Areopagos Council, to 307 B.C.* As previously mentioned, this

[9] Ulrich von Wilamowitz-Moellendorff, *Aristoteles und Athen*. (Zürich: Weidmann,1893).
[10] Wallace 1989, 4.

volume was the first comprehensive study of the Areopagos since 1874. This monograph, presents a radical reinterpretation of Areopagos' evolution, arguing that it was originally a court, which was given additional functions by Solon. Wallace treats the available evidence with radical skepticism, favouring later, fragmentary evidence. In spite of the criticisms that Wallace's approach has generated, this book has become the reference work for anyone interested in researching the Areopagos.

Wallace utilizes a number of later works to support his arguments, including Plutarch's *Lives*, an important source which will now be discussed. Plutarch was a prolific writer and his biographies of Solon, Themistokles, and Kimon are prominent sources for the Areopagos. Written in the first century AD, this collection of over two dozen biographies was meant to showcase the virtues and vices of great Greek and Roman statesmen from Theseus to Cicero.[11] *Lives* is a difficult historical source for two reasons: Plutarch wrote centuries after "later" writers like [Aristotle] and his texts are not meant to be objective records. The *Lives* of Athenian statesmen are some of the few extant accounts of Archaic and Classical Athens. They would be important for this reason alone but, although Plutarch wrote in the first century AD, he drew from a wealth of older texts. Throughout his writings Plutarch explicitly cites his sources and often notes competing historical traditions. His inclusion of direct quotations has made his works "the playground of 'source hunters', each determined to trace individual anecdotes, even individual sentences, back to an identifiable author, and evaluate

[11] Robert Lamberton, *Plutarch* (New Haven: Yale University Press, 2001), xiv.

them according to the supposed reliability or bias of that (usually no longer extant) source." [12] These "fragments", along with the biographical information, allow scholars to simultaneously study both older historical traditions about the Areopagos and those prevalent in Plutarch's own day. Since the rise of 'scientific' historical methods in the nineteenth and twentieth centuries scholars have been skeptical of his trustworthiness but the dearth of extant accounts and his transparent research methods make these biographies an invaluable source.[13]

Wallace's conclusions remain controversial but no one has produced an equally comprehensive study on the Areopagos since. In addition, no author has conducted a comprehensive study on this topic using the organic model. However, Many contributions have been made to the overall study of the Areopagos since Wallace's monograph. Gagarin has produced a number of studies that shed new light on early Greek law and these contribute to the greater discussion surrounding topics like Drakon's reforms. Also, Harding's work on Athens' local chronicles has emphasized the importance of these texts and how they can be used to study Athens' collective memory.

This study does not pretend to equal Wallace's but it will challenge many of his suppositions. It will also demonstrate that the benefits of looking at the Areopagos' evolution over time, as opposed to studying its particularities. This approach reveals the Areopagos' greater role in Athenian political culture and allows historians to contextualize isolated scholarship.

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[12] Philip A. Stadter, *Plutarch and the historical tradition* (London: Routledge, 1992), 2.
[13] *Ibid*., 1.

Chapter 1 will examine the origins of the Areopagos through the "council of elders" model found in the Homeric epics. It will go on to discuss the erosion of the king's power during the Dark Ages, the movement towards institutionalization, and the effect of Drakon's reforms on the Areopagos. It will be shown that the Areopagos transitioned from an informal advisory council to an established governing body. It will also be argued that at the time of Drakon's reform it was not a court. The Areopagos remained unchallenged until Solon's reforms, as shown in Chapter 2. This section will explore the reforms of Solon and how these affected the Areopagos. It will be argued that Solon redefined the Areopagos' roles and responsibilities in lieu of the creation of newly governing bodies. Wallace's argument that Solon established the Areopagos as a council and the membership and powers of the Areopagos will also be examined. Chapter 3 will explore the history of the Areopagos from the aftermath of Solon's reform to the attack of Ephialtes. It will be shown that although the Areopagos may have circumscribed its activities at times, it maintained a prestigious position. This chapter goes on to look at the state of the Areopagos Council after the fall of the tyrants and the reforms of Kleisthenes. It will be argued that after Kleisthenes' reforms Athens' political culture became more open and that the Areopagos was not unaffected by this shift. Shortly after, the process for appointing *archontes* was modified. As *archontes* went on to become Areopagites, this directly affected the council's membership. The tradition of a period of Areopagite domination will be evaluated and it will be demonstrated that this tradition should be reevaluated. The Areopagos could have acted as the *polis'* most prominent administrative body

until 462/1. The Areopagos enjoyed this position until it was attacked by Ephialtes, who not only deprived it of certain powers but more importantly destroyed its reputation and political capital. These three chapters will be followed by a short Conclusion that summarizes the results of the preceding sections.

CHAPTER 1

THE ORIGINS OF THE AREOPAGOS

The early history of the Areopagos, one of Athens' most archaic and revered governmental bodies, continues to be obscure. Both ancient and modern scholars have attempted to trace the evolution of this institution, producing a number of divergent narratives. The evidence for the foundation of the Areopagos is minimal, and what does survive is fragmentary and as writing was lost after the fall of the Mycenaean palaces, no historical records survive from the Dark Ages. What little is known comes from early oral poetry and archaeological evidence. However, the archaeological record for archaic Attica can only inform historians about broad trends, not specific historical developments, especially as no epigraphic evidence survives. Thus, the evidence that will be examined in this section is fragmentary, diverse and controversial.

Sparse and problematic evidence has not stopped scholars from attempting to uncover the origins of the Areopagos. Two main models dominate scholarly discourse on this subject. The first emphasizes the organic nature of the institution's growth. Few scholars have tackled the Areopagos' early history in its entirety; most have researched one particular facet or time period. The organic model connects these isolated nodes of scholarship to create a continuous narrative. According to this model, the Areopagos originated as an advisory body, which was gradually institutionalized, evolving into a powerful council with

judicial responsibilities. An alternative model has been put forward by the historian Robert Wallace. In his comprehensive study of the Areopagos, Wallace re-examines both heavily referenced and often forgotten pieces of evidence in an attempt to reassess traditional theories put forward by proponents of the organic model. As discussed in the previous section, Wallace's study charts an inverted course for the Areopagos. He argues that the Areopagos began as a site for law courts and only became a council during the reforms of Solon. It will be shown here that the first model is more plausible than Wallace's. Specifically, this section will argue that the Areopagos originated as an informal council of elders consulted by the king of Athens during the Dark Ages. As more power was ceded to the aristocracy, the Areopagos became an increasingly powerful body with informal but wide ranging powers. As Athenian society grew it became necessary to record laws and delineate the powers of magistrates and councils such as the Areopagos. The trend towards institutionalization in the seventh century can be seen throughout Greece and is evidenced by Drakon's reforms at Athens. It can be inferred that around the time of Drakon, the Areopagos became a permanent and formal part of Athens' political landscape.

The Areopagos originated as an *ad hoc* advisory body during Athens' monarchical period and became a formal governing council with the dissolution of the king's powers and the transference of political power to the aristocracy.[1] Athens' regal period occurred after the fall of the Mycenaean palaces and it has

[1] The MacDowell states that the monarchy was dissolved by the 7th century while other scholars, like Hignett speculate that this occurred in the 8th century. MacDowell, 24; Charles Hignett, *A history of the Athenian Constitution to the end of the fifth century B.C.* (Oxford: Clarendon Press. 1952), 45.

been argued that a considerable degree of the social hierarchy of the Bronze Age survived this event. Greek society became increasingly stratified during the Dark Ages and this trend continued until the rise of the *polis* in the eighth century.[2] The upper echelon of Athenian society was composed of aristocratic clans who became known as the *Eupatridai*.[3] It has been suggested that one family from this group rose to prominence and established itself as Athens' ruling family. As Dark Age Athens was relatively poor the ruling family would have had to have maintained their power through the accumulation of social, cultural and symbolic capital not material wealth. In other words, it is unlikely that the king of Athens ruled because he was much richer than his peers. This implies that the difference between other aristocratic families and the ruling clan was relatively small and that any family who accumulated greater wealth or prestige could potentially usurp the this position. This created competition amongst the elites as many aristocrats outside of the ruling family would have had the desire and potential to lead. This is not to say that these clans played no part in Athens' governance. It has been posited that the king actively consulted a group of nobles from amongst these aristocratic families. Due to the lack of both literary and archaeological evidence from Dark Age Athens it is unclear why or how the king would have consulted these men. Homer's epics, however, offer insight into the existence and function of informal advisory councils in Dark Age Greece.[4]

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[2] Ian Morris, *Burial and Ancient Society: the rise of the Greek city-state* (Cambridge: Cambridge University Press, 1987), 1-2.

[3] Harding 2008, 34; Androtion F4a and Philokhoros F20b

[4] Roger Alain De Laix, *Probouleusis at Athens; a study of political decision-making* (Berkeley: University of California Press, 1973), 7-8.

For the purposes of this study it will be argued that the depictions of councils in the *Iliad* reflect similar practices in Dark Age Greece. It has been argued that the council of elders model is invalid evidence since the Homeric epics are not strictly historical sources. It is true that much of the information in these poems is both fictitious and anachronistic, however the scenes depicting arbitration may reflect Dark Age practices. This supposition is supported by Hesiod, who writes about men of higher rank settling disputes between inhabitants in his *Works and Days*.[5] It will be maintained that Homer sheds light on how such a kingly advisory council may have functioned and the kind of dynamics that could have existed between the king and his advisors.

Throughout the *Iliad,* Agamemnon consults his most trusted companions before taking action. For instance, after agreeing to honour Achilles at Thetis' request, Zeus resolves to deal the Achaians a crushing blow. Zeus sends Agamemnon a false dream which informs the king that if he attacks Troy without delay the Achaians will be victorious at last.[6] As soon as he awakens, Agamemnon orders his heralds to assemble the Achaian troops:

> ..but first, alongside Nestor's ship, he held
> A council with his peers-there he convened them
> And put a subtle plan before them…
> How curtly he told his curious plan and took his seat!
> Now stood Lord Nestor of the sandy shore
> Of Pylos, in concern for them and spoke:
> 'Friends, lord and captains of the Argives,
> if any other man had told this dream,
> a fiction we should call it; we'd be wary
> But he who saw the vision is our king.

[5] Hes.*WD*.248-264
[6] Hom.*Il*.2.7-17; 27-38

> Up with you, and we'll put the men in arms.'
> On this he turned and led the way from council,
> And all the rest, staff-bearing counsellors,
> Rose and obeyed their marshal.[7]

Despite the urgency of Zeus' false message, Agamemnon consults his peers before addressing the troops and making preparations to attack the Trojans. Once the council members are assembled, all the *basileis* sit down and Agamemnon proceeds recount his dream. He asserts that his vision was authentic and then proposes a scheme for rousing the soldiers for battle. Once his speech is over, Agamemnon sits, signalling that the other *basileis* are now invited to give their input. Nestor stands and addresses the council. He recommends that they follow Agamemnon's dream as he is their king; all members of the council agree and proceed to address the already assembled troops.[8] This passage suggests that as *wanax* Agamemnon has the power to summon and consult the leaders of the various Argive contingents. It is important to note that this group's membership was not fluid, as it was limited to those leaders considered Agamemnon's peers. Throughout the *Iliad*, the members of this council work together under the authority of Agamemnon to create a sense of unity and achieve common goals. Consulting *basileis,* like Odysseus and Nestor, solidifies Agamemnon's authority and ensures that the leaders of each contingent and their troops support him as *wanax*. This passage suggests that in Dark Age Greece aristocratic councils did

[7] Hom.*Il*.2.51-54;77-88
[8] Hom.*Il*.2.81-87

not work in isolation, and although Agamemnon's advisory council met in private, decisions were ultimately approved by the troops.[9]

The council of elders met to ensure that they were all in accord with what was going to be proposed so that they could rally their supporters. However, this support cannot be taken for granted. Although Agamemnon is the leader of all the Achaian forces, it is clear that he needs the help and support of the *basileis'* to rule effectively. For instance, Agamemnon's fight with Achilles over Brises brings countless woes upon the Achaians. After Agamemnon disrespects Achilles in front of the other *basileis,* the latter withdraws his troops from battle, much to the detriment of all the Achaians. This demonstrates that the disintegration of the relationship between the king and one of his advisors could negatively affect the entire group.[10] It was important for both the *wanax* and the *basileis* to maintain and respect one another's authority so that both could play active roles in governance.

Though there are many instances of kingly advisory councils in Homer other kinds of councils are also depicted. The most famous example is found in the description of Achilles' shield. Two towns are depicted on the shield. In the first,

> A crowd, then, in a market place, and there
> two men at odds over satisfaction owed
> for a murder done: one claimed that all was paid,
> and publicly declared it; his opponent
> turned the reparation down, and both
> demanded verdict for an arbiter,

[9]Hom.*Il*.2.110-150. After Agamemnon consulted the Council of Elders about the false dream Zeus sent him, he and the other leaders resolve to persuade the troops to go home.
[10] Hom.*Il*.1.1

> as people clamoured in support of each,
> and criers restrained the crowd. The town elders
> sat I a ring, on chairs of polished stone,
> the staves of clarion criers in their hands,
> with which they sprang up, each to speak in turn,
> and in the middle were two golden measures
> to be awarded him whose argument
> Would be the most straightforward.[11]

In this scene the townspeople come together to witness the resolution of a dispute between two members of their community. The arbitration of this quarrel is the responsibility of the town's council of elders and, unlike Agamemnon's council, the elders have a designated meeting place located in a public space. Each elder stands in turn to give judgment and the elder who gives the best judgment is to be rewarded. There is no authoritative figure in this scene who decides which judgment is the best; instead, the community indicates whose judgment they favour by cheering.[12] The presence of the people in this passage is important; although they lack judicial expertise, they possess a great deal of power. MacDowell argues that despite the potential power of the people, the assemblies depicted in Homer were ineffective without leadership, and therefore the role of the elders or king was to articulate and temper public opinion in their judgment. [13] The judgment given by the council of elders on Achilles' shield is not the pronouncement of one man, but of the whole community.

These passages from Homer help historians to envision how such an advisory council may have functioned in Dark Age Athens. The passage depicting

[11] Hom.*Il*.18.497-508
[12] Hom.*Il*.18.500-505
[13] MacDowell, 18

Agamemnon's council suggests that the king of Athens could have been advised by a group of aristocrats, like Agamemnon's peers, who gave the king their clans' support in return for a share in the decision-making process. For the elders, advising the king would have provided an opportunity for scrutiny. In fact, some scholars have speculated that the nobility used their influence and power to compel the king to consult them.[14] By consulting the aristocracy, the king gave his fellow nobles a leadership role, taking into consideration their opinions and proposals before making a decision. This consultation also legitimized the king's own position. If this kingly advisory council functioned like Agamemnon's, the Athenian king would have treated his advisors with respect while remaining the ultimate decision maker. The model for a kingly advisory council found in Homer can be applied to ancient Athens in order to demonstrate how a council such as the Areopagos was established.

