

Civic Status in Roman Athens: Cicero, *Pro Balbo* 12.30

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IN THE MOST IMPRESSIVE WAY he could for Romans Cicero expressed his criticism of the way politically unaware fellow-citizens of his audience were behaving in accepting Athenian citizenship:

... vidi egomet nonnullos imperitos homines, nostros civis, Athenis in numero iudicum atque Areopagitarum, certa tribu, certo numero, cum ignorarent, si illam civitatem essent adepti, hanc se perdidisse, nisi postliminio reciperassent (Pro Balbo 12.30).

In this period politically sophisticated Romans like his friend Atticus would never have accepted Athenian citizenship because they knew the rule against dual citizenship apart from the Roman and municipal, as well as the archaic Roman law about *postliminium*;¹ but new citizens from Campania and other places followed a widespread Hellenistic custom of welcoming citizenship in the foreign communities where they worked and largely resided.

The terms are *in numero iudicum atque Areopagitarum*, secondly *certa tribu*, thirdly *certo numero*. The problem is to define precisely what these three terms suggested to Romans of 56 B.C. and then to define the Athenian realities which the Latin terms translated.

1. *In numero iudicum atque Areopagitarum*

Two generations later a Roman might have thought at once of the destinating centuries first revealed to us by the *Tabula Hebana*,²

¹ On the legal question involved the reader will find a good account by F. de Visscher, "La dualité des droits de cité et la 'mutatio civitatis'," *Studi in onore di Pietro De Francisci* I (Milan 1954) 39–62. On the right of subsequent return see H. Kreller, *RE* 22 (1953) 868–73 s.v. "Postliminium."

² J. H. Oliver and R. E. A. Palmer, "Text of the *Tabula Hebana*," *AJP* 75 (1954) 225–49, conveniently available also in V. Ehrenberg and A. H. M. Jones, *Documents Illustrating the Reigns of Augustus and Tiberius* no. 94a. The fifty here pertinent lines are given also by L. R. Taylor, *Roman Voting Assemblies* (Ann Arbor 1966) 159–63. Further discussion and

which consisted of *senatores et equites omnium decuriarum, quae iudicior(um) publicor(um) caussa constitutae sunt erun[t]* (line 8) or *senatores itemq(ue) equites omnium decuria[rum, quae iudiciorum publi]corum gratia constitutae sunt erunt* (11–12). Even in Cicero's day every Roman would think of judicial knights and senators at Rome as the men with an important and privileged position, the kind who took precedence, occupying front seats in the theatre, etc., the first men in the state.

A reality at Athens certainly existed, but the *iudices* are not at all well known. *IG II² 1732* and *1733* contain catalogues of four *ἐπιμεληταὶ δικαστηρίων*, but who were empaneled in juries and for what sort of cases we do not know. Apparently the old courts of the classical period no longer continued, and the poor were no longer attracted by the offer of pay. It would seem that in Cicero's time a select list of jurors shared distinctions with the Areopagites, but it is unknown whether this was true at all times in the last sixty or seventy years before 21 B.C.³ or whether the influence of this or a similar conservative group fluctuated during the ideological shifts which occurred from the Mithradatic period down to the settlement made by Athens under the pressure of Augustus. Between 106/5 B.C. (*IG II² 1011.42*) and 101/0 B.C. (*IG II² 1028*) the cosmete ceased to give his report *ἐν τῷ δικαστηρίῳ* and began to make it before the council.⁴ In the second half of 89/8 Athenion in his attack on the Romans in the speech reconstructed by Posidonius called for an end to the Roman senate's interference in the way Athenians governed themselves, and he complained of temples closed, gymnasia in decay, the theatre devoid of assemblies, the jury-courts silent, the Pnyx taken from the People.⁵ The senate had not really done all that, but the Romans created a timocratic atmosphere at Athens,⁶ before and after. A revolution occurred.⁷ After Sulla's restoration of controls a democratic revival of some sort seems to have coincided with the arrival of Brutus and Cassius in 44 B.C. but did not long outlast the Battle of Philippi.⁸ There were

bibliography by D. Flach, "Destinatio und nominatio im frühen Prinzipat," *Chiron* 6 (1976) 193–203.

³ See J. H. Oliver, "From *Gennētai* to *Curiales*," *Hesperia* 49 (1980) 30–56 on pp. 43–48.

⁴ W. S. Ferguson, *Athenian Tribal Cycles* (Cambridge [Mass.] 1932) 147–55.

⁵ W. S. Ferguson, *Hellenistic Athens* (London 1911) 440–44.

⁶ S. Accame, *Il dominio romano in Grecia dalla Guerra Acaica ad Augusto* (Rome 1946) 163–74.

⁷ E. Badian, "Rome, Athens and Mithridates," *AJAH* 1 (1976) 105–28.