In the scene on Achilles' shield the elders meet at a designated place to deliberate and it has been suggested that the Areopagos had such a meeting place early on. The council takes its name from the Areios Pagos (Hill of Ares) in Athens, and it has been assumed that this was where the council met and consequently where Athens' early government sat. However, the location itself is controversial. It has been argued that the Areios Pagos was originally the site of a lawcourt as evidenced by the presence of an ancient cult site of the Semnai-Erinyes. The argument follows that before formal arbitration, people accused of homicide would flee to the closest shrine, where the leaders of the community

[14] MacDowell, 27

would gather and determine whether or not the accused was guilty.[15] If this person was convicted he or she would be considered polluted and cast out by the community.[16] Over time these shrines became official places for arbitration and eventually they became formal courts. This point is supported by the proximity of the three most active courts (the Areopagos, Delpinion and Palladion) to shrines.[17] Consequently, it has been argued that hill's primal function was to act as a site for arbitration and not as the seat of Athens' government. To further this claim, Wallace has argued that in Classical Athens homicide cases that involved unknown killers, inanimate objects, or animals were tried by the Prytaneion Court because it was where the government of Athens originally sat.[18] According to this argument, Athenians would have had to bring the object or animal responsible to the court so it could be tried and the community could be free from pollution. And, it would only make sense that they would be brought to the place where the king and his advisors judged cases. Thus, if the council met on the Prytaneion there would be no reason for anyone to hike up to the Areopagos to hold separate meetings. There is very little archaeological or literary evidence to support this hypothesis and therefore the Prytaneion it cannot be seriously considered as a viable alternative to the Areopagos.

[15] The date of origin for this cult site is unknown but the primal nature of the gods suggests that it was archaic (Wallace 1989, 9).
[16] Wallace, 231
[17] Wallace, 9
[18] Wallace, 25 The other conflicting element of Wallace's assessments of these two courts is the presence of cult sites. Wallace concludes that the Areopagus became a site for homicide trails because of the cult site on the Areios Pagos however there is no cult site near the Prytaneion, the court where they tried homicides with overtly religious ramifications. It seems strange that the one court which dealt exclusively with crimes that had overtly religious ramifications was not near a cult site.

The second passage in Homer also illustrates how such a council of elders could function without a king. In this scenario, the councilmen are responsible to the greater community, and not to a ruler. It seems clear that both during and after the monarchy, the aristocracy had substantial power and influence. Eventually the king was compelled to cede certain powers to the aristocracy.[19] The kingship was gradually stripped of its political and judicial powers, and these were enshrined in other offices. The theory that the power of the monarchy slowly eroded and was not overthrown by the aristocracy is supported by the office of *basileus* or "king". The name and nature of this office have led some scholars to conclude that it originated during Athens' regal period.[20] In Classical Athens, the *basileus* oversaw trials and pronounced sentences, essential but largely ceremonial duties.[21] It has been posited that these functions were performed by the king of Athens when he was still the most important political, religious and judicial figure. Overtime many of the king's powers were stripped away, except for his religious functions. Consequently, the king remained an important religious figure and eventually his office became just one of the many offices in Athens. These offices were distributed amongst the aristocratic clans and consequently only available to small, closed portion of the population.[22] As the king's power eroded,

[19] *Ibid*, 24; The gradual division of the king's powers is found in the *Ath.Pol*. "The greatest and oldest of the offices were the King, the War-lord and the *Archon*. Of these the office of King was the oldest, for it was ancestral. The second established was the office of War-lord, which was added because some of the Kings proved cowardly in warfare (which was the reason why the Athenians had summoned Ion to their aid in an emergency). The last of these three offices established was that of the *Archon*... that this was the last of these offices to be instituted is also indicated by the fact that the *Archon* does not administer any of the ancestral rites, as do the King and the War-lord..." [Arist].*Ath.Pol*.3.2-3
[20] Wallace, 30
[21] MacDowell, 24
[22] [Arist].*Ath.Pol*.3.2

a council composed of influential members of the aristocracy would have become increasingly powerful and could have eventually grown to be Athens' major governing body.

Thus far, the origins of the Areopagos as an advisory council have been approached theoretically. The model found in Homer's *Iliad* reveals how such an advisory council could have existed as well as the reasons why the king of Athens would have encouraged its formation. As the aristocracy grew more powerful, the king was forced to give up many of his powers, which were distributed amongst his peers. During this period, the king's advisory council gradually became a governing body and this change will be examined shortly.

This section will look at accounts of the Areopagos' before Drakon's reforms. The major literary sources for this period are the *A.P.* and the local chronicles of Athens. The problems associated with using the *A.P.* as a historical source have already been discussed and the nuances associated with the local chronicles of Athens will be examined shortly. Both of these sources were written centuries after the Areopagos became a council. It is clear that these later sources are more useful for understanding how later Athenians viewed events than for teasing out precise historical information. However, it should not be assumed that these accounts were completely fabricated; in fact they may preserve some remnants of oral tradition or earlier sources which are now lost.

The most detailed account of Athens' earliest political arrangement is found in the *A.P.*:

> The form of the ancient constitution that existed before Drakon was as follows. Appointment to the supreme offices of state went by birth and wealth; and they were held at first for life, and afterwards for a term of ten years...The Council of Areopagos had the official function of guarding the laws, but actually it administered the greatest number and the most important of the affairs of state, inflicting penalties and fines upon offenders against public order without appeal; for the elections of the *archonte*s went by birth and wealth, and the members of the Areopagos were appointed from them, owing to which this alone of the offices has remained even to the present day tenable for life. This, then, was the outline of the first form of the constitution. [23]

According to this passage, before Drakon the Areopagos was Athens' most important governing body. It had wide ranging powers which were largely unofficial and administrative. According to the *A.P*. the council had the ability to pass judgement on people and inflict fines and this is also found in Athens' local chronicles.[24] This excerpt also touches on the Areopagos' memebership as it also states that the *archontes* were appointed by the Areopagites based on their wealth and lineage. Plutarch, in his biography of Solon, takes a more nuanced approach to deciphering the council's origins, noting that there are competing traditions. He writes that while some scholars maintain that the Areopagos was an ancient body, others argue that it was established by Solon.[25] This is an important passage and a key component of Wallace's argument against the organic model and it will be examined in the next chapter in greater detail. Later sources portray the pre-Drakonian Areopagos as a powerful aristocratic body but do not give any insight into its foundation. However, the establishment of the Areopagos is well attested to by the surviving fragments of Athens' local histories. In order to understand

[23] [Arist].*Ath.Pol*.3.1,6
[24] Androtion F3/Philokhoros F4 and F20a
[25] Plut.*Sol*.19.2

how these texts illuminate what Athenians later believed to be the early history of the Areopagos, their origins and importance must briefly be touched upon.

In ancient Greece, local histories were a medium through which communities established their collective identity. These chronicles wove a *polis*' most important traditions, achievements, and history together, creating a coherent timeline linking the community's most important moments and myths. These narratives bridged the gap between the past and the present and imbued the community with a sense of permanence. Local chronicles were fundamental to how a community understood itself, as the past was continually reinterpreted in light of the present day. Local chronicles may have been ubiquitous in ancient Greece, however only a few hundred fragments from seventy-eight *poleis* survive, most from Athens.[26]

Athens' local chronicles were composed between the end of fifth century and the end of Chremonidean War in 263/2.[27] These works recounted the Athens' history from time immemorial down to the historian's own day and surviving fragments reveal that Athens' local chronicles were unified in content and structure.[28] Each one of these works began by recounting the early history of Athens, detailing the deeds of each of its kings in chronological order. The foundation of the Areopagos as well as three mythical trials it conducted appeared in the early chapters of Athens' local histories. These four episodes will be briefly examined in chronological order in an attempt to explore how Athenians

[26] Jacoby, 1
[27] *Ibid*.
[28] Jacoby, 1; Phillip Harding, *The Story of Athens: The fragment of the local chronicles of Attika* (New York: Routledge, 2008), 1, 13, 33-35.

understood the origins and history of the Areopagos. It is important to note that these fragments are brief and the full versions of these myths are only known as a result of preservation in later sources.

According to the *Atthis* of Hellanikos, the Areopagos was first established in order to arbitrate a dispute between Ares and Poseidon. The two gods were warring because Ares had killed Poseidon's son, Halirrhotios, who raped Alkippe, Ares' daughter.[29] Ares believed that Halirrhotios' murder was a justified act of vengeance but Poseidon disagreed, and the two gods decided to have their dispute arbitrated. The two gods came to Athens and the location where Ares' sunk his spear into the rocky hilltop became the location of Athens' homicide court. According to the *Parian Marble*, this took place during the reign of Athens' second king, Kranaos, in 1268.[30]

Three generations after this episode, Kephalos was tried for the murder of his wife Prokris.[31] Kephalos and Prokris both suspected that the other was being unfaithful and, in many versions of the story, their suspicions were correct.[32] Despite the many variations of this myth, each version preserves Prokris' demise. One day, Kephalos went into the woods to hunt, but Prokris suspected that he was going to meet a woman. She followed her husband into the woods and he mistook

[29] Hellanikos F1; Philokhoros F3
[30] *MP*, epoch 3 which has a slightly different chronology than Kastor of Rhodes',
[31] Hellanikos F22b
[32] There are five extant versions of this myth (Pherekydes.3.34J *ap*. Schol. *in Od*. 11.321; Ant.Lib.41; Ovid.*Met*.7.690-862; Apollod.3.15.5; Hyg.*Fab*.189). Best known version is the one popularized by Ovid in which neither spouse is guilt of adultery. In many versions Prokris and/or Kephalos are guilty of infidelity and in some instances it is the result of one spouse testing the other.
Joseph Eddy Fontenrose, *Orion: the myth of the hunter and the huntress* (Berkeley: University of California Press, 1981), 86, 105.

her for an animal, accidentally killing her with his spear. Kephalos' crime was discovered and he was made to plead his case before the Areopagos. The Areopagites sent him into exile.[33]

The third mythical trial that took place on the Areopagos was that of Daidalos. The inventor is better known for his time at the court of King Midas than for the events that precipitated his flight to Crete. Daidalos first gained renown as an inventor in Athens. His sister, Perdix, asked him to take on her son Talos on as an apprentice, and he proved to be an excellent pupil. However, Daidalos feared that Talos' talents might surpass his own and he threw his nephew down from the Acropolis in a fit of jealousy. Daidalos attempted to flee, but Talos' corpse was discovered and the inventor was tried and condemned by the Areopagos.[34] In response to his sentence, Daidalos fled to the court of King Minos.

Orestes' trial is the final suit that took place in front of the Areopagos during Athens' monarchical period. This is the best known of the four stories as a result of Aischylos' dramatization of the trial in his *Orestia* trilogy.[35] According to the myth, Clytemnestra, Orestes' mother, murdered her husband Agamemnon upon his return from Troy. Orestes was then faced with an impossible situation; he was obligated to avenge his father's death by killing Agamemnon's murderer. However, as Orestes' mother was the culprit, this meant he would have to commit matricide. Not avenging his father would bring shame to his family, but killing his

[33] Hellanikos F22a
[34] Apollod. 3.15.8
[35] It should be noted that the playwright created a new foundation story for the Areopagos. In *Eumenides* Athena founds the court for the trial of Orestes.

mother would pollute him. After much deliberation, Orestes resolved to avenge his father's murder, inciting the wrath of the Furies. These angry gods pursued Orestes with the aim of driving him mad in response to what he had done. With the Furies in pursuit, Orestes made his way to the temple at Delphi where he elicited the help of Apollo. Unable to assuage the Furies' wrath, Apollo sent Orestes to Athena, who decided to settle his fate through a legal process instead of through personal vengeance.[36] The parties assembled on the Areopagos: Apollo acting as Orestes' defence, the Furies acting as the prosecution, and the Areopagites taking up their ancestral roles as judges. According to Aischylos, the jury was divided and Athena cast the deciding vote, which absolved him of guilt.

These four trials chart the mythical evolution of the Areopagos. These stories help us to understand how the Areopagos was regarded by Athenians in the fourth century and can perhaps help scholars understand the council's historical origins too. These four stories are interesting in that although each one deals with homicide, they do not reflect the legal realities of the fifth century or the Areopagos' actual competence.[37] For instance, the myth of the court's founding does not preserve information concerning archaic law as Ares' crime would have been considered a justifiable homicide.[38] This pattern has led some scholars to conclude that these myths demonstrate that the Areopagos was an archaic site for homicide trials established before homicide classification. However, Harding has openly refuted this conclusion, arguing that local historians moulded tradition and endeavoured "to locate the origin of a state's later political,

[36] Richard A. Bauman, *Political trials in ancient Greece* (London: Routledge, 1990), 33.
[37] Wallace, 10
[38] Eur.*El.*1258-72; Paus.1.28.5

legal, and administrative institutions in the 'mythical' past."[39] It seems that the Atthidographers projected the Areopagos' fifth and fourth century competence into the past through the traditions of the four mythical homicide cases it tried.[40]

It has also been argued that because all surviving fragments of the *Atthides* depict the early Areopagos as a law court, Athenians believed it originated as one.[41] Yet, the surviving fragments do not limit the Areopagos' jurisdiction to homicide, and it is clear that the Atthidographers believed it had much wider powers.[42] Harding argues that the fragments used by Wallace are more reflective of the reality of the fifth and fourth centuries than of the Archaic Period. Wallace rejects the *A.P.* in favour of the *Atthis* but does not note that these two sources suggest different trajectories for the Areopagos. The disagreement between [Aristotle] and Atthidographers, such as Androtion, is genuine and significant. Competing traditions concerning the establishment of the Areopagos and its early competence continue to exist today, much as they did in the fourth century. [43]

These stories concerning the early Areopagos demonstrate that its origins were regarded as both divine and archaic by fifth and fourth century Athenians.[44] The tradition that it governed the city before Drakon's reforms and its key role in

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[39] Phillip Harding, "14. Local History and Atthidography," in *A companion to Greek and Roman Historiography,*
John Marincola ed., (Malden: Blackwell Publishing, 2007), 1.1.

[40] "The suit between Ares and Poseidon over the killing of Alcippe by Halirrhothios in the reign of Cecrops, followed three generations later in the time of Erechtheus by the trial of Cephalus for the death of Procris, then after another three generations the trial of Daedalus for the murder of Talos, and culminating in the trial of Orestes, which had been invented and added to the list by Aeschylus for the resolution of the *Oresteia*." (Harding 2007, 1.1)

[41] Harding 1985,

[42] Harding 1985, 86

[43] Harding 1985, 85-86

[44] T. E. Rihll, "Democracy Denied: Why Ephialtes Attacked the Areiopagus," *Journal of Hellenic Studies (*1995, 115): 88; Douglas M. MacDowell, *The law in classical Athens* (Ithaca: Cornell University Press, 1987), 35.

many important Hellenic myths indicates that the Areopagos was seen as an important and archaic body. These claims lent the institution prestige and legitimacy, and laid the foundation for future arbitration. These stories, most likely originating from earlier oral traditions, were recorded and became firmly entrenched in Athens' local histories as early as the fifth century. The mythical nature of these stories indicate that ancient Athenians did not know how the council came into being, suggesting that these stories had been in circulation for generations before they were written down. Therefore, it could be hypothesized that the council itself old enough that there was no trace of its historical foundation in Athens' collective memory.

Thus far, the evidence suggests that the early Areopagos was an informal but powerful council whose reputation made an impact on the historical record and Athens' collective memory. At some point, the Areopagos transitioned from an unofficial body to a formal political institution. The trend towards law making and institutionalization can be observed throughout Greece, but there is no evidence which specifically pertains to the Areopagos. However, epigraphic evidence from other communities indicates that the Areopagos was most likely institutionalized in the mid-seventh century. This development coincides with the creation of Athens' first law code by Drakon. Although his original law code was probably quite comprehensive, only his law on homicide survives. It is the only contemporary document that gives historians insight into Athens' changing political landscape at that time.

Rihll asserts that the Areopagos was the earliest established body of Athenian government, but the point at which the Areopagos transitioned from an informal group of advisors to a government institution is unclear.[45]

Scholars have grappled with the task of dating this shift by placing the institution's development within the broader context of the growth of the *poleis* in archaic Greece. The earliest evidence of formal political institutions comes from mid-seventh century inscriptions from Dreros and Gortyn on Crete.[46] These fragmentary inscriptions cover an array of subjects, including rules regarding office holding and fines for specific crimes. The law from Dreros concerning the office of *kosmos* illustrates the trend towards formalizing institutions and highlights broader developments:

> The *polis* had decided: when someone had been *kosmos*, within ten years the same person is not to be *kosmos* again. But if he does become *kosmos*, whenever he gives judgement, he himself is to owe a fine twice the amount, and he is to be without rights as long as he lives, and whatever he does as *kosmos* shall be void. And oath-swearers (are) the *kosmos* and the *daminois* and the twenty of the *polis*.[47]

This inscription demonstrates that as early as the mid-seventh century, the *polis* of Dreros had offices with formal terms and powers. It is also important because it is one of the earliest examples of a formally recognized group making decisions on behalf of their community. In this case, the "twenty of the *polis*," as the "oath swearers," seem to be creating a set of rules concerning the office of *kosmos* on behalf of the people of Dreros.[48] This implies that by the mid-seventh century,

[45] Rihll, 88
[46] Michael Gagarin, *Writing Greek La*w (Cambridge: Cambridge University Press, 2008), 13, 43.
[47] Dreros 1, translation from Gagarin 46
[48] Gagarin, 46

Dreros had a mechanism in place to create rules, delineate offices and powers and make decisions that impacted the entire community. This inscription and others from Gortyn indicate that these communities were not only formalizing organs of governance but also that emerging Greek states were playing an increasingly active role in their communities. Even in their poor condition, it is apparent that these are detailed and technical inscriptions that set out rules that could not be passed on orally.[49] The act of writing these laws created a permanent record that could be referenced by future inhabitants.

No Attic inscriptions of this kind survive from the seventh century, but the epigraphic evidence listed above demonstrates that Cretan and Greek communities were creating legislation through formal decision making processes.[50] Although the development of the early Areopagos can only be conjectured, both scholars who ascribe to the traditional and unorthodox models agree that the transition from informal council to formal decision-making body was part of this wider movement in the seventh century. Delineating the Areopagos' powers and membership can be seen as the final step of this development. It could also be argued that it was at this time, when offices were being formally established, that it became a requirement to hold the archonship before becoming a member of the Areopagos.

Institutionalization in Attica is first seen in the creation Athens' first law code by Drakon in 621/0. However, very little is known about the lawgiver or his laws, especially as only part his law on homicide has survived. The broader

[49] Gagarin, 46
[50] Gagarin, 45

impact of this law code will now be discussed, followed by an examination of the implications of Drakon's homicide law. An in-depth study of Drakon's reforms has been conducted by Gagarin who rejects the traditional view that the surviving law on homicide was a reaction to the Cylonian conspiracy. He argues that it was created to help Athens grapple with its increasingly large and diverse population.[51] At the time, Athens was expanding and incorporating new neighbours into the city. The increasing complexity of the community would have necessitated new methods of arbitration as each freshly integrated population would have had different ways of dealing with conflict. The creation of a single law code would have made it possible for one government to fairly and effectively rule all members of the newly enlarged Athenian society.

The fullest account of Drakon's reforms comes from the *A.P.*, which relates that this law code changed the administrative, judicial, and political structure of Athens. According to this source, Drakon also addressed the powers of the Areopagos in his reforms:

> The Council of Areopagos was guardian of the laws, and kept a watch on the magistrates to make them govern in accordance with the laws. A person unjustly treated might lay a complaint before the Council of the Areopagites, stating the law in contravention of which he was treated unjustly. Loans were secured on the person, as has been said, and the land was divided among few owners. [52]

In this passage, the Areopagos is assigned a number of specific duties, as opposed to its previous responsibility of "guarding the laws." The Areopagos was charged with monitoring the magistrates, ensuring they carried out their duties properly

[51] Gagarin, 94; 100
[52] [Arist].*Ath.Pol.*4.4

and hearing the complaints of citizens. Many of the magistracies and councils Drakon assigned powers to would have been in existence for centuries, like the Areopagos. The idea of a delineated set of duties would have been new to many office holders and the Areopagos could have ensured that Drakon's new law code was upheld. This trend towards defining the roles and tasks of magistrates and political bodies is in line with the evidence found on Dreros and indicates that Drakon's reforms may have been part of this greater trend in Greece.

The passage above also suggests that the Areopagos became the central body of arbitration in Athens, as it was charged with hearing all the citizens' complaints. A written law code would have been useless without some body to implement and uphold it, and to arbitrate disputes in the case of ambiguity. The Areopagos ensured that Drakon's laws could be referred to by Athenians seeking justice or clarification. While this narrative is anachronistic, the new duties it assigns to the Areopagos correspond to the trend of institutionalization throughout Greece and the idea that Athens' fledgling government was dealing with increasingly complex problems which could not be handled on an arbitrary or *ad hoc* basis.

It has also been conjectured that Drakon changed the existing political arrangement at Athens as an evolving sense of community necessitated new forms of government. This particular argument is tenuous and most likely a projection of Solon's reforms onto those of Drakon. The theory is that the rise of hoplite warfare nurtured a sense of equality, as every hoplite played an integral role

within the phalanx, and skill was valued over lineage or prestige.[53] Before Drakon, all men who provided themselves with armour were considered citizens but they were not allowed to actively govern. Drakon attempted to redistribute and define political power amongst the citizen body and to curb pre-existing aristocratic freedoms and exclusivity. The *A.P.* says that Drakon did this by creating classes based solely on wealth and changing the method through which offices were distributed.

Later sources also credit Drakon with creating a number of new offices that were open to various groups within the citizen body. A much larger portion of the citizen body was eligible to serve and the use of lot to distribute the new offices ensured that each citizen had the opportunity to participate. Previously, a small, exclusive group had tightly controlled who could govern, but now inexperienced citizens could also become magistrates. These reforms were intended to keep "a watch on the magistrates to make them govern in accordance with the laws."[54] If the attribution of this act to Drakon is authentic then it could be posited that he recognized that the extension of administrative power beyond the traditional group of aristocrats would create problems, thus, since the Areopagos possessed expertise, he instilled it with the ability to monitor new magistrates.

Drakon's reforms may also have had a major impact on the judicial system in Athens. Traditionally, it was thought that the Areopagos was Athens' original

[53] [Arist].*Ath.Pol*.4.2
[54] [Arist].*Ath.Pol*.4.4

law court, and that at one point its powers were divided amongst four other homicide courts. This theory explained the creation of the Athenian system of five courts that was still in effect in the fourth century. Each of the five homicide courts had a unique mandate, but their specific responsibilities were often unrelated or overlapped with the jurisdiction of another court.[55] It can be argued that no single event or initiative could have created this specific system of courts. If the hypothesis that the Areopagos was originally Athens' only homicide court and that its powers were delegated is rejected then it becomes unclear when the Areopagos received judicial powers. Sealey proposes that the Areopagos received judicial powers no later than 462/1 with the reforms of Ephialtes.[56] It does not appear to have occurred under Drakon, as his reforms concerned the creation of a group of jurors called the *ephetai*. The role of the *ephetai*, in contrast to the Areopagos, will now be examined in light of Drakon's law on homicide.

The seventh century not only marked the rise of written law but also the intervention Greek states into private affairs and the increasing awareness of the 'pollution' which homicide brought onto the *polis*.[57] Over time, arbitration of private disputes by the state became mandatory. Procedures were set up by *poleis* to pass judgement on such quarrels, as shown by Drakon's homicide law. Although the original inscription does not survive, it was republished in 408/9. The first part of it reads:

[55] [Arist].*Ath.Pol*.57.2-4; Raphael Sealey, "The Athenian Courts for Homicide," *Classical Philology* 78 (1983): 276, 279.
[56] Sealey, 291
[57] Wallace, 29

> Even if someone does not kill someone intentionally, he is to go into exile. The kings are to judge guilty of homicide the killer or the planner, and the *ephetai* are to decide.
> Reconciliation, if there is a father or brother or sons, [is to be by] all of them; or the objector is to prevail.
> But if these are not (alive), up to the degree of first council once removed and first cousin, if all are willing to reconcile, [they are to be reconciled but] the objector prevails.
> But if not one of these is alive and he killed unintentionally, and the fifty-one, the *ephetai*, decide he hilled unintentionally, let ten phratry members admit him if they wish; and let the fifty-one choose these by rank.
> And let those who killed earlier be bound by this ordinance (*thesmos*). [58]

This section of the law not only describes the specific procedure that should be followed when dealing with cases of homicide, but also establishes who was in charge of carrying the trial. According to this text, homicide cases were tried by the *ephetai* in conjunction with the *basileis*; the *ephetai* were to act as jurors, while the *basileis* passed judgement. From this inscription it can be argued that the *ephetai* were most likely the original body in charge of all trials when the state began to actively arbitrate blood-feuds. It has been claimed that the establishment of the *ephetai* was Athens' first step towards state monopoly of justice.[59] Sealey argues that the *ephetai* were probably Drakonian, and that gradually their powers were distributed amongst the five law courts. The document does not mention the Areopagos at all, which has led scholars to propose a number of solutions that reconcile the view that the Areopagos as the oldest law court and its absence from Drakon's homicide law.

It is clear that at some point the Areopagos acquired the ability to judge cases of premeditated murder. Two solutions to the quandary mentioned above

[58] *IG* i^2 115; translation from Gagarin, 96
[59] Wallace, 29; Sealey, 287

have been presented by scholars: first, that the Areopagos acquired this responsibility later on, and second that the *ephetai* were synonymous with the Areopagites. The first solution proposes that the *ephetai* gained credibility as the major judicial body in Athens. As its decisions grew more authoritative, the responsibility for passing judgement on premeditated murder was transferred from the *ephetai* to the Areopagos. It has been proposed that transferring this responsibility from a judicial body to a governmental institution forcefully presented the state as the guarantor of its citizens' security and solidified its monopoly on violence.[60]

The second solution, proposed by Wallace, is that only one body of jurors tried all homicide cases, and these jurors were called the *ephetai* except when they sat on the Areopagos, then they were called Areopagites. This argument rests on entries from three lexicographers: Harpokration, Pollux and the author of the *Souda.* These are much later sources and are extremely problematic. Harpokration and Pollux both wrote the in the second century AD, while the *Souda* is believed to have been composed in the tenth century AD. These lexicons were compiled centuries after sources like Aristotle and [Aristotle]. Ancient lexicons were created by studying earlier texts and then condensing all pertinent information into short entries. Consequently, these sources are prone to conflation and confusion and so their historicity is questionable.[61] Wallace particularly focuses on a passage from Maximus the Confessor's prologue to the works of Dionysios

[60] Sealey, 287
[61] MacDowell states that it is doubtful that Pollux latter had any reliable information concerning Draco (28).

the Areopagite, where the author states that the Areopagos was composed of fifty-one distinguished men.[62] Wallace draws a connection between Drakon's fifty-one *ephetai* and Maximus' fifty-one Areopagites, reinforcing his hypothesis that before Solon the Areopagos was the location used by the *ephetai* to hold trials. Maximus was a Christian theologian who wrote in the seventh century AD.[63] His writings are notoriously challenging and the particular passage Wallace employs as his key piece of evidence is considered corrupt by most scholars. The use of often neglected evidence is admirable but, as previously mentioned, these sources are centuries removed from late Athenian sources and inherently problematic.

Wallace also draws on Plutarch to further his hypothesis that the Areopagos began as a law court. Plutarch noted the discrepancy between the Areopagos' reputation as an ancient law court and Drakon's law in his biography of Solon:

> Then [Drakon] made the upper council a general overseer in the state, and guardian of the laws, thinking that the city with its two councils, riding as it were at double anchor, would be less tossed by the surges, and would keep its populace in greater quiet. Now most writers say that the council of the Areopagos, as I have stated, was established by Solon. And their view seems to be strongly supported by the fact that Drakon nowhere makes any mention whatsoever of Areopagites, but always addresses himself to the *ephetai* in cases of homicide.[64]

Plutarch explains that there were competing traditions concerning the Areopagos' establishment in antiquity, and that one of the traditions maintained that Solon

[62] Wallace, 14; Harding uses this piece of evidence to further rebut Wallace's general argument. Harding asserts that because the general structure of Androtion's work is well known the presence of the Areopagus in the first chapter of indicates that the author believed it originated during the regal period (Harding, 86).
[63] Andrew Louth, *Maximus the Confessor* (New York: Routledge, 1996), 77.
[64] Plut.*Sol*.19.2.

founded the Areopagos. The Plutarch rejected this idea, but conceded that Drakon's laws seem to support it as they do not mention the Areopagos, only the *ephetai*.[65] According to Wallace, this competing tradition implies that ancient authors believed that the Areopagos was a court and not a council before Solon's reforms.[66] This claim will be further explored in the next section which focuses on Solon's reforms. However, it is clear that the argument that Drakon's *ephetai* were synonymous with the Areopagites is tenuous, as it rests on the authenticity of much later, condensed sources. It is more likely that at the time of Drakon's reforms the Areopagos was a governing council with the ability to arbitrate disputes and monitor magistrates.