⁸ According to Accame (*supra* n.6) 175–77.

other swings of the pendulum but not of permanent importance in the general development toward the stability established in 21 B.C.⁹ These changes to and from moderate republicanism affected the courts as well as other parts of the system, but we are not in a position to say precisely how. The existence of a privileged group consisting of *iudices atque Areopagitae*, however, speaks for itself.

When one searches for later evidence of a group of privileged citizens at Athens, one finds it in the second half of the second century after Christ. The so-called Eleusinian Endowment *ca* A.D. 162¹⁰ treats as specially privileged citizens those of *βουλευτική ἀξία*, which apparently means those of Areopagitic status, to whom are added various other dignitaries, male and female. By this date the Athenian *honestiores*, if one can describe them thus, were primarily Areopagites but were by no means exclusively Areopagites; the others, however, were no longer described as jurors, whether the jurors had ceased to exist or had been displaced or crowded by other persons of privilege not grouped under a separate label. Whether the Athenian courts mentioned by Marcus Aurelius in the 'letter' of a famous inscription¹¹ operated with jurors we do not know surely, and if they did, whether they still belonged to the *honestiores*.

The most important evidence comes in the Great Catalogue from the Eleusinion at Athens, which Geagan dates attractively in 190/1, the panegyriarchy of Commodus.¹² The catalogue, when complete, is thought to have held *ca* 700 names (all masculine) grouped by tribes, each tribal panel labeled *Ἐρχθειδος Ἀρεοπαγεῖται*, *Κεκροπίδος Ἀρεοπαγεῖται*, etc. Though the tribal panels are not subdivided by a second label into Areopagites and non-Areopagites, there is a sign of some distinction within each tribal panel. This is significant because *ca* 700 is too large a number to represent the real Areopagites alone.¹³ Column V, headed *Κεκροπίδος*

⁹ The crucial date at Athens was 21 rather than 27 B.C. in respect to the way the Athenian constitution was to function under the principate (*supra* n.3).

¹⁰ *Hesperia* 21 (1952) 381–99, especially 382 lines 43f.

¹¹ *Hesperia* Suppl. 13 (1970) no. 1 and *RevPhil* 53 (1979) 29–43.

¹² The text is published by D. J. Geagan, *The Athenian Constitution after Sulla* (*Hesperia* Suppl. 12 [1967]) 163–86, but for the date and a mature analysis see his restudy in *ZPE* 33 (1979) 93–115. Further comments by J. H. Oliver will be found in *Hesperia* 49 (1980) 54f n.59.

¹³ Since the Areopagus was recruited from ex-archons, there would have been 270 new Areopagites at the most in thirty years. While a few of these would have been archons in their thirties, most of them were perhaps in their forties and fifties. With the high death rate of antiquity many would have died within thirty years of their archonships. It is hard to

Ἀρεοπαγεῖται, begins with the name *ὁ κρά(τιστος) Κλ(αύδιος) Βηρατιανός*. One expects the Areopagite who has a Roman predicate of rank to head the list, but in Column II the three 'Areopagites' or associate Areopagites with Roman predicates of rank come lower down in the group as the ninth, tenth, and eleventh names in the register of the tribe [Pandionis]. The distinction is clear: the first eight names of the tribe [Pandionis] are those of genuine Areopagites, while a new list of those with Areopagitic status begins with the ninth name. Where a Roman predicate of rank is missing, there is no way for a modern reader to tell how many in any panel are genuine Areopagites and how many are honorary associates or potential Areopagites waiting for archonships. The ancient Athenians would often have recognized the names of ex-archons.¹⁴

2. *Certa tribu*

The audience addressed by Cicero were not to think that he was talking about mere courtesies. The Athenians did not limit themselves in the case of these Italians to honors like front seats in the theatre. The Italians were actually enrolled in Athenian tribes. What the tribe meant to a Roman may be examined in L. R. Taylor's splendid book, *The Voting Districts of the Roman Republic* (1960). The reality at Athens, too well known for a description here, meant enrollment in deme and tribe. There were at this period twelve tribes, ten Cleisthenean and two post-Cleisthenean (Ptolemais and Attalis).

3. *Certo numero*

The scholiast on a line of Persius (5.73) remarked, "At Rome it was the custom that all who on manumission became Roman citizens should receive public grain of Roman citizens in their number" (or "public grain in a group of Roman citizens with an identifying number"), *Romae autem erat consuetudo, ut omnes qui ex manumissione cives Romani fiebant, in numero civium Romanorum frumentum publicum acciperent* (ed. Leo). Cicero's

believe that the Areopagus ever had more than about 300 members. The membership may have been normally less.