The varied evidence used in this section is intensely problematic. Thus, it is not surprising that scholars using similar sets of evidence could come to radically different conclusions. However, by approaching challenging sources with cautious optimism and not rejecting historical or pseudo-historical accounts out of hand, a tentative narrative of the evolution of the early Areopagos has been constructed. This chapter has demonstrated that it is most likely that the Areopagos was originally an *ad hoc* council composed of aristocrats who were consulted by the king of Athens. As shown in Homer's epics, this council allowed the king to legitimize his own power while respecting that of his peers. Over time, the king was stripped of his powers and eventually he functioned only as a ceremonial figure.

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[65] Wallace traces the evolution of this competing traditions, citing its acceptance by Cicero (Cic.*De off*.1.75) and later writers like Pollux whose reliability has already been noted (Wallace, 38).
[66] Wallace, 38.

In the seventh century, Greek communities began to create law codes that defined the powers and terms of magistrates and set out technical procedures for handling crimes such as homicide. Drakon's reforms suggest that Athens participated in this process of institutionalization and perhaps the Areopagos' powers were defined at this time. The content of Drakon's homicide law challenges that the traditional assumption that the Areopagos was Athens' original law court, as the Areopagos is not mentioned at all. After Drakon's reforms, the Areopagos continued to be an important aristocratic institution. The council's continued evolution under Solon, and the impact of his reforms on the Areopagos will be discussed in the next section.

CHAPTER 2

THE AREOPAGOS AND SOLON'S REFORMS

At the beginning of the sixth century, Athens was in a state of economic and political strife. It is thought that Athens' economic difficulties were the result of farmers going into debt and then facing the real possibility of servitude or enslavement. According to the ancient sources, farmers experiencing economic hardship would seek out loans from wealthier men. If the indebted farmer could not repay his creditor, he was required to give a portion of his crop to the lender. This practice drove some farmers deep into debt as each year more and more of their crop went to their creditor and not to market. Many of these farmers had nothing to offer their creditors as collateral and so, if the farmer was unable to repay his debt, the lender was allowed to sell the indebted person into slavery in order to recoup their losses.

At the same time, Athenian society was in a state of political turmoil. The publication of Athens' first law code, by Drakon, was supposed to ensure that justice could not be arbitrarily administered and help the growing society deal with increasingly complex problems.[1] However, the new laws were administered by a small group of aristocrats who owed their position to lineage and not ability. Those aristocrats excluded from office holding because of their ancestry chaffed under this new arrangement and their frustration was compounded by the inability

[1] Gagarin, 85.

of the populace to hold magistrates accountable for their actions. Solon was called on to mediate these political and economic disputes. He aimed to create solutions which would bring *eunomia* (righteous governance, lit. good order) to Athens.

Solon continues to be one of antiquity's most famous and most ambiguous figures but fragments of his poetry survive and can allow scholars to better understand his goals and motivations. For instance, the passage below illustrates that he had a strong vision for Athens and clear ideas on the source of the city's ills:

> …This is what my heart bids me teach the Athenians, that Lawlessness brings the city countless ills, but Lawfulness reveals all that is orderly and fitting, and often places fetter round the unjust. She makes the rough smooth, puts a stop to excess, weakens insolence, dries up the blooming flowers of ruin, straightens out crooked judgements, tames deeds of pride, and puts an ends to acts of sedition and the anger of grievous strife. Under her all things among men are fitting and rational.[2]

Solon saw "lawfulness" as the solution to Athens' many problems and so he implemented a series of new laws which, with the exception of the laws on homicide, replaced Drakon's legislation. The laws attributed to Solon by later sources indicate that his reforms were wide ranging as they touched on Athens' economic, political, and social arenas. This section will focus on his political reforms, specifically those that dealt with the Areopagos. The study of the Areopagos in the context of Solon's reforms has produced two prevailing hypotheses: the 'null change' hypothesis and that of Wallace. Both of these arguments, and the evidence they draw upon, will be explored in an attempt to

[2] Solon F4.30-42.

determine the impact of Solon's reforms on the Areopagos' membership and powers, including *nomophylakai, eisangelia* and *euthyna*.

Despite centuries of attention from scholars, both ancient and modern, Solon's reforms remain controversial for a number of reasons. The available source material is scant and its veracity is difficult to evaluate.[3] The most detailed accounts come from fourth century orators, Aristotle's *Politics*, the *Athenaion Politeia* and the biographies of Plutarch and Diogenes Laertius. The earliest of these works was written in the fourth century, over two centuries after Solon's reforms. Consequently many scholars doubt that these writers had access to genuine Solonian laws. This problem is compounded by the widespread practice of fallaciously attributing later laws to Solon. Separating the genuine laws from the later ones has often proven difficult as no full corpus of his legislation survives. Rhodes takes an optimistic approach, arguing that genuine copies of the laws were available to writers like Plutarch and Aristotle.[4] Other scholars are more skeptical. Ruschenbush has suggested that only writers who had access to a specific pipeline of transmission relate authentic laws.[5] Scafuro has recently argued that while Ruschenbush's approach is helpful there may be laws that contain a kernel of Solonian truth and these should also be regarded as

[3] Bonner and Smith, 149.
[4] PJ Rhodes, "The reforms and laws of Solon: an optimistic view," in *Solon of Athens: new historical and philological approaches*, Josine Blok, and A. P. M. H. Lardinois eds., (Leiden: Brill, 2006), 250.
[5] AC Scafuro, "Identifying Solonian laws" in *Solon of Athens: new historical and philological approaches*, Josine Blok, and A. P. M. H. Lardinois eds., (Leiden: Brill, 2006), 177.

legitimate.[6] It is clear that separating authentic Solonian laws from those erroneously attributed to him is very difficult.

The very nature of Solon's legislation is also debated. Solon calls his reforms *thesmoi* and this term suggests that these measures were considered ordained by an outside force such as Zeus.[7] However, later authors used different legal terminology to describe Solon's reforms. During the mid to late fifth century Solon's reforms were referred to as *nomoi* (laws).[8] In contrast, fourth century writers state that Solon created a new *politeia,* or constitution.[9] The distinction between *nomoi* and *politeia* in our sources has led some scholars to posit that Solon's measures were either composed only of laws or that they contained both laws and constitutional statutes.[10] Over time words like *nomoi* and *politeia* became legal terms and were imbued with specific meanings, but it is not clear that Solon or other archaic lawgivers differentiated between constitutional statutes and laws.[11] This example is instructive as it is important to be careful not to produce analyses that are more precise than the reforms themselves were.[12]

The question of whether Solon's reforms were constitutional or not is important as it impacts claims that he created or institutionalized bodies such as of the Council of Four Hundred and the popular law courts. Scholars who maintain that Solon only created laws posit that new bodies may have been created indirectly; the creation of a new governmental organ may have been implicit in

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[6] *Ibid*., 176.
[7] F. J. M. Feldbrugge, *The law's beginnings* (Leiden: Martinus Nijhoff Publishers, 2003), 37.
[8] Scafuro, 181
[9] *Ibid*., 49
[10] Hansen 1989, 83-85.
[11] Wallace, 49
[12] PJ Rhodes, "ΕΙΣΑΓΓΕΛΙΑ in Athens," *Journal of Hellenic Studies* 99 (1979): 103.

the law on the organ's duties.[13] In fact, this may be seen in the legislation for the *boule demosie* at Chios. The evidence for this council is preserved in a single inscription often referred to as the "Chian Constitution." The inscription is dated between 600 and 550, making Chios one of the earliest attested examples of popular government in the Greek world, and roughly coinciding with Solon's reforms at Athens.[14] The inscription details the *boule*'s responsibilities and membership but it does not explicitly establish the council. Whether this inscription records the foundation of this governmental body or changes to a pre-existing constitution is debatable. But, if this inscription does mark the foundation of the council Solon's reforms could have functioned in the same way.[15]

How historical the major sources for Solon's reforms are is another point of contention. It has been argued that in the fifth century Solon was a legendary figure. Our earliest historical source, Herodotus, treats him as a mythical sage and focuses on Solon's decade of travel after his reforms were implemented.[16] Solon's meeting with Kroisos, the King of Lydia, and the outcome of his advice to the monarch is the focus of his appearance in Herodotus' inquires.[17] While Herodotus' successor, Thucydides, focused on a more recent past he does not mention Solon at all in his *Archaeology*. Earlier writers do not seem to view Solon as an integral part of Athens' political history and it is only in fourth

[13] Wallace, 51
[14] *Greek historical inscriptions: from the sixth century B.C. to the death of Alexander the Great in 323 B.C.* Marcus N. Todd ed. (Chicago: Ares, 1985), 2.
[15] A *Selection of Greek historical inscriptions to the end of the fifth century B.C.,* Russell Meiggs and David Lewis eds., (New York: Oxford University Press, 1989), 16.
[16] Hdt.1.29.1-2
[17] Hdt.1.29-33

century sources that Solon is depicted as an important historical figure.[18] The writings of Aristotle are one of our best sources for Solon as they try to explain the historical context, repercussions, and intentions of his reforms. Like many later writers, Aristotle links Solon with Athenian democracy but the author flatly states that Solon's reforms were not meant to be democratic as the lawgiver himself never anticipated this outcome. In spite of Aristotle's defense and Solon's own intention to leave the rule of Athens in the hands of the aristocracy, he nevertheless became known as one of the founding fathers of Athenian democracy. Our sources indicate that this development occurred in the fourth century, as the growth of a self-conscious democracy in Athens that needed a new hero.[19]

It was in light of this new democratic consciousness that fourth century writers became interested in Solon. Some scholars have argued that this rediscovery was the result of political rivalries, as groups in Athens sought support for their new political ideologies.[20] Nevertheless, writers became interested in Athens' ancestral constitution and this led to a growing interest in Solon's life and reforms. However, the extent to which fourth century sources relied on primary source evidence and research or mythical tales and hearsay is difficult to gauge. As a result, scholarly acceptance of the ancient sources varies greatly. Rhodes has recently called for a more optimistic approach to the analysis of ancient sources; he largely accepts the narratives presented in Plutarch's

[18] PJ Rhodes, *A commentary on the Aristotelian Athenaion politeia* (Oxford: Clarendon Press, 1981), 119.
[19] *Ibid*. This position seems to have been occupied by Cleisthenes until the end of the fifth century.
[20] Wallace, 49

biography of Solon and the *A.P.*.[21] However, some scholars, such as Mossé, reject most of the narrative, including the claims that Solon created four property classes and the Council of Four Hundred.[22] Hansen is a little more optimistic and accepts that Solon liberated the indebted farmers or *hektemoi*, created four property classes, and further posits that Solon's creation of popular courts and the popular *boule* may be genuine.[23] Accordingly, the extent to which scholars accept or reject ancient accounts has a major impact on how they perceive Solon's reforms and the conclusions they draw from them.

The scholarship on the Areopagos within the context of Solon's reforms is clearly affected by these greater scholarly debates. Wilamowitz once observed that the Areopagos seemed to play no part in the reforms of Drakon and Solon, and its minor role in these reforms makes it difficult to study.[24] Currently there are two theories on how Solon's reforms affected the Areopagos. The first more 'traditional' theory argues that the Areopagos remained largely unchanged. Its powers may have been formalized through legislation and its membership may have been expanded to include the previously excluded group of aristocrats, but it retained most of its powers and its role as Athens' major governing body. As previously discussed, the second, more unorthodox theory posits that the Areopagos began not as a governing body but as a law court. According to Wallace, Solon changed the Areopagos from a law court into a council with wide

[21] Rhodes 2006, 249
[22] Rhodes 2006, 248
[23] Rhodes 2006, 249
[24] Ulrich von Wilamowitz-Moellendorff, *Aristoteles und Athen* (Zürich: Weidmann,1985), 21.

ranging powers. The impact of Solon's reforms on the Areopagos and its role in Athens' new government continue to be contentious issues.

Before delving into these subjects, it is important to examine the overall aim of Solon's reforms and the tone of the measures he put in place. The best source for this information is Solon's poetry. The surviving fragments do not give detailed information about the laws or statues he implemented, but they do shed light on Solon's achievements and goals.

> Of all the purposes for which I gathered the *demos* together,
> which of them had I not achieved when I quit?
> ….
> And many Athenians sold into slavery — some justly, some not —
> did I bring home to their god-founded land, while others,
> having fled their debts under Necessity's compulsion, no longer
> spoke the Attic tongue (since they wandered to all parts of the earth),
> and others here, bound in shameful servitude and trembling before the
> harsh character of their masters, I set free. I achieved these things,
> forcefully yoking force and justice together,
> and I proceeded on the course that I had promised.
> I composed ordinances for base and noble alike,
> fitting straight justice for each.[25]

In this passage, Solon claims to have fulfilled all his promises to Athens. While the bulk of the passage focuses on debt slavery, the end alludes to resolving Athens' political unrest. According to Solon, he approached this problem by creating ordinances for the people and the nobility which did both parties justice. It is not known exactly what ordinances he is referring to; these may allude to the constitutional reforms he is credited with, such as the creation of the popular *boule*. The theme of balancing the political roles of the people and the aristocracy is seen in other fragments as well. The passage below implies that these two

[25] Solon F36.1-2,7-19

groups had an asymmetrical relationship, and also supports Aristotle's argument that Solon was not a democrat.

> I have given the masses as much privilege as is sufficient, neither taking away from their honor nor adding to it. And as for those who had power and were envied for their wealth, I saw to it that they too should suffer no indignity. I stood with a mighty shield cast round both sides and did not allow either to have an unjust victory.[26]

According to this section, the people were given new political roles which maintained their dignity but did not make them more powerful than the aristocracy, as this would have been an offense to the other party. Also, treating these two parties fairly did not mean giving them equal roles in Athens' governance. These two fragments, and others, demonstrate that Solon was trying to mediate the wants and needs of various groups in Athens and felt he had achieved his goal.[27]

It has been argued that the disquiet among the aristocracy stemmed from a monopolization of power by a handful of families who owed their political power to lineage, and not ability or wealth. Solon broke the connection between lineage and political power by creating a system of four property classes. Athenians were divided into four groups based on their economic status: the *pentakosiomedimnoi* (five-hundred-measure men), *hippies* (horseman), *zeugitai* (teamsters), and *thetes* (labourers). Political offices were divided amongst the top three classes according to their status.[28] The lowest class, the *thetes*, was admitted only to the assembly

[26] Solon F5 = [Aristot].*Ath.Pol*.11.2-12.1
[27] Solon F6, F7
[28] [Aristot].*Ath.Pol*.7.3; Plut.*Sol*.18

and law-courts, which is why Aristotle identified the creation of public law courts as the most democratic part of these reforms. As previously mentioned, some scholars reject this tradition altogether, however Hansen and Rhodes have argued that it is a historical part of the narrative. It has been argued that this class system was based on pre-existing divisions that Solon formalized and then gave each group a specific political role. In a variation on this argument, Rhodes argues that three classes existed beforehand, and that Solon extracted the *pentakosiomedimnoi* from a pre-existing top class.[29] As Solon states in his poetry, the purpose of his reforms was to bring lawfulness to Athens; he did this by equating property class with political responsibilities.[30] Through these reforms, he transformed a closed government based on lineage into an open, legally fixed government based on law, economic status, and citizen rights.

When examining the competing theories on the Areopagos' role in Solon's reforms it is important to remember Solon's aim of ensuring justice for all parties involved. It is generally agreed that Solon's reforms were moderate; he abstained from destroying institutions that existed already, favouring the modification of the powers or composition of pre-existing bodies.[31] If the Areopagos was indeed the governing body in Athens before Solon's reforms it would have been important for Solon to maintain the Areopagos' position in order to ensure his reforms did not unjustly favour the *demos* over the aristocracy. The Areopagos represented aristocratic power and rule in Athens, and destroying it would have caused a major shift in power. Instead of eliminating an aristocratic institution, Solon

[29] Rhodes 2006, 248.
[30] Rhodes 2006, 253.
[31] Aristot.*Pol*.1274a1.

brought balance to Athens' oligarchic government by creating popular institutions. The biggest political change was arguably the creation of a popular *boule*, or Council of Four Hundred, as it gave Athenians the opportunity to participate in the governance of their *polis*. This new body was just one of the mechanisms Solon used to transform Athens from a hereditary oligarchy to a more open government in which ordinary citizens could play a formal political role.[32] The aristocratic and popular *boulai* had separate mandates and they co-existed for centuries afterwards. The Areopagos remained the greatest source of political experience and prestige while these fledgling bodies were in the process of establishing themselves and asserting their newfound authority. It would have taken a considerable amount of time for this new system of government to supplant the old one. Sealey has gone so far as to suggest that the Areopagos continued to be Athens' real governing body throughout the sixth century.[33] Exploring the nature of Solon's reforms and their wider impact lays the foundation for examining the competing theories on how these reforms affected the Areopagos.

As previously mentioned, the 'null change' hypothesis, to which most scholars subscribe, assumes that Solon's reforms reaffirmed the Areopagos' traditional role as Athens' principal council.[34] Solon may have given the Areopagos a new mandate that allowed it to operate in conjunction with the

[32] Wallace, Robert W. "Revolutions and a New Order in Solonian Athens and Archaic Greece." In *Origins of democracy in ancient Greece*, Kurt A. Raaflaub, Josiah Ober, and Robert W. Wallace eds., (Berkeley: University of California Press, 2007), 60.
[33] Raphael Sealey, "Ephialtes," *Classical Philology* 59 (1964): 14.
[34] Hignett, 89.

recently created organs of government. This model also asserts that the Areopagos had no judicial competence at this time. As previously mentioned, Solon repealed all of the laws of Drakon except for those on homicide.[35] The copy of Drakon's law on homicide, which has already been discussed, names the *ephetai* as the jurors for homicide cases. That this continued to be the arrangement under Solon meshes with Sealey's hypothesis that the Areopagos began to try homicide cases in the period between Solon's reforms and the mid-fifth century.[36] The sources are unclear as to how Solon changed the composition of the Areopagos. Scholars are divided as to whether the account of the *A.P.* or that of Aristotle is more reliable and both of these issues this will be discussed shortly.

The "null change" hypothesis runs counter to Wallace's theory that under Solon the Areopagos became a council with extensive new powers.[37] As mentioned in the previous section, this hypothesis is largely based on a passage in Plutarch's biography of Solon. After describing the foundation of the Council of Four Hundred and the Areopagos, Plutarch relates that Solon founded both councils so that the "city with its two councils, riding as it were at double anchor, would be less tossed by the surges, and would keep its populace in greater quiet."[38] However, Plutarch did not believe that the Areopagos was founded by Solon and he attempted to rationalize the competing traditions when he wrote:

> Now most writers say that the council of the Areopagos, as I have stated, was established by Solon. And their view seems to be strongly supported by the fact that Draco nowhere makes any mention whatsoever of

[35] Plut.*Sol*.17; [Aristot].*Ath*.*Pol*.7.1
[36] Sealey 1983, 287.
[37] Wallace, 48.
[38] Plut.*Sol*.19.2

> Areopagites, but always addresses himself to the "*ephetai*" in cases of homicide. Yet Solon's thirteenth table contains the eighth of his laws recorded in these very words: "As many of the disfranchised as were made such before the archonship of Solon, shall be restored to their rights and franchises, except such as were condemned by the Areopagos, or by the *ephetai*, or in the Prytaneion by the kings, on charges of murder or homicide, or of seeking to establish a tyranny, and were in exile when this law was published." This surely proves to the contrary that the council of the Areopagos was in existence before the archonship and legislation of Solon.[39]

In this passage, Plutarch discusses the competing traditions surrounding the Areopagos' foundation. Drawing on a copy of Solon's laws, Plutarch argues that although most scholars assert that Solon established the Areopagos this is not compatible with the available evidence.

It has been asserted that Plutarch is mistaken and that his sources are not confused. According to Wallace Plutarch's sources are correct and Solon was responsible for extending the Areopagos' competence beyond homicide.[40] Rhodes takes a different approach to this passage, arguing that until the popular *boule* was created there would have been no need to formally name and establish the aristocratic *boule* (the Areopagos).[41] The possibility that Solon institutionalized pre-existing bodies is in line with the tenor of his reforms. Thus it is possible that this conflicting tradition comes from Solon formally establishing and perhaps even naming the Areopagos. This approach also explains the competing traditions that were still circulating in Plutarch's day.

Thus far is has been argued that Solon's reforms were moderate and sought to strike a balance between the ancestral aristocracy, the new aristocracy,

[39] Plut.*Sol*.19.1-4
[40] Wallace, 70
[41] Rhodes 1981, 155

and the *demos*. As the tone of these reforms has been established, now the more specific impact Solon's reforms had on the Areopagos' membership and responsibilities can now be examined.

The membership of the Areopagos Council following Solon's reforms is one of the most problematic aspects of this topic. According to our sources, before the reforms of Solon and Drakon, the members of the Areopagos chose which men would become magistrates. The men they filled these positions with were from a group of noble clans called the *Eupatridai.* Consequently, many aristocratic families who were not born into this group were excluded from office holding and it could be argued that this was the major source of political strife in Athens. [42] The link Solon created between political participation and property classes dissolved the *Eupatridai*'s monopoly on political power. Offices were now open to all aristocrats according to their property class; for instance, the office of archon was opened to all who were considered *pentakosiomedimnoi* and possibly *hippeis*.[43] This meant all men who met this wealth qualification were eligible regardless of their family background.

The mechanism Solon used to allow newly eligible aristocrats to hold the archonship, however, is unclear. According to Aristotle, in an effort to bestow power upon the people, Solon allowed the *demos* to elect their magistrates and hold them to account.[44] Conversely, according to the *A.P.,* "…the Nine Archons each tribe made a preliminary selection of ten, and the election was made from among these by lot; hence there still survives with the tribes the system that each

[42] Wallace, 52.
[43] *Ibid*.
[44] Aristot.*Pol*.1274a.

elects ten by lot and then they choose from among these by ballot."[45] The *A.P.* and Aristotle's *Politics* are conflicting. The former states that *archontes* were selected by lot and the latter relates that they were elected by the people. Scholars are not in agreement as to which method was implemented by Solon. Hansen has argued that this disagreement in the sources demonstrates that in the fourth century there was no reliable evidence available and consequently most of the information on this topic is the result of guesswork. Scholars who are less skeptical are divided over the validity of these narratives. Rhodes has argued that although there are problems with the *A.P.* it is a detailed and well-informed source whose author relied on primary source documents. Aristotle, however, most likely did not do intensive research for his passages on Solon's reforms.[46] From this vantage, Rhodes argues that the *archontes* were most likely chosen by lot. However, since allotment is usually associated with later democratic reforms most scholars argue that election is more likely in sixth century Athens.

It is important to examine how Solon's reforms affected the archonship as *archontes* went on to become members of the Areopagos. Most scholars agree that Solon opened the office of *archon* up to the *pentakosiomedimnoi* and perhaps the *hippies*. None of the sources are explicit and so some scholars have posited that the *hippeis* were admitted at a later date.[47] This is problematic because if the rule that the archonship could only be held once was in effect at this early date there may not have been enough available candidates among the

[45] [Aristot].*Ath.Pol*.8.1.
[46] Rhodes 2006, 254.
[47] Wallace, 52; Rhodes 1981, 148; Hignett, 101-2.

pentakosiomedimnoi.[48] Forrest and Stockton have argued that the current interpretation of this restriction should be revisited, as archons were expected to play a central role in governmental and administrative affairs. They contend that limiting the archonship to first time office holders would thus be illogical.[49] Instead, Forrest and Stockton propose that this restriction only applied to the eponymous archonship and so archonships could be filled each year by members of the *pentakosiomedimnoi*. It can therefore be posited that the Areopagos continued to be dominated by aristocrats from the upper echelon of Athenian society after Solon's reforms.

The creation of property classes opened the archonship up to a new group of aristocrats, but it is not clear that this would have substantially changed its composition.[50] The *Eupatridai,* who had previously monopolized all offices, could now be joined by members of the newly created property class. Since a maximum of nine *archontes* a year could become members of the Areopagos, it would have taken quite a long time before the membership of the council changed dramatically. In fact, it will be argued in the next chapter that when newly admitted aristocrats did attempt to become *archontes* it created discord. As previously mentioned, the unorthodox model does not differ from the traditional, organic model on the topic of the Areopagos' membership.[51] In all scenarios the

[48] Rhodes 1981, 148.
[49] W. G. Forrest and D. L Stockton, "The Athenian archons. A note." *Historia* XXXVI (1987): 235, 237.
[50] Hans-Joachim Gehrke, "The figure of Solon in the Athenaion Politeia," in *Solon of Athens: new historical and philological approaches*, Josine Blok, and A. P. M. H. Lardinois eds., (Leiden: Brill, 2006), 285.
[51] Wallace, 242 n.30.

outcome is similar: the Areopagos remained an aristocratic body but qualifications for membership became economic instead of hereditary.

Our sources state that Solon also redefined the Areopagos' powers but it is difficult to discern which responsibilities the council was given. [52] The fullest report of the Areopagos' powers under Solon is found in the *A.P.*:

> …[Solon] appointed the Council of the Areopagos to the duty of guarding the laws, just as it had existed even before as overseer of the constitution, and it was this Council that kept watch over the greatest and the most important of the affairs of state, in particular correcting offenders with sovereign powers both to fine and punish, and making returns of its expenditure to the Akropolis without adding a statement of the reason for the outlay, and trying persons that conspired to put down the democracy, Solon having laid down a law of impeachment in regard to them.[53]

In this passage, Solon gives the Areopagos a number of responsibilities. However, the ancient sources describe the Areopagos' sixth century powers in fourth century terms. This is problematic as it is not clear that their technical meanings would have fully crystallized at this point.[54] Three powers have been variously attributed to the Solonian Areopagos: *nomophylakia, eisangelia* and *euthynai*. The case for each of these will be discussed shortly. It has been argued that with each successive reform the powers of the Areopagos were further curtailed but it is impossible to confidently make this statement unless the council's early powers are established. Conversely, there are periods during which the Areopagos seems to have become increasingly powerful by accumulating new informal powers,

[52] Wallace, 66.
[53] [Aristot].*Ath.Pol*.8.4.
[54] Rhodes 1979, 103

however, it is difficult to allege that the council became more powerful unless its legislated powers are known.

The *A.P.* relates that the Areopagos was given "the duty of guarding the laws, just as it had existed even before as overseer of the constitution."[55] This responsibility is called *nomophylakia* by the sources and either grouped with or equated to the Areopagos' customary task of overseeing the constitution.[56] The sources are unclear on what 'guarding the laws' entailed. Sealey argues that this is because fourth century writers did not really know what it meant.[57] Scholars have approached this problem in a number of ways. Traditionally, they have looked at the circumstances surrounding the reforms and pointed to the Areopagos as a constitutional safeguard. According to Herodotus, Solon traveled around the Mediterranean for a decade so that he would not be forced to repeal his laws.[58] If he left to ensure he was not lobbied to change them, some mechanism would have had to have been in place to ensure that these laws were left untouched. The Areopagos would have been the ideal candidate to enforce these statutes as it was the only established authority in Athens at the time.[59] Some scholars have scoffed at this argument, however the havoc that ensued after Drakon created his law code demonstrates that laws need to be protected and enforced in order for them to be effective.[60]

[55] [Aristot].*Ath.Pol*.8.4
[56] [Aristot].*Ath.Pol*.8.4; Plut.*Sol*.19.2
[57] Sealey 1964, 11
[58] Hdt.1.29.1-2
[59] Wallace, 58.
[60] Hignett, 91.

Wallace takes a different but complementary approach to deciphering the archaic meaning of *nomophylakia.* Instead of looking at the context of Solon's reforms, he examines the responsibilities of a group of magistrates called the *nomophylakes*. The evidence for this group of magistrates is slim but a fragment from Philokohoros' *Atthis* describes their responsibilities. According to Philokohoros, the *nomophylakes* were tasked with ensuring the magistrates abided by the laws. The *nomophylakes* did this by sitting in the assembly and the popular *boule* and preventing the enactment of things that would be disadvantageous to the city.[61] It is not known when the *nomophylakes* were created but Wallace makes a strong case that they were not in existence before the reforms of Ephialtes in 462/1. He hypothesizes that when Ephialtes attacked the Areopagos and stripped the council of most of its powers, the power of *nomophylakia* was transferred to this board of magistrates.[62] If this is correct, then "guarding the laws" meant monitoring the assembly and newly created *boule* to ensure that no changes were made which would undermine to Solon's new constitution. Both the traditional and unorthodox models agree that the Areopagos had the power of *nomophylakia* and that it entailed guarding the constitution.