¹⁴ The man who had the list engraved attached no importance to distinguishing more sharply the genuine Areopagites from those of merely Areopagitic status. A long-time priest at the altar, he himself was probably not a genuine Areopagite but enjoyed the status.

certo numero, accordingly, refers to the assignment of an Italian to a precise section of the list of those eligible for *frumentationes*, the subject of an excellent new book by G. Rickman, *The Corn Supply of Ancient Rome* (Oxford 1980). Just how one got on the list in 56 B.C. is not clear, but the list of those with a right to public grains was considerably smaller than the list of Roman citizens. Admission to the list was closely connected with domicile at Rome, and the phrase *certo numero* amounted to a climax in Cicero's triad. Cicero implies: "These fellow-citizens of ours had not only accepted privileges and full citizenship at Athens but had established their domicile in Attica after a *mutatio civitatis*."

While at Rome *frumentationes* were limited to grain until the third century after Christ, distributions in Greece were offered in various types of food and drink. For the Julio-Claudian period the Epaminondas inscription at Acraephia¹⁵ illustrates the variety, though Epaminondas in his magnificent gesture did not limit himself to citizens of Acraephia but included foreigners, resident aliens, and even slaves. One might draw a distinction between private munificence on a single or repeated occasion such as prescribed in the Eleusinian Endowment or implied by the banquets of Claudius Atticus (Philostr. VS 2.3) and the kind of distributions fixed by order of the city such as are called ἐκ πόλεως in the Athenian decrees in honor of Eubiotus Leurus¹⁶ around A.D. 230. The reality at Athens was doubtless less than the climactic phrase *certo numero* suggested to Cicero's audience. As far as we can tell, there is no evidence of a list other than that of members of a deme or members of privileged groups. By substituting *numero* for a word like *vico* Cicero achieved a climax without much distortion because originally the Cleisthenean deme and the Roman *numerus* represented neighborhoods.¹⁷

In conclusion we translate the Latin sentence of Cicero roughly as follows: "I myself have seen at Athens some unaware persons, fellow-citizens of ours, in the group of jurors and Areopagites, with assignment to a definite tribe, to a definite section of public food recipients, in ignorance that while they had obtained the citizenship there, they had lost the citizenship here, unless they had

¹⁵ GRBS 12 (1971) 221–36.

¹⁶ ZPE 38 (1980) 107–14.

¹⁷ The notion of modern commentators (J. S. Reid [Cambridge 1890] 74 and many others) that *certo numero* had something to do with the dicast tickets of the classical period is an absurd non-explanation; reference to numbered dicast tickets, even if they still existed in the Roman period, would have offered no climax—who would have cared?

recovered it by right of subsequent return.” The English rendering weakens the implications of the pregnant Latin.

The existence of a group at Athens known as ‘jurors and Areopagites’ is in accord with the suggestion in *Hesperia* 49 (1980) 44 n.23 that the idea of the destinating centuries in the Tabula Hebana, which preselected candidates for consulship and praetorship, may have come from the Athenian experience of Augustus and others in 21–19 B.C.¹⁸

The direction in which the Areopagitic status was moving may be illuminated by comparing the catalogue from the Eleusinion with the Roman senate of A.D. 476–483.¹⁹ The most striking difference is the dominance of the Cleisthenean (and post-Cleisthenean) tribes upon the system at Athens and the total absence of tribes at Rome. Athens has not moved as far from the classical tradition as Rome has from the old Republic. That is hardly surprising around A.D. 190. The similarities are much more significant, first that they both contain names of true senators (*illustres*)²⁰ and genuine Areopagites but also the names of members of the senatorial and Areopagitic orders who were not eligible to vote in the corporations, and secondly that neither list contained names of women. Both lists are those of the aristocracy as represented in choice places up front at public celebrations. There were apparently 300 to 600 of these senators, and they show that the prestige of the senate lasted until Odoacer, who sought to attract and who relied on the aristocracy, as Commodus did at Athens.

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¹⁸ It is conceivable that the Athenian *iudices* here coupled with the Areopagites were a standing court for public cases drawn like the *iudices* whom Flamininus prescribed for Thessaly (Livy 34.51.6, *a censu maxime et senatum et iudices legit*). The writer will not speculate on this. Traces of *iudices* with official functions elsewhere are noted by J. Touloumakos, *Historia* 18 (1969) 407–21.

¹⁹ See A. Chastagnol, “Les inscriptions des gradins sénatoriaux du Colisée,” *Akte des IV. Intern. Congr. für gr. und lat. Epigraphik* (Vienna 1964) 63–71; and *Le Sénat romain sous le règne d’Odoacre: Recherches sur l’épigraphie du Colisée au V^e siècle* (*Antiquitas* III.3 [Bonn 1961]).

²⁰ The *spectabiles* and *clarissimi* of praetorian rank—these last might have been children of ten or fifteen years, after the age for praetorship had been lowered—had been made to accept second-row seats with their paedagogues from the third century on. They were children from families of *illustres* (Chastagnol, *Sénat* 47f). The names of those who belonged to the Areopagitic order but could not vote were not necessarily those of children of the real Areopagites, in 190. At least no indication of such paternity has been pointed out.