Eisangelia was the second power Solon is said to have bestowed upon the Areopagos. The meaning of the word is difficult to pinpoint as over time, it came to have several technical meanings. By the fourth century it was used to prosecute many different crimes. In fact, offenses that did not have their own punishments

[61] Philokhoros F64 (Translation from Wallace, 1989).
[62] Wallace, 56.

or which were not banned under law were tried using *eisangelia*.[63] Its many uses may be the result of the term originally being used to refer to any verbal denunciation of a crime to Athenian authorities.[64] The *A.P.* specifically refers to the most serious offence that could be tried under this heading, treason. Specifically, any attempt to overthrow the existing government and seize control of the state.[65] It is difficult to determine whether the Areopagos did posses this power. By the fourth century cases of treason were sent to the *boule* unless the case was more serious and then it was passed to a court or to the *ekklesia*. [66] However, Rhodes proposes that this system for trying cases of treason was the result of Ephialtes' reforms and that Solon either instituted or confirmed that this procedure was under the purview of the Areopagos.[67] Some scholars are more skeptical and cite the later practice of having the *boule* and *ekklesia* handle cases of *eisangelia* as evidence that it was never one of the Areopagos' powers.

If the narratives of sources like the *A.P.* are based on greater historical trends, it could be argued that Solon would have had a reason to ensure the Areopagos had the power of *eisangelia.* Giving the Areopagos authority over cases of treason would have been wise for a number of reasons. Firstly, Solon's reforms were not universally welcomed; the lawgiver himself wrote that, "in undertakings of great import, it is difficult to please all."[68] Reportedly, the people were unhappy because the land redistribution they anticipated did not occur and

[63] MacDowell, 184.
[64] Rhodes 1979, 103.
[65] MacDowell, 175,183.
[66] MacDowell, 183. The *boule* could only impose fines of up to five hundred drachma.
[67] Rhodes 1979, 105.
[68] Solon F7.

the aristocracy was unhappy because of the revenue they lost due to the cancellation of debts. A faction, drawing on the anger of either side, could have attempted to nullify Solon's moderate reforms in favour of a more radical constitution. This would not have been the first time a coup occurred at Athens; the Cylonian conspiracy only preceded Solon's reforms by a few decades and it was probably still fresh in Athens' collective memory.[69] Many of Solon's poems condemn the motivations and *hybris* of greedy men who would sacrifice the welfare of the city in favour of their own personal gain:

> Rather, the townsmen themselves, in their folly, wish to destroy
> our great city, persuaded by wealth,
> and unjust is the mind of the leaders of the *demos:* for them
> many grievous sufferings are certain, the fruit of their great *hybris.*
> For they do not know how to suppress *koros* or how to conduct the present
> joys of their feasting in decorous fashion,
> but instead they grow rich, putting their trust in unjust deeds.[70]

It seems that Solon feared that the townsmen of Athens would destroy their community, and his reforms sought to put mechanisms in place to ensure that this did not happen. Unlike *nomophylakia,* which protected Solon's reforms against internal attacks from governmental bodies, *eisangelia* protected the constitution from external threats. One particular threat that Solon may have had in mind was that of the rise of tyrants throughout Greece.[71] At this time, Kleisthenes had become the tyrant of Sicyon, and figures such as Peisistratos and Polykrates were on the horizon. The rule of one man threatened the *eunomia* which Solon envisioned for Athens:

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[69] Gagarin, 94.
[70] Solon F 4.5-11.
[71] Rhodes 1979, 104.

> but it is from men of great power that a city perishes, and the *demos,*
> in its mindlessness, falls into slavery beneath a monarch.
> It is no easy thing, afterwards, to restrain a man once you have exalted him
> too high — rather, take all these thoughts to heart now.[72]

These fragments suggest that Solon foresaw threats to the new arrangement in Athens and so it could be argues that implementing *eisangelia* as a constitutional safeguard would have been prudent.[73]

The third power which is associated with the early Areopagos is *euthyna* (examination, correction, setting straight). As previously mentioned, one of the biggest challenges Solon faced was lawlessness. Although a law code had been in place earlier, it was not impartially administered and there was no recourse for magistrates making crooked judgments.[74] Scholars accept that Solon made provisions for enforcing magistrates' responsibilities but there is controversy over which body was responsible for *euthyna.*[75] In describing the Areopagos' competence after Drakon's reforms, the *A.P.* relates, "the Council of the Areopagos was guardian of the laws, and kept a watch on the magistrates to make them govern in accordance with the laws. A person unjustly treated might lay a complaint before the Council of the Areopagites, stating the law in contravention of which he was treated unjustly."[76] Wallace states that few scholars believe that this passage is historical. Nevertheless, some have argued that it is evidence that the Areopagos was also responsible for auditing the magistrates.[77] As it is believed that Solon did not take away any of the Areopagos' powers, if it was

[72] Solon F9.3-6 = Diod.Sic.9.20.2.
[73] Gerke 2006, 264.
[74] Bonner and Smith, 150.
[75] Wallace, 53.
[76] [Aristot].*Ath.Pol.*4.4.
[77] Wallace, 54.

previously responsible for watching the magistrates it would have maintained this function. However, Aristotle explicitly says that Solon gave the people minimal powers, but these included electing magistrates and of calling them to account.[78] As the people elected the magistrates, it would seem likely that they were also the body that should punish them.[79] The argument that the Areopagos was responsible for *euthyna* is not convincing, since giving the people the right to audit magistrates would have helped create balance between political groups and ensured that previous nepotistic tendencies ceased.

Solon did not create or destroy the Areopagos. However he did redefine its mandate so it could operate in harmony with new bodies such as the Council of Four Hundred. These popular bodies became part o of Athens' political landscape and the two *boulai*, the Council of Four Hundred and the Areopagos, acted as a "double anchor". Despite these changes, the Areopagos remained an important aristocratic body but now eligibility was based on wealth not ancestry. Along with Areopagos' membership qualifications, Solon may have given the council new powers which reflected later concepts of *nomophylakia* and *eisangelia*. Overall, the Areopagos emerged from this period as an important governing body with a newly defined role that included the responsibility of guarding Athens' constitution against internal and external threats.

Solon could not have anticipated the later ramifications of his reforms, and this sentiment is echoed in his poetry, "Indeed, there is danger involved in every undertaking, nor does one know, at the time some project is being undertaken,

[78] Aristot.*Pol*.1274a15-18, 1281b32-35.
[79] Wallace, 54.

how things will turn out for him."[80] Citing the cruel hand of fate, Solon bemoans that men with the noblest of intentions are often met with a grievous fate while the wicked but lucky benefit from good fortune.[81] Though no man could escape fate, Solon tried to ensure that his city could prosper and achieve *eunomia* by creating new laws and instituting new organs of government. His solution to Athens' economic reforms, the *Seisachtheia,* as well as the creation of the Council of Four Hundred have dominated the attention of historians but the Areopagos also played an important role in these reforms. *Eunomia* was achieved through noble governance of bodies like the Areopagos as the aristocracy continued to hold the reigns of power. Despite Solon's achievements, only a few decades later Athens was ruled by a tyrant who had seized power through force and trickery. However, the Peisitratidai were not a destructive force, and the laws and bodies Solon put in place continued to be part of Athens' governmental structure. The evolution of the Areopagos from the reign of Peisistratos to the Ephialtes' attack will be examined in the next chapter.

[80] Solon F13.65-66.
[81] Solon F13.67-70.

CHAPTER 3

FROM PEISISTRATOS TO EPHIALTES

Athens' political environment oscillated between concord and conflict from the time of Solon's departure to Ephialtes' attack on the Areopagos. This period is marked by series of well studied events which shaped the way Athenians participated in political life. The Areopagos makes few appearances in the literary accounts of this period. Traditionally, it was thought that the silence of the sources was an honest reflection of the Areopagos' activities and importance during this period. Consequently, some scholars analyzed the few references that did survive through this lens and concluded that the Areopagos had become irrelevant sometime between Solon and Ephialtes. This view has been challenged by several historians who have argued that the absence of the council from literary accounts is a product of source survival. It will be argued here that despite its infrequent appearance in the extant sources, the Areopagos was an important body in Athenian politics until 462/1.

The role of the Areopagos during this period will be approached chronologically, starting with the rise of Peisistratos. Evidence which is usually dismissed, such as Peisistratos' appearance before the council, will be re-examined in an attempt to better understand the council's importance as perceived by later writers. After the fall of the Peisistratidai, Kleisthenes changed the political infrastructure of Athens. The Areopagos was not directly implicated in these

reforms. However, the procedure for appointing *archontes* was modified shortly after and this directly affected the membership of the Areopagos. Many scholars have asserted that such a change led to the downfall of the Areopagos. This argument will be examined thoroughly, as it directly impacts the historicity of the period of Areopagite domination and Ephialtes' assault on the Areopagos.

Scholars studying this period often focus on the actions and motivations of Ephialtes. His campaign against the Areopagos has puzzled historians as it is unclear whether Ephialtes took on a powerful council or an enfeebled institution. As Cawkwell asks, "Was [Ephialtes] a woodman knocking down a rotten tree, or was he truly a giant-killer?"[1] Many scholars have started at Ephialtes' reforms and worked backwards, projecting their findings onto the early history of the Areopagos. This approach will be shown to be problematic as it anticipates historical developments. This chapter will also examine the changing role of the Areopagos and show that the council remained an important part of Athens' political life until Ephialtes' reforms.

After Solon established his reforms, he left Athens in order to escape the Athenians' complaints and questions. According to the ancient sources, he went on a decade long journey during which he expected his fellow citizens to follow his reforms to the letter of the law.[2] According to the *A.P.*, while Solon was wandering Athens fell again into into a state of political turmoil.

> And when [Solon] had gone abroad, though the city was still disturbed, for four years they kept at peace; but in the fifth year after Solon's archonship

[1] G.L. Cawkwell, "Nomophulakia and the Areopagus," *Journal of Hellenic Studies* 108 (1988): 3.
[2] Hdt.1.29;[Arist].*Ath.Pol*.11.1

> because of party strife they did not appoint an archon, and again in the fifth year after that they enacted a suspension of the archonship for the same cause.[3]

If the *A.P.*'s account of this period is at all historical it seems that after four years of peace, conflict broke out and the Athenians were unable to appoint an *archon*. As previously discussed, Solon's reforms opened the archonship to a new group of aristocrats. It could be argued that the disturbance described in this passage was caused by a "new" aristocrat running for the archonship. Allowing new men to occupy Athens' most prestigious position would have broken the *Eupatridai* monopoly on political power, as Solon had intended. Factions may have formed within the upper echelons of the property classes and they could not reconcile amongst themselves who should be *archon*. As Solon was not there to defend or interpret his *thesmoi* there would have been no one to mediate the dispute. In the lawgiver's absence, the Areopagos may have been responsible for enforcing Solon's new measures but it was composed of *Eupatridai*. Consequently, it could have been a biased arbitrator. According to the *A.P.,* these issues were not resolved, as four years later rivalries prevented an *archon* from being appointed for a second time. If Athens did experience a period of turmoil after Solon's departure, this suggests that his reforms had not quelled the factionalism within Athens' aristocracy and the friction caused by this new political arrangement created internal discord.

The *A.P.* is the only source to preserve an account of the aftermath of Solon's reforms. As a result, scholars have discounted the authenticity of this

[3] [Arist].*Ath.Pol.*13.1

passage.[4] However, this is not a sufficient reason for discarding this piece of evidence.[5] The author could have been drawing on earlier accounts of Athens' history. Also, there is no compelling evidence that suggests this period in Athens' history was peaceful. In fact, soon after Solon's departure the people of Attika began to rally around three prominent aristocrats: Megakles, Lykourgos and Peisistratos.[6]

After two abortive attempts, Peisistratos finally took Athens by force. With his rivals expelled from Attika, and those Athenians who had opposed him fallen on the battlefield, Peisistratos installed himself as Athens' ruler.[7] He did this, "disturbing in no way the order of offices nor changing the laws, but governing the city according to its established constitution and arranging all things fairly and well."[8] According to Herodotus, the façade of normal governance was maintained. Magistrates continued to be elected and justice continued to be administered. However, it is unclear whether the Areopagos retained its traditional role during the rule of the Peisistratidai. Wallace supposes that as a result of the new political environment, the Areopagos restricted itself to acting as a court.[9] In light of Peisistratos' "tyrannical" rule, it seems unlikely that he would have supported a powerful aristocratic council competing with him for the administration of Athens.

[4] Hignett, 319-20
[5] Rhodes 1981, 179; Jacoby, 174-175
[6] [Arist].*Ath.Pol.*13.4; Bonner, 359
[7] Hdt.1.64
[8] Hdt.1.59.6
[9] Wallace, 72

Our sources also report that Peisistratos took measures to consolidate his power such as filling the magistracies, like the archonship, with his relatives and supporters.[10] Nevertheless, with expulsion of many rival aristocratic families, it is doubtful that the remaining Areopagites would have posed a major threat to Peisistratos, in fact they may even have supported him. As Peisistratos' supporters monopolized the archonship they would have become members of the Areopagos and the council may have become yet another tool employed by Peisistratos to govern Athens.[11] In fact, Badian has argued that the tyrants' monopolization of the archonship marked a permanent change in how *archontes* were selected. This led to a decline in the quality of the Areopagites and consequently the importance of the Areopagos.[12] However, this piece of evidence has also been used to argue that the archonship must have continued to be important as the tyrants were keen to have their supporters occupy it. Peisistratos was eager to ensure that his reign went largely unchallenged.

There are a number of legends about Peisistratos' reign and although these stories are fanciful they suggest that he was in fact wary of any group that could endanger his rule. According to legend, Peisistratos tried to dissociate the people of Athens from public affairs.[13] In an elaborate ruse, he deprived the Athenians of their weapons and then, "...told his audience not to be surprised at what had happened about their arms, and not to be dismayed, but to go away and occupy themselves

[10] Thuc.6.54.6
[11] Thuc.6.54.6
[12] E. Badian, "Archons and strategoi," *Antichthon: Journal of the Australian Society for Classical Studies* 5 (1971): 5; Thuc.6.54.6 "The city meanwhile was permitted to retain her ancient laws; but the family of Pisistratus took care that one of their own number should always be in office. Among others who thus held the annual archonship at Athens was Pisistratus, a son of the tyrant Hippias."
[13] [Arist].*Ath.Pol.*16.1; Robert J. Bonner, "Administration of Justice under Pisistratus" *Classical Philology* 19, 4 (1924): 359.

with their private affairs, while he would attend to all public business."[14] Another story found in the *A.P.* relates that Peisistratos actively encouraged Athenians to remain in the countryside so that they would not involve themselves in the governance of Athens. He gave the poor loans so they could take up farming, organized a system of local justices who would circulate throughout the countryside settling disputes, and generally discouraged Athenians from coming into the city. [15]

Bonner has proposed that the people's ability to hold magistrates to account directly conflicted with Peisistratus' plans.[16] As long as his supporters could carry out their duties unchallenged it would be difficult for a competing faction to stir up the *demos*. Abolishing the right of appeal would have formally dissociated the people from the administration and rendered the new bodies that Solon had set up much less effective. If this did in fact transpire, there is no evidence that the people reacted strongly to these changes. After decades of internal strife and the unsatisfactory reforms of Solon they may have been content with this period of peace. These stories suggest that Peisistratos upheld his position by diffusing any group that had the potential to inhibit his ability to rule Athens.

As previously mentioned, little is known about the Areopagos under the Peisistratidai. In fact, the Areopagos only appears once in the accounts during this family's rule:

> For [Peisistratos] was willing to administer everything according to the laws in all matters, never giving himself any advantage; and once in particular when he was summoned to the Areopagos to be tried on a charge of murder,

[14] [Arist].*Ath.Pol.*15.4-5
[15] [Arist].*Ath.Pol.*14.3
[16] Bonner, 359

> he appeared in person to make his defence, and the issuer of the summons was frightened and left. [17]

Like the legends that were discussed above, this anecdote is rather fanciful. [Aristotle] uses this episode to illustrate that although Peisistratos was a tyrant, he respected the laws as he appeared in front of the Areopagos like any other citizen would. However, the depiction of the Areopagos in this story also implies that the council maintained its symbolic power and prestige during his reign. This episode is also notable as the Areopagos is the only institution directly mentioned during Peisistratos' rule and it is depicted holding the tyrant to account. Although the council is only mentioned once and the story is rather fantastic it may be founded on older traditions that confirmed that Areopagos was still active and important at the time.

Athens flourished during the reign of Peisistratos but after his death his sons, Hipparchos and Hippias, ruled Athens. A period of political unrest ensued as highlighted by the Harmodios and Aristogeiton affair, which resulted in Hipparchos' murder.[18] In 510, the Alcmaeonidae, with the help of the Spartans, drove Hippias out of Athens and effectively ended the rule of the tyrants.[19] This created a power vacuum and a period of aristocratic infighting followed between political rivals Kleisthenes and Isagoras.[20] Kleisthenes garnered popular support through his proposals as he sought to give the *demos* a role in governance, allow exiled Athenians to return, and reorganize the weakened Athenian army.[21] With the

[17] [Arist].*Ath.Pol*.16.8
[18] Hdt.6.63
[19] Hdt.5.64-65.
[20] Hdt.5.66.1; [Arist].*Ath.Pol*.20.1
[21] [Arist].*Ath.Pol*.20.1;Wallace, 76

support of the people he passed a series of reforms which were formative for Athens' political life.[22]

Despite the significance of Kleisthenes' reforms very little is known about him or his actions.[23] The fullest account of these reforms is preserved by the *A.P.* and according to this source Kleisthenes reorganized the political units of Attika, created new offices, and expanded the popular *boule*. Fragments suggest that the Atthidographers' produced more fulsome accounts of these reforms, but except for a few references these are lost.[24] However, it appears these provisions resolved the problem of infighting that had plagued Athens since the time of Solon's reforms. It has been suggested that Kleisthenes reforms did this by weakening regional ties and clan loyalties, making citizens loyal to Athens first and foremost.[25] The Areopagos is not mentioned in any accounts of this period or in the context of Kleisthenes' reforms. There is no evidence that he altered the council's competence or

[22] Rhodes 1981, 241

[23] Some scholars believe, *pace* Rhodes, that our primary sources for this period, Herodotus and [Aristotle], give two different chronologies for Kleisthenes' reforms. In his account, Herodotus places them before the second intervention of Kleomenes while [Aristotle] dates them to Isagoras' archonship in 508/7. It is doubtful that these measures could have been fully implemented until Isagoras was defeated but there is no reason to conclude that these reforms were implemented en masse (How and Wells, 37). Kleisthenes was not a special commissioner like Draco or Solon, his reforms were not part of a new law code but additions to the pre-existing laws (Rhodes, 241). Herodotus' chronology is often adopted because he wrote only half a century after Kleisthenes' reforms and he is the main historical source used by the *A.P.* for this period (Develin and Kilmer, 5). It is also assumed that the *boule* which Kleomenes attempts to dissolve on his arrival in Athens (Hdt.5.72) is the Council of 500, whose creation was part of Kleisthenes' reforms (Ober, 87). Rhodes argues that it is most likely the Solonian *boule* as it is unlikely that Kleisthenes' reforms could have been implemented by the time (Rhodes, 246). This problem is compounded by the AP's statement that the laws of Solon had fallen into disuse under the tyrants ([Arist].*Ath*.*Pol*.22.1). However, Herodotus was not particularly concerned with the details of these reforms; they seem to act as a platform for his investigation into Kleisthenes' lineage (Develin and Kilmer, 5). The focus here is the potential impact of Kleisthenes' reforms on the Areopagus and so this problem of dating is not detrimental to the present study.

[24] Bob Develin and Martin Kilmer, "What Kleisthenes Did" *Historia: Zeitschrift Fur Alte Geschichte* 46,1 (1997): 15; Harding, 100

[25] Wallace, 71

composition.[26] It has been conjectured that Kleisthenes eliminated the Areopagos' ancestral duty of guarding the constitution by introducing ostracism, the bouletic oath, and by allowing the *demos* to hear cases of *eisangelia*.[27] However, there is too little extant evidence to support or reject these hypotheses.

Ober argues that by this time the ordinary Athenian citizen was no longer politically passive, as shown by the events that ensued after Kleomenes returned to Athens.[28] When Isagoras realized that Kleisthenes had won the trust of the people, perhaps because they had approved his reforms, he turned to Kleomenes for help.[29] The Spartan king sent an order that the Alcmenonidae, Kleisthenes' clan, and their allies should be expelled from the city.[30] Kleisthenes fled Athens in secret before Kleomenes and his contingent of Spartan soldiers stormed the city. Upon the arrival of the Spartan contingent, Isagoras demanded that the *boule* be dissolved so that he could transfer its powers to a new body composed of three hundred of his supporters. The councilmen refused and the whole *demos* rose up in revolt, besieging Isagoras and his supporters on the Acropolis for two days.[31] Ober calls this event a "popular uprising," as the people of Athens took control of their government and refused to be reduced from citizens to subjects once again.[32] This episode suggests that in 508/7 the people of Athens asserted their sovereignty, choosing a more egalitarian form of government over the rule of another aristocratic

[26] Wallace, 72
[27] Wallace, 73
[28] Ober, Josiah. "I Besieged that Man:" Democracy's Revolutionary Start." In *Origins of democracy in ancient Greece*, Kurt A. Raaflaub, Josiah Ober, and Robert W. Wallace eds., (Berkeley: University of California Press, 2007), 87.
[29] Rhodes 1981, 249
[30] Hdt.5.70
[31] Hdt.5.72
[32] Ober, 88

tyrant. Kleisthenes was later regarded as a founding hero of democracy. His reforms, combined with the new, more active role of the *demos*, transformed Athens' political culture.[33]

A series of new measures followed in the years after Kleisthenes' reforms. In 487/6, a few years after the Battle of Marathon, the appointment of *archontes* by sortition was introduced.

> In the archonship of Telesinos, they elected the Nine *Archontes* by lot, tribe by tribe, from a preliminary list of five hundred chosen by the demesmen: this was the date of the first election on these lines, after the tyranny, the previous *archontes* having all been elected by vote.[34]

The date of this development and the impact it had on the standing of the Areopagos has been debated by scholars for decades. Initially the prevailing scholarly opinion was that sortition diminished the significance of the archonship and so distinguished men would no longer stand for the position. The argument follows that this caused a decline in the quality of Areopagites and, consequently, a decline in the prestige and power of the council itself. Scholars have produced many variations on this hypothesis. As previously mentioned, Badian has argued that the decline of the Areopagos began under the Peisistratidai. Other scholars have claimed that either Solon or Kleisthenes introduced the lot, and argued that this earlier date better explains the Areopagos' decline in importance.[35]

The theory that the Areopagos waned in importance at this time is founded on two premises. First, that the silence of the sources reflects the inactivity of the

[33] Rhodes 1981, 241; 261
[34] [Arist].*Ath.Pol*.22.5
[35] Cawkwell has argued that Solon instituted sorition (4-7). Badian asserts that although an informal change was made to the appointment of under the tyrants an unknown reform of Kleisthenes formalized it.

council and second, that Ephialtes' removal of the council's powers was symbolic, as the Areopagos had ceased to be an important body long before.[36] Kleisthenes' reforms radically changed Athens' political culture and so there are many other reasons why the Areopagos' importance may have diminished, like the creation of new, more important offices. However, the changes to the structure of the council itself will be the focus here.

The reform of 487/6 is one of the few instances where changes to the Areopagos itself are mentioned in the literary accounts. The move from election to sortition is just one of the factors scholars believe contributed to the Areopagos' fall from power. The absence of men of note from extant archonship lists has been used to support this particular argument. However, the evidence is inconclusive as very few names are known for most periods. For example, in the fifty years between the first attempt of Peisistratos and the expulsion of Hippias there were 450 archons, but we only have the names of thirteen eponymous archons.[37] This sample is too small to any draw broad conclusions from. Further, deductions made concerning the importance of an office based on how many names modern scholars can identify are precarious because they are based on the supposition that a man's contemporary political importance would be preserved in the historical narrative.[38]

More recent scholarship has challenged the assumption that the Areopagos was a relic of Athens' aristocratic past by the time of Ephialtes and the negative impact of sortition. As Rihll speculates, "Does a man who cherishes his standing in the community fear defeat by luck more than he fears defeat by popular acclaim (or

[36] Rihll, 90
[37] Cawkwell, 6
[38] Rihll 90

rather, lack thereof)?"[39] One hundred men were singled out at the *deme* level and from this group nine men were chosen by lot. This system allowed many more men to be esteemed by their fellow demesmen each year. Also, the introduction of the lot could have decreased infighting as the chance of being elected increased ten-fold. Wallace has argued that this change would have promoted aristocratic equality and made the council more powerful as the Areopagites would finally have been able to work together.[40] Also, the argument for the declining "quality" of Areopagites is tenuous as until 457/6 the pool of candidates for the archonship was still restricted to the top two classes: the *pentakosiomedimnoi* and the *hippeis*.[41] Allowing more people from the same elite group to be candidates for the archonship would not necessarily have led to a decrease in the calibre of Areopagites.

It has been argued that if the Areopagos were really of central importance in Athens' institutional history some mention of its activities should have been made by authors such as Herodotus, Thucydides, Aristophanes, Plato, and Xenophon.[42] However, Cawkwell argues that none of these authors were interested in the evolution of the Athenian government.[43] Constitutional history only became a fascination of Greek writers in the fourth century and so it should not be surprising that our sources for the Areopagos are much later. Also, surviving fragments indicate that the Areopagos was of interest to the Atthidographers however, as previously mentioned, all of their accounts are fragmentary. The stories that did survive, like Peisistratos' appearance in front of the council, suggest that it was

[39] Rihll, 91
[40] Wallace, 72
[41] Rihll, 91. In 457/6 hoplites were also allowed to stand for the archonship.
[42] Eberhard Ruschenbusch, "Ephialtes". *Historia: Zeitschrift Fur Alte Geschichte.* 15, 3 (1966.): 373.
[43] Cawkwell, 8

regarded as an esteemed and active body long after Ephialtes' reforms. This implies that its absence in literary evidence is symptomatic of which sources survived, not the level of importance or activity of the Areopagos. For these reasons the argument that 487/6 marked the beginning of the Areopagos' decline because of the silence of the sources and introduction of sortition should be re-evaluated.

The perceived decline of the Areopagos after 487/6 and the growth of democracy during the Persian Wars have led some scholars to dismiss a tradition preserved in our literary sources: that Athens experienced a period of Areopagite domination after the Persian Wars.[44] According to [Aristotle], Aristotle, and Isokrates, from 479-462 the Areopagos administered Athens. This tradition is rejected by the majority of scholars for three reasons: the Areopagos was in a weakened state after 487, the story behind its ascendancy seems dubious, and an aristocratic council could not have governed during a period marked by the growth of democracy.

The first objection to a period of Areopagite domination has already been refuted, as sortition did not diminish the political capital of the Areopagite council. The second objection, that the account of the Areopagos' rise to power is not historically accurate, will be investigated now. Many sources preserve this tradition but the most comprehensive account of the Areopagos' involvement during the Persian War is found in the *A.P.*:

[44] Wallace, 72;Martin Ostwald, *Language and history in ancient Greek culture* (Philadelphia: University of Pennsylvania Press, 2009), 231. The following sources preserve the tradition of a period of Areopagite domination from approximately the end of the Persian Wars to the Ephialtes' reforms [Arist].*Ath.Pol*.23.1-2; Aristot.*Pol*. 1304a.17-20; Isoc.7.50-52;Plutarch.Them.10.4=Kleidemos F21

> At this date, therefore, the state had advanced to this point, growing by slow stages with the growth of the democracy; but after the Persian Wars the Council on the Areopagus became powerful again, and carried on the administration, having gained the leadership by no definite resolution but owing to its having been the cause of the naval battle of Salamis. For the Generals had been reduced to utter despair by the situation and had made a proclamation that every man should see to his own safety; but the Council provided a fund and distributed eight drachmas a head and got them to man the ships. For this reason, therefore, the Generals gave place to the Council in esteem. And Athens was well governed in these periods; for during this time it occurred that the people practised military duties and won high esteem among the Greeks and gained the supremacy of the sea against the will of the Lacedaemonians. [45]

According to this account, the Athenian generals were paralyzed by despair and the Areopagos intervened by distributing money so the sailors would man the ships. An alternative version, which is preserved in a fragment of the *Atthis* of Kleidemos, asserts that Themistokles distributed the money.[46] In both versions, this act enabled the victory at Salamis and resulted in the council's increased reputation. [47]

This account is often rejected because it appears implausible.[48] It seems unlikely that the Athenian generals would not know what to do on the eve of battle, that the sailors would not man the ships, and that the distribution of money would have solved this problem. These protests are legitimate but they are based on a specific reading of this passage. Our sources connect the Battle of Salamis with the actions of the Areopagos but do not specify to whom the money was given or why it was successful. A new interpretation has been presented by Ostwald, who argues

[45] [Arist].*Ath.Pol*..23.1-2
[46] Kleidemos F21 = Plut. *Them*.10.4
[47] Ostwald, 233. As Themistocles was an Areopagite, these versions are not irreconcilable.
[48] Wallace, 77

that the generals were not in despair concerning the impending battle, but rather regarding the evacuation of the city.[49]

Before the Battle of the Salamis it was proclaimed that each Athenian should save his family and belongings as best he could.[50] According to the Themistokles' decree, all women and children were to be moved to Troizen and all old men and possessions were to be taken to Salamis.[51] The decree details the preparations that were to be made for battle but does not specify how Athens was to be evacuated. If the authenticity of this decree is to be believed then it appears that no magistrate was in charge of evacuating the city. Athens could have descended into chaos and the generals would have been in no position to remedy this situation. The Areopagites may have provided the necessary money to man the ships that were transporting people out of the city. The successful evacuation of Athens allowed the Athenians to leave their city and then fight the Persians at Salamis. This unorthodox reading of this passage also explains the connection made by the sources between the Areopagos' intervention and the Athenians' subsequent success. This new interpretation employs pieces of evidence that are often cast aside and encourages a re-evaluation the historicity of Areopagite domination.

The final objection that is raised is that the governance of an aristocratic body would have been incompatible with the rise of democracy after Athens' naval victories.[52] This opinion is founded on modern political perspectives and not on ancient evidence. In fact, according to our sources, the Areopagos unofficially

[49] Ostwald, 233
[50] Hdt.8.41.3
[51] Jameson, 201
[52] Ostwald, 231

administered Athens and maintained this position through political clout.[53] Such administration most likely entailed the exercise of the council's traditional powers, in addition to the guardianship of the state.[54] Even if there were Areopagites who were opposed to popular reforms, the council would not have had the power to interfere with the activities of other bodies such as the assembly and the *boule*.

On a practical level, there is no reason that democracy at Athens could not have developed under the Areopagos' administration. In fact, Isokrates describes the glory days of the Areopagos as a time of peace and civility in Athens.[55] And, according to Aristotle,

> ...the Council on the Areopagos having risen in reputation during the Persian wars was believed to have made the constitution more rigid, and then again the naval multitude, having been the cause of the victory off Salamis and thereby of the leadership of Athens due to her power at sea, made the democracy stronger.[56]

This passage demonstrates that democracy became stronger under the administration of the Areopagos. This may seem incongruous but it is important to emphasize that fifth century Athens was not dominated by modern political parties. There is no proof that either democracy or the Areopagos was tied to a specific ideology at this time.[57] It has been shown that the ancient tradition that the Areopagos administered Athens for seventeen years after the Persian Wars should be reconsidered. And, if the Areopagos did continue to be active during the Persian

[53] Arist.*Pol*.1304a.17-20;
[54] Ostwald, 244
[55] Isoc.7.50-52
[56] Arist.*Pol*.1304a.17-20
[57] Ostwald, 232

Wars and did indeed help with the evacuation of Athens it could have regained its former prominence.

In 462/1 Ephialtes attacked the Areopagos. He launched a campaign against the council that resulted in the removal of some of its powers. This episode has been of much interest to scholars as our sources have little to say about the motivation behind it and which of the Areopagos' powers were removed.[58] Only the *A.P.* gives a reason for Ephialtes' actions and these seem rather speculative. According to this version, Ephialtes was encouraged by Themistokles who, despite being an Areopagite, wanted to weaken the council so that he could avoid being arrested and tried for treason. Together they went to the assembly and denounced the Areopagos until the *demos* removed its powers.[59] This is the only version of the story that gives any explanation of Ephialtes' actions and it appears to be a later invention.

The dearth of information concerning Ephialtes' reforms may be a symptom of our sources having little material to draw on, as the stones upon which Ephialtes' reforms were inscribed were destroyed in 404 by the Thirty.[60]Also, it appears that although these developments may have excited controversy in the 460's they did not become a topic of scholarly interest until Isokrates.[61] This further complicates any attempt to uncover why Ephialtes sought to change the competence of the Areopagos and what this actually entailed. Previously it was thought that Ephialtes' reforms reflected political reality: powers were removed from the Areopagos

[58] Sources for Ephialtes' reforms: Plut. *Cim*. 15.2, *Per*. 9.5, *Mor*.812d; [Arist].*Ath.Pol*. 25; Aristot.Pol.1274a7; Paus. 1.29.15; Diod. 11. 77.6
[59] [Arist].*Ath.Pol*..25
[60] Rihll, 87
[61] Sealey 1981, 125

because the council was too feeble to exercise them.[62] However, this view has been challenged. Currently, there is no scholarly consensus as to what prompted Ephilates' actions. He is an enigmatic figure in Athenian history who ancient authors regarded as the third and final author of Athenian democracy.[63]

Some scholars have proposed that the Areoapagos did not provoke Ephialtes, rather, he sought to destroy the council because it was the last bastion of aristocratic power.[64] This argument is contingent upon certain groups of Athenians associating themselves with a democratic ideology. As previously discussed, this interpretation is informed by modern political perspectives and these are not applicable to fifth century Athens. [65] It seems more likely that Ephialtes was looking to remedy a particular problem but what this might have been can only be gleaned through the reforms themselves. The literary evidence for Ephialtes' reforms is varied and, once again, the fullest explanation is found in the *A.P.*:

> The constitution remained under the leadership of the Areopagites for about seventeen years after the Persian War, although it was being gradually modified. But as the population increased, Ephialtes son of Sophonides, having become head of the People and having the reputation of being incorruptible and just in regard to the constitution, attacked the Council. First he made away with many of the Areopagites by bringing legal proceedings against them about their acts of administration; then in the archonship of Konon he stripped the Council of all its added powers which made it the safeguard of the constitution, and assigned some of them to the Five Hundred and others to the People and to the jury-courts.[66]

The author explains that the Areopagite council was stripped of all the additional powers which made it the safeguard of the constitution and gave them to the

[62] Rihll, 90; Cawkwell, 2
[63] Rihll, 87
[64] Rhodes 1981,
[65] Ostwald, 231
[66] [Arist].*Ath.Pol*..25.1-2

Council of 500, the assembly and the law courts. Other authors are equally vague. Aristotle states that Ephialtes and Perikles curtailed the council's competence and Plutarch states that the Areopagos was robbed of most of its powers.[67]

There are two schools of thought regarding what Ephialtes' reforms: some scholars argue that Ephialtes instituted extensive reforms in a conscious attempt to transform Athenian political life while others view his reforms as precise and limited changes that had wider effects.[68] For example, Rhodes has argued that Ephialtes was an ideologue who instituted extensive reforms. These included transferring broad judicial functions, such as *eisangelia* and *dokimasia*, from the Areopagos to the Council of 500 which, up to this time, had a primarily probouletic function.[69] In stark contrast, Sealey argues that Ephilates only removed *euthynai,* the power to call officials to account when they laid down office, from the Areopagite council.[70] However, the only reference to specific powers being removed from the Areopagos is found in a fragment of Philochoros' *Atthis.* It states that Ephialtes created a board of seven *nomophylakes* and transferred all the Areopagites' supervisory powers to it. According to Philochoros, this board sat in the Assembly and Council of 500 in order to ensure that the magistrates did not do anything that would be disadvantageous to the *polis*.[71] Harding, in his commentary on this fragment, claims that the author of the *Lexicon Cantabrigiense* has confused

[67] Aristot. *Pol*. 1274a7; Plut. Cim. 15.2
[68] Raphael Sealey, "Ephialtes, Eisangelia, and the council," in *Classical contributions: studies in honour of Malcolm Francis McGregor,* Malcolm Francis McGregor, , Gordon Spencer Shrimpton, and David Joseph McCargar eds., (Locust Valley: J.J. Augustin. 1981), 125.
[69] P. J. Rhodes, *The Athenian boule* (Oxford: Clarendon Press. 1972), 203-205.
[70] Sealey 1981, 125
[71] Philochorus' F64b = *Lex. Cantab*. 135 Later lexicographers such as the Harpokration and Pollux (8.94; 8.102) and contain similar information for this board.

the reforms of Ephialtes with the creation of a later board of the same name.[72] However, scholars such as O'Sullivan and Cawkwell have argued for the authenticity of this fragment and, consequently, the creation of the early board. If Ephialtes' reforms were wide ranging and sought to bring most of the Areopagos' functions under popular control, the creation of the *nomophylakes* is plausible. It would have been nonsensical to ask popular bodies to monitor their own magistrates and so it makes sense that this function should be performed by an impartial group.

A particularly convincing scenario has been proposed by Rihll who argues that the Areopagos was attacked for using its powers to deny democratic processes. He proposes that the council was rejecting a significant number of magistrates elect at their *dokimasiai* (scrutiny before taking office) and that Ephialtes sought to transfer this power to the people.[73] As long as the Areopagos had this power, magistrates who had been selected democratically could have been denied entry to office by men who were socially superior and unaccountable. If this happened in large numbers it is understandable why this power was transferred from the Areopagites to the candidates' peers. The ramifications of this action were great, as the elimination of *dokimasia* from the Areopagos' powers removed the last impediment to full democracy.[74] This action and perhaps the others associated with him, led Ephialtes to be remembered as a great democratic reformer, the third and final author of Athens' democracy.

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[72] Harding, 169. The fact that the lexicographer refers to the seventh book of Philochorous' *Atthis* is also problematic as this is considered rather "late" for a reference to Ephialtes' reforms (O'Sullivan, 51).
[73] Rihll, 87
[74] Rihll, 97

It is clear that whatever Ephialtes actually did, it made an impact on the reputation of the Areopagos and the historical record. After 462/1 the Areopagos disappears again, and regardless of what powers were transferred, it is clear that this episode discredited what had once been Athens' most important and prestigious body.[75] Ephialtes and his accomplices successfully "provoked the masses to anger against the Areopagites, persuaded the Assembly to vote to curtail the power of the Council of the Areopagos and to destroy the renowned customs which their fathers had followed..."[76] Although no man could erase the institution's storied history, Ephialtes seems to have destroyed the Areopagos' political capital.

From the time of Solon's departure to the attack of Ephialtes, the Areopagos was an important body in Athens. Although it may have chosen to limit its activity under the Peisistratids, it is clear that its prestige did not diminish. The subsequent rise of Kleisthenes and his reforms changed Athens' political landscape, as the *demos* became a political force. The changing attitude at Athens is seen in the modification of the appointment process for *archontes* as a more inclusive method was adopted. Contrary to traditional scholarship, it can be argued that this change alone did not diminish the importance of the Areopagos. In fact, if there is some truth behind reports of a period of Areopagite domination the council may have administered Athens after the Persian War. However, Ephilates changed the Areopagos' trajectory. His attack on the council drained it of any political power and most likely diminished its sphere of influence. Until this point, the history of

[75] Wallace, 81
[76] Diod.Sic.11.77.6

the early Areopagos was marked by the institution's prestige and power. An overview of these greater developments will be presented in the upcoming section.

CONCLUSION

This study set out to reasses the early history of the Areopagos and its greater role in Athens' political culture from its origins to Ephialtes. It has been shown that Areopagos most likely originated as an aristocratic, *ad hoc* council which advised the king of Athens, similar to those described in Homer's epics. By consulting a group of his peers the king was able to legitimize his own power while garnering widespread support. Over time, the power of the monarchy eroded until the king was reduced to a purely ceremonial figure. All his previous political and judicial powers were enshrined in new offices and councils.

Sometime in the seventh century, communities in the Mediterranean began to create written laws that defined the powers and terms of magistrates, and set out technical procedures for handling problems that might arise. This movement towards institutionalization is seen at Athens through Drakon's reforms and it is conceivable that the Areopagos was formally established at this time. As discussed in the first chapter, the one piece of Drakon's legislation that survives suggests that the traditional assumption that the Areopagos was Athens' original law court is false. Unless Wallace's theory is correct, the *ephetai* and *basileus* were responsible for trying cases of homicide not the Areopagos.

A short time after Drakon's reforms, Solon was called upon to create a new law code by which the Athenians could live and govern their *polis*. The circumstances of the sixth century highlighted the asymmetrical relationship of the aristocracy and the *demos* and the problems within the upper echelons of Athenian society. Although it has been proposed that Solon established the

Areopagos, the evidence suggests that he probably only modified its membership and redefined its mandate. The implementation of a class system based on wealth not lineage by Solon changed the dynamics of Athens political culture. In particular, eligibility for offices, like the archonship, was now open to a new group of aristocrats who had previously been excluded from governing. Along with the Areopagos' membership qualifications, Solon may have also redefined the council's powers so it could operate in conjunction with new, popular bodies. It appears that under Solon the Areopagos was given responsibilities that reflected the later concepts of *nomophylakia* and *eisangelia.* Overall, the Areopagos emerged from this period as an important governing body with a newly defined role that included the responsibility of guarding Athens' constitution.

After Solon's departure Athens experienced a time of turmoil, most likely brought about by the new political arrangement. This instability led to the rise of the Peisistratids who ruled Athens as tyrants. Although the Areopagos may have may have chosen to limit its activity under the Peisistratids, it is clear that its prestige did not dimish. It remained an important aristocratic council and although positions on the council may have been unconstitutionally obtained by Peisistratos' supporters they were still coveted. After the fall of the Peisistratidai, Kleisthenes changed the political landscape of Athens. The Areopagos was not directly implicated in these reforms but shortly after the procedure for appointing the *archontes* was changed. This directly affected the membership of the Areopagos and though some scholars have asserted it led to a decrease in the

council's importance it was shown in the third chapter that this was not necessarily so.

This investigation also explored the tradition of a period of Areopagite domination after the Persian Wars and reasoned that is not as fictitious as some scholars purport. It is conceivable that the Areopagos ascended to the position of governing council in Athens through its ingenuity and political clout. Regardless of how authentic the tradition of an Areopagite renaissance is, the council was in peril a few years later. After occupying the position of an important, governing council for centuries, Ephialtes changed the Areopagos' trajectory. His attack on the council not only removed some of the Areopagos's powers, it also ended a long tradition of prestige and authority. It appears that Ephialtes really was a giant killer.

Though the early Areopagos is a treacherous topic, this investigation has demonstrated that by critically evaluating both familiar and obscure evidence it is possible to gain insight into the evolution of this council. The early history of the Areopagos continues to be obscure as both the primary source material and the secondary scholarship on this topic are fragmentary. In isolation this diverse corpus of knowledge cannot inform historians about the importance of the Areopagos and its greater role in Athens' political culture. However, when these scattered pieces of information are brought together and carefully examined, they tell the story of a great aristocratic council which persevered through some of the greatest changes in Athens' political landscape.

